

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22928 OF 2022

Pramila Behera

....

Petitioner

Mr. Swapna Kumar Ojha, Advocate

-versus-

Union of India and others

....

Opp. Parties

Mr. P.K. Parhi,

Deputy Solicitor General of India for Odisha

along with Mr. Satyabrata Panda, CGC

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

15.09.2022

Order No.

- 01.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks to assail the order dated 29th August, 2022 (Annexure-11) issued by the DIG-cum-Estate Officer, Group Centre, CRPF, Bhubaneswar- Opposite Party No.3 directing the husband of the Petitioner to vacate Quarter No.38, Type-III in Group Centre, Bhubaneswar within fifteen days from the date of issue of the said notice rejecting his representation dated 17th August, 2022, which was filed in terms of order dated 11th August, 2022 passed by this Court in W.P.(C) No.20032 of 2022.
 3. Mr. Ojha, learned counsel for the Petitioner submits that assailing the order of eviction, the Petitioner had earlier moved this Court in W.P.(C) No.20032 of 2022, which was disposed of vide order dated 11th August, 2022 with the following direction.

“7. Accordingly, this writ petition is disposed of with a direction that in the event the Petitioner’s husband submits a comprehensive representation before the Deputy Inspector General of Police, Central Reserve Police Force (CRPF)-cum-Estate Officer, Group Centre, CRPF,

Bhubaneswar-Opposite Party No.3 within a period of two weeks hence along with certified copy of this order, the same shall be considered in accordance with law as expeditiously as possible, preferably within a period of one month therefrom.

8. Till a decision is taken on the grievance petition, if submitted by the Petitioner within the stipulated time as above, no coercive measure shall be taken pursuant to the notice under Annexure-7 for eviction of the Petitioner, if he has not been evicted in the meantime.”

Accordingly, the Petitioner’s husband made a representation on 17th August, 2022 (Annexure-10), wherein he has specifically stated that his wife (Petitioner herein) is suffering from breast cancer and has been advised to administer Chemotherapy at the interval of twenty-one days for thirteen months. A certificate to that effect has also been issued on 19th July, 2022 by the Specialist Medical Officer (Gynecologist), Composite Hospital, CRPF, Bhubaneswar under Annexure-1. He further referred to Clause-16 of the Guidelines (Annexure-6) for allotment and occupation of family quarters in CRPF, 2015, which provides as under:-

“(C) Conditions and General Rules:-

xx

xx

xx

16. After the expiry of the prescribed period, the allottee shall be required to vacate the quarter subject to exemption laid down below unless decided otherwise by the HMC for reasons to be record in writing.

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| <i>(i) Family members suffering from chronic diseases</i> | <i>Till the duration of treatment and certified by the Medical Officer that the patient is capable of undertaking journey to other station”</i> |
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The general Clause for retention of family quarters as per Clause-27 of the said Guidelines is therefore not applicable to the instant case. The case of the husband of the Petitioner ought to have been considered in terms of Clause 16(i) of the Guidelines. He,

therefore submits that the impugned order of rejection under Annexure-11 is not sustainable in the eyes of law and is liable to be set aside and husband of the Petitioner should be allowed to retain the family quarters in question till completion of her (Petitioner) treatment.

4. Mr. Parhi, learned DSG on the other hand vehemently submits that in view of Clause-27 of the Guidelines, husband of the Petitioner is not entitled to retain the family quarters in question for more than seven years. He was allowed to retain such quarters since 2007 and in the meantime fifteen years have already lapsed. Seventy eligible CRPF personnel presently posted in LWE/NE/Jamu and Kashmir areas are waiting for allotment family quarters and due to scarcity of family quarters in Group Centre campus at Bhubaneswar, authorities are compelled to issue notice to husband of the Petitioner to vacate the quarters in question. Opposite Party No.3 considering the above has rejected the representation of Petitioner's husband. Hence, the writ petition merits no consideration.

5. Upon hearing learned counsel for the parties and on perusal of record, this Court finds that Clause-16 of the Guidelines is an exception to Clause-27 of the said Guidelines. In spite of date line provided in Clause-27 of the Guidelines, Petitioner's family members are falling under the category more fully described in Clause-16 (i) and are exempted from vacating the residential family accommodation provided to them in Group Centre at Bhubaneswar CRPF campus. In the representation under Annexure-10 husband of the Petitioner has taken a specific plea

that his wife is suffering from breast cancer and is undergoing treatment at KIIMS Hospital. Since the CRPF personnel (husband of the Petitioner) is deployed at LWE area no one is there to look after her. Once he is transferred to the Group Centre, he can find out the private accommodation and shift his family. He therefore requested for keeping the quarters in question till completion of treatment of his wife (Petitioner). This material aspect has not been considered by the authority/Opposite Party No.3 while taking the decision on the representation of husband of the Petitioner dated 17th August, 2022 (Annexure-10).

6. In view of the above, this Court feels that the matter requires fresh consideration by Opposite Party No.3. Accordingly, while setting aside the order dated 29th August, 2022 (Annexure-11) issued by Opposite Party No.3, this Court disposes of the writ petition with a direction that Opposite Party No.3 shall consider the representation under Annexure-10 (submitted pursuant to issuance of order dated 29th July, 2022 by Opposite Party No.3 under Annexure-9) afresh in the light of the grievance mentioned at para-3 vis-à-vis the Guidelines (Annexure-6). Till a fresh decision is taken on his (Petitioner's husband) representation no coercive action shall be taken for eviction of the husband of the Petitioner from Quarter No.38, Type-III in Group Centre, Bhubaneswar, if he has not been evicted in the meantime.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge