

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY - 400 614

OA No.134/90

Jangoo S. Patel
No.71/F Western Railway Colony
Matunga Road
Bombay 400 019

..Applicant

V/s.

1. Divisional Railway Manager
Bombay Division, Western Railway
Bombay Central; Bombay-8
2. Estate Officer/Senior
Divisional Engineer (LMC)
Bombay Division; Western Rly.,
Bombay Central; Bombay-8
3. General Manager
Western Railway;
Churchgate; Bombay-20

..Respondents

CORAM: Hon.Shri Justice U C Srivastava, V.C.
Hon.Shri M Y Priolkar, Member (A)

APPEARANCE

Shri G S Walia
Advocate
for Applicant

Shri M L Kasture
Counsel
for the respondents

JUDGMENT

DATED: 19-7-1991

(PER: U C SRIVASTAVA, VICE CHAIRMAN)

The applicant who was in the service of Western Railway as Guard has retired on attaining the age of superannuation on 31st March 1987. After retirement he is still continuing to be in possession of the accommodation which was allotted to him during his service. ~~As~~ he did not vacate the same. Proceedings under Public Premises (unauthorised occupation) Act started against him. He has come forward with ^{the plea} ~~his~~ that he had applied for accommodation from Parsee Panchayat as far back as in 1970 and now an order has been passed for eviction of premises on 24.1.1990. This order has been questioned by him as against natural justice and has been passed without considering the Railway rules, and the payment of gratuity cannot be made dependent on the vacation of the premises.


The respondents have stated that the applicant has no right to remain in possession of the premises and


(18)

the payment has rightly not been made.

To-day before us it has been stated that calculating the rent/penal rent the total amount which will now be recoverable from the applicant for remaining in occupation of the premises will be Rs.35,290.60 while the total gratuity which has been withheld is Rs. 35,264/-. Obviously the payment of the gratuity cannot be made dependent on the vacation of the premises and this question is no longer open. But in view of the fact that an eviction order has already been passed and the applicant has not vacated the premises and the applicant has stated that he cannot be charged the penal rent the relief claimed by the applicant cannot be granted. The applicant's learned counsel stated before us that he is bound to get accommodation within four months or so and that he will shift into his new accommodation, and vacate the premises.

In view of the statement we direct that the applicant shall shift to his new accommodation and vacate the premises as has been stated by his counsel and soon after vacate the government premises and hand over the ~~possession~~ ^{possession} to the respondents. The respondents shall ^{hereafter} without delay make the applicant the payment of gratuity after recalculating the applicant's arrears of rent after associating the applicant with the same. Whatever amount is required to be paid to the applicant should not take more than one month beyond the date on which the applicant hands over possession of the premises to the respondents, *which should be within five months from today.* Application & stands disposed of finally on the above terms and directions with no order as to costs.


(M Y PRIOLKAR)
MEMBER (A)


(U C SRIVASTAVA)
VICE CHAIRMAN