

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 2/1997

Present : Hon'ble Mr. G. S. Mairagi, Administrative Member.

GANPATI BISWAS

... Applicant

vs.

1. Union of India through Secretary, Ministry of Railway, New Delhi.
2. The General Manager, Eastern Railway, 17, Fairlie Place, Calcutta-1.
3. The Chief Personnel Officer, Eastern Railway, 17, Fairlie Place, Calcutta-1.
4. The Divisional Railway Manager, Eastern Railway, Dhanbad Division, P. O. Dhanbad, Bihar.
5. The Divisional Personnel Officer, Eastern Railway, Dhanbad Division, P. O. Bihar.
6. The Sr. Divisional Commercial Superintendent, Eastern Railway, Dhanbad Division, P. O. Dhanbad, Bihar.
7. The Chairman & Ex-Officio Secretary, to the Govt. of India, Ministry of Railway, Railway Board, New Delhi.
8. Divisional Railway Manager, Dhanbad Division, Dist. Dhanbad, BIHAR.

... Respondents

For the applicant : Mr. J. N. Biswas, counsel.

For the respondents: Mr. P. K. Arora, counsel.

Heard on : 14.9.1999

Order on : 17.9.99

ORDER

This O.A. has been filed by Shri Ganapati Biswas challenging the order dated 7.8.1996 (annexure 'A' to the application) of the Divisional Railway Manager, Eastern Railway, Dhanbad.

2. Mr. J. N. Biswas, 1d. counsel, appeared on behalf of the applicant and Mr. P. K. Arora, 1d. counsel, appeared for the respondents.
3. It is observed from the application that the same is incomplete and in fact on the very first page of the O.A., the number has

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been shown as O.A.58 of 1994, which in fact has been decided and disposed of by this Tribunal on 22.11.1995 and all the issues raised therein had been adjudicated upon and appropriate orders passed.

4. A close scrutiny of the O.A. which is in fact a copy of O.A.58 of 1994 shows that the applicant has stated that he has enclosed annexures 'A' to 'P', alongwith the application, but those are not found there. What has been enclosed in this application i.e. O.A.2 of 1997 are three annexures i.e. annexures 'A', 'B' and 'C', but those are different from the annexures which are supposed to be enclosed as annexures 'A' to 'K' referred to in the application, O.A.58 of 1994.

5. The respondents have given a reply to this O.A. In paragraph 9(xiii) of the reply, it has been stated by the respondents that with reference to paragraph 4(8) to 4(17) of the O.A., the annexures 'F-1', 'F-2', 'G', 'E', 'I', 'J', 'K' and 'L' as stated therein have not been annexed actually incapacitating the respondents to reply precisely.

6. Mr.P.K.Arora, appearing for the respondents, during the hearing has stated that this Tribunal has passed a detailed order in O.A.58/1994 on 22.11.1995.

7. It was the contention of the 1st.counsel for the applicant that the recoveries to the extent of Rs.16,052.10p. have been effected by the respondents from the death-cum-retirement gratuity of the applicant whereas death-cum-retirement gratuity cannot be attached for the purpose.

8. It is observed from paragraph 6 of O.A.58/1994 decided by this Tribunal on 22.11.1995 that no notice for recovery is necessary in the light of the judgment of the Hon'ble Apex Court in the case of UOI & Anr. vs. Wing Commander, R.R.Hingorani reported in AIR 1987 SC 808.

9. However, I have gone through the present application which is in fact numbered as O.A.2 of 1997 in which the applicant has sought to challenge the order dated 7.8.1996, as shown in annexure 'A' to the present O.A. As already pointed out, the

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applicant had earlier filed an O.A. bearing no.58 of 1994 which was disposed of by this Tribunal vide its order dated 22.11.1995, a copy of which has been annexed as annexure 'B' to the present application. In the earlier O.A.No.58 of 1994, the applicant's only prayer was as follows -

"To refund Rs.17,977/- which has been illegally deducted from the final settlement dues of the applicant on his retirement and the interest at the present Bank rate as the applicant has been harassed in payment of full dues."

All the points urged and argued in the earlier O.A. were elaborately discussed in the judgment dated 22.11.1995 and the said O.A. was disposed of with the following order -

"The application is disposed of with the direction that the railways shall hold back the amount or the approximate amount on account of payment of damage/penal rent from the applicant for the period concerned and the balance amount of gratuity shall be released to him if not already done, within a period of 3 months from the date of communication of this order. The railways are given liberty to approach the appropriate forum for determination of the damage or penal rent and that action shall be taken by the railways within a period of 6 months from the date of communication of this order. On very justifiable grounds, the railways may approach this Tribunal for extension of time in the matter."

It appears that thereafter the respondents assessed the rents due from the applicant for his unauthorised occupation of the railway quarter after his retirement as will appear from the calculation sheet shown as annexure 'R' to the reply of the present O.A. It appears that from 30.11.1989 to 29.1.1990, the respondent-authorities have charged normal rent of Rs.45/-. For the second spell from 30.1.1990 to 29.7.1990, they have charged double the rent i.e. Rs.90/- per month and thereafter, from 30.7.1990 to 18.4.1992, the respondent-authorities have charged damage rent, as per rules, and the total amount due from the applicant was assessed as Rs.16,052.10p., whereas a sum of Rs.17,977/- was deducted from the applicant from his D.C.R.G. Therefore, there was an excess recovery to the tune of Rs.1924.90p., which was refunded to the applicant by the impugned order dated 7.8.1996. The applicant has challenged this order and claimed that he should be paid full amount of DCRG of

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Rs. 17,977/- deducting therefrom only normal rent of Rs. 90/- p.m. for his occupation of the railway quarter after his retirement which according to him is not an unauthorised one.

10. On going through the detailed judgment passed in the earlier O.A. 58/1994, I find that this Tribunal had already adjudicated this matter and directed the Railways to hold back the amount on account of payment of damage/penal rent from the applicant. In fact the respondent-authorities have done actually that and the Railway dues towards unauthorised occupation of the applicant after his retirement has been assessed as Rs. 16,052.10p., as already mentioned above. Therefore, the present claim of the applicant seems to be unjustified and this Tribunal having already adjudicated the matter, I find nothing more to adjudicate in the present O.A.

11. Accordingly, I am unable to interfere with the decision of the Railway-authorities on this score.

12. In view of the above, the present O.A. is dismissed being devoid of any merit.

13. No order is made as to costs.


(G.S. Mingi)
Administrative Member