

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 171/91  
T.A. No.

199

DATE OF DECISION 24.12.1991.

Shri Hari Prakash Saxena	<del>xPetitioner</del> Applicant
Shri P.T.S. Murthy	Advocate for the <del>Petitioner(s)</del> Applicant
Versus	
Lt. Governor, Delhi through	Respondent
Chief Secy., Delhi Admn. Shri D.K. Sharma	Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant retired as Librarian from G.B.S.S. School, No.1, Delhi Cantt. on 30.6.1989. A sum of Rs.21,424 out of Rs.45,675 due to him by way of gratuity, and a sum of Rs.5,000 towards loss of library books have been withheld and not paid to him. That is his grievance.

2. According to the respondents, the aforesaid amounts have been withheld on account of Audit objection on H.R.A. paid to him. *Q*

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3. The applicant, who was present at the time of final hearing, stated that after his retirement, he is leading a retired life and not engaged in any gainful pursuits, and that he has not taken away with him any library books. This has not been controverted by the respondents in their counter-affidavit, or the representative of the respondents who was present before us. In the interest of justice and fairplay, we hold that as the applicant handed over charge at the time of retirement on "as is, where is" condition, the respondents shall write off the amounts towards the books not accounted for by him. This practice is generally followed in similar cases, despite the archaic rules to the contrary in the Statute Book.

4. On 30.9.1985, the Principal of the School in which the applicant had worked as Librarian, allotted Cantonment Board Quarter No.1/39, Sadar Bazar, Delhi Cantonment with effect from 1.10.1985 to the applicant. He was liable to pay "monthly rent" and "other taxes" to the "agencies concerned" w.e.f. 1.10.1985.

5. The Cantonment Board is a separate legal entity and is not part and parcel of the Delhi Administration. Apparently, it was on that basis that the applicant was in receipt of the H.R.A. from the School authorities and that the applicant has been paying monthly rent and other charges directly to the Delhi Cantonment and the same had not been deducted from

the monthly salary paid to him by the School authorities. The respondents have stated in their counter-affidavit that the applicant has filed a suit for permanent injunction and mandatory injunction in the Court of Sub-Judge, Delhi and that the learned Judge had ordered status quo and these orders are still in force.

6. In our opinion, the continued occupation by the applicant of the quarter belonging to the Cantonment Board, Delhi Cantonment, is a matter to be sorted out by him and the Cantonment Board and the matter is sub judice. The withholding of a sum of Rs.21,424/- from the gratuity payable to the applicant on the ground that he has not vacated from the premises belonging to the Cantonment Board, is illegal in the absence of any order of attachment issued by the Civil Court, where the matter is sub judice.

7. We, therefore, partly allow the application and order and direct as follows:-

- (i) The respondents are directed to release the amount due to the applicant and withheld by them on the plea that the applicant has not accounted for the missing books of the Library at the time of his retirement. The missing books shall be written off by them.
- (ii) The respondents are directed to release the balance amount of Rs.21,424/- withheld by them

on the basis of the Audit objection. We overrule the Audit objection which is not legally tenable.

- (iii) The respondents shall also pay interest on the aforesaid amounts at the rate of 10 per cent per annum from the date of retirement of the applicant to the date of payment.
- (iv) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

There will be no order as to costs.

*B. N. Dhoundiyal*  
(B.N. Dhoundiyal)  
Administrative Member

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*24/12/91*  
(P.K. Kartha)  
Vice-Chairman (Judl.)