

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 954/2000
New Delhi, this the 07th day of March 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Smt. Raj Shree W/o late Rajinder Singh
Ex. Driver Gr. A Special
Under Chief Crew Controller NR Gaziabad
R/o R-72 Rail Enclave, Sector 12
Pratap Vihar, Gaziabad..
2. Miss. Uma Raghav, d/o Late Sh. Rajendar Singh
3. Miss. Neeraj Raghav d/o Sh. Rajinder Singh
4. Miss. Lata Raghav D/o Late Sh. Rajinder Singh
5. Sh. Dushyant Singh Raghav S/o Sh. Sh. Raghav
(All resident of R-72 Rail Enclave Gaziabad.
6. Sh. Dinesh Singh Raghav
S/o Sh. Rajendar Singh
Enquiry cum Reservation Clerk,
Central Enquiry, DRM Office,
New Delhi

.....Applicants

(By Ms Meenu Mainee, Advocate)

VERSUS

1. Union of India through
The General Manager, Northern Railway,
Baroda House, New Delhi
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi
3. The Divisional Supdt. Engineer,
Northern Railway,
State Entry Road,
New Delhi

.....Respondents

(By Sh. R L Dhawan, Advocate)

O R D E R (ORAL)

This application seeks regularisation of the quarters allotted to Sh. Rajinder Singh, applicant No. 1 in the unamended O.A. (now deceased), in the name of Dinesh Singh Raghav his son and applicant No. 6 (applicant No. 2 in the

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un-amended OA), refund of amount arbitrarily recovered from his DCRG of the former, payment of leave encashment, payment of interest on the delayed amount of the DCRG as well as release of post retirement passes.

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2. Heard Ms Meenu Maine learned counsel for the applicants and Sh. R L Dhawan, learned counsel for the respondents.

3. To state the facts in brief Sh. Rajinder Singh joined Indian Railway on 10.9.62 as Fire Dropper from which capacity he finally rose to the post of Driver Grade I by 1996. He was thereafter, medically decategorised and offered the post of Office Superintendent which he declined and retired on the ground of medical invalidation on 14.1.97. The individual who had been allotted Railway Quarter N. 350/M Railway Sain Colony Gaziabad sought and was permitted to retain the quarter upto 13.5.1997. He sought extension thereof by another 6 months. In between on 15.1.97 the case of his son Dinesh Singh Raghav, (applicant No. 6 in this CA) was considered for appointment on compassionate ground and he was posted as Enquiry-cum-Reservation Clerk on 11.12.97. In reply to the request made on 2.5.1997, for the extension of the quarters, the respondents on 29.1.98, directed the vacation of the premises. The request made thereafter for regularisation of the said quarters in the name of son who has since been appointed as Enquiry-cum Reservation Clerk also did not succeed. Though, the respondents had asked for certain details with regard to the regularisation of the quarters, nothing was decided and it transpired that the respondents were insisting on the vacation of the quarters before any decision could be taken for the regularisation of the quarters in which Singh's name and/or release of

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retiral benefits of Rajinder Singh . The quarters were ultimately vacated on 24.11.1998 . On 19.3.99 while the applicant was issued a cheque amounting to Rs.1,02,168/-, when we knew that Rs.50,556.39 have been recovered from gratuity being penal rent for the occupation of the quarters which was described as unauthorised. Inspite of the above recovery having been made the respondents did not release the complimentary passes which the applicants were entitled to . Besides they also held back the amount of leave encashment and commutation. The applicant's representation against the action of the respondents , which he terms as incorrect and irregular had not been answered. Hence this OA.

4. The grounds raised on behalf of the applicant in the pleadings , duly reiterated by Ms Meenu Mainee are that insistence on the vacation of the quarters was unreasonable and illegal, vacation of the quarters should not have been insisted as a condition for release of retiral benefits , the denial of the regularisation of the quarters orginally allotted to Rajinder Singh in the name of Dinesh Singh Raghav was improper and the denial of post retirement complimentary passes was against the instructions. The delayed payment of the DCRG which took considerable time for being released also attracted the payment of interest, according to the applicant. Tribunal should therefore intervene to render him justice according to Ms Meenu.

5. In the reply filed on behalf of the respondents and re-affirmed by Shri R L Dhawan their learned counsel it is contended that Sh. Rajinder Singh after medical de-categorisation, had declined the post of Office Superintendent and retired on 14.1.97 following which on 5.2.98 his son was given compassionate appointment on

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11.12.1997 as Enquiry cum Reservation Clerk which he joined at New Delhi on 5.2.98. The request for the transfer of the quarters allotted to Rajinder Singh at Gaziabad to Sh. Dinesh Singh Raghav, was not considered as not being covered by rules. The applicant(s) had continued at the residential quarters even after the expiry of the permitted period upto 13.9.97 and became the unauthorised occupant till 24.11.98 when he vacated the same. Damage rent for this period had therefore been recovered from the DCRC in terms of rule 15 of the Railway Service (Pension) Rules. Besides one set of post retirement complimented passes had been withheld for each month of unauthorised occupation also in terms of the rules. Respondents further points out that Rajinder Singh was permitted to keep the quarters allotted to him for the first four months on payment of normal rent, on payment of Special Licence fee for the next four months, whereafter the overstay was considered to be unauthorised occupation for which recovery had been effected. Respondents also points out that though Dinesh Singh Raghav though was given compassionate appointment, his case could not be considered for regularisation of the quarters which was originally allotted to his father, moreso as the quarters stood in Gaziabad while Dinesh was posted in Delhi. Out of turn allotment of quarters and / or regularisation of quarter which stood in the name of Rajinder Singh to Dinesh Singh Raghav was not covered by rules. Sh. Dhawan also points out that the pensionary dues , which he was entitled to, like DCRC were released after recovery of the amount due from him. This cannot be questioned. And as the applicant did not have any leave to his credit at the time of his medical de-categorisation and retirement on invalidated pension , leave encashment did not arise. Commutation of pension also was not possible as at the time of retirement Rajinder

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Singh had not applied for the same and did not undergo medical examination. The respondents had acted correctly in accordance with the instructions on hand and had granted to the applicant(s) what they were correctly entitled to. Nothing remained to be done. The OA therefore deserves to be dismissed as being ahy devoid of any merit, urges Sh. Dhawan.

6. I have carefully considered the matter. What the applicant(s) seeks in this OA from the is a declaration by the Tribunal that the recovery of the DCRG was illegal alongwith the directions to the respondents to grant him leave encashment, commutation pension as well as interest on the delayed payment of the DCRG and post retirement complimentary passes. It is on record that the applicant who was retired on medical grounds on 14.1.37 got vacated the quarters allotted to him only on 24.11.98 i.e. 22 months out of these permises were permitted to be occupied on normal rent and further 4 months on special licence fee were where after penal rent became operative. Therefore the applicant was correctly directed to pay penal rent for the period of 14 months and recovery of said amount from the DCRG canot be assailed. Balance amount of the DCRG alone was to be paid. As the applicant did not have any leave at his credit at the time of his retirement, respondents did not grant him any leave encashment. This was also correct. Similarly as he has not applied for the commutation of the pension by appearing before the medical board for the purpose, commutation also was not granted, and correctly so. Applicant(s) request for regularisation of the residential quarters allotted at Gaziabad in the name of his son granted compassionate appointment at Delhi also does not stand to reason and its denial cannot be questioned. The fact however

remains that the respondents had taken quite some time for the release of the DCRG amount which is an amount earned by the applicant during his service, even months after the vacation of the quarters. Interest thereon is correctly payable by the respondents. This is only relief that can be granted. (32)

7. In the above view of the matter, the application succeeds only to a marginal extent and is accordingly disposed of. The reliefs sought by the applicant by way of refund of the amount recovered from the DCRG, leave encashment, commutation pension as well as the regularisation of quarter at Gaziabad in the name of applicant Dinesh Singh Raghav are rejected as being devoid of any merit. Respondents, at the same time, are directed to grant interest @ 12% to the applicant in respect of the pensionary dues including DCRG, from the date of vacation of the quarters i.e. 24.11.96 to the date of actual release of the above dues. No costs.


(Govindan S. Tampli)
Member (A)

Patwal/