

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.831 of 1997

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

Syed Md. Eqbal, S/o late S. Izhar
Hossain, Ex-Office Superintendent Gr.I
Office of the CWS, Eastern Rly.,
Asansol, residing at Mohalla Babutalao,
Railpar, Asansol-2, Dt. Burdwan

... Applicant

VS

1. The General Manager, Eastern
Railway, 17, Netaji Subhas Road,
Fairlie Place, Calcutta-700 001

2. The Divisional Railway Manager,
Eastern Railway, Asansol-713 301

... Respondents

For the Applicant : Mr. B. Chatterjee, counsel
Mrs. B. Mondal, counsel

For the Respondents : Mr. R.K. De, counsel

Heard on 9.6.1999 : : Date of order: 9.6.1999

O R D E R

The question is whether the respondents are justified to deduct Rs.20,354/- towards outstanding electricity charges for the period from October, 1994 to April, 1996. According to the applicant, no intimation has been given to him by the authority regarding outstanding electricity charges, as claimed by the respondents and deduction was made from the DCRG money without appraising the fact to the applicant at any time. According to the applicant, the entire deduction is illegal and unauthorised and in violation of Rule 15 of the Railway Servants (Pension) Rules, 1993.

2. The respondents denied the claim of the applicant stating interalia that the Railway quarter bearing No.60/ABC was divided into two units under No.61A and 60BC and the Unit No.60A was allotted to one Shri Gulam Hussain and the Unit No.60BC was allotted to the applicant. At the time of occupation of the said quarter, there was an agreement between the applicant and Shri

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Gulam Hussain that the consumed unit would be charged at the ratio 2:1 against the unit Nos. 60BC and 60A respectively, as they were provided with a common HS Meter for the said two units. It is stated by the respondents that the electricity charges to the extent of Rs. 20,354/- for the consumption of electricity for the period from October, 1994 to April, 1996 remain outstanding and the said amount has not been paid by the applicant before his retirement. So, as per agreement, the total consumption unit was worked out and assessed to the extent of Rs. 20,354/- which is payable by the applicant for the consumption of the electricity charges by him, as per his share. Since the said amount could not be recovered from the applicant during his service period from the monthly salary bills, the Railway respondents deducted the same from the gratuity of the applicant in terms of existing order relating to recovery of Government dues. Therefore, according to the respondents, the deduction is correct and justified and the application is liable to be dismissed as it is devoid of merit.

3. Mr. Chatterjee, learned advocate appearing on behalf of the applicant has drawn my attention to rule 15(4) of the Railway Servants (Pension) Rules, 1993 and submits that this rule does not authorise the respondents to deduct the electricity charges from the DCRG money and he further submits that as per Rule 15(4) it was the duty of the Head of Office to ascertain and assess the Railway dues payable by the Railway servant due to retirement before his retirement. And he further submits that the applicant did not consume the said electricity while he was in the occupation of the said quarter. Thereby the actions of the respondents are illegal and arbitrary and hence the applicant is entitled to get refund of Rs. 20,354/- which has been recovered from his DCRG as outstanding electricity charges.

4. Mr. De, learned advocate for the respondents submits that as per agreement made between the parties, Shri Syed Md.

Equbal, applicant and Shri Gulam Hussain rate was charged proportionate to the units consumed by them and thereby there should not be any dispute regarding consumption of the electricity charges as per meter reading in the said quarter. Mr. De further produced one letter showing that the applicant agreed to pay proportionate consumption of the units of electricity charges in the said quarter and as per the said agreement the amount in the ratio of 2:1 is to be paid by the applicant and accordingly charge was made. So, there is no fault on the part of the respondents in charging the electricity bills against him from the DCRG money and accordingly this was deducted from the DCRG money after retirement of the applicant since the applicant did not make the payment of the electricity charges while he was in occupation of the said quarter during his service period.

5. In view of the aforesaid controversy I have gone through the records produced by the respondents. It is found from the application that the applicant had retired on superannuation from service on 30.4.1996 and after retirement from service the respondents raised the claim of electricity charges for the period from October, 1994 to April, 1996 which were not recovered from the applicant. It is found from the record that the applicant raised the grievance regarding abnormal charges of electricity for occupation of the quarter vide his representation dated 27.4.1996, Annexure/A to the application. It is also found from the record produced by the respondents that the said representation has been disposed of by the authority by a letter No.EL/88/5/Vol.II/1271 dated 7.5.1996 stating interalia that electricity unit consumption for the period from October, 1994 to April, 1996 against the quarter remained under his occupation has been examined from the Meter reading book and found no anomaly and the said letter is placed at page 24 of the file of the respondents. It appears that the said file contains one

calculation sheet in respect of electricity charges of the quarter occupied by the applicant at page 10 of the file. So, the bill claimed by the respondents for the period from October, 1994 to April, 1996 appears to some extent abnormal with reference to the calculation sheet contained in the file. And it is also found from the record that the applicant made a detailed grievance in respect of charging the electricity bill which appears to be abnormal, but the respondents without entering into the merits of the representation disposes of the same stating the fact in the letter dated 7.5.1996 and it is not explained by the Department why the electricity charges were not recovered from the pay bills of the applicant from October, 1994 to April, 1996 and thereby there is laches on the part of the respondents in charging the electricity bill after retirement. Mr. Chatterjee, learned advocate refers to Rule 15(4) of the Railway Servants (Pension) Rules, 1993. On a perusal of the said rule it appears that the provision does not deal with the recovery of the electricity charges. The Government dues payable by the Railway employees can be adjusted after due assessment by the authority before retirement. According to the Rule, it is found that dues should be assessed by the authority before retirement of the applicant. The Hon'ble Apex Court in the case of State of Kerala and others vs. M. Padmanabhan Nair, reported in AIR 1995 SC 356 held that payment and gratuity are no longer a bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be vested with the penalty of payment of interest at the current market rate till actual payment. The liability to pay penal interest on these dues at the current market rate commences on the expiry of two months from the date of retirement. There is no explanation from the side of the respondents why they could not assess and recover the amount of outstanding electricity

charges before the date of retirement of the applicant. Since such assessment of electricity charges having not been done by the respondents before the date of retirement, it can be said that there is laches on the part of the respondents. But it appears that the respondents had already recovered Rs.20.354/- from the DCRG of the applicant without proper consideration of his representation dated 27.5.1996. It is also found that the respondents justified their claim basing on the assurance given by the applicant himself at the time of occupation of the quarter stating that he would share the units of consumption of electricity charges with another Government employee, viz., Shri Gulam Hussain and such assurance and undertaking appear at page 6 of the file produced by the respondents and the said assurance given by the applicant on 7.4.1984 it is written that "I am agreed with a common electric meter and deduction may please be divided among 1+2 i.e., G. Hossain F/kh Lt/An for A and for BC I will bear." But from the said assurance the Railway authority recovered electricity charges from the applicant, as it appears from the calculation sheet at page 10 of the file. On a perusal of the payment of the applicant which is objected by the applicant with reference to the calculation sheet it is prima facie found that the claim of the Railway respondents towards electricity charges from October, 1994 to April, 1996 is much higher than the electricity charges consumed by the applicant and that was required to be investigated on the basis of the representation made by the applicant and that has not been done by the respondents and the respondents disposed of the representation as a casual manner without appreciating the grievance of the applicant.

6. In view of the aforesaid circumstances I think it would be a fit case to direct the respondents to enquire into the matter as raised in the representation and to grant him appropriate relief after due consideration of the same, because

the applicant in his representation specifically stated that no previous bill against him had been shown such abnormal consumption of electricity charges. So, if the demands of the bill as raised by the respondents after retirement of the applicant can be checked from the previous bills it can be said that the claim raised by the respondents is no doubt abnormal. So, without holding any enquiry into the matter they have disposed of the representation. Thereby the action of the respondents in respect of recovery of Rs.20,354/- towards the charges of electricity consumption in respect of the quarter occupied by the applicant is not at all justified. Accordingly, I direct the respondents to review the entire matter and consider the grievance of the applicant made in the representation dated 27.5.1996 and to grant him appropriate relief in accordance with the rules. If after consideration of the representation it is found that the applicant's recovery was unjustly done by the respondents then charges recovered from him against the electricity bill should be refunded to him with interest at the rate of Rs.15% per annum after expiry of the two months from the date of retirement till the actual payment is made and that should be done within two months from the date of communication of this order. Accordingly, the application is disposed of awarding no costs.

102/9/6/99
(D. Purkayastha)

MEMBER (J)