

**(1993) 09 P&H CK 0152**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 2068 of 1988**

Ashwani Kumar

APPELLANT

Vs

The Home Secretary, Chandigarh Administration Chandigarh  
and Others

RESPONDENT

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**Date of Decision :** 17-09-1993

**Acts Referred:**

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4(1)

**Citation :** (1993) 09 P&H CK 0152

**Hon'ble Judges :** N.K. Sodhi, J

**Bench :** Single Bench

**Advocate :** Dinesh Ghai, for the Appellant; Ashok Agarwal , Mr. Gulshan Sharma and Subhash Goyal, for the Respondent

**Final Decision :** Dismissed

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## Judgement

N.K. Sodhi, J.—Father of the Petitioner late Shri Ram Dass Malhotra retired on November 30, 1986 from the post of W.H.M.O. in the Printing & Stationery Department, Union Territory, Chandigarh. While he was in service he had been allotted house No. 1487 Sector 20-B, Chandigarh for use by him as residence under the Government Residences (Chandigarh Administration Pool) Allotment Rules, 1972 (hereinafter called "the Rules"). After his retirement he could retain the same for a period of 4 months only. Petitioner who is the son of the allottee and is working as Sub Divisional Clerk in the P.W.D. (Irrigation Branch), Haryana claims that he has all through been residing with his father in the aforesaid house. On the retirement of his father the Petitioner applied to the Secretary, House Allotment Committee, Chandigarh for allotment of the aforesaid house in his name as, according to him, he fulfilled all the requisite condition and was eligible under the Rules. The request was turned down by the Secretary, House Allotment Committee, Chandigarh as per his letter dated April 1, 1987 which reads as under:

Ref: Your application dated nil.

Your request has been considered. It is regretted that the same cannot be acceded to as you were not working in the eligible office at Chandigarh at the time of retirement of your father.

Sd/- Secretary, House Allotment Committee, Chandigarh.

It is common case of the parties that the Petitioner was posted at Panchkula in November, 1986 when his father retired from service. He claims that he was transferred to the office of the Superintending Engineer, Project and Design Circle (I.B.), Haryana which was located in SCO No. 847, Manimajra (U.T.) Chandigarh on 31.12.1986.

2. The request of the Petitioner for allotment of the house though rejected, father of the Petitioner did not vacate the house and continued in its occupation. His father then received a notice under Sub-section (1) of Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 calling upon him to show cause why an order of eviction be not made against him. Since the allottee had insufficient cause for continuing to occupy the bouse after retirement the Estate Officer exercising the powers under Sub-section (1) of Section 3 of the aforesaid Act passed an order on June 26, 1987 to the effect that the allottee and all other persons who may be in occupation of the said premises or any part thereof should vacate the same within 15 days of the said order. The allottee filed an appeal against this order of eviction before the District Judge, Chandigarh and during the pendency he died. The Petitioner being his son filed an application for being impleaded both on the ground of his being a legal representative of the deceased as also on the ground that he was entitled to the allotment of the house in his own name being an employee of the Haryana Government posted in Chandigarh. The District Judge took the view that the allotment of a house to a Government employee was by way of a licence and that it was a personal right which according to him did not survive after he death of the allottee. The Petitioner was, thus, not allowed to be impleaded and the appeal was dismissed and the family members of the deceased were allowed one month's time to vacate the premises. It is this order of the District Judge as also the order passed by the Secretary, House Allotment Committee rejecting the request of the Petitioner to allot the same in his name that have been impugned in the present writ petition..

3. I have heard counsel for the parties at length. As observed earlier, the request of the Petitioner for the allotment of the house in question in his name had been rejected by the House Allotment Committee of the Chandigarh Administration on the solitary ground that the Petitioner was not working in the eligible office at Chandigarh at the time of retirement of his father. The term "eligible office" has been defined in Clause (e) of the definitions given under the Rules and reads as under:

"Eligible Office" means an office of the Government of Punjab, the Government of Haryana or Chandigarh Administration located in Chandigarh, the staff of

which has been declared by the Chandigarh Administration to be eligible for accommodation under these rules.

It will be seen that the eligible office could be an office of the Government of Punjab, the Government of Haryana or the Chandigarh Administration but it must be located in Chandigarh. It is not disputed that the Petitioner at the time of the retirement of his father was working in an office of the Haryana Government at Panchkula. Therefore, his office could not be described as an eligible office even if all other conditions are taken to be fulfilled. The House Allotment Committee was, thus, justified in rejecting the request of the Petitioner. This being so, the father of the Petitioner could not retain the house beyond March 31, 1987 and no fault can be found with the order of eviction passed by the Estate Office.

4. Faced with this difficulty, counsel for the Petitioner submitted that in the case of some other persons similarly situated like the Petitioner houses had been allotted to the sons of the deceased but the same benefit had been denied to the Petitioner. He, therefore, alleges discrimination and violation of Article 14 of the Constitution. I find no merit in this contention. There is nothing on the record to show the circumstances in which the allotments were made to the sons of the deceased whose names have been mentioned in para 13 of the petition. Power has been given to the Respondents under Rule 26 wherein the Chief Commissioner (now Advisor to the Administrator, U.T., Chandigarh) may for the reasons to be given in writing relax all or any of the provisions or the rules in the case of any government servant or residence or class of government servants or types of residence. For ought we know the allotments might have been validly made after relaxing the rules. At any rate, these allotments have not been impugned by the Petitioner and even if one were to hold that these allotments were contrary to the rules as the allottees were similarly situated as the Petitioner in this case, it would not make the Petitioner eligible. In these circumstances I do not see how there is any discrimination or violation of Article 14 of the Constitution. It is by now well settled that Article 14 of the Constitution requires equal treatment to be meted out to those who are similarly placed but if a wrong or illegal favour has been shown to any one person it does not entitle the Petitioner or others to come to this Court for a mandamus to compel the State authorities to give the same wrongful benefit to them as well. Article 14 does not operate in such cases.

5. Shri Radha Sham Bhinder, a colleague of the allottee had stood surety for him to pay the outstanding dues of licence fee to the Chandigarh Administration upto the date of vacation of the house. A sum of Rs. 4640/- became due upto May, 31, 1990 and when this amount was sought to be recovered from the surety, he along with Ashwani Kumar son of the allottee filed Civil Writ Petition 10158 of 1990 in this Court which was admitted to be heard along with this writ petition. As I have found that the order of eviction was validly passed against the allottee and that his son had no right to claim allotment of the house on the retirement of his father, the Respondents are justified in recovering the amount in question

from Shri Radha Sham who stood surety for the same.

6. In the result, there is no merit in both the writ petitions and they stand dismissed leaving the parties to bear their own costs.