

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.1144/92

DATE OF DECISION : 05.08.1992

Shri Bansi Lal

...Applicant

Vs.

Union of India and Others

...Respondents

CORAM :

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

For the Applicant

...Sh.Umesh Misra,
counsel

For the Respondents

...Ms.Meera
Chibber, proxy
counsel for
Ms.Sunita Rao,
counsel

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

JUDGEMENT (ORAL)

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

The applicant since retired as Senior Mistri and was allotted Railway quarter No.47/A/5 Railway Colony, Chholti Mor Sarai, Delhi. The grievance of the applicant is that he has not been given the DCRG and the post retirement complimentary passes have been withheld. The applicant has claimed the relief that a direction be issued to the respondents to pay the gratuity with 24% interest.

The respondents have contested this application. Ms. Meera Chhibber, learned proxy counsel for Ms.Sunita Rao, counsel for the respondents appeared and argued the case.

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(b)

The applicant has made a representation to the respondents for payment of the DCRG, but the same has not been paid. Under Para 323 of the Railway Pension Manual only to the extent of Rs.1,000 or 10% of the amount, whichever is less can be retained by the respondents of a retiree Railway servant. Withholding of the DCRG even though the retiree may be in unauthorised occupation of the Railway quarter, is not justified as has been held in the case of Wazir Chand Vs. UOI, 1989 (1) Full Bench Cases 287. The same view has been taken by the Hon'ble Supreme Court in Union of India Vs. Shiv Charan, 1992(19) ATC 129 wherein it has been held that the amount of DCRG due to the retiree may be paid less the rent for unauthorised stay in the Railway quarter till the date of vacation. The applicant shall hand over the possession, the moment the amount of DCRG has been paid. However, the respondents shall be free within their right to realise and recover the damages according to the Extant Rules in the competent forum from any such retiree for unauthorised occupation of the Railway quarter till the ~~date~~ date of vacation.

The contention of the respondents is that the applicant retired on 30.6.1988, but has not vacated the Railway quarter allotted to him. The respondents on the basis of the various circulars of the Railway Board of 1984 and 1986 did not process the payment of gratuity to the applicant. It is stated that it was not because of any administrative lapse, but because of the directions issued by the Railway Board to the knowledge of the applicant himself.

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Considering the whole matter, I am of the view that the case can be disposed of on the ratio of the case of Union of India Vs. Shiv Charan (supra).

As regards the claim of interest by the applicant, as per the decision of the Hon'ble Supreme Court in Raj Pal Vahi's case, which was also on the similar footing, it is denied as there was no administrative lapse on the part of the respondents and there were various circulars of the Railway Board which came in the way of the administration in paying gratuity to a retiree, who continues overstay after the cancellation of allotment in an unauthorised manner without ~~any~~ ^{or} right ~~in~~ authority. Thus the claim of interest by the applicant cannot be allowed in view of the above law laid down by the Hon'ble Supreme Court.

The application is, therefore, disposed of with the following directions:-

- (a) The respondents are directed to pay the DCRG amount to the applicant less the rent due till the date of vacation of the quarter.
- (b) The respondents shall be free to claim damages for unauthorised use and occupation of the Railway quarter after retirement according to the Extant Rules in the competent forum.

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- (c) The claim of interest by the applicant is disallowed in view of the ratio of the judgement in the case of Raj Pal Vahi.
- (d) Though there is no relief for the restoration of the post retirement complimentary passes, but the learned counsel orally prayed that after the vacation of the quarter, the same passes may be restored as per the Extant Rules. *The respondents shall consider that also.*
- (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.

Sharma
(J.P. SHARMA)
MEMBER (J) 5/8/92
05.08.1992