

**Central Administrative Tribunal  
Principal Bench**

**OA No.3099/2015**

Order Reserved on: 01.08.2018  
Order Pronounced on: 02.08.2018

***Hon'ble Ms. Nita Chowdhury, Member (A)***

U.K. Sharma, Aged about 69 years,  
S/o Late Sh. RK Sharma,  
R/o C-5/D, Railway Colony,  
Basant Lane, New Delhi

- Applicant

(By Advocate: Mr. MD Jhangra for Mr. MK Bhardwaj)

Versus

1. General Manager,  
Northern Railway, Baroda House,  
New Delhi
2. The DRM, Northern Railway,  
State Entry Road,  
New Delhi-110055
3. The Sr. Divisional Engineer/Estate,  
Northern Railway, New Delhi

- Respondents

(By Advocate: Mr. Satpal Singh)

**ORDER**

This Original Application (OA) has been filed by the applicant claiming the following reliefs:-

- “(i) To quash and set-aside the impugned order dated 15.01.2014 and direct the respondents to release the gratuity of applicant along with 24% interest.
- (ii) To declare the action of respondents in charging damage rent and electricity charges from applicant as illegal and arbitrary and direct the respondents to release gratuity as well as all other ancillary dues to the applicant.
- (iii) to allow the OA with exemplary cost.
- (iv) to pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

2. The applicant states that her gratuity has not been released because of the illegal order of the respondents rejecting her application for regularization of her Qtr. No.C5D, Basant Lane to his son, who was also serving as STE, Hqr..

3. It is the claim of the applicant that despite her repeated requests, the respondents have not released the gratuity. To the contrary, they are continuing imposing penal rent by violating the order of Hon'ble High Court dated 01.09.2010. The respondents have withheld gratuity of applicant arbitrarily and in violation of their own rules and instructions. There is no such rule which empowered the respondents to withhold the gratuity of Govt. servant after retirement for years together. The respondents were required to release the gratuity of the applicant in 1<sup>st</sup> week of May, 2006, however, they have not released the same till date. Therefore, the said respondents are required to pay penal interest to the applicant.

4. In their reply, the respondents drew attention to the fact that the applicant changed the quarter allotted to him without permission of the competent authority and subsequently applied for sharing permission for the same with her son on 16.02.2006. However, the respondents, vide their order dated 11.09.2007, rejected the request of the applicant for sharing permission/regularization of Railway quarter, as the applicant has changed the quarter with one Shri SP Singh, SE/C&W/NCR unauthorisedly and unlawfully without the permission of the competent authority. Thereafter the applicant filed OA No. 1815/2007 before this Tribunal challenging the said order dated 11.09.2007. The said OA was dismissed by this Tribunal vide its

order dated 06.05.2008. The applicant challenged the order of the Tribunal before the Hon'ble High Court in WP(C) No. 3876/2008 and the Hon'ble High Court remanded the matter for consideration of the letter on which the applicant relied upon. The aforesaid OA 8185/2007 was again re-heard by this Tribunal and after hearing the parties, the OA was dismissed on 17.10.2008 observing that *if a main person does not have any proper allotment the quarter cannot be regularised in favour of her son. The perusal of the records shows that present applicant (Smt. U.K. Sharma) was issued warning letter dated 05.12.2005 for un-authorized exchanging the quarter with Shri S.P. Singh, and after examination, it was found that it is not permissible to regularise the quarter as per rules.* Thus this Tribunal had decided the issue and found that present applicant had exchanged the quarter unauthorisedly. Further proceedings ensued in the Hon'ble High Court and the Hon'ble High Court, vide its order dated 26.09.2013 in WP(C) No. 6138/2013, passed a final order which reads as under:-

“7. Since it was the defence of the Railway Authorities that for the period respondent overstayed the flat allotted to her and further that she mutually exchanged possession of the flat without the consent of the Railway Authorities they would be entitled to recover not only license fee but even damages and for the reason the Tribunal did not negate the said defence, and rather chose to leave the matter open it is apparent that the Railway Authorities would be obliged to pass a speaking order with reference to the Rules, and if they permit gratuity to be adjusted towards outstanding dues; to record so. Gratuity amount needs to be calculated and similarly the amount payable towards license fee/damages. Debit and credit entries to be made and account adjusted for.

8. After said exercise is complete, if it is found that some amount is due to the respondent, same has to be paid. If it is found that nothing is payable, the Railway Authorities need not pay any money.

9. We note that in the order dated September 24, 2012, the Tribunal has recorded that after the Railway Authorities

deal with the matter as per applicable Rules, should the grievance remain, the respondents can re-agitate the issue.”

5. In compliance with the aforesaid order of the Hon’ble High Court, the respondents have passed order dated 15.01.2014.

6. Both parties were heard and the record perused.

7. From the pleadings on the record, it becomes clear that this matter has been dealt with fully in OA No. 1815/2007 and subsequently, in writ petitions filed before the Hon’ble High Court. The only point remaining to be considered was whether any amount of gratuity is to be paid by the respondents to the applicant. In this regard, we find that a detailed speaking order No.720E/3/37638/P-13 dated 15.01.2014 has been made by the respondents in which it has been stated as under:-

“....that upon conducting enquiry as per directions of the Court regarding payment of gratuity, it was found that as per information received from Sr. Divisional engineer/Estate, ND, regarding your quarter C-5/D, Basant lane.

It has been found that recovery of Rs.7,83,300.5/- and SSE Power supply Basant lane, information has been received regarding electricity bill.

The total recovery comes to Rs.7,83,300.5+46024=829324.5/-

And after adjusting your gratuity of Rs.4,49,790/-, then Rs.3,79.534.5/- remain due, which you have to deposit with the railways.”

8. From the above, it is clear that the respondents have already informed about the amounts due to the applicant which have been deducted from his gratuity and no amount is found to be payable to the applicant. Accordingly, the OA is bereft of merit and is dismissed. No costs.

**(NITA CHOWDHURY)**  
**MEMBER (A)**

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