

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(14)

O.A.No.1363/93

New Delhi this the 4th Day of November, 1993.

HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A)

Shri P.D. Pant,
Ex-Superintendent,
Resident of 18/5,
Railway Colony,
Sarojini Nagar,
New Delhi.

... Petitioner

(By Advocate Shri B.S. Maine)

versus

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

2. The Divl. Superintending
Engineer (Estate)
Northern Railway,
D.R.M. Office,
State Entry Road,
New Delhi.

... Respondents

(By Advocate Shri D.S. Mahendru, proxy counsel for
Shri P.S. Mahendru)

ORDER(ORAL)

Heard the learned counsel for the parties.

The admitted facts of the case are these. The Applicant Sh. P.D. Pant who retired as Superintendent, Medical Branch, Northern Railway, Headquarter on 30.6.1992 applied for the retention of the railway quarter allotted to him from 1.7.1992 to 30.10.1992. This request was granted. He again applied for retention of the quarter for another 4 months from 28.9.1992 to 30.11.1992 which was also allowed on payment of double the normal rent. However, he has not vacated that quarter even on that date and continues to occupy the same. This Tribunal on 2.7.1993 passed an interim order restraining the respondents from giving effect to their notice of eviction dated 1.6.1993. The interim order continues till date.

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The reliefs claimed by the applicant are that the respondents may be directed to release the gratuity of the applicant with interest @18% per annum from the date the gratuity was due till the date of payment and that post retirement passes with-held by the respondents should be released.

The main averments made in the counter filed by the respondents are these. The applicant has been occupying the railway quarter even after the extended period as an unauthorised occupant. The normal rent of the quarter is Rs.55 per month while the penal rent recoverable is Rs.1793.10 w.e.f. 01.3.1993. In addition to this, the applicant has to pay water charges at the rate of Rs.25.50 p.m., conservancy charges at the rate of Rs.4/- per month and also the electricity charges. Till the applicant vacates the railway quarter, the actual amount recoverable from him cannot be calculated and hence his gratuity amount cannot be released. It is also contended that as per existing instructions one set of post retirement complimentary passes has to be with-held for each month for unauthorised occupation of the railway quarter by the applicant. The learned counsel for the applicant has drawn our attention to the Full Bench judgement of this Tribunal in the case of Wazir Chand Vs. Union of India (ATJ 1991(1) P.60) in which it was held that the Railway Administration cannot withhold the entire amount of gratuity on the ground of non-vacation of the Railway Quarter. It has further been decided that the Railway Administration cannot withhold or disallow

one set of post-retirement passes for every month on the ground of non-vacation of railway quarter after the retirement of the Railway employee. It is also held the Tribunal is competent to allow interest on the delayed payment of the amount of gratuity by the respondents. A similar case regarding withholding gratuity post retirement passes had come before the Supreme Court in S.L.P.No.7688-91 of 1988 decided on 27.11.1989 in the case of Raj Pal Wahi & Ors. Vs. U.O.I. & Ors. wherein their Lordships held :

".....In such circumstances we are unable to hold that the petitioners are entitled to get interest on the delayed payment of death-cum-retirement gratuity as the delay in payment occurred due to the order passed on the basis of the said Circular of Railway Board and not on account of administrative lapse. Therefore, we are unable to accept this submission advanced on behalf of the petitioners and so we reject the same. The Special Leave Petition thus disposed of. The respondents, however, will issue the passes prospectively from the date of this order."

Respectfully reiterating the views as expressed above, we are of the view that the respondents should release the D.C.R.G. after recovery the penal rent, as distincted from damages from the amount of D.C.R.G. ~~for the amount of penal rent~~ for the period of unauthorised occupancy of the railway quarter. Since the ^{by the party} delay is not on administration no interest on the amount of gratuity can be granted. We order accordingly. We further order that the applicant shall vacate the railway quarter as early as possible but not later than 15.1.1994. The respondents shall pay the penal rent for

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the said period. We further direct the respondents to issue the post-retirement passes from the date the railway quarter is vacated by the applicant.

The O.A. is disposed of finally as above. No costs.

B.N. Dhundiyal
(B.N. Dhundiyal)
4-15-93
Member(A)

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