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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.1996/89

DATE OF DECISION : 13.04.92

Smt. Kiran Vadia & Anr.

...Applicants

Vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicants

...Shri B.S. Mainee

For the Respondents

...Shri P.S. Mahendru

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant No.1 is the widow of late Shri C.P. Vadia who died on 9.10.1982 in the employment of Northern Railway as Inspector of Works and applicant No.2 is the son of the deceased Railway employee. In this application, they have assailed the order of February, 1989 passed by respondent No.2 whereby a sum of Rs.9431 was deducted from DCRG of the deceased employee on account of damages for unauthorised retention of the Railway quarter.

2. The applicants have claimed the following reliefs :-
  - (a) That the respondents be directed to recover only the normal licence fee/rent in respect of the quarter

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Nb.SC/3-A Basant Lane for the period from September, 1982 to February, 1985.

(b) Interest on the aforesaid amount of DCRG.

(c) Interest on Rs.5641, illegally deducted from the DCRG from October, 1982 to January, 1989.

3. The case of the applicants is that the deceased employee was allotted quarter Nb.199/B2 Basant Lane. From the said quarter, one daughter of the deceased employee was kidnapped on 14.9.1982 and soon thereafter, the deceased was so much shocked that he died on 9.10.1982. The applicant, therefore, was allowed a change of quarter and Quarter Nb.SC/3A Basant Lane (Type-II) was allotted. Applicant Nb.2 was given compassionate appointment as LDC w.e.f. 18.8.1983. In view of the Railway Board's Circular of 1966 and 1969 on the death of Railway servant, his quarter may be allotted to his serving son/daughter out of turn provided the said relation is eligible for Railway accommodation and had been sharing the accommodation with the deceased Railway servant for at least 6 months before the death. Applicant Nb.1 requested for the retention of the Railway quarter on 13.4.1983 Respondent Nb.1 directed respondent Nb.2 to regularise quarter Nb.SC/3A Basant Lane in favour of the applicant Nb.2

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and in case applicant Nb.2 was not entitled to the said type of quarter, a lower type may be allotted and higher type be got vacated. The rent which was to be charged for the period was also clarified in their letter dt.4.9.1983.

A quarter was allotted to the applicant Nb.2 in Delhi Sadar area, but on the request of the applicant, the Railway Board advised respondent Nb.2 that applicant Nb.2 may be allotted Type-II quarter in the vicinity of Basant Lane immediately. Thereafter the respondent Nb.2 allotted quarter Nb.170/B-4 Basant Lane Type-II and that quarter was vacated by the predecessor in February, 1985 and after the vacation of that quarter, the applicant shifted to that. The respondents, however, have illegally deducted damages from the DCRG amount for retention of Type-III quarter, though there was no fault of the applicants.

4. The respondents contested the application and stated that applicant Nb.2 was not entitled to the quarter which the deceased employee was occupying. So the same quarter could not be regularised in favour of his son and normal rate of rent was ordered to be recovered from 10.10.1982 to 9.2.1983 and for the period thereafter rent was to be recovered at market rate. However, the applicant himself did not occupy the quarter Nb.T/25/D Delhi Sadar, which was Type-II and

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allotted to him by the order dt.7.3.1984. Applicant No.2 wanted a Type-II quarter in Basant Lane and in the meantime he was allowed to continue in present Type-III quarter occupied by him. Applicant No.2 was also allotted a quarter No.118/6 Minto Bridge, but the applicant No.2 did not occupy the same and represented for allotment of another quarter in the vicinity of Basant Lane. Thereafter the applicant was allotted quarter No.170-B/4 Basant Lane which he occupied on 15.2.1985. Thus the applicants are liable to pay market rate of rent from 10.2.1983 till vacation of the quarter on 15.2.1985. From 10.10.1982 to 9.2.1983, normal rent has been charged in terms of letter dt.24.9.1983 issued by General Manager, Northern Railway. The delay in payment of DCRG is only on account of the applicants themselves and not due to the respondents.

5. I have heard the learned counsel of the parties and have gone through the record of the case. The only question involved in this case is whether the respondents are entitled to deduct rent beyond the normal rent on account of occupation of the quarter by the applicants after the death of the employee or not. The respondents have been considerate enough in giving compassionate appointment to the son (applicant No.2).

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Further, they have been considerate enough to order the recovery of normal rent for Type-III quarter which applicant No.2 was not entitled from 10.10.1982 to 9.3.1983. Thus the only dispute that lies is whether from 10.2.1983 to 15.2.1985, i.e., for two years when the applicants remained in possession of Type-III quarter, normal rate of rent be charged or the market rate which has been calculated by the respondents and deducted from the DCRG. The only point raised by the learned counsel for the applicants is that there was no fault on the part of the applicants because they were not provided the quarter of the Type-II in the locality which as per the order of the Railway Board was to be provided to them. The learned counsel for the applicants has referred to the special circumstances of the case in as much as the daughter of the employee was kidnapped and only one month after due to extreme shock, the employee died. It is because of this that the deceased employee has got his earlier allotted quarter changed to Basant Lane. It is because of this that the heirs of the deceased requested the Railway Board to allot a quarter in the vicinity of Basant Lane. The respondents allotted a quarter at Minto Bridge, but that was not accepted by the applicants because of the inconvenience to be caused to them. Again it was directed by the General Manager that they should

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be given a quarter near Basant Lane. When the respondents themselves were sympathetic to them and allowed a change of the quarter, the applicants cannot be said to be at fault. There is an implied permission on behalf of the respondents to the applicants to continue in the quarter, which was allotted to the late husband. Though this quarter was Type-III and the applicant No.2 having obtained compassionate appointment was entitled to only Type-II, yet by the order dt.23.9.1982, the respondents have charged normal rate of rent till 10.2.1983. So there is no justification for the respondents to charge market rate of rent from 10.2.1983 to 15.2.1983. The same condition which was existing prior to 10.2.1983 continued to exist after 10.2.1983 in as much as the applicants were not provided a suitable Type-II accommodation for which the superior authority have been directing time and again.

6. In view of this, the respondents could have only realised the normal rate of rent and not the market rate of rent.

7. In view of the above discussion, the application is disposed of in the following manner.

(a) The respondents are directed to recover only the normal rate of rent of the premises occupied by

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the deceased-SC/3 Basant Lane, New Delhi and deduct the same amount from the DCRG.

- (b) The respondents are directed to refund the excess recovery affected by deducting amount from DCRG to applicant No.1 on account of the direction issued at b.(a) above.
- (c) The prayer of the applicants for payment of interest is disallowed.
- (d) The respondents to comply with the above directions within a period of six weeks from the date of receipt of a copy of this order.

In the circumstances, the parties to bear their own costs.

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13.4.92  
(J.P. SHARMA)  
MEMBER (J)

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