

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A.491/93

Date of decision: 15.4.93

Harbhajan Singh .. Applicant.

versus

Union of India &
others .. Respondents.

Sh.B.S.Mainee .. Counsel for the applicant.
Sh.R.L.Dhawan .. Counsel for the respondents.

Coram:

The Hon'ble Sh.N.V.Krishnan, Vice Chairman(A).

The Hon'ble Sh.B.S.Hegde, Member(J)

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

JUDGEMENT (ORAL)

(By Hon'ble Sh.N.V.Krishnan, Vice Chairman(A))

The applicant retired from Railways on 31.7.91. He states that his main grievance is that his D.C.R.G., consequent upon retirement, has not been paid to him on the ground that he has not vacated the government quarter allotted to him. He admits that he has not so far vacated the government quarter. He has prayed for the followings reliefs:

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"8.2 That this hon'ble Tribunal may be further pleased to direct the respondents to pay the death cum retirement gratuity to the applicant with interest @ 18% p.a. from the date of retirement of the applicant to the date of actual payment.

8.3. That this hon'ble Tribunal may be further pleased to direct the respondents to release the withheld post retirement passes to the applicant.

8.4 That this hon'ble Tribunal may be further pleased to direct the respondents to pay the arrears to the applicant against upgraded posts of Machinist Grade I from 3.6.1969.

8.5. That this hon'ble Tribunal may be further pleased to direct the respondents to recover only normal rent from the applicant for the period has been retaining the quarter after superannuation"

2. In so far as the reliefs relating to the payment of DCRG and the release of withheld of retirement passes are concerned, the learned counsel for the applicant relies on the judgement of the Full Bench in O.A.2573/89 in the case of Wazir Chand vs. Union of India & others, decided on 25.10.90 and published in Full Bench judgement of the Tribunal, Volume II page 287, a Bahri Bros. publicaton. On the other hand, the learned counsel for the respondents pointed out that this matter had come up before the Supreme Court in S.L.P. 7688- 91 of 1988 Rajpal Wahi and others vs. Union of India & others in which the Supreme Court has upheld the validity of the circular of the Railway Code on the authority of which the DCRG and post retirement passes have been withheld for failure to vacate the government quarter. He further submits that following this judgement, this Bench of the Tribunal has disposed of a similar case in O.A.2807/91, V.Samuel versus Union of India & others decided on

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8.5.92, wherein both the Full Bench judgement as well as the order of Supreme Court referred to by the learned counsel have been considered. It was on the basis of such detailed consideration that the Bench passed an order allowing the application in part.

3. The learned counsel for both the parties agree that the prayers in para 8.2, 8.3. and 8.5 made in this application can be disposed of on the basis of the aforesaid judgement of the Tribunal in O.A.2807/91. In this connection, we have been given to understand that the applicant has been given permission to occupy the quarter for a period of four months subsequent to his retirement and therefore, he is liable to pay only normal rent according to law for a period of four months from the date of his retirement. We are, therefore, satisfied that in so far as these issues are concerned, they can be disposed of by suitable directions.

4. In so far as the prayer at 8.4. is concerned we have heard the learned counsel for the applicant. It was put him that this amounts to claiming multiple relief in the same application which is not permissible under law. After hearing the learned counsel we are of the view that the applicant has to resort to fresh proceedings in this regard.

5. In the circumstances we dispose of this application with the following directions:

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i) In view of the law declared by the Supreme Court in SLP 7688/91 (Rajpal Wahi vs Union of India & others), the respondents should release the DCRG after recovering therefrom, in accordance with law, rent at normal rates for the period for which such rent only is chargeable and penal rent-as distinct from damages - for the period of unauthorised occupation. As the delay in payment of DCRG is not on account of administrative lapse, no interest will be payable on the payment of DCRG dues. We order accordingly and direct that the payment, as stated above, should be made to the applicant on or before 15th July, 1993. We also direct, simultaneously, that the applicant shall vacate the government quarter as early as possible and in any case not later than 15th July, 1993 to enable the respondents to make such payment. We further direct the respondents to restore the post retirement complimentary passes to the applicant prospectively from the date the railway quarter is vacated by the applicant.

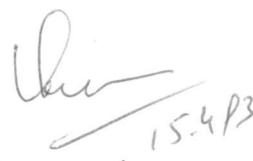
ii) In so far as the relief sought in para 8.4 is concerned, we are of the view that this matter cannot be agitated in this application and therefore, we decline to pass any order

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theron leaving the applicant free, if so advised, to seek relief separately, in accordance with law.


(B.S. Hegde)

Member (J)


(N.V. Krishnan)

Vice Chairman (A)

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