

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No. 32136 of 2018
and WMP.Nos.37394 and 37395 of 2018

Indira

...Petitioner

Vs

1. The Commissioner of Police,
Salem City.
2. The Superintendent of Police,
Salem, Salem District.

...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the Memos of the 1st respondent in Na.Ka.No. C4/16331/2014 dated 15.09.2014 and Na.Ka.No.C4/237/27136/2016 dated 05.10.2017 and quash the same.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.R.S.Selvam,
Government Advocate

ORDER

The imposition of penal rent for the overstayal of the writ petitioner in the official police quarters in proceedings dated 15.09.2014, is under challenge.

2. The writ petitioner is working as Sub-Inspector of Police and she was allotted with the police quarters on 15.02.2011. The petitioner was in continuous occupation of the police quarters even after her transfer to the other station in Salem Rural.

3. The learned Government Advocate also states that when a Police Officer is transferred from City to Rural, they are not

entitled to occupy the police quarters within the Salem city. The relevant paragraph of the counter filed by the first respondent is extracted hereunder:-

"4.It is submitted that the Writ Petitioner Tmt. Indira was working as Sub Inspector of Police, Annadanapatty Police Station, Salem City Police under the Administrative control of the 1st Respondent. She was allotted a rent free quarters No.S-2, Old Police Quarters, Line Medu, Salem while she was serving in Salem City Police and she was relieved on transfer to Salem District Police on 15.02.2011. After her transfer from Salem City Police, she should have vacated the Police Quarters occupied by her immediately and applied for a quarters in the transferred place where there are police quarters available. But despite the memorandum issued to her she adamantly refused to vacate the police quarters and continuing till date which caused inability to the City Police Administration to provide rent free quarters to the newly joined Sub Inspector of Police. Tamil Nadu Government in their Order in G.O.(Rt) No.568, Home (Police-10) Department dated 31.05.2000 have clearly ordered that Penal Rent for the occupation of the Police quarters even after transfer out of the place should be recovered to the tune of 1 ½ times of the last paid house rent allowance, if occupied with permission of the competent authority and to the tune of 3 times of the last paid house rent allowance if occupied without permission of the competent authority. Since the petitioner has not vacated the rent free quarters allotted to her in Salem City Police even after her transfer, and was continuing without permission of the competent authority, an order for the recovery of penal rent for the period from 15.02.2011 to 31.08.2014 was directed to pay Rs.1,63,200 (H.R.A. Rs.1280 x 3 times = 3840/- per month) by the 1st respondent and memo was issued to vacate the rent free quarters and the said order was communicated to the petitioner through the 2nd respondent. The petitioner has not vacated the rent free police quarters of Salem City Police even after the receipt of the penal rent recovery order by the 1st respondent. As the petitioner has not responded to the order, she was again issued with an order in C.No. C4/237/27136/2016 dated 05.10.2017. She has not vacated the quarters of Salem City Police till date and on 12.01.2018 she has submitted a representation which was not considered by the Authority. It is further submitted that the

petitioner has not vacated the quarters for the past more than 7 years, hence a revised and up dated order was issued by the 1st respondent in Salem City Police Order No.164/2018 Rc.No. C4/59/4349/2018 dated 02.03.2018 for recovery penal rent for the period of overstay in the rent free quarters from 15.02.2011 to 28.02.2018 to the tune of Rs.3,60,780 (3 times of the HRA paid to the petitioner) and the 2nd respondent was requested to recover the amount from the petitioner who was working under 2nd respondent. The details of recovery ordered up to the period 28.02.2018 are as below:-

From 15.02.2011 to 28.02.2011 - Rs.1280 x 3 times x ½ Month - Rs.1,920/-

From 01.03.2011 to 30.09.2017 - Rs.1280 x 3 times x 79 months - Rs.3,03,360/-

From 01.10.2017 to 28.02.2017 - Rs.3700 x 3 x 5 months - Rs.55,500/-

Total Recovery for the period - Rs. 3,60,780/-

The rent recovery ordered by the respondent is for 7 years. Aggrieved over the order of penal rent recovery and vacation order issued by the 1st respondent, the petitioner has filed this writ petition before the Hon'ble High Court, Madras. The petitioner is now transferred to Trichy Zone on her promotion and even after her transfer to Trichy Zone she has not vacated the quarters till date. The petitioner who is a responsible Police Officer has indulged herself in cheating the Government Exchequer by way of not paying the penal rent which was ordered in accordance with the Government Orders filing this Writ Petition."

4. The learned counsel for the petitioner states that the Government Order in G.O.Ms.No.376, Housing and Urban Development (HB 3(1)/Department dated 06.01.2000 states that if the service has been transferred within 30 kms radius of the place of work, the person need not surrender the quarters. The present working place is 5 kms away. Thus, petitioner is exempted from surrendering the quarters.

5. In respect of G.O.Ms.No.376 dated 06.01.2000, the learned Government Advocate states that the said Government Order is not applicable to the members of the Police Force. The said order is in respect of the Government Employees who are occupying the Tamil Nadu Housing Board rental quarters and not for the rent free quarters of Police Department. The rent free quarters of Police Department are governed by different set of Rules. The Tamil Nadu Housing Board Residential Quarters are allotted to

the Government Employees other than the Police Department personnel and house rent is being recovered from their salary. Whereas, the Police Quarters are Rent Free Quarters intended for the Police Officers and men working in the cities and districts. The Rent Free Quarters are governed by the Government Order G.O. (Rt) No.568, Home (Pol-10) dated 31.05.200. Thus, the petitioner cannot claim the benefit of G.O.Ms.No.375, dated 06.09.2000.

6. This Court is of the considered opinion that the police officials already in occupation of the official residences are bound to vacate on their retirement or transfer. They cannot continue in the quarters once they are relieved from the particular post, for which the rent free police quarters are allotted. In the present case, the writ petitioner was transferred to Salem Rural and, therefore, she was not eligible for a rent free police quarters in Salem City. Thus, her stay in Salem city was considered as overstayed and, accordingly, the penal rent is imposed based on the Government Order in force. Even in respect of the recovery of penal rent, the Government issued G.O.(Rt).No.568, Home (Pol-10) dated 31.05.2000. The impugned order has been passed based on the Government Orders in the matter of recovery of penal rent for the overstayed of the police officials in the rent free police quarters.

7. In this view of the matter, there is no infirmity as such in respect of the order impugned passed and undoubtedly the imposition of penal rent on the writ petitioner is in consonance with the Government Orders and admittedly, the writ petitioner overstayed in the rent free police quarters and, therefore, the writ petition is devoid of merits, and the same stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते Deputy Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

mp/ssm

To:-

1. The Commissioner of Police,
Salem City.

2. The Superintendent of Police,
Salem,
Salem District.

+1cc to the Government Pleader, S.R.No.41997

W.P.No.32136 of 2018

AK (CO)
CS/24/05/2019



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