

9

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
...

O.A. No. 12 of 1995

Dated New Delhi, this 28th day of November, 1995

Hon'ble Shri K. Muthukumar, Member(A)

Shri Nemi Chand Jain
C/o Shri Jai Chand Rai Jain (Chandiware),
9/2319 Gali No.12
Kailash Nagar
DELHI.

... Applicant

By Advocate: Shri H. P. Chakravorty

versus

1. Union of India, through
Principal Secretary
Ministry of Railways
Chairman
Railway Board
Rail Bhawan
NEW DELHI.

2. The General Manager
Central Railway
Bombay VT.

3. Chief Cashier
Cash & Pay Office
Central Railway
BOMBAY VT.

... Respondents

By Advocate: Shri O. P. Kshatriya

O R D E R (Oral)

Shri K. Muthukumar, M(A)

When this case was taken up, it was seen that the pleadings were complete. The learned counsel for the parties agree that the matter involved is a simple one and can be disposed of at the admission stage itself. Accordingly, this case is taken up for disposal at the admission stage.

2. The applicant in this case retired from Railway service on 31.10.89 on superannuation. He, however, did not vacate the Railway quarter even

Contd...2

70

after the last permission for retention upto 30.6.90 was given by the respondents. The applicant was served with a notice regarding withdrawing of the Railway Complementary Passes on account of non vacation of the quarter. Ultimately, the applicant vacated the quarter on 31.10.91. The D.C.R.G. which was withheld was also released by the respondents by Pay Order dated 18.11.91. From this, a sum of Rs.18,719/-(1) towards House Rent for the period from 1.11.89 to 31.10.91 for Rs.14,996/- and (2) Electricity Charges for Rs.3723/-, were recovered and the balance was paid to him. In reply to his representation on the issue of post retirement passes, the applicant was informed by the impugned letters that 16 sets of Complementary Passes have been disallowed. Aggrieved by this, the applicant has approached this Tribunal for quashing of the impugned orders regarding the issue of post retirement passes and also for a direction to the respondents to refund the penal rent with interest after adjusting the normal rent and electricity charges for the period under occupation of the quarter.

3. The learned counsel for the applicant argued the matter on the question of recovery of penal rent and after hearing the learned counsel for the

Contd...3

respondents, the learned counsel for the applicant has admitted at the Bar that no formal representation was made by the applicant seeking for information on the rules under which the damage rent is ^{to be} recovered and also rate at which it is recovered. The learned counsel for the respondents states that on receipt of the representation, respondents would be prepared to give a suitable reply regarding recovery of rent and it would be done in accordance with the rules.

Regarding the issue of passes, the learned counsel for the applicant strongly relied on the Full Bench judgement in Wazir Chand in O.A.2573/89 decided on 25.10.90. The learned counsel states that in view of this judgement which has held that the circular of the Railway Board dated 24.4.82 cannot be sustained, the action of the respondents in relying on the circular for not issuing post retirement passes cannot also be sustained.

4. The learned counsel for the respondents states that subsequently, the Supreme Court in Raj Pal Wahi & Ors in Special Leave Petition No.7668-91 of 1988 as also the Tribunal's in Ravi Kumar in O.A. No.1604/93 have also considered the matter on the question of issue of post retirement / passes. The learned counsel for the respondents,

however, admitted that in Raj Pal Wahi's case the Apex Court have said that the petitioners in those cases cannot have nay grievance because those passes have already been directed to be issued after the vacation of the quarters and those passes have been withheld invoking the circular dated 24.4.82^{i.e.} withholding the pass for every one month of delay, and by the time the matter was heard in the Supreme Court, the decision was taken to issue the passes as the period of withholding had already expired. However, the learned counsel for the respondents says that in the present case, the period for withholding the passes under the 1982 instructions will be over only by October, 1996 and the respondents will consider the issue of passes thereafter.

5. I have heard the learned counsel for the parties and perused the records. In the light of the fact that the learned counsel for the parties have agreed that the matter regarding the recovery of penal rent should be disposed of by the respondents if a suitable representation is made by the applicant to the effect. I consider it sufficient if I direct the applicant to submit a representation to the respondents within a period

Contd...5

13

of 15 days from the receipt of this order and the same will be considered by the respondents within a period of three months of receipt of the representation by them. The applicant is so directed and the respondents are also directed to dispose of the representation by a reasoned and speaking order giving full details of the recovery.

6. Regarding the issue of post retirement passes, the Railway Board's instructions dated 24.4.82 have been held to be unsustainable by the Full Bench judgement. The Railways have not passed any subsequent orders thereafter. In any case, no order has been produced nor has it been mentioned in the counter reply. On the other hand, from the counter reply itself it is seen that the respondents have relied on the Railway / Board's instructions dated 24.4.82 for their action, before the issue of the impugned letters. The learned counsel for the respondents has, however, not been able to show any other case law other than Raj Pal Wahi and Ravi Kumar's cases. In the case of Raj Pal Wahi, vires of 1982 instructions have not been specifically reconsidered by the Apex Court. Similarly, in Ravi Kumar's case (supra), the Tribunal has only directed the respondents to consider the issue of post retirement passes to the applicant prospectively in

Contd...5

14

accordance with the extant rules.

7. Taking all these factors in view, I consider it appropriate to issue similar direction to the respondents as in Raj Pal Wahi's case. Accordingly, respondents are directed to consider issuing the post retirement passes to the applicant prospectively in accordance with the extant rules within a period of two months from the date of receipt of a copy of this order.

8. With the above directions, the application is disposed of, with no order as to costs.


(K. Muthukumar)
Member(A)

dbc