

(2007) 02 DEL CK 0170
In the Delhi High Court
Case No : WP (C) No. 22746 of 2005

Dr. Harsh Wardhan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-02-2007

Acts Referred:

Citation : (2007) 138 DLT 197

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : K.R. Sachdeva and Raman Oberoi, for the Appellant; Sanjeev Sachdeva and Sumesh Dhawan, for the Respondent

Final Decision : Allowed

Judgement

Badar Durrez Ahmed, J.—This petition is directed against the orders/ demand letters dated 26.07.2002, 12.11.2003, 10.08.2004 and 12.10.2004, cancelling the allotment of the flat provided to the petitioner retrospectively with effect from 04.02.1996. The flat in question is situated at No. D-II/9/59, Lodi Road Complex. The same falls under the General Pool and was provided to the petitioner as he was entitled for the same when he was working as a doctor with RML Hospital. On 04.12.1995 the petitioner was transferred to Safdarjung Hospital. The case for the respondents is that upon the transfer of the petitioner, he became disentitled to retain the General Pool accommodation inasmuch as Safdarjung Hospital has its own residential pool. It is for this reason that the petitioner was required to vacate the flat in question and to take up accommodation provided by the Safdarjung Hospital from its own residential pool.

2. Unfortunately, what has happened is that for no fault on the part of the petitioner, he was not being provided any accommodation from the residential pool of Safdarjung Hospital but at the same time the Directorate of Estates was pressing for his eviction from the said flat as, according to them, he was no longer entitled to retain the accommodation from the General Pool. The said premises was ultimately vacated by him on 14.10.2005. He was throughout

under the employment of either RML Hospital or Safdarjung Hospital. The petitioner, who was transferred to Safdarjung Hospital in 1995, returned to RML Hospital sometime in 1997-98 and is presently holding the post of Head, Department of Cardiology, at RML Hospital.

3. The main point urged by the learned Counsel for the petitioner is that the petitioner could not be regarded as an unauthorized occupant and, Therefore, damages cannot be charged from him because of two factors. The first factor being that no proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 were initiated. The second aspect was that the petitioner had approached the Central Administrative Tribunal, which had passed an order dated 23.05.1997 clearly directing the respondents, that is, the Safdarjung Hospital and the RML Hospital as well as the Directorate of Estates, to settle the matter among themselves as early as possible and directed that in the meantime the petitioner would not be evicted from the accommodation in question. It was specifically directed as under:

The respondents may either place the quarter, the petitioner is occupying, in the Hospital Pool or desist from evicting the petitioner till a suitable accommodation is allotted to the petitioner by the Hospital authorities.

4. Unfortunately, despite these directions and despite the fact that no proceedings were taken under the said Act, damages are being demanded from the petitioner to the extent of Rs.1,18,539/- for the period commencing from 24.01.1994 to 31.01.2004

5. The learned Counsel for the petitioner also drew my attention to Annexure P 6-b, which is an Office Memorandum dated 26.02.1979 issued by the Directorate of Estates, Government of India. The subject is allotment of General Pool accommodation to doctors. The relevant portion of the Office Memorandum reads as under:

The question of retention of General Pool accommodation allotted to the Doctors, on their transfer to Govt. hospitals having their own pool of accommodation, has been under consideration for some time. It has now been decided that the doctors occupying General Pool quarters and transferred to Government hospitals having their own pool of accommodation may be allowed to continue retention of the General Pool residences at normal rate of license fee until they are allotted accommodation from their respective hospital pools.

6. A reading of the said Office Memorandum clearly shows that the petitioner cannot be regarded as an unauthorized occupant and, Therefore, he was only required to pay normal rate of license fee until he was allotted accommodation from the Safdarjung Hospital residential pool. This also makes it clear that the petitioner could not be charged damages for occupation of the flat in question.

7. In view of these circumstances, the impugned orders/demands are set aside. This writ petition is allowed to this extent. No order as to costs.