

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

O.A.NO.569/88.

Date of decision: 19.5.1993.

Dr. C.R. Som.

Petitioner.

Versus

Union of India & Ors.

Respondents.

For the Petitioner.

None.

For the Respondents.

None.

JUDGEMENT (ORAL)

(By Hon'ble Mr. I.K. Rasgotra, Member(A))

None appears either for the petitioner or for the respondents. The respondents were issued notice on 21.4.1988 and on 20.7.1988 Mrs Raj Km. Chopra, Counsel, appeared for the respondents. However, no counter affidavit has been filed although opportunities were granted on 13.9.1988, 21.9.1988, 15.11.1988 and 22.11.1988. When the case came up on 2.4.1993 in the court, it was observed that no counter has been filed and the case was ordered to remain on board. On 6.4.1993, proxy counsel for the petitioner appeared and sought adjournment. Thereafter, the case came up for hearing on 12.4.1993, 13.4.1993, 15.4.1993 and 16.4.1993. On these dates, none of the parties were present. In the circumstances, I have no alternative but to peruse the pleadings and the record filed in the O.A. and dispose of the petition on merits.

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2. The case of the petitioner is that he retired from the Central Government Health Scheme on 30.11.1983. He received a letter dated 4.3.1980 from the Directorate of Estates through CGHS stating therein that Dr. Jawahar Lal Kaul Muthoo, who was occupant of Government accommodation No.310, Tagore Road, has not paid rent for the said accommodation. The service of Dr. Muthoo was terminated by the respondents w.e.f. 2.3.1978. In the circumstances, the petitioner was warned that the outstanding amount of rent amounting to Rs.16,895.15 will be recovered from the petitioner if Dr. Muthoo fails to pay the same. This was followed up by a letter of Medical Officer (CGHS) dated 21.3.1993 addressed to Dr. Jawahar Lal Kaul Muthoo and copy to the petitioner herein on the issue of outstanding rent. The petitioner explained to the respondents vide letter dated 26.5.1980 that the Government accommodation was allotted to Dr. Muthoo on 24.7.1974 and he was subsequently terminated on 2.3.1978. Accordingly the respondents should have recovered the monthly rent from the salary paid to him. The petitioner has stood surety for another Government servant only in good faith. He made a representation to Respondent No. 1 on 5.4.1984 and to Respondent No. 2 on 12.4.1984 for releasing the DCRG withheld by the respondents. The petitioner also furnished the address of Dr. Muthoo to the respondents to enable them to pursue the matter with him directly. He made a further representation to the Director of Estates on 29.3.1986, giving the details of the moveable and immoveable property including the bank account number of Dr. Muthoo. There was a failure for recovering the rent

on the part of the respondents from the monthly salary for which the petitioner is being now victimised on the ground that he had stood surety for another Government servant in his favour. The Department of Pension and Pensioners' Welfare had also addressed a letter to the Additional Secretary, Ministry of relevant Health and Family Welfare. The contents of the said letter are reproduced below:

"The Department of Pension has clearly brought out that under the CCS(Pension) Rules, the arrears of license fee can be recovered from a Government servant from his DCRG. There is, however, no rule under which the arrears of license fee can be recovered from the DCRG of a Government servant on the ground that he stood surety of another Government servant in a good faith. It does not in any way empower the Government servant to withheld the gratuity of the petitioner".

3. In view of the above, I am of the opinion that the respondents' order of withholding the DCRG amount of Rs.17,896/- is arbitrary, illegal and ab initio void. Accordingly, the direction given to the petitioner to make payment of the outstanding amount recoverable from Dr. Jawahar Lal Kaul Muthoo dated 21.3.1980 is set aside and quashed along with the order dated 4.3.1980. The respondents are directed to remit the petitioner by cheque Rs.17,896/- withheld from the DCRG of the petitioner, within a period of three months with interest @ 12% from the date the amount was due till the date of actual payment. This will not preclude the respondents from working out their rights against Dr. Muthoo in accordance with law. No costs.

*I.K. RASCOTBA*  
(I.K. RASCOTBA)  
MEMBER (A)

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