

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 204 of 1996.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

HIRA

VS.

C. L.W

For Applicant : Mr. B. Chatterjee, Counsel.

For Respondents : Mr. P.K. Arora, Counsel.

Heard on: 23.9.96.

Date of Order : 23.9.1996.

O R D E R

The applicant is a retired employee of C.L.W, Chittaranjan who was due to retire on attaining the age of superannuation on 31.10.1992. However, about 20 months before the date of retirement, he submitted an application through proper channel seeking voluntary retirement on the ground of medical invalidation as he became blind practically. He was examined by a Medical Board and the Medical Board found him unfit to continue in railway service in all categories. Seeking several reliefs including the grant of appointment on compassionate ground to his son, the applicant had filed an O.A. No. 1103 of 1992. That application was disposed of by a Judgement passed on 28.7.1993, in the following terms :-

"In the result the application succeeds. The application is disposed of with the following direction :

- i) The Railway Authorities are directed to treat applicant No. 1 (Hira) as retired from Railway service w.e.f. 1.9.91 on the ground of medical invalidation;
- ii) He should be given all retiral benefits on the basis of such deemed retirement w.e.f. 1.9.91;

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- iii) applicant No. 2 who is the son of applicant no. 1 shall be given an appointment on compassionate ground in terms of Railway Rules which, provided for such appointment in case of medical invalidation of a Railway employee subject to fulfilment of other conditions such as age, fitness etc. "

2. The applicant now contends that pursuant to the above directions given by this Tribunal, his son was given appointment in the Railway and his Quarter was also regularised w.e.f. 17.11.94, but the railway-Respondents have realised damage and penal rent and they have also stopped issue of Post-Retirement Complimentary Passes in his favour. The applicant also raised the issues regarding deduction of double the rent and also certain other charges but, Mr. Chatterjee, Id. Counsel for the applicant did not press for this relief during hearing and he kept his argument confined only to the realisation of damage/penal rent and also non-issue of post-retirement complimentary passes.

3. The application has been opposed by the respondents by filing a reply. The stand taken by the respondents has been that they have ^{disbursed} ~~disbursed~~ to the applicant Rs. 27,060.00 as D.C.R.G. after adjustment of Govt. dues as per Railway Rules as under :-

i) House Rent from 1.2.1992 to 28.2.93 = 13 months x 38 (normal rent) ...	Rs. 494.00
ii) House Rent from 1.3.93 to 20.6.93 = 4x76 (Double rent) ...	Rs. 304.00
iii) Damage rent from 1.7.1995 to 17.11.94 = 16 17/30 x 677.25 ...	11,219.77
iv) Arrear House rent from 1.7.90 to 31.1.92 = 19 months x @ 6/- ...	114.00
v) Electric charges (Meter reading 10361- 7539 = 2822 units x '81 p. ...	2,285.82
vi) Arrears electric	139.36
vii) W.B Duty x 2822 x 0.08	225.76
viii) Over payment of Bangla Bandh	65.00
ix) Conservancy charges 16 17/30 x 10/-	165.66
x) Tool claims	100.00
xi) Over payment of salary drawn during 1.9.91 to 31.10.92 and 5 days leave Salary drawn	1,092.46

Dr

The Totalling of the said dues is Rs. 16,205.83 p. and the applicant was paid Rs. 10,855/- after such adjustment. The respondents further averred that the son of the applicant has been appointed as Khalasi in the Horticulture Department w.e.f. 24. 2.1994 after observing all formalities i.e. suitability, medical examination, etc. and the Quarter was regularised in his son's name after his son was appointed on compassionate ground on 17.11.1994 after observing all the formalities i.e. of approval of the competent authority, transfer/Quarter from Mechanical pool to Engineering Pool etc. The respondents contend that there is nothing wrong in making the deduction of dues from the D.C.R.G. amount. They have, therefore, prayed for dismissal of the application on the ground that it is devoid of merit.

4. Mr. Chatterjee, Id. Counsel for the applicant contended during argument that the applicant wanted to retire voluntarily on the ground of medical invalidation but that was not allowed by the respondents and, consequently, he had to seek intervention from this Tribunal in the matter. The applicant was very much in service and, therefore, the railway-respondents cannot be permitted to realise any damage or penal rent from the D.C.R.G. It was further argued by Mr. Chatterjee that the applicant's son was given the compassionate appointment and the quarter, which was used to occupy by the applicant, was regularised in the name of his son. However, Mr. Arora, Id. Counsel for the respondents, argued that as per extant rules, a person after retirement can only apply for staying in a quarter allotted to him while in service for a period of 4 months on payment of normal rent and thereafter, for next 4 months double the ~~rent~~ normal rent ^{have to be} charged; this was exactly done by the respondents in this case. According to Mr. Arora, the date of retirement of the applicant was 31.10.92 and, thereafter, after a lapse of 8 months, the applicant was

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charged damage/penal rent for the occupation of the quarter.

Mr. Arora also argued that the allotment of a quarter cannot be a condition of service and also not a ground of compassionate appointment to ^{work} ~~an~~ of any railway employee.


5. I have examined the matter carefully after hearing the submission of the learned Counsel for both the parties and perusing the records. No doubt that the applicant wanted to retire voluntarily on medical grounds and he also applied accordingly but the railway-respondents did not allow him to do so. It is also agreed that the railway medical board had found him unfit for all categories of job and, ultimately, this Tribunal had decided on 28.7.1993 that he shall be deemed to have been retired from service on 1.9.1991. The ground that has been taken by the respondents for realisation of damage rent is that if the applicant would have in the normal course retired from service on attaining the age of superannuation on 31.10.92, ~~and~~ as per extant rules, for occupation of the railway quarter he would be liable to pay damage/penal rent after expiry of 8 months from that date. Therefore, he submits that this is what exactly ^{way} done by the respondents in this case. The quarter which was occupied by the applicant was regularised in the name of his son only on 17.11.1994. Mr. Arora, therefore, argued that there is nothing wrong ⁱⁿ by the action taken by the respondents. However, I note that the decision to the effect that the applicant will be deemed to have retired on 1.9.1991 was taken by this Tribunal only on 28.7.1993. Therefore, till that date there was an area of uncertainty about the future of the applicant. No doubt, in the normal course, the applicant was to retire on 31.10.1992 which is earlier than the date of the delivery of the Judgement. But the fact remains that the applicant was before a Court of law till 28.7.1993 and, therefore, in all fairness, the respondents can be permitted to realise damage rent only

after 8 months from the date of delivery of the Judgement. I, therefore, find that levying of damage/penal rent on the applicant from 1.7.1993 which is earlier than the date of Judgement is not sustainable in view of the said argument.

6. Therefore, in the light of above observations, I direct that the respondents shall refund the damage or penal rent realised from the D.C.R.G. amount of the applicant from 1.7.93 till expiry of 8 months from 28.7.1993 which is the date of delivery of the Judgement less the normal rent or double the normal rent as may be applicable which is payable by the applicant to the respondents. The railways shall have the liberty to realise the damage/penal rent, as I have already stated, from the date immediately after lapse of 8 months from the date of Judgement dt. 28.7.1993 till 17.11.1994. Necessary adjustment shall be made by the respondents-railway accordingly and the excess non-realised amount shall be refunded to the applicant within a period of 3 months from the date of communication of this Order.

7. As regards Post-Retirement Complimentary Passes I find that the applicant has also vacated the quarter and already retired. I, therefore, direct the respondents to release the Post-Retirement Complimentary Passes as per rules prospectively.

8. I pass no order as to costs.


(B.C. Sarma)
Member (A)