

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 2163/1994

New Delhi, dated the 25th Jan., 1995

CORAM

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri Harbhajan Singh
r/o Quarter No. 138-I, Loco Colony,
Delhi Sarai Rohilla, Delhi

... Applicant

(By Advocate Shri B.S. Mainee)

V/s

Union of India through

- 1- The Genl. Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway, Bikaner.
3. The Estate Officer,
Northern Railway,
D.R.M. Office, Bikaner.

... Respondents

(By Advocate Shri R.L. Dhawan)

JUDGMENT (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member(J))

This application has been filed impugning the order dated 22.9.94 passed by the Estate Officer(DRM) Bikaner(Ann.A.1). The main grievance of the applicant is that vide Ann.A.1 order dated 22.9.94 respondents are, in fact, recovering the damage charges in respect of the premises occupied by the applicant in-contradiction^{ven 12} of the order passed by the Tribunal in OA No.491/93 (Harbhajan Singh V/s UOI & Ors). In this judgment the following directions were given:-

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- * In view of the law declared by the Supreme Court in SLP 7688/91 (Rajpal Mahi V/s Union of India and others), the respondents should release the DCRG after

recovering therefrom, in accordance with law, rent at normal rates for the period for which such rent only is chargeable and penal rent-as distinct from damages-for the period of unauthorised occupation. As the delay in payment of DCRG is not on account of administrative lapse, no interest will be payable on the payment of DCRG dues. We order accordingly and direct the payment, as stated above, should be made to the applicant on or before 15th July, 1993. We also direct simultaneously, that the applicant shall vacate the government quarter as early as possible and in any case not later than 15th July, 1993 to enable the respondents to make such payment. We further direct the respondents to restore the post retirement complimentary passes to the applicant prospectively from the date the railway quarter is vacated by the applicant." (emphasis added)

2. Shri Mainee contends that inspite of several representations made by the applicant, after the judgment in the aforesaid case was passed on 15.4.1993 (Ann.2), ^{the} Respondents have failed to pay his DCRG amount. It is ^{an} admitted fact, ^{B3} that the applicant is continuing in the occupation of the railway quarter even after the date given in the judgment to vacate the same on or before 15.7.93. It is also stated that the applicant retired from service on 21.7.1991.

3. Respondents have filed their reply to the OA in which they have, inter-alia, stated that they have in fact, recovered the rent @ Rs 1130 PM (Rs 1100 penal rent plus Rs 25 as water charges plus Rs 5 as conservancy charges) instead of Rs 1845 PM as per railway board instructions No.F(X) I-86/11/9 dated 31-5-1991 (Ann.R.2). These instructions were to take effect from 1.6.1991. According to Shri Dhawan, Id Counsel for the respondents, although the impugned order dated 22.9.94 refers to the amount to be recovered from the applicant as damages, it is in fact, ^{B3} that only the penal rent which has been allowed to be charged by the aforesaid order dated 15.4.1993. He, therefore, submits that the impugned order with the charged ^{is valid B3} from the applicant, and hence ex-parte interim order dated 28.11.1994 may be vacated.

provision of penal rent which can be

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3. Shri Mainee states that the impugned order is violative ^{of B.} under section 19(4) of the Administrative Tribunals Act, 1985. The submission of the learned counsel for the applicant is that Ann.A.1 order is, in fact, in continuation of the earlier proceedings commenced by the respondents in respect of recovery of damage rent against the applicant for unauthorised occupation. He, therefore, states that after the decision in the OA 491/93 Ann.A.1 order cannot be proceeded with.

To this, the learned counsel for the respondents submits that the impugned order is, in fact, in pursuance of the judgment in OA 491/93 dated 15-4-1993 in respect of penal rent only.

4. I have carefully considered the submissions made by the learned counsel for both the parties and perused the records in the case.

5. From the judgment in OA No. 491/93, it is clear that the applicant will receive the DCRG dues only on the vacation of the government quarter, which he had been directed to vacate latest by 15th July, 1993 which he has apparently not done, and continues in unauthorised occupation for which, thereafter he will be liable to pay rent as per the rules. Further, the respondents have to release the DCRG amount due to the applicant only after recovering therefrom, in accordance with law, rent at normal rates for the period for which such rent only is chargeable and 'penal rent' as distinct from 'damages', for the period of

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unauthorised occupation as mentioned therein. On the other hand the impugned order dated 22.9.1994, refers to Rs 2260/- assessed by as damages on accounts of unauthorised occupations of the premises (sic) within one month from the date of publication of this order and thereafter @ Rs 1130/- per month till vacation of public premises. This order is vague and appears to be contrary to the directions given by this Tribunal on 15.4.1993, although the learned counsel for the Respondents submits that in fact only penal rent has been charged and not damages.

6. In the facts and circumstances, the impugned order dated 22.9.94 is quashed and set aside. However, the respondents are given ¹³the liberty to pass any other order in compliance with the directions given in the judgment dated 15.4.1993 and in accordance with law.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)

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