

29th January, 2025
(D/L No.08)
Ct. No.4
(SKB)

W.P.S.T.63 of 2024

Chhabi Barman
Versus
The State of West Bengal and others

Mr. Robiul Islam,
Sk. Jayed Hossain
....for the petitioner.

Ms. Sonal Sinha,
Ms. Ashrita Chakrabarty,
Mr. Avishek Prasad
... for the State.

1. Heard the learned counsel for the petitioner and the learned counsel for the State.
2. The writ petitioner has assailed the order passed by the West Bengal Administrative Tribunal (in short 'Tribunal') dated 05.03.2024 whereby the O.A. has been rejected.
3. The claim raised by the petitioner in the O.A. was quashing of an order dated 29.06.2022 whereby the petitioner, who was working as a nurse, was allotted a quarter. A direction was also sought upon the respondents to pay House Rent Allowance (in short 'H.R.A.') to the petitioner.
4. The brief factual background of the case is that the petitioner was posted at Paikpara B.P.H.C., Kolaghat, Purba Medinipur, as she had made a request for such posting on account of illness of

her aged mother. On reaching the said place of posting, she has been allotted a quarter by an order dated 29.06.2022. On 05.07.2022 she wrote to the C.M.O.H. of Purba Medinipur that she did not require the quarter and she would be staying at a rented premises and should be paid the H.R.A. For such relief the petitioner approached the Tribunal by filing O.A. No. 710 of 2023 which stands rejected.

5. We have made a specific query to the learned counsel for the petitioner as to under which rule or provision the petitioner has a right which can be enforced by issuance of a direction to grant her the H.R.A. instead of a government residential quarter.
6. The learned counsel for the petitioner has referred to the order on which the reliance has also been placed by the State counsel. The order is dated 01.06.2011 issued by the Additional Chief Secretary, Government of West Bengal in the Department of Health and Family Welfare. Referring to the same, it is submitted that the nature of work performed by the petitioner did not require her to stay within the hospital premises and, therefore, allotment of quarter to her was not desirable. Another issue has been raised that

various doctors and nurses have not been allotted quarters though they are senior to the petitioner.

7. Learned counsel for the State, on the other hand, has placed reliance on one communication dated 13.08.2010 to show that the petitioner (PHN) is one of the functionaries of the health department which as per the said letter is required to remain in their allotted quarters for making available of better facilities, expeditiously to the people in need of care and health service.
8. It is further submitted that the order dated 01.06.2011, relied upon by the petitioner, contains specific stipulation as follows:

“(4). All doctors who have been offered quarters must live in respective accommodations. In case any quarter is not in a living condition, the same should be reported to the CMOHs immediately who will arrange to get the quarters repaired on a priority basis and will submit the proposals to the NRHM office for release of fund.

(5) Any doctor or other employee having earmarked quarters and not staying in the same are not entitled to any HRA. Depending on the adverse condition of the allotted quarters specific proposal should be sent to the DHS for consideration and approval towards staying outside so that the concerned doctor or other employee may get HRA during this interim period, i.e. till the quarter is made habitable.”

9. In view of such stipulation, there is no scope for the petitioner to claim any H.R.A, once the official accommodation (quarter) was allotted. More so, in view of the fact that there is no allegation that

the quarter allotted to the petitioner was in any adverse condition or that it was uninhabitable.

10. We have considered the rival submissions and, at the very outset, are of the opinion that we should refrain from going into the issue as to whether the petitioner's seniors or others throughout the State have been allotted quarters or not. This issue has not been raised by the petitioner in the Tribunal. Further we find that even if it is accepted as correct, the same would not give any right to the petitioner to avoid or decline to stay in the official quarter. It is not her case that others who have been allotted quarters have been permitted to stay in rented accommodation elsewhere, and are being paid H.R.A. It is the matter of fact that the petitioner was allotted the quarter at the place of posting and in terms of the communication dated 31.08.2010 she was one of the class of health functionaries required to stay in the allotted quarter so as to provide better health care services. The order dated 01.06.2011(supra) clearly bars payment of H.R.A. to a person like the petitioner who has been allotted a quarter.

11. We find no enforceable claim was made out by the petitioner for payment of H.R.A. before the

Tribunal. Therefore, decision of the Tribunal dated 05.03.2024 passed in O.A. No.710 of 2023 rejecting the petitioner's claim requires no interference.

12. Accordingly, the writ petition stands dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)