

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

Date of Decision: 24.12.92

OA 1534/92

MADAN MOHAN ... APPLICANT.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

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

For the Applicant ... SHRI S.K. SAWHNEY.

For the Respondents ... Ms. SUNITA RAO.

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

JUDGEMENT

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

The applicant was employed as Head ~~Constable~~ ^{clerk} with the respondent No.2 and he retired on superannuation on 30.11.90. The applicant was allotted Government premises No.85/D-1, Railway Colony, Tughlakabad, and he vacated the same on 3.12.92, that is much after the grace period of four months, which was allowed to retain the premises after retirement. The grievance of the applicant is that a sum of Rs.12,789/- has been deducted from his DCRG without any authority. He

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has also grievance that his post retirement passes has been withheld for non-vacation of the quarter.

2. In this application under Section 19 of the Administra-

(a) tive Tribunals Act, 1985, the applicant has prayed for the refund of Rs.12,739/-, which is illegally deducted from the DCRG alongwith interest at the market rate from the date of retirement i.e. 30.11.90 to the date of payment.

(b) A direction to the respondents to pay interest at the market rate and the balance amount of DCRG Rs.14,211/- paid on 25.5.92 instead of 1.12.90 when it fell due.

(c) Direct the respondents to release his post retirement passes which have been illegally withheld.

(d) Any other relief which may be deemed proper.

3. The applicant has also assailed the order dated 10.3.92

(Annexure A-1), which was issued by the Dvl. Superintending Engineer (Estates), DRM Office, New Delhi and addressed to DPO (Settlement), that rent for the period from 1.12.90 to 31.3.91 be released at the normal rate of rent. After that from 1.4.91 to 31.7.91 at the double of the rate of the market rent and from 1.8.91 to 3.2.92 at the rate of Rs.1736/- p.m. Besides the above amount, the water charges at the rate of Rs.25.50 p.m. and the service charges at the rate of Rs.4/- p.m. be also recovered. The normal licence fee of the allotted premises has been Rs.55/- p.m. The

applicant had made representation before the issue of the above letter on 30.11.91 for payment of DCRG and post retirement passes be released and he be allowed to retain the Railway Quarter till the possession is given to him by DDA of LIG Flat, which has been allotted to him.

4. The present application has been filed on 5.6.92 when an interim order was granted on the basis of the authority of Suraj Prakash Chopra Vs. UOI & Ors. (1992 (1) SLJ 460) directing the respondents to release atleast one post retirement passes in favour of the applicant.

5. The respondents in their counter have stated that since the applicant was in an unauthorised occupation of the Railway Quarter after his retirement and vacated the same on 3.2.92, so the penal rent at the market rate has been recovered from the applicant after allowing the grace period of four months from the date of retirement. The applicant is not entitled to any relief. The post retirement passes have also been withheld because of non-vacation of the quarter.

6. I have heard the learned counsel for the parties at length and have perused the records. The contention of the learned counsel for the applicant is that recovery of any penal rent etc. could have been under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and without giving any show cause notice, the deduction should not have

been made. The learned counsel for the applicant has also referred to para 1554 of the Indian Railway Establishment Manual, which lays down that the post retirement passes will be admissible to the retired Railway servants and their families as per the chart appended below the said para. It is a fact that the payment of DCRG has been delayed but for this, the applicant himself is at fault. Normally, under Rule 2308 of Railway Establishment Code Vol.II, the DCRG amount should have been released in favour of the applicant after his retirement but the same has not been done. This is also in breach of the principles of law laid down by the Hon'ble Supreme Court in UOI Vs. Shiv Charan (1992 ATC (19) 129). The Hon'ble Supreme Court has laid down that the respondents should proceed against the delinquent employee under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and from the amount of DCRG deduction should not be made. Thus, the act of the respondents in deducting the amount of Rs.12,789/- is not in accordance with law and the applicant is entitled to refund of the same, less the rent which was due against the applicant till the date of his retention of the Railway quarter i.e. 3.2.92. The respondents shall be free to recover penal rate of rent at the market rate under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 by drawing proceedings under the said act.

7. Regarding the payment of interest on the delayed payment of the DCRG amount, the applicant is not entitled to the same

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in view of the law laid down by the Hon'ble Supreme Court in the case of Rajpal Vahi & Ors. Vs. UOI & Ors., SLP No. 7688-91/88, decided on 27.11.89. It has been held "in such circumstances, we are enable to hold that the petitioners are entitled to get interest on the delayed payment of DCRG as the delay in payment occurred due to the orders passed on the basis of the said Circular of the Railway Board and not on account of administrative lapse. Therefore, we are ^uenable to accept this submission advanced on behalf of the petitioners and so we reject the same. The Special Leave Petition thus disposed of. The respondents, however, will issue the passes prospectively from the date of this order."

8. The next contention of the learned counsel is regarding the post retirement passes. One of the passes ^{has} is already been released by the interim order dated 5.6.92 on the authority referred to above. Since the applicant has vacated the Railway quarter, the respondents should not withhold the post retirement passes of the applicant.

9. The application is, therefore, disposed of as follows:-

a) The respondents are directed to refund the amount of Rs.12,789/- less the rent recoverable from the applicant for the period of retention of the Railway quarter till 3.2.92 with the liberty to the respondents to

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recover the penal rate/market rate of rent under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

b) The applicant is not entitled to any interest on the delayed payment of DCRG in view of the authority referred to above i.e. Rajpal Vahi's case.

c) The respondents shall be free to initiate proceedings against the applicant under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for recovery of market rate of rent from the applicant for retention of the Railway quarter beyond the grace period of four months after retirement.

d) The respondents are directed to release the post retirement passes of the applicant, as envisaged under para 1554 of the Indian Railway Establishment Manual.

In the circumstances of the case, the parties shall bear their own costs.

J. P. Sharma
24.12.92
(J. P. SHARMA)
MEMBER (J)