(2014) 05 MP CK 0185

In the Madhya Pradesh High Court

Case No : W.P. No. 1171/2013

Smt. Surajmukhi Vimla and Others APPELLANT

Vs

State of M.P. and Others RESPONDENT

Date of Decision : 05-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0185

Hon'ble Judges : S.K. Gangele, J;B.D. Rathi, J

Bench : Division Bench

Advocate : Prashant Sharma, Advocate for the Appellant; Raghvendra Dixit, Advocate for Respondents No. 2, 3 and 4, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

1. Heard.

2. Legal Representatives of the deceased employee have filed this petition against the order dt. 3.12.2012 passed by the Central Administrative Tribunal in O.A. No. 642/2008.

3. Deceased employee late Mr. Goverdhan Singh was retired from service w.e.f. 31.7.1994 after attaining the age of superannuation. When the retiral dues were not settled, he filed an application before the Central Administrative Tribunal. It was registered as O.A. No. 289/1995. The Tribunal disposed of the application vide order dt. 8.1.1997 with the following directions:-

It is alleged that some recoveries are pending and as such final pension has not been fixed. The applicant is continuing in the accommodation allotted by the department. It was made clear in the order dated 14.9.95 that in case the department decides the matter within two months, the applicant shall vacate the quarter. Now that the order has been passed on 31.12.1996, the applicant should vacate the quarter within one month from today. No further extension shall be granted.

4. It is an admitted fact that the employee did not vacate the quarter allotted to him after retirement. The Tribunal directed the employee vide order dt. 8.1.1997 to vacate the government quarter allotted to him within a period of one month from the date of the order, however, the employee finally vacated the accommodation on 18.11.1999, hence, the respondents imposed penal rent against the employee.

5. The deceased employee filed another application before the Tribunal when his total retiral dues were not paid. It was admitted by the respondents before the Tribunal that an amount of Rs. 1,61,782/-was due towards the employee on account of retiral dues. The department further pleaded that the aforesaid amount could not be paid to the employee because the employee was liable to pay penal rent of Rs. 4,66,010/-levied by the department against the employee on account of unauthorised occupation of the quarter after retirement. The Tribunal rejected the application of the employee on the ground that an amount of Rs. 4,66,010/-was due against the employee, hence he was not eligible to get retiral benefits of Rs. 1,61,782/-.

6. During the pendency of the application before the Tribunal, the employee was died and his legal representatives were brought on record. They filed the present writ petition.

7. It is an admitted fact as stated earlier that in spite of the order of the Tribunal the employee did not vacate the government accommodation. As per the order, it was obligatory on the part of the employee to vacate the government accommodation w.e.f. 31.1.1997, however, he vacated the said accommodation and handed over the possession of the department on 18.11.1999. The department calculated the penal rate recoverable from the employee on account of occupation of the quarter from the date of his appointment i.e. from the year 1975. The aforesaid fact is clear from the chart filed by the respondents alongwith the return, which is as under:-

8. In our opinion, the calculation of the penal rent by the respondents against the employee from the date of initial allotment of quarter i.e. 1975 is illegal. The employee retained the quarter unauthorisedly w.e.f. 30.1.1997 to 18.11.1999 and for the aforesaid period only the penal rent could be charged from the employee.

9. Consequently, the petition is allowed in part. The impugned order dt. 3.12.2012 passed by the Tribunal in O.A. No. 642/2008 is hereby quashed. It is directed that the respondents shall fix the penal rent on account of unauthorised occupation of the quarter by the deceased employee for a period w.e.f. 30.1.1997 to 18.11.1999 and after deducting the amount, rest of the amount on account of non-payment of retiral dues shall be paid to the petitioners within a period of three months from the date of receipt of copy of the order with interest @ 9% p.a. Petition is disposed of accordingly.

10. No order as to costs.

