

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 99 of 2003

Jabalpur, this the 10th day of August, 2004

Hon'ble Mr. M.P. Singh, Vics Chairman

1. Smt. Asha Rani Sharma (Advocate) W/o Late Shri N.K. Sharma, aged about 58 years
2. Ku. Rohini Sharma, D/o Late Shri N.K. Sharma, aged about 22 years,
3. Ku. Mone Sharma, D/o Late Shri N.K. Sharma, aged about 20 years,.

Applicant No. 1 to 3 are R/o Q No. R.B.-II 325-A, New Yard, Itarsi

APPLICANT

(By Advocate - Shri M.K. Verma)

VERSUS

1. Union of India, through Chairman Railway Board, New Delhi.
2. General Manager, Central Railways, Chhatrapathi Shivaji Terminus, Mumbai.
3. D.R.M. Central Railways, Bhopal Division, Bhopal.

RESPONDENTS

(By Advocate - Shri B.B. Shrivastava)

O R D E R (ORAL)

By filing this Original Application, the applicants have sought the following main reliefs :-

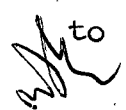
"8.1 to quash the order dated 10.2.2003 communicated on 12.2.2003 in the interest of justice and may further be pleased to restrain the Railway Administration to take any coercive steps against the family of deceased Railway Servant i.e. Late Shri N.K. Sharma.

8.2 ... to direct the Respondents to grant all consequential retiral benefits to the family of Late Shri N.K. Sharma with interest?

2. The brief facts of the case are that the applicant No. 1 is the widow of the deceased Government servant late N.K. Sharma and applicants Nos. 2 and 3 are daughters of the deceased Government servant. The husband of the applicant No. 1 was working with the Railways as Machine Man Grade-A at Itarsi. He was issued with a charge sheet dated 13th July, 1988 and was placed under suspension vide order dated 29.7.1988. After

holding the enquiry the respondents have imposed the penalty of removal from service on the applicant's husband on 21st July, 1989. The penalty of removal from service was challenged before this Tribunal in OA No. 854/1989. The Tribunal vide its order dated 6th March, 1992 quashed the order of removal from service passed by the respondents. Subsequently, one more charge sheet was issued on 29th July, 1988 and the applicant was imposed the penalty of compulsory retirement from service vide order dated 28th January, 1993. Subsequently, Shri N.K. Sharma, husband of the applicant expired on 26th April, 2002. Thereafter the applicants have filed this OA claiming the aforesaid reliefs.

3. The respondents in their reply have stated that in view of the order passed by the Tribunal on 20th February, 2003 the relief No. 1 of the applicants is not maintainable and the counsel for the applicants had agreed that he will not press the relief No. 1. As regards the relief No. 2 it is submitted by the respondents that on retirement of late Shri N.K. Sharma on 28th January, 1993 all retiral benefits due were paid to him except DCRG (Death-cum-retirement gratuity) amounting to Rs. 23,265/-. The said amount of DCRG was not released as Late N.K. Sharma had not vacated the Railway accommodation allotted to him after his retirement, and continued occupation in an unauthorised manner. According to the respondents, the family members (applicants in the present OA) continued occupation of the said quarter in an unauthorised manner even after the death of late N.K. Sharma and finally handed over the possession of the quarter on 28.2.2003. The penal/damage rent Rs. 2,01,048/- and electric charges of Rs. 23,541.25 is to be recovered from the applicants which is much more than the withheld amount of DCRG and necessary action is in progress to recover this amount. The action to withhold the DCRG is



Within the provision of Rule 16(8) of Railway Service (Pension) Rules, 1993 as amended from time to time. The following are the details of the retiral dues paid to late N.K. Sharma :

"1.	NCPF	Rs. 5,815.00	
	GIS	Rs. 4,034.00	
		<u>Rs. 9,849.00</u>	passed vide CO7 No. 0845101051 dt. 12.01.95.
2.	Commuted Value of pension	- 29,753.00	
3.	Leave encashment	- 5,324.00	
		<u>35,077.00</u>	passed vide CO7 No. 0845100472 dt. 12.10.95."

The employee was authorised pension @ Rs. 692/- plus usual dearness relief w.e.f. 30.1.1993 to 27.3.1995. The payment of pension was authorised from 28.3.1995 @ Rs. 462/- and dearness relief as per rules after reducing the commuted portion of Rs. 230/- till 31.12.1995. The pension of the ex-employee was fixed and enhanced as per recommendations of Vth Pay Commission from 1.1.1996 at Rs. 2,114/- and after deduction Rs. 230/- as commuted portion, he has authorised pension @ Rs. 1,884/- plus usual dearness relief as sanctioned from time to time till 24.4.2002 when the ex-employee expired. Smt. Asha Rani Sharma the widow of late N.K. Sharma has been authorised family pension of Rs. 1,320/- per month plus dearness relief as permissible wef 25.4.2002. In view of the above position of facts it will be appreciated that retiral benefits have been paid to late N.K. Sharma in his life time and the applicant No. 1 Smt. Asha Rani Sharma has been authorised for family pension after the death of the ex-employee from 25.4.2002.

4. I have given careful consideration to the rival contentions made on behalf of the parties and I find that as far as the relief No. 1 is concerned the same is not maintainable in view of the order passed by the Tribunal on 20th




February, 2003 and also in pursuance of the directions given by the Hon'ble Supreme Court in the case of Union of India & Ors. Vs. Rasila Ram & Ors., JT 2000 (10) SC 503. As regards the relief No. 2 is concerned, I find that all the retiral benefits except an amount of Rs. 23,265/- have been paid to the husband of the applicant No. 1 during his life time. I also find that according to the respondents an amount of Rs. 2,01,048/- ^{as penal/damage rent} and electric charges of Rs. 23,541.25 are required to be recovered from the applicants, as the applicants continued to be in occupation of the said quarter in an unauthorised manner from 1993 to 28.2.2003. In view of the fact that the husband of the applicant was paid all retiral dues except the D.C.R.G. amount of Rs. 23,265/- and the applicant No. 1 is also paid family pension after the death of her husband, she is not entitled for any other retiral benefits. The amount of DCRG can be withheld by the respondents as per the instructions contained in R.B.E. No. 101/2000 (amendment) dated 24.5.2000, which is as under: "Rule 16 of the Railway Services (Pension) Rules, 1993 for sub-rule(8), the following sub-rule shall be substituted, namely:-

"(8)(a) In case where a railway accommodation is not vacated after superannuation of the railway servant or after cessation of his services such as on voluntary retirement, compulsory retirement, medical invalidation, or death, then, the full amount of retirement gratuity, death gratuity or special contribution to provident fund, as the case may be, shall be withheld.

(b) The amount withheld under clause (a) shall remain with the railway administration in the form of cash.

(c) In case the railway accommodation is not vacated even after the permissible period of retention after the superannuation, retirement, cessation of service or death, as the case may be, the railway administration shall have the right to withhold, recover, or adjust from the Death-cum-retirement Gratuity, the normal rent, special licence fee or damage rent, as may be due from the ex-railway employee and return only the balance, if any, on vacation of the Railway accommodation.

(d) Any amount remaining unpaid after the adjustment made under clause (c), may also be recovered without the consent of the pensioner by the concerned Accounts Officer from the



dearness relief of the pensioner until full recovery of such dues has been made.

(e) Dispute, if any, regarding recovery of damages or rent from the ex-railway employee shall be subject to adjudication by the concerned Estate Officer appointed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971)".

5. In view of the foregoing reasons, the OA is bereft of merit and is liable to be dismissed. Accordingly, the OA is dismissed. No costs.

M.P. Singh
(M.P. Singh)
Vice Chairman

"SA"

पूछांकन सं. ओ/व्या.....जबलपुर, दि.....
पतिविति अजो गित:-

- (1) सचिव, उच्च न्यायालय इतर एसोसिएशन, जबलपुर
- (2) आवेदन सं./सी.नं./सं. के लाउंसल *MK Sharma*
- (3) पत्र सं. सी/सी.नं./सं. के लाउंसल *H B Shrivastava*
- (4) अध्यक्ष, संघ सं. जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु *DRD*
अध्यक्ष रजिस्ट्रार *6-8-24*

*Issued
On 16.8.04
BB*