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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18th August, 2023

+ W.P.(C) 10834/2022 & CM APPL. 31467/2022, CM APPL. 19564/2023

AJAY KUMAR VASHIST, D.I.G Petitioner

Through: Mr. Arvind Kumar Shukla, Mr. Tushar Swami, Ms. Sushma Devi, Advocates

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Anshuman, SPC for R1 and R3. Mr. Vijay Joshi and Mr. Anirudh Shukla, Advocates for R-2 *via* video-conferencing.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under Article 226 of the Constitution of India, the petitioner, who is a Deputy Inspector General ('DIG') with the Central Reserve Police Force ('CRPF'), seeks setting-aside of Cancellation Notice dated 07.07.2022 issued by respondent No. 2/Ministry of Housing & Urban Affairs, Government of India whereby the allotment of Quarter No. CG, Type-V(A), Block-10, Kidwai Nagar East, New Delhi, that the petitioner is presently occupying as his official residential accommodation has been cancelled. The petitioner also impugns Order dated 12.07.2022 issued by the Estate Officer under sections 3-B(2) and (3) of the Public



Premises (Eviction of Unauthorised Occupants) Act, 1971 ('PP Act'), whereby the allottee and all persons in occupation of the subject premises were directed to vacate the same with immediate effect; and were also cautioned, that upon failure to do so, they would be liable to pay damages under section 7(3-A) of the PP Act.

2. Notice on this petition was issued on 19.07.2022. Respondent No. 2 has filed counter-affidavit dated 02.09.2022. Additionally, a counter-affidavit dated 20.04.2023 has also been filed by respondent No. 3/Director General, CRPF; which, as per oral submissions of learned counsel for respondent No. 2, has been adopted by respondent No. 1/Union of India.
3. Mr. Arvind Kumar Shukla, learned counsel appearing for the petitioner submits that by way of the impugned cancellation notice, not only has the allotment of the subject premises been cancelled on illegal grounds, but of even greater concern is the fact that the cancellation has been made with retrospective effect from 17.01.2020; and the petitioner has been directed to immediately vacate the subject premises as well as pay damages for alleged unauthorized use and occupation thereof from the retrospective date.
4. Briefly, the genesis of the matter is that until 31.03.2014 the petitioner was posted in Delhi and was serving as DIG, CRPF; whereafter he was transferred to Assam w.e.f. 31.03.2014. Subsequently, the petitioner was brought back and placed on deputation with the India Trade Promotion Organisation, New Delhi ('ITPO') w.e.f. 01.07.2015 where he was posted as General Manager (Security).
5. At the time when the petitioner was posted out of Delhi, he was occupying a Type-IV(S) accommodation; and since the posting to the



North-Eastern region was a ‘non-family posting’, he requested and was permitted to retain his accommodation in Delhi during the period when he was posted-out. The permission to retain the accommodation in Delhi was extended from time-to-time, the last extension having been granted *vide* letter dated 03.09.2019 issued by Directorate of Estates (‘DoE’).

6. *Vide* communication dated 26.07.2019 issued by the ITPO they informed the DoE that since the deputation period of the petitioner had been extended upto 30.06.2020; and since, as per the terms of his appointment on deputation he was not entitled to house rent allowance, the petitioner was required to be provided government accommodation. Based on the aforesaid letter sent by the ITPO, the petitioner also requested the DoE that his permission to retain his official accommodation be extended till 30.06.2020.
7. In response to the aforesaid letter dated 26.07.2019 issued by the ITPO, *vide* communication dated 03.09.2019, the DoE allowed the petitioner to retain the Type-IV(S) accommodation till 30.06.2020.
8. In the meantime, the petitioner filed an application dated 20.03.2019, requesting the DoE to upgrade his official accommodation from Type-IV(S) to Type-V(A); in response to which request the DoE upgraded his official accommodation from Type-IV(S) to Type-V(A) *vide* Communication/Allotment Letter dated 18.11.2019, with the date of allotment being 10.11.2019.
9. Shorn of unnecessary detail, the bone of contention today is that the DoE contends that the allotment of the upgraded Type-V(A) accommodation made to the petitioner was premised on a misrepresentation contained in his application dated 20.03.2019,



inasmuch as, the DoE contends that petitioner was not eligible for such accommodation, as narrated in the impugned cancellation notice in the following words :

“1. I am directed to refer to your letter no. A II 1216/2022 Adm I DA 4 dated 22.06.2022 on the subject cited above and to say that Shri Ajay Kumar Vashist applied and accepted allotment of Type-V(A) Qtr. No. CG, Type-V(A), Block-10, Kidwai Nagar East, New Delhi despite being on deputation to ITPO which is an ineligible office for allotment of GPRA. This allotment is against the exiting guidelines of this Directorate.

* * * * *

“3. Allotment of General Pool Residential Accommodation is done through Automated System for Allotment on the basis of application received from various eligible office in Delhi. It is responsibility of every eligible office to verify credentials including posting details of its employees before forwarding application to this Directorate through online mode.

“4. Since Shri Vashist applied and accepted the allotment of Type-V(A) house through wrong office details, allotment of the aforesaid Govt. Accommodation has been cancelled w.e.f. 17.01.2020.

“5. In view of the above, the request for regularization/retention of aforesaid Type-V(A) Govt. Accommodation cannot be acceded to. He may be advised to vacate the house immediately, else, eviction proceedings will be initiated against him.”

(emphasis supplied)

10. Mr. Shukla contends, that the petitioner had made no misrepresentation in his application; and that the DoE was well aware that after being posted back to Delhi from the North-Eastern Region, he was on deputation as General Manager (Security) at the ITPO; and this fact was never concealed by the petitioner from the DoE. Accordingly, it is contended on behalf of the petitioner, that the cancellation of allotment,



and more-so with retrospective effect from 17.01.2020, is wholly uncalled for, illegal and requires to be quashed.

11. Mr. Shukla draws attention to letter dated 26.07.2019 issued by the ITPO on the petitioner's behalf to the DoE, to urge that from this communication it is clear that the request for continued retention of the official accommodation until 30.06.2020 was made by the ITPO on behalf of the petitioner who was then the General Manager (Security) serving in that organisation; and that accordingly, the DoE cannot plead ignorance about the petitioner's posting on deputation with the ITPO.
12. Mr. Shukla also submits that during this period, not only did the DoE permit the petitioner to retain the Type-IV(S) accommodation but also allowed the petitioner's application to upgrade the accommodation to Type-V(A); and throughout, the DoE was well aware of the fact that the petitioner was posted at the ITPO on deputation.
13. On the other hand, Mr. Vijay Joshi, learned counsel appearing for DoE contends, that the entire allotment and extension process, which is processed through an automated system, was premised on what was stated and disclosed by the petitioner in his application dated 20.03.2019, which application was made by the petitioner under his own hand and signatures, but which contained the following false narration:

Office Details	
Office	C.I.P.F., CIV. COMMANDANT/ADM. CTR. GENERAL C.I.P.F., C.G.D. COMPLEX, LODHI ROAD, NEW DELHI
Address/Sub. office	CENTRAL RESERVE POLICE FORCE, BLOCK NO. 1, CMO COMPLEX, LODHI ROAD, NEW DELHI - 110003
Department	MINISTRY OF HOME AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI - 110001
Ministry / State/Sec.	MINISTRY OF HOME AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI - 110001
Office ID	██████████
Office Eligible for CPRA: YES	

Deputation Details	
Are you on Deputation to Central Government? : NO	



Working Office Address Details

Address : DG, CRPF, CGO COMPLEX, LODHI
ROAD, NEW DELHI-110003

City : NEW DELHI
Phone :
Mobile :

Declaration by the Applicant

1. I agree to abide by the Central Government General Pool Residential Accommodation Rules, 2017, as amended from time to time, and/or its Amendment Rules applicable to the place where I am posted, as well as the applicable regulations.
2. I am working in an eligible office located in an eligible zone.
3. I am aware of the penalties which can be imposed in the event of refusal of allotment of accommodation of the desired type under Central Government General Pool Residential Accommodation Rules, 2017 or furnishing of false information or submitting false statement of the premises under Central Government (General) Pool Residential Accommodation Rules, 2017.
4. I shall not submit a residence allotment in any or any period thereof or any of the conditions, progress or status of my appointment therein, after acceptance of the same.

Date : 26-08-2022

Signature of the Applicant

(snapshot of relevant portions)

14. Mr. Joshi contends, that as is evident from a bare perusal of the aforesaid portions of the petitioner's application, in it the petitioner had made the following misrepresentations, which go to the very root of the allotment process and to the petitioner's eligibility to such allotment:

14.1. To the question whether the office he held was eligible for allotment of official accommodation from the General Pool Residential Accommodation ('GPRA'), the petitioner answered "YES", which was incorrect, inasmuch as officers on deputation at the ITPO are not entitled to GPRA.

14.2. To the question whether he was on deputation to the Central Government, the petitioner answered 'NO', which was again incorrect, inasmuch as deputation to the ITPO is deputation to the Central Government.

14.3. Against his working office address details, the petitioner answered "DG, CRPF, CGO Complex, Lodhi Road, New Delhi", which was



also incorrect, inasmuch as his working office at that point in time was at the ITPO, Pragati Maidan, New Delhi.

- 14.4. As part of the declaration signed by him at the foot of the application, the petitioner declared under his own signatures that he was “*working in an eligible office located in an eligible zone*” and that he was also aware that misuse of the premises under the Central Government General Pool Residential Accommodation Rules, 2017, would attract penalties. This, it is submitted, was again incorrect, inasmuch as the petitioner was not working in an eligible office at that time.
15. Mr. Joshi contends, that all of the above constitute misrepresentations and false statements made by the petitioner in his application, by reason of which the allotment of official accommodation of the petitioner has been cancelled by way of the impugned cancellation notice; and this has been done retrospectively w.e.f. 17.01.2020 since that was the date on which the petitioner came to occupy the upgraded Type-V(A) accommodation.
16. Upon being queried, Mr. Joshi also clarifies that prior to taking action and issuing the cancellation notice, a show-cause notice dated 05.04.2022 was issued to the petitioner, seeking his response to the proposed action; to which however the petitioner appears to have sent no reply.
17. Upon a specific query in this regard, counsel for the parties confirm that the petitioner continues to occupy the official accommodation till date only by reason of the protection granted *vide* order dated 01.08.2022 made by a Division Bench of this court in LPA No. 458/2022, which was subsequently confirmed *vide* order dated



28.11.2022; whereby the Division Bench had directed the DoE not to evict the petitioner, subject to the petitioner paying the normal rent.

18. To be sure, in order dated 28.11.2022, the Division Bench had also said that the court seized of the present petition will “... *decide the writ petition on its own merits without being influenced by the orders passed by this Court in the present LPA*”. The Division Bench had further made it clear that the interim relief granted to the petitioner shall continue to be in force “... *during the pendency of the Writ Petition before the learned Single Judge*”.

19. Having heard learned counsel appearing for the parties and after giving due consideration to the submissions made on both sides, this court is persuaded to accept the following position:

19.1. There cannot be any cavil with the position that allotment letter dated 18.11.2019 whereby the petitioner was allotted Type-V(A) accommodation by the DoE w.e.f. 10.11.2019, which the petitioner came to occupy w.e.f. 16.01.2020, was based upon the petitioner’s application dated 20.03.2019 which was made by the petitioner under his own hand and signatures.

19.2. In that application, the petitioner made the following representations and disclosures : (i) that the office he was holding (*viz.*, General Manager (Security), ITPO) *was eligible* for GPRA; (ii) that he was *not on deputation* to the Central Government; (iii) that his working office address was DG, CRPF, CGO Complex, Lodhi Road; and (iv) that he was working in an *eligible office* insofar as allotment of accommodation from GPRA was concerned. *Each of these representations and disclosures was incorrect, and so to the petitioner’s knowledge.*



20. Insofar as other ancillary communications are concerned, *inter-alia* letter dated 26.07.2019 issued by the ITPO to the DoE seeking extension of permission for the petitioner to retain the Type-IV(S) accommodation till 30.06.2020, these do not detract from the misrepresentations that were contained in the petitioner's application dated 20.03.2019.
21. Moreover, the record also shows that the DoE issued to the petitioner a show-cause notice dated 05.04.2022, to which the petitioner appears to have offered no written response.
22. Any relevant and material misrepresentation of fact made by an applicant, as a consequence of which some benefit is availed from the State, would invariably vitiate the entitlement to such benefit. In the present case, the misrepresentations contained in the petitioner's application, which application was made under the petitioner's own hand and signatures, were relevant and material to the allotment of accommodation made to him. In fact, but for the misrepresentations so made, the petitioner was ineligible for allotment of official accommodation from the GPRA at all. Rule 10(3) of the Central Government General Pool Residential Accommodation Rules, 2017 reads as under :

ALLOTMENT PROCEDURE

10. Application for accommodation

(1) * * * * *

(2) * * * * *

(3) *The applicant shall furnish various particulars in form specified by the Directorate of Estates which shall be verified by the office of the applicant and in case of any discrepancy in the application or furnishing of incorrect information in the application, the applicant and the verifying officer shall be liable*



for furnishing of incorrect information and disciplinary action shall be taken against them including cancellation of allotment of accommodation if allotment was made based on incorrect information.

(emphasis supplied)

23. In the opinion of this court, the petitioner's assertion that regardless of such misrepresentations, the DoE was *otherwise aware* of the petitioner's posting, must be rejected since that assertion does not answer the lack of *bona-fides* on the petitioner's part in making misrepresentations in his own application. The petitioner cannot shirk his responsibility to have informed the DoE the correct position, namely that he was ineligible for allotment from the GPRA, by saying that the DoE knew about it in other indirect ways. Official business cannot be permitted to be transacted on such basis.
24. In view of the above, and upon an overall conspectus of the facts and circumstances of the case, this court finds no merit in the grounds taken by the petitioner to seek setting-aside of cancellation notice dated 07.07.2022, whereby the allotment of the Type-V(A) accommodation made to the petitioner, has been cancelled.
25. Furthermore, since the allotment came to be made based on evident misrepresentations made by the petitioner in his application, this court also finds nothing remiss in the cancellation being made effective retrospectively from 17.01.2020, which is the date on which the petitioner came to occupy the Type-V(A) accommodation.
26. As a sequitur to the above, the challenge to Cancellation Notice dated 07.07.2022 and Order dated 12.07.2022 fails; and the DoE shall be



entitled to take any further or consequential action in respect of the subject premises, as may be warranted, in accordance with law.

27. However, considering the logistical compulsions and exigencies; the fact that the petitioner is presently residing in the subject premises along with his family; and as a measure of abundant indulgence, the petitioner is granted 03 (three) months from the date of release of this order to vacate the subject premises, subject of course to payment of the usual and ordinary license fee/user charges in the meantime.
28. It is also made clear that the present judgment is without prejudice to the rights of the DoE to levy and demand from the petitioner damages/charges for unauthorized use and occupation of the subject premises, as may be permissible, in accordance with law; which aspect has not been touched upon in the present proceedings.
29. The writ petition is dismissed in the above terms.
30. Pending applications, if any, stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 18, 2023/uj
(Released on : 29th August 2023)