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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

NEW DELHI, THIS 6th DAY OF JUNE 1997.

OA NO. 1208/1996

1. SHRI BUDHAI PARSHAD
S/o Lt. Sh.jeevan Lal
retd. Packer under Dy. Cheif
Controller of Stores
Northern Railway
Shakurbasti, Delhi.

R/o House No.114/5
Railway Colony
Delhi Kishan Ganj

...APPLICANTS

(By Advocate - Shri B.S. Mainee)

VERSUS

1. Union of India through
The General Manager
Northern Railway,
Baroda House
NEW DELHI

2. The Dy.Chief Controller of Stores
Northern Railway
Shakurbasti
Delhi.

..RESPONDENTS

(By Advocate - Mrs. B. Sunita Rao)

ORDER

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The applicant retired from Railway service w.e.f. 31.1.1993. His son was also a Railway employee, who unfortunately died two months prior to the applicant's retirement. Thereafter compassionate appointment was sought for the applicant's daughter-in-law. But since regularisation of the quarter in her name was not allowed, the applicant and his daughter-in-law filed an O.A.No.1065/95 which was disposed of on 21.11.95 with a direction to respondents to reconsider the case on a special footing keeping in view that the accommodation was being sought for by a woman who was also a Harijan. The applicant submits that he had expected his son, who had been allowed to share the premises with him, to be allotted the same quarter after his retirement. Since his son expired before his retire-
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ment, due to the delay caused by the respondents, the regularisation of quarter in the name of his daughter-in-law took place after a gap of three years. His grievance is that the respondents have wrongfully withheld his gratuity and railway passes on the ground that he was in unauthorised occupation of the railway quarter after his retirement. The case of the applicant is that his daughter-in-law was entitled to compassionate appointment as upheld by the Tribunal, and ^{therefore} the delay in regularisation of the quarter was entirely because of the respondents, so the respondents are liable to release the gratuity as well as the passes, and also to pay interest at the rate of 18% per annum for the period of delay.

2. The respondents deny that the post-retirement passes of the applicant had been withheld, but admit that on account of unauthorised retention of railway quarter, they had withheld the gratuity. They claim that on the quarter being regularised in the name of the daughter-in-law, they have ordered release of the gratuity. However, as the applicant is liable to pay the damage rent for the period of unauthorised occupation amounting to more than Rs.35,000 and has also run up unpaid electrical charges amounting to Rs.11,483, no actual payment could be made as even after adjusting the gratuity amount of about Rs.18,480, the applicant is liable to pay an amount of Rs.28780 to the Railways.

3. I have heard the counsel on both sides. Shri B.S. Maine, 1d. counsel for the applicant, relies on the judgement of this Tribunal in the case of MADAN MOHAN VS. UOI & ORS. AISLJ 1993/2 CAT 56, in which it was held that no recovery could be made from the DCRG as recovery of outstanding towards penal rent for unauthorised retention of quarter requires the orders of the competent authority under the Public Premises Eviction Act. The plea of the applicant in that case for grant of interest on the late payment was however refused on the basis of Supreme Court's orders in Rajpal Wahi & Ors. SLP No. 7688-91/88. The 1d. counsel also drew my attention to a copy

of order of this Tribunal in OA No.1065/95 Bhanmati & Ors. Vs. UOI decided on 21.11.95 relating to compassionate appointment of the daughter-in-law of the present applicant, to support his arguments that the respondents have wrongfully delayed the compassionate appointment of the daughter-in-law which resulted in the so called unauthorised occupation of the government accommodation.

4. I have carefully considered the matter. While the Tribunal in a Single Bench judgement in Madan Mohan (Supra) have held that recovery for unauthorised occupation can be effected only on the basis of orders of the competent authority under the PP Eviction Act, there has since been a Full-Bench judgement of this Tribunal in RAM_POOJAN_VS._UOI_&_ORS._ATJ_1996_(1)_541 in which it has been held that no specific order of cancellation is required after expiry of the permissible period in case of retirement or transfer and the allotment automatically stands cancelled and damage rent is leviable as per rules thereafter. It has also been held that for recovery of this damage rent, deduction can be made from salary without recourse to the PP Act. It is true that this judgement speaks only of recovery from salary, which is possible only during the employment of a government servant. The plea of the applicant however is that no recovery from the dues can be made after retirement without recourse to the PP Act. In my view, in terms of Ram Poojan (Supra) judgement, the principle laid down is that recoveries for unauthorised occupation of government accommodation and damage rent does not require recourse to the PP Act. The case of the applicant is ~~not~~ ^{only} that such recoveries cannot be made from the pensionary benefits without the orders of the competent authority exercising power

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nder the Public Premises Act. This plea cannot be upheld in view of the Ram Poojan ('Supra') case which, being a Full-Bench judgement and of a later date, supercedes the Single Bench judgement of this Tribunal in Madan Mohan ('Supra').

5. In view of the above discussion, the O.A. is dismissed. No order as to costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER (A)

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