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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

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JUNE 30, 1989

Registration T.A. No. 1160/87(T)

Tilak Raj Sharma PETITIONER

Vs.

Union of India & ors ... RESPONDENTS

Hon' Mr. D.K. Agrawal, J.M.

This writ petition No. 2752 of 1983 was received on transfer from High Court of Judicature Lucknow Bench, Lucknow, under section 29 of the Administrative Tribunals Act, 1985.

2. The writ petition was filed by the petitioner namely Tilak Raj Sharma employed as Assistant Superintendent Stores, Northern Railways, Charbagh, Lucknow, for post retirement benefits like pension, provident fund, gratuity, leave encashment etc. after his retirement on 31-3-1982. However, during the pendency of the writ petition some dues of the petitioner were released by the Railway Authorities. A sum of Rs.4869/- only has been withheld from the amount of death-cum-retirement gratuity due to the petitioner. Therefore, in the present transferred petition, the only point for adjudication is as to whether the above sum of Rs.4869/- has been rightly withheld from the death-cum-retirement gratuity of the petitioner.

3. The facts of the case are that the petitioner while in service was allotted a quarter in Vegetable Ground Colony, Alambagh, Lucknow. The petitioner as

mentioned above, retired on 31-3-82. However, before his retirement his son Kapil Dev Shama who was also in service of the Railways as Tracer Carriage Wagon Workshop, Northern Railway, Charbagh, Lucknow, applied for allotment of the above said quarter and it was allotted to him vide allotment letter dated 20-4-82. The allotment order is Annexure-I to the petition. The revised rent of the quarter payable by Shri Kapil Deo Shama was determined at Rs.19.70 p. per month vide letter dated 19-5-82, Annexure-II to the petition. There is no dispute that the rent of the quarter was deducted by the Railways from the salary of Tilak Raj Shama and thereafter, from the salary of his son Kapil Deo Shama. Thus, no rent is due to the Railways except for the period 1-4-82 to 20-4-82. However, the dispute is between the two sections of the same Railway i.e. Northern Railway in as much as, quarter in question belong to the Pool of Deputy Controller Stores while it was allotted by Deputy Chief Mechanical Engineer (Respondent No. 5) to Shri Kapil Deo Shama. It was only w.e.f. afternoon of 2-4-85, that the quarter in question was transferred to the Pool of Deputy C.M.E. Therefore, it has been assumed by the Deputy Controller of Stores, Northern Railway, that Tilak Raj Shama was liable to pay rent from 1-4-82 to 2-4-85. It is unfortunate that despite the fact that there is no logic behind the action taken by Store Section, of the Northern Railway, it has been insisted upon through out in the counter affidavit also that the amount of Rs.4869/- has been rightly withheld from the death-cum-retirement gratuity of the petitioner. The counter affidavit has been verified by Shri H.R. Sharma, Assistant Personnel Officer, General Stores, Alambagh, Northern Railway, Lucknow. I have no

hesitation in making an observation that the Railway authorities have indulged into unnecessary litigation in the instant case. The reason is that once the record bears and that Tilak Raj Sharma vacated quarter on 20-4-82 and his son Kapil Deo Sharma came into possession of the aforesaid quarter, on the same date, the liability for payment of rent shifted on Shri Kapil Deo Sharma who was a separate juristic person. Therefore, there was absolutely no justification for withholding the post retirement benefit of the petitioner for about 3 years after his retirement and still insist that the above said sum of Rs.4869/- has been rightly withheld. Therefore, there is no doubt that the action of the Railway Authorities was arbitrary in withholding the payment which became due to the petitioner just on the eve of his retirement on 1-4-1982.

4. I cannot refrain from making an observation that a government servant who is found responsible for such a fruitless litigation must be held responsible not only for the pecuniary loss to the government, but should also be censured for inefficiency in handling the particular case. Therefore, it is necessary that a copy of this judgment be forwarded to the Chairman, Railway Board for taking such action, as deemed proper, and at least to frame guidelines for Railway authorities in this respect for future. The Railway Board itself is the competent authority to decide as to whether the financial loss incurred by the government in this case has to be borne by an individual officer or not.

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5. The writ petition is allowed. The respondents are hereby directed to forthwith release the amount of Rs. 4869/- after deducting the rent of 20 days i.e. for the period from 1-4-1982 to 20-4-1982, if due from the petitioner and also pay interest to the petitioner according to rules on account of delayed payment of legitimate dues. There will be no order as to costs.

DR Qayyum
MEMBER JUDICIAL

(sns)
JUNE 30, 1989,
LUCKNOW