

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR**

**ORIGINAL APPLICATION NO. 202/2008**

**Date of Order: 09.02.2009**

**HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER.**

Ramesh Lal Verma S/o Shri Ramchand Verma, aged 54 years,  
Resident of DL-1-B, Railway Colony, Bhagat Ki Kothi, Jodhpur.  
Presently working as a Senior Section Engineer (C&W), N.W. Rly.  
At Divisional Office, Jodhpur.

...Applicant.

Mr. D.K. Sharma, counsel for applicant.

**VERSUS**

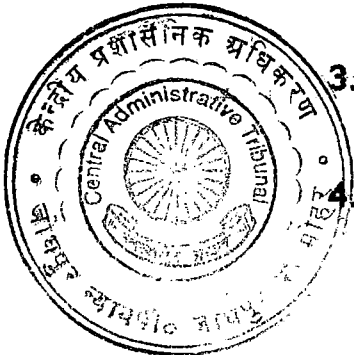
1. The Union of India through the General Manager, N.W. Railway, Jaipur.

2. The Divisional Railway Manager, N.W. Railway, Divisional Office, Jodhpur.

3. The Senior Divisional Mechanical Engineer (C&W), N.W. Railway, Divisional Office, Jodhpur.

4. The Senior Divisional Personnel Officer, N.W. Railway, Divisional Office, Jodhpur.

...Respondents.



Mr. Manoj Bhandari, counsel for respondents, assisted by Mr. Vinay Chhipa, Advocate.

**ORDER**

**[ Per Mr. Tarsem Lal, Administrative Member ]**

The applicant, Shri Ramesh Lal Verma, has filed this Original Application No. 202/2008 and prayed for the following relief:

- "1. That the applicant may kindly be declared entitle to retain the quarter at Jodhpur for the whole period of the posting at Jaisalmer.

*(Signature)*

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2. That the order dated 10-07-2008 (Annexure A/1) may kindly be quashed and set aside.

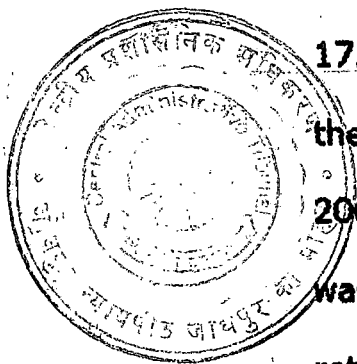
3. That the para 3 to 6 of the order dated 22-07-2008 (Annexure A/2) may kindly be declared illegal and set aside.

4. That no recovery according to the order dated 22-07-2008 should be made from the salary of the applicant.

5. Any other order or relief for which applicant is entitled, may kindly be allowed.

6. Cost may kindly be granted to the applicant from the respondents.

2. The brief facts of the case are that the applicant was working on the post of Senior Section Engineer (C&W) under respondents at Jodhpur and he was transferred with the post to Jaisalmer vide order dated 12.07.2006 (Annex. A/3). The applicant was relieved from his duties at Jodhpur on 15.07.2006 (AN) and he joined his duties at Jaisalmer on 23.09.2006. He demanded Type - IV residence at Jaisalmer vide application dated 17.10.2006 (Annex. A/4) for which he was entitled but no such residential accommodation was available at that station at that time. The applicant also submitted his application dated 17.10.2006 (Annex. A/5) to respondent No. 2 for retention of the house already allotted to him at Jodhpur till end of May, 2007. The request of the applicant was allowed and permission was granted vide order dated 17.11.2006 (Annex. A/6) for retention of house at Jodhpur till March, 2007. The applicant made repeated requests for allotment of accommodation at



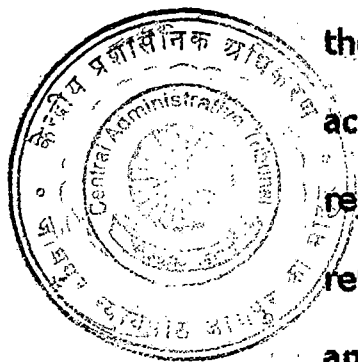
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Jaisalmer but no house was allotted at Jaisalmer, therefore, he submitted his application dated 26.03.2007 (Annex. A/7) to respondent No. 2 for six months extension for retention of residential accommodation at Jodhpur. His application dated 26.03.2007 was forwarded to the higher authorities from Jaisalmer to Jodhpur for necessary action on 01.04.2007 (Annex. A/8).

3. The applicant submitted an application dated 09.06.2007 (Annex. A/9) to the respondent authority that as no house was available at Jaisalmer, therefore he may be allowed to retain accommodation for 6 months at Jodhpur. But respondent No. 2 has not taken any action for rejection or extension of his request for retention of the house accommodation at Jodhpur. The applicant submitted his appeal to the higher authorities against the transfer order dated 12.07.2006 and finally the applicant was transferred back with the post at Jodhpur on 11.10.2007 (Annex. A/10).

4. On transfer back of the applicant to Jodhpur, vide his application dated 06.05.2008 (Annex. A/11) he made request to the respondents for regularization of the residential accommodation at Jodhpur. The respondent authorities have rejected the request of the applicant for extension of the retention of quarter at Jodhpur from 01.04.2007 to 14.10.2007 and declared unauthorized occupant of quarter at Jodhpur vide impugned order dated 10.07.2008 (Annex. A/1). After the

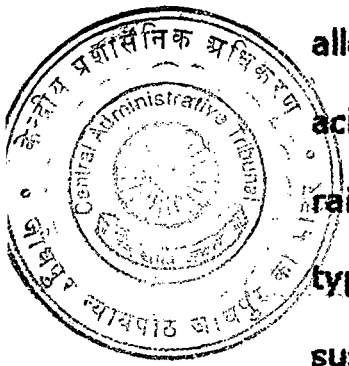


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rejection of extension of the retention of quarter from 01.04.2007 to 14.10.2007, the respondent No. 3 has passed an order dated 22.07.2008 (Annex. A/2) and a recovery of Rs. 50,006/- has been directed to be recovered from the applicant as a double rent rate from 23.11.2006 to 31.03.2007 and penal rent rate of quarter from 01.04.2007 to 14.10.2007 and the same has directed to be deducted from the salary of the applicant. The applicant claims that permission for retention of the quarter at Jodhpur was granted by respondent No. 2 as per Railway Board Circular dated 08.09.2004 (Annex. A/12). Aggrieved by the above order dated 10.07.2008 (Annex. A/1) and order dated 22.07.2008 (Annex. A/2), the applicant has filed this Original Application and prayed for the relief as given in para (1) above.

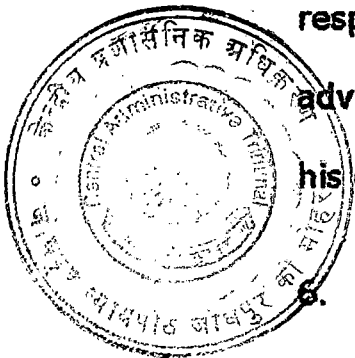
5. The respondents have filed a detailed reply stating that the applicant has resumed his duties on transfer back at Jodhpur on 15<sup>th</sup> October, 2007 and before that he was transferred to Jaisalmer on administrative grounds where he resumed his duties on 23.09.2006. He remained at Jaisalmer for a period of one year and 22 days. He did not submit any application for allotment of accommodation at Jaisalmer nor the same was acknowledged by the respondents. Therefore, the contention raised by the applicant that he has requested for allotment of type-IV accommodation at Jaisalmer is not tenable and sustainable in the eyes of law. As regards his application of retention of accommodation at Jodhpur till the end of May, 2007,



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the same was received by Senior DME/C&W and it was considered by the competent authority as per extent rules in terms of Para-30 of Establishment SOP Permission of Detention of Railway Quarter to non-Gazetted staff on transfer from one station to other station in the same Division and on the administrative grounds, can only be granted by competent authority upto first two months on the normal rent and further six months on payment of special licence fee. However, on the ground of child education or on the ground of sickness, the said condition can be waived but the applicant has not submitted any such ground, therefore, he was asked by the authorities vide letter dated 01.11.2006 (Annex. R/2) to submit the documents but he failed to do the same. The request of the applicant was accepted and he was permitted to retain the quarter on humanitarian ground upto March, 2007. The request of the applicant for further retention of accommodation was not accepted by the DRM in accordance with the extent rules and in terms of PS 12135, which clearly provides that further extension beyond eight months can be permitted only upto current academic session of education of children but no request for further retention should be granted and entertained. The respondents considered the request of the applicant and he was advised vide letter dated 04<sup>th</sup> June, 2007 (Annexure-R/4) that his extension could not be considered as per rules.

6. The applicant did not submit any request for allotment of pool accommodation at Jaisalmer. The application which was



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submitted on 09<sup>th</sup> June, 2007, was considered by the DRM, but as Rules do not permit for further retention, therefore, the request of the applicant was considered and rejected in accordance with law vide communication dated 06<sup>th</sup> September, 2007 (Annex. R/5). The applicant has not assailed the validity of the said order in his Original Application, therefore, any subsequent orders passed by the answering respondents are of no consequence.

7. The applicant was apprised of the factual position and the rule position vide letter dated 01.07.2008 (Annex. R/6) and he was specifically asked that if he could not vacate the house, the recovery for penal rent shall be affected against him.

8. The quarter was unauthorisedly occupied by the applicant since 01.04.2007, therefore Senior D.P.O. was advised to recover the damage/penal rent vide order dated 22.04.2008 (Annex. R/8) @ Rs. 8106/- per month as per extent rules. In the meantime, the applicant requested for "out of turn" allotment of quarter vide his application dated 08.07.2008 (Annex. R/9). Finally, on the ground of humanitarian as a special case, the same quarter has been allotted to him on out of turn basis in terms of Para 6.0 PS No. 115/07 after cancellation of his previous allotment dated 22.07.2008, which has been challenged by the applicant in the present Original Application and accordingly the period between 01.04.2007 to 14.10.2007 was treated as unauthorized occupation of employee as he was



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relieved on 15.10.2007 from Jaisalmer to Jodhpur. However, the recovery of penal rent was affected for 6 months and 14 days as the 6 months extension had already been granted to him till March, 2007 as after March, 2007, no further extension was granted to him. Hence, the recovery of 6 months and 14 days is perfectly legal and justified from the applicant.

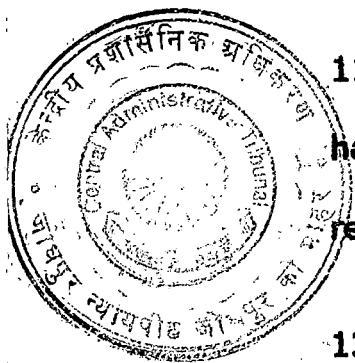
9. The circular submitted by the applicant as Annexure A/12 is not only for surplus staff and for those staff who were transferred at the time of introduction of the new Zone. The case of the applicant does not fall in that category as he was neither a surplus employee nor was transferred to the Zonal Office.

Therefore, the contents of letter dated 08.09.2004 (Annex. A/12) are not at all related to the present controversy in issue.

10. The applicant has filed rejoinder and the respondents have filed reply to the rejoinder wherein most of the pleas already taken in their respective pleadings have been reiterated except that the respondents brought in the rule position for retention of accommodation on permanent transfer vide para 11 of the reply to the rejoinder.

11. Learned counsel for the parties have been heard and they have generally reiterated the arguments already given in their respective pleadings.

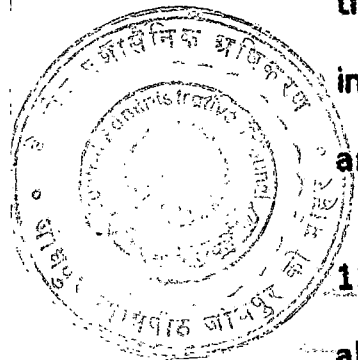
12. Learned counsel for the applicant emphatically pleaded that the applicant submitted repeated representations for



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allotment of accommodation at Jaisalmer, the place of his posting. As no accommodation was available at Jaisalmer, therefore, the same could not be allotted to him. He further stated that in the absence of allotment of accommodation at Jaisalmer, the applicant had also requested that the accommodation already allotted to him at Jodhpur, he may be allowed to continue to occupy the same. On the contrary, the respondents have passed impugned order dated 10.07.2008 (Annex. A/1) and impugned order dated 22.07.2008 (Annex. A/2) under which the applicant has been charged normal rent for the initial two months i.e. 23.09.2006 to 22.11.2006 and for subsequent period from 23.11.2006 to 31.03.2007 at double the rent. He has been charged penal rent from 01.04.2007 to 14.10.2007. He pleaded that as accommodation was not allotted to him at Jaisalmer, therefore, charging the above rent at enhanced and penal rent is illegal and arbitrary. Learned counsel for the applicant pleaded that the case of the applicant is regarding retention of accommodation at Jodhpur, which is covered under the Railway Board orders issued vide their letter dated 08.09.2004 (Annex. A/12). He, therefore, requested that the impugned order dated 10.07.2008 (Annex. A/1) and impugned order dated 22.07.2008 (Annex. A/2) may be quashed and set aside.

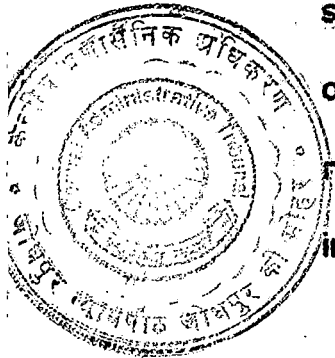


13. Learned counsel for the respondents explained that although the applicant was transferred on 12.07.2006 but he was actually relieved from his duties on 15.07.2006 (AN) from



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Jodhpur. He resumed his duties at Jaisalmer on 23.09.2006. He was advised vide letter dated 17.11.2006 (Annex. A/6) and order dated 01.11.2006 (Annex. R/2) that as he has not submitted any certificate for sickness of self and dependent and education of children, therefore, retention of quarter at Jodhpur will be treated as unauthorized occupation. As the applicant did not submit any application on the ground of sickness of self and dependent and education of children, the respondents have suo moto considered his case and charged the rent as per extent rules at normal rent for the initial two months i.e. 23.09.2007 to 22.11.2007 and for subsequent period from 23.11.2006 to 31.03.2007 (upto academic session) at double the rent. He has been charged penal rent from 01.04.2007 to 14.10.2007. As the applicant had also joined his duties at Jodhpur on 15.10.2007, he has been allotted accommodation at Jodhpur on priority basis. Learned counsel for the respondents submitted that the case of the applicant is regarding retention of accommodation at Jodhpur which is not covered under the orders issued by the Railway Board vide their letter dated 08.09.2004 (Annex. A/12) as the said letter is relating to surplus staff at their station of posting whereas the applicant is not covered in the category of surplus staff. Learned counsel for the respondents stated that as orders have been passed by the respondents in accordance with rules on the subject, this Tribunal may, therefore, not like to interfere with the lawful orders passed by the respondents.



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14. This case has been considered carefully and it is seen that the applicant was transferred from Jodhpur to Jaisalmer on 12.07.2006 and he was relieved from Jodhpur on 15.07.2006 (AN). He could not be allowed accommodation due to non-availability of the same at Jaisalmer, however, he continued to occupy his accommodation at Jodhpur for which permission was granted to him by the respondents upto 31.03.2007. The above orders have been passed on the basis of normal rent for initial two months, double rent for next six months i.e. upto 31.03.2007 (academic session).

15. The procedure relating to retention of Railway quarters by Railway employees on permanent transfers has been provided in para 10.1 of the Master Circular No. 49, RBE No. 32/2007, which are as under: -

**"10.1 Permanent transfer:**

(a). A Railway employee on transfer from one station to another which necessitates change of residence, may be permitted to retain the railway accommodation at the former station of posting for a period of two months on payment of normal rent or single flat rate of licence fee/rent. On request by the employees, on educational or sickness account, the period of retention of railway accommodation may be extended for a further period of six months on payment of special licence fee, i.e. double the flat rate of licence fee/rent. Further extension beyond the aforesaid period may be granted on educational ground only to cover the current academic session on payment of special licence fee.

Beyond the permitted/permissible limits, however, no further extension will be allowed on any ground whatsoever. Therefore, no request or representation on this score shall be entertained. For all occupations beyond the permitted period, immediate action should be taken to cancel the allotment, declare the



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occupation as unauthorized and initiate eviction proceedings, charging damage rent for the over-stay.

(b). where the request made for retention of Railway quarter is on grounds of sickness of self or a dependent member of the family of the railway employee, he will be required to produce the requisite Medical Certificate from the authorized Railway Medical Officer for the purpose.

(c). In the cases where the employee or his / her family member etc. is receiving treatment from other streams of medicines like Homeopathy, Ayurved, Unani, etc. and the employee wishes to avail retention of Railway quarter on transfer/retirement etc. on medical grounds (subject to eligibility as per policy instructions), he may apply in writing to the concerned Railway Medical Officer requesting for a Medical Certificate with details of sickness and subject himself/herself for medical examination. The Railway Medical Officer on examination of the sick person may issue a Medical Certificate with his recommendations, if any, as per his/her assessment.

(d). In the event of transfer, during the mid-school/college academic session, the permission to be granted by the competent authority for retention of Railway accommodation in terms of item (a) above will be subject to production of the necessary Certificates from the concerned School/College authority by the concerned Railway employee."

16. In view of the above orders on the subject, the applicant was advised by the respondents vide letter dated 17.11.2006 (Annex. A/6) that he has been given permission to retain the accommodation at Jodhpur upto March, 2007 and failing to vacate accommodation beyond that period, it will be treated as unauthorized occupation. The above order stated as under: -

"मण्डल रेल प्रबन्धक कार्यालय,  
उत्तर पश्चिम रेलवे, जोधपुर।

पत्र सं. :- 839ई/ई8/रमेश लाल वर्मा/एस.एस.ई./कैरेज/1/3  
दिनांक :- 17.11.2006



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वरि अनुभाग अभियन्ता/सक्मा,  
उ०प०रे० जैसलमेर।

विषय:- श्री रमेश लाल वर्मा, एस.एस.ई./सक्मा, जैसलमेर का भगत की कोठी  
स्टेशन पर रेलवे क्वार्टर नं. डीएल-1-बी को रोकें रखने बाबत।

—000—

श्री रमेश लाल वर्मा, एस.एस.ई./स व मा, जैसलमेर को भगत की कोठी  
स्टेशन पर रेलवे क्वार्टर नं. डीएल-1-बी को रोकें रखने की अनुमति मार्च-2007  
तक दी गई है। कर्मचारी को जैसलमेर में यदि मार्च-2007 से पहले क्वार्टर  
आवंटित हो जाता है तो उसे भगत की कोठी क्वार्टर खाली करना होगा। अन्यथा  
जैसलमेर क्वार्टर आवंटन के पश्चात् भगत की कोठी का रेलवे आवास खाली न  
करने पर उसे अनाधिकृत कब्जा माना जायेगा।

इसे मण्डल रेल प्रबंधक की अनुमति प्राप्त है।

sd/-

(रमेश चन्द्र साधु)

कृते वरि मण्डल कार्मिक अधिकारी,  
उत्तर-पश्चिम रेलवे, जोधपुर।

प्रतिलिपि :-

1. वरि मण्डल वित्त प्रबंधक, जोधपुर को सूचनार्थ।
2. वरि मण्डल यांत्रिक इंजीनियर/सक्मा, जोधपुर।
3. वरि मण्डल विद्युत इंजीनियर, जोधपुर।
4. श्री रमेश लाल वर्मा, एस.एस.ई./सक्मा, जैसलमेर।

17. The applicant was further advised by the respondents vide  
their letter dated 01.11.2006 (Annex. R/2) as under: -

"No.: 540E/Rail Quarter/RL Verma/BGKT Date: 01.11.2006

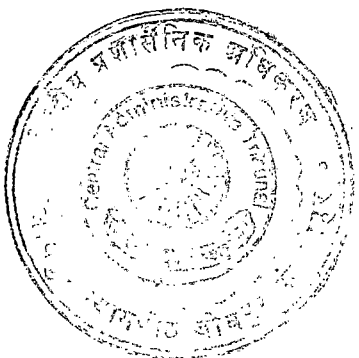
Sh. R.L. Verma  
Sr. Sec. Eng. (C&W)  
N.W. Rly. Jaisalmer.

Sub: - Retention of Quarter no. DL-1-B at Jodhpur  
Ref: Your application dated 17.10.2006

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As per extent rules permission for retention of quarter  
can be granted only on ground of sickness of self and  
dependent and education of children.

You have not submitted any certificate of above  
ground, therefore, competent authority has not granted for  
retaining Railway quarter at Jodhpur for eight months on  
transfer. The non vacation of quarter at Jodhpur, will be  
treated as unauthorized occupation.



Sd/-

(R.A. Yadav)

Asstt. Divl. Mech. Eng. (C&W)  
N.W. Rly., Jodhpur.

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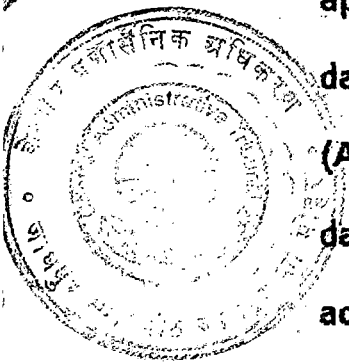
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Copy to: -

1. Sr. Sec. Eng. (C&W), N.W. Rly. Jodhpur.  
Who will advise penal rent to SSE/C&W/JSM for recovery of amount.
2. Sr. Sec. Eng. (C&W), N.W. Rly. Jaisalmer  
Who will ensure to recover the amount till the vacation of quarter without fail under advise to this office.
3. Sr. DPO/JU
4. Sr. DFM/JU."

18. It is seen that the interim relief was granted by this Bench of the Tribunal vide order dated 10.09.2008 under which the operation of the impugned order dated 22.07.2008 (Annex A/2) affecting recovery of penal rent / damage rent was stayed till the next date of hearing. The same has been extended from time to time.

19. It is clear from the above position that the applicant was transferred from Jodhpur to Jaisalmer on 12.07.2006 and was relieved from his duties on 15.07.2006 (AN). He joined his duties at Jaisalmer on 23.09.2006. The respondents have granted him permission to retain accommodation at Jodhpur suo moto without any application from the applicant for retention of accommodation at Jodhpur upto 31<sup>st</sup> March, 2007, which co-terminates with academic session upto 31<sup>st</sup> March, 2007. The applicant was repeatedly advised by the respondents vide orders dated 17.11.2006 (Annex. A/6), orders dated 01.11.2006 (Annex. R/2), orders dated 04.06.2007 (Annex. R/4) and orders dated 01.07.2008 (Annex. R/6) to vacate the accommodation in accordance with rule position on the subject w.e.f. 01.04.2007. Whereas the applicant has willfully continued to occupy the Govt.



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accommodation in contravention to the rule position as well as against the advice which the respondents communicated to him vide various orders referred to above. While the applicant failed to vacate the Govt. accommodation at Jodhpur in accordance with the orders on the subject, the respondents have calculated the amount of recovery of Rs. 50,006/- under rules. The applicant has failed to show any rule position in his favour for retention of accommodation at Jodhpur. It is observed that the respondents have taken the action of recovery in accordance with rules on the subject. Therefore, this Court would not like to interfere with the orders already passed by the respondents. The interim relief already granted vide orders of this Court on 10.09.2008 is hereby vacated.

20. In view of the above discussion, the Original Application is without merit and is dismissed accordingly. No order as to costs.

*Tarsem Lal 2/7/09*  
[TARSEM LAL]

ADMINISTRATIVE MEMBER



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DLGhaming  
12/2/09

R/K  
Ding Chn  
19-02-09

Part II and III destroyed  
in my presence on 8/2/15  
under the supervision of  
section officer (J) as per  
order dated 07/07/2015

Section officer (Record)