

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 146/1998

Thursday, this the 19th day of April, 2001

Coram: Hon'ble Smt. Shanta Shastry, Member (A)

N.B. Kelshikar,  
Retired Chargeman,  
W. Railway,  
Quarter No. 100/14,  
Matunga Road (E),  
MUMBAT - 400 019. .... Applicant.  
(By Advocate Shri H A Sawant)

Vs.

1. The Chief Works Manager,  
Western Railway Workshop,  
Lower Parel, N.M.Joshi Marg,  
Mumbai - 400 013.
2. The Divisional Railway Manager,  
Divisional Office Mumbai Division,  
Mumbai Central,  
Mumbai - 400 008.
3. The Union of India, acting through  
General Manager, Western Railway,  
Head Quarters Office, Churchgate,  
Mumbai - 400 020. .... Respondents.  
(By Advocate Shri V.S.Masurkar)

: O R D E R (ORAL) :

{Per Smt. Shanta Shastry, Member (A)}

The relief sought in this application is to release the amount of Gratuity which has been withheld and to issue post-retirement complimentary <sup>Railway</sup> passes to the Applicant No.1 from the year 1997 onwards for each year.

2. The applicant was working as a Chargeman in the Lower Parel Workshop under the Chief Works Manager, Lower Parel Workshop, Mumbai. He superannuated on 31.3.1995. He was allowed to occupy the Railway Quarter No. 100/14, Matunga Road, Mumbai upto 1.8.1995. The applicant's son was also residing with the applicant, son also is employed in the Railways as Assistant

Station Master at Charni Road on the Western Railway. The Son of the applicant had applied for transfer of the quarter in his name as per the prevalent Rules in the matter. The case for transferring the quarter in the name of the son of the applicant was taken up under the Public Premises [Eviction of Unauthorised Occupants] Act, 1971 and the Estate Officer had ordered in favour of the applicant's son. However, the respondents went in appeal against the aforesaid order in the City Civil Court vide Miscellaneous Appeal No.92/97. The Judgment has been passed on 1.12.2000 in the matter and the City Civil Court has remanded the case to the Estate Officer, which is still pending. Since the quarter has not been <sup>Vacated</sup> ~~evicted~~ by the applicant so far, the Respondents have withheld the payment of gratuity to the applicant in this matter. The eviction <sup>of</sup> the quarter is pending finalisation in the case of transfer of the quarter in the name of the son. According to the Railway Rules, the Respondents are authorised to withholding the Gratuity till the quarters are vacated and therefore, the Respondents are justified in withholding the Gratuity.

3. The Learned Counsel for the Respondents has also cited the case of Union of India Vs. K.Balakrishna Nambiar (1998 SCC (L&S) 719), in support of this.

4. I have heard the Learned Counsel for the applicant, as well as, the Respondents. According to me, since the Railway Rules clearly provide for withholding of Gratuity pending vacation of the allotted quarter on superannuation, I am unable to grant any relief in the matter.

5. The applicant has also requested for Railway Passes.

Again, the Respondents point out that the Rule is the same in respect of releasing of passes also, as in the case of Gratuity. Until and unless the applicant vacates the quarter, these passes cannot be released. The Learned Counsel for the applicant is not able to produce any material in support that he is entitled to ~~ex parte~~ release of the passes. In the result, the OA is disposed of with liberty to the applicant to file a fresh OA, if he is still aggrieved as per law. No costs.

Shanta S-

(SHANTA SHAstry)  
MEMBER(A)

B.