

**In the High Court of Punjab and Haryana at Chandigarh**



**CWP No.6813 of 2025**  
**Reserved on: 02.04.2025**  
**Date of decision: 30.06.2025.**

Union of India and others

.....Petitioners

Versus

Central Administrative Tribunal and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**  
**HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present:- Mr. Anandeshwar Gautam, Senior Panel Counsel  
for the petitioners.

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**Anupinder Singh Grewal, J.**

The instant writ petition has been preferred by the Union of India impugning order dated 22.01.2025 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'Tribunal') in OA No.60/911/2020, whereby the Tribunal had quashed the notice dated 03.09.2020, letters dated 22.09.2020 and 03.11.2020 & order dated 03.11.2020 (Annexures P-9, P-11 to P-13 respectively), vide which penal rent stood imposed upon respondent No.2 w.e.f. 16.07.2020 to 02.12.2020. Vide the impugned order, the Tribunal had also directed the petitioners to pass a fresh order charging normal license fee for the aforementioned period and the amount deposited by respondent No.2 was directed to be refunded to his legal representatives.

2. Learned counsel for the petitioners submitted that respondent No.2 was at the first instance entitled to retain government accommodation only till 18.06.2020, which had been further extended on account of the Covid-19 pandemic to 15.07.2020. Thereafter, respondent No.2 was liable to pay the penal rent for having overstayed till 02.12.2020, that is, the date whereon the accommodation was vacated. The Tribunal had failed to interpret the Rules and the Office Memorandum(s) in the correct perspective and erroneously set aside the well reasoned orders imposing penal rent on respondent No.2. He also submitted that Rule 43 of the Central Government General Pool Residential Accommodation Rules, 2017 (hereinafter referred to as 'Rules, 2017') restricts the period of retention of government accommodation to a period of three years and therefore, the impugned order passed by the Tribunal is unsustainable and deserves to be set aside.

3. Heard

4. Respondent No.2 was working as Joint Director (Contracts) at the office of the Chief Engineer, Chandigarh Zone, Military Engineering Services, Ministry of Defence and posted at 'N' Area Airport Road, Chandigarh on 19.09.2011. He applied for general pool residential accommodation (hereinafter referred to as 'accommodation') on 27.04.2012 and was allotted House No.28-B, Type-V, Sector 38-A, Chandigarh vide order dated 08.05.2012 (Annexure P2). On transfer to HQ CE Leh Zone w.e.f. 19.10.2015, he applied for retention of accommodation at Chandigarh which was accepted. Subsequently, he was transferred from HQ CE Leh Zone to Udampur Zone on 18.06.2018 (both postings were non-family stations). Respondent No.2 was granted permission to retain the accommodation at Chandigarh till 18.06.2020. In view of the Covid-

19 pandemic, extension was granted to all allottees to retain Government accommodation upto 30.06.2020, which was further extended to 15.07.2020. Thereafter, vide communication dated 09.07.2020 (Annexure P-8) respondent No.2 was directed to vacate the accommodation by 17.07.2020, failing which market/damage rent would be levied and eviction proceedings would be initiated. As respondent No. 2 failed to vacate the accommodation, he was issued notice to show cause to answer as to why an order of eviction be not passed against him, as he was in unauthorized occupation of the accommodation. Respondent No.2 submitted his reply on 11.09.2020 (Annexure P-10) and relied upon the office memorandum dated 10.04.2018 (Annexure P-5) to submit that he was entitled to retain the accommodation at concessional rates till 30.06.2021. However, the petitioners in their letter dated 22.09.2020 (Annexure P-11) stated that the order dated 10.04.2018 was not applicable to his case. Vide letter dated 03.11.2020 (Annexure P-12), petitioner No.1 had offered an opportunity of personal hearing to respondent No.2 to appear on 24.11.2020 and after affording opportunity of hearing he was directed to deposit a sum of Rs. 3,19,337/- as penal rent for the period 16.07.2020 till 31.10.2020. Respondent No.2 did not vacate the premises and an order of eviction was issued on 23.11.2020 (Annexure P-14). He ultimately vacated the accommodation on 02.12.2020 and deposited Rs.4,39,764/- as penal rent for the period 16.07.2020 till 02.12.2020 and was issued the clearance certificate.

5. The Central Government General Pool Residential Accommodation Rules, 2017, which had come into force w.e.f. 16.06.2017, regulate the allotment of accommodation to various Central Government employees across the country under the control of the Directorate of Estates,

Ministry of Urban Development. The retention of residential accommodation by an allottee including a Central Government Civilian Employee, on his transfer to a non-family station, for bonafide use of his family members is governed by Rule 43, which is reproduced hereunder:-

***“43. Retention granted on posting to non-family stations.***

*-Retention granted to allottees (including AGMUT cadre officers) of GPRA at their last place of posting in case of their posting to different non-family stations for bonafide use of their family members under different guidelines of Government of India issued from time to time, will be restricted to a maximum of three years.”*

6. Petitioner No.1 had issued Office Memorandum dated 15.09.1998 and various instructions dated 26.07.1999, 25.02.2000, 31.10.2005, 05.06.2008, 03.06.2011, 09.07.2014 and 07.04.2015 regarding retention of accommodation by the officers at their last place of posting at concessional rates, on their posting to various States including State of Jammu and Kashmir i.e. a non-family station. The existing instructions were valid till 30.06.2018. An office memorandum was issued on 10.04.2018 (Annexure P-5) by the Government of India, Ministry of Housing and Urban Affairs, Directorate of Estates, Policy-II Section, extending the concessional retention for a period of 03 years upto 30.06.2021. Relevant extract of the same is reproduced hereunder:-

*“Subject: Retention of General Pool Residential Accommodation by Central Government Civilian Employees (including CAPF employees), Officers of All India Services posted in Non-family stations-extension upto 30.6.2021 Reference is invited to the Directorate of Estates O.M.No.12035/31/96-Polli dated 7.9.1998 and subsequent instructions dated 30.9.1999, 30.4.2002, 15.7.2005, 1.7.2008, 3.6.2011, 9.7.2014 and 7.4.2015 regarding concessional retention of General Pool Residential Accommodation at the last place of posting by Central Government Civilian Employees and Officers of All India Services on posting to the States in the North Eastern Region, Sikkim, Andaman & Nicobar Islands and Lakshadweep and O.M.No.12035/2/90-Polli*

*(Pt.il) dated 15.9.1998 and subsequent instructions dated 26.7.1999, 25.5.2002, 31.10.2005, 5.6.2008, 3.6.2011, 9.7.2014 and 7.4.2015 regarding retention of General Pool Residential Accommodation at the last place of posting by Central Government Civilian Employees and Officers of All India Services on posting to the State of Jammu & Kashmir. **The existing instructions on the subject are valid up to 30.6.2018. It has now been decided to further extend the concessional retention of General Pool Residential Accommodation at the last place of posting by Central Government Civilian Employees (including CAPF employees), Officers of All India Services on their posting to a Non-family stations for a further period of three years i.e. upto 30.06.2021 on payment of normal rate of licence fee. The concession of retention of GPRA would also be admissible if a Government servant is transferred from one place to another within the Non-family stations.***

2. *Only those CAPF Personnel's who are working and posted in headquarters are eligible for such concessional retention.*
3. *It is clarified that the facility of concessional retention of GPRA at the last place of posting for Central Government Civilian Employees (including CAPF employees), and Officers of All India Services is permitted only when the allottee of GPRA is transferred to Non-Family stations from other places and is not permitted to the Central government employees who are repatriated back to his/her parent office in non family stations on completion of their deputation from other places.*
4. *Since the retention of Government accommodation is allowed for bonafide use of the dependent family of the transferred Government servant, he/she will furnish a certificate on 1<sup>st</sup> July and 1 January of every year, stating that his/her dependent family members are actually residing in the Government accommodation at the last place of posting. Such a certificate will also have to be furnished at the time of seeking retention. In case, no such certificate is received by 31 January and 31 July of every year, the Directorate of Estates will be constrained to cancel the allotment/retention of the residence.*
5. *The hard copy of online application duly filled by applicant by logging in the portal of the Directorate of Estates ([www.gpra.nic.in](http://www.gpra.nic.in)) duly forwarded by the office where the officer joined on posting in the above mentioned areas, for retention of general pool residential accommodation should be received in the Directorate of Estates within a period of one month from the date of relinquishing the charge at the last place of posting, so that, further necessary action could be initiated by the Directorate.”*

*(emphasis supplied)*

7. Thereafter, the instructions dated 10.04.2018 (Annexure P-5) were further clarified vide the office Memorandum dated 15.06.2018 (Annexure P-6) which is reproduced hereunder:-

*“Reference is invited to the O.M of even Number dated 10.4.2018 of Directorate of Estates regarding retention of General Pool Residential Accommodation by Central Government Civilian Employees (including CAPF employees), Officers of All India Services posted in Non-family stations and to clarify that following points shall be taken in care before giving such concessional retention :-*

***i. Employees transferred before 19.6.2017***

***Retention shall be given for entire period of transfer or till 30.6.2018 whichever is earlier, at the first instance. After that, retention shall be given till the date of completion of their period of transfer or 3 years (ie 18.6.2020) whichever is earlier.***

***ii. Employees transferred on or after 19.6.2017***

***Retention shall be given for a maximum period of 3 years from the date of transfer or till 30.6.2021, whichever is earlier.***

2. Such retention shall be given on following general conditions: -

- a. Such retention shall be given only on online request of the allottee duly forwarded by their administrative authority and on production of half yearly bonafide certificate.
- b. In any case retention shall not be granted beyond 30.6.2021.
- c. The retention is to be granted on existing terms and conditions.
- d. If any such concessional retention shall be subject to the clearance of outstanding dues.

3. It is requested to all concerned officers to strictly adhere to these instructions.”

8. Learned counsel for the petitioners has vehemently argued that in view of Rule 43 of the Rules, 2017 restricting the retention of accommodation on a posting to non-family station to a maximum period of 03 years from the date of transfer, respondent no.2 could not have retained the accommodation beyond that date. If the mandate of the rule is applied it would mean that respondent no.2 was required to vacate the accommodation on or before

18.10.2018 as the first posting was on 19.10.2015. However, it is evident that respondent no.2 was granted the benefit of the first clarification of the office Memorandum dated 15.06.2018. On one hand, petitioner No.1 insists that the respondent no.2 had to vacate the premises by June, 2020 and on the other hand submits that he could retain the accommodation for a maximum period of 03 years from the date of transfer. Petitioner No.1 cannot be allowed to blow hot and cold at the same time. We, therefore, reject this submission of learned Counsel for the petitioners.

9. It was also further submitted both before the Tribunal and before this Court that the term 'transfer' had to be understood as the first transfer only i.e. the transfer to Leh dated 19.10.2015. Admittedly, respondent No.2 had been first transferred to Leh zone on 19.10.2015 and thereafter, he was transferred again from Leh to Udhampur on 18.06.2018. Both these stations i.e. Leh, as well as Udhampur, were non-family stations and so the family of respondent No.2 was occupying the government accommodation at Chandigarh.

10. A perusal of the instructions issued vide Office Memorandum dated 10.04.2018 (Annexure P-5) would reveal that the concessional retention of accommodation was extended for a period of 03 years i.e., upto 30.06.2021. In view of the postings of the officers to non-family stations, it was also provided that the retention would be applicable if the government servant is transferred from one place to another within non-family station. Furthermore, the instructions dated 10.04.2018 (Annexure P-5) were clarified by the Office Memorandum issued on 15.06.2018 (Annexure P-6) which classified the transfers into two categories i.e. those officers who were transferred on or before 19.06.2017 and those who were transferred on or after 19.06.2017. The

employees who were transferred on or after 19.06.2017 were allowed retention of accommodation for a maximum period of 03 years from the date of transfer or till 30.06.2021, whichever was earlier.

11. A perusal of the rules/instructions do not indicate that the term “transfer” is limited to the first transfer and will not be applicable to any other transfer to a non-family station. We are, therefore, unable to agree with the argument canvassed by learned counsel for the petitioners.

12. Moreover, the purpose of permitting an employee to retain the accommodation on his transfer to a non family station is to ensure the welfare and stability of the employee’s family. Non-family stations, often face adverse climatic conditions, security concerns, or lack basic educational and medical facilities. It is trite, that these memorandums/instructions dated 10.04.2018 and 15.06.2018, will have to be interpreted in a beneficial manner so as to enhance the object of the Rules. A conjoint reading thereof would indicate that the benefit of retention of accommodation had been allowed from time to time and was available till June, 2021 or for a period of 03 years from the date of posting to non-family station, whichever was earlier.

13. Respondent No.2 had been transferred firstly to Leh and thereafter to Udhampur on 18.06.2018 and therefore, both these transfers are to be seen as independent transfers and not to be read as one. We see no reason why his case would not be covered by the instructions dated 10.04.2018 (Annexure P-5) and 15.06.2018 (Annexure P-6). Consequently, respondent no.2 could retain the accommodation for a period of 03 years from 18.06.2018 or till 30.06.2021 whichever was earlier. The accommodation had been retained till 02.12.2020

and he cannot be said to be an unauthorized occupant, so as to justify the imposition of penal rent.

14. Even otherwise, there is a provision in the Rules, 2017 for relaxation of the rules as well. The relevant extract of Rule 83 of the Rules, 2017 is reproduced hereunder:-

*“83. Relaxation of rules.- The Central Government may for reasons to be recorded in writing, relax any or all of the provisions of these rules in the case of any allottee or any accommodation or any group or class of allottees or type of accommodation or on any other matter.”*

This power of relaxation appears to be wide and expansive and can be exercised in the case of an individual allottee or a class of allottees by recording reasons in writing. There is nothing on record to suggest that Rule 43 which provides for a maximum period of 3 years for retaining accommodation had been relaxed but the petitioners have also not denied, that they themselves have been extending the period of retention vide their various Office Memorandums and Instructions, which had been issued from time to time. The Office Memorandum dated 10.04.2018 (Annexure P-5) had extended the concessional retention in case of transfers after 19.06.2017 for a further period of 03 years i.e. 30.06.2021. These instructions extended the retention of accommodation beyond the period of three years. In these circumstances, especially when the Central Government had issued instructions extending the period of retention beyond three years, we may infer that Rule 43 was relaxed or it may be deemed to have been relaxed.

15. In view of the above, the action of petitioner No.1 in imposition of penal rent is clearly unsustainable and had been rightly set aside by the Tribunal vide the impugned order (Annexure P-1).

16. We hasten to add that unfortunately, respondent No.2 had expired during the pendency of the OA before the Tribunal. His wife and 10 year old daughter had been impleaded as applicants in the OA and are Respondents No.2(a) & 2(b) respectively in the instant writ petition.

17. Consequently, the petition, being devoid of any merit, stands dismissed. The amount charged beyond the concessional/nominal rent for the period from 16.07.2020 to 02.12.2020 shall be refunded forthwith to respondent No.2 (a) and 2(b) along with interest @ 6% per annum from the date of deposit till payment within a period of one month.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**(DEEPAK MANCHANDA)**  
**JUDGE**

**30.06.2025**

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Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No