

(24)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1092/92.

~~Excerpts from the application~~

DATE OF DECISION 4.2.1993

Shri K. Balakrishna Nambiar. Petitioner

Shri E.K.Thomas. Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

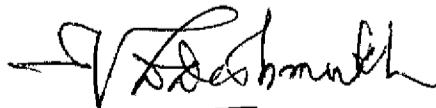
Shri A.L.Kasturey. Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri V.D.Deshmukh, Member(J).

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes }
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 ? }



(V.D.DESHMUKH)
MEMBER(J).

NS/

(05)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH

ORIGINAL APPLICATION NO. 1092/92

Shri K. Balakrishna Nambiar.

... Applicant.

V/s.

Union of India & Another.

... Respondents.

CORAM: Hon'ble Shri V.D. Deshmukh, Member(J).

Appearances:-

Applicant by Shri E.K. Thomas.

Respondents by Shri A.L. Kasturey.

Oral Judgment:-

Deshmukh
[Per Shri V.D. Deshpande, Member(J)] Dt. 4.2.1993.

The applicant has filed the present application praying that the respondents be directed to issue the post retirement complimentary passes as admissible under the rules. The applicant was employed as Senior Clerk in the office of the Loco Foreman, Western Railway and retired on superannuation on 30th September, 1989. The applicant, while in service was allotted a Railway Quarter, but due to alleged unavoidable circumstances the applicant continued to occupy the said quarter after his superannuation till 3rd October, 1992. He vacated the quarter allotted to him on the above said date.

2. The applicant vide his advocate's letter dt. 12.10.1992 requested the respondents to issue the post retirement complimentary passes. However, no reply has been sent to this notice. In these circumstances the applicant filed the present application.

3. The respondents filed their reply and they relied upon the Board's letter dt. 24th April, 1982 under which it was directed that for every one month of unauthorised ~~the~~ detention of Railway Quarter one set of post retirement passes should be disallowed. The letter stated further that a show cause notice to this effect may be issued to the retired employee before disallowing the passes.

According to the respondents, the respondents under these
Court's ^{order} directions ~~disallowed~~ post retirement passes to the
applicant to the extent of one set of passes for every
~~one~~ month for unauthorised detention of the Railway
Quarter. The directions contained in the above said letter
were however, challenged before the various Benches of this
Tribunal and ultimately the instructions issued by the
Railway Board vide letter dt. 24th April, 1982 were held
to be ultra vires by the decision of the Full Bench in
O.A. 2573/89, Shri Wazir Chand V/s. Union of India & Ors.
dt. 25th October, 1990.

4. As the said instructions are no more operative,
the respondents cannot disallow the post retirement passes
to the applicant. The respondents have filed an SLP
before the Supreme Court and they have attached the
copy of the order passed by the Supreme Court on 8.6.91.
Under this order the notice was issued and pending the
notice the operation of the impugned judgment was stayed.
The copy itself shows that the stay order was not there-
after confirmed or continued, although the delay in filing
process was condoned by the Hon'ble Court on 12th July, 1991.
In addition, the said order itself ^{expressly} ~~extensively~~ states that
although the impugned judgment was stayed it was subject
to condition that the Railways shall pay all the retiral
benefits to the petitioners, which would clearly show
that the benefits of the employees of the Railways accruing
to them as a result of the retirement were not stayed.

5. The learned advocate for the applicant also
relies upon the Judgment^s of the Tribunal dt. 28.10.1992
in Shri Camillo Alex F.Dias V/s. Chief Workshop Manager,
Central Railway Workshop (O.A. No.839/92) decided on

28.10.1992. In this case in view of the Full Bench Judgment the request of the applicant for restoration of the facility of post retirement passes was ~~given~~ ^{granted} prospectively from the date of the order. ~~was granted.~~

6. In view of the above discussion, I find that the application has to be allowed and the applicant is entitled to post retirement passes and I pass the following order.

Q R D E R

The respondents are directed to grant the applicant post retirement passes prospectively. If eventually, after the decision of the Hon'ble Supreme Court the applicant is not entitled to passes then the respondents shall be at liberty to adjust the passes against the entitled number of passes which they may issue to the applicant against the future entitlement.

The respondents are further directed to issue the passes to which the applicant is entitled within four weeks from the receipt of the copy of this order.

The application is disposed of with no order as to costs.



(V.D.DESHMUKH)
MEMBER(J).

BSM