

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15944 of 2014

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Narayan Jee Jha son of Late Bishambhar Jha resident of Bidhauri via Bahera,
P.S. Bahedi, District - Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Engineer in - Chief (North) , Water Resources Department, Bihar, Patna
3. The Chief Engineer, Water Resources Department, Bihar, Patna
4. The Superintendent Engineer, Flood Control Circle, Lahariasarai, Darbhanga
5. The Executive Engineer, Flood Control Circle, Lahariasarai, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. J.S. Arora, Sr. Advocate Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. R.N. Prasad, SC-9

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-11-2022

Petitioner has prayed for the following relief(s):

“i. For commanding the respondent authorities to make payment/refund the amount illegally deducted by them from the salary of the petitioner towards house rent for the period from August 2010 to August 2012 since the petitioner had never accepted the allotment of the house, nor remained in occupation of the house allotted to him with due information and communication with regard to the same given to the respondents



soon after allotment was back on 14.07.2010 itself.

ii. Also for commanding the respondent to make payment of suitable interest/compensation in respect of the said illegal deduction.

iii. Also for any other appropriate relief/reliefs to which petitioner is either entitled in the eye of law or in the facts and circumstances of the case.”

To accept or not to accept an allotment made by the employer to an employee is the sole question which arises for consideration. Facts are not in dispute. Petitioner, as an employee of the respondent, was allotted a residential accommodation vide allotment order dated 08.07.2010 (Annexure-1, page-12). Immediately, on 14.07.2010, vide Annexure-2, petitioner informed the employer exercising an option of not accepting the allotment, with a further request to allot the accommodation to some one else.

It is not in dispute that petitioner did not occupy the accommodation so allotted in terms of communication dated 08.07.2010 and the reason stands substantiated in Annexure-2. The accommodation was unsuitable on account of petitioner's ailment.

It appears that the respondent did not heed to such



request and, as such, stopped the house rent allowance due and payable to the petitioner with effect from August, 2010 till August, 2012. The stand taken by the respondent is that the employee has got no choice but to accept the allotment so made by the employer. With these facts, we decide the question of law raised (supra).

Allotment of a house is governed by the provisions of Bihar Government Residence Allotment (Patna Central Pool) Rules, 1986 (hereinafter referred to as the Rules). Reading of Sub-rule-(2) of Rule-10 of the Rules makes it evidently clear that an employee has a right to reject the allotment and, in the event of any communication of not accepting the allotment, the employer has got a right of allotment and offering the same to another employee. Further reading of Sub-rule-(4) of Rule-10 clarifies that, in the event of non-occupation of the allotted accommodation within seven days, the allotment will stand automatically cancelled with the employee opting allotment of the same.

We also notice that the right of an employee for allotment of a Government accommodation emanates from Rule-9. Applications are invited as per the procedure laid down therein; processed and, based on several factors at the discretion



of the employer, allotment is made. The Rule nowhere forecloses the right of an employee of not accepting the allotment. Equally, the employee is under no obligation to necessarily occupy the accommodation so allotted and the failure resulting into civil consequences. The question of law is answered accordingly.

As such, petition is allowed with the direction to the respondents, more specifically respondent No. 2, namely The Engineer-in-Chief (North), Water Resources Department, Bihar, Patna to ensure that the amount payable as house rent allowance for the period “August, 2010 till August, 2012” is paid to the petitioner within four weeks from today, failing which petitioner shall be entitled for interest thereupon at banking rate of interest.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	24.11.2022
Transmission Date	

