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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

1) O.A. NO. 1832/92

2) O.A. NO. 2434/92

New Delhi, 12.8., 1994

CORAM

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

1) O.A. NO. 1832/92

M. U. Khan,
Retd. Chief Controller,
Northern Railway,
Tundla.

2) O.A. NO. 2434/92

1. S. U. Khan S/O M.U. Khan,
Mobile Booking Clerk,
N. Railway, Tundla.

2. M. U. Khan,
Retd. Chief Controller,
N. Railway, Tundla,
Presently residing at
A-112, Radhey Shyam Park,
Extn. Khureji,
Delhi - 110051.

... Applicants

By Advocate Shri B. S. Mainee

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Div. Rly. Manager,
Northern Railway,
Allahabad.

By Advocate Shri Romesh Gautam

ORDER

In O.A. No. 1832/92, Shri M. U. Khan, retired
Chief Controller, Northern Railway, Tundla, who now
claims to reside at A-112, Radhey Shyam Park Extn.,
Khureji, Delhi, has prayed for release of his DCRG
with interest at the rate of 18% per annum for
delayed payment, and also for release of post-
retirement passes.

2. The applicant's case is that he retired from the Railways on 31.7.1990, and at the time of retirement he was in occupation of quarter No. 268, Company Bagh, Tundla. His son, S. U. Khan, was appointed as a Mobile Booking Clerk on casual basis on 28.5.1986, whose services were terminated on 31.7.1986, but that order of termination was subsequently quashed by the Tribunal and hence, S. U. Khan was re-engaged as a Mobile Booking Clerk on 10.3.1990 and acquired temporary status on 7.7.1990. The applicant, M. U. Khan, states that his son was living with him throughout and he had applied for regularisation of the quarter in favour of his son. The applicant alleges that the respondents have neither regularised the quarter in favour of his son, nor have they released the DCRG amounting to Rs.47,850/- and have also withheld the post-retirement passes, in spite of representations filed by him.

3. The respondents in their reply state that this O.A. is not within the jurisdiction of the Principal Bench as the cause of action lies in Tundla (U.P.) which falls within the jurisdiction of the Allahabad Bench of the Tribunal. On merits, they state that the DCRG amounting to Rs.47,850/- has not been released due to non vacation of the Railway quarter in the applicant's occupation in Tundla. In this connection, they refer to Railway Board's letter dated 4.6.1982 (Ann. R-I) which permits appropriate hold-back amount from DCRG and hold-back of post-retirement passes for non-vacation of the Railway quarters.

4. Shri Mainee, learned counsel for the applicant, has relied upon a number of cases in support of his contention that the entire amount of DCRG cannot be withheld; the right to withhold DCRG is not unfettered; temporary Railway employees such as the applicant are eligible for regularisation of Railway accommodation; and before withholding Railway passes a show cause is necessary. Amongst the rulings cited by Shri Mainee are, Kartik Chandra Roychoudhary vs. Union of India : ATJ 1992 (1) 575; Suraj Prakash Chopra vs. Union of India : SLJ 1992 (1) CAT 460; Umanath V. Rao Vaindurkar vs. Union of India : SLJ 1992 (3) CAT 107; Tilak Raj vs. Union of India : ATJ 1994 (1) 195; Harender Singh vs. Union of India : ATC 1990 (13) 887; Raghbir Singh vs. Union of India : ATJ 1993 (1) 17; O. N. Srivastava vs. Union of India : ATJ 1994 (1) 220.

5. Shri Gautam, learned counsel for the respondents, however, drew my attention to the judgment dated 6.7.1994 of this Tribunal in O.A. No. 1801/93 - K. K. Sharma vs. Union of India & Ors., from which it is clear that to discourage Railway employees to continue to retain Railway accommodation after retirement, the Railway Board have since issued circular dated 31.12.1990 which provides that the full amount of retirement gratuity has to be withheld if the Railway accommodation is not vacated at the time of retirement by the Railway servant, and this provision has been incorporated in Railway Servants (Pension) Rules, 1993 also. Even if it be held that the Railway Board's

circular dated 31.12.1990 is inoperative because the applicant retired on 31.12.1990 itself, attention has to be drawn to the judgment of the Hon'ble Supreme Court dated 27.11.1989 in the case of Raj Pal Wahi and others vs. Union of India and others (SLP No. 7688-91 of 1988). In that judgment, the Hon'ble Supreme Court specifically noted that the contents of the affidavit filed on behalf of the Railways wherein it had been stated that the DCRG was held-back temporarily as per the relevant Railway Board circular to meet the anticipated dues of the Railways on account of penal rent etc., which could be computed only when the employee finally vacated the quarter. The Hon'ble Supreme Court further noted that these steps were being taken by the respondents to discourage Railway employees from continuing to retain Railway accommodation even after retirement, and rejected the request for interest on delayed payment of DCRG which occurred due to unauthorised occupation of Railway accommodation. Shri Maine has argued that the issue before the Hon'ble Supreme Court was not the release of the DCRG, but the payment of interest on that, and hence, the Hon'ble Supreme Court's decision in Wahi's case (supra) has no application to the facts of the present case. I am unable to accept this contention, in view of the specific averment made by the respondents in the affidavit filed by the Railways that DCRG was being held-back to meet the anticipated dues of the Railways, which could be computed only when the employee ultimately vacated the quarter.

6. Under the circumstances, no direction to the respondents to release the applicant's DCRG or post-retirement passes would be warranted at this stage. Hence, O.A. NO. 1832/92 fails and it is accordingly dismissed. No costs.
7. In O.A. No. 2434/92, the applicant, S.U. Khan, has prayed for regularisation of the said Railway quarter in his own name from the date his father, M. U. Khan, retired from service with all consequential benefits. In this O.A. Shri B. K. Agarwal, learned counsel for the respondents has still to be heard. Moreover, it is learnt that the question whether temporary Railway employees are eligible for regularisation of Railway accommodation, has been referred to a Full Bench and their decision is still awaited. In the circumstances, let O.A. 2434/92 be placed before an appropriate Bench for further hearing on 26.8.1994. Inform the parties accordingly.
8. A copy of this order be placed in O.A. 2434/92.

Adige
(S. R. Adige)
Member (A)

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