
(2020) 10 SHI CK 0266
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 4226 Of 2020

Ramesh Chand

APPELLANT

Vs

Himachal Pradesh University

RESPONDENT

Date of Decision : 05-10-2020

Acts Referred:

Himachal Pradesh Allotment Of Government Residences (General Pool) Rules, 1994 —
Rule 7, 8, 8(2)

Citation : (2020) 10 SHI CK 0266

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Sanjeev Bhushan, Rajesh Kumar, Neel Kamal Sharma

Final Decision : Dismissed

Judgement

Jyotsna Rewal Dua, J

1. Petitioner an employee of respondent-University, seeks allotment of an accommodation occupied by him, which was initially allotted by the respondent-University in favour of his father, who superannuated on 28.2.2018.

2(i) Petitioner's father was serving as Head-Mali in the respondent-University and was allotted House No.41 in Cherretan Estate by the University. Petitioner was appointed as Mess Helper in the University on daily wage basis. His services were regularized in October 2013. Petitioner had been residing with his father in the above mentioned accommodation and had not claimed House Rent Allowance after his regularization.

2(ii) Petitioner made a representation to the respondent- University on 17.11.2017 for allotment of the house in question in his favour after superannuation of his father. His father superannuated on 28.02.2018. Respondent-University did not allot the said accommodation to the petitioner. Feeling aggrieved, petitioner moved erstwhile H.P. Administrative Tribunal, seeking allotment of that accommodation in his favour, which was allotted in

favour of his father, who had superannuated on 28.02.2018.

3(i). Learned Senior Counsel for the petitioner in support of his prayer for allotment of the accommodation in favour of the petitioner relied upon Rule 8(2) of Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994, which reads as under:-

"8. Adhoc Allotment on out of turn basis. Notwithstanding the provisions of rule-7 adhoc allotment on out of turn basis may be made by the House Allotment Committee to an officer/official on the following grounds:

.....

(2) In the event of death or retirement of a Government servant, to the wife/husband or son or un-married daughter, provided that the retired or the deceased Government servant was in occupation of Government accommodation at the time of retirement or death. Such allotment shall not be made in a category higher than a category to which the ward of the deceased or retired Government servant is entitled."

Drawing attention of the Court to the above extracted rules, learned Senior Counsel contended that in the event of retirement of the Government servant, the accommodation in his occupation (in the instant case father of the petitioner) at the time of his retirement can be allotted in favour of his son (in the instant case-petitioner).

Learned Senior Counsel also referred to the notification dated 11.3.2010, whereby an amendment in the 1994 Rules was carried out by adding following proviso below Rule 8(2):-

"Provided that such wife/husband/son or unmarried daughter was serving the H.P. Government at the time of retirement or death of the Govt. servant and residing with him/her and not claiming HRA for the last 3 years or since the date of appointment/transfer in the station whichever is relevant."

Learned Senior Counsel submitted that petitioner was not only the son of the Head Mali of respondent-University, but is also a serving employee of the University residing in the accommodation allotted to his father and had not claimed any House Rent Allowance, therefore, he satisfies the conditions for allotment of accommodation in question in his favour.

3(ii) The prayer has been opposed by learned counsel for the respondent-University by relying upon Himachal Pradesh Allotment of Government Residences (General Pool) Amendment Rules 2013, whereby sub-rule (2) of Rule 8 of 1994 Rules had been substituted as under :-

"(2) They shall come into force with immediate effect in rule 8 of the Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994 (hereinafter referred to as the 'said rules')

(a) for sub rule (2), the following shall be substituted names:-

In the event of death or retirement of a Government servant, to the wife/husband regular or contractual, provided that the retired or the deceased Government servant was in occupation of Government accommodation at the time of retirement or death, as the case may be. Such allotment shall not be made in a category higher than a category to which the spouse of the deceased or retired Government servant is entitled....."

Further amendment to these rules has been carried out vide notification dated 20.01.2015, which reads as under:-

"2. In rule 8 of the Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994 (hereinafter referred to as the 'said rules'),

(a) in sub-rule (2), after the words and sign "to the wife/husband regular or contractual", the words and signs, "or daily wage appointed on compassionate ground" shall be inserted; and

(b) in the first proviso to sub-rule (2), after the words "on regular or contract", the words "or daily wages" shall be inserted.

Learned counsel for the respondent-University submitted that in terms of the above Rules, petitioner is not eligible for allotment of the house in his capacity as son of his father in whose favour the house was originally allotted. Case of house allotment of the petitioner can be considered in order of his seniority amongst the other applicants of same category.

4. The process of house allotment is to be regulated by the House Allotment Committee as per the provisions of applicable rules as amended time to time by the State Government. The father of the petitioner superannuated on 28.02.2018, when notifications dated 19.8.2013 and 21.2.2015 had already come into force. Under the amended rules, it is only the wife or the husband of the retired Government servant as the case may be, who can be considered for allotment on out of turn basis and not his/her son or daughter. There is no challenge to the amended Rules or their applicability to the instant case. Therefore, the accommodation allotted to petitioner's father after his retirement cannot be allotted in favour of petitioner merely on the ground that he is an employee of the respondent- University and had not claimed House Rent Allowance after his regularization, while residing in the said accommodation alongwith his father.

In view of the above undisputed factual and Rule position, relief prayed for by the petitioner cannot be granted to him. Hence, we find no merit in the instant petition and the same is accordingly dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.