



2024:DHC:9270-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 29.11.2024***

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CONT.CAS(C) 1348/2024

INSP MIN GAJENDRA KUMAR

.....Petitioner

Through: Mr. Arvind Kumar Shukla, Mr. Nihal Ahmed, Ms. Surbhi Khanna, Mr. Vishal Maurya and Mr. Sonskar Krishnan, Advs.

versus

SANDEEP KULHARIA

.....Respondent

Through: Mr. Vedansh Anand and Ms. Saumyadip Chakraborty, Advs. with Mr. Lokesh Chandra Singh, Dy. Director and Mr. Ashok Kumar, Asstt. Director. Ms. Arti Bansal, Mr. Kamal Digpaul, Ms. Suniti Singh and Ms. Akanksha Kumari, Advs.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioner under Section 12 of the Contempt of Courts Act, 1972, praying for the contempt proceedings to be initiated against the respondents for wilfully and deliberately disobeying the Orders dated 06.08.2021 and 25.03.2022, passed by this Court in W.P. (C) No. 7486/2021, titled ***Inspector Min Gajendra Kumar and Ors. versus Union of India & Ors.***

2. The above writ petition has been filed challenging the Office



2024:DHC:9270-DB



Memorandum (in short, 'OM') dated 04.03.2021, which restricts the period of retention of the General Pool Residential Accommodation (in short, 'GPRA') up to 30.06.2021 at the last place of posting of the petitioners, who were then posted at non-family stations.

3. This Court by its Order dated 06.08.2021, directed that the operation, implementation and execution of the OM dated 04.03.2021, shall remain stayed. In a subsequent Order dated 25.03.2022, this Court clarified that once the operation of the OM dated 04.03.2021 has been stayed, it should operate *in rem*.

4. The petitioner is aggrieved by the fact that, although the operation of the OM dated 04.03.2021 was stayed by this Court, on the re-transfer of the petitioner to Delhi, his application seeking regularisation/upgradation of the accommodation has not been processed by the respondent due to the pendency of the above writ petition.

5. The learned counsel for the petitioner submits that after the aforementioned order was passed, the respondent himself issued an OM dated 07.08.2024 and extended the benefit of the interim order of this Court to all other personnel as well, directing that they shall be allowed to retain the Government accommodation at a normal license fee.

6. He submits that by not considering the application of the petitioner for regularisation/upgradation of the accommodation, the petitioner is being penalised for the interim order that has been passed by this Court.

7. On the other hand, the learned counsel for the respondent, while



2024:DHC:9270-DB



placing reliance on Rule 54 of the Central Government General Pool Residential Accommodation (in short, 'CGGPRA') Rules, 2017, submits that for regularisation of a Government accommodation on the re-transfer to the last place of posting, one of the important condition is that the allottee has to pay the damages at the prevalent rates for retaining the accommodation beyond the permissible period till the date of the re-transfer. He submits that in the present case, as the damages have not been paid by the petitioner due to the interim order passed by this Court, his case for regularisation has not been processed.

8. We have considered the submissions made by the learned counsels for the parties.

9. The effect of the interim Orders dated 06.08.2021 and 25.03.2022 passed by this Court has been rightly understood by the respondent by issuing its OM dated 07.08.2024 which, *inter-alia* directs that the officers shall be allowed to retain their Government accommodation on the payment of normal license fee. The same is subject to the final outcome of the petition, which is pending before this Court.

10. The sequitur of the above would be that even the claim of regularisation/upgradation of the Government accommodation on the re-transfer of such officers to the last place of posting shall have to be considered by the respondent without, for the present, insisting upon the allottees to pay the damages for retaining the Government accommodation beyond the perceived permissible retention period. The claim of damages, if any, shall have to be made subject to the



2024:DHC:9270-DB



outcome of the petition. However, it cannot be made a cause for not processing the application of the allottees for seeking regularisation/upgradation of the accommodation in accordance with the applicable Rules.

11. To clarify, the respondent shall pass appropriate orders on such applications, including informing the allottees of the damages that they seek to impose for the retention of the accommodation, however, not to insist upon the payment of the same for further implementation of such orders. In case the petitions fail, the damages can be recovered from such officers; on the other hand, if the petitions succeed, the demand would be rendered infructuous.

12. We have no reason to suspect that the respondent would delay the consideration of the application made by the allottees for the above purpose.

13. The learned counsel for the respondent, on instructions from Mr. Lokesh Chandra Singh, Dy. Director, Directorate of Estate, submits that they are ready and willing to abide with the above direction of this Court.

14. In view of the same, no further orders are required in the present petition. The same is, accordingly, disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 29, 2024/ss/B/DG

Click here to check corrigendum, if any