

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1825 of 2017

In

Civil Writ Jurisdiction Case No.9287 of 2012

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1. The Chairman- cum- Managing Director, NTPC Ltd. Scope Complex, 7 Institutional Area, Lodi Road, New Delhi.
 2. The Director (HR), NTPC Ltd. Scope Complex, 7 Institutional Area, Lodi Road, New Delhi.
 3. The Regional Executive Director, NTPC Ltd. Lok Nayak Jaiprakash Bhawan, 2nd Floor, Fraser Road, Patna.
 4. The General Manager (HR), NTPC Ltd. Lok Nayak Jaiprakash Bhawan, 2nd Floor, Fraser Road, Patna.
 5. The Senior Officer (HR), NTPC Ltd. Lok Nayak Jaiprakash Bhawan, 2nd Floor, Fraser Road, Patna.

... .. Appellant

Versus

Rabindra Mishra, S/o Late Bhawdeo Mishra, Ex. Senior Manager (C & M), Resident of- Flat No.- H- 103, Phase III, NTPC Vihar, Ambedkar Path, P.S.- Rupaspur, District- Patna.

... .. Respondent

Appearance :

For the Appellant/s : Mr. Tuhin Shankar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 18-02-2020

Heard learned counsel for the appellants.

In the present case, limited issue is involved as to whether the sole respondent namely, Rabindra Mishra, has



rightly claimed revised lease rent as per the new Circular. The Respondent- Rabindra Mishra, was an executive in the N.T.P.C. and he superannuated from the service on 30.06.2009 and after his superannuation, the N.T.P.C. issued a Circular dated 16.09.2009, whereby the lease rent has been revised making it effective from 26.11.2008. In view of said Circular, the sole respondent has filed an application taking a plea that as it has been made effective from 26.11.2008 and he has superannuated from the service on 30.06.2009, so he should be paid the difference of amount. This application was processed and deliberated and whereafter an amount of Rs.1,57,896/- was paid to him. After that, the N.T.P.C. has taken steps for recovery of the said amount, which has been challenged by the sole respondent in the writ petition. The learned Single Judge vide order dated 10.10.2017 has allowed the said writ petition and quashed the order of recovery.

Learned counsel for the appellants submits that though the aforesaid Circular has been made effective from 26.11.2008 but, it is limited to the persons who were already in service on the day it has been brought in existence i.e. 16.09.2009 and it was not applicable to those who have already superannuated from the service and for that they have also



issued clarification vide Inter office memo dated 23.05.2011, which is specifically related to the sole respondent, wherein it has been opined that he is not entitled to the enhanced lease rent. He has further placed reliance on Inter Office Memo dated 22.02.2010, wherein clarification has been given in what manner the new lease rent will be applicable to the employees.

In the aforesaid Inter Office Memo, the word has been used as executive and there is no exclusion clause depriving the persons who have already superannuated from the service. Admittedly, when this Office Memo has been made effective, no doubt, the sole respondent was an executive of the N.T.P.C.. It does not stand to the reason that if the pay scale is revised from retrospective effect, in such circumstance, the employee is entitled to difference of salary. The grant of house or lease rent is a part and parcel of pay and perks embodied with pay structure, cannot be denied the benefit to the person who has already been superannuated and as such, the petitioner cannot be deprived of the benefit of the revised pay, pension or any other benefits attached to the office. Hence, he cannot be denied the revised lease rent also. Further, the Office Memo, by which the benefit has been extended, does not distinguish between serving employees and retired employees. When a



beneficial Rule has been brought into existence it has to be given a broad consideration not in a narrow consideration to deprive a person who has already been superannuated from the service.

In such view of the matter, we are in complete agreement with the view taken by the learned Single Judge in allowing the writ petition filed by the sole respondent. Hence, this Letters Patent Appeal is dismissed and the judgment and order of the learned Single Judge dated 10.10.2017 passed in C.W.J.C. No.9287 of 2012 is hereby confirmed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

pawan/-

AFR/NAFR	N.A.F.R.
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