

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No.589/2005
This, the 3rd day of October 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J) .

Nityanand Ghosh aged 59 years S/o Late A.C. Das Ghosh, C/o Shri Keshav Dutt, R/o 563/10, Chitra Gupt Nagar, Alambagh, Lucknow.

...Applicant.

By Advocate:- Shri M.A. Siddiqui.

Versus.

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur U.P.
2. The Divisional Railway Manager, Northern Eastern Railway, Ashok Marg, Lucknow.

... Respondents.

By Advocate:- Shri V.K. Khare.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant has filed the Original application with a prayer to issue direction to the respondents for refund of the following amounts with interest thereon on the ground that the authorities deducted/retained excess from his DCRG amounts without any notice, shows cause or orders of competent authority.

- (I). Rs. 57,276/- recovered towards penal rent.

(II). Rs. 32,000/- recovered towards Vetan Parichchan.

(III). Interest on Rs.62,011 retained in excess and towards electrical charges.

(IV). Rs. 21,931/- deducted irregularly from DCRG.

2. The respondents have filed Counter Affidavit denying the claim of the applicant stating that the respondents are not liable to pay any of the amounts as claimed by the applicant.

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and also reiterated his pleas in the OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant while working at Lucknow, occupied a railway accommodation bearing No. L-15-D Loco Colony, Charbagh, Lucknow. Even after his transfer from Lucknow to Gonda, he did not shift his family and continued the quarter for the purposes of education of his children. While working at Gonda, the applicant did not receiving any house rent at Gonda and thus, occupied the quarter at Lucknow. Subsequently, he was again transferred from Gonda to Lucknow and accordingly, the said quarter was re-allotted to the applicant w.e.f. 10.03.2003 (Ann.-A-2) and subsequently, he took voluntary retirement w.e.f. 11.01.2004 (Ann.-A-3) and thereafter, vacated the quarter.

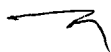
7. As per the calculation, the applicant ^{was}~~was~~ entitled for the DCRG to an amount of Rs. 1,93,063/- but the respondents did not pay the same immediately after his retirement. But the respondents have deducted an amount of Rs. 57,256/- towards damage rent and

Rs.6695/- R.E.L.H.S Medical Card Rs. 2913/- deduction for 108 days and also withheld the balance amount of DCRG Rs. 1,26,199/- i.e. Rs. 2000/- towards transportation allowance, Rs. 10,000/- towards income tax, Rs. 50,000/- an account of Vetan Parichchan and Rs. 64,199/- towards electrical dues and non-depositing tools etc. But subsequently, the respondent authorities have made payment of Rs. 37,066/- on 08.12.2004 and Rs.62,011/- on 22.12.2004 and deducted Rs. 24,934/- towards Vetan Parichchan and Rs. 2188/- towards electrical charges from with held amounts.

8. It is the claim of the respondents that the applicant was on excess leave and as per their letter Dt. 10.08.2004 Ann.-A-3 108 days leave (LAP) for which they ascertained the amounts of Rs. 2913/- similarly they also claimed that the applicant was liable to pay Rs. 24,934/- towards Vetan Parichchan covered under Ann.-A-4 Dt. 29.06.2004. Admittedly, the respondents have shown LAP for 108 (Leave) in (Ann-A-3) Dt. 10.08.2004 relating to the period of 1966, 1970, 1973,1977,1978,1981, 1982,1988, 1994 and 1995 period. Similarly, they have shown amount for Vetan Parichchan under (An-A-4) Dt. 29.06.2004 relating from the period 1973 onwards.

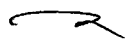
9. Admittedly both these orders have been passed by the respondents authorities after the retirement of the applicant and no such orders have been communicated to the applicant at any time, More particularly, before deducting from DCRG amount of the applicant.

10. It is also not in dispute that the respondents have withheld an amount of Rs. 1,26,199/- from the DCRG amount of the applicant on the ground of dues of transport allowance Rs. 2000/-, Income Tax Rs.



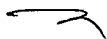
10,000/- and Rs. 50,000/- Vetan Parichchan (U.P.) covered under (Ann.-A-4) and Rs. 64,199/- towards electrical dues. But subsequently, paid an amount of Rs. 37066/- on 08.12.2004 and Rs. 62,011/- on 22.12.2004 stating that the applicant is liable to pay only Rs. 24,934/- towards Vetan Parichchan and Rs. 2188/- towards electrical dues and thus, deducted the said amounts. From this, it is clear that the authorities have withheld the amount for Rs. 37,066/- till 08.12.2004 and Rs.62,011/- till 22.12.2004 without any proper and justified reasons and as such, the respondents are liable to pay interest to the applicant on the said withheld amount as per the rate of interest applicable to the GPF deposits.

11. It is also the case of the respondents that the applicant fell due to Rs. 24,934/- towards Vetan Parichchan and relied on (Ann.-A-4) Dt. 29.6.2004, which has been issued after the retirement of the applicant. The details given in the said document relating to the period from 1973 onwards and at no point of time the authorities have brought it to the notice of the applicant during his service period and without informing to the applicant in respect of such claims the authorities kept the matter pending for decade and prepared such list after his retirement and also deducted such amounts without any notice and opportunity to the applicant, which is not only irregular and also naturally causes prejudice to the applicant and as such, he is justified in questioning the validity of such deduction of Rs. 24,934/- towards Vetan Parichchan and as such, the applicant is entitled for refund of withheld amount of Rs. 24,934/- with interest there on from the date of due till the date of payment at the rate of interest as applicable on GPF deposits.



12. The respondents have also deducted an amount of Rs. 2913/- towards 108 (LAP) covered under (Ann.-A-3) Dt. 10.08.2004. Admittedly, the excess leave furnished in this letter are for the period relating back to 1966, 1970, 1973, 1977, 1978, 1981, 1982, 1988, 1994 and 1995 and the same has been issued after the retirement of the applicant and no opportunity has been given to the applicant before finalizing of such leave and also deduction of Rs. 2913/- and as such, the applicant is entitled for the refund of the same with interest thereon from the date of due till the date of payment with interest as applicable to the GPF deposits.

13. The applicant also claimed refund of Rs. 57,256/-, which the respondents deducted towards penal rent from the DCRG amount of the applicant on the ground that the applicant was in unauthorized occupation of the quarter after his transfer from Lucknow to Gonda. It is not the case of the respondents that they have furnished any information to the applicant after his representation for continuation of the said quarter and also in respect of his liability to pay damage rent or penal rent for his occupation after his transfer. Admittedly, the applicant when he was again transferred from Gonda to Lucknow in the month of March, 2003, the authorities have re-allotted the same quarter to the applicant but they did not raise any objection and also not claimed damage rent from the applicant. Further, they did not issued and show cause notice or made any claim for damage rent even after re-allotment till the date of his retirement 11.01.2004 and maintained silence without any demand of damage rent. It is also not the case of the respondents that they have issued any shows cause notice, informing the applicant that he was in unauthorized occupied of



the quarter and liable for payment of damage rent. Without issuing any such notice and without giving any opportunity to the applicant, the respondent authorities have deducted an amount of Rs. 57,256/- from out of DCRG amount of the applicant on the ground of damage rent, which is not at all justified and it causes prejudice and amounts violation of principles of natural justice and as such, the applicant is justified in questioning deduction of such huge amount from his DERG amount after a lapse of period on the ground of unauthorized occupation and as such, applicant is justified in seeking refund of the same with interest as applicable to GPF deposits from the date of due till the date of payment.

14. In view of the above circumstances, the claim of the applicant is allowed in respect of the following amounts with interest thereon as applicable to GPF deposits.

- I. Refund of Rs.24,934/- with interest thereon from 01.02.2004 till payment.
- II. Refund of Rs.2913/- with interest thereon from 01.02.2004 till payment.
- III. Refund of Rs.57,256/- with interest thereon from 01.02.2004 till payment.
- IV. Interest on Rs.37,066/- till 08.12.2004, from, 01.02.2004.
- V. Interest on Rs.62,011/- till 22.12.2004 from 01.02.2004

In the result, OA is allowed. No costs.


(M. KANTHAIAH)
MEMBER (J)

03-10-2008