

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.No.299/86

Shri R.G.Sewarik,
C/o. M.P.S.Tiwari, M.A., LL.B.,
Advocate High Court,
Room No.5, Narendra Ashram,
Opp.Vikhroli Court Bldg.,
Bombay - 400 083.

.. Applicant

v/s.

1. Mr.P.N.Kalra,
Executive Engineer(C-1),
Dada Saheb Phalke Road,
Dadar Central Railway,
Bombay - 400 014.
2. Shri Vijay Singh,
General Manager,
Central Railway,
Bombay V.T.

.. Respondents

Coram: Hon'ble Member(A) Ajay Johri

Hon'ble Member(J) M.B.Mujumdar

Appearances

1. Mr.M.P.S.Tiwari,
Advocate for the
applicant.
2. Mr.Bhavsar(for
Mr.D.S.Chopra)
Advocate for the
Respondents.

ORAL JUDGMENT

Date: 10-8-1987

(Per Ajay Johri, Member(A))

Further to our order dated 4-12-1986 where we had directed payment of the applicant's own contribution towards S.R.P.F. with interest on it, monthly pension due to the applicant under the rules, we have heard the case again for further reliefs.

The applicant had submitted a copy of Gazette Notification No.5 dt. 1-5-1985 issued by the Central Railway. In their direction No.HPB/655-R/V wherein they had reproduced some instructions regarding course of action to be taken in regard to payment of

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settlement dues in case of such of the employees who were in occupation of Railway Quarters while in service and who have quit service on account of retirement due to superannuation or due to any other reason and have not vacated the railway quarter and handed over the vacant possession thereof to the Administration within the permissible time. These instructions lay down that payment of the following dues should not be effected until after these employees have vacated the railway quarters and handed over complete vacant possession:

- (i) Death-cum-Retirement Gratuity;
- (ii) Leave salary due on account of encashment of leave to the credit at the time of the retirement;
- (iii) amount payable under the Group Insurance Scheme.

In addition to the above such ex-employees are also not eligible for post-retirement passes.

3/2
The applicant in this case retired from service as Sr.Clerk from 1st April,1986. He had constructed a small shed on some railway land and hence the respondents had withheld the amount which were due to him on retirement. The applicant was not in possession of railway quarter as he was not allotted any. We are told that the place where he has built his own small shed has number of other unauthorised structures built by certain other private individuals against whom the respondents are taking action as they have deemed fit. Since the applicant was not in possession of a quarter, the circular referred to above which authorises the payment authorities to withheld certain retirement benefits will not apply to the applicant. It is for

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the respondents to take up with him under appropriate rules and law if they so desire. As far as retirement benefits are concerned it is now a well settled law that pension and gratuity cannot be treated as bounty any more to be distributed by the Government to its employees on their retirement. They are valuable rights and property in the employees hands. As a matter of fact if there is a delay in making payment of pension, gratuity or other benefits which the employees are entitled to, interest at the current market rate till actual payment is made also becomes due. Such being the law we find no reason why the DCRG, leave salary and the amount payable under the Group Insurance Scheme has been withheld. It should be released immediately for payment to the applicant. He will also be entitled to interest, though he has not requested for this relief, @ 10% ~~from~~³ after two months from the date of retirement till the date the payment is made. As far as post retirement passes are concerned, which is one of the reliefs he has claimed, this being complimentary we will leave it to the respondents to decide on this issue.

The application No.299/86 is disposed of in terms of the above order. This payment should be made within two months from the receipt of this order. Parties to bear their own cost.

10-8-87
(M.B. MUJUMDAR)
Member(J)

3/5/87
(AJAY JOHRI)
Member(A)
10.8.87