
(2012) 11 MP CK 0034
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2642 of 2007

H.P. Singh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-11-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2013) ILR (MP) 102

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Advocate : K.P. Singh, for the Appellant; Lalit Joglekar, P.L., for the Respondent

Final Decision : Allowed

Judgement

U.C. Maheshwari, J.—Heard. The petitioner has filed this petition under Article 226/ 227 of the Constitution of India for quashment of the order dated 9.11.06 (Annex. P/6) passed by respondent No. 4 Civil Surgeon cum Superintendent, District Hospital Katni whereby the direction to deduct the sum of penal rent, with respect of the Govt. quarter allotted to the petitioner when he was in service, from the sum of his retrial benefits, has been given.

2. After taking me through the averments of the petition as well as the papers placed on record including the impugned order Annex. P/6, petitioner's counsel by referring the decision of the Apex Court in the matter of Gorakhpur University and Others Vs. Dr. Shitla Prasad Nagendra and Others, as also of this Court in the matter of Dr. H.K. Saxena Vs. Dr. Hari Singh Gaur Vishwavidyalaya and Another, argued that even after retirement if the quarter is not vacated by the employee within the prescribed period, the sum of the penal rent could not be directed to be recovered from the terminal benefits which were payable to the employee on the date of retirement and in the background of such principle he pointed-out that the present petitioner was retired in the year 1990 and vacated the premises in the year 1996 in view of the aforesaid legal position the impugned order directing recovery of penal rent from his terminal benefits, is not

sustainable and prayed for admission and allowing this petition.

3. On the other hand, the State counsel has opposed the aforesaid submission saying that in the available factual matrix, the petitioner is not entitled to get any relief from this court as prayed because the prayer is contrary to some notification of the State of M.P.

4. Having heard, keeping in view the arguments advanced, I have gone through the papers placed on the record so also the aforesaid cited decisions.

5. In the matter of Gorakhpur University (supra) the Apex Court has held as under:-

Pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands and any delay in settlement and disbursement whereof should be viewed seriously and dealt with severely by imposing penalty in the form of payment of interest. Withholding of quarters allotted, while in service, even after retirement without vacating the same is not a valid ground to withhold the disbursement of the terminal benefits. Such is the position with reference to amounts due towards Provident Fund, which is rendered immune from attachment and deduction or adjustment as against any other dues from the employee.

6. On arising the occasion such principle was also followed by this Court in the matter of Dr. H.K. Saxena Vs. Dr. Harisingh Gaur Vishwavidyalaya, Sagar and another (supra) and pursuant to that the amount which was deducted from the retrial benefits of the concerning employee as penal rent with respect of govt. quarter, has been directed to be refunded along with interest @ 9% from the date of vacating the quarter.

7. In view of the aforesaid principle laid down by the Apex Court as well as by this Court, on examining the case at hand, then in the available scenario, the same are applicable to the present case. Pursuant to it, it is held that the respondents authorities are not entitled to deduct the sum of penal rent of the quarter in dispute from the retrial benefits of the petitioner. In such premises, the impugned order Annex. P/6, directing recovery of the sum of penal rent of the quarter from the retrial benefits of the petitioner, is quashed. Pursuant to it, respondents authorities are directed to refund such sum of penal rent, if the same is found to be deducted from the aforesaid retrial benefits of the petitioner, along with interest @ 9% per annum from the date of vacating the quarter i.e. 15.7.2006. This direction be complied with by the respondents authorities as early as possible probably within six months from today. Petition is allowed as indicated above. There shall be no order as to the cost.

C.C. as per rules.