

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.3317/92

Date of decision: 20.05.1993.

Shri K.C. Sharma

...Petitioner

Versus

Union of India & Another

...Respondents

Coram: The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri G.D. Bhandari, Counsel.

For the respondents

Shri R.L. Dhawan, Counsel.

Judgement(Oral)

Heard the learned counsel for both the parties. The case of the petitioner is that he retired from service on 31.8.1990. He was allowed to retain the Railway quarter in accordance with the extant rules upto 30.4.91. He vacated the Railway quarter on 25.12.91, i.e., 8 months after the expiry of the permitted period. For this unauthorised overstaying of 8 months the respondents in accordance with the Railway Board's circular dated 24.4.92 have disallowed one set of post retirement passes for every month of unauthorised retention of Railway quarter. According to these instructions the petitioner would be deprived of the post retirement passes for a period of four years from the date he vacated the Railway quarter. The learned counsel for the respondents has raised an objection on the threshold that the Principal Bench has no territorial jurisdiction in the matter, as the petitioner has given his residential address as Plot No.17, Delhi Road, Moradabad. He is also drawing his pension at Moradabad. Accordingly the territorial jurisdiction in this case lies with the Allahabad Bench. On merits Shri R.L. Dhawan, the learned counsel for the respondents submitted that Railway Board's letter of 24.4.1982 is an executive instruction which has been held to be having statutory force. The implementation of

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the instructions communicated by the Railway Board to forfeit one set of post retirement passes for everyone month of unauthorised retention of Railway quarter is strictly in accordance with the Rules and cannot be found fault with. The learned counsel also relies on the judgement of the Principal Bench in OA-523/92 decided on 28.7.1992 wherein in paragraph-7 (d) it has been held that "The respondents may also consider the relief of post retirement passes according to rules." The learned counsel, therefore, contends that the provisions made in Railway Board's letter of 24.4.1982 have been upheld by the Tribunal.

2. I have considered the matter carefully. This issue has been discussed in a Full Bench judgement in OA-2573/89 decided on 25.10.1990 between Wazir Chand and Union of India & Ors. (Full Bench Judgements of C.A.T. 1989-91 Vol. II 287). In paragraph-20 of the said Full Bench Judgement the Full Bench has held that "holding as we do that 1982 circular infracts Article 14 of the Constitution the action to withhold post retirement passes on the basis of this circular shall also have to be held unsustainable. We hold so." This observation, however, has been made in the facts of that case. I also observe that in Raj Pal Wahi vs. Union of India & Ors. (SLP No.7688-91 of 1988) the Supreme Court had taken a view similar to the one taken by the Tribunal. Their Lordships, while discussing the counter-affidavit filed by the respondents observed that:

"It is evident therefrom the number of passes which were held back during the period these petitioners were in unauthorised occupation. It has also been stated therein that

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after vacation of the quarter by the petitioners the passes have been released as well as the amount of death-cum-retirement gratuity which was held back were also released...."

"As regards the passes the petitioners cannot have any grievance because those passes have already been directed to be issued after the vacation of the quarter."

3. In the last paragraph of the said judgement it was further observed by their Lordships that:

"There is no dispute that the petitioners stayed in the Railway Quarters after their retirement from service and as such under the extant rules penal rent as charged on these petitioners which they have paid. In order to impress upon them to vacate the Railway Quarters the Railway Authorities issued orders on the basis of the Railway Circular dated 24th April, 1982 purporting to withhold the payment of death-cum-retirement gratuity as well as the Railway passes during the period of such occupation of Quarters by them....."

"The respondents, however, will issue the passes prospectively from the date of this order."

4. It would be observed from the above that the Railway Board's Circular of 24.4.1982 had come up for consideration before the Hon'ble Supreme Court. While the circular itself has not been found fault with the Supreme Court observed that since the petitioner in that case had paid the penal rent etc. for the

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period of unauthorised occupation he was entitled to release of the passes. This position infact was admitted by the respondents in the counter-affidavit filed by them. The issue has been further clarified in the ultimate sentence in the judgement that the petitioners in such cases are entitled to the issue of post retirement passes prospectively. The respondents are accordingly directed to release the passes in accordance with the rules to the petitioner from the date of this order, as due to him.

5. The O.A. is disposed of with the above directions. No costs.


(I.K. RASGOTRA)

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MEMBER(A)