

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1790/91

DATE OF DECISION : 24.04.92

Shri Umed Singh & Anr.

...Applicants

Vs.

Union of India & Anr.

...Respondents

CORAM

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

For the Applicants

...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))

Applicant No.1 is the father and applicant No.2, Shri Nandan Singh is the son, both being in the Railway service under General Manager, Northern Railway New Delhi. Applicant No.1 retired as Record Sorter, Northern Railway on 31.5.1989 and he was allotted during the service a Railway Quarter No.145-F, Railway Colony, Kishan Ganj, Delhi. Applicant No.2, the son was appointed as Khallasi on 14.1.1983 and has been posted at Delhi since February, 1987 when he started living with his father and was allowed sharing permission in respect of the quarter No.145-F from March, 1987. He is also not drawing any

HRA since 14.3.1987. On the retirement of applicant No.1, applicant No.2 applied for regularisation of the quarter No.145-F, but the same was not regularised/allotted in his name by the impugned order dt.27.11.1989 (Annexure A1) and was also ordered to vacate the quarter.

2. The applicants have assailed this order and applicant No.1 also prayed for the release of DCRG due on his retirement on 31.5.1989 and also release of the post retirement passes which have been withheld for non vacation of the quarter. He also claimed interest at market rate.

3. The respondents contested the application and stated that on the date of retirement, i.e., May, 1989, the son applicant No.2 was not a screened employee and so the quarter could not have been regularised in his name. The result of the screening was declared sometimes in October, 1989. It is further stated that applicant No.2 has been allotted a quarter No. 107/4 Railway Colony, Kishan Ganj, Delhi vide order dt.20.6.1991 and at the time when this application has been filed in August, 1991, both the applicants have given their address of the same house No.107/4 Railway Colony, Kishan Ganj, Delhi. Thus the

quarter No.145-F has been wrongly retained and otherwise  
also it ~~could~~ <sup>not</sup> be regularised in the name of the son.

Regarding the non payment of DCRG and withholding of post retirement passes, it is stated that applicant No.1 did not vacate the quarter and the DCRG has not been paid.

4. I have heard the learned counsel for the parties at length and have gone through the record of the case. The learned counsel for the applicant has referred to the decision of OA 1220/90 (Sh.Gurdeep Singh & Anr. Vs. UOI) decided on 7.12.1990 and OA 2367/91 (Sh.Ajay Praveen Vs. UOI ) decided on 17.1.1991 where the quarter has also been regularised in the name of unscreened employee. Both these cases are of the Principal Bench and in one of the cases (Sh.Ajay Praveen Vs. UOI), I happened to be one of the members of the Bench. The facts of that case are totally different. In that case, the respondents have admitted in the reply to the representation that the applicant has obtained a quasi permanent status and is working on a regular post on a permanent vacancy. Various averments made in the application were not denied by the respondents in their counter and in view of this, it was not obviously clear whether the respondents have not

given due recognition as that of a screened employee to the applicant of that case-Sh.Ajay Preveen. In the case of Sh.Gurdeep Singh, the facts are also different because the applicant was already screened and the result was not declared and has already been put on the panel of regular employees on 22.9.1989 and his request for regularisation was rejected much thereafter on 19.2.1990. In view of this, the Division Bench ordered regularisation of the quarter in the name of the son.

5. The facts of the present case are totally different. Though the applicant became eligible for regularisation of the quarter at least from the date when his name was brought on the panel of screened employees for absorption against Class-IV posts in the Railways, the applicant had already been allotted quarter No.107/4, Railway Colony, Kishan Ganj, Delhi on 20.6.1991 and in pursuance of that order of allotment in favour of the son Shri Nandan Singh, there cannot be any other regularisation or allotment of quarter. An option was available to the applicant either to opt for out of turn allotment of Railway quarter or to wait for the allotment of the quarter in his own turn. Applicant No.2 did not assail the

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order of November, 1989 earlier and only assailed the same after the allotment of the quarter in his name in June, 1991. Thus the relief claimed by the applicant for regularisation of the Railway quarter No.145-F cannot now be entertained and the retention of the Railway quarter is in an unauthorised manner.

6. Regarding the payment of DCRG amount to the applicant No.1, the only objection by the respondents is of non vacation of the Railway quarter, but the DCRG cannot be withheld in view of the statutory provisions of Rule 2308 of Railway Employee's Code Volume-II as well as on the decision of the case of Union of India Vs. Shiv Charan, reported in 1992(19) ATC 129 SC and the Full Bench decision of the Principal Bench in OA 2573/89. (Wazir Chand vs. UOI) decided on 25.10.1990. However, as held by the Hon'ble Supreme Court in Shri Shiv Charan's case, the applicant is liable to pay the normal rate of rent till the date of vacation of the quarter and that amount can be deducted from the DCRG with the liberty to the respondents to claim damages/compensation in the competent court under Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The post retirement passes also cannot be withheld in view of

the Full Bench decision and under provision 1554 of Indian Railway Establishment Manual.

7. In view of the above facts, the application is disposed of as follows :-

(i) The relief of the regularisation of the quarter No.145-F in favour of Sh. Nandan Singh (Applicant No.2) is disallowed and the applicants are in an unauthorised possession of the said Railway quarter. The respondents are free to draw proceedings under PP (ECU) Act, 1971 for eviction as well as for damages for unauthorised occupation of the said premises No.145/F Railway Colony, Kishan Ganj, Delhi.

(ii) As regards the payment of DCRG, the respondents are directed to pay the said amount within a period of three months from the date of receipt of this order along with 10% interest p.a. after deducting the normal rate of rent till the date of vacating of the quarter or till the date of payment of DCRG after retaining a balance of Rs.1,000/- as provided under para 322 of Railway Pension Manual. This is with liberty

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to the respondents to claim damages/penal rent  
for unauthorised retention of the Railway Quarter  
No.145-F from applicant No.1, Shri Umed Singh.

(iii) The respondents are further directed to restore  
the withheld post retirement passes to applicant  
No.1 within a period of three months from the  
date of receipt of a copy of this order.

In the circumstances, the parties shall bear their own costs.

AKS

*J. P. Sharma*  
(J.P. SHARMA) 24.4.92  
MEMBER (J)