



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD)No.10762 of 2014

and

M.P. (MD)No.1 of 2014

WEB COPY

T.Dattis Joyson

... Petitioner

Vs

Superintendent of Police,
District Police Office,
Kanyakumari District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent herein in his proceedings in Na.Ka.No.B3/68345/2013, DO.No.391/2014 dated 27.03.2014 and the consequential order passed in Na.Ka.No.B3/68345/2013 dated 25.04.2014 and quash the same and consequentially direct the respondent to refund the amount already recovered from the petitioner's salary.

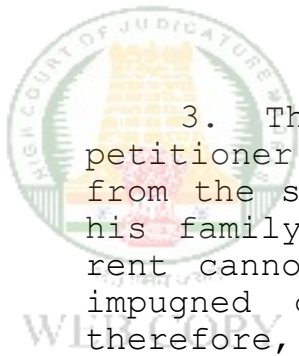
For Petitioner : Mr.G.Bala & Daisy

For Respondent : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

ORDER

The impugned order of recovery imposing penal rent for over stay in the rent free police quarters is under challenge in the present writ petition.

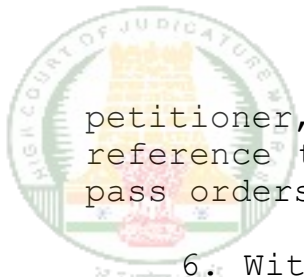
2. The writ petitioner was appointed as Grade II Police Constable on 25.10.1984 and thereafter, promoted as Grade I Police Constable, Head Constable and Sub Inspector of Police on 28.11.2006. The petitioner was transferred from Kanyakumari District to Thoothukudi and he has not vacated the official quarters allotted to him at Kanyakumari. The reason stated by the petitioner was that the official quarters allotted to him at Thoothukudi was not in dwelling condition and therefore, he continued the occupation of the quarters allotted to him in Kanyakumari District. After 18 months of service at Thoothukudi, he was once again transferred to Kanyakumari District. Therefore, he became eligible to continue in the same quarters.



3. The learned counsel appearing on behalf of the writ petitioner reiterated that the house rent allowance was deducted from the salary of the writ petitioner every month for the stay of his family in the quarters at Kanyakumari District. Thus, penal rent cannot be recovered from the writ petitioner by passing the impugned order. The penal rent is calculated for 400% and therefore, the same is not only exorbitant but the authorities have not considered the genuinity of continuance of the writ petitioner in the quarters at Kanyakumari District.

4. This Court is of the considered opinion that the police officials, who all are in occupation of the rent free quarters are expected to vacate the same soon after they are transferred to some other place. The very purpose and object of allotment of official quarters for these police officials are to ensure effective and essential performance of their duties and responsibilities in the local area. The police personal has to serve 24x7 on call and they are expected to reside in the nearby area. Considering these factors, the rent free quarters are allotted to the police officials. Once they are transferred to other place, the incumbent must be facilitated to occupy the said quarters for the purpose of his duties and responsibilities. In the event of not vacating the quarters, the incumbent official would suffer and it will create so many other issues. Thus, the conduct of the writ petitioner in not vacating the official quarters from Kanyakumari District cannot be appreciated. If at all the quarters allotted at Thoothukudi was not in a dwelling condition, then he can avail the benefit of house rent allowance (HRA) and reside outside the police quarters and these are the part and parcel of the service condition. This being the factum, over stay of the writ petitioner in the rent free quarters in Kanayakumari District is violation of the allotment Rules itself.

5. However, the authorities had deducted HRA from the salary of the writ petitioner during the period of over stay. When HRA is deducted by the authorities, the learned counsel for the petitioner states that the petitioner was allowed to continue in the quarters. This Court is of the opinion that there cannot be any implied permission in view of the fact that the petitioner is working in the cadre of Sub Inspector of Police and he is aware of the allotment Rules. Therefore, the petitioner ought to have vacated the quarters soon after his transfer to Thoothukudi District. However, he continued in the quarters till his retransfer to the Kanyakumari District. House Rent Allowance was also deducted from the salary of the writ petitioner and under these circumstances, imposing the penal rent at the rate of 400% would be exorbitant and the authorities competent are at liberty to reconsider the quantum of penalty to be imposed for the period of over stay. Thus, the writ petitioner is permitted to submit a detailed representation setting out the facts and details to the respondent /Superintendent of Police and on receipt of any such representation from the writ



petitioner, the respondent is directed to consider the same with reference to quantum of penal rent imposed and take a decision and pass orders as expeditiously as possible.

6. With the above direction, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

Superintendent of Police,
District Police Office,
Kanyakumari District.

+1 CC to SGP (SR-21491[F] dated 06/11/2020)

W.P. (MD)No.10762 of 2014

05.11.2020

CK (CO)

NR (11/11/2020) 3P : 3C