

(1989) 05 P&H CK 0124
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1094 of 1982

Dr. Mrs. Parkash Kaur (Deceased)	Vs	APPELLANT
Chandigarh Administration etc.		RESPONDENT

Date of Decision : 18-05-1989

Acts Referred:

Citation : (1989) 05 P&H CK 0124

Hon'ble Judges : Veeraswami Ramaswami, J;G.R. Majithia, J

Bench : Division Bench

Advocate : P.S. Patwalia, for the Appellant; H.S. Brar, Senior Standing Counsel for Govt. of India, for the Respondent

Final Decision : Allowed

Judgement

V. Ramaswami, C.J.—This is an appeal against the order of learned Single Judge of this Court dismissing the writ petition filed by the Appellant in which she had prayed for a mandamus directing the Respondents not to demand any amount as arrears of rent and to pay pension, gratuity and provident fund amounts that stand to her credit without any deduction and in accordance with law.

2. The Petitioner was working in Faridabad as a Medical Officer in the undivided Punjab State. She was transferred to Chandigarh from Faridabad and posted as Medical Officer on May 2, 1966. She was to be a Resident Medical Officer in the Health Centre where she was posted and accordingly she occupied the house which was meant for the Medical Officer within the precincts of the Centre At the time when she was transferred she was governed by the Punjab Civil Services Rules and it is not in dispute that as per these rules she was entitled to a rent free accommodation as such Medical Officer. The erstwhile State of Punjab was reorganised with effect from November 1, 1966. In consequence thereof, Chandigarh became a centrally administered area. Consequently, the Petitioner was treated as on deputation to the Union Territory of Chandigarh from Punjab. There was a dispute as to whether an officer on deputation to the Union Territory of Chandigarh like the Petitioner would be eligible for a rent-free accommodation

even as a Resident Medical Officer, but we are of the view that the question could be considered in an entirely different aspect. When the Petitioner was transferred to Chandigarh, she continued to be an employee of the erstwhile State of Punjab and, as already stated, as such employee she was eligible for a rent-free quarter. When technically she became an officer on deputation on the reorganisation of the State, she was not informed that she had to pay rent. She was permitted to remain in occupation of the house without payment of rent till she retired from service on July 31, 1976. It is only when she claimed the pension, gratuity and provident fund, it was stated that she had to pay rent for the period from November 1, 1966 till July 31, 1976. Prior to her retirement she was never informed that she had to pay rent nor did the Administration claim rent for the period immediately after November 1, 1966, or within a reasonable period thereafter. In the circumstances, she had assumed and rightly that she was eligible for a rent-free accommodation and continued as such and if she had been asked to pay rent for the premises at any stage it might have been that she might have stayed there or she may have asked for further relief at that stage itself as a deputationist and in case of refusal to grant the relief, she could get back to Punjab service. If she had been given this notice, she would have had the option to remain as on deputation or to go back as Punjab Medical Officer. That option also had not been given. In the circumstances, we think it will be wholly unjust to claim money from her at this late stage when she had retired from service. Therefore, in any case whatever be the legal position relating to her entitlement for a rent-free accommodation as a deputationist, we think it is just that she should be permitted to withdraw the entire money to her credit and not to make her liable for any rent for the period she served the Union Territory of Chandigarh as a deputationist.

3. In the result, we allow the appeal, set aside the order of the learned Single Judge and allow the writ petition. The rule nisi is also made absolute. There will, however, be no order as to costs.

4. We have referred to the facts with reference to the Petitioner. It may be mentioned that during the pendency of the appeal, about a few months back the Petitioner died and her son has been brought on record as a legal representative. Any amount payable to her will now be paid to the legal representative.

Sd/- G.R. Majlithia, J.