
(2018) 07 DEL CK 0558
In the Delhi High Court
Case No : LPA 339 OF 2018

Nawal Kishore Yadav

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 31-07-2018

Acts Referred:

Citation : (2018) 07 DEL CK 0558

Hon'ble Judges : SANJIV KHANNA, J;CHANDER SHEKHAR, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

SANJIV KHANNA, J

(ORAL) CM. No. 30401/2018

Learned counsels for the parties state that they would like to argue the appeal itself on merits.Â We take the statement on record and we have taken up the appeal for hearing.

LPA 339/2018

1. The appellant is an inspector in Border Security Force.
2. The appellant, on being posted with the National Security Guard Headquarters at Palam, New Delhi, was allotted General Pool Residential Accomodation House No. C-105, Sarojini Nagar, New Delhi, vide allotment letter dated 31st December 2014.Â Â
3. Subsequently, on 6th May, 2015, the appellant was transferred and posted to Security Headquarter BSF at Silchar in Assam. In terms of the extent guidelines, the appellant was allowed to retain the government accommodation at Delhi despite being transferred to Silchar till 30th June, 2018.

4. However, in view of the Re-Development Scheme for Sarojini Nagar, the respondents had directed the appellant to vacate the accommodation by

1st September, 2017. It was stated that there was a change in policy and hence the appellant cannot be allowed to occupy the government

accommodation in Delhi.Â Â

5. The appellant had thereupon filed Writ Petition (C) No. 7497/2017 which was disposed of, directing that the appellant should be given at least a

period of three months to vacate the quarter/government accommodation, the same period as given toÂ officers who demit their office.Â However,

keeping in view the urgency and as government accommodation was to be demolished, the appellant was granted time to vacate the accommodation

till 30th September, 2017 without levy of damages and penal charges.Â Â

6. The appellant had thereupon preferred LPA No. 627/2017, which was disposed of on 20th September, 2017.Â The last two paragraphs of the said

decision read as under:-

â??7. The Court has considered the entirety of circumstances. It is an undisputed fact that the allotment to the appellant/petitioner was extended upto

30.06.2018. This is based upon the respondentsâ?? understanding that such accommodation should be retained by a person sent to the Northeast on

posting for three years. Undoubtedly, the exigencies of redevelopment required demolition of the flats. At the same time, the Central Government in

this instance, in our opinion, should not have faulted on its commitment to house its employee, who is now posted in a forward/border area, and given

him such short notice for vacating his house. Given that the period granted is even as on date a short one, a direction is issued to the Central

Government (which the counsel has agreed to comply with) to continue the allotment till 30th April, 2018, with a suitable alternative flat. The

appellant/petitioner shall be handed over allotment and possession of such suitable alternative flat within 15 days from today. The appellant/petitioner

shall also furnish an undertaking to vacate such allotted quarter latest by 30th April, 2018. The undertaking shall be filed within a week before this

Court with a copy to the respondents.Â

8. The appeal is allowed in above terms.â??

Â The aforesaid order refers to the prayer made by the appellant, which was considered sympathetically.Â By consent and concession recorded, the

appellant was permitted to handover the government accommodation latest by 30th April, 2018 and to furnish an undertaking to the said effect, which was furnished.Â Â

7. The appellant has not vacated the government accommodation in terms of the undertaking and the order passed.Â Â

8. The appellant had filed an application seeking impleadment in Writ Petition (C) No. 5476/2018, Bijaya Kumar Pradhan and Others versus Union of

India and Others.Â It was pleaded that the case of the appellant was similarly placed as the writ petitioners therein.Â We may note that the said writ

petitioners by order dated 29th May, 2018 have been granted interim protection against the coercive action in respect of the government

accommodation allotted to them till the next date of hearing. However, application filed by the appellant was dismissed by the learned single Judge

vide order dated 1st June, 2018.Â This order of dismissal is challenged in the present appeal.

9. The contention of the appellant is that some other similarly situated persons had challenged the order dated 20th September, 2017 in LPA No.

627/2017 before the Supreme Court in Special Leave Petition (Civil) Diary No. 14198/2018, which was not entertained giving liberty to the said

persons to approach the High Court.Â For this purpose, they were granted protection for two weeks.Â Thereupon these persons have filed WP(C)

No. 5476/2018 and stay order has been passed.Â

10. We do not think that the appellant should be allowed to withdraw and not abide by the undertaking and commitment given to the Court.Â

Appellant would be bound by the consent order and undertaking. He should have vacated the government accommodation by 30th April, 2018.Â The

appellant had filed an application in LPA No. 627/2018 and time for vacation was extended up to 31st May, 2018.Â In view of the undertaking given

by the appellant, his status cannot be compared and is not similar to the persons who have filed Writ Petition (C) No. 5476/2018.Â Even otherwise,

the date 30th June, 2018 for which the allotment was made to the appellant has come to an end.Â Â

11. The appeal has no merit and is accordingly dismissed.Â No costs. Â