

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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O.A. NO: 999/92

199

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DATE OF DECISION 1.10.92

Shri J.L. Soni

Petitioner

Shri G.S. Walia

Advocate for the Petitioners

Versus

Union of India

Respondent

Shri A.L. Kasturey

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 ?

No.

U. Savara
(USHA SAVARA)
MEMBER(A)
1.10.92

mbm*

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 999/92

Shri J.L. Soni

... Applicant.

V/s

Union of India through
General Manager
Western Railway
Churchgate
Bombay

Chief Personnel Officer
Western Railway
Churchgate
Bombay.

.... Respondents.

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

Appearance:

Shri G.S. Walia, counsel
for the applicant.

Shri A.L. Kasturey, counsel
for the respondents.

JUDGEMENT:

Dated: 1.10.92

¶ Per Ms. Usha Savara, Member (A) ¶

As a short point is involved, the matter is being disposed off today at the admission stage itself.

The applicant who retired from service on 30.9.1989 vacated the Railway quarter in his possession only on 30.4.91. For non vacation of the quarter the Railways have withheld the applicant's post retirement passes although he has applied for them vide applications dated 29.4.92, 5.6.92 and 20.7.92. The applicant has impugned the order dated 6.8.92 (exhibit D) by which he has been informed that " since the previous debit entries of post retirement complimentary passes have to be wiped out, your request for 1992 passes cannot be acceded to." Shri Walia learned counsel for the applicant relied upon the orders of the Bombay Bench in OA 763/91 and OA 312/91 passed in the case of the applicant himself. He also drew our attention to the order of the Supreme Court dated 21.9.92 by which the petition for S.L.P. was dismissed in the case of Shri P.D. Jagasha.

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Shri A.L. Kasturey, learned counsel for the respondents has filed reply on behalf of the respondents. Shri Kasturey submitted that the applicant was allowed to retain the Railway quarter upto 31.5.90. The applicant had not vacated the quarter on 31.5.90 and therefore eviction proceedings were started and the eviction order dated 12.9.90 was passed under the provisions of Public Premises (Eviction Unauthorised Occupants) Act 1971. This order was challenged in the Bombay City Civil Court. On compassionate grounds the Principal Judge allowed the applicant to retain the possession of the said quarter till 30.4.91, after giving an undertaking that he would not adopt any proceedings in any Court of law or elsewhere (legal consequences having been explained to him) in respect of the above premises. He had also undertaken that he would not ask for any extension of time beyond 30.4.1991 and that he would pay the compensation as per rules in force. The undertaking given by the applicant was accepted by the Court. Therefore, Shri Kasturey argued that the applicant was well aware that he would not be given post retirement passes as per rules and he had given undertaking not to ask for the same. Therefore, he was estopped from asking for the post retirement passes till such time as the previous debit entries of post retirement passes were not wiped out. Shri Kasturey relied upon the circulars of the Railway Board dated 24.4.82 and 4.6.83 (Annex. R2 and R 3) in support of his contention that the applicant was not eligible for post retirement passes upto 1994. He also relied upon the judgement delivered by the Hon'ble Bench of Gauhari. It was also submitted by Shri Kasturey that the Hon'ble Supreme Court had granted stay on 6.6.91 in the case of Wazir Chand Vs. Union of India and others reported in Full Bench Judgement (CAT) Vol.II 287.

h-p.

I have heard both the learned counsel and perused the annexures filed by them. A copy of the undertaking given by the applicant has been filed before me. The undertaking specifies that the applicant will vacate the quarter in question on or before 30.4.91, that he would not adopt any proceedings in any Court of law or elsewhere, in respect of the above premises, that he would not ask any extension of time beyond 30.4.91 and he would pay compensation as per rules in force. There is not a word about the post retirement passes being withheld from the applicant for which he was entitled as per rules after his retirement. So far as the circulars issued by the Railway Board are concerned, the same have been considered at length by Full Bench in the case of Wazir Chand and it has been held that disallowing one set of post retirement passes for every month of unauthorised retention of Railway quarters in terms of the relevant Railway Board's circulars is unwarranted.

In view of this, I have no hesitation in granting the applicant's request for restoration of the facility of post-retirement passes to him and accordingly direct that the respondents will issue the passes prospectively from the date of this order. I would also make it clear that in case, on the basis of the clarification sought from the Supreme Court, the Railway Administration comes to the conclusion that the applicant is not entitled to the passes, the respondents will be free to adjust them against the entitled number of passes according to the decision as may be finally taken regarding the passes on the basis of the Supreme Court clarifications.

No order as to costs.


(USHA SAVARA) 10.9.92
MEMBER (A)

11/10/92
order/Judgement despatched
to Applicant/Respondent (a)
11/10/92

8/10/92

C.P. No. 5/93 for
order, from D.A.
20-1-93

ADP &
19/1

NOICE is issued
to contented on
27-1-93

MD

Notice dt. 27/1/93
to contented on 27/1/93
by 2/2/93
2/2/92

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Dated: 20-1-93. C.P. No. 5/93
Shri G.S. Walia for the
applicant.

Issue notice to the
respondents, returnable on
15-2-93.

Sy
(S.K. Dhawan)
YC.

C.P. 5/93 in O.A. 999/92
Date: 15-2-1993

Mr. Walia for the applicant
states that he wishes to withdraw
this CP as his grievance have been
met. The CP is disposed of as
withdrawn.

of
(M.Y. PRIOLKAR)
M(A)