IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 2071 of 2015

Shashidhar Singh ..... Petitioner

Versus

1. The Chairman-cum-Managing Director, Bharat Coking Coal Limited, Koyla Bhawan, Koyla Nagar, P.O. & P.S. Koyla Nagar, District-Dhanbad.
2. The Director Personnel, Bharat Coking Coal Limited, Koyla Bhawan, Koyla Nagar, P.O. & P.S. Koyla Nagar, District-Dhanbad.
3. The General Manager (Administration), Bharat Coking Coal Limited, Koyla Bhawan, Koyla Nagar, P.O. & P.S. Koyla Nagar, District-Dhanbad.
4. The Deputy General Manager (Administration), Bharat Coking Coal Limited, Koyla Bhawan, Koyla Nagar, P.O. & P.S. Koyla Nagar, District-Dhanbad. ..... Respondents

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Sumit Prakash, Advocate
For the Respondents : Mr. A.K.Mehta, Advocate

09/Dated: 11th December, 2020

Heard learned counsel for the parties through V.C.

2. The instant writ application has been preferred by the petitioner praying for quashing and setting aside the order as contained in Letter No. BCCL/ GM(A)/ SECTT./ 2014/F-49/413 dated 30.07.2014, issued by the respondent no. 4; whereby the representation made by the petitioner in pursuance to the order passed by this court; claiming House Rent Allowance for the period from 28.02.2010 to 31.03.2012, has been rejected.

3. Mr. Sumit Prakash, learned counsel for the petitioner submits that the petitioner moved before this court earlier in W.P.(S) No. 5697 of 2013, and the same was disposed of directing the petitioner to represent before the respondent no.3 for redressal of his grievance. The sole grievance of the

petitioner is that the respondents have not given House Rent Allowance for the period from 28.02.2010 to 31.03.2012; though the same is against their own rules being Rule-4.2 of Coal India Executive House Rent Allowance Rules, 2010 (hereinafter to be referred as Rules, 2010).

4. Mr. Prakash further contended that the petitioner received information from the Respondent authorities pursuant to an application filed by him under RTI Act, which transpires that many other persons who were similarly situated like petitioner were granted House Rent Allowance for the relevant period; however, for the reasons best known to the respondent-company, the House Rent Allowances for said period has not been given to this petitioner in spite of specific Rule 4.2 of Rules, 2010.

He further contended that the respondent-company cannot adopt pick in choose method for denying the House Rent Allowances to this petitioner and giving the same to other similarly situated persons.

5. Mr. A.K. Mehta learned counsel for the respondent-company submits that though the Rules, 2010 applies to Coal India, the holding company of which Respondent-BCCL is a subsidiary. However, the subsidiary company-BCCL is also a Government Company within the meaning of Section 617 of the Companies Act, 1956. This company has

its own independent Board; competent to take independent financial decisions taking into consideration its financial viability.

He further submits that the company M/s. BCCL has constructed large number of quarters in its residential colonies at their respective Units, Areas and also at his Headquarters after making huge capital investments. The company also has large number of surplus quarters which at the relevant time were lying vacant and therefore, it was not financially viable for the company to afford to pay House Rent Allowance, which has financial implications for the Company, which for several years was a sick company.

Learned counsel further submits that the Functional Directors of the Company take decisions from time to time w.r.t. pay or withdraw HRA depending upon the available vacant accommodation as well as financial health of the company. In the FDs meeting of BCCL held on 15.09.2005, the matter regarding payment of House Rent Allowance to the Executives was reviewed and the decision was taken that the Officers who have built their houses within 8 km. of the place of work; after obtaining due permission for the same, shall be allowed to draw HRA on the recommendations of their HOD/Area GM by the Director (Personnel); provided they reside in the said house and are not required to stay in the vicinity of the place of work by

virtue of their nature of job.

He further submits that such officers, who could not be allotted accommodation of entitled type because of non-availability of such accommodation, shall be allowed to draw HRA with or without production of receipt till such time suitable accommodation is allotted to him.

He further submits that despite the Rules, 2010, M/s. Coal India Ltd. has been issuing directives to the subsidiary companies in the matter of grant of HRA to the employees surrendering their official's accommodation. Learned counsel referred to one such letter dated 3.07.2012 of the General Manager (MP&R), CIL addressed to General manager (P&IR), Mahanadi Coalfields Ltd. wherein Coal India Ltd. has clarified that those who are offered accommodation and do not avail themselves of the offer will not be entitled for payment of HRA. Therefore, no HRA shall be paid on the event of surrendering the allotted quarter of the company.

Learned counsel contended that if the quarters are allowed to lie vacant and executives are paid HRA; if would affect the financial health of the company; as Respondent-BCCL has been suffering financial loses and it does not stand in the same footing like other cash rich subsidiary companies of CIL.

6. Having heard learned counsel for the parties and after perusing the documents and the averments made in the respective affidavits, it appears that the petitioner had submitted the proposal for HRA with effect from 28.10.2010 on 28.02.2012. It further transpires that after receipt of proposal for HRA duly recommended by the competent authority on 28.02.2012, he was sanctioned HRA with effect from 01.04.2012. From perusal of the record it further transpires that the proposal for HRA dated 28.02.2010 was not processed for approval because company quarter was vacant at Town Administration Department and as per the norms prevalent at that moment of time for grant of House Rent allowance, the executive concerned who have built their houses were ought to fulfill following conditions;

> *(a) They reside in the said house and are not required to stay in the vicinity in the place of work by virtue of their nature of job.*
> *(b) A vacant quarter of entitled type after meeting the requirement of other entitled officers is not available for allotment to concerned officers.*
> *(c) Such officers who could not be allotted accommodation of entitled type because of non availability of such accommodation shall be allowed to draw HRA with or without production of receipt till such time suitable accommodation is allotted to him.*

The record further transpires that on 20.02.2012, the petitioner was advised to re-submit original HRA Form with

all necessary documents duly recommended by the competent authority. Accordingly, on 28.02.2012, the petitioner had submitted a note sheet for payment of HRA with effect from October, 2010 along with Form-I, copy of electricity bill, copy of sale deed and copy of salary slip. The same was duly recommended by GM(S&M), BCCL. The aforesaid proposal for HRA got approved by the competent authority and the petitioner was granted HRA with effect from April, 2012.

7. During course of argument, Mr. Sumit Prakash learned counsel for the petitioner vehemently contended that the respondent cannot adopt pick in chooses method in giving benefit of HRA under the same rule to different employees.

8. In view of the rival contention adduced by the parties, this court is of the view that the reasoning/stand taken by the respondent-Company is tenable in the eye of law and this Court do not want to make any comments on the stand/decisions of the Respondent-BCCL with regard to payment of HRA. However, if any other similarly situated person has been given benefit of HRA during the same period; in that case, similar benefits should be given to this petitioner also.

9. In this view of the matter, the impugned order as contained in Letter No. BCCL/ GM(A)/ SECTT./ 2014/F-

49/413 dated 30.07.2014 issued by the respondent no. 4, is quashed and set-aside and the matter is remitted back to the competent authority to check and verify the persons who are getting the benefit of HRA during the relevant period and if the petitioner is found similarly situated to those employees; same benefits shall be extended to him and if the respondent is able to demonstrate the difference between the other employees and reject the claim of the petitioner; the same shall be communicated to him.

10. With the aforesaid terms, the instant writ application is, hereby, disposed of. The pending I.A. also stands disposed of.

(Deepak Roshan, J.)

Amardeep/