

(1966) 11 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 966 of 1963

Onkar Nath

APPELLANT

Vs

The Central Government of India and Others

RESPONDENT

Date of Decision : 09-11-1966

Acts Referred:

Constitution of India, 1950 — Article 226

Displaced Persons (Compensation and Rehabilitation) Rules, 1955 — Rule 65

Citation : (1967) 2 ILR (P&H) 350 : (1967) 69 PLR 144

Hon'ble Judges : R.S. Narula, J

Bench : Single Bench

Advocate : S.K. Jain, for the Appellant; K.S. Kawatra, Assistant A.G., for the Respondent

Final Decision : Allowed

Judgement

R.S. Narula, J.—Onkar Nath Petitioner, a displaced person from West Punjab, has come up to this Court under Article 226 of the Constitution for quashing the orders of the rehabilitation authorities declining to give him any compensation for his verified claim bearing index No. P/SLI/3379(2859), on the solitary ground covered by Rule 65 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, on the allegation that the Petitioner had been held entitled for allotment of 1/4th unit of agricultural land in India. The final order against the Petitioner is of Shri P.N. Bhanot, Settlement Commissioner, with delegated powers of Chief Settlement Commissioner, dated September 18, 1962 (Annexure "E") (in which all earlier orders have merged). The findings of fact recorded in the said order are to the effect that 1/4 unit of land was allotted in the papers to the Petitioner in village Dhansa, tehsil Garhshankar, district Hoshiarpur, but that the said allotment was cancelled because the Petitioner did not take possession of the land. It is admitted case of both sides that the Petitioner never took possession of the land. According to the Petitioner, he was not even aware of the said paper allotment. In the impugned order, the Chief Settlement Commissioner has stated that the Petitioner can even now apply for and get back the

agricultural land allotted to him in lieu of the land left behind by him in West Pakistan. I do not think that the case falls within the mischief of Rule 65 of the aforesaid rules. Agricultural land which has "been allotted" within the meaning of Rule 65 means land which is not only allotted on the paper and subsequently cancelled, but which is actually allotted for all practical purposes and given to the allottee. The rehabilitation authorities cannot deprive a person of the compensation for his verified claim by merely making a paper allotment and then cancelling it on one ground or the other. The object of Rule 65 is that any person to whom more than 4 acres of agricultural land are allotted that is any person who is able to make use of the said rehabilitation benefit allowed by the law, would not also be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs. 20,000. The law does not, however, provide for a displaced person being deprived of both the alternative relief permitted by the rules to be granted to him. Such an interpretation of Rule 65 would go contrary to the very object of the Act. I have, therefore, no hesitation in holding that error of law is apparent on the fact of the impugned orders of rehabilitation authorities. I am supported in the view taken by me by an unreported judgment of Shamsheer Bahadur, J., dated the 2nd of April, 1965 in *Diwan Singh v. The Union of India and Anr.* C.W. No. 1447 of 1962, a short note of which appears in 1965 P.L.R. 109 at page 57. There is no force in the contention of the learned Counsel for the Respondent to the effect that relief should be denied to the Petitioner on the ground that there is delay in filing of his case in this Court by about six months.

2. For the foregoing reasons, this writ petition is allowed and the impugned orders of the rehabilitation authorities declining to give compensation to the Petitioner for his verified claim for the house property, are set aside and quashed. There will be no order as to costs.