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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 958/94

Transfer Application No. ----

Date of Decision : 10-4-95

Shri Xavier D'Cruz

Petitioner

Mr.Y.R.Singh

Advocate for the
Petitioners

Versus

U.O.I. & Ors.

Respondents

Mr.N.K.Srinivasan

Advocate for the
respondents

C O R A M :

The Hon'ble Shri M.R.Kolhatkar, Member(A)

The Hon'ble Shri --

- (1) To be referred to the Reporter or not ? X
- (2) Whether it needs to be circulated to other Benches of the Tribunal? X

M.R. Kolhatkar

(M.R.KOLHATKAR)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.958/94

Shri Xavier D'Cruz,
C/o. Shri Alfred D'Cruz,
72/E Western Railway (East),
Bombay - 400 057.

.. Applicant

-versus-

1. Union of India
through
General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

2. Divisional Railway Manager,
Western Railway,
Bombay Central,
Bombay.

.. Respondents

Coram: Hon'ble Shri M.R. Kolhatkar,
Member(A)

Appearances:

1. Mr. Y.R. Singh
Counsel for the
Applicant.

2. Mr. N.K. Srinivasan
Counsel for the
respondents.

ORAL JUDGMENT:
(Per M.R. Kolhatkar, Member(A))

Date: 10-4-95

Heard Mr. Y.R. Singh for the applicant
and Mr. N.K. Srinivasan for the respondents.

The applicant impugns respondents' letter dated 15-12-1993 which states that in terms of Railway Board's letter dated 29-4-85, post retirement passes will be disallowed to the extent of one set of passes for every month of unauthorised retention of railway quarter by the applicant. The applicant was employed as Assistant Traction Foreman and retired on superannuation on 1-2-1987 and was in occupation of railway quarters which he vacated only on 28-1-1990 and the applicant ~~was~~ therefore

remained in ^{unauthorised} occupation for 33 months (37-4=33) against which, in terms of Railway Board instructions, the railways could withhold complimentary passes for 16½ years @ two sets of passes per year. Thus on this basis he would be entitled to complimentary passes only in the year 2003.

2. The applicant relies on the following cases decided by this Bench viz. O.A.1092/92 K.Balakrishna Nambiar vs. U.O.I. & Ors. and O.A. 231/93 Ganesh Baburao Salvi v. U.O.I. decided on 6-7-93. In both these cases the Tribunal noted that ~~xxxxxx~~ the Railway Board instructions were held as ultra vires by Full Bench in Wazir Chand vs. U.O.I. & Ors., ^{and although} the Railway Administration has filed an SLP but the stay order by the Supreme Court was not confirmed or continued. In view of this we are bound by the ratio of ~~of~~ Wazir Chand subject to final decision of the Supreme Court on the SLP filed against the same. The above two cases have been decided on this basis in which a reference has been made to another case decided by this bench viz. Camillo Alex F.Dias vs. Chief Workshop Manager, Central Railway Workshop (O.A.839/92) decided on 28-10-92. Thus the matter is no longer res-integra subject to what is stated above regarding the final ~~decision~~ decision of the Supreme Court.

3. We, therefore, dispose of this case by passing the following order keeping in view ~~the~~ the fact that the applicant has already vacated the quarter.

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O.A.958/94

O R D E R

The respondents are directed to
grant^{to} the applicant post retirement
passes prospectively from year to year.

If eventually , after the decision of
Hon'ble Supreme Court, the applicant is held
as 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^{for current year} to which the
applicant is entitled ~~within~~ within four
weeks from the date of receipt of copy
of this order.

^ There will be no order as to costs.

M.R. Kolhatkar
(M.R. KOLHATKAR)
Member(A)

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Take notice that you should appear before the Tribunal in person or through your advocate on 3-11-95

A copy of Tribunal's Order dated 25.8.95 is enclosed for compliance.

Dated this 18 Day of Sept 1995

Encl: Copy of Tribunal Order dtd.

25/8/95 & CP 109/95

Cypr Jd

SECTION OFFICER.

Despatched on 18/9/95
Despatched

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

C.P. No. 109/95 IN
O.A. No. 958/94/

Mr. Xavier D'Cruz

... Applicant.

V/S.

The Union of India & Ors.

... Respondents.

CORAM: HON'BLE JUSTICE SHRI M.S. DESHPANDE, V.C.

HON'BLE SHRI P.P. SRIVASTAVA, MEMBER (A).

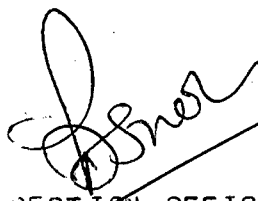
TRIBUNAL'S ORDER:

Dt:- 25/8/95.



Mr. Y.R. Singh, counsel for applicant.

C.P. No. 109/95 returnable on 3.11.95.


SECTION OFFICER.
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