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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 08 March, 2022**+ **W.P.(C) 9938/2021 & CM APPL. 30646/2021****PANKAJ BANSAL**

..... Petitioner

Through: **Mr.Nitish Sharma, Adv.**

versus

SUPERINTENDENT OF POLICE (HQ), CENTRAL BUREAU OF INVESTIGATION & ORS.

..... Respondents

Through: **Mr.Anil Grover, SPP for CBI with Mr.Mishal Vij, Mr.Neeraj Bhardwaj and Mr.Mankaran Ahluwalia, Adv.**
for respondent nos. 1 to 3.**Mr.Ripu Daman Bhardwaj, CGSC with Mr.T. P. Singh, Adv. for respondent no.4/UOI.****CORAM:****HON'BLE MR. JUSTICE YASHWANT VARMA****YASHWANT VARMA, J. (ORAL)**

1. This writ petition is thoroughly misconceived and clearly in abuse of the process of Court for reasons which follow.
2. Undisputedly, the order of 15 October 2020, which is impugned here, was questioned by the petitioner by preferring W.P.(C) 10727/2020. That writ petition came to be disposed of by a learned judge on 18 December 2020 in the following terms: -

“3 The petitioner’s grievance is that the demand of roughly Rs.97,442/- along with interest @ 6.85% p.a. w.e.f. 2013 is an exorbitant amount which he cannot afford, therefore he would like the Department to reconsider its demand and accommodate his request. The learned counsel for the petitioner argues that since the petitioner was in the same station, therefore, on merits, he would be entitled to retain the said residential accommodation.

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4 The learned Standing Counsel for the respondent submits, upon instructions, that there is an undertaking by the petitioner that he would vacate the premises by a certain date and indeed, it was expected of him to do so. The learned counsel for the petitioner submits that there were compelling circumstances concerning the education of his daughter because of which he could not vacate the premises on the earlier indicate date. He was constrained to retain the accommodation for only three months more. The track record of the petitioner/officer is unblemished. He continues to serve the CBI diligently.

5 In the circumstances, let this petition be considered as the petitioner's representation by the respondent. He shall be heard within four weeks through counsel through video conferencing or through physical hearing, if so preferred. The Department's decision, shall be communicated to him promptly.

6 Till then, no precipitate measures shall be taken against the petitioner.

7 The petition, along with pending applications, stands disposed-off in the above terms."

3. A reading of that order clearly establishes that no challenge to the respondents having treated the petitioner as being in unauthorised occupation was urged or addressed. In fact a perusal of that order would reveal that the challenge to the orders passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was essentially given up and the only prayer addressed was for the respondents granting the petitioner further time to vacate the premises. The Court also took note of the admitted position that the petitioner despite having given an undertaking to vacate the premises in question, had admittedly failed to abide by that promise and assurance. It was in the aforesaid backdrop that the writ petition was disposed of with the Court accepting the submissions addressed on behalf of the petitioner providing that the same may be treated as a representation made by him. It was further provided that till the



representation of the petitioner is decided, no precipitate action would be taken.

4. From the aforesaid recordal of facts, it is manifest that once that writ petition came to be decided and disposed of finally in light of the agreed position which was struck by parties before and in terms of the ultimate order passed by the Court, no right survives for a renewed challenge being raised with respect to the the order of 15 October 2020.

5. The solitary issue which remains relates to the question of damages for the period of October 2013 to April 2014. The said period represents the period during which the petitioner remained in occupation of the subject premises after the retention period granted by the respondents. It becomes pertinent to note that the respondents had out of grace permitted the petitioner to retain the premises notwithstanding him having been sent on deputation to the Ministry of Home in the Union Government. Even after the period of eight months as had been granted came to an end, the petitioner failed to vacate the premises in question. The petitioner, in fact, paid the damages as assessed by the respondents only for the period of August 2013 to October 2013. His request for further retention of the accommodation was turned down by the respondents in terms of the order of 12 November 2013.

6. The submissions addressed by learned counsel resting upon the provisions made in the CBI Allotment of Residences Rules (Revised), 1988, is clearly self-destructive. According to learned, the chart which spells out the period of permissive detention does not contemplate a situation where a person is sent on deputation in the same station. If the aforesaid submission were accepted, it would essentially result in the Court

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coming to conclude that even the permission to retain the premises for a period of eight months was one which was not authorised under the said Rules. However, and since as was noted above, the respondents had, in fact, on an independent interpretation of those Rules, permitted the petitioner to retain the premises for a period of eight months, the Court does not hold against the petitioner on this score. Regard must be had to the fact that those Rules did contemplate a person being sent on deputation. This is evident from the definition of the expression “transfer” as embodied in those Rules. However, it did not confer or invest a right to retain accommodation even while on deputation. The Rules essentially contemplated allotment of accommodation in favour of officers and employees who fell under the “*administrative control*” of the Central Bureau of Investigation. The submission of learned counsel that since the Rules were silent on the issue of deputation in the same station, it must be held that there was no obligation to vacate the premises is noticed only to be rejected. While concluding it may only be noted that the quantum of damages as assessed was not questioned by learned counsel for the petitioner in the course of his oral submissions.

7. Consequently, and for all aforesaid reasons, this writ petition fails and shall stand dismissed. Pending application shall stand dismissed as well.

YASHWANT VARMA, J.

MARCH 8, 2022/bh