

Central Administrative Tribunal

Principal Bench

OA-706/95

(2)

New Delhi, the 22nd August, 1996.

Hon'ble Shri R.K. Ahoja, Member(A)

Trilok Chand Bhatia
R/o 1733/4, Urban Estate Gurgaon
(Haryana)

.. Applicant

(Advocate: Shri S.K. Sawhney)

versus

1. Union of India, through

General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Divisional Manager,
Northern Railway,
Bikaner (Rajasthan)

.. Respondents

(Advocate: Sh. P.S. Mahendru)

ORDER

Hon'ble Shri R.K. Ahoja, M(A)

In this OA the applicant seeks payment of interest on delayed payment of DCRG after retirement. The admitted facts in brief are that the applicant retired on 31.7.1993 while posted as Loco Foreman. Under Railway Board's Circular of 1990 he was allowed to retain the railway accommodation allotted to him for a period of four months for payment of normal

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rent. He was allowed again retention of the accommodation for a further period of four months as permitted by para 14^{g Circum} on educational or sickness ground on payment of special licence fee, i.e. double the normal rent. By these two permissions, he was allowed to retain the accommodation upto 31.3.1994. However, he vacated the quarter on 26.3.1994, i.e. a few days before the expiry of sanction. As DCRG had not been paid to him he made a representation dated 2.4.94 and the same was finally released to him amounting to Rs.51,844/- after deductions on account of payment of rent and electricity bill, which was sanctioned on 26.9.94 and deposited in his account on 12.11.94. The applicant ~~has~~ aggrieved that firstly excess deduction has been made from DCRG and secondly no interest has been paid to him for the late payment of DCRG.

2. At the time of argument, learned counsel for the applicant submitted that he is not pressing for excess deduction but would press only for the payment of interest on delayed DCRG. He argued that various cases have already been decided by the Full Bench Judgement of particularly Tribunal /in Wazir Chand vs. Union of India and Others (1989-1991- Vol.II 287) in which it is

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held that holding of entire amount of DCRG in the case of retired Govt. servant till such period he has not vacated railway quarter is unwarranted. Similarly, the Supreme Court in State of Kerala and others vs. M. Padmanabhan Nair (1985 (1) SC 107 - All India Services Law Journal) held that the Govt. is liable to pay penal interest on the dues relating to pension/ gratuity at the current market rate which/commence at the expiry of two months from the date of retirement. He also relied on Ranada Kanta Das vs. Union of India and others (1991(3) SLR 557) in which it is held that when there is no explanation for delayed payment of DCRG after superannuation, the employee is entitled to payment of interest at the rate of 12% per annum.

3. Ld. counsel for the applicant submitted that the respondents are duty bound to release the DCRG even in the case of unauthorised occupation of Government accommodation. While in the present case, the respondents have less justification for withholding the DCRG since the occupation of government accommodation after retirement was with proper sanction and in fact the accommodation had been vacated even before the expiry of the sanctioned period.

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4. Shri P.S. Mahendru, learned counsel for the respondents submitted that DCRG could not be paid as the quarter was still in the occupation of the applicant. He submitted that the respondents could not make sure of the amount to be recovered from the applicant till he vacated the premises. After the Government accommodation was vacated, the respondents released the DCRG within a reasonable time. Hence, there was no liability of payment of interest.

5. I have carefully considered the material on record and the arguments advanced on either side. It is an admitted fact that the applicant retained the Government accommodation for approximately eight months after retirement but in accordance with the rules and with the prior sanction of the Competent Authority. It was open to the respondents to make an estimate of payment which were likely to be recovered from the applicant and release the rest of the amount within three months specified under the rules as has been held in the case of Wazir Chand (supra) that the respondents should ^{with or} ~~entirely~~ not hold the amount of DCRG pending vacation of the Government accommodation.

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In this case, ultimately, the dues to be recovered from the applicant which came to Rs. 4147/- on account of rent and Rs. 1874/- on account of electricity charges have been deducted and the remaining amount paid. It would have been fair to assume ~~so~~ that only this amount should have been withheld from the DCRG and the rest should have been paid to the applicant. No satisfactory explanation has been given for delayed payment of DCRG except that the Government accommodation had not been vacated by the applicant. This explanation as ~~discrepancy~~ ^{or} thus expressed was not justified for holding the whole amount of DCRG. I, therefore, find ~~no~~ merit in the application, and allow the same. The respondents are directed to make payment of interest on the amount of DCRG paid to the applicant at the rate of 12% per annum for the period after the permissible period of three months. The interest will be paid upto the time on the amount of DCRG ^{was} remitted in the account of applicant i.e. 12.11.94. There will be no order as to costs.

R.K. Ahuja
R.K. Ahuja
Member (A)

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