

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.690/1997

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

M. CHINNA RAO & ANR.

VS.

UNION OF INDIA & ORS.

For the applicants : Mr. P.C. Maity, counsel
Mr. T.K. Biswas, counsel

For the respondents : Mr. P.C. Saha, counsel

Heard on : 10.6.99

Order on : 10.6.99

O R D E R

This application has been filed by two applicants namely, M. Chinna Rao and M. Chandra Sekhar, applicant No.1 and 2 respectively. The case of the applicants in short is that, the applicant No.1 applied for voluntary retirement on medical ground and the said application had been accepted by the authorities w.e.f. 12.3.95. But subsequently the respondents amended the date of voluntary retirement of the applicant No.1 by issuing a fresh notification dated 30.7.95 by which voluntary retirement of the applicant No.1 has been accepted by the authority w.e.f. 5.4.95 instead of 12.3.95. It is stated by the applicants that the applicant No.1 was allowed to retain his quarter after his retirement upto 4.8.95 as prayed for by him. The respondents appointed of the eldest son/the applicant No.1 on compassionate ground w.e.f. 23.11.96. Applicant No.1 applied for compassionate appointment in favour of his son, applicant No.2 by the letter dated 15.9.95. But the respondents delayed the matter unnecessarily. After being appointed as Khalasi, the applicant No.2 prayed for regularisation of the quarter which was allotted to his father, applicant No.1. But the respondents did not regularise the said quarter in favour of him. In

the meantime the quarter was allotted in favour of another person. The applicant No.1 applied before the authorities to allow him to hand over the said railway quarter on 2.1.96 and on 4.4.96 and thereafter by a letter dated 12.9.96 he requested the authorities to take necessary steps in this regard. But the respondents did not take action in this matter. After retirement of the applicant No.1 his DCRG money was withheld by the respondents arbitrarily and illegally

~~on the ground~~ of unauthorised occupation of the quarter. According to the applicants, no penal rent or damage rent can be charged on the abovementioned ground since the son of applicant No.1 was given appointment under the respondents w.e.f.23.11.96 and after his appointment the quarter was supposed to be regularised in favour of him. Thereby the applicant^{No.1} is entitled to get the amount of DCRG money with interest @ 18% from the date of retirement till payment is made.

2. The case of the applicant has been denied by the respondents by filing written reply to the O.A. It is stated by the respondents that the applicant No.1 was allowed to retire with effect from 5.4.95 as the Railway administration could not offer any suitable job to him. It is stated by the respdts. that the son of applicant No.1, was appointed on compassionate ground on 23.11.96 and after such type of appointment i.e. after 1 year 8 months from the date of voluntary retirement of his father(the applicant No.1), applicant No.1 made representation to the authorities for regularising the same quarter in favour of applicant NO.2 under the 'Father and son Rule'. It is also stated by the respondents that the said Rule is not applicable in this matter as the son(Applicant No.2) was not a railway employee prior to 6 months of voluntary retirement of the applicant No.1. According to the respondents, the entire amount of DCRG money of the applicant has been withheld

in terms of the Railway Board's Circular dated 19.8.87 bearing No.F(E) 111-87 PN 1/2(Annexure R-3) and such withholding of DCRG money is justified under the law. It is also stated by the respondents that the applicants are still in unauthorised occupation of the quarter and unless they vacate the said Rly. quarter, DCRG money of applicant No.1 could not be released. Question of deducting rent from the salary of applicant No.2 does not arise since the quarter was not regularised till date. This matter is still under adjudication of the Tribunal in O.A.581/1997 which has been filed by the applicants for regularisation of quarter under 'father and son' rule. So, the application is devoid of merit and is liable to be dismissed.

3. Ld. counsel Mr. P.C. Maity appearing on behalf of the applicants submits that the entire action of the respondents are highly arbitrary and illegal in view of the ~~several~~ judgments of the Tribunal in the case of Arvind Singh vs. Union of India & Ors., Ms. Pinki Rani vs. Union of India & Ors. and in Wazir Chand's case (Full Bench). Mr. Maity submits that the applicant No.1 applied before the authorities several times requesting them to take possession of the said Rly. quarter and the respondents have not taken any action in this regard. He further submits that the son of applicant No.1 Applicant No.2 also requested the authorities to regularise the quarter in favour of him as he was appointed under the respondents, but the respondents have not taken step in this regard also. So, the applicants are in no way responsible for unauthorised occupation of the quarter as stated by the respondents. Thereby the applicant No.1 is entitled to get refund of the entire DCRG money with interest as claimed in the application.

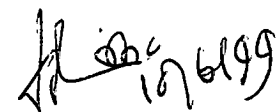
4. Ld. counsel Mr. P.C. Saha appearing on behalf of the respondents submits that the applicants filed one O.A. bearing No.581/1997 before the Tribunal for regularisation

of the said quarter, which is still pending for adjudication. He also submits that the applicants did not vacate the quarter even after permissible limit as granted by the respondents and they are in unauthorised occupation of the quarter with effect from 4.8.95. ~~So~~ the respondents ~~rightly~~ withheld DCRG money of the applicants on the ground of non-vacation of the quarter.

5. I have considered the submissions made by the ld. counsels for both sides and have gone through the records. In view of the controversies made above, I find that it is an admitted fact that the DCRG money of the Applicant No.1 was withheld by the respondents for unauthorised occupation of railway quarter. In the instant case, it is found that one O.A.No.581/97 has been filed by the applicants for regularisation of quarter, which is still pending for decision before the Tribunal. On a perusal of various decisions of this Tribunal and the judgments as referred to by the ld. counsel for the applicant Mr. Maity it is found that withholding of DCRG money of the employee has no nexus with the payment of damage rent. It is also found that ^{one of the} the dependants of Govt. employee is entitled to get compassionate appointment if the employee retires voluntarily on medical ground. In this case the son of the employee, applicant No.2 was given appointment on compassionate appointment and the applicants have no grievance in this regard. According to the applicants, the said railway quarter should have been regularised in favour of the applicant No.2 as he was appointed under the respondents. But the respondents denied their claim by stating that the said quarter should not be regularised in his favour as he was ~~ex~~ not entitled to get the same. Since the matter is pending before the Tribunal, I am not inclined to discuss about the same. I find that the applicant No.1 applied before the authorities to

take possession of the quarter by the letter dated 12.9.96 (Annexure R-2). The respondents allotted the said Rly. quarter to another person, but the said order of allotment has not been communicated to the applicant nor the applicant was requested to hand over the quarter. ~~there is no explanation~~ from the side of the respondents as to why such action was not taken by them. Since the matter of regularisation of quarter is pending for adjudication, the respondents were not justified to withheld DCRG money of Applicant No.1 on the ground of non-vacation of quarter. It is now settled law that the retired employees are entitled to get pension and gratuity on the date of retirement and if not within two months from the date of retirement. I find there was laches on the part of the respondents and the applicants should not suffer for that.

6. In view of the aforesaid circumstances, the respondents are directed to release ^{all the} the settlement dues of the applicant including DCRG money within 2 months from the date of communication of this order. The respondents will be at liberty ^{from the applicants} to realise normal rent for the Govt. quarter for the relevant period. The applicant No.1 will get interest at the rate of 12% on the amount of DCRG money from the date of his voluntary retirement (i.e. on 5.4.95) till the payment is made. Accordingly the application is disposed of awarding no costs.


(D. PURKAYASTHA)
MEMBER(J)

S.M.