

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No. 380/03

On the, this the 7th day of December, 2004

CORAM

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

Awadhesh Kumar Shrivastava
S/o Late Shri A.P.Shrivastava
Retd. Fireman Instructor
South Eastern Railway,
Loco Shed Shahdol (M.P.)
R/o MIG 1031, Adity Nagar Colony
Near Shiv Mandir, District Durg.

Applicant

(By advocate None)

Versus

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

Respondents.

(By advocate Shri S.P.Sinha)

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 16.2.2000 (Annexure A6) and to declare the circular dated 25.5.83 (Annexure A7) as illegal in the interest of justice.
- (ii) Direct the respondents to issue the complementary pass in favour of the applicant and his family.

2. The brief facts of the case are that the applicant was medically declassified by the medical board and thereafter retired from service w.e.f. 1.5.95 vide order

dated 3.7.95 (Annexure A1). Before retirement, the railway authority provided railway accommodation and allotted to the applicant railway quarter No. 195/1, Type II at Shahdol. The applicant and his son submitted a request for grant of compassionate appointment in favour of applicant's son. The applicant further made a request for extension of the railway quarter mentioned above. Compassionate appointment was granted to the applicant's son on 20.11.96. The applicant's son was posted at Annupur. Subsequently the applicant's son was transferred to Shahdol and the railway authority directed the applicant to vacate the quarter No. 195/1, Type II and then quarter would be allotted to the applicant's son. Thereafter the applicant vacated the quarter in question and the railway authority allotted another railway quarter No. 188/1 in favour of the applicant's son. The railway authority intimated vide impugned letter dated 16.2.2000 with reference to the railway circular dated 25.5.83 that the period of retention of railway quarter is treated as unauthorised from 3.3.96 to 24.12.97 i.e. about 22 months hence the complementary passes are withheld up to the period of 1.1.2006. The applicant thereafter approached the Tribunal by filing OA No. 205/99 which was decided on 9.12.99 directing the respondents to decide the request of the applicant and pass an order within 2 months. The railway authority delayed the matter and then the applicant filed CCP 37/2000 which was dismissed by the Tribunal. The action of the respondents in not issuing railway passes is unjust. Hence this OA is filed.

3. The applicant's counsel is not present. Hence the provision of Rule 15 of CAT (Procedure) Rules, 1987



is invoked. The applicant has submitted a written submission dated 28.6.04. We have perused the written submission of the applicant and also heard the learned counsel for the respondents. It is argued on behalf of the respondents that the applicant had filed an earlier OA No.205/99 which was decided on 9.12.99 with a direction to the respondents to issue complementary passes to the applicant within two months, to which he may be entitled as per the existing rules in force and during issue of such passes, the respondents are to take note of the fact that the applicant had occupied the quarters unauthorisedly after 2.3.96 till the date he vacated the same (Annexure R1). The applicant filed a contempt petition No. 37/2000 which was dismissed by the Tribunal on 24.5.01 as the complementary pass was rightly held up for unauthorised occupation of railway quarter at Shahdol. Hence the present case is not only barred by limitation but also on principles of res-judicata. The applicant was occupying the railway quarter at Shahdol and his son was posted at Annuppur. Hence at different stations sharing accommodation is not permissible. Further no permission to share was obtained. As per extant rules, the applicant's post retirement passes were correctly disallowed for unauthorised occupation from 2.3.96 to 24.12.97 i.e. a total 22 months with cumulative effect. He will be eligible for complementary passes w.e.f. 1.1.2006. Hence the OA is liable to be dismissed.

4. On a careful perusal of the written submission on behalf of the applicant and after hearing the learned counsel for the respondents, we find that the applicant had earlied filed OA No.205/99 which was decided by the Tribunal vide order dated 9.12.99 in which similar issue was raised by the applicant as involved in the present OA. The applicant had also filed a contempt petition No.37/2000 which was also dismissed by the

Q

Tribunal vide order dated 24.5.01. The applicant could not explain about the alleged unauthorised occupation of the railway quarter allotted to him from 2.3.96 to 24.12.97 i.e. a total period of 22 months. We have perused the orders passed in OA 205/99 and CCP 37/2000 and also perused Annexure R4 dated 25.5.83 in which it is clarified that one set of post retirement passes for every month unauthorised retention of quarters by retired officers/staff would be disallowed with cumulative effect. The concerned retired officers/staff could be allowed the privilege of post retirement passes after the period during which the passes would have been admissible is over. For example, if an employee is eligible to one set of post retirement passes in a year and if he retains Railway Quarters unauthorisedly after retirement for 3 months, he will be restored the privilege of post retirement passes only after 3 years. It is the intention of the Board that such deterrent action should be taken to discourage unauthorised retention of railway quarters after retirement."

5. The respondents have taken action against the applicant on the basis of this circular dated 25.5.83 (Annexure R4) and this circular seems to be perfectly legal and justified. We find no irregularity or illegality in this circular because the intention behind it is to discourage unauthorised retention of railway quarters after retirement.

6. Considering all the facts and circumstances of the case, the OA deserves to be dismissed. Accordingly the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member

aa.


(M.P. Singh)
Vice Chairman