



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.9307 of 2018

and

W.M.P(MD)No.8615 of 2018

and

W.M.P(MD)No.18639 of 2019

Vellaidurai

... Petitioner

-Vs-

1.The Director General of Police,
Mylapore,
Chennai.

2.The Commissioner of Police,
O/o.The Commissioner,
Madurai City,
Madurai.

3.The Deputy Commissioner of Police,
O/o.The Commissioner,
Madurai City, Madurai.

4.The Superintendent of Police,
Ramanathapuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent relating to the impugned order in ந.க.எண்.டீ.டி.3/68668/2012, கா.ஆ.ஆ.எண்.1000/2017, dated 05.07.2017 and quash the same.

For Petitioner : Mr.A.P.Muthupandian

For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader

ORDER

The Writ Petition is filed challenging impugned order passed in the file of the second respondent in ந.க.எண்.டீ.டி.3/68668/2012,
<https://hcservices.ecourts.gov.in/hcservices/>



கா.ஆ.ஆ.எண்.1000/2017, dated 05.07.2017 and quash the same.

2. According to the petitioner, he was working as Assistant Commissioner of Police, Anna Nagar, Madurai City, from 08.06.2011 to 08.11.2012. He was allotted quarters No.AC/15, Armed Forces, Madurai City, Madurai. His son was studying 10th Standard in Mahatma Gandhi School, Madurai. On 08.11.2012, the petitioner was transferred as Deputy Superintendent of Police, Manamadurai, Sivagangai District. According to the petitioner, at the time of transfer, his son was studying 10th standard in a School at Madurai and sought permission to retain the quarters. While he was working as Assistant Commissioner of Police, Madurai, one Sub Inspector of Police namely, Mr.Alwin Sudhan, who was working at Thirupachetty Police Station, was murdered on 27.10.2012 and therefore, the petitioner was transferred to maintain the law and order situation. After taking charge, he encountered the accused persons and police guard was provided to his residence. In view of threaten to his life, he retained the quarters at Madurai. Subsequently, he was promoted as Additional Superintendent of Police and posted at Ramanathapuram. Immediately, he vacated the quarters on 17.02.2014. The second respondent, by the impugned order dated 05.07.2017, ordered recovery of a sum of Rs.1,30,425/- as penal rent, as he retained the quarters from 09.11.2012 to 17.02.2014 without permission. Challenging the said order of recovery, the petitioner has come out with the present writ petition.

3. The learned counsel appearing for the petitioner contended that the said impugned order is passed without issuing any notice to the petitioner. The petitioner sought permission to retain the quarters as his son was studying 10th standard in Madurai and the impugned order is invalid and illegal and prayed for allowing the writ petition.

4. The respondents filed counter affidavit along with vacate stay petition. The learned Special Government Pleader appearing for the respondents submitted that when the quarters was allotted to the petitioner, it was made clear that on transfer, the petitioner must surrender the quarters. The petitioner did not submit any application for permission to retain the quarters. If an official is transferred in the middle of the academic year, he will be permitted to retain till end of the academic year i.e., on 30th April on production of certificate issued by the Head of the Institution, where his children are studying. The petitioner did not obtain any prior permission for retaining the quarters and did not produce any certificate from the School. The respondents by letters, dated 04.01.2013 and 31.01.2013 called upon the petitioner to vacate the quarters. The petitioner, by representation dated 11.02.2013, requested the respondents to allow him to retain the quarters till the end of the academic year i.e., on 30.04.2013. The said request of the petitioner was rejected by the respondents on 18.02.2013. <https://hcservicescourtnil/tc/services> Again, by memo dated 25.09.2013, the petitioner was

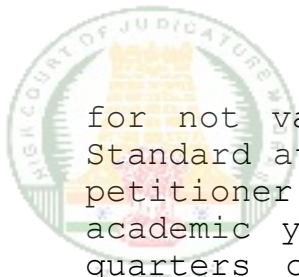


called upon to vacate the quarters.

5. The learned Special Government Pleader appearing for the respondents further submitted that as per G.O.Ms.No.568, Home (Pol-X) Department, dated 31.05.2000, when a police officer retained the quarters after transfer with the permission of higher authority, he has to pay 1 ½ times of rent. If the police officer retained the quarters without permission, he has to pay three times of rent. The respondents, by letters dated 29.12.2015, 22.06.2016 and 02.05.2017, called upon the petitioner to pay three times of rent from 09.11.2012 to 17.02.2014. The learned Special Government Pleader denied the contention of the petitioner that no notice was issued before passing the impugned order. As per G.O.Ms.No.568, Home (Pol-X) Department, dated 31.05.2000, the petitioner is liable to pay three times of penal rent, as he retained the quarters without permission from the respondents. The contention of the petitioner that he was regularly paying the rent for the quarters, is denied by the respondents in the counter affidavit. The learned Special Government Pleader contended that the petitioner has not paid even regular rent while residing in the quarters. Insofar the petitioner's request for receiving only the regular rent is concerned, there is no provision for considering the request of the petitioner to receive only the regular rent and prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

7. From the materials on record, it is seen that the petitioner was transferred on 08.11.2012 from Anna Nagar, Madurai City to Manamadurai, Sivagangai District and posted as Deputy Superintendent of Police. The petitioner did not vacate the quarters, which was allotted to him in Madurai and to retain the same. According to the petitioner, he made a request for retaining the quarters, as his son was studying in 10th Standard at Madurai. The petitioner has not produced the said representation and has not produced the particulars as to when he made such a request. As per the Circular, dated 31.10.1995, in memo No.230599/Building.II(1)/1995, when a person is transferred in the middle of the academic year, he is permitted to retain the quarters on payment of 1 ½ times of regular rent on production of certificate from the Head of the Institution, where his children are studying. The petitioner failed to comply with the said condition. Further, as per the Government Order, if an Officer after transfer, wants to retain the quarters, he has to pay 1 ½ times of regular rent, if he obtains prior permission, whereas he has to pay three times of regular rent, if he has not obtained permission. In the present case, the petitioner has not produced any document to show that he obtained permission to retain the quarters. Further, the reason given by the petitioner



for not vacating the quarters is that, his son was studying 10th Standard at the time of transfer on 08.11.2012. In such a case, the petitioner ought to have vacated the quarters in the end of the academic year i.e., on 30.04.2013, but the petitioner vacated the quarters only on 17.02.2014. The petitioner has not given any reason for retaining the quarters till 17.02.2014. By memos, dated 29.12.2015, 22.02.2016 and 02.05.2017, the petitioner was called upon to pay three times of rent for the period from 09.11.2012 to 17.02.2014. From the typed set of papers filed by the Special Government Pleader, it is seen that the petitioner gave a reply dated 15.03.2016 for the notice dated 22.02.2016. Therefore, the contention of the learned counsel for the petitioner that no notice was issued prior to the impugned order is contrary to the materials on record and without merits. Similarly, the contention of the learned counsel for the petitioner that the petitioner was regularly paying the rent for the quarters retained by him was denied by the respondents in the counter affidavit and the learned Special Government Pleader contended that the petitioner sought permission to pay the regular rent from 09.11.2012 to 17.02.2014. The said request was rejected by the respondents. The respondents have furnished the calculation as to how they arrived at the amounts payable by the petitioner and sought to recover the same in equal monthly installments.

8. In view of the above materials, there is no error in the impugned order passed by the second respondent dated 05.07.2017, warranting interference by this Court. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

am

To

1.The Director General of Police,
Mylapore,
Chennai.

2.The Commissioner of Police,
O/o.The Commissioner,
Madurai City,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Deputy Commissioner of Police,
O/o.The Commissioner,
Madurai City, Madurai.

4.The Superintendent of Police,
Ramanathapuram.

+1 CC to M/s.A.P.MUTHU PANDIAN, Advocate (SR-95272[F] dated
31/10/2019)

+1 CC to M/s.SPL GP (SR-95482[F] dated 01/11/2019)

W.P. (MD) No.9307 of 2018
31.10.2019

JMN(10.12.2019) 5P : 7C