
(2013) 12 JH CK 0031
In the Jharkhand High Court
Case No : W.P.S. No. 2881 of 2010

Razi Ahmad

APPELLANT

Vs

Steel Authority of India Ltd. and Others

RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2014) 141 FLR 468 : (2014) 1 JLJR 298

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Judgement

Shree Chandrashekhar, J.—The petitioner has approached this Court seeking a direction upon the respondents for refund of amount of Rs. 1,90,542 along with interest @ 12 % from 27.01.2010. Heard learned counsel for the parties and perused the documents on record.

2. The brief facts of the case are that, the petitioner joined the service under the respondents on 26.05.1971 as feeder and he retired on 31.12.2009. An official accommodation was allotted to the petitioner on 4th November, 1975 and he vacated the said quarter on 04.12.2009. The petitioner applied for sanction of the house building advance. An amount of Rs. 1,50,000/- was sanctioned on 29.09.1995. By letter dated 27.01.2010 a calculation chart was supplied to the petitioner indicating penal rent for retaining the official quarter.

3. A counter-affidavit has been filed taking a plea that an employee was not entitled to retain the official accommodation in cases where the employee or his dependent has their own house within 8 k.m. from the Headquarter of the company. The relevant portion of the counter-affidavit is quoted below:

15. That with regard to the statement made in paragraph 6 of the writ application, under reply, it is stated that the petitioner was allotted Qr. No. 09D/E/0869 and occupied on 4.11.1975 and vacated on 4.12.2009 in view of his separation 31.12.2009. The petitioner has taken House Building Loan within 8 kms. (Hessabatu) on 29.5.1995.

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17. That with regard to the statement made in paragraph 8 of the writ application, under reply, it is stated that as per House Building Loan Rules, if it is taken within 8 kms. radius, the petitioner had to vacate the said quarter within or upto 18 months, failing which imposing of penal house rent get started. Hence, question of giving order regarding recovery of penal rent from the petitioner does not arise.

4. The learned counsel appearing for the petitioner has submitted that without issuing any show-cause notice and without any order for recovery of the penal rent, after the superannuation of the petitioner an amount of Rs. 1,90,542/- has been deducted from the retrial dues of the petitioner. He has further submitted that in the letter dated 27.01.2010, it is not even indicated since when the penal rent is charged for retaining the official accommodation.

5. The learned counsel for the respondents has submitted that in the sanction letter whereby an advance of Rs. 1,50,000/- was sanctioned for constructing building it has been specifically mentioned that such loan would be subject to the official Circular. Relying on Circulars dated 27.02.1985, 21.01.1992 and 18.07.1985, the learned counsel for the respondents has submitted that within 3 months of grant of loan, the petitioner was required to vacate the official accommodation which admittedly he has not vacated and therefore, the penal rent was charged from the petitioner for retaining official accommodation beyond 3 months.

6. On a perusal of the documents on record, I find that Circular dated 27.02.1985, stipulates as under:

1. Revised House Building Advance Rules have been circulated vide No. PER(RR) 134 dated 13.9.84. Queries have been raised whether an employee who has built his own house at the place of posting, will be entitled to Company accommodation/company leased accommodation.

2. It is clarified that employees will be required to vacate the company accommodation/company leased accommodation as the case may be in the following eventualities:-

(a) Employees constructing/acquiring houses in the Company's townships or within the municipal limits of the town/city of his posting with financial assistance from the Company; or

(b) Employees or any of their dependents constructing/acquiring houses, even out of their resources, in the Company's townships or within the municipal limits of the town/city of their posting provided such houses are built on land allotted by the Company or the land is made available through the aegis of the Company.

3. The company accommodation/company leased accommodation as the case may be, shall be vacated by the employee within three months after the

construction of his own house is completed or possession of the house/flat is taken over.

7. In the Circular dated 18.07.1985 it has been mentioned that the employees constructing/acquiring houses within 8 kms. radius from BSL Admn. Building either in their own name or in the name of any of their dependents with or without any assistance from the Company shall also have to vacate company accommodation, within 3 months of such construction/acquisition. It has been provided that defaulter would render themselves liable for appropriate disciplinary action. In the Circular dated 21.01.1992 it is stated thus:

Consequent upon the change of eligibility criteria for allotment of quarters to the employee whose permanent addresses fall within 8 km distance from the Main Administrative building (Ispat Bhawan) at the shortest route will not be entitled for allotment of Company's quarters. Such villages are enlisted at Annexure-1.

For those who have not yet vacated the house-blocks of acquired villages, their cases would be decided after they shift to their respective rehabilitation sites. In such cases, if their rehabilitation sites fall within the villages enlisted at the annexure, they would not be eligible for allotment of Company's quarters. This issue with the approval of competent authority.

8. I find that the express language of the Circular dated 27.2.1985 clearly indicates that an employee was to vacate official accommodation after the construction/acquisition of house by himself or by one of his dependents. In the present case even in the counter-affidavit it has not been disclosed by the respondents that, the penal rent has been imposed upon the petitioner as he constructed his own house and failed to vacate the official accommodation within 3 months after such construction. On a harmonious reading of the Circulars dated 27.02.1985, 21.01.1992 and 18.07.1985, I am of the view that an employee would be liable to pay penal rent for retaining official accommodation only when the employee fails to vacate the official accommodation within 3 months on acquiring or constructing a house. In the present case, I do not find any material on record, on the basis of which the respondents have come to a conclusion that the petitioner though constructed a house, failed to vacate the quarter and therefore, the respondents have imposed the penal rent of Rs. 1,90,542/- upon the petitioner. Mere grant of house loan is not sufficient. Moreover, no show-cause notice was issued to the petitioner. In view of the aforesaid, this writ petition is allowed. The respondents are directed to refund the said amount Rs. 1,90,542/- @ 6% subject to their right for recovery of penal rent from the petitioner after furnishing complete details to the petitioner.