

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1458 OF 2019

(RADHESHYAM RAMKRIPAL DUBEY...VS.. WESTERN COAL FIELD LTD. & ANR.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri S.D.Malke, Advocate for Petitioner.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 27, 2019.

Heard.

The Estate Officer had passed an order under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as “the Act of 1971”) directing eviction of the petitioner from the quarter occupied by him. This order was challenged by the petitioner in appeal under Section 9 of the Act of 1971. The learned Principal District Judge has dismissed the appeal by the impugned judgment. The learned Principal District Judge has observed that the petitioner surpassed his age of superannuation in 2011 and after that his occupation of the quarter is unauthorized. The petitioner relies on Clause 25.4 of the Standing Orders applicable to the Western Coalfields Limited to substantiate that his occupation of the quarter cannot be said to be unauthorized. Clause 25.4 reads as follows:

“25.4 The use of company's quarter is conditional on the workman being in service of the company. However, where case pertaining to the concerned worker is pending before CGIT till the case is decided by the CGIT or where the management prefers an appeal against the AWARD of the CGIT, till the case is decided by the Hon'ble Court of Law.”

As per the above clause, the basic condition which the person has to fulfill to occupy the quarter of the company is that he should be in service of the company. An exception is carved out and in case any dispute concerning the workman is pending before CGIT, the workman is unauthorized to occupy the quarter till the dispute/case is decided under the CGIT and in case the management prefers an appeal against the award passed by CGIT, till the case is decided by the Court. The petitioner relies on this exception and contends that as the dispute vide Case No.CGIT/NGP/03/2012-13 regarding the claim of the petitioner for promotion and other benefits is pending before the Tribunal, he is entitled to occupy the quarter. The stand taken by the petitioner is totally misconceived and cannot be accepted. The exception carved out under Clause 25.4 of the Standing orders will be in respect of the workman who has not surpassed the age of superannuation. The exception carved out by Clause 25.4 of the Standing Orders can be invoked by the workman only in case of dispute pending before the Tribunal and if the dispute is decided in favour of the workman he has to be reinstated. In the present case, the documents on record show that the dispute is registered in 2012-13, after the retirement of the petitioner. The learned Advocate for the petitioner has pointed out that the petitioner had approached Conciliation Officer on 18th March 2011 i.e. before his retirement. It does not make any difference as in any case, even if the dispute is raised prior to retirement the workman is not entitled to occupy the quarter on retirement or after surpassing the age of superannuation.

If Clause 25.4 of the Standing Orders is interpreted in the manner as the petitioner wants, the employees will seek protection of it and continue to occupy the quarter even after their retirement or after surpassing the age of superannuation, raising any false and fictitious dispute.

In view of the above, I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

Copy of this order be sent to the Deputy General Manager (Mining), Western Coalfields Limited, Durgapur, District : Chandrapur and The Estate Officer, Western Coalfields Limited, Durgapur Open Cast Sub-Area, Chandrapur, District : Chandrapur.

At this stage, the learned Advocate for the petitioner prayed that the petitioner be granted four weeks' time to vacate the quarter.

The learned Principal District Judge has recorded in paragraph No.7 of the impugned judgment that the petitioner is occupying quarter without paying anything to W.C.L. since several years. In these facts, I am not inclined to grant the prayer made on behalf of the petitioner, it is **rejected**.

JUDGE