

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. M.A. 294 of 1996 (O.A. 254 of 1996)

Present : Hon'ble Dr. B.C.Sarma, Administrative Member.

PRODYUT KUMAR DUTTA

VS.

UNION OF INDIA & ORS.

For applicant : Mr. B.C.Sinha, Counsel.

For respondents : Mr. P.K.Arora, Counsel for E.Railway.
Ms. B.Ray, Counsel for S.E.Railway.

Heard on : 17.9.96 :: Ordered on : 17.9.96.

O R D E R

This miscellaneous application has been filed with the prayer that one set of post retirement complimentary passes be issued to the applicant. The applicant had retired from railway service voluntarily on 15.11.88. This M.A. has arisen out of O.A. 254 of 1996.

2. This M.A. was moved as an unlisted matter before Court-I on 11.9.96 and thereafter, since the O.A. mentioned above has been transferred to this Court in the Single Bench for adjudication, the M.A. has also been ordered to be moved here and, accordingly, the instant M.A. has been moved by Mr. B.C.Sinha, 1d. counsel for the applicant.

3. Mr. Sinha, 1d. counsel, submitted that the applicant is in urgent need of going to New Delhi along with his wife to visit his ailing nephew, who is studying there and the railway respondents have illegally refused to give him the post retirement complimentary railway passes on the ground that he has been in unauthorised occupation of the railway quarters. Since the matter is urgent and since the O.A. has been listed for hearing on 17.10.96, this matter has been moved today. Mr. Sinha also submitted that the copy of the M.A. has been duly served on the respondents.

4. Mr. P.K.Arora, 1d. counsel, appears for the Eastern Railway respondents and Ms.B.Ray, 1d. counsel, appears for the South-Eastern Railway respondents. The applicant had retired voluntarily from the Eastern Railway and the particular railway quarters also belongs to the ^{Eastern} same railway. Mr. Arora submitted that the applicant had filed another M.A. earlier bearing No. 121 of 1996 which was disposed of by an order in Court-I on 24.4.96 wherein one set of post retirement complimentary railway passes was ordered to be released to enable the applicant to go to New Delhi by making a fresh application. He also submitted that as per direction given by this Tribunal, one set of complimentary passes was given to the applicant and, now, within a period of few months the applicant has filed again this M.A. with the prayer that another set of complimentary railway passes be issued to the applicant on the same ground for going to New Delhi. Mr. Arora further submitted that the O.A. has been filed by the applicant only for the relief that the railway respondents be directed to issue post retirement complimentary railway passes to the applicant after retirement since such passes have been withheld by the railway respondents on the ground that the applicant has been in unauthorised occupation of railway quarters. Mr. Arora emphatically submitted that if this M.A. is allowed, that will make the O.A. infructuous and will also cause serious prejudice to the respondents in the matter since the applicant is coming in instalments before the court and already succeeded in getting one set of complimentary post retirement railway passes by filing the earlier M.A. It has also been submitted by Mr. Arora that although the applicant had retired from railway service as early as in 1988 and he was a very senior officer holding the rank of ^{Addl. G.M.} ~~Chairman and Managing Director~~, he has not vacated the railway quarters and till the date of hearing of this M.A.; he is in occupation of the said quarters. The railways have already approached the forum of Estate Officer under the P.P.(EUO)Act, 1971 and the applicant has already been declared to be an unauthorised occupant of the railway quarters allotted to him. However, he did not vacate the railway quarters because he preferred an appeal before the court of the District Judge

against the order of the Estate Officer. Mr. Arora further submitted that although the applicant has taken the plea on the basis of the decision in Wazir Chand's case that railway respondents cannot deny him from the issue of complimentary railway passes, he too rely on the same decision. In that case, the Full Bench categorically held that such post retirement complimentary railway passes can be withheld if the retired railway servant has been adjudged to be an unauthorised occupant. According to Mr. Arora this is exactly what has happened in this case. Mr. Arora cited a decision of the Principal Bench of this Tribunal reported in 1993(2) ATJ 205 (Sh. Inderjit Singh Vs. Union of India & Ors.) wherein it was held that post retirement passes be given prospectively from the date of vacation of railway quarters in accordance with rules. It was the contention of Mr. Arora that since the applicant is still in occupation of the railway quarters, he cannot be given any post retirement passes at this stage. However, Mr. Sinha replied that according to the decision in Wazir Chand's case, the main circular of the Railway Board has been struck down and, consequently, the railway respondents cannot withhold the issue of any post retirement complimentary passes on the ground of unauthorised occupation. Mr. Sinha also relied on the judgement of this Bench in the case of M.S. Banerjee Vs. Union of India & Ors reported in 1996(1) ATJ 307. Ms. B. Ray, 1d. counsel, has adopted the same argument as has been advanced by Mr. Arora.

5. I have carefully considered the submissions made by all the parties, perused records and considered the facts and circumstances of the case. I have also perused the main relief prayed for by the applicant in the O.A. bearing No. 254 of 1996. That application has been filed against the withholding of the post retirement complimentary railway passes after retirement and that too has been filed on 23.2.96. I find that the applicant has also filed two M.A.s bearing No. 121 of 1996 and the instant one, which was filed on 23.9.96. The basic prayer made in this M.A. is the same as that made in the O.A. Keeping in view of the urgency as contended by the learned counsel for the applicant for his client's



visit to New Delhi, this Tribunal by an order dated 22.2.96, set had directed that one of post retirement complimentary railway passes be issued to the applicant to enable him to go to New Delhi and that was done. The applicant is now before this Court with this M.A. praying for the issue of another set of post retirement complimentary passes. Although Mr. Arora has advanced some arguments in favour of his submission that the railway authorities under the circumstances are not legally bound to issue any post retirement complimentary passes on the basis of the decision in Wazir Chand's case, Sh. Inderjit Singh's case and on the fact that the applicant has been declared to be an unauthorised occupant, I do not intend to go into that aspect of the matter at this stage. It is mainly because of the fact that any finding by me on this count shall pre-judge the O.A. filed by the applicant. I am also of the view that since the applicant has already been given one set of post retirement complimentary passes, the issue of another set of such passes now by dint of the instant application despite the argument advanced by the respondents shall also prejudice the interest of the respondents at this stage in the O.A. This being the position, I am of the opinion that the prayer made by the applicant in the instant M.A. cannot be granted at this stage since the issue is going to be adjudicated in the O.A.

6. For the reasons given above, I do not find any merit in this M.A. The M.A. is accordingly dismissed. No order is passed as regards costs.

7. The O.A. is fixed for hearing on 9.10.96.



(B.C. Sarma)
MEMBER (A)