

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(S)

C.M. NO. 2589/90

DATE OF DECISION : 13.04.92

Shri P.N. Rattan

...Applicant

Vs.

Union of India & Anr.

...Respondents

CORAM

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

For the Applicant

...Shri S.K. Sawhney

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 retired as Chief Wagon Movement Inspector, Northern Railway, Baroda House on 30.6.1983 and assailed the order dt.13.12.1989. During the course of his service, he was allotted a Railway quarter No.70/B-5 Railway Colony, New Delhi. By this letter dt.13.12.1989, the applicant has been served with a notice that certain amount of dues is outstanding against him regarding the allotted quarter for the period from 30.6.1983 to 1.12.1989. The

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amount was ordered to be recovered from the applicant and for every one month's unauthorised retention of the Railway quarter, one set of post retirement passes were to be disallowed.

2. The applicant has claimed the following reliefs :-

- (a) Direct the respondents for payment of DCRG due to him with interest from 1.7.1983 till the date of payment.
- (b) Direct the respondents to issue the applicant his post retirement passes and not to withhold the same.
- (c) Quash the order dt.13.12.1989 by which penal rent was ordered to be deducted for the period from 1.7.1983 to 1.12.1989.

3. The case of the applicant is that the applicant has not vacated the quarter because the same was required to be regularised in the name of his son, Shri Ranjit Kumar Rattan who was employed as enquiry-cum-reservation clerk since 1979. That the damages from the applicant could be recovered only under Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. It is further stated that withholding of the retirement passes is in breach of provision of para 1554 of Indian Railway Establishment Manual.

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4. The respondents contested the application and stated that the applicant has not given the details of DCRG, which is payable to him. The applicant continued to retain the said quarter upto 1.12.1989 illegally and unauthorisedly. It is further stated that the son of the applicant never applied for allotment of any quarter in his name nor the applicant put in any application in this respect. It is further stated that no notice of termination of licence was required because the licence automatically stood revoked upon his retirement on 30.6.1983.

5. I have heard the learned counsel of the parties at length and perused the record. In fact the amount of DCRG has to be paid irrespective of the fact whether the applicant has vacated the quarter or not and that has been decided in the Full Bench decision in the case of Nazir Chand Vs. U.I (OA No. 2573/89) decided on 25.10.1989.

The realisation of damages for unauthorised retention of the Railway quarter has to be proceeded with under PP (EOU) Act, 1971. The respondents cannot deduct the amount from the DCRG. The case has to be filed before the Estate Officer under the PP Act, 1971 and after the case that been decided, the amount has to be recovered from the applicant. In the present case, though

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the applicant remained in possession of the quarter till December, 1989, the respondents did not care to take proceedings under the PP(ECU) Act, 1971. Thus no amount of penal rent can be deducted except the licence fee for a period of four months from 30.6.1983 and only a sum of Rs.1000 can be withheld under Rule 323 of the Indian Railway Pension Manual. Further only the normal licence fee can be deducted from the DCRG and for the damages and penal rent for the period beyond 30.10.1983, the respondents are free to take action under PP Act, 1971.

6. As regards the withholding of the post retirement passes, that matter has too been decided by the Full Bench in the above case. Since the quarter has been vacated, the post retirement passes have also to be restored to the applicant. As regards the charging of the normal licence fee from the applicant, it cannot be allowed because the respondents can realise damages for unauthorised occupation of the Railway quarter after retirement as per Extant Rules under the provisions of PP (ECU) Act, 1971.

7. In view of the above discussion, the application

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is disposed of as follows:-

(a) The respondents are directed to pay the amount of ECRG after deducting the normal licence fee of four months from the salary of the applicant along with electricity and other dues as well as the market rate of rent payable by the applicant which fell due from 1.11.1983 to 1.12.1989 because of the said occupation of the quarter by the applicant till December, 1989. The balance amount shall be paid @ 10% p.a. interest till the date of payment.

(b) The respondents shall be free to initiate proceedings against the applicant under PP (ECU) Act, 1971 for realisation of damages as per Extant Rules for a period from 1.11.1983 till the date of vacation of the quarter, i.e., 1.12.1989.

(c) The respondents are directed to restore the post retirement passes.

(d) The impugned order dt.13.12.1989 is modified and retained only to the extent that the arrears of rent can be realised from the applicant under the PP (ECU) Act, 1971 as already directed in para (b) above.

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(e) The respondent is to comply with the order 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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(J.P. SMITH) 13.4.52
MEMBER (J)

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