

In the Central Administrative Tribunal
Calcutta Bench

OA No.829 of 1996

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

Madan Mohan Mehta

... Applicant

- VS -

1. Union of India, repeated by General Manager, S.E.Rly., Garden Reach, Calcutta - 43.
2. Chief Engineer, S.E. Rly., Garden Reach, Calcutta-43.
3. Chief Personnel Officer, S.E. Rly., Garden Reach, Calcutta - 43.

.... Respondents

For the Applicant : Mr. M.M. Roy Chowdhury, Advocate

For the Respondents: Mr. P.C. Saha, Advocate

Heard on : 3-12-1998

Date of Judgement : 3-12-98

ORDER

The applicant, having been retired from the Railway Department on superannuation on 31.1.80, filed this application before this Tribunal on 11-7-96 seeking direction upon the respondents to allow the applicant to avail himself of the right of retirement benefits of Post Retirement Passes and Retirement Gratuity as prayed for in Annexure A/1 to the application and also to quash the order dated 24.11.95 (Annexure A-3) to the application). It is also prayed by the applicant that respondents be directed to pay a sum of Rs.1,68,000.00 to the applicant for denial of post retirement passes from 1982 to 1995. According to the applicant, he retired from the service on 31.1.80. Thereafter he was allowed post retirement passes for two years. From 1982 to 1995

Contd.,...

respondents stopped issuing of the post retirement passes, though he was legally entitled to enjoy the post retirement passes as per rules. It is also stated by the applicant that DCRG money has not been paid by the respondents till date for alleged unauthorised occupation of the quarters in question and department has no authority to withhold the DCRG money for unauthorised occupation of the quarters. Thereby, he is entitled to get gratuity. It is also stated by the applicant that he is entitled to get post retirement passes for himself, for his wife and for unmarried daughter but the same was not given by the respondents and respondents denied the post retirement passes vide letter dated 24.11.95. Thereby, he is entitled to get cost of the passes amounting to Rs. 1,68,000.00.

2. Case of the applicant is resisted by the respondents by filing written reply. It is stated by the respondents that the applicant forcibly occupied two railway quarters one after another unauthorisedly being railway quarters No.B/38/4 at Santragachi (Howrah District) w.e.f. 11.5.60 by removing wooden battens etc. and also further quarters No. B/39/2 in the same block w.e.f. 27.9.60 forcibly in addition to the earlier one. He maintained the railway quarters No.B/39/4 in his possession till 22.6.65 as per letter dated 15.4.65 (Annexure R-1 to the reply). It is also stated by the respondents that on superannuation the applicant has unauthorisedly occupied the railway quarters for the second time also w.e.f. 1.2.80 to 22.8.86. Thereby, he is/was not entitled to get post retirement passes as per rules. Hence, it was denied to the applicant. It is stated that the application is barred by limitation and liable to be dismissed as it is devoid of merit.

3. Ld. Advocate Mr. Roychowdhury on behalf of the applicant submits that the allegations of unauthorised occupation of the railway quarters brought against the applicant is fabricated and manipulated on-
Applicant had never acknowledged the fact of unauthorised occupation of the quarters ^{before} ~~after~~ his retirement. Respondents' statement passes from 1982 to till date.

retirement passes as per order of the Court from 1996. But he claims that he is entitled to get post retirement passes from 1982 to 1995. Ld. Advocate Mr. Saha on behalf of the respondents submits that applicant never raised any claim to get post retirement passes before 13.10.95 which has been rejected by the authority vide letter dated 24.11.95 (Annexure A-3). Applicant was found unauthorised occupant of the railway quarters even after retirement on 31.1.80 and he retained the quarters No.B/39/2 till 22.8.86 and did not vacate the railway quarters. So, application is devoid of merit and liable to be dismissed.

3. In view of the divergent arguments advanced by the Ld. Advocates of both the parties I find that applicant retired admittedly on 31.1.80 and possessed the quarters till 11.8.86 after retirement. According to the respondents, he occupied the quarters even after retirement. However, it is found that respondents produced some letters which are marked as Annexures R-1 to R-4 to the reply. But I find that none of the letter has been annexed to the reply filed by the respondents. It is found that ^{These ltrs are} there is inter-departmental communication ^{made} between the two officers regarding decision of the claim by the applicant. It is not understood why the respondents did not take any action for vacation of the quarters when the applicant is found unauthorised occupant of the quarters as per order mentioned in the Annexures R-1 to R-4. However, it can be presumed that applicant was enjoying the quarters which was earlier allotted in favour of him. But fact remains that the applicant did not vacate the quarters even after retirement and that fact is not denied by the applicant. There is no doubt in my mind to hold that even after the retirement applicant was unauthorised occupant of the quarters, ^{Though} and he has no right to retain the quarters after prescribed permissible period. But I find that the unauthorised occupation of the quarters had nothing to do with the unauthorised ground of unauthorised occupation of quarters. But I find that the unauthorised occupation of the quarters had nothing to do with the unauthorised ground of unauthorised occupation of quarters.

view of the aforesaid circumstances, I direct the respondents to release the DCRG money ^{after deduction sent or Penal sent} forthwith with interest at the rate of 12% per annum from the date of due till date of payment. Liberty is given to the respondents to realise the money in accordance with the law if they are entitled to get any money as claimed in the reply. According to the applicant, respondents illegally stopped the issue of complimentary passes from 1982 till date. But I find that Ld. Advocate Mr. Roychowdhury of the applicant could not produce any records before me that applicant applied for complimentary passes for the period between 1982 to 1995. It is found from the records that applicant applied first time for complimentary passes vide letter dated 13.10.95 (Annexure-A1) and that application has been rejected by the authority vide letter dated 24.11.95 (Annexure A-3). It is found that denial of issuing of passes to the applicant is arbitrary and violative of article of 14 of the Constitution for the reason that no opportunity of being heard was allowed to the applicant before rejection of the prayer of passing complimentary passes vide letter dated 13.9.95. and the said letter is found violative of the principle of natural justice and is arbitrary. It is admitted by the applicant that he has got permission to retain quarters as per order passed by this Tribunal. So, he is entitled to get benefit of complimentary passes as claimed in the application as prayed for vide letter dated 13.10.95 (Annexure A-1). But applicant was denied to the complimentary passes without offering any opportunity of being heard to the applicant and thereby applicant ^{was} ~~is~~ entitled to get complimentary passes for the period of 1995 only. But before that he is not entitled to get any benefit since applicant did not apply for complimentary passes. So, direction is given to the respondents to ^{By} ~~issue~~ ^{Cost of} complimentary passes ^{as compensation} for the period from 1995. Since the respondents did not issue complimentary passes for no fault of the applicant, ^{So} he would be entitled to get compensation and that compensation shall be paid to the applicant on production of tickets if he actually performed the journey for that period. ^{Otherwise, he will not get any compensation as mentioned above} With this observation application is disposed of awarding no cost. Thereby, respondents are directed to issue passes in accordance with the rules.

[Signature]
(E. Furkayastha)
3/12/98