

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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Regn. No. OA 2719 of 1990

Date of decision: 23.8.1991

Mande Singh Kapoor

Applicant

vs.

Union of India

Respondents

PRESENT

Shri G.D. Bhandari, counsel for the applicant.

Shri Shyam Moorjani, counsel for the respondents.

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Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri P.C. Jain, Member (A).

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

By this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays for direction to the respondents to release and pay the amount of gratuity with interest at market rate till the date of payment. Another direction is the applicant has sought that the penal rent charged from the applicant for retention of the railway quarter be refunded to him and also passes be issued to him.

2. The applicant was a Head Goods Clerk in the Good Shed Railway Station, New Delhi, and retired from the service of the respondents on 31.1.88 on attaining the age of superannuation. During his service tenure, the applicant was allotted a railway quarter No. C-11-H, Railway Colony, Lajpat Nagar, New Delhi, and remained paying the normal licence fee which was being deducted every month from his salary. On his retirement, the applicant applied for retention of the aforesaid railway quarter on the ground of ailment of his wife and non-payment of the gratuity amount. The respondents on 22.2.88 allowed the retention of the aforesaid quarter upto 31.5.88. The applicant submitted representations

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for the payment of his gratuity, but the same was not released to the applicant. According to the applicant, the gratuity has been withheld by the respondents and it is against the principles of natural justice. The applicant further contends that in the absence of necessary funds, he could not get proper treatment of his wife and could not arrange an alternative accommodation which was needed after vacating the railway quarter. He remained and applying for extension of his stay in the railway quarter from time to time the permission was extended. By letter dated 29.8.88, the respondents authorised the applicant to retain the railway quarter upto 30.9.88 on payment of exorbitant rent/penal rent of Rs. 1100.00 per month. According to the applicant, the Railway Pension Rules contemplate only 10% of the gratuity which can be withheld in lieu of non-vacation of a railway quarter. The respondents failed to pay the gratuity amount, but were prompt in recovering the penal rent from the applicant. The last grievance is that the post retirement passes are not issued to him.

3. The respondents, on notice, contested the claim of the applicant and, inter alia, raised several grounds urging the dismissal of the O.A. However, their stand is that as the applicant is not vacating the official residential, it is in lieu of that that the gratuity amount has been withheld and passes were not issued to him.

4. The matter need not detain us any longer as this Bench in O.A. 1559/90 decided on 10.4.91 observed in para 6 of the judgment with regard to the desirability of the prompt payment of post-retirement dues to the employees. For convenience it is reproduced below:

"The desirability of the prompt payment of post-retirement dues has been stressed and reiterated in the judicial pronouncements. Plethora of case laws down from the apex court have persistently and consistently stressed the need of prompt payment of post-retirement benefits so that the retired people do not feel the pinch of the paucity of funds when they have departed from the arena of life where for long they have enjoyed the privileges of pay packets containing also the additional benefits of allowances. They are not only old but also tired from the life long struggle, hence they need immediate departmental attention. Wilful neglect on the part of the department they have served, to pay promptly the post-retirement benefits, is indeed nothing but cruelty to its old employee who has given his golden days of life in service."

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Needless to say that the post-retirement benefits should be granted to the employee within the shortest period of his retirement. The Full Bench judgment of this Tribunal in the case of Wazir Chand vs. Union of India (ATJ 1991 (1) p. 60) has decided that the Railway Administration cannot withhold the entire amount of gratuity on the ground of non-vacation of the Railway quarter. It has further been decided in Wazir Chand (supra) that the Railway Administration cannot withhold or disallow one set of post-retirement passes for every month on the ground of non-vacation of railway quarter after the retirement of the Railway employee. In that judgment it has also been observed that the Tribunal is competent to allow interest on the delayed payment of the amount of gratuity by the respondents.

5. Needless to say that several Railway rules made by the Ministry of Railways in 1968 and 1976 also point out the desirability of immediate payment of post-retiral benefits to the retired employee. We place our reliance on the Full Bench judgment in the case of Wazir Chand (supra) and allow this O.A. to the extent indicated hereinbelow:

We direct the respondents to pay the amount of gratuity due to the applicant within a period of three months from the date of the receipt of a copy of this judgment. We further direct Respondent Nos. 1 and 2 to pay other dues also to the applicant which are due to him within the aforesaid period. We further direct Respondent Nos. 1 and 2 to release the post retirement passes to the applicant to which he is entitled within the aforesaid period. So far as the payment of interest is concerned, we reject the same in view of the Supreme Court's judgment in the case of Raj Pal Wahi & Ors. vs. U.O.I. & Ors (SLP No. 7688-91 of 1988 decided on 27.11.89). Needless to say that after receiving all the aforesaid dues, the applicant shall vacate the premises and hand over the possession of the quarter to the respondents. The rent for the period over-stayed may be deducted from the payment to be made to the applicant. The respondents will be entitled to make claim in accordance with the law to which they are entitled to, for any excess or penal rent, and the applicant will be at liberty

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to make any claim for compensation in the appropriate forum to which he claims to be entitled to. (S.L.P. (C) No. 881 of 1990 Supreme Court).

6. Consequently, this O.A. is allowed to the extent indicated hereinabove. Parties shall bear their own costs.

Q. no. 28/89
(P.C. JAIN)

MEMBER (A)

26.8.91
(RAM PAL SINGH)

VICE-CHAIRMAN (J)