

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.NO.2244 of 1997

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Date of Decision 28.6.1999

Shri Dwarka Prasad Lulla Applicant(s)

Shri B.S. Mainee Advocate for the Applicant(s)

Versus

UPR - GM Central Railway Respondent(s)
2013.

Shri B.S. Jain Advocate for the Respondent(s)

C O R A M: (Single/Division)

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

Hon'ble Shri _____

1. Whether Reporters of local papers may be allowed to see the Judgement?

~~Yes~~/No

2. To be referred to the Reporter or not?

~~Yes~~/No

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(R.K. AHOOJA)
Member (A)

Central Administrative Tribunal.
Principal Bench

O.A.No.2214/97

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

New Delhi, this the ~~28~~ day of June, 1999

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Shri Dwarka Prasad Lulla
s/o Shri V.G.Lulla
Ex. Chief Inspector of Works
under Executive Engineer (Constn.)
Central Railway
Bhopal
Presently r/o 15/4A Prem Nagar
Janakpuri
New Delhi. ... Applicant

(By Shri B.S.Mainee, Advocate)

Vs.

Union of India through

1. The General Manager
Central Railway
Mumbai CST.
2. The Divisional Railway Manager
Central Railway
Bhopal.
3. The Executive Engineer (Constn.)
Central Railway
Bhopal.

(By Shri B.S.Jain, Advocate)

ORDER

The applicant, who retired as Chief Inspector of Works from Central Railways, Bhopal on 30.4.1996, has come to the Tribunal aggrieved by the non-release of his DCRG amounting to Rs.99,148/- and leave salary of Rs.54,209/-. The applicant states that this has been done even though no disciplinary proceedings were pending against him at the time of his retirement. He further says that some of the stock verification sheets for the period of 4.9.1984 to 14.9.1984 were also pending in 1994 when he had taken over charge as Chief Inspector of Works. But even in respect of that the Senior Divisional Engineer, Bhopal Division on 10.12.1996 had concluded

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that there was no responsibility on the part of the applicant. This was also confirmed by the Chief Engineer, Bhopal on 14.7.1997. Even so and despite his repeated representations, the amount of DCRG and Leave Encashment remained unpaid.

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2. The respondents in their reply have stated that the applicant had not vacated the railway accommodation at the time of retirement. Besides certain stock verifications for the period 4.9.1984 to 14.9.1984 were pending and the relevant amounts of shortages were written off only on 14.10.1998. Thereafter the process for releasing his DCRG was initiated and the same was released on 19.11.1998 along with the commutation value of the pension after making the recoveries on account of House Rent, etc.

3. I have heard the counsel. The learned counsel for the applicant submitted that as per R.Kapur Vs. Director of Inspection (Painting and Publication) Income-tax & Another, JT 1994 (6) SC 354 the Apex Court have held that pension and gratuity cannot be withheld merely on the ground of non-vacation of the allotted accommodation. Further more, as no enquiry or disciplinary proceedings were pending against the applicant, DCRG and other retirement benefits could not be withheld because of non verification of stock sheets of 1984. He pointed out that in any case the respondents have admitted that there was no fault on the part of the applicant, and the retiral benefits were released on 19.11.1998, only after the filing of the present OA. The delay in respect of the retirement benefits was therefore entirely due to the respondents and the applicant was

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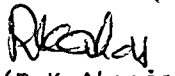
therefore entitled to receive the interest on the delayed payment due to wilful and culpable delay caused by the respondents.

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4. The competency of the railway authorities to withhold the DCRG and Railway Passes on account of non-vacation of the railway quarter has already been confirmed by the Supreme Court in Rajpal Wahi & Others Vs. Union of India & Others, SLP (C) No.7688-91/88 decided on 27.11.1989. This position has also been further reiterated in Union of India Vs. Ujagar Lal, JT 1996(10) SC 42. The Delhi High Court has also in the case of ICAR & Others Vs. Central Administrative Tribunal and Others concluded that no interest is due when the delay in payment of DCRG is on account of non vacation of quarters. In view of this position, the applicant is not entitled to the payment of interest for the period he had not vacated the railway accommodation.

5. It was next contended on behalf of the applicant that though the applicant vacated the railway accommodation on 30.5.1997 the retiral benefits was not released till 19.11.1998. I am not inclined to accept this argument since I find that the applicant had totally ~~shar~~red over the fact of non-vacation of the Railway accommodation in his Original Application. As the applicant has not come before the Tribunal with clean hands, he is therefore not entitled to any consideration.

In the circumstances of the case, the OA is dismissed. No costs.


(R.K. Ahooja)
Member (A)

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