

(2019) 06 JH CK 0031

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4622 Of 2008

Amarnath Khanna

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 13-06-2019

Acts Referred:

Bihar State Employees (House Rent Allowance) Rules, 1980 — Rule 4(b)(i)

Citation : (2019) 06 JH CK 0031

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Ashutosh Anand, Kanchan Kumari, Sudarshan Srivastav

Final Decision : Disposed Off

Judgement

Sanjay Kumar Dwivedi, J.

1. This writ petition has been preferred by the petitioner for grant of promotion to the petitioner and for release of arrears of salary and other

allowances in the light of the notification dated 29.03.2008 and to pay House Rent Allowance from 30.4.2005 commensurate to House Rent

Allowance admissible for Ranchi town and to pay the City Compensatory Allowance of Rs. 120/- per month to the petitioner.

2. At the outset, Mr. Ashutosh Anand, counsel appearing for the petitioner, fairly pointed out that so far as prayer No. 1 relating to promotion is concerned, he is not pressing the same.

3. So far as prayer no. 2 relating to payment of salary is concerned, Mr. Ashutosh Anand submits that he is being paid from 1.4.1997 instead of

1.1.1996, as indicated in Annexure 5 to the memo of this writ petition.

Mr. Sudarshan Srivastav has drawn the attention of this court to Para No. 3 of

the supplementary counter affidavit, dated 13.8.2012, filed on behalf of the Accountant General, wherein it is stated that in view of the promotion of the petitioner in the scale of Rs. 10000-325-15200 by Home Department letter no. 8/C-809/2006-1418 dated 29.03.2008 and on receipt of clarification from the Home Department by their letter no. 4005/2011-12-3022 dated 12.07.2011 pay of the petitioner in the scale of 10000-15200 & 12000-16500 has been fixed and a pay slip allowing actual benefit from 01.04.1997 has been issued vide no. GE-5-DSP-3-13-902-03 dated 06.09.2011.

Therefore, in view of this statement, there is no need of passing any order so far as prayer no. 2 is concerned.

4. Mr. Anand, relying on the Rule 4 (b) (i) of The Bihar State Employees (House Rent Allowance) Rules, 1980, submits that the petitioner is eligible

for House Rent Allowance at the rate admissible for Ranchi as at that time he was posted at Ranchi. The said Rule reads as under:

4(a)

(i) A Government servant whose place of duty falls within the qualifying limits of a city shall be eligible for the house rent allowance, irrespective of whether his place of residence is within such limits or outside.

(b)(i) A Government servant whose place of duty falls within the qualifying limits of a city shall be eligible for the house rent allowance, irrespective of whether his place of residence is within such limits or outside.

He further draws the attention of this Court to Note 2 (ii) of The Bihar State Employees (House Rent Allowance) Rules, 1980, which reads as under:

Note 2.- For the period of tour, a Government servant's entitlement to this allowance shall be regulated with reference to his headquarters.

(ii) Government servants whose place of duty is in the proximity of a qualified city, and who, of necessity have to reside within the city, may be

granted the house rent allowance admissible in that city. The Administrative Department, in respect of staff serving under them, are authorised to

sanction the allowance under this clause provided they are satisfied that-

(1) the distance between the place of duty and the periphery of the municipal limits of the qualified city does not exceed 8 kilometres; and

(2) the staff concerned have to reside within the qualifying city out of necessity, i.e., for want of accommodation nearer their place of duty.

Mr. Anand submits that on the basis of the above, the petitioner is entitled to the House Rent Allowance and City Compensatory Allowance at the

rate admissible for Ranchi.

5. Learned J.C. to the A.A.G. submits that the petitioner was serving on deputation from 13.4.2005 in Ranchi though his substantive place of posting was in the office of Additional Superintendent of Police, Sahibganj. As per guidelines of the Department of Finance (Annexure A to the supplementary counter affidavit dated 14.5.2019 filed on behalf of Respondent No. 1), House Rent Allowance and other allowances are permissible to an employee on the basis of their place of posting and not on the basis of their posting on deputation and that House Rent Allowance and other allowances on the basis of place of deputation are made admissible only in those cases where prior approval of the Department of Finance, is incorporated in the letter of deputation and since such is not the case in the instant case, House Rent Allowance and City Compensatory Allowance is not admissible to the petitioner.

At this stage, Mr. Anand submits that his claim is of the year 2005, whereas Annexure A is of the year 2012 and thus it is not applicable in the case of the petitioner.

6. Having heard learned counsel for the parties, this court finds that there is no prior approval of the Finance Department in the deputation letter of the petitioner. However, considering the Rule 4 (b) (i) and Note 2 (ii) of The Bihar State Employees (House Rent Allowance) Rules, 1980, the matter is remanded back to Respondent No.1 to pass a reasoned order taking into account the Rule 4 (b) (i) and Note 2 (ii) of The Bihar State Employees (House Rent Allowance) Rules, 1980 within a period of 6 weeks from the date of receipt/production of a copy of this order.

It goes without saying that if the authorities concerned come to the conclusion that the petitioner is entitled to the House Rent Allowance and City Compensatory Allowance, the same will be released within six weeks thereafter.

7. This writ petition is disposed of.