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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 346/93 in
O.A. NO. 953/92

New Delhi this the 18th day of March, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

1. Smt. Vidya Wati
Widow of Late Mata Din,
R/O Qr. No. E-111-B, Locosheds,
Sarai Rohilla,
Delhi (DEE).
2. Anil Kumar S/O Mata Din,
R/O Qr. No. E-111-B,
Locosheds, Sarai Rohilla,
Delhi (DEE).
3. Jag Mohan S/O Mata Din,
Mohalla Chaudhrihan Narnaul,
Distt. Mahendergarh (Haryana).
4. Shyam Lal S/O Mata Din,
R/O L-35/A, Loco Shed Rly.
Colony, Sarai Rohilla, Delhi.
5. Satya Narain S/O Mata Din,
R/O 1312-A, Sector-29,
Faridabad.
6. Bhushan S/O Mata Din,
R/O 3174-Fatak Nanak Chand,
Charkhawalan, Delhi-6.
7. Mrs. Damyanti Sharma
D/O Mata Din,
R/O Mohalla Mata Masani,
Mahendergarh (Haryana).
8. Mrs. Krishna Sharma
D/O Mata Din,
R/O Mohalla Mata Masani,
Mahendergarh (Haryana)

... Petitioners

By Advocate Shri K. N. Nagpal

Versus

1. Shri Raj Kumar,
General Manager,
Northern Railway,
Baroda House, New Delhi.

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2. Shri Sajjan Singh,
Loco Foreman,
Sarai Rchilla Locoshed,
Delhi (DEE).

... Respondents

By Advocate Shri R. L. Dhawan

O R D E R (CRAL)

Hon'ble Mr. Justice V. S. Malimath -

This is a petition for taking action under the Contempt of Courts Act for not obeying the directions of the Tribunal in O.A. No. 953/92 dated 18.3.1993. The petitioners are legal representatives of the deceased Railway servant. They have continued to remain in the railway quarters even after the entitlement to the same ceased. Several reliefs had been claimed in the original application. Ultimately, directions were issued to pay the gratuity amount withheld less the amount of rent calculated till the vacation of the quarters by the legal representatives of the railway employee within a period of three months from the date of receipt of a copy of the order. The prayer for grant of interest on DCRG was disallowed. As there is a complaint that salary for the period from 23.5.1990 to 31.8.1991 might not have been paid to the deceased employee, a direction was issued to examine the same and if not paid, to pay. The respondents have filed a reply saying that the period of absence of the deceased employee on the ground of sickness between 23.5.1990 and 31.8.1991 was treated as leave due as per leave account, the statement of which is found in paragraph 6 of the reply. After adjusting the absence in

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accordance with the permissible leave whatever was due to the petitioner was paid. There is an assertion that an excess payment of Rs.4211/- was made to him wrongly treating as leave with pay even though he was not entitled to the same. Hence, it is obvious that nothing was required to be paid for the said period.

2. As regards the retention of the quarters, the petitioners still continue to remain in the same. The DCRG amount has been ascertained as Rs.31020/-. The directions in the judgment authorise deduction of the rent in accordance with the circular dated 31.5.1988. A statement has been furnished in regard to the rent for four months from 1.9.1991 to 31.12.1991 which comes to Rs.160/-. The penal rent from 1.1.1992 till 31.12.1993 @ Rs.1130/- comes to Rs.27120/-. The electricity charges come to Rs.2505/-. Learned counsel for the petitioners submitted that the penal rent claimed is excessively higher and the respondents were not justified in claiming the amount at that rate. But then it is necessary to point out that the penal rent has been fixed by the relevant orders dated 31.5.1988, a copy of which is produced as Annexure-I to the reply. For the type of quarters with which we are concerned the penal rent is Rs.1100/- plus an amount at the rate of Rs.2/- per sq. mtr. for open areas like lawn and passages etc. within the boundary of the particular unit. It was clarified that another Rs.30/- is added in the penal rent making it as Rs.1130/-. The order of the Tribunal

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permits the deduction of penal rent. Hence, the deduction of the same cannot be faulted. The deduction of electricity charges can also not be faulted. However, it was contended by the learned counsel for the petitioner that recovery on the ground of excess payment was made to the extent of Rs.1694/- and recovery of excess payment of wages as leave without pay of Rs.4211/- is not permissible on the ground that it is not permitted by the judgment of the Tribunal. There is no specific direction in regard to this aspect of the matter. But then there is a general direction with regard to the ascertainment of the wages payable for the period from 23.5.1990 to 31.8.1991 in paragraph 13 of the judgment. When the wages payable to the deceased were required to be examined, the authorities would have to examine all the relevant factors to decide the entitlement of the petitioners during the relevant period. If the deceased railway employee was absent during that period, as to how the period should be treated, has also necessarily to be examined. That precisely what has been done. Hence, it is not possible to take the view that the assessment made of the excess amount paid towards wages was not permissible. In this background, we do not find any good ground to pursue these proceedings any further. They are accordingly dropped.

3. The respondents are at liberty to take appropriate steps in accordance with law for evicting the petitioners from the quarters, if they have not already vacated the premises.

Adige
(S. R. Adige)
Member (A)

Malimath
(V. S. Malimath)
Chairman

/as/