

106

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.890 of 2019
Date of Decision:08.02.2019**

Union of India and another

.....Petitioners

Vs

R.K. Nautiyal

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Praveen Chander Goyal, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 20.02.2018 passed by the Addl. District Judge, Faridabad, whereby the appeal filed by the respondent was accepted and memorandum dated 16.11.2009 issued by the office of the Assistant Estate Manager, NH-IV Faridabad was set aside.

[2]. Perusal of the memo No.2/87/2009/CB dated 16.11.2009 issued by the office of the Assistant Estate Manager, NH IV Faridabad, would show that respondent was allotted quarter No.387 type-II, NH, IV Faridabad and the same was cancelled as the respondent was declared to be ineligible for

government accommodation for remaining period of his service. The factum of subletting was alleged against the respondent and he was directed to vacate the premises failing which eviction proceedings were to be initiated against him.

[3]. Thereafter the eviction proceedings were initiated against the respondent in respect of the house which was allotted to him after his transfer back to Faridabad. It was alleged that the premises allotted to the respondent was cancelled on 20.07.2013 and the respondent did not vacate the same. Show cause notice was issued to him on 07.04.2014 and 31.07.2014. Though the notices were issued upon the respondent. The allotment of the house was cancelled due to ineligibility of the respondent for further allotment of government accommodation for remaining period of his service

[4]. Perusal of the Annexure P-4 bearing No.EO/EC/7-8-2014/CB would show that the same was passed in a summary manner after issuance of show cause notice to the respondent. Earlier memo dated 16.11.2009 was only an executive order in the form of memorandum and stand of the respondent was never ventilated by means of lawful defense. Factum of subletting was never proved with reference to any evidence.

[5]. Against the orders dated 07.08.2014 and 08.08.2014

passed by the Estate Officer, the respondent filed an appeal before the Addl. District Judge, Faridabad and the same was accepted by the Addl. District Judge, Faridabad vide the impugned order after noticing incriminating facts.

[6]. Respondent was posted as Messenger at Faridabad and was allotted Quarter No.387, Type-II, NH-4, Faridabad. Allegations of subletting in favour of two persons namely Manoj and Abhishek was made. The stand of the respondent was that they were his nephews. The stand of the respondent was not entertained and it was observed that case of subletting was proved. A report was made to that effect on 09.01.2009. Thereafter notice was issued on 23.10.2009 to show cause as to why allotment of house be not cancelled. Thereafter allotment was cancelled on 16.11.2009 vide issuance of memorandum only and the respondent was declared to be ineligible for allotment of any government accommodation throughout remaining tenure of his service. Thereafter respondent was transferred to Lucknow where he remained posted for some time. He was again transferred back to Faridabad. He applied for allotment of house and the same was allotted to him. The said allotment has been done away with on the ground that previous order dated 16.11.2009 vide which respondent was held to be ineligible for allotment of any government

accommodation throughout remaining period of his service. Thereafter impugned orders of eviction dated 07.08.2014 and 08.08.2014 were passed by the Estate Officer.

[7]. Perusal of aforesaid material is suggestive of the fact that the respondent has been dealt in a harsh manner. Factum of alleged subletting was presumed vide memorandum only. Without there being any proper trial, respondent was held to be ineligible for allotment of government accommodation for the remaining period of his service. Service of order dated 16.11.2009 always remained under cloud. The endorsement appearing on the order dated 16.11.2009 that the same be issued to the respondent could not be substantiated by the petitioners by any lawful material that the same was communicated to the respondent or received by him at any point of time. The letter sent to the respondent vide serial no.1070 dated 16.11.2009 as shown in the dispatch register was never received by the respondent as the same was not found to be containing signatures of the respondent in token of receipt or confirmation.

[8]. On the ground of principles of natural justice, in my considered opinion, the impugned order dated 20.02.2018 passed by the Addl. District Judge, Faridabad cannot be faulted with as there is no error of jurisdiction committed by the Addl.

District Judge, Faridabad while passing the impugned order.
This revision petition is found to be totally devoid of merits and
the same is accordingly dismissed.

February 08, 2019
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No