

(2009) 01 JH CK 0040
In the Jharkhand High Court

Bharat Coking Coal Ltd. and Others

APPELLANT

Vs

Upendra Nath Singh

RESPONDENT

Date of Decision : 13-01-2009

Acts Referred:

Citation : (2009) 01 JH CK 0040

Hon'ble Judges : Narendra Nath Tiwari, J;Ajit Kumar Sinha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Bharat Coking Coal Limited (for short BCCL) is aggrieved by the order of the learned Single judge dated dated 21st July, 2003 passed in C.W.J.C. No. 1007 of 1994(R).
2. By the said order learned single judge has allowed the petitioner?s writ petition, setting aside the letters dated 19th January, 1994 and 21st January, 1994 (Annexures-5 & 6 respectively), whereby his House Rent Allowance was stopped with a direction to realize the amount of house rent already paid after 26th June, 1991.
3. The respondent was an employee of the BCCL. Admittedly, he was entitled to get the House Rent Allowance along with other benefits. By the impugned order, payment of House Rent Allowance was stopped on the ground that a quarter was allotted to his wife, who happened to be the Headmistress of a private school, side to be aided by BCCL. The order dated 19th January, 1994 by which the payment of House Rent Allowance was sought to be discontinued with order of recovery of the amount paid forwards House Rent Allowance with effect from 26th June, 1991 does not disclose any provision under which the same has been issued.
4. Learned single Judge after hearing both the parties and considering the factual and legal aspect of the matter came to the conclusion that the wife of the writ petitioner is not an employee of the Company-BCCL and Rule 3.2 of the House

Rent Allowance Rules of BCCL is not applicable. On that ground, the said order dated 19th January, 1994 and 21st January, 1994 were set aside.

5. Mr. A.K. Mehta, learned Counsel, appearing on behalf of the appellants, assailed the order of the learned Single Judge on the ground that the respondent, being the husband of Smt. Tara Kumari Singh, was residing with her and is not entitled to get the House Rent Allowance. The order issued by the Company-BCCL, discontinuing the payment of House Rent Allowance with order of recovery of the amount already paid towards the said allowance were wholly justified and that learned Single Judge has erroneously set aside the said order. Learned Counsel, however referred to Rule 3.2 of the House Rent Allowance Rules to support the said order of Company.

6. We have heard learned Counsel for the parties and considered the facts and materials on record. We have also perused Rule 3.2 of the House Rent Allowance Rules. The said rule is reproduced herein below:

Rule 3.2: In case, both husband and wife are employees of the company working within a radius of 8 K. Ms. from each other, only one of them, at the option of the couple, shall be eligible for the House rent allowance.

Provided that this will not apply where the husband and wife are residing separately in pursuance of an order of judicial separation made by any Court.

7. On bare reading of the said Rule, it is clear that the said provision would be applicable in case, both husband and wife are employees of the Company working within a radius of 8 K. Ms.

8. Admittedly, the wife-Smt. Tara Kumari Singh is not an employee of the BCCL. She is Headmistress in a private school, which is said to be receiving grant-in-aid from the BCCL. The quarters where the wife of the respondent resides is earmarked for the headmaster of that school.

9. In view of the above, we find No application of the said Rule to the instant case. There is No substance in the submissions of the appellants that the House Rent Allowance paid or payable to the respondent can be stopped or recovered in view of the said Rule. The said order of the appellant-company could not be legally justified. The appellant could not make out any valid ground on the basis of which the order of the learned Single Judge can be interfered with. We find that the impugned order is well reasoned and uphold the same.

10. There being No merit this appeal is dismissed.

11. There is No order as to cost.