

OPEN COURT  
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

DATED: THE 4th DAY OF JUNE 1998

CORAM : HON'BLE MR. S.K.AGRAWAL, J. M.

ORIGINAL APPLICATION NO. 269 OF 1996

Baboo Singh son of Late Gurdyal,  
Resident of 676 H Bishwa Bank Colony,  
Barra Kanpur.

C/A Shri P.K.Kashyap, Adv. ....

Applicant

Versus

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

2. Divisional Railway Manager/Northern Railway,  
Allahabad.

3. Divisional Engineer (HQ) Northern Railway, Kanpur.

C/R Shri Amit Sthalekar, Adv. ....

Respondents

ORDER

BY HON'BLE MR. S.K.AGRAWAL, J.M.-

In this application under section 19 of Administrative  
Tribunal Act the applicant has prayed that the respondents  
be directed to pay D.C.R.G. amount of Rs.21,175/- and  
increased D.A. from July 1994 with interest.

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2. The facts of the case as stated by the applicant are that the applicant was working as Coal Checker under Loco Foreman Northern Railway, Kanpur. The applicant retired on 31.7.94 but his gratuity and increased 10% D.A. was not paid even after his retirement. It is stated by the applicant that he was allotted Quarter No.340/F in South Loco Colony Kanpur. He retained the quarter of his retirement for four months and the permission of retention was granted to him. It is submitted by the applicant that he vacated the quarter on 28.12.94. The applicant made written requests to the respondent no.2 on 8.9.94 to release his gratuity and 10% increased D.A. from July 1994 which was also not paid to him even after his retirement. The respondent no.3 replied by his letter dated 5.10.94 that due to non recovery of house rent and electric charge of Union office, the above settlement dues have been held up. It is submitted by the applicant that the applicant also sent the reply with reference to the letter of respondent no.3 alleging that he is not in any way responsible for the payment of rent and electric charges of Union office. It is submitted that the respondents have illegally withheld the gratuity and did not pay the increased D.A. Therefore, the directions be given to the respondents to pay the same with interest.

*S. S. Sethi*  
3. The C.A. has been filed by the respondents. In the C.A. it is admitted that the applicant has vacated Railway Quarter NO. 340-F Type II South Loco Colony, Kanpur with effect from 28.12.94 but it is stated that the Union office No. T/3 Diggi Colony is still in possession to the Union Secretary, Shri S.S. Sethi, New Branch Secretary of D.R.M. Loco Branch. It is also stated in the counter that

that Divisional personnel, Allahabad has also informed the petitioner and other union office bearers to pay the rent and electricity charges of the union office but it is still outstanding and it is submitted at the end that since the petitioner has not given the possession of the said union office, he has been treated in unauthorised occupation as reported by Shri S.S.Sethi vide letter dated 13.5.96. The Railway accommodation no.T/3, Diggi Colony, Kanpur vide D&Allahabad Case No.320-W/42/Pt.II and allotment is effected from 1.4.73.

It is submitted that the applicant being the Branch Secretary to the union is responsible to pay the dues of the union office accommodation and electrical charges as he was holding the post of the branch secretary.

It is, therefore, submitted that this original application be dismissed with costs.

4. Rejoinder has also been filed. It is reiterated that the applicant is not individually liable for the dues of the union as the said accommodation was allotted in the name of the Union in 1973 and the petitioner is not responsible for the effect which is at present is under possession of Branch Secretary, Branch president and other office bearers.

5. I have heard the learned lawyer for the applicant ~~and also~~ Shri R.K.Kashyap and Shri Amit Sthalekar on behalf of the respondents and perused the record. It is an admitted fact that the railway quarter No.340-F Type II which was allotted to the applicant, has already been vacated by the applicant on 28.11.94. D.C.R.G. amount can be withheld only on account of any departmental dues or on account of commercial debit for which the

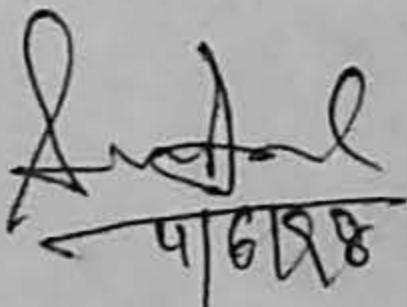
*Suraj*  
9/6/98

departments are allowed to assess the same within the period of three months from the date of retirement.

It is not the case of the respondent that any dues against the applicant Babu Singh was irrecoverable.

The respondents in the counter has made it very specific that being the Branch Secretary of the union, the Quarter No.T/3 Daggi Colony at Kanpur was allotted to the union and which was in possession of the applicant being union secretary, therefore, he is liable to pay the rent and electricity charges of the accommodation. I am not inclined to accept this annotation also not inclined to accept that if any quarter is allotted for the purpose of union and if rent and electricity charges have not been paid by the union to the department, the D.C.R.G. amount payment to any office bearer of the union can be withheld. In this case the Gratuity amount of Rs.21,175/- was not paid to the applicant accordingly on the ground that the applicant did not pay the rent and electricity charges of Railway quarter no.T/3 situated at Daggi Colony Kanur which was allotted to the union.

6. Not only this, but before passing an order to withhold the D.C.R.G. amount, it was also imperative on the part of the respondent to consider the fact that any amount was recoverable from the applicant while he was working on the post for the period, but this was also not done in this case. Therefore, I am ~~not~~ <sup>The</sup> of ~~this~~ considered opinion that respondents have withheld the gratuity amount of Rs.21,175/- payable to the applicant without any legal basis. No rule or instruction permits to the departmental authority to withhold the gratuity amount of the employee in such a situation. Therefore, I am of

  
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the considered view that withholding of gratuity and not paid the enhanced D.A. to the applicant was an arbitrary action for which the applicant is also entitled to interest.

7. I, therefore, allow this original application and direct the respondents to pay Rs.21,175/- as gratuity withheld by the respondents with 12% interest payable after three months from the date of his retirement; within three months from the date of receipt of the order. Respondents are also directed to pay the enhanced D.A. increased from 1st July 1994 if not paid so far.

8. Looking to the facts and circumstances of the case the parties shall bear their own costs.

  
MEMBER (J) 4/6/88

Gc