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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO.1464/92

DATE OF DECISION : 17.7.92

Shri Punjab Singh

...Applicant

Vs.

Union of India & Anr.

...Respondents

CORAM

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? *yes*

2. To be referred to the Reporter or not? *yes*

JUDGEMENT

The applicant, Ex-Jamadar-Peon, Northern Railway retired on 31.1.1988 and his son is in the employment since 18.9.1990. The applicant was allotted Quarter No.184/B-4 Railway Colony, Basant Lane, Pahar Ganj, New Delhi. The grievance of the applicant is that he has not been paid the gratuity and the post retirement passes. He has also claimed interest on the gratuity @ 23% p.a. till the date of payment.

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2. The facts of the case are that the applicant was allotted a Railway Quarter No.184/B-4 Railway Colony, Basant Lane and he was sharing the quarter with his son who was employed in Railway since 18.9.1980 and was not getting any HRA. The son of the applicant was not regularised this accommodation. It is stated by the applicant that he is not interested in overstaying the accommodation provided his gratuity is paid.

3. The respondents contested the application. The applicant, according to the respondents, has filed OA 135/90 regarding eviction from this quarter and obtained a stay order against that eviction. This application was later dismissed by the judgement dt. 23.2.1992. Proceedings for eviction against the applicant have already started before the Estate Officer. It is not disputed that the applicant retired from Railway service on 31.1.1988 and was permitted to retain the Railway quarter upto 31.5.1988 and was required to vacate the same from 1.6.1988. The applicant is in unauthorised occupation of the same. Since the applicant has not vacated the quarter, the amount of DCRG has not been paid and so the post retirement passes have been withheld. In OA 135/90 decided on 23.2.1992, the quarter has not been regularised in favour of the son of the applicant.

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4. I have heard the learned counsel for the parties at length and have gone through the record of the case. It is undisputed that the amount of DCRG is not a bounty and the applicant has a claim to his payment immediately after retirement. The applicant retired on 31.1.1938. The learned counsel for the respondents, however, gave a statement at the Bar that the moment the applicant hands over the possession of the quarter, the amount of DCRG shall be paid. The learned counsel for the applicant has also filed the copy of the judgement in OA 1269/90 decided by the Principal Bench on 24.9.1990. In that case also, the DCRG of the applicant, Shri Mulk Raj was withheld as he did not vacate the allotted Railway quarter.

The Tribunal's order is as follows :-

"In the facts and circumstances of the case, we order and direct that the railway quarter should be vacated and handed over by the applicant to the respondents or their representatives by 26.10.1990 and the entire amount of DCRG less the amount recoverable should be handed over to the applicant by the officer taking possession then and there. Rent for the period the applicant overstayed may be deducted from the payment to be made as aforesaid. The respondents shall be entitled to make claim in accordance with law for any market/penal rent and the applicant will be at liberty to claim any compensation, which he claims to be entitled to, in the appropriate forum.

The application is disposed of at the admission stage with the above directions.

There will be no orders as to costs."

The matter of payment of DCRG was also considered by the Hon'ble Supreme Court in SLP 81/90 in Shiv Charan Vs. Union of India & Ors.

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where the Hon'ble Supreme Court has 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 learned counsel for the respondents also pointed out that the judgement passed in Wazir Chand's case-OA 2573/89 decided on 25.10.1990 by the Principal Bench of the Central Administrative Tribunal has been stayed by the Hon'ble Supreme Court in SLP 10266/91 by the order dt. 6.6.1991. The learned counsel for the respondents has also referred to the decision in the case of Raj Pal Vahi Vs. Union of India wherein the Hon'ble Supreme Court in SLP 7688-91/88 did not allow interest as the delay in payment of DCRG was because of the circular of the Railway Board. The same is the position here.

5. In view of the above facts and circumstances of the case, the application is disposed of with the following directions :-

(a) The respondents shall release the DCRG after deducting

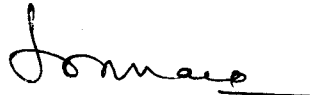
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the penal rent as distinct from damages from the amount of DCRG, less the amount of penal rent for the period of unauthorised occupation of the accommodation.

- (b) The claim for interest is disallowed as the delay is not on account of the administrative lapses as held in Raj Pal Vahi's case (supra).
- (c) The applicant shall be paid the amount of DCRG the moment he vacates the quarter.
- (d) The respondents shall further restore the issue of post retirement passes to the applicant prospectively from the date the Railway quarter is vacated by the applicant.
- (e) The respondents shall comply with the above directions within a period of six weeks from the date of receipt of a copy of this Judgement.
- (f) In the circumstances, the parties shall bear their own costs.

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(J.P. SHARMA)
MEMBER (J) 17.7.92