

47

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 580/87.

Date of Decision :

-T.A.No--

Siripurapu Kannaiah

Petitioner.

Shri V. Parabrahma Sastri

Advocate for the
petitioner (s)

Versus

The Divisional Manager, South Eastern Railway, Respondent.
Waltair Division, Waltair, A.P.Visakhapatnam

Shri N.R. Devaraj,
SC for Railways

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J. Narasimha Murthy : Member (Jud1)

THE HON'BLE MR. R. Balasubramanian : Member (Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HJNM
M(J)

HRBS
M(A)

48

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.580/87.

Date of Judgment 11-2-91

Siripurapu Kannaiah

.. Applicant

Versus

The Divisional Manager,
South Eastern Railway,
Waltair Division,
Waltair, A.P.
Visakhapatnam

.. Respondent

Counsel for the Applicant : Shri V.Parabrahma Sastri

Counsel for the Respondent : Shri N.R.Devaraj,
SC for Railways

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I

This application has been filed by Shri Siripurapu Kannaiah under section 19 of the Administrative Tribunals Act, 1985 against the Divisional Manager, South Eastern Railway, Waltair Division, Waltair, A.P. Visakhapatnam seeking:

- (a) the release of his gratuity amount, and
- (b) the release of free railway travel passes available to retired railway officials.

2. The applicant retired from service on 31.7.80. He did not get his gratuity amount of approximately Rs.11,000/-. He is also denied the two free railway passes per annum. The reason for this is that he has not

vacated the quarter. It is stated that the Divisional Mechanical Engineer, South Eastern Railway, Waltair instituted a case No.E.C/26/81 against the applicant on the file of the Estate Officer. It is also stated that on appeal by the applicant the I Addl. District Court, Visakhapatnam decreed that the appellant was entitled to a quarter. It is stated by the applicant that the respondent had gone in appeal against this to the Andhra Pradesh High Court and the writ petition is still pending there. The applicant prays that the amount of D.C.R.G. be released to him and he be given the passes he is entitled to.

3. The application is opposed by the respondent. It is stated that as far back as on 26.3.81 the applicant was informed by the respondent that his D.C.R.G. would not be paid to him. Again by a letter dated 27.12.82 the applicant was told that post-retirement passes would not be issued to him unless he vacated the railway quarter in accordance with the Railway Board's letter No.E(G)81-QRD-51 dated 24.4.82. It is pointed out that the applicant who was in full knowledge of the stand taken by the respondent did nothing until April, 1987 when he filed this O.A. It is ~~their~~ contention that the case is ^{his} ~~also~~ hit by limitation.

4. Coming to the facts of the case, the respondent admits that when the Estate Officer initiated proceedings for the vacation of the quarter the applicant moved the I Addl. District Judge, Visakhapatnam and got a decree

passed on 26.4.85 stating that the appellant is entitled to the allotment of railway quarter. The respondent had filed a W.P.No.9145/86 in the High Court of Andhra Pradesh questioning the judgment of the appellate authority under the Public Premises Eviction Act. It is his point that in accordance with the Railway Board's orders the Railways can withhold the gratuity amount and the free passes to compel the applicant to vacate the quarter.

5. We have examined the case and heard the learned counsels for the applicant as well as the respondent. In the course of the hearing the learned counsel for the applicant stated that in accordance with the rules of the Railways the son of the applicant who had been staying with his father is entitled to the allotment and, therefore, ^{asked for} ~~issued the smooth passage of~~ allotment from father to son. In the counter filed as well as in the hearing the Railways have taken a stand that the son was certainly not eligible for the quarter since at the relevant time he was only a casual mazdoor and not entitled to any quarter whatsoever. The learned counsel for the applicant also stated that this O.A. is linked to the W.P. filed by the Railways and pending in the Andhra Pradesh High Court while the learned counsel for the respondent stated that there is no relationship whatsoever since the O.A. before us is one pertaining to release of D.C.R.G. and the W.P. pending in the Andhra Pradesh High Court relates to eviction.

6. Later, during the hearing, the learned counsel for the applicant ^{dropped} raised the issue of allotment of ~~the~~4

quarter to the son and argued that in so far as the applicant is concerned the quarter should be deemed to have been vacated on the expiry of the allotted period and that if any action was to be taken by the respondent it should be against the son of the applicant and not against the applicant by withholding his D.C.R.G. and the free passes.

7. There was a similar case (O.A.No.260/90) which came up before this Tribunal. In that case also the applicant dissociated himself from his son and argued that in so far as he was concerned it should be treated as the quarter having been vacated after he retired from service in June, 1987 and that action ^{could} ~~should~~ be taken against his son. In the order dated 5.10.90 in that case, even though we had held that the applicant was in unauthorised occupation of the quarter the entire amount of D.C.R.G. should not be withheld and we had ordered the applicant to vacate the quarter within three months of the order and directed the respondent to release the amount of D.C.R.G. without interest after recovery of normal rent payable within one month after vacation of the quarter by the applicant.

8. The issue before us is one of release of D.C.R.G. and the free passes. We do not agree with the contention of the respondent on the question of limitation. The applicant had gone to the court and the question of eviction is still pending as admitted by the respondent who has expressed his inability in the counter to initiate eviction proceedings. Till the final disposal of that case it will not be proper to decide whether the5

To

1. The Divisional Manager, S.E.Railway,
Waltair Division, Waltair, A.P.,
Visakhapatnam.
2. One copy to Mr.V.Parabrahma Sastri, Advocate
16-11-17/C, Saleem Nagar (Opp. Majid) New Malakpet, Hyderabad.
3. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd-Bench
4. One copy to Hon'ble Mr.R.Balasubramanian, Member(A)CAT.Hyd.
5. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
6. One spare copy.

pvm

occupation by the applicant is correct or not. The question before us, as stated earlier, is one of release of D.C.R.G. Subsequent to our judgment dated 5.10.90 in O.A.No.260/90 the Full Bench of this Tribunal sitting at Delhi had made an order on 25.10.90 in O.A.No.2573/89 placed before it. In that order the Full Bench had held that withholding of entire amount of gratuity of a railway servant so long as he does not vacate the railway quarter is legally impermissible. They had also held that disallowing one set of post-retirement passes for every month of unauthorised retention of railway quarter is also unwarranted. In the light of our judgment in the earlier case and in the light of the Full Bench order we direct the respondent:

(a) to release the amount of gratuity after retaining a suitable hold-back amount as envisaged in the Railway Board's order No.E(G)81-QRI-51 dated 24.4.82 and ~~also~~ after recovery of normal rent payable by the applicant till the vacation of the quarter. There will be no interest on D.C.R.G. for this entire period. If it is seen that by this step there is nothing due to the applicant and on the other hand he has to pay the respondent, it is open to the Railways to take suitable steps to recover the amount due to them.

(b) to release the railway passes that the applicant is eligible for from the date of issue of this order.

9. There is no order as to costs.

(J.Narasimha Murthy)
Member(Judl).

(R.Balasubramanian)
Member(Admn).

14/21
for D.R.C.J)

Dated 11th February 91