

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00900/14

Reserved on: 23.02.2018
Pronounced on: 14.03.2018

C O R A M

HON'BLE MR. A.K. UPADHYAY, ADMINISTRATIVE MEMBER
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Ramanugrah Prasad Singh, Ex Chowkidar Section Engineer Pathway 1, Eastern Railway, Jamalpur son of Late Bhagwat Singh, resident of village- Dumari, Post Office and P.S., Barahiya, District- Lakhisarai (Bihar) .

..... Applicant.

- By Advocate: - Mr. O.P. Maharaj

-Versus-

1. The Union of India through the General Manager, Eastern Railway, 17, Netaji Subhash Chandra Roy Marg, Kolkata, Pin- 700001 (W.B.).
2. The Chief Personnel Officer, Eastern Railway (Netaji Subhash Chandra Marg, Kolkata-700001.
3. The Divisional Railway Manager, Malda Division, Eastern Railway, Malda Town, Pin-732101.
4. The Senior Divisional Personnel Officer, Eastern Railway, Malda.
5. The Chief Workshop Manager, Jamalpur, Railway Workshop, Eastern Railway, Jamalpur.
6. The Workshop Personnel Officer, Eastern Railway, Jamalpur.
7. The Section Engineer, Railway, SE/P.W./1 Eastern Railway, Jamalpur.
8. The Assistant Engineer (Line), Eastern Railway, Jamalpur.

..... Respondents.

- By Advocate(s): - Mr. S.K. Griyaghey

ORDER

Per A.K. Upadhyay, A.M.:- The applicant has filed this OA seeking the following reliefs:-

“(i) That Your Lordships may graciously be pleased to direct/command the respondents to pay the deducted

gratuity amount of Rs. 65,000/- henceforth along with statutory interest there upon from the date of retirement till its actual payment.

(ii) That the respondents be directed to pay the fixed medical allowances of Rs. 300/- per month from the date of retirement including arrears of medical allowances with penal interest at the rate of 18% per month.

(iii) That the respondents be also directed to pay the transportation charges after the date of his retirement which has not been being paid as per circular.

(iv) That the respondents be also directed to release 15 sets of complementary passes which have been forfeited by way of punishment without holding any departmental enquiry/proceeding.

(v) Any other relief/reliefs including the cost of the proceeding may be allowed in favour of the applicant.”

2. The brief fact of the case is that the applicant superannuated from service w.e.f. 31.05.2011. He was allotted Quarter No. 382/C (Type-I) Rampur Colony, Jamalpur by the Engineering Department, Malda. It appears that another quarter No. 382/B (Type-I), Rampur Colony was also allotted to him by SSE/PWI, Jamalpur. Both these quarters remained in possession of the applicant till 01.09.2012 when he vacated the quarters. Thus, the quarter was retained by the applicant for 15 months after retirement for which the respondents deducted an amount of Rs. 65,000/-. This OA has been filed for direction to the respondents to pay back this amount to him along with interest. His complementary passes were

also withheld because of non-vacation of the quarter. The applicant has also prayed for fixed medical allowances of Rs. 300/- per month.

3. Upto this point there is no dispute about the facts between the parties. The matters gets compounded because the applicant's son, who was also a Railway employee, started living with the applicant in the above quarters. As he was living in a railway quarter he was not paid House Rent Allowance. The second factor which has complicated the matter is the fact that by two different wings of the Railways the applicant was allotted two quarters though he was entitled to one. In practice, the local authorities must have turned a blind eye to this discrepancy and, thus, father and son started living in 382/C and 382/B quarters. It seems that the son Shri Ajay Kumar Singh continued living in these quarters and an allotment letter was issued in his favour by order dated 16.08.2012 (Annexure A/10).

4. The respondents in the written statement have not given a detailed calculation how they arrived at the damage rent. The learned counsel for the respondents Shri S.K. Griyaghey sought some more adjournment for filing a detailed calculation chart. Annexure R/1 with the written statement is supposedly a calculation chart. However, there seems to be some carelessness because for the entire 15 months the same rent of Rs. 1510/- per month has been taken for calculation. The accommodation rules have not been submitted nor any statement made in the written statement about

the provisions regarding retention after retirement. However, it is common knowledge that an employee is entitled to retain the quarter at the standard rent for some months after retirement, whereafter he can seek extension on personal grounds at higher graded rates. This lies within the domain of the administrative authorities who should examine the recoverable amount on account of damage rent with respect to the prevalent rules.

5. Rules 15 and 16 of the Railway Services (Pension) Rules, 1993 provide for recovery and adjustment of Government and Railway dues including dues pertaining to railway accommodation from the employee.

6. The right of the Railways to recovery such dues from pensionary benefits under these rules have been examined by the Tribunal in several cases. The Hon'ble Patna High Court too vide order dated 31.03.2015 in **CWJC No. 1412 of 2009** have held that the damage rent can be recovered from pensionary benefits.

7. The learned counsel for the applicant submitted that recovering damage rent from him and depriving his son from HRA amounts to double jeopardy. It would not be prudent to pass any judgment on that matter, because the affected party is the son who is himself a Railway employee. He can make a representation before the Railway authorities who will consider the matter as per rules.

8. As regards the other reliefs sought by the applicant, the respondents have stated that one set of complementary pass is

forfeited for each month of unauthorized retention of railway quarter. The intent of this provision is obviously to nudge an employee to vacate a quarter after retirement. The passes which have already been forfeited cannot be restored now. However, we presume that now his complementary pass has been resumed as per his entitlement. About the claim of medical allowance the respondents have stated in para-16 of their written statement that the applicant was yet to submit the residential certificate issued by the civil authority that it was more than 2.5 kilometers from Railway Health Unit. It has also been stated that the applicant had not submitted application for medical allowance in the prescribed format. These are trivial administrative matters which have to be resolved by the authorities with the cooperation of the applicant. Since the matter is now four years old we trust that this would be settled without delay, if not already finalized.

9. In conclusion, we order and direct as follows:-

- (i) The Railways are entitled to recover the dues relating to accommodation from pensionary benefits. However, they will re-calculate the amount with respect to the Rules of Retention after retirement and the prescribed rate after the admissible retention period.
- (ii) The complementary passes as per entitlements must be resumed immediately, if not already done.
- (iii) The authorities must finalize the entitled medical allowance, if not already done so, expeditiously for which the applicant shall submit all the necessary documents.

(iv) The OA is disposed of accordingly. No order as to costs and interest.

[Jayesh V. Bhairaiva]
Judicial Member
Srk.

[A.K Upadhyay]
Administrative Member