

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

197/2000

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 197/2000

OF 199

Applicant(s) Smt. Nivedita Deb Roy.

Respondent(s) Union of India and others.

Advocate for Applicant(s) Mr. M. Chanda.

Advocate for Respondent(s) C.G. S.C.

Notes of the Registry

Date

Order of the Tribunal

1. The application is heard in the form of written statement.
 2. E. of R.
 deposited vide
 IPO BDN 452651
 Dated 1.2.2000

My 31/7/00
 6/8/2000
 By.

Requisites filed.
 4/7/00.

5/7/00 Notice prepared and
 Sent to Directorate for Drawing the
 Results No 1 to 4 also orally by
 to Smt. M. Chanda's Add. Secretary
 Addl. Ch. Sec. vide D. No. 1774
 1774 to add. 6/7/00.
 5/4/00. Smt. S. Biswas not Dealt with.

4.7.00

Present : Hon'ble Sri S. Biswas, Member (A)
 Learned counsel Mr. M. Chanda for
 the applicant and Mr. B.S. Basumatary,
 learned Addl. C.G.S.C. for the
 respondents.
 Heard both sides. Application is
 admitted. Till the next or date the
 applicant will continue to occupy the
 quarter.
 List on 4.8.2000 for further
 order. If the Bench is not available on
 that date interim order will continue
 till the next date when the bench will
 be available.

S. Biswas
 Member (A)

trd
 6/8/2000

(2)

Notes of the Registry	Date	Order of the Tribunal
Notice and Served on Respondent No 384, 11/8/00	4.8.00	Time is now given, Adm 6.28.8.00 18/0
No. written statement has been filed. <i>By 25.9.2000</i>	28.8.00	Time is now given, Adm 1-26.9.00 18/0
No. written statement has been filed. <i>By 27.10.2000</i>	26.9.00	Three weeks time is allowed for filing of written statement on the prayer of B.S.Basumatary, Addl. C.G.S.C. Mrs. N.D.Goswami, learned counsel for the applicant is present. List on 30.10.2000 for further orders. <i>Vice-Chairman</i>
	nkm	
	30.10.00	present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman. Mr M.Chanda is present for the applicant. Four weeks time is granted to the respondents fix to file written statement on the prayer of Mr B.S. Basumatary, learned Addl.C.G.S.C. List on 28.11.2000 for order. <i>Vice-Chairman</i>
	pg	
	28.11.00	Four weeks time is granted to file written statement on the prayer made on behalf of Mr B.S.Basumatary, learned Addl C.G.S.C. List on 1.1.2001 for order. <i>Vice-Chairman</i>
	pg <i>Attn 11/11</i>	

(3)

O.A.No197/2000

Notes of the Registry	Date	Order of the Tribunal
Notice and Served on R.Y.O. 182. Other Services Services Completed <i>21/1/2001</i>	1.1.2001	List on 30.1.2001 to enable the respondents to file written statement.
No. Writs has been filed. <i>29/1/2001</i>	nkm <u>2/2/2001</u> Syllars	List on 15/3/2001. Bto n/.
No. Written Statement has been filed	15-3.	N O S. B. Adjourneed to 21-3-2001. <i>Up 15-3.</i>
Written statement and rejoinder has been filed. <i>6-9-01</i>	28.11.01	Mr A. Deb Roy, learned Sr.C.G.S.C prays for a short adjournment on the ground that he has to take instruction from the respondents. Mr M. Chanda, learned counsel for the applicant has no objection. Prayer allowed. List on 11.12.2001 for hearing.
26.12.2001. Copy of the Judgment has been sent to the Office for issuing the same to the applicant as well as to Mr Chanda in the Registry <i>KS</i>	pg 11.12.01 bb	Heard counsels for the parties. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs. <i>ICU Shan Member (A)</i>

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Notes of the Registry	Date	Order of the Tribunal

Notes of the Registry	Date	Order of the Tribunal
	21.3.01	<p>List after four weeks for the respondents to file written statement.</p> <p>Fix it on 16.5.2001 for written statement and further orders.</p> <p>Vice-Chairman</p>
	trdtrd	
	16.5.2001	<p>Three weeks time allowed to the respondents to file the written statement.</p> <p>List for orders on 8.6.01.</p> <p>Vice-Chairman</p>
	8.6.01	<p>Four weeks time allowed to file written statement.</p> <p>List on 5-7-2001 for order.</p> <p>I C Ushan Member</p>
<u>11.7.2001</u> w/s has been submitted by the Respondents.	13.7.01	<p>Written statement has been filed. Mrs.N.D.Goswami prays for time for filing of rejoinder. Two weeks time is allowed for filing of rejoinder.</p> <p>List on 22.8.01 for hearing.</p> <p>I C Ushan Member</p>
<u>Rejoinder filed on behalf of the applicant.</u>	22.8.01	<p>Mr.M.Chanda, appearing on behalf of the applicant, prays for time. Prayer is allowed.</p> <p>List on 7/9/01 for hearing.</p> <p>I C Ushan Member</p>
	bb	

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Notes of the Registry	Date	Order of the Tribunal
<p>The Case is ready for hearing as regard Wfs and Rejoinder.</p> <p><u>27.9.01</u></p>	7.9.2001	<p>Heard Mr.M.Chanda, learned counsel for the applicant extensively. Mr.Chanda argued that Type-II Quarter was allotted to the applicant by order No.D.14018/3/90-ENG/ in July, 1992. She was entitled to Type-II Quarter when the allotment was made as her pay was more than Rs.950/- while the entitlement of Type-II Quarter is within the pay range of Rs.950-1499/- (now revised to Rs.3050-5499/-).</p> <p>Mr.A.Deb Roy, learned Sr.C.G.S.C for the respondents, on the other hand argued that the applicant was not in the pay range of Rs.950-1499/- in the time of allotment of Type-II Quarter that she was ^{aw} drawing in the pay scale of Rs.800-1150/-. Mr.Deb Roy wants time to refer to the relevant rules that entitlement is based on the basic pay not the pay range.</p>
	28.9.01	<p>Prayer accepted. The learned counsel for the respondents is also directed to produce the relevant rules under which the allotment made to the applicant was cancelled.</p> <p>List on 28.9.2001 for hearing.</p> <p><u>Usha</u> Member</p>
	bb	<p>List the matter after a month to enable the respondents to produce the connected records.</p> <p>List on 28.10.2001 for hearing.</p> <p><u>Vice-Chairman</u></p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 197 of 2000.

Date of Decision. 11.12.2001.

----- Smt. Nivedita Deb Roy ----- Petitioner(s)

----- Mr. H. Dutta. ----- Advocate for the
Petitioner(s)
Versus-

----- Union of India & Others. ----- Respondent(s)

----- Mr. A. Deb Roy, Sr.C.G.S.C. ----- Advocate for the
Respondent(s)

THE HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Administrative Member.

LC Usha

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 197 of 2000.

Date of Order : This is the 11th Day of December, 2001.

THE HON'BLE MR. K. K. SHARMA, ADMINISTRATIVE MEMBER.

Smt. Nivedita Deb Roy,
Wife of S.R.Deb Roy
Nursing Orderly
Office of the Director
North Eastern Police Academy
Umsaw, Barapani
Meghalaya Applicant.

By Advocate Mr.H.Dutta

- Versus -

1. The Union of India
Through the Secretary to the
Government of India, Ministry of
Home Affairs, New Delhi.
2. The Director
North Eastern Police Academy
Ministry of Home Affairs
Government of India, Umsaw, Umiam-793123.
Meghalaya.
3. The Administrative Officer
North Eastern Police Academy
Umsaw, Umiam-793123
Meghalaya.
4. Shri K.K.Jha
Director
North Eastern Police Academy
Ministry of Home Affairs, Govt. of
India, Umsaw, Umiam-793123. . . . Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R

K.K.SHARMA, ADMN.MEMBER :

This application is filed against the impugned order No.NEPA/06/2000/01/Eng dated 2.6.2000 (Annexure - 3), whereby the applicant was asked to vacate Type-II Quarter allotted to her and to shift to Type-I Quarter. The applicant was allowed 15 days

KK Sharma

Contd.. 2

time to comply with the order.

2. The applicant is working as Nursing Orderly in the Office of the Director, North Eastern Police Academy, Barapani. Vide order dated 22.4.1989 the applicant was allotted Type-I Quarter with effect from 1.5.1989 and vide order dated 22.7.1992 she was allotted ^{The} Type-II Quarter. Entitlement for the Type-II Quarter at that time was pay range of Rs.950-1499/- (as per Swamy's Handbook 1999, Chapter 25 relating to Govt. Quarters.). In the said order dated 2.6.2000 no reason for vacating the quarter has been assinged to the applicant. The applicant made a representation dated 16.6.2000 to the Director, N.E.P.A. (Annexure-4 to the O.A.), which has been rejected by the Dy. Director, N.E.P.A. on 21.6.2000. The said order dated 21.6.2000 is also challenged in this O.A. It was stated that the applicant at the time of allotment of Type-II Quarter was in the pay scale of Rs.800-1000/- and her basic pay was above Rs.950/-. The eligibility for ^{entitlement of} Type-II Quarter has been revised at Rs.3050/- by the Vth Pay Commission Recommendation. The applicant, at present, is drawing the basic pay of Rs.3440/-. Thus the applicant claims that she was entitled to Type-II Quarter. The applicant has stated that only to accommodate some other employees the applicant has been directed to vacate the Type-II Quarter.

LC (Usha)

Contd.. 3

3. The respondents have filed written statement.

It is admitted in the written statement that the applicant was allotted quarter as per her entitlement.

The respondents' case is that the applicant was not entitled for Type-II Quarter, as she was not in the pay scale of Rs.950-1499/- and it is the condition for allotment of Type-II Quarter that one should be in the pay scale of Rs.950-1499/-. It is admitted that some senior persons have come on deputation and only to accommodate such persons the applicant has been asked to vacate Type-II Quarter. Other employees who have been asked to vacate have vacated the Type-II Quarters.

It is stated that the applicant was not asked to vacate but to shift to Type-I Quarter.

4. I have heard Mr.H.Dutta, learned counsel appearing for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

5. Mr.Deb Roy submitted that the Director, N.E.P.A. has the power under CCS Conduct Rules to cancel the allotment made to any employee. Mr. Roy also submitted that the applicant had not exhausted all the remedies before filing this Original Application. The applicant did not appeal to the higher appellate authority before filing this O.A.

6. Having heard the learned counsels for the parties, it is seen from the impugned order that no reason has been assigned to the applicant to vacate her

16/10/2018

quarter. The respondents have admitted that when the applicant was given allotment of Type-II Quarter, she was entitled to that. As per Swamy's Handbook, 2001 the entitlement for Type-II Quarter is revised to the pay range of Rs.3050-5499/- . Obviously the applicant is drawing the basic pay of Rs.3440/- on the date of impugned order was passed. No other reason has been shown to establish that the applicant was not entitled for Type-II Quarter. The respondents have not shown that the applicant had violated the terms of allotment. The learned counsel for the respondents was not able to show how there was any violation of Conduct Rules. From the records no valid reason can be inferred for the direction to the applicant to vacate Type-II quarter. From the records it can not inferred that the applicant was not entitled to Type-II accommodation. The respondents are in a wrong impression that the entitlement is based in the pay scale not the pay range. After perusing the records enclosed with the O.A. it is found that the impugned order dated 2.6.2000 is an arbitrary exercise of power and hence the said order cannot be sustained. Accordingly, the impugned order dated 2.6.2000 is set aside.

The application is treated as allowed.

There shall, however, be no order as to costs.

K K Sharma
(K.K.SHARMA)

ADMINISTRATIVE MEMBER

केन्द्रीय अधिकारी बोर्ड का नियम विधायिका
Central Administrative Tribunal

२७ २७ JUN 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench GUWAHATI BENCH

13

Filed by the
applicant through
Advocate
Subi Bhattacharya

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

Title of the Case : O.A. No. 192/2000

Smti Nivedita Deb Roy : Applicant

-versus-

Union of India & Ors. : Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-12
2	-	Verification	13
3	1	Order dated 24.4.1989	14
4	2	Order dt. 22.7.92	15-16
5	3	Impugned order dt. 2.6.2000	17
6	4	Representation dt. 16.6.2000	18
7	5	Impugned order dt. 21.6.2000	19

Date : 27.6.2000

Filed by
Subi Bhattacharya
Advocate

Nivedita Deb Roy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

BETWEEN

O.A. No. _____/2000

Smti Nivedita Deb Roy,
Wife of Sri S.R.Deb Roy,
Nursing Orderly,
Office of the Director,
North Eastern Police Academy,
Umsaw, Barapani,
Meghalaya

..... Applicant

-AND-

1. The Union of India,
Through the Secretary to the
Government of India, Ministry of
Home Affairs, New Delhi.
2. The Director,
North Eastern Police Academy,
Ministry of Home Affairs, Govt.
of India, Umsaw, Umiam-793123
Meghalaya.
3. The Administrative Officer,
North Eastern Police Academy,
Umsaw, Umiam-793123
Meghalaya

Contd.....

4. Shri K.K.Jha,
 Director,
 North Eastern Police Academy,
 Ministry of Home Affairs, Govt. of
 India, Umsaw, Umiam-793123
 Meghalaya.

.... Respondents

DETAILS OF APPLICATION

1. Particulars of order against which this application is made.

This application is made against impugned order of cancellation of allotment of Type II Quarter No. 8 issued under letter No. NEPA/06/2000/01/Eng dated 2.6.2000 and also against order bearing letter No. NEPA/06/2000-01/Eng/2101-02 dated 21.6.2000 rejecting the representation of the applicant dated 18.6.2000 and also praying for direction to the respondents to allow the applicant to continue to retain the Type II Quarter No.8 as per her entitlement and also for a declaration that the applicant is entitled to Type II Quarter as per the existing rules.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunals Act, 1985.

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Nibadita Deb Roy.

4. Facts of the Case

4.1 That the applicant is a citizen of India and as such she is entitled to all the rights and privileges guaranteed by the Constitution of India.

4.2 That your applicant was initially appointed as Nursing Orderly in the year 1983 in the office of the Director, North Eastern Police Academy (for short NEPA), Umsaw, Barapani. She is working in the NEPA Dispensary at Barapani. While working as Nursing Orderly in the said office the applicant was allotted a Type I Quarter with effect from 1.5.1989 vide order bearing No. E/14018/1/88/Eng/518-38 dated 22.4.1989. The said quarter was allotted in Block 2, quarter No.1 as per entitlement. The applicant thereafter occupied the said quarter.

A copy of the allotment of quarter order dated 24.4.89 is annexed as Annexure-1.

4.3 That your applicant begs to state that the Administrative Officer i.e. respondent No.3 reviewed the order of allotment of the quarter and was pleased to allot a Type II quarter to the applicant in Block 2, quarter No.8 as per entitlement vide order bearing No. 14018/3/90-Eng/1636-40 dated 22.07.92 and the applicant was also verbally ordered/instructed to attend the patient if any resides in Type II and Type III quarters beyond hospital hours. The applicant accordingly shifted

Contd...

Nibadita Deb Roy

and occupied the quarter no.8 in Block No. 2 in terms of the order dated 22.7.92 and thereafter continuously staying in the said quarter and the said allotment order dated 22.7.92 is still in force. But most surprisingly Director, NEPA, vide his impugned order bearing No. NEPA/06/2000-01/Eng. dated 2.6.2000 whereby the applicant is directed to vacate the Type II quarter No.8 and to shift to Type I quarter No.18 within 15 days from the date of issue of this letter and directed to submit a vacation report. In the said order dated 2.6.2000 no reason for vacating the quarter has been assigned and no show cause or notice also served upon the applicant before issuance of the impugned order dated 2.6.2000. However, in the order dated 2.6.2000 it is stated that the order issued under letter No. NEPA/06/2000/01/Eng/1324-25 dated 20.5.2000 in respect of Construction, Plasting Kharnaior is hereby cancelled. It is pertinent to mention here that the contents of the letter dated 20.5.2000 is not known to the applicant. The impugned order has been issued arbitrarily in total violation of the principle of natural justice inasmuch as when the order of allotment of Type II quarter no.8 is still in force, as such the impugned order dated 2.6.2000 is liable to be set aside and quashed.

Copy of the allotment order dated 22.7.92 and the impugned order for vacating the Type II quarter dated 2.6.2000 are annexed as Annexures-2 & 3 respectively.

4.4 That your applicant on receipt of the impugned order dated 2.6.2000 for vacating the Type II quarter

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Nibedita Deb Roy

no.8 submitted a representation on 16.6.2000 addressed to the Director, NEPA, Barapani, praying inter alia for retention in the said quarter on medical ground. In the said representation she has also stated that she was allotted the Type II Quarter No.8 on 22.7.92 and also verbally instructed by the authority to attend the patients if any, resides in Type II and Type III quarters beyond hospital hours and the applicant was also issued with one First Aid Box for the said purpose. She has also stated that she has been attending patients beyond office hours even at mid-night as and when required. The applicant also stated that after the death of her second daughter she has been suffering from acute anaemia and other related problems as a result of such acute anaemia the whole body of the applicant remains swelling all over the year. Sometimes her body swells in such a way that it becomes very difficult for her to attend duty on foot. The said representation was addressed to the Director, NEPA, Barapani. But surprisingly, Deputy Director, NEPA, Barapani rejected the representation of the applicant stating that grounds put forward by the applicant are baseless and also stated in the impugned order bearing letter No. NEPA/06/2000-01/ENG/2101-02 dated 21.6.2000 that the applicant is not a nurse but only nursing orderly. She has been advised in the impugned order that if she is not maintaining good health she should go on leave for treatment. It is also stated in the said letter since number of employees have complied with the order for vacating the quarter, non-compliance of the

Contd....

Nibedita Deb Roy

order by the applicant is amount to a serious misconduct. However, it is further stated that she has given second chance to comply with the order and also directed to vacate the said quarter by 30.6.2000, otherwise disciplinary action would be taken against her. But surprisingly no reasons has been assigned even in the impugned order dated 21.6.2000 for vacating the said Type II quarter no.8 by 30.6.2000. As such the action of the respondents is highly arbitrary, unfair in as much as when the original allotment order dated 22.7.92 is still in force. Therefore the impugned order dated 21.6.2000 is liable to be set aside and quashed.

Copy of the representation dated 16.6.2000 and the impugned order dated 21.6.2000 are annexed as Annexures 4 & 5 respectively.

4.5 That your applicant begs to state that North Eastern Police Academy is a Central Government Organisation under the Ministry of Home Affairs, New Delhi and the said organisation is being governed by the Central Government rules and regulations issued by the Govt. of India from time to time for all purposes and particularly the service conditions of the employees of the Academy are also being governed by the rules of the Central Govt. for all purposes. It is pertinent to mention here that the present applicant is now placed in the basic pay of Rs.2650-65-3300-70-4000 and the present basic pay of applicant is Rs. 3440/-, as such she is entitled to Type II quarter as per the rule existing rule in force issued

Contd...

by the Government of India. In this connection it is stated that the applicant is placed in the scale of Rs. 2650-4000 following the recommendation of the Vth Central Pay Commission recommendation which is accepted by the government of India, prior to that the applicant was in the pay scale of Rs. 800-1100. As per rule in force a Central Government employee whose basic pay is Rs. 950/- (Pre revised) and above but less than Rs. 1500/- is entitled to Type II quarter. The present applicant has been allotted Type II quarter considering her basic pay. It is further stated that as per the revised rate for entitlement of Type II quarter basic pay is required Rs. 3050/- whereas the present basic pay of the applicant is Rs. 3440/-, as such the applicant is entitled to retain the Type II quarter which is already allotted to her vide order dated 22.7.92 by the Administrative Officer. The relevant portion of the rule for entitlement of quarters for employees of the Central Government is quoted below from Swamy's Complete Manual on Establishment & Administration, 1994 edn., Chapter 78 page 867 :

" Types of residence eligible: An officer will be eligible for allotment of residence of the type shown in the table below -

I	-	Less than Rs. 950.00
II	-	Rs. 950 and above but less than Rs. 1500.00
III	-	Rs. 1500.00 and above but less than Rs. 2800.00.
IV	-	Rs. 2800.00 and above but less than Rs. 3600.00
V (A)	Rs.	Rs. 3600.00 and above but less than Rs. 4500.00

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Nabada Deb Roy

V (B) - Rs. 4500.00 and above but less than
Rs. 5900.00

VI (A) - Rs. 5900.00 and above but less than
6700.00

VI (B) - Rs. 6700.00 and above.

In view of the above position of the rule the present applicant is very much entitled to retain the Type II quarter in accordance with the rule in force. Therefore action of the respondents in issuing the impugned order dated 2.6.2000 and 21.6.2000 for vacating the Type II quarter No.8 is highly arbitrary, whimsical and unfair and the same is liable to be set aside and quashed.

4.6 That your applicant begs to state that respondent no.4 - Sri K.K.Jha has been impleaded by name as because the impugned order for vacating the quarter has been passed at the instance of Shri K.K.Jha, just to harass the applicant in order to allot the same to an employee of the organisation on pick and choose basis in total violation of the existing rule. It is further stated that the respondent No.4 is very much aware about the entitlement of the applicant even then forcing her to vacate the quarter by issuing the illegal impugned orders. As such, action of the respondent no. 4 is mala fide and the impugned orders issued by him are liable to be set aside and quashed.

4.7 That it is a fit case for the Hon'ble Tribunal to interfere with to protect the right and interest of the applicant by passing an interim order directing the

respondents to allow the applicant to continue to stay in the present Type II Quarter No. 8 till final disposal of this application and also be pleased to stay the operation of the impugned order dated 2.6.2000 and 21.6.2000.

4.8 That this application is made bona fide and for the cause of justice.

5. Grounds for relief with legal provision.

5.1 For that the impugned order for vacating the quarter has been issued without following principles of natural justice as such impugned order dated 2.6.2000 and 21.6.2000 are liable to be set aside and quashed.

5.2 For that the original allotment order of Type II quarter no.8 in favour of the applicant dated 22.7.92 is still in force as such the impugned orders are void ab initio.

5.3 For that as per the Central Govt. rules in vogue, the applicant is entitled to retain the Type II quarter.

5.4 ^{Not} For basic pay of the applicant is Rs. 2440/- as such she is entitled to a Type II quarter in terms of the rules issued by the Govt. of India.

5.5 For that respondent no.4 has issued the impugned order for vacating Type II quarter No.8 to allot the same to another employee on pick and choose basis with a mala fide intention.

Contd....

Nibadita Deb Roy.

5.6 For that for entitlement of a Type II quarter basic pay should be Rs. 3050/- whereas the applicant's basic pay is Rs. 2440/- as such she is entitled to retain the Type II quarter.

6. Details of remedy exhausted.

The applicant begs to state that there is no other remedy under any rule. However, the applicant submitted representation praying inter alia to retain her in the existing Type II quarter but the prayer of the applicant has been rejected.

7. Matter not pending before any other Court.

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any court of law or any other authority or any Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought for :

Under the facts and circumstances of the case the applicant prays that Your Lordships would be pleased to issue notice to the respondents to show cause as to why the relief sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may

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be shown, be pleased to grant the following relief(s) :

8.1 That the impugned orders issued under letter No. NEPA/06/2000-01/ENG dated 2.6.2000 (Annexure-3) and order bearing no. NEPA/06/2000-01/ENG/2101-01/ENG/2101-02 dated 21.6.2000 (Annexure-5) be set aside and quashed.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to retain the Type II quarter No.8 allotted to the applicant in terms of the order dated 22.7.92 (Annexure-2).

8.3 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to Type II quarter in terms of the Govt. rule in force.

8.4 ~~Costs of the Application.~~

8.5 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. Interim Relief prayed for :

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned orders issued under letter No. NEPA/06/2000-01/ENG dated 2.6.2000 (Annexure-3) and order bearing No. NEPA/06/2000-01/ENG/2101-02 dated 21.6.2000 (Annexure-5) till disposal of this application.

9.2 That the respondents be directed to allow the applicant to retain the Type II Quarter No.8 till final disposal of this application.

Contd....

Nibadita Deb Roy

10.

This application is filed through advocate.

11. Particulars of Postal Order

- i. I.P.O. No. : OG 49765)
- ii. Date of Issue : 1.7.2000
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati.

12. Particulars of Enclosures.

As stated in the Index.

allotted in 1992

2.6.00 ordered to recall 3.6.00
Return rejection pay range rule
Send return not pay scale
3.6.00 - present for

✓ 1st p.c. } 3.6.00
entitlement } 3.6.00

VERIFICATION

I, Smti Nivedita Deb Roy, wife of Sri S.R.Deb Roy, aged about 47 years, presently working as Nursing Orderly in the office of the Director, North Eastern Police Academy, Umsaw, Barapani, Meghalaya, applicant in this Original Application do verify and declare that the statement made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material fact.

I, sign this verification on this the 27th day of June, 2000.

17 - Order Dtd. 26.06.2000

18 - Depn.

Entitlement - Pay - Rs. 950.

Order Dtd. 21.6.2000 - stayed

Priority date - Entitlement

Nivedita Deb Roy.

Signature

Rule - is Pay Range -

GOVERNMENT OF INDIA
 Ministry of Home Affairs
 North Eastern Police Academy
 Barapani

no. E. 14018/1/88-Engg/5/23 Dated Barapani the 22.4.1989

ORDERS

The following permanent type-I quarters are hereby allotted to the following employees with effect from 1.5.89. However, the allottee may occupy the quarter immediately as soon as electric metre is installed. The Dy. Asstt. Director (Works) may intimate the date of occupation of quarters.

This order has been issued with the approval of the Director, NEPA.

Sl. No.	Name & designation	Qr. No.	Remarks
1.	Shri Lachman Rai, Constable	Block No. 1 Qr. No. 1	Lower Valley (Below Mess No. 1)
2.	Shri R.K. Thapa, Constable	Block No. 1 Qr. No. 2	-do-
3.	Shri C.A. Sangma, Hd. Constable	Block No. 1 Qr. No. 3	-do-
4.	Shri N. Singh Lyngdoh, -do-	Block No. 1 Qr. No. 4	-do-
5.	Shri N. Debroy, Nursing Ordly.	Block No. 2 Qr. No. 1	-do-
6.	Shri T. N. Rai, Mali	Block No. 2 Qr. No. 2	-do-
7.	Shri K.R. Nalwade, Hd. Constable	Block No. 2 Qr. No. 3	-do-
8.	Shri Prayas Singha, Constable	Block No. 1 Qr. No. 1	Upper Valley
9.	Shri Lakshi Singha, Constable	Block No. 1 Qr. No. 2	-do-
10.	Shri M.K. Chakraborty, Constable	Block No. 1 Qr. No. 3	-do-
11.	Shri Hirnalal Rai, Mali	Block No. 1 Qr. No. 4	-do-
12.	Shri Hari Charan Thakur, Barber	Block No. 2 Qr. No. 1	-do-
13.	Shri Jagdish Rai, Mali	Block No. 2 Qr. No. 2	-do-
14.	Shri Prekashius Lyngdoh, Constable	Block No. 2 Qr. No. 3	-do-
15.	Shri Gurmit Singh, Sweeper	Block No. 2 Qr. No. 4	-do-

Sd/- N. Sam Majumder
 Administrative Officer
 North Eastern Police Academy

*Certified to be true (S)
 Brijlal Ray (Advocate)*

No. D.14018/3/90-ENG/

Dtd., Umsaw, the

July/1992.

ORDER

The following employees are hereby allotted to the permanent Govt. qts as per detailed given below:-

S/No.	Name and Designation	Block No.	Or. No.
(1)	(2)	(3)	(4)

(I) TYPE III QRS:

1.	SI, Suresh Chank Yadav	4	13
2.	SI, Mewa Singh	4	14
3.	SI, S.K. Singh	4	15
4.	Sh. M.L. Sonar, H/C	5	17
5.	Sh. Anand Singh Rawat, H/C	2	5
6.	ASI, D.S. Deori	5	18
7.	ASI, Ran Singh	5	19
8.	Sh. P.K. Sambhughan, St. III	5	20

(II) TYPE II QRS:

1.	Const Sudhangshu Dey	1	4
2.	Const R.N. Keenwar	8	30
3.	" H.N. Sharma	8	31
4.	" P.C. Das	8	32
5.	" A. Choudhury	3	10
6.	" T. Nongkhaw	3	11
7.	" M. Syngkli	3	12
8.	" P. Kharaior	5	17
9.	" S.K. Marak	5	18
10.	<u>Smti. N. Debrey, N/Orderly</u>	2	8

(III) TYPE I QRS:

1.	Sh. Gopal Ram, Cobbler	10	38
2.	Sh. Muktar Ali, Cook	11	43
3.	Sh. Suresh Deme, Swpr.	8	31
4.	Sh. Lass Masi, Swpr.	11	44
5.	Sh. D.K. Roy, Swpr.	7	26
6.	Sh. Narayan Chetri, Masalchi	9	33
7.	Sh. B.D. Rana, Const.	6	24
8.	Sh. R.N. Rai, Const(Drv.)	5	20
9.	Sh. Biju Senapati, Syces	7	27
10.	Sh. Jethari Das, Syces	14	55
11.	Const. M.A. Rameshan	14	56
12.	Const. Niren Rabha	17	61
13.	Const. Subhash Ch. Bora	17	62
14.	Sh. B. Karmakar, Const(Drv.)	17	63
15.	Sh. Lalu Lama, Const(Drv.)	17	64
16.	Sh. K. Mandal, Cook	18	65

Contd..... 2

Qualified Advocate
Singlyor
Advocate

S/N^{o.} Name & Designation Block No. Or. No.

17. Sh. Gurdeep Singh, Swpr.	18	66
18. Sh. Kashunir Singh, Syces	18	67
19. Sh. Lumba Ram, Farrier	18	68
20. Sh. Pradip Rai, K.V. NEPA	3	12

(IV) ASSAM TYPE QRS:

1. Sh. Sukdev Ram, Syces: Qr. vacated by Syces Biju Senapati
2. Sh. Rajendra Ram, Syces: - de - Swpr. Lasa Masi
3. Sh. Faguni Ram, Syces: - de - Cobbler Gopal Ram.

(V) SERVANT QRS:

1. Sh. Jagdish Balmiki, Swpr(W/Canteen): Qr. vacated by
M/S. Narain Chettri.

The allottees are also directed to submit their
occupation report with immediate effect from the date of
occupation and if the same is not occupied within two weeks
time, allotment of qr. will be treated as cancelled.

Further, the qr. which are not yet ready will
be occupied only after completion by C.H.W.D./department.

Sd/-

(G.C. Raiger)

Director

Memo No. 14018/3/90-ENG/1636 Ptd., Umsaw, the 22 July/92.

Copy for information and necessary action to :-

1. The Chief Drill Instructor, NEPA, Umsaw
2. The Principal, K.V. NEPA, Umsaw.
3. The Accountant, NEPA, Umsaw
4. All Individual Concerned.
5. NOTICE BOARD.

30/7/92
(P.S. Daber)
Chief Drill Instructor

North Eastern Police Academy
Ministry of Home Affairs
Government of India
Umsaw, Umiam - 793 123 ; Meghalaya

No. NEPA/06/2000-01/ENG/

Dtd. 2 June, 2000

ORDER

Smt. N. Debroy, Nursing Orderly of this Academy is hereby directed to vacate Type II Quarter No. 8 and to shift to Type I Quarter No. 18 within 15 days from the date of issue of this letter and submit a vacation report.

As such, the order issued vide this office letter No. NEPA/06/2000-01/ENG/1324-25 dtd. 20.5.2000 in respect of Const. Plasting Kharnaior is hereby cancelled.

sd/-
(K.K. Jha)
Director

Memo No. NEPA/06/2000-01/ENG

1602-06 Dtd. 2 June, 2000

Copy to :-

1. Smti. A. Deb Roy, Nursing Orderly, NEPA
2. Shri Plasting Kharnaior, Constable, NEPA
3. CDI, NEPA
4. Q.M. Branch, NEPA
5. Electric Branch, NEPA
6. Office Order File.

2/6/2000
(H.K. Mazumdar)
By. Director (A)



Office of
Director
NEPA

To

The Director,
North Eastern Police Academy,
Umsaw.

(Through proper channel)

Sub :- RETENTION IN THE SAME QUARTER - ON MEDICAL GROUND.

Ref :- Your Office Order No. NEPA/06/2000-01/ENG/602-06
dated 02-06-2000 received on 06-06-2000.

Respected Sir,

With due respect and humble submission I beg to
lay before you the following few lines for favour of your
kind sympathetic consideration :-

That Sir, I am a poor lady employee of your M. I.
Room and serving in this department since February, 1983.
I am doing the duties of Nurse with sincere and full
devotion.

That Sir, vide your office order No. 14018/3/90-ENG/
1636-40 dated 22-07-92 I was allotted type II quarter No. 8
with verbal ~~xxm~~ instruction to attend the patients resides
in type II & III quarters beyond hospital hours except
serious case and I have been issued with First Aid Box
also for that purpose. I have been attending patient whenever
comes and at mid-night also.

That Sir, after the death of my second daughter I
have been suffering from acute anaemia and related problems.
Our previous Doctors sent me to Guwahati several times for
better treatment. Our present Doctor also advised me to go
to Guwahati for better treatment. For acute anaemia my
whole body remains ~~xxm~~ swelling all over the year, sometimes
my body ~~xxxxxx~~ swells such a way that it becomes very
difficult for me to attend duty on foot.

That Sir, the type I quarter allotted to me, is
more far and comparatively at a higher Altitude from my
present quarters. If I have to attend my duty from that
place then my illness may be aggravated.

That Sir, I have no intention to disobey your
order but due to my physical problems as stated above
which is beyond my control, I request your honour kindly
to reconsider my shifting on humanitarian ground and
allow me to stay in the same quarter from which act of your
kindness I will remain ever grateful to you.

Thanking you.

Yours faithfully,

(Mrs. N. Deb Roy)

N/Orderly,
NEPA M. I. ROOM
UMSAW

16/6/00
I am a
certified to be true copy
Gurushankar
Advocate

NORTH EASTERN POLICE ACADEMY
MINISTRY OF HOME AFFAIRS
Government of India
Umsaw, Umiam - 793 123 : Meghalaya

No. NEPA/06/2000-01/ENG/2101-02

Dtd. 21/8/ June, 2000

To,

Smti. N. Debroy, Nursing Orderly
NEPA, Umsaw.

Subject: Vacation of Type II Quarter

Reference: Your representation dated 17.6.2000.

Your representation cited above in connection with the retention of the present quarter on medical ground has been considered by the Director but it could not be accepted and therefore I am directed to convey the following:-

1. You are not a Nurse but only Nursing Orderly.
2. If you are not maintaining good health, you should go on leave for treatment.
3. When a number of employees have complied with the order, non compliance by you amounts to serious misconduct.
4. Grounds put forward by you to retain the present quarter are baseless.
5. You are given a second chance to comply with the order and should vacate the quarter by 30.6.2000 otherwise disciplinary action will be taken against you.

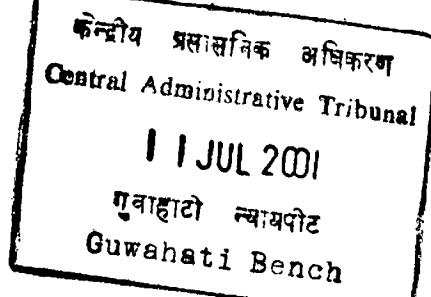
21/6/2000
(H.K. Mazumdar)
Dy. Director (Adjt)

Copy to :-

P.A. to Director - for Director's information please.



*After 2nd
Copy
D.P.*



Regd
11/7/01
(A. DEB RED
Sr. C. G. S. C.
C. A. T., Guwahati Bench
29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 197 OF 2000

Smti. N Deb Roy

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written statement submitted by the
Respondents

The respondents beg to submit the written
statement as follows :

1. That with regard to para 1, the respondents beg to state that the claim to retain type II Quarter No.8 as per entitlement is baseless.
2. That with regard to para 2, 3 and 4.1, the respondents beg to ~~state~~ offer no comments.
3. That with regard to para 4.2, the respondents beg to state that it is a fact that Smti N. Deb Roy was appointed as Nursing Orderly in 1983 in the office of Director NEPA. It is also a fact that she was allotted a Type-I Quarter by the Administrative Officer. NEPA vide order No. E.14018/1/88-Engg/518-33 dated 22.4.89 (Copy enclosed as Annexure -I). It may be mentioned here that the post of Administrative Officer has been abolished. It is also a fact that she was allotted the said Quarter as per her entitlement.

Pay a 12/95

3370
Pay before fax

Tyheb -

3050-5499

4. That with regard to para 4.3, the respondents beg to state that it is a fact that she was allotted a Type-II Quarter No.8 in Block No.2 by the then Director, NEPA vide order No. D/14018/3/90-Eng/1636-40 dated 22.7.92 .

Copy of the letter dated 22.7.92 is annexed
hereto and marked as Annexure - II.

It may be pointed out here that the second order of allotment does not appear to be as per entitlement as in Swamy's Hand Book - 1999, Page 323, the word mentioned is basic pay range and NOT the monthly emoluments. As per this, an employee in the basic pay range of Rs. 950-1499/- is entitled for Type-II Quarter. Against this requirement, Smti. N. Deb Roy was in the pay range of Rs. 800-1150/- though it is not relevant here as the order has been passed due to administrative requirement.

Her claim that she was verbally ordered to attend the patients residing in Type-II and Type-III Quarter beyond hospital hours is baseless as she is not a Doctor. The Medical Officer and Pharmacist of NEPA are available round-the-clock for such emergency duties. Her services beyond duty hours, may be and is being dispensed with since long.

It is a fact that Director NEPA issued the order No. NEPA/6/2000-01/ENG/1602-06 dated 2.6.2000.

Copy of the letter dated 2.6.2000 is annexed
hereto and marked as Annexure -III.
whereby the applicant was directed to vacate the Type-II Quarter No. 8 and to shift to Type-I Quarter No. 18 within 15 days.

It is a fact that there is a reference in the said order that the order issued vide this office letter No. NEPA/06/2000-01, ENG/1324-25 dated 20.5.2000 in respect of Constable Plasting Kharnaior is hereby cancelled. It was not necessary to inform the applicant about the contents and reasons of the said order. However this order was not issued arbitrarily.

The fact is that Shri Ram Saran, Canteen Clerk of NEPA in the pay scale of Rs. 3050-4590/- applied for a type II Quarter. NEPA is having 40 Type II Quarters including that of the applicant Smti. N. Deb Roy and no Type II Quarter ^{was} ~~is~~ vacant ~~at present~~ ^{that time}. As such the Dealing Assistant was asked to prepare a list of Constables who are occupying Type II Quarter and accordingly he prepared the list as per seniority .

Copy of the letter is annexed hereto and marked as Annexure IV.

I like to mention here that the dealing Assistant made some clerical error and showed Sl. No. 9 as senior to sl. no. 10. In fact sl. No.10 was senior to sl. No.9 . As per seniority list Constable Sarat K Marak appointed on 25.3.82 was the junior-most-occupant of Type II Quarter and as such he was asked to shift to Type I Quarter Constable Sarat K. Marak complied with the order and Shri Ram Saran, Canteen Clerk of NEPA ~~of~~ was allotted the same Quarter .

Thereafter Head Constable Debasish Choudhury came on deputation. It is mandatory for an officer on deputation to get a Quarter as such Constable Thomas Nongkhaw was asked to vacate the Type II Quarter and shift to Type I Quarter. Complying with the orders, Constable Thomas Nongkhaw also vacated the Type II

Type II Quarter and the same was allotted to Head Constable Debasish Choudhury. Thereafter Shri Pappu Kr. Singh, joined NEPA as LDC and he prayed for allotment of Quarter. An LDC is entitled to Type II Quarter and in NEPA all the LDCs have been given only Type II Quarter. As such necessity of a Type II Quarter was felt.

no rule
forbids Singh
applied
after receipt
of the C.O. order

Constable Phlasting Kharnaigor was ordered, vide order No. NEPA/06/2000-01/ENG/1324-25 dated 20.5.2000.

Copy of the letter is annexed hereto and marked as Annexure-V

to vacate Type II Quarter No. 17 and to shift to Type I Quarter. Constable Phlasting Kharnaigor complained against this order through Chief Drill Instructor and as such the file was called *then Director* by the undersigned and a noting was made.

Copy of the letter is annexed hereto and marked as Annexure - VI.

It will be evident from the above noting that the complaint of Constable Phlasting Kharnaigor was genuine. The name of Smti. N. Deb Roy, Nursing Orderly appointed on 19.2.83, was not mentioned by mistake in the seniority list. For not showing her name in the seniority list, explanation of the dealing Assistant was asked vide letter No. NEPA/06/2000-01/ENG/1559-68 dated 31.5.2000.

Copy of the letter is annexed hereto and marked as Annexure -VII.

and he was warned to give justice this order issued in respect of Constable Phlasting Kharnaigor was cancelled as mentioned in this office order No. NEPA/06/2000-01/ENG/1602-06 dated 2.6.2000.

I also like to add here that Smti. N. Deb Roy was not asked to vacate the Quarter but to shift to Type I Quarter being the

junior-most in the occupants of Type II Quarters due to administrative requirement only. Her claim that order has been issued arbitrarily is baseless. Even as on date excluding Smti. N. Deb Roy, 9 Constables senior to her are in occupation of Type II Quarters allotted earlier. They have to be asked to shift to Type I Quarters when any claim for Type II Quarters arises after further joining of senior to the present ~~exemption~~ occupants and the same has to be done on the basis of seniority only to give natural justice.

I also like to mention here that no private accommodation is available in nearby area as such quarter as per requirement has to be given. Services of Smti. N Deb Roy is not essential ~~like~~ like that of a Clerk or Head Constable. Her job can be performed by even other class IV employee or a Constable and the same is being done even now, whereas a Head Constable has to attend for Drill, etc., from 05.30 hours to late evening and that cannot be done by other staff and the job of Clerk also cannot be dispensed with.

5. That with regard to para 4.4, the respondents beg to state that it is a fact that Smti N Deb Roy submitted a representation to the undersigned ~~then~~ Director. copy of the letter is annexed hereto and marked as Annexure -VIII.

Her claim that she has to come to hospital at odd hours is baseless as Director NEPA is responsible for this when ever there is any difficulty. Her claim of getting first aid box and serving at mid-night is baseless as for the same Medical Officer is available round-the-clock. She is not a technical staff and it can be managed by anybody.

It is a fact that her representation was replied to as stated and in that her ground for retention of Type II Quarter was not found justified at all. She was asked to go on leave for treatment by which she will be cured. No disciplinary action was taken against her and a further chance was given to her to comply with the order. Every Govt. servant has to be medically fit to serve the department. But the applicant was hiding the fact before this order. Director NEPA is very much authorised to ask anybody to vacate the Quarter under Rule 15-A (2) of Central Civil Service Conduct Rules 1964, which reads as follows- "A Government ~~servant~~ servant shall, after the cancellation of his allotment of Government accommodation vacate the same within the time limit prescribed by the allotting authority". Smti N Deb Roy was asked accordingly.

In her representation at last para she has mentioned that "she has no intention to disobey the order" but referring the case to CAT without proper representation amounts to indiscipline on her part.

I like to mention here that Smti. N Deb Roy never raised the entitlement in her application and as such this point was not considered. Without representing any matter, CAT cannot take cognisance. After issue of first order vide No. NEPA/06/2000-01/ENG/1602-06 dated 2.6.2000, the earlier quarter allotment order automatically stands cancelled. As such her claim is baseless.

6. That with regard to para 4.5, the respondents beg to state that the claim is baseless. This point was not represented and it was not examined, and as such it cannot be entertained. However, in the year 1992 itself also she was not entitled for Type II Quarter, as, as per Govt. of India

orders indicated in Swamy's Hand Book Page 322-323, the pay ~~maximum~~ range has to be Rs. 950-1499/-, whereas she was in the pay scale of Rs. 800-1150/- . The word mentioned in the Govt. order is basic pay range including stagnation increment but excluding NPA. Even after pay revision she is not entitled as Type II Quarter is eligible for converted scale of Rs. 3050-5499/- . The portion of the rules quoted by Smti. N Deb Roy is misleading. However, this order was not issued arbitrarily. The same was issued primarily basing on administrative requirement and on the basis of entitlement as senior Government servants cannot be asked to stay in Type I Quarters and junior in Type II Quarters. Shri Pappu Kumar Singh, staying in Cadet Sl's Mess meant for trainees, ~~did~~ ^{has} not get any Quarter and he ~~is~~ is not willing to go to Type I Quarter being an LDC. As such after observing all the formalities for the sake of natural justice the applicant has been asked to vacate the Type II Quarter.

7. That with regard to para 4.6, the respondents beg to state that the claim and allegation is baseless and she deserves to be punished for that.

8. That with regard to para 4.7, the respondents beg to state that her claim is baseless and interim order passed by Hon'ble CAT vide order dated 4.7.2000 deserves to be vacated.

Copy of the order dated 4.7.2000 is annexed hereto and marked as Annexure IX.

9. If applicant is allowed to stay in Type II Quarter, there will be lot of administrative problems. If she is allowed to stay in that Quarter, persons senior to her will also not

vacate the quarters. In addition, the senior staff reporting further cannot be given entitled accommodation and there will be an administrative dead-lock. As such Smti. N Deb Roy may be asked to vacate the Type II Quarter and to shift to Type I Quarter.

9. That with regard to para 4.8, the respondents beg to state that this application is malafide based on false ego to stay in Type II Quarter without any justification.

10. That with regard to para 5.1, the respondents beg to state that the order has been issued after examining all the aspects and I think the question of natural justice does not comes as it is not a question of service. Though it has been ensured, she has never represented for her entitlement and she has not complied with the mandatory provisions of representing to Govt. of India - Appellate Authority.

11. That with regard to para 5.2, the respondents beg to state that the claim is baseless. The order issued earlier stands automatically cancelled.

12. That with regard to para 5.3, the respondents beg to state that her claim is baseless.

13. That with regard to para 5.4, the respondents beg to state that the quarter is not allotted on the monthly emoluments but on basic pay range as such she is not authorised.

14. That with regard to para 5.5, the respondents beg to state that her claim is baseless as it will appear from the foregoing paras. The order was issued for administrative reasons. Shri Pappu Kumar Singh who has not got the

Quarter ~~yet~~ ^{was} is staying in Cadets' Mess- meant for trainees, which ~~is~~ ^{was} neither desirable nor convenient for anybody or training.

15. That with regard to para 5.6, the respondents beg to state that her claim is baseless as the quarter is allotted now on the basis of basic pay range.

16. That with regard to para 6, the respondents beg to state that the applicant has never mentioned in her application the ground of entitlement nor she has appealed to the higher Appellate Authority and as such Hon'ble Tribunal should reject her application and ask her to shift to Type I Quarter.

17. That with regard to para 7, the respondents beg to state that it was mandatory to appeal to Govt. of India - the next Appellate Authority. She has not done that and as such this application deserves to be rejected.

18. That with regard to para 8, the respondents beg to state that the claim is baseless and she should be asked to vacate the quarter immediately.

19. That with regard to para 8.1, the respondents beg to state that her claim is baseless.

20. That with regard to para 8.2, the respondents beg to state that she has not given any appeal against the order of Director NEPA and as she did not claim as per entitlement, this application should be rejected by the Hon'ble Tribunal.

21. That with regard to para 8.3, the respondents beg to state that the Hon'ble Tribunal should cancel her

application in the interest of administration of the Academy and as per mandatory provisions of CAT Act.

22. That with regard to para 8.4 and 8.5, the respondents beg to state that the matter is baseless.

23. That with regard to para 9.1, the respondents beg to state that the Hon'ble Tribunal has issued order to stay the operation of the order and the same is being complied with. But the Hon'ble Tribunal may kindly consider to vacate the order at the earliest.

24. That with regard to para 9.2, the respondents beg to state that she ~~should~~ be asked to vacate the Type II Quarter immediately, ^{so that} other eligible Govt. employee who are in waiting ^{may be given} _{my} accommodation as per

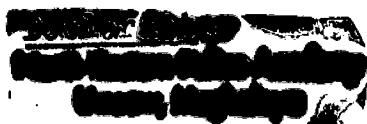
-11-

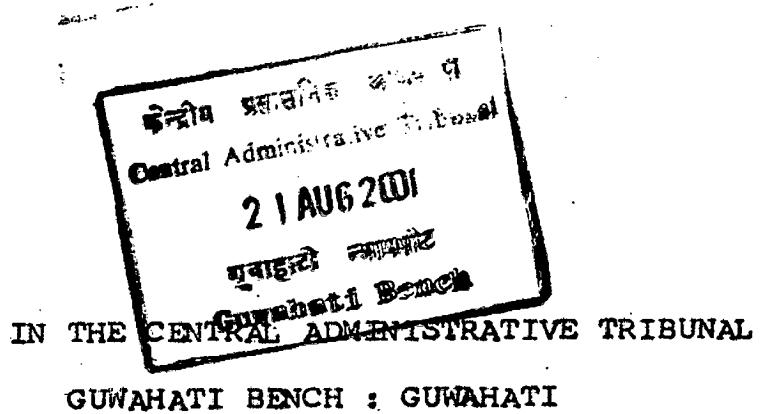
VERIFICATION

I, Shri Ahmad Singh, Director N.E.P.A.
Lmsaw, Meghalaya being authorised do hereby verify and
declare that the statements made in this written statement
are true to my knowledge, information and belief and I
have not suppressed any material fact.

And I sign this verification on this 3rd day
of July, 2001.

AM 3/7/01





O.A. NO. 197 of 2000

Smt. N. Deb Roy

... Applicant

- Versus -

Union of India & Ors.

... Respondents .

In the matter of :

Rejoinder submitted by the applicant in reply of the written statement submitted by the respondents .

The above named applicant Most Respectfully sheweth :

1. That your applicant categorically denies the statement made in paragraph 1, 4, 5 and 6 of the written statement and further to state that the earlier allotment order issued in respect of the applicant by the then Director NEPA vide order dated 22.7.92 is still in force as such the vacation of the said quarter by the applicant does not arise. It is also admitted in paragraph 4 of the written statement by the respondents that the quarter allotted to the applicant due to 'Administrative requirement' therefore regard regarding the allotment of quarter in respect of the applicant is necessary for perusal of the Hon'ble Tribunal to ascertain the correct position.

contd..2

It is relevant to mention here that entitlement of quarter normally issued to be determined as per station seniority and also in accordance with the relevant range of pay scale as laid down by the Government of India which is quoted in para 4.5 of the original application. As per eligibility criteria laid down by the Government of India as stated in paragraph 4.5 of the original application the applicant falls within the relevant pay scale as required for attaining eligibility for entitle of Type-II quarter. The applicant cannot be ousted from the quarter in order to accommodate Sri Ram Seran, Centeen Clerk, Sri Debasis Choudhury, Head Constable (Deputation) and also Sri Pappu Krishna Singh, LDC who are far junior to the present applicant in the station seniority. It is pertinent to mention here that Director Sri K.K.Jaha is interested to accommodate Sri Ram Saran and Sri Pappu Krishna Singh in the quarter which is now under the occupation of the present applicant on extraneous consideration as both of them belongs to the same State of R.K.Jaha i.e. Bihar. Director and therefore attempts is now made by Sri Jaha in total violation of the Rules and Regulations to allot the quarter occupying by the applicant, either to Sri Ram Saran or to Sri Pappu Singh.

It is further categorically denied that the applicant is not entitled to Type-II quarter after revision of pay. A mere perusal of the rule of allotment it is crystal clear that the applicant is very much entitled to continue to Type-II quarter.

2. That your applicant categorically denies the statement made in para 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and further beg to state that the statements made in above paragraph/s are contrary to the ~~exist~~ law and those statements makes it abundantly clear that Sri R.K.Jaha, Director has no knowledge regarding the rule for entitlement of Government accommodation and therefore, although statements made above in a very aggressive and a violent manner and it shows that by any means Sri R.K.Jaha went to through the applicant in a Type-I quarter. It is categorically stated that Sri Pappu Kr.Singh in a fact asked by Sri Jaha for submission of application for allotment of Type-II quarter, after receipt of the Notice in the present O.A. therefore record is necessary for proper adjudication of the case.

It is categorically submitted that the applicant is entitled to Type-II quarter as per the allotment Rules as such the impugned orders are liable to be set aside and quashed.

3. In view of the above statement the application is deserves to be allowed with cost.

. . . . Verification

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VERIFICATION

I Smt. Nivedita Deb Roy, wife of Sri S.R. Deb Roy, presently working as Nursing Orderly in the office of the Director, North Eastern Police Academy, Umsaw, Barapani Meghalaya applicant in this rejoinder do hereby verify and declare that the statements made in para 1 - 3 are true to my knowledge and believe and I have not suppressed any material fact.

And I sign this verification on this 21st day of August, 2001, at Guwahati.

Nivedita Deb Roy.