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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 231/93

~~Transfer Application No:~~

DATE OF DECISION 6.7.93

Shri Ganesh Baburao Salvi Petitioner

Shri E.K. Thomas Advocate for the Petitioners

Versus.

Union of India and others, Respondent

Shri N.K. Srinivasan Advocate for the Respondent(s)

CONAM:

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 ?
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/

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 231/93

Shri Ganesh Baburao Salvi

*** Applicant.

V/s.

Union of India through
General Manager,
Western Railway,
Churchgate,
Bombay.

Divisional Railway Manager
Western Railway
Bombay Central,
Bombay.

... Respondents.

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

Appearance:

Shri E.K. Thomas, counsel
for the applicant.

Shri N.K. Srinivasan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 6.7.93

{ Per Shri V.D. Deshmukh, Member (J) }

The application is admitted and taken for final hearing. I heard the learned counsel^s for the applicant and the respondents.

by claiming
The applicant has filed the present application that the respondents be directed to issue the post retirement complimentary passes as admissible under rules. The applicant was employed as Senior Driving Inspector in the office of the Senior Divisional Electrical Engineer, Western Railway, Bombay Central. The applicant retired on 30.9.1987 on superannuation. The applicant was allotted quarter No. 81/3, Western Railway quarters, Matunga Road, Bombay. He contended that he was permitted to occupy the said quarter upto 31.5.88 after superannuation, but admittedly he did not vacate the quarter till 30.6.92.

The applicant approached the respondents for issuance of post retirement complimentary passes on 9.2.93. However he was informed that no passes will be issued to him as he overstayed in the Railway quarters . Hence the present application.

The respondents filed their reply and they relied upon the Board's letter dated 24th April, 1982 under which it was directed that for every one month of unauthorised retention 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 directions could disallow post retirement passes to the applicant to the extent of one set of passes for every month ^{for} ~~for~~ unauthorised retention 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 dated 24th April, 1982 were held to be ultra vires by the decision of the Full Bench in OA 2573/89, Shri Wazir Chand V/s. Union of India and Ors. dated 25th October, 1990.

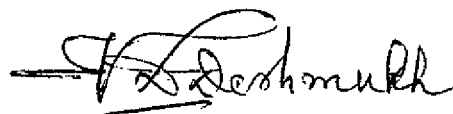
As the said instructions are no more operative, the respondents cannot disallow the post retirement passes to the applicant. The respondents have filed an SLP before the Supreme Court and they have attached the copy of the order passed by the Supreme Court on 8.6.91. Under this order the notice was issued and pending the notice the operation of the impugned judgement was stayed. The copy itself shows that the stay order was not thereafter 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 stated that although the impugned judgement 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.

The learned advocate for the applicant also relies upon the Judgement of this Tribunal dated 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 Judgement the request of the applicant for restoration of the facility of post retirement passes was granted prospectively from the date of the order.

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

The applicant shall file a fresh application for post retirement complimentary passes and the respondents are directed to grant the applicant the post retirement complimentary passes after vacation of the quarter. If the Hon'ble Supreme Court's decision is that the applicant is not entitled to post retirement complimentary passes, the respondents shall be at liberty to adjust the entire number of passes which they may issue against the future entitlement. The respondents are further directed to issue the passes to the applicant within a period of four weeks from the date of receipt of this order. No order as to costs.


(V.D. DESHMUKH)
MEMBER (J)