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

OA 1258/92

24.07.1992

SHRI B.L. JOSHI

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

...SHRI V.P. SHARMA

FOR THE RESPONDENTS

...MS. SUNITA RAO

1. Whether Reporters of local papers may
be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant, Shri B.L. Joshi was allotted a Railway quarter No.125 J, D.C.M. Railway Colony, Delhi and superannuated on 31.8.1990 and was working as Trains Clerk. The grievance of the applicant is that he has not yet been paid the retirement benefits, gratuity, bonus and the arrears and post retirement passes.

The applicant has claimed the relief that he should not be evicted from the Railway quarter till the amount of gratuity is paid to him.

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The respondents contested the application and stated that the applicant has not vacated the Railway quarter. The amount of the gratuity due to the applicant as alleged is Rs.34,650. The applicant has also been issued show cause notice under Section 4 as well as under Section 7(3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and there are damages outstanding against the applicant to the tune of Rs.20409 for a period from 1.10.1990 to 31.3.1992. Further, the damages are also @ Rs.1830 p.m. after that date.

I have heard the learned counsel for the applicant. The learned counsel for the applicant has relied on the decision of Union of India Versus Shiv Charan (O.A. No. 2897/91) decided on 9.4.1992 whereby the applicant was allowed the payment of DCRG. The Hon'ble Supreme Court held as follows :

"Having considered the facts and circumstances of this case and having heard counsel for both the parties, we are of the opinion that the appropriate order would be to allow this appeal and to direct that the possession of the railway quarter, now in possession and occupation of the respondent, should be handed over by the respondent and taken possession of by the appellants or their representatives on or about 23rd May, 1990 and the entire amount due and owing to the respondent, less the amount mentioned hereinafter will be handed over by the officer taking possession then and there.

Rent for the period overstayed may be deducted from the payment to be made as aforesaid. The appellants will be entitled to make claim in accordance with law to which they are entitled to, for any excess or penal rent, and the respondent will be at liberty to make any claim for compensation in the appropriate forum which he claims to be entitled to."

The said judgement was assailed before the Hon'ble Supreme Court in the case of Union of India Vs. Shiv Charan and Another. The learned counsel for the applicant has also relied on the decision of Mela Ram Vs. Union of India (OA No.2414/90) decided on 19.7.1991 by the Principal Bench. A direction was issued in that judgement that the respondents shall pay the entire amount of gratuity within a period of three months from the date of receipt of a copy of the judgement and also release the post retirement passes which have been withheld. On receiving these retirement dues, the applicant shall vacate the premises occupied by him.

The learned counsel has also argued that in case the respondents only recovered the normal licence fee, then he is prepared to forego his claim for interest for the withheld amount of DCRG and the delay caused in paying the said amount.

I have also heard the learned counsel for the respondents who has referred to the counter and stated that since the applicant has not vacated the quarter, so the DCRG amount has not been paid.

In the case of Union of India Vs. Shiv Charan and Another, reported in 1992(19) ATC p-129, it has been held that for damages, the Railway has to proceed against the defaulting employee and they can only realise the normal rent due from the DCRG.

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In view of this decision, the application is disposed of in the following manner :-

- (a) The respondents are directed to pay the DCRG amount to the applicant with 10% interest p.a. upto the date of payment commencing three months after the retirement of the applicant after deducting the normal rent due against the applicant for the said allotted quarter till he vacates the same.
- (b) The respondents are free to recover the damages from the applicant in the competent forum under the Public Premises Act, 1971, the proceedings for which are already pending against the applicant.
- (c) The respondents are also directed to release the post retirement passes in favour of the applicant forthwith.
- (d) The applicant to vacate the Railway quarter the moment he receives the amount of DCRG, but this will not be taken to be a permission to retain the quarter and he shall be liable for damages for any such period he continues to occupy the Railway quarter.

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(e) The respondents shall comply with the above directions with a period of two months from the date of receipt of a copy of this order.

(f)) In the circumstances, the parties shall bear their own costs.

J. P. Sharma
(J.P. SHARMA) 24.7.92

MEMBER (J)

24.07.1992