

(2012) 04 JH CK 0005

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5243 of 2009

Banshidhar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-04-2012

Acts Referred:

Citation : (2012) 4 JCR 135 : (2013) 3 JLJR 450

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rajesh Kumar Mahtha, for the Appellant;

Judgement

Aparesh Kumar Singh, J.—Heard, learned counsel for the petitioner and learned counsels for the respondents. The petitioner has moved before this Court by the instant writ petition for seeking following reliefs :--

- (i) for fixation and payment of pension alongwith arrears.
- (ii) to pay the difference of salary on the basis of the 5th Pay Commission alongwith interest.
- (iii) for immediate and forthwith payment of Rs. 2,35,000/- alongwith interest in lieu of commuted pension.
- (iv) for quashing the letter No. 508 dated 06.05.2009 issued by the respondent No. 2 whereby the respondent No. 3 has illegally ordered of deduction of Rs. 36,980/-from the petitioner in lieu of house rent.
- (v) for direction upon the respondent to refund the amount of Rs. 6,980/-illegally deducted from the salary of the petitioner and
- (vi) for direction to pay the Group Insurance Amount alongwith interest

2. It is submitted by learned counsel for the petitioner that petitioner had retired from the post of Jan Sevak from the office of Block Development Officer. Chas Block, Bokaro. It is further submitted that petitioner was initially appointed as

Jan Sevak in Dumri Block thereafter he was posted at different places including Bermo Block. Paterbar Block and finally at the time of retirement he was posted at Chas Block. The letter impugned has been issued for recovery of house rent for unauthorizedly occupying government quarter in Bermo Block.

3. The respondents have appeared and filed their counter affidavits in which they have stated that earlier provisional pension was paid to him since October, 2008, due to incomplete service book. For fixation of final pension, all the relevant papers have been sent to the Office of Accountant General vide letter No. 1554 dated 21.12.2009 (Annexure-A to counter affidavit). It is further submitted that Group Insurance has already been prepared by way of cheque but according to the petitioner, he has not received as deduction of Rs. 36,980/- was made from his post-retiral dues. It has been stated in paragraph-9 of the said counter affidavit that petitioner has been living in Government Building since December 1986 to December 2007 and also taken house rent from the Government. Hence, house rent allowance was deducted as per Government Rules.

4. It is submitted by learned counsel for the petitioner that rejoinder has been filed to the averments made in the counter affidavit, wherein he has stated that his pension has been fixed as per recommendation of the 5th Pay Commission and not revised as per the recommendation of the 6th Pay Commission. Therefore, his grievance relating to the commutation of pension have not yet been redressed. He has contested the deduction on account of house rent and stated that he had lived in a rejected community hall only for a period of 20.02.2004 to December, 2007, therefore any recovery prior to that period is illegal and bad in law.

5. In the aforesaid facts and circumstances of the case, it is clear that petitioner has already admitted that he had lived in the Government accommodation, but the dispute relates to the period for which he had lived in the Government accommodation. The respondents have stated that he had lived in the Government accommodation since December, 1986 to December, 2007.

6. In view of the conflicting stand in respect of the illegal occupation of Government Accommodation, there are disputed question of facts, which cannot be gone into and decided in exercise of writ jurisdiction of this Court. However, so far as the claim of the petitioner relating to fixation of pension in the revised scale as per the recommendation of the 6th Pay Commission and also commutation of pension are concerned, liberty is given to the petitioner to file a fresh representation before the Respondent No. 5, Deputy Commissioner, Bokaro containing all necessary facts and documents as required by the competent authority for redressal of his grievances as stated hereinabove within a period of three weeks. In case, such a representation is filed before the Respondent No. 5, Deputy Commissioner, Bokaro, he would consider the same in accordance with law and pass a speaking and reasoned order within a period of six weeks thereafter and the same shall be communicated to the petitioner. In case, the petitioner is found entitled to any such benefits in respect of revision of pension

as per the pay fixation of 6th Pay Revision and also commutation of pension, the same should be processed and paid within four weeks thereafter. With the aforesaid observations and directions, this writ petition stands disposed of. Petition disposed of.