

Central Administrative Tribunal
Calcutta Bench

OA No. 18 of 1996

Present : Hon'ble Mr. D. Purkayastha, Member(Judicial)

Pareshnath Aich

..... Applicant

Vs.

Union of India & Ors.

..... Respondents

For the Applicant : Mr. B. Chatterjee, Ld. Advocate

For the Respondents: Ms. U. Sanyal, Ld. Advocate.

Heard on : 3-4-1998

Date of Judgement : 20-4-98

The main dispute ~~and~~ adjudication in this application is whether the respondent was right in withholding an amount of Rs. 23,000/- from DCRG money of the applicant from 1-1-95 on his retirement from service on superannuation w.e.f. 31-12-94 vide a letter (Annexure 'A' III) to the application. The case of the applicant is that the entire actions of the respondent are violative of rule 16 of the Pension Rules 1993. Thereby actions of the Government are liable to be quashed and respondent be directed to release the DCRG money forthwith with interest at a rate of ~~Rs. 18%~~ ^{Rs. 18/11} per annum.

2. The case of the applicant is resisted by the respondent by filing a written statement denying the claim of the applicant. It is stated by the respondent that the applicant Shri Aich was liable to pay damage rent in terms of the Railway Board's Circular No. F(X)1-86/11/9 dated 1-4-89. The DCRG Rs.23,000/- was withheld to recover the arrears ~~of~~ damage rate of rent i.e. from 1-4-89 to 19-8-92. In this connection, administration ~~was~~ approached to the proper forum i.e. Estate Officer to assess the damage rent of the said period under PP Act, 1971. Estate Officer ~~delivered~~ vide orders dated 9-2-96 that

Shri Aich would pay a sum of Rs.21,566/- and Rs.1,294/- simple interest at the rate of Rs.6% per annum w.e.f. 1-4-89 till the final payment is made. Failing which the amount will be recovered as an arrear of land revenue. After receiving the Estate Officer's orders the Administration advised the applicant vide letter dated 13-2-96 to deposit the amount in the Railway Booking Counter as assessed by the Estate Officer. Shri Aich failed to pay the damage rent. Therefore, the Estate Officer issued a certificate under Section 14 of the PP Act, 1971 to the District Collector, Burdwan for recovery of the same which is pending before the District Collector, Burdwan. In view of the aforesaid circumstances, the application is devoid of merit and liable to be dismissed.

3. Applicant also filed a rejoinder in this case. I have heard Ld. Advocates of both the parties. Ld. Advocate Mr. Chatterjee, appearing on behalf of the applicant, submits that the entire action of the respondent for the purpose of withholding the DCRG money of Rs.23,000/- is beyond jurisdiction and violative of rules 16 of the Railway Pension Rules and Rule 9 of the Railway Pension Rules. Thereby he is entitled to get direction upon the respondents to make payment of DCRG money with interest as prayed for. On the contrary Ld. Advocate Ms. Sanyal, appearing on behalf of the respondents, submits that the respondents rightly acted upon by withholding Rs.23,000/- of DCRG money since the applicant is liable to pay damage rent as assessed by the Estate Officer under the rules and thereby he is not entitled to get any relief in this case.

4. I have gone through the records as well as the relevant rules applicable in this case. It is an admitted ~~position~~ in this case, ~~that~~ the applicant retired from the service on superannuation w.e.f. 30.12.94 and he vacated the quarters allotted to him on 19.8.92 i.e. before two years from the date of retirement from service on 31-12-94. According to the Pension Rules, 1983 ~~the~~ railway retirement dues should be intimated to the applicants at least 2 months before the date of retirement of the applicant. But in the instant case, even after vacating the quarters in the year 1992 i.e. before two years from the date of retirement, the respondents did not take

any action in respect of realisation of the damage rent from the applicant. Some statutory obligations have been entrusted upon the Railway authorities who are competent to grant the retirement benefits to the applicant in case of retirement. Rule 16(5) of the Pension Rule further emphasises that the railway authority can retain only Rs.1000/- against future claim of the railway in respect of railway servant in granting of retirement benefits. Admittedly there is laches on the part of the respondents for claiming any rent for alleged unauthorised occupation of the railway quarters by the applicant. From a reply (annexure 'H' of sub-page of the reply) given by the respondents it is found that the respondents claimed damage rent from the applicant for the period from 1-4-89 to 19-8-92 and it is found from the para 11 of the reply that if the applicant fails to make payment of the damage rent, that would be recovered from him as arrear of land revenue by the competent authority. It is also stated by the respondent in para 11 that the Estate Officer issued a certificate under Section 14 of the PP Act, 1971 to the District Collector, Burdwan for recovery of the said amount from the applicant and the said proceeding is now pending before the District Collector, Burdwan. Rule 9 of the Pension Rule shows that no retirement benefit such as, DCRG money etc. can be withheld by any other authority except the President of India. In the instant case, respondents could not show any such paper that the DCRG money of Rs.23,000/- has been withheld by the respondents with the approval of the President of India. Rule 9 specifically emphasises that the President reserves the right for withholding or withdrawing any pension, gratuity or both either in full or in part after retirement of the railway servant.

20/4/5. In view of the aforesaid circumstances, it is found that the matter of recovery is ~~not~~ pending before the District Collector, Burdwan as per certificate issued by the Estate Officer. So, respondents had already adopted method of realisation of the said money through ~~the District Collector, Burdwan and the District~~ collector, Burdwan is the competent authority now.

to realise the amount due to the Government as per rules. In view of the aforesaid circumstances, I find that there are serious laches on the part of the respondents in respect of assessment of the damage rent after ~~a lapse~~ of two years from the date of ~~retirement~~ of the applicant. In view of the aforesaid circumstances, I do not find any justification on the part of the respondents to withhold the DCRG money of the applicant on the plea that the matter of realisation of the dues now pending before the District Collector, Burewan. So I find that the actions of the respondents cannot be supported with good reasons and actions of the respondents are, no doubt, arbitrary and illegal. Thereby it is a fit case to direct the respondents to ~~release~~ the DCRG money of Rs.23,000/- to the applicant within three months from the date of receipt of this orders with interest at the rate of Rs.10% per annum from the date of retirement till final payment is made and accordingly the application is allowed awarding no costs.

20 July 88
(D. Purkayastha)
Member (J)