

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.924/1992

DATE OF DECISION : 31.07.1992

Shri Raj Rajeshwar Bali

...Applicant

vs.

Union of India & Ors.

...Respondents

CORAM

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

For the Applicant

...Shri G.D. Bhandari

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 Reporter or not? ✓

JUDGEMENT

The applicant, retired Superintendent POC, Commercial Branch filed this application aggrieved by the order dt. 17.3.1992 by which he was asked to vacate the Railway quarter No.119/12 Minto Bridge. The applicant has claimed the relief that the respondents be directed to release the payment of the amount of gratuity along with 18% interest and to charge/recover the normal licence fee/assessed rent of the aforesaid quarter from the date of his retirement till the date of the actual payment of gratuity. Further the respondents be directed not to recover any water/conservation charges and to refund the penal rent, if any, charged in excess.

2. The facts of the case are that the applicant retired on 30.4.1989 and during the course of his service, he was

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allotted Railway quarter No.119/12 Minto Bridge. Since the applicant has not been paid the DCRG. The applicant was allowed permission for retention of the quarter upto 31.8.1989. The applicant was also informed to disallow one set of post retirement passes for every one month of unauthorised retention of the Railway quarter. The applicant further stated that instead of releasing the gratuity amount, the respondents issued an order dt. 17.3.1992 for vacating the quarter by 30.4.1989 and further for recovery of damages at the scheduled rates and further withholding of the post retirement passes and a threat of disconnecting the electric and water supply.

3. The respondents contested the application and stated that after retirement on 30.4.1989, the applicant continued in unauthorised occupation of the quarter, hence the DCRG amount has not been paid and also the order dt. 17.3.1992 has been rightly issued because the applicant continues in unauthorised occupation of the quarter.

4. I have heard the learned counsel for the parties at length. Both the parties adopted the arguments placed in a similar OA 523/92. The contention of the learned counsel for the applicant is that at most, the respondents could withhold an amount of Rs.1,000 or 10% of the DCRG amount as per para-323 of the Railway Pension Manual. It is further stated that as per the decision in the case of Union of India vs. Shiv Charan, 1992 (19) ATC 129, the rent for the period

overstayed may be deducted from the payment of DCRG to be made to the applicant. The amount of DCRG is not a bounty and the respondents are bound to pay the same immediately after retirement. The same view was taken in the Full Bench decision of Wazir Chand, reported in Full Bench Decision, Bihari Brothers, 1991 (2) p-287. However, in this Full Bench decision, it has also been observed that after retirement, the Railway employee has no authority to retain the Railway quarter on the pretext of non payment of DCRG alleging that being short of funds he could not arrange alternative accommodation by rent or purchase. The learned counsel for the respondents, however, stated that since the applicant has not vacated the Railway quarter, he has been rightly issued the impugned order under various circulars of the Railway Board. According to the OM dt. 4.5.1982 issued by the General Manager, Northern Railway, for every month of unauthorised retention one set of post retirement passes should be disallowed. But it requires a show cause notice to this effect to be issued to the retired employee before disallowing the passes.

5. Having heard both the counsel for the parties, the matter is fully covered by the decision of Union of India vs. Shiv Charan (supra). It is held by the Hon'ble Supreme

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Court that in such a case, the appropriate order should be to direct that the possession of the Railway quarter now in possession and occupation of the respondents should be handed over by the respondents and taken possession by the appellant or their representative and the entire amount due and owing to the respondents less the amount of rent for the period of overstay may be deducted from the payment to be made on account of DCRG to the applicant. However, the respondents shall be entitled to make claim in accordance with law to which they are entitled for any excess or penal rent. The above decision was given by the Hon'ble Supreme Court in a similar case of Shiv Charan, who was not paid the DCRG amount and remained in occupation of the Railway quarter much after his retirement.

6. The applicant has also claimed interest on the amount of DCRG, but in view of the decision in Raj Pal vahi's case, SLP No.7688-91 decided on 27.11.1989, the Hon'ble Supreme Court held that in such a case as the applicant has overstayed in the Railway quarter and the withholding of DCRG amount was not due to any administrative lapse, so interest would not be allowed. The case of Raj Pal vahi decided by the Hon'ble Supreme Court was placed before the Full Bench in Wazir Chand's case (supra). Thus the applicant is not entitled to any interest on the withheld amount of DCRG.

7. In view of this fact, the present application is also

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disposed of as follows :-

- (a) The respondents are directed to pay the amount of DARG to the applicant less the rent due against the applicant for the period of overstay in the premises after the date of superannuation adjusting the permissible period of overstay, if any.
- (b) In view of the circumstances of the case, and as per the decision in Raj Pal Vani's case, the applicant shall not be entitled to any interest on the withheld amount of DARG.
- (c) The respondents shall be free to claim excessive penal or damage rent from the applicant which they are entitled to by processing the same in a competent forum under the relevant Rules.
- (d) The respondents may also consider the relief of post retirement passes according to the Rules.
- (e) The respondents shall comply with the above directions within a period of three months from the date of receipt of a copy of this judgement.
- (f) In the circumstances, the parties shall bear their own costs.

J.P. Sharma
31.7.92
(J.P. SHARMA)
MEMBER (J)

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