

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.214/03

Application, this the 8th day of December, 2004

CORAM

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

B.Sanyasi Rao
S/o Late B.Ram Murti
Retd.Senior Clerk
South Eastern Railway
Office of Electrical Foreman (General)
Bilaspur (C.G.)
R/o Qr.No.1030/1, Type II
R.T.S.Colony, Road No.55,
Bilaspur (C.G.)

Applicant

(By advocate : Applicant in person)

Versus

1. Union of India through
The General Manager
South Eastern Central Railway
Bilaspur (C.G.)
2. The Divisional Railway Manager
South Eastern Central Railway
Bilaspur.
3. Senior Divisional Personnel Officer
South Eastern Central Railway
Bilaspur.

Respondents.

(By advocate Shri S.S.Gupta)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:

- (i) To set aside the impugned order dated 25.2.03 (Annexure A13).
- (ii) Direct the respondents to pay the gratuity of Rs. 86790/- with 18% interest from the date of retirement to the date of final payment.
- (iii) To direct the respondents to issue complementary pass in favour of the applicant and his family and also to pay compensation on account of not issuing the complementary pass from 1996 onwards.

2. The brief facts of the case are that the applicant who was initially appointed on 21.3.1957 as Khalasi, was promoted as Fireman-I & II and then as Diesel Assistant, Electrical Assistant Driver, Loco Shunter and Electrical Driver. Thereafter the applicant was medically decategorised for all purposes. The applicant was retired on medical invalidation w.e.f.10.10.96 (Annexure A1). The applicant was in possession of railway quarter No.368/2, Type C-1-A at Bilaspur. A total amount of DCRG amounting to Rs.86790/- was due for payment to the applicant but the same was not paid to the applicant due to non-vacating the railway quarter. The applicant submitted a request for retention of the railway quarter. The applicant also submitted a request before the authority concerned for grant of compassionate appointment in favour of his son namely B.Sita Ram Gupta. The applicant's son was appointed as Assistant Station Master on 10.7.97. After completion of the training, his son was posted at Tenganmada vide order dated 24.10.97. On his request, the applicant's son was posted at Bilaspur and ^{the} applicant moved an application for regularisation of the railway quarter No.368/2, Type C-I-A in favour of his son (Annexure A2). Retired railway employees are entitled to complementary passes in a year for all dependents of the family. However, the respondents have not extended this benefit to the applicant. Inspite of several requests made by the applicant to regularise the aforesaid railway quarter in favour of his son, the respondents did not regularise the quarter with malafide intention. Instead, they allotted a new quarter in favour of the applicant's son. The new quarter allotted in favour of the applicant's son was not vacated by its occupant one A.K.Gangopadhyay. Therefore, the applicant and his son approached the authorities concerned and quarter No.1031/1 was allotted in favour of the applicant's son. The applicant's son occupied the said quarter on 1.5.2000 and the earlier quarter occupied by the applicant was vacated.

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Thus the delay was caused by the respondents and not by the applicant. As the representation submitted by the applicant for payment of DCRG and for issuing the complementary passes elicited no response, the applicant filed OA No.785/02 before the Tribunal. The said OA was disposed of by the Tribunal vide its order dated 1.1.03 directing the ~~respondents to take a decision on the pending~~ representation of the applicant (Annexure A11). Accordingly the respondents passed the impugned order dated 25.2.2003 (Annexure A13) in which it is mentioned as under:

""DCRG amounting to Rs.86790/- was withheld and 37 complementary passes have also been withheld on account of unauthorized retention of railway quarters by you for a period of 3 years 16 days from 11.6.97 to 27.6.2000. Hence, not only DCRG is not due to you, but the balance amount of Rs. 4744.37 p (Rs.91534.37 p Damage rent(-) Rs.86790/- DCRG) will be recovered from your pensionary benefits, and no complementary pass will be due to you upto 2016."

The action of the respondents is against rules and law. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant was retired on 10.10.96. The applicant's son was appointed on compassionate ground on 10.7.97 and both were living together in the aforesaid quarter allotted to the applicant. On being transferred, the applicant's son joined at Bilaspur on 8.6.98 and even before that, the applicant's son had moved an application for allotment/regularisation of the quarter in his name. But the authorities did not allot that quarter and they allotted a new quarter in favour of the applicant's son vide order dated 22.10.99 (Annexure A9) which was not vacant as it was already occupied by one A.K.Gangopadhyay. Then the respondents allotted another quarter to the son of the applicant (Ar.No.1031/1) vide order dated 4.2.2000, which was occupied by him on 1.5.2000, while the railway quarter which was already



occupied by the applicant should have been allotted or regularised in the name of the applicant's son on 8.6.98 when the applicant's son joined at Bilaspur on transfer, where the said railway quarter is situated and the applicant's son was legally entitled for it. The respondents have also not issued the complementary passes and withheld the amount of DCRG which was legally payable to the applicant and further argued that the railway authorities have allotted railway quarters to lower employees who are not entitled for the said accommodation and the respondents have not controverted this fact. The respondents have also not complied with the directions of the Tribunal in OA 785/02 filed by the applicant.

4. In reply, the learned counsel for the respondents argued that after completion of training by the applicant's son at Sini, he was posted at Tenganmada. Hence the question of regularising the applicant's quarter at Bilaspur in favour of his son does not arise, as he was posted at Tenganmada after his appointment and training. After retirement of the applicant, he was allowed to retain the railway quarter only for 8 months but he did not vacate it. Hence complementary passes were not issued to the applicant. The applicant was served with a notice at the time of retirement and directed to vacate the said railway quarter, otherwise his DCRG and post retirement complementary passes would be withheld, but the applicant had not followed the directions. The date of permissible retention of the quarter by the applicant as per rules had expired on 9.6.97 and the applicant's son had joined at Bilaspur on 7.6.98 i.e. after passing one year. Hence it was not possible to allot the same quarter which was under unauthorised occupation by the applicant and his son.

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The respondents have fully complied with the directions of the Tribunal passed in OA No.785/02. The amount of DCRG of the applicant was withheld correctly and the same was done after issuing proper notice to the applicant.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the ~~was~~ applicant retired from service on 10.10.96. During his service, railway quarter No.368/2, Type C-I-A was allotted to him. Legally he could have retained this government quarter for a period of 8 months after his retirement i.e. upto 9.6.97. Applicant's son B.Sita Ram Gupta was appointed on compassionate grounds on 10.7.97 and he was sent for training at Sini and was posted at Tenganmada vide order dated 24.10.97 and on 8.6.98 he had joined at Bilaspur on transfer from Tenganmada. The applicant's son had already applied for allotment of the aforesaid railway quarter which was in occupation of his father, on 16.10.97 (Annexure A5), just ~~three~~ months after his appointment on compassionate grounds. The respondents had allotted a new quarter to the applicant's son vide order dated 22.10.99, which was not vacant and was occupied by one A.K.Gangopadhyay. Then on a further request of the applicant's son, the respondents had issued a fresh order on 4.2.2000 thereby allotting another quarter (No.1031) which was occupied by the applicant's son on 1.5.2000, and the applicant has mentioned in his rejoinder that the railway authorities have allotted railway quarters to lower employees - those who are not entitled for the said accommodation on its own choice. The applicant could have retained the said railway quarter which was allotted to him for 8 months after his retirement upto 9.6.97. For this period, he is liable to pay the normal rent.

(Signature)

6. After considering all the facts and circumstances of the case, we are of the considered opinion that the respondents can charge only normal rent for a period of 8 months from the date of retirement of the applicant on 10.10.96 and damage rent thereafter upto 6.6.98 from the applicant and not thereafter. The respondents are directed to charge the rent as aforesaid. They are further directed to pay the remaining amount of DCRG to the applicant after deducting the aforesaid amount of rent, within a period of 4 months from today. The applicant is also entitled for interest on the delayed ~~amount of~~ ^{payment of} DCRG according to rules and at the prevalent rate of interest. The respondents are directed to issue complementary passes to the applicant as per rules.

7. The OA is disposed of accordingly. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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पृष्ठांकन से ओ/न्या.....जबलपुर, दि.....
पत्रिलिपि तात्परी क्रमांक:-

- (1) सरिल, उत्तर व्यापार व्यवसाय एवं उद्योग बोर्ड, जबलपुर
- (2) आवेदक श्री/श्रीमती/हु.....के काउंसल
- (3) प्रस्तावी श्री/श्रीमती/हु.....के काउंसल
- (4) व्यापार, कोप्रा, जबलपुर ब्याटीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप सचिवालय

B.Sarayasi Rao
R/o Date 10/30/1998 B
R.S.S. Colony Road no 55
Bilaspur
S.L. Gupta Devji B)

Issued
On 14.12.04
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