

215

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP NO. 7781 OF 2022

Date of Decision:03.02.2022

SUBASH CHANDER

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.G.S.Kuka, Advocate for the petitioner.

Mr.Tapan Kumar Yadav, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari quashing the action of the respondents in imposing the recovery of penal rent amounting to Rs.2,40,000/- for the period of overstay for 04 months in Government ITI Sirsa, Quarter No.4 w.e.f. 06.07.2020 to 04.11.2020.

The petitioner was working as Instructor in Government Industrial Training Institute on 18.12.2019. The petitioner was transferred from 'Government I.T.I Sirsa to Government. I.T.I

Chautala. At the time of transfer, the petitioner along with his

family was living in Government Quarter No.4 at Government I.T.I Sirsa against monthly license fee of Rs.300/-. The petitioner had joined the Government ITI Chautala on 13.01.2020. As per Rules 47/48 of the **“Haryana Civil Services (Allowances to Government Employees) Rules, 2016”** upon transfer, an employee may retain the Government accommodation for a period of 04 months with the approval of the competent authority. For the period of overstay beyond the permissible period, penal rent has been provided under Rule 48 of the aforesaid Rules. The petitioner could have retained the accommodation for a period of 04 months from 06.01.2020 to 05.05.2020.

Perusal of para No.4 of the reply filed on behalf of the respondents No.1 to 4 would show that the petitioner was charged ordinary rent for a period of two months from 06.01.2020 to 05.03.2020 and thereafter, the extension for a period of two months from 06.03.2020 to 05.05.2020 was granted vide letter dated 12.06.2020 on the basis of education of the children on the condition that in case of non-vacation of the house after the extended period, the penal rent would be charged.

Learned counsel for the petitioner submits that due to prevailing situation arising out of COVID-19, particularly in view

of posting of the petitioner to a distant place where the petitioner did not avail any accommodation, the house in question could not be vacated due to the restrictions prevailing on account of COVID-19.

It appears that benefit of extensions from 06.01.2020 to 05.03.2020 and 06.03.2020 to 05.05.2020 has been given during currency of four months, which has been provided under Rules 47/48 of the ***“Haryana Civil Services (Allowances to Government Employees), Rules 2016”***.

According to the learned counsel for the petitioner, the aforesaid extensions are inconsequential as a period of four months for retaining the house in question is on legal parameters. The extension ought to have been granted to the petitioner after the expiry of period of four months due to COVID-19 restrictions. The respondents have imposed penalty for the period overstay from 06.07.2020 to 04.11.2020. Even if, restrictions were relaxed to some extent during the relevant period, the prospects of getting the house on rent in open market was a far-fetched activity and was dependent upon so many factors.

Moreover, due to *force majeure event*, even during currency of COVID-19, the petitioner was sufficiently prevented from vacating the house.

Since the situation arising out of COVID-19 was unprecedented and was a *force majeure event*, therefore, I deem it appropriate to convert the penal rent as mentioned under Rule 48 to ordinary license fee for which the petitioner shall always be bound to pay the same. Since the petitioner has already vacated the house in the month of November, therefore, the normal rent (license fee) if not paid by the petitioner shall be paid within one month from today.

The petition stand disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

03.02.2023
raman

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No