

(1986) 10 RAJ CK 0073

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1683 of 1986

Madan Lal Saini

APPELLANT

Vs

Malviya Regional Engineering College Society and Another

RESPONDENT

Date of Decision : 30-10-1986

Acts Referred:

Citation : (1987) 2 WLN 177

Hon'ble Judges : Mahendra Bhusan Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mahendra Bhusan Sharma, J.—The petitioner is working on the post of Issue Assistant in the library of Malviya Regional Engineering College, Jaipur (for short, the College) and by virtue of his status he is entitled to allotment of a "F" type quarter. Earlier, the petitioner was appointed on the post of Genitor which was a class IV post and was later on promoted as Library Attendant. Under order dated March 10, 1978 the petitioner was allotted a quarter No. H-36. The quarter H-36 is said to be a part of the Principal's bungalow and there is another quarter H-35 which is also a part of the said bungalow. Quarter No. H-35 was allotted to Nathu Singh, a class IV servant. The petitioner and the said Nathu Singh were occupying quarters Nos. H-36 & H-35 respectively since the date of allotment. An order dated April 9, 1986 was issued from the College under which the term of allotment of the quarter H-36 was extended upto June 30, 1986 and the petitioner was directed to make alternative arrangement for residential accommodation and vacate the aforesaid quarter by the aforesaid date positively. Annexure 6 is the aforesaid order and it was ordered there in that bungalow "A" of which this quarter is a part, is to be occupied by the Principal and therefore, the date cannot be extended further. The petitioner filed a representation to the Chairman of the Board of Conveners of the College and requested that the allotment of the quarter has to be made on the basis of seniority, and if the aforesaid quarter is required to be vacated on the ground stated in the notice,

then he should be allotted another H-type quarter on the basis of seniority.

2. The petitioner has challenged the order Annexure dated April 9, 1986. Notice was issued and reply has been filed. In the reply the case is that the allotment of the accommodation is a facility and does not confer a right on the petitioner. The allotment is made under the Rules Regarding the Allotment of Accommodation and the allotment is from year to year. The petitioner has no right to continue to occupy the allotted accommodation, and the writ petition should be dismissed.

3. The petitioner is occupying quarter No. H-36 since 1978 when it was allotted to him. Another quarter H-35 was allotted to Nathu Singh, a class IV Servant, to whom alternative accommodation has been allotted and he has vacated the quarter H-35. No alternative accommodation has been allotted to the petitioner and he has been asked to vacate it. The allotment was made to the petitioner by virtue of his being an employee of the College and on the basis of seniority. If now for any reason what so ever including the reason that the quarter H 36 is the part of the Principal's bungalow, which is to be occupied by the Principal, then it is only reasonable and just that the petitioner must be given alternative accommodation as has been given to Nathu Singh who was the occupant of quarter No. H-35. The petitioner cannot be treated discriminately. The contention of Mr. Jain, learned Counsel for the respondents is that the allotment of accommodation was under the aforesaid rules and the petitioner was only a licensee and under these rules the allotment is made upto June 30 of every year and has to be renewed. According to him the licence comes to an end on June 30 of every year and the petitioner therefore after the expiry of his licence is an unauthorised occupant. He further contends that it is an internal matter of the college and this court should not interfere in such cases. In support of his submission he has placed reliance on A.K. Jha and Another Vs. Vice-chancellor, Jawaharlal Nehru University, New Delhi and Another, and Varanasiya Sanskrit Vishwavidyalaya and Another Vs. Dr. Rajkishore Tripathi and Another, . None of the aforesaid two authorities has any relevance to the present case. They do not relate to the alternative accommodation to an employee. So far as the case of A K. Jha (supra) is concerned it was a case where the question as to whether the students have any right to stay in the University hostel even after the closure of the university was under consideration. It was held that it was a privilege which could not be claimed as a matter of right. In case of Dr. Rajkishore Tripathi (supra) in para No. 12 of the judgment the Supreme Court observed that in a matter touching either the discipline or the administration of internal affairs of a University, the courts should be more reluctant to interfere. In my opinion the case of alternative accommodation to an employee of the University stands on a different footing. No doubt the rules of allotment provide that the allottee shall be deemed to be a licensee and not a tenant but it also provides under Rule 27(a) that the house-rent shall be charged. It does not say that any licence fee shall be charged. Even assuming that the petitioner is a licensee, the question whether when Nathu Singh who was occupant of quarter No. H 35 was made to vacate the quarter only after he was allotted alternative accommodation, the petitioner

can be asked to vacate the accommodation i.e. quarter No. H/36 without any alternative accommodation having been allotted to him In my opinion the rules not with standing the fact that the rules have no statutory form, cannot be said reasonable when it provides that the employee of the college who is allotted accommodation is a licensee for a period of one year. If any accommodation is allotted to an employee by virtue of his seniority in the service, before they can be asked to vacate that accommodation during the period of service even if better accommodation to which he may be entitled by way of promotion, is not available, he must be provided alternative accommodation. It is what that the petitioner requested to the respondents and the respondents insisted that the petitioner must vacate the quarter and they will not provide the alternative accommodation.

4. Consequently, I allow the writ petition and direct that the respondents that they will only ask the petitioner to vacate the quarter H-36 when they make him available the same type accommodation, if not better type to which the petitioner has now become eligible. The costs made easy.