

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 972 /1996

Date of Decision: 17.10.1996.

Amulya Kumar Guha,

Petitioner/s

Shri M.S. Ramamurthy,

Advocate for the
Petitioner/s

V/s.

Union Of India & Another,

Respondent/s

Shri V.S. Masurkar,

Advocate for the
Respondent/s

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).

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 972 OF 1996.

Dated, this Thursday, the 17th day of October, 1996.

CORAM : HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

Amulya Kumar Guha,
38/10, Western Railway Qtrs.,
Dahisar (East),
Mumbai - 400 068.

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Applicant

(By Advocate Shri M.S. Ramamurthy).

VERSUS

1. Union Of India through
the General Manager,
Western Railway,
Churchgate,
Mumbai - 400 020.

2. Chief Workshop Manager,
Western Railway Workshop,
Lower Parel,
Mumbai - 400 013.

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Respondents.

(By Advocate Shri V.S. Masurkar).

: O R D E R :

| PER.: SHRI P.P. SRIVASTAVA, MEMBER (A) |

Heard Shri M.S. Ramamurthy for the applicant
and Shri V.S. Masurkar for the respondents.

2. Shri M.S. Ramamurthy, Counsel for the applicant
submits that the applicant has already vacated the Railway
Quarters in the year 1988 and in this O.A. he is praying
that the Post Retirement Complimentary Passes may be restored
with immediate effect. It is clarified by the Counsel for
the applicant that the applicant is not seeking any Post
Retirement Passes from the back date. Shri Ramamurthy has



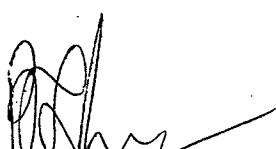
argued that in the Full Bench Judgement in Wazir Chand V/s. Union Of India, the Full Bench in para 20 of the judgement has clarified that the Post Retirement Passes can be withheld only if it is found that the employee is in unauthorised occupation of the quarter and also when a Show Cause notice is given to the employee. In this case, since the applicant has already vacated the quarter, the question of unauthorised occupation is not there and therefore, the conditions which have been prescribed in Wazir Chand's case are not satisfied and therefore, the post retirement passes cannot be withheld.

3. Shri V.S. Masurkar for the respondents has argued that the applicant was informed in the year 1993 that he cannot be issued passes upto the year 1999 and this order of the Respondents (Administration) is on the basis of the rules and therefore, the applicant had the right to question and challenge this order within the time limit, which is one year after the date of issue of the order and since the applicant has come late, the relief cannot be granted. The Counsel for the respondents has also argued that the applicant has not challenged this order in the O.A. and therefore, in the absence of any challenge to the order of the Administration, the relief sought by the applicant cannot be granted.



4. After hearing both the Counsel, I have come to the conclusion that the cause of Post Retirement Complimentary Passes is a continuous one and therefore, I do not consider that the question of limitation would come in the way in this O.A. So far as the merit aspect is concerned, after reading para 20 of the Wazir Chand's judgement, it is quite clear that the two conditions laid down therein are that- the employee should be in unauthorised occupation of the quarter and a show notice notice has to be given before the Post Retirement Complimentary Passes are withheld. In this case, since the applicant has vacated the quarter, the question of unauthorised occupation does not arise and therefore, there cannot be any question of with-holding the Post Retirement Complimentary Passes after the vacation of the quarter by the applicant. Accordingly, I direct that the applicant would be entitled to Post Retirement Complimentary Passes with immediate effect. Since the applicant has not sought any relief other than the Post Retirement Complimentary Passes, no further orders are required.

5. The O.A. is disposed of accordingly. There will be no order as to cost.



(P.P. SRIVASTAVA)

MEMBER (A).

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