

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 1443 /1995

Date of Decision: 31-10-96

T. George

Petitioner/s

Mr. G.S. Walia

Advocate for the
Petitioner/s

V/s.

UOI & Ors.

Respondent/s

Mr. N K Srinivasan

Advocate for the
Respondent/s

CORAM:

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

Hon'ble Shri

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

M.R. Kolhatkar
(M(A))

trk

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

O.A. 1443/95

Pronounced, this the 31st day of October 1996

CORAM:

HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

George.T.
C/o. G.S.Walia,
Advocate, High Court
16, Maharashtra Bhavan,
Bora Masjid Street,
Fort, Mumbai - 400 001.

(By Advocate Shri G.S.Walia)

.. Applicant

-versus-

1. Union of India,
through
General Manager,
Western Railway,
Head Quarters Office,
Churchgate, Mumbai-400 020.

2. Dy.Chief Engineer (S & C)
Survey & Construction Dept.,
Western Railway,
Churchgate,
Mumbai - 400 020.

(By advocate Shri N.K.Srinivasan)

.. Respondents

ORDER

(Per M.R.Kolhatkar, Member(A))

The applicant retired from railway service on 31-5-93 as Head Clerk in the Survey & Construction Department of the Western Railway Head Quarters office at Churchgate, Mumbai. He was occupying Railway Quarter No.120/19 at Mahalaxmi, and on retirement, he was permitted to retain quarter for a period of 4 months from 1-6-1993 to 30-9-1993. He had applied for further permission to stay in the quarter but the same was not decided. The applicant ultimately vacated the quarter on 22-7-1994.

2. The grievance of the applicant is that on account of non-vacation of the quarter, the various retirement dues to the applicant viz. DCRG, Post Retirement Passes, Settlement Pass, Transfer Allowance and Package Allowance were withheld. The applicant therefore prays for release of the above. Insofar as DCRG is concerned the prayer is for the release with interest as per rules ^{^ without deducting damage rent ^} and regarding the post-retirement passes it is prayed that the passes be released immediately unconnected with the alleged occupation of the Railway quarter.

3. The Tribunal vide its ^{a interim} order dt. 18-1-1996, directed the respondents to issue the passes within a week for the year 1996.

4. The Respondents have opposed the O.A. According to them, the various retirement dues to the applicant could not be settled as he was in unauthorised occupation of the quarter. According to the respondents, the applicant has been paid DCRG, after adjustment of damage rent, amounting to Rs.13,974/- He has also been paid commutation value of Rs.3644/- So far as the package and transfer allowance are concerned, the same are not payable to the applicant as he did not apply for the same within the mandatory period of two years and in this connection reference is made to the Railway Board circular dt. 23-2-90, Annexure R-4. ⁵ So far as the post retirement passes are concerned, the matter is settled by the Full Bench judgment in Wazir Chand vs. U.O.I. vide page 287 of CAT Full Bench Judgment, Vol. II (1989-1991)

(Bahri Brothers, Delhi Ed.) wherein it has been held that the post retirement passes can be withheld only after the retired Railway servant has been adjudged to be in unauthorised occupation of the Railway quarters. In the present application, there is nothing on record to show that proceedings under P.P. Act were initiated and the applicant was adjudged to be in unauthorised occupation of the Railway Quarter. Therefore, keeping in view the ratio of Full Bench Judgment, I direct the respondents to release the passes to the applicant in future without linking them up with the alleged unauthorised occupation of railway quarter.

6. So far as the transfer and packing allowance is concerned, the contention of the respondents that the applicant had not applied for the same within the mandatory period of 2 years and hence his right to this benefit is forfeited is quite incorrect. The import of Railway Board's circular dt. 23-3-90 is that when a railway employee does not apply for transfer grant and packing allowance within two years, such cases are required to be referred to Railway Board for condonation of delay (the earlier procedure of referring the cases after one year to the Railway Board was modified by the above Railway Board circular). It is clear that the applicant does not forfeit his right to transfer grant and packing allowance, but what is required is that the applicant having applied for the same after the prescribed period the matter is required to be referred to the Railway Board for condonation of delay. I, therefore, direct that provided the applicant applies to the Railway Board through proper channel within a month from the

date of pronouncement of this order, for transfer grant and packing allowance, action to condone the delay may be taken by the Railway Board within 10 weeks thereafter.

the deduction of damage sent from me
b. The question of DCRG and interest thereon, however, is a vexed question, on which the Counsel for the applicant addressed me at length especially in the context of Full Bench judgment in Rampoojan vs. U.O.I. ATJ 1996(1) 540 and also advanced arguments to suggest that there is conflict between Ram Poojan and Wazir Chand and that Ram Poojan judgment does not deal with a retired railway employee and that the same may be considered as per incurium.

g. Counsel for the respondents has argued in the main that this Tribunal consists of a single Member and is bound by the ratio laid down in Ram Poojan which is a Full Bench judgment consisting of three Members.

g. I have considered the matter carefully. I do not consider it necessary to deal with the = arguments advanced by the counsel for applicant in this O.A. as I have dealt with this issue in my judgment dated 23-7-96 in O.A. No.1272/95 (Smt. Kunjamma D'Cruz vs. DRM Western Railway). Suffice it to say that although I do not agree with all the propositions advanced in the Ram Poojan's case and in particular I do not agree with the interpretation of Wazir Chand's judgment in the Division Bench judgment of Calcutta Bench of the Tribunal in R.K. Banerjee vs. U.O.I. vide 1996(1) ATJ 553 *and* *h* I consider it unfortunate that

the Ram Poojan judgment had not considered the ^{Mumbai CAT} Division Bench judgment of Urman Singh vs. U.O.I. O.A. 439/95 decided on 25-7-95 either because it is an unreported judgment or because it was not cited before them, however, I am of the view that as a Single Bench I am bound by the ratio laid down by Ram Poojan and, therefore, I am required to follow the same. It would appear that the applicant has been paid Rs.13,974 on account of DCRG after deduction of ^{which deduction I hold to be valid} damage rent. It is not clear whether the applicant has been paid interest on the ^{net} amount but circumstances would show that interest has not been calculated and paid. I therefore direct the respondents to calculate and pay interest on the amount of Rs.13,974 from the date the quarter was vacated by the applicant viz. 22-7-94 till date of payment at the rate of 12% per annum. This payment should be made to the applicant within two months of the communication of the order. The O.A. is disposed of in above terms ^{as to} various claims. There would be no order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member(A)