

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

²⁹
C.A. 9/93 in
O.A. No. /122/91
T.A. No.

DATE OF DECISION 15th March, 1994.

Mr. C. J. Yadav Petitioner

Mr. B. B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr. R. M. Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N. B. Patel : Vice Chairman

The Hon'ble Mr. K. Ramamoorthy : Member (A)

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 ?

No.

-2-

Chhaganlal Jiwabhai Yadav

Retd.Rly.employee,
Railway Quarter No.326/A,
Type-I, Railway Col.,
Bhavnagar Para

: Applicant

Advocate

Mr.B.B.Gogia

versus

1. Union of India,
owning & representing,
Western Railway,
through : The General Manager,
Shri P.V.Vaitheeswaran,
Western Railway,
Churchtegate,
Bombay.

2. Shri M.Ramchandran,
Works Manager,
Railway Workshop,
Bhavnagar Para

: Respondents

Advocate

Mr.R.M.Vin

ORAL JUDGMENT

C.A.29/93 IN

O.A.122/91

Date: 15-3-94

Per Hon'ble Shri N.B.Patel

: Vice Chairman

Letter dated 12-3-1994 received
by Mr.Vin from Works Manager Office, Bhavnagar, taken

on record, as requested by Mr.Vin. It appears that the major grievance of the applicant about payment of D.C.R.G. with interest is solved. The question now is about issuance of fresh passes to the applicant as directed by the judgment of this Tribunal. Mr.Vin states, on instruction from Mr.Vikram Singh, Chief Clerk of the office of the Works Manager, Bhavnagar, that on the applicant making application or applications for the passes during the current year i.e. 1994, passes will be issued to him within 10 days of the making of the application or applications by him in accordance with the judgment of the Tribunal. C.A. stands disposed of accordingly. No order as to costs.

(K.RAMAMOORTHY)
Member (A)

(N.B.PATEL)
Vice Chairman

AS**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT NEW DELHI AHMEDABAD

CAT/J/10

INDEX SHEET

CAUSE TITLE..... CA 129193 in..... 0412219,..... OF 198□.

NAMES OF THE PARTIES..... Mr. C. J. Yoder

U-0-1, 80.2, VERSUS

PART A B & C

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.A.T./Judicial Section.

Submitted :

Original Petition No 29
of 1993

Miscellaneous Petition No 122
of 1991

Shri CJ Yadav Petitioner(s)

versus

UOI-Amt Respondent(s)

This application has been submitted to the Tribunal by
Shri B.B. Gajjar.

Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT.

1. name of Respo not mentioned
2. Index not filed

S.O.(J)

AI 002
9/6

PH Record
09.6.83

Letter issued on
10/6/93

D.R.(J)

X 9/6

Submitted

Kindly see address above.

Office objections have not been removed.

A summary is placed below for signature,
if approved.

AI

S.D.C.J

AI Record

30/6/93

30/6/93

Letter issued

10/6/93

DR AI Record 30/6/93

P.T.O.

AI
05/7

Submitted

Kindly see orders on prepose.
Office objections have been
removed today. The matter, if
approved, will be handed over
to the concerned for necessary
action

46 S.O.CJ

0572193

May be placed in
Court II on 7-9-73

8

6-7-93 ~~best road and navigation chart~~

五代

~~DR (S)~~: *Parlor*
6-7-93

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE
TRIBUNAL ^{RE}
AHMEDABAD

C A - NO 29 / 1993

in O.A NO 122/92

CHHAGARLAL JIWABHAI
YADAV

Rly Gr NO 326/A
Type I

Railway Colony
BHAVNAGAR PARK - - Applicant

V/S
U.O.I & ARB Respondents

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RATNOKAR A/bed

Dated 05-1-93

for the use of TRIBUNAL's
Office

Date of filing

Date of receipt by post

Registration No

✓ Advocate of
Applicant

✓ Signature
of Register.

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD

C.A. NO. 29/1993

I N

O. A. No. 122/1991

Chhaganlal Jiwabhai Yadav
Hindu, Adult, Occ. Retd. Rly.
Employee, aged about 62 years
Address : Rly. Qtr. No. 326/A,
Type - I, Railway Col.
BHAVNAGAR PARA

... Applicant

Versus

1. Union of India
Owing & Representing
Western Railway
Through : Shri
General Manager → SHRI P. V. VAITHEESWARAN
Western Railway
Churchgate, Bombay

2. Shri. M. RAMCHANDRAH

Works Manager
Railway Workshop
Bhavnagar Para

... Respondents

APPLICATION FOR CONTEMPT OF COURT

PROCEEDINGS.

MAY IT PLEASE YOUR HONOUR :

The applicant begs to submit as under :

1. That the applicant is a retired Rly. employee at present. He was serving as Charge-man -B in railway and he was in Workshop at Bhavnagar Para. He had filed O.A. No. 122/1991 to this Hon'ble Tribunal which was heard and finally disposed off by the judgment on 1.12.1992. The order portion of the judgment is as under :

"1. The respondents are directed to pay the DCRG amount to the applicant as per rules within four months from the date of the receipt of the order of this Tribunal with interest at the rate of 10% per annum commencing from the date, three months after the date of retirement of the applicant,

....(2)...

till the payment is made.

2. The respondents are also directed not to withhold the post-retirement passes to the applicant and they are directed to issue the passes according to the rules. However, this would not come in the way of the respondents in issuing showcause notice to the applicant for taking action for his unauthorised occupation of the railway quarter according to law.

Application is accordingly disposed of with no order as to cost."

Xerox copy of the judgment is annexed herewith as

A/1

ANNEXURE A/1. Inspite of the fact that the time given for compliance of the judgment is over long back and the applicant thereafter has been also representing personally to the respondents at Bhavnagar Para but till this time the judgment has remained completely uncomplied with and nothing is paid to the applicant from the DCRG amounts withheld from him. The applicant has also prayed for free pass to which he has been entitled too after retirement by an application dated 22.1.93 which has been refused to him in writing on 22.1.93 by Station Superintendent Bhavnagar Para, copy of the said application form alongwith written reply is annexed herewith

A/2

as ANNEXURE A/2.

2. This clearly establishes the intention of the respondents in disobeying the directions and the judgment of this Hon'ble Tribunal in O.A. No. 122/1991.
3. The petitioner submits that before this he has not filed any application for execution of the judgment of contempt of court on the basis of the said judgment.

.....(3)...

: 3 :

It is, therefore, submitted that the respondents may please be severely dealt with and punished for committing the contempt of court under the provisions of Contempt of Court's Act and this petitioner may please be awarded with special cost and damages who has been suffering at the hands of the respondents during his retirement period and is deprived of his legal dues.

RAJKOT/AHMEDABAD

DATED : 10-5-93

C. G. Gedde V

APPLICANT

VERIFICATION

I, Chhaganbhai Jiwabhai, an applicant in the above Contempt Application do hereby verify that the contents contained therein are true and correct to the best of my personal knowledge and belief. Nothing has been concealed by me.

RAJKOT/AHMEDABAD

DATED : 10-5-93

C. G. Gedde V

APPLICANT

THROUGH:-

T. B. B. GOGZA
ADVOCATE

4

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD

C.A. NO.

1/1993

I N

O. A. No.

Chagganlal J.
Maxxix E. Yadav

... Applicant

Versus

Union of India & Ors.

... Respondents

A F F I D A V I T

I, CHHAGANBHAI s/o Shri Jiwabhai, adult, Hindu aged about 62 years r/o Bhavnagar do hereby solemnly affirm on oath as under :

1. That I have filed a Contempt Application in the Hon'ble Central Administrative Tribunal to-day. ~~and I have no knowledge~~
~~thereon.~~
2. The contents contained in the said Contempt Application are true and correct to the best of my personal knowledge and belief. Nothing has been concealed therefrom by me.

SO HELP ME GOD

RAJKOT/AHMEDABAD

Geographie

DATED : 10/5/93

DEPONENT

IDENTIFIED BY ME
AND EXPLAINED TO HIM :

W. J. May
ADVOCATE

12/97
10
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

10
Petitioner
20

(5)

Annex-A3

10
A/1

O.A. No. 122 OF 1991.
Add. Add.

DATE OF DECISION 1-12-1992

Shri Chhaganlal Jiwanbhai Yadav, Petitioner

Mr. B.B. Gogia,

Advocate for the Petitioner(s)

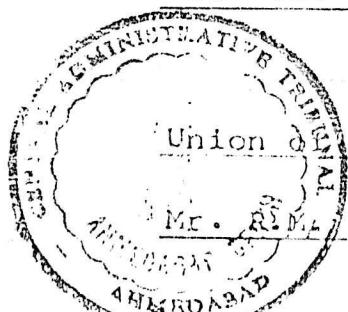
Versus

Union of India & Ors.

Respondent(s)

Mr. R.M. Vin.

Advocate for the Respondent(s)



CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

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

TRUE COPY

K.L. - dan

K.L. - kal

संसदीय नियमिती (मूल)

क. व. अ. न. व. कृष्णन

ASST. CHIEF JUSTICE (W)

W. M. BHATNAGAR PAKA

Shri Chhaganlal Jiwabhai Yadav,
Hindu, Adult, Ocfu: Retd.Rly.Employee,
Age about 59 years,
Address: Rly.Qr.No.L/326-A, Type I
Railway Colony,
Bhavnagar Para.

..... Applicant.

(Advocate:Mr. B.B.Gogia)

Versus.

1. Union of India,
Owning & Representing
Western Railway, through
General Manager,
Western Railway,
Churchgate, Bombay.

2. Works Manager,
Railway Workshop,
Bhavnagar Para.

..... Respondents.

(Advocate: Mr. R.M. Vin)

ORAL ORDER

O.A. 122 OF 1991

Date: 1-12-1992.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. B.B.Gogia, learned advocate for the
applicant and Mr. R.M. Vin, learned advocate for the
respondents.

2. This application under section 19 of the
Administrative Tribunals Act, 1985, is filed by a
Chargeman, who was working in the Western Railway
Workshop at Bhavnagar Para, under Respondent No. 2
and was retired from service on 31st December, 1990,
seeking the relief that the respondents be directed
and ordered to release forthwith the DCRG amount
withheld from him along with interest at the rate of
18% per annum from the date of withholding of the

amount till the date of payment to the applicant.

The applicant has further prayed that the respondents be directed to release the post-retirement complimentary passes of the applicant withheld by the respondents on account of non-vacation of quarters and respondents be asked to give passes regularly as and when requested for.

3. The respondent No.2 has filed reply contending that the applicant has not vacated the railway quarter on or before his retirement date, but he applied for retention of the said quarter for four months by his application dated 12th September, 1989 and the said permission was granted by the Chief Works Manager, Western Railway with the intention that the ex-employee would vacate the said Railway quarter on or before 30th April, 1990 and give possession of the same to the Railway Administration, but the applicant kept the said quarter in his unauthorised possession from 1st May, 1990 onwards. The main contention of the respondents in the reply is that unless and until the ex employee vacates the railway quarters, his DCRG could not be released and paid to him. It is contended by the respondents that the railway passes also can not be given to the applicant so long as he is in unauthorised possession of the railway quarters.

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2 an

RAILWAY BOARD (W)
ASST. PERSONNEL OFFICER (W)
W. B. BHAVNAGAR PAKA

4. Both the points regarding the release of DCRG of the retired railway employee and

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2 an

RAILWAY BOARD (W)
ASST. PERSONNEL OFFICER (W)
W. B. BHAVNAGAR PAKA

regarding post-retirement passes have been considered by the Full Bench of the Tribunal in the decision in Wazir Chand v/s. Union of India & Ors., reported in Full Bench judgment of Central Administrative Tribunal (1989-1991) at page 237. The Full Bench has held that the right to gratuity can be correctly stated to be a right to property within the meaning of Article 300-A of the Constitution and the right to hold, acquire and dispose of property was a fundamental right guaranteed to every citizen by Article 19(1)(f) of the Constitution. It is held that the aforesaid fundamental right has since been

enamended by the Constitutional amendment Act 1978. It is held that even though the right to property has been brought down to the level of an ordinary legal right which can be taken away only by authority of law, even so such law has to pass the touch-stone of

Article 14. It was further held by the Full Bench that the payment of gratuity can not be postponed

till vacation of Railway quarters by the retired employee because the gratuity is payable immediately on retirement and the payment should be made promptly and the payment should not be withheld for non-vacation of railway quarter. So far the delayed payment is concerned, it is held that the payment beyond three months entail interest at the rate of

10% per annum. Therefore, in this view of the matter the respondents were not legally justified in

withholding the gratuity amount till the vacation of railway quarter by the applicant. The applicant would thus be entitled to his DCRG amount with interest at the rate of 10% per annum from the date of three months after his date of retirement.

5. So far the question of post retirement passes are concerned, it has been held by the Full Bench that the requirement of issuing a show cause notice prior to withholding the post-retirement passes is a sine qua non to the taking of action envisaged by clause (iii) of para 1 of 1982 circular. The Full Bench held that the 1982 circular infracts Article 14 of the Constitution, therefore, action to withhold post-retirement passes on the basis of this Circular was held unsustainable. It is not necessary to us to go into the question about the circular being violative of Article 14 of the Constitution, but as

per the above decision of the Full Bench, the post-retirement passes could not be withheld on the ground

of alleged unauthorised occupation of the railway

quarter by the applicant unless and until the showcause

then notice has been issued to the applicant and till he

held to be in

has been unauthorised occupation of railway quarter.

Therefore, the action of the respondents of withholding alleged

the post-retirement passes on account of non-vacation

of quarters can not be held as legal and the

applicant would be entitled to the post-retirement

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ASSTT. PERSONNEL OFFICER
W. M. BHAVNAGAR P.A.

TRUE-COPY

passes according to rules. The respondents would be at liberty to give show-cause notice to the applicant about his alleged unauthorised occupation of the railway quarters and take necessary action, but till then the respondents would not be justified in withholding the post-retirement passes which the applicant would be entitled to as per the rules. Hence we pass the following order:

Hence we pass the following order:

O R D E R

(i) The respondents are directed to pay the DCRG amount to the applicant as per rules

Within four months from the date of the

receipt of the order of this Tribunal with

interest at the rate of 10% per annum

Commencing from the date, three months

after the date of retirement of the

applicant, till the payment is made.

1. *What is the best way to learn English? (Please tick one box)*

(ii) The respondents are also directed not to

withhold the post-retirement passes to the applicant and they are directed to issue the passes according to the rules. However,

this would not come in the way of the
respondents in issuing showcause notice to

the applicant for taking action for which he is responsible.

unauthorised occupation of the main

quarter according to law

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Lani

सहायक कार्यालय अधिकारी (का)
प. ए. भावागढ़ परा.
ASSIST. PERSONNEL OFFICER. (W)
W. A. S. BHAVAGAR PARA.

TRUE - COFFY

(11)

- 7 -



Application is accordingly disposed of
with no orders as to cost.

Sd/-
(R.C. Bhatt)
Member (J)

Sd/-
(N.V. Krishnan)
Vice Chairman

Prepared by : H 1511-142

Compared by :

TRUE COPY

CPW/RW/
S. in Charge (D)
Central Administrative Tribunal
Ahmedabad Bench

TRUE-COPY

KL law

TRUE-COPY (7)

TRUE-COPY

KL law
सहायक कालिकारी (का)

प. ए. एस. एस. (W)
ASSIST. PROSECUTOR (W)
W. BY. BHAVNIGAR PARA.

(92)

HP

Ex. chlman B

1977.12.13

Meets 1st & 3rd Saturday of the month at 10:00 a.m. at the First Baptist Church, 1000 W. Main Street, Columbia, SC 29204. **SS(W)BYP**

Class Duty/School/Privilege Complimentary Passes over Home/Foreign line.

मालिक के द्वारा Signature of the Applicant

(3.5.5/PTO)

(14)
STATEMENT OF DRAFT CHARGES

in CA NO 1993 H/3
in

O.A NO 122/91

SHRI CHHAGAN BHAI JIWABHAI
YADAV --- Applicant

V/S

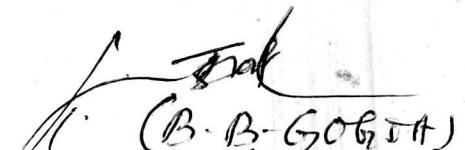
V.O.I. & ANR

--- Respondents

In accordance with the order
dt 01-12-92 in the aforesaid O.A,
the draft charges are stated herein
below to be paid to the applicant:-

(1) To release the payment of
DCRG to the applicant as per
rules along with the interest
thereon at the rate of 10% per
annum commencing from
the date, three months after the date
of retirement of the applicant.

(2) To issue the post-retirement
passes to the applicant according
the rules


(B.B. GOHIL)
Advocate of
Applicant
D/13-583

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

C.A.No.29 of 1993 (for contempt).

in

OA No.122 of 1993.

Shri Chhaganlal Jivabhai Yadav,

v/s

Union of India and others.

The respondent, M. Ramchandran, Works Manager, W.Railway, Bhavnagar para Division stated as follows in reply to the contempt application of the applicant.

1. The application of the applicant is not according to law, mis-conceived, based on suppression of material facts and otherwise untenable.

2. This respondent does not admit the truth or correctness of any statement, ^{in the} statement, contention or allegation set out in the application unless ^{in the} truth or correctness of any one of them is expressly and specifically admitted herein.

3. At the cut set, this respondent respectfully states that he has the highest regards and respect for this Hon'ble Tribunal and directives, orders or judgement passed by it and he has not dis-obeyed or dis-regarded any such judgement or orders. He is a functionary of the Western Railway which is owned and managed by the Central Government and as such he is a statutory Officer. He has no prejudice or bias ^{against} the applicant. He can not therefore have any intention whatsoever ^{in the} to dis-obey or dis-regard the judgement or orders of this Hon'ble Tribunal. The judgement and final order passed in the OA 122/1991 on 1.12.92 has remain un-implemented, because of some supervening circumstances and also on account of rights arising in favour of the Railway Administration to set off ^{from} the entire amount of DCRG payable to the applicant against the dues owed by the applicant to the Railway Administration, particularly in view of the interim orders passed by this Hon'ble Tribunal on 2.5.1990 in OA No.201 of 1990 filed by the present applicant and his son Hareshkumar Chhaganlal, read with extent rules 323(2) of the manual of pension rule of 1959 given on para 12 of the said manual which provides for recovery of Government dues from the amount of DCRG payable to a Railway servant. The said circumstances and the grounds and the reasons for not releasing the DCRG to the applicant are stated in details as follows.

1/2/1

Filled in

Conc by
Mr. P.M.
Prasad

4. This respondent respectfully states that the judgement in OA No.122 of 1991 was pronounced on 1.12.92. As soon as a copy of the said judgement was obtained, it was decided by the Railway Administration to file a review Application and obtain interim stay against the execution and implementation of the judgement and order. Accordingly, a review application has been filed in this Hon'ble Tribunal on 28.12.92 in which apart from the grounds of review and a prayer for the relief of review, an interim stay has been prayed for against the execution and implementation of the judgement and order Annexure A. to the contempt application. There is also a prayer for interim relief permitting the Railway Administration to initiate and conduct proceedings against the applicant as per rule 323 of the Manual of Railway pension Rules 1958 (hereinafter referred to as pension rules). The said review application has been numbered as review application No.9 of 1993 in OA 122 of 1991. The Railway Administration was very keen to have this review application to be placed for urgent hearing but Shri R.M. Vin, the Advocate for the Railway Administration was informed by the registry of this Hon'ble Tribunal in respect of matter, where Shri M.V. Krishnan the former vice Chairman was a party to the judgement, the Review Application would have to be circulated to him at New Delhi, where he is a vice Chairman and Central Administrative Tribunal, New Delhi. It is on account of this that the Railway Administration and its advocate Shri R.M. Vin could not get the Review application for interim relief before the judicial Member Shri R.C. Bhatt who was a party to the judgement.

5. This respondent respectfully submits that after the review application was filed, the OA No.201 of 1990 which the applicant and his son Hareshkumar had filed, came up for hearing and on 14.5.1993, this Hon'ble Tribunal (Ceram : Shri R.C. Bhatt and Shri M.R. Melharkar) dismissed the said application by a judgement and order of the same date. Annexed hereto and merged Ann.R is a true copy of the said judgement and order.

6. As stated above, in this OA 201 of 1990, this Hon'ble Tribunal while admitting the application had passed on 2.5.1990 an order of interim stay restraining the Railway Administration from evicting the applicants including the present applicant from the quarter No.326/A, which according to the Railway Administration was in the unauthorised occupation of this applicant and his son Hareshkumar. As a part of the said order, this Tribunal also directed that if the application ultimately came to be dismissed, the applicants would be liable to pay the rent at market rate. Annexed hereto and marked Ann.R1 is a true copy of the said order served on the Railway Administration.

Ann.R1

7. This respondent states that apart from the pending review application, the right of the Railway Administration immediately repents to recover the arrears of rent at market rate for unauthorised occupation of the quarter 326/A from the applicant as soon as the judgement in OA 201 of 1990 was pronounced on 14.5.1993. As per the interim order R1, the applicant has rendered himself liable to pay the amount of rent at market rate. The applicant is further liable to pay the arrears of Electrical charges. The total bill of the amount due from the applicant amounts to Rs.39067.20 i.e. Rs.7717.20 more than the DCRG amount due to be paid to the applicant. This DCRG amount is Rs.31350/- Annexed hereto and marked Ann.R2 is a true copy of the statement of amounts and recovery of a net amount of Rs.7717.20 after setting off his DCRG amount as on 31.8.93 against the total dues. The said statement and recovery have been certified by the Assistant Accounts Officer (workshop and Stores), W.Railway, Bhavnagar.

Ann.R2

8. As per the extent rule 323(ii) of the pension rules, the Railway Administration is entitled and authorised to set off either wholly or in part. The amount of DCRG against the Government dues Annexed hereto and marked Annexure R3 is a true copy of the said rule 323. It will be evident there from that the Railway Administration is insisted not only to withhold but even set off the amount of DCRG against Government i.e. Railway dues, which have now the legal sanction of this Hon'ble Tribunals order Ann.R1. This, the Railway Administration can do even without the applicant's consent.

Ann.R3

9. This respondent respectfully states that if the Railway Administration is compelled to part with the amount of DCRG without the applicant being correspondingly compelled to discharge his dues, it will be put to a great loss as there will be no effective way of realising the Railway dues so far as this Respondent is aware, there is no realisable property in their name of the applicant from which the dues for which the applicant is liable can be realised. Even this Hon'ble Tribunal while passing the final judgement and order for payment of DCRG in Ann.A/1 has carefully provided "to pay the DCRG amount to the applicant as per rules". This clearly postulates that the Railway Administration can and has to make payment subject to rule 323 as per Ann.R3. It is under these circumstances that the DCRG has not been released to the applicant.

10. As regards withholding of free passes is concerned, the Railway Administration can withhold free passes in case of unauthorised retention of Rly.quarters by retired railway Officers and staff under the Railway Board's letter No.E(G)88 CRI-2 of 30.3.1988 annexed hereto and marked Annexure R4 is a true copy of the said circular letter. As and when the applicant has applied for complementary passes, he has been instructed on pass application itself that he is not eligible for the same on account of unauthorised retention of Railway quarter as per Ann.A2 annexed to the application.

11. In view of the above, this Respondents are not liable for any contempt of Court and therefore the application for contempt be dismissed and the notice be discharged.

Date : 30-9-1993

M. Ramchandran
(M. Ramchandran)
Works Manager, W.Rly.
Bhavnagar para.



-- A F F I D A V I T --

I, M. Ramchandran, Works Manager, W.Railway, Bhavnagar para do solemnly affirm and state that I am conversant with the facts and circumstances of the case and record pertaining thereto and as such I say that what is stated in paras 1 to 11 above is true, partly to my knowledge, partly to my information and partly to my belief and I believe the same to be true.

Date : 30-9-1993

Identified by
J. K. Pandit
Advocate
J. K. Pandit

M. Ramchandran
(M. Ramchandran)
Works Manager,
W.Railway,
Bhavnagar para.

RMV
72
ANN-FR
10
IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No./201/90
T.A. No.

DATE OF DECISION 14/5/1993

Hareshkumar C.Yadav and Petitioner
Chhaganlal J.Yada.

Mr.B.B.Gogia Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr.R.M.Vin Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. M.R.Kolhatkar : Administrative Member.



TRUE COPY

C. S. S.

✓ निमित्त प्रत्यक्ष
S. R. Bhavnagar Par
Works Manager
W. Rly. Bhavnagar Par

W. Rly. Bhavnagar Par
Works Manager

W. Rly. Bhavnagar Par
Works Manager

71

20

Shri Hareshkumar Chhaganlal,
Hindu, Adult, aged about 29 years,
Occupation : Service,
Tea Boy, Railway Workshop Canteen,
Bhavnagar-Para

2. Shri Chhaganlal Jivabhai Yadav,
Hindu, Adult, Aged about 58 years,
Occupation : retd. Ally. Employee,

Address of both :

Railway quarter no. 326/A,
Railway quarters,
Bhavnagar-Para.

.....applicants

Advocate

Mr. B. B. Gogia

Versus

TRUE COPY

1. Union of India,
Owning & Representing
Western Railway, through
General Manager,
Western Railway,
Churchgate,
Bombay-400 020

See
निर्माण प्रबन्धक
M. R. भावनगर परा
Works Manager
W. Rly. Bhavnagar Para

2. Works Manager,
Western Railway Works Shop,
Bhavnagar-Para.

.....respondents

Advocate

Mr. R. M. Vin



JUDGEMENT

O.A./201/90

Date : 14/5/993

Per : Hon'ble Shri M.K. Kolhatkar,
Administrative Member.

1.

This is an original application
under section 19 of the Administrative Tribunals Act,

1985 in which the Applicant no.1 who was a substitute Tea-Boy, in Railway Workshop Canteen, Bhavnagar Para sought the relief of allotment of Railway quarter no.326/A in his favour from 01-5-90 being the quarter regularly allotted to the Applicant No.2, his father, who worked as Chargeman "B" ,Machine in the pay scale of Rs.1400-2300 (RP) till he retired on 31st December, 1989. The Applicant No.2 has already been permitted by respondents to retain the quarter for 4 months from the date of retirement i.e. upto the 30-4-90. On 2nd May, 1990, this Tribunal had, by way of interim relief, restrained the Respondents from evicting the Applicant (No.1) from Quarter no. 326/A. It was also made clear that if the application is ultimately dismissed, the Applicant shall be liable to pay the rent at the market rate. This interim relief has been continued from time to time till the date of final hearing.

At the time of application viz.

14-4-1990, the applicant was as mentioned earlier a substitute Tea Boy in the Railway Workshop Canteen, Bhavnagar Para. Subsequently, by the order dated 20-4-1990 vide Annexure A/4 , he was placed on the panel provisionally for regular absorption as a Canteen Tea Boy in the pay scale of Rs.750-940/-R.P.

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नियमित प्रबन्धक
रे. भावनगर परा
Works Manager
W. Rly. Bhavnagar Para

(70) (2)

The applicant relies on the Annexure A/5 which is a letter dated 23-3-1990, conveying the advice of Law Officer (Western Railway) on the earlier order of this Tribunal dated 9-10-1989 (vide Annexure A/1) This order of the Tribunal directed the Respondents to allow the Applicant No.1 continuity of service for regularisation and retirement benefits from 27-5-1985. The order does not at all refer to the question of allotment of quarters. However, the advice appears to have been sought by Respondent no.2 and the same is in following terms.

" As regard the allotment of quarter, it is further advised that when the C.A.T. has considered his regular appointment on and from 27/5/85 i.e. before retirement of his father, the request of the petitioner for allotment of quarter appears to be justified if other conditions of sharing etc. fulfilled."



3. The applicant also relies on Railway Board letter dated 27-2-1971 reproduced at Annexure A/6. This is in following terms.

" In accordance with the orders contained in their letter referred to above in the case of a railway servant who having been allotted railway accommodation, retired from service/died in service, his/her son, daughter, wife, husband of father may be allotted railway accommodation on out of turn basis provided that the said relation is a railway servant eligible for railway accommodation and had been sharing accommodation with the retiring or deceased railway servant for at least six months before the date of retirement or death."

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मिशन प्रवन्धन
W. R. Bhavnagar Para
Works Manager
W. Rly. Bhavnagar Para.

4. It would be seen that the preconditions for out of turn allotment of Railway accommodation as mentioned above are the following.

1. The relation of Railway servant is a railway servant eligible for Railway accommodation.
2. The relation should be sharing accommodation with the retiring Railway servant for at least 6 months before the date of retirement ~~servant~~ / death of ~~the~~ a Railway servant.

5. The Respondents, in their reply have stated that applicant no.2 is not entitled to allotment of Railway quarters in occupation of his father viz applicant no.2 ~~in view~~ of the following reasons.

1. The applicant no.1 had not applied for sharing of the accommodation with this father and he had not been granted any such permission to share.
2. The latest instructions of the Railway Board dated 11-4-1983 vide Annexure R/3 stipulate that the out of turn allotment can be made to a son etc. of the Railway servant only if he is in regular service and had been sharing accommodation for a period of 6 months before the date of retirement/death of Railway servant. The

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[Signature]

प्रावित प्रकाशन
क. र. आवासार परा
Manager

W. R. I.

(b)

(2)

The applicant no.1 was placed on the panel provisionally for regular absorption on 20-4-90; therefore, the essential conditions referred to in the Railway Board's letter dated 11-4-83, were not satisfied.

6. In his rejoinder, the applicant stated that he could not seek the permission to share accommodation allotted to his father because he was kept out of employment illegally till this Tribunal's orders dated 8-9-89 in T.A./868/86 which granted him continuity of service from 27-5-85. The applicant has contended that he was a regular railway employee ~~as w.e.~~ from 27-5-85, in view of the following sentence of the Tribunal's orders.

"He should be allowed continuity of service for regularisation and retirement benefits from 27-5-85."

Applicant also says that the Law Officer's opinion referred to earlier vide Annexure A/5 shows that General Manager, (Western Railway) has decided the issue.

7. So far as the circular dated 11-4-83 is concerned, the applicant contends that the reliance by the respondent on this circular only shows that the approach is technically meant to deny the benefits to Applicant.

8. We have considered the matter carefully. It is not in dispute that Railway Board's instructions conveyed by the circular dated 11-4-83 hold the field. They

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S. R. Bhavnagar P. 2
Works Manager
W. Rly. Bhavnagar P. 2

distinguish between normal allotment and out of turn allotment. In the case of the latter, in the circumstances, of the case, three conditions must be fulfilled. Firstly, the relation of retired railway employee must be in regular service. Secondly, he must be sharing as per the permission applied for and granted. Thirdly, this sharing must be for a period of 6 months before the date of retirement. The Law officer's opinion vide Annexure A/5 on which heavy reliance is placed by the Applicants is a conditional opinion and is an internal document and does not have the same authority as Railway Board's instructions.

The applicant has also relied on the wording of the order of this Tribunal in T.A./868/88 stating that the applicant should be allowed the continuity of service for regularisation and retirement benefits from 27-5-85. Regularisation in this context, does not refer to the applicant being in regular service but only to setting back the seniority of the Applicant as a substitute Tea Boy from 27-5-85. In any case, Applicant has not disputed order at Ann.R/4 showing that the Applicant became a regular railway employee on 20-4-90. Applicant has also accepted that he has not got any order permitting sharing.

9. During the oral hearing, the applicant has invited our attention to the precedent of the

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म. रे. आवनगर पटी
Works Manager

judgment of C.A.T., Principal Bench, New Delhi in
Shri Guredeep singh v/s Union of India, reported
in 1991 (2) ATJ, 329.

10. We have carefully considered all the available material and the oral arguments. Clearly, the question involved is not allotment of Railway quarters simpliciter but "out of turn" allotment thereof. It is wellknown that there is a shortage of government accommodation including the Railway accommodation and the respondents have pertinently pointed out in their reply that Railway Administration has to consider the cases of other Railway employees who are entitled in their turn to allotment of the quarters. Thus, this Tribunal has to ~~ensure~~ ^{ensure} also that any order it passes does not cause injustice to a large majority of Railway Employees who patiently wait in the queue.

The instructions of Railway Administration in this regard, whose authority is not disputed by applicant also, are therefore required to be interpreted strictly.

We find that since on the relavant date viz. 30-6-89., Applicant No.1 was not a regular Railway Employee. He is not entitled to out of turn allotment even ignoring the formality of acceptance of the application for sharing.

10. We have also gone through the judgment of the Principal Bench of C.A.T. referred to by the

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क. ए. भावनग परा
Works Manager
W. Rly. Bhavnagar Para

Applicants. In our view that judgment is distinguishable because,

1. In that case, the applicant had applied for and was granted permission for sharing accommodation.
2. He was entitled to accommodation in the normal course.
3. Most importantly, there was also alleged discrimination under Article 14 of the Constitution, in its view in as much as in similar circumstances, a number of unscrutinised casual labourer had been given the benefits of regularisation of the quarters as per the details given therein. The fact of discrimination was not controverted by the respondents.
4. With respect, we also note that the attention of ~~the~~ Principal Bench of the C.A.T. was not invited to the specific instructions of Railway Board contained ~~in~~ ⁱⁿ letter dated 11-4-83 and the distinction between allotment of quarters ~~simpliciter~~ and allotment of quarters on out of turn basis which enables the applicant to jump the queue.

Considering all the facts and circumstances of the case, application must be fail as the applicant was not entitled to out of turn allotment according to Railway Board's instructions on the relevant date.

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श्रीमान प्रसाद
क. र. भावनगर पर्याय
Works Manager
W. B. Bhavnagar Paryay

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11.

ORDER

The application is dismissed. No order
as to costs.

Sd/-
(M.R.Kolhatkar)
Member (A)

Sd/-
(R.C.Bhatt)
Member (J)

*SS



cBhatt
Section Officer
Central Admin. Tribunal,
Ahmedabad Bench.

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[Signature]
लिमांग प्रबन्धक
प. र. भावनगर परा
Works Manager
W. Rly. Bhavnagar Pasa

NOTICE AFTER ADMISSION

WITH INTERIM RELIEF

JUDL- I

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

B.D. PATEL HOUSE,
NR. SARDAR PATEL COLONY,
P. O. NAVJIVAN,
AHMEDABAD- 380 014.

Issued on the 2nd day of May 1990.
REGN. NO. O.A/ 201 / 1990.

Shri Hareshkumar Chhaganlal

APPLICANT (S)
ADV. MR. B. B. Gogia

V/S.

Union of India & Ors.

RESPONDENT (S)
ADV. MR. R. M. VIN

To

01. Union of India, through The General Manager,
Western Railway, Churchgate, Bombay-400 020.

02. Works Manager, Western Railway Work Shop,
Bhavnagar Para.

Whereas Shri Hareshkumar Chhaganlal applicant, had made an application under Section 19 of the Administrative Tribunals Act, 1985, to this Tribunal, And also prayed for %, interim relief (copy alongwith relevant annexures enclosed) hearing Regn. No. OA/ 201 / 1990, and whereas the same matter is put up for hearing on 02.05.90. The Hon'ble Tribunal has passed the order as mentioned below. *

Whereas the Tribunal is of opinion that a reply of the application is called for :

1. That you, Respondent No. 2 do file three complete sets of the duly verified reply to the application, alongwith documents in a paper-book form by 30 days.

2. That you should simultaneously endorse a copy of the reply alongwith documents as mentioned at S.No. (1) above to the application.

You are also directed to produce the record(s) noted below for the perusal of the Hon'ble Bench of the Tribunal on the date fixed for hearing.

style is not applicable.

~~NO~~
12/15/19

51

(I)

(II)

(III)

4. The above application has been fixed for hearing on 12.06.90 at 10.30 A.M. However, the application for interim relief has been fixed for hearing on 12.06.90 at 10.30 A.M. Should you wish to argue anything against the issue of interim order, you are at liberty to do so on 12.06.90 or so any other date to which the case may be adjourned, either in person, or through an advocate appointed by you for this purpose. Also take notice that in default of your appearance on the date fixed, the case will be heard ex-parte.

5. A copy of the order Dated 02.05.90 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad is typewritten overleaf for immediate compliance/information/necessary action.

WITNESS the Hon'ble Vice Chairman, Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad this 2nd day of May in the year 1990.

DATE : 04.05.90

CSB
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

ORDER PASSED ON : 02.05.90

Heard Mr. B.B.Gogia, learned counsel for the applicant. The respondents are opposing the admission. In view of the averments contained in the application, we are inclined to admit it. The application admitted. The respondents to file reply statement within one month. With regard to the interim relief, we find that the applicant has made out a *prima facie* case for grant of interim relief and the respondents are restrained from evicting the applicant from Quarter No. 326/A. This order will be effective for two weeks. But it is made clear that if the application is ultimately dismissed, the applicant shall be liable to pay the rent at market rate. Registry to post the case after two weeks.

Now the case is fixed on 12.06.90 for further directions on I.R.

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भावनगर परा

Works Manager

W. R. Bhavnagar Pass

ANN. R/4

W.M.—BVRP

26

WESTERN RAILWAY

P.S. No.95/88

27 PR 388

425

Headquarter Office,
Churchgate, Bombay

Dated 19.4.88

No. EP58/18 Vol. II

TO ALL CONCERNED,
C/- GS - WREU-GTR/WRMS-BCT.

Sub: Unauthorised retention of Railway quarters by retired Railway officers and staff - Step to be taken for vacation of -

A copy of Railway Board's letter No. E(G)88QR1-2 dated 30.3.88 is reproduced below for information, guidance and necessary action. Board's letter No. E(G)81QR1-51 dt. 24.4.82, No. E(G)81QR1-51 dt. 4.6.83, No. E(G)83RN2-6 dt. 3.7.85 and E(G)87QR1-11 dt. 16.10.87 referred to therein were circulated under this office letter of even no. dt. 24.7.82, 28.6.83, 7.8.85 (PS No. 202/85), and 2.11.87 (PS No. 329/87) respectively.

Attention is invited to para 3 of Board's letter dt. 30.3.88 in which the Board desired that contents of their letters quoted above should be brought to the notice of concerned employees including those on leave. It must, therefore, be ensured that necessary action as desired by the Board is taken in time.

Hindi version is enclosed.

Encl: Typed below

For General Manager (E)

Copy of Board's letter No. E(G)88 QR1-2 dt. 30.3.88 addressed to the General Managers, All Indian Railways and others.

Managers, All Indian Railways
(D.M.R.) Sub: Unauthorised retention of Railway Quarters by retired Railway Officers and Staff- steps to be taken for vacation of.

In this Ministry's letter No. E(G)81 QR1-51 dated 24.4.1982 on the above subject, it was stated that there is an acute shortage of railway quarters for officers and staff and that the shortage is further accentuated by unauthorised retention of the quarters by officers and staff after their retirement and eviction proceedings for getting the quarters vacated, are normally protracted. With a view to discourage unauthorised retention of railway quarters by retired officers and staff, the Railway Administration were advised to resort to the following steps:-

g steps:-

- i) 'No claim' certificate should not be given unless the employee after retirement has vacated the Railway quarter and cleared all his arrears of rent, electricity and other charges, etc.;
- ii) Settlement dues of the employee should be finalised with an appropriate "hold-back" amount from DCRG/Spl. contribution to P.F., as the case maybe, for rent recoveries, as permissible under extant rules;
- iii) for every one month of unauthorised retention of railway quarte,

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प. र. भावनगर परा
Works Manager
P. R. Bhavnagar Para

one set of post-retirement passes should be disallowed. A show cause notice to this effect may be issued to the retired employee before disallowing the pass.

2. The position was further clarified under this Ministry's letter No. E(G)81 QR1-51 Pt. dated 4.6.1983

3. It has now been brought to the notice of this Ministry that many retired officers and staff were not aware of the penal provisions under reference and full implications of unauthorised retention of the Railway quarters by them. The Ministry of Railways, therefore, desire that the Railway Administrations should take urgent steps to bring the contents of their letters of 24.4.1982 and 4.6.1983 referred to above to the notice of all concerned employees under their administrative control including those on leave, etc., and to drive home to everyone the consequences of unauthorised retention of the railway accommodation by the retired officers and staff and the penalties leviable therefore by publishing the Rules/Board's extant instructions on the subject in their Railway Gazette, etc. A feedback about the action taken in this regard may please be sent to this Ministry within a month of the date of this letter.

4. Attention is also invited to para 2 of this Ministry's letter No. E(G)83 RN2-6 dated 3.7.1985 wherein it was emphasized that the eviction proceedings for getting railway quarters vacated from the retired railway servants and family members/ legal heirs of the deceased employees should be initiated by the Railway Administrations immediately after the permitted period is over so that no avoidable delay takes place in the matter of their eviction from railway quarters and final payment of the settlement dues. All necessary steps should be taken by the Railway Administrations well in time to ensure that the retired employees are evicted from the railway quarters immediately on expiry of the permitted period.

5. In this connection, attention is also invited to Board's letter No. E(G)87 QR1-11 dated 16.10.1987 wherein inter alia the position taken in the Judgement and Order of the Central Administrative Tribunal, Guwahati Bench, Guwahati in Shri Nikunja Bahari Bhattacharjee & Others and Shri Subhash Chandra Dutta & Others - Vs - Union of India & Others. (G.C. 208/86 & 227/86) has already been advised to the Railway Administrations for their information and guidance.

6. Please acknowledge receipt.

=====

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[Signature]

मिर्ज़ प्रबन्धक

W. R. भावनगर परा

Works Manager

W. Rly. Bhavnagar Para

File No. 25/4
G 93/4

Court No 2

Next Date 02/11/93

2a

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

Reply/Rejoinder/written submissions
filed by M: ...B...B...G...
learned advocate for petitioner/
Respondent with second set.
Copy served/not served & other side

AHMEDABAD.

CONTEMPT APPLICATION NO. 29/1993

IN

ORIGINAL APPLICATION NO. 122/1991.

By Registrar C.A.T (P)
A'bad Bench
26.10.93

Chhaganlal Jiwabhai Yadav,
Adult Occ: Retd. Railway Employee,
Aged about 62 years,
Add: Rly. Qtr. No. 326/A, Type-I,
Railway Colony,
BHAVNAGAR PARA

::APPLICANT.

Versus

(1) Union of India,
Owning & Representing
Western Railway,
Through : Shri P.V. VAITHEESWARAN,
GENERAL MANAGER, Western Railway,
Churchgate,
BOMBAY.

(2) Shri M. RAMCHANDRAN,
Works Manager,
Railway Workshop,
BHAVNAGAR PARA

::RESPONDENTS.

RE-JOINDER

I, shri Chhaganlal Jiwabhai Yadav, Adult,
Occ: Retired, residing at Bhavnagarpara, do hereby
file this rejoinder and say as under :-

1) That I have been read-over and explained the
reply filed by Shri M. Ramchandran, Works Manager,
Western Railway, Bhavnagarpara against the Contempt
Application of the applicant. I say that the state-
ments made therein are not correct and are not admitted
to be true.

Reed copy
R.M.V.
26.10.93

2) In reply to para-3, it is not correct that the respondent shri M. Ramchandran has any regard and respect for the hon'ble Tribunal. It is not true that he has no prejudice or bias of the applicant. It is also not true that he has no intention to dis-obey or dis-regard the judgement or orders of this hon'ble Tribunal. The reasons given for implementing judgement dated 01.12.1992 are not only illegal, irrelavent reasons but a lame excuse. The contention therein have been already considered in the judgement which he has to implement.

3) In reply to para-4 the review application No.14 of 1993 filed by the Railway administration in OA No.122/1991 has been already dismissed by the hon'ble Tribunal on 04.10.1993. Copy of which was sent and received by the applicant on 18.10.1993. Zerox copy of the same is annexed herewith as Annexure A/1. In the said jugement of Review Application also the contention of the respondents herein have been dealt with. Even after this judgement in Review Application no actions are being taken to release the amount of DCRG as ordered by the hon'ble Tribunal.

4) In reply to para 5 and 6 , the statements made therein are correct subject to record.

5) In reply to para-7, the statements made therein are not correct and admitted to be true. The amount arrived at Rs.39067/- is false and not according to the rules and law and is not liable to be adjusted from the DCRG amount. The applicant has moved the hon'ble

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the hon'ble Tribunal not to do so.

10) The applicant submits that the hon'ble Tribunal may punish strictly to the respondent to set an example in such matters and pray for justice from this hon'ble Tribunal.

Rajkot/
Ahmedabad.

Date:

X C. S. Gadev
(APPLICANT)

VERIFICATION

I, shri Chhaganbhai Jiwabhai Yadav, applicant in the above Re-joinder in Contempt Application do hereby verify that the contents stated in paras 1 to 10 above are true and correct to the best of my knowledge and belief.

Rajkot/
Ahmedabad.

Date:

X C. S. Gadev
(APPLICANT)

Through :

B. B. GOGIA
(B. B. GOGIA)
Advocate, Rajkot.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

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(5)

A/1

(33)

R.P.D.

5TH FLOOR
B.D. PATEL HOUSE
NR. SARDAR PATEL COLONY
P.O. DAWODI
AHMEDABAD - 380 014.
DATE : 14/10/93

TO,
Chhaganlal T. Yedav,
Rly. Quarter No. L/326-A
Type - I
Railway Colony,
Bhavnagar Parsi,
Bhavnagar,

RA/14/93 in

SuO : Case No. 07/122/91

Y.O. S. & C. Petitioner

v/s.
C T. Yedav Respondents

Sir,

I am directed to inform you that the following final order is passed by the Hon'ble Tribunal on
04/10/93 in the above cited case.

Court's Order :

Order Annexed herewith.

You are requested to take further necessary action as per Hon'ble Tribunal's order dated 04/10/93 within the time limit prescribed in the above cited order.

Yours faithfully,

Chhaganlal
SECTION OFFICER (S)
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

True Copy

Advocate

-190/63
18/10/93 B.M.
H.M. 205 M2 2nd
1/327 M2 25
222-21.11.93
190/13

(6) 3w

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

R.A.No. 14 OF 1993.

in

OA. No. 122 OF 1991

Exhibit No.

DATE OF DECISION 4-10-1993.

Union of India & Ors.

Petitioners
(Orig. Respondents)

Advocate for the Petitioner(s)

Versus

Chhaganlal Jivabhai Yadav,

Respondent
(Orig. Applicant)

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan, Vice Chairman.

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

1. Union of India owning and representing Western Railway through General Manager, Western Railway, Churchgate, Bombay.
2. Works Manager, Western Railway, Railway Workshop, Bhavnagar Division, Bhavnagar Para, Bhavnagar. Applicants. (Orig. Respondents)

Versus.

Chhaganlal Jivabhai Yadav
Retired Railway Employee,
residing at present in Railway
Quarter No. L/326-A Type-I
Railway Colony, Bhavnagar Para,
Bhavnagar.

..... Respondents.
(Orig. Applicant)

Decision by circulation.

ORDER

R.A.No. 14 OF 1993

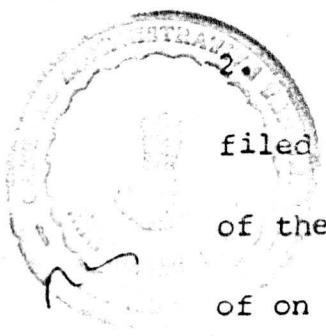
in

O.A.No. 122 OF 1991

Date: 4.10.1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

This Review Application can be disposed of
by circulation.


The original respondents of O.A. 122/91 have
filed this Review Application for review or modification
of the order passed in O.A. 122/91 which was disposed
of on 1st December, 1992. We have examined all the
grounds mentioned in para 4 of the review application.

The original respondents have mentioned in the ground
No.1 that the original applicant ought to have brought
to the notice of the Tribunal, Railway Board's

directions about the withholding of gratuity amount

as per the letter of 19th August, 1987, Annexure A-4.

If this letter is not brought to the notice of the

Tribunal by either side they can not be considered

an error apparent on the face of the record in our

judgment. So far ground No. 2 is concerned, the

respondents have produced the copy of Rule 323 of the

Manual of Railway Pension Rules 1950. It is contended

that when there is a case of proposed recovery of dues

on account of rent for non-vacation of quarters etc.

the railway administration can take suitable action

as per that Rule. It is important to note that this

Tribunal in its order have referred to the Full Bench

decision of the Tribunal in Wazir Chand's case in

which it has been held that the payment of gratuity

can not be postponed till vacation of Railway quarters

by the retired employee because the gratuity is payable

immediately on retirement and the payment should be

made promptly and the payment should not be withheld



for non-vacation of railway quarter. Therefore, we

have in our judgment, negatived the contention of the

original respondents that unless and until the

employee vacates the railway quarters, his DCRG

could not be released and paid to him. So far ground

No. 3 & 4 are concerned, we find no substance in it

in view of the above decision. So far ground No. 5 &

6 are concerned, we find that we have not committed

(9)

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any error apparent on the face of the record. The respondents rely on the documents Ann. A-6 and they contend / the amount of Rs. 20,704.40 upto 31st December, 1992 is due from the original applicant because of his unauthorised occupation of the quarters. The O.A. was filed in 1991, the applicant had retired from service on 31st December, 1990 and the respondents have not released his DCRG. The grounds taken namely 5 & 6 can not be considered now as there is no error apparent on the face of the record. More over, none of the ingredients of Order XLVII Rule (1) are attracted. All the annexures which have been produced in this R.A. do not help the original respondents. The Full Bench has considered the legal position in Wazir Chand's case (supra), we have already held in the last para of the order portion that our order will not come in the way of the respondents in issuing showcause note to the applicant for taking action for his unauthorised occupation of the railway quarter according to law. Review Application is dismissed.

S/1
(R.C.Bhatt)
Member (J)

S/1
(N.V.Krishnan)
Vice Chairman

vtc.

Prepared by
Compared by
TRUE COPY

OB/af
Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench

True Copy

Advocate

Supreme Court Legal Aid Committee

109, Lawyer's Chambers, Post Office Wing,
Supreme Court Compound, New Delhi-110001.

Ref. No. F. 7738 10/SCLAC/93

Dated 26/8/93

Sub: Special Leave Petition/Writ Petition/Appeal/Plaint/Transfer

Petition/Appearance/Counter/Rejoinder etc. to be filed in the name of
Shri/Smt/Kum..... H.L.K.L.S.H. KUMAR C. YADAV

Dear Shri/Smt/Km..... H.L.K.L.S.H. KUMAR C. YADAV, Advocate,
We have the pleasure in referring to you the above mentioned matter for taking before
the Hon'ble Supreme Court of India. The description of the Petitioner(~~or Respondent~~) shall
invariably include "Through the Supreme Court Legal Aid Committee". The expression "For
and on behalf of the Supreme Court Legal Aid Committee" shall invariably be appended to the
name of the advocate filing it on the paper book as well as on the Petition.

You are requested to ensure that sufficient number of paper books are prepared in the
first instance including three paper books for each of the respondents and two copies for the
use of this office.

Your honorarium and other incidental charges for preparation of paper book etc.
will be paid by the Committee according to the prescribed rates. You may, therefore,
send pre-receipted bill of actual expenses in duplicate (one copy without stamp) along
with the number assigned by Registry in the petition.

The progress of the case from time to time may please be intimated.

Any follow-up action to be taken by the SCLAC may kindly be indicated in the instruction
sheet of the case maintained in the office of Supreme Court Legal Aid Committee.

It may be ensured that the case is filed within four days but not later than a week except
in the case where limitation requires it to be filed immediately. In case of your inability to
do so you are requested to decline the acceptance of the case so as to enable us to assign
the same to another advocate so that the interests of the litigant may not suffer. Before filing
the matter it may be ensured that the paper books bear the seal of the Supreme Court Legal
Aid Committee.

In the case of further instructions, if any, please contact/or write to the Executive
Lawyer.

✓ S.B. : (i) The opinion of the Screening Panel Advocate is also attached herewith.

(ii) Please note that no Court fee/process fee is payable on matters filed on behalf of
this Committee. A certificate that the matter filed is a legal aid matter may please
be obtained from the Committee at the time of filing.

✓ Annex I & II of SCLAC Form 8. Yours faithfully,

✓ An legal opinion given by Sh. B.B. Patel Esq.

Encl: Sh. B.B. Patel Esq., Advocate, GJ. Member-Secretary

✓ 1. Certified copy of the Judgment & Order of the High Court/Central Administrative Tribunal
of Ahmedabad dt..... 11.8.1993..... in..... O.A. 221/90.....

✓ 2. High Court/Central Administrative Tribunal Paper book.

✓ 3. Grounds taken in the Appeal in the High Court/Central Administrative Tribunal.

✓ 4. Objection of the Opposite Party.

✓ 5. Order/Judgments in the Lower Court/Sessions Court in
date

✓ 6. Other connected documents such as evidence, FIR etc.

✓ 7. Evidence in support of the facts alleged in the application.

✓ 8. Vakalatnama.

✓ 9. Affidavit in support of SLP/WP/CMP etc.

Copy to : Sh. L. K. S. H. K. Y. D. A. V. Advocate

✓ Sh. Sh. Chhaganlal Y. D. A. V. Advocate

✓ Rly. Dr. No. 3261A, Railway Divisional Office

✓ Bhavnagar, Dist. GJ. D. A. V. Advocate

He/She is informed that the aforesaid matter has been assigned to Shri/Smt/Kum.....
Advocate for taking before the Hon'ble Supreme Court.

True Copy

Advocate

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Sup. C. 52

IN THE SUPREME COURT OF INDIA

~~Noted to be true copy~~
~~SEARCHED~~ / CIVIL APPELLATE JURISDICTION

Assistant Registrar (Jestl.)

199

Supreme Court of India

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Xxgg

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 17686 OF 1993
(Under Article 136 of the Constitution of India, from the Judgment and Order dated 14th May, 1993 of the Central Administrative Tribunal, Ahmedabad Bench at Ahmedabad in O.A. No. 201 of 1990)

WITH

475660

INTERLOCUTORY APPLICATION NO. 2

(Application for stay by notice of motion with a prayer for an ex-parte order)

Harish Kumar Chhagenal,
S/o Sh. Chhagenal Jivabhai Yadav,
R/o Railway Quarter No. 326/A,
Railway Quarters, Bhavnagar,
Pars, Gujarat, through Supreme
Court Legal Act Committee

.. Petitioner

Versus

1. Union of India,
Owning & Representing Western Railway,
Through General Manager,
Western Railway, Churchgate,
Bombay - 400 020.

2. The Works Manager,
Western Railway Works Shop,
Bhavnagar, Pars, Gujarat.

3. Chhagenal Jivabhai Yadav,
R/o Railway Quarter No. 326/A,
Railway Quarters, Bhavnagar,
Pars, Gujarat.

.. Respondents

1ST NOVEMBER, 1993

CORAM:

HON'BLE MR. JUSTICE S. RATNAVEL PANDIAN
HON'BLE MR. JUSTICE R.M. SAHAI

For the Petitioners: M/s. S.K. Jain & Vijay Hensoria,
Advocates.

Presented by
the A.P.L. Admin.

Mr. B. B. Mehta
to Day 22-2-93
before the Hon'ble
Court.
Date: 22-2-93
22-2-93 (O.I.)

....2/-

THE PETITION FOR SPECIAL LEAVE TO APPEAL AND THE APPLICATION FOR STAY above-mentioned being called on for hearing before this Court on the 1st day of November, 1993 UPON hearing Counsel for the Petitioner herein THIS COURT while directing issue of notice to the Respondents herein to show cause why Special Leave be not granted to the Petitioner herein to appeal to this Court against the Judgment and Order of the High Court above-mentioned, DOETH ORDER that pending the hearing and final disposal by this Court of the application mentioned above for stay (1) after notice, /the operation of the Judgment and Order dated 14th May, 1993 of the Central Administrative Tribunal, Ahmedabad Bench at Ahmedabad in O.A. No.201 of 1990 be and is hereby stayed and (2) that status quo as obtaining between the parties herein on this the 1st day of November, 1993 regarding possession of Quarter No.326/A, Railway Quarters, Bhavnagar, Para, (Gujarat) shall be maintained;

AND THIS COURT DOETH FURTHER ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Manepalli Narayana Rao Venkateshwar, Chief Justice of India, at the Supreme Court, New Delhi, this the 1st day of November, 1993.

True copy
Truly yours

ASV

S.D.L.
(S.D. SHARDA)
DEPUTY REGISTRAR

rehs

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WESTERN RAILWAY

NO.WM/E.58/9/1

WM's Office, BVP.
Dt/- 28.2.94.

To,
Shri R.M.Vin,
Rly. Advocate, ADI.

Sub:- C.A.No.2993 in O.A.No.201/90 filed by Shri
Chhagan Jiwa ex.Ch/man 'B' BVP w/shop.

On the above subject matter, Shri C.V.Subba Rao
Rly. Advocate Central Agency Supreme court New Delhi vide
his letter no.3327/93/U/CAS dtd. 21.2.94 has advised that
SLP(C) No.1786 of 1993 filed by Hareshkumar Chhagalal ~~w~~
came up for consideration on 21.2.94. After hearing the argu-
ments the court was pleased to dispossess of the matter with
a direction to allot the accommodation to the petitioner.

Accordingly the matter has been referred to GM(E)CCG
vidd this office letter no. even dtd. 26.2.94 (copy enclosed)
to convey his approval.

You are therefore requested to declare in the tribu-
nal on 1.3.94 that DCRG will be released immediately on receipt
of the judgement ~~Let~~ of the Supreme court and competent authority's
~~is~~ approval for which special messenger has been deputed to
HQ 's office.

From my advocate

Yours faithfully,

Encl: Two.

24, _____
(M.RAMCHANDRAN)
Works Manager/BVP.

1928-1932 - 1933

18. *Leucanthemum vulgare* L. (syn. *Chrysanthemum vulgare* L.)

Ex-12. *Hydrobates pelagicus* (L.) in *Scopula* (L.) - *Scopula*
modestus (L.) *Scopula* (L.) *Scopula* modestus (L.)

Ucricht-odd of Penicillium to ferment starch and was taken to the yildizabeyli-hesabefiz ed filiy Dede (odd no. 5.1.36) for spore-dust. Spore-dust was taken and germinated and the spore-sporangia and conidia were taken and developed until a

SCHILLER 215

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(1927-1928-1929-30)

Western Railway

No. WM/E.58/9/2

WM's office, BVP.
Dt/- 12.3.94.

To,
Shri R.M. Vin,
Railway Advocate,
Ahmedabad.

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Sub:- CA No. 29/93 filed by Shri Chhagan Jiwa
in CAT/ADI in OA 122/91.

Dear Sir,

In continuation to this office letter No. even dtd. 28.2.93, it is further advised that as per judgement dtd. 21.2.94 delivered by Hon'ble Supreme court in SLP No. 17686 of 1993 filed by Shri Hareshkumar Chhaganbhai V/S Union of India, the necessary memorandum No. WM/E.58/9/1 dtd 11.3.94 has been issued and accordingly quarter No. 326/A type I Sub-Std. occupied by Shri Chhagan Jiwa Yadav, Ex-Chargeman of BVP workshop is allotted to Shri Hareshkumar Chhaganlal Yadav, out of turn w.e.f. 1.5.90.

The DCRG amount of Rs. 42508/- has been paid to Shri Chhagan Jiwa vide crossed cheque No. 958338 of 12.3.94 as per Hon'ble CAT/ADI's judgement dtd. 1.12.93 in OA No. 101/90. The cheque is issued is sent to the Bank for crediting the amount in the account of Shri Chhagan Jiwa.

(22/91
The above may be declared in CAT/ADI on 15.3.94 again st CA No. 29/93 to finalise contempt proceedings.

Yours Faithfully,

(M. Ramchandran)
(Works Manager/BVP)

C/- GM/E/CCG with ref. to his letter No. E.649x/Court/649/2/CAT (R-7/93) of 7.3.94 for information. pl.

Promised by the
Respo-Adv. Mr. R. Vin
to day is 15.3.94
before the court.
Done
15.3.94.