

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 911/95

Date of Decision: 28.8.1997

S.V.Ramteke

Applicant.

Shri H.A.Sawant.

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri N.K.Srinivasan.

Advocate for
Respondent(s)

CORAM:

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

Hon'ble Shri. -

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

M.R. Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 911/95.

Thursday, this the 28th day of August, 1997.

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

S.V.Ramteke,
6/218, Harvesh,
Shailesh Nagar,
Dahisar (East),
Bombay - 400 068.

... Applicant.

(By Advocate Shri H.A.Sawant).

V/s.

1. The Union of India acting through the General Manager, Western Railway, Headquarters Office, Churchgate, Bombay-20.
2. The Divisional Railway, Manager, Bombay Central, Division, Western Railway, Bombay - 8.
3. The Manager, Indian Bank, Pension Department Cell, King's Circle, Bombay - 22. ... Respondents.

(By Advocate Shri N.K.Srinivasan)

ORDER

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

In this ^{application} application, the applicant has challenged the communication from the Railway Administration addressed to the Bank dt. 9.1.1995, in which the Bank is advised that while adjusting the final settlement it was noticed that an amount of Rs.24,245/- is still to be recovered from the employee and the Bank was therefore requested to recover the said amount from pension Relief payable to the pensioner.

2. On this point the position has been clarified

...2.

by the respondents in their written statement as below:

"The applicant had vacated the Railway Quarter on 31.1.1994. Therefore, after adjusting his DCRG amount of Rs.35,200/- against the rent due from the applicant i.e. Rs.64,639/- 9 normal rent from Jan. 92 to April, 92 @ Rs.264/- p.m. + penal rent from May, 92 to Jan., 94 which comes to Rs.64,176.50 + arrears of revised rent from 1.7.90 to Dec., 91, which is Rs.198 + Electricity charges of Rs.4,806.11 = Total recovery Rs.60,445/-. Regarding the amount of Rs.24,245/- to be recovered after adjusting the DCRG payable to the applicant."

It was in this connection that the Bank was advised to recover the amount from the dearness relief on the pension.

3. The question regarding recovery of the penal rent from the DCRG was a subject matter in the O.A. 385/94 which had gone in SLP and the Hon'ble Supreme Court had confirmed the order in the O.A. after varying the date from which the interest is to be paid to the applicant on the DCRG. In particular the Hon'ble Supreme Court had held that the applicant was not entitled to the interest on DCRG during the time he was in occupation of the quarter. ~~Nothing was said~~ ~~Nothing was said~~ Nothing was said regarding recovery of penal rent from the DCRG either in the Judgment of this Tribunal or in the order of the Supreme Court in the SLP. The respondents had proceeded to deduct the arrears of penal rent from the DCRG and the applicant had approached the Tribunal in C.P. 2/97 in O.A. 385/94. The contention of the applicant was that the Judgment of the Tribunal having merged with the Judgment of the Supreme Court, ~~and~~ the issue relating to recovery of arrears from D.C.R.G.

had not arisen before the Tribunal or Supreme Court. Therefore, it was not open to the respondents to recover the arrears of penal rent from the D.C.R.G.

~~was~~ This contention of the applicant has been ^{by Tribunal order} accepted ^{in C.P. 2/97 in O.A. 385/94} delivered on 27.8.1997. In that C.P. the Tribunal had given liberty to the respondents to recover the arrears of penal rent as per avenues open to them under law. The basic question, therefore, which is before the Tribunal is whether it is open to the respondents to recover the arrears of penal rent etc. from the dearness relief on pension. This issue is no longer res-integra, because it has been decided by the Full Bench of this Tribunal in O.A. No.519/94 and O.A. No.689/94 decided on 27.6.1997 in which the Full Bench has held that dearness relief does not form part of pension for the purposes of pension rules and it is open to the respondents to recover arrears of rent from dearness relief.

5. The counsel for the applicant would argue that the Full Bench Judgment had come only recently and so far as the letter addressed to the Bank is concerned ^{that} was ~~only~~ ^{legally} on 9.1.1995 and the same could not have been ^{legally} issued. It may be noted here that, in any case, the applicant had been given I.R. of not deducting the arrears of rent from the dearness relief by the Tribunal's order dt. 3.8.1995 and continued thereafter from time to time. What I am required to decide is as to whether

...4.

M

on the date of pronouncement of the Judgment the penal rent can be recovered from the dearness relief. I have no doubt in my mind that the law as of to day is as per the Full Bench^{decision} and there is no bar to recovery of arrears of rent from the dearness relief on pension.

6. The O.A. therefore has no merit and therefore the same is dismissed with no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A).

B.