

Central Administrative Tribunal
Principal Bench: New Delhi

OA 2214/95

New Delhi this the 17th day of April 1997

Hon'ble Mr Justice K.M. Agarwal, Chairman

Ramesh Chand Gupta
Son of Sh. Dungar Mal
R/o B-3/84 Sector 16, Rohini
Delhi-110 085.

...Applicant.

(By advocate: Shri P.P.Sharma)

Versus

1. General Manager
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway
Bikaner Division
Bikaner.

...Respondents.

(By advocate: Shri O.P.Kshatriya)

O R D E R (oral)

Hon'ble Mr Justice K.M. Agarwal, Chairman

Heard Shri P.P.Sharma, learned counsel for the applicant and Shri O.P.Kshatriya, learned counsel for the respondents.

This is an application under Section 19 of the A.T.Act, 1985, for a direction to the respondents to pay to the applicant his travelling allowance, transfer grant and packing allowance admissible on his retirement as also for refund of cash security due to the applicant with interest, refund of share and CTD money and that of excess amount alleged to have been recovered as house building advance besides refund of penal rent for the period of unlawful rentention of railway quarter. A direction for payment of interest for late payment of DCRG has also been made.

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2. It is not disputed that the applicant was in the employment of the respondents and he retired from service on 31.10.92. While in service, he was allotted a railway accommodation. After retirement, he continued in occupation of that accommodation for a period of 8 months. According to the applicant, although he had applied for permission to retain the accommodation for 8 months, he was granted permission to retain the accommodation only for a period of 6 months.

3. It is not disputed that payment of pension etc. was made to him in time but there was a delayed payment of gratuity and that too after deducting an amount of Rs. 7,800. Accordingly he wanted a direction for refund of the amount deducted. He also complained that his TA claims, transfer grant and packing allowance admissible to an employee on retirement have not been cleared so far. Besides these claims, claims for refund of cash security, share and CTD money, refund of excess money recovered as house building advance and refund of penal rent have also been made.

4. The respondents have denied most of the claims made by the applicant.

5. During the course of arguments, learned counsel for the respondents submitted that the applicant had taken house loan from the department. Against that loan, a sum of Rs.281 was recoverable. Electricity charges to the tune of Rs.726 were also due against the applicant. The rent of accommodation was increased from Rs. 55 per month to Rs. 66 per month w.e.f. 1.7.90 and, therefore, for the period between 1.7.90 to 31.10.92, the difference of rent amounting to Rs. 308 was also recovered. Further, normal rent at the rate of Rs. 66 per month from 1.11.92 to 30.4.93 amounting to Rs. 396 was also deducted. The deductions made to the tune of Rs.1711 made by the department towards the said account are not disputed or

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challenged by the applicant.

6. The applicant alleged that a sum of Rs. 300 was recovered from his salary towards security. This has not been refunded to him. Learned counsel for the department submitted that only an amount of Rs. 150 was recovered by way of security from the applicant and that amount was repaid in two instalments of Rs. 105 and Rs. 45. The correctness of this statement by the department is disputed by the applicant.

7. I am of the view that this Tribunal cannot enter into this disputed question of fact and that too for a small amount of Rs. 300. However, a liberty is being given to the applicant to make a representation in respect of this claim and if such a representation is made and adequate proof brought on record, the department may dispose of the representation in accordance with rules.

8. In regard to the claim for share and CTD money, the applicant did not dispute that this claim relates to a cooperative society which was run by the railways and further that he had received the sum from the society.

9. So far as the penal rent of Rs. 6089 is concerned, it is not disputed that it was for a period of 2 months for which the applicant had no permission to continue in occupation of the accommodation. The calculation of penal rent is also not disputed. However, on the authority of a decision rendered by the Calcutta Bench of this Tribunal in the case of Mohd. Shah Vs. UOI & Ors 1992 (1) ATJ 409 at page 415 it was submitted that without a departmental enquiry, the penal rent could not be recovered. The contention is misconceived and deserves to be rejected out right. After the retirement of the applicant, there

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was no question of holding any departmental enquiry against him only because he continued in occupation of the accommodation beyond the period of permission after the date of his retirement. Further, in para 24 of the judgement relied on by the learned counsel for the applicant, similar claim was rejected by the Tribunal. In the present case also, there is no document to show that the applicant was permitted to continue in occupation of the accommodation even after expiry of the period of six months from the date of his retirement. On the contrary, he admitted that though the permission was for a period 6 months only, he continued to occupy the accommodation for a period of eight months. I, therefore, find no case for interference with the said deduction of Rs. 6089 from the DCRG of the applicant against a penal rent of the accommodation for the period between 1.5.93 and 30.6.93.

10. So far as the claims for TA, Transfer grant etc. are concerned, the applicant admitted that he has not undertaken any tour and he has not claimed against the railways by way of touring allowance. Admissible TA mentioned in the prayer clause referred to transfer allowance consisting of transportation charges and packing allowance.

11. Learned counsel for the department submitted that the applicant was offered to transfer his luggage free of cost by arranging a railway wagon but instead he had transported his belongings by truck and, therefore, he is not entitled to claim the same. In so far as packing allowance is concerned, the learned counsel submitted that it has been paid and the applicant also did not dispute that the amount has been paid. Therefore, the surviving claim against this grant relates to the expenditure incurred by the applicant in transporting his personal belongings by truck and not by rail.

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12. I am of the view that the relevant rules permit transportation of personal belongings on transfer either by rail or by road. If transportation is by road, the claim has to be restricted to the extent of charges recoverable by the railways for such transportation of goods to the limit of specified quintals of weight. I am, therefore, of the view that if goods are transported by road between places connected by rail, a Government servant can draw actual expenditure on transportation of personal effects by road equivalent to the amount admissible on transportation by rail and an additional amount of not more than 25% thereof, whichever is less as per G.O.I's orders under S.R. 116 (IV)(b) at page 119 of Swamy's Compilation of F.R.C.R. Part-II, Travelling Allowances, 13th Edition. Accordingly, the railways deserve to be commanded to pay transportation charges to the applicant if adequate proof about incurring the expenditure for transporting his belongings from his place of posting to his native place is submitted. No other claim appears to survive so as to give further directions one way or the other in this application.

13. For the reasons aforesaid, this application partly succeeds and it is hereby partly allowed. The applicant is given liberty to file a representation before the competent authority within a period of one month from today about his claim for refund of security deposit, with documents in support of his claims. If that is so done, the competent authority of the department shall dispose of the representation within a further period of two months from the date of receipt of such representation from the applicant. It is further directed that on adequate proof being submitted about transportation of his personal belongings from the railway quarter to his native place by road, the department shall pay the amount to the extent admissible under the rules as

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discussed above in the order. All other claims of the applicant are rejected either as having become infructuous or as untenable.

No order as to costs.

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[K. M. Agarwal]
Chairman

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