

A STEEL AUTHORITY OF INDIA LTD.
v.
CHOUDHARY TILOTAMA DAS & ORS.
(Civil Appeal No. 1834 of 2018.)

B FEBRUARY 12, 2018

[RANJAN GOGOI AND R. BANUMATHI, JJ.]

C *Service law – Voluntary Retirement Scheme – Allotment of quarters – Voluntary Retirement Scheme (VRS) by a Steel Plant-unit of appellant – Respondents opted for VRS – Subsequently the Steel Plant floated a Scheme for allotment of quarters to such ex-employees wherein employee’s allotted official quarters were allowed to occupy such quarters on license basis for a period of 22 months after taking VRS – Respondents allotted flats under the said Scheme – Thereafter, another Scheme of 2002 floated by the Steel Plant, D contemplating allotment of houses on long term basis (33 years) to serving employees – Challenge to, by ex-employees – Issuance of direction to the Steel Plant to consider the case of the respondents for allotment of quarters in their occupation on long term basis – On appeal, held: Scheme of 2002 was valid for three months and E its operation was not extended – It was applicable only to regular/ serving employees and not to ex-employees – Respondents were not vested with any right for consideration of their cases for allotment on long term lease – In the additional affidavit dt. 22.1.2018, the F appellant stated that today any long-term lease of quarters built/ maintained by the Steel Plant was not feasible and there would be a shortage of quarters in immediate future and new constructions would have to be raised to meet the increasing demand for accommodation – In view thereof, appellant cannot be compelled to grant any long term lease of official quarters to the respondents- G its ex-employees – Order of the High Court set aside – However, respondents directed to vacate the possession of the quarter on expiry of 33 months – Subsequent events.*

Disposing of the appeals, the Court

HELD: 1.1 “Sail Scheme for Leasing of Houses to Employees, 2002” was valid for a period of three months. The

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operation of it had not been extended. Under the said Scheme of 2002, ex-employees, to which category the respondents-writ petitioners belong, were not vested with any right for consideration of their cases for allotment on long-term lease. In fact, the lease deed between the State of Orissa and the appellant-SAIL makes it very clear that the lands can be used only for the Steel plant and for the purposes ancillary thereto and that the appellant shall not use the land for any other purpose except with the previous sanction of the Government. [Para 12][465-G-H; 466-A]

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1.2 “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 instant litigation the very basis for introduction of the Scheme of 2002 has changed and the facts now stated in the additional affidavit of the appellant would indicate that today any long-term lease of quarters built/maintained by the RSP is not feasible. In fact, according to the appellant, 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. [Para 13][466-B-D]

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1.3 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, it cannot be seen 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. In view thereof, no relief can be afforded to the respondents-writ petitioners, at this point of time. The order of the High Court is set aside but at the same time it is directed that the respondents-writ petitioners (53 in

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A 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. [Paras 14-15][466-E-F, G-H]

B CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1834 of 2018.

From the Judgment and Order dated 07.09.2009 of the High Court of Orissa at Cuttack in W. P. (C) No. 1224 of 2002.

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C. A. No. 1835 of 2018.

Ranjit Kumar, Sr. Adv., Sunil Kumar Jain, Punya Garg, Abhishek Jain, Advs. for the Appellant.

D Ratnakar Dash, Sr. Adv., Sibho Sankar Mishra, Uma Kant Mishra, Niranjan Sahu, Shibashish Misra, Rameshwar Prasad Goyal, Advs. for the Respondents.

The Judgment of the Court was delivered by

RANJAN GOGOI, J.

SLP(C) NO.34336 OF 2009

E 1. Leave granted.

F 2. In the year 1999, to be precise on 12th February, 1999, the Rourkela Steel Plant (hereinafter referred to as “RSP”) introduced a Voluntary Retirement Scheme, 1999 covering employees who had served for a minimum of 15 years or who are above 40 years of age. Thereafter by Circular dated 9th August, 1999 the RSP floated another scheme called “Scheme for Allotment of Quarters to Ex-employees Separating under the SAIL VRS Scheme, 1999”. Under the said Scheme of 1999, employees of the RSP who were allotted official quarters were allowed to occupy such quarters on licence basis for a period of 22 (twenty two) months following their leaving the RSP/Company on the basis of voluntary retirement.

G 3. The respondents, 53 (fifty three) in number, were allotted quarters by the RSP and had opted for voluntary retirement under the Scheme. Accordingly, they were allowed to retain the official quarters

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for a period of 22 (twenty two) months which period was extended. Thereafter, the RSP came up with another Scheme called “Sail Scheme for Leasing of Houses to Employees, 2002”. This was on 22nd July, 2002. The said Scheme of 2002 contemplated allotment of houses/flats on long term lease basis (33 years) to serving employees. Ex-employees like the respondents–writ petitioners were excluded from the purview of the scheme.

4. The said Scheme of 2002 was challenged in a writ petition before the High Court of Orissa which was instituted way back in the year 2002. As it would appear from the pleadings of the parties before the High Court, while the appellant – Steel Authority of India Limited, at that point of time, had pressed for the inclusion of the ex-employees within the framework of the said Scheme of 2002, the State Government took the stand that such an action may invite public criticism. No affidavit was, however, filed by the State Government. By the impugned judgment and order dated 7th September, 2009 the writ petition in question was closed/disposed of by the following operative direction:

“In view of such, we dispose of this writ petition with a direction to the O.P. - SAIL Authorities to consider the case of the petitioners for allotment of quarters, which are in their occupation, on long term sub-lease basis, in terms of the Circular dated 22.7.2002 in Annexure-5. We further direct that in the event the quarters are allotted to the petitioners on long term sub-lease basis, the cost of such quarters shall be computed at the rate at which it was prevalent at the time when the Scheme came into force, along with interest thereon @ 9% per annum and the same shall be paid by the petitioners. Apart from that the petitioners are also liable to pay the unpaid house rent, electricity duty, water charges, if any, along with the aforesaid cost. However, there shall be no charge of penal rent from the petitioners.

We make it clear that this order only relates to those petitioners, who are presently in occupation of the quarters.

The writ petition as well as Misc. Case Nos. 842/2002, 3924/2003 & 354/2006 is also disposed of accordingly.”

5. Aggrieved, the Steel Authority of India Limited has filed the present appeal before this Court.

- A 6. We have heard Shri Ranjit Kumar, learned Senior Counsel appearing for the appellant – Steel Authority of India Ltd., Shri Ratnakar Dash, learned Senior Counsel appearing for the respondents–writ petitioners and Shri Shibashish Misra, learned counsel for the State of Odisha.
- B 7. Though several grounds including the authority of SAIL to grant a sub lease as directed by the High Court has been urged, the case of the appellant in the appeal before us is primarily based on subsequent facts which have been brought on record by means of an additional affidavit dated 22nd January, 2018. In the aforesaid additional affidavit dated 22nd January, 2018 it has been stated that the RSP, a unit of Steel Authority of India Limited (SAIL), had an initial production capacity of 2 (two) million tons per annum which was expanded and the plant modernized to reach a target production of 4.2 million tons per annum. This was at an overall cost of Rs.13684 crores and was completed in the year 2013. In the said additional affidavit dated 22nd January, 2018
- C it has been further stated that the SAIL is now engaged in the process of enhancing the annual capacity of the RSP to 7.5 million tons per annum for which a huge infrastructural investment will have to be made running into almost Rs. 2.6 million crores. It is further stated by the appellant in the said additional affidavit dated 22nd January, 2018 that keeping in mind that the optimum number of employees per million ton of production
- D should be 3200, once the production capacity is raised to 7.5 million tons the RSP will have about 24000 employees. It is contended that the entire township of Rourkela is established and maintained by the RSP itself which is, therefore, required to provide additional accommodation to various Government Agencies like Police, Revenue Officers,
- E Government employees, employees of Government School/Colleges, Banks, Public Sector Undertakings (PSUs), etc. In the said additional affidavit dated 22nd January, 2018, the appellant has further stated that as per the directive received from the Union Cabinet Secretariat long-term lease is presently prohibited. It is further stated that presently the available quarters are about 19916 of which about 18300 quarters are
- F already occupied by the employees/ex-employees and various other employees of the State Government, PSUs, etc. It is further stated that about 250-300 quarters are in a dilapidated condition. The remaining/ vacant quarters would be required not only to house the in-coming employees but also various Agencies that would be working at the site in
- G connection with the expansion/modernization plans. On the strength of
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the aforesaid statements and the official correspondences/decisions enclosed in this regard to the additional affidavit dated 22nd January, 2018 the appellant submits that the order of the High Court should be appropriately interfered with. A

8. Shri Ratnakar Dash, learned Senior Counsel appearing for the respondents – writ petitioners has disputed the statements made by the appellant in the additional affidavit dated 22nd January, 2018 and has drawn the attention of the Court to the reply of the respondent to the said additional affidavit dated 22nd January, 2018 filed by the appellant. The learned counsel for the respondents–writ petitioners, apart from contesting the various statements made in the additional affidavit dated 22nd January, 2018 filed by the appellant, has submitted that the RSP is a loss making concern and admittedly is reducing its workforce. It is claimed that huge number of vacant quarters are available and even if the production capacity of the RSP is enhanced to 7.5 million tons there would still be surplus of accommodation/quarters. B C

9. The respondents-writ petitioners have brought on record a Circular dated 23rd August, 2017 by which applications have been invited for allotment of one room/1 BR(L.T) quarters on licence basis for a period of 33 (thirty three) months. Such applications have been invited from employees, ex-employees of the RSP who would be separating from the RSP/Company. The said fact, according to the respondents – writ petitioners, has belied the claim made by the appellant – Steel Authority of India Limited. D E

10. Insofar as the State of Odisha is concerned, Shri Shibashish Misra, learned counsel appearing for the State of Odisha has taken a stand that the appellant – Steel Authority of India Limited is free to take its decision in the matter subject to the conditions of lease under which the land has been allotted to the Steel Authority of India Limited. F

11. We have considered the matter.

12. “Sail Scheme for Leasing of Houses to Employees, 2002” was valid for a period of three months. The operation of it had not been extended. Under the said Scheme of 2002, ex-employees, to which category the respondents–writ petitioners belong, were not vested with any right for consideration of their cases for allotment on long-term lease. In fact, the lease deed between the State of Orissa and Steel Authority of India Limited makes it very clear that the lands can be used only for H

A the Steel plant and for the purposes ancillary thereto and that the Steel Authority of India Limited shall not use the land for any other purpose except with the previous sanction of the Government.

13. “Sail Scheme for Leasing of Houses to Employees, 2002” was introduced in the year 2002. Considerable time has elapsed in the
B 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
C 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
D production levels of the RSP.

14. 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
E 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
F arising before this Court.

15. 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
G 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.

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16. The appeal, consequently, is disposed of in the above terms. A

S.L.P.(C) NO.2564 OF 2010

17. Leave granted.

18. The appeal is disposed of in terms of the judgment/order passed
in Civil appeal arising out of Special Leave Petition (Civil) No.34336 of B
2009.

Nidhi Jain

Appeals disposed of.