

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.324/1995 OA 2373/94

New Delhi, this 12th day of December, 1995

Hon'ble Shri B.K. Singh, Member(A)

Shri Roshan Lal
Shri Rakesh Kumar
both r/o C-9/8, Rly. Colony,
Lajpatnagar, New Delhi .. Applicant

By Shri A.K. Bhardwaj, Advocate

versus

Union of India, through

1. General Manager
Northern Railway, Baroda House, New Delhi
2. The Chairman
DAHC, Northern Rly,
DRM Office, New Delhi
3. Divl. Supdt. Engineer
Estate, Northern Railway
DRM Office, Paharganj, New Delhi .. Respondents

ORDER(in circulation)

This RA 324/95 has been filed against the judgement dated 19.10.95 in OA 2373/94. The applicant states that he received a copy of the judgement on 7.11.95. The reliefs prayed for in the OA were:

(a) to mandate the respondents to regularise the qr. No.C-9/B, Lajpat Nagar, New Delhi allotted to applicant No.1 in the name of the applicant No.2 or to allot any other rly quarter to him out of turn;

(b) to mandage the respondents to release the amount of gratuity payable to applicant No.1 with interest and compensation for delayed payment;

(b) to mandate the respondents to release the post retirement passes admissible to applicant No.1

2. The rule position is contained in Railway Establishment Manual page 403 and the same is reproduced on page 2 of the order. Thus the question of regularisation or out of turn allotment of rly. quarter has been examined in depth by the Full Bench of the Tribunal in case of Liaqat Ali & others Vs. UOI & Ors. leading case being OA 2684/93 decided on 29.5.95. This

24

(19)

judgement clinches the issue that no ward/son/daughter or a near relation of a retired/retiring railway employee can claim regularisation of a quarter in his name as a matter of right. It is only a concession extended by the railway authorities in public interest for discharge of urgent and important duties. It was admitted during the course of the argument that the eviction proceedings were pending before the DSE for eviction of applicant No.1. The ratio of the judgement of Rasila Ram was also quoted wherein it has been held by the Full Bench of the Tribunal that when eviction proceedings are pending, in normal course the Tribunal should direct the applicant to present his case before the Estate Officer. The Tribunal is not required to interfere at this stage. Rule 190 of the Indian Railway Act gives power to the railway authorities to take recourse either to their provisions as contained in section 190 which is an amended form of section 138 of the Indian Railway Act, 1890 or to follow the alternative procedure of PPE Act, 1971 and the railways are not barred from taking recourse to section 190 since dwelling unit has been defined as the property of railway and after following the procedure laid down, the competent authority can evict the person after obtaining the order of the Metropolitan Magistrate/Judicial Magistrate 1st Class or Railway Magistrate 1st Class.

3. The application was dismissed as premature and the applicant was directed to make his submission before the Estate Officer since the eviction proceedings were pending and unless these were concluded applicant No.1 could not get the gratuity or one set of post-retiral passes. The instructions issued by the railways are

D

f 20


clear on the subject. It is said that the gratuity and PR contribution will be drawn and kept in cash and will be released only after the unauthorised occupation is vacated and the railways are in a position to adjust the rent penal/damage and electricity/water charges from the gratuity amount and they can withhold one set of post-retirement passes till the house is handed over to them. This being the position, the applicant No.1 could not have been given the gratuity since the house was still in an unauthorised occupation of applicant No.1. The reliefs prayed for could not have been granted by the court unless the instructions issued by the railways are struck down and declared ultra-vires. Those instructions are not under challenge before this Tribunal. The application was thus dismissed as pre-mature and the applicant No.1 was directed to make his submissions before the Estate Officer who was directed to consider the matter taking into consideration the facts and circumstances of the case and pass a final order. They were granted 3 months time, which is not yet over.

4. This Tribunal is not vested with any inherent power of review. This Tribunal exercises that power under order 47, rule 1 of CPC, if there is (1) discovery of a new and important piece of evidence, which inspite of due diligence was not available with the review applicant at the time of hearing or when the order was made; (2) an error apparent on the face of the record or (3) any other analogous ground. The review application does not fall within the four corners of order 47, rule 1 of CPC. Since the applicant has not been able to bring out any new piece of evidence or any

D.

K (21)

error legal or factual manifest on the face of the record, nor is there any other ground warranting a review of the dated dated 19.10.95, and accordingly the review application is summarily rejected order 47, Rule 4(1) of the CPC.


(B.K. Singh)
Member(A)

/nka/