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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
* * *

Date of Decision: 01.05.1992

OA 1352/91

LEKH RAJ SHARMA

... APPLICANT.

Versus

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

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

For the Applicant

... Shri S.K. Sawhney,
Counsel.

For the Respondents

... Shri P.S. Mahendru,
Counsel.

1. Whether Reporters of local papers may be allowed to see the judgement ? *JK*
2. To be referred to the Reporters or not ? *JK*

JUDGEMENT

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

The applicant, retired Electric Chargeman 'B', assailed the order dated 10.1.1990 passed by the respondent No.2 on the subject of damage/charges from the applicant for the allotted quarter No.370/C, Railway Colony, Bhatinda, amounting to Rs.21844/-.

2. The applicant has prayed for the relief that the amount of DCRG Rs.28380/- or such other amount as

b

...2.

found due be ordered to be paid to the applicant after quashing the order dated 10.1.1990 (Annexure A-1). Also a direction be issued to the respondents to pay Rs.4029.76 due to the applicant on account of excess recoveries as per detail given in Annexure A-4. He has also prayed interest on the DCRG unpaid amount from 31.3.1990 till the date of payment.

3. The facts are that the applicant was transferred from Bhatinda on 6.3.1987 and applied for permission to retain the quarter at Bhatinda. The applicant also applied for regularisation of the said quarter in the name of his son who was working as Train Lighting Fitter, Northern Railway at Bhatinda and was eligible to the allotment of the said quarter. The applicant vacated the said quarter on 8.9.1989. From March to July, 1987 normal rent @ Rs.28.20 was deducted and thereafter penal rent @ double the assessed rent or 10% of pay whichever was higher was deducted alongwith arrears for the period from July, 1987 to 8.9.1989. The total amount recovered during this period was Rs.5667/- after the issue of the letter dated 1.4.1989 only the applicant was liable to pay damages under the provisions of this letter @ Rs.15/- per sqm. plinth area for the period from 1.4.1989 to 3.9.1989. The grievance of the applicant is that the respondent No.2

had illegally raised recoveries against the applicant @ Rs. 802.40 for the period from 1.7.1987. The applicant was also not paid HRA during the period from March, 1987 to 8.9.1989. Though the amount was due to him under the provisions of P.S. No.544 dated 25.5.1959. It is also stated in the application that order of the recoveries of the damages from the DCRG is illegal.

4. The respondents contested the application and stated that the applicant has already paid DCRG on 10.7.1991 and 12.7.1991 after deductions of the government dues amounting to Rs.16818/-. The applicant was in unauthorised occupation of the Railway Quarter at Bhatinda after his transfer he was not entitled to HRA as per rules. The amount of DCRG has already been released in favour of the applicant after deductions of the Government dues and there is no question of any entitlement for interest to the applicant.

5. I have heard the learned for both the parties at length. The Annexure A-1 shows that from 6.3.1987 to 30.6.1987 the applicant has been charged @ 10% of the total pay alongwith Rs.25/- Water Charges and Rs.4/- Conservancy Charges. Total amount Rs.768/- from 1.7.1987 to 1.8.1989 for 26 months and 8 days the applicant has been charged @ Rs.15/- per sqm. of

the plinth area. The charge @ Rs.15/- per sqm. of the plinth area was given effect w.e.f. 1.4.1989 on the basis of the Railway Board Circular No.F(X)I-86/11/9 dated 1.4.1989 (Annexure A-5). Para-4 of the said circular lays down that all pending cases prior to the date of issue of these orders may be disposed of based on the pre-revised orders. The rate of damages of Rs.15/- per sqm. of the plinth area would be effected from the date of issue of the orders i.e. 1.4.1989. The learned counsel for the respondents conceded this position of law. The learned counsel of the applicant stated that the applicant has no hitch in payment of the penal rent as calculated as per extant rules from 1.4.1987 till 1.4.1989 @ prevelant at that time from 1.4.1987 to 8.9.1989 as per circular of the Railway Board dated 1.4.1989.

6. The learned counsel for the applicant argued that the amount had already been deducted from the salary of the applicant as per statement annexed at page-12 of the paper book (Annexure A-4). This fact is also not disputed to the learned counsel for the respondents. Thus, penal rent so calculated by the respondents will be reduced by the amount already recovered from the salary of the applicant. The respondents will find out the details of the deductions

made from the salary of the applicant from the month of March, 1987 to September, 1989 and adjust this amount in the damages/penal rent calculated above.

7. The learned counsel for the applicant also argued that in view of the P.S. No.544 dated 25.5.1959 the applicant is entitled to HRA also but the Railway Board/^{circular} is not applicable to the case of the applicant as the applicant has not been granted any permission to retain government accommodation at the old station. This argument, therefore has no force.

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

- a) The respondents are directed only to recover the rent/damages from the applicant for three months 25 days Rs.768/-; for the period from 1.7.1987 till 1.4.1988 at the extant rates prevailing at that time; and from 1.4.1989 to 8.9.1989 @ Rs.15/- per plinth area i.e. @ Rs.802.40 per month. The only un-calculated figure remains of the period from 1.7.1987 to 1.4.1989 because it is not ^{known} from the record as to what was the extant rule or instructions in force for recovery of the penal rent from un-authorised occupants. The respondents shall, therefore find out the same and recover the

- same alongwith water charges @ Rs.25/- per month and conservancy charges @ Rs.4/- per month.
- b) The respondents shall adjust the amount of rent/damages recovered from the salary of the applicant from March, 1987 to September, 1989. In the above amount, that is the amount of damages, shall be reduced ¹/₄ by this amount.
- c) The excess amount, if any, recovered by the respondents and deducted from the DCRG of the applicant shall be refunded alongwith interest @ 10% from the date of deductions till the date of payment.
- d) The applicant shall not be entitled ⁶ any HRA for the period from March, 1987 to September, 1989. Respondents to comply with these orders within a period of three months from the date of receipt of a copy of this order.

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

J. P. Sharma
(J.P. SHARMA) 1.5.89
MEMBER (J)