

(2008) 03 JH CK 0041
In the Jharkhand High Court

Rameshwar Prasad Sinha

APPELLANT

Vs

Central Coal Fields Limited and Others

RESPONDENT

Date of Decision : 26-03-2008

Acts Referred:

Citation : (2008) 2 JCR 493

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Judgement

Amareshwar Sahay, J.—Heard the parties and with their consent this application is being disposed of at this stage itself.

2. The petitioner, who was a field worker under the Central Coalfields Limited at Piparwar, superannuated from service on 31.3.2006. His grievance in this writ application is that the respondent CCL has not paid his gratuity and other dues, which he entitled to have after his retirement.

3. It is stated by the petitioner in this writ application that by issue of Annexure-3 dated 16.2.2007, the petitioner was informed by the Staff Officer (P & A). Piparwar Area, that after his retirement he has not vacated the quarter, which was in his occupation, therefore, he should vacate the quarter immediately, failing which penal rent at the market rate shall be recovered from him in terms of the rules of the company. The petitioner thereafter, vacated the quarter on 19.2.2007 itself and the hospital authorities gave him the clearance certificate in that regard.

4. A counter-affidavit has been filed on behalf of the respondent CCL. In para 6 of the counter-affidavit, it has been stated that by issue of notice dated 13.9.2006 the petitioner was informed to collect the cheque for a sum of Rs. 1,44,968.10 paise after submitting a "no dues certificate" and after vacating the quarter, but the petitioner did not vacate the quarter and continued to occupy the same and, therefore, now out of his total gratuity amount of Rs. 1,44,968.10 paise, an amount of Rs. 46,200/- has been deducted towards penal rent for a

period of 7.5 months, i.e. from July 2006 to 20th February, 2007. It is also stated in the counter-affidavit that a cheque for the balance amount of Rs. 98,768.10 paise is ready for payment to the petitioner, which he can receive.

5. From the facts noticed above, it appears that by issue of Annexure-3 dated 16.2.2007, the Staff Officer of the Piparwar Area had inform the petitioner to vacate the quarter otherwise penal rent on market rate for such unauthorized occupation would be deducted from him. In the counter-affidavit it has also been stated that the respondents have deducted penal rent from the amount of gratuity payable to the petitioner.

6. It is evident that after issue of Annexure-3 the notice dated 16.2.2007 issued to the petitioner by the hospital authorities to vacate the quarter, the petitioner vacated the quarter just after two days, i.e. on 19.2.2007 and, therefore in my view, the petitioner immediately obeyed the direction contained in Annexure-3 and, therefore, deduction of any amount from his gratuity by way of penal rent is wholly unjustified. The respondents could have at best deducted normal market rent but not exorbitant penal rent as has been done in the present case.

7. In view of the facts and circumstances stated above, this writ application is being disposed of by giving direction to the respondents to make payment of the amount of gratuity to the petitioner by issuing a fresh cheque without deducting any amount towards penal rent for the premises the petition occupied.

8. However, they may be at liberty to deduct an amount equal to normal market rent of the premises in question for the period the petitioner was occupying the quarter unauthorisedly. After due calculation the amount of gratuity must be paid to the petitioner within a period of three weeks from the date of receipt/production of a copy of this order.

9. With these observations and directions, this writ application is disposed of. Application disposed of.