

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No:1015/98.

Date of Decision: 4/3/99.

Shri A.M. Attar

Applicant.

Shri S.S. Karkera for Shri Y.R. Singh

Advocate for
Applicant.

Versus

Union of India and Anr.

Respondent(s)

Shri suresh Kumar

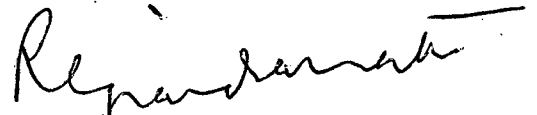
Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

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*



(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,
MUMBAI-400 001.

ORIGINAL APPLICATION NO:1015/98.

DATED THE 4TH DAY OF MARCH, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Shri A.M. Attar,
residing at Rly. Qrs,
No. RB/III/3/2, Byculla,
Mumbai.

... Applicant.

By Advocate Shri S.S. Karkera
for Shri Y.R. Singh.

V/s.

1. Union of India,
through the General Manager,
Central Railway,
C.S.T. Mumbai.

2. The Divisional Railway Manager(P),
Divisional Officer,
Personnel Branch,
Mumbai CST.

... Respondents.

By Advocate Shri Suresh Kumar.

I O R D E R

[Per Shri R.G.Vaidyanatha, Vice Chairman]

This is an application filed by applicant claiming retiral benefits with interest and also for a direction to respondents to issue post retirement passes. Respondents have filed reply opposing the application.

2. The applicant was a railway servant and he has retired from service. He is living in the railway quarters. His grievance is that the respondents have not released retirement benefits and they have not issued the post retirement passes and therefore he has approached the Tribunal.

Respondents in their reply ^{have} ~~has~~ stated that the DCRG amount has not been released to the applicant since he has not vacated the quarters. It is also alleged that the applicant is liable to pay penal rent., and ^{same} ~~some~~ defence is taken about non issuing of railway passes.

3. The short point for consideration is whether the

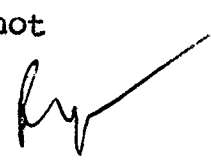
Rv

respondents can with-hold DCRG and railway passes when the railway official has not vacated the quarters.

It is not necessary to refer to pleading^s in detail since there is no dispute that the applicant has retired from service and he has not yet vacated the quarters. I am also told that the railway administration has taken action against the applicant for eviction of quarters under the provisions of Public Premises Act. The learned counsel for applicant Shri S.S.Karkera who argued on behalf of Shri Y.R.Singh on behalf of applicant relied on Full Bench decision dated 25/10/90,, where the Full Bench has held that with-holding of DCRG is not permissible even if the railway official has not vacated the quarters. Though this decision supports the case of the applicant, respondents counsel has brought to my notice a recent judgement of Supreme Court reported in [1997(1)SC SLJ 114 (Union of India v/s. Ujagar Lal)] where the Supreme Court has ruled that the railway administration ^{has} is right to with-hold DCRG till the vacation of the quarters and hence railway administration is not liable to pay interest on DCRG till the official vacates the quarters. In view of the law declared by Supreme Court, there is no difficulty to hold that the applicant cannot claim relief of releasing DCRG until and unless he vacates the railway quarters.

4. Similarly, as far as release of post retirement passes, the Railway Board has issued a circular which is very clear that if the railway official has not vacated the quarters after retirement he is not entitled to post retirement passes. Therefore, the action of the railway administration in not issuing post retirement railway passes is perfectly according to rules.

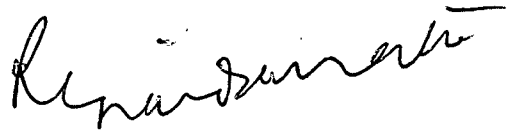
Therefore, in my view the applicant is not entitled to both the reliefs.



The arguments of the learned counsel for applicants that unless the Competent Authority under the P.P. Act gives a finding that applicant is in unlawful possession of quarters, the respondents cannot with-hold either DCRG or post retirement passes.

There is no merit in the submission in view of judgement of Supreme Court. A retired official has no legal right to continue in possession of quarter after he retires. Therefore, until and unless he vacates the quarters, the railway administration is well within its rights to with-hold DCRG and with-hold issuing of passes.

5. In the result, the application is rejected at admission stage. No order as to costs.


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.