

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

D.A. No. 163 of 1997 decided on 16th. 11. 1998.

Name of Applicant : Shri Chaman Lal

By Advocate : Shri S.K. Sawhney

Versus


Name of respondent/s Union of India & others

By Advocate : Shri R.L. Dhawan

Coram:

Hon'ble Mr. N. Sahu, Member (Adminv)

1. To be referred to the reporter - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No


(N. Sahu)
Member (Adminv)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.163 of 1997

New Delhi, this the 16th day of November, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

Shri Chaman Lal S/o Shri Dhautal Ram
working as Khalasi under Deputy
Controller of Stores, Northern Railway,
Shakurbasti R/o Quarter No.265/14,
Railway Colony, Shakurbasti, Delhi

-APPLICANT

(By Advocate Shri S.K.Sawhney)

Versus

1. Union of India through General
Manager, Northern Railway, Baroda
House, New Delhi.

2. Divisional Supdtg. Engineer
(Estate), Northern Railway, D.R.M.
Office, New Delhi

-RESPONDENTS

(By Advocate Shri R.L.Dhawan)

O R D E R

By Mr. N. Sahu, Member(Admnv) -

Reliefs claimed in this Original Application
are as under :

- (i) Quash letter dated 18.12.96 & 3.1.97 based on the Railway Board letter dated 12.2.88 Annexure A10 as it infracts Articles 14 & 16 of the Constitution.
- (ii) Direct the Respondents to regularise railway quarter no.265/14, Railway Colony, Shakurbasti, Delhi in the name of the Applicant on his appointment on 20.10.94.
- (iii) Direct the Respondents to release the settlement dues of the deceased father of the Applicant.
- (iii) Direct the Respondents to pay interest @ 18% per annum on the delayed payment of settlement dues of the deceased father of the Applicant.
- (iv). Grant any other relief that this Hon'ble Tribunal may deem fit.
- (v) Award costs of this Application."

2. The brief background facts leading to this Original Application are as follows - the applicant's father expired on 20.12.1992. He was thereafter appointed on compassionate grounds as a temporary Khalasi in the scale of Rs.750-940 on 6.10.1994. He prays for regularisation of the Railway Quarter Type-I, No.265/14, Railway Colony, Shakurbasti, Delhi in his name. Admittedly, the applicant had been living in that quarter along with his widowed mother. He certified that he was not owning any house in Delhi. He also stated by Annexure-A-9 that the delay in the appointment was due to the administration. He was not responsible for the delay. He applied for regularisation of the quarter within a few days of his appointment on compassionate grounds. The respondents state that the request for regularisation of a quarter in favour of compassionate appointee is considered by the Railway administration only in case where the compassionate appointments were made within the prescribed period of 12 months. If the compassionate appointee stayed beyond the prescribed period; he would be liable for eviction proceedings and penal rent.

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3. A similar matter has come up before me in O.A.No.4 of 1997, Sh.Prem Kumar & another Vs. Union of India and others decided on 27.4.1998. The counsel for applicant and respondents are same in both the cases. In view of the discussion in the said order the claim of the applicant for regularisation of the Railway quarter is rejected.

Chandrabh

4. The Hon'ble Supreme Court laid down in the case of Amitabh Kumar and another Vs. Director of Estates & another, 1997 SCC (L&S) 698 = (1997) 3 SCC 88 that after the expiry of the permitted period such occupation should be treated as unauthorised. In view of this decision of the Hon'ble Supreme Court there is no unconstitutionality in the Railway Board's letter dated 12.2.1998 (Annexure-A-10).

5. With regard to the release of retirement benefits of the deceased father, the applicant was directed to vacate the railway quarter which was in his unauthorised occupation from 21.12.1992. The applicant failed to vacate the said quarter. Under Rule 16(9) of the Railway Services (Pension) Rules, 1993 full amount of retirement gratuity/ death gratuity can be withheld for non-vacation of the Railway Quarter. The Hon'ble Supreme Court in Union of India Vs. Ujagar Lal, 1997 SCC (L&S) 473 upheld the right of the Railway administration to withhold the full amount of gratuity for non-vacation of railway quarter and rejected the claim of the railway servant for payment of interest on gratuity. In the instant case, to the extent of withholding of gratuity, the action of the respondents does not call for any interference. In view of Ujagar Lal's decision (supra) there is no justification for payment of interest on gratuity.

6. As and when the applicant vacates the quarter, the respondents shall compute the arrears of rent, penal rent, and other charges payable by him

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for the period of unauthorised occupation along with any other dues as per rules and adjust the same against the gratuity payable. It is only the net amount of gratuity that remains to be paid, shall be handed over to him within a period of six weeks from the date of vacation of the quarter. With this observation, the O.A. is disposed of. Interim orders passed in the case of the applicant are hereby vacated. No costs.

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N. Sahu
(N. Sahu)
Member (Admin) 16/11/98

rkv.