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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI

Regn. No. OA 584 of 1991

Date of decisions: 24.7.1991

P.N. Chaturvedi

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Applicant

vs.

Union of India

Respondents

PRESENT

Applicant in person.

Shri Remesh Gautam, counsel for the respondents.

CORAM

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

Hon'ble Shri I.K. Rasgatra, Member (A).

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

JUDGMENT

By this application, filed under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as 'Act'), the applicant prays for a direction to the respondents to pay his gratuity amounting to Rs. 35,000/- and also release complimentary passes for the post-retirement period. The applicant has further prayed that no penal rent or damages be charged from him for having occupied the railway quarter.

2. The applicant was a railway employee of the Northern Railways who retired on superannuation on 21.1.87. During the course of his employment, the applicant was allotted quarter No. 157/11, Railway Colony, Kishanganj, Delhi, and after his retirement he is still occupying the said quarter. After his retirement from service, as the applicant has not been paid the amount of gratuity withheld by the respondents and no complimentary passes are being issued to the applicant, he is in great trouble and cannot make the arrangements for his accommodation etc. unless the gratuity amount is made available to him.

Ram Pal Singh

86

3. The respondents in their return have opposed the prayer of the applicant and, inter alia, contended that as the applicant has not vacated the railway quarter allotted to him during his service, inspite of several requests and reminders, the amount of gratuity has been withheld. They further contend that the railway passes due to the applicant have also been withheld in lieu of the non-vacation of the railway accommodation. They have raised a preliminary objection that the application is barred by limitation and that the applicant has not exhausted the departmental remedies available to him.

4. Keeping in view the pronouncements of the apex court in Collector, Land Acquisition, Anantnag and Another Vs. Mati Katiji and others (AIR 1987 S.C. 1353), we are of the view that the delay caused in filing the O.A. in this Tribunal can be condoned in the interest of justice. The apex court has held that refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. A retired employee who, throughout his active life, has been receiving pay packets and allowances during his employment, feels the pinch of paucity of funds after he relinquishes his office. That is why great stress has been laid by the plethora of judicial pronouncements that all the post-retirement benefits must be paid to the retired employee at the earliest so that he may not face difficulties of life in the old age. Though no application has been filed for the condonation of delay, we condone the same and proceed to decide the O.A. on merits.

5. This Tribunal in the Full Bench Judgment in the case of Wazir Chand (1991 (1) A.T.J. p. 60) has held that:

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

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

The Division Bench of this Tribunal in the case of Rai Kumar Bhalla (O.A. 402/1991) in their judgement dated 5.6.1991 has also expressed the same view as laid down in Mazir Chand (Supra).

6. In view of this settled principle of law, we are of the view that this O.A. should be allowed. Consequently, placing reliance on Mazir Chand (supra) we conclude that this O.A. should be allowed and direct the respondents to pay the entire amount of Death-cum-Retirement Gratuity within a period of three months from the date of the receipt of a copy of this judgment. We further direct the respondents to issue P.T.Os/Railway passes to the applicant according to rules immediately within the said period. The applicant after receiving the entire amount of gratuity shall vacate the railway accommodation immediately. No penal rent shall be charged from the applicant for the period of occupation of railway accommodation till the payment of his Death-cum-Retirement Gratuity and the set of passes. Consequently, this O.A. is allowed, but the parties shall bear their own costs.

Subhash
 (S.K.RASGUTRA)
 MEMBER(A)
 29/7/91

Law 115 29.7.91
 (RAM PAL SINGH)
 VICE CHAIRMAN (J)