

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

NO. O.A.492 of 1996

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

PROVAT KUMAR DAS

... Applicant
Vs.

1. Union of India through the General Manager, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700 001.
2. General Manager, Eastern Railway, Fairlie Place, 17, Netaji Subhas Road, Calcutta-700 001.
3. Chief Personnel Officer, Eastern Railway, Fairlie Place, 17, Netaji Subhas Road, Calcutta - 700 001.
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-700 001.
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-700 001.

... Respondents

For the applicant : Mr.A.Chakraborty, counsel.
Mr.P.L.Bose, counsel.

For the respondents: None

Heard on : 20.3.1997

Judgment on : 20.3.1997

JUDGMENT

When the case was called for hearing today, 1d.counsel for the applicant were present, but none appeared on behalf of the respondents. So the case was heard ex parte in the absence of the respondents.

2. The main question before this Tribunal is that whether the respondents have any authority to stop payment of relief

on pension to the applicant or not. Applicant challenges the validity of the impugned order dated 14th February, 1996 (annexure 'G' to the application) by which the Chief Accounts Officer/Pension of the Eastern Railway Accounts Department, Calcutta, stopped the payment of relief on pension to the applicant until further order. According to the applicant, the relief on pension being a part of the basic pension, respondents have no jurisdiction or authority to stop the payment of relief on pension of the retired employee. Lt.counsel for the applicant relies on a decision reported in 1988 Vol.8 Administrative Tribunal Cases page 26 (R.D.Sharma vs. UOI & Ors.) .

3. The respondents filed written reply in this case stating inter alia that for non-vacation of the quarters, the Estate Officer initiated a proceeding against the applicant and a show cause notice was served upon the applicant under the provision of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the Estate Officer passed an order evicting the applicant from the Railway quarters and accordingly, applicant vacated the quarters on 31.5.1996. It is further averred in the written reply that due to unauthorised occupation of the quarters, the damage rent was assessed at Rs.1,79,885/- upto 31.11.1995 and out of that amount only Rs.71,892/- was realised from DCRG amount of the applicant and arrears of pay, arrear leave encashment, and the rest amount of Rs.1,07,993/- is still due for which CAO (Pension) advised the State Bank of India to stop payment of relief on pension on account of quarter rent upto 30.11.1995 and electric charges upto 31.3.1992.

4. Lt.counsel, Mr.A.Chakraborty, appearing on behalf of the applicant submits that the amount of damage rent may be realised in accordance with the law prescribed for the said purpose but the authority has no jurisdiction to stop the payment of relief on pension which is a part of the basic pension by the impugned



order dated 14.2.1996 (annexure 'G' to the application). So annexure 'G' is illegal, arbitrary and without jurisdiction.

5. I have considered the submission made by the ld.counsel for the applicant and also perused the record. I find in a series of judgments by the Hon'ble Apex Court including that of the Tribunal, it has been repeatedly reiterated that relief on pension is a part of the basic pension and recovery of damage rent for overstay in a Government accommodation cannot be adjusted from the pension entitled to the retired employee. The judgment reported in 1988 Vol.8 A.T.Cases page 26 fully supports the case of the applicant and thereby I have no hesitation to quash the impugned order (annexure 'G' to this application), treating the same as void ab initio since the respondents have no jurisdiction to stop payment of pension or relief on pension entitled to the retired employee.

6. Consequently, the application is allowed and annexure 'G' is quashed. The respondents are directed to issue necessary order for payment of ^{Relief on} ~~pension~~ of the applicant without any further delay.

7. Ld.counsel Mr.A.Chakraborty further submits that since the respondents acted without any authority, thereby he is entitled to get interest from the date of withholding of pension i.e. relief on pension by the impugned order dated 14th February, 1996. Mr.Chakraborty has drawn my attention to a judgment of this Bench of the Central Administrative Tribunal reported in 1996 Vol.1 290 (Nihar Kumar Mukherjee vs. UOI & Ors.). In the said judgment, the Division Bench of this Tribunal had reiterated the same view holding that outstanding dues for holding a Govt. accommodation, cannot be recovered from the relief on pension unless such an order is issued by the President. A direction was given for payment of relief on pension alongwith interest @ 18% p.a. In the instant case, since I am convinced and satisfied that the impugned order is without jurisdiction,

thereby I also direct the respondents to make payment of interest on the relief on pension to the applicant which has been withheld by them @ 18% p.a. w.e.f. 14th February, 1996, till the payment is actually made.

8. A copy of this order be sent to the respondents for immediate compliance.

10/3/97
(D.Purkayastha)
Judicial Member