

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.23550 of 2013

and

M.P. No. 1 of 2013

S.Madhavan

... Petitioner

Vs

1.The Inspector General of Police,
Rapid Action Force, CRPF
R.K.Puram, New Delhi.

2.The Deputy Director,
Pay & Account office, CRPF,
Mahabir Nagar,
New Delhi 110 018

3.The Commandant,
105 Bn., RAF /CRPF Campus,
Vellalore,
Coimbatore 641 111.

.... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondents to refund a sum of Rs.85,120/- towards market rent recovery already made by violation of Govt. of India, Ministry of Home Affairs order No.27012/42/2009-PF.III dated 14.07.2012 with interest to the petitioner.

For Petitioner : Ms. R.Gouri

For Respondents: Mr. K.Gunasekar, SPCCG
for RR-1 to 3

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O R D E R

The present petition has been filed to direct the Respondents to refund a sum of Rs.85,120/- towards market rent recovery already made by violation of Govt. of India, Ministry of Home Affairs order No.27012/42/2009-PF.III dated 14.07.2012 with interest to the petitioner.

2. The case of the petitioner is that he is presently working as Assistant Commandant at Lalgah, Midnapur District, West Bengal (Left Wing Extremist affected areas). The family of the petitioner is residing in Quarter No. 8, Type-IV, at 105 RAF, Coimbatore and the said quarters was allotted when he was posted in 105 Bn RAF, Coimbatore. The petitioner was transferred from 105 RAF to 50 Bn, CRPF, Lalgah on 25.11.2011. Due to risk factor, the petitioner was compelled to retain the quarters allotted to him and his family was continuing to stay in the said quarters. However, the 3rd respondent directed the petitioner to vacate the above said family quarters on or before 31.05.2012. The petitioner made a representation on 19.05.2012 to the 3rd respondent against the notice of vacation of family quarters stating that he is presently deployed in 50 Bn, CRPF, Lalgah, West Midnapur (W.B), but the petitioner's representation was not considered by the 3rd respondent and another vacation notice was issued on 14.07.2012, intimating that action will be taken for eviction of unauthorized occupants under the Public Premises Act (1971) and market rent recovery will be made from the petitioner. Under these circumstances the petitioner made another representation dated 25.07.2012 to the respondent stating that the petitioner has been performing his duty at 50 Bn, CRPF, Lalgah, Midnapore West Bengal which falls under the category of LWE areas as per Annexure to the office Memorandum of Ministry of Home Affairs (Naxal Management Division) letter dated 14.12.2010. The 3rd respondent vide order dated 14.02.2013, informed that petitioner that the petitioner's request for retention of family quarters was not considered and asked him to vacate the premises immediately. Therefore, after closing of the academic year, the petitioner has vacated the quarter on 21.05.2013. The grievance of the petitioner is that though he vacated the said quarters while he is serving his duty at 50 Bn, CRPF, Lalgah, Midnapore, West Bengal the 3rd respondent ordered for recovery of damage rent at the rate of Rs.8512/- per month for the period from 10.08.2012 to 20.05.2013, totalling to the tune of Rs. 85120/- or the date of eviction of the petitioner from the said quarters, whichever is earlier. Eviction proceedings were also contemplated vide order No.27012/42/2009-PF.III dated 14.07.2012. Challenging the said order, the petitioner has preferred the present petition.

3. Learned counsel appearing for the petitioner submits that the petitioner is serving in the North East Region and as per clause 'D' of the proceedings of the 1st respondent dated 28.7.09, any person working in Jammu & Kashmir/North East region/Left Wing Extremists (LWE) affected area can retain the quarters. Learned counsel for the petitioner further brought to the notice of the court the subsequent proceedings of the 1st respondent dated 30.11.2015, wherein, in sub-clause 'B' of Para-27, it is found mentioned that 'Retention of family quarters on transfer to J&K, LWE and NE Region is permitted at Group Centre

location only'. Pointing out the above, it is the submission of the learned counsel appearing for the petitioner that since the petitioner is working in Group Centre location, he is entitled to retain the quarters but contrary to the rules the petitioner was directed to vacate the staff quarters and a sum of Rs.8512/- per month was deducted for the period from 10.08.2012 to 20.05.2013 in all totalling to the tune of Rs. 85120/- as recovery of damage rent, which is in contravention of the regulations. Learned counsel also placed reliance on the order passed by this Court in W.P.No.18184/2019, wherein this Court has allowed a similar relief and, therefore, prayed for allowing the petition.

4. Per contra the learned Central Government Standing Counsel appearing for the respondents, in his counter affidavit, justified the impugned order: According to the 3rd respondent the petitioner has made requests from time to time instead of vacating the quarters where the family of the petitioner is residing. The said quarters was allotted when he was posted in 105 Bn RAF, Coimbatore. Further, the learned standing counsel submitted that the Housing Management Committee had rejected the request made by the petitioner and he was asked to vacate by 10.08.2012, but the petitioner had failed to vacate the said quarter, therefore the petitioner was declared to be in unauthorized occupation of the quarter No.8. In the mean while, the petitioner has vacated the quarters on 20.05.2013 and availed the quarter facility at GC CRPF campus, Avadi and Chennai. Learned counsel further submitted that though the regulations entitle the petitioner to retain the quarters, however, for want of accommodation for officers being put on duty at Coimbatore, the vacation of the quarters was ordered.

5. This Court heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents and perused the materials available on record to which this Court's attention was specifically drawn.

6. This Court, in W.P. No.18484/2019, had occasion to consider a similar issue, wherein this Court took into consideration the decision of the Division Bench of this Court in W.A. No.1302 of 2017, wherein, the Division Bench, taking into consideration the facts and circumstances as also the various circulars and proceedings, relating to the issue on hand, ordered as under:-

"...7. The matter of security to the nation has got its own significance and it cannot be denied or ignored that the CMPFs personnel deputed at hypersensitive areas have to discharge their duties in protecting the nation at the risk of their lives, however, with peace of mind and without getting disturbed by their household

affairs. Certainly, they cannot be equated with regular Government employees. Therefore, it is the bounden duty of the Government to extend larger benefits to them so that they could feel free from such things and serve the nation with devotion. This alone could be the scope underlying the above concession shown by the Government of India. Denial of such benefits to the appellant/writ petitioner and thereby dislocating his family would not be fair on the part of the respondents. Even on technicalities, the retention of the quarters cannot be treated as one stream and as long as deemed by the authorities to treat it as unauthorised one, as we find that the appellant had been serving in Poonamallee, Chennai from October 2011 to April 2015 and the present tenure at Jammu & Kashmir is only from May 2015 which is also going to end, probably by the year 2018. Therefore, the authorities have to be reasonable with some balance of convenience in allotting the quarters or shuffling the same among the CPMFs Personnel depending upon their family circumstances.

8. Therefore, while setting aside the orders passed by the learned Single Judge as well as the orders impugned in the writ petition, we direct the respondents to extend the retention period of the quarters occupied by the appellant/his family members till the completion of the present course of education by the wards of the appellant or as long as the appellant is posted at hypersensitive areas whichever is later, or else, if the respondents are still on mere technicalities, they can consider transferring the appellant/writ petitioner to the Souther Region considering his past services at various hypersensitive places and thereby the necessity to evict his family members from the quarters presently occupied by them should not arise."

7. The facts in issue in the present case are identical to the issue in the above cited decision, which is squarely applicable to the case on hand. In such circumstances, this Court is of the considered view that the petitioner is entitled to retain his quarters till such time the services of the petitioner are utilised in Jammu & Kashmir/North East region/Left Wing Extremists (LWE) affected area, subsequent to which the petitioner shall vacate the quarters. Further this Court directs the Respondents to refund the amounts recovered from the petitioner, without any interests, which was recovered

towards damage rent within a period of three months from the date of receipt of a copy of this order.

8. In the result, the writ petition stands allowed with the following observations and directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

jrs/GLN

To

1.The Inspector General of Police,
Rapid Action Force, CRPF
R.K.Puram, New Delhi.

2.The Deputy Director,
Pay & Account office, CRPF,
Mahabir Nagar,
New Delhi 110 018

3.The Commandant,
105 Bn., RAF /CRPF Campus,
Vellalore,
Coimbatore 641 111.

W.P. NO. 23550 of 2013

PVS (CO)
CB(22/09/2020)

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