
(2016) 07 JH CK 0074

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6564 of 2011

Ishwar Dutta Upadhyay

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 28-07-2016

Acts Referred:

Citation : (2016) 4 JBCJ 206 : (2016) 4 JCR 756 : (2017) 2 JLJR 343

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : M/s. Kumar Sundaram, Rajeev Ranjan Tiwari, Krishna Murari, Shiv Shankar Kumar, Santosh Kumar and B.N. Ojha Advocates, for the Petitioners; M/s. Rajiv Ranjan, Senior Advocate, Indrajit Sinha and Bibhash Sinha, Advocates, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.— Heard counsel for the parties.

2. In all these writ petitions, petitioners are ex-employees of Bokaro Steel Plant, a Unit of Steel Authority of India Limited. Couched in different languages, but the prayer in the instant writ petitions on their behalf, in sum and substance, are as follows:-

- i. They have been allowed to retain quarters after retirement by Bokaro Steel Limited (BSL) on retention of their gratuity. They seek release of gratuity amount. Petitioners have also contended that they are entitled to be paid the gratuity amount without deducting any penal rent of quarters under occupation since their retirement.
- ii. They have also prayed for allotment of the respective quarters on the basis of the Scheme for Licensing of E/F/EF type of houses in Sectors 1, 5, 6, 8, 9, 11 and 12 at Bokaro Steel City: Phase I-2009 asserting that the petitioners are being discriminated in the matter of allotment of quarters under the said policy.

3. Respondents have asserted that the petitioners have consciously executed undertakings for retention of quarters by allowing the Respondent BSL to retain an amount equivalent to the gratuity amount. They rely upon enclosures enclosed in some of the counter affidavits. They also contend that the proceedings for eviction under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 have been initiated before the Court of Estate Officer, Bokaro Steel Limited, which however is pending in the individual cases on account of interim protection granted by this Court in the present matters.

4. Learned Senior Counsel for the Respondents has relied upon the judgment rendered by the learned Division Bench of this Court in Bokaro Steel Limited v. Shri Ram Naresh Singh & Ors., 2014 (1) JLJR 490 in relation to the ex-employees of BSL itself who had given undertaking permitting the employees to retain gratuity as security for retaining the official quarters after retirement. It is submitted that Learned Division Bench by the said judgment has categorically held that gratuity has been withheld not as a measure of penalty or as punitive measure, but it has been withheld on account of voluntary undertaking of ex-employee who offered the gratuity amount as security deposit for retention of the quarters after his retirement. The payment of gratuity amount which was offered as security, could be refunded only on vacation of quarters and after deduction of all the necessary dues such as, rent, damage charges, electricity, etc. Learned Division Bench went on to hold that having voluntarily agreed to put an amount equivalent to gratuity as security deposit, ex-employee cannot place reliance upon the provisions of Payment of Gratuity Act. Learned counsel for the Respondent submits that in such circumstances, all these petitioners who have retained official quarters after retirement, are to be dealt with in terms of the ratio rendered by the learned Division Bench in the case of Bokaro Steel Limited (Supra). Company is in dire need of quarters for providing accommodation to the eligible employees. It is further submitted that the petitioners or any ex-employee would be entitled to be considered for allotment of quarters after retirement, as per terms and conditions of policy itself. These petitioners do not fall in that category as they are occupying different type of quarters in different sectors not covered under the policy. The policy has also elapsed. Therefore, the instant matters may be dismissed leaving the Respondent BSL to proceed for eviction of quarters under occupation from the individual petitioners in accordance with law. The individual petitioners would be paid the amount equal to the gratuity amount retained for the purposes of permitting occupation of the quarters after retirement, in accordance with law and the ratio rendered by the learned Division Bench in the case of Bokaro Steel Limited (Supra).

5. Learned counsel for the petitioners have submitted that the judgment rendered in L.P.A. No. 15/2013 is a subject matter of challenge in the Special Leave to Appeal (Civil) No. 30325/2014. However, learned counsel for the petitioners have not been able to dispute that no stay of the impugned judgment has been granted by the Apex Court in the said SLP.

6. I have considered the submissions of the parties in the broader light of the ratio rendered by the learned Division Bench in the case of Bokaro Steel Limited (Supra). As it appears from the canvas of the facts pleaded and on record, instant case of the petitioners, as traversed upon the Respondents, is on the issue of retention of gratuity as security for retaining the official quarters after retirement. The very issue has been addressed by the learned Division Bench in the case of Bokaro Steel Limited (Supra). This is an authoritative pronouncement on the question whether the Respondent BSL is entitled in law to retain the amount equivalent to gratuity as security deposit for allowing occupation of the official quarters after retirement to individual ex-employees like the petitioners. No further declaration of law can be made by this Court on the same subject. Case of individual petitioners are to be dealt with in the light of the ratio rendered by the learned Division Bench in the case of Bokaro Steel Limited (Supra) by the competent authority under the Respondents. Needless to say, all germane issues such as undertaking given by the individual petitioners for retention of the amount equivalent to gratuity as security deposit for occupation of the quarters after retirement, are required to be examined on individual facts. On such examination, consequences which flow on account of the ratio rendered by the learned Division Bench in the case of Bokaro Steel Limited (Supra), would obviously follow. Apart from that, if there are pending proceeding under Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against the individual petitioners, they are at liberty to take their defence in the said proceedings, which would be concluded, in accordance with law, by the competent authority under the Act of 1971.

7. The assertion of the petitioners about allotment of official quarters in terms of the policy of the Respondents of different set of quarters in different sectors, is an aspect which can also be examined while scrutinising the individual cases of the petitioners. Whether they have made an application, as per the said policy or not and if the policy is in vogue or not? Let such an exercise be completed expeditiously preferably within a period of four weeks from the date of receipt of a copy of this order. Interim orders passed in the individual cases are accordingly vacated. All these writ petitions are disposed of with the aforesaid observations. Pending I.As are also closed.