
(2016) 05 DEL CK 0031

In the Delhi High Court

Case No : W.P. (C) 7680 of 2015 and CM Appl. 14988 of 2015

Alok Awasthi

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 30-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 158 DRJ 212

Hon'ble Judges : Hima Kohli and Sunil Gaur, JJ.

Bench : Division Bench

Advocate : Mr. S.S. Pandey, Advocate with Mr. H.S. Tiwari, Advocate, for the Appellant; Mr. Ankur Chhibber, Advocate with Mr. Jaswinder Singh, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

1. This order is in continuation of the order dated 08.03.2016, on which date we had examined the background in which the impugned order dated 30.01.2015 was issued by the respondent No.3. In the course of arguments, counsel for the petitioners had stated that the petitioners are aggrieved by the manner in which the respondents have sought to foist upon them only one option, i.e. for claiming HRA, while depriving them of the other options as available and duly mentioned in para 4 of the impugned order and reproduced in para 5 of our order dated 08.03.2016, which was to the effect that they are entitled to regular government accommodation or hired accommodation or accommodation on HRR. In view of the said submission, counsel for the respondents had sought time to file an additional affidavit to justify their stand that though the impugned order does mention four options only one option could have been practically granted to the petitioners, which is of accommodation on HRA.

2. Pursuant to the aforesaid order, an additional affidavit was filed by the respondents on 30.03.2016 and a reply thereto was filed by the petitioners on 10.05.2016. In the additional affidavit filed by the respondents, it has been

clarified that the rental ceiling of accommodation hired by the DEO is Rs. 11,000/-p.m., which was revised in the year 2009 and no accommodation is available for hiring on the existing ceiling rates. It has also been stated that the lease of all the houses hired earlier by the DEO had expired in the year 2012 and at present, there is no MEO hired accommodation held with the Station Headquarters for allotment.

3. Coming to the aspect of accommodation on HRR basis, it has been stated in the affidavit that the accommodation to be hired on HRR basis is to be sponsored by the officer himself at the same rental ceiling of Rs. 11,000/- per month and in consonance thereto, all the petitioners were requested to submit addresses of the houses proposed to be hired by them but only one officer had submitted a reply stating inter alia that he had not been able to find a suitable accommodation within the rental ceiling rates. The affidavit concluded by stating that since no other option is available with the respondents, the only remedy available if is of payment of HRA, for which NAC shall be given by the Station Headquarters, Delhi Cantt.

4. In their reply to the additional affidavit, the petitioners have asserted that there are more than 200 houses at various stages of repair and if the respondents genuinely wish to help the officers in waiting for accommodation, the Station Headquarters would have made suitable efforts to expedite the repairs so that these houses are/can be made available for allotment. It was also submitted that it is in view of the ridiculously low amount of rental ceiling that the petitioners have not been able to successfully identify accommodation for the purpose of being hired by the respondents. Much emphasis has been laid by learned counsel for the petitioners on the hardship being faced by the petitioners due to the respondents declining them permission to continue occupying the residential accommodation during the period of their study leave.

5. In their rejoinder dated 23.05.2016, the respondents have sought to highlight the fact that the allotment/retention of accommodation by study leave officers increases the pressure on accommodation primarily meant for officers posted in Delhi and have emphasised the fact that accommodation hired by the CAO is also on a sharp decline due to low rates of rent being offered. Further, the contention of the counsel for the petitioners that the respondents are slow in repairing the houses in the pool is refuted by counsel for the respondent by pointing out that repair of houses is an ongoing process due to their vintage and as on date, only 49 houses are under repair, which amounts to only 4% of the total houses held.

6. At this stage, learned counsel for the petitioners states that instead of pressing the petitions any further, the petitioners may be granted a reasonable time upto 31.07.2016 , to vacate the residential accommodations being occupied by them so that by then their examinations are over. Further, it is requested that the respondents be restrained from charging market rent in respect of the said accommodations being occupied by the petitioners, till 31.07.2016.

7. The submission made by learned counsel for the petitioners appears to be reasonable to us. It is an undisputed position that the petitioners have to appear for their examinations in various courses in this duration, for which they have taken study leave and most of the examinations shall be over in the month of June, 2016. Thereafter, the petitioners would require a reasonable time of at least one month to shift from the accommodations presently being occupied by them.

8. Accordingly, the present petitions are disposed of with permission granted to the petitioners to continue occupying the accommodations presently under their occupation till 31.07.2016. Till the said date, the respondents shall not levy market rent in respect of the said accommodations. However, if any of the petitioners default in vacating the said accommodations by 31.07.2016, the respondents shall be entitled to initiate eviction proceedings against them and claim market rent in accordance with law.

9. The petitions are disposed of along with the pending applications.