

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH.
NEW DELHI.

Date of Decision: April 09, 92.
OA 13/92

VIDYA SAGAR ... APPLICANT.

VS.

UNION OF INDIA & ANR. ... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant ... Shri G.D.Bhandari,
Counsel.
For the Respondents ... Shri R.L. Dhawan,
Counsel.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

The applicant, retired as HSF-I, Loco Foreman and aggrieved by the order dated 1.8.91 (Annexure A-1) whereby the applicant has been informed that the DCRG amount cannot be paid uptill the applicant vacate the allotted Railway Quarter No.138-K, Loco Colony, near DCM, Sarai Rohilla Delhi. The contention of the applicant is that he retired on 31.1.91 and as per extant rules he should have been paid the DCRG amount one month thereafter; in view of para 2308 of the Railway Establishment Manual, Volume-I. The applicant, therefore, has claimed that the impugned order

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dated 1.8.91 be set aside and the amount be ordered to be paid with interest @15% per annum, till the date of payment compounded half yearly.

It is further prayed that the Licence Fee for the premises in question be ordered to be release to the applicant.

2. The respondents contested the application and raised preliminary objection that regarding premises under occupation of the applicant, since the case is pending before Estate Officer under Public Premises (EPO) Ex-971 under Section 4 and 7, so the proceedings with respect to the said house cannot be entertained in the Tribunal, in view of the Section 15 of the said Act, covered by the decision of the Full Bench Rulia Ram & Others Vs. Union of India (CAT FB Vol.I Page 346). It is stated that an amount of 26400/- of the DCRG, has to be paid. The delay in payment, that the applicant is in unauthorised occupation of the Railway Quarter since after 1.6.91.

3. I have heard the learned counsel for both the parties at length and have gone through the records of the case. The respondents in their counter at page 10 in reply to ground H-I admitted

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that the liability of the Railway Administration to make payment of the DCRG is quite distinct from the issue of unauthorised occupation of railway quarter by the retiree. When this fact is admitted then there is no justification for the respondents to withhold the payment of DCRG amount except that under Rule 323 of the Railway Pension Manual they can retain the amount only upto 1000/- or 10% of the amount, whichever is less.

4. The learned counsel for the applicant has placed reliance on the decision of the Full Bench in Vazir Chand case OA 2573/89, Full Bench CAT Vol.II decided on 25.10.90. As well as in the case of Union of India Vs. Shiv Charan decided on 30.4.90 SLP-C-881/90 by the Hon'ble Supreme Court and in the case of D.S. Kapoor Vs. UOI AIR 1990 SC 1923. The amount of DCRG is not a bounty and the same cannot be withheld by the respondents for adjustment of the penal charges of rent etc.

5. The applicant has also raised the issue of quarter No.138-K which was allotted to him, while in the service. As an interim relief the applicant has claimed that he should not be evictged from the said quarter by the order dated

3.1.92. In the case of UOI Vs. Shiv Charan, quoted in para K of the ground by the applicant himself, it has been held that the penal rent can be recovered from the respondents in appropriate forum. It was also observed that the rent for the said period may also be deducted from the applicant. In view of this observation of the Hon'ble Supreme Court, only the usual Licence Fee/Rent of the premises in question upto 31.5.91 can be deducted from DCRG besides other charges like electricity etc. The penal rent for which the proceedings have been launched under the PP Act (EOU 1971) has to be fixed and recovered in those proceedings.

6. Though, the applicant has no right or authority nor there is any law, rule or circular of the Railway Board or administrative instructions to retain the quarter after retirement without specific permission but as in the case of Shiv Charan (supra) the Hon'ble Supreme Court ordered that the moment of the amount of DCRG is paid the applicant shall vacate the quarter and handover vacant possession to the respondents. This proposition of law, therefore, also belongs to the present case with full force.

7. The learned counsel for the respondents has already argued in detail in the pre lunch sitting of the Bench.

8. In view of the above, the present application is disposed of in the following manner:-

a) The respondents are directed to pay, within a period of four weeks from the date of receipt of this order the amount of gratuity, less Rs.1000/- after deducting the usual rent of the premises upto 31.5.91 and adding the whole amount of DCRG with interest @ 10% per annum from one month after the date of retirement i.e. from 1st March, 1991, till the date of payment.

b) The applicant to hand over in vacant position the quarter No.138-K, Loco Colony, Near DCM, Delhi Sarai Rohilla to an authorised representative of the respondents ~~position~~
within one month from today or payment date.
whichever is later.

c) The respondents are free to pursue the case under the PP Act against the applicant for recovery of damages of use occupation of the quarter after 31.5.91 and may recover the same from the applicant as per extant rules and law.

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d) The interim order granted in this case on 3.1.92 is vacated.

e) The respondents also to restore the post retirement passes as per extant rules, claimed by the applicant, as an interim measure.

In the circumstances, parties to bear their own costs.

J. Sharma.

(J.P. SHARMA) 9.4.92

MEMBER (J)

09.04.92.

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