



CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

O.A. No. 060/00545/2020

(Order reserved on 04.12.2020)

Chandigarh, this the 9th day of December, 2020

HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Mrs. Priti Malhotra wife of Sh. Arvind Markan, age 47 years working as Member, Consumer Disputes Redressal Forum-II, Chandigarh now known as District Commission, Office of State Consumer Disputes Redressal Commission, Plot No. 5B, Sector 19-B, Madhya Marg, Chandigarh-160 019.

.....Applicant

(By Advocate: Mr. D.R. Sharma)

Versus

1. The Administrator, Union Territory, Chandigarh, Sector-6, Punjab Raj Bhawan, Chandigarh-160 019.
2. The Advisor to the Administrator, Chandigarh Administration, U.T. Secretariat, Sector-9, Chandigarh-160 009.
3. The Secretary, House Allotment Committee, U.T. Secretariat, Sector-9, Chandigarh-160 009.
4. The Secretary, State Consumer Disputes Redressal Commission, Plot No. 5B, Sector 19-B, Madhya Marg, Chandigarh-160 019.

.....Respondents

(By Advocate: Mr. Navmohit Singh)



ORDER

AJANTA DAYALAN, Member (A):

1. The present OA has been filed by the applicant Priti Malhotra, seeking quashing of impugned letters dated 26.05.2020 (Annexure A-1), 28.05.2020 (Annexure A-2) and 04.08.2020 (Annexure A-22) vide which orders, the respondents have rejected her request for retention of Government accommodation consequent to her re-appointment as Member of District Consumer Disputes Redressal Forum, UT Chandigarh. The applicant has further prayed that protection/accrued rights granted under Rule 3(5) of the Chandigarh Consumer Protection Rules, 1987 cannot be taken away by amending statutory provisions arbitrarily and that too when amended provisions are prospectively applicable.

2. The facts of the case are undisputed. The applicant was initially appointed as Member (Women) of the District Consumer Disputes Redressal Forum, UT Chandigarh on whole time basis for a period of five years vide order dated 24.03.2015 (Annexure A-7). She assumed charge on 27.03.2015 and completed her



tenure on 26.03.2020. She was re-appointed on the same post on a whole time basis w.e.f. 27.03.2020 vide Notification dated 31.12.2019 (Annexure A-8). The applicant was allotted house No. 8/2542, Sector 27, Chandigarh vide allotment order dated 09.09.2015 (Annexure A-11). She is continuing to occupy this house. The applicant has also stated that she is not having any property or house in Chandigarh, Mohali or Panchkula in her own name or in the name of her spouse or dependent children. It is against rejection of her request for continuation of this accommodation subsequent to her re-appointment that the applicant has approached this Tribunal.

3. The Chandigarh Administration vide its Notification dated 18/31.07.2019 (Annexure A-13) has amended Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996. The relevant portion of Rule 2 of this amendment reads as follows:-

"2. In the "Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996" hereinafter referred to Rules of 1996, the existing relevant Rules, Rule-SR-317-AM-2(h), 2(i), 5th proviso of 2(o), 8(1), Policy guidelines dated 17th December, 2009 event (d) of Annexure 'A' appended with House Allotment Rules-1996 and Rule 11, the following shall be substituted namely:-



“(i) Only Chairpersons of Human Rights Commissions, Lokayuktas, Chief Information Commissioners, State Election Commissioners and Chief Commissioners of Right to Service/ Transparency and Accountability Commissions as established by the State Government of Punjab, Haryana and U.T. Chandigarh Administration will be entitled for Government accommodation.

The application of any other Commission/Authority constituted by State Government/U.T. Administration will not be considered irrespective of any provision in their appointment Letter. They can be provided financial compensation for securing accommodation, by their appointing authority.”

4. A further Notification was also issued on 12.03.2020 (Annexure A-14) by Chandigarh Administration again amending the Allotment Rules, 1996. Vide this amendment, the rate of penal rent has been enhanced from 50 times the normal license fee to 100 times of the normal license fee for the first three months over-stay and 200 times from the fourth month onwards till actual vacation.

5. The case of the applicant is that the applicant is continuing on her post as Member (Women) of District Consumer Disputes Redressal Forum, UT Chandigarh right from 27.03.2015 onwards and was allotted official accommodation in that capacity. She completed her first five year term on 26.03.2020 and was re-appointed in the same capacity w.e.f. 27.03.2020 without even a day's break. Rule 3 of



Chandigarh Consumer Protection Rules, 1987 laying the salary, allowances and terms and conditions of the Members of the District Forum inter alia provides as follows:-

“The terms and conditions of the service of the President and members of the District Forum shall not be varied to their disadvantage during their tenure of Office.”

It is, therefore, contended from the applicant's side that the applicant has been continuously holding the post since 2015 and the terms and conditions of her service cannot now be varied to her disadvantage in terms of clear provisions of Rule 3 of the governing Rules.

6. The counsel for the applicant specifically argued that the applicant continues to hold the post of Member, District Forum right from 2015 without even a day's break and as such, no change in allotment of Government accommodation can be made in her case as her terms and conditions of service remain the same as in her earlier tenure in office.

7. The applicant's counsel also contended that in another case of Padma Pandey, cancellation order was served only on 23.09.2019 which was much beyond the completion of her earlier tenure which stood completed on 13.01.2019 itself. Later, on her representation, Padma Pandey was allowed to retain



the Government accommodation allotted to her vide letter dated 25.11.2019 only on the consideration of the factum of her re-appointment as continued service on the same post. Thus, drawing similarity of her case with the case of Padma Pandey, the applicant has claimed the same treatment. The applicant has also quoted some other cases where respondents have allowed retention of accommodation on their re-appointment. In view of all above, the applicant has sought quashing of the impugned orders issued by the Estate Office cancelling her accommodation and levying the penal rent at the rates given in Notification dated 12.03.2020.

8. The respondents have contested the claim of the applicant. They have contended that the key words are terms and conditions of service of appointment of the applicant. These words can mean and cover only those terms and conditions that are specified in the appointment letter or in Chandigarh Consumer Protection Rules, 1987. There is no such condition or term as to allotment of house in the appointment order or in the Chandigarh Consumer Protection Rules, 1987. The allotment of house is a policy decision and is not



covered by terms and conditions of service of the applicant.

9. The respondents have further averred that the allotment of Government accommodation is governed by Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996 as amended from time to time. At the time of allotment, a letter (Annexure R-1) was given by the applicant to the following effect:-

"4. I agree to abide by the Government Residence (Chandigarh Administration General Pool) Allotment Rules, 1996 amended from time to time."

Thus, as per her own declaration, she is bound by amended Rules which call for discontinuance of allotment to Member or President of District Consumer Forum. Therefore, for her to say now that there cannot be any change whatsoever in her allotment, being a term and condition of service, is wrong in the face of her own declaration.

10. The respondents have further averred that discontinuance of allotment of houses to Member or President of District Consumer Forum, being a policy decision of the respondents and having a rationale to the objective to be achieved, cannot be interfered by



this Tribunal. There is no right vested in the applicant for allotment of house. At best, it was a concession granted unilaterally by the employer and has thereafter been withdrawn unilaterally.

11. The respondents have further stated that the applicant has not challenged the Notification of July 2019 discontinuing allotment of house to the President and Members of District Consumer Forum, and she is only trying to interpret it in her own way.

12. The respondents have further stated that the applicant is attempting to seek equity by naming three other persons, namely, Padma Pandey, Rajan Dewan and Surjeet Kaur. However, all these persons were re-appointed prior to the Notification dated 18/31.7.2019 (Annexure R-2) which is not the case with the applicant as she is re-appointed after this Notification came into effect. The respondents have pointed out that the applicant has been re-appointed vide order dated 31.12.2019 (and that too w.e.f. 27.03.2020), that is after the Notification of 18-31/07/2019 and as such, she is to be governed by this Notification.

13. The respondents have further averred that the accommodation provided by the employer is only a



lucrative perk and does not create any vested right in the applicant to seek continuance of such right. The applicant cannot put to question the policy decision of the Government. The applicant has already given declaration to abide by the rules as amended from time to time and as such, amendments as and when made have to be applied to the applicant.

14. In view of all above, the respondents have contended that the representation of the applicant has been validly dismissed vide order dated 04.08.2020 and accordingly, the OA deserves to be dismissed.

15. I have heard the counsel of the opposing parties and have also gone through the pleadings in the case. I have also given my thoughtful consideration to the entire matter.

16. I note that the present appointment of the applicant is made under the Consumer Protection Act, 1986. Her appointment orders dated 24.03.2015 and 31.12.2019 (Annexures A-7 and A-8) do not contain any condition regarding allotment of Government accommodation to her. In fact, letter of appointment of 2015 does specifically state other conditions of service in detail. In particular, it states that she will receive



consolidated honorarium of Rs. 18,000/- p.m., conveyance allowance of Rs. 3000/- p.m. and reimbursement of her own mobile phone bill upto Rs. 1000/- p.m. or actual whichever is less. It also states that she will be entitled to other facilities as prescribed in Chandigarh Consumer Protection Rules, 1987 as amended from time to time. Her present appointment letter of December 2019 does not indicate even these terms and just states that she has been re-appointed as Member, District Forum on whole time basis w.e.f. 27.03.2020 for a period of five years or upto the age of 65 years, whichever is earlier. Thus, it is clear that the appointment order of the applicant does not contain any specific condition regarding allotment of Government accommodation.

17. I further note from the perusal of Chandigarh Consumer Protection Rules, 1987 that Rule 3 of these Rules is titled as "Salaries and allowances and terms and conditions of the President and members of the District Forum". This Rule reads as follows:-

"(1) The President of the District Forum shall receive the salary of the Judge of the District Court if appointed on whole time basis or an honorarium of Rs. 200 (Rupees two hundred only) per day for sitting, if appointed on part-time basis. Other members if sitting on whole time basis, shall receive a consolidated honorarium of Rs. 9000 (Rupees nine thousand



only) per month and if sitting on part-time basis, an honorarium of Rs. 150 (Rupees one hundred and fifty) per day for the sitting.

(2) The President and the members of the District Forum shall be entitled for such travelling allowance and daily allowance on official tour as are admissible to Grade I Officer of the Administration of Union Territory of Chandigarh.

(3) Before appointment, the President and members of the District Forum shall have to take an undertaking that he does not have and will not have any such financial or other interests as is likely to affect prejudicially his functions as a member.

(4) In addition of provisions of section 10(2), the Administrator, may remove from the office, the President and members of a District Forum who:-

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which in the opinion of the Administrator, Union Territory of Chandigarh, involves moral turpitude; or
- (c) has become physically or mentally incapable of action as such member; or
- (d) has acquired such financial or other interest as is likely to effect prejudicially his functions as a member; or
- (e) has so abused his position as to render his continuance in office, prejudicial to the public interest; or
- (f) remain absent in three consecutive sittings except for reasons beyond his control.

Provided that the President or member shall not be removed from his office on the ground specified in clauses (d), (e) and (f) of sub-rule (4) except on an inquiry held by the Government in accordance with such procedure as it may specify in this behalf and finds the President or member to be guilty of such ground.

(5) The terms and conditions of the service of the President and members of the District Forum shall not be varied to their disadvantage during their tenure of Office.

(6) Where any vacancy occurs in the office of the President of the District Forum, the senior most (in order of appointment) member of District Forum, holding office for the time being, shall discharge the functions of the President until a person appointed to fill such vacancy assumes the office of the President of the District Forum.

(7) When the President of the District Forum is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order of the appointment) member of the District Forum shall discharge the function of the President until the day on which the President resumes the charge of his functions.



(8) The President or any other member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which have been the subject of any proceeding under the Act during his tenure for a period of five years from the date on which he ceases to hold such office.”

18. Thus, it is clear that these terms and conditions do not include allotment of Government accommodation to the President and Members. Besides salary/consolidated honorarium, the President and Members are entitled to only travelling allowance and daily allowance and honorarium if sitting on part-time basis. This Rule does state that the terms and conditions of service “shall not be varied to their disadvantage during their tenure of Office”. However, as already observed, the terms and conditions specified in the Rules do not at all mention anything about Government accommodation. This clause will obviously be relevant for only those terms and conditions specifically mentioned in the Rules. This fact is further amplified by the very title of this Rule itself – that is “Salaries and allowances and terms and conditions of the President and members of the District Forum”. As this Rule does not specifically mention allotment of Government accommodation as part of terms and conditions, the sub-clause (5) relating to variation to



disadvantage cannot be applied to allotment of Government accommodation. Thus, the applicant cannot claim that the non-retention of Government accommodation is a variation in her terms and conditions of service to her disadvantage.

19. In this connection, it is also important to note that the appointment of the applicant is not in continuation. Rather, she was re-appointed with effect from 27.03.2020 as is clear from the order dated 31.12.2019 (Annexure A-8). Re-appointment is different from continuation as re-appointment involves going through a process of selection resulting in fresh appointment. On the other hand, continuation is merely a question of continuing the person already holding the post. The Consumer Protection Act as well as the Rules do not provide for continuation. They only provide for appointment and re-appointment of President and Members.

20. Besides, even the wording that terms and conditions cannot be varied to their disadvantage “during their tenure of Office” would mean tenure of the current term of office and not the next terms on re-appointment.



21. I also find that the applicant is seeking equity vis-à-vis three other cases of Padma Pandey, Rajan Dewan and Surjeet Kaur. However, I find that the respondents have annexed the re-appointment letters of all these three persons. All these re-appointments are found to be prior to date of issue of Notification amending the Allotment Rules. The amendment to the Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996 was carried on 18/31.7.2019 (Annexure A-13). As against this, the re-appointment of all other three cases quoted by the applicant was with effect from 2018 and in one case with effect from January 2019 i.e. prior to issuance of the Notification of July 2019. On the other hand, the applicant has been re-appointed in her present post w.e.f. March 2020 - that is after issuance of Notification dated July 2019. Thus, there is a clear differentiation between her case and other cases quoted by her. She is obviously to be governed by the Notification of July 2019. This is also as per the declaration given by her at the time of allotment of the house to her.

22. I also find that the July 2019 amendment to Rules is a general amendment and reflects a policy



decision taken by the Government. It is not for this Tribunal to interfere in the Policy decisions of the Government. Besides, the applicant has not even challenged this Amendment Notification dated 18/31.7.2019. No relief can be given to her without setting aside or modification of this Notification.

23. In view of clear provisions of the Amendment Notification, the applicant is not entitled to Government accommodation. As already observed earlier, she has no vested right for claiming Government accommodation and the same is not part of her appointment letter or terms and conditions of her service as provided in the relevant Rules. As such, I do not see any reason for interfering in the executive order cancelling her Government accommodation.

24. In view of all above, OA is dismissed and the interim order granted by this Tribunal on 21.08.2020 is hereby vacated. No costs.

(Ajanta Dayalan)
Member (A)

Place: Chandigarh
Dated: 9th December, 2020

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