

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(b)

O.A.NO. 2872/91

DATE OF DECISION: 5th Feb. 92

SH. B.R. SHARMA APPLICANT

VERSUS

UNION OF INDIA & ORS. RESPONDENTS

CORAM:-

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

COUNSEL FOR THE APPLICANT : SH. R.K. RELAN

COUNSEL FOR THE RESPONDENTS : SH. R.L. DHAWAN

J U D G E M E N T

The applicant in this O.A. was serving as a Security Commissioner/R.P.F., Northern Railway, New Delhi, and after his superannuation on 31.12.1989, was re-employed w.e.f. 2.1.90 for a period of six months, in the same post on the usual terms and conditions and finally relieved of his duties on 2.7.90. He continued to occupy the government accommodation, which was earlier allotted to him. The amount of D.C.R.G. was, however, not released to him, because of his continued occupation of the accommodation in question. A notice was accordingly issued to him by the respondent concerned to vacate the government accommodation under his occupation failing which eviction through Criminal Court, besides recovery of penal rent etc., will be initiated against him as per Notice No.15960/7-1498/91 dt. 12.7.91. Against this notice, the applicant had filed the present

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O.A. in this Tribunal.

2. The applicant's claim was opposed vide the short reply filed on behalf of the respondents. A preliminary objection was raised that the applicant being an employee of Railway Protection Force, which is a 'Force', and as such in terms of Section 2 of the Administrative Tribunals Act, 1985, the present O.A. is not within the jurisdiction of this Tribunal, to be adjudicated upon. By filing a copy of judgement dt. 7.11.88 by another Bench of this Tribunal in O.A.No.1510/88, the learned counsel for the applicant pleaded that a similar question had arisen in that case and in view of the relief sought for and the authorities against whom, it was directed, it was held in the said judgement that this Tribunal has jurisdiction to deal with such matter. In view of this position, we proceed further to decide the present O.A., at this very stage as agreed to by both the sides.

3. The applicant's plea is that after 2nd July 1990 i.e. after the expiry of the extention granted to him, he was normally eligible to retain the accommodation for the ^{permissible} ~~admissible~~ period, and thereafter, on special request, due to certain contingencies for another spell of some period, as admissible as per rules. His further contention is that as submitted by him to the respondents, he would be vacating the government accommodation immediately on the release of the amount

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of the D.C.R.G., withholding of which has aggravated his difficulties for being able to make arrangement for alternative accommodation for him and his family. The plea of the respondents in this regard is that while releasing all other retiral benefits, the amount of D.C.R.G. and one set of post retirement passes were withheld, to ensure the vacation of the accommodation in question by the applicant, in accordance with the directions issued by the Railway Board. Thus, on the one hand, the applicant asks for the release of his D.C.R.G., before being able to vacate the government accommodation in his occupation, the respondents insist that he should first vacate the government accommodation, before the D.C.R.G. is released. It is a well-known principle that he who expects equity must do equity. Keeping the same in view and also the peculiar circumstances of the case, we direct that the applicant would keep himself in readiness to vacate the government accommodation on 29.2.1992 and the respondents would prepare the cheque in respect of D.C.R.G. due to him, after deducting the normal rental charges, upto 29.2.1992 and the possession of the accommodation would be simultaneously handed over at the time of release of the cheque to the applicant, to the official/representative of the respondents who will take over the possession of the government accommodation. The parties will

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be at liberty to press of their respective claims regarding interest on the amount of D.C.R.G. withheld and the respondents for charging penal rate of rent, from the applicant, for the period involved, if so advised, in accordance with Rules and before the appropriate forum.

4. O.A. decided on the above lines with no order as to costs.

5.2.92
(T.S. OBEROI)
MEMBER(J)

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