

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI.

OA No.1312/90

Date of decision: 23.10.90.

P.N. ATRE

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

SHRI R.K. RELAN

..COUNSEL FOR THE APPLICANT

SHRI P.S. MAHENDRU

..COUNSEL FOR THE RESPONDENTS.

CORAM:

THE HON'BLE MR. T.S. OBEROI, JUDICIAL MEMBER

THE HON'BLE MR. I.K. RASGOTRA, ADMINISTRATIVE MEMBER

J U D G E M E N T

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

This application filed by Shri P.N. Atre, under Section 19 of the Administrative Tribunals Act, 1985, belongs to the genre of applications in which the respondents are alleged to have withheld the entire amount of death-cum-retirement gratuity (DCRG) due to an employee, on retirement on super-annuation, pending vacation of the Railway quarter under his occupation. In the present case, the applicant retired from service on 30-11-1987 and was allowed to retain the Railway quarter No.5-E, Railway Colony, Mata Sunderi Place, New Delhi, for a period of four months from 1-12-1987 to 31-3-1988 after retirement on payment of normal rent by the Divisional Superintending Engineer,

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contd...

Northern Railway. To seek vacation/possession of the said quarter, the respondents issued a notice dated 21-5-1990 vide Annexure A, notifying the applicant that tenancy of the said quarter has been cancelled w.e.f. 1-4-1988. He has been further advised to vacate the said quarter within 10 days from the date of notice failing which eviction proceedings under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 will be initiated against him. The applicant has also been notified that damages/penal rent as per details given therein would also be recoverable from him w.e.f. 1-4-1988. The respondents, on the other hand, have withheld its entire amount of D.C.R.G. amounting to Rs.35,200/- and have also stopped issuing post-retirement complimentary passes.

The stance of the respondents as evident from the written statement is that unless and until the applicant vacates the Railway Quarter, his D.C.R.G. cannot be released in accordance with the instructions of the Railway Board and the decision of the General Manager. In the rejoinder, the applicant has brought that to our notice/ respondents revised instructions issued on 30th January, 1986 by which the earlier instructions of 1982 have been modified to say that "instead of holding back the entire D.C.R.G./SC to PF payable to the Officers/staff till the vacation of Railway accommodation, the following steps should be taken:-

- (a) The retiring officer/staff in occupation of Railway accommodation may be asked to furnish sureties of two suitable permanent employees,
- (b) In addition to the above sureties, a "hold back" from the DCRG/SC to PF

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of the employee concerned may also be made at the following rates:-

- i) Class IV (Group D) ..Rs..2,500.00
- ii) Class III (Group C)
 - a) Employees in Gr.Rs.500-750 and below Rs. 5,000.00
 - b) Employees in Grade Rs.700-900, 840-1040, 840-1200 Rs. 7,500.00
- iii) Class II (Group B) Rs. 7,500.00
- iv) Class I (Group A)JS/SS/JA Rs.10,000.00
- v) Level II and above Rs.12,000.00

If the retiring employee in occupation of Railway accommodation fulfills the conditions as contained in Para (a) and (b) above at the time of his retirement his balance of DCRG/SC to PF admissible to him may be released."

It is apparent from the above, that the respondents have appreciated the arbitrary character of their instructions for holding back of the entire amount of gratuity and the hardships it was causing to retired railway employee and have, now specified reasonable amounts which should be withheld from the different categories of retiring employees, besides obtaining suitable sureties from them. Having regard to the facts of the present case and the totality of the circumstances, we order and direct that the applicant should give vacant possession of the railway quarter to the respondents or their representatives not later than 30th November, 1990 and the respondents or their representatives shall hand over the entire amount of DCRG due and owing to the applicant less the amount mentioned hereinafter

at the time the possession of the railway quarter is taken over.

Rent at normal rate, electricity and water charges etc. for the period of over-stay may be deducted from the payment to be made to the applicant as the aforesaid. The respondents will be entitled to make claim in accordance with law, to which they are entitled to, for any excess or penal rent and the applicant will be at liberty to make any claim for compensation in the appropriate form which he claims to be entitled.

The OA is disposed of with the above directions with no orders as to costs.

Abhay
(I.K. RASGOTRA)
MEMBER (A)

Devi
(T.S. OBEROI)
MEMBER (J)

23/10/90

MP 2947/90

OA 1312/90

30.11.1990

(P)

Present: Shri R.K. Relan for the petitioner in the MP.

The prayer in this MP is that certain aspects of the prayer originally made in the OA, with regard to post-retirement complimentary passes has not been dealt with by making any specific order. However, after carefully considering the present petitioner, a final judgement having been passed, the present MP in the ^{present} form ~~sought for~~ is not maintainable. Other legal recourse open to the applicant may be ~~sought for~~ ^{debated to}.

Abhay
(I.K. Rasgotra)

Member (A)

Abey 30/11
(T.S. Oberoi)

Member (J)