

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

O.A.No.1024/92

Date of decision: 13.5.1993

Shri Inderjit Singh

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Applicant

versus

Union of India & Anr.

.....

Respondents

Coram:-

The Hon`ble Mr. B.N. Dhoundiyal, Member(A)

For the applicant : Sh. S.K. Sawhney, counsel

For the respondents : Sh. R.L. Dhawan, counsel

1. Whether Reporters of local papers may be allowed to see the Judgement? *NO*
2. To be referred to the Reporter or not? *YES*

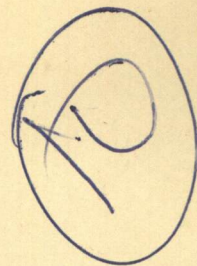
JUDGEMENT

(delivered by Hon`ble Sh. B.N. Dhoundiyal, Member(A))

The applicant Shri Inderjit Singh, a retired Chief Wagon Movement Inspector has challenged the impugned order dated 2.8.1991 passed by Div. Superintending Engineer (Estate) Northern Railway, Delhi denying him transfer and packing allowance and annual passes and ordering recovery of penal rent for the Railway quarter occupied by him.

At the time of his retirement on 31.5.1990, the applicant was working as Chief Wagon Movement Inspector,

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Northern Railway. He was in occupation of Railway Quarter No.19/24, Kishan Ganj, Delhi. He was allowed to retain the quarter after his retirement, for four months on payment of normal rent and from 1.10.1990 to 27.1.1991 on double the assessed rent. He was charged penal rent for the period from 28.1.1991 to 31.5.1991 @ Rs. 1728/- p.m. and for the period 1.6.1991 to 19.7.1991 @ 3456 p.m. A recovery of Rs.14,150/- was made from D.C.R.G. and even the remaining payment was given to him only on 12.9.1991. He was not given transfer allowance and packing charges and denied settlement and retirement passes. He has prayed for the following reliefs:-

(i) to direct the respondents to refund Rs.12,150/- illegally deducted from D.C.R.G. of the applicant with interest at market rate from the date of retirement to the date of payment;

(ii) to direct the respondents to allow the applicant the post retirement passes which has been illegally withheld;

(iii) to direct the respondents to issue settlement pass to the applicant;

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(iv) to direct the respondents to pay transfer allowance and packing allowance to the applicant as admissible under the rules amounting to Rs.3000/- and Rs. 1200/- respectively;

(v) to direct the respondents to pay interest at market rate on the delayed part payment of D.C.R.G. amounting to Rs.37,412/- from 1.6.1990 to 12.9.1991;

(vi) to grant any other relief that this Hon`ble Tribunal may deem fit; and

(vii) to grant costs of this application.

The respondents have stated that after his retirement the applicant was permitted to retain the Railway quarter only upto 27.1.1991. He retained the quarter unauthoriselly beyond this period without prior approval and vacated it only on 19.7.1991. In such cases payment of gratuity is withheld in terms of Railway Board's letters of 24.4.1982 and 31.10.1992 (Annexures R1 & R2). Similarly post retirement complimentary passes can not be issued to those who retain the Railway quarters unauthoriselly. They have also averred that the applicant has settled down in Delhi, the place of his last posting and hence packing allowance and transfer grant are not admissible in terms of Railway Board's letter dated 9.3.1989 (R4).

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I have gone through the records of the case and heard the arguments of the learned counsel for the parties. The learned counsel for the applicant has relied on the judgement of the Full Bench of this Tribunal dated 25.10.1990 in case of WAZIR CHAND VS. U.O.I. & Ors. (Full Bench Judgement Vol.II Page 287) wherein it has been held that:

"(i) Entire amount of gratuity cannot be withheld for non-vacation of the Railway Quarter by a retired Railway servant.

(ii) Liability to pay interest for the delayed payment of gratuity cannot be linked with the liability to pay penal rent for unauthorised occupation of Railway quarter.

(iii) Right to gratuity is a right to property and a law depriving a person of gratuity must satisfy the provisions of Article 14 of the Constitution.

He has also argued that ^{Sn}his D.C.R.G. was withheld in contravention of Rule 2308 of the Railway Establishment Manual and that damages in all respect of unauthorised occupation of Railway quarter can be recovered only after proceeding against the employee under Section 7 of the Public Premises Eviction of Unauthorised Persons Act, 1971. ^{Sn}The Hon'ble Supreme Court has held in the case of



U.O.I. Vs. Shiv Charan reported in 1992(19) ATC P.129 that the rent for the period overstayed may be deducted from the payment to be made of the DCRG amount. This is in addition to the right of the employer to make claim in accordance with law to which they are entitled for any excess or penal rent. Rule 1713 (new 1711) relating to the recovery of the rent provides that a Railway Administrator may charge rent in excess of the 10% of the emoluments, railway servant who does not vacate the quarters after the cancellation of the allotment. Hence the applicant is not entitled to the relief sought in para 8(i) relating to deduction of the amount of DCRG. As regards payment of the interest our attention has been drawn to the judgement delivered by the Hon'ble Supreme Court in S.L.P.No.7688-91/88 Raj Pal Wahi & Ors. Vs. Union of India & Ors. wherein their Lordships ordered that:

".....In such circumstances we are unable to hold that the petitioners are entitled to get interest on 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 thus disposed of."

No interest is, therefore, due on account of delay in payment of the DCRG. As the applicant has now

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vacated the Railway quarter, he is entitled to post retiral passes prospectively. As regards settlement pass, transfer allowance and packing allowance, the applicant's claims that after the retirement he went to his home town Chandigarh and has produced copies of the transport bills and other details. The respondents had not accepted this claim on the ground that he did not move out of Delhi after his retirement. As his claims are to be based on actual transport bills, it should be possible for the respondents to scrutinise the details submitted by him. To sum up, the application is disposed of with the following directions:-

(a) the applicant is not entitled to any relief on account of penal rent/damages deducted from the DCRG amount due to him. Similarly, no interest ^{is} payable on the amount withheld.

(b) the post retirement passes shall be issued prospectively from the date of vacation of Railway quarter in accordance with the rules.

(c) the settlement pass, transfer allowance and packing allowance shall be paid to the applicant after verifying the details to be submitted by him in accordance with the rules.

The work of verification and release of

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payments shall be completed within a period of three months
from the date of receipt of this order.

The O.A. is disposed of as above.

B. N. Dhoundiyal
(B.N. Dhoundiyal) 1315793

Member(A)