



2024:CGHC:45765-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 430 of 2022

Hari Prakash Beohar S/o Late S.B Verma Aged About 70 Years R/o A -
5, Shankar Nagar, Raipur , District Raipur, Chhattisgarh

... Appellant

versus

1 - State Of Chhattisgarh Through The Secretary, Home Department,
DKS Bhawan, Raipur Chhattisgarh Present Address Mantralaya,
Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur
Chhattisgarh

2 - Chhattisgarh State Infrastructure Development Corporation Limited,
Through Its Managing Director, Head Office Shastri Chowk, Raipur,
Chhattisgarh

... Respondents

For Appellant	:	Mr.C.J.K.Rao, Advocate
For Respondent No.1	:	Mr.Y.S.Thakur, Additional General Advocate
For Respondent No.2	:	Mr.Rahul Ambast, Advocate holding the brief of Mr.Aman Pandey, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

22.11.2024

1. Heard Mr.C.J.K.Rao, learned counsel for the appellant as well as Mr.Y.S. Thakur, learned Additional Advocate General appearing for respondent No.1/State and Mr.Rahul Ambast, learned counsel holding the brief of Mr.Aman Pandey, learned counsel for respondent No.2.
2. The appellant has filed this writ appeal against the order dated 16.06.2022 passed by learned Single Judge in WPS No. 2309 of 2012 by which learned Single Judge has allowed the writ petition in part filed by the appellant herein / writ petitioner therein.
3. Brief facts necessary for disposal of the case are that in the year 1976 the appellant was employed as 'Depot Manager' in the then Madhya Pradesh State Road Transport Corporation. In the year 1998, the appellant was promoted to the post of 'Divisional Manager'. The appellant was thereafter transferred from Seoni to Raipur in the year 1999. He was allotted government residential accommodation bearing number 'A-5, situated at Sector-1, Shankar Nagar, Raipur'. After reorganization of State of Madhya Pradesh, the State Government of Chhattisgarh abolished State Road Transport Corporation and vide Notification dated 13.12.2002 employees of State Road Transport Corporation along with its assets and liabilities were taken over by the respondent No.2. Vide order dated 27.1.2006 the appellant was sent on deputation to the Department of Food, Civil Supplies and Consumer Conservation, Raipur. Last pay certificate of the

appellant was also forwarded to Department of Food, Civil Supplies and Consumer Conservation, Raipur on 13.2.2006. The appellant worked on deputation till 15.7.2010 and thereafter he was sent on deputation to Chhattisgarh Warehousing Corporation as 'Manager (Personnel)'. Service of the appellant was absorbed in Chhattisgarh Warehousing Corporation vide order dated 28.7.2010. The appellant retired from service on attaining age of superannuation. The Board of Directors of respondent No.2 in its meeting dated 20.1.2009 took a decision to get departmental accommodation vacated from the employees who are on deputation or posted in any other department. The appellant surprised to receive order dated 5.5.2012 for vacating residential accommodation in his possession and recovery of penal rent of Rs.8,69,200/- for the period from October 2008 to May 2012.

4. It is further case of the appellant that respondent No.2 treated occupation of the appellant since February, 2006 till passing of the impugned order, cancelling allotment of residential accommodation in the name of the appellant, hence also order of penal rent is per se illegal. The appellant got constructed a house on land measuring 2000 sq. ft. which he purchased in the year 2010. Occupation of two bedrooms, hall & kitchen was not suitable for the appellant looking to his designation, therefore, it cannot be said that the appellant continued to occupy residential accommodation even after construction of his own house in the same city.

5. The appellant filed writ petition being WPS No.2309 of 2022 before this Court for setting aside the order dated 5th May, 2012 passed by the respondents, which was partly allowed by learned Single Judge, against which the appellant has filed this writ appeal.
6. Learned counsel for the appellant submits that learned Single Judge ought to have held that the action of the respondent authorities is arbitrary, illegal and contrary to law applicable to the facts and circumstances of the case. Learned Single Judge ought to have considered the notification dated 24.06.2000 and 16.10.2008 while assessing the lease in respect to the house allotted to the appellant. He further submits that learned Single Judge ought to have appreciated this fact that the appellant was on deputation to the Food, Civil Supplies and Consumer Conservation by the CIDC itself, accordingly, the appellant is entitled to government house till July, 2010 as per the rate of license fee. Learned Single Judge ought to have appreciated that the rent @ Rs.7950/- per month was not at force in the year 2006. He also submits that learned Single Judge ought to have appreciated that as the appellant was on deputation till 28.07.2010, accordingly the penal @ Rs.15900/- is not applicable in the present case of the appellant. Learned Single Judge ought to have appreciated that the appellant's basic salary was Rs.5000/- per month, accordingly, the appellant is in G-Category and the license fee will be charged accordingly. Learned Single Judge ought to have appreciated that vide order dated 28.07.2010,

the appellant absorbed in the Chhattisgarh Ware Housing Corporation, which is also government undertaking, accordingly, the appellant was not a illegal occupant, accordingly, the imposition of penal rent is totally unjustified. He contended that the notice issued by respondent No.2 in compliance of the order passed by this Court directing the appellant to deposit the penal rent is totally unjustified for the reason that respondent No.2 is well aware of this fact that the appellant engaged in Naya Raipur Development Authority on contract basis. He further contended that respondent No.2 is well aware with this fact that the appellant is entitled for government occupation as per Niyam, 2012. As the appellant is G-category employee as reflects from Annexure P-3, he is liable to pay license fee of Rs.600/- from February 2006 to December 2009 as per Annexure P-7. Accordingly, the calculation of the amount of rent @ Rs.7,950/- is totally perverse. He also contended that from January 2010 to March 2013, the appellant is liable to pay the rent double of the market rate i.e. $Rs.5400 \times 2 = 10,800/-$ as per Annexure P-8 as the appellant is G-Category employee. As the appellant engaged in the contractual service vide order dated 03.04.2013 and as per the order passed by the Sub-Divisional Officer dated 04.02.2014, the appellant has to pay license fee, accordingly, as the appellant posted as B-Category Grade Officer, the license fee will be @ 1150/- from April 2013 to July 2022. Thereafter, the appellant from August 2022 to April 2024 liable to pay double of the market rate i.e. 5400×2 i.e.

Rs.10,800/-. The entire calculation is as follows:-

Sr.No.	Months	License Fee / Rent	Number	Total Amount
			of	
			Months	
1.	February 2006 to December 2009	License Fee Rs.600/-	46	27,600/-
2.	January 2010 to March 2013	Double rent 5400 x 2 = 10,800/-	38	4,10,400/-
3.	April 2013 to July 2022	License fee 1150/-	120	1,38,800/-
4.	August 2022 to April 2024	Double rent 5400 x 2 =10,800/-	20	2,16,000/-
			Total	7,92,000/-

As such, the writ appeal deserves to be allowed and the impugned order passed by learned Single Judge deserves to be modified.

7. On the other hand, learned counsel for respondent No.2 opposes the submissions made by learned counsel for the appellant and submits that learned Single Judge after considering all the aspect of the matter has partly allowed the writ petition, which warrants no interference by this Court.
8. We have heard learned counsel appearing for the parties, perused the impugned order and other documents annexed with writ appeal.
9. From perusal of the impugned order, it transpires that learned Single Judge has held that it is apparent that respondent No.2 issued letters to petitioner granting two weeks' time to vacate accommodation and specifically mentioning that on petitioner's

failure to vacate accommodation, recovery of rent at the rate of double of market rate will be made. In light of specific letters/notices issued by respondent No.2 to the petitioner, it cannot be said that the impugned order has been passed in violation of principles of natural justice. Possession of petitioner over departmental accommodation is not in dispute. It is also not in dispute that in the month of February, 2006 petitioner went on deputation to Department of Food, Civil Supplies and Consumer Conservation, Raipur, but he continued with possession of departmental accommodation allotted to him by respondent No.2. In these circumstances, learned Single Judge held that respondent No.2 has not committed any illegality or irregularity in issuing impugned order dated 5.5.2012 charging penal rent from the petitioner. Learned Single Judge has further held that perusal of impugned order would show that penal rent has been charged for the period from October 2008 till May 2012. Only eviction notice available on record to show that it was issued by respondent No.2 for the first time is on 24.12.2009 mentioning that if departmental accommodation is not vacated within fifteen days, penal rent will be recovered from petitioner. Respondent No.2 has not placed on record copy of any other notice/letter issued to petitioner prior to 24.12.2009. The decision for getting departmental accommodation vacated is taken only in the month of January 2009, hence penal rent could be charged from January 2010 only i.e. after issuance of notice and not from the month of October 2008, so far as

dispute relates in this petition is concerned and allowed the writ petition in part and modified the impugned order dated 5.5.2012 to the extent that respondent No.2 is entitled to calculate amount of penal rent recoverable from petitioner from the month of January, 2010. The petitioner is liable to pay rent @ of Rs.7,950/- per month, as assessed in the impugned order, from February 2006 to December 2009 and penal rent @ Rs.15,900/- per month from January 2010. Other part of impugned order shall remain intact.

10. Considering the submissions advanced by learned counsel for the parties, perusing the records of writ petition as also documents annexed with writ appeal and the findings recorded by learned Single Judge while partly allowing the writ petition filed by the appellant, we are of the considered opinion that learned Single Judge has not committed any illegality, irregularity or jurisdictional error in the impugned order warranting interference by this Court.
11. Accordingly, the writ appeal being devoid of merit is liable to be and is hereby **dismissed**. No cost(s).

Sd/-

(Amitendra Kishore Prasad)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice