

WP(C) 4145/2010  
BEFORE  
THE HON'BLE THE CHIEF JUSTICE MR MADAN B LOKUR  
HON'BLE MR JUSTICE B P KATAKEY

(MADAN B. LOKUR, CJ)

Heard Mr A Dasgupta, learned counsel for the petitioner and Mr J Singh, learned standing counsel for the Railway.

The petitioner is aggrieved by the order dated 14.5.2010 passed by the Central Administrative Tribunal, Guwahati Bench, in OA No 178 of 2009.

The petitioner was allotted a Railway quarter being Qr No 23/B Type II at Central Gotanagar. At the time of allotment of the quarter, the mother and the brother of the petitioner were staying with him.

The petitioner says that he superannuated sometime in the year 2007. Although the petitioner says that he vacated the said quarter, but due to a strained relationship at that time between the petitioner and his mother and his brother, they refused to vacate the quarter. Since the mother and the brother of the petitioner had been staying with him for several years and refused to vacate the quarter action was taken by the respondents under Sub- Rule 8 of Rule 16 of the Railway Services Pension Rules, 1993, to stop his gratuity. Sub-Rule 8 of Rule 16 reads as under:

8(a) In case where a railway accommodation is not vacated after superannuation of the Railway servant or after cessation of his services such as on voluntary retirement, compulsory retirement, medical invalidation or death, then, the full amount of retirement gratuity, death gratuity or special contribution to provident fund, as the case may, shall be withheld.

WP(C) No 4145/2010

Pag

e 1 of 3

(b) the amount withheld under clause (a) shall remain with the Railway administration in the form of cash.

(c) In case the Railway accommodation is not vacated even after the permissible period of retention after superannuation, retirement, cessation of service or death, as the case may be, the railway administration shall have the right to withhold, recover, or adjust from the Death - cum- retirement gratuity, the normal rent, special license fee or damage rent, as may be due from the ex-railway employee and return only the balance, if any, on vacation of the Railway accommodation.

(d) Any amount remaining unpaid after the adjustment made under clause (c), may also be recovered without the consent of the pensioner by the concerned Accounts Officers from the dearness relief of the pensioner until full recovery of such dues has been made.

(e) Dispute, if any, regarding recovery of damages or rent from the ex-railway employee shall be subject to adjudication by the concerned Estate Officer appointed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971).

Feeling aggrieved, the petitioner approached the Central Administrative Tribunal, Guwahati Bench, for a direction to the respondents to release his gratuity.

The Tribunal rightly took into account the fact that the family members of the petitioner have been residing continuously in the said quarter and until and unless the petitioner hands over vacant possession of the quarter, no benefit can be given to him.

We find it very difficult to accept the contention that the petitioner's mother and brother were living with him till the date of his superannuation and only thereafter their relationship became strained and so the petitioner's mother and brother refused to vacate the Railway quarter.

In view of the improbability of the petitioner's case, it is not possible to set aside the order of the Tribunal. This writ petition is dismissed.