

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

TA No. 39 of 2015

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

1. Choudhury Umesh Chandra Das, aged about 62 years, S/o Late Gumran Ch. Das, At Quarters No. A/54 Sector-3, Rourkela-2, Dist.-Sundergarh.
2. Bijay Kumar Mohanty, aged about 61 years, S/o Udayanath Mohanty, At Quarters No. A/33, Sector-3, Rourkela-2, Dist.-Sundergarh.
3. Sriram Chandra Taranian, aged about 63 years, S/o Late B.Taranian, At. Quarters No. B/43, Sector-2, Rourkela, Dist.-Sundergarh.
4. P.Shankar Rao, aged about 63 years, S/o Late P.Surayanarayana, At. Qrs. No. A/78, Sector-6, Rourkela, Dist.-Sundergarh.
5. Bandi Vijaya Kumar, aged about 61 years, S/o Late Jivatarnam Naidu, At. Qrs. No. 1/51, Sector-4, Rourkela, Dist.-Sundergarh.
6. Nikhil Chandra Das, aged about 62 years, S/o Late N.C.Das, At. Qrs. No. A/98/18, Sector-3, Rourkela, Dist.-Sundergarh.
7. Arun Kumar Gupta, aged about 60 years, S/o Late S.P.Gupta, At. Qrs. No. A/33, Sector-17, Rourkela, Dist.-Sundergarh.
8. Anil Kumar Basu, aged about 70 years, S/o Late B.C.Basu, At. Qrs. No. A/46, Sector-17, Rourkela, Dist.-Sundergarh.
9. Pulin Behari Panda, aged about 63 years, S/o Late U.C.Panda, At. Qrs. No. I/17, Sector-15, Rourkela, Dist.-Sundergarh.
10. Durga charan Behuray, aged about 62 years, S/o Late Birabar Behuray, At. Qrs.No. B/201, Sector-4, Rourkela, Dist.-Sundergarh.
11. Shreeram Giri, aged about 62 years, S/o late B.R.Giri, At. Qrs. No. B/53, Sector-14, Rourkela, Dist.-Sundergarh.
12. Nirmal Kumar Ghosh, aged about 63 years, S/o Late L.N.Ghosh, At. Qrs. No. B/21, Sector-18, Rourkela, Dist.-Sundergarh.
13. Aparna Padhy, aged about 63 years, S/o Late Nilambar Padhy, At. Qrs. No. B/798, Sector-20, Rourkela, Dist.-Sundergarh.
14. Sachidananda pattnaik, aged about 63 years, S/o Late Jaganath Pattnaik, At.Qrs.No.A/110, Sector-19, Rourkela, Dist.-Sundergarh.
15. Abhimanyu Das, aged about 62 years, S/o Late Raghunath Das, At Qrs. No. D/763, Sector-20, Rourkela, Dist.-Sundergarh.
16. Sk.Anzarul Haque, aged about 60 years, S/o B.Ansari, At. Qrs. No. H/342, Sector-15, Rourkela, Dist.-Sundergarh.
17. Rasid Ahmed Ansari, aged about 61 years, S/o Late B.Ansari, At. Qrs. No. H/342, Sector-15, Rourkela, Dist.-Sundergarh.
18. Bichindrananda Mohanty, aged about 64 years, S/o Late Bhikari Ch. Mohanty, At. Qrs. No. A/1, Sector-4, Rourkela, Dist.-Sundergarh.
19. Md.Nasim, aged about 62 years, S/o Late Pir Mohammed, At. Qrs. No. H/508, Sector-15, Rourkela, Dist.-Sundergarh.
20. Md.Yasim Ansari, aged about 63 yeasers, S/o Late Md.Chedi Ansari, At. Qrs. No. H/284, Sector-6, Rourkela, Dist.-Sundergarh.
21. Nripendra Kumar Choudhury, aged about 61 years, S/o Late P.K.Choudhury, At. Qrs. No. A/34, Sector-6, Rourkela, Dist.-Sundergarh.
22. Kamalesh Chandra Dey, aged about 60 years, S/o S.C.Dey, At. Qrs. No. D/110, Sector-18, Rourkela, Dist.-Sundergarh.
23. Saladi Janaki, aged about 60 yers, W/o Late Saladi Srinivas Rao, At. Qrs. No. D/111, Sector-7, Rourkela, Dist.-Sundergarh.
24. Basudev panda, aged about 63 years, S/o Late Nilamani Panda, At. Qrs. No. A/82, Sector-18, Rourkela, Dist.-Sundergarh.
25. Md. Shamsujjuha, aged about 64 years, S/o Late H. Husain, At. Qrs. No. H/16, Sector-15, Rourkela, Dist.-Sundergarh.
26. Gopal Krishna Sen, aged about 61 years, S/o Late B.Sen, At. Qrs. No. B/108, Sector-4, Rourkela, Dist.-Sundergarh.

27. Pranab Kumar Das, aged about 60 years, S/o Late Sudhir Kumar Das, At. Qrs. No. C/155, Sector-18, Rourkela, Dist.-Sundergarh.
28. Purnananda Behera, aged about 60 years, S/o Late Bana Behera, At. Qrs. No. D/110, Sector-8, Rourkela, Dist.-Sundergarh.
29. Pankaja Kumar Bose, aged about 62 years, S/o Late Haripad Bose, At. Qrs. No. B/154, Sector-18, Rourkela, Dist.-Sundergarh.
30. Kailash Chandra Mohanty, aged about 63 years, S/o Late B.N.Mohanty, At. Qrs. No. B/79, Sector-18, Rourkela, Dist.-Sundergarh.
31. Natabar Das, aged about 64 years, S/o Late Maguni Das, At. Qrs. No. 92, Sector-4, Rourkela, Dist.-Sundergarh.
32. Dhoom Das Sahoo, aged about 63 years, S/o Late Rama Sahu, At. Qrs. No. B/116, Sector-14, Rourkela, Dist.-Sundergarh.

.....Applicants.

VERSUS

1. Steel Authority of India, Ltd. Represented through its Chairman, Lodhi Road, New Delhi.
2. Managing Director, Rourkela Steel Plant, Steel Authority of India Ltd., At/PO-Rourkela, District – Sundergarh.
3. Senior Manager, (P.L) R&R, Rourkela Steel Plant, Rourkela, District-Sundergarh.
4. General Manager (F&A), Rourkela Steel Plant, Rourkela, District-Sundergarh.

.....Respondents.

For the applicant : Mr.P.K.Tripathy, counsel
Mr.B.B.Swain, counsel
For the respondents: Mr.J.Pattnaik, counsel

Heard & reserved on : 21.11.2019

Order on : 28.11.2019

O R D E R (ORAL)

Per Mr. Gokul Chandra Pati, Member (A)

The applicants had filed the W.P. (C) No. 13777/2004 before Hon'ble High Court with the following prayers:-

“Under these circumstances, the petitioners most humbly pray that this Hon'ble Court may vbe graciously pleased to issue a Rule Nisi calling upon the Opposite parties to show cause as to why :

- i) The opp. parties shall not be directed to pay the arrear revised pay of the petitioners in terms of Annexure-6.
- ii) Non-payment of the arrear revised pay in pursuance of Annexure-6 shall not be declared as illegal, arbitrary and without any authority of law.

If the opposite parties fail to show cause or show insufficient cause, the Rule be made absolute.

And for this act of kindness, the petitioners shall as in duty bound ever pray.”

The case was transferred to this Tribunal for adjudication as per order dated 27.11.2015 of Hon'ble High Court and thereafter it was registered as a Transfer Application (in short TA).

2. The short point involved in this TA is whether the applicants are entitled for the arrear salary as per the revision of pay vide the circular dated 10.7.2004 (Annexure-6 of the TA) by which, the revision of wages/salary at the revised rate was implemented by the respondents with effect from 1.1.1997. The applicants are claiming the benefit of the circular at Annexure-6 in this TA. They are the retired employees of Rourkela Steel Plant (in short RSP), a unit under the Steel Authority of India Limited. They had availed the Voluntary retirement Scheme (in short VRS) of 1999 and were allowed to retire from service w.e.f. 30.10.1999. As a part of the scheme, they were allowed to retain the quarters of RSP for a period of 22 months with the normal rent. The respondents came forward with a scheme to sub-lease the quarters to the employees through a scheme excluding the retired employees. This was challenged before Hon'ble High Court in W.P. (C) No. 1224/2002, in which, the respondents were directed not to evict the retired employees like the applicants from the quarters. The respondents filed appeal against the order of Hon'ble High Court before Hon'ble Apex Court. Because of the fact that the applicants were occupying the quarters of RSP, the arrear salary to which they were entitled as per the circular at Annexure-6, was not released by the RSP to the applicants. This decision has been challenged in this TA.

3. Counter has been filed by the respondents stating that the respondents have imposed penal rent in view of their occupation of the quarters beyond the time duly approved by the competent authority and such dues are required to be cleared by the applicants. It is further stated that the arrear dues as claimed cannot be released to the applicants before vacation of the occupied quarters by the applicants.

4. Learned counsel for the applicants was heard by us. He submitted that the SLP filed by the respondents about the issue of lease of the quarters, has been disposed of and the applicants have been allowed to vacate the quarters within 33 months. It is therefore submitted that the arrear dues be released forthwith.

5. Learned counsel for the respondents was also heard. He filed a copy of the judgment of Hon'ble Apex Court in the Civil Appeal No. 1834/2018 and 1835/2018 in the case of Steel Authority of India Limited vs. Choudhury Tilotama Das and others, reported in (2018) 3 SCC 308. In this judgment, the issue of lease of quarters was decided by Hon'ble Apex Court as under:-

"14. "Sail Scheme for Leasing of Houses to Employees, 2002" was introduced in the year 2002. Considerable time has elapsed in the meantime. The Scheme of 2002 was applicable only to regular/serving employees and not to ex-employees. In the long period of interval that has been occasioned by the pendency of the present litigation the very basis for introduction of the Scheme of 2002 has changed and the facts now stated in the additional affidavit dated 22nd January, 2018 of the appellant - Steel Authority of India Limited would indicate that today any long-term lease of quarters built/maintained by the RSP is not feasible. In fact, according to the appellant - Steel Authority of India

Limited, there would be a shortage of accommodation/quarters in the immediate future and, perhaps, new constructions will have to be raised to meet the increasing demand for accommodation on account of increase of production levels of the RSP.

15. In a situation where no legal right can be understood to have been vested in the respondents - writ petitioners under the Scheme of 2002 and operation of the said Scheme of 2002 today is not considered feasible or necessary by the appellant on account of the reasons stated in the additional affidavit dated 22nd January, 2018, as noticed herein above, we do not see how the appellant can be compelled to grant any long-term lease of the official quarters in the RSP to the respondents - writ petitioners who are its ex-employees. Such subsequent facts and developments that have taken place during the interregnum would certainly be material in moulding the relief(s) and answering the issues arising before this Court.

16. Consequently, and in the light of the above, we are of the view that no relief can be afforded to the respondents-writ petitioners, at this point of time. Consequently, we allow this appeal, set aside the order of the High Court but at the same time we direct that the respondents-writ petitioners (53 in number) or their legal heirs, as may be, be allowed to remain in occupation of the quarters for a period of 33 (thirty three) months with effect from today, on the expiry of which they will handover vacant and peaceful possession of the said accommodation/quarter to the competent authority of the RSP.”

6. Learned counsel for the respondents submitted that the applicants will be entitled for the arrear salary as per the circular at Annexure-6, but it will be allowed till the date of the VRS of the applicants and amount will be disbursed after adjustment of the rental dues outstanding against the applicants. The contentions in the Counter that the arrear dues cannot be released in favour of the applicants as they are occupying the quarters of RSP, are not tenable in view of the aforesaid judgment of Hon'ble Apex Court. Besides, no rules or circular have been furnished by the respondents in support of such contentions.

7. In view of the discussions above, the respondents are directed to release the arrear salary payable to the applicants as per the circular dated 10.7.2004 (Annexure-6 of the TA) from 1.1.1997 till the date they were in service under the RSP before retirement after adjusting the rent of the quarter occupied by them as per the judgment of Hon'ble Apex Court in the case of Choudhury Tilotama Das & others (supra). The respondents will be at liberty to withhold the rental dues till the likely date of vacation of the quarters as per above referred judgment in the case of Choudhury Tilotama Das & others (supra) from the arrear dues payable to the applicants and release the balance amount payable to the applicants within four months from the date of receipt of a copy of this order.

8. The TA is allowed to the extent as above. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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