

Free Passes

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 98 OF 1990

~~T.A. No.~~

DATE OF DECISION 23.03.1992.

Shri Durgashanker R. Randya Petitioner

Shri M.K.Paul, Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Shri B.R.Kyada. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt : Judicial Member

The Hon'ble Mr. R.Venkatesan : Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Shri Durgashanker R. Pandya,
 Bhagwati Krupa,
 Udyognagar,
 Suraj Karadi,
 Taluka Dwarka,
 DIST. JAMNAGAR.

: Applicant

(Advocate : Shri M.K. Paul)

VS.

1. Union of India, through
 The General Manager,
 Western Railway,
 Churchgate,
 Bombay- 20.
2. The Divisional Railway Manager,
 Western Railway,
 Kothi Compound,
 Rajkot.

: Respondents

(Advocate : Shri B.R.Kyada)

O R A L - J U D G E M E N T

O.A. NO. 98 of 1990

Date : 23.3.1992.

Per : Hon'ble Shri R.Venkatesan : Member (A)

The applicant in this case has admittedly overstayed in his Railway Quarters after his retirement on 30.11.1986. The respondents have determined his over stay to be from 30.11.1986 to 25.7.1989, and have assessed the higher rate of rent for the period. They have also withheld his free passes. According to the applicant, the passes have been withheld for a period of 15 years.

2. The applicant has challenged the action of the respondents in withholding the passes as being harsh and against the principles of natural justice. He has pleaded

that he is about 62 years of age and 15 years is too long a period, considering his age.

3. The learned advocate for the respondents referred to the order of the Railway Board dated 5.6.1983, according to which one set of post-retirement passes should be disallowed for every month of unauthorised retention of railway quarters by officers/retired/staff. Notice has been given by the respondents to the applicant along with certain others who were retiring, by a letter dated 22.1.1985 in which attention was drawn inter alia to the above instructions of the Railway Board. The applicant could not therefore plead ignorance or ~~wave~~^{waive} of notice. He stated that the action of the respondents was strictly in accordance with these orders of the Railway Board, the applicant having overstayed for a period of over 31 months. The counsel however admitted that the withholding of the passes for such a long period of 15 years was no doubt harsh on a retired employee and stated that the applicant might make a representation to the respondents who would consider the application taking into account all the circumstances.

4. It is well settled that overstay by a Government servant in accommodation provided by the Government does not amount to mis-conduct. Hence no penalty as such can be imposed upon such a person. In the instant case, the counsel for the respondents clarified that the respondents

had only recovered what in effect amounted to the market rate of rent for the accommodation for the period of over-stay. No penalty was involved. In so far as the post-retirement passes are concerned, these might be viewed as a bounty that the railways can give to the retired employees who retire after a long period of service. The grievance in this ^{Case is} that the withdrawal of the bounty for a long period of 15 years amounts to a harsh and unfair visitation on a retired employee.

5. In the instant case we find that there has been no denial of natural justice as contended, as the applicant's attention was drawn to the order of the Railway Board, well ^{and a show cause notice was also issued by the Estate Officer on 21.6.88} before his date of retirement. ^{Rz} The withholding ^{of} the passes for 15 years would however appear to call for a review by the respondents, keeping in view the circumstances of the applicant's case including the fact that recovery of enhanced rent/damages has been made for the period of over-stay, and also considering the applicant's record of service.

6. ^{Rz} The applicant may submit his representation to the respondents setting ^{out} his case for a review of the order withholding free passes for 15 years. The respondents may thereafter review and pass appropriate orders. The application is disposed of as above. There will be no order as to costs.

R Venkatesan
(R. Venkatesan)
Member (A)
AIT^x

R.C. Bhatt
(R.C. Bhatt)
Member (J)