



2025:DHC:804-DB



\$~12

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

+ LPA 55/2024, CM APPL. 3100-01/2024

AJAY KUMAR VASHIST

.....Appellant

Through: Dr. B.T. Kaul and Mr. Pranjal,
Advocates

versus

UNION OF INDIA, THROUGH ITS SECRETARY, MINISTRY
OF HOME AFFAIRS & ORS.

.....Respondents

Through: Mr. Anshuman, SPC, for R-1 and
R-3
Mr. Vijay Joshi and Mr. Shubham
Chaturvedi, Advocates for R-2

%

Date of Decision: 28th January, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J: (ORAL)

1. Present letters patent appeal has been preferred under Clause X of the Letters Patent assailing the impugned judgment dated 18.08.2023 passed by learned Single Judge of this Court whereby the underlying writ petition being W.P.(C) No.10834/2022 titled '*Ajay Kumar Vashist, DIG vs. Union of India & Ors.*' filed by the appellant was dismissed, affirming the cancellation notice dated 07.07.2022 issued by respondent no.2/Ministry of Housing & Urban Affairs, Government of India whereby the allotment of Quarter No. CG, Type-V(A), Block-10,



2025:DHC:804-DB



Kidwai Nagar East, New Delhi (hereinafter referred as “Type-V(A) accommodation”), that the appellant was occupying in the year 2022 as his official residential accommodation was cancelled; and order dated 12.07.2022 passed by the Estate Officer under sections 3-B(2) and (3) of the Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred as “the act”) whereby the appellant was directed to vacate the said premises with immediate effect; and that upon failure to do so, he would be liable to pay damages under section 7(3-A) of the act.

2. The facts, shorn of unnecessary details and germane to the issue at hand and collated from the underlying writ petition and the present appeal, are as follows:

a. It is the case of the appellant that until 31.03.2014, he was posted in Delhi and was serving as Deputy Inspector General (hereinafter referred to as “DIG”), Central Reserve Police Force (hereinafter referred to as “CRPF”), whereafter he was transferred to North-Eastern region (Assam) *w.e.f.* 31.03.2014. Subsequently, the appellant was transferred back and placed on deputation with the India Trade Promotion Organisation, New Delhi (hereinafter referred to as “ITPO”) *w.e.f.* 01.07.2015 where he was posted as General Manager (Security).

b. At the time when the appellant was posted out of Delhi, he was occupying a Type-IV(S) accommodation No. 1284, Sector 12, R.K. Puram, New Delhi (hereinafter referred as “Type-IV(S) accommodation”); and since the posting to the North-Eastern region was a ‘*non-family posting*’, he requested and was



permitted to retain his accommodation in Delhi during the period when he was posted-out. The permission to retain the accommodation in Delhi was extended from time-to-time. The last extension was granted to him *vide* letter dated 03.09.2019 issued by Directorate of Estates (hereinafter referred to as 'DoE').

c. *Vide* communication dated 26.07.2019 issued by the ITPO they informed the DoE that since the deputation period of the appellant had been extended upto 30.06.2020; and since, as per the terms of his appointment on deputation he was not entitled to house rent allowance, the appellant was required to be provided General Pool Residential Accommodation (GPRA). Based on the aforesaid letter sent by the ITPO, the appellant also requested the DoE that his permission to retain his official Type-IV(S) accommodation be extended till 30.06.2020.

d. In response to the aforesaid communication letter dated 26.07.2019 issued by the ITPO, *vide* communication dated 03.09.2019, the DoE allowed the appellant to retain the Type-IV(S) accommodation till 30.06.2020.

e. In the meantime, the appellant filed an upgradation application dated 20.03.2019, requesting the DoE to upgrade his official accommodation from Type-IV(S) to Type-V(A) accommodation; in response to which request the DoE upgraded his official accommodation from Type-IV(S) to Type-V(A) accommodation *vide* communication/allotment letter dated 18.11.2019, with the date of allotment being 10.11.2019.

f. It is the case of the appellant that he was repatriated to



2025:DHC:804-DB



CRPF, New Delhi *w.e.f.* 29.06.2020. Subsequently, *vide* order dated 05.10.2020, the appellant was relieved from the post of Director General (DG), CRPF, New Delhi, to enable him to join the office of the Special Directorate General, NE Zone, Headquarter Guwahati (Assam), which is in the same zone and a non-family posting.

g. It is the case of the appellant that pursuant to the said transfer, the Assistant Commandant, NE Zone Headquarter, CRPF, Guwahati (Assam) *vide* office letter dated 28.06.2021 forwarded the application of the appellant submitted online of even date for retention of GPRA to the office of DoE.

h. The Appellant claims that he has made several representations dated 25.10.2021, 24.11.2021 and 02.02.2022 to the DoE requesting him to dispose of his application for retention of GPRA Type-V(A) accommodation.

i. The DoE *vide* letter dated 22.03.2022 cancelled Type-V(A) accommodation of the appellant on the ground that the allotment made to the appellant was premised on a misrepresentation contained in his application dated 20.03.2019; and thereafter issued an cancellation order dated 07.07.2022 to the office of respondent no.3/DG, CRPF stating that the request of the appellant for regularization/retention of the Type-V(A) accommodation could not be acceded to and he was required to vacate the premises.

j. Subsequently, Estate Officer issued notice dated 12.07.2022 under sub-section (2) & (3) of section 3B of the PP



2025:DHC:804-DB



Act, 1971 and directed that the allottee and all persons who may be in occupation of the said premises or any part thereto vacate the said premises with immediate effect from the date of publication of the order, failing which the said allottee and all other persons concerned were liable to be evicted from the said premises. If need be, by use of such force, as may be necessary.

k. Aggrieved by the orders dated 07.07.2022 and 12.07.2022, the appellant filed the underlying writ petition which was dismissed by the learned Single Judge of this Court by upholding the cancellation notice dated 07.07.2022 issued by the respondent no.2 cancelling the allotment of Type-V(A) accommodation to the appellant on the ground of misrepresentation in appellant's application dated 20.03.2019.

l. Aggrieved by such decision, present appeal has been preferred by the appellant.

3. The learned counsel for the appellant had argued on various issues, however, he has restricted his arguments on expunging certain observations recorded against the appellant by the learned Single Judge. He also prays that the period for which the appellant was occupying the Type-V(A) accommodation, i.e. 17.01.2020 till 21.09.2023, no damage charges may be levied, since, the appellant was only seeking an upgradation through the application dated 20.03.2019 and not a fresh allotment in category Type-V(B).

4. After hearing the learned counsel for the contesting parties, we are inclined to interfere with the impugned judgment only in respect of the observations recorded against the appellant coupled with direction in



para 28, regarding levy of damage/charges etc. for unauthorized use and occupation of the subject premises.

5. So far as the point of expungement of remarks is concerned, we find from the record that the appellant had only applied for an upgradation of his government accommodation and not sought a fresh allotment. We also find from the record that appellant had applied for an upgradation of his accommodation through proper channel and the respondent had, after considering such a request, in fact, allotted Type-V(A) accommodation to the appellant. It was only when the appellant was posted to the North-Eastern region (Assam) as Special Directorate General and applied for retention for the said Type-V(A) accommodation/quarter that the objection as to his entitlement to the accommodation, already allowed by the Government, was raised.

6. Since, the occupation of the appellant, on the facts obtained as on the date of the application, were in the knowledge of the respondent no.2, levy of damages for the said period may not be appropriate.

7. Since, there is no provision of upgradation, the appellant appears to have been constrained to file the said application through proper channel which may have appeared to be as an application for fresh allotment and hence, the conclusion, that the appellant had misrepresented material facts. Predicated on such facts, the observations may not sustain and therefore, we are of the considered opinion that the observations recorded against the appellant's conduct be expunged and eschewed from the impugned judgment.

8. So far as the issue of levying damages/charges, etc. and initiation of further actions contained in para 28 of the impugned judgment is



2025:DHC:804-DB



concerned, it is not disputed that the appellant had tendered regularly the license fee/rent accruable on such accommodation throughout the period *w.e.f.* 17.01.2020 till 21.09.2023. Having regard to the fact that the appellant had voluntarily vacated the Type-V(A) accommodation in compliance with the orders passed by the learned single Judge coupled with the facts noted by us in the preceding paragraphs, we consider it apposite to direct that no such damages/charges, etc. would be recovered from the appellant.

9. Except the aforesaid two directions, we are not inclined to interfere with the impugned judgment passed by learned single Judge and partly allow the present appeal to the aforesaid extent.

10. Appeal is disposed of in above terms along with pending applications, if any, however without any order as to costs.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

JANUARY 28, 2025/rl