
(2020) 01 CAL CK 0136

In the Calcutta High Court

Case No : Wp. Central Tribunal (WPCT) No. 130 Of 2019

Dilip Kumar Chatterjee

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 03-01-2020

Acts Referred:

Citation : (2020) 01 CAL CK 0136

Hon'ble Judges : Protik Prakash Banerjee, J; Dipankar Datta, J

Bench : Division Bench

Advocate : Susanta Kr. Pal, Souvik Nandy

Judgement

The petitioner alongwith 12 other retired employees of Durgapur Steel Plant (hereafter 'DSP') had approached the Central Administrative Tribunal , Kolkata Bench, Kolkata (hereafter the 'tribunal') with an original application (O.A. 350/00789/2016). The prayer in such application was for a direction on the DSP to release the applicants' respective share of gratuity, leave salary, last month's payment as well as the benefits of a particular agreement that was entered into by and between the applicants and DSP. Such terminal benefits were not released by DSP to the applicants on the ground that they had not vacated the official quarters allotted to them while they were in service.

On behalf of the applicants before the tribunal, reliance was placed on certain circulars issued by the Steel Authority of India Limited (hereafter the 'SAIL') whereby it introduced a scheme for allotment of quarters to ex-employees on lease/leave and license basis.

The tribunal was of the view that the scheme was in respect of Bokaro and Rourkella Steel Plants and not in respect of DSP. This resulted in not only dismissal of the original application by judgment and order August 27, 2019 but was followed by leave granted to DSP to initiate appropriate proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereafter the '1971 Act') for securing the applicants' eviction.

Aggrieved by the said judgment and order, the petitioner has invoked our writ jurisdiction.

We have heard Mr. Pal, learned advocate appearing in support of the writ petition and Mr. Nandy learned advocate appearing for the respondents.

Reference to the scheme introduced by SAIL, as amended from time to time, appears to be inapt. Such scheme relates to category-I and category-II quarters. It is clear on the face of such circulars which were in vogue at the time the petitioner retired that the same did not extend to category-IV quarters, one of which the petitioner is occupying even after eight years of his retirement on superannuation. Therefore, he had no right to be allotted category-IV quarter.

Law is well-settled that in order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition. In view of the fact that the petitioner does not have any legally protected right, which could be judicially enforced, we see no reason to interfere with the impugned judgment and order of the tribunal.

After the aforesaid order was dictated and sensing that dismissal of the writ petition is imminent, Mr. Pal, on instructions received from the petitioner (who is present in Court) appeals to us that the petitioner may be granted six months time to vacate the quarter as a pre-condition for release of his terminal benefits. Such prayer is vehemently opposed by Mr. Nandy. According to him, proceedings under the 1971 Act have been initiated and the petitioner ought not to claim and be granted any relief from this Court, which would stall the proceedings so initiated.

We having declined the prayer of Mr. Pal, the petitioner through Mr. Pal has given an undertaking to vacate the quarter by April 30, 2020. The petitioner having so undertaken, Mr. Nandy submits that the proceedings under the 1971 Act shall not be proceeded further till April 30, 2020.

In view of the above, we dispose of the writ petition with the following directions:

- (i) the petitioner shall vacate the quarter that he has been occupying so long by April 30, 2020, positively;
- (ii) the proceedings under the 1971 Act shall remain stayed till April 30, 2020, unconditionally;
- (iii) should the petitioner not vacate the quarter by April 30, 2020, the proceedings under the 1971 Act shall resume and be taken to its logical conclusion in accordance with law;
- (iv) if the quarter is vacated by April 30, 2020, the respondents shall leave no stone unturned to release the terminal benefits in his favour by May 15, 2020; and

(v) penal rent, if not realised from the petitioner for the period of unauthorised occupation since retirement, may be adjusted with his terminal benefits and a clear break-up of the facts and figures shall be provided to the petitioner by April 30, 2020.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously.