



2025:DHC:4958-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 27.03.2025
Pronounced on: 12.06.2025

+ **W.P.(C) 13936/2024 & CM APPLs.58534/2024, 60886/2024**

STATE OF MADHYA PRADESHPetitioner
Through: Mr.Nachiketa Joshi, Sr. Adv.
(AAGMP) with Mr.Sarad
Singhanian & Mr.Shashank
Shekhar, Advs.
versus

K.M. SHUKLA & ANR.Respondents
Through: Respondent no.1/Mr.K.M.
Shukla in person with
Mr.Kumar Dushyant Singh,
Mr.Vedansh Anan, Advs.
Mr.Ripudaman Bhardwaj,
CGSC with Mr.Kushagra
Kumar, Mr.Amit Kumar Rana,
Advs. for Respondent/UOI

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioner, challenging the Judgment dated 30.04.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal'), in O.A. 1011/2016, titled *Vinay Shukla*



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through L.R. K.M. Shukla v. Union of India & Ors., allowing the O.A. with the following directions:

“12. In view of the above, the following are ordered:

(i) The recovery order dated 18.4.2016 is quashed.

(ii) The respondent no. 2 is directed to pay all pending retirement dues like gratuity, outstanding salary arrears, leave encashment along with interest at applicable GPF rates for the period of delay from 3 months after the retirement till date of such payment, to the respondent no. 1.

(iii) The Accountant General, Madhya Pradesh and Respondent no.2 are directed to complete the account details in respect of GPF and CGIS immediately and release the accumulated amount to the respondent no. 1 along with interest at applicable GPF rates for the period of delay from 3 months after the retirement till date of such payment, to the respondent no. 1.

(iv) All these payments shall be made to respondent no. 1 within 8 weeks from the date of receipt of certified copy of this order.

(v) Needless to say, the respondents shall not link such payments to any alleged outstanding recovery, which has been declared impermissible in law, as per analysis and clear finding given above.”

Factual Background

2. As a brief background, the brother of the respondent no.1 - Late Shri Vinay Shukla was an Indian Administrative Services (IAS) officer of the 1974 batch. He was initially allotted the Madhya Pradesh Cadre in the erstwhile larger State of Madhya Pradesh. From 1986 to 1996, he served in Bhopal and later, between 1996 and 2000, he was appointed as a Member of the Board of Revenue in Gwalior.



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3. Following the Madhya Pradesh Reorganization Act, 2000, the larger State of Madhya Pradesh was bifurcated into the State of Madhya Pradesh and the State of Chhattisgarh. The Central Advisory Committee ('CAC'), based on documents provided by the Madhya Pradesh government, allocated the Chhattisgarh cadre to the brother of the respondent no.1 through a Notification dated 31.10.2000 issued by the Government of India.
4. Aggrieved, he submitted a representation dated 05.11.2000 to the respondent no.2 and the petitioner herein, to change his allotment to the Madhya Pradesh cadre. Meanwhile, he did not join the Chhattisgarh cadre and continued making representations to the Union Government and other authorities. The said representation was rejected after almost six years, on 29.09.2006.
5. The brother of the respondent no.1 submitted a review against the said rejection.
6. Meanwhile, he was permitted to inspect the documents which were submitted by the petitioner before the CAC, which was in charge of the allocation of officers between Madhya Pradesh and Chhattisgarh. During the inspection, he claims to have discovered that the petitioner had produced false and fabricated documents before the CAC, resulting in him being incorrectly allotted the Chhattisgarh cadre. Accordingly, he also filed a supplementary review application.
7. The request of the brother of the respondent no.1 was accepted, and *vide* Notification dated 24.08.2007, the respondent no.2 reallocated him to the Madhya Pradesh cadre. The brother of the



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respondent no.1 submitted his joining report on 12.09.2007 before the Competent Authority of the petitioner, however, he was not assigned any duties by the petitioner.

8. The petitioner, on 10.09.2007, submitted its objection to the Notification dated 24.08.2007, presenting several representations as well as a personal representation by the then Chief Secretary, all of which were rejected by the respondent no.2, who reaffirmed the Notification dated 24.08.2007, and even rejected a subsequent review application on 31.03.2008.

9. The petitioner, however, still did not implement the Notification dated 24.08.2007. Consequently, the brother of the respondent no.1 filed O.A. No. 518/2008 before the learned Central Administrative Tribunal, Jabalpur Bench.

10. The said O.A. was allowed *vide* Order dated 23.10.2008, holding that the act of the petitioner herein in not implementing the Notification dated 24.08.2007 was illegal, arbitrary and unjustified, and not supported by any provisions of rules and law, and the petitioner was directed to implement the said Notification.

11. The said judgment of the Central Administrative Tribunal, Jabalpur Bench was challenged by the petitioner before the High Court of Madhya Pradesh by way of Writ Petition No. 13660/2008. Another Writ Petition in respect of the same cause of action was also filed by the petitioner, being Writ Petition No. 15122/2008, challenging the Notification dated 24.08.2007 and the Order dated 28.09.2007. The brother of the respondent no.1 also challenged the



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Notification dated 31.10.2000, whereby he was allocated the State of Chhattisgarh, by way of Writ Petition No. 982/2009.

12. These three petitions were decided by the High Court of Madhya Pradesh, Jabalpur in favour of the brother of the respondent no.1 *vide* a common Order dated 02.04.2009, holding that the petitioner had improperly refused to accept the joining of the brother of the respondent no.1 without challenging the Central Government's Notification dated 24.08.2007 and the Order dated 28.09.2007, and that the States should act as impartial employers in employee disputes and not unnecessarily prolong litigation after judicial decisions. The Court upheld the Tribunal's order dated 23.10.2008 and directed the petitioner to decide on the payment of salary and other emoluments for the period the brother of the respondent no.1 was kept out of his job due to wrong allocation, within three months, preserving the right of the brother of the respondent no.1 to challenge any adverse decision in the appropriate forum.

13. The petitioner challenged the said decision of the Madhya Pradesh High Court, Jabalpur by filing Special Leave Petitions ('SLP') Nos. 13585-13587/2009, wherein initially *vide* an Order dated 26.05.2009, the Supreme Court stayed the payment of salaries to the brother of the respondent no.1 for the period 2000 to 12.09.2007, however, the SLPs were later dismissed on 27.10.2014.

14. Pursuant to the said order of the High Court, the brother of the respondent no.1 was allowed to join as Member, Board of Revenue,



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Gwalior on 13.04.2009. He attained the age of superannuation on 31.07.2010 and retired from the service.

15. The petitioner, *vide* Order dated 13.11.2015, treated the period of absence of the brother of the respondent no.1 from 03.11.2000 to 11.09.2007 as necessary waiting period, sanctioning pay and allowances for these periods. By an earlier Order dated 24.04.2009, the period from 12.09.2007 to 21.04.2009 had been treated as necessary waiting period. Sanction was given to make payment of pay and allowances to the brother of the respondent no.1.

16. On 14.03.2016, the brother of the respondent no.1 approached the learned Tribunal by filing O.A. No. 1011/2016, seeking payment of his retirement benefits, including arrears, gratuity, provident fund, and group insurance, with 24% interest on delayed payments.

17. On 18.04.2016, the petitioner responded to the O.A., stating that an Order had been passed on 13.11.2015 to process the retiral benefits of the brother of the respondent no.1 and that earlier, the petitioner had also directed the payment of salary and allowances. It further stated that the brother of the respondent no.1 was paid Rs.15,300/- per month as pension, *vide* Order dated 11.04.2012, and he was also paid Rs.16,818/- under the Family Welfare Scheme; however, the delay in payment of other dues was owing to the outstanding dues relating to the unauthorized occupation of Government Guesthouse/Circuit houses by the brother of the respondent no.1, accruing huge arrears.

18. On 18.04.2016, the petitioner also issued a recovery notice to the brother of the respondent no.1 to submit a No Dues Certificate



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regarding the recoverable dues amounting to Rs.1,22,89,799/- as outstanding for unauthorized occupation of the government residential house and guesthouse, in order to settle his retiral dues.

19. On 02.05.2016, the petitioner filed an additional reply before the learned Tribunal, stating that the brother of the respondent no.1 had not submitted the required No Dues Certificate necessary for releasing the pending dues, and provided details of the alleged outstanding amounts related to the alleged unauthorized occupation of the Government guesthouse/Circuit house.

20. The brother of the respondent no.1 claimed that he submitted a representation in January, 2019 against the recovery notice dated 18.04.2016, disputing the contention of the petitioner and recalculating the penal amount at normal rent as Rs.7,63,700/-.

21. The petitioner, *vide* Order dated 31.08.2019, rejected the contention of the brother of the respondent no.1.

22. On 12.06.2022, the brother of the respondent no.1 passed away.

23. On 30.04.2024, the O.A. was allowed with the directions reproduced hereinabove.

Submissions on behalf of the petitioner

24. Mr.Joshi, the learned senior counsel (AAGMP), appearing for the petitioner, submits that the learned Tribunal has failed to appreciate that Rule 19-C of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 (hereinafter referred to as, 'AIS Rules') mandates the clearance of all Government dues before the date of retirement, including rent for unauthorized occupation of



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Government accommodation, as a pre-condition for release of the retiral benefits. He submits that in the present case, the brother of the respondent no.1 owed huge amounts due to his unauthorized occupation of Government premises, therefore, a No Dues Certificate was demanded from him in accordance with the above Rule. He submits that, however, instead of submitting the same, the brother of the respondent no.1 approached the learned Tribunal. He submits that the learned Tribunal has erred in setting aside the demand for the rent/penal rent and in directing the petitioner to release the retiral dues of the brother of the respondent no.1.

25. He submits that in terms of Section 7 of the Madhya Pradesh Lok Parisar (Bedakhali) Adhiniyam, 1974 (hereinafter referred to as, 'MPLP'), the petitioner was entitled to recover unpaid rent and damages in respect of the public premises unauthorizedly occupied by the brother of the respondent no.1. He submits that in terms of Section 15 of the MPLP, the jurisdiction of the learned Tribunal to determine the validity of demand or arrears of rent from the brother of the respondent no.1 was barred, as such jurisdiction is vested exclusively in the Competent Authority/Appellate Authority constituted under the MPLP.

26. He submits that the damages have been assessed on the basis of the provisions of the Madhya Pradesh Vishram Bhawan Abhiyog Niyam (Rest House Occupancy Rules), 2001. The same, therefore, cannot be faulted.



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27. He further submits that the learned Tribunal has failed to appreciate that due notices for vacation of the unauthorized occupation of the Government accommodation were issued to the brother of the respondent no.1 under Section 7 of the MPLP on 07.07.2000, 04.09.2001, 06.02.2002, 10.04.2002, 20.05.2002 and 21.04.2009; however, he took no steps to clear these dues. He submits that the finding of the learned Tribunal that the demand was raised only after the retirement of the brother of the respondent no.1, therefore, is incorrect, and is liable to be set aside.

28. He submits that the learned Tribunal further failed to appreciate that the Judgment dated 02.04.2009 passed by the High Court of Madhya Pradesh, Jabalpur, including in Writ Petition 13660/2008, was challenged by the petitioner by way of SLP(C) No. 13585-13587/2009 wherein, *vide* an Order dated 26.05.2009, the Supreme Court stayed the payment of salaries to the brother of the respondent no.1 for the period 2000 to 12.09.2007. The said order continued till 27.10.2014, when the SLP was dismissed. He submits that, therefore, the petitioner could not be accused of delaying the process of determination of the salary due to the brother of the respondent no.1. He submits that as per the calculation of the brother of the respondent no.1, as admitted by him in his representation of 2019, he owed an amount of Rs.7,63,700/- on account of his occupation of the Government premises, however, even this amount has not been directed to be paid, or allowed to be recovered by the petitioner from the dues owed to him.



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29. He submits that it is a statutory right and a Constitutional duty of the petitioner to safeguard public funds and to recover the same. He submits that it is only because of the circumstances beyond the control of the petitioner, that the demand could not be raised before the superannuation of the brother of the respondent no.1. The demand, therefore, could not have been set aside by the learned Tribunal by placing reliance on the judgment of the Supreme Court in *State of Punjab & Ors. v. Rafiq Masih (White Washer) Etc.*, (2015) 4 SCC 334.

Submissions on behalf of the respondent no.1

30. On the other hand, the respondent no.1, who appears in person, submits that his brother had been victimized for no apparent reason. He submits that his brother was earlier allocated the Chhattisgarh cadre upon the reorganization of the larger State of Madhya Pradesh, however, even after the Notification dated 24.08.2007, whereby the respondent no.2 reallocated him to the Madhya Pradesh cadre and despite his brother having submitted his joining report on 12.09.2007 before the Competent Authority of the petitioner, he was not assigned any duties by the petitioner. He submits that it was only much later that he was allowed to join his duties in the year 2009.

31. He submits that as the period in-between had been regularized by the petitioner itself, by treating the same as necessary waiting period, the brother of the respondent no.1 was entitled to the Government accommodation for this period, and the demand for damages from him is, therefore, not sustainable.



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32. He reiterates that the demand, having been made after the retirement of his brother, was no longer enforceable and, as such, the retiral benefits of the brother of the respondent no.1 could not have been withheld.

Analysis and Findings

33. We have considered the submissions made by the learned senior counsel for the petitioner, and the respondent no.1.

34. This case presents a sad and shocking state of affairs, a disturbing pattern wherein an officer was being repeatedly victimized, not only after his superannuation but also after his death.

35. From the above narration of facts, it is apparent that the brother of the respondent no.1 was first victimized when he was initially misallocated the Chhattisgarh cadre on 31.10.2000. His repeated representations resulted in the passing of a Notification dated 24.08.2007 by the respondent no.2, admitting that he had been misallocated the Chhattisgarh cadre because of incorrect facts and information supplied by the petitioner. Despite the passing of the said Notification by the respondent no.2, the petitioner did not allow the brother of the respondent no.1 to join his duties. The brother of the respondent no.1, therefore, was forced to approach the learned Central Administrative Tribunal at Jabalpur, seeking implementation of the Notification dated 24.08.2007 issued by the respondent no.2.

36. By an Order dated 23.10.2008, the O.A. filed by the brother of the respondent no.1 was allowed, and the petitioner was directed to implement the Notification dated 24.08.2007 issued by the respondent



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no.2. Even this order was not complied with by the petitioner, which, instead, challenged the same before the High Court of Madhya Pradesh, Jabalpur by way of a Writ Petition.

37. The said Writ Petition was finally dismissed by the said High Court *vide* its judgment dated 02.04.2009, *inter alia*, observing therein that the brother of the respondent no.1 had been allocated the Chhattisgarh cadre only because the petitioner had incorrectly informed the respondent no.2 of the hometown of the brother of the respondent no.1. The High Court further observed that the respondent no.2, on verification, had concluded that the initial allocation was based upon a misrepresentation of facts by the petitioner. The High Court observed that the petitioner, being the guardian of its employees and officers, should not have involved itself in such litigation with regard to the reallocation of the cadre of the brother of the respondent no.1, when the clear finding of the respondent no.2, while making such reallocation, was that wrong facts had been submitted to it by the petitioner basis which the initial allocation had been made.

38. Instead of complying with this order, the petitioner again chose to challenge the same before the Supreme Court.

39. It was only during the pendency of the SLP that the brother of the respondent no.1 was allowed to join as Member, Board of Revenue, Madhya Pradesh on 13.04.2009. The brother of the respondent no.1 superannuated on 31.07.2010, however, taking shelter behind the pendency of the SLP, the petitioner did not release the superannuation benefits to him.



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40. It was only after the dismissal of the SLP *vide* Order dated 27.10.2014 that the petitioner passed an Order on 13.11.2015, treating the period of the absence of the brother of the respondent no.1 from 03.11.2000 to 11.09.2007, as necessary waiting period, sanctioning pay and allowances for these periods. By an earlier Order dated 24.04.2009, the period from 12.09.2007 to 21.04.2009 had been treated as necessary waiting period. Sanction was given to make payment of pay and allowances to the brother of the respondent no. 1.

41. The retiral benefits of the brother of the respondent no.1, however, were still not released, forcing him to file the above O.A. before the learned Tribunal. It was at that stage that the petitioner contended that the retiral benefits had not been released to the brother of the respondent no.1 as during his service period, he had unauthorizedly occupied Government guesthouses and Circuit houses, details of which were given as under:

<i>S.No.</i>	<i>Place of occupation</i>	<i>The period of occupation</i>
1.	Government Circuit House No./DXD-1, Char Imly, Bhopal	14.08.1986 to 08.12.2005 (228 months)
2.	PWD, New Guest House, Bhopal, Room No.21	13.09.2007 to 21.04.2009 (20 months)
3.	Circuit House, Gandhi Road, Gwalior, One Room	19.12.1996 to 20.09.2006 (116 months)
4.	Circuit House, Gandhi Road, Gwalior, One Room	21.04.2009 to 01.02.2012 (34 months)



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42. Later, by way of an additional reply dated 02.05.2016 before the learned Tribunal, the petitioner stated that the dues payable to the brother of the respondent no.1 were Rs.82,24,834/-, details of which were given as under:

S.No.	Item	Amount Payable to the applicant
1.	Arrears of pension (because of revision of pay scale) from 1.08.2010 to 31.03.2016	Rs.25,72,466/-
2.	Gratuity	Rs.10,00,000/-
3.	Leave encashment	Rs.10,39,040/-
4.	CGEGIS	It has been stated that this is payable by the concerned agency of the Govt. of India
5.	GPF	It has been stated that this is payable by the concerned agency of the Govt. of India
6.	Arrears of pay from 1.12.2000 to 21.04.2009 (after requisite deduction)	Rs.29,75,138/-
7.	Arrears of pay from 22.04.2009 to 31.07.2010	Rs.6,37,290/-
	Total	Rs.82,24,834/-

43. It was further stated that with regard to the unauthorized occupation of the government accommodation, the petitioner had issued a notice dated 18.04.2016 to the brother of the respondent no. 1, claiming an amount of Rs.1,22,89,799/-. The details of the said amount were explained by the petitioner by way of its additional reply dated 02.05.2016, as under:-



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S.No.	Place of occupation	The period of occupation	Dues (Rs.)
1.	Government Circuit House No.1/DXD-1, Char Imly Bhopal	14.08.1986 to 08.12.2005 (213 months & 26 days)	9,78,215
2.	PWD, New Guest House, Bhopal, Room No. 21	13.09.2007 to 21.04.2009 (19 months & 9 days)	17,64,830
3.	Circuit House, Gandhi Road, Gwalior, One Room	19.12.1996 to 20.09.2006 (117 months & 2 days)	64,43,964
4.	Circuit House, Gandhi Road, Gwalior, One Room	21.04.2009 to 01.02.2012 (33 months & 11 days)	31,02,790
		Total	1,22,89,799

44. As noted hereinabove, the brother of the respondent no.1 had made a representation against the above demand, *albeit* admitting that an amount of Rs.7,63,700/- may have been due from him. This representation was also rejected by the petitioner *vide* Order dated 31.08.2019.

45. From the above narration of facts, it is clear that apart from the brother of the respondent no.1 being a victim of arbitrary and vexatious actions of the petitioner, which clearly violated his Fundamental Rights under Article 14 of the Constitution of India, the crucial fact remains that his services from 03.11.2000 till 21.04.2009 stood regularized as compulsory waiting period by the petitioner's own Orders dated 24.04.2009 and 13.11.2015. Thereafter, the brother of the respondent no. 1 had regularly discharged his duties till the age of his superannuation. It is not denied by the petitioner that during this



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period, the brother of the respondent no.1 would have been entitled to Government accommodation. Therefore, in our opinion, for the use and occupation of the premises during this period, damages could not have been claimed from the brother of the respondent no.1.

46. Be that as it may, there is also no order passed by the Competent Authority under the MPLP assessing such damages, that has been placed before us. For assessing such damages, a proper inquiry had to be conducted after giving a Show Cause Notice to the brother of the respondent no.1. Barring a few demand notices that have been placed on record, neither is there any order passed by the Competent Authority that has been placed before us nor is there any attempt shown by the petitioner to evict the brother of the respondent no.1 from the Government accommodation during the relevant period, or for making a recovery of the alleged damages from him. The notices referred to by the petitioner are administrative in nature and do not satisfy the requirement of adjudication after giving due notice and opportunity of hearing. The bar of jurisdiction under the MPLP shall therefore, not be attracted in the facts of the present case.

47. Significantly, it was only by the demand notice dated 18.04.2016, that is, almost six years post the superannuation of the brother of the respondent no.1, that a demand of Rs.1,22,89,799/- was raised against him. The period of demand is from 14.08.1986 till 01.02.2012. As noted, the same makes no reference to any order passed by the competent authority under the MPLP. The learned Tribunal, therefore, in our opinion, has rightly set aside this demand



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by applying the principles of *Rafiq Masih* (supra). The petitioner's argument that circumstances beyond their control prevented demand being raised earlier, is also not sustainable given that the alleged unauthorized occupation spanned decades during active service.

48. Further, as the payment of the retiral benefits of the brother of the respondent no.1 had been unauthorizedly withheld by the petitioner, the directions for releasing the same, along with interest, have also been rightly passed by the learned Tribunal. Reliance in this regard, on Rule 19-C of the AIS Rules also cannot be accepted, inasmuch as, on the date of superannuation of the brother of the respondent no.1, there were no dues owed by him. In fact, it was due to the pendency of the SLP, that the petitioner did not process the retirement benefits and it was only after the dismissal of the SLP that an Order dated 13.11.2015 was passed regularizing his period of service and thereafter, the salary due and the retiral benefits were computed and informed to the learned Tribunal along with an affidavit dated 02.05.2016.

49. At the same time, the brother of the respondent no.1, in his representation of 2019, admitted that he owed Rs.7,63,700/- on account of his occupation of the Government premises. This amount shall, therefore, be adjusted by the petitioner against the dues owed to the brother of the respondent no.1.

50. The petition is, therefore, disposed of with directions to the petitioner to release to the respondent no.1 the retiral dues owed to the brother of the respondent no.1, less Rs. 7,63,700/-, along with interest



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as directed by the learned Tribunal, within a period of eight weeks from today. The pending applications also stand disposed of.

51. There shall be no order as to costs.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JUNE 12, 2025/rv/SJ

Click here to check corrigendum, if any