

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 2354 of 1994

New Delhi : February, 14th, 1995.

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HON'BLE MR.S.R.ADIGE , MEMBER(A)

Shri Hiramani,
Retd. Sr. Clerk.

Divl.Rly.Manager, Office,
Northern Railway,
New Delhi.

.....Applicant.

By Advocate Shri B.S.Maine.

Versus

Union of India through

1. The Divisional Railway Manager,
DRM Office,
State Entry Road,
New Delhi.

2. The Divisional Superintending Engineer (Estates),
Northern Railway,
DRM Office, State Entry Road,
New Delhi

.....Respondents

By Shri K.K.Patel, Advocate.

JUDGMENT

The applicant Shri Hiramani, retired Senior Clerk, DRM's Office, Northern Railway, New Delhi, and allottee of Quarter No.178/A-4, Basant Lane, New Delhi, while in service retired on 31.1.94. Admittedly, the respondents permitted him to retain the quarters for 8 months as per rules, till 30.9.84. On 31.10.84 he represented for further retention of quarter upto 31.3.95. On 11.11.94 he was issued a show cause notice under Section 190 Railway Act for unauthorised occupation of the quarter beyond 30.9.94. The applicant has not vacated the quarter as yet. Meanwhile he seeks release of DCRG with interest @ 18% p.a. on delayed payment.

2. I have heard Shri Mainee for the applicant and Shri Patel for the respondents and have also

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perused the materials on record including the rulings relied upon by both counsel. I have also considered the matter carefully.

3. Manifestly, the applicant is in occupation of Govt. quarter beyond 30.9.94 till date, without authority. Those who had approached the Tribunal must have come with clean hands. In the present case, the applicant has ^{not} not done so. The applicant must, therefore, vacate the quarter in question on or before 31.3.95 positively and handover vacant possession of the quarter to the respondents. He must give at least 15 days' advance information to the respondents in writing of the date of vacation to enable them to calculate the applicant's DCRG dues after adjustment of those sums which are recoverable from the ^{DCRG} applicant under law. Thereafter, simultaneously with vacant possession being handed over of the quarter to the respondents, they will pay the applicant the balance of DCRG dues, if any.

4. The applicant's prayer for payment of interest on the delayed payment of DCRG ~~was~~ rejected in the light of Hon'ble Supreme Court's ruling in Rajpal Wahi Vs. UOI -SIP No.7688-91/88, as the delay has occurred not due to respondents' administrative lapses, but ^{A because of} the applicant's continued unauthorised occupation of the quarter beyond 30.9.94, compelling the respondents to hold back temporarily the applicant's DCRG pending correct assessment of the recoveries to be made from him. Applicant's counsel Shri Mainee has relied upon the CAT Full

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Bench decision in O.A.No.2573/89 Wazir Chand Vs. UOI, but in the light of the ruling in Wahi's case (Supra), permitting the respondents to retain the DCRG temporarily till a correct assessment was made of the recoveries due from the applicant, the ruling in Wazir Chand's case (Supra) does not help the applicant. Applicant's counsel Shri Mainee has also relied upon the Hon'ble Supreme Court's ruling in R.Kapoor Vs. Director Inspection, Printing and Publication

in support of his prayer that 18% per annum interest should be allowed to the applicant on the delayed payment of DCRG, but in that case there was found to have been unjustifiable, culpable delay on the part of the respondents, and in those special circumstances, the interest already awarded by the Tribunal was ordered to be enhanced. In the present case, no such situation obtains, as it is the applicant himself, who has retained the quarter unauthorisedly, beyond the due date and hence that ruling does not help the applicant either.

5. In the result, this O.A. is disposed of in terms of the directions in paragraph '3'. The stay orders, passed earlier and extended from time to time, are vacated. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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