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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1643 of 1987

Shri Hari Singh . . . . . Applicant

Versus

Govt. of India Press and others . . . . . Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. S.R. Adige Member (A)

( By Hon'ble Mr. Justice U.C. Srivastava, VC)

The applicant who was employed with the Government of India Press, New Delhi and retired as Sr. Reader w.e.f. 30.6.1980. As a government servant, a residential quarter was allotted to him and one of his son who also joined the government service in the year 1977 who was residing with him and that's why although he did entitle to house rent allowance, was not charging the same. The applicant and his son both filed the representations regarding the allotment of the house in favour of his son, but the representation was rejected. After the retirement the amount of gratuity to the tune of Rs. 12,573/- was withheld and the same was not paid to the applicant. In the mean time two separate notices - one under section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 for eviction of the staff quarter and the other under section 7 of the said Act claiming the damages were issued and orders were passed on 1.12.1980 against the applicant which were challenged in appeal before the District Judge. The appeal regarding eviction under section 4 was dismissed, with the result, the interim order stood vacated, but the appeal regarding recovery of damages was allowed and the case was remanded back to the Estate Officer for readjudication in accordance with law. After dismissal of the appeal, the applicant vacated the premises on 29.12.1981 i.e. some one year six months after attaining the age of

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superannuation and even though, the case were remained back, but the gratuity which was so withheld was not paid to the applicant. The applicant was compelled to move an application before the District Judge for non-compliance of the directions given in the <sup>the order dated</sup> ~~the~~ 20.10.1981 and the Estate Officer was directed to finalise the matter within three months, but this was not done. Another application was moved and some more time was given. The order was passed on only 25.9.87 maintaining the old order that the applicant was entitled to pay Rs. 8,989.10 as damages. The applicant has challenged the said order withholding of his gratuity and variety of ground including that the action of the respondents in withholding the amount of gratuity of Rs. 12,573/- is illegal and invalid and they were required to take re-course in the mandatory provision rules 65, ~~66~~, rule 66, rule 71 and 72 CCS(CCA) pension Rules and there was no justification withholding the amount of gratuity and even otherwise no amount more than 1000/- could have been withheld. The right to gratuity and the right to property is within a meaning of Article 300(A) and no one can be deprived except in accordance with law. Merely because, the applicant did not vacate the premises and the certain amount of damages were due, that was not a ground for withholding the gratuity, which the applicant is entitled to get along with interest. The payment of gratuity and the damages in respect of the house are two different matters and one cannot be intact to each other, but this does not mean that the applicant, who has remained in possession

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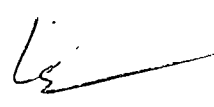
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of the house should not pay the normal amount under the law which has required to pay.

2. Shri B. S. Charya learned counsel for the applicant states that his client will have no objection to pay the amount of damages to the respondents. ~~The respondents~~ are directed to pay the amount of gratuity to the applicant alongwith 10% interest, but this amount will be paid provided the applicant deposits a sum of Rs. 2,500/- and furnishes a bond before the officer concerned, that in case, more amount is assessed as damage, he will pay the said amount within a period of two months from the date of the order. All the same may be realised from easily realisable security, the detail of which shall also be furnished by him. These observations are being made <sup>without</sup> taking into consideration the right of the respondents to recover the amount of damages in accordance with law. No order as to costs.

  
Member (A)

  
Vice-Chairman

Dated: 17.3.1993

(RKA)