

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 4th November, 2022**

+ **W.P.(C) 15275/2022 & CM APPL. 47353/2022**

YATENDER SINGH Petitioner

Through: Counsel for the Petitioner
(Appearance not given)

versus

**UNION OF INDIA THROUGH SECRETARY
MINISTRY OF HOME AFFAIRS & ORS** Respondents

Through: Ms. Radhika Bishwajit Dubey, Sr.
Panel Counsel for UOI with Ms.
Akanksha V. Ingole, Advocate and
Mr. Rudra Paliwal, GP

**CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking *inter alia* the following reliefs:-

“a) Issue a writ order or direction in the nature of certiorari thereby quashing and setting aside the Impugned orders dated 13.05.2022, 20.07.2022/ 26.07.2022, 19.09.2022 and 14.10.2022.

b) Issue a writ order or direction in the nature of Mandamus directing the Respondents to allow the

Petitioner to retain Quarter No. 26 Type IV at Group Centre Gurugram till the completion of his tenure at 202-Bn CoBRA, CRPF, Sunabeda, Koraput, Odisha.

c) Issue a writ order or direction in the nature of Mandamus directing the Respondents not to effect the recovery of any damage rent from the Petitioner.”

2. The brief background of the case is that the petitioner was appointed as an Assistant Commandant and after giving several deployments was finally deployed with the Central Reserve Police Force (hereinafter “CRPF”) Academy in the 2017. With the deployment at the CRPF, the petitioner was allotted Type-III Quarter at Group Centre Gurugram which was upgraded to Type-IV Quarter, bearing Quarter No. 26 at Group Centre Gurugram in July 2019. The petitioner alongwith his family was residing at the Quarter No. 26 till November 2021, i.e., when he was transferred to Combat Battalion for Resolute Action (202 Bn CoBRA) (hereinafter “CoBRA Battalion”) currently located at Sunabeda, Koraput, Odisha and was relieved from the CRPF Academy with effect from 27th December 2021.

3. The petitioner, on being transferred to the CoBRA Battalion, made a representation dated 24th January 2022 before the concerned authorities seeking retention of his Type-IV Quarter for a period of two years relying upon Rule 27 (a) and 27 (b) of the CRPF Family Accommodation Rules, 2015. On the said representation, the respondents passed the order dated 13th May 2022 directing the petitioner to Quarter No. 26 within a period of fifteen days since his request for retention of the Quarter was not accepted by the concerned authorities.

4. Against the said order of vacation of Quarter, the petitioner made another representation dated 16th May 2022 to the Deputy Inspector General, Croup Centre CRPF, Gurugram which also came to be rejected by the Inspector General, North Sector, New Delhi, vide order dated 20th July 2022/ 26th July 2022.

5. The petitioner, thereafter, represented before the Special Director General on 9th August 2022 for retention of Quarter No. 26, however, the respondent vide its communication dated 19th September 2022 rejected the third representation on behalf of the petitioner as well.

6. Subsequent to the rejection, the petitioner preferred another representation dated 3rd August 2022 before the Director General, CRPF with respect to extension of allotment of quarter and on the representation the respondent vide order dated 14th October 2022 passed direction to the petitioner to vacate the premises in question and held that he was liable to pay damage rent for the Type-IV Quarter amounting to Rs. 30,000/-, failing which the damage rent would be subjected to an increase by 10% for the second month, 20% for third month, 40% for the fourth month, so on and so forth.

7. The petitioner is now before this Court assailing the rejection orders dated 13th May 2022, 20th July 2022/ 26th July 2022, 19th September 2022 and 14th October 2022.

8. Learned counsel appearing on behalf of the petitioner submitted that, in accordance with the provision under Rule 27 (a) and 27 (b) of the CRPF Family Accommodation Rules, 2015, the petitioner was entitled to retain the

accommodation allotted to him owing to his services with the CRPF. However, the respondents have wrongly rejected the several representations made by the petitioner by passing the impugned orders. It is submitted that it is the mandate of the aforesaid rules that a CRPF personnel transferred to either Jammu & Kashmir (J&K), Left-Wing Extremist (LWE) or North East (NE) Region is permitted to retain his quarter and therefore, upon deployment with the CoBRA Batttalion, which is currently located at a LWE Region, the case of the petitioner is squarely covered under the Rules.

9. It is submitted that the petitioner followed the due and proper channel to approach the concerned authorities of the respondent and has made the representations duly recommended by the Commandant of the CoBRA Battalion yet the impugned orders have been passed by the respondents rejecting the said representations in complete ignorance of the mandate of law under Rule 27 (a) and 27 (b) of the CRPF Family Accommodation Rules, 2015, without assigning any reasons. It is further submitted that the Commandant of the CoBRA Battalion categorically stated in their letter dated 12th August 2022 that there was no entitled family accommodation with their Office and hence, the representation of the petitioner may be considered to accommodate his family and for better education of his children, however, the respondents did not consider the specific averment made by the Commandant highlighting the situation of the petitioner's family. It is further submitted that on another occasion the Inspector General of CoBRA Sector had also recommended the case of the petitioner for retention of his Quarter. However, the Deputy Inspector General, Group Centre Gurugram, despite the recommendation of the Inspector General,

directed the vacation of the Quarter and payment of damage rent.

10. Learned counsel relied upon the judgment of Division Benches of this Court in *Pramod Kumar vs. Union of India & Other*, W.P. (C) No. 6512/2015 decided on 15th July 2016 and *Neeraj Kumar Singh Vs. Union of India & Ors.*, W.P.(C) No. 1824/2015 decided on 25th February 2015 to give force to his arguments.

11. It is submitted that the petitioner and his family are under apprehension that they will be forced out of the accommodation in question since several eviction notices have been served upon the petitioner in pursuance to the impugned orders. Learned counsel for the petitioner, hence, submitted that the impugned orders suffer from grave illegality, arbitrariness and are in violation of the CRPF Family Accommodation Rules, 2015 and, therefore, are liable to be set aside. It is also prayed on behalf of the petitioner the respondents may be directed to allow the petitioner to retain the Quarter No. 26 Type IV till completion of his tenure with the CoBRA Battalion.

12. *Per Contra*, Ms. Radhika Bishwajit Dubey, learned Senior Panel Counsel for the respondent no. 1 vehemently opposed the arguments advanced on behalf of the petitioner and submitted that there is no illegality in the orders impugned before this Court in the instant petition.

13. Learned counsel submitted that the petitioner has misconceived and misinterpreted the CRPF Family Accommodation Rules, 2015 in so far as the case of the petitioner falls under Rule 27 (c) of the Rules and not under Rule 27 (a) or 27 (b) as has been contended by the learned counsel for the

petitioner. It is also been argued vehemently by the learned counsel for the respondent that the petitioner has blatantly with utmost malice placed on record a wrongly translated copy of the Eviction Notice dated 13th May 2022 issued by the Office of the Deputy Inspector General of Police. The word 'unattached' in the true copy transcribed in Hindi has been changed to the word 'attached' in point 2 of the Eviction Notice. The petition is liable to be dismissed on this ground only since the petitioner has not come with clean hands before this Court and by filing a wrongly translated copy of the said document has attempted to mislead the Court.

14. It is submitted that there exists no entitlement in the favour of the petitioner since he falls under the category unattached personnel who are not entitled to retain government accommodation in the Group Centre Gurugram. Accordingly, it is submitted that the instant petition is liable to be dismissed for being devoid of merit.

15. Heard learned counsel for the parties and perused the record, including the impugned orders passed on the representations of the petitioner.

16. Vide the impugned orders, the respondents rejected the request of the petitioner for retention of his accommodation at Quarter No. 26, Group Centre Gurugram after his transfer/deployment with the CoBRA Battalion, where the petitioner currently serves, and also directed him to vacate the accommodation on more than one occasion. The relevant portion of the true translated copy impugned notice/order dated 13th May 2022 is reproduced hereunder, with the corrected words as have been edited by the petitioner:-

“In accordance with the instruction issued by the Dy Inspector General of Police, (Admn), Directorate, CRPF, New Delhi vide letter No.A0B/1/2015-Admn-1-DA-BAR dated 30.11.2015 (CRPF Residential House Rules, 2015), following accommodation holders were issued the Govt. accommodation for a period of three years/transfer/date of retirement whichever is earlier:

S.No.	QTR No.	IRLA Rank & Name	Unit/Officer Qtr Allotment	Remarks
xxxxxx				
06	26 T-IV	Sh. Yatendra Singh, D/C (IRLA 7557)	202 CoBRA	Govt. accommodation was allotted to the accommodation holder during the post in Group Centre
xxxxxxx				

02. In accordance with the provisions of para 27(b) of the letter No.A-1-2-1/2015-Admn-1-DA-5 dated 30.11.2015 (CRPF Residential Accommodation Rules, 2015), the personnel/officer who are posted in J&K/LWE/NE area, 25% quota has been prescribed for those personnel/officer in each category available in the Govt. family accommodation. According to the provisions of Para 27(c), the personnel/officer who comes from the Training Institute, attached Unit and Bn on transfer, he is not entitled for the extension of govt. accommodation. The personnel/officer who came from GK, Gurugram/CRPF Academy/Intelligence

School/Swimming/shooting/Band Team on transfer/have been unattached/posted in silent area, they also are not entitled to retain the Govt. accommodation in the Group Centre. Therefore, application for extension for Govt. accommodation may not be sent to this office.

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04. By seeking the long waiting list of Type-IV and Type-V in this Group Centre, in accordance with the section 4 of the Public Premises (Eviction of unauthorized Occupants) Act, 1971, order is being issued to the above said accommodation holders to vacate the Govt. accommodation within a period of 15 days from the date of issuing this order other in the situation of not vacating the accommodation, by declaring unauthorized occupants to the these accommodation holders, the house rent will be deducted at the market rates for not vacating the accommodation in terms of Section 7(3) of the Public Premises Act, 1971."

17. It is evident upon perusal of the eviction notice that the scheme of provisions as delineated by the Deputy Inspector General provides that there existed no entitlement to retain the government accommodation in the Group Centre in favour of the personnel who came from GK, Gurugram/ CRPF Academy/ Intelligence School/ Swimming/ shooting/ Band Team on transfer/ have been unattached/ posted in silent area. Admittedly, the petitioner was deployed with the CRPF and was unattached/ relieved from the CRPF with effect from 27th December 2021. Therefore, in light of the guidelines, the petitioner was held to be disentitled for retaining the accommodation and his representation was rejected. The observation by the Deputy Inspector General was made in accordance with the mandate of the provisions and therefore, cannot be said to be illegal or erroneous.

18. The second impugned order dated 26th July 2022 was passed on the representation of the petitioner dated 16th May 2022 and the following operative observations were made therein:-

“Information regarding extension/vacation period of requisition for uncategorized/allotted Govt. family accommodation. In terms of letter No.A-2-1/2022-23-Const-2 dated 20.07.2022 issued by the Inspector General of Police, Northern Sector, particulars as mentioned against the name of the following officers, order has been issued for extension/vacation of the Govt. family accommodation. The particulars of the officers/personnel are asunder:

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Non eligible category less than 07 years officer/personnel who are posted in other offices on transfer from CRPF academy

<i>S.No.</i>	<i>Force No./Post/ Name</i>	<i>Unit/ Office</i>	<i>Accommodation No./ category and date of allotment</i>	<i>Remarks of the Inspector General of Police, NR</i>
xxxxxx				

02	Sh. Yatendra Singh, Dy. Comdnt, IRLA 7557	202 CoBRA	26 T/IV 09/06/2017	Permission is denied for extension of accommodation
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Therefore, in relation to the above, Officer/personnel posted in your office/unit may kindly be informed and also officers whose period for retention of accommodation has not been accepted, they may vacate the allotted Govt. accommodation within a period of 15 days otherwise by declaring the officers as unauthorized occupants, eviction notice will be issued and order for damage rent recovery will be issued against them.”

19. This impugned order passed by the Deputy Inspector General of Police/ Estate Officer Group Centre, CRPF, Gurugram categorically specified that the personnel who have been transferred from CRPF Academy to other offices and had served for less than seven years were liable to vacate the government accommodation allotted to them. The petitioner fell well within the category of ineligible allottees and accordingly, was directed to vacate the government accommodation allotted to him at the time of his deployment with the CRPF.

20. Thereafter, the Deputy Inspector General of Police, on the representation of the petitioner dated 9th August 2022, passed the order dated 19th September 2022, which reiterated that the concerned authorities after consideration of all the relevant factors and circumstances and also subsequent to the consideration of the Office Letter by the Inspector General

of Police, North Sector dated 7th September 2022. A perusal of the order reveals that it was again passed after due consideration of the guidelines with regard to retention of government accommodation as well as after considering all pertinent factors *qua* the eligibility of the petitioner to have the allotment of the said Quarter after his transfer from the CRPF to the CoBRA Battalion.

21. Finally, the petitioner's representation dated 3rd August 2022 was decided by the concerned authority by order dated 14th October 2022 noting as under:-

"In accordance with the instruction issued by the Dy Inspector General of Police, (Admn), Directorate, CRPF, New Delhi vide letter No.A0B/1/2015-Admn-1-DA-BAR dated 30.11.2015 (CRPF Residential House Rules, 2015) and in terms of Notice No.A-2/03/2022-23-House dated 13.05.2022 issued by this office, notice was issued to 202, Kobra Bt Sh. Yatendra Singh, Dy. Commandant (IRLA No.7557) for vacating the Govt. accommodation No.26 (Type-IV) in which, it was clearly mentioned that the accommodation holder vacate the Govt. accommodation within a period of 15 days. In reply to the order, the Accommodation holder, Commandant 202, Kobra Bt in terms of letter No.A-2/1/2022-23/202-Acco dated 18.05.2022 requested for retaining the allotted Govt. family accommodation for a period of 02 years in lieu of education of his children. The application of the officer was sent to the Inspector General of Police, Northern Sector, New Delhi in terms of letter of even number dated 29.06.2022 of this office and in reply to this, the Northern Sector, New Delhi in terms of letter No.A-2/1/2022-23-Const-3 dated 20.07.2022, period for retention of Govt. accommodation by the officer was extended whose information was given to the officer in terms of letter of even number dated 26.07.2022

issued by this office and again the said accommodation holder was directed to vacate the allotted Govt. family accommodation within a period of 15 days otherwise in the situation of not vacating the accommodation, order will be issued for recovery of rent for the accommodation but the accommodation holder did not vacate the govt. accommodation and in reply to the order for vacating the accommodation, again application was made directly to the Special Director General, Jammu & Kashmir, Circle Headquarter for extension of Govt. accommodation. The Special Director General, Jammu & Kashmir, Circle Headquarter in terms of letter No.A-2-2/20220-23-Const-DA-4 dated 19.09.2022, did not extend the period for retaining the Govt. family accommodation No.26, Type-IV as prayed by the officer:

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02. Now by exercising the power as conferred under sub section (1) of Section 5 and Section 7 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 declared Sh. Yatendra Singh, Dy. Commandant (IRLA No.7557) as an unauthorized occupant and issuing the order that accommodation holder vacate the allotted Govt. accommodation within a period of 7 days from the date of issuing this order. If the order is not complied with within the time stipulated then in terms of GOI decision No.(1)(b) and 15(A) under Rule 45A of FRSR Part-1 General Rule, in terms of prescribed rates, the damage rent/market rate rent of Type-IV accommodation from the salary and allowance amounting Rs.30,000/- (Rupees Thirty Thousand only) be deposited in the govt. treasury from the date of issuing this order. If the accommodation holder did not vacate the Govt. accommodation in the first month then during the second month, by limiting the maximum of 5 time of the recovered amount for the first month, penalty will be enhanced according to the telescopic method meaning thereby 10% penalty for the second month, 20% penalty for the third month, 40% penalty for the fourth month the same will be

enhanced in the same manner. The proceeding of Public Premises (Eviction of unauthorized Occupants) Rules, 1971 be implemented.”

22. The order has been passed considering the several letters and notices issued to the petitioner intimating him about his disentitlement to retain the accommodation at Quarter No. 26, Group Centre, Gurugram. The petitioner made three representations before the concerned authority and all were rejected considering the ineligibility of the petitioner on the ground of *first*, his transfer from CRPF to CoBRA Battalion upon being relieved from the CRPF Academy, and *second*, the number of years of his services being less than 7 years. Vide the impugned orders, the petitioner had been directed to vacate the premises in question on multiple occasions. It is not the case of the petitioner that he did not receive the notices made against him. Therefore, the authority further noted that despite being served the communications and the eviction notices, the petitioner in blatant abuse of process of law, did not vacate the accommodation in question. The contents of the impugned order indicate that the Deputy General Inspector of Police had considered the entirety of the matter before declaring the petitioner an unauthorised occupant of the public premises/ government accommodation.

23. The relevant Rule under the CRPF Family Accommodation Rules, 2015 are reproduced hereunder to ascertain the eligibility and entitlement of the petitioner for retention of the accommodation allotted to him during his services with the CRPF after his deployment to the CoBRA Battalion at Odisha:-

“27. Keeping in view educational prospects of the wards of force personnel and other peculiar family problems

being faced by them, initial period of allotment of CRPF quarter will be 03 years extendable up to 05 years by the GCOs and 07 years by Sector IsG and beyond it by ADG/SDG in extreme special circumstances.

(a) In case of extension due to posting in eligible zone i.e. J&K/LWE/NE region it will be extendable till posting in eligible area subject to following condition as specified in MHA OM dated 18/02/2002 :-

i) Retention shall be purely on merit.

ii) Case of retention shall be restricted to 25% of the available quarter in each category.

(b) Retention of family quarters on transfer to J&K, LWE and NE Region is permitted at Group Centre location only.

(c) Retention of family quarters on transfer to J&K, LWE and NE Region is not permitted at training institution/unattached & signal Bns.”

24. In light of the aforesaid, it is the case of the petitioner that his case falls under Rule 27 (a) and 27 (b), whereas, as per the contention of the respondents, the case of the petitioner falls under Rule 27 (c). Admittedly, the petitioner was relieved from the CRPF on 27th December 2021 and thereafter remained unattached from the CRPF upon being deployed with the CoBRA Battalion. As has also been established by the thorough observations made in the impugned orders, this Court finds force in the argument on behalf of the respondent that the case of the petitioner fell within the mandate of Rule 27 (c) of the CRPF Family Accommodation Rules, 2015.

25. Keeping in view the aforesaid facts, circumstances, contentions raised

in the pleadings and the arguments advanced on behalf of the parties, it is found that there is no finding or observation by the respondents in the impugned order to show that the rejection of the petitioner's representation to retain his accommodation at Quarter No. 26 at Group Centre Gurugram was illegal or erroneous on the face of record.

26. In light of the above, this Court does not find any cogent reason to interfere in the impugned orders and finds it apposite to dismiss the instant petition for being devoid of merit.

27. Accordingly, the instant petition is dismissed along with pending applications, if any.

28. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

NOVEMBER 4, 2022
dy/ms