



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: March 12, 2024

+ W.P.(C) 3353/2024 & CM APPL. 13816/2024

(57) L/HC/GD POONAM KUMARI Petitioner
Through: Mr. U. Srivastava and Mr. Gaurav
Sarawat, Advs.

versus

UNION OF INDIA & ORS. Respondents
Through: Ms. Archana Sharma, SPC,
Mr. Jitendra Kumar Tripathi, G.P.,
Mr. Manoj Kumar, DC, SI Prahlad, SI
Amit Kumar for UOI

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following prayers:-

“a) Directing the respondents to place the relevant records pertaining to the present writ petition before their Lordships for the proper adjudication in the matter in the interest of justice.

*b) Quash and setting aside the impugned orders of the respondents dated 02.09.23 (**Annexure P/1**) declining the request of the petitioner for waiver of the penal rent by the respondent No 2 as alleged, order dt. 13.06.23 served along with order dated 23.09.23 {**Annexure P/2 (Colly)**} and the order dated 13.10.22 (**Annexure P/3**) imposing the recovery of penal rent even without putting any notice to the petitioner after*



declaring the same is as biased, perverse, unconstitutional, mala fide, illegal, unjust, arbitrary, against the principles of natural justice, violative of article 14, 16 & 21 of the Constitution of India, against the mandatory provisions of law and not sustainable; further;

c) Directing the respondents to wave of the penal rent of Rs. 3,43,000/- levied on the petitioner for retaining the family accommodation from 01.06.2022 to 17.05.2023 unauthorizedly as alleged in accordance with the relevant rules and instructions on the subject with all other consequential benefits admissible to the petitioner i.e. refunding the amounts recovered from the salaries of the petitioner with interest.

(d) To allow the present writ petition of the petitioner with consequential benefits and cost.

(e) Any other fit & proper relief may also be granted to the petitioner.”

2. In effect, the petitioner is challenging the order dated September 02, 2023, whereby, the respondents have rejected her request for the waiver of the penal rent levied by the CISF Unit IPGCL/PPCL.

3. The facts as noted from the petition are that the petitioner is working as Head Constable in the CISF. On December 06, 2015, while she was working in IPGCL, she was allotted government accommodation as per her entitlement i.e., 2D, Type II, SKK, Vidyut Vihar Colony, New Delhi-110014. Thereafter, the petitioner was transferred out of IPGCL in the year 2018 and posted at GBS, Udyog Bhawan, New Delhi.

4. It is the case of the petitioner and so contended by Mr. U.Srivastava, learned counsel appearing for the petitioner that the petitioner retained the accommodation i.e., 2D, Type II, SKK, Vidyut Vihar Colony, New Delhi-110014, on medical grounds. The petitioner was promoted as Head Constable on December 29, 2020 and was deputed to ITPO, Pragati Maidan,



New Delhi, w.e.f., February 01, 2021, where, she had applied for family accommodation but in the absence of the same, it was not allotted. As a result, the petitioner continued in the same accommodation which was allotted to her at Vidyut Vihar, New Delhi – 110014.

5. There is no dispute to the fact that the petitioner's request for holding the accommodation at Vidyut Vihar was extended till May 31, 2022. However, from June 01, 2022, she was declared an unauthorised occupant. It is also not in dispute that the petitioner on May 17, 2023 vacated her accommodation at Vidyut Vihar. Suffice to state, the subject matter of the writ petition is with regard to penal rent levied during the period June 01, 2022 to May 17, 2023.

6. The submission of Mr. Srivastava is, when the respondents authorities had permitted the petitioner to retain the accommodation as was allotted to her while she was appointed at IPGCL, there is no reason for them to levy the penal rent for the period June 01, 2022 to May 17, 2023.

7. He also submits that the request for continuance in the accommodation was on the medical grounds because of the ill health of the petitioner's husband who had undergone the procedures related to heart and as such, the request of the petitioner being genuine, the respondents' claim for penal rent for the period June 01, 2022 to May 17, 2023, is harsh. In support of his submission, he has placed before us, in the petition as well as in the compilation of documents, medical prescriptions in respect to the petitioner's husband, who has undergone various procedures related to heart.

8. On the other hand, the officers/counsel for the respondents would justify their action by contending that the petitioner having transferred out of IPGCL, where she was allotted a quarter, could not have continued in the



same, even on the medical grounds as the permissible time for occupying/holding an accommodation/quarter is very limited. The petitioner continued to hold the accommodation from 2018 onwards i.e., for a period of more than 4 years. She has vacated the same only on May 17, 2023, resulting in the continuous denial of accommodation to a more deserving officer who was posted at IPGCL.

9. The case of the petitioner was considered on compassionate ground, i.e., the authorities have considered the case of the petitioner by permitting her to continue in the accommodation though she was not posted at IPGL. In other words, they reiterate their submission that the penal rent levied is not for first 4 years but is only for the period June 01, 2022 to May 17, 2023. It is also noted that, initially the respondents had raised a claim for ₹44,100/- and no protest was raised by the petitioner and it is only when the penal rent was increased to ₹3,43,000/-, the petitioner raised the objection, which resulted in the filing of the present petition.

10. Having heard the learned counsel for the parties, the issue which arises for consideration is, whether the respondents are justified in levying the penal rent for the period June 01, 2022 to May 17, 2023. The answer has to be in affirmative in the facts of this case, inasmuch as, though because of the ill health of the petitioner's husband, the petitioner may be requesting the authorities for permitting her to hold the accommodation, at the same time, the petitioner continued to hold the accommodation for a period of more than 4 years which is much more than permissible limits under the Rules.

11. In fact, we find that the petitioner occupied/resided in the accommodation for the first 4 years. It is also a fact that from June 01, 2022, she became unauthorised occupant. It is for the period, when the petitioner



did not vacate the quarter till May 17, 2023, the respondents made a claim/levied the penal rent.

12. In the facts of this case, though a compassionate view for initial 4 years for non-vacating the quarter has been taken by the respondents, but surely the same must result in certain consequences. The consequences necessarily be payment of penal rent for the period beyond the permissible date till the actual vacation of the quarter, which according to the respondents, comes to ₹3,43,000/-.

13. During the course of the hearing, we have also been informed that as per the Rules, the respondents are recovering/ levying an amount of ₹15,000/- per month from the salary of the petitioner. We are of the view that as the petitioner is working as Head Constable, appropriate would be that the respondents shall continue to recover an amount of ₹15,000/- every month and shall not increase the said amount till the final recovery. With the said observations, the petition is closed. There is no order as to cost.

CM APPL. 13816/2024

Dismissed as infructuous.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

MARCH 12, 2024/ds