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

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Date of Decision: 17.07.92

OA 1461/92

LAXMI DEVI

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

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

For the Applicant

... SHRI UMESH MISHRA.

For the Respondents

... SHRI R.L. DHAWAN.

1. Whether Reporters of local papers may be allowed to see the Judgement ? yg

2. To be referred to the Reporters or not ? js

JUDGEMENT

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

The husband of the applicant Shri Giansi Lal worked as Trimmer, Northern Railway. The said employee was allotted Railway Quarter No.175/D-4, Railway Colony, Basant Lane, Pahar Ganj, New Delhi. During the course of the employment he was allotted this quarter and he retired from service on 30.9.1986 and expired on 7.1.1989. The grievance of the applicant is that the DCRG amount has not been paid to the applicant and the same be paid with interest @ 24% per annum.

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2. The case of the respondents is that the case is barred by the principles of Res Judicata as the applicant has filed an appeal before the District Judge against the order of eviction passed on 7.2.1990 by the Estate Officer and that has been decided against the applicant. The son of the applicant Shri Rajesh Kumar filed an application OA 851/90 for the regularisation of the quarter and the same has been dismissed by the Tribunal by the order dated 28.2.1992. It was held in that case that the applicant will be entitled to the allotment of Railway Quarter only in his turn. The point of limitation has also been taken by the respondents. In fact, the respondents have filed a short reply only mentioning that the application has not been filed showing full facts and the applicant has not come with clean hands.

3. I have heard the learned counsel for the parties at length and with the consent of the parties the application is disposed of at the admission stage itself as the pleadings are complete. The relief, applicant has claimed is the payment of DCRG with interest which was due to her alongwith other heirs of her husband Shri Garsi Lal. She has applied for the DCRG on 4.12.1990 and she also stated that she is not interested in staying in the Government accommodation.

4. The learned counsel for the applicant argued that DCRG is not a bounty and the heirs of the deceased of the

railway employees are entitled to the same as of right.

The respondents' counsel, however, argued that the applicant have not vacated the Railway Quarter and are in unauthorised occupation of the same. He referred to the order of the Railway Board dated 31.12.1990 and para 4 is relief, which is reproduced below :-

"Taking into account all the aspects, the extent to which gratuity can be withheld in cases of non-vacation of railway quarters has been reviewed and it has been decided that retirement/death gratuity or special contribution to P.F., as the case may be, should be withheld in full for non-vacation of railway quarters not only after superannuation but in all cases cessation of service, namely voluntary retirement, death etc. Further, the amount withheld should remain with the Administration only in the form of cash without conversion into any type of security lest the very purpose of withholding full DCRG should get defeated. It may also please be kept in view that the gratuity should be released as soon as the quarter is vacated so that there is neither any hardship to the retired employee or the family nor there is any claim for payment of interest on withheld gratuity for reasons of any administrative lapse."

The learned counsel for the respondents also referred to the decision of the Hon'ble Supreme Court in the case of Shiv Charan Vs. UOI, SLP 881/90, in which the Hon'ble Supreme Court observed 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

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be at liberty to make any claim for compensation in the appropriate forum which he claims to be entitled to."

The learned counsel for the respondents also referred to the case of Rajpal Vahi Vs. UOI SLP 7688-91/88 decided on 27.11.1989 where the payment of interest on DCRG was not allowed as the delay was not due to administrative lapse.

5. The learned counsel for the applicant has referred to the decision of the case of Mulak Raj Vs. UOI in OA 1269/90, decided on 24.9.90 where it has been held that rent for the period the applicant overstayed may be deducted from the payment of the DCRG. The respondents shall also be entitled to claim damages under P.P. Act against the applicant.

6. The learned counsel for the respondents has referred to a latest decision in OA 2807/91, decided on 8.5.1992 in V. Samual Vs. UOI. In that case it has been held that the respondents should release the DCRG after recovering the penal rent, as distinct from damages, from the amount of the DCRG, less the amount of penal rent for the period of unauthorised occupation of the accommodation. No interest was allowed in that case as there were no administrative lapse. A direction for vacation of the quarter was also made.

7. Taking all these facts into account, the application is disposed of as follows :-

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- (a) The respondents shall release the DCRG in favour of the applicant and the heirs of the deceased after recovering the penal rent, as distinct from the damages, from the amount of DCRG, less amount of penal rent for the period unauthorised occupation of the accommodation.
- (b) The claim for interest on DCRG amount is disallowed as there is no administrative lapse on the part of the respondents.
- (c) The respondents to comply with the directions within a period of six ^{weeks} ~~months~~ from the date of receipt of a copy of this order.

In the circumstances, parties to bear their own costs.

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(J.P. SHARMA) 17.7.82
MEMBER (J)