

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.1468/89

DATE OF DECISION: 23-10-90

SHRI M.L. SANGAR

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS.

SHRI B.S. MAINEE

COUNSEL FOR THE APPLICANT

SHRI O.N. MOOLRI

COUNSEL FOR THE RESPONDENTS

CORAM:

THE HON'BLE SHRI T.S. OBEROI, JUDICIAL MEMBER

THE HON'BLE SHRI I.K.RASGOTRA, ADMINISTRATIVE MEMBER

JUDGEMENT

(DELIVERED BY HON'BLE SHRI I.K.RASGOTRA, MEMBER(A))

Shri M.L. Sangar, the applicant has filed this application against the impugned order listed below:-

- i) No. 33-EC/1-2956/88 dated 28.2.1988 passed by the Divisional Superintending Engineer (Estate) Northern Railway, New Delhi.
- ii) No.729-EO/PPEA/BEM/Spl. dated 12.4.1989 passed by the Estate Officer.
- iii) No.729-EO/PPEA/Bom/Spl. dated 12.4.1989 passed by the Estate Officer, Northern Railway.

Vide order at serial No.(i) above, the tenancy of the Railway quarter was cancelled w.e.f. 1.7.1986 and the consequences thereof were advised to the applicant.

Vide order at serial No.(ii), the occupants were advised to vacate the premises within 15 days from the date of the order, failing which they should be liable to be evicted.

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The order at serial No.(iii) above indicates the quantum of damages amounting to Rs.8,997.50 recoverable from the applicant for the period 1.7.1988 to 28.3.1989.

2. The applicant retired as Assistant Superintendent from the office of Divisional Railway Manager, New Delhi on 29.2.1988. He was allowed to retain the Railway quarter upto 30.6.1988. When he did not vacate the quarter on 30.6.1988 his allotment was cancelled and action was initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The respondents further withheld the entire amount of DCRG amounting to Rs.35,000/- payable to the applicant instead of keeping a deposit of 10% p.a. of DCRG or Rupees 1,000/- whichever is less in accordance with the Rule. 323 of Manual on Railway Pension Rules, 1950. The respondents are also said to have stopped Post Retirement complimentary passes to the applicant.

3. The respondents in their written statement have justified the withholding of the payment of full DCRG, as the same can be released only after a no claim certificate is produced by the applicant. Regarding the forfeiture of post-retirement complimentary passes, the respondents have averred that the applicant has not applied for the complimentary passes and therefore no notice regarding the withholding of passes etc. is required to issue.

The matter in regard to withholding of DCRG pending vacation of the Railway quarters, has been the subject matter of a large number of judicial pronouncements and therefore we do not consider it necessary to go into the details. It is well known that the withholding of entire amount of DCRG pending vacation of quarter is not

justified.

4. Having considered the facts and circumstances of this case, we are of the view that the respondents should release the full amount of DCRG withheld by them to the applicant, as he has already given vacant possession of the quarter to the respondents on 28.3.1989 as is evident from the Estate Officer's order dated 12.4.1989, as early as possible but not later than four weeks from the date of communication of this order. The respondents, however, will recover the rent at the normal rate from the said amount of DCRG for the period the applicant overstayed in the said premises. The respondents will also be entitled to pursue their claim for damages/any excess rent in accordance with the law to which they are entitled to and the applicant will be at liberty to make any claim for compensation for delayed payment in the appropriate forum which he claims to be entitled to.

The application is disposed of with the above direction, with no orders as to costs.

Abul
(I.K. RASGOTRA)
MEMBER (A) 23/12/90

Oberoi
(T.S. OBEROI)
MEMBER (J)