

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

O.A. NO. 1730/91

DATE OF DECISION : 13.04.92

Shri K.P. Sharma

...Applicant

Vs.

Union of India & Ors.

...Respondents

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

For the Applicant

...Shri S.K. Sawhney

For the Respondents

...Shri Rakesh

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 Divisional Controller of Stores on 30.4.1990 from Muradabad. He assailed the order dt. 18.7.1990 passed by respondent No. 3 whereby a sum of Rs. 2835/- has been deducted from the amount of DCRG on account of rent and other sundry charges-electricity etc. The applicant has also assailed the withholding of CDS amount of Rs. 1831 which was due to the applicant on his retirement on 30.4.1990.

2. The applicant has claimed the following reliefs :-

(a) That the respondents be directed to refund the amount of Rs. 23,485, illegally deducted from his DCRG along with 24% interest.

12

(b) That the respondents be directed to pay Rs.1831, the amount of CDS along with 24% interest.

(c) That the respondents be further directed to pay interest at market rate for the delayed payment of Rs.3520 for the period from 1.5.1990 to 13.2.1991.

3. The facts of the case are that the applicant retired on 30.4.1990 from Muradabad as Divisional Controller of Stores. The applicant was entitled to receive a sum of Rs.57,750 as DCRG, but he was paid only Rs.29,399 on 25.7.1990. A sum of Rs.3520 was shown to have been kept pending, which was paid on 13.2.1991. The applicant was allotted a Railway quarter No.E/14 Railway Colony, Dehradun which also housed the office and one room verandah and the residential passage was excluded from the accommodation. The applicant was transferred from Dehradun to Muradabad on 2.12.1986. The applicant submitted representation on 13.4.1987 to retain the said accommodation and he received no reply thereafter. The applicant vacated the accommodation on 15.2.1990 and the respondents continued to recover rent/licence fee for the said accommodation till the same was vacated on 15.2.1990. No notice of termination of tenancy of the applicant in respect of the said Railway accommodation was received by the applicant at any stage. Under Rule 1713(b)(v) of the IREM, rent in excess of 10% of emoluments from

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Railway servant can be charged only when the Railway accommodation is not vacated after the cancellation of the allotment. The applicant did not receive any notice for cancellation of allotment. No proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 were drawn against the applicant. The applicant has also not been paid Rs.1831 due to him.

4. The respondents contested the application and stated that the gratuity amounting to Rs.32,919 has been released in favour of the applicant and the balance was deducted against pending claims due against him on his retirement. The amount has been deducted as per dues shown in Annexure R1 annexed to the reply. The applicant was transferred to Muradabad and joined his duties there on 3.12.1986, but he did not vacate the Railway quarter at Dehradun and vacated the same on 15.2.1990. The applicant sought permission from the competent authority for retention of the quarter upto 31.5.1987. Even after the expiry of this period, he illegally retained and so became an unauthorised occupant of the Railway quarter from 1.6.1987 to 16.2.1990. The applicant also took a suite for his residence at Officers Railway Niwas, Muradabad since 16.12.1986. Thus the penal rent has been recovered from the amount of DCRG.

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4

5. I have heard the learned counsel of the parties at length and gone through the record of the case. It is evident from the record that the applicant was not granted any permission after 31.5.1987 for retention of the Railway quarter at Dehradun. Thus from 1.6.1987 till the date of vacatin of the quarter at Dehradun, i.e., February, 1990, the applicant was in unauthorised occupation of the said Railway quarter. Now the question arises whether the respondents can deduct the damages as per Extant Rules from the amount of DCRG or not. However, in view of the law laid down in the Full Bench decision in the case of Wazir Chand Vs. UOI (OA 2573/90) decided on 25.10.1989, the respondents have to proceed separately for the recovery of damages under the provisions of PP (EOU) Act, 1971. The amount of damages cannot be deducted from the DCRG and the act of the respondents, therefore, cannot be condoned. The respondents are free to recover the amount of damages for unauthorised occupation by the applicant of the quarter No. E-14 Railway Colony, Dehradun from 1.6.1987 to 15.2.1990. The respondents, however, can deduct the amount of rent from the DCRG upto 31.5.1987, Feb, 90 at the normal rate of rent/licence fee. Respondents are entitled to deduct other dues of electricity etc. from the said

amount. The applicant also claimed payment of the amount of Rs.1831 due to the applicant on account of the refund of Compulsory Deposit Scheme and the respondents in reply to this only stated that the applicant has not furnished authenticated detail thereof. The applicant has furnished the letters issued by the respondents (Annexures A5 and A6) in this regard. Annexure A5 is a letter dt.19.4.1990 where it is written by the Divisional Accounts Officer, Northern Railway that the amount of Rs.1831 has already been transferred to Divisional Accounts Officer, Moradabad in August, 1978. Annexure A6 is a letter dt.27.7.1990 written by Divisional Accounts Officer, Northern Railway, Moradabad asking information from Sr.Divisional Accounts Officer New Delhi whether the amount of the CDS has been paid to the applicant or not. Thus the respondents should have searched out more details when the applicant has filed the matter in the Court. Failure on the part of the respondents, therefore, will lead to draw adverse inference against the respondents that the amount has not been paid to the applicant.

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

(a) The respondents are directed to refund the amount of DCRG with 10% interest p.a., deducted by way of damages for unauthorised retention of the

-6-

16

quarter by the applicant for the period after retirement. After deducting the amount at normal licence fee of the rent/licence fee upto Feb., 1990 and electricity and other dues.

(b) The respondents are free to institute proceedings against the applicant under Section 7(2) of the PP (EOU) Act, 1971 for recovery of damages/compensation for unauthorised retention of the Railway Quarter No.E-14, Dehradun from 1.6.1987 till the date of vacation, i.e., 15.2.1990 and the applicant shall be liable to pay the same.

(c) The respondents are directed to pay the sum of Rs.1831 on account of non payment of CDS amount along with interest @10% from the date of retirement till the date of payment.

(d) Interest on Rs.3520, withheld by the respondents from the DCRG amount is disallowed, which has already been paid in February, 1991.

(e) 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.

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