

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH, AHMEDABAD**

O.A.No. 325/2017 With MA No. 307/2017

Ahmedabad, the 25th of July, 2019

CORAM :

Hon'ble Sh.Pradeep Kumar, Member (Administrative)
Hon'ble Sh. M.C.Verma, Member (Judicial)

Shri P.S. Bapat, Railway Quarter No. 1, Hajoi, Sr. D.M.O. at Hojai Lomding Division, N.F. Railway, Assam, at present 44, Shripalnagar, Chandkheda, Ahmedabad.

.. Applicant

[By Advocate : Mr. B.G.Patni with Applicant]

versus

- 1- The Union of India notice to be served through Railway Board, Chairman, Rail Bhavan, New Delhi – 110 001.
- 2- General Manager, Western Railway, Churchgate, Mumbai – 400 020.
- 3- Divisional Railway Manager, Kothi Compound, Rajkot – 360 001.
- 4- General Manager, N.F. Railway, Guwahati – 781011.

... Respondents

[By Advocate : Shri M J Patel, For R-1.]

O R D E R (Oral)
[Per Pradeep Kumar Member(A)]

01. The instant applicant had worked as a Senior Divisional Medical Officer. He was earlier posted in Rajkot Division of Western Railway. Later on, he was transferred to North Frontier Railway (N.F.Railway) and was last posted as Senior Divisional Medical Officer, Hojai, Lumding Division in N.F.Railway, Assam, and from there, he had retired from service w.e.f. 31.7.2010. While working in Rajkot, certain incidents have occurred which had led to a personal loss to him in the sense that he lost his son as well as his wife and, he himself was also

severally injured. Under these circumstances, the official quarter allotted to him by the Rajkot Division, could not be vacated by him and was treated under un-authorised occupation. For such un-authorised occupation of the quarter, certain damage rent was charged from applicant. The applicant felt aggrieved and filed OA No. 202 of 2009, which was allowed vide order dated 15th November, 2010. The operative part of these orders read as under :-

“6.....Therefore, I direct the competent authority to regularise the period till 5.1.2009 and he be made liable to pay only normal license fee which is payable as per law.”

02. In compliance to these directions, Rajkot Division of Western Railway issued a Memorandum No. ED/57/2/10-Vol.II dated 16.9.2011 (Annex.R/3) with a copy to General Manager (P)/ NF Railway, which reads as under :

“As a result of implementation of Hon’ble CAT-ADI’s judgment dtd. 15-11-2010, the period beyond 09.05.2008 i.e. 10.05.2008 to 05.01.2009 (vacation of Railway Accommodation) is regularised and as such, the payment for retention period of type V Railway Accommodation No.-11, of Rajkot may be recovered at rate of normal license fee for the above said period and damage rent if already recovered may be refunded to Dr. Bapat.”

03. The applicant, however, has felt aggrieved that despite these directions having been issued, these have not been complied with and, accordingly, the instant OA has been preferred. Applicant has sought relief in respect of refund of damage rent already recovered, non-release of gratuity despite orders by N.F. Railway as well as non-release of pension, since he retired in July 2010.

04. The respondents have submitted their counter reply. They have indicated that compliance of direction in OA No. 202/2009 has already

been done by Respondents No.2 and 3 and Respondent No.4 was advised also.

05. Applicant had submitted his rejoinder also. It is seen from the rejoinder that the applicant was transferred from Rajkot Division of Western Railway to N.F. Railway and from there he had retired. The General Manager (Personnel), N.F. Railway had issued a letter dated 13.12.2010 to Financial Adviser & Chief Accounts Officer (FA & CAO), N.F. Railway to release the gratuity by deducting an amount of Rs. 2,23,735/-, which included, damage rent amounting to Rs. 2,06,392/- which was advised by Deputy FA & CAO, Western Railway, vide letter dated 22nd September, 2010.

5.1 However, subsequently, in compliance to orders in OA No. 202/2009, and after receipt of communication by Western Railway, another letter was issued by the General Manager (P) N.F. Railway to the FA&CAO, N.F. Railway on 1st June, 2018 (Annex.R/4). The operative part of this letter is reproduced below :-

“In view of the above, you are hereby requested to refund an amount of Rs. 1,99,859.00 (Rs.2,06,392.00-Rs.6533) (Rupees One lakh ninty nine thousand eight hundred fifty nine only) to Dr. Bapat and payment is to be made to SBI/Pune/Chinchwad Branch, A/c no. 31187134009 under intimation to this office in implementation of CAT/Ahmedabad judgment”.

5.2. The applicant has now pleaded that even though directions have been issued on 13.12.2010 by General Manager (P) / N.F. Railway, to release gratuity by deducting damage rent, this balance gratuity (say Part A of Gratuity), has not been paid till now by Respondent No.4. Thereafter, directions were also issued on 01.06.2018 to further release the damage rent amount of Rs. 1,99,859/- (Part B of Gratuity) and both these were to be paid directly to the pension account, yet both these

amounts have also not been paid so far by the FA&CAO, N.F. Railway from where, he had retired.

06. The applicant has also pleaded that pensionary benefits have also not been released so far despite his retirement in the year 2010 and despite PPO No. 0108100093 having been issued and directions being sent to Bank by N.F. Railway vide their letter dated 29.07.2010.

07. The matter has been heard and following directions are given :-

(i) Applicant shall make a formal representation to Respondent No. 4 within one month enclosing therein Western Railway letter dated 16.09.2011, N.F. Railway letter dated 13.12.2010 & 1.6.2018 and PPO, with a request to release gratuity and pension.

(ii) Respondent No. 4 shall take immediate steps to release the amount of Gratuity of Part A as per Para 5 and 5.2 supra. They shall also take immediate steps to release Part B of Gratuity amounting to Rs. 1,99,859/- as per Para 5.1 and 5.2 supra, if these have not been paid so far. In case, it has already been paid, the payment details will be advised by speed post to the applicant. This exercise will be completed within a period of three months from the date of receipt of representation at (i) above.

(iii) The Part A amount of Gratuity shall also carry interest at the GPF rate from the date of his superannuation i.e. 31st July, 2010 till it is paid. The Part B amount of Gratuity shall also carry interest at the GPF rate w.e.f. 16.9.2011 till it is paid. This be paid by Respondent No.4 within three months of receipt of representation.

(iv) Respondent No. 4 shall take appropriate steps in association with pension paying Bank to pay the pension w.e.f. 1.8.2010 within a period of three months of receipt of representation. The applicant shall be kept advised by speed post.

(v) Respondent No. 4 shall also take steps to revise the PPO in terms of instructions for 7th CPC, which has also come into force, if this has not been done so far. This be also done within three months of receipt of representation.

(vi) Respondent Nos. 2 and 3 are also directed to send requisite advice to the respondent No. 4 as necessary. It is expected that all the authorities concerned i.e. of N.F. Railway and Western Railway will work in sync and would take steps to implement this order in stipulated time frame.

(vii) Registry is directed to advise a copy of this order to respondent No. 4 under speed post.

8. O.A. stands allowed as above, with no order as to costs. Applicant retains liberty to approach this Tribunal in case, there is some grievance that still subsists on expiry of the period indicated above.

9. In view of the above, MA No.307/2019 filed for condonation of delay also stands disposed of.

[M.C.Verma]
Member(J)

[Pradeep Kumar]
Member(A)