

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
CIRCUIT CAMP AT BILASPUR
Original Application No. 786 of 2002

Jabalpur, this the 5th day of October, 2004

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

D.R. Shastri, Son of Late
D.A. Narayanan, aged about
64 years. Retired Senior
Stenographer, Office of
Senior D.E.No. Bilaspur
(Chhattisgarh), Resident of
Qr. No.809/A, Construction
Colony, Near Ganesh Mandir,
Bilaspur (Chhattisgarh)

APPLICANT

(Applicant in person)

VERSUS

1. Union of India,
Through : The General Manager,
South Eastern Railway,
Garden Reach, Kolkata (W.B.)
2. The Divisional Railway Manager,
South Eastern Railway, Bilaspur
(Chhattisgarh)
3. Senior Divisional Personnel Officer,
South Eastern Railway, Bilaspur
(Chhattisgarh)

RESPONDENTS

(By Advocate - Shri M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member -

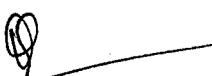
By filing this OA, the applicant has sought the following main reliefs :-

"(ii) to command the non-applicant and direct to pay the gratuity amount of Rs.60,135/- with interest @ 18% per annum from the date of retirement till the final payment.

(iii) to command the non-applicants & directed to issue the complementary pass and also may kindly be directed to pay the compensation on account of not issuing the complementary pass from 1995 till today, amounting to Rs.1,40,000/-

(iv) to command the non-applicants and issue direction to deduct the house rent from the Railway Quarter no.809/A at Bilaspur according to Rules as permission granted by the authority concerned, and the quarter no.809-A be regularised from the date of appointment/posting of the applicant's son on account of compassionate appointment and no penal rent/damages-rent be deducted from the Gratuity of the applicant after the appointment/posting of the applicant's son.

2. The brief facts of the case are that the applicant was working as a Senior Stenographer in the office of Senior DEN(HQ) Bilaspur. He was de-categorised by the Medical Board and was retired on medical ground w.e.f. 15.9.1995. After retirement, the applicant has submitted a request to the concerned authority for retention of the Railway quarter and the same was granted vide letters dated 9.1.96 and 14.7.1997. The respondents had granted/sanctioned the gratuity amount in favour of the applicant in the month of March, 1996 and the gratuity amount was sanctioned as Rs.60,135/- He has submitted ~~xx request~~ a request for appointment on compassionate ground for his son and his son was appointed as Assistant Station Master(ASM) vide order dated 12.3.1996 (Annexure-A-6). After joining at Akartala, the family of the applicant's was residing at Bilaspur in Railway quarter No.809/A which was allotted in the name of the applicant. In this connection, the applicant's son had also submitted a request before the authority concerned on 31.7.1996 regarding sharing of the accommodation with the father in his Railway quarter no.809/A at Bilaspur and the applicant's son had claimed the house rent at Akartala. The respondents had also not paid the HRA to the applicant's son. Vide order dated 25.9.96 the applicant's son was transferred from Akartala to Bilaspur. The respondent no.3 had allotted the quarter No.809/A in the name of the applicant's son vide letter dated 31.8.1999 (Annexure-A-14). According to the applicant, his son had reported at Bilaspur on 2.10.1996 and the matter was delayed by the authority concerned about three years, therefore, the Railway is not entitled to recover any penal rent or damage rent from the applicant. The retired employees of the Railway are entitled for two sets complementary pass in any year for all dependents for travelling in All India. But the respondents have not granted the complementary pass to the applicant from his retirement except 6.11.95. Hence, the



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action of the respondents is illegal and arbitrary and not sustainable in the eyes of law. Aggrieved by this, the applicant has filed this OA.

3. Heard the applicant and learned counsel for the respondents.

4. It is argued by the applicant that due to medical deategorisation, he was retired from service vide order dated 6.11.95(Annexure-A-1) and after his retirement the Railway authority has sanctioned gratuity amount of Rs.60,135/- So far, ~~as~~ this amount has not been paid to him as the respondents have granted permission to him to retain the Railway quarter vide letters dated 9.1.1996 and 14.7.1997 and the respondents have provided compassionate appointment to the applicant son on the post of ASM vide order dated 12.3.1996(Annexure-A-6). After joining the service, the son~~s~~ of the applicant had submitted a request for sharing the Railway quarter No.809/A vide his application dated 31.7.1996 and the Railway quthority has allotted the said quarter vide order dated 31.8.1999(Annexure-A-14) to him. The applicant further argued that he was retired from service on the medical grounds and he was legally entitled for two sets complementary pass in any year for all dependents for travelling in All India. He has further argued that the aforesaid Railway quarter was initially allotted to the applicant and subsequently it was ordered that the said quarter to be allotted in favour of his son, who was appointed as ASM on compassionate ground. Therefore, no penal and damage rent/recovered from the applicant and it should be regularised in the name of the applicant's son and a direction be given to the respondents to give aforesaid gratuity with ~~as~~ interest of 18% per annum.

5. In reply, the learned counsel for the respondents has argued that at the request of the applicant, the period for retention of railway quarter was granted till 5.7.1996 on

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penal rent. Thereafter, the applicant did not vacate the quarter and continued to reside therein unauthorisedly till 24.8.1999. The learned counsel for the respondents further stated that on request, the applicant's son was transferred from Akartala to Bilaspur on 2.10.1996 and the applicant applied for retention of Railway quarter occupied by him in the name of his son. The amount of DCRG payable to the applicant after his retirement was assessed at Rs.60135.00. It was not released since the applicant did not vacate the aforesaid quarter. The amount of DCRG has, therefore, been adjusted against the outstanding dues of the Railways and the balance amount is proposed to be recovered from the pension of the applicant as per extant rules. The learned counsel for the respondents has further stated that due to unauthorised occupation of Railway quarter from 5.7.1996 till 24.8.1999, the complimentary passes were not issued to the applicant and the Railway employee is not entitled for complimentary pass due to unauthorised occupation of Railway quarter. Hence, the action of the respondents is legal and justified and the OA deserves to be dismissed.

6. After hearing the learned counsel for the parties careful and perusing the records, we find that the applicant was allotted Railway quarter type II at his own request and permitted to him to retain it till 5.3.96 on normal ~~rate~~ ^{rent} and thereafter further 4 months on penal rent(double rent) i.e. up to 5.7.96. The applicant's son ^{who} was appointed on compassionate ground as ASM was entitled for the same type of quarter and he was transferred from Akartala to Bilaspur on 2.10.96. The applicant should have vacated the Railway quarter on 5.3.96 and lastly he could have vacated the quarter on 5.7.96. But he did not ^{vacate} and continued to occupy the said quarter.

Thereafter on 2.10.96 his son occupied the said Railway quarter. Hence, the applicant is liable to pay the damage rent from 5.7.96 to 1.10.96. So far as the issuance of the complimentary passes of the applicant, it is settled view that such type of passes cannot be denied on the ground of non vacation of quarters and inview of the order passed in OA No.394/99 decided by this Tribunal on 26.6.96 (Annexure-A-16).

7. In view of the above discussion, the OA is partly allowed. The respondents are directed to pay the amount of DCRG of the applicant after deducting the damage rent from 6.7.96 to 1.10.96 and to regularise the house in the name of the applicant's son w.e.f. 2.10.96 and so far as the complimentary passes of the applicant it shall be given to the applicant with immediate effect. This order should be complied within a period of three months from the date of receipt of copy of this order. In the facts and circumstances of the case, the applicant's prayer of grant of interest is not accepted. However, if the said amount is not paid to the applicant within the said three months, he shall be entitled for interest @ 10% per year beyond the said period and till paid. No orders as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

कृतांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अचो हितः—
(1) सरिल, उच्च व्यावहारिक दार एवं विभाग, जबलपुर
(2) आदेश एवं विभागी/कु.....को काउंसल
(3) प्रदर्शनी/विभागी/कु.....को काउंसल
(4) विभागी एवं विभागी, जबलपुर विभागी
सूचना एवं आवश्यक कार्यवाही देतु
प्रम. संजयकार
applicant
mr. Baneij

File#
7/10/04