

Office of the Spl. Director General/Airport Security
Central Industrial Security Force
(Ministry of Home Affairs)

DIG/CISF APSZ HORS., Chennai
SEEN BY post
DIG/APSZ
AIG/APSZ
ACIJAO
HEAD CIB/IGG Complex
Lodhi Road, New Delhi
Dated: 12/01/2012

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NO V-14012/APS/JO/LC/2012- 401
To

- 1 DIG/AP (NZ), New Delhi
- 2 DIG/AP (WZ), Mumbai
- 3 DIG/AP (E&NE), Kolkata
- ✓ 4 DIG/AP (SZ), Chennai
- 5 DIG/Security, GBS New Delhi
- 6 DIG/SSG, Greater Noida, (L P)
- 7 DIG, CISF Unit IGI Airport New Delhi.

Sub: Execution of good judgement in a case of recovery of penal rent against unauthorized occupation of family quarter of CISF Unit VSP Vizag.: WP No. 22562/2005 filed by HC/GD K M M Rao.

In a recent judgement order dated 22.09.2011 passed by AP High Court, the Hon'ble Court has upheld the recovery of penal rent against unauthorized occupation of family quarter, by confirming action initiated by the Department.

2 The fact of the case are that the petitioner on regular posting from VSP Vizag to ONGC Jorhat retained family quarter at VSP Vizag which was permitted upto certain period. After expiry of permissible period he did not vacate the quarter as such penal rent recovery was started against him. Against the penal rent recovery, he filed the instant WP and the Hon'ble Court though at initial stage granted stay against the recovery, but on final hearing the Hon'ble Court has dismissed the above WP and upheld the action of the department for penal rent recovery.

3 This being a good judgement so far penal rent recovery against unauthorized occupation of family quarter at last station, it is required to bring this to the notice of all Airport units as well as CGSCs so that they can quote the same while defending similar matters. A copy of JO is attached with this letter. It is requested to please issue suitable directions to units placed under your administrative control.

Encl - As above

DEPUTY COMMANDANT/APS

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23/1/12

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As per letter No.E.12707/1/04/Estt-II(PT)/1097, dated 24.3.2005, all the central Government employees posted in North Eastern Region from outside regions are entitled to the benefit of double House Rent Allowance in case they keep their families in the rented house at the last place of posting and such personnel can be allowed to occupy PSU accommodation *only for two months* from their date of posting/transfer, and thereafter they should shift their families to a hired/rented accommodation at the old place of duty. In the case on hand, consequent upon the transfer of the petitioner, he was allowed to retain the government accommodation till 30.6.2003 with an instruction to vacate the family quarter on or before the permissible period, or otherwise penal rent would be recovered. The petitioner did not vacate the quarter on the aforesaid date. On the other hand, his further request for retention of Government accommodation was allowed up to 30.4.2004 with same instructions as aforesaid. However, the petitioner vacated the government quarter on 23.06.2005. In those circumstances, the respondents-CISF issued the impugned order directing the petitioner to pay penal rent from 1.5.2004 to 23.6.2005 instead from 1.7.2003 to 23.6.2005, in as much as the petitioner was permitted to retain the quarter up to 30.4.2004.

The case on which the petitioner placed reliance in Writ Petition No.12785 of 2005 has no application to the facts of the case on hand. It was a case where the respondent-CISF did not pass any orders on the application of the petitioner therein for retention of Government quarter for a period of one year to continue the education of his children and in fact the petitioner therein vacated the Government accommodation immediately after the completion of the academic year. In those circumstances, this Court held that as the respondents had not passed orders on the representation of the petitioner therein in terms of the Office Memorandum dated 30.6.2002, they are not entitled to recover the penal rent. In the case on hand, the petitioner retained his family in the Government accommodation ever after the permissible period and as per the instructions in the letters issued to the petitioner indicating imposition of penal rent after permissible period only, the respondents have issued impugned order.

For the foregoing discussion, I do not see any merit in the Writ Petition, which is accordingly dismissed. There shall be no order as to costs.

JUSTICE ASHUTOSH MOHUNTA

Dated 22nd September, 2011.
Msnro

(8)

HONOURABLE SRI JUSTICE ASHUTOSH MOHANTA
WRIT PETITION No. 22562 of 2005

ORDER:

The petitioner is working as a Head Constable in the respondent-Central Industrial Security Force (CISF). From May, 1999 to June 2003 he worked under the control of the first respondent—Commandant, CISF Unit at Visakhapatnam and transferred to the second respondent—Commandant, CISF Unit, ONGC Jorhat, Assam State. While the petitioner was working under the control of the first respondent-CISF, he was allotted Government accommodation and after his transfer to the second respondent-CISF Unit, Assam State, he was permitted to retain his family in Government accommodation at Visakhapatnam upto 30.06.2003, with a direction to vacate the quarter on or before the said date. However, he vacated the Government accommodation at Visakhapatnam on 24.06.2005. As the petitioner did not vacate the government quarter within the time frame, the respondent-CISF authorities by the impugned order dated 26.4.2005 directed the petitioner to pay penal rent for the unauthorized occupation of the Government quarter and electricity charges to the tune of Rs.41,391/-. Hence, the present Writ Petition.

Heard. Perused the case file thoroughly.

The main contention of the learned Counsel for the petitioner is that as per letter No.E.12707/1/04/Estt-II(PT)/1097, dated 24.3.2005, issued by the CISF Head Quarters, New Delhi, all the central Government employees posted in North Eastern Region from outside regions are entitled for the benefit of double House Rent Allowance in case they keep their families in the rented house at the last place of posting. Further, the Government of India, Ministry of Urban Development and Poverty Alleviation, Directorate of Estates, New Delhi, issued Office Memorandum dated 30.4.2002 regarding retention of general pool residential accommodation by Civilian Central Government employees and officers of All India Services posted to the States in North Eastern Region, Sikkim, Union Territories of Andaman and Nicobar Islands and Lakshadweep. He further submitted that in similar circumstances, this Court disposed of Writ Petition No. 12785 of 2005 on 22.6.2005 holding that imposition of penal rent is illegal, without jurisdiction and contrary to the Office Memorandum dated 30.04.2002.

The learned Counsel appearing for the respondents while reiterating the counter averments submitted that consequent upon the transfer of the petitioner from the first respondent-CISF Unit to the second respondent-CISF Unit, his request vide application dated 23.5.2003 to retain his family in the Government quarter allotted at Visakhapatnam till 30.06.2003 was allowed with an instruction to vacate the family quarter on or before the permissible period or otherwise penal rent as per VSP Management Rules would be recovered. However, as the petitioner did not vacate the quarter on or before 30.6.2003, the second respondent was requested to recover the penal rent of Rs.1100/- per month from 01.07.2003. Later, the petitioner again requested to retain his family in the government quarter at Visakhapatnam till 30.04.2004 and the same was also adhered to. However, the petitioner did not vacate the quarter on or before 30.4.2004, but he retained the quarter up to 23.6.2005. As such, the respondent-CISF authorities directed the petitioner to pay penal rent from 1.5.2004 to 23.06.2005.

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A.P. HIGH COURT
CASE STATUS INFORMATION SYSTEM

STATUS OF: WP-22562 of 2005 STAGE: FOR ORDERS
K.M. RAO, ASSAM STATE V/S THE COMMANDANT VISAKHAPATNAM & 2
OTHERS
PET Advocate: DILPANDU
RES Advocate: RONNAYASHO GOUD (ASST SOL GEN) SR Number: /
District: VISAKHAPATNAM Lower Court Number:
Subject: SERVICE MATTERS
Last Time Listed On: 15-Sep-2011
Misc. Petitions filed: Disposed On: 22-Sep-2011
HONBLE SRI JUSTICE ASHUTOSH MOHUNTA

HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA

WRIT PETITION No. 22562 of 2005

DATED 22nd September, 2011.

BETWEEN

KM Rao

.....Petitioner

and

The Commandant, CISF Unit,
VSP, Visakhapatnam and ors

.....Respondents