

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20660 of 2013

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Satrughan Tiwary Son Of Late Lalan Tiwary Resident Of Village - Tiwari
Matihania, P.O. Sipaya Farm, P.S. - Bishwabharpur, District - Gopalganj

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Irrigation Deptt. Govt. Of Bihar, Patna
3. The Secretary, Water Resources Department, Govt. Of Bihar, Patna
4. Chief Engineer In Charge, Govt. Of Bihar, Patna
5. Chief Engineer, Flood Control Department Of Bihar, Patna
6. Executive Engineer, Flood Control Sub Division, Jhakarrah Camp,
Gopalganj, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhuneshwar Pandey
For the Respondent/s : Mr. Ajay

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 24-01-2023 The petitioner by way of this writ petition has assailed

the order of recovery of sum of Rs.1,50,461/- from the

petitioner's retiral benefits by order dated 14.03.2013.

Learned counsel submits that the petitioner had retired
on February, 2008 and handed over the possession of the house
holds on 24.01.2009 and therefore, there was no occasion to
impose a penal rent. He submits that his wife was unwell
because of that reason, he was unable to hand over the
possession of the house within two months of his retirement.

I have considered the submissions.



This Court finds that the petitioner, who was a Clerk with the respondent, had been transferred on 29.10.1984 from Gopalganj but he unauthorizedly occupied the government accommodation for years, together several letters for vacating the house were sent to him by the authorities, as is apparent from order dated 03.07.2009 but he did not vacate the premises even after retirement. He has not vacated the premises up to 2009, when he was forcefully removed from the premises. In terms thereto, a penal rent has been imposed on him.

The Hon'ble Supreme Court in the case of Wazir Chand vs. Union of India & Ors. reported in 2001(6) SCC 596, has held as under:-

"These appeals are directed against the orders of the Central Administrative Tribunal rejecting the claim of the appellant, who happens to be a retired Railway servant. Admittedly, the appellant even after superannuation, continued to occupy the Government quarter, though being placed under hard circumstances. For such continuance, the Government, in accordance with Rules, has charged penal rent from the retired Government servant, and after adjusting the dues of the Government, the balance amount of the gratuity, which was payable, has been offered to be paid, as noted in the impugned order of the Tribunal. The appellants' main contention is that in view of the Full Bench decision of the Tribunal against which the Union of India had approached this Court and the Special Leave Application was dismissed as withdrawn, it was bounden duty of the Union of India not to withhold any gratuity amount, and therefore, the appellant would be entitled to the said gratuity amount on the date of retirement, and that not having been paid, he is also entitled to interest thereon. We are unable to accept this prayer of the appellant in the facts and circumstances of the present case. The appellant having unauthorisedly occupied the Government quarter, was liable to pay the penal rent in accordance with Rules, and therefore, there is no illegality in those dues being adjusted against the death-cum-retirement dues of the appellant. We, therefore, see no illegality in the impugned order which requires our interference. The appeals



stand dismissed."

Keeping in view the aforesaid order of the Hon'ble
Supreme Court, this writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

Brajesh Kumar/-
Item No.15

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