

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.13274 of 2019

and

WMP.No.13379 of 2019

Dr.Kaushik Ghosh

...Petitioner

vs

The Assistant Manager (Administration and Personnel),
Footwear Design and Development Institute,
Plot No. E-1, E-2, Footwear Component Park,
7th Main Road, SIPCOT, Irungattukottai,
Sriperumpudur Taluk, Kancheepuram District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorari, calling for the records related to the proceedings of the respondent in FDDI/CNC/10(1)/HR/Matters/2019/001 dated 23rd April 2019, quash the same as illegal, unlawful, arbitrary, discriminative, capricious and also not in accordance with the principles of natural justice.

For Petitioner : Mr.K.M.Vijayan,
Senior Counsel
for Margandeyan N.V.N

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O R D E R

The order of rejection rejecting the claim of the writ petitioner to retain the staff quarters allotted to him in proceeding dated 23.04.2019, is under challenge in the present writ petition.

2. The writ petitioner was holding the post of Chief Technologist in Footwear Design and Development Institute, Ministry of Commerce and Industry, Government of India and on account of the initiation of disciplinary proceedings, he was terminated from service in termination order No.FDDI/ADMN/PERS/2009 dated 07.02.2017.

3. The learned Senior counsel appearing on behalf of the writ petitioner states that, the termination of the writ petitioner was on peculiar circumstances and it is an ex-parte termination, issued without providing opportunity as contemplated under the Rules. The order of termination was already challenged by the writ petitioner in WP.No.7418 of 2018 and the said writ petition is pending before this Court. It is further contended that, though the writ petitioner was terminated on 07.02.2017, he is allowed to continue in the official staff quarters and all along for the past about 2 years and therefore, he may be permitted to continue in the same staff quarters till the writ petition is decided which was filed for order of termination.

4. The learned Senior counsel urged this Court with reference to the observations in the orders of Chattisgarh High Court in WP.C.No.239 of 2016 and elaborated the contentions by stating that, the case of the writ petitioner is to be treated differently as that of the one, wherein the terminated employee is entitled to continue in the official quarters.

5. The learned Senior counsel is of an opinion that, the writ petitioner herein is eligible to continue in the staff quarters as his case is different one, wherein, the order of termination is null and void and contrary to the principles of law. This apart, no other person has been appointed in the place of the writ petitioner at Chennai and therefore, there is no necessity to vacate the writ petitioner from the official quarters.

6. This Court is of the considered opinion that, the staff quarters/official quarters are allotted for a specific period to discharge the duties and responsibilities attached to the post in a particular place or post. The staff quarters are provided enabling the public servant to perform his duties and responsibilities diligently and in the interest of public administration. Staff quarters or allotment of official residences can never be claimed as a matter of legal right. Official residences are provided subject to availability and as an additional facility. More specifically, a concession. The allotment of official staff quarters is not part of the service conditions of an employee. If at all the official quarters are available, the same is to be allotted in accordance with the seniority and by following the procedures. Thus, allotment of quarters is a concession extended to the employees wherever such quarters are available and whenever such employees are eligible in respect of particular place and post. Thus retention of quarters can never be claimed as a matter of legal right. Even in case a staff can be directed to vacate the quarters on many other administrative grounds.

7. First of all, an employee is eligible to get accommodation in the Government quarters only if he is in service. Even in case where an employee is transfer to some other post, and he retains the quarters after the transfer order is issued, he is liable to pay the penal rent to the employer. In other words, in respect of employees, who is transferred from one place to another place is not entitled to continue in the official quarters. In the event of their continuance, after the order of transfer, they are liable for penal rent equivalent to the market rent prevailing in that locality. This being the principles to be followed in the matter of allotment of staff quarters/ Government quarters, this Court is of an opinion that, a terminated employee has no right to continue in the official quarters/ staff quarters.

8. In the present writ petition, the writ petitioner was terminated from service in order dated 07.02.2017. Mere pendency of a writ petition cannot be a ground to retain the official quarters. An employee / any authority on transfer, retirement or termination are bound to vacate the official quarters immediately or within the time limit prescribed under the allotment Rules. Normally 60 days would be provided for vacating such quarters after the retirement, termination and transfer. If such employees are refusing to vacate the official quarters, it would cause inconvenience to the serving personnel in the department. A mere fact that the post is kept vacant is not a ground to retain a terminated employee to reside in the official quarters which was allotted long back. Admittedly, the writ petitioner was terminated from service on 07.02.2017 and he has already stayed more than 2 years which itself illegal and violation of the allotment rules in force.

9. The legal grounds raised against the order of termination has no nexus or relevance with reference to the impugned order now challenged in the present writ petition directing the writ petitioner to vacate the staff quarters immediately. Sufficient time has been granted to the writ petitioner to vacate the official quarters. The writ petitioner if at all claims, that he was a sincere employee of a Government of India organization, then with all discipline he would have vacated the premises after the order of termination was issued. If the order of termination is revoked, then alone he can submit application seeking fresh allotment. Contrarily, the terminated employee continuing the official quarters for more than 2 years without any authority is to be construed as not only an indiscipline, but the writ petitioner is not acted in accordance with his conscious.

10. Rightly or wrongly, the writ petitioner was terminated as per the learned Senior counsel appearing on behalf of the writ petitioner. But the fact remains that, he is a terminated employee. Thus, he is expected to act with his own conscious and vacate the premises. So that, the staff quarters shall be allotted to any other person, who is in service in a particular post or place.

11. Thus, the grounds raised in the present writ petition with reference to the previous work record of the writ petitioner, as well as the nature of the order of termination, is absolutely unconnected with the present impugned order directing the writ petitioner to vacate the official quarters.

12. Those grounds may be available to the writ petitioner only in the writ petition filed challenging the order of termination and not in the present writ petition wherein, the notice issued by the respondent to vacate the staff quarters with immediate effect. Thus the writ petitioner has not made out any acceptable ground for the purpose of considering the relief as such sought for in the present writ petition.

13. This Court is of the considered opinion that, in such cases where the employees are terminated, the authorities ought not to have allowed the terminated employee to continue for more than 2 years in the official staff quarters. The additional concessions owed, now prompted the employee to approach the Court for further extension. In the event of granting further extension, undoubtedly, the same will settle a wrong precedent. Allowing a terminated employee to continue for more than 2 years in the official staff quarters is not only illegal, but the authorities have acted contrary to the rules. The Competent Authorities are expected vacate the employees who were already terminated from services. In contravention to the rules, the Authorities Competent allowed the writ petitioner to continue in the official quarters for more than 2 years. Thus, the Head of the Department must initiate action against all the employees who all are responsible for such illegal continuance of the writ petitioner, for more than 2 years in the official staff quarters which is not only arbitrary but undoubtedly, a lapse, negligence and dereliction of duty on the part of the official competent who are supposed to initiate immediate action for vacating the official staff quarters soon after an employee was terminated from service.

14. An administrative action must be transparent and efficient. In the event of allowing such illegalities, irregularities to continue in the matter of extending such concessions and benefits to the employee, this Court is of an

undoubted opinion that, the Authorities Competent alone must be held personally liable as they have failed to initiate appropriate action under the service rules in force. Under these circumstances, the writ petitioner has not established any legal right for the purpose of considering the relief as such sought for in the present writ petition.

15. The learned Senior Counsel on instruction from the petitioner made an undertaking that, the writ petitioner will vacate the staff quarters on or before 31.05.2019. In view of the undertaking, and considering the fact that, the writ petitioner has to seek an alternate accommodation for the purpose of settling his family, this Court is inclined to grant time till 31.05.2019. Accordingly, the writ petitioner is directed to vacate the staff quarters occupied by him in Quarter No.G 8 on or before 31.05.2019. Such a relief is granted based on the undertaking given by the learned Senior counsel appearing on behalf of the writ petitioner. Thus, there cannot be any violation in this regard and the writ petitioner is directed to vacate the official staff quarters and handover the key to the Competent Authorities on or before 31.05.2019.

16. The learned Senior counsel made a submission that, the water and electricity supply is cut off. Thus, the respondents are directed to restore the amenities till 31.05.2019, the date on which the writ petitioner is directed to vacate the quarters and handover the key to the Authorities concerned.

17. Accordingly, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The Assistant Manager (Administration and Personnel),
Footwear Design and Development Institute,
Plot No. E-1, E-2, Footwear Component Park,
7th Main Road, SIPCOT, Irungattukottai,
Sriperumpudur Taluk, Kancheepuram District.

+1cc to Mr.N.U.N.Margandeyan, Advocate Sr.41689

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srg 02/07/2019