

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 183/2006**

This the 5th day of May 2008

**Hon'ble Shri Justice Khem Karan, Vice Chairman**

Ram Raj Panday, aged about 62 years son of late Sri G.R. Upadhyaya, resident of Mohalla Karehta, c/o K.D. Awasthi, Police Station Bazar Khara, Lucknow.

Applicant

By Advocate: Sri G.C. Verma

Versus

1. Union of India, Ministry of Railways, through Baroda House, New Delhi.
2. Managing Director, Anusandhan Adhithan, Ministry of Railways, Anusandhan Abhikalp and Manak Sangathan, Manak Nagar, Lucknow.
3. Nagar Abhiyanta Rail Mantralaya, Anusandhan Abhikalp and Manak Sangathan, Manak Nagar, Lucknow.
4. Director, Vahan Shakti Samuh, Chalan Shakti, Nideshalaya, RDSO, Manak Nagar, Lucknow.

Respondents

By Advocate: Sri N.K. Agrawal.

**ORDER(ORAL)**

**BY HON'BLE SHRI JUSTICE KEHM KARAN, VICE CHAIRMA**

Applicant, Ram Raj Pandey, who superannuated on 29.2.2004 from the service of the respondents, has filed this O.A. claiming the following reliefs:-

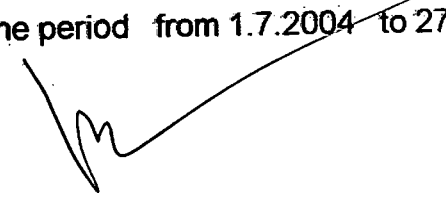
- i) Quash the letter/ order dated 6.9.2005 as well as 298/29.11.2005 passed by the opposite party No. 2 contained as Annexure No.1 and 13 to this application

- ii) Issue the directions to the opposite parties to release the retiral dues including the pension, gratuity, bonus, transportation charges and other dues along with interest of 18% per annum immediately.
- iii) issue any other direction if this Hon'ble Tribunal may deem fit and proper in the circumstances of the case;
- iv) to award the cost of this application to applicant and against the opposite parties.

2. While being posted in RDSO, Lucknow, applicant was allotted a Railway quarter NO. 18/2 in RDSO Colony, Manak Nagar, Lucknow. He had some dispute with his wife. He alleges that as his retirement was fast approaching and his wife was not in a mood to vacate the said quarter, so he represented to the authorities to get the accommodation vacated, but they took no prompt action and in the meantime he superannuated on 29.2.2004. He filed one O.A. No. 355/2004, which this Tribunal disposed of vide its order dated 8.7.2005 (Annexure -11). The relevant portion of this order is as under:-

"Since in this case, the position as explained above, warrants consideration of charging only normal rent or double the normal rent, as the case may be, the respondents are directed to consider waiving of the damage rent and charge only the normal rent as per rules (as if an application had been filed) for the period of retention. If any damaged rent has to be charged beyond permissible period of retention of accommodation under the rules, the respondents are at liberty to charge the rent accordingly. With the above directions, the O.A. is disposed of with no order as to costs."

3. By the impugned order dated 6.9.2005 (Annexure -1) the authority concerned has charged normal rent for the period from 1.3.2004 to 3.6.2004 and damage rent @ 5418/- a month <sup>for</sup> ~~to~~ the period from 1.7.2004 to 27.1.2005. The applicant is aggrieved of the charging of damage rent. According to him, after the above quoted directions of the Tribunal, damage rent could not have been charged for the period from 1.7.2004 to 27.1.2005.



He is also aggrieved of order dated 28/29.11.2005 (A-13), by which the authority concerned has withheld his 7 set of retiring Railway passes on the ground that he illegally retained the railway quarter from 1.7.2004 to 27.1.2005. He wants to say that he was not at fault and it was his estranged wife, who retained the quarter. His third grievance is that retiral dues have either not paid<sup>been</sup> or paid with delay.

3. The respondents are contesting the claim. According to them, damage rent has rightly been charged as per rules for the period from 1.7.2004 to 27.1.2005, as the applicant was unauthorized occupant of the said quarter. They say, retiral dues to the tune of Rs. 4,84,241/- were paid to the applicant on 27.2.2004 vide Cheque No. 558874, bonus to the tune of Rs. 4433/- was paid on 23.12.2004, Composite Transfer Grant to the tune of Rs. 4100/- was paid on 23.9.2005 and damage rent difference to the tune of Rs. 23447/- was paid on 6.10.2005. Attempt has also been made to say that delay, in payment of the amount of pension or Composite Transfer Grant or DCRG was owing to the fault of the applicant himself. In reply to Rejoinder, it has been said that PPO was sent to State Bank of India, Main Branch, Faizabad as requested by the applicant and when it was found that pension was not being disbursed, the duplicate PPO No. 0104150022 was prepared and delivered on 2.12.2006 to the Chief Manager, State Bank of India, Rudauli, Barabanki. Copy of this duplicate PPO has been annexed as SCR-5.

4. I have heard Sri G.C. Verma for the applicant and Sri N.K. Agrawal for the respondents and have perused the entire material on record.

5. In so far as, the damage rent for the period from 1.7.2004 to 27.1.2005 is concerned, contention of Sri G.C. Verma is that, in view of Tribunal's order dated 8.7.2005 in O.A. No. 355/2004 (Annexure 11), it was not open to the authority concerned to have charged damage rent for the period in question. He has taken to me through para 9 of the said order dated 8.7.05 of this Tribunal, <sup>He says</sup> and at most, it could have charged double the normal

rent. But Sri N.K. Agrawal, has justified the damage rent by saying that the applicant was unauthorized occupant of Railway residential quarter for the period from 1.7.2005 to 27.1.2005. According to him, the direction dated 8.7.2005 (A-11) were couched in a language that it rested in the authority concerned to deduct whether damage rent was chargeable.

6. I have considered the respective submissions as mentioned above.

There is a reference to order dated 20.10.2004 of the Estate Officer in para 8 of the Tribunal's order dated 8.7.2005. It appears the Estate Officer acting under Public Premises (Eviction of Unauthorized occupants) Act, 1971 passed one order dated 20.10.2004 declaring the applicant as unauthorized occupant. Sri Verma has not been able to satisfy me as to how the said order dated 20.10.2004 could be ignored. It is never the case of the applicant that order dated 20.10.2004 of the Estate Officer was set aside in appeal or by this Tribunal. If that is the position, then it is difficult to say that charging of damage rent for the period 1.7.2004 to 27.1.2005, against the rules or against the directions of this Tribunal. So, challenge to that portion of order dated 6.9.2005 must fail.

7. Sri Verma has stated that monthly pension of the applicant which ought to have been paid after retirement, could not be paid till 1.12.2006, as is conceded in para- 8 of the reply to the rejoinder. He says, the respondents are not correct in saying that applicant had requested the administration to send the PPO, to SBI Main Branch, Faizabad. He has referred to SCR-2 where the applicant had given the name of State Bank of India, Nawabganj Rudauli Sharif, Faizabad. He doubts whether the PPO was really sent to SBI Main Branch, Faizabad. Sri Agrawal has tried to say that PPO was sent to SBI, Main Branch, Faizabad and on discovering that it ought to have been sent to SBI, Nawabganj Rudauli Sharif, Faizabad, the duplicate PPO was sent on 1.12.2006. I think, the fact remains that applicant could not be paid his monthly pension upto 1.12.2006. I don't think a retired person like applicant would be instrumental in delaying the payment of monthly pension. So I am of



the view that the applicant is entitled to simple interest @ 12% per annum on the amount of pension from the dates the same became payable till 1.12.2006.

8. Composite Transfer Grant was paid on 4.5.2006 as disclosed in para 6 of the reply. Respondents say that the delay in payment of this amount occurred due to the fact that the applicant applied for the same very late. Otherwise also, the amount under the head of Composite Transfer Grant is very nominal, say Rs. 4100/-, so the question of interest thereon should not arise.

9. DCRG and difference of D.A. was paid to the applicant on 23.9.2005. Thus, there was a delay in payment of this amount. I think the applicant is entitled to simple interest @ 12% per annum from 1.6.2004 to 22.9.2005 on delayed payment of this amount.

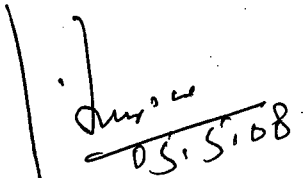
10. Sri G.C. Verma states that the bonus to the tune of Rs. 4433/- was really paid to him on 5.12.2006 and so the applicant is entitled to interest. But the respondents have clearly stated in reply and also in para-8 of Supplementary reply that cheque No. 162236 dated 23.12.2004 for Rs. 4433/- was sent by registered post No. 3871 (363) dated 7.1.2005 and when it did not reach him, fresh cheque was issued on 5.12.2006. In the circumstances, it is difficult to say that delay was due to fault of administration. Otherwise also, the amount is nominal, so no interest can be allowed on delayed payment of this amount.

11. Sri G.C. Verma was not able to show as to how the withholding of Railway passes, mentioned in A-13, can be said to be unjustified. As the accommodation was being wrongly retained, so the passes were withheld as per standing instructions of Railway Board.

12. In the result, O.A. is disposed of with a direction to the respondents to pay simple interest @ 12% per annum to the applicant on the amount of arrears of Pension from the dates the same became due to the date of actual payment



and also on the difference amount of DCRG and D.A. from 1.6.2004 to 22.9.2004. No costs.

  
(Khem Karan)  
Vice Chairman

HLS/-