

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2037/91

~~Ex No.~~

199

DATE OF DECISION 6.1.1992.

<u>Shri Gurcharan Singh</u>	Petitioner
<u>Shri S.K. Sawhney,</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Another</u>	Respondent
<u>Shri P.S. Mahendru</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(I.K. Rasgotra)
Member(A)

6.1.1992.

(T.S. Oberoi)
Member(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.2037/1991

DATE OF DECISION: 6.1.1992

SHRI GURCHARAN SINGH

...APPLICANT

VERSUS

UNION OF INDIA & ANOTHER

...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI S.K. SAWHNEY, COUNSEL

FOR THE RESPONDENTS

SHRI P.S. MAHENDRU, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A))

In this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985 by Shri Gurcharan Singh, he has challenged the recovery of rent from him at Rs.462/- per month viz. the penal rent for the period 1.11.1987 to 21.9.1989. *2*

2. The undisputed facts of the case are that when the applicant retired from Railway Service on 28.2.1987 his son was employed as Catering Khallasi in Base Kitchen, Northern Railway, New Delhi. The applicant had, therefore, applied for getting the quarter regularised in favour of his son. His representation, however, was rejected by the respondents vide order dated 19.2.1990 on the ground that the applicant's son "was screened only on 22.9.1989" i.e. after the retirement of the applicant. Aggrieved by the order of the respondents the applicant filed O.A. No.1220/90, assailing the order dated 19.2.1990. In the said O.A. the applicant had prayed that "order dated 19.2.1990 be quashed and the respondents be directed to regularise the quarter No.144/8, Railway Colony, Minto Bridge" in favour of his son. After considering all

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the relevant facts of the case, the Tribunal vide its judgement delivered on 7.12.1990 had directed the respondents "to regularise railway quarter No.144/8, Railway Colony, Minto Bridge, New Delhi" in the name of the son of the applicant in this application "with effect from 22.9.1989 i.e., the date from which he was made regular." The Tribunal also noted that although the applicant was regularised in the service with effect from 22.9.1989, he had been granted temporary status with effect from 1.9.1986.

3. We have heard Shri S.K. Sawhney and Shri P.S. Mahendru, learned counsel for the applicant and respondents respectively and given our careful thought to their submissions and the material on record. We are of the view that the son of the applicant was in the employment of the respondents and was holding temporary status. This was followed by regularisation with effect from 22.9.1989. The applicant had also been granted 8 month's stay on the basis of his representation immediately after his retirement by the respondents. He, however, continued in possession of the quarter without any sanction from 1.11.1987 to 21.9.1989. This period has been treated by the respondents as unauthorised occupation and accordingly they have charged penal rent at the rate of Rs.462/- per month and recovered the same from the D.C.R.G of the applicant. We feel that since the quarter has been regularised in the name of the son in accordance with the rules, The recovery of penal rent at the rate of Rs.462/- per month would be undoubtedly harsh on him.

2 Keeping in view the circumstances of the case, we feel that it would meet the end of justice if the recovery of rent is restricted to at twice the assessed rent from the applicant for the period of over-stay viz. 1.11.1987 to 21.9.1989. We order accordingly. We do not propose to interfere with the recovery of water and electricity charges at the rates as indicated in the order dated 5.7.1991 for the same period. The necessary adjustment in the amount

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recovered and amount due may be made and excess recovery within a period of 16 weeks from the date of communication of this order.

There will be no order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A) *6/1/1992* 6.1.1992.

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)