

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 137 of 2000

Allahabad this the 16th day of July, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Radhey Shyam Mehrotra, S/o Shri K.N. Mehrotra,
Quarter No.83-B, Railway Colony, Mirzapur.

Applicant

By Advocate Shri S.S. Sharma

Versus

1. Union of India owning and representing 'Northern Railway', Notice to be served to The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, D.R.M.Office, Nawab Yusuf Road, Allahabad.
3. The Senior Section Engineer(Permanent Way), Northern Railway, Mirzapur.

Respondents

By Advocate Shri G.P. Agarwal

O_R_D_E_R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Radhey Shyam Mehrotra has come up seeking relief to the effect that the order dated 28.1.2000 (annexure A.1) be set aside through which the applicant was required to vacate the railway quarter, which was allotted to him during his service

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tenure and posting at Mirzapur, but he retained the same even after his retirement in October, 1994. He has further sought direction to the respondents to arrange the payment of his dues and also to adjust the normal rent therefrom.

2. As per applicant's case while he was posted at Mirzapur, he was allotted quarter no.83-B, Railway Colony, Mirzapur and when he retired on 30/10/94, he retained the quarter ^{under} under the expectation that whenever his retiral dues are paid, he will vacate the same, but the respondents illegally withheld his retiral dues and pressed that the same will be considered to be paid when he vacates the official residence. The ~~franchise~~ stagnation cropped ^{only} only on 15.02.00 when the applicant vacated the official residence and prayed that normal rent be adjusted from his retiral benefits.

3. The respondents have contested the case, filed counter-reply with specific mention that as per rules governing the railway employees, they are entitled to get the pension and other retiral benefits only when there is no dues against them and have vacated the Govt.residence.

4. Heard counsel for the parties and perused the record.

5. Shri S.S. Sharma, learned counsel for the applicant has relied on 'R.Kapur Vs.Direction of Inspection(Painting and Publication)Income Tax & Others (1994)28A.T.C.516(S.C.)', wherein it has been

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held that death cum retirement gratuity could not be withheld merely for non-vacation of Government accommodation and for that very reason, interest at the rate of 10% per annum was allowed.

6. In reply to this legal position, Shri G.P.-Agarwal mentioned that the referred decision by the Apex Court is in respect of Income Tax department and not the railway department, whereas in the railways there is specific provision that employee will be entitled to retiral benefits only when he furnishes 'no dues' certificate and that includes the vacation of quarter allotted to him.

7. From the above, the controversy remains very short. The applicant has already vacated the railway quarter and he may move again the departmental authorities to make payment of remaining retiral dues. In case the applicant makes a representation within one month, same be decided by the respondents within 8 weeks thereafter, and the payment, as may be found due, with interest, as per rules, to be paid to the applicant, ^{and} be cleared within two weeks thereafter. The O.A. is disposed of accordingly. No cost.

See encldg

Member (J)

/M.M./