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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

DATE OF DECISION: 20.5.1988.

REGN. NO. D.A. 129/88.

Shri R.N. Sharma ... Applicant

Vs.

Union of India & Ors. ... Respondents.

CORAM:

Hon'ble Mr. B.C. Mathur, Vice-Chairman.

For the applicant: Shri B.S. Mainee, counsel.

For the respondents: Shri Dalip Singh, counsel.

JUDGMENT.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri R.N. Sharma, against the impugned order No. 33/EO/1-27/9/86 dated 17.11.1987, passed by the Divisional Superintendent Engineer (Estate), Northern Railway, New Delhi, asking the applicant to vacate the house allotted to him. The applicant retired as Head Clerk from the Northern Railway on 30.11.1986. He was to be paid death-cum-retirement gratuity immediately after retirement. But the respondents failed to pay to the applicant the gratuity amount of approximately Rs. 30,000/- including balance arrears of gratuity and leave encashment as per new scales of pay. The applicant is in occupation of Railway quarter which he has not so far vacated though he retired from service on 30.11.1986. Under the rules, a Railway quarter allotted in favour of an employee is to be vacated

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within  
~~after~~ four months of the retirement. The respondents have  
threatened the applicant for eviction and disconnection of  
electricity and water supply in the railway quarter. According  
to the applicant, he had been allowed to retain the house  
upto 31.7.1987 vide order dated 16.4.1987. The counsel  
for the applicant has contended that the respondents have not  
so far paid him the gratuity etc. amounting to Rs. 30,000/- which  
is causing a lot of hardship to him and he is not in a position  
to secure a private house as he has to make some deposits.  
The applicant further contends that his wife is an old patient  
and is in continuous treatment of Railway hospital and unless  
he is paid his dues, he is not in a position to move out of the  
Railway quarter.

2. The respondents in their reply, have admitted that  
the applicant was permitted to retain the house till 31.7.1987  
and thereafter, he was given notice to vacate the same within  
seven days which he failed to do. After completing the  
formalities, eviction application was filed by the respondents  
in the court of the Special Railway Magistrate on 21.12.1987.  
According to the respondents, the applicant is in unauthorised  
occupation of the railway quarter and he is liable to be evicted  
and charged penal rent. The learned counsel for the respondents  
contended that the question of payment of gratuity etc. was not  
related to the unauthorised occupation of the railway quarter by  
the applicant, and while the Railway authorities would be happy  
to pay him all the dues as soon as he vacates the house, the  
applicant cannot be allowed to retain the house at all.

*B.M.*

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3. The learned counsel for the applicant relied on two cases (i) Shri Baljit Singh Verma Vs. Union of India (C.W.P. No. 145 decided by the High Court of Delhi on 3.2.1983), wherein it was held that the gratuity should be paid fully if the applicant has given a surety of two persons, and (ii) O.A. No. 474/86 - Nank Chand Jain General Manager, Northern Railway, decided by this Tribunal, wherein it was pointed out that no rule could be quoted justifying withholding of the gratuity amount if the employee had not vacated the quarter. In any case, while gratuity has to be paid immediately on retirement, an employee is entitled to retain the Government quarter for a period of four months after retirement on normal rent. The learned counsel for the applicant quoted a circular<sup>1</sup> issued by the General Manager, Northern Railway, in which it has been stated that the Northern Railway has decided that instead of holding back the entire D.C.R.G., payable to the officers, till the vacation of Railway accommodation, the railway staff should be asked to furnish sureties of two suitable permanent employees and hold back in the case of Class III and IV employees, a sum of Rs. 2,500/-.

The respondents instead of following the directions of the General Manager, which permit the respondents to hold back only Rs. 2,500/-, have held back illegally about Rs. 30,000/- from the applicant causing him great hardship. The learned counsel also cited Railway Board circular<sup>2</sup> dated 27.6.1969 which enjoins the Railway Administration to make final settlement of a Railway employee on his retirement, as expeditiously as possible. The circular says that as the delayed payment of provident fund etc. inflicts hardship on the employees or their families, who have retired, it is imperative that energetic steps should be taken to ensure quick disposal of such cases. Instead of making payment of the legal dues to the applicant

1. (G.M./N.Rly's No.720-E/XXX(Pension) dated 1/86(S.N. 8907).  
2. R.B's No.E(W) 69 PF 2/1 of 27.6.69 (N.R.S.No.4720).

the respondents were harassing him. Further, the respondents have withheld issue of railway passes without holding any proper enquiry against him, which is a penalty.

4. After hearing arguments on both sides, I feel that while the question of retention of government quarter by the applicant is not directly linked with the payment of gratuity etc., this cannot be viewed absolutely independently. The Railways administration, which has itself issued instructions for making quick payment of gratuity etc., cannot hold back such payments indefinitely. The respondents had themselves allowed retention of the quarter for a period of eight months after the applicant's retirement, whereas the dues should have been paid within three months of his retirement. The learned counsel for the respondents stated that the applicant was a licensee and proceedings against him had been started on 17.12.1987, He would have been evicted but for the stay granted by the court on 2.2.1986. He cited the case of Chandu Lal Vs. Municipal Corporation of Delhi,<sup>1</sup> decided by the High Court of Delhi, where it has been held that the petitioner had no legal right for getting injunction against eviction orders. In any case, a stay order had been granted by the court in favour of the applicant. The learned counsel for the respondents had no explanation why the gratuity etc. of the applicant had not been paid in spite of the clear instructions of the Government and the same linked with the question of eviction of the house. In any event, the gratuity etc. should have been paid to the applicant within 3/4 months, especially when the applicant was allowed to retain the house for eight months.

5. In the circumstances of the case, it is felt that the ends of justice will be met if the applicant is directed to vacate the Government quarter by 30.6.1988. In the meanwhile, the respondents shall pay all his dues including gratuity and arrears of leave salary on revised salary.

6. Denial of railway passes to the applicant is certainly a penalty and it cannot be done without following the proper procedure. In any case, the respondents are directed to start issue of railway passes to the applicant with immediate effect, as admissible under the rules. Since the applicant had been allowed to retain the house under <sup>A</sup> the court orders, he will be liable to pay only the normal rent for the house till 30.6.1988, when he should vacate the quarter. The respondents shall make payment of all the dues to the applicant within one month <sup>receivable</sup> from the date of <sup>passing</sup> of this order.

b/s.

7. The application is allowed as above. There will be no order as to costs.

  
(B.C. Mathur) 20.5.88  
Vice-Chairman.