

**2023:PHHC:048219-DB
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
202**

**CWP-11616-2001 &
CM-7300-CWP-2015
CM-20917-2001**

Date of decision: April 10, 2023

GIAN CHAND ARORA

.....PETITIONER

Versus

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Saksham Mahajan, Advocate,
for the petitioner.

Mr. Arjun Sheoran, DAG, Punjab,
for the State.

Mr. Naresh Prabhakar, Advocate,
for respondents No. 2 to 4.

Mr. Ankit Aggarwal, Advocate,
for respondent No. 11.

AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this Court impugning the order dated 28.03.2001 (Annexure P-12) passed by the Principal Secretary to Government of Punjab, Department of Housing and Urban Development, vide which revision of the petitioner stands dismissed. Prayer has also been made for quashing the order dated 08.02.1999 (Annexure P-10) passed by the Additional Chief Administrator, Punjab Urban Development Authority (exercising the powers of Chief Administrator), Mohali, District Ropar-respondent No. 2 dismissing the appeal of the petitioner as also the initial order dated 27.05.1997 (Annexure P-8) passed by the Estate Officer, Punjab

Urban Development Authority, Mohali, District Ropar-respondent No. 3, vide which the order of allotment was cancelled.

It is the contention of the learned counsel for the petitioner that as per the advertisement, which has been issued by the respondents, the requirement was monthly income which should not be above ₹2650/-. Petitioner was drawing the basic salary of ₹1715/-. Since the basic pay, as has been mentioned by the petitioner, was accepted by the respondents and in pursuance thereto, the house under the LIG category was allotted to the petitioner i.e. House No. 3317 LIG, Sector-70, Mohali but the respondents were estopped from taking a subsequent stand leading to the cancellation of the allotment of the above-mentioned house by treating the income of the petitioner including the allowances as well. Counsel contends that the basic pay should have been taken as the monthly income of the petitioner. He asserts that including the pay and other allowances with the basic pay is contrary to the spirit of the advertisement. Apart from that, he contends that the principle of estoppel would come into fore and, therefore, the respondents cannot reject the application of the petitioner by treating him ineligible for allotment of the house under the LIG category. It is, on this basis, that the counsel for the petitioner submits that the impugned orders cannot sustain and deserve to be set aside.

On the other hand, learned counsel for the respondents have emphasized upon the advertisement itself, copy of which has been appended as Annexure P-1, wherein eligibility for a person regarding the income has been mentioned to be a monthly income. As far as the LIG category is concerned, it was clearly specified that the monthly income should be between ₹1251/- to ₹2650/- per month. The word, therefore, used therein

is 'monthly income' and not the 'basic pay or salary'. The intent was not only to include the salary but any other income also, which a person may draw. Counsel contends that the respondents have rightly proceeded to take the income of the petitioner per month as per the certificate, which has been issued by the General Manager, Punjab Roadways, Muktsar, which totalled up to ₹5230/- (Annexure P-7). Counsel, thus, contends that the cancellation of the allotment of House No. 3317 LIG, Sector-70, Mohali vide the impugned order dated 27.05.1997 (Annexure P-8) is in accordance with the advertisement and its spirit as also the consequential orders passed by the appellate as well as the revisional authority. On this basis, prayer has been made for dismissal of the writ petition.

Having considered the submissions made by the learned counsel for the parties, we are not inclined to accept the submissions, as have been made by the counsel for the petitioner.

The principle of estoppel, which has been sought to be invoked by the counsel for the petitioner, would not be applicable to the case in hand. There can be no estoppel against the statutory provisions. Further, the eligibility of a person had to be determined, admittedly, on the basis of the advertisement and the income provided therein. As far as the income eligibility is concerned, it was clearly mentioned in the advertisement to be the monthly income, which, obviously, included income from all sources not only the basic pay, which is being sought to be projected on the part of the petitioner, which need to be taken into consideration. The respondents are right in taking the monthly income of the petitioner including the allowances as well.

In the certificate issued by the General Manager, Punjab

Roadways, Muktsar (Annexure P-7), it is clearly mentioned that the petitioner was drawing the basic pay of ₹1715/- with special pay of ₹50/- and other allowances including dearness allowance totalling to ₹5230/-, which is much beyond the upper limit which has been prescribed in the advertisement for being eligible for consideration of allotment of a LIG house.

Since the petitioner does not fall within the income bracket, as has been laid down therein, i.e. ₹1251/- to ₹2650/-, the respondents have rightly cancelled the allotment of House No. 3317 LIG, Sector-70, Mohali by holding the petitioner to be not eligible for allotment of LIG house.

The impugned order dated 27.05.1997 (Annexure P-8) being in consonance with law does not call for any interference by this Court in exercising of its writ jurisdiction. The orders impugned, therefore, are upheld and the writ petition stands dismissed.

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In the light of the dismissal of the main writ petition, these applications have been rendered infructuous and the same are disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 10, 2023
PJ

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*