

In the High Court of Punjab and Haryana at Chandigarh

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CWP-19556-2015 (O & M)

Date of Decision: October 10, 2022

SONU KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr.Gunjan Mehta, Advocate for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Karan Sachdeva, Advocate for
Mr. G. S. Wasu, Advocate for respondents No.2 and 3.

Ms. Nikita Goel, Advocate for
Mr. S.K. Mahajan, Advocate for respondent No.5.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has impugned the order dated 21.08.2015 whereby a sum of Rs.9,41,766/- has been ordered to be deducted as penal rent from the pay of the petitioner.

Learned counsel for the petitioner submits that the petitioner was appointed as Assistant Engineer (Civil) in the Haryana Police Housing Corporation on 31.08.2009. He had been sent on deputation to the Local Bodies Department at Gurgaon on 18.09.2013. In the order passed by respondent No.3 while deputing him on deputation, it was stipulated that the Local Bodies Department will pay the market rent of the accommodation provided to the officers by the Commissioner of Police. The petitioner, therefore, had continued to occupy the premises, which had been allotted to

him while he was working in the Haryana Police Housing Corporation. The respondents have imposed penal rent at the rate of 300 times for the period of his alleged overstay from 20.08.2014 to 30.04.2015. He also submits that the penal rent at the rate of 300 per cent has been imposed in terms of the Haryana Civil Services Allowance to Government Employees Rules, 2016 which were not in force at the time of alleged overstay of the petitioner. The 2003 Rules stipulate that penal rent could be 50 times. He, however, submits that the petitioner had not overstayed as he was already occupying the accommodation at the time of deputation and in view of the terms and conditions of his deputation, he was permitted to occupy the house. He has relied upon the judgments of this Court passed in CWP-3397-2017 titled as **Inspector Surinder Singh Phogat versus State of Haryana and others** decided on 28.11.2017 and CWP-3923-2015 titled as **Ram Kishan versus State of Haryana and others** decided on 16.09.2016.

Learned counsel for the respondents submit that as the petitioner had overstayed and, therefore, penal rent at the rate of 300 times had been imposed.

Heard.

It is manifest that the impugned order effecting recovery of alleged overstay of the petitioner for a period of 08 months had been passed without any opportunity of hearing. It has been held by this Court in the judgment of Inspector Surinder Singh Phogat (supra) that the Rules which had come in force in the year 2016 would be applicable prospectively. Therefore, the alleged overstay of the petitioner would not be covered under the 2016 Rules. This Court by order dated 16.09.2015 had stayed the operation of the impugned order subject to the petitioner depositing a sum of Rs.1,50,000/- with the

Deputy Commissioner of Police, Gurgaon. It was enjoined upon the respondents to have issued a notice before passing the impugned order of recovery. Therefore, the impugned order has been passed in violation of the principles of natural justice.

Consequently, the impugned order is set aside. The respondents would, however, be at liberty to pass a fresh order after affording an opportunity of hearing to the petitioner, if he is found to have overstayed at the accommodation.

In the eventuality of the respondents deciding against the petitioner, the afore-noted amount already deposited by the petitioner would be adjusted. In the event of the respondents deciding in favour of the petitioner, then this amount would be refunded to the petitioner.

(ANUPINDER SINGH GREWAL)
JUDGE

October 10, 2022
A.Kaundal

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