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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

R.A. 13/95
M.As. 69-70/95 in

O.A. 2049/92

New Delhi, this the 13th day of January, 1995

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

1. Union of India
through General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Supdtg. Engineer (Estate)
DRM's office, Northern Railway,
Estate Entry Road, New Delhi.
3. The Chief Hospital Supdt.,
Central Hospital,
Northern Railway,
New Delhi.

... Applicants

Vs.

1. Shri Dal Chand,
s/o Shri Battan,
R/o M-1/8, Railway Colony,
College Lane,
Near Railway Health Unit,
Tilak Bridge, New Delhi.
2. Shri Vijay Kumar,
s/o Shri Dal Chand
working as Safaiwala in
Central Hospital, New Delhi
R/o M-1/8, Railway Colony,
College Lane,
Near Railway Health Unit,
Tilak Bridge, New Delhi.

... Respondents

O R D E R (BY CIRCULATION)

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

The Union of India for the Railways
have filed this Review application against the
judgement dated 24.9.93 in O.A.No.2049/92 by
which the application of the applicants was
allowed with the following directions:-

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" In view of the facts and circumstances, the application is partly allowed with the following directions to the respondents.

- (i) to pay the amount of DCRG to applicant No.1 with 12 per cent interest after adjusting the amount of rent till the date of payment.
- (ii) The respondents are also directed to consider the case of the applicant No.2 for regularisation of the quarter No. M-1/B, College Road, in occupation of the retiree, Shri Lal Chand, in favour of applicant No.2, Shri Vijay Kumar, according to the extant rules in the light of the observations made above.
- (iii) The respondents are directed to comply with the above directions within a period of three months from the date of receipt of a copy of this order."

2. The Review application has been filed on 19.12.94 with M.A. for condonation of delay in filing the Review application. This is supported by an affidavit of Shri Piyush Agarwal, Divisional Superintending Engineer (Estate), Delhi Division, Northern Railway, New Delhi. The stand taken for condoning the delay is that inspite of the earnest efforts, the present Review application has not been filed in time due to clearance from the office of ADRM because of certain discussion in the department between ADRM-II and DSE(E). The grounds taken in the M.A. for condonation of delay are reasonable and therefore the delay is condoned.

3. The ground taken in the Review application is that a request for regularisation of the quarter was duly considered by the respondents but it was not acceded to as it did not fulfil the conditions prescribed in the Railway Board's instructions dated 15.1.90 for out of turn allotment on the retirement of his father on 31.5.91. That the applicant continued to draw HRA and stopped it only w.e.f. 1.2.91 though he was given compassionate

appointment on 1.1.91. Regarding this the only direction given to the respondents was to consider the case of Applicant No.2 for regularisation of the quarter according to rules. The respondents are therefore free to consider the same as per extent rules and there is no order passed in the aforesaid judgement under review for allotting/regularising accommodation in favour of Applicant No.2.

4. The other ground taken by the Review applicant is that the law laid down in Rajpal Wahi case should have been followed, SLP 7688-91/1988 decided on 27.11.89 whereby the award of interest was refused by Hon'ble Supreme Court on DCRG for non vacation of the Railway Quarter. However, the facts of this case are totally different inasmuch as the retirement benefits including DCRG could not have been withheld for abnormal period. It is open to the respondents to realise the rent or penal rent as per law laid down in the case of Shiv Charan V. UOI reported in (1992)¹⁹ATC 129 where it has been held that vacation of the Govt. quarter is totally different from the settlement of DCRG and payment to the retiree. In the recent decision by the Hon'ble Supreme Court in the case of R. Kapoor Vs. Director of Inspection, Incometax and another reported in JT 1994 Vol.6 SC 354 the interest has been allowed because of the fact that the gratuity was not paid. The facts of Rajpal Wahi case was totally different. The Applicant No.1 Shri Dal Chand retired from service on 31.5.91. He was

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permitted to retain the quarter till 31.1.92. He therefore can be said to be in unauthorised occupation only from 1.2.92, but there is no explanation ^{why} of the amount of DCRG was not paid on his retirement or immediately thereafter when the respondents themselves allowed the retention of the quarter till February, 1992. In view of this, there is no error apparent on the face of the order. The applicant is a poor employee. His retirement benefits were withheld. It was open to the respondents to ~~pursue~~ the remedy of eviction under Public Eviction Authorised Act, 1971. le

5. There is no error therefore apparent on the face of the judgement and Review Application is devoid of merit and therefore dismissed.

J. P. Sharma

(J.P. SHARMA)
MEMBER(J)

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