
(2025) 07 P&H CK 1343

In the Punjab And Haryana At Chandigarh

Case No : CWP Of 18596 Of 2022, Connected With CWP Of 19754 Of 2022

Manju Bala@Manju Poonia

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 11-07-2025

Acts Referred:

Citation : (2025) 07 P&H CK 1343

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Viren Nehra, Sunil K. Nehra, Gaurav Jindal

Final Decision : Disposed Of

Judgement

Harsimran Singh Sethi, J

1. In the present petitions, the challenge is to the order dated 26.07.2022 (Annexure P-9 in CWP No. 18596 of 2022) by which, the accommodation No. A-13 under the Scheme of General Pool Accommodation allotted to the petitioner on 30.08.2017 (Annexure P-2) has been cancelled and that too without giving any opportunity of hearing as well as to the order dated 23.08.2022 (Annexure P-8 in CWP No. 19754-2022) whereby, penal rent has been imposed upon the petitioner.

2. Learned counsel for the petitioner submits that the husband of the petitioner who was working as a General Manager, Haryana Roadways, Sirsa was allotted the government accommodation number C-11. On the prayer of the husband of the petitioner, the petitioner who was also in the Government Job and was posted as Headmistress in the Government Senior Secondary School, Nejadela Kalan, Sirsa was allotted the said government accommodation C-11, Sirsa on 08.04.2008. Thereafter, the accommodation allotted to the petitioner was mutually exchanged with the accommodation number B-5 on 19.07.2014. Thereafter, on the request of the petitioner, the said accommodation i.e. B-5 was exchanged with A-13 at mini secretariat colony, Sirsa on 30.08.2017. The

petitioner continued to occupy the said accommodation i.e. A-13 at mini secretariat colony, Sirsa when an order was passed on 26.07.2022 cancelling the said allotment on the ground that the petitioner is not eligible to occupy the said house as the same was beyond the eligibility of the petitioner. The said order is under challenge in CWP No. 18596-2022.

3. Learned counsel for the petitioner further argues that after cancellation of the allotted government accommodation, penal rent for occupying the said premises was also imposed vide order dated 23.08.2022 (Annexure P-8) , which order has been challenged by the petitioner in a separate writ petition bearing CWP No. 19754 of 2022.

5. Learned counsel for the petitioner further submits that keeping in view the interim order dated 24.08.2022, , the petitioner is in occupation of the premises in question .

6. Learned counsel for the petitioner argues that once, the petitioner was allotted the said accommodation by the respondents themselves by taking a conscious decision, subsequently, the said decision cannot be withdrawn on the ground that the said allotment was made beyond the entitlement of the petitioner. Learned counsel for the petitioner further argues that once relaxation was given to the petitioner to occupy the said government accommodation, the petitioner became entitled to occupy the said accommodation having being relaxed with the condition of the allotment hence, subsequently the petitioner cannot be treated as ineligible to occupy the said accommodation A-13.

7. Upon notice of motion, the respondents appeared and filed their reply wherein they have stated that Government accommodation No. A-13 was allotted to the petitioner by relaxing the rules of House Allotment by the competent authority but thereafter, as the petitioner was not eligible to occupy the said premises, the same has been cancelled by the respondents.

8. Learned counsel for the respondents also concedes that no prior notice was given to the petitioner before cancellation of the accommodation allotted to her on the ground that once, under the rules, the petitioner was ineligible to occupy the said accommodation i.e. A-13, no prior notice was required to be given to the petitioner.

9. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

10. It is a conceded position that the competent authority considered the claim of the petitioner and relaxed the provisions of the House allotment in favour of the petitioner while allotting accommodation A-13 to the petitioner. Once, the competent authority exercised its discretion so as to relax the provisions of house allotment in favour of the petitioner, the entitlement to retain the said accommodation exist. Once, the rules of the house allotment have been relaxed, thereafter, ineligibility of the petitioner on the basis of rules which already stand

relaxed, cannot be made a ground so as to cancel the allotted government accommodation.

11. Further, no accommodation which has been allotted as per the order passed by the competent authority could have been withdrawn without giving a show cause notice to the petitioner. In the present case, it is a conceded fact that no prior notice was ever issued to the petitioner before cancelling her accommodation and consequent imposition of the penal

rent. As per the settled principle of law, any order which causes prejudice to an employee either financially or otherwise, the same cannot be passed without hearing the said employee.

12. Further, it is a settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 2265 of 2011 titled as Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others, 2016(12) SCC 204, decided on 17.05.2016 and in Civil Appeal No. 9417 of 2019 titled as M/s Daffodills Pharmaceuticals Ltd. and another vs. State of U.P. and another 2019 (12) JT 283, decided on 13.12.2019 that where any order passed by the authority concerned causes prejudice to an employee, especially financial liability, an opportunity of hearing is must and no order causing prejudice to an employee can be passed by an employer unilaterally. The relevant para of Daffodills Pharmaceuticals's case (supra) is as under:-

"15. In the present case, even if one assumes that Surender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case.

16. The High Court, in the opinion of this court, fell into error in holding that in matters of award of public contracts, the scope of inquiry in judicial review is limited. Granted, such jurisdiction is extremely circumscribed; no doubt the court had refused to grant relief to Daffodils against its plea of wrongful rejection of its tender. However, what the impugned judgment clearly overlooks is that the action of the state, not to procure indefinitely, on an assumption of complicity by Daffodils, was in flagrant violation of principles of natural justice."

The relevant paragraph of the Chamoli's case (supra) is as under:-"19. The compliance of natural justice in domestic/disciplinary inquiry is necessary has long been established. This Court has held that even there are no specific statutory rule requiring observance of natural justice, the compliance of natural justice is necessary. Certain ingredients have been held to be constituting

integral part of holding of an inquiry. The Apex Court in *Sur Enamel and Stamping Works Pvt. Ltd. v. Their Workmen* reported in (1964) 3 SCR 616 has laid down following:-

"... An enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined – ordinarily in the presence of the employee – in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the inquiry officer records his findings with reasons for the same in his report."

13. Learned counsel for respondents has not been able to rebut the same.

14. Keeping in view the totality of circumstances of the present cases, both the writ petitions are allowed. The order dated 26.07.2022 (Annexure P-9) cancelling the allotment of government accommodation in favour of the petitioner is set-aside and the petitioner is held entitled to retain the said accommodation A-13 at Mini Secretariat Colony, Sirsa, which has been allotted to her after the grant of relaxations in the provisions of house allotment rules by the competent authority.

15. Once, the petitioner has been held entitled to occupy the accommodation A-13 at Mini Secretariat Colony, Sirsa, the question of penal rent for occupying the same does not arise, therefore, the order of penal rent dated 23.08.2022 (Annexure P-8) is hereby set-aside and CWP No. 19754 of 2022 is allowed as well.

16. Pending civil miscellaneous application, if any, stands disposed of.

17. A photocopy of this order be placed on the file of connected case.