

(2010) 02 DEL CK 0045

In the Delhi High Court

Case No : Writ Petition (C) 3934 of 2008

Union of India (UOI) and Others

APPELLANT

Vs

Amarjit Kainth

RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Citation : (2010) 02 DEL CK 0045

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Mohd. Mannan, for the Appellant; Anant Garg, for the Respondent

Judgement

Sanjiv Khanna, J.—The respondent, Mr. Amarjit Kainth, is an employee of Union of India, Ministry of Defence. He was allotted house No. T-2/2, Uri Enclave, Delhi Cantt while he was serving with GE (WS&AC), Delhi Cantt. It appears that the said allotment was made in 1970s.

2. On 16th November, 1998, he was transferred and posted from GE (WS&AC), Delhi Cantt. to Headquarters Western Air Command, Additional Chief Engineer (Liaison), Subrato Park, Delhi Cantt.

3. The respondent applied for according retention of the aforesaid property. Sanction was granted upto 15th January, 1999 vide letter dated 2nd February, 1999. On the very next date, i.e., 3rd February, 1999, the petitioner informed the respondent that his allotment stands cancelled with effect from 16th January, 1999 and he had become an unauthorized occupant. Thereafter eviction order was passed and the petitioner has been evicted.

4. The Estate Officer has in a separate order held that the petitioner was liable to pay damages/penal rent of Rs. 3329.95 per month along with interest @ 6% per annum. The said order has been upheld by the Id. Additional District Judge in his order dated 1st May, 2006 and appeal of the respondent has been dismissed.

5. The petitioner-UOI is aggrieved by the direction given by the Id. Additional

District Judge in the order dated 1st May, 2006 that the petitioner would take into account house rent allowance (HRA), which was deducted from the respondent's salary while determining the total dues. Review application filed by the petitioner before the learned District Judge for recall/deletion of the said direction was dismissed vide order dated 21st November, 2007.

6. During the course of hearing before this Court today, learned Counsel for the petitioner has produced before me and relied upon copy of general rules and orders relating to payment of HRA to employees. Clause (ix) thereof reads as under:

(x) A Government servant, who, on transfer, has been permitted to retain Government accommodation at the old station on payment of normal rent or penal rent or retains Government accommodation unauthorisedly on payment of market rent, etc., will not be entitled to HRA at the new station for the period beyond 8 months from the date of his transfer.

7. The aforesaid Clause stipulates that a government servant who on transfer unauthorisedly retains official accommodation will not be entitled to HRA at the new station after a period of eight months from the date of his transfer. In other words, the government servant will be entitled to HRA for a period of eight months even if he is in unauthorized occupation of the government accommodation at his original posting for which he is liable to pay market rent. Respondent will be entitled to benefit of the said clause and the impugned orders passed by the learned Additional District Judge dated 1st May, 2006 and 21st November, 2007 are modified to the extent indicated above.

Writ Petition is accordingly disposed of.