

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17TH DAY OF AUGUST, 2000

Original Application no.1302 of 1992

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Sobran Singh, aged about 63 years ,
Son of Late Sahoo Singh, C/o Sri D.R.Sharma
Om Bhawan, Krishnapuri,Linepar,
Mordabad City.

... Applicant

(By Adv: Shri A.K.Sinha)

Versus

1. Union of India through the Divisional Railway Manager, Northern railway Moradabad.
2. Sr.Divisional Personnel Officer, Northern Railway, Moradabad in the Office of the Divisional Railway Manager Northern railway, Moradabad.

... Respondents

(By Adv: Shri Avnish Tripathi)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

In this application u/s 19 of the A.T.Act 1985, the relief claimed is for a direction to the respondents to pay back the amount of Rs.35,945/-deducted from his Death-cumretirement gratuity minus normal monthly rent @ Rs.55/- per month plus electricity and other charges as due against the applicant and also allow an interest of 18% and further to restore the Complementary Passes.

Applicant Sobran Singh retired as Driver Grade-A w.e.f. 29.2.1988 on attaining the age of 58 years. He was permitted by the respondents to retain quarter No.HL-59-A Type II, Harthala Railway Colony in Mordabad allotted to him while in service for a period of eight

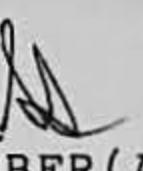
months after his retirement till 31.10.1988. The applicant, it is stated could not vacate the said quarter even after expiry of eight months and was obliged to retain the same till 26.6.1990.

The respondents cleared all the retiral dues of the applicant except gratuity amount Rs.52,000/- immediately after the retirement. It is alleged that nothing towards gratuity was paid despite several representations made by the applicants. He, however, learnt on contacting the settlement section that a sum of Rs.35,945/- have been adjusted against the amount of gratuity ^{"payable"} to him ~~and charged~~ for his occupation of quarter after the expiry of the period for which permission has been accorded and balance of Rs.16,055/- has been remitted to him through State bank of India Moradabad. It is further alleged that apart from the deduction of the penal rent from the gratuity the respondents also stopped facility of complementary passes provided to the applicant without issuing any show cause notice.

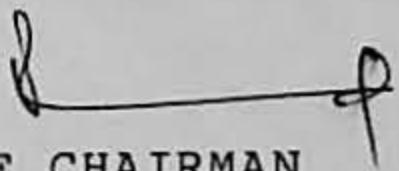
The respondents resisted the claim of the applicant on the ground that amount of gratuity was not withheld but was kept pending as the applicant ^{had} ~~was~~ not vacated the government accommodation. He was informed by Office Order dated 21.7.1988 that he failed to vacate the quarter upto 31.10.1988, penal rent shall be payable as the charge against the unauthorised occupation. It is stated that as the applicant failed to vacate the quarter and overstayed for a period of 25 months and 26 days from 1.11.1988 to 25.12.1990, rent @ 15 per sq.metre of the plinth area in occupation of the applicant was charged and the same was deducted from the amount of gratuity payable to him.

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The bench hearing this dispute noticed difference of opinion and the view expressed by the other benches of this Tribunal with regard to the question whether provisions of Para 1711(b)(v) of the Indian Railway Establishment Manual(IREM) Vol-II are applicable to the retired railway servants also. The bench directed the record to be placed before the Hon'ble Vice Chairman for referring the case to Hon'ble Chairman for constituting a Larger Bench for resolving the controversy. Consequently, a Full bench was constituted. The matter was heard at length and Full Bench ^{referred to} ~~ensured~~ the question in affirmative. In other words, the paragraph 177(b)(v) Vol-II of IREM shall be applicable to the retired employees also. The applicant challenged the realisation of the amount ^{was questioned} ~~was questioned~~ on the basis of the applicability of Para 1711, which has been held against him. Nothing has been left to be adjudicated in this application, the application is accordingly rejected having no merit,however without any costs.



MEMBER (A)



VICE CHAIRMAN

Dated: 17.8.2000

Uv/