

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Original Application No. 1339/1997
This the 28th day of January, 2005.

Present

Hon'ble Mr. A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr. G.R.Patwardhan, Administrative Member

P.L. Banerjee S/o Late Shri Manick Chandra Banerjee, Ex. Chief
Power Controller, E. Railway, Malda, at present residing at C/70
Sri A.K. Naskar, Railpar K.S. Road, Asansol.
(By Mr. B. Chatterjee, Adv. For the applicant)

.....Applicant.

Versus

1. Union of India through the General Manager
E. Railway, Calcutta.
2. The Divisional Railway Manager,
E. Railway, Malda.
(By Mr. P.K.Arora, Adv. For the respondents)

.....Respondents.

ORDER
(BY G.R.PATWARDHAN)

O.A. 1339/97 has been preferred by P.L. Banerjee since retired, as Chief Power Controller, Eastern Railway, Malda, against the Union of India and the Divisional Railway Manager, Eastern Railway, Malda. It is the admitted position that the applicant retired from the Railway service on 30.9.1989 and in due course, was expected to be paid all his retrial dues. Specific objection has been taken to the contents of Annex. A/1 which is a letter written by the Divisional Railway Manager, Eastern Railway, Malda and issued on 12.12.1989. It would be appropriate to reproduce the same in toto so as to appreciate the prayer of the applicant :



"You retired from Railway Service w.e.f. 30.9.1989 but it has been observed that you are still retaining the Railway Qrs. No. 609/CD at IMP without any valid authority thereof and beyond the permissible period i.e. 30.9.1989 9 (AN).

As per Railway Board's letter No. E(G) 81 QRI-51 dated 24.4.82 (circulated vide CPO/E.Rly's S.L. No. 84/82) for every one month of unauthorized retention of Railway Quarters, one set of post retirement complimentary pass should be disallowed.

You are, hereby, requested to show cause within fifteen days from the date of receipt of this notice as to why the complimentary post retirement pass/passes would not be disallowed to you in the scale mentioned hereinbefore in terms of Railway Board's Circular quoted above. If no representation is received from you within the stipulated time it will be taken that you have no representation to make and the orders in the matter of stoppage of post retirement passes will be final.

This issues without prejudice to eviction proceedings pending or that may be taken against you for such unauthorized occupation."

The prayer contained in paragraph 8 is to the following effect :-

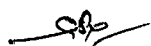
- (a) Issue of direction to respondents to release the balance amount of DCRG of Rs. 10,000/- with interest at the rate of 18% from 1.10.1989 and also interest on interest.
 - (b) To release the post retirement complementary passes and to declare Annex. A/1, as illegal, unwarranted and void.
2. Annex. A/3 is a letter from the Divisional Railway Manager to the Divisional Accounts Officer (Pension), regarding payment of DCRG to the applicant dated 19.11.1990, where there is a mention that a sum of Rs. 10,000/- has been retained to meet the recovery of outstanding House Rent.
 3. The application is very brief and essentially makes out a case only about with-holding of Railway Passes due to non vacation of Railway quarter and maintains that even the President



of India has no power to with-hold the same! There is no averment to indicate the date on which the applicant vacated the quarter and the place. This becomes much relevant in the face of a statement by the Divisional Railway Manager, in his letter Annex. A/1 that the applicant had not vacated the quarter 609/CD at Jamalpur even on 12.12.1989 i.e. even after two and a half months of his retirement.

4. Reply has been filed on behalf of respondents which is on record. It makes it clear that Jamalpur quarter was vacated by the applicant only after the same got allotted to another officer vide orders of 17.11.1989 and that applicant was not justified to retain the quarter at Jamalpur when he was working at Malda. It has further been mentioned that the applicant retained the quarter at Jamalpur for a period of nearly two years i.e. 1-7 -1987 to 26.11.1989 unauthorisedly.

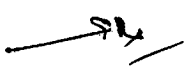
5. We have heard the learned advocates for both the parties. To a specific query to the learned counsel for the applicant, if the statement about retaining the quarter at Jamalpur in the reply of the respondents was correct, there was no answer. The learned counsel continued to rely on an order of this Tribunal in OA No. 1029/95 dated 17.4.1996 to the effect that the DCRG cannot be adjusted against any penal or damage rent and that the action of the respondents in that view of the matter is absolutely illegal.



6. The learned counsel for respondents Mr. P.K. Arora, has drawn our attention to a series of cases beginning with O.A. No. 91 of 2001 – Nand Lal Bagi Vs. D.R.M., Sialdah, where in a similar matter, the Tribunal held that the authorities were justified in withholding the DCRG for adjusting the amount of damage rent payable by the applicant. In O.A. No. 786 of 2001, D.K. Sarkhel Vs. UOI it was held that the Railways are entitled to recover damage rents especially in cases of employees in un-authorised occupation, from the DCRG amount.

7. The prayer in the O.A. is specifically about curtailment of passes for which the applicant has been asked to represent within 15 days of 12.12.1989. This obviously does not seem to have been done. The best course for him was to put up his case to the authorities and that not having been done, we do not propose to interfere at this belated stage.

8. The other prayer made at the time of hearing related to withholding of amount of DCRG. We are not in a position to appreciate how the respondents can be directed to release the same when the applicant is not coming up with his part of story, especially when he kept the quarter in his possession un-authorisedly. The application is without merit and is dismissed with no order as to costs.


(G.R. Patwardhan)
Administrative Member


(A.V. Haridasan)
Vice Chairman (J)

jrm