



W.P.No.14571 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.14571 of 2020
and
W.M.P.Nos.18064 & 24882 of 2020

P.Muthu

... Petitioner

/Vs/

1. The Commandant,
TSP VII Battalion,
Pochampalli,
Krishnagiri District.

2. The Commandant,
TSP III Battalion,
Veerapuram,
Chennai - 600 050.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.C2/4426/334/2019 A.Order No.583/2020 dated 16.09.2020 and to quash the same.



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For Petitioner : Mr.R.Jayaprakash
For Respondents : Mr.G.Nanmaran
Special Government Pleader.

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorari to call for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.C2/4426/334/2019 A.Order No.583/2020 dated 16.09.2020 and to quash the same.

2.The Petitioner, who was a retired Police Inspector was in occupation of the Police Quarters at Sathyamoorthy Nagar, while he was working at Aavadi during the year 2012. Later he had been deputed to Special Tamil Nadu Police Battalion at Delhi in the year 2015. During that time, he was permitted to continue to make his family reside in the Police Quarters at Tamil Nadu, in which he was in occupation earlier. So the Petitioner's family continues to reside in the same quarters. Subsequently, he has been posted to VII Battalion at Pochampalli on 04.01.2017. The Petitioner's family continues to occupy the very same quarters, even after



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the Petitioner was posted at Pochampalli till 31.05.2019 and thereafter, he got retirement on 31.05.2022. However, on 16.09.2020, the impugned proceedings has been passed by the second Respondent for recovering penal rent for having been in occupation of the quarters, after he has been transferred to the VII Battalion and posted at Pochampalli. Now this Writ Petition has been filed challenging the said order.

3.The learned counsel for the Petitioner submitted that in the allotment order for the quarters issued to the Petitioner on 13.03.2012, it is stipulated that the officer who had overstayed in the quarters, after he had shifted to some other place without handing over the possession, for the period of his overstayal, the rent shall be paid 1½ times of the actual rent. But in the impugned proceedings the penalty imposed is threefold.

4.The learned Special Government Pleader attracted the attention of this Court to G.O.635 dated 04.09.2015, wherein it is stated that from 04.09.2015, overstayal without prior permission will attract three times of the last rent paid. The Petitioner is said to be overstayed from 04.07.2017



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to 27.05.2019. The Petitioner was posted at Pochampalli on 04.01.2017.

Any occupant cannot be expected to vacate the quarters immediately on the date when he was posted in a different place. But the Petitioner ought to have been given a written representation for extension, but he omitted to do. It is probably because he continued to occupy the quarters, during the time he was deputed to Delhi.

5.Despite G.O.No.635 dated 04.09.2015, wherein it is stated that overstayal will be imposed with three times penalty, the Respondents have not issued any notice to the Petitioner about any impending proceedings that might be taken for imposition of penalty. Neither any notice is given demanding the Petitioner to vacate the quarters within any prescribed time limit. The Petitioner was served only with impugned order in which penalty has been imposed for his occupation from 04.01.2017 to 27.05.2019. The Respondent's silence and indifference could have prompted the petitioner to believe that his occupation was in continuation of the earlier permission given to him. Even if the Petitioner is presumed to be in occupation of the quarters with prior permission, he is liable to pay 1



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½ times of the House Rent allowance, last received, for the relevant period.

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6.In the result, this Writ Petition is allowed and the impugned proceedings of the second Respondent in Na.Ka.No.C2/4426/334/2019 A.Order No.583/2020 dated 16.09.2020 is setaside and the Respondents are directed to issue fresh proceedings for deducting the rent at 1½ times of the House Rent allowance, last received, for the relevant period. Consequently, connected Miscellaneous Petitions are closed. No costs.

11.10.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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To

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