

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 181 of 2004

Indote this the 18th day of Oct 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Hari Prakash Bhatnagar,
S/o. late Shri Madan Gopal Bhatnagar,
Aged 54 years, Occupation – Retired as
Pump Khallasi (Post under dispute),
Railway Division, Bhopal,
R/o. J-17/4, Near Loco (West) Railway
Colony, Gwalior, At present residing
at Gwalior. Applicant

(By Advocate – Shri A.K. Shrivastava)

V e r s u s

1. Union of India, through
The General Manager, Central
Railway, Mumbai, VT.
2. Sr. Divisional Finance Manager,
W.C. Railway, Bhopal,
Habibganj, Bhopal, M.P. Respondents

(By Advocate – Shri Raja Sharma on behalf of Shri V.K. Bharadwaj)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“(A) the order vide letter dated 11.9.2003 Annexure A-8 sent for recovery of the alleged amount sent to the Manager, State Bank of India, Industrial Branch, Tansen Road, Gwalior (MP) from the dearness relief of the pension of the applicant and about which the applicant was informed vide copy of the said letter/order and the entire proceedings and any order of the respondent concerned on the basis of which recovery have been ordered from the dearness



relief of pension of the applicant be kindly declared as illegal and null and void and the same be kindly, quashed and ordered to be ineffective and further order and direction be kindly issued to the respondent concerned for not deducting any amount from the dearness allowance of pension in any other manner from the applicant,

(B) the entire exparte proceedings for recovery of the amount alleged to be recoverable on account of penal rent and electricity bills, be kindly declared to be illegal and the respondents be kindly ordered for not making any recovery from the gratuity amount payable to the applicant, and make payment of the said amount with interest,

(C) in any case, the respondent No. 2 be kindly ordered for not acting on their exparte order without inquiry according to law and following principles of natural justice by supplying the details of the alleged recoverable amount and giving opportunity of reply and hearing after supplying details of the penal rent and electricity bills for the period concerned when the applicant had been in service till the date of retirement and thereafter for taking any decision regarding the liability of the applicant and the legality of the recovery of the alleged amount if the same is legally permissible,

(D) the respondents be kindly ordered and directed for issuing formal letter to the authority concerned for enabling the applicant to get benefit of medical facility as per Railway Employees Health Scheme and be further ordered and directed for providing passes yearly as per rules for Railway traveling."

2. The brief facts of the case are that the applicant was compulsory retired from service vide order dated 22.8.1995, as a result of departmental enquiry against him. The said order remained in force for about 6 years. The applicant was communicated order dated 13.10.2001 by which the pension fixed and retrial benefits were decided partially which was done as a result of the order of the Tribunal. However, the pension of the applicant was not fixed on the basis of the post for which he was legally entitled. The pecuniary retiral benefits were also not correctly calculated and paid and the interest was also not given for the delayed payment. The applicant had filed OA No. 546/2002 for redressal of his grievances. During pendency of this OA the respondent No. 2 has ordered for recovery of certain dues from the pension of the applicant



with respect to penal rent of quarter occupied by the applicant from the year 1984 till the date of retirement, and thereafter the payment of emoluments was withheld till quarter was vacated. The applicant vacated the quarter in June, 2002. At no time before retirement or thereafter the rent was demanded from the applicant. The alleged amount of Rs. 1,21,929/-, shown to be due against the applicant has been ordered to be recovered from pension of the applicant. The order dated 11.9.2003 has been communicated to the State Bank of India, Gwalior, where the amount of pension of the applicant is being deposited and the deductions have also been started from the month of September, 2003. The action of the respondents is illegal, arbitrary and unjust. Hence, he has filed the present Original Application.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the Government Railway Quarter was allotted to him while he was working at Gwalior. He was transferred from Gwalior to Bhopal on 17.6.1984 and he moved several applications for further retention of this Railway Quarter, to the respondents. But they did not convey any order to the applicant. The applicant was compulsory retired from service on 22.8.1995 and he vacated the said quarter in June, 2002. The respondents did not pay his leave due within the due time and even did not started paying the pension after the retirement. He filed an OA No. 546/2003 but during the pendency of the aforesaid OA the respondents had issued the order dated 11.9.2003 addressed to the State Bank of India, Gwalior for deduction of Rs. 1,21,929/- from the dearness relief of the pension of the applicant. The applicant has not been paid the other retirement benefits such as medical claim etc. and the applicant is also legally entitled for the interest on the delayed payment according to the rules. The details of the electricity charges are not given by the respondents anywhere. The order of recovery



of Rs. 1,21,929/- as penal rent from the applicant is apparently illegally and against the rules and law. Therefore, the applicant is entitled for the reliefs claimed by him.

5. It is argued on behalf of the respondents that a Railway quarter No. J-17/4 was allotted to the applicant. He was transferred to Bhopal vide order dated 17.6.1984 (Annexure A-3). The applicant did not submit any application for retention of the said quarter at Gwalior and he has also not vacated it and remained un-authorisedly upto 13.7.2002. He was asked to vacate the quarter for several times but he gave letter dated 18.1.2002 that he will vacate the quarter only after getting the pension. As the applicant has neither obtained permission to retain the quarter nor vacated the quarter, hence he is liable to pay the damage rent and the electricity charges. The applicant vacated the said quarter on 12.7.2002 and thereafter he was issued a show case notice dated 26.7.2003 (Annexure A-5). He submitted representation on 20.12.2003 (Annexure A-11). The calculation sheet for the damage rent is filed as Annexure R-4 which is according to the rules. The damage rent is for the period from 17.6.1984 to 12.7.2002 and as per calculation sheet it comes to Rs. 1,46,361/- and after deducting the gratuity of Rs. 24,432/- for balance Rs. 1,21,929/- it was ordered to the Bank authorities to recover from the dearness relief on pension of the applicant. The applicant retired from service with effect from 13.9.1995. Even thereafter he retained the quarter un-authorisedly upto 12.7.2002. So far as the claim of the applicant with regard to the benefit of RELHS is concerned, the scheme stipulates that if pre-retired before 1997, the employee who desires to opt the scheme has to apply for the same and on acceptance has to deposit certain amount as per Railway Board Circular dated 17.5.1999. The applicant also has to approach with joint photograph of the family entitled for medical facility as per rules, to the respondents, so that necessary identity card cum certificate can be issued. But the applicant has not done so. The respondents have not



committed any irregularity or illegality while passing the impugned order. Hence, this Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that admittedly the Railway Quarter No. J-17/4 was allotted to the applicant while he was working at Gwalior. He was transferred from Gwalior to Bhopal vide order dated 17.6.1984 and he was compulsory retired as a result of disciplinary proceedings on 13.9.1995. The applicant did not vacate the relevant quarter and he vacated this quarter only on 12.7.2002. The applicant could not show us any order of retention issued by the respondents to retain the aforesaid quarter after his transfer from Gwalior to Bhopal. We have perused Annexure R-1 dated 18.1.2002 which is written in the handwriting of the applicant, wherein he has requested the respondents that the pension of the applicant be issued through the State Bank of India at the earliest and he shall vacate the quarter after issuing of his pension. This letter is not controverted by the applicant stating that it is not written and signed by him. The applicant is not permitted under any rule to retain the Government quarter after his retirement unless the payment of his pension is started by the respondents. The applicant can only retain the Government quarter after his transfer with permission of the respondents according to the rules. Admittedly he was transferred on 17.6.1984 from Gwalior to Bhopal and was retired on 13.9.1994. He has vacated the said quarter only on 12.7.2002. We have perused the letter Annexure A-2 which was issued to the applicant, wherein it is mentioned that if he has vacated the quarter then he must submit the certificate issued by the competent authority to this effect, in this office, so that the amount of damage rent can be calculated and deducted. But the applicant had not vacated the said quarter after his retirement and finally vacated it on 12.7.2002. Thus, the respondents are rightly deducting the damage rent of the alleged quarter from the applicant's dearness relief included in the pension. The argument advanced on behalf of the applicant that the



aforesaid amount of damage rent is recovered from pension is not correct as according to the letter dated 11.9.2003 (Annexure A-9) which is sent by the respondents to the Manager, State Bank of India, Gwalior, it is clearly mentioned that this amount is to be recovered from the dearness relief of the pension of the applicant. So far as the claim of the applicant with regard to the RELHS benefit is concerned the respondents have clearly mentioned in their return that the applicant had not complied with the necessary mandatory formalities. Hence, the claim regarding it also seems to be not proper. However, the respondents have mentioned in their return that the applicant may approach to the office from where he retired to get the facility of RELHS after completing the formalities.

7. Considering all the facts and circumstances of the case, we are of the considered view that this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पुनर्वाक्य सं ओ/व्वा.....जबलपुर, दि.....

पतिलिपि अवेधित:-

(1) सचिव, उच्च न्यायालय नगर ए.के.सिंहासन, जबलपुर

(2) अवरिक्त श्री/श्रीमती/शु.....के काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल

(4) न्यायालय, नगर जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

उच्च न्यायालय

Filed
26.10.05