

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2291/99

New Delhi, this the 17th day of November, 2000

Hon'ble Mr. S.A.T. Rizvi, Member (A)

Sh. Baldev Raj Kapoor, S/O Late Sh. Des
Raj Kapoor, R/O A2/238, 1st Floor, Janak
Puri, New Delhi.

..Applicant.

(By Advocate: Sh. B.S.Maine)

VERSUS

Union of India through

1. The General Manager, Central
Railway, Mumbai CST.
2. The Divisional Railway Manager,
Central Railway, Jhansi.

..Respondents.

(By Advocate: Sh. V.S.R.Krishna)

O R D E R

In this OA, the applicant has impugned the respondents' order dated 29.7.98 depriving the applicant of 41 sets of post-retirement free railway passes on the ground of unauthorised occupation of the Govt. quarter after retirement for as many months. The respondents have contended that the order in question is wholly in accordance with the rules and the instructions on the subject and have also raised additional contentions with regard to limitation and promissory estoppel.

2. I have heard the learned counsel for the parties and have perused the material placed on record.

3. The facts of the case briefly stated are as follows.

2

(13)

4. The applicant retired as Senior Loco Inspector on 31.10.94 at the time he was residing in Govt. Quarter in Basant Lane, New Delhi. He was allowed to retain the said accommodation for a period of eight months after superannuation in accordance with the relevant rules/instructions. This period ended on 30.6.95. On the ground of his illness, the applicant continued to reside in the said Govt. quarter and ultimately vacated the same on 19.11.98. He filed several representations for regularisation of continued occupation of the quarter without success. In consequence of unauthorised occupation of the quarter, the gratuity payable to the applicant was withheld in accordance with the relevant rules and damages were imposed on him according to the scale prescribed for imposition of damages in cases of unauthorised occupation of Govt. quarters. The total amount of damages imposed was Rs.1,10,388/-. A part of this sum was adjusted against the gratuity of the applicant and the remaining part is to be realised in monthly instalments against the amount of DA payable to the applicant on his pension. The applicant represented for the restoration of the facility of free railway passes soon after he vacated the quarter on 19.11.98 without success.

5. The respondents have taken the plea of limitation on the ground that the grievance in this case first arose when the respondents issued notice dated 22.10.96 (Annexure R-2) stating clearly that until the railway quarter is vacated, one set of free passes will be withheld for every month of unauthorised occupation of

A

the quarter. Yet another notice and to the same effect was issued by the respondents on 26.8.97. Further, in his appeal for restoration of blocked free passes (Annexure A-2), the applicant has himself admitted that he could not avail of the free pass facility after 1995 as he could not vacate the staff quarter. In this appeal, the applicant has stated that since he had vacated the quarter on 20.11.98, the free pass facility should be restored to him with immediate effect. From these details, it would appear that the applicant could have approach this Tribunal within a reasonable time after 22.10.96 when the grievance first arose. He lost much valuable time and has filed this OA on 27.10.99. The OA is thus barred by limitation.

6. The respondents' plea of promissory estoppel is now to be considered. On this question, the learned counsel for the respondents has relied on the applicant's appeal (Annexure A-2) already referred to. In this, he has clearly stated "I have not availed of the free pass facility after 1995 because I could not vacate staff quarter due to personal reason", and further "now that I have vacated the staff quarter on 20.11.98, I shall be grateful if free pass facility is restored to me with immediate effect". From the language used by the applicant as above, it is clear that he acquiesced in the respondents' act of withholding free passes due to unauthorised occupation of the quarter. The act of acquiescence is confirmed by the applicant not approaching this Tribunal in time after receiving the

a

(4)

15

notice dated 22.10.96. In the circumstances, the applicant is estopped from taking the plea in question.

7. In the background of the above limited discussion and the findings in respect of limitation and estoppel recorded above, I do not consider it necessary to go into the merits of this case or into the various judgements of the higher courts and the Full Bench referred to by the learned counsel for the applicant.

8. In the result, the OA fails on the grounds of limitation and due to the operation of estoppel. The OA is accordingly dismissed. No costs.

d

S. A. T. Rizvi

(S.A.T. Rizvi)
Member (A)

/sunil/