

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.2288/92

Date of decision: 23.08.1993

Shri Mahender Kumar

Applicant

Versus

Union of India

Respondents

Shri V.P. Sharma

Counsel for the applicant

Shri R.L. Dhawan

Counsel for the respondents

SINGLE BENCH JUDGEMENT (Oral)
(delivered by Hon. Member (J) Shri C.J. ROY)

I have heard the learned counsel for both parties and perused the documents on record.

2. The applicant retired from service from Railways on 31/7.90. He was allotted a quarter No.125-D, DCM, Railway Colony, Kishen Ganj. After retirement, the respondents have not paid him the DCRG amount. Hence the applicant has filed this OA under Section 19 of the Administrative Tribunal's Act, 1985, claiming for the above relief.

3. The respondents filed the counter stating that the applicant is in unauthorised occupation of the quarter from 1.9.90 till date and a show cause notice ~~was issued~~ was issued to this effect. The learned counsel for the respondents assures that the amount pending will be paid to ^{him} ~~them~~ and the learned counsel for the applicant makes a statement at the Bar that he would vacate the quarters immediately after receipt of the DCRG amount. Both the counsel agree that this case be disposed of, by way of a direction.

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4. The learned counsel for the applicant cited a judgement in the case of Union of India Versus Mela Ram in the Civil Appeal No.2745 of 1992 decided by the Supreme Court in which their Lordships held that:

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"The appellant through the Senior Divisional Personnel Officer Bikaner shall pay Rs.23,381.55 to the respondent Mela Ram on September 30, 1992. On receipt of the said amount Mela Ram shall simultaneously hand over the vacant possession of the Government quarter to the Railway Authorities. The amount of Rs.23,381.55 has been worked-out after deducting Rs.4,998.45 - the normal rent recoverable from the respondents- from the gratuity amount of Rs.28,280 due to the respondent.

3. In case the respondent has already deposited some money towards normal rent of the quarter for the period ending August 31, 1992 then the appellant shall refund the same to the respondent Mela Ram.

We make it clear that the parties have reached the above agreement in the special facts and circumstances of this case.....'

5. In the judgement cited by the respondents delivered by the Hon. Supreme Court on 27.11.1989 in SLP No.7688-91 of 1988, in the case of Raj Pal Wahi Versus Union of India, their Lordships held that:

"There is no dispute that the petitioners stayed in the Railway Quarters after their retirement from service and as such under the extent rules penal rent was charged on their petitioners which they have paid. In order to impress upon them to vacate the Railway Quarters the Railway Authorities issued orders on the basis of the Railway Circular dated 24th April, 1982 purporting to withhold the payment of death-cum-retirement gratuity as well as the Railway passes during the period of such occupation of quarters by them. The delay that was occurred in on account of the withholding of the gratuity of the death-cum-retirement gratuity on the basis of the aforesaid Railway Circular. In such circumstances we are unable to hold that the petitioners are entitled to get interest to the delayed payment of death-cum-retirement gratuity as the delay in payment occurred due to the order passed on the basis of the said Circular of Railway Board and not on account of administrative lapse. Therefore, we are unable to accept this submission advanced on behalf of the petitioners and so we reject the same. The Special Leave Petition is thus disposed of. The respondents, however, will issue the passes prospectively from the date of this order."

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6. Following the ratio of the guidelines laid down by the Hon. Supreme Court cited supra, this case is disposed of with the following orders and directions:-

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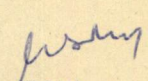
(a) The respondents are directed to pay the DCRG benefits to the applicant and release the Railway passes in accordance with Rules.

(b) The applicant after receipt of the said DCRG amount from the respondents is directed to vacate the Government quarter simultaneously, and hand over the vacant possession to the respondents.

(c) The applicant is not entitled for any interest therein.

(e) The respondents are directed to recover the penal rent after issuing a notice and personal opportunity to the applicant and determining the penal rent for the unauthorised occupation of the premises as per the ext^ant rules.

(f) The above directions shall be complied with, preferably and expeditiously, within a period of three months from the date of communication of this order.


(C.J. ROY)

MEMBER(J)

kam230893

23.08.1993