

(2021) 09 J&K CK 0050

In the Jammu And Kashmir High Court

Case No : Letters Patent Appeal No. 38 Of 2020, Civil Miscellaneous No. 1630 Of 2020

R. K. Munshi

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 27-09-2021

Acts Referred:

Jammu And Kashmir Civil Services (House Rent Allowance And City Compensation Allowance) Rules, 1992 — Rule 6(h), 6(h)(ii)

Citation : (2021) 09 J&K CK 0050

Hon'ble Judges : Dhiraj Singh Thakur, J;Puneet Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The present Letters Patent Appeal has been preferred against the judgment and order dated 19.12.2019. The writ court has dismissed the petition filed by the petitioner-appellant herein, in which the petitioner has, inter-alia, prayed for quashing the order passed by the respondents, whereby an amount of Rs. 3,96,814/-was sought to be recovered from the petitioner-appellant on account of arrears of HRA.

Briefly stated the facts are as under:-

2. The Jammu and Kashmir Civil Services (House Rent Allowance and City Compensation Allowance) Rules, 1992, Rule 6(h), inter-alia, envisages that a government servant shall not be entitled to House Rent Allowance, if:-

(i) he/she shares Government accommodation allotted rent-free to another Government servant;

(ii) he/she resides in accommodation allotted to his/her parents, son, daughter by the Government.

3. In the backdrop of the aforementioned Rule, it appears that a complaint was

received against the appellant that he was availing government accommodation and simultaneously was drawing HRA. The matter was enquired and examined where an amount of Rs. 3,96,814/- was determined to have been drawn by the appellant as HRA illegally vide communication dated 11.09.2013. The petitioner was directed to deposit the amount in the government treasury. The appellant was also informed that he could produce documentary proof to indicate that quarter in question, i.e., quarter No. 06/A was not under his occupation/possession. Having failed to satisfy the official authorities, the order impugned came to be passed, which became the subject matter of challenge before the writ court.

4. The writ petition filed by the petitioner was dismissed by virtue of judgement and order dated 19.12.2019 and hence, the present Letters Patent Appeal.

5. Learned counsel for the appellant while reiterating the grounds which were urged before the writ court, urged that the quarter in question had, in fact, been allotted in the name of his father, who was a retired Deputy Superintendent of Police, and that, the appellant was only the sharing the accommodation with his father.

6. In view of the clear admission on the part of the appellant that he was sharing the accommodation in question with his father, rule 6(h)(ii) would be attracted.

7. The admission of the appellant that he was sharing the accommodation with his father, would thus bring the case at hand within the purview of Rule 6(h) and in particular (ii) thereof and disentitle the appellant from receiving the House Rent Allowance, which he had received from the government.

8. The argument that no recovery could be made from the petitioner-appellant after his retirement also deserves to be rejected especially in view of the fact that the process for recovery of the House Rent Allowance, illegally received by the petitioner, had been initiated before the date of the retirement of the petitioner-appellant.

9. Be that as it may, we do not find it a case for interference with the judgment and order which is under challenge in the present Letters Patent Appeal. The present appeal is found to be without any merit and is accordingly dismissed.