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

**CWP No.19998 of 2019 (O&M)
Date of Decision: 18.04.2023**

KUNDAN LAL

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Bhisham Kumar, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, D.A.G., Haryana.

Mr. Ravi Sharma, Advocate
for the respondent No.2.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition assailing the order dated 10.11.2014 passed by the respondent No.4 vide which the respondent No.5 was asked to recover an amount of Rs.8,45,220/- from the petitioner as penal rent @ 300 times of the licence fee for the period 19.04.2013 to 31.05.2014 on account of overstay in the family quarter which was allotted to the petitioner. The petitioner has also prayed for quashing of the administrative instructions dated 18.06.2012 being contrary to

the rules.

[2]. The Haryana Government Finance Department has issued a notification dated 29.07.2016 replacing the Punjab Civil Services Rules. These Instructions justify levy of 300 times of penal rent of the normal licence fee for overstay by four months and above, if the allotted accommodation is not vacated by the allottee/licensee.

[3]. Evidently, the period of overstay is prior to the amendment carried out in the Rules by the Haryana Government. The impugned decision, modifying 300 times penal rent on the normal licence fee of overstay in the allotted accommodation was passed when the administrative instructions were prevalent prior to the amendment in the rules. The executive instructions have been declared non-est in CWP No.3923 of 2015 titled '*Ram Kishan vs. State of Haryana & others*' decided on 16.09.2016 on the ground that the penal rent was based on the instructions and not on the statutory rules. While doing so, the reference was made to the earlier order dated 24.02.2015 passed in the similar case.

[4]. The amendment in the rules have changed the entire scenario w.e.f. 29.07.2016 with the executive instructions abrogated. The amended rules are prospective in operation.

The period of overstay is from 19.04.2013 to 31.05.2014, therefore, this writ petition is allowed and the impugned order is set aside. However, the petitioner would be liable to pay 50 times of penal rent of the normal licence fee per month for the period from 19.04.2013 to 31.05.2014.

[5]. Let the amount be calculated and the petitioner shall pay the computed amount within a period of one month from the date of calculations, failing which the petitioner shall be liable to pay adequate interest towards delayed payment.

[6]. The excess amount, if any, deducted from the salary of the petitioner shall also be adjusted and in case of some excess amount is found to have been paid by the petitioner, then the same shall be refunded to him forthwith.

April 18, 2023

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No