

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.383 of 2013

Bijaya Kumar Patnaik Petitioner

-versus-

D.G. And I.G. of Police Opposite Party

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
25.07.2022**

Order No

04.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. Sethi, learned counsel for the Petitioner and Mr. Mishra, learned AGA appearing for the State-Opp. Parties.

3. The Petitioner is aggrieved by the notification issued by the Superintendent of Police, Puri on 13.08.2018 under Annexure-7 and rejection of his claim to occupy the Govt. quarter by the D.I.G. of Police under Annexure-9.

4. Mr. Sethi, learned counsel for the Petitioner submitted that the Petitioner on his transfer to Puri was allotted Govt. quarter No. P-14 near SCS College, Puri. It is submitted that while continuing at Puri, the petitioner was transferred to Jagatsinghpur vide Order dtd.30.06.2009. On his transfer when the Petitioner was asked to vacate the quarter, the petitioner prayed for permission to retain the said quarter and in consideration of that the Govt. allowed the Petitioner to retain the quarter up to 30.11.2009.

5. Mr. Sethi further submitted that the Petitioner was again repatriated to work at Puri on 03.07.2010 and subsequently the Petitioner was posted at SOG, Chandaka on 21.10.2010. It is submitted that in view of the circular issued by the D.G. & I.G. of Police on 30.06.2008, a Govt. employee is allowed to retain his quarter in view of his posting in SOG as a Special incentive.

6. Mr. Sethi accordingly submitted that since the Petitioner was posted to SOG, Chandaka on 21.10.2010, in view of the circular dtd.30.06.2008, the Petitioner is eligible to retain the quarter. It is also submitted that the Petitioner continued in SOG, Chandaka from 21.10.2010 till his retirement on 30.04.2019. It is also submitted that the Petitioner immediately on his retirement vacated the quarter on 04.05.2019.

7. Mr. Sethi accordingly submitted that since the Petitioner was posted to SOG, Chandaka on 21.10.2010, he became eligible to retain the quarter in question as he continued in SOG, Chandaka till his retirement i.e. 30.04.2019. It is further submitted that D.G. & I.G. of Police without going through the circular dtd.30.06.2008 rejected his claim vide the impugned order at Annexure-9 and Superintendent of Police, Puri also passed the order under Annexure-7 by saddling the Petitioner with penal house rent w.e.f.01.09.2011.

8. Mr. Mishra, learned AGA on the other hand made his submission relying on the counter and reply to the rejoinder filed in Court today. It is submitted that since the D.G. & I.G. of Police has rejected the prayer of the Petitioner to occupy the said quarter, the Petitioner is not entitled to retain the said quarter and accordingly he is liable to pay the penal rent. But the impugned order passed by

the D.G. & I.G. of police available at Annexure-9 does not show regarding consideration of the effect of the circular annexed vide Annexure-4 to the writ Petition.

9. In the circular dt.30.06.2008 under Annexure-4, it is very much clear that an employee on his posting to SOG, Chandaka is allowed to retain the quarter as Special incentive. Since the Petitioner was allowed to continue at SOG, Chandaka w.e.f. 21.10.2010 till his retirement on 30.04.2019 and the Petitioner vacated the quarter on 04.05.2019, the Petitioner is not liable to pay any penal rent for the period from 21.10.2010 till 30.04.2019. For the period 01.12.2009 till 20.07.2010 the Petitioner is liable to pay the rent as due and admissible.

10. This Court accordingly is inclined to interfere with the matter and held that the Petitioner is not liable to pay the penal house rent for the period 21.10.2010 till 30.04.2019. The Authorities are at liberty to realize the rent as due and admissible from the Petitioner for the period 01.12.2009 till 20.10.2010 and the normal rent for the period 21.10.2010 to 30.04.2019.

11. The writ Petition is disposed of accordingly with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha