



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

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CWP-18873-2019

Date of decision: 16.07.2024

RAJINDER PARSHAD SHARMA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ajaivir Singh, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 27.06.2019 (Annexure P-15) passed by the Appellate Authority under the Punjab Industrial Housing Act, 1956, on an appeal preferred by the petitioner.

2. Counsel for the petitioner contends that the petitioner was initially working as a Helper in the factory of Ranbaxy Laboratories Ltd. and was allotted the residential house on 31.03.1978 in which the petitioner is currently residing. The petitioner left the job at the Ranbaxy Laboratories in 1982 and thereafter joined another industrial unit in District SAS Nagar itself which dealt in spare parts of the Tractor under the name and style of

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M/s P.K. Industry. He took up a subsequent assignment with M/s Manoj Enterprises and worked on different designations thereafter with different industrial concerns to finally take up an assignment as a Helper in a marketing firm M/s KDK Infra Private Ltd. in Derabassi, District SAS Nagar. It is claimed by the Counsel that the petitioner has been in occupation of the said house for more than 40 years and has been paying the rent regularly without any default, however, a Show Cause Notice dated 14.12.2018 was served upon the petitioner as to why the allotment in his favour dated 31.03.1978 be not revoked as he was no more an industrial worker.

3. The petitioner submitted his reply dated 26.12.2018 to the aforesaid Show Cause Notice and appended the offer of appointment issued to him by M/s KDK Infra Private Ltd. in Derabassi, District SAS Nagar and also attached his salary letter alongwith the said reply, however, the competent authority under the Punjab Industrial Housing Act, 1956 directed the petitioner to vacate the premises without making any reference to the documents furnished by the petitioner or even commenting upon the admissibility or validity thereof. The petitioner preferred an appeal before the Appellate Authority, however, the said appeal was also dismissed against which the present writ petition has been filed.

4. The above said writ petition came up for preliminary hearing on 15.07.2019 when the following orders was passed:-

“Petitioner has filed the instant petition assailing the order dated 26.12.2018 (Annexure P-6) passed by the



competent authority under the Punjab Industrial Housing Act 1956 (hereinafter to be referred to as 'the Act') and in terms of which petitioner has been directed to vacate the house in question located in Labour Colony, Phase-6, Mohali.

Further challenge is to the order dated 27.06.2019 passed by the Appellate Authority/Principal Secretary, Labour under the Punjab Industrial Housing Act 1956, dismissing the appeal that had been preferred by the petitioner under Section 20 of the Act.

Counsel would submit that the basic order of eviction at Annexure P-6 cannot sustain on the sole ground that it is a cryptic, non- speaking order and completely bereft of any reasoning. Insofar as the order passed by the Appellate Authority is concerned a two-fold submission has been raised:-

(i) It is contended that proceedings for eviction against the petitioner were initiated after issuance of a show cause notice which was mandatory as per provisions of the Act and in such show cause notice the only ground on which the petitioner had been called upon to show cause was that he was not covered under the definition of "Industrial Worker". The order passed by the Appellate Authority has been adverted to during the course of arguments and which itself recites that the ground taken in the show cause notice as also the competent authority to direct eviction is not sustainable as the definition of an "Industrial Worker" was all inclusive and it cannot be held that the petitioner is not an Industrial Worker. Accordingly, it is contended that the Appellate Authority has proceeded to reject the appeal on certain grounds which never formed part of the show cause notice and as



such the petitioner had not been granted any opportunity to show cause against the same.

(ii) The second submission raised is that the order passed by the Appellate Authority is perverse wherein it has been recorded that no documents/record had been produced to substantiate that the petitioner/appellant had continued to work as an Industrial Worker over a period of 35 years. In this regard, Mr. Ajaivir Singh, learned counsel states with complete responsibility that the documents appended as Annexure P-14 (colly) had been duly produced before the Appellate Authority giving out a details of the employment of the petitioner over a period of time and which have been completely ignored and overlooked by the Appellate Authority.

Notice of motion returnable for 14.10.2019.

Status-quo as regards occupation of House No. 412/21-A, abour Colony, Phase-6, Mohali, as it exists today shall be maintained till me next date of hearing.”

5. Counsel appearing on behalf of the petitioner has drawn attention of this Court to the documents referred to in the above said contentions and has submitted that the offer of appointment alongwith salary slip and the certificate issued by the Industry had been duly furnished to the respondent-authorities, however, there is no discussion or consideration of the same, yet, the Appellate Authority ruled that the petitioner is not an industrial worker.

6. Counsel for the respondent-State, however, contends that the appellant was also working as Municipal Councillor and receiving the salary

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of Rs. 17,000/- per month and as such he became ineligible under the provisions of the Punjab Industrial Housing Act, 1956 and Rules thereof and thus he cannot be treated as a Worker/Industrial Labourer.

7. Counsel for the respondent however, does not dispute that the documents with respect to the petitioner being an industrial labour have not been dealt with by the Appellate Authority while passing the order. Further, the duration for which the appellant worked as a Municipal Councillor and had drawn the salary in question is not substantiated by any evidence that had been brought before the authority.

8. Responding to the above objection, Counsel for the petitioner contends that the Appellate Authority has adverted in Para No. 14 of the said order that the petitioner was receiving a salary of Rs. 17,000/- per month and as such he became ineligible under the provisions of Punjab Municipal Housing Act, 1956 and the rules framed thereunder. It is contended by him that Section 2 (e) of the Punjab Industrial Housing Act, 1956 uses the expression 'industrial worker' to mean 'as prescribed by the Rules notified under the Act' and that in the Rules so notified, the respondent-State has not defined an industrial worker. He submits that definition of industrial worker is thus to be drawn from the Factories Act, 1948 and that there is no such restriction with respect to the salary being drawn by an industrial worker. He further submits that despite no such cap of the monthly emoluments being drawn by an industrial worker has also been prescribed either under the Punjab Industrial Housing Act, 1956 or the rules notified thereunder, the condition of eligibility of allotment of houses under the Punjab Industrial

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Housing Rules, 1982 provide for eligibility and have fixed the wages @ Rs. 2500/- per month. He contends that the adherence of the petitioner to the aforesaid income cap is even otherwise untenable since then the minimum wages prescribed by the respondent-State would far exceed the above economic criteria. No reference has also been made with respect to the revision of the wages and the economic parameter prescribed by the respondents under Rules 4 (ii) for being eligible to the concession of house, in the impugned order.

9. Having heard learned Counsel for the parties and taking into consideration the totality of the circumstances, I am of the view that the order passed by the Principal Secretary, Labour (Appellate Authority) does not delve into the essential aspects as regards determination of ineligibility/disqualification of the petitioner for eviction under the Punjab Industrial Housing Act, 1956 and the Rules framed thereunder. Besides, it is also noticed that the initial notice was not issued or served upon the petitioner on the premise that he was drawing any salary over and above as prescribed. Hence, there was no occasion or reason for the petitioner to respond to the same. It is also evident that the documents appended by the petitioner alongwith the present petition as Annexure P-14 and as noticed in the notice of motion order were also not considered or discussed by the Appellate Authority.

10. Under the given circumstances, the present writ petition is allowed. The appellate order dated 27.06.2019 passed by the Principal Secretary, Labour is set aside. The matter is remanded to the Appellate



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Authority to pass a fresh order in accordance with law after affording an opportunity of hearing to the respective parties.

11. The petitioner shall appear before the Appellate Authority on 20.08.2024 whereupon further proceedings shall be taken as per law.

(VINOD S. BHARDWAJ)
JUDGE

JULY 16, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No