

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(5)

Regn. No. OA 402/1991

Date of decision: 5.6.1991

Raj Kumar Bhalla

Applicant

Vs.

Union of India

Respondents

PRESENT

Shri Umesh Mishra, counsel for the applicant.

Shri Romesh Gautam, counsel for the respondents.

CORAM

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

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

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

JUDGMENT

By this O.A., the applicant prays for direction to the respondents to make the payment of Death-cum-Retirement Gratuity and also issuance of the Railway passes. He has further prayed for payment of interest at the rate of 25% per annum from the date of his retirement till the date of payment.

2. The applicant retired prematurely because he was declared disabled on 24.5.89. During the course of employment, he was allotted residential accommodation - Quarter No. 167/7, Railway Colony, Kishan Ganj, Delhi. His son was given employment on compassionate grounds in the Railway Department who is agitating in OA 1781/90 for regularisation of the quarter in his name and was not receiving H.R.A. The applicant on 12.10.90 demanded his Death-cum-Retirement Gratuity from the respondents and he was intimated by letter dated 24.12.90 that the amount of gratuity shall not be paid to him unless "no demand certificate" was submitted/issued in his favour (Annexure 'B'). The applicant could not submit "no demand certificate" because he has no power over those authorities who issue it. Consequently, proceedings against

216

him were initiated by the authorities for getting the residential accommodation vacated. He, therefore, filed this O.A. for getting the reliefs, as prayed for.

3. The respondents in their return admitted the premature retirement of the applicant on medical grounds and have tried to justify the withholding of the payment of Death-cum-Retirement Gratuity to the applicant relying upon Annexures R-1 and R-II of 1988 and 1989. Thus, they contended in their return that the applicant is not liable to receive the gratuity till he vacates the quarter.

4. We have heard the learned counsel for the applicant, Shri Umesh Mishra and also counsel for the respondents, Shri Romesh Gautam. In the Full Bench Judgement of the Central Administrative Tribunal in the case of Wazir Chand (1991 (1) ATJ p. 60) it was held that:

(a) Railway Administration cannot withhold the entire gratuity amount till the Railway servant vacates the railway quarter.

(b) Railway Administration cannot withhold or disallow the set of post-retirement passes for every month till the vacation of the accommodation.

5. In the light of the decision of the Full Bench judgment, we have to examine whether the respondents were justified in withholding the payment of the gratuity amount and also the passes in lieu of the occupation of the Railway accommodation by the applicant after his retirement. In Wazir Chand (supra), the Full bench has considered all the aspects after evaluating different judgments on the subject and we need not dwell much on it.

6. Placing reliance upon the Wazir Chand (supra) judgment, we conclude that the applicant is entitled to get the payment of his gratuity amount from the respondents and it cannot be withheld because the applicant has not vacated the quarter. When the

Lamli

(A)

son of the applicant who was given compassionate employment in the Railway Department is litigating before the Tribunal in OA 1781/90 for the regularisation of the said Railway quarter in his name, then the respondents cannot be said to be justified in withholding the payment of the gratuity amount to the applicant and also the privilege of Railway passes.

7. So far as the prayer for awarding high interest to the applicant on the amount of gratuity is concerned, the prayer for 25% of interest does not appear to us to be reasonable.

8. We, therefore, allow this O.A. and direct the respondents to pay the amount of Death-cum-Retirement Gratuity due to the applicant within a period of three months from the date of receipt of this order. We further direct the respondents to issue the PTOs/Railway passes to the applicant according to rules. We further direct that if the amount of gratuity in full is not paid to the applicant within the period of the said three months, then the applicant shall be entitled to get interest on the entire amount from the date of due till the date of payment at the rate of 12% per annum.

(P.C. JAIN)
(P.C. JAIN)

MEMBER (A)

(RAM PAL SINGH)
(RAM PAL SINGH)

VICE-CHAIRMAN (J)