



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16859 of 2015

and

M.P. (MD) No.1 of 2015

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Peter Lawrence

... Petitioner

-Vs-

1.The Commandant,
Tamil Nadu Special Police I-Battalion,
Trichy.

2.The Commandant,
Tamil Nadu Special Police VIII-Battalion,
Tihar Jail Complex, New Delhi.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records in connection with the impugned order of recovery passed by the first respondent in Na.Ka.No.C2/1618/2013 dated 19.02.2015 and to quash the same.

For Petitioner : Mr.S.Sivakumar

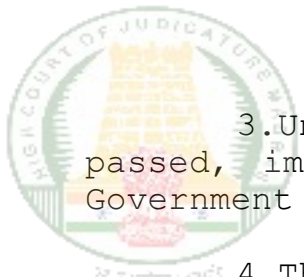
For Respondents : Mr.M.Jeyakumar,

Additional Government Pleader.

ORDER

The order of imposing the penal rent in respect of overstayed by the writ petitioner in Government Police quarters in proceeding dated 19.12.2015, is under challenge in the present Writ Petition.

2.The writ petitioner was appointed as Grade-II Police Constable in the year 1993 and was promoted to the post of Head Constable and thereafter, as Sub Inspector of Police in the year 2006. The writ petitioner while serving as Sub Inspector of Police at TSP, 1st Battalion, Trichy, was transferred and posted at 8th Battalion, Tihar Jail Complex, New Delhi, by an order dated 17.06.2009 and he reported duty on 02.07.2009. The writ petitioner served in New Delhi till 05.09.2012. Subsequently, the writ petitioner was transferred and posted as Sub Inspector of Police on 7th Battalion, Pochampalli, Tamil Nadu and he reported duty immediately and was working in 7th Battalion till 30.06.2014. Again, he was transferred to 8th Battalion, Tihar Jail Complex, New Delhi and he was not allotted any quarters, while he was serving in the 7th Battalion, Pochampalli and he was not allotted any quarters even in the 8th Battalion, New Delhi also. However, the writ petitioner was in occupation of the Government Police quarters allotted to him in S-33 quarters, 1st Battalion, Trichy. The contention of the writ petitioner is that he has not claimed any House Rent Allowance, since his family was in occupation of 1st Battalion Police Quarters, Trichy.



3. Under these circumstances, the impugned order has been passed, imposing the penal rent in respect of occupation of the Government Police quarters in S-33 from 05.09.2012 to 30.06.2014.

4. The learned Additional Government Pleader appearing on behalf of the respondents states that the writ petitioner was not entitled to continue in the Government Police Quarters, after his transfer to 8th Battalion, Tihar Jail Complex at New Delhi. However, the writ petitioner was in illegal occupation of the Government Police Quarters in violation of the terms and conditions of allotment.

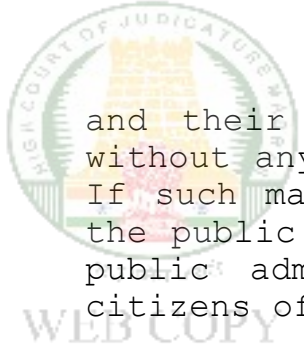
5. In this regard, counter affidavit filed by the first respondent states that the writ petitioner was allowed to continue to occupy the Government Police Quarters allotted to him in TSP 1st Battalion, New Delhi upto his services rendered in TSP 8th Battalion, New Delhi with free of costs. The penal rent is only ordered in the next date on his 7th Battalion Pochampalli as per the rules in force and the writ petitioner did not obtain any permission to continue in the Government Police Quarters at TSP 1st Battalion. beyond the date of his transfer to TSP 7th Battalion, Pochampali. Thus, the respondents have imposed the penal rent for the overstay in the Government Police Quarters without any permission or allotment.

6. It is contended that the writ petitioner is a responsible police officer in the rank of Sub Inspector of Police and he is very much aware of the rules and regulations of the Battalion.

7. The concession was granted as per the rules. Accordingly, the writ petitioner was in occupation of the police quarters at 1st Battalion, Trichy, while he was working in 8th Battalion, at New Delhi. However, after his transfer, the writ petitioner is liable to vacate the police quarters and handed over the possession to the competent authority. Even after his transfer to 7th Battalion, Pochampalli, the writ petitioner continued his occupation illegally and in violation of the terms and conditions of allotment. The illegal occupation of the writ petitioner caused inconvenience to fresh entrants in the 1st Battalion, Trichy.

8. It is contended that new comers of the 1st Battalion, Trichy, were unable to be provided with the quarters at free of costs. Consequently, the Government has to pay his house rent allowances, which caused financial loss to the State exchequer. Under these circumstances, the impugned order of penal rent was imposed as per the rules in force.

9. This Court is of the considered opinion that any employee in the event of illegal or unauthorised occupation of official quarters, beyond the permissible period is liable to be charged with the penal rent. The Board employees on transfer or retired from service are bound to vacate the official quarters within the time limit granted in the allotment order. Any excess occupation is to be dealt in accordance with law and such occupants are liable to pay



and their rights and benefits are granted in an uniform manner without any deviation or discrimination and violation of the rules. If such mandates are followed, then alone, the State can maintain the public servants with discipline for the effective and efficient public administration so as to provide better service to the citizens of this great Nation.

14. The causes for growing indiscipline amongst the public servants are the greatest concern for the public at large. The growing indiscipline and frequent visible misconducts being committed by these public servants are affecting the interest of the public at large. The illegalities, irregularities, discriminations and misbehaviors committed by the public servants are the greatest concern and in fact, the growing instances of such nature would affect the implementation of the constitutional principles and perspective in its letter and spirit.

15. Discrimination, Partiality, allotment of quarters to ineligible persons are heart burn issues amongst the employees in the matter of allotment of quarters. On many occasions, allotments are granted in violation of the order of seniority, eligibility and other criteria. On some occasions, the higher officials are allotting quarters in violation of the rules for their personal staff and the employees, who all are closed to them.

16. Peaceful and decent accommodation for servants or their family members are of paramount importance. Public servants are bound to work whenever they are called upon to do public services. The very morale of the public servants will be demoralized in the event of continuing such such violations, irregularities and illegalities. Undoubtedly, providing accommodation / quarters is a concession and a facility provided to the employees. Accommodation on concessional rent, can never be claimed as a matter of right. However, such allotments are to be made by following the principles of equality by the authorities concerned. Equal opportunity in allotment is a constitutional mandate. Equality clause enunciated under the Constitution can never be violated by the public authorities. The employees / servants, in its category, have to be treated equally and the procedures derived for allotment of quarters to be followed without any discrimination.

17. Treating the servants in a fair and reasonable and equal manner is the minimum requirement expected from the competent authorities functioning under the State. It is needless to state that no employee can be deprived of his privilege or facility, more so, the welfare schemes. Allotments made contrary to the regulations are to be held illegal or arbitrary. Our Great Nation is fastly approaching a vibrant democracy. Thus, the components of the constitutional organisations have to undoubtedly adopt the transparent procedures in the matter of providing certain facilities equally to all the public servants and employees. Current day situation warrants transparent procedures in order to eradicate any



unnecessary doubts in the minds of the public, so also the employees. Transparency in procedures and any executive actions undoubtedly make the Nation more glorious. All the procedures and regulations of allotment and cancellation etc., are to be made available to all the public servants, so as to understand the procedures and to avail the facilities in accordance with their application seniority in their respective categories and to abide by the Rules and Regulations thereon scrupulously.

18. The principles of reasonableness and no arbitrariness in actions by the public authorities are the core of our constitutional scheme and structure. Arbitrariness by the public authorities can be demonstrated by the existence of different circumstances. Whenever both the decision making process and the decision taken are based on irrelevant facts, while ignoring relevant considerations, such an action can normally be termed as 'arbitrary'. Where the process of decision making is followed but proper reasoning is not recorded for arriving at a conclusion, the action may still fall in the category of arbitrariness. Of course, sufficiency or otherwise of the reasoning may not be a valid ground for consideration within the scope of judicial review. Rationality, reasonableness, objectivity and application of mind are some of the prerequisites of proper decision making. The concept of transparency in the decision making of the public authority has also become an essential part of our administrative law.

19. An action by a public authority, whether administrative or executive, has to be fair and in consonance with the statutory provisions and rules. Even if no rules are in force to govern executive action, still such action, especially if it could potentially affect the rights of the parties, should be just, fair and transparent. Arbitrariness in the action, even where the rules vest discretion in an authority, has to be impermissible. The exercise of discretion, in line with the principles of fairness and good governance, is an implied obligation upon the authorities, when vested with the powers to pass orders of determinative nature. Thus, it is made clear that any decision in this regard are to be beyond doubt and the principle of reasonableness and fairness are to be adopted by the authorities, while granting allotment to its own employees.

20. In view of the above, the following orders are passed:

- (i) The relief sought for in the present Writ Petition is rejected.
- (ii) The first respondent is directed to open an official website for the purpose of submitting applications for allotment of quarters by the eligible candidates. The Website is directed to be opened, within a period of four weeks from the date of receipt of a copy of this order.

- (iii) The respective seniority of the applications are directed to be maintained date wise, cadre/class



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wise, with reference to the eligibility of the officials submitting applications through online mode.

- (iv) The first respondent is directed to constitute a team of officials to conduct inspections and enquiry and identify and collect particulars of all illegal and irregular occupants in the official quarters and accordingly, issue show cause notice to them to vacate their respective quarters within a period of 60 days from the date of receipt of such show cause notice. In the event of not vacating the premises within a period of 60 days, then all suitable actions are directed to be initiated to vacate the premises and take possession of the same by following the procedures contemplated under the terms and conditions.
- (v) On receipt of any complaint regarding the illegal or irregular allotments or occupations, all necessary actions are directed to be initiated within a period of 30 days from the date of receipt of such complaints.
- (vi) Violations in following the rules for allotment of official quarters are to be viewed seriously and all suitable disciplinary proceedings are to be initiated against the erring officials.
- (vii) The Chairman, Tamil Nadu Police Quarters is directed to monitor the implementations of the directions of this Court in order to maintain clean, transparent and efficient public administration.

21. With these directions, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Commandant, Tamil Nadu Special Police I-Battalion, Trichy.

2. The Commandant, Tamil Nadu Special Police VIII-Battalion,
Tihar Jail Complex, New Delhi.

Copy to: The Chairman, Tamil Nadu Police Quarters,
Tamil Nadu Police Housing Corporation, Chetput, Chennai-10.
+1 CC to SPL GP SR-72896.

W.P(MD) No.16859 of 2015
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