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**(2003) 11 P&H CK 0077**

**In the Punjab And Haryana At Chandigarh**

**Case No : Civil Writ Petition No. 17004 of 2003**

Shiv Kumar

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision : 13-11-2003**

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation : (2004) 136 PLR 409**

**Hon'ble Judges : Swatanter Kumar, J;J.S. Narang, J**

**Bench : Division Bench**

**Advocate : Narender Hooda, for the Appellant; Rajbir Sehrawat, D.A.G., for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

Swatanter Kumar, J.—In this petition under Articles 226/227 of the Constitution of India, the petitioner has approached this Court with a prayer that respondents be directed to frame suitable guidelines which should be followed by the Deputy Commissioners or such other authority while making allotment of Government accommodation to its employees at the District Head Quarter level with particular reference to District Rohtak. The petitioner was appointed as Clerk in the year 1989 and was promoted to the post of Assistant on his own seniority. According to the petitioner there are 51 Government Houses at District Head Quarters in District Rohtak. In 1992 the petitioner made application seeking allotment of Government accommodation on his entitlement to the Deputy Commissioner, Rohtak. Despite the fact that the petitioner is entitled to the said accommodation on his own seniority, the respondents in an arbitrary manner and by indulging in pick and choose policy have not considered the petitioner for allotment of the Government accommodation, though other persons have been allotted such accommodation. It is specifically averred by the petitioner that there is no uniform policy and guidelines framed by the Government for this purpose and, thus, the entire matter has been left to the arbitrary discretion of the authorities.

He has also named some persons including Ved Parkash, Steno, in the office of Deputy Commissioner who moved application for allotment of government accommodation on 1.10.1994 and it was directed that the first house falling vacant should be given to that person. The petitioner has also referred to other similar instances particularly in the case of Kulbir Singh, Agriculture Development Officer. Raising all these grievances, the petitioner claims to have made a representation to the respondents on 15.10.2003, An-nexure P6 to the writ petition. Despite such requests, neither he has been allowed any accommodation nor his representation has been replied to. This compelled the petitioner to file this petition.

2. When the writ petition came up for hearing on 4.11.2003, we had not even issued notice to the respondents and called upon the learned Additional Advocate General, Haryana, to produce the relevant documents i.e., guidelines, instructions and rules for allotment of government accommodation to the government employee at District level. However, no such documents were produced and, therefore, the Court passed the following order:-

"Notice to show cause why the petition be not admitted returnable on 11.11.2003. Mr. Amol Rattan, AAG, Haryana who is present in Court accepts notice on behalf of the State. -

Despite two opportunities having been granted to the State, the counsel is not able to state before us whether there are any rules or instructions issued by the State Government for allotment of Government accommodation at district level or not. The counsel should have clear instructions in this regard. In the event of default, Secretary (Home) shall be present in Court,

List on 11.11.2003."

3. On 11.11.2003 learned counsel appearing for the state produced copy of the letter dated 2.3.1953 under which a Committee was formed for the purposes of house allotment in the Districts. However, vide letter dated July, 1971, it was decided by the Government that the powers of the Committee would be exercised by the Deputy Commissioner in relation to allotment of houses in the government pool.

4. No other rules, instructions or guidelines have been brought to our notice. In fact it was fairly conceded on behalf of the State that no such rules, instructions or guidelines exist.

5. Allotment of Government accommodation is a legitimate expectancy on the part of the government employee. Certain norms, guidelines, and in fact, definite instructions should be framed by the government so as to avoid exercise of absolute discretion by any authority in allotment of such accommodation. Allotment of a government accommodation is one of the incidental perks which a government employee enjoys as part of his conditions of service, of course, subject to the availability. The principle of equality must essentially be read into

exercise of such powers by the concerned authorities. Even an exception to a rule is based upon some rationale. The rationale is relatable to curbing arbitrariness in exercise of power. Framing of rules or in absence thereof, issuance of appropriate instructions is the obligation of the State Administration so as to remove the causes which would give rise to grievance amongst its employees and even to unnecessary litigation. The principles of equality or all equal before law is a constitutional protection available to all, is founded on the maxim *nemo est supra leges*. We fail to understand why the administration did not feel the need of the framing the rules or issuing and enforcing the guidelines in this behalf. Firstly the letter dated 2.3.1953 hardly provides for any reasonable classification and proper guidelines for exercise of power by a committee. Whatever little direction it provided, the same was eradicated by issuance of the letter dated 14.7.1971 which entirely vested the power only in one authority that too without limitation or restrictions of any kind. We are not being captious of state action but the heart burning between the employees on account of arbitrary allotment of government accommodation, defeating the principle of seniority for allotment of such accommodation, is writ large. To disenfranchise an employee of such an expectancy in an arbitrary manner, would not be permissible. Thus, it is inevitable that State must advert itself towards this important aspect of the conditions of service of its employees at District level. This would further the cause of fairness in administrative actions and would also help in improving employer employee relationship. The felling of distress and dissatisfaction in employees in bound to be curtailed as a result of uniform policies of the State in such matters, particularly when the Government is the largest employer in the State.

6. During the course of hearing, it was indicated of course not clearly, that probably the petitioner has been allotted accommodation and that is why he was not interested in prosecuting the petition and prayed that he would only like to make a representation to the Government. Interest of the petitioner alone is not of paramount consideration before this Court and that is why we had not granted him leave to withdraw this case. The larger interests of the government employees demand and in the interest of justice we have dealt with the matter on merits.

7. For the reasons aforesaid we allow this writ petition limited to the extent of issuing a direction to the Government to frame rules for allotment of Government accommodation at the District levels. Till such rules are framed, the competent authority shall issue appropriate instructions and guidelines in this behalf covering the matter of appointment of committee, criteria for allotment and exception to the general rule of allotment, if any. Such exercise shall be done particularly in relation to issuance of guidelines and instructions within one month from the date of pronouncement of this order and till then, the Deputy Commissioner in the State of Haryana shall not make any allotment of the Government accommodations at District level.

The writ petition is disposed of in the above terms, however, leaving the parties to bear their own costs.