
(2000) 08 P&H CK 0077

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1383 of 2000 and C.M. No. 18066 of 2000

Dr. Shashi Kant

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 21-08-2000

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 7

Citation : AIR 2001 P&H 31 : (2000) 4 RCR(Civil) 502 : (2000) 4 RCR(Civil) 799 : (2000) 2 RCR(Rent) 466

Hon'ble Judges : K.S. Garewal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : R.K. Malik, for the Appellant; D.P. Singh, D.A.G. and Rajbir Sehrawat, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—The petitioner complains that the demand for the payment of a penal rent of Rs. 4,36,301/-made from him vide letter dated January 21, 2000 is wholly arbitrary and unfair. He alleges that the action of the respondents in levying penal rent at fifty times the actual is wholly arbitrary and unfair. He prays that the orders dated January 21,2000 and January 3, 2000, copies of which have been produced as Annexures P-21 and P-22 be quashed.

2. The paper-book is voluminous, However, the facts lie within a very narrow compass. The petitioner is a member of the Haryana Civil Medical Service, Class I, He was posted as a Deputy Medical Superintendent at the Post-Graduate Institute of Medical Sciences, Rohtak. On June 6, 1997, the petitioner was transferred from the post of Deputy Medical College Superintendent to the post of Sr. Medical Officer, Community Centre, Mudlana. In pursuance to his transfer, the petitioner was relieved from the office of Deputy Medical Superintendent on June 16, 1997. Within two months, by order dated August 14, 1997, the petitioner was posted as District School Medical Officer, Rohtak.

3. During his tenure at the Medical College, the petitioner had been allotted official accommodation No. 2/7J. On his transfer from Medical College to the General Cadre, the petitioner had to vacate the premises. The Deputy Commissioner, Rohtak issued a communication dated February 10, 1998 by which he requested the Director of the Post-Graduate Institute of Medical Sciences, Rohtak to allow the petitioner to retain the house "till Dr. D. S. Dhankar posted as Deputy Medical Superintendent....vacates House No. 20 in Officers' colony under common pool". A copy of this communication has been produced as Annexure P-12. Thereafter, he sent communication dated April 27, 1998 in which the Deputy Commissioner inter alia pointed out as under :--

"Dr. D. S. Dhankar presently working as Dy. Medical Supdt. in your institution w.e.f. 8-6-97 was asked to vacate the house No. 20 occupied by him in officers colony.but he has not vacated the same as yet. He may be allotted the earmarked house in Medical campus and he be directed to vacate the house occupied by him in common pool immediately so that same be allotted to Dr. Shashi Kant District School Medical Officer, Rohtak."

4. In this letter, it was further observed as under :--

"Dr. Shashi Kant, District School Medical Officer, Rohtak be allowed to retain the House No. 2/7J in Medical Campus on normal rent till Dr. D. S. Dhankar Dy. M. S. Vacate(s) the House in common pool as per past precedent according to which Dr. D. R. Yadav Professor and Head Forensic Department in your institution was allowed to retain one house in officers colony for more than 20 years....."

5. Probably, nothing followed. Finally, on October 13, 1998, the Deputy Commissioner wrote another letter to the Director of the Institute. It was observed as under :--

"As both the Doctors i.e. Shri D. S. Dhankar, Dy. Medical Supdt. and Dr. Sh. Shashi Kant, District School Medical Officer, Rohtak at present have been posted at Rohtak, hence they are allowed to continue to reside in the houses occupied by them i.e. from Distt. Admn. General Pool and PGIMS pool."

6. A copy of this letter was endorsed to the petitioner also.

7. In the above background, the petitioner complains that the demand for penal rent is wholly arbitrary and unfair.

8. The respondents contest this claim primarily on the ground that the petitioner having been relieved from the office of Deputy Medical Superintendent, he had to vacate the premises in his occupation. The needful having not been done, the petitioner is liable to pay penal rent.

9. Counsel for the parties have been heard.

10. Admittedly, the petitioner was entitled to the allotment of official accommodation at Rohtak. Even on his transfer from the Medical College, the Government was under an obligation to provide accommodation to the petitioner.

It is also not disputed that the accommodation from the common pool has to be allotted by the Deputy Commissioner. Still further, it is the admitted position that respondent No. 4 was occupying House No, 20 in the common pool. On his appointment as Deputy Medical Superintendent, the fourth respondent was entitled to be allotted accommodation by the College. The orders as passed by the Deputy Commissioner indicate that House No. 20 in the common pool which was in occupation of respondent No. 4 was intended to be given to the petitioner while the house in possession of the petitioner was to be given to respondent No. 4. In the ultimate analysis, both the officers have continued to occupy official accommodation and they did not exchange it. In the process, neither the Government nor the College have suffered any avoidable loss. Resultantly, no ground for levying any penal charges against the petitioner or any one else is made out.

11. It is unfortunate that a senior officer has been forced to resort to legal proceedings. The matter could have been easily settled at the departmental level. However, we find no justification for compelling the petitioner to pay any penal charges for his having remained in occupation of House No. 2/7J at Rohtak.

12. Counsel for the respondents have not suggested and we think rightly that the petitioner was not entitled to the allotment of accommodation at Rohtak at any stage after his transfer from the Medical Institute in June, 1997. All that appears to have happened is that the authorities wanted him to shift from House No. 2/7J to House No. 20 in the common pool. It appears that respondent No. 4 was not wanting to vacate House No. 20. Thus, neither party vacate the house. In this situation, neither side can be blamed, for having continued to occupy the premises. However, in the circumstances of the case, the levy of fifty times the actual rent as a penalty was not justified.

13. In view of the above, the writ petition is allowed. The order for payment of penal rent is quashed. It is, however, clarified that the petitioner shall vacate the house in his occupation as and when he is transferred or any other house is allotted to him. In the circumstances, there will be no order as to costs.