

6-8

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: ~~XXXXX~~ 391/94

Transfer Application No:

DATE OF DECISION: 30.11.1994

M.P.Batham. Petitioner

Ms.S.Gode. Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

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

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

The Hon'ble Shri

1. To be referred to the Reporter or not ? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*


(M.S.DESHPANDE)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

Original Application No.391/94.

M.P.Batham. ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

Appearances:-

Applicant by Ms. S. Gode.
Respondents by Shri A.L.Kasturey.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 30.11.1994.

By this application, the applicant seeks a declaration that the withholding of Rs.18,448/- w.e.f. 31.7.1984 of the Death-cum-Retirement Gratuity payable to the applicant was illegal and for refund of the amount of Rs.10,595/- deducted from the applicant's DCRG together with interest at 21%.

2. The applicant was a Railway employee who retired on 31.7.1984. His son Mukesh who was residing with him since 1977 filed a Writ Petition before the High Court and it came to be transferred to this Tribunal and was numbered as Tr. Application No.444/87. By the order dt. 22.7.1992 filed in that application shows that the services of Mukesh was regularised w.e.f. 14.5.1985 and he was in occupation of the quarters and HRA was deducted from his pay for being in possession of quarter. The Tribunal observed that as the services of Mukesh were regularised w.e.f. 14.5.1985 and he was in occupation of the quarter allotted to his father from the date of retirement

...2.

of his father on 31.12.1984 and prior to it,
The quarter should be allotted to Mukesh^{Ch} was the
direction accordingly made.

3. According to the applicant the amount of Rs.10,595/- was due as Electricity charges from the present applicant and whenever he approach^{ed} the Respondents for releasing DCRG, he was informed of the arrears of the Electricity Charges and he expressed his willingness and agreed for the recovery of the amount of Electricity charges from the DCRG. This position was affirmed by the Respondents by the affidavit dt. 25.2.1994. The applicant has filed a statement denying these allegations, but the denial is not on oath and there is no reason why the Respondents contention that the applicant had agreed to the deduction of the amount of Electricity charges may should not be accepted.

4. Since the deduction of the amount was done with the consent of the applicant, the applicant cannot now say that the amount should not have been deducted from the DCRG payable to him. However, there was no justification for the Respondents to withhold the balance and the Respondents are therefore directed to pay to the applicant Rs.7,853/- together with interest on the amount at Rs.7% from 1.11.1984 upto 31.7.1984 and at the rate of 10% thereafter until payment. The entire amount shall be paid within three months from the date of communication of this order. The rest of the claim is dismissed. The OA is accordingly disposed of.


(M.S.DESHPANDE)
VICE-CHAIRMAN