

(2021) 06 SHI CK 0022

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3220 Of 2021

Rewti Devi

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 11-06-2021

Acts Referred:

Citation : (2021) 06 SHI CK 0022

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Bimal Gupta, Poonam Moghta, Ajay Vaidya

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Notice. Mr. Ajay Vaidya, learned Senior Additional Advocate General, appears and waives service of notice on behalf of the respondents. In view

of the nature of order being passed hereinafter, there is no need to call for reply from the respondents.

2. Heard learned counsel for the parties. Petitioner is aggrieved against imposition of penal rent amounting to Rs.99,222/- levied upon her on account of unauthorized retention of the government premises.

3(i). The petitioner is a specially-abled person with 45% disability with respect to the spine. While working as Staff Nurse, she was transferred to

Regional Hospital (RH), Bilaspur in the year 2016. On 17.06.2017, government accommodation was allotted to her at Bilaspur. She was promoted as

Ward Sister on 07.01.2020 and posted at Dr. Radhakrishnan Government Medical College (Dr. RKGMC), Hamirpur. Subsequent to her promotion,

petitioner joined as such at the transferred place. She, however, did not vacate

the government accommodation allotted to her at Bilaspur.

3(ii). On 20.04.2020, petitioner represented to respondent No.4-Deputy Commissioner, Bilaspur, seeking retention of the said accommodation during

Session 2020-21 keeping in view the lockdown imposed at that time on account of COVID-19 pandemic as well as ongoing studies of her minor

children. She reiterated her request for retention of the premises on 02.06.2020.

3(iii). On 10.07.2020, respondent No.2, i.e. Estate Officer, District Bilaspur, permitted the petitioner to retain the accommodation at Bilaspur upto

30.04.2020 at four times the normal rent with directions to her to vacate the premises by 30.04.2020, failing which penal rent at the rate of Rs.18/- per

sq. feet was to be charged from her w.e.f. 01.05.2020. The petitioner again requested to allow her to keep the government accommodation. Her

request was turned down by respondent No.1, i.e. Additional Chief Secretary (GAD) to the Government of Himachal Pradesh, on 07.09.2020. This

decision was conveyed to her by respondent No.2 on 14.10.2020. Respondent No.2 further directed the petitioner to comply with the previous office

order issued on 10.07.2020 in respect of vacation of the premises as well as depositing the penal rent.

3(iv). In the meanwhile, considering petitioner's family circumstances as well as petitioner's own disability to the extent of 45%, she was

transferred from Dr. RKGMC, Hamirpur and brought back to Regional Hospital, Bilaspur vide notification dated 09.12.2020. The petitioner re-joined

at Bilaspur pursuant to this notification. Subsequent to her joining at Bilaspur, she again submitted a detailed representation to respondent No.4 in

December, 2020 (Annexure P-9) for continuing to keep the premises in question and for waiver of the penal rent.

3(v). Without deciding petitioner's representation at Annexure P-9, which was submitted in the changed circumstances, i.e. subsequent to her re-

transfer at RH Bilaspur in light of her adverse circumstances, respondent No.2, acting upon Annexure P-6, dated 10.07.2020 and Annexure P-7, dated

14.10.2020, issued a communication on 24.02.2021 (Annexure P-10), determining the total penal rent payable by the petitioner for her unauthorized

occupation of the government premises w.e.f. 01.05.2020 to 09.12.2020 at Rs.99,222/-. The petitioner was directed to deposit the penal rent, failing

which action in accordance with the H.P. Public Premises and Land (Eviction &

Rent Recovery) Act, 1971 was to follow.

3(vi). The petitioner in continuation of her previous representations, more particularly in continuation of Annexure P-9, again represented her case to

all concerned authorities, including her employer, i.e. respondent No.3-Chief Medical Officer, Bilaspur. Taking note of this representation, her

employer, on 08.03.2021 (Annexure P-11) requested respondent No.4 to â?? consider the matter sympathetically in favour of the official keeping in

view Pandemic COVID-19 and her adverse family conditionsâ??. This communication is statedly still pending consideration of respondent No.4.

Without taking any decision upon the representations of the petitioner, more specifically the ones preferred after her re-transfer to RH Bilaspur,

deduction from her salary was started by the respondents in lieu of penal rent allegedly payable by her. The first installment of Rs.10,000/- on account

of the penal rent was deducted from the petitionerâ??s salary for the month of March, 2021. Learned Senior Counsel submitted that by now,

Rs.30,000/- in all have been deducted from petitionerâ??s salary on account of penal rent. Petitionerâ??s employer-respondent No.3 vide his

communication dated 10.05.2021 (Annexure P-13), addressed to Medical Superintendent, Regional Hospital, Bilaspur, again made an endeavour for

decision upon petitionerâ??s representation requesting for appropriate action in favour of the official.

4. Learned Senior Counsel for the petitioner submits that the petitioner was facing adverse family circumstances, because of which she could not

vacate the government accommodation allotted to her in Bilaspur. Her minor children were studying at Bilaspur. It was COVID-19 pandemic times.

Petitioner herself was 45% disabled. Her husband was also suffering from Cardiac disease and in fact, it is because of these adverse circumstances

that the respondent-State favourably considered her case for transfer back to RH Bilaspur. For all these reasons, penal rent should not be imposed

upon the petitioner for the period 01.05.2020 to 09.12.2020.

5. Admittedly, the representations of the petitioner preferred to respondent No.4 have not been decided till date. Though in office order dated

14.10.2020 (Annexure P-7), issued by respondent No.2, a reference has been made of an office order issued on 07.09.2020 regarding rejection of

petitionerâ??s case by respondent No.1, however, the fact remains that post her

re-transfer to RH Bilaspur on

9. 12.2020, the petitioner submitted various representations, as noticed earlier, which as per submissions made during hearing, are still pending

consideration. Even the employer of the petitioner, i.e. respondent No.3, had requested respondent No.4 to decide the representations of the petitioner

sympathetically considering COVID-19 pandemic and her adverse family conditions. As on date, an amount of Rs.30,000/- stands deducted from

petitioner's salary in lieu of penal rent out of total determined penal rent of Rs.99,222/- for unauthorized retention of government accommodation

w.e.f. 01.05.2020 to 09.12.2020. Therefore, it will be appropriate to dispose of the present writ petition by directing respondent No.4/ competent

authority to decide the representation of the petitioner at Annexure P-9, dated December, 2020, in accordance with law, within a period of two weeks

from today. While taking decision, the request made by her employer on 08.03.2021 (Annexure P-11) shall also be appropriately considered. This

course is also not opposed by learned Senior Additional Advocate General. Ordered accordingly. Till such decision, further recovery from the salary

of the petitioner on account of penal rent for retention of government premises is stayed. Liberty is reserved to the petitioner to seek appropriate

remedy in accordance with law, in case she still feels aggrieved.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

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