

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING HELD AT BILASPUR

Original Application No. 245 of 2004

Bilaspur, this the 13<sup>th</sup> day of May, 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri A.K. Bhatnagar, Judicial Member

Kedarnath Shukla, S/o. late K.P. Shukla,  
aged about 76 years, Ex. Chief Catering  
Inspector, Khurda Road, Division Khurda,  
Road (Orissa), Presently resident of Near  
FCI Godown Mungeli Road, Bilaspur  
(Chhattisgarh).

... Applicant

(By Advocate - Shri A.K. Gupta)

V e r s u s

UOI & Others, through

1. The Divisional Railway Manager,  
East Coast Railway, Khurda Road,  
(Orissa).
2. The General Manager, East Coast  
Railway, Bhubneshwar (Orissa).
3. The Sr. DPO East Coast Railway,  
Khurda Road (Orissa).
4. The Chief Commercial Manager  
(P&S) 14th Strand Road, 9th Floor,  
SE Railway, Kolkata-1.
5. The Chief Commercial Manager, East  
Coast Railway Bhubneshwar,  
(Orissa).

... Respondents

(By Advocate - Shri M.N. Banerjee)

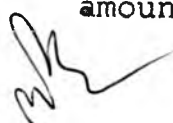
O R D E R

By M.P. Singh, Vice Chairman -

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

"10.1 the non-applicants may please be directed to  
make payment of Rs. 1,36,000/- in ransom to first  
class post retirement complimentary passes which were  
to be issued to him twice in each year i.e. from  
31.12.1985 to June, 2003 during the period of seven-  
teen years because for each deprivation of pass  
applicant had to expend Rs. 4000/- in travelling,

10.2 the non-applicant further be directed to make  
payment of gratuity amount Rs. 30000/- + interest  
amount @ 9% per annum = Rs. 41600/- and compensation  
amount Rs. 50000/- totaling Rs. 121600/-."




2. The brief facts of the case as stated by the applicant are that the applicant was working as a Chief Catering Inspector and while working as such he was transferred from Bilaspur Division to Khurda Road. Since the children of the applicant <sup>were</sup> ~~was~~ studying and applicant's wife was also ailing it was not possible for him to keep his family away from the Railway premises. Under these circumstances, the applicant continued to retain the Railway quarter with permission of the respondents. The applicant vacated the quarter in the year 1987 and till then the panel rent at the market value was recovered by the respondents. According to the applicant because of continued occupation of the Government quarter, the respondents had with-held the amount of gratuity and post retirement complimentary passes. It is arbitrary, irrational and against the principles of natural justice. The applicant had earlier filed OA No. 324/1999 and as per the direction of the Tribunal the respondents have started giving him passes only from the year 2003. According to the applicant the amount equivalent to the passes which should have been given from 1985 to June, 2003 has not been paid to him. The amount on travel incurred during this period comes to Rs. 1,36,000/-. Apart from it, the applicant had also not been paid the gratuity even after the period of 19 years of his retirement. Hence, this Original Application is filed.

3. The respondents in their reply have stated that as regards the first relief regarding payment towards with-holding of post retirement complimentary passes, it is a privilege and the Government servant cannot be compensated in terms of monetary benefits. Earlier the applicant has filed OA No. 324/1999 challenging the action of the respondents for with-holding the post retirement complimentary passes. The Tribunal vide its order dated 3.7.2003 directed the respondents to release the complimentary passes. In compliance with the direction of the Tribunal

the complimentary passes were provided to him. As regards the second relief of payment of gratuity plus interest, this averment of the applicant is denied for the reason that DCRG of Rs. 29,511/- was certified by FA &CAO, whereas there was catering debits amounting to Rs. 57250/- which was received on 18.3.89. After making adjustment the applicant was not entitled for any payment towards DCRG as per rules. Hence, the OA deserves to be dismissed.

4. Heard the learned counsel for the parties at length and carefully perused the pleadings and records.

5. We have given careful consideration to the rival contentions made on behalf of the parties and the question for consideration is that whether the applicant can be granted a sum of Rs. 1,36,000/- with regard to first class post retirement complimentary passes which were required to be issued to him between the period from 31.12.1985 to June, 2003 and it is also for consideration as<sup>to</sup> whether an amount of Rs. 29,511/- on account of gratuity is required to be paid to him. The undisputed facts are that the applicant has retired in the year 1985. He has overstayed in the Government quarter beyond the permissible limit and therefore panel rent was charged and his post retirement complimentary passes have been withheld. He has filed OA No. 324/1999 and the Tribunal vide its order dated 3.7.2003 in the aforesaid OA directed the respondents to release the complimentary passes from the current year 2003 onwards. In pursuance of these directions, the respondents have granted him the post retirement complimentary passes from 2003 onwards. There is no question of granting him post retirement complimentary passes for the period from 1985 to 2003 and in the absence of issuing the passes the applicant cannot be compensated monetarily in terms of money to the tune of Rs. 1,36,000/-. Therefore, the relief claimed at para 10.1 is rejected. As regards the



payment of gratuity amount of Rs. 29,511/- the applicant has not claimed the same at the time of filing the OA No. 324/99. The applicant was well aware of this fact and was also informed by letter dated 24th April, 1996 (Annexure A-5). The copy of ~~this~~ letter is also given to the applicant and in this letter it is clearly mentioned in para a that "his DCRG has been certified for Rs. 29,511/- by FA & CAO (Pen)/CRC, Catering debits against Shri K.N. Shukla has been received from FA & CAO-CD-14, Strand Road under his letter No. CD/111/9/Staff debit/BCO/243 dt. 16.3.89 amounting to Rs. 57,258.10. Thus the retired staff is not due any DCRG, rather excess amount of debits adjusting his DCRG is recoverable from the relief. This is under process." Even after receipt of this letter in 1996 the applicant has not challenged it, while filing OA No. 324/99. Hence, it is clear that the applicant was well aware of this fact that the amount of Rs. 29,511/- on account of DCRG of the applicant has been adjusted against catering debit of Rs. 57,258.10. The learned counsel for the respondents has shown <sup>15 of IREM</sup> rule regarding the recovery and adjustment of Government on Railway dues from pensionary benefits. In this rule it is clearly provided that recovery of Government dues from the retiral dues including the gratuity is permissible. Hence, the applicant is also not entitled for the second relief at para 10.2.

6. In view of the above, we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed. Accordingly, the OA is dismissed. No costs.

(A.K. Bhatnagar)  
Judicial Member

(M.P. Singh)  
Vice Chairman

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