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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

C.A.T. No. 94/90

New Delhi this 29th day July, 1994.

Hon'ble Mr. S. Padige, 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. Buragi,
Delhi-29

.....Applicant

By Advocate Shri B.S. Mahneet

Versus

Union of India through

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

2. The Divisional Railway Manager,
DRM 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 complimentary passes withheld
by the respondents and the interest at the rate of
18% p.m. 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 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.

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 quarter. The DCRG had subsequently been released to the applicant after adjusting Rs 2722/- towards the penal rent for unauthorised occupation of the quarter beyond the permissible date. Railway parties have also withheld for non-vacation of railway quarter, as per rules.

4. In the case of Rajpal Wahi Vs. Union of India & others, decided on 27/11/89 in SLP No. 7688-91, 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 quarter. 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 in should be released as per rules.

6. In so far as the question of refund of Rs.2722, being the penal rent, which was adjusted from the applicant's DCRG, is concerned, there are ~~not~~ ^{not} ~~any~~ ^{any} ~~cases~~ ^{cases} 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.

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(S.R. ADIGE)
MEMBER(A)

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