

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : ALLD BENCH.
ALLAHABAD

Dated : ALLD. on this

13/10 Day of October, 97.

CORAM

Hon'ble Mr S Das Gupta, A.M.

ORIGINAL APPLICATION NO.1162 OF 1994.

Bhola Nath Gupta, aged about 60 years
S/o Late Sri Kallu Shaw r/o C 5/64, Chetgani
VARANASI.

C/A Shri V K Srivastava

..... Applicant

vs.

(1) Union of India, through its
General Manager, North Eastern
Railway, Gorakhpur.

(2) Divisional Railway Manager
North Eastern Railway
Sonpur.

(3) Senior Divisional Personnel Officer
North Eastern Railway
Sonpur.

C/R Shri Amit Sthalekar

.... Respondents

O R D E R
(By Hon'ble Mr S Das Gupta, A.M.)

The applicant in this case is aggrieved by an order dated 22.02.1993 by which it has been directed that privilege passes will be given to him only in 1995. He has prayed for quashing of this order and direction to the respondents to issue passes and P.T.O. with immediate effect. He has also sought a direction to the respondents to make payment of gratuity with interest @ Rs.18% and also transportation allowance as admissible under rules.

2. It appears from the facts averred in the O.A., C.A. & R.A. that the applicant retired from service on 30.06.1991. Thereafter, he was accorded permission to

retain railway quarters for four months on payment of normal rent till 31-10-1991. The applicant made a representation for further retention of quarters for another 6 months on ground of his daughter's marriage and son's education but permission for such retention was not accorded. The quarter was actually vacated by the applicant on 06.06.1992. The respondents withheld the gratuity payable to the applicant and the same was paid only in June'94 & June'95 in two instalments after adjustment of various dues including the penal rent for the period from 01.11.1991 to 06.06.1992.

3. There is no dispute that the applicant was permitted to retain the railway quarters only upto 13.10.1991. No permission was admittedly accorded for retention of the quarters beyond this period. No doubt, the applicant submitted an application for retention of quarters for a further period of 6 months, but there is nothing in the averments to indicate that any action was taken on the said representation. There is also nothing on record that the permission was actually accorded. Learned counsel for the applicant has not brought on record any rule under which respondents are obliged to accord permission for retention of quarters beyond the period of 4 months. However, even if there are rules by which authorities may accord permission for retention beyond the period of 4 months, the fact remains that no such permission was accorded and therefore, the applicant's retention of quarters beyond 31.10.1991 was unauthorised. In these circumstances, the respondents were entitled to recover penal/damage rent from the applicant without giving any further notice since the full Bench of this Tribunal have already decided that on expiry of the permitted period of retention, the occupation of railway quarters shall automatically become unauthorised.

4. Once it is held that the retention of the quarters beyond 31.10.1991 was unauthorised, the consequences will be

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that the applicant would be liable to pay penal/damage rent for the period from 01.11.1991 till it was actually vacated which is admittedly on 06.06.1992. Also as a result of such unauthorised occupation, he will lose one set of pass for every month of unauthorised occupation in terms of Railway Board order dated 30.03.1988, a copy of which is at annexure R-2 to the C.A. In this case, the unauthorised retention of the quarters was for the period of 7 months and 6 days and therefore, the applicant was liable to lose 7 sets of passes. It is, however, not clear how many sets a retired employee is entitled to and therefore, I cannot come to a definite conclusion as to whether denial of passes to the applicant till 1995 is in accordance with the instructions contained in the Railway Board order dated 30.03.1988.

5. There is one further point to consider. Admittedly, the applicant vacated the quarters on 06.06.1992. The respondents may have been justified in withholding the payment of gratuity till that date. After the applicant had vacated the quarters, all that was required to be done by the respondents was to calculate the penal/damage rent to be recovered from the applicant and adjust the same from the amount of gratuity. Apparently, the actual payment of the gratuity has been done partly in June '94 and the balance in June '95. This delay in payment of the gratuity after necessary adjustment is wholly unwarranted.

6. As regards Transportation allowance, no factual averments have been made to establish the claim. This prayer for relief is, therefore, not tenable.

7. In view of the foregoing, I dispose of this application with the following directions :-

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(i) the respondents shall pay to the applicant interest @ Rs.15% per annum on the balance of the gratuity after adjustment of all dues for the period begining one month subsequent to the date of vacation of the quarters until the actual payment thereof. This interest shall be paid to the applicant within a period of three months from the date of communication of this order.

(ii) the applicant is liable to lose 7 sets of passes. If the impugned order dated 22.02.1993 reflects this liability correctly, nothing further need be done in this regard. However, if the withholding of passes as reflected in this order, is in excess of 7 sets of passes, the order shall stand modified to the extent such excess withdrawal has been ordered.

8. Parties shall bear their own costs.


A.M.

/snt/