

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:7/2001

DATE OF DECISION: 25th August 2001

Shri V.E. Anthony Applicant.

Shri D.V. Gangal with Shri S.V. Marne Advocate for Applicant.

Verses

Union of India and others Respondents.

Shri S.C. Dhawan Advocate for Respondents

CORAM

Hon'ble Shri S.L.Jain Member(J)

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

(2) Whether it needs to be circulated to other Benches of the Tribunal? *No*

(3) Library. *yes*

S.L.Jain
(S.L.Jain)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 7/2001

the 25th day of AUGUST 2001.

CORAM: Hon'ble Shri S.L.Jain, Member(J)

V.E. Anthony
Residing at
Railway Quarter No. G/I/24,
Kalyan, Dist. Thane.

...Applicant.

By Shri D.V. Gangal for Shri S.V. Marne.

V/s

1. Union of India through
The General Manager,
Central Railway
Headquarters Office
Mumbai.

2. The Divisional Railway Manager
Mumbai Division,
Central Railway,
DRM's Office
Mumbai CST, Mumbai

...Respondents.

By Advocate Shri. S.C. Dhawan.

O R D E R

{Per S.L. Jain, Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 for a direction to the respondents to release the amount of Rs. 56,672/- towards DCRG together with interest at 18% p.a. from 1.3.1990 till its payment alongwith costs.

2. The applicant who was working as Guard (Suburban) in Mumbai Division of Central Railway. Retired from Railway service with effect from 1.3.1990. At the time of his retirement the

P.V. Dhawan ...2...

respondents withheld an amount of Rs. 56,672/- towards gratuity (DCRG) on the ground that Railway Quarter is not vacated by the applicant. He preferred a representation to the respondents requesting to release the amount of DCRG and the respondents vide reply dated 20.2.1991 stated that DCRG could be released on vacation of Railway quarter.

3. The applicant's son Shri V.A. Thomas was appointed as Assistant Driver in the Central Railway in 1986, prior to the retirement of the applicant, was sharing the Railway quarter. since then till his retirement. The applicant's son applied for regularisation of the Railway quarter on 'father to son' basis having all the requisite conditions, but the respondents failed to regularise the quarter in the name of applicant's son. Therefore he and his son filed OA 908/93 before this Tribunal for regularisation of the Railway quarter which was dismissed on 31.1.2000.

4. On perusal of the prayers in OA 908/93 I do not find that the applicant has prayed for direction to the respondents to release the amount of Rs. 56,672/- towards DCRG. No prayer even for payment of the same was made in the said OA. The applicants in the said OA preferred writ petition before Hon'ble High Court of Bombay and the order passed is at Annexure A 3. The Writ petition has not been finally decided.

5. The learned counsel for the parties also brought to my notice that the Estate Officer has also passed an order for eviction of the applicant. An appeal against the said order is also pending before the District Judge and order of eviction has been stayed.

R. V. S. S.

6. Thus the facts which are established are that prayer of the applicant and his son regarding regularisation of quarter is sub-judice pending with the Hon'ble High Court of Bombay, eviction order has been passed against the applicant which has been stayed by the District Judge and the applicant is in occupation of the quarter allotted to him. The learned counsel for the respondents placed on record the order in OA 433/97 dated 22.7.97 and argued that DCRG can be withheld for non vacation of the quarter after superannuation. In the case of Union of India and others V/s Shivcharan (1992) 19 ATC 1129 the Apex Court held that over-stayal of Government servant in Government accommodation the rent for over stay can be deducted from the dues payable to the Government servant ^{or} handing over the vacant possession. Rule 15 (2) of the Railway Servant (Pension) Rules 1993 provides that the rent which remains ^{is} outstanding from the date of retirement shall be adjusted from the amount by DCRG becomes payable. Rule 15(3)(a) states that the Railway/ Government dues includes the dues pertaining to Railway or Government accommodation including arrears of licence fees, if any.

7. The applicant is continuing in possession of the quarter No. G-1/24 at Kalyan allotted to him. Even inspite of the order by the Estate Officer, which is sub-judice, he has not handed over the possession of the said quarter to the respondents. The case of the applicant's son namely for regularisation of the quarter is sub-judice. In such circumstances it is a case of adjusting of licence fee or penal / damage rent authorised by Rules as stated above -withholding of the DCRG by the

P. V. J. [Signature]

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respondents. However it is observed that in case his writ in respect of regularisation of quarter pending before the Hon'ble High Court of Bombay succeeds, the case can be considered afresh keeping in view the subsequent facts, in the light of the said decision. At this stage the applicant has no case for direction to the respondents to release the amount of DRCG amounting to Rs. 56,672/- with interest at the rate of 18% per annum from 1.3.1990 till date.

8. In the result the OA deserves to be dismissed and is dismissed. No order as to costs.

P. S. Jain
(S.L.Jain)
Member(J)

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