
(2011) 05 UK CK 0094

In the Uttarakhand High Court

Case No : Writ Petition No. 269 of 2009 (S/B)

Uday Vir Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 18-05-2011

Acts Referred:

Citation : (2011) 05 UK CK 0094

Hon'ble Judges : Barin Ghosh, C.J;Serves Kumar Gupta, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Barin Ghosh, C.J.—There appears to be no dispute that in terms of the policy of Union of India, as adopted by the Ministry of Defence, a civilian employee, attached to an Army Command, including a member of Military Engineering Services, is entitled to retain the quarter allotted in his favour at a place from where he has been transferred to any place situated in the northeastern States of the country, provided he agrees to pay the usual licence fee therefor. Petitioner was allotted by the Army, a quarter, while he was posted at Haldwani and was attached to the Command stationed there. While serving the Army Command, attached to Haldwani, Petitioner was transferred to an Army Command, attached to Guwahati. Petitioner, accordingly, under the Policy, applied for permission to retain the quarter that was allotted to him at Haldwani. This request was not adhered to. Instead, it was held out that the Petitioner has become liable to be treated as an unauthorized occupant and that, accordingly, compensation, by way of damages, is to be recovered from him. Representations made by the Petitioner were in deaf ears, which compelled the Petitioner to file the present writ petition.

2. On the writ petition, an interim order was passed, by reason whereof, Petitioner was permitted to retain the quarter at Haldwani. During pendency of the writ petition, Petitioner has vacated the quarter and has also handed over possession thereof to the Respondents. In the writ petition, accordingly, at

present, the short question is whether Petitioner can be made liable to pay damages for occupation of the quarter, subsequent to his transfer to Guwahati.

3. In the counter affidavit, not having denied applicability of the Policy, referred to above, to the Petitioner, it has been contended that the quarter that was allotted to the Petitioner, was meant for regular army personnel and as the same was then lying vacant, Petitioner was allotted the same on temporary basis. It is sought to be contended that Petitioner could not be allotted the quarter in question and that the allotment was made in view of non-availability of a proper person, who was entitled to allotment thereof and as such, even under the said Policy, Petitioner could not be permitted to retain the said quarter. This contention is bereft of any material on record. The allotment order does not say that the allotment is temporary. The allotment order does not say that the quarter in question is not allotable to the Petitioner but the same has been allotted to him because the person, in whose favour the quarter could be allotted, is not available. In the counter affidavit filed, no attempt has been made to bring on record any instrument, from where it can be ascertained that the quarter in question had ever been earmarked only for army personnel and the same could not be allotted to a civilian, attached to the Army.

4. We, accordingly, allow the writ petition, declaring that the Petitioner was entitled to and should be deemed to have been permitted to retain the quarter in question, in terms of the policy and, accordingly, he incurred liability to pay licence fee, otherwise payable for the period the quarter remained under his retention.