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**(2000) 09 P&H CK 0120**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 3932 of 2000**

Usha Sharma

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision :** 19-09-2000

**Acts Referred:**

**Citation :** (2001) 1 LJR 531 : (2000) 4 RCR(Civil) 540

**Hon'ble Judges :** R.L.Anand, J

**Advocate :** Mr. M.R. Verma, Advocate., Advocates for appearing Parties

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## Judgement

R.L. Anand, J.

1. I have heard the learned counsel for the petitioner and with his assistance have gone through the impugned order dated 25.8.2000 passed by the learned Additional District Judge, Bhiwani, who reversed the order dated 18.7.2000 passed by learned Additional District Judge (Sr. Division), Bhiwani, who granted the prayer to the petitioner under Order 39 Rules 1 and 2 C.P.C. The reasons for reversal are given in paras 9 to 14 of the order which read as follows :

"9. There is no dispute that Health Services are distinct type of services which require attendance of subordinate staff on immediate call in case of emergency. Director, Health Services, Haryana, had formulated a policy for allotment of residential quarters keeping in view the urgency in all medical institutions. That policy has been circulated to all the Principal Medical Officers in the State of Haryana and the same are applicable for medical staff and paramedical staff. It is also not disputed in any way that required notification by way of amendment in Rule 5.35 has not been carried out by the State. But at the same time these policy guidelines cannot be ignored in case fresh allotment of quarter is to be made. It cannot be considered to be case of injustice to the plaintiff or anybody else if the allotment of quarter is being made keeping in view the seniority at the station especially when the Director, Health Services, Haryana has issued guidelines that accommodation should be allotted to medical and paramedical staff according to their seniority at the station and on strength of medical

institution. The relevant portion reads as under :

"So far Health Department is concerned the residences will be allotted to the Medical and paramedical staff according to their station seniority and who are on the strength of that medical institution and also serving in the same medical institution."

10. Learned counsel for the respondent has taken the plea that in case of local transfer, an employee is not supposed to vacate the Govt. accommodation allotted to him. In support of his arguments he has placed reliance upon the authority of law from Hon"ble Mysore High Court in a case U.M. Anigol v. State of Mysore and others, 1974(2) S.L.R. page 110 that posting to different post in the same headquarter does not mean transfer, levy of penal rate of rent in respect of quarters for failure to vacate is illegal.

11. I have gone through this authority of law from Hon"ble Mysore High Court and of the considered view that this authority of law is entirely distinguishable on facts because in this case accommodation in dispute has not been allotted to the plaintiffrespondent and she is not being asked to hand over the Government accommodation or to pay penal rent. But in the case in hand, accommodation is yet to be allotted. At that time, authorities are to see entitlement of the candidates and relevant rules and policy are to be taken into consideration. To be eligible to get the official accommodation is something different and in this case plaintiff is eligible. But along with her two more candidates are also eligible, who are otherwise senior at the station.

12. As regards to the Rule 5.35 of Punjab Civil Services Rules, Chapter V, same are with regard to payment of rent of accommodation and payment of penal rent, in case one fails to vacate the premises. So, Rule 5.35 of Punjab Civil Services Rules is also not applicable to the present set of facts because plaintiff is not being asked to make the payment of penal rent or enhanced rent on account of transfer from Civil Hospital, Bhiwani to Krishan Lal Jalan Government Free Eye Hospital, Bhiwani. There is also no dispute that Civil Hospital, Bhiwani and Krishan Lal Jalan Government Free Eye Hospital are two separate institutions and the same are situated at a distance although within Bhiwani, itself.

13. There is no dispute that for disposal of application for adinterim injunction, Court is to see :

(i) Prima facie case.

(ii) Balance of convenience.

(iii) An irreparable loss.

As the applicant is not seniormost Staff Nurse at the time of allotment of Quarter No. 39 and there are two more eligible candidates who are, otherwise, senior at station" so, applicant has got no prima facie case and balance of convenience. She is not going to suffer an irreparable loss if no mandatory injunction or

permanent injunction is issued in her favour. Rather, non applicants Smt. Sudesh Kumari and Durga shall suffer an irreparable loss if they are not allotted the accommodation who are otherwise senior to the present plaintiff.

14. In view of above discussion, the impugned order dated 17.8.2000 is legally not maintainable and the same is hereby set aside and the injunction application filed by applicant/plaintiff Usha Sharma stands dismissed. File be consigned to the record room. Record of the trial Court be sent back forthwith. Parties through their counsel are directed to appeal before trial Court on 1.9.2000. The Civil Misc. Appeal accepted with cost. Memo of cost be prepared."

2. I do not see any illegality or impropriety in the impugned order.

3. No merit. Dismissed.

Revision dismissed.