

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

**CWP No.6187 of 2021
Date of Decision:-13.07.2022**

Shiv Ram Nagra

...Petitioner

Versus

Union Territory of Chandigarh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. C.R. Narwal, Advocate
for the petitioner.

Mr. Aditya Jain, Addl. Standing Counsel for U.T. Chandigarh
with Ms. Priyanka Dalal, Advocate
for respondents No.1 and 2.

HARSIMRAN SINGH SETHI J.(Oral)

In the present petition, the prayer of the petitioner is for quashing of the impugned order (Annexure P-6) vide which the prayer of the petitioner for retaining the government house, which the petitioner was allotted during his service career, has been declined.

Learned counsel for the petitioner argues that the petitioner was allotted Government House No.T-11/1757-B in Sector 43-B, Chandigarh. After the petitioner attained the age of superannuation and retired on 31.10.2019, as per the Government instructions petitioner could

have retained the said house for a period of four months after superannuation. The said period expired on 29.2.2020 and the petitioner was required to vacate the house on 01.03.2020. Keeping in view various circumstances, the petitioner could not vacate the said house on 01.03.2020 and thereafter, keeping in view the pandemic of Covid-19, as there was lock-down and curfew imposed in the city of Chandigarh, the petitioner could not vacate the said house, which was ultimately vacated by him on 01.06.2020. The petitioner had retained the said house for a period of three months more than his entitlement. Learned counsel submits that for the said period, the petitioner has been asked to pay the penal rent though, as per decision taken by the respondent-U.T. Chandigarh, any employee, who was in illegal occupation of house prior to 01.3.2020, could have retained the house for another three months keeping in view various circumstances including the pandemic of Covid-19 and therefore the claim of the petitioner was covered by the said clarification so as not to charge penal rent for the period starting from 01.3.2020 onwards till 31.5.2020.

Upon notice of motion, the respondents have filed the reply, wherein the respondents have submitted that though, as per the instructions issued by the UT Chandigarh, an employee, who was to vacate the government house by 01.3.2020, have been given the benefit to retain the same for a period of another three months but the claim of the petitioner is not covered by the said instructions as the petitioner was required to vacate the house on 29.2.2020 i.e. one day before, hence, the petitioner cannot claim the benefit of the said instructions.

I have heard learned counsel for the parties and gone through

the record with their able assistance.

The facts, which have been stated above, are not in dispute. The only question, which arise is whether or not the claim of the petitioner is covered by the clarification which has been issued by the respondent-UT Chandigarh, a copy of which has been annexed as Annexure R1/5. A bare perusal of the clarification shows that the benefit of the clarification was to be given only to the occupants of the house who were not unauthorisedly occupying the premises prior to 01.3.2020. In the present case, the petitioner was also not occupying the said house unauthorisedly prior to 01.3.2020. The petitioner was entitled to retain the said house upto 29.2.2020 as per the rules. That being so, it cannot be said that the petitioner was occupying the said house unauthorisedly prior to 01.3.2020 so as to be excluded from the benefit of clarification (Annexure R1/5). The respondents are not applying clarification on the case of the petitioner in a correct prospective. Once, the petitioner was not occupying the house in question unauthorisedly prior to 01.3.2020, the benefit of the same has to be extended to him.

Keeping in view the above, it is held that the case of the petitioner is squarely covered by the decision/clarification of the respondent-UT Chandigarh, a copy of which has been annexed as Annexure R1/5 with this petition, according to which an employee could have retain the government accommodation on paying the normal rent for a period of three months, which benefit has only been utilized by the petitioner as concededly the petitioner has vacated the house on 01.6.2020. That being so, no penal rent can be charged from the petitioner and the petitioner will

only be liable to pay the normal rent as being paid by him during his service career.

The writ petition is allowed in the above terms.

July 13, 2022
Vijay Asija

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No