

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 953 OF 1995

Allahabad, this the 16th day of July, 1999.

CORAM : Hon 'ble Mr. S. Dayal, Member (A)

1. Smt. Sharda Devi,
Wife of late Sri Ramashray Prasad,
R/o. Quarter No. 415-A
Medical Colony, N.E.Railway,
Gorakhpur.
2. Vipin Kumar Srivastava,
S/o. late Sri Ramashray Prasad,
R/o. Quarter No. 415-A
Medical Colony, N.E.Railway,
Gorakhpur.

.....Applicants

By Shri Bashisth Tiwari, Advocate

Versus

1. Medical Director, N.E.Railway, Gorakhpur.
2. Divisional Railway Manager (Mechanical),
N.E.Rly. Ashok Marg, Lucknow.
3. Chairman Housing Committee, N.E.Rly.
Gorakhpur.
4. Union of India, through General Manager,
N.E.Rly. Gorakhpur.

.....Respondents

BY Shri Amit Sthalekar, Advocate

ORDER

(By Hon 'ble Mr. S. Dayal, Member (A))

This application has been filed by mother and son who were both employed by the Railways regarding releasing Gratuity, Leave Encashment and supplementary Passes alongwith 18% interest on account of retention

of quarter by applicant No.2 after the retirement of applicant No.1.

2. The facts narrated by the applicants are that the applicant No.1 was working as Mid-wife in L.N.M. Railway Hospital, N.E.Rly, Gorakhpur and had been allotted quarter No.415-A, Type-II in Medical Colony N.E.Railway, Gorakhpur. The applicant No.2 was her son and working as Khalasi under Coaching Depot Officer was staying with her since 1993. The applicant No.1 retired on 30-6-1994. The applicant No.2 was sharing accommodation with her from November, 1993 onwards was ordered to pay rent of quarter and his House Rent Allowance was stopped. The applicant No.2 sought allotment of accommodation on out of turn basis in accordance with provisions of circular of Railway Board which permitted his request for out of turn allotment being made by an eligible dependent of retiring Railway employee and had been sharing accommodation with the retiring barring the date of six months of retirement. The application mainly stresses the facts regarding the dropped relief of regularisation of Quarter No. 415-A. There is no mention about Gratuity, Leave Encashment and Complementary Passes barring in the relief clause.

3. The respondents have mentioned in the Counter Reply that Death-cum-Retirement Gratuity, Leave Encashment and Complementary Passes had been stopped by the order of General Manager (P) in letter No.E/207/1 Pt.VIII (IV) dated 23-10-89.

4. In this case the quarter was under the occupation of applicant No.2 after retirement of the

applicant No.1. The applicant No.2 was an employee of the respondents and he was claiming regularisation of the quarter as per the instructions issued by the respondents on the subject, therefore the retiral benefits of applicant No.1 could not be with-held.

5. In several pronouncements of the Apex Court it has been held that Death-cum-Retirement Gratuity and other retiral benefits are not bounty granted by the employers, but are valuable rights and property in the hands of the retiring employee and any delay in settlement and disbursement has to be visited with the penalty of payment of interest at the current market rate. This is laid down in R.Kapoor Vs. Director of Inspection, Income Tax and another 1995 SCC (L&S) 13. Therefore, the respondents ^{are being} ~~have been~~ directed to pay Death-cum-Retirement Gratuity and encashment of leave with-held from Applicant No.1 with an interest of 12% from the date of filing of the application till the date of payment of said dues with the interest to the applicant. The respondents ^{are} also directed to restore the complementary Passes to the applicant. This shall be done within a period of two months from the communication of this order to the respondents by the applicant.

6. There shall be no order as to costs.



MEMBER (A)

/satya/