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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP-10735-2020 (O&M)
Date of decision: 16.05.2024
- Wasif Sami and others

...Petitioners
- Versus
- Union of India and others

...Respondents
2.

CWP-11363-2020 (O&M)
Date of decision: 16.05.2024
- Rajeev Kumar and others

...Petitioners
- Versus
- Union of India and others

...Respondents
3.

CWP-14713-2020 (O&M)
Date of decision: 16.05.2024
- Kunwar Pal and others

...Petitioners
- Versus
- Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. R.D. Bawa, Advocate and
Mr. Samuel Gill, Advocate and
Mr. Randhir Bawa, Advocate for the petitioners.

Ms. Gehna Vaishnavi, Advocate for respondent Nos.1 to 5.

VIKAS BAHL, J. (ORAL)

1.

This order will dispose of three writ petitions i.e. CWP-10735-2020, CWP-11363-2020 and CWP-14713-2020, as common questions of law arise.



2. The lead case in the present case is CWP-10735-2020. Prayer in the lead case is for issuance of a writ in the nature of certiorari for quashing the order dated 15.06.2018 (Annexure P-2) qua the Border Roads Employees including the petitioners and also quashing the orders dated 08.07.2020 (Annexures P-3 to P-10) vide which the petitioners have been asked to vacate the premises.

3. On 28.07.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

Learned Counsel for the petitioners has submitted that the petitioners were transferred to non-family stations North East, J&K and Sikkim mentioned in the tables given in the petition. In view of office Memorandum dated 10.04.2018 (Annexure P-1) the petitioners are entitled to retention of general pool residential accommodation at the last place of posting on payment of normal rate of licence fee. Vide impugned orders dated 08.07.2020 (Annexures P-3 to P-10) the petitioners have been asked to vacate the accommodation upto 15.07.2020 on the basis of office order dated 15.06.2018 (Annexure P-2). As per office order dated 15.06.2018 retention was to be allowed to the employees transferred before 19.06.2017 till the date of completion of period of their transfer or three years i.e. 18.06.2020 whichever is earlier. Office order dated 15.06.2018 (Annexure P-2) and vacation orders dated 08.07.2020 (Anmnexure P-3 to P-10) being contrary to office memorandum dated 10.04.2018 (Annexure P-1) are illegal, null and void.

Learned Counsel for the petitioners has further submitted that the respondents be directed to carve out a



separate pool of houses for Border Road Employees transferred to non-family stations referred to in the above-said memorandum entitled to retention of such accommodation.

Notice of motion.

Ms. Gehna Veshnawi, Advocate accepts notice on behalf of the respondents.

Copy of the paper book has been supplied to learned State Counsel who seeks time to file reply.

Adjourned to 04.09.2020.

In the meanwhile, operation of impugned orders dated 08.07.2020 (Annexures P-3 to P-10) shall remain stayed. 28.07.2020”

The said stay order has continued till date.

4. On 14.05.2024, this Court had passed the following order:-

“Learned counsel for the respondent has submitted that the present petitions have been rendered infructuous.

Adjourned to 16.05.2024.

To be taken up at 12:00 noon.

A photocopy of this order be placed in the files of the connected cases.

May 14, 2024”

5. Learned counsel for the petitioners has very fairly submitted that all the petitioners other than petitioner No.1 in CWP-10735-2020 i.e. Wasif Sami would vacate the premises in question within a period of one month from today if they have already not vacated the same and would handover the keys to the relevant official in the concerned Department within the aforesaid period. It is submitted that the petitioners continued to occupy the premises in question in pursuance of the stay order granted by the Coordinate Bench of this Court and has prayed that in view of the fair



stand taken by him and also in view of the statement made on behalf of the respondents to the effect that the present writ petitions have been rendered infructuous, no further action be taken against the petitioners.

6. Learned counsel for the petitioners has further submitted that as far as petitioner No.1 in CWP-10735-2020 is concerned i.e. Wasif Sami, the said petitioner had been reposted to Chandigarh on 08.08.2021 and now, he has been posted out to Likawali, Arunachal Pradesh on 13.05.2024 and it is argued that he has a right to retain the house in question and that he did not vacate the premises. It is submitted that regarding the said petitioner No.1, liberty be granted to him to move a representation before the competent authority and the competent authority may consider the case of petitioner No.1 and decide the same in accordance with law within a period of one month from the date of receipt of the said representation and till the said decision is taken, he be permitted to continue to reside in the house in question.

7. Keeping in view the abovesaid facts and circumstances, the present writ petitions are disposed of with the following observations:-

- i) The petitioners other than petitioner No.1 in CWP-10735-2020 would vacate the premises, if not already vacated within a period of one month from today and would hand over the keys of the premises to the concerned official in the respondent Department.
- ii) In case of the petitioners handing over the keys of the said premises within the aforesaid time, no further action in pursuance of the impugned notices would be taken against the petitioners.
- iii) Petitioner No.1 in CWP-10735-2020 i.e., Wasif Sami would submit a



representation to the competent authority of respondent No.2 giving the detailed facts on the basis of which he has a right to retain the premises occupied by him, on account of his transfer to Chandigarh in the year 2021 and subsequent transfer out of Chandigarh in the year 2024 and the said representation would be submitted within a period of two weeks from today and the competent authority of respondent No.2 is directed to consider the said representation within a further period of six weeks from the date of receipt of the said representation and in case the pleas raised by the said petitioner are found to be meritorious, then, necessary relief be granted to the petitioner, in accordance with law and in case, the pleas raised by him are not meritorious, then, a speaking order rejecting the same be passed and till the time the final decision is taken, the petitioner No.1 is permitted to continue to reside in the house in question. In case, the said petitioner failed to represent within the aforesaid time, then the writ petition qua him would be deemed to have been dismissed.

8. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

16.05.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**