

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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O.A./XXX No. 1402/1996

Decided on: 29.8.92

Shri Lachman

....Applicant(s)

(By Shri A.K. Bhardwaj

Advocate)

Versus

U.O.I. & Others

....Respondent(s)

(By Shri O.P. Kshatriya

Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not? *yes*

2. Whether to be circulated to the other Benches of the Tribunal? *yes*

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1402 of 1996

New Delhi this the 2nd day of September, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Lachman
S/o Shri Bilosi Ram,
R/o Railway Quarter No.76 C-1,
New Delhi.

...Applicant

By Advocate Shri A.K. Bhardwaj

Versus

Union of India: Through

- (1) The General Manager,
Northern Railway,
Baroda House,
New Delhi.
- (2) The Divisional Railway Manager,
Delhi Division,
Northern Railway,
Paharganj,
New Delhi.
- (3) The Divisional Personnel Officer,
Delhi Division,
Northern Railway,
DRM Office,
Paharganj,
New Delhi.
- (4) The General Foreman,
Northern Railway,
Delhi Division,
Diesel Shed,
Tuglakabad.
- (5) D.S.E. Estate,
Northern Railway,
Delhi Division,
DRM Office Paharganj,
New Delhi.

.....Respondents

By Advocate Shri O.P. Kshatriya

ORDER

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

Applicant is aggrieved that respondents have imposed damage charges of Rs.12,656.50 on account of

unauthorised retention of Railway accommodation (Type-II) beyond the permissible period after his retirement on 31.10.1988. His case is that his son who is also a Railway employee, was sharing the same Railway accommodation with him and that he had sought permission for sharing and the payment of HRA for the son had also been stopped at his request. The respondents had regularised the accommodation and allotted a Type-I to the son according to his entitlement on 23.1.1992, and thereafter, the applicant had vacated Quarter (Type-II) on 28.1.1992. In the circumstances, the applicant contends that respondents have unfairly withheld his retirement dues viz. DCRG and have imposed damage charges and, therefore, prays that the impugned order be quashed and he may be allowed the retirement gratuity along with Railway Passes withheld by the respondents.

2. Respondents deny the allegations and aver that the applicant was allotted a Type-II Quarter in Railway Colony Tughlakabad which he had failed to vacate even after retirement and retained it unauthorisedly till 28.1.1992. As for the sharing of accommodation with his son, the respondents contend that the applicant's son was allotted out-of-turn accommodation of his entitlement in January, 1992 and the applicant could not, on that ground, retain his allotted accommodation beyond four months after his retirement and, therefore, was liable to pay damage charges as per the extant rules. Since he had not vacated the premises till January, 1992, his gratuity could not be released and the Railway Passes could not be allowed, and on his vacation of the accommodation in January, 1992, the damage charges have to be

settled by him and, therefore, the impugned order directing him to deposit the damage rental charges was quite justified and was in accordance with the Rules.

3. I have heard the learned counsel for the parties and have perused the record. The learned counsel relies on Full Bench Judgment in Wazir Chand's case and also the decision in Mohd. Ishaque Vs. U.O.I., 1992 (1) ATJ page 409 decided on 18.2.1991. The aforesaid case also relies on the decision in Wazir Chand's case (Supra). In the aforesaid cases it was held that withholding of the amount of gratuity, pending the vacation of the Railway Quarter was not legally permissible. The decision in Wazir Chand's case was given on 25.10.1990. However, subsequently, the Railway Services (Pension) Rules, 1993 came into force. The aforesaid rules are statutory rules framed under proviso to Article 309 of the Constitution. In Rule 16(8) of the aforesaid rules it is provided that where the Railway accommodation is not vacated after superannuation or after cessation of service or death, the full amount of retirement gratuity shall be withheld and the amount so withheld shall remain with the administration in the form of cash which shall be released immediately on the vacation of such Railway accommodation. The aforesaid statutory rule which has come into force from 1993, makes it legally permissible for the respondents to withhold gratuity pending vacation of the Railway quarter. The vires of the aforesaid rules are not under challenge in this application.

4. In the instant case, there is no record to show that the sharing of the accommodation by the son along with his father has been specifically permitted by the respondents. Even if the applicant's son had stayed in the same

accommodation and share the same with the applicant, this does not mean that the accommodation has been regularised in favour of the applicant's son on the retirement of his father, who is an allottee of the Type-II accommodation in question. In any case, the applicant's son has also been separately allotted Type-I accommodation according to his entitlement. Further, the applicant's son is not a party in this application and, therefore, in the absence of specific permission to the applicant to share the accommodation with his son and in the absence of regularisation of the aforesaid accommodation in favour of the son on the retirement of his father, it cannot be stated that the applicant had retained this accommodation under proper authority. Since the applicant had retained this accommodation beyond 4 months from the date of his retirement, the respondents have treated this retention as unauthorised and, therefore, the impugned orders for charging the damage rent cannot be faulted. There is no merit in the contentions of the applicants regarding the Railway Passes. As the applicant has since vacated the Railway accommodation, he will be entitled to Railway Passes prospectively in accordance with the rules.

5. In the light of the above, the applicant is disposed of. There shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

Rakesh