

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.32572 of 2019 (O&M)
Date of Decision:26.07.2022

Dayanand

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kamal Sharma, Advocate
for the petitioner.

LISA GILL, J(Oral).

Petitioner seeks quashing of order dated 07.05.2012, passed by the Superintendent District Jail, Rohtak, whereby recovery of penal rent of Rs. 1,45,175/- has been ordered for unauthorized occupation of government accommodation.

It is submitted that petitioner, who joined service as warder with the department of Jails in the year 1980 has performed his duty sincerely, diligently and his service record is blemish free. Petitioner, it is stated retired on 15.01.2015. It is further stated that while petitioner was serving at District Jail, Rohtak, he was allotted government accommodation in the jail premises itself. Date of allotment is not available on file or with learned counsel for the petitioner who submits that petitioner was transferred from Rohtak Jail to Gurugram on 06.08.2008 where he remained posted till 26.06.2009 from where he was subsequently transferred to Faridabad. Petitioner, it is

submitted remained posted at Faridabad till 11.04.2012. Learned counsel for the petitioner submits that petitioner's son was involved in a murder case at Rohtak and his other children were studying at a school at Rohtak, therefore he sought to retain the government accommodation at Rohtak. Due to unavoidable familial circumstances, petitioner could not shift his family from Rohtak to Gurugram and then to Faridabad after his transfer. Representation dated 13.12.2011 is stated to have been submitted by the petitioner, seeking permission to retain the government accommodation allotted to him in the District Jail premises Rohtak. Reminder dated 05.02.2012, is also stated to have been submitted, however letter dated 10.02.2012, was sent by the Superintendent District Jail, Rohtak to Superintendent District Jail, Faridabad to the effect that penal rent to the tune of Rs. 1,33,100/- for a period of 33 months has to be recovered from the petitioner as per letter dated 27.07.2012 received from Director General of Prisons, Haryana. Thereafter, communication dated 07.05.2012, was received by the petitioner from Superintendent District Jail, Rohtak seeking recovery of penal rent of Rs.1,45,175/- on account of overstaying in government accommodation. Petitioner ultimately retired on 15.01.2015 and penal rent for the period i.e., 01.04.2009 to 30.04.2012, for which he retained possession of government accommodation within the premises of District Jail, Rohtak was recovered. By way of this writ petition, petitioner seeks a refund of this amount after setting aside of order dated 07.05.2012 being illegal and arbitrary.

Present writ petition has been filed in May 2019 challenging order dated 07.05.2012, on the ground that it was passed without affording any opportunity of hearing to the petitioner and that at no point of time was the petitioner apprised that in case, he retained the government

accommodation after his transfer from the said place, he would be liable to pay penal rent.

Learned counsel for the petitioner vehemently argued that the petitioner is a poor employee facing financial difficulty and his familial circumstances were such, which led to this situation. Petitioner, it is submitted, never availed the facility of government accommodation at the subsequent place of posting. It is thus prayed that the present writ petition be allowed and penal rent which has been recovered from the petitioner be refunded.

Heard learned counsel for the petitioner and have gone through the file with his able assistance.

It is a matter of record that present writ petition has been filed in May 2019 for challenging order dated 07.05.2012 i.e., after about seven years. There is not a whisper of an explanation much less a reasonable explanation on the part of the petitioner to explain the said delay. Unauthorized occupation of government accommodation within the premises of District Jail, Rohtak even after transfer of the petitioner therefrom, is not denied. Learned counsel for the petitioner is unable to deny that retention of government accommodation beyond the stipulated period, is not permissible and the employee would be liable to deposit the penal rent in such a scenario. Ignorance of provisions of law as has been urged at the time of arguments cannot be a ground for interference.

It is to be reiterated at this stage that the petitioner chose to accept order dated 07.05.2012 and sit quiet till filing of this writ petition in May 2019 for reasons best known to him. At no stage did the petitioner challenge deduction of the amount from his salary. In fact, even after his retirement on 15.01.2015, petitioner chose to remain silent for over four

years. It is a settled position that a litigant who sleeps over his rights, would not be entitled to any indulgence.

Learned counsel for the petitioner is unable to point out any ground whatsoever which would entitle the petitioner for the benefit as claimed.

No other argument has been raised.

Writ petition is accordingly dismissed with no order as to costs.

26.07.2022
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.