
(2000) 08 P&H CK 0166
In the Punjab And Haryana At Chandigarh
Case No : Civil W.P. No. 10782 of 2000

Smt. Ranjit Kaur

APPELLANT

Vs

Chandigarh Administration and Others

RESPONDENT

Date of Decision : 17-08-2000

Acts Referred:

Capital of Punjab (Development and Regulation) Act, 1952 — Section 3

Citation : AIR 2001 P&H 105 : (2000) 4 RCR(Civil) 522

Hon'ble Judges : K.S. Garewal, J;Jawaharlal Gupta, J

Bench : Division Bench

Advocate : Arun Palli, for the Appellant;

Final Decision : Dismissed

Judgement

Jawaharlal Gupta, J.—The petitioners in these two cases have a common grievance. They complain that the respondents have arbitrarily declined their requests for the allotment of built up houses under the "Chandigarh Allotment of Built-up Houses/flats on Leasehold-Hire Purchase Basis to the Freedom Fighters Scheme, 1988." Reference has been made to the facts as averred in Civil Writ Petition No. 10782 of 2000. These may be briefly noticed.

2. The petitioner is the widow of Sh. Mehtab Singh. He had undergone imprisonment for a period of 2-1/2 years during the freedom struggle. He was awarded Tamar Patra" and pension. The petitioner is getting monthly pension after the demise of her husband.

3. In September 1998, the Deputy Commissioner, Chandigarh, Issued an advertisement Inviting the freedom fighters to apply for the allotment of built-up houses/ flats. The petitioner submitted an application. She was interviewed by a Sub-Committee. However, her claim was allegedly rejected on the ground that she was living with her son, who owned a house. The petitioner represented. Even her representation was rejected vide order dated November 13, 1998. She persisted and made another representation. Vide order dated April 20, 2000 the

petitioner was informed that her claim could not be accepted. Hence this petition.

4. The petitioner alleges that she fulfils the conditions of eligibility as prescribed under the Scheme. She was fully qualified in accordance with the terms of the public notice published in the press. Thus, her claim has been arbitrarily rejected. She prays that the action of the respondents in rejecting her claim be quashed and that the respondents be directed to allot a built-up house/flat on lease hold-hire purchase basis.

5. We have heard Mr. Arun Palli, learned counsel for the petitioners in both these cases. He contends that the mere fact that the petitioner's son owns a house in Chandigarh was no ground for rejection of the petitioner's claim. The counsel submits that the petitioner was eligible and that the respondents have erred in declining to allot the accommodation to her.

6. It is the admitted position that the petitioner was 73 years of age at the time she submitted her application in the year 1998. It is also not disputed that she is residing with her son. In fact two of her sons are actually employed and are working. The petitioner on her own showing, has a monthly Income of Rs. 4500/-. This is mentioned by her in para No. 4(ii) of her application. Thus, the petitioner is apparently comfortable.

7. Mr. Palli submits that the petitioner's financial position is not relevant. Her claim had to be considered in conformity with the Scheme. If she was eligible, the respondents were bound to allot a built-up house or flat to her. He refers to the definition of family as given in the Scheme as also the public notice. On the basis of this provision in the Scheme, it is contended that it is only when the freedom fighter or the spouse and the minor dependent children own the property that the claim can be declined. Is it so?

8. The two relevant provisions, to which reference has been made by the counsel, may be noticed. The first provision is contained in Clause 1(c). It defines "Family" as under :--

"(c) "Family" includes the Freedom Fighter and his/her spouse and minor dependent children."

Clause 3 lays down the conditions of eligibility. It reads as under :--

"3. A freedom fighter shall be eligible to apply for the allotment of a built up house of the Chandigarh Housing Board, only if he/ she fulfils the following conditions:-- (i) should be resident of Chandigarh.

(ii) Should be drawing pension from either Punjab, Haryana or Central Treasury at Chandigarh or through a Scheduled Bank at Chandigarh.

(iii) Should not already own any residential property in his name or in the name of his family members anywhere in India.

(iv) And should not have been the beneficiary of similar scheme anywhere in

India.

9. On a perusal of the Scheme it is clear that the Administration had taken decision that "built-up houses/flats may be allotted to the Freedom Fighters residing in Chandigarh". Still further, it appears that it was in order to provide "built up houses/ flats to the freedom fighters" that the Scheme was approved by the Administrator. Even the title of the Scheme is also Indicative of an intention to allot accommodation to the freedom fighters only. It is in this background that the two provisions, as noticed above, have to be considered.

10. On a perusal of Clause 3 it is clear that a freedom fighter is eligible to apply for the allotment of accommodation only when he fulfils the four conditions as given in Sub-clauses (i) to (iv). One of these conditions is that he or she "should not already own any residential property in his name or in the name of his family members anywhere in India." A perusal of these provisions clearly shows that the allotment can be claimed under the Scheme by the freedom fighter and that too only if he or any member of his family does not own any residential property in the Country. Does the petitioner fulfil these conditions?

11. The petitioner is, admittedly, not a freedom fighter. Her son, who is admittedly a member of her family, owns a house in Chandigarh. Thus, the essential pre-condition, as stipulated in the Scheme, is not fulfilled by the petitioner.

12. Mr. Palli submits that the expression "Family" in Clause 3(iii) should be read in the context of the definition as given in Clause 2(c) in respect of children, it is clearly provided that they should be minor and dependent upon the freedom fighter. Thus, the counsel contends that the petitioner's claim could not have been rejected unless it was found that her children were dependent and minors.

13. Apparently, the purpose of the Scheme is to help the freedom, fighters. It is calculated to provide shelter to those who had made sacrifices for the freedom of the Country. The Scheme is not intended to give any concession or reward to the family members of a freedom fighters who is no more. We are also of the view that the definition of "Family" in Clause 1(c) indicates "inclusion" of minor and dependent children. It does not exclude the other children who have attained majority. Furthermore, in the context, we are of the view that the definition has to be read down to conform to the basic purpose of the Scheme. In this view of the matter, the petitioner's claim that she is eligible under the Scheme cannot be sustained. Even otherwise, the purpose of the Scheme is clearly to help the needy. Only those who do not have any shelter. In our view, it is not intended to provide any benefit to the persons who are already well placed. Admittedly, the petitioner's family members are doing well. She herself is well provided for. They have a roof over their head. We are satisfied that the petitioner is not needy. She only appears to be greedy.

14. Faced with this situation, Mr. Palli submits that the widows of the freedom fighters are eligible in view of the public notice Issued by the Deputy

Commissioner, Chandigarh. A copy of this notice has been produced as Annexure P-2 with the writ petition.

15. We have examined it. It bears to date. It is not known as to in which paper it was published. Still further, it apparently embodies an "Appeal to Freedom Fighters." Even in this notice it has been stated that the Chandigarh Housing Board "allotted houses to Freedom Fighters during 1985." It is further stated that "with a view to providing houses for those Freedom Fighters, who were at that time found eligible. the office of Deputy Commissioner, Chandigarh invites applications from Freedom Fighters/ Widows giving one last opportunity to enable them to forward their application."

16. Mr. Palli contends that the expression "widows" clearly confers a right on the petitioners in these two cases. Is it so?

17. Having considered the provisions of the Scheme, we find that the Intention was to allot accommodation to the freedom fighters only. The words of the notice cannot be given a meaning wider than that embodied in the Scheme itself. It appears that the notice was not meticulously drawn up so as to conform to the conditions of eligibility as envisaged in the Scheme itself. The addition of the word "widows" was wholly unwarranted and beyond the scope of the Scheme.

18. No other point has been raised.

19. In view of the above, we find no infirmity in the action of the respondents so as to warrant any interference under Article 226 of the Constitution of India.

20. Resultantly, both the petitions are dismissed in limine.