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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA NO.94/93

New Delhi, this the 14th day of January, 1994.

HON'BLE MR. J.P.SHARMA, MEMBER(J).

1. Shri Karam Chand,  
s/o: Shri Dukhi Ram,  
Retd. Master Craftsman  
under Chief Superintendent,  
of Printing & Stationery,  
Northern Railway,  
Shakurbasti, Delhi.
2. Shri Satish Kumar,  
s/o: Shri Karam Chand,  
Khalasi, under Chief Supdt.,  
Printing & Stationery,  
Northern Railway,  
Shakurbasti, Delhi.

Both residents of 6/D4, Railway Colony,  
Punjabi Bagh, New Delhi. ...Applicants

( By advocate: Shri S.K.Sawhney )

VERSUS

1. Union of India, through  
General Manager,  
Northern Railway,  
Baroda House, New Delhi.
2. Divisional Supdtg. Engineer (Estate),  
Northern Railway, D.R.M. Office,  
New Delhi.

...Respondents

( By advocate: Shri P.S.Mahendru )

O R D E R (ORAL)

The applicant no.1 is the father who retired from the post of Master Craftsman working in the Northern Railway on 31-5-90. He was allottee of a railway quarter no. 38/8, railway colony, Kishanganj, Delhi. The applicant no.2 is in the regular employment of the railway as a Khalasi since 1-6-89. The applicant no.1 on retirement sought twice extension to retain the quarter from the respondents and that was granted to him and the extension expired on 31-1-91.

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Since the quarter was not vacated, the respondents have served a notice of demand to applicant no.1 Karam Chand dated 8.7.92 asking him to pay charges for use and occupation of the said railway quarter from 1-6-90 to 30-9-90 at the normal rate and from 1-10-90 to 31-1-91 double this rate; from 1-2-91 to 31-5-91 @ Rs.1065 per month and from 1-6-91 to 1-7-92 @ Rs.2130 per month. Besides this amount, Rs.25.50 per month is water charges and Rs.4 per month is the conservancy charges from 1-2-91. The normal licence fee of the premises in question is Rs.55 per month.

2. Aggrieved by this aforesaid order, the present application has been filed jointly praying for the grant of reliefs for quashing the aforesaid order of 8-7-92 and that the quarter which has been subsequently allotted to applicant no.2 by the letter dated 20-2-91 be regularised with effect from the date of retirement of applicant no.1, i.e., 31-5-90. The applicants also prayed that only normal rate of rent be recovered from them and the withheld amount of DCRG be paid to applicant no.1 along with interest and the post-retirement passes be also released which were due to the applicant no.1.

3. A notice was issued to the respondents who contested this application and stated that applicant no.1 who was granted permission for retention of the aforesaid quarter till 31-1-91 did not vacate the same. He was issued notice in August/September, 91. In reply to that notice, applicant no.1 stated that his son has

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applied for allotment of type I quarter on 11-9-91 and be permitted to stay in the aforesaid quarter till eligible type of alternative accommodation is allotted to the son. The son has since been allotted the quarter in July, 90 and the applicant vacated this quarter on 1-2-92 and, therefore, they are liable to pay the penal rent along with water charges, scavenging charges and electric charges coming to about Rs.43,670. It is further stated that the DCRG of applicant no.1 is only Rs.25,740 and as such, there will be outstanding balance against applicant no.1 to the tune of Rs.17,930.

4. I have heard the learned counsel for the parties at length and gone through the records of the case. Learned counsel for the applicant has referred to the relevant instructions of R.B.E. No.7/90 on the subject of regularisation of allotment of railway quarters in the name of eligible dependent of Railway employee and highlighted para 2 and Note 6 of para 3. Para 2 lays down out of turn allotment to the ward of retiree of eligible type of quarter and note 6 provides that date of regularisation should be the date of cancellation in case eligible dependent is already in railway service and is entitled for regularisation and not from the date of issue of the order which the practice being followed till now. The learned counsel for the respondents, however, argued that it was only in September, 91 that the applicant no.2 applied for allotment of the accommodation and till that time, the applicants are bound to pay the penal rent as per extant rules. The rule 1713 of the Railway Establishment Manual Vol. II covers a case where a

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higher type of quarter is allotted than eligible type of category below and in that event, the licence fee of the lower eligible type of quarter is to be paid. This is not applicable to the present case as there is no allotment of higher type of quarter in favour of applicant no.2.

5. Coming to the controversy on the regularisation of the quarter from the date of retirement, that position does not arise here because type C quarter cannot be regularised in favour of applicant no.2.

6. It is a fact that the respondents railway have considered the case of applicant no.2 and in the letter of 20-2-91, the DSE/Estate recommended allotment of type I Railway quarter to applicant no.2. This order has been passed on a representation made through General Manager and that the date of recommendation of General Manager is 11-2-91. The respondents already granted permission to retain the quarter to applicant no.1 till 31-1-91. The intervening period from 1-2-91 to 1-7-92 is the period under controversy. Seeking to the spirit of compassionate allotment on out of turn basis, it shall not be justifiable to levy penal rent but terms and conditions on which the applicant was allowed to retain the quarter on second extension upto 31-1-91, should be taken as the reasonable amount of rent for the premises in question. This is not to be taken as the precedent in the circumstances of the present case.

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7. The applicant no.1 is entitled to the DCRG less the amount due on account of above calculation of the accommodation of the railway quarter after his retirement on 31-5-90 till 30-6-92. This amount shall be deducted from the amount of DCRG and the balance amount be paid to him. Applicant no.1 will also be entitled to the post-retirement passes.

8. The application is, therefore, partly allowed with a direction to the respondents to release the amount of DCRG of the applicant no.1 after deducting the due amount of rent, i.e., from 31-5-90 for a period of 4 months at the normal rate of rent and from 1-10-90 till 1-7-92 at the rate of double rate of rent along with electric charges. However, the applicant no.1 will not be entitled to any interest on the amount of DCRG. If the amount of DCRG is not paid within one month from the date of communication of this order, then interest at the rate of 12 per cent will be paid to the applicant no.1 till the date of payment. The respondents shall restore the post-retirement passes, according to rules. Applicant no.2 has also been regularised in the quarter and that relief stands granted already. Cost on parties.

*J. P. Sharma*

( J.P.SHARMA )  
MEMBER(J)

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