

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 774 OF 2002

ALLAHABAD, THIS THE 13th DAY OF AUGUST, 2004

HON'BLE MR. S. C. CHAUBE, MEMBER(A)

Chhedilal aged about 57 years,
son of Shri Ram Bharose, resident of
village Lavana, Pura Chunghar, P.O. Lavana,
Bhawaniganj, District-Pratapgarh.

.....Applicant

(By Advocate : Shri P. Ojha)

V E R S U S

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Personnel Officer,
Northern Railway, Allahabad.
3. The Senior Section Engineer(Loco),
Diesel Shed, Northern Railway, Kanpur Nagar.

....Respondents

(By Advocate : Shri S.N. Gaur)

O R D E R

By this O.A. the applicant has sought a direction to the respondents to pay the entire amount of gratuity along with interest, to restore the monthly passes of the applicant and to return the amount along with interest deducted towards penal rent from the applicant.

2. The facts, as per the applicant, disclose that applicant took voluntary retirement from the post of Box Khalasi

on 14.02.2001. A pension payment advice dated 01.07.2001 (Annexure - 1) has also been issued. However, the amount of gratuity of Rs.85,000/- to the applicant has been withheld and every month one Railway Pass is being debited besides imposition of penal rent by respondent No.2 for alleged unauthorised retention of Railway Quarter allotted to the applicant. On 28.02.2001, the applicant was directed to vacate the Railway Quarter No.B.3K. Type-I and handover the same to one Shri Rakesh. As per the order dated 28.02.2001 passed by the respondent No.3, the applicant vacated the said quarter and handover to the new allottee vide letter dated 14.03.2001.

3. It is submitted by the applicant that earlier he was allotted Quarter No. 139R Coco Colony, Kanpur Nagar by the respondents and subsequently he was shifted to quarter No.B.3K. Type-I immediately before his voluntary retirement from service. He has challenged the contention of the respondents that the applicant is in unauthorised occupation of Railway Quarter. Accordingly, he has claimed the payment of his gratuity and other reliefs.

4. Respondents on the other hand have opposed this O.A. and submitted that applicant was allotted Railway Quarter No.139/R but on the request of the applicant he was allotted Railway Quarter No.B-3K in a different Colony. While the applicant took possession of Railway Quarter No.B-3K and started living there, he did not vacate the Railway Quarter No.139/R. Accordingly, vide letter dated 08.01.2001 and 28.02.2001(Annexure CA-1 and CA-2) applicant was directed to vacate the Railway Quarter No. 139-R. They have further

submitted that on account of non-vacation of the Railway quarter possessed by the applicant, payment of D.C.R.G. has not been released in favour of the applicant and further the penal rent imposed on the applicant, is liable to be recovered from his D.C.R.C. They have further submitted that the gratuity of the applicant has rightly been withheld as he is ^{in fact} ~~unauthorised~~ possession of the Railway Quarter no. 139/R. They have, thus, submitted that the O.A. may be dismissed.

5. I have heard both the counsel and perused the pleadings as well.

6. While the applicant has admitted allotment of railway quarter no. 139/R, Loco Colony, Kanpur Nagar by the respondents to him, but has not specifically stated ^{either} ~~either~~ although in the O.A. or in the Rejoinder, the date on which this quarter was handed over by the applicant and to whom. On the other hand, respondents have categorically stated that the applicant has not vacated the Railway quarter no. 139/R in spite of letters dated 8.1.2001 and 28.2.2001 Annexure C-I and C-II respectively. He has also not been able to explain satisfactorily whether any reply has been sent by him to the Railways to the letters as mentioned above, asking the applicant to vacate Railway quarter no. 139/R.

7. In the peculiar facts and circumstances of the case, it is amply clear that the applicant has only himself to blame for non-payment of gratuity and imposition of penal rent. As he is still in unauthorised possession of Railway quarter no. 139/R, as per the respondents, the action of the department seems fully justified. In this connection, I am inclined to recall the judgment of Hon'ble Supreme Court in the case of Rajpal Wahi vs. Union of India & Ors. (S.L.P. no. 7688-91/1988), wherein

the apex court decided that withholding of payment of Death-cum-Retirement Gratuity as well as Railway passes during the period of unauthorised occupation of the Railway quarter was held to be valid. In the said case, the gratuity was paid subsequently on vacation of Railway quarter. The Court further did not allow the request for payment of interest on the delayed payments. The O.A., therefore, does not merit any interference by this Tribunal and is devoid of merit.

8. For the aforesaid reasons and case law mentioned above, the O.A. is dismissed with no order as to costs.



MEMBER (A)

GIRISH/-