

CM-19652-CWP-2024 in/and
CWP-6288-2022 (O&M)

2025:PHHC:006708



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105+220)

CM-19652-CWP-2024 in/and
CWP-6288-2022 (O&M)
Date of Decision : 17.01.2025

Sumitra Devi

...Petitioner

Versus

House Allotment Committee, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chander Pal Tiwana, Advocate for the petitioner.

Mr. Parminder Singh Kanwar, Additional Standing Counsel for
U.T. Chandigarh-respondent Nos. 1 to 6.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-19652-CWP-2024

Present application has been filed for placing on record orders
dated 16.10.2024 and 24.10.2024 as Annexures P-19 and P-20.

Application is allowed and orders dated 16.10.2024 and
24.10.2024 as Annexures P-19 and P-20 are taken on record with all just
exceptions.

CWP-6288-2022 (O&M)

1. In the present petition, the grievance being raised by the
petitioner is that the petitioner has been directed to pay a sum of ₹37,389/- on
the ground that though, the petitioner had surrendered the house allotted to



her on 01.02.2010, which application had already been received by the respondents and the petitioner never occupied the said house but the respondents have treated the said house in occupation of the petitioner upto the year 2021 so as to claim the said amount on the ground of non-submission of No Objection Certificate, which act on the part of the respondents is arbitrary and illegal.

2. Learned counsel for the petitioner submits that once, the petitioner has already surrendered the accommodation and had also paid the dues which were recovered from the salary of the petitioner, only on the ground that 'No Objection Certificate' from the Electricity Department and the Water Sanitation Department was not submitted, the house has been treated under the possession of the petitioner despite the fact that she had never occupied the same and had already surrendered the same on 01.02.2010 is arbitrary and illegal. Hence, the claim of the amount by treating the petitioner to be in occupation of House No. 12/2291-A, Sector-20, Chandigarh upto the year 2021 is arbitrary and illegal.

3. Upon notice of motion, the respondents have filed the reply, wherein the respondents have stated that before handing the possession of the allotted house, the final bills of electricity and water charges are to be cleared, hence, 'No Objection Certificate' was must so as to treat that there was no liability upon the petitioner qua the said house and as 'No Objection Certificate' was not submitted by the petitioner, the said house was rightly treated to be in possession of the petitioner upto the year 2021 i.e. when the



‘No Objection Certificate’ of the Electricity/Water supply was submitted by the petitioner so as to claim the outstanding dues.

4. Learned counsel for the petitioner submits that even in the year 2021 when the ‘No Objection Certificate’ was submitted, there was no pending electricity or water dues against the petitioner.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The present case is a sheer harassment at the hands of the Chandigarh Administration qua the treatment towards the petitioner. The House No. 12/2291-A, Sector-20, Chandigarh was allotted to the petitioner in November, 2009 but due to the fact that the son of the petitioner had met with an accident, the petitioner failed to occupy the said house and in February, 2010 the petitioner surrendered the said house. Even before surrendering, there was no occupation of the house by the petitioner, which fact has gone un-rebutted.

7. After the surrender of the house in February, 2010, there was no communication from the Chandigarh Administration to the petitioner in any manner except a letter that ‘No Objection Certificate’ should be submitted from the Water Supply and Electricity Department. Receipt of the said letter is disputed by the learned counsel for the petitioner having not been received at any given point of time and the learned counsel for the respondents has not been able to show as to how the said letter was delivered to the petitioner.

8. According to the respondents, in the year 2018, when a survey was conducted, the house in question was found to be locked and then a letter



was written to the petitioner to explain as to why, the allotment in favour of the petitioner be not cancelled. This shows that without even advertng to the fact that the petitioner had already surrendered the house in February, 2010 and had not occupied the same at any given point of time in her service career, the respondents only on account of non-submission of the 'No Objection Certificate' from the Water and Electricity Department, did not proceed further. In case, there were any pending dues qua the allottee, the same could have been recovered from the petitioner but in the present case, the fact that no dues were pending with the Electricity Department or with the Water Supply Department, has gone un-rebutted. This fact shows that how, the Officers of the Chandigarh Administration discharge their duties as a house which was surrendered in February, 2010, could not be allotted to any other employee who was entitled for the same.

9. The stand taken by the Chandigarh Administration is that till 'No Objection Certificate' is submitted by the allottee concerned, the possession of the said house will be deemed to be with the allottee, cannot be accepted. At the most, in case there are any pending dues qua the said house which are to be paid by the allottee, the same comes within the jurisdiction of the Administration to recover the same in accordance with law but, treating the house in occupation of the allottee for a period of 10 years after the surrender of the same only on the ground of non-submission of the 'No Objection Certificate', especially when there are no dues actually pending against the allottee is arbitrary and illegal and the said action of the respondents cannot be justified.



10. In fact, as the house has remained un-allotted to anyone after the same was surrendered by the petitioner in February, 2010, in order to avoid the liability as to why the said house was not allotted to anyone else the petitioner has been made the scapegoat so as to treat the said house in her possession, which act on the part of the respondents is also arbitrary and illegal.

11. Further, the petitioner has made an averment that after the show cause notice was issued to her, the house was opened and the lock was opened by the officials of the Chandigarh Administration from the key possessed by them and building materials were lying in the said house which clearly shows that the said house was being used by the officials of the Chandigarh Administration as a Store for their own convenience. The said fact though is being disputed but learned counsel for the Chandigarh Administration has not been able to substantiate as to how the building materials which do not belong to the petitioner was lying in the said premises at that point of time. Factum of building material lying in the said house reflect that same was being used for storage purpose.

12. Keeping in view the facts and circumstances of the present case that the petitioner had already surrendered the house in question in February, 2010 and there was no pending electricity and water supply charges and the subsequent 'No Objection Certificate' submitted by the petitioner also does not say that any dues were pending, treating the said house to be in possession of the petitioner for a period of 10 years, is arbitrary and illegal and any recovery of the amount from the petitioner by treating the house in



possession of the petitioner till the year 2021 is also arbitrary and illegal.

The recovery sought to be done from the petitioner is set-aside.

13. The respondents-Secretary House Allotment, Chandigarh is directed to initiate an enquiry as to how, the said house remained vacant for a period of 10 years after surrender by the petitioner and how come, the building material was lying in the said house and who was using the same as a Store by depriving an entitled employee the allotment of the same for a period of 10 years. The outcome of the said enquiry be informed to this Court by filing an appropriate affidavit.

14. At this stage, learned counsel for the petitioner has informed the Court that keeping in view the pendency of the said litigation qua the payment of ₹37,389/-, her Death-cum-Retirement Gratuity has been stopped by the respondents after the petitioner has retired on 31.10.2024. The respondent-State of Haryana is directed to release the withheld Death-cum-Retirement Gratuity within a period of four weeks of the receipt of copy of this order.

15. The writ petition is allowed in above terms.

January 17, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes