

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.827 of 1996

New Delhi, this the 7<sup>th</sup> day of November, 1997

Hon'ble Mr. N. Sahu, Member (Admnv)

P.S.Bhatnagar s/o Shri M.P.Bhatnagar,  
Retd. Guard 'A', N.RLY., Moradabad.  
Residential Address- P.S.Bhatnagar,  
C/o Shri K.C.Bhatnagar, 344/1, Lado  
Sarai, New Delhi.

-APPLICANT

(By Advocate - Shri G.D.Bhandari)

Versus

1.Union of India through the General  
Manager, Northern Railway, Baroda  
House, New Delhi.

2.Divisional Railway Manager, Northern  
Railway, Moradabad.

-RESPONDENTS

(By Advocate - Shri Rajeev Sharma)

J U D G M E N T

By Mr. N.Sahu, Member (Admnv)-

The admitted facts are that after retirement from service on 30.11.1989 the applicant retained official accommodation upto 31.3.1990 at normal rent and upto 31.7.1990 at double the rate of normal rent. His request for further retention was rejected by the competent authority vide letter dated 10.8.1990. A show cause notice was issued on 10.9.1990 to vacate the accommodation within 15 days. There was no response from the applicant and thereafter proceedings were initiated before the Estate Officer under Section 4 & 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. (hereinafter referred to as 'the PP Act'). When the matter was pending before the Estate Officer the applicant approached the District Judge under Section 9 of the PP Act. His appeal was rejected vide an order dated 10.9.1992. By a letter dated 12.2.1993 the Estate Officer again gave 15 days

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notice to the applicant to vacate the quarter failing which to pay damage charges at Rs.15/- per square metre since the date of unauthorised occupation till the time he actually handed over possession. Against this order the applicant filed another appeal before the District Judge. The District Judge confirmed the orders relating to eviction but as far as damages are concerned it confined it to the normal rate of rent for a period of two months and double the rent thereafter. The respondents found that the applicant failed to pay arrears of rent and electricity charges aggregating to Rs.64,999.67p. This amount was adjusted against DCRG and relief of pension. The stand of the respondents is that although the District Judge fixed the normal rate of rent for two months and double the rent for six months thereafter it does not mean that the applicant was not liable to pay the damages for the period exceeding over 8 months till the date of vacation of the accommodation. The respondents further contend that in accordance with Rule 15(2) of the Railway Services (Pension) Rules, 1993 the railway or Government dues as ascertained and assessed shall be adjusted against the amount of retirement gratuity or DCRG.

2. The claim of the applicant is that the charging of penal rent and withholding of gratuity and commutation itself amounted to double jeopardy. He states that damages are not recoverable from the applicant and only licence fee is recoverable. He questions withholding of pensionary dues and complimentary passes as pension and gratuity are valuable rights in property in the hands of the retired

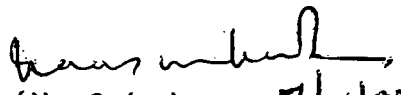
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employee and any culpable delay in the settlement thereof must be visited with penalty of interest at the current market rate. He says that there is no provision in any rule by which the respondents have the power to withhold even provident fund and leave encashment. The learned counsel submitted that there is no justification to adjust damages against pension as relief in pension is part of pension and Government dues cannot be recovered from it. For this purpose he cited the decision of **R.D.Sharma Vs. Union of India and others**, (1988) 8 ATC 26. He also states that the Fourth Pay Commission treated relief in pension as an essential component of the pension packet. Therefore, in the absence of any specific rule in Pension Rules empowering the Government to effect recovery from relief in pension on account of outstanding Government dues such recovery cannot be permitted.

3. I have carefully considered the rival submissions. The applicant has been a defaulter throughout. He has been given several opportunities to vacate. He should have vacated the accommodation by 31.7.1990. In fact he vacated the same only when he was forcibly evicted by the Police on 28.2.1993. The department, therefore, is eminently justified in calculating the damages in accordance with the rules. The law is very well settled that such damages constituted Government dues and they could be recovered from gratuity. The full gratuity amount payable was Rs.49,600/-. The action of the respondents in recovering this entire amount of gratuity, therefore, cannot be interfered with. With regard to the balance of Rs.15,399/- recovered from the relief in pension,

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there is no provision in law to effect a recovery of the Government dues from pension. Such an action being violative is hereby quashed. The respondents are hereby directed to refund a sum of Rs.15,399/- with an interest rate of 12% per annum from the date it is due till the date it is paid. The O.A. is partly allowed. No costs.

  
(N. Sahu)  
Member (Admnv) 7/11/97

rkv.