

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. 73/93  
T.A. No.

DATE OF DECISION 26-7-93

Shri D.R. Pandya Petitioner

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

Versus

Union of India and others Respondent

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

CORAM :

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

The Hon'ble Mr. V. Radhakrishnan 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

Shri Durgashanker Revashanker Pandya  
 Bhagwati Krupa  
 Udyonagar, Suraj Karadi  
 Taluka Dwarka, Dist. Jamnagar

Applicant.

Advocate Shri M.K. Paul

Versus

1. The Union of India  
 Owing Western Railway  
 Through The General Manager  
 Western Railway, Churnchgate  
 Bombay
2. The Divisional Railway Manager  
 Western Railway, Kothi Compound  
 Rajkot.

Respondents

Advocate Shri B.R. Kyada

### ORAL JUDGEMENT

In


O.A. 73 of 1993

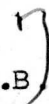
Dt: 26-7-1993

Per Hon'ble Shri N.B. Patel




Vice Chairman.

Amendment as permitted by our order in M.A. 192/93  
 is not carried out and the matter has had to be unnecessarily  
 adjourned thrice thereafter. Even today Mr. Paul and applicant  
 are not present. Dismissed for default.

  
 (V. Radhakrishnan)  
 Member (A)

  
 (N.B. Patel)  
 Vice Chairman.


\*AS.


DATE	OFFICE REPORT	ORDER
5-10-1993	<p>Amendment carried out Bhagan 18-10-93</p>	<p><u>M.A. 517/93.</u></p> <p>M.A. 517/93 allowed. The order dismissing the O.A. 73/93 set aside. The said O.A. is restored to file. M.A. 517/93 stands disposed of.</p> <p><u>O.A. 73/93</u></p> <p>At the request of Mr. Trivedi, permission is granted to carry out amendment in the O.A. as per the order passed in M.A. 190/93 with the clear caution that if the amendment is not carried out today it will not be permitted to be carried out.</p> <p>O.A. to be placed for admission hearing on 19-10-1993.</p> <div style="display: flex; justify-content: space-between;"> <div data-bbox="651 1226 986 1385"> <p> (V. Radhakrishnan) Member (A)</p> </div> <div data-bbox="1217 1249 1513 1385"> <p> (N.B. Patel) Vice Chairman.</p> </div> </div> <p>*AS.</p> <p style="text-align: center;"> <i>Other</i>  As the learned Member of  the Bench is not available,  the matter is adjourned  to.....21.10.93..... </p> <div style="text-align: right; margin-top: 20px;"> <p> N. B. Patel Vice Chairman</p> </div>

19/10/93

2/11/1993

At the request of Mr.Trivedi  
and with the consent of Mr.Kyada,  
adjourned to 10.11.1993. The  
respondents are directed to produce  
Railway Board's letter dated 4.6.1993  
referred to in Annexure A-3 dated 23.9.92.

  
(V.Radhakrishnan)  
Member (A)

  
(N.B. Patel)  
Vice Chairman

a.a.b.

Date	Office Report	Order
10-11-1993		<p>Admitted. Adjourned to 8-12-1993 for filing reply. The applicant may file rejoinder, if any, within one week after the filing of the reply. Along with their reply the respondents are again directed to produce the Railway Board letter dated 4-6-1993 referred to in Annexure A-3. Whether the reply and the rejoinder are filed or not within the aforesaid period, the matter may be fixed for final hearing on 3-1-1994.</p> <p>(V. Radhakrishnan) Member (A)</p> <p>(N.B.Patel) Vice Chairman.</p> <p>*AS.</p>
03.01.1994.		<p>At the request of Mr.K.M.Paul, for Mr.M.K.Paul, adjourned to 15.03.1994.</p> <p>( K.Ramamoorthy ) Member (A)</p> <p>( N.B.Patel ) Vice Chairman</p>
15/3/94		<p>AIT</p> <p>Heard Mr.M.K.Patal and Mr.B.R.Kyada.</p> <p>Judgment reserved.</p> <p>(K.Ramamoorthy) Member(A)</p> <p>(N.B.Patel) Vice Chairman</p> <p>a.a.b.</p>

Date	Office Report	Order
12 Aug		<p>Judgment pronounced in open Court</p> <p>(K Ramamoorthy) (N B Patel)</p> <p>Member (A) Vice chairman.</p>
Date	Office Report	Order

Date	Office Report	Order
10-11-1993	<p><i>Reply not filed</i> <i>Cy/BIN</i></p>	<p>Admitted. Adjourned to 8-12-1993 for filing reply. The applicant may file rejoinder, if any, within one week after the filing of the reply. Along with their reply the respondents are once again directed to produce the Railway Board letter dated 4-6-1993 referred to in Annexure A-3. Whether the reply and the rejoinder are filed or not within the aforesaid period, the matter may be fixed for final hearing on 3-1-1994.</p> <p><i>[Signature]</i> (V. Radhakrishnan) Member (A)</p> <p><i>[Signature]</i> (N.B. Patel) Vice Chairman.</p>
03.01.1994.		<p>*AS.</p> <p>At the request of Mr.K.M.Paul, for Mr.M.K.Paul, adjourned to 15.03.1994.</p> <p><i>[Signature]</i> ( K. Ramamoorthy ) Member (A)</p> <p><i>[Signature]</i> ( N.B. Patel ) Vice Chairman</p>
15/3/94		<p>AIT</p> <p>Heard Mr.M.K.Paul and Mr.B.R.Kyada.</p> <p>Judgment reserved.</p> <p><i>[Signature]</i> (K. Ramamoorthy) Member (A)</p> <p><i>[Signature]</i> (N.B. Patel) Vice Chairman</p> <p>a.a.b.</p>

Date	Office Report	Order
12-4-94		<p>Judgement pronounced in open Court oral request of Mr. Raval to show 12 pictures &amp; this is deferred 12</p> <p>(K. Ramamoorthy) (N. B. Patel)</p> <p>Member CM Vice chairman</p>

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. ~~XXXXXX~~ 73 of 1993.

DATE OF DECISION 12th April, 1994.

Shri Durgashanker Revashanker Petitioner  
Pandya

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. 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 ?
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No

: 2 :

Shri Durgashanker Revashanker Pandya,  
Bhagwati Krupa,  
Udyonagar, Suraj Karadi,  
Taluka Dwarka, Dist. Jamnagar.

...Applicant.

(Advocate : Mr. M. K. Paul)

Versus

1. The Union of India,  
Owning - Western Railway,  
Through : The General Manager,  
Western Railway,  
Churchgate,  
Bombay.
2. The Divisional Railway Manager,  
Western Railway,  
Kothi Compound,  
Rajkot.

...Respondents.

(Advocate : Mr. B. R. Kyada)

J U D G M E N T  
O. A. NO. 73 OF 1993.

Dated: 12th April, 1994

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

7  
Thei Original Application is concerned with the question of appropriateness of the punishment imposed by the railways in withholding the railway passes available to a retired railway employee. The applicant was working as a Station Master at Railway Station Bhimrana and retired from the railway service on 30.11.1986. However, the applicant continued to retain the railway quarter upto 25.7.1989. For this overstay, in addition to payment of the rent including penal rent for the period of overstay, the railway board also held back 32 sets of complimentary passes in terms of Railway

Board's letter dated 04.06.1993 and the Head Quarter's letter dated 28.6.1993. The Railways had calculated the total period of 32 months of stay after retirement as unauthorised occupation. On an earlier reference to the Tribunal, vide O.A./98/90, this Tribunal had directed that the Railways may review this order on a representation if preferred by the applicant. On such a representation, the Railways have passed the order dated 23.9.1992, whereby the stoppage of the post retirement complimentary passes was reduced to 24 sets from 32 sets. The applicant has approached this Tribunal on being dis-satisfied with this order.

2. There is no dispute regarding the fact of overstay in the Railway Quarter. There is no dispute also on the fact that the applicant paid rent at the penal rate for the period he had overstayed in the quarter beyond the normal permissible limit. It is also not denied that the Railways, because of this unauthorised occupation, had held back the gratuity and released this gratuity after two years and 11 months (without any interest) and paid only after the formal vacation of the quarter by the applicant.

3. It is true that on 23.9.1992, the Railways have reduced the stoppage of post retirement complimentary passes to 24 instead of 32 sets. But it is seen that this act has been done by way of a necessary correction that

: 4 :

was required in the earlier order. 32 months of overstay was not all "unauthorised" stay. The Competent authority was permitting the Railway quarter to be occupied normally for four months from the date of retirement on normal rent and next four months on double the licence fee and the actual period of 'unauthorised stay' was only 24 months. The intention of the Tribunal was for the Railways to basically look into the facts and consider revision on merits. The Railway do not seem to have done this. In fact the Railways have in this impugned order reiterated the fact that "no discretion is given to any authority about dis-allowance of one set of pass of every month of period of retention of Railway quarter without authority." We do not agree with this proposition.

4. Withholding of pass is essentially an administrative power vested in the Railways to prevent the misuse of the facility of the use of a Railway quarter. This is not to be taken as a mechanical rule. The prescription of disallowance of one set for every month is the maximum punishment proposed and cannot be interpreted as the only punishment that can be given. The Full Bench of the Central Administrative Tribunal, (Principal Bench) has since laid down the law in this regard in its judgment in O.A./2573/89 where it has been clearly stated that

: 5 :


even when one set of pass is disallowed it is to be preceded by a show cause notice. Thus, it becomes clear that withholding of this pass is a discriminatory administrative act. In the same judgment it has also been stated that the DCRG also cannot be held back on the ground of non-vacation of the Railway quarter. In this particular case as shown earlier the DCRG was only paid only after the quarter was vacated. It is clear that the respondent has while passing its order of 23.9.1992, not applied its mind in the sense that this Tribunal had directed on 23.3.1993, for a review by the respondents "keeping in view the circumstances of the applicant's case including the fact that recoveries at enhanced rate have been made for the period of overstay and also considering the applicant's record of service."


5. The Tribunal has, therefore, gone through the pleadings of the application once again. Taking all the facts into consideration as enumerated in the foregoing paragraphs, the Tribunal has come to the conclusion that the action already taken by the Railways in withholding the passes so far, should suffice with whatever requirements that might be necessary to ensure discipline in vacation of the quarters. The impugned order No. ET/D/15, of

: 6 :

Divisional Railway Manager, Western Railway, Rajkot,  
dated 23.9.1992, is set aside and the respondents are  
directed to lift the ban on stoppage of post retirement  
complimentary passes now due to the applicant, forthwith.  
The respondents are directed to issue the complimentary  
passes as are due to the applicant from time to time  
from this year onwards.

The application stands disposed of as above,  
with no order as to costs.

  
(K. Ramamoorthy)  
Member (A)

  
(N.B. Patel)  
Vice Chairman

ait.

Submitted,

Letter dated 6/6/1995 received from Supreme Court of India, New Delhi stating that the Supreme Court vide its order dated 6/2/1995 has dismissed the S.L.P. No: 4305/95 arising out of D.A.No: 73 of 1973 of this Bench.

*[Signature]*  
Deputy Registrar(J)

1. Hon'ble the Vice Chairman. *17/2/95*
2. Hon'ble Mr. V. Radhakrishnan, Member *[Signature]*
3. Hon'ble Mr. K. Ramamoorthy, Member (A). *[Signature]*

X-X-X-X

9.17/95

General Administrative Tribunal  
Ahmedabad  
20/5  
26/4

Section IX  
SUPREME COURT OF INDIA  
NEW DELHI.  
DATED:- 09/05/95

6/6/95

From:-  
The Registrar  
Supreme Court of India.  
NEW DELHI.

To  
The Registrar,  
Central Admn. Tribunal,  
Ahmedabad Bench,  
Ahmedabad.

PETITION FOR SPECIAL LEAVE TO APPEAL CIVIL No .4305 /95

(Petition under Article 136(1) of the constitution of India from

the Judgment and Order dated 12/04/94

of the High court of Judicature at GUJRAT

in OA 73/93  
UNION OF INDIA

... PETITIONER(S)

- VS -

DURGASHANKAR RAVANSHANKAR PANDYA

... RESPONDENT(S)

Sir,

I am directed to inform you that the petition above mentioned  
filed in the Supreme Court was dismissed  
by the Court on 06/02/95.

Yours faithfully

*Blau*  
6/6/95  
For Registrar

COPY TO  
MR. ARVIND KUMAR SHARMA (Adv)

CENTRAL ADMINISTRATIVE  
Ahmedabad Bench

Application No. 07/43/93 of 19

Transfer Application No. \_\_\_\_\_ Old W. Pett No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated : 27/07/93.

Countersigned :

Section Officer/Court officer

*RSC.*  
Signature of the Dealing  
Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT AHMEDABAD BENCH

## INDEX SHEET

CAUSE TITLE 0A/43/93 OF 19

NAMES OF THE PARTIES D. R. Pandya

VERSUS

U. of T. 8 028

PART A B & C

[illegible]