

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

25

O.A. NO: 763/91 199
T.A. NO: ---

DATE OF DECISION 11-12-1991

J.L.Soni

Petitioner

Mr.G.S.Walia

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. A.S.Ramamoorthy

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~MR.~~ Ms. Usha Savara, Member(A)

The Hon'ble Mr. ---

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

mbm*

b Savara
(Ms. USHA SAVARA)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Q.A.763/91

J.L.Soni,
C/o.Shri G.S.Walia,
Advocate,
Office No.65, 1st Floor,
Prabhat Centre,
Near Fire Station,
Kokan Bhavan,
New Bombay - 400 614.

... Applicant

vs.

Union of India
through

1. General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
2. Chief Personnel Officer,
Western Railway,
Churchgate,
Bombay - 400 020.

... Respondents

Conam: Hon'ble Ms.Usha Savara, Member(A)

Appearances:

1. Mr.G.S.Walia
Advocate for the
Applicant.
2. Mr.M.S.Ramamoorthy
Counsel for the
Respondents.

JUDGMENT:
(Per Ms.Usha Savara, Member(A))

Date: 11-12-1991

The applicant in this case retired as Additional General Manager in Western Railway on 30th September,1989. However, he vacated the railway quarter in his possession only on 30th April,1991. For non-vacation of the quarter, the railways have withheld the applicant's ~~post~~ retirement passes, although he has applied for them vide application dtd.25th September,1991 and 9th December,1991.

2. Mr.M.S.Ramamoorthy appearing for the respondents submitted that the Railway Board's instructions dtd. 11-5-1982 lay down that one

set of post retirement pass should be disallowed for every month of unauthorised retention of railway quarters. He also mentioned that a clarification has been sought by the Railways on the judgment delivered by the Supreme Court on 27-11-1989 in the case of R.P.Wahi & Others. In view of the clarifications sought from the Hon'ble Supreme Court of India and till the final decision arising out of this application for clarification, the railway passes be given to the applicant only under the clear understanding that if the clarifications sought from the Supreme Court goes against the applicant the post retirement passes now directed to be issued will be deducted from the post retirement passes that he may be subsequently entitled to, if any.

3. Shri Walia appearing for the applicant however contested this position and placed his reliance upon the Full Bench decision of this Tribunal in the case of Wazir Chand v. Union of India & Ors, 1991(1)ATJ 60. In its judgment the Full Bench has held that 1982 Circular infracts Article 14 of the Constitution and therefore the action of the respondents to withhold the post retirement passes on the basis of the circular was unsustainable.

4. We are not impressed with the argument of the learned counsel for the respondents that the passes may be issued on the understanding that the same will be deducted from post retirement passes that the applicant may be entitled to subsequently.

5. In view of this, the action of the Railways in withholding such passes has to be held as illegal. Accordingly we direct the respondents to issue the post retirement passes to the applicant in accordance with the rules for the current year. The current year's passes may be issued within two weeks from the receipt of a copy of this order. The application is disposed of accordingly. There will be no order as to costs.

b. Savara
(Ms. USHA SAVARA)
Member(A)

MD