

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 851 of 1996

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

Hon'ble Mr. G. S. Maingi, Administrative Member.

PROVAT KUMAR DAS

... Applicant

Vs.

1. Union of India through the General Manager, Eastern Railway, 17, Netaji Subhas Road, Calcutta-1.
2. General Manager, Eastern Railway, Fairlie Place, 17, Netaji Subhas Road, Calcutta-1.
3. Chief Personnel Officer, Eastern Railway, Fairlie Place, 17, Netaji Subhas Road, Calcutta-1.
4. Financial Adviser & Chief Accounts Officer, Eastern Railway, Fairlie Place, Calcutta-1.
5. Chief Accounts Officer (Pension), Eastern Railway, Fairlie Place, 17, Netaji Subhas Road, Calcutta-1.
6. Deputy Chief Accounts Officer (G), Eastern Railway, 17, Netaji Subhas Road, Calcutta-1.
7. The Manager, State Bank of India, Govt. Accounts Section, 1-3, Strand Road, Calcutta-1.
8. Estate Officer, Eastern Railway, Old Kailaghat Building (Ground Floor), 3, Kailaghat Street, Calcutta-1.
9. Shri B. K. Das, Retired Sr. Commercial Officer (Marketing & Sales), the then Chief Commercial Superintendent's office (now Chief Commercial Manager's Office), Eastern Railway, 3, Kailaghat Street, Calcutta-1, now residing at 20, U. K. Dutta Road, Calcutta-28.

... Respondent

For the applicant : Mr. B. C. Sinha, counsel.
Mr. P. L. Bose, counsel.

For the respondents: None

Heard on : 2.2.2000

Order on : 16.2.2000

ORDER

G. S. Maingi, A. M.

This O.A. has been filed by the applicant u/s 19 of the A.T. Act, 1985, against the order dated 13.12.1995, withholding his gratuity, arrears of pay and other retiral benefits, as

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also the order of his supersession and for withholding the complimentary passes w.e.f. 1.2.1993 by the respondent-authorities.

2. The applicant who belongs to the SC Community, joined service under the Eastern Railway as a Typist on 31.1.1956 from where he was promoted as a Stenographer and then as an Office Superintendent, in Eastern Railway, Calcutta. From this post of O.S. he was promoted to the post of Assistant Commercial Officer (Index) at Kailaghat Office of the Eastern Railway w.e.f. 30.3.1979 on an ad-hoc basis, which was regularised by the selection board on 27th December, 1979, by the order dated 27.12.1979. Pursuant to the applicant moving the Tribunal, he was promoted to Senior Scale (ad-hoc) w.e.f. 26.1.1991 by the order of the Chief Personnel Officer, Eastern Railway, vide the order dated 13.12.1995 i.e. the date of promotion of Shri M. Singh, who the applicant contends has been wrongly stated as his immediate junior by the respondents instead of Shri B.K.Das, who according to the applicant, is his actual immediate junior and who was promoted by the respondents on 6.3.1987. It has thus been averred by the applicant that he is entitled to get promotion ^{to Sr. Scale} w.e.f. 6.3.1987 i.e. the date of promotion of Shri B.K.Das, as also all consequential benefits.

3. The applicant was issued a charge sheet on 29.6.1984 and on an enquiry, the said charge sheet was held to be vague. It was recommended by the enquiry officer that none of the charges had been proved against him and as such, the major penalty proceedings initiated against the applicant under the said charge sheet were cancelled. The applicant was served with another charge sheet being no.SP.264/D&A/PKD dated 24.8.1988, alleging that he had evaluated the answer book of Roll No.104698 alongwith the other answer books. This charge sheet had also to be withdrawn as the proceedings were not completed by the respondent-authorities within a period of 4 months which was allowed to them by this Tribunal.

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4. The applicant retired from Railway service on 31st January, 1993. The applicant had also filed a contempt petition being no.134 of 1995 arising out of O.A.112 of 1993 alongwith M.A.298 of 1994 which was filed for release of his retiral benefits on his superannuation. The applicant was given his due retiral benefits, but a heavy sum of money was retained by the respondents on account of his non-vacation of the Govt. quarters. Although the applicant had retired on 31.1.1993, he vacated the quarters in June, 1995, after eviction proceedings had been started against him by the competent authority, but prior to that, he was asked to vacate the Railway quarters. The respondent-authorities vide their letter dated 9.2.1995 at annexure 'F' to the application, asked the applicant to vacate the Railway quarters which was under his possession within 30 days from the issue of the said letter to which the applicant replied by his letter dated 21st February, 1995, expressing his regret for not vacating the Railway quarters long after his superannuation as the retention of the quarters in question had to be resorted to wilfully because of certain domestic discord and estrangement with his wife who happens to be a schizophrenic patient and always found to be non-cooperative and working at cross purposes and he prayed that it would be a great relief to him if the respondents initiated to conduct legal proceedings against him for the recovery of the above Railway quarters, in which he would raise no objection. The applicant further stated in his letter that he was looking forward to such beneficial step for the interest of the Administration as well as for himself. It has been averred at sub-para (xx) of paragraph 4 of the O.A. by the applicant that his wife is vindictive and has been forcibly occupying the said Railway quarters No.6C at Ghaleshapur, Behala, Calcutta-34. It has also been stated that his wife is absolutely independent, being employed in the Office of the Land Acquisition (South) and she is drawing sufficient salary to maintain herself and is not cooperating with her husband, the applicant.

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5. The applicant in this O.A. has sought for the following reliefs -

(i) That the order dated 13.12.1995 issued by the Chief Personnel Officer, Eastern Railway, Calcutta, relating to release of his revised pay and settlement dues and promoting him to the Sr.Scale as per the Tribunal's order dated 19.12.1994 passed in O.A.No.112 of 1993 alongwith M.A.No.298 of 1994, be set aside and quashed.

(ii) To direct the respondents to issue forthwith an order for release of his DCRG (Gratuity), arrear pay, arrear leave encashment, balance amount of commutation of pension from 1.2.1993 alongwith interest @ 18% p.a. till the date of payment.

(iii) To direct the respondents to give him promotional benefit in Sr.Scale from the date his immediate junior, Shri B.K. Das, Assistant Commercial Officer, was promoted to Sr.Scale as Sr.Commercial Officer w.e.f. 6.3.1987 and to give all pensionary benefits to him after fixing his pay in the appropriate stage in Sr.Scale including his gratuity, provident fund, leave encashment.

(iv) To set aside and quash the office order being no. G. I/ 13/TT&CD/1987 issued under letter no.E.838 Sr.Scale/TT&CD/Pt. I dated 6.3.1987 (annexure 'A' to the O.A.).

(v) To direct the respondents that they will be at liberty to take appropriate steps in accordance with law for recovery of Govt. dues, if any, payable by the applicant.

(vi) For an order upon the respondents to issue post-retirement passes.

6. The matter was heard on 2.2.2000, when Mr.B.C.Sinha, ld. counsel, leading Mr.P.L.Bose, ld.counsel, appeared on behalf of the applicant and vehemently argued the case in favour of the applicant. However, none appeared on behalf of the respondents.

7. We have carefully gone through the application, the reply filed by the respondents to the O.A. and also the rejoinder thereto. It is observed that the applicant wants to be promoted

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from 1987 when Shri B.K.Das was promoted to the Sr.Scale on the ground that Shri B.K.Das was junior to him. The respondents have, however, clearly stated in their reply filed to the D.A. that in the DPC held on 29.1.1987, his junior, Shri B.K.Das, was considered fit and promoted to the Sr.Scale, but the applicant was not declared fit for promotion by the said DPC. Subsequently, two more DPCs were held i.e. on 19.4.1989 and 2.2.1990, when the present applicant was again declared unfit for promotion to Sr.Scale and it was only in the DPC of January, 1991, that the applicant was found fit for promotion to Sr.Scale alongwith others and Shri M.Singh was his immediate junior. However, sealed cover procedure was adopted in the case of the applicant due to pendency of the DA case against him.

8. It is seen that the applicant was given promotion w.e.f. 26.1.1991 when his immediate junior, Shri M.Singh, was promoted on the basis of the DPC held in January, 1991. The applicant was not found fit for promotion by the DPC on 29.1.1987 when his junior, Shri B.K.Das, was considered fit and promoted to the Sr.Scale. Therefore, the reliefs claimed by the applicant in this D.A. with regard to his promotion in the Sr.Scale and the benefits which would flow from that, cannot accrue to him.

9. The only issue which requires to be adjudicated upon is the recovery of rent of the Railway quarters from the applicant which was not vacated by him long after his superannuation, as also issue of complimentary passes to him after his retirement. It is observed from the reply of the respondents that all the dues of the applicant were released, but thereafter the recoveries were affected from these. The applicant by his letter dated 21st February, 1995, to the respondent-authorities expressed his regret for not vacating the railway quarters in question long after his superannuation as retention of the said quarters had to be wilfully resorted to because of certain domestic discord and estrangement with his wife who happened to be a schizophrenic patient and always found to be non-cooperative and working at cross purposes and he prayed that he would be

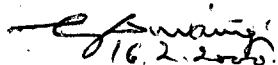
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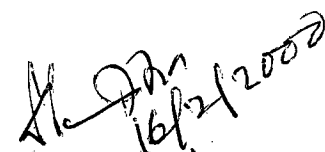
relieved if the respondents initiated legal proceedings against him for recovery of the above quarters, for which he would raise no objection, but despite the applicant volunteering to the above, he did not vacate the quarters in question, but had to be evicted through eviction proceedings. He has also disclosed at sub-para (xx) of paragraph 4 to the D.A. that his wife is vindictive and has been forcibly occupying the quarters although she is absolutely independent being employed in the Office of the Land Acquisition (South) and is drawing sufficient salary to maintain herself and is not cooperating with her husband i.e. the present applicant. This fact of his wife being ill, the services of the West Bengal Govt. was at no time called for by the respondent-authorities and the applicant was prolonging the retention of the Railway quarters under one pretext or the other. We find no justification for retaining such Govt. property unnecessarily by the applicant.

10. As regards the issue of complimentary passes, as prayed for by the applicant, the Railway-Administration may consider it keeping in view the fact that his wife is independent of herself and is drawing sufficient salary to maintain herself and always not cooperating with him and the applicant was residing at his ancestral house, it may be considered as to whether in view of this disclosure by the applicant, he can be issued the complimentary passes for himself and other members of his family who are actually dependent on him.

11. The matter of recovery of various dues by the Railway-respondents from the applicant, must be finalised within a period of three months from the date of communication of this order and the respondent-authorities should make all efforts to recover the dues from him.

12. This D.A. stands disposed of on the above lines, without passing any order as to costs.


(G.S. Maingi)
Administrative Member


(D. Purkayastha)
Judicial Member