

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

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ORIGINAL APPLICATION NO.277/97

DATE OF ORDER : 28-08-1997.

Between :-

K.Dakshinamurthy

.. Applicant

And

1. Union of India,
rep. by General Manager,
South Central Railway, Rail Nilayam,
Sec'bad-500 071.
2. Chief Personnel Officer,
SC Rlys, Rail nilayam,
Sec'bad.-500 071.

.. Respondents

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Counsel for the Applicant : Shri G.Ramachandra Rao

Counsel for the Respondents : Shri D.F.Paul, SC for Rlys

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri G.Ramachandra Rao, counsel for the applicant and Sri D.F.Paul, standing counsel for the respondents.

1.A. The applicant in this OA while working as Office Superintendent Gr.I in the scale of pay of Rs.2000-3200 retired from service on 30-11-94 after completion of 40 years of service. The applicant submits that the last pay drawn by him in that scale was Rs.2,120/- from 31-10-94 till he retired from service. He submits that he is entitled for a gratuity of Rs.41,976/- whereas he has been paid short of that amount. The amount paid to him by memo dt.6-5-96 was only Rs.30,225/-. The deduction made from the gratuity is also resisted by him.

2. This OA is filed praying for a direction to the respondents to pay the balance amount of Rs.12,524/- towards gratuity with interest thereon and also interest on delayed payment of gratuity amount at 12% from 1-12-94 till payment.

3. A reply has been filed in this OA. In page-3 of the reply the details of deduction for rental arrears, arrears of Electrical Charges has been indicated. It is also stated that an amount of Rs.4,500/- had been with held for interest on Scooter Advance.

Subsequently that was also released deducting the amount of Rs.1,650/- towards interest on Scooter Advance vide letter dt.21-6-96. The difference of amount Rs.11,751/- towards gratuity was also arranged for payment as per the Railways letter No.APN/1/2/3863 dt.25.1.97 as per rules.

4. The main contention of the respondents is that the applicant was allowed to occupy the quarters after his retirement at Kachiguda for 4 months on payment of normal rent i.e. from 1-12-94 to 31-3-95 and for another 4 months i.e. from 1-4-95 to 31-7-95 paying double the normal rent. Even after ^{that date} the applicant had unauthorisedly retained the quarter from 1-8-95 to 25-11-95, for which damage rent as per the extant orders was levied. The Electrical Charges was also deducted as per the bill dt. 5-12-95 enclosed as Annexure-1 to the reply. The respondents further submit that as his son was not entitled for a Type-III quarters, the quarter occupied by him during his service period was not allotted to his son. Hence the occupation of his quarter from 1-8-95 to 25-11-95 is to be treated as unauthorised occupation and on that basis he has to pay damage rent as per extant orders.

5. The points for consideration in this O.A. are as follows :-

- (i) Whether the gratuity was calculated correctly or not;
- (ii) Whether the deductions for house rent, electricity charges and interest on the Scooter Advance has been done in accordance with the rules or not.

6. I have considered the above points. The calculation of the gratuity is to be done on the basis of his total service period and the last pay drawn. The rules for calculation of gratuity are very clear. Hence there is no need for this Bench to check whether the gratuity has been paid to him correctly or not. If the applicant feels that the calculation is not correct, he should have approached the authorities to check the correctness of the calculation. Hence I feel that no orders from this Tribunal are necessary in this regard. If the applicant is aggrieved by

the present calculation of the gratuity, even now he can approach the authorities. The proper authority will definitely show him how the calculation was done. Hence I leave this question to the applicant to approach the authorities for clearing the doubts on the calculation of gratuity.

7. It is stated that the rent of the Railway Quarter No.A-110 at Kachiguda is Rs.95/- per month. There can be no question of challenging this as this can be once again verified from the records. Hence no direction necessary in regard to the rent fixed for that quarter. The applicant was permitted to retain the quarter from 1-12-94 to 31-3-95 on payment of normal rent for which Rs.380/- was deducted from his gratuity. For the period from 1-4-95 to 31-7-95 he was permitted to retain the quarter on double the normal rent, for which an amount of Rs.760/- was deducted from the gratuity. These deductions cannot be questioned as they are in accordance with the rules. But an amount of Rs.11,427/- was deducted as damage rent from 1-8-95 to 25-11-95 @ Rs.42/- per sq. metre per month on plinth area of the quarters. The contention of the applicant against the deduction of this amount is that his son who is also a Railway employee is staying with him and he made an application to allot his quarter in the name of his son and hence the period from 1-8-95 to 25-11-95 should not be treated as unauthorised and his request had to be treated favourably and the quarter should have been allotted to his son. He further submits that he had already applied for allotment of the quarter for his son, and the above request has been verbally accepted. Hence that deduction of rental charges at the rates applicable to

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unauthorised occupation is incorrect.

8. In the reply it is stated that the son of the applicant is not entitled to a Type-III quarter. Hence the quarter could not be transferred in the name of his son. Hence the deduction is in order.

9. Mere verbal approval for allotting the quarter in the name of applicant's son is no license for the applicant to occupy the quarter. The applicant should have obtained the proper orders before 1-8-95 from which date onwards his occupation was treated as unauthorised. When there was no proper authorisation, verbal instructions cannot be taken as a permission for allotting the quarter in the name of the applicant's son. Even if such verbal orders have been given, that authority will deny such things if questioned. Hence I have no doubt in my mind that the occupation of the quarter by the applicant from 1-8-95 to 25-11-95 is to be treated as unauthorised. As there are definite orders for retention of the quarter, ~~and~~ levying the damage rent for unauthorised occupation, under such circumstances ~~the deduction of damage rent~~ cannot be challenged. Hence the protest against the deduction of rental arrears cannot be accepted.

10. Respondents submit that the Electrical charges were deducted from his gratuity as per the Electricity Bill dt.5-12-95. If the applicant has reservation in regard to the correctness of the Electricity Bill, he can check the correctness and this Tribunal cannot sit on judgement on the correctness of the Electricity Bill. Hence the applicant is liable to pay Electrical Charges as per the Bill. If the bill is found to be wrong,

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applicant is free to represent to the authorities in this regard. Hence there is no need for any orders in this connection also.

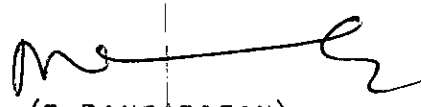
11. The kept back amount of Rs.4,500/- was also released to him on 21-6-96 after deducting interest charges for Scooter advance. There can be no restriction on the respondents to deduct the proper interest charges from the final settlement dues.

12. The governmental dues are liable to be deducted from employees gratuity. The government cannot be asked to act like a passive spectator when certain amount has to be realised from the employees at the time of their retirement and this amount has to be deducted from gratuity which is the final settlement due.

13. In view of what is stated above, I do not find any irregularity in the final amount of DCRG paid to the applicant after recovering deductions. There can be no question of payment of interest on the delayed payment of DCRG as the applicant himself was responsible for the delayed payment as he had occupied the government quarter till November, 1995.

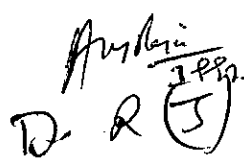
13. In the result, the OA is dismissed but the applicant is at liberty to check with the respondents in regard to the calculations of the gratuity and correctness of the Electricity Bill. If the applicant requests for checking the above details, the concerned railway authorities should give him all necessary assistance.

14. No order as to costs.


(R. RANGARAJAN)
Member (A)

Dated: 28th August, 1997.
Dictated in Open Court.

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