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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.
OA.No.2339 of 1992

New Delhi, dated this the 17th of January 1994.

HON.MEMBER(JUDICIAL) SHRI C.J. ROY.

Shri Bhana,
S/o Shri Gopal,
Retd. Boiler Maker Gr.I,
under Loco Foreman,
Meter Gauge Loco Shed,
Near DCM Colony,
Delhi Sarai Rohilla.

Residential address:-
No.117-F, Meter Gauge Loco Shed Cly.
Delhi Sarai Rohilla.

Applicant

By Advocate Shri G.D. Bhandari.

versus

The Union of India through

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

2. The Divisional Railway Manager,
Northern Railway,
Bikaner.

3. The Assistant Mechanical Engineer(M.G.),
Northern Railway,
Delhi Queens Road,
Delhi.

Respondents

By Advocate Shri K.K. Patel.

JUDGEMENT(Oral)
(delivered by Hon. Member(J) Shri C.J. ROY)

This OA has been filed by Shri Bhana under
Section 19 of the Administrative Tribunal's Act, 1985
praying for the following reliefs:

(i) To direct the respondents to make payment of
the monthly pension of the applicant ever since
September 1991 to date and continue to do the same in
terms of the PPO Order (A-1) alongwith interest 18%
per annum by way of issue of a proper, valid and fresh
duplicate copy to the State Bank of Bikaner and
Jaipur, Connaught Place, New Delhi through their

Branch, located in Bara Hindu Rao, Delhi and credit the same in applicant's Saving Bank Account No.15520 so maintained with the Bank;

(ii) To direct the respondents to immediately release the payment of the Gratuity amount alongwith 18% interest per annum after deducting the normal/usual assessed rent of the railway quarter under applicant's possession from the date of his retirement to the actual date of payment of the gratuity and vacation of the railway quarter respectively, which the applicant undertakes to vacate within a reasonable period allowed by this Hon. Tribunal on receipt of the Gratuity payment;

(iii) To direct the respondents to release the post-retirement passes to the applicant.

2. The facts of the case ~~are~~ that the applicant retired from service on 31.8.91 and that he is entitled for pension, gratuity, commutation of pension, Provident Fund, Leave Encashment and other ancillary fringe benefits. While he was in service, he was in occupation of quarter No.117-F, Meter Gauge Loco Shed Colony, Delhi Sarai Rohilla. It appears that the applicant, even now, is residing in the same quarter.

3. The respondents have issued an order dated 2/4.7.92 directing the applicant to vacate the said quarter within 15 days, failing which, action under the provisions of public premises (Eviction of unauthorised occupaants) Act, 1971 will have to be

taken to evict him. The applicant submits that he has not vacated the Government quarter for the reason that the respondents have not paid him the retiral benefits, for which he is entitled to.

4. Heard the learned counsel for both parties and perused the documents on record. In the case of Wazir Chand versus Union of India (Full Bench Judgement (Vol.2) C.A.T. page 287, para 27), it has been observed that withholding of the entire amount of gratuity of the retired railway servant, so long as he does not vacate the railway quarter is legally impermissible. Their Lordships of the Hon. Supreme Court in SLP No.881 rendered on 23.4.90 in the case of Union of India and others versus Shiv Charan had observed that:

"....that the possession of the railway quarter, now in possession and accusation of the respondents, should be handed over by the respondents and taken possession of by the appellants or their representations on or about 23rd May, 1990 and the entire amount due and owing to the respondents, less the amount mentioned hereinafter, will be handed over by the officer taking possession then and there.

Rent for the period overstayed may be deducted from the payment to be made as aforesaid. The appellants will be entitled to make claim in accordance with law to which they are entitled to, for any excess or penal rent, and the respondents will be at liberty to make any claim for compensation in the appropriate forum which he claims to be entitled to."

5. It is also claimed by the applicant that some of the pension amount has been paid to him but there is a delay of one year in making the payment for which he claims for interest. The counsel for the respondents vehemently opposes for the grant of interest for the delayed payment. He submits that the

delay was not on their part as they had asked the applicant to furnish fresh papers in the place of the misplaced ones, during which process the delay has taken place.

6. Following the decisions, observations and guidelines of the above mentioned cases, both the sides agree for disposal of this case with a direction. Hence I proceed to dispose of this matter with the following orders and directions:-

- (i) The respondents are directed to make the payment of retiral benefits including all arrears due to the applicant after deducting the arrears rent for the unauthorised occupation of the above mentioned quarter.
- (ii) The respondents are also directed to release post retiral passes to the applicant.
- (iii) As a special case, 10% interest is ordered to be paid to the applicant, only on pension, in view of the delay in payment.
- (iv) On receipt of the above payment, the applicant is directed to hand over the quarter in his occupation to the respondents simultaneously.
- (v) The respondents will be entitled to make claim in accordance with law to which they are entitled to, for any excess or penal rent and the applicant will be at liberty to make any claim for compensation in the appropriate forum which he claims to be entitled to.
- (vi) The above orders and directions shall be implemented, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this judgement.

7. The application is allowed and is disposed of accordingly. No costs.

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(C.J. ROY)
MEMBER(J)
17.01.1994