
(2018) 04 JH CK 0024
In the Jharkhand High Court
Case No : W.P. (S) No.4110 of 2008

SHIV NARAYAN PASWAN AND OTHER	Vs	APPELLANT
STATE OF JHARKHAND AND OTHER		RESPONDENT

Date of Decision : 09-04-2018

Acts Referred:

Constitution of India, — Article 226

Citation : (2018) 04 JH CK 0024

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : Indrajit Sinha, Rakesh Kumar Shahi

Final Decision : Dismissed

Judgement

1. In the instant writ application, the petitioners have prayed for quashing of the order No.29/2008 dated 28.04.2008 (Annexure-9) issued by the respondent no.6 denying the payment of house rent allowance to such police officers/personnel who reside in the premises of the institute or in the premises of institute's Director Bunglow and the petitioners have further prayed for quashing of the order No.31/2008 dated 05.05.2008 (Annexure10) issued by the respondent no.5 pertaining to recovery of amount paid towards house rent allowance, during the period February, 2004 to February, 2008 in 12 equal monthly installments during the financial year 2008-2009 in the quantum as indicated in the said order. Further, the petitioners have prayed for direction upon the respondents to continue paying house rent allowance to the petitioners.Â
2. The factual matrix as has been disclosed in the writ application in a nutshell is that the petitioners are working on various posts and are posted at Jharkhand Traffic Police and Transport Training School, Jamshedpur. In the writ

application, it has been submitted that as per resolution dated 24.12.1986, Clause 5 thereof, envisages for payment of house rent allowance to the government employees. Deputy Superintendent of Police-cumPrincipal, Traffic and Transport Training School, Jamshedpur vide memo dated 17.02.2004 stopped the payment of house rent allowance to the Ministerial/class IV employees. The petitioners submitted representation for payment of house rent allowance. The representation of the petitioners were forwarded to the Deputy Inspector General of Police (Training)-cumPrincipal, Police Training College, Hazaribagh. Thereafter, the respondent no.4 vide memo no.1067 dated 21.06.2007 addressed to the respondent no.6, intimated that house rent allowance is payable to such constables/hawaldars who reside in Barrack and was not provided with any regular government quarters in view of Clause 2(a) contained in memo dated 03.05.1997, issued by the Finance Department, Government of Bihar. The respondent no.6 was also directed to pay the house rent allowance alongwith arrears thereof to such Class IV employees/police personnel who do not reside in any government quarters as per Annexure-3 to the writ petition. Thereafter, respondent no.5 vide District Order dated 13.07.2007 directed the respondent no.6 for payment of house rent allowance along with arrears thereof to those Class IV employees/police personnel who were not provided with government quarters as per Annexure-4 to the writ petition. A chart was prepared showing the payment of house rent allowance alongwith arrears to the police personnel/police officers including the petitioners during the period February, 2004 till February, 2008 and thereafter, respondent no.6 vide memo dated 31.03.2008 informed the respondent no.5 that payment of the police personnels/officers as mentioned therein has been stopped as per the oral direction of the letter with effect from March, 2008 and the respondent no.5 has also solicited guidelines from the respondent no.4 with regard to the withdrawal for payment of house rent allowance. The respondent no.4 informed the respondent no.5 that the police officers/Class IV employees who do not reside in government quarters should be paid the house rent allowance along with arrears thereof, as per Annexure-8 to the writ petition. It has further been submitted that the respondent no.6 on the basis of oral directions of the respondent no.5, vide district Order No.29/2008 dated 28.04.2008 has been pleased to direct that

on and from March, 2008 the house rent allowance would not be payable to such police officers/personnel who reside in the premises of the institute

or in the premises of institute's Director Bungalow as per Annexure-9 to the writ petition. Thereafter, by order No.31/2008 dated 05.05.2008, the

respondent No.5 was directed to recover the amount paid to the petitioners during the period February, 2004 to February, 2008 in 12 equal monthly

installments during the financial year 2008-2009 in the quantum as indicated in the said order, as per Annexure-10 to the writ petition. Being aggrieved

by the aforesaid order, the petitioners through Jharkhand Rajya Arajpatrit Karamchari Mahasangh filed a representation dated 02.06.2008 before the

respondent no.4 as evident from Annexure-11 to the writ petition. Being aggrieved and dissatisfied with the aforesaid order, the petitioners left with no

other alternative remedy have been constrained to approach this Court under Article 226 of the Constitution of India for redressal of their grievances.

3. Learned counsel for the petitioners submitted with vehemence that the action of the respondents in issuing the impugned orders amounts to arbitrary

and illegal exercise of power for breach of principles of natural justice. Learned counsel for the petitioners further submits that the petitioners are

entitled for payment of house rent allowance as per the guidelines issued by the Department of Finance (erstwhile State of Bihar) as contained in

Clause 5 of the Resolution dated 24.12.1986 and therefore, the impugned orders issued by the respondent nos.5 and 6 are liable to be set at naught.

4. Supplementary counter-affidavit has been filed by the respondent no.5 repudiating the assertions made in the writ application. In the

counteraffidavit, it has been submitted that as per memo dated 17.02.2004 issued by the D.I.G. (Training) cum Principal Police Training College,

Hazaribagh it has been mentioned that police personnel who are living in a Barrack are not entitled for H.R.A and it has further been mentioned that if

the police personnel are staying in the rented premises, they would be entitled for H.R.A and for that they have to submit documentary proof. It has

further been submitted that the 4th Grade personnel living in the outhouse will not get H.R.A and if such police personnel are living in a rented house,

they would be entitled for H.R.A as evident from Annexure-A to the supplementary counter-affidavit. It has further been submitted that the Principal

of T.T.S had forwarded the joint application of the petitioners vide memo dated 15.12.2004 for considering the request sympathetically. Further, it has

been submitted that the said T.T.S campus in which the petitioners are residing in a school belonging to T.T.S. Jamshedpur and the officers and police

personnel along with 4th Grade employees are residing in the quarters of said School. It has further been submitted that the petitioners managed to

take the arrears of the said H.R.A. by misrepresenting the facts and the petitioners have not disclosed living in the premises/campus of T.T.S

Jamshedpur and the petitioners are living in their premises without paying any house rent to any authority. So far as H.R.A. of 4th Grade Employees

living in the T.T.S. Jamshedpur is concerned, an enquiry was conducted by the House

Management Inspector and in his enquiry report vide memo dated 28.03.2008, it has been clearly mentioned that the petitioners are not entitled for

H.R.A as per Annexure-C to the counter-affidavit. It has further been submitted that there are clear cut guidelines for the H.R.A., hence the

petitioners are not entitled for the H.R.A because they are already living in the campus of T.T.S. Jamshedpur. It is important to mention that T.T.S.

(Traffic Training School) Jamshedpur which is running in the premises and campus of T.T.S., Jamshedpur belongs to M/s Tata Steel Ltd. Jamshedpur

(as per lease agreement) and the house and office are situated over the said land and no rent is being paid to the lessee M/s Tata Steel Ltd.,

Jamshedpur and as such, the petitioners are not entitled for H.R.A. and they are legally bound to return the H.R.A. received by them as per

Annexure-B to the counteraffidavit.

5. Learned counsel for the State apart from reiterating the submissions made in the counter-affidavit has vociferously submitted that the petitioners on

one hand are living in the campus of T.T.S. Jamshedpur which belongs to the Tata Steel Company Ltd. and on the other hand the petitioners are trying

to protect the fact that they are entitled for any Government accommodation. Therefore, the impugned orders passed by the respondents are justified

as per law.

6. Having heard learned counsel for the respective parties at length and on perusal of the records, I am of the considered view that the challenge of

the petitioners to the impugned orders are not legally sustainable. In view of the categorical submissions made in the counter-affidavit which are not

controverted by the petitioners therefore, the assertions made in the

counteraffidavit are accepted on the ground of doctrine of non-traverse. In view of the submissions made in the counter-affidavit, the impugned orders vide Annexure Nos.9 and 10 do not warrant any interference by this Court.

7. Accordingly, the writ petition sans merit is hereby dismissed and on dismissal of the writ petition, the interim order dated 09.01.2018 stands vacated.

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