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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

C.A. No. 94/90

New Delhi this 29th day July, 1994.

Hon'ble Mr. S. R. Adige, Member(A).

Shri Pati Ram,
s/o Late Shri Mansa Ram,
Ex. A Grade Driver,
Bikaner Division,
Northern Railway,

presently
r/o Plot No. 18,

Wazirabad,
P.O. Buradi,
Delhi-29

.....Applicant.

By Advocate Shri B.S. Mahne.

Versus

Union of India through

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
DM Office,
Northern Railway,
Bikaner(Rajasthan)

.....Respondents.

By Advocate Shri P.S. Mahendru.

JUDGMENT

In this application, Shri Pati Ram,
Ex. A Grade Driver, Bikaner Division, Northern
Railway has prayed for ^{release of m}complimentary passes withheld
by the respondents and the interest at the rate of
18% p/a on the amount of gratuity, the payment of
which allegedly was delayed in wrongful manner.
He has also assailed the adjustment of Rs. 2,722/-
which was adjusted from the applicant's DCRG
towards penal rent for the ^{unauthorised retention of a railway m}quarter.

23 The applicant was appointed as a
Cleaner on the Northern Railway on 15.11.50 and
during his service he was allotted Type II Govt.

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quarter bearing No. L-2B, Loco Shed, Kishan Ganj, Delhi. The applicant retired on 31.3.87 and vacated the quarter on 26.11.87.

3. The respondents have contended in the reply to the O.A. that all settlement dues were paid to the applicant, except DCRG which was withheld due to non-vacation of the railway quarters. The DCRG had subsequently be released to the applicant after adjusting Rs 2722/- towards the penal rent for unauthorised occupation of the quarter beyond the permissible date. *Railway passes have also been withheld for non vacation of railway quarters, as per rules. -As*

4. In the case of Rajpal Wahi Vs. Union of India & others, decided on 27.11.89 in SLP No. 7688-91, 88. The attention of the Hon'ble Supreme Court was specifically drawn in the affidavit filed in the O.A that the DCRG had been held temporarily as per Railway Board Circular to meet the anticipated dues of the Railways consequent to the non-vacation of the quarter by the applicant which was computed only when the employee vacated the quarter. The Hon'ble Supreme Court had observed that the delay in payment of gratuity occurred due to the relevant instructions and not because of the administrative lapse on the part of the respondents and accordingly rejected the prayer for interest on the delayed payment of DCRG which occurred due to unauthorised occupation of the railway quarters. Hence the prayer for interest on the delayed payment is rejected.

5. In so far as the prayer for release of the complimentary passes is concerned, as the applicant has vacated the quarter, the complimentary passes ^{now} should be released as per rules.

6. In so far as the question of refund of \$2722, being the penal rent, which was adjusted from the applicant's DCRG, is concerned, there are a catena of judgments holding that such adjustment is not legally impermissible. The applicant has not pointed out any infirmity in the manner in which this sum of penal rent has been calculated and under the circumstances, the prayer for refund is also rejected.

7. This application is, therefore, partially allowed in accordance with paragraph 5 above. No costs.

S.R. Adige
(S. R. ADIGE)
MEMBER(A)

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