

Rudreshwari Prasad Singh Vs The Heavy Engineering Corporation Limited

Court: Jharkhand High Court

Date of Decision: April 3, 2014

Citation: (2014) 4 AJR 98 : (2014) 142 FLR 752 : (2014) 3 JLJR 19

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: Rajeev Sharma, Sr. Advocate and Mithilesh Singh, Advocate for the Appellant; R. Mukhopadhyay, Advocate for the Respondent

Judgement

Narendra Nath Tiwari, J.

In this writ petition, the petitioner has prayed for quashing the order dated 15.06.2005 (Annexure-5) passed by

the Chief of Township, Town Administration Division, H.E.C. Ltd., whereby the petitioner's representation regarding allotment of quarter No. B-

176(T) and/or B-169(T) in favour of the petitioner has been cancelled. The short fact giving rise to the instant writ petition is that the Heavy

Engineering Corporation (H.E.C.), by notification No. 01/2000 dated 28.05.2000 issued by way of advertisement invited applications for

allotment of long term lease of quarters including quarter Nos. B(T) 176, B(T)197 and B(T) 169 (hereinafter referred as the said quarters).

2. The petitioner applied for allotment of the said three quarters. He also deposited earnest money of Rs. 11,000/-. According to the terms of the

said scheme, the employee in service of the H.E.C. was to get preference in the matter of allotment of quarter over the ex-employee and

dependent of the deceased employee of the Corporation. The petitioner was entitled to get allotment of the said quarters in preference as per the

policy of the H.E.C. But the respondents, contrary to the said provisions, allotted quarter No. B(T) 169 to one Shri Jaswant Singh, Ex-Assistant

Foreman, FFP- who had retired about 10 years ago. The respondents, in the same way, allotted quarter No. B(T)176 to one other ex-employee -

R. K. Mishra - Ex-Assistant Foreman, H.M.B.P., H.E.C., The said allotments were made to the said ex-employees, though they had never

applied for allotment nor had deposited the earnest money. The petitioner had applied for allotment of the said quarters on long term lease and also

deposited earnest money, but his application was rejected.

3. The petitioner protested against the rejection of his application and allotments in favour of the ex-employees contrary to the terms of the policy

by filing several representations, but the same were not considered and no order was passed.

4. The petitioner, thereafter, filed writ petition in this Court being W.P. (C) No. 1900/2005. The said writ petition, after hearing the parties, was

disposed of by order dated 28.04.2005 directing the respondents to dispose of the petitioner's representation with a reasoned order.

5. By order dated 15.06.2005 (Annexure-5) the Chief of Township, Town Administration Division disposed of the petitioner's representation

summarily rejecting his claim. The Chief of Township did not mention anything about the petitioner's objection against allotment of the quarters to

the ex-employees -R.K. Mishra and Jaswant Singh - even without any application for allotment in contravention of the terms of the advertisement:

6. Mr. Rajeeva Sharma, learned senior counsel appearing on behalf of the petitioner submitted that rejection of the petitioner's application for

allotment of the said quarters on long term lease is wholly arbitrary, whimsical and illegal. The petitioner, being an employee, was entitled to get

allotment of those quarters in preference. He fulfilled all the terms of the advertisement. But the respondents, unduly favoured the aforesaid persons

and adopted back door and allotted the said quarters to them who were not even the applicants.

7. Learned counsel submitted that the said surreptitious method was adopted only to deprive the petitioner of the allotment who, in accordance

with the provisions of the scheme, was entitled for allotment of those quarters. The action of the respondents is wholly malicious, whimsical and

illegal and the order of rejection as well as the subsequent order passed on petitioner's representation are liable to be quashed by this Court.

8. The respondents have opposed the writ petition. It has been, *inter alia*, stated that four persons had applied against notification No. 01/2000

whereby applications from eligible employees, ex-employees and dependants of the deceased employees of the Corporation were invited for

allotment of quarters on long term lease. In the serial Shri Janardan Prasad and Shri B.P. Tanti were 1 and 2 and the petitioner was at serial No. 3.

Janardan Prasad did not deposit the balance amount of one time premium. The second applicant B.P. Tanti had also shown his indifference and

unwillingness for allotment. In view thereof, a fresh notification was issued inviting applications from willing persons for allotment of quarters on long

term lease. The petitioner, thereafter, had not applied against the subsequent notification. One R.K. Mishra applied for the said quarter - which

was in unauthorized occupation of some other persons. Since he was the only applicant, the quarter was allotted to him after observing all the

required formalities in terms of fresh notification dated 02.05.2002. It has been further stated that the respondents had published notice in "Prabhat

Khabar" daily newspaper dated 21.02.2002 informing that the applicants of long term lease, to whom quarters have not been offered, may get

back their earnest money. It was also made clear that the consideration shall be made only to the applications made as per the advertisement

published in daily newspaper "Prabhat Khabar", being notification dated 02.05.2002. R.K. Mishra, Ex-Assistant Foreman, H.M.B.P., H.E.C. had

applied for allotment of quarters on long term lease including Quarter No. B(T)-176. Since no other person had applied, the same was allotted to

R.K. Mishra. The respondents had denied the allegation that R.K. Mishra had not applied or is a fake and imaginary person vide vigilance report

of Chief Vigilance Officer (Annexure-A to the reply of the respondents).

9. I have heard learned counsel for the parties and considered their submissions and facts and materials on record.

10. The only question arises in this writ petition is as to whether the petitioner's application for allotment of quarters on long term lease has been

arbitrarily rejected and whether the petitioner is legally entitled to get allotment of the said quarters in his favour.

11. It is not in dispute that the petitioner had applied for allotment of three quarters and for that he had also deposited earnest money as per the

term of the scheme. It is also not in dispute that at that time he was still in service and he was entitled for allotment of the quarters in preference to

the retired employees of the respondents.

12. Though the respondents have denied the petitioner's allegations of rejecting his application arbitrarily, a different story is revealed from the

report of the Vigilance Department of the H.E.C. The report has been brought on record by the respondents by way of reply to the petitioner's

rejoinder to the counter affidavit. In the said report, the Chief Vigilance Officer (CVO) has come to the conclusion that there was apparent

irregularity in ignoring the claim of the serving officer, who had also deposited earnest money. The CVO recommended for allotment of the

quarters in favour of the petitioner by cancelling the allotments made in favour of R.K. Mishra and Jaswant Singh vide the said report and

recommendation dated 13th November, 2008.

13. Learned counsel for the respondents submitted that the claim of the petitioner could not be considered, in view of the intervening circular of the

Government of India requiring specific approval of the cabinet in each case of sale or long term lease of land belonging to the Government or

Government controlled statutory authorities (Annexure-17).

14. In view of the clear material on record including the vigilance report that there was irregularity in the allotment of quarters on long term lease

and improper rejection of the petitioner's claim, it was incumbent upon the respondents to review those orders and consider the petitioner's

application a fresh, ignoring the subsequent circular not applicable in the instant case. But in spite of the recommendation of the Chief Vigilance

Officer dated 13.11.2008, the respondents did not consider the petitioner's application for allotment of quarter and did not pass any order.

15. Considering the said admitted position and the facts and material on record, the impugned order No. 190 dated 15.06.2005 passed by the

Chief of Township, Town Administration Division, H.E.C. Ltd., Dhurwa, Ranchi, contained at Annexure-5, is quashed. This writ petition is

allowed. The respondents are directed to consider the petitioner's application for allotment of quarter filed in response to the advertisement issued

by notification No. 01/2000 dated 28.05.2000 in accordance with the provisions of the scheme and take a final decision within four weeks from

the date of receipt/production of a copy of this judgment.