

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 546/95  
Transfer Application No. --

Date of Decision : 13-10-95

K.H.Karnani

Petitioner

Mr.H.A.Sawant

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 ?

(2) Whether it needs to be circulated to  other Benches of the Tribunal?

M.R.Kolhatkar

(M.R.KOLHATKAR)  
Member(A)

M

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.546/95

K.H.Karnani

.. Applicant

-versus-

Union of India & Ors. .. Respondents

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

Appearances:

1. Mr.H.A.Sawant  
Counsel for the  
applicant.
2. Mr.N.K.Srinivasan  
counsel for the  
Respondents.

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

Date: 13-10-1995

In this case, the applicant retired from railway service on 31-5-1992. He remained in occupation of the railway quarters till 31-5-1994. The post retirement complimentary passes viz. three passes in a calendar year to which he was entitled were withheld. The prayer of the applicant is to cancel the entry, said to have been made, to debit the pass account of the applicant as a punishment for non vacation of railway accommodation and to issue all the post retirement complimentary passes to which he is entitled to after his retirement on 31-5-1992 as per Railway Pass Manual. The applicant relies on the Full Bench judgment in Wazir Chand vs. U.O.I., reported at Vol.II of Bahri Brothers.

2. The counsel for the respondents relies on Railway Board instructions dt. 24-7-82 ~~and~~ which <sup>for</sup> envisages that ~~/~~ every month of unauthorised retention of railway quarters, one set of post retirement passes ~~✓~~ should be disallowed. These instructions are stated

to be reiterated in a subsequent circular dated 29-8-90. These circular appear at Annexure R-I and R-II.

3. The question as to whether post retirement passes can be withheld by way of penalty for non vacation of Railway quarters is no longer res-integra in view of the Full Bench judgment in Wazir Chand vs. U.O.I.

Whatever <sup>other</sup> Supreme Court judgments or C.A. T judgments to the contrary are cited to support the contention that Wazir Chand is no longer

good law have been dealt with in detail in my judgment in "Shri K.T.Dudani vs. U.O.I & Ors".

O.A.1365/94 decided on 13-10-95. In view of the discussion, I hold that the action of the railway administration in withholding post retirement complimentary passes for non vacation of the quarters is illegal. The respondents are directed to release post retirement passes in favour of the applicant to which he is entitled but with prospective effect viz. w.e.f. calendar year 1995. Railway administration also to continue to release passes in favour of the applicant for subsequent years viz. 1996, 1997 and so on. Any action that the Railway proposed to take against the applicant for holding the occupation of the quarters as unauthorised and any consequential penalties that such declaration of unauthorised occupation would entail, should be taken by railway administration as per applicable law and rules viz. xxxxxxxxxxxxxxxxxxxxxxxxx either Railways Act or under PP(ECU)Act, 1971.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

ORIGINAL APPLICATION NO. OF 1995

application under section 19 of the  
Administrative Tribunals Act, 1985.

*mt. singh*  
*9/10/94*  
**(1) Shri. K.H.KARNANI**

Retired A.E.E.-

Western Railway, ..... Applicant

- VERSUS +

**(2) The General Manager.**

Western Railway H.Q.

Office Churchgate,

Bombay 400,020

**(2) The Union of India, through**

**the Secretary, Railway**

**Board, Ministry of Railway,**

**Rail Bhawan, New Delhi- 1 ..... Respondants**

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Sl. Documents Relied upon ANN. No. Page Nos ;  
No. From To ;

1. Application 1 - 8

2. Copy of the order No.E

(Pass) 768/45/1/8 dated

08-10-94 from the Gene-

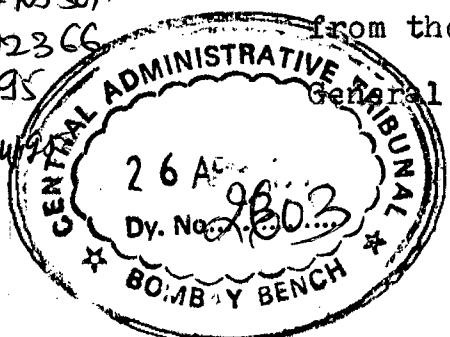
ral Manager (E) Western

Railway to the applicant A-1

3. Letter dated 15-9-94

*Recd SPO of Rs 50/-  
No 803 712366  
Dtd 24.4.95*

from the applicant to the  
General Manager (E) West-



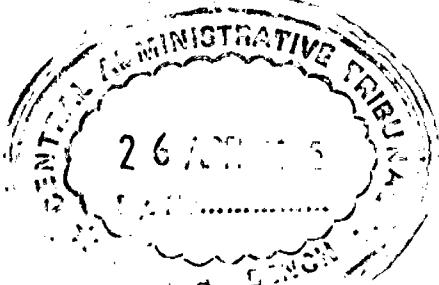
.....2.....

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From To :

	ern Railway, Bombay	A-2	10
4.	Copy of the order dated 20-10-93 of the Honour- able Tribunal (Bombay Bench)	A-3	11- 12
5.	Copy of letter No. E (s)789/3/60 dated 5/11/94 from the General Manager (E), Western Railway Bom- bay	A-4	13
6.	Copy of the Schedule IV appended to the Railway Servants (Pass) Rules, 1986	A-5	14 - 19
7.	Copy of the orders pass- ed by the Full Bench of this Honourable Tribun- al in O.A. No. 2573/89 decided on 25-10-90	A-6	20- 41
8.	<u>Copy of the orders pass-</u> <u>ed by this Honourable</u> <u>Tribunal in O.A. No.</u> <u>294/94.</u>		<u>42- 43.</u>



  
 (Advocate for the Appli-  
 cants)  
**H. A. SAWANT** LL.M, D.B.A.  
 ADVOCATE HIGH COURT  
 6'44, UNNAT NAGAR NO. 1  
 M. G. ROAD, GOREGAON (W),  
 BOMBAY NO. 62, TEL. NO. 8721692