

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1249/96

Transfer Application No.

Date of Decision

29/7/97

A.Siddique

Petitioner/s

Shri R.G.Jangam

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri V.S.Masurkar

Advocate for
the Respondents

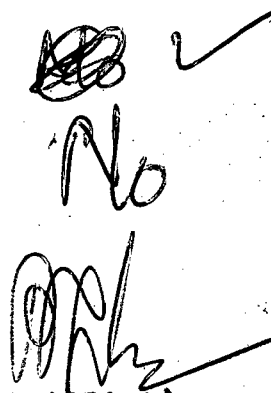
CORAM :

Hon'ble Shri. P.P.Srivastava, Member (A)

Hon'ble Shri.

(1) To be referred to the Reporter or not ? ☒

(2) Whether it needs to be circulated to
other Benches of the Tribunal ? ☒


(P.P.SRIVASTAVA)

MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

DA.NO. 1249/96

Dated this the 29th day of JULY 1997

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

A.Siddique,
Retired Chargeman,
Railway Quarter No.88/6,
2nd floor, Matunga Road,
Railway Colony, Mumbai.

By Advocate Shri R.G.Jangam ... Applicant

V/S.

1. The Union of India acting through the General Manager of Western Railway H.Q.Office, Churchgate, Mumbai.
2. The Chief Works Manager, Western Railway, Lower Parel Workshop, Mumbai.
3. The Senior Accounts Officer, Western Railway, Lower Parel, Mumbai.
4. The Estate Officer & Sr. Divisional Engineer, Western Railway, Mumbai Central, Mumbai.

By Advocate Shri V.S.Masurkar ... Respondents
C.G.S.C.

O R D E R

(Per: Shri P.P.Srivastava, Member (A))

The applicant was working with the Railways and retired as Chargeman on 31.5.1988. He was occupying a Type II Quarter at the time of retirement. The applicant's son was appointed in Class IV service in the year 1987 and was sharing accommodation with the applicant. The applicant's son was not entitled to Type II quarter and on the retirement of the applicant, the respondent administration promised that the applicant's son will be allotted a Type I

quarter to which he was entitled to. However, the applicant did not vacate the quarter and the eviction proceedings were started against the applicant. Meanwhile, the son of the applicant was promoted and became entitled to Type II quarter u.s.f. 14.9.1990. When the case came up before the Estate Officer, the Estate Officer passed the order dated 11.11.1991 placed at Exh.'J1' wherein he directed the administration to consider the allotment of Type II quarter to the son of the applicant u.s.f. 14.9.1990. The respondent administration thereupon allotted the quarter to the applicant's son u.s.f. 14.9.1990 in terms of their orders dated 28.5.1992 which are placed at Exh.'K'. The administration deducted the penal rent from the settlement dues of the applicant and settled him in the year 1992.

2. The applicant in this OA has prayed that the recovery of rent vide orders dated 6.6.1994 (placed at Exh.'A') be quashed and that the applicant be given post-retirement complimentary passes.

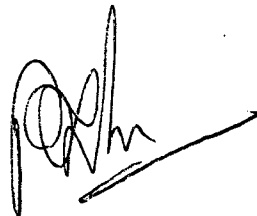
3. As far as the recovery of the penal rent is concerned, it is seen that the order was passed on 6.6.1994 but the applicant has approached the Tribunal only in December, 1996, the application is delayed and is hit by the provisions of the limitation for approaching the Tribunal. The learned counsel for the applicant has argued that the applicant has approached the recognised Union and the recognised Union has taken up the issue with the administration and the reply of the administration was received only on 19.2.1996 which is placed at Exh.'N'. Reading of the reply at page 28 shows that only issue which was considered



in this letter is grant of post retirement complimentary passes and ^{it} does not touch the question of recovery of penal rent therefore this letter does not help the applicant in explaining the delay for approaching the Tribunal concerning the recovery of penal rent.

4. On merit also I do not see any case for granting any relief to the applicant as far as recovery of penal rent is concerned. The applicant's son became entitled to Type II quarter on 14.9.1990 and the quarter has been regularised from that date. Between the date of retirement of the applicant and the entitlement of the applicant's son for Type II quarter, the period has been treated as unauthorised occupation by the applicant. This quarter could not have been allotted to the applicant's son ^{before 14.9.1990} and therefore I do not see any merit in the claim of the applicant that quarter should be regularised in the name of the applicant's son even though he was not entitled to the same. The question of recovery of rent from the Dearness Relief etc. stands settled by the Full Bench decision in Ram Poojan vs. Union of India & Ors., ATJ 1996(1) 540 and, therefore, as far as question of recovery of penal rent is concerned, I do not see any merit in the claim of the applicant.

5. However, I find merit in the relief concerning grant of Post Retirement Complimentary Passes in terms of the Full Bench judgement in Wazir Chand vs. Union of India & Ors. decided on 25.10.1990. The applicant will be entitled to post retirement complimentary passes as he is no longer unauthorised occupant of the quarter.



6. I, therefore, direct that the applicant should be granted post retirement complimentary passes forthwith. Since the post retirement passes cannot be granted for past years, the only relief which can be granted is that the applicant will be granted post retirement passes only from the current year and onwards. The OA. is disposed of accordingly. There will be no orders as to costs.



(P.P.SRIVASTAVA)
MEMBER (A)

mrj.