

(2003) 03 JH CK 0077
In the Jharkhand High Court
Case No : CWJC No. 517 of 2001

Ex-Employees Welfare Society

APPELLANT

Vs

Heavy Engineering Corporation and Others

RESPONDENT

Date of Decision : 31-03-2003

Acts Referred:

Citation : (2003) 4 JCR 343

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : S.K. Ughal and T. Kabiraj, for the Appellant; R. Mukhopadhyaya, for the Respondent

Judgement

M.Y. Eqbal., J.—The members of the petitioner-Society are the erstwhile employees of the respondent-Heavy Engineering Corporation (HEC) having superannuated under the Voluntary Retirement Scheme (VRS) and they are in occupation of the quarters of the Corporation on payment of market rent. On the basis of these fact the petitioner has challenged the notice dated 1.11.2000 issued to one of the members of the petitioner- Society asking him to vacate the quarter within 30 days and after clearing the outstanding dues failing which a proceeding for eviction shall be initiated.

2. The admitted facts are that on 13.1.1999 an office order was issued by the Corporation intimating that the Management had decided to charge market rent for all the quarters allotted to the employees on leave and license basis including the outsiders and the employees who took voluntary retirement under Voluntary Retirement Scheme. In 1999 another office order was issued by the Corporation vide circular dated 23.9.1998 whereby it was decided that the employees who have superannuated under Voluntary Retirement Scheme shall be allowed to retain their quarters pending payment of their retiral benefits including all admissible dues. On the basis of the said office order/circular the petitioner-society claims that its members are not liable to be evicted unless they are paid their retiral dues namely LTA for the period 1992-93.

3. The case of the respondent-Corporation, on the other hand, is that Annexure-4 which dated 13.9.1998 is not a circular rather it is a decision taken by the Core Committee which was never given the shape of a circular. It is contended that although in the meeting it was decided that till such payment is made for the period 1992-1993 to the employees who have retired under Voluntary Retirement Scheme, the quarters given on leave and license basis may be allowed to be retained by them on leave and license basis. It is further stated in the counter-affidavit that the General Secretary and the President of the present association earlier moved this Court for the self-same relief in CWJC No. 852/1998 (R) challenging the circular dated 13.1.1999 which was dismissed and the matter ultimately reached upto the Supreme Court in SLP No. (Civil) No. 13735/2000 which is pending.

4. I have heard Mr. S.K. Ughal, learned counsel for the petitioner and Mr. R. Mukhopadhyaya, learned counsel for the respondent- Corporation.

5. It appears that the association of the superannuated employees who are residing in the quarter allotted by the Corporation, moved this Court in CWJC No. 3135/99 (R) challenging the office order/ circular dated 13.1.1999 and a Bench of this Court, taking into consideration the fact that the circular was not applicable to those employees who have not been paid their full retiral dues and have been retaining the quarter on leave and license basis as also taking notice of the judgment passed in CWJC No. 852/98 (R). held that the corporation is not entitled to evict the superannuated employees from the quarters till the entire retiral dues are paid to them.

6. In course of argument Mr. S.K. Ughal, learned counsel for the petitioner reiterated that the members of the petitioner- association are in occupation of the quarters on payment of market rent and they are entitled to continue in the quarters so long as their retiral dues/LTA are not paid to them.

7. Taking into consideration the entire facts of the case and the different circulars referred by the counsels for the parties, I am of the view that if the members of the petitioner- association have been paying market rent of the quarters in their occupation, they may not be evicted till their LTA are paid to them. The respondent-Corporation is directed to take appropriate steps for payment of LTA for the year 1992-93 and see that the same is paid to them as expeditiously as possible and preferably within a period of six months from today. It is made clear that the members of the petitioner-association shall vacate the quarters within 30 days from the date of notice issued by the corporation intimating the members of the petitioner of receive payment of LTA. It is also clarified that this order will not prevent respondent-Corporation from taking action for eviction of those members of the petitioner-association who are in occupation of the quarters and have defaulted in payment of market rent for more than 3 months.

8. With the aforesaid direction this writ petition is disposed of.