

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 575 of 2018

- Uma Singh W/o Late Shri Surendra Kumar Singh, Aged About 62 Years C/o Gopinath Soni, Gandhi Nagar (Rajendra Nagar Colony), Near CSEB Office, Ambikapur, District Surguja, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. The Collector, Surguja, District Surguja, Chhattisgarh.
3. Commissioner, Department of Tribal Welfare, Raipur, District Raipur, Chhattisgarh.
4. Assistant Commissioner, Department of Tribal Welfare, Ambikapur, District Surguja, Chhattisgarh.
5. The Principal, Government Higher Secondary School, Darima, District Surguja, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Sushobhit Singh, Advocate
For Respondents/State	:	Shri Prafull N. Bharat, Additional Advocate General

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Prashant Kumar Mishra, Judge

Judgment on Board

Per, Ajay Kumar Tripathi, Chief Justice

13.08.2018

1. Heard counsel for the Appellant and the learned Additional Advocate General for the State.
2. No doubt the learned Single Judge has dismissed the writ application filed by the Appellant where recovery made and the orders passed for such recovery against illegal occupation of two Government accommodations being the primary issue, was raised before the writ Court. A quantified amount of Rs.4,95,167/- was recoverable as per the order passed by the Collector, District – Surguja which was not interfered with.
3. There was an inquiry and the findings are that the Appellant was in occupation of two quarters i.e. G-1 and E-1 type at the Girls Hostel, Ambikapur even though she was not posted at the Girls Hostel, Ambikapur and was posted at the Higher

Secondary School, Mendrakala. Not only she failed to pay any rent for the said occupation she was also claiming H.R.A. and Travelling Allowance between Mendrakala as well as Ambikapur.

4. These findings have been given in the course of inquiry, therefore, the right of the State to recover the amount or market rent cannot be said to be unjustified.
5. However, we notice one legal infirmity in the order of the learned Single Judge in allowing such recovery even from the gratuity amount of the Appellant which in our opinion is impermissible. The right of an employee to demand and beget gratuity on superannuation has been dealt with in various decisions of the Hon'ble Supreme Court and it makes no difference whether that employee was in legal occupation or illegal occupation of the Government accommodation. There is certain amount of sanctity which has been conferred upon gratuity amount under the statute as well as under the interpretation of law given by the Courts from time to time.
6. The writ appeal therefore stands allowed to the extent that the deductions which have been made by the Respondents from the retiral dues of the Appellant is impermissible, so far as gratuity amount is concerned. The gratuity amount of the Appellant must be refunded back to the Appellant by the Respondent authorities within a period of four weeks from the date of production of a copy of this order. So far as outstanding dues if any remain, Respondents may set the law in motion, for effecting such left over recovery.
7. The appeal stands allowed with the observation and relief as indicated above.

Sd/-
(Ajay Kumar Tripathi)
 Chief Justice

Sd/-
(Prashant Kumar Mishra)
 Judge