

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**W.P.A. 23897 of 2013**

**Nekbar Hossain**

**-Vs-**

**Union of India & Ors.**

For the Petitioner : Sk. Mujibar Rahman

For the Respondents/U.O.I. : Ms. Chandreyi Alam

Heard on : 13.12.2024, 13.06.2025, 28.08.2025,

Judgment on : 02.02.2026

Uploaded on : 05.02.2026

**Ananya Bandyopadhyay, J.:-**

1. The petitioner, a long serving member of the Central Reserve Police Force, narrated a tale of sustained hardship woven through years of service in arduous, terror infested regions of the country. On 16.01.2009, the petitioner had been posted at 82 Bn. C.R.P.F., Signal Platoon, Srinagar, Jammu & Kashmir while the petitioner was posted at No.3 Sig Bn. C.R.P.F., Salt Lake City, Kolkata- 700091.
2. A dispute arose over the retention of his allotted family accommodation at Salt Lake, Kolkata. The petitioner asserted notwithstanding his continuous posting in Jammu & Kashmir, a high security zone where no family accommodation was available, he was under the extant C.R.P.F. Family Accommodation Rules, 2008, lawfully entitled to retain the service quarter where his wife and chronically ailing minor son had been residing

being Quarter No.86, Type-II, Block-11, 3 Sig. Bn. C.R.P.F. Sector-V, Salt Lake, Kolkata-700091.

3. It had been the case of the petitioner that repeated issuance of show-cause notices and coercive orders by the respondent-authorities, principally the Commandant acting as Estate Officer requiring him to vacate the quarter and to pay penal rent at an exorbitant rate were contrary to the statutory framework, the administrative guidelines and the fundamental tenets of fairness.
4. The petitioner emphasized that his son suffering from a chronic kidney condition and undergoing long term treatment at a reputed Kolkata hospital required stable residence. Compelling his family to vacate the quarter, therefore, amounted to inflict exceptional personal hardship. The son was also a student at a school situated in Kestopur.
5. The petitioner submitted that the respondents functioning as “instrumentalities of the state” within the ambit of Article 12 of the Constitution of India acted arbitrarily and without application of mind in branding him an “unauthorized occupant” despite successive representations and recommendations from Superior Officers acknowledging his entitlement to retain the accommodation until the completion of his posting in Jammu & Kashmir.
6. The petitioner stated that in conformity to Rule 5 (25) of the C.R.P.F. Family Accommodation Rules, 2008 read with Clause 2 (d) of Letter No. A.II-2/2008-09-Adm. I dated 28.07.2009 issued by the Administrative Department of Directorate General, C.R.P.F., Ministry of Home Affairs, New Delhi, the petitioner was entitled to be allowed to retain the family quarter till he remained in actual posting at Jammu & Kashmir.

7. The petitioner further contended that the threatened invocation of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and the proposed deduction of substantial sums from his salary particularly when his monthly net emolument amounted to Rs.16,299/- would strip him of the means required for his son's medical care and bear sustenance. Such coercive measures, the petitioner asserted, were not only legally unsustainable but also ethically untenable amounting to abuse process of miscarriage of justice.
8. The petitioner stated by a Notice No.A.II-1/11-12/Bldg 3 Sig. dated 13.08.2011, the petitioner was asked to show-cause on or before 13.09.2011 as to why the petitioner would not pay damage rent at the rate of Rs.6609/- only in view of the unauthorized occupation of the said family quarter with effect from 14.09.2011.
9. The petitioner stated in this connection relating to vacation of quarters, the Commandant, 82 Bn. C.R.P.F., J & K originated a signal No.A.II-1/2011-12-ST dated 19.09.2011 stating, *inter alia*, as follows:-
- “U/C (.) PERSONAL FOR COMDT (.) PSE REF OUR TELEPHONIC CONVERSATION OF DATE REG. GOVT.ACCOMODATION VACATION SHOW CAUSE NOTICE TO NO. 911230706 HC/RO NEKBAR HUSSAIN RECD VIDE YOUR LTR NO. A.II-1/20122-12-BLDG-5 SIG DTD 07/09/2011(.) SINCE, AS PER PARA 2 (d) OF ADM DTE. LTR NO. A.II-2/08-09-ADM-DTD 28/07/2011, ALL PERSL MAY BE ALLOWED TO RETAIN THE FAMILY QUARTER TILL THEIR ACTUAL POSTING IN J 8 K, REQST TAKE UP TAKE UP CASE WITH DIGCENT SIG.RANGE/COMDT 3RD SIG FOR RETENTION OF HIS GOVT. ACCOMODATION TILL HIS POSTING IN J & K.”
10. The petitioner stated by another show-cause notice was issued by the respondent no. 7, (acting as Estate Officer) vide No.A.II-1/11-12-Bldg 3

Signal dated 22.02.2012 the petitioner was again directed to show the cause on or before 31.03.2012 as to why damage rent at Rs.6609/- should not be made.

11. In this connection, the Commandant 82 Bn. C.R.P.F. again vide a letter No. A.II-1/2012-82/Q dated 29.03.2012 replied to the said respondent written in Hindi stating, *inter alia*, in view of the hardship of the of the petitioner and in view of the guidelines and policies relating to the Government Family Accommodation it was fully recommended that till such time the petitioner should be at Kashmir and should be given priority of retention of family quarter.
12. The petitioner stated without considering the genuine recommendation of the said respondent no. 8, the Commandant, 82 Bn. Signal Platoon and without considering the proposition of Rules and Guidelines relating to retention of family quarter in C.R.P.F. surprisingly the Commandant, 3 Sig Bn., C.R.P.F. (acting as Estate Officer) being the respondent no. 7 issued another letter being No. A.II-2/12-13-Bldg 3 Signal dated 21.11.2012 wherein the petitioner had been directed to vacate the Government family quarter immediately. It was also stated in the said letter in the event the petitioner would fail to vacate he would be declared as unauthorized occupant and that order for recovery of damage rent would be imposed upon the petitioner as per Public Premises (Eviction of Unauthorized Occupants) Act, 1971.
13. The petitioner stated by another letter being No. A.II-2/12-13-Bldg 3 Signal dated 31.12.2012 issued by the respondent no. 7 the petitioner directed to vacate the Government family quarter immediately. It was also stated in the said letter in the event the petitioner would fail to vacate he

would be declared as unauthorized occupant and that order for recovery of damage rent would be imposed upon the petitioner as per Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

14. The petitioner stated the respondent no. 7 issued another show-cause notice No. A.II-1/12-13-Bldg 3 Signal dated 28.01.2013 called upon the petitioner to show cause on or before 25.03.2013 as to why an order requesting the petitioner to pay damage rent at Rs. 6609/- should not be made with w.e.f. 02.08.2011.
15. The petitioner as advised made representations for permitting retention of quarter on the basis of the rules and guidelines relating to family quarter of C.R.P.F. as the petitioner was still serving and staying at Jammu & Kashmir and the petitioner's wife and only ailing son had been residing at family quarter at Salt Lake, Kolkata.
16. The petitioner stated by another office Order No. A.II-1/12-13-Bldg 3 Sig dated 25.03.2013 issued by the Commandant, 3 Sig. Bn.-cum-Estate Officer, it had been further ordered that penal rent at the standard market rent i.e. Rs.6609/- per month w.e.f 03.08.2011 to 31.12.2012 and Rs.14,300/- per month w.e.f. 01.01.2013 and onwards in accordance with Public Premises (Eviction of Unauthorized Occupants) Rules under Section 7 (3) to be recovered from the petitioner till vacation eviction of the quarter. In the said office order it had been also directed the petitioner to vacate the Government family quarter on or before 15.04.2013 failing which eviction process would be initiated without any notice.
17. The petitioner maintained that he was neither an unauthorized occupant nor liable to pay penal rent. Moreover, the respondents' actions were *ultra vires* the Rules and violative of natural justice and he was entitled to

continue the retention of the family quarter until his actual repatriation from Jammu & Kashmir in conformity with the governing guidelines and in recognition of his service at a high risk postings.

18. The Learned Advocate representing the petitioner submitted the same to have been subjected to mental agony and pain as well as threatened dispossession of his family from the family quarter while serving at a distant volatile topography of Jammu & Kashmir.
19. The petitioner had plausible reasons for not vacating the Government quarter being at service in Jammu & Kashmir while his family comprising the wife and a school-going ailing minor son unable to accompany him at the posting in Jammu & Kashmir was of immense difficulty at stake.
20. The Learned Advocate representing the respondents/Union of India filed an affidavit stating though the petitioner was termed as an unauthorized occupant, however, he did not draw any home rent allowance from his posting at Jammu & Kashmir. Moreover, the petitioner having been transferred from Jammu & Kashmir had vacated the family quarter, in question.
21. In view of the above discussions, the instant writ petition has become infructuous and accordingly, the writ petition being WPA 23897 of 2013 stands disposed of.
22. There is no order as to costs.
23. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Ananya Bandyopadhyay, J.)**