

Court No. - 42

Case :- WRIT - A No. - 8267 of 2023

Petitioner :- Manas Vatsa

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Adarsh Singh, Indra Raj Singh

Counsel for Respondent :- C.S.C.

Hon'ble Suneet Kumar,J.

Hon'ble Rajendra Kumar-IV,J.

Heard learned counsel for the petitioner and learned Standing Counsel for the State respondents.

Petitioner while working as Additional Civil Judge, (Senior Division), Prayagraj, was not provided Government accommodation, consequently, petitioner rented private accommodation as per the prevalent Government Order.

The petitioner, by the instant writ petition, inter-alia seeks, the following relief:

"i. Issue a writ, order or direction in the nature of mandamus directing the respondent nos. 1 and 2 to consider for payment of Rs.2,88,680/- i.e. the difference of the actual rent paid by the petitioner against the House Rent Allowance received by him during his stay at rented accommodation from 27.05.2021 till 04.08.2022 along-with penal interest, as may be fixed by the Hon'ble Court."

Learned counsel for the petitioner submits that the issue pertaining to arrears of rent in the event the Judicial Officer was not provided Government accommodation has been decided by this Court in **Divakar Dwivedi versus State of U.P. and 5 others, Writ-A No.6585 of 2021, decided on 24.04.2023**. The operative portion of the order, reads thus:-

"19. Accordingly, as per Government Order dated 27 July 2006, petitioner is entitled to actual rent of the rented accommodation. In any case, by the subsequent Government Order dated 5 October 2020, a judicial officer posted at Allahabad (Prayagraj) is entitled to minimum Rs. 20,000/- over and above the admissible H.R.A. or 18 percent of his basic/level of pay whichever is higher. The arrears claimed by the petitioner would also be covered by the subsequent Government Order. The case of the petitioner, however, is covered by the earlier Government Order dated 27 July 2006, i.e., actual rent of the rented accommodation minus the H.R.A.

20. In the circumstances, the writ petition is allowed.

21. *The impugned Rent Justification Certificate dated 21 June, 2019, is set aside and quashed.*

22. *The respondents are directed to pay/refund Rs. 3,39,472/-, towards the arrears of rent paid by the petitioner along with interest at the rate of 7% per annum from the due date till the date of payment. The amount shall be released by the competent authority of the State within four weeks from the date of service of this order upon the second respondent-District Magistrate, District Prayagraj.*

23. *Registry to ensure compliance.*

24. *No cost. "*

Learned Standing Counsel does not dispute the facts and the proposition, he submits that the writ petition be disposed of in terms of the decision rendered in **Divakar Dwivedi (supra)**.

Accordingly, the relief claimed in **writ petition is allowed**.

Petitioner is entitled to the arrears of rent along-with interest at the rate of 7% per annum from the due date till the date of payment.

Before we part with the case, it observed that it is not in the interest of justice and principle of separation of powers between the judiciary and the executive that Judicial Officers should take recourse to judicial proceedings in such matters for redressal of their grievance, in particular, arrears of rent.

In view thereof, we direct that all such Judicial Officers who had rented private accommodation, on non availability of Government accommodation, and are covered by the decision rendered in **Divakar Dwivedi (supra)** shall raise their claim / arrears of rent and interest thereon through their respective District Judges. The District Judges on receipt of such an application / representation shall examine and satisfy himself of the claim and shall forward it to the Registrar General of the High Court with an endorsed that the claim of the Judicial Officer is covered by the decision in **Divakar Dwivedi**. The Registrar General shall, thereafter, raise the issue with the first respondent - Principal Secretary, Government of U.P. Lucknow to ensure compliance of payment within a reasonable time.

It is clarified that the decision rendered in **Divakar Dwivedi (supra)** shall apply to all the Judicial Officers, irrespective of the fact that they had not filed writ petitions. In other words, the Judicial Officers shall not take recourse to judicial proceedings for arrears of rent and interest thereon based on **Divakar Dwivedi** case, but raise their claim as directed herein above.

Order Date :- 12.5.2023 /// I.A.Siddiqui