

CWP No.1689-2005(O&amp;M)

1

2023:PHHC:125682

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 1689 of 2005(O&amp;M)

Reserved on: 04.08.2023

Pronounced on: 22<sup>nd</sup> September, 2023

Gurnam Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present: Mr.Dinesh Kumar, Advocate, for the petitioner.

Mr. Paramjit Batta, Addl. A.G.Punjab.

Mr. Sanjiv Ghai, Advocate,  
for respondents no.2 to 4.

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**SANJEEV PRAKASH SHARMA, J**

1. The petitioner has approached this Court for quashing the impugned orders passed by respondent no.3 rejecting the claim for out of turn allotment of the government accommodation to the petitioner.

2. Brief facts are that the petitioner's father expired on 18.11.2001 while in service as Superintendent Grade-I of Punjab Civil Secretariat. Accordingly, the petitioner moved an application seeking compassionate appointment in January 2002, however, on account of there being ban in the Punjab Government for two years, he could not be appointed and was ultimately appointed as Clerk on 25.05.2004. As one year period was over in terms of Rule 11 of the Government Residences (Chandigarh Administration

CWP No.1689-2005(O&amp;M)

2

2023:PHHC:125682

General Pool) Allotment Rules, 1996 (hereinafter referred to as Allotment Rules of 1996), as further amended by the Rules of 1997, notice was sent to the petitioner to vacate the premises, allotted to his late father which was in his possession was cancelled w.e.f 30.04.2003. In the notice dated 08.10.2003, the petitioner was held liable to pay penal rent w.e.f 29.04.2003.

3. The petitioner after having submitted his representation which remained unanswered, preferred the present Civil Writ Petition before this Court. He submits that as per provisions of Rule 13(2) of the Allotment Rules of 1996, the family of the deceased Govt. Employee was entitled to retain the Govt. accommodation for a maximum period of one year and the dependent of the deceased was also entitled for out of turn allotment if he was given compassionate appointment. However, as the petitioner's compassionate appointment was delayed, the petitioner ought to be allowed to retain the government accommodation. The petitioner also prayed that he may be granted out of turn allotment and also the penal rent be waived off and the order of cancellation of allotment be quashed.

4. Learned counsel for the petitioner submits that in view of the provisions added lateron to the Rule 11 of the Allotment Rules of 1996, the petitioner was still eligible to retain the house and for out of turn allotment and the cancellation order is liable to be declared bad in law. He further points out that the petitioner, on its own, vacated the premises and shifted to his own house on 02.02.2023 and the premises have already been handed over to the Chandigarh Administration. The respondents are, however, pressing for payment of penal rent while the petitioner has been paying normal licence fee till he has vacated the premises.

CWP No.1689-2005(O&amp;M)

3

2023:PHHC:125682

5. *Per contra*, learned counsel appearing for the respondent-Chandigarh Administration submits that the petitioner has illegally and wrongfully held the premises which was originally allotted to his father.

6. Learned counsel submits that the petitioner had not been offered compassionate appointment for a period of one year for which he was allowed to hold the premises without payment of rent. The said benefit having been granted, he could not have taken additional benefit. Learned counsel further submits that after 29.04.2003 i.e expiry of one year, the occupation of the petitioner would be termed as illegal and he is liable to pay the penal rent and the demand made by the respondent-Chandigarh Administration cannot be said to be illegal or unjustified.

7. I have heard the submissions.

8. Vide order dated 31.01.2005, this Court granted stay on the cancellation order dated 08.10.2003. Another CM was filed by this petitioner to restrain from charging penal rent and vide order dated 21.12.2006, the Court passed an interim order restraining the respondents from charging penal rent. The interim order dated 21.12.2006 was made absolute vide order dated 24.08.2007. Thus, the petitioner continued to occupy the same government residence which was allotted to his late father till he has vacated it after constructing his own house in 2023. While he was appointed as a Clerk, he was occupying the house which is meant for a Superintendent which is of a much higher level and was unauthorized as per Rules. Be that as it may, as the occupation of the house was in terms of interim orders passed by this Court, the question would arise whether the petitioner can be said to be occupying the house illegally or unauthorizedly.

9. It would be apposite to quote Rules 11 and 13 of the Allotment Rules of 1996, which read as under:-

**“11. Out of Turn Allotment S.R.-317-AM-11.(1)** *The House Allotment Committee may allot a house on out of turn basis in the following cases.*

*(a) Allotment of residence to the member of the family of deceased Government employee:*

*(i ) When a Government employee in occupation of a Government residence dies while in service, accommodation may be allotted to his spouse, family comprising of dependent or a son, or an unmarried daughter, on compassionate grounds, subject to fulfilment of other prescribed conditions including that of not owning a house in Union Territory, Chandigarh, Mohali or Panchkula.*

*(ii) Thus, if a Government employee dies in harness and was living in a Government accommodation, his family comprising of dependent would be allowed to retain the same house as prescribed below. However, if the deceased was working in department which has its own pool of houses, the house would be allotted to be retained from that pool only.*

*(iii) That if the deceased was working at Chandigarh but he and his family were not living in Chandigarh, no claim shall be entertained.*

*(iv) if the allottee expired during retention period, no claim shall be entertained.*

*(v) Provided that if the allottee was allowed retention after transfer outside Chandigarh and expired during retention period, no claim shall be entertained.*

*(vi) That if the deceased was residing in earmarked house, his/her family will have to vacate the earmarked house and a general category house will be allotted to the family as per his/her entitlement.*

*(vii) Provided that if the deceased is working elsewhere and living at Chandigarh no claim shall be entertained.*

(viii) *if within three years of the death of the allottee, kin get a Government job then the kin shall be allotted house of his entitled category though on out of turn basis:*

*Provided that such accommodation shall not be higher than the type to which such member of the family of the deceased is entitled.*

*Provided further that such member of the family of the deceased applying for allotment under this sub rule shall not be allotted accommodation of a type higher than the type already in occupation of the deceased even though the applicant may be entitled to such higher type. (Amended vide Notification No.1650 dated 8th June, 2010).*

*(aa) When a Government employee in occupation of a Government residence, retires on medical ground, before the age of 55 years, his/ her members of the family who is already in Government service shall also be entitled to the allotment of Government accommodation of the entitled category under the aforementioned rule.*

***(As amended vide Notification Nos. 459 dated 5.9.1997, 543 dated 11.11.1997, 444 dated 16.7.2003 and 504 dated 4.8.2004)***

***(b) Allotment of residence to spouse of Government accommodation is transferred outside Chandigarh:***

*When a Government employee in occupation of Government accommodation is transferred outside Chandigarh, the same residence may be transferred in the name of his spouse subject to the condition that the spouse is working in an eligible office and is entitled to the same type of accommodation. However, in case the spouse is not entitled to the same type he/she may be allotted a residence of his/her entitlement:*

*Provided further that such spouse shall not be allotted accommodation under this sub-rule of a type higher than the type already in occupation of the transferred employee even though the applicant may be entitled to such higher type.*

***(c) Allotment of residence to spouse on retirement of Government employee:-***

*When a Government employee in occupation of government accommodation retires, the same residence may be transferred in the name of the spouse subject to the condition that such spouse is working in an eligible office and is entitled to the said type of accommodation. However, in case the spouse is not entitled to the said type he/she may be made an allotment as per his/her entitlement:*

*Provided that such spouse shall not be allotted accommodation under this sub-rule of a type higher than the type already in occupation of the retiree even though the applicant may be entitled to such higher type.*

*The House Allotment Committee (Upper) in its meeting held on 16.11.1998, vide agenda item No. 8 decided as under:-*

*“The Committee decided to allot a house of her entitled category to Smt. Jaishri Rana, Lecturer out of the General Pool. The Committee further decided that as a matter of Policy, spouses of employees occupying govt. accommodation out of a departmental pool be allotted their entitled category accommodation out of the general pool following the retirement of the employee in occupation of departmental accommodation.”*

***(d) Allotment of residence to Government employee vacating earmarked house:***

*When a Government employee in occupation of earmarked accommodation of the General Pool ceases to hold the post for which the said accommodation is earmarked, he shall be allotted a house of his entitled category under this sub-rule subject to the condition that the employee continues to be posted at Chandigarh, Panchkula or Mohali, except the District Level Offices or those offices which are not State Level Offices at Panchkula or Mohali:*

CWP No.1689-2005(O&amp;M)

7

2023:PHHC:125682

*Provided that if the house of entitled category is not available, he shall be allotted a house of category below entitlement :*

***(e) Allotment of a residence to a government employee due to functional requirements:***

*This sub rule stands struck off in view of the Judgment delivered by the Hon'ble Supreme Court of India in S.L.P.No.15714 of 2011 titled as 'Asha Sharma and others Versus Chandigarh Administration and another'.*

***(f) Allotment of a residence to a Government employee in exceptional circumstances of hardship or in publicinterest.***

*A Government employee of an eligible office may, for the reasons to be recorded in writing, be allotted a residence of the entitlement under this sub-rule in exceptional circumstances of hardship or in publicinterest.*

*Provided that the Government employee owning house in Chandigarh, Mohali and Panchkula in his own name or in the name of his spouse or any of his dependent children shall not be entitled for allotment of residence under this sub-rule.*

***(\*The House Allotment Committee (Upper) held on 10.6.2014 has decided to allot houses of the entitled category for all employees/officers in the cases of out of Turn Allotments Rule under Rule SR-317-AM-11(1)(f).)***

*“Out of turn allotment” of houses will not be considered for any applicant who is already in occupation of government house unless the occupant has spent 5 years in existing house except in exceptional/ medical grounds.*

*This will apply to even such cases, where the allottee is staying in government accommodation below his entitled category. He has to follow the queue for allotment in the entitled category.*

***(Amended Vide notification No. 681 dated 18/31st July, 2019)***

***(g) Allotment of Residences to a Government employee on transfer to States of Jammu and Kashmir, Assam, Meghalaya,***

***Nagaland, Tripura, Arunachal Pradesh and Mizoram and Union Territories of Andaman and Nicobar Islands and Lakshadweep.***

*A Government employee of an eligible office, already in occupation of Chandigarh Administration General Pool house of his entitled category at the time of allotment and not on the date of his transfer to State of Jammu and Kashmir, Assam, Meghalaya, Nagaland, Tripura, Arunachal Pradesh, Mizoram and Union Territories of Andaman and Nicobar Islands and Lakshadweep shall be allotted accommodation of one type below the type of accommodation in his occupation, in the same or nearby locality, in case the officers request for allotment of alternative accommodation.*

***(2) Notwithstanding anything contained in these rules, not more than 10% of the houses allotted in a year under clauses (e) and (f), shall be allotted on out of turn basis. This limit shall, however, be not applicable in respect of out of turn allotments under clauses (a) to (d) of sub rule(1).***

*The House Allotment Committee (Upper) in its meeting held on 27.3.2003, approved the following guidelines for out of turn allotments which were issued by the Chandigarh Administration vide its letter dated 1.5.2003:-*

*Rule 11(f) provided for out of turn allotment of Government residence to an eligible Govt. employee “in exceptional circumstances of hardship or in public interest” subject, of course, to the conditions mentioned in the proviso.*

*1. Cases of Physical and mental handicap, widows, blinds, applicants or their spouses suffering from Cancer or Aids or mentally retarded, being cases of exceptional hardships warranting out of turn allotment on compassionate grounds would be considered under Rule 11(f) being covered under “exceptional circumstances of hardship”.*

*It is made clear that the disability of the applicant/ dependent of the applicant duly certified by the Medical*

*Board of the concerned State/ Chandigarh Administration, U.T., Govt. would only be considered for out of turn allotment on Medical Grounds.*

*2. So far as Public interest is concerned, cases of those employees would be considered who in public interest, have to perform official duties and other such functions as would warrant out of turn allotment of Govt. accommodation. The following factors would be pertinent in this regard:-*

*i) The employee should be working with a public servant whose nature of official responsibility and duty is such as would necessitate working beyond the normal office hours, the supervisory public servant would certify that the official for whom an out of turn allotment is being recommended by him also has to perform such official responsibility/ duty which require him to work at odd hours/ on holidays/ beyond office hours etc. and that out of turn allotment of Govt. house is, therefore, essential in order to enable such official to discharge his duty satisfactorily.*

*The name of only such official should be recommended by the supervisory official who has worked with him for a period not less than 6 months continuously.*

*ii) Twenty (20) recommendations each shall be made by the Punjab and Haryana Governments and Chandigarh Administration'; Fourteen (14) recommendations shall be made by the Punjab and Haryana High Court, Chandigarh. The recommendations shall be routed through the Chief Secretary to the respective Government/ Advisor to the Administrator, U.T., Chandigarh and in case of Punjab and Haryana High Court, Chandigarh, through the Registrar General. These recommendations will be considered in a year for allotment of Govt. accommodation on out of turn basis on functional requirement, in Public interest, keeping in view the comparative staff strength.*

3. *No allotment of house be made on out of turn basis on security grounds.*

4. *Such employees who are already in occupation of Govt. accommodation out of the Chandigarh Administration General Pool/ departmental pool houses/ state Govt. house would not be entitled for out of turn allotment of the Chandigarh Administration General Pool.*

5. *There is provision of 10% of the houses allotted in a year to each categories on out of turn basis under Rule SR-317-AM-11(2) of Govt. Residences (Chandigarh Administration General Pool) Allotment Rules, 1996.*

6. *The number of houses allotted on out turn category, shall not at any point of time, during the year exceed 10% of the houses allotted till that time. For allotment to be made under sub clause (a) to (d) of rule 11, there is no restriction of 10% as per Notification No. 297 dated 2.6.97. Out of the 10% for the cases of hardship and in public interest 50% quota be reserved for physically handicapped person, widows, blind, applicants or their spouses suffering from Cancer, Aids or Mentally retarded. The cases of functional requirement and public interest be considered for out of the balance quota of 50%. This would be dependent upon the number of vacant houses arising in a year. It will be ensured that the quota is not exceeded. The requests for allotment in the cases of hardship i.e. physically handicapped persons, widows, blind applicants or their etc. shall also be routed through the Chief Secretary to Govt. Punjab/ Haryana, Registrar, Punjab & Haryana High Court, Chandigarh as well as Adviser to the Administrator, Union Territory, Chandigarh. It is desirable that the facts of each case are got checked by the respective Heads before making recommendations. (Amended vide Notification Nos. 297 dated 2.6.97)*

***Rule 13. Period for which allotment subsists and concessional period for further retention-S.R.-317-AM-13(1). An allotment***

*shall be effective from the date on which it is accepted by the Government servant and shall remain in force until:-*

*(a) the expiry of the concessional period mentioned in column 2 of the Table given in sub-rule (2):*

*(b) It is cancelled or is deemed to have been cancelled under these rules.*

*(c) It is surrendered by the Government employee:  
or*

*(d) The employee ceases to occupy the residence.*

*(2) A residence allotted to a Government employee may, subject to sub-rule*

*(3), be retained on the happening of any of the events specified in column I, of the Table below for the period specified in corresponding entry in column 2 thereof.*

**TABLE**

Events (1)		Permission period of retention of residence(2)
1.	<i>Retirement, Terminal leave, Resignation, dismissal or removal from Service, termination of services or Unauthorized absence without permission.</i>	<i>Four Months.</i>
2.	<i>Transfer outside Chandigarh.</i>	<i>Six months.</i>
3.	<i>Temporary transfer in or outside India.</i>	<i>Six months.</i>
4.	<i>Leave (other than leave preparatory to Retirement, refused leave, terminal leave.)</i>	<i>For the entire period of leave.</i>
5.	<i>Leave preparatory to retirement or Refused leave granted under F.R..86.</i>	<i>For the full period of leave on full average pay subject to a maximum of six months inclusive of the period permissible in the case of retirement.</i>
6.	<i>Deputation outside India</i>	<i>One year</i>
7.	<i>On proceeding on training</i>	<i>For full period of Training.</i>
8.	<i>Death of the allottee</i>	<i>One year (extendable upto three years in case where the deceased officer/ official or his/ her dependent does not own a house in Union Territory, Chandigarh, Mohali or Panchkula.</i>
9.	<i>Transfer to State of Jammu &amp; Kashmir, Assam, Meghalaya, Nagaland, Tripura, Arunachal Pradesh, Mizoram and Union Territories of Andaman and Nicobar Islands and Lakshadweep.</i>	<i>On payment of flat rate/normal licence fee upto 30.6.2002 or till revised orders are issued by Union Territories of the Government of India, whichever is earlier. As per decision of the H.A.C(U) taken in its meeting held on 7.4.2021 that those allottees who are further transferred from hard area to another soft area (except Chandigarh) can further retain Government house for a period of six months from the date of relieving from hard area on payment of normal licence fee.</i>

CWP No.1689-2005(O&amp;M)

12

2023:PHHC:125682

*Explanation.- The period permissible on transfer mentioned against events 2 and 3 shall count from the date of relinquishing the charge. The period for which the Government employee remains on leave before joining duty at the new office shall not be taken into account in calculating the permissible period.*

3. *When a residence is retained under events (2) and (3) of the table in subrule (2), the allotment shall be deemed to have been cancelled on the expiry of the admissible concessional period unless immediately on the expiry thereof the Government employee resumes duty in an eligible office in the Chandigarh.*

4. *A government employee who has retained the residence by virtue of the concession under event (1) of the Table in sub-rule (2), shall on reinstatement in an eligible office within the period specified in the said Table, be entitled to retain that residence and shall also be eligible for any further allotment or residence under these rules.*

***(Amended vide notification No. 2978, dated 17.12.2009)  
(Proviso to this sub rule deleted vide notification No. 2978, dated 17.12.2009.)***

***5. (This sub rule stands struck down in view of the judgment dated 0.8.2011 passed in SLP No.15714 of 2011 titled as ‘Asha Sharma Versus Chandigarh Administration and others.)***

***Note:- The Hon’ble Supreme Court of India, vide its judgement dated 30.8.2011 passed in SLP No. 15714 of 2011 titled as “Asha Sharma Versus Chandigarh Administration, specifically not to allow retention of houses under this sub rule i.e. under Sub Rule 13.5.***

6. *In case the government employee, who has been transferred outside Chandigarh, Panchkula or Mohali, rejoins at Chandigarh, Panchkula or Mohali except the District Level Offices or those offices which are not State Level Offices at Panchkula or Mohali, within the period as prescribed in column 2 of the table under sub-rule (2), the allotment of the same residence shall be regularized in his/her name.*

*Provided that Government employee, who are in occupation of Chandigarh Administration General Pool accommodation at the time of proceeding on foreign service at Chandigarh, Panchkula or Mohali, except the District Level Offices or those offices which are not State Level Offices at Panchkula or Mohali, shall be allowed to continue in occupation of the accommodation on payment of five times the normal licence fee as long as they retain lien on a post in an eligible office on their rejoining in the eligible office, the allotment of the same residence shall be regularized in his /her name.*

7. *The retention of house under event 9 of the table appended to sub rule (2) shall be permissible to All India Services Officers & (Indian Administrative Service, Indian Police Service, Indian Forest Service) as per details given herein below namely:-*

*(a) Officer of All India Services from a State Cadre other than the States in the North Eastern Region/ Union Territories cadre are sent on deputation to the North Eastern Region, (Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram) in public interest so long as they are on deputation to the North Eastern Region/Jammu and Kashmir.*

*(b) All India Services Officers of Union Territory Cadre who are posted to one of the two Union Territories viz. Andaman and Nicobar, Island, Lakshadweep/Jammu and Kashmir.*

*(c) Officers of All India Services Cadre borne on the State cadre belonging to Assam, Meghalaya, Mizoram, Arunachal Pradesh, Manipur, Tripura and Nagaland, who revert to the cadres at the end of the normal tenure with the Central Government, for a period of 2 years including the period of retention admissible under the rules at present. Such All India Services Officers of these States who have to revert Pre-maturely in Public interest maybe allowed the concession of retention of accommodation/*

CWP No.1689-2005(O&amp;M)

14

2023:PHHC:125682

*allotment of alternative accommodation for the balance period of their tenure of two years, whichever, is longer.*

*(Amended vide Notification Nos. 97 dated 18.2.98, 176 dated 10.5.99, 345 dated 9.8.99, 630 dated 15.7.2002, 504 dated 4.8.2004)."*

10. In **ASHA SHARMA V. CHANDIGARH ADMINISTRATION AND OTHERS, (2011) 10 SUPREME COURT CASES 86**, Supreme Court has held as under:-

*"53. Consequently, reverting to the case of the appellant, she is admittedly occupying an earmarked house. An order of eviction and damages has been passed against her and she has taken recourse to an appropriate remedy or against which she has already taken an appropriate remedy. The matter in that behalf is still pending final hearing before the learned Single Judge. The parties are left to raise all their contentions before the learned Single Judge, who shall decide the matter in accordance with law. However, with regard to the interim order passed by the High Court, we direct the State to allot to her an alternative accommodation under the category which she is entitled to, in pursuance of her appointment as the State Information Commissioner, within fifteen days from today and she shall be liable to vacate the accommodation presently in her occupation within two weeks thereafter. We make it clear that in the event the Government is unable to allot her an alternative accommodation of her category for the reason of non-availability of such accommodation, she should be provided with appropriate accommodation, including private accommodation of her status, within the same period."*

11. In **UNION OF INDIA V. VIMAL BHAI AND ORS. (2014) 13 SUPREME COURT CASES 766**, the Apex Court has held as under:-

*"5. In view of the judgment of this Hon'ble Court in S.D. Bandi v. Karnataka SRTC, notice ordered by this Court for vacating the government accommodation from those who are unauthorisedly occupying the same is discharged with the direction that the*

CWP No.1689-2005(O&amp;M)

15

2023:PHHC:125682

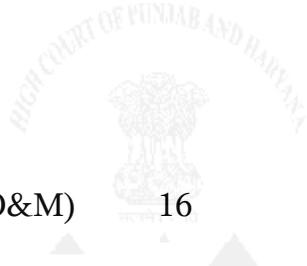
*Government and the agencies concerned must take action strictly in accordance with para 33 of the judgment in S.D. Bandi case'”*

12. In **LOK PRAHARI V. STATE OF UTTAR PRADESH AND ORS. (2016) 8 SUPREME COURT CASES 389**, the Apex Court has held as under:-

*“41. This Court, in S.D. Bandi v. Kararaka SRTC in relation to occupation of government bungalows, beyond the period for which the same were allotted, observed that: (SCC p. 649, para 34)*

*“34. It is unfortunate that the employees, officers, representatives of people and other high dignitaries continue to stay in the residential accommodation provided by the Government of India though they are no longer entitled to such accommodation. Many of such persons continue to occupy residential accommodation commensurate with the office(s) held by them earlier and which are beyond their present entitlement. The unauthorised occupants must recollect that the rights and duties are correlative as the rights of one person entail the duties of another person similarly the duty of one person entails the rights of another person. Observing this, the unauthorised occupants must appreciate that their at of overstaying in the premise directly infringes the right of another. No law or directions can entirely control this act of disobedience but for the sir realisation among the unauthorised occupants.”*

*46. So far as allotment of bungalow to private trusts of societies is concerned, it is not is dispute that all those bungalows were allotted to the societies/trusts/organizations at the time when there was no provision with regard to allotment of government bungalows to them and therefore, in our opinion, the said allotment cannot be held to be justified. One should remember here that public property cannot be disposed of in favour of any one without adequate consideration. Allotment of government property to someone without adequate market rent, in absence of any special statutory provision, would also be bad in law because the state has no right to fritter away*



CWP No.1689-2005(O&amp;M) 16

2023:PHHC:125682

*government property in favour of private persons or bodies without adequate consideration and therefore, all such allotments, which have been made in absence of any statutory provision cannot be upheld. If any allotment was not made in accordance with a statutory provision at the relevant time, it must be discontinued and must be treated as cancelled and the State shall take possession of such premises as soon as possible and at the same time, the State should also recover appropriate rent in respect of such premises which had been allotted without any statutory provision.*

*47. In the circumstances, for the reasons stated hereinabove, the petition is allowed. Rule is made absolute with no order as to costs and it is held that the 1997 Rules so far as they are not in consonance with the provisions of the 1981 Act are bad in law. The government bungalows allotted to the respondents is held to be bad in law and the respondents concerned shall hand over possession of the bungalows occupied by them within two months from today and the respondent Government shall also recover appropriate rent from the occupants of the said bungalows for the period during which they were in unauthorised occupation of the said bungalows.”*

13. Thus, on perusal of the Rules (supra) and the aforesaid judgments, this Court finds that while at the time when the impugned order was passed, the provision only allowed one year retainership after death of the Govt. servant to his family members but later on several amendments have been made and different situations have been considered wherein the family can retain the accommodation allotted to Govt. servant.

14. Keeping in view the above principles, this Court is of the firm view that accommodation cannot be occupied illegally or unauthorizedly and if it is found to be illegal or unauthorized, not only directions have to be issued to vacate the premises but penal rent along with interest may be imposed on such occupant.

CWP No.1689-2005(O&amp;M)

17

2023:PHHC:125682

15. Coming to the facts of this case, as noticed above, this Court finds that the petitioner was entitled for out of turn allotment after he was granted compassionate appointment. Before he was granted compassionate appointment, he was entitled to continue occupying the house already allotted to his late father but it appears that when the case came up before this Court initially, it was not brought to the knowledge of the Court that the house to be allotted to the petitioner would be of a different category than the house he was occupying. Resultantly, he continued to occupy the house in terms of the interim order passed by this Court. The penal rent imposed was also stayed by this Court and the interim order was made absolute. The said interim order was not challenged by the respondents in LPA nor any application was moved to vacate the interim order. The petitioner, on the other hand, has vacated the premises after he has built his own house. It is not the case of the respondents that the petitioner has not paid the licence fee as applicable to the concerned house allotted to his late father.

16. In these circumstances, from the facts which have come on record and as noticed here-in-above, it is apparent that the petitioner has continued to occupy the house which was not authorized to him as per status and post and he could only occupy house of the category available to the post but on account of the interim orders passed by the Court, he continued to hold occupancy for more than 17 years. Keeping in view the principle of “**Actus Curiae Neminem Gravabit**” i.e no one should be made to suffer on account of the orders of the Court has to be taken into consideration and while this Court finds that the petitioner was not required to pay penal rent in terms of the interim order passed by the Court which had been made absolute, the Chandigarh Administration Authorities cannot be denied completely their right

CWP No.1689-2005(O&amp;M)

18

2023:PHHC:125682

to claim legal dues from the petitioner otherwise unauthorizedly occupying the premises.

Therefore, maintaining the equity amongst both of them, this Court directs the petitioner to pay a sum of Rs.5,00,000/- to the respondent – Chandigarh Administration as a one time compensation in lieu of penal rent. The said amount shall be paid in 10 equal instalments. The present order has been passed in the peculiar facts of the case and ought not be treated as a precedent.

17. In view of the above, the writ petition is partly allowed.
18. All pending applications in this writ petition shall stand dispose of.

(SANJEEV PRAKASH SHARMA)  
JUDGE

22<sup>nd</sup> September, 2023  
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No