

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 2263/92

17.09.1992

Shri Gian Chand

...Applicant

VS.

Union of India & Ors.

...Respondents

CORAM :

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri Shankar Divate,
Proxy Counsel for
Shri Naresh Kaushik,
Counsel

For the Respondents

...None

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

2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

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

The applicant was employed in DMS as **Tally Clerk** w.e.f. 21.8.1984. On 27.1.1988, he was also allotted Quarter **A-** No.3/35 Type-I HariNagar meant for employees of DMS. The applicant was declared surplus on 29.3.1990 and he was given a Class IV post w.e.f. 12.10.1990 as Attendant in Archaeological department, Government of India. The applicant thereafter filed an Original Application challenging his appointment to Class IV post as he had been working as a daily Clerk, Group 'C' post in DMS. That OA was allowed by the order dt. 24.4.1991 where the protection of the pay was granted with the direction to respondent No.3, Archaeological Survey of India. The applicant was also advised to make a representation to the Department of Personnel and Training for

arranging suitable placement in Group 'C' post at New Delhi when the vacancy arises. The applicant was, therefore, subsequently appointed as a Postman in the P&T Department and at the relevant time of filing this application, he was posted in the office of Senior Post Master at Sarojini Nagar. The grievance of the applicant in this application is that a letter has been issued to Senior Post Master, Sarojini Nagar dt. 16.7.1992 by the Administrative Officer, DMS for realisation of certain amount as penal rent for the period the applicant remained in occupation after being declared surplus on 23.3.1990. The total amount comes to about Rs. 20712. In this application, the notices were issued to the respondents, but none appeared today in spite of the service. The applicant has since vacated the quarter on 6.4.1992. The applicant has claimed the relief that the impugned communication dt. 16.7.1992 be quashed and the HRA of the applicant be released w.e.f. April, 1992 along with interest.

I have heard the learned counsel for the applicant at the admission stage itself. After the communication of the impugned order to the office of the applicant, the applicant has not made any representation. It is a fact that the applicant was not served with any show cause notice. The impugned order appears to have been passed because the applicant was declared surplus by DMS and he continued to

occupy the quarter while he was in surplus cell and later on employed as a Class IV employee in Archaeological Survey of India and subsequently as Postman in P&T Department in the Senior Post Office, Sarojini Nagar. The applicant has to make an effective representation in this regard before coming to the Tribunal for his grievance.

In fact no statutory representation is provided in such cases, but since recovery of certain amount is shown against the applicant by the DMS where the applicant was originally employed, so it is necessary for the applicant to file proper representation before DMS, the first employer mentioning the facts and the grounds on which the applicant cannot be made liable to pay more than the prescribed licence fee. Since none has appeared on behalf of the respondents, so the application is disposed of in the manner that the applicant shall prefer a representation to DMS through his department, Senior Post Master, Sarojini Nagar for the grievance he has raised in this OA regarding non payment of damages at market ratae of rent during the period he retained the DMS quarter, but was not in the active service of that department. Till then the respondents are directed not to recover any amount as arrears as shown in the impugned order dt. 16.7.1992. The applicant shall make the representation within a period of one month from the date of receipt of a copy of this judgement. The representation, if any, preferred by the applicant should be disposed of by the respondents

within a period of three months thereafter. If the applicant does not make any representation, then the impugned order shall stand. In the event of disposal of representation, the final order passed thereon will stand and if the applicant is still aggrieved, he can assail the same before the competent forum subject to the law of limitation.

J.P. Sharma

(J.P. SHARMA)
MEMBER (J)
17.09.1992