

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1838/89  
T.A. No.

199

DATE OF DECISION 31.12.1990.Shri Radhey Shyam Sharma & Ors. PetitionerShri G.D. Bhandari Advocate for the Petitioner(s)

Versus

Union of India & Ors. RespondentShri B.K. Agarwal Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. I.K. Rasgotra, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

  
 (AMITAV BANERJI)  
 CHAIRMAN  
 31.12.1990.

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN. NO. O.A. No. 1838/89.      DATE OF DECISION: 31.12.1990.

Shri Radhey Shyam Sharma & Ors. .... Applicants.

Versus

Union of India & Ors. .... Respondents.

CORAM: THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Applicants. .... Shri G.D. Bhandari,  
Counsel.

For the Respondents. .... Shri B.K. Agarwal,  
Counsel.

(Judgement of the Bench delivered by  
Hon'ble Mr. Justice Amitav Banerji,  
Chairman)

The applicants are aggrieved by an order issued by the Divisional Railway Manager, Northern Railway, Moradabad (Respondent No. 2), dated 22.12.1988 whereby he has ordered that one set of Post-Retirement Passes, otherwise admissible as Complimentary Passes be disallowed for every month of un-authorised retention of the Railway Quarter, while at the same time the Gratuity was not paid till the quarter was vacated and the penal rent be recovered at the market rate. It was alleged that this amounted to imposition of three penalties for retaining the Railway Quarters. The applicants have prayed for setting aside and quashing the respondent's order dated 9.12.1988 (Annexure A-1) and letter dated 22.12.1988 (Annexure A-2), being illegal and bad in law.

The respondents took preliminary objections for the four applicants being joined in one Application since

the matter did not arise out of a common order. There were four causes of action. Secondly, it was stated that the matter pertained to the jurisdiction of the Allahabad Bench of the Tribunal as the order was issued by the Divisional Railway Manager, Moradabad and the Principal Bench could not hear the matter unless an order under Section 25 of the Administrative Tribunals Act, 1985 had been passed. Shri H.L. Pandey (Applicant No. 3) was discharged from service being medically unfit. He had not retired on attaining the age of superannuation. Shri Staneley Milton, the applicant No. 2, was a Crane Driver and the post of Crane Driver does not come within the category of running staff. It was further stated that the applicants were not allotted residential accommodation on the ground of their performing essential duties, but only when their turn came. It is settled rule that the Railway Quarters are provided to Railway Servants as a welfare measure. There is no right for any railway employee to be provided with the Railway accommodation during the course of his employment. Further, there is also no rule to permit the retired railway servant to retain the accommodation in his possession indefinitely. The rules provide for disallowing one set of/complimentary pass for every month of unauthorised occupation of Railway Quarters where the Railway servant retains the quarter indefinitely without permission. All other retiral benefits except gratuity had been paid to the applicants and as such it was incorrect to say that they were under any economic hardship or problem which compelled them to retain the railway accommodation.

10

We have heard the learned counsel for the parties. It is true that the cause of action arose in Moradabad. When the orders were passed, it was incumbent upon the applicant to have the Application filed before the Allahabad Bench of the Tribunal, for Moradabad which is in U.P., comes within the jurisdiction of the said Bench.

In this case, the matter was admitted and notice was ordered to issue to the respondents. We are of the view that the preliminary objection taken in regard to the maintainability of the Application may be over-looked in the present case as the principal question to be decided is whether the Railways-Respondents can deny Post-Retirement Railway Passes to the applicants and retain the amount of gratuity due to them until they vacated the Railway Quarters. This question came up for consideration before a Larger Bench of the Tribunal in the case of WAZIR CHAND VS. U.O.I. AND OTHER CONNECTED CASES, O.A. No. 2573/89 and other cases, decided on 25.10.1990 and has been answered in favour of the retired Railway servant. It has been held:

- (i) Withholding of entire amount of gratuity of a retired railway servant so long as he does not vacate the railway quarter is legally impermissible.
- (ii) Disallowing one set of post-retirement passes for every month of unauthorised retention of railway quarter is also unwarranted.

We are satisfied that the principles laid down in the case of Wazir Chand are fully applicable in this case and the applicants are entitled for the Post Retirement Railway Passes as also to the retained amount of gratuity (DCRG). We accordingly allow the Application and direct the Respondents-Railways to restore the Post Retirement Railway Passes to the applicants, as due, and also pay them the retained amount of gratuity within a period of two months from the date of receipt of a copy of this order. We order accordingly.

There will be no order as to costs.

  
(I.K. RASGOTRA)

MEMBER (A)

  
(AMITAV BANERJI)

CHAIRMAN

31.12.90.

'SRD'