

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No. 2534 of 1997

New Delhi, dated this the 6<sup>th</sup> ~~August~~ <sup>October</sup>, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Shri M.A. Qureshi,  
S/o late Shri Munshi Ghulam Qadir,  
Retd. Pharmacist,  
Northern Railway Divl. Hospital,  
R/o T-21/B, Railway Colony,  
Naya Bazar, Delhi . . . . APPLICANT

(By Advocate: Shri S.K. Sawhney)

Versus

1. Union of India through  
the Secretary,  
Railway Board,  
Rail Bhawan,  
New Delhi.
2. Divl. Railway Manager,  
Northern Railway,  
DRM Office,  
New Delhi.
3. Divl. Supdtg. Engineer (Estate),  
Northern Railway,  
DRM Office,  
New Delhi. . . . . RESPONDENTS

(By Advocate: Shri R.L. Dhawan)

JUDGMENT

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

The only reliefs pressed in this O.A. are  
for

- (i) release of applicant's DCRG along  
with interest at market rate and
- (ii) release of his post retirement  
passes.

2. Applicant who was in occupation of Railway  
accommodation admittedly superannuated on  
31.10.96. He was permitted to retain the premises  
for four months on normal license fee and a  
further period four months on payment of twice the

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(2)

normal license fee as per rules and was thus required to vacate the premises on 1.7.97 from which date his occupation of the premises was not authorised. While submitting his application for retention of the premises for four months from 1.11.96 to 28.2.97 due to school session of his children applicant had submitted his declaration that in the event of unauthorised retention of Railway quarter by him the entire DCRG payable to him could be withheld till the quarter was finally vacated and all arrears of rent, electricity and other charges were cleared by him, and further more for every month of unauthorised retention of Railway quarter, one set of post-retirement passes admissible to him under rules would be disallowed (Ann. R-2/1).

3. Upon applicant's failure to vacate the premises by 1.7.97, respondents by order dated 23.9.97 (Ann. A-5) cancelled the tenancy, making applicant liable to pay penal rent as due under rules, and withheld in full applicant's DCRG under Rule 16(8) Railway Servants Pension Rules and also withheld one set of post retirement passes for each month of unauthorised occupation/retention of Railway premises in terms of Railway Board's instruction No. 8045 dated 24.4.82 (Ann. R-3).

4. Applicant contends that the withholding of DCRG and post retirement passes was illegal on the grounds that

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- (i) applicant's petition dated 16.6.97 (Ann. A-3) addressed to Railway Board for retention of the quarter on medical grounds for one year was till pending with them, and retention could be granted under statutory rules.
- (ii) Ordering recoveries of penal license fee/damages without proceeding against applicant under Section 7. PPP (EUO) Act was illegal.
- (iii) Because the DCRG was payable to applicant on 1.11.96 where he was not in unauthorised occupation of the quarter.
- (iv) Withholding of post retirement passes was in breach of the Railway Servants Pass Rules, 1985, and the Railway Board's letter dated 24.4.82 sanctioning withholding of Railway passes has been struck down by the CAT, Full Bench in the case of Wazir Chand Vs. UOI (O.A. No.2573/89 decided on 25.10.90 and reproduced in Full Bench Judgments of CAT 1985-91 Vol.II Page 287).

5. I have heard applicant's counsel Shri Sawhney and respondents' counsel Shri Dhawan.

6. Besides Wazir Chand's case (Supra) Shri Sawhney has also relied on the CAT Division Bench judgment in O.A. No. 2136/89 Man Mohan Singh Vs. UOI decided on 15.4.91; and CAT Full Bench judgment dated 16.12.93 in O.A. No. 395/91 C.R.Rangadhamaiah & Ors. Vs. Chairman, Railway Board & Ors.

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7. I have considered these contentions carefully.

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8. In so far as ground 3(i) is concerned, the period for which applicant was authorised to retain the premises expired on 30.6.97. Any retention beyond that date was not authorised, and merely because applicant's representation dated 16.6.97 was pending with respondents does not make the period of retention beyond 30.6.97 authorised. This ground is therefore rejected.

9. As regards ground 3(ii) these very contentions were considered by me and rejected in OA-1142/93 Shri Sunil Chandra Bhatnagar Vs. UOI & Ors. decided on 26.7.94 against which SLP No. 17725/94 was dismissed by the Hon'ble Supreme Court on 26.10.94. Hence this ground is rejected.

10. Similarly as regards ground 3(iii) & 3(iv) above, in Bhatnagar's case (Supra) it was held that there was no illegality, irregularity, infirmity, or impropriety in respondents withholding the DCRG and post retirement passes, so long as the retired Railway servant did not vacate the quarter in his occupation. As stated above SLP No. 17725/94 against that order was dismissed by the Hon'ble Supreme Court on 26.10.94.

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11. Under the circumstances, this O.A. warrants no interference and is disposed of with a direction to respondents that in the event applicant has vacated the premises in question, his DCRG and post retirement Railway passes may be released to him in accordance with the rules and instructions on the subject. The prayer for interest is rejected, in view of applicant's own failure to vacate the Railway premises upon expiry of the authorised period of retention of the same. No costs.

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(S.R. ADIGE)  
VICE CHAIRMAN (A)

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