

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

164

OF 199 2000

Applicant(s)

Sri Bala Prasad

Respondent(s)

Union of India & ors

Advocate for Applicant(s)

Dr. N. K. Singh,
Mr. R. K. Dev Choudhury

Advocate for Respondent(s)

C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is for but not in the Registration Petition ed / not filed. Rs. 50/- dep de IPO/BD 12487224 ated - 12-5-2000 M. H. 12/5/00 by Registrar mk 12/5/2000</p> <p>This case was orally mentioned in the court & permitted to move as undisturbed item.</p> <p>12-5-00</p>	12.5.2000	<p>Present : Hon'ble Mr. A.K. Misra, Judicial Member.</p> <p>Heard Dr. N.K. Singh, learned counsel for the applicant.</p> <p>Issue notice to the respondents by registered post. Returnable by 13.6.00.</p> <p>On that day, after hearing the learned counsel for the respondents, the prayer of the applicant regarding interim relief shall be considered.</p> <p>List on 13.6.00 for further orders.</p> <p>Member (J)</p>

16-5-2000

Service of notices prepared and sent to D. Section for issuing of the same to the Respondent through Regd. post with A/D vide Dato. 1396 to 1401

~~16-5-2000~~

12.6.00

lm

Present: Hon'ble Mr.D.C.Verma, Judicial Member. Choudhury

Mr.R.K. learned counsel for the applicant. Mr.A.Deb Roy, Sr.C.G.S.C. for respondent No.1. Mr.B.K.Sharma learned counsel for respondent No.2 to 5.

Learned counsel for the applicant prays for adjournment that his senior is not available to-day. List on 22.6.00 for Admission.

Member(Judl)

12-6-2000

Service report are still awaited.

14/6/00

Notice duly served on Sekt. No 1,2,3,4

Written statements filed on behalf of the R. No-1,3,4 & 5.

16.6.00

trd

3.7.00

Present: Hon'ble Sri D.C.Verma, Member(J)

Dr. N.K.Singh for the applicant and Mr. B.K.Sharma, for the respondents Nos. 2 to 5. None for the respondent Nos. 1 and 6.

Written statement has been filed on behalf of the respondent Nos. 2 to 5. Others have not filed any written statement. Learned counsel for the applicant prays for three weeks time to file rejoinder. Prayer allowed.

List on 3.7.2000 for further orders.

Member(J)

29-6-2000

Rejoinder has been filed by the applicant Advocate.

3/7/00

Notice duly served on Sekt. No 6

18.7.00

10.8.00

12.9.00

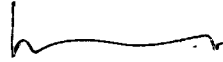
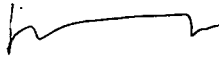

Mr.U.K.Nair, learned counsel prays on behalf of Mr.B.K.Sharma appears for respondents No.2,3,4 & 5, who is out of station and prays for adjournment. Prayer is allowed. List on 18.7.00 for Admission.

Member(A)

There is no Bench. Adjourn to 10.8.00.

There is no Bench. Adjourn to 11.9.00.

No Bench. To be listed on 22.9.00.

Notes of the Registry	Date	Order of the Tribunal
<p>The case is ready.</p> <p><u>23.11.2000</u></p> <p>Copy of the Judgment has been sent to the D/Sec. for issuing the same to the 2/advocates for the parties.</p> <p>HS</p>	22.9.2000	<p>Present: Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman</p> <p>Heard the learned counsel for the parties. The application is admitted. No notice need be issued to the respondents. List for hearing on 2.11.2000.</p> <p> Vice-Chairman</p>
	2.11.00	<p>Mr.R.K.Deb Choudhury, learned counsel prays for adjournment on behalf of Dr.N.K.Singh learned counsel for the applicant.Mr.Deb Choudhury has stated that Dr.Singh is not in a position to attend this Tribunal, accordingly, as he is indisposed. Case is adjourned to 9.11.2000.</p> <p> Vice-Chairman</p>
	9.11.00	<p>Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is rejected. No costs.</p> <p> Vice-Chairman</p>

nkm

lm

trd

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

✓ O.A./R.A. No. 164/2000. . of

DATE OF DECISION 9.11.2000

Shri Bala Prasad

PETITIONER(S)

Dr. N.K. Singh, Mr. R.Dev Choudhury

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. B.K.Sharma.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

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 Vice-Chairman.



X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 164 of 2000.

Date of decision : This the 9th day of November, 2000.

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

Shri Bala Prasad
Conservator of Forests
Functional Circle,
Mantripukhri, Forest Complex,
Imphal, Manipur
PIN-795002

...Applicant

By Advocate Dr. N.K.Singh, R. Dev Choudhury.

-versus-

1. Union of India
Represented by the Secretary,
Ministry of Environment & Forests,
Government of India, New Delhi.
2. The Director General
Indian Council of Forestry
Research and Education,
P.O. New Forest,
Dehradun-248 006.
3. The Secretary,
Indian Council of Forestry
Research and Education,
P.O. New Forest,
Dehradun-248006.
4. The Registrar
Forest Research Institute
(Indian Council of Forestry
Research and Education),
P.O. New Forest,
Dehradun-248006.
5. The Estate Officer
Forest Research Institute,
(Indian Council of Forestry
Research and Education),
P.O. New Forest,
Dehradun-248006.
6. The Principal Chief Conservator
of Forests, Government of
Manipur, Imphal,
Manipur.

..Respondents

By Advocate Mr. B.K.Sharma.

Contd..

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The question necessitating adjudication, appertains to the legality and validity of the communication dated 20.4.2000 and the notice dated 27.3.2000 rejecting the prayer for retention of the Bungalow at Dehradun after repatriation of the applicant.

2. The applicant is a member of All India Services, affiliated to the Manipur-Tripura Cadre of Indian Forest Service posted at Manipur and presently holding the post of Conservator of Forests, Functional Circle, Imphal. He was sent on deputation to the Indian Council of Forest Research Education (hereinafter referred to as ICFRE) where he was to discharge the duties as Assistant Director General (Planning), under the aforementioned Council. While, posted as such, the applicant was allotted Bungalow No.46, at Takle Road, Dehradun. In due course, he was repatriated to his parent department from ICFRE. The applicant made a request to allow him to continue/retain the aforementioned accommodation after reversion before the Estate Officer, Forest Research Institute, Dehradun for housing for his children who were studying in schools at Dehradun. In the said application the applicant referred to the Govt. of India's policy relating to the retention of such Bungalow/ Quarters. By a communication dated 15.7.99 the respondent No. 4 informed that the request of the applicant was put up before the House Allotment Committee on 9.7.99 and the said Committee rejected the request and directed him to intimate that he would be eligible to

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occupy Bungalow No.46 till 3.8.1999, on the failure to vacate the Bungalow on 3.8.1999 market licence fee amounting to Rs. 3306/- would be charged and eviction proceedings would be initiated under Public Premises (Eviction of unauthorised occupants Act) 1971.(hereinafter referred to as the 1971 Act). The applicant on receipt of the same requested for retention of the quarter for further two years on the ground of education of his children. The applicant in his representation dated 24.8.99 mentioned about the policy of the Central Government and accordingly prayed for the necessary sanction to hold the possession of the residence for further two years. The Respondent No. 5 in the meantime initiated proceeding under the 1971 Act and issued notice dated 22.3.2000 to the applicant. The applicant responded to the said notice and submitted his objection on 7.4.2000. The applicant also referred in the aforesaid objection about the representation made by him to the Director General, ICFRE, Dehradun and requested him to keep the proceeding ⁱⁿ abeyance till the decision was taken by the Director General, ICFRE. The respondent NO.3, Secretary, ICFRE by his letter dated 20.4.2000 informed the applicant that his representation dated 27.3.2000 was duly considered by the Director General, ICFRE but the same could not be acceded to. It was further indicated that the provision contained in Ministry of Finance, Govt. of India O.M. dated 22nd July 1998 are/were applicable only in case of general pool residential accommodation under the Control of the Directorate Estate, Ministry of Urban Development, New Delhi and these rules were not applicable to the limited residential accommodation with subordinate offices and

Contd..

autonomous organisations of the Ministry of Environment and Forests. It was also mentioned that amongst others seven IFS officers were expected to join FRI/CFRE Headquarters shortly on appointment on deputation in the Council and they are to be provided official residential accommodation. Failing to get appropriate remedy the applicant moved this Tribunal by way of the present application under Section 19 of the Administrative Tribunals Act, 1985 challenging the legality of the action is arbitrary, discriminatory.

3. The Respondents No. 2, 3 and 4 have submitted written statement disputing the contentions made in the O.A. The respondents in their written statement took specific stand that ICFRE was converted into an autonomous body in the year 1991. The written statement also indicated about the scarcity of accommodation available for allotment at their disposal. In the written statement the respondents also mentioned that retention of accommodation by All India Services Officers of North Eastern Region after their reversion to their parent cadre was applicable only to the general pool accommodation and those orders ^{were} ~~was~~ not be applicable in cases where officers are/were ^{by} posted to Public Sector undertaking or autonomous bodies. It was also pointed out in the reply about the shortage of residential accommodation for their own officers. The respondents also stated that there were other officers also who are working on deputation. In other words the respondents mentioned about the scarcity of accommodation. The respondents also stated in its written statement that final order was passed on 31.5.2000 by the Estate Officer under Sub Section (1) of Section 5 of the Public Premises

Contd..

(Eviction of unauthorised occupants) Acts) 1971 thereby ordering to vacate the premises and the same is not under challenge.

4. Dr. N.K.Singh, learned Sr. counsel appearing on behalf of the applicant submitted that the action of respondents is arbitrary and discriminatory in declining to accede to the request of the applicant for retention of the Bungalow till completion of education of his children, and which are going to be completed by the end of April 2001. Dr. Singh further submitted that the aforementioned policy squarely covered his case and accordingly there was no justification in not allowing the applicant to retain the Bungalow till completion of education of his children. Mr. R. Dev Choudhury, learned counsel supplementing the argument of Dr. N.K.Singh submitted that plea of scarcity of accommodation is only a device to defeat the claim of the applicant. He submitted that there were number of vacant Bungalows at the disposal of the respondents. Mr. B.K.Sharma, learned Sr. counsel appearing on behalf of the respondents on the other hand submitted that the plea of the applicant for retention of Bungalow after expiry of period of deputation under no circumstance can be sustained. Pointing to the Office 7.9.1998 Memorandum bearing No. 12035/31/96-Po.III dated 7.9.98 issued by the Government of India, Ministry of Urban Affairs & Employment (Directorate of Estates). Mr. Sharma submitted that those are related to general pool accommodation that too on posting to North Eastern States etc. Mr. Sharma submitted that the aforesaid notification strictly applicable to those persons who are posted to N.E. States. The applicant is an officer belonging to North Eastern

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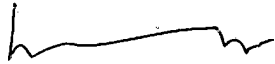
Cadre. In those circumstances the Notification is not applicable. Mr. Sharma next submitted the orders mentioned above is applicable only in case of officers who are posted to Central Govt. offices, offices of the Union Territories, and those orders will not be applicable in case where officers are posted to Public Sector Undertaking, Autonomous Bodies etc. Mr. Sharma particularly referred to the clause (v) of para 1 of the O.M. dated 7.9.1998. Mr. Sharma, the learned Sr. counsel further submitted that the competent officer viz. the Estate Officer passed the final order under the law and same remain unchallenged. Mr. Sharma, learned Sr. counsel lastly submitted that the respondents are itself in difficulty in providing accommodation to the needy persons who have been posted on deputation and number of such cases would surface after completion of their deputation. In the circumstances there is no scope to allow the applicant for retention of the Bungalow .

5. The Central Government guidelines relied upon by the applicant pertaining to retention of general pool accommodation by Civilian Central Government employees is relatable to the officer of All India Services posted to North Eastern States etc. is in the form of a guidance to handling and managing the affairs of accommodation. The said guidelines itself indicated that orders are applicable only in case of officers mentioned therein. The said guideline excluded the officers; those ^{hr} officers are posted to Public Sector Undertaking, and ^{hr} Autonomous Bodies, etc. Dr. Singh however, submitted that though clause (v) of paragraph 1 of the guidelines excluded the Public Sector Undertakings and Autonomous Bodies, the same guidelines were in fact adopted and

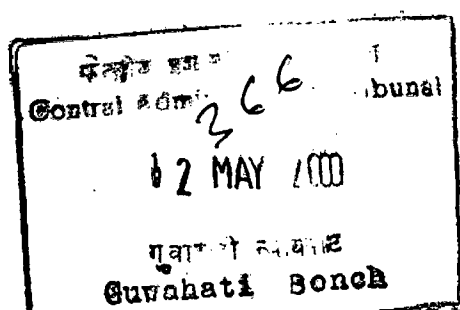
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adhered to by the Respondent authority. The aforesaid contention is difficult to accept on the face of the clear denial on the part of the respondents, in the written statement and also in view of the clause(v) of the Notification. That apart it is the respondents who are the authority to administer and make arrangement for providing accommodation to its officers. The guidelines relied by the applicant are only guidelines, it does not have the force of law. The applicant cannot claim for any right or entitlement on the strength of the guidelines.

6. In the circumstances I do not find any merit in this application. The application stands rejected. The interim order, if any, stands vacated.


(D.N.CHOWDHURY)
Vice-Chairman

trd



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GAUHATI BENCH: GUWAHATI.

(An application under section 19 of the
Central Administrative Tribunal Act, 1985.)

ORIGINAL APPLICATION NO. 164 OF 2000.

Shri Bala Prasad

▪ Applicant

-Versus-

Union of India and Others

- Respondents

I N D E X

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3]	Representation dated 03-06-99	A/1	16-17
4]	Letter dtd. 15-07-99	A/2	18
5]	Reply dtd. 24-08-99	A/3	19-20
6]	Notice dated 27-03-2000	A/4	21-22
7]	Reply dated 07-04-2000	A/5	23-24
8]	Letter dated 20-04-2000	A/6	25
9]	O.M. dated 07-09-98	A/7	26-29
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filed by

Ranjit Kumar Dev Choudhury

(R. K. Dev Choudhury)

Advocate,

Dated: 12/05/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GAUHATI BENCH: GUWAHATI.

ORIGINAL APPLICATION NO. 164 OF 2000.

BETWEEN

Shri Bala Prasad
Conservator of Forests
Functional Circle,
Mantripukhri, Forest Complex,
Imphal, Manipur.
PIN-795002.

- Applicant

-Versus-

- 1] Union of India
Represented by the Secretary,
Ministry of Environment & Forests
Government of India, New Delhi.
- 2] The Director General
Indian Council of Forestry
Research and Education,
P.O.-New Forest,
Dehradun-248-006.
- 3] The Secretary,
Indian Council of Forestry
Research and Education,
P.O. - New Forest,
Dehradun-248006.

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Filed by the applicant through
Ranjit Kumar Dev Choudhury
Advocate.
12/5/2000

- 4] The Registrar,
Forest Research Institute,
(Indian Council of Forestry
Research and Education),
P.O. New Forest,
Dehradun - 248006.
- 5] The ~~Estate Officer~~
Forest Research Institute,
(Indian Council of Forestry
Research and Education),
P.O.- New Forest,
Dehradun-248006.
- 6] The Principal Chief Conservator
of Forests, Government of Manipur
Imphal, Manipur.
- Respondents.

DETAILS OF APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST
WHICH THIS APPLICATION IS MADE:

This application is made against (i) Order No.57-2/94-ICFRE Indian Council of Forestry Research and Education, New Forest, Dehradun, dated 20-04-2000 issued by the Secretary, Indian Council of Forestry Research and Education; (ii) Order No.4-25/99-Bldg/BP, Forest Research Institute, Indian council of Forestry Research and Education, P.O. New Forest, Dehradun dated 27-03-2000 issued by the Estate Officer, Forest Research Institute

Bala Prasad

(Indian Council of Forestry Research and Education).

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the case, which he wants to redress, is within the jurisdiction of the Tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation prescribed in Section-21 of the Administrative Tribunal's Act, 1985.

4. FACTS OF THE CASE:

4.1 That the applicant is presently Conservator of Forests, Functional Circle, Mantripukhri, Imphal, Manipur. He was working as Assistant Director General (Planning), Forest Research Institute, Indian Council of Forestry Research and Education, Dehradun, on deputation. He was repatriated to his parent cadre after completion of his tenure in ~~the~~ the I.C.F.R. Estate, Dehradun on 03-06-1999. While he was in ~~the~~ I.C.F.R.E. ~~the~~ I.C.F.R.E., Dehradun he was allotted Bungalow No. 46, Takle Road, New Forest, Dehradun.

4.2 That on 03-06-99 the applicant made a representation to the Estate Officer, Forest

Bala Prasad

(ICFRE)

Research Institute, Dehradun (Respondent No.5 herein) stating that he would like to retain the allotted bungalow No. 46, Takle Road, New Forest, Dehradun for a period of two years as his children were studying in Brightlands School, Dehradun and that as per the relevant rules he was entitled to retain the same bungalow for two years.

*Rule
in his
rule*

Annexure A/1 is a copy of the above representation dated 03-06-1999.

4.3] That on 15-07-99, the Registrar, Forest Research Institute, Dehradun informed the applicant that the House Allotment Committee had rejected his prayer for retaining the allotted quarter/bungalow for further period of two years. He was further informed that he was eligible to occupy bungalow No. 46, Takle Road, New Forest, Dehradun till 03-08-99 and if he failed to vacate on 03-08-1999, market license fee amounting to Rs. 3,306/- (Rupees Three Thousand Three Hundred Six) only would be charged from him and eviction proceedings would be initiated under Public Premises (Eviction of unauthorized occupants) Act, 1971.

Annexure-A/2 is a copy of the above letter dated 15-07-99.

4.4 That on 24-08-99 the applicant submitted his reply stating, inter alia, that he was entitled to retain the allotted

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bungalow/quarter for a period of two years as an All India Service Officer Posted to the North Eastern States, while repatriating to his parent cadre, under the relevant Office Memorandums of the Government of India followed by the ~~Indian Council of Forestry Research and Education~~ Indian Council of Forestry Research and Education.

Annexure-A/3 is a copy of the applicant's reply dated 24-08-99.

4.5 That the applicant reiterated in his representations dated 13-12-99, 15-01-2000 and 17-03-2000 his claim to retain the bungalow for a period of two years on his repatriation to his parent cadre on the principle that All India Service Officers posted to North Eastern States could retain their accommodation at their last station of posting.

4.6 That the Estate Officer, Forest Research Institute (ICFRE), Dehradun issued notice dated 27-03-2000 under Sub-Section (1) and clause (B)(II) of sub-section (2) of Section 4 of the Public Premises (Eviction of unauthorized occupants) Act, 1971 stating that the applicant was in unauthorized occupation of the public premises, namely, bungalow No. 46, Takle Road, New Forest, Dehradun and that he would be evicted from the same premises. The grounds stated in the notice were that the provision of retention of residential accommodation by the All India Officers of the N.E. Cadres was valid only in case of residential

Bala Prasad

accommodation under the control of the Ministry of Urban Development, the rules, ipso facto, did not apply to the limited pool of residential accommodation for officers of Forest Research Institute. The applicant was asked to show cause on or before 10-04-2000 as to why an order of eviction would not be made against him.

Annexure-A/4 is a copy of the above notice dated 27-03-2000.

4.7 That on 07-04-2000 the applicant submitted his reply to the above show-cause notice dated 27-03-2000. The applicant stated that retention of his accommodation was under the consideration of the Director General (ICFRE) and till its final decision he could not be treated as an unauthorized occupant.

Annexure-A/5 is a copy of the applicant's reply dated 07-04-2000.

4.8] That thereafter the applicant received the letter dated 20-04-2000 issued by the Secretary, ICFRE, wherein it was stated that his request for retention of bungalow No. 46 was considered by the Director General, ICFRE but could not be acceded to. The provisions contained in Ministry of Finance, Government of India O.M. dated 22-07-98 were applicable only in case of general pool residential accommodation under the control of Director of Estates, Ministry of Urban Development, New Delhi. These rules do not apply to the limited residential accommodation

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with subordinate Offices and autonomous organizations of the Ministry of Environment and Forests.

Annexure-A/6. is a copy of the above letter dated 20-04-2000.

4.9 That the Government of India, Ministry of Urban Affairs and Employment issued an Office Memorandum dated 07-09-98 containing guidelines for retention/allotment of alternative accommodation in the Central Government employees and Officers of All India Services posted to the States of Assam, Meghalaya, Nagaland, Mizoram, Tripura, Manipur, Arunachal Pradesh, Sikkim and Union Territories of Andaman & Nicobar Islands and Lakshadweep. Clause 1(i) of the same order States that the Officers who are posted to the aforesaid States/UTs and who desire to keep their families at the last place of their posting would be eligible to retain entitled accommodation on payment of normal license fee. Clause 1(v) further States that these orders are applicable only in case the Officers are posted to Central Govt. Offices, Offices of the Union Territories and these orders will not be applicable in cases where officers are posted to Public Sector undertakings/Autonomous Bodies etc.

Annexure-A/7 is a copy of the above Office Memorandum dated 07-09-98.

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4.10 That further the Govt. of India, Ministry of Finance, Dept. of Expenditure issued the Office Memorandum dated 22-07-98 extending allowances and Special Facilities for Civilian employees of Central Govt. serving in the North Eastern States and in the Andaman & Nicobar and in the Lakshadeep groups of islands with a view to extending and retaining competent Officers for service in the same region. Clause 2(ix) contains provisions for retention of Govt. accommodation at the last station of posting. The Central Govt. employees posted to the North Eastern Region, Andaman and Nicobar and Lakshadweep islands were entitled to retain Govt. accommodation at the last station of posting at the normal rates for a period of three years.

Annexure-A/8 is a copy of the above Office Memorandum dated 22-07-98.

4.11 That the applicant submits that the Office Memorandum dated 22-07-98 and 07-09-98 are applicable to his case and as such he is entitled to retain bungalow No. 46, Takle Road, New Forest, Dehradun for a period of three years on his repatriation to the parent cadre, i.e., Conservator of Forests, Manipur.

4.12 That the applicant submits that the Forest Research Institute (ICFRE) follows the rules, regulations and orders of the Union of India on matters applicable to it.

Bala Prasad

4.13 That the applicant submits that the ICFRE has not framed any rule regarding allotment and retention of accommodation of its employees. The institute has been following the principles and the guidelines of the Union of India and as such the Office Memorandums dated 22-07-98 and 07-09-98 may not ipso facto be applicable but the same are applied and/or followed.

4.14 That the applicant submits that there were instances the respondents allowing the employees of the ICFRE to retain their accommodation while on being deputation or on being repatriated to the parent cadre.

4.15 That the applicant submits that clause 1(v) of the Office Memorandum dated 07-09-1998 which states that 'these orders will not be applicable in cases where officers are posted to public sector undertakings/ Autonomous Bodies etc.' has no relevance to the petitioner's case in as much as the ICFRE is not a public sector undertaking or an Autonomous Body. It is an institution run by the Union of India. It follows the rules and orders of the Union of India as applicable to it.

4.16 That the applicant submits that the office Memorandum dated 22-07-98 and 07-09-98 are intended to offer special benefits to the Central Govt. employees and Officers of All

Bala Prasad

India Services postal to the North Eastern states, Sikkim, Andaman and Nicobar Islands and Lakshadeps. These orders are in the nature of benevolent legislation. They are to be applied to the widest amplitude to the persons applicable to them.

4.17 That the applicant states that the Office Memorandum dated 22-07-98 is followed by the Indian Council of Forestry Research and Education (ICFRE) for payment of salaries of officer, scientists and staff posted in Institute of Rain and Moist Deciduous Forests Research, Jorhat, Assam. Hence the applicant submits that the office Memorandum dated 22-07-98 is equally applicable to him as the provisions contained therein are to be uniformly applied to all those officers and staff who are similarly situated and there could be no discrimination with regard to the application of its provisions.

4.18 That the grounds stated in the order dated 20-04-2000 rejecting the petitioner's request for retention of bungalow No. 46, Takle Road, New Forest, Dehradun is not legally tenable and as such he is entitled to retain the same accommodation in view of the aforesaid office memorandums.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the applicant is entitled to retain the bungalow No. 46, Takle Road, New Forest, Dehradun as per the

Bala Prasad

Office Memorandum dated 22-07-98 and 07-09-98.

5.2 For that the respondents failed to comprehend the scope and ambit of the provisions contained in the aforesaid office memorandum dated 22-07-98 and 07-09-98.

5.3 For that the applicant has been discriminated in this regard and as such the impugned actions of the respondents violates Article 14 of the Constitution of India and also the statutory rights.

5.4 For that the applicant intends/expresses retain the accommodation for a period of only two years for the purpose of his children's education. The principle of justice, equity and good conscience applies to the present case. A great injustice and prejudice shall be caused to the children if the applicant is not allowed to retain the accommodation for the period of two years.

5.5 For that the provisions contained in the aforesaid office Memorandums dated 22-07-98 and 07-09-98 are to be construed with the widest amplitude.

5.6 For that the respondents acted arbitrarily and mala fide and as such the impugned actions of the respon-

Bala Basad

dents are colourable exercise of power.

5.7 For that the respondents action amounts to depriving the applicant the statutory benefits without the authority of law and in colourable exercise of power.

5.8 For that at any rate the applicant is entitled to the relief prayed in the application under the provisions of the constitution as well as statutory law.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant states that there is no other statutory and/or alternative remedy which he is supposed to have exhausted before approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE NAY COURT OR TRIBUNAL:

The applicant declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal.

Bala Prasad

8. RELIEFS SOUGHT FOR:

- 8.1 To declare that the applicant is entitled to retain bungalow No. 46, Takle Road, New Forest, Dehradun for a period of two years on his repatriation to the parent cadre, i.e., conservator of Forests, Manipur Imphal.

9. INTERIM ORDER IF ANY PRAYED FOR:

To direct the respondents not to evict the applicant/ his wife and children from bungalow No. 46, Takle Road, New Forest, Dehradun as the children are prosecuting their studies staying in the same bungalow.

10. PARTICULARS OF POSTAL ORDER IN RESPECT OF THE APPLICATION FEE:

- i] No. of I.P.O. : 497224
- ii] Name of the issuing Post Office : GPO, Guwahati
- iii] Date of issue of Postal order : 12/05/2000
- iv] Post Office at which payable : Guwahati

11. LIST OF ENCLOSURES:
AS PER INDEX

Bala Prasad

V E R I F I C A T I O N .

28

I, Shri Bala Prasad, son of ^{Shrivastava} Munari Prasad A
Aged about 41 years presently working as
conservator of Forests, Functional Circle,
Mantripukhri Forest Complex, Imphal, Manipur-
795002 do hereby verify that the statements
made in paragraph Nos. 4.4, 4.5 and 9. are
true to my knowledge and those made in
paragraph Nos. 4.1, 4.2, 4.3, 4.6, 4.7 and 4.8 are matters of
records derived therefrom which I believe to
be true and the rest are my humble submissions
before this Hon'ble Tribunal. I have not
suppressed any material facts of the case.

Place: Guwahati

Date: 11-05-2000

Bala Prasad

Signature.

No. 35-29/98/ICFRE/DDG@
Indian Council of Forestry Research & Education
P.O. New Forest, Dehradun-248 006

Dated : June 3rd, 1999

To,

The Estate Officer,
Forest Research Institute,
Dehra Dun

Sir,

On completion of my deputation at ICFRE, I am getting relieved on the June, 3rd '99, with the instruction to report to PCCF, Manipur for duty. My children are studying in Brightlands School, Dehradun and we will like that they continue to study in the school. In this context, I have to inform you that I will like to retain my allotted quarter Bungalow No. 46, Takle Road for two years. I have to inform you that Government of India has allowed retention of quarters by officer belonging to All India Services who are repatriating to their parent cadres in North Eastern States as provided in Para 2(ix) office memo. of Ministry of Finance, Govt. of India No.112 (297-F 11(11) dated 22 July 1998 (copy enclosed for ready reference). The quarter, to be retained is one type below my entitlement. This facility has been availed by officers of sister services in places even outside Delhi. Further, even sister organisations e.g. W.I.I. and F.S.I. have also allowed IFS officers to retain quarters. Vth Pay Commission had also recommended for the same.

I have to submit that in case, if there is no specific rule of ICFRE, the rule of G.O.I. is followed in ICFRE. As far as it is known to undersigned, ICFRE has no specific rule in this case. When the undersigned had joined ICFRE, it was presumed that the facility provided by GOI would be extended to the undersigned. Neither at the time of joining nor later on, it was communicated that ICFRE would not follow G.O.I. rule in this context. In fact as far as known to us, ICFRE follows the same rule of GOI in allotment of quarters, which was in vogue at the time constitution of the council as autonomous organisation.


The provision of Para 1(v) of the office memo No.12035/31—96Pt. II dated the 7th Sept. 1998 (copy enclosed for ready reference). Ministry of Urban Affairs and Employment, Directorate of Estate, Government of India that "these orders will not be applicable to Public Sector Undertaking / Autonomous Bodies, etc." may not be interpreted as that GOI does not like that such provision may not be adopted by such organisation. Probably the said memo contains this clause only because the autonomy of such organisation may be duly respected. However, it is supposed that such organisation should follow such rules and regulation of GOI in case of officers on deputation, as it is followed in case of deputation. ICFRE follows all such rules e.g. TA, terminal leave, emoluments, etc. as prescribed by GOI from time to time. Further, it may also be seen that ICFRE is an autonomous organisation under MoEF. It is neither Public Sector

Attested
By
Advocate

Undertaking e.g. BHEL, ONGC Lab nor autonomous bodies e.g. Municipal Corporation etc. Further, it appears that ICFRE should also not have any difficulty as many new type V quarters are on the verge of completion. Therefore, I have to request you to consider my case sympathetically and follow the said office memo of Ministry of Finance and allow me to retain Bungalow No. 46, Takle Road on normal license fee as prescribed in the Office memo.

Thanking you,

Yours faithfully,


(Bala Prasad)
ADG (Planning)
ICFRE

Encl.: As above.

*Attested
Advocate*



कुल सचिव
Registrar

वन अनुसंधान संस्थान
(भारतीय वानिकी अनुसंधान एवं शिक्षा परिषद)

डाकघर : न्यू फॉरेस्ट, देहरादून 248006

FOREST RESEARCH INSTITUTE
(INDIAN COUNCIL OF FORESTRY RESEARCH & EDUCATION)
P. O. NEW FOREST, DEHRADUN-248 006

सि

No. 4-25/99-Bldg/B.Prasad

दिनांक

Dated, the 15th July '99

To

Shri Bala Prasad,
Ex A.D.G., ICFRE,
Bungalow No.46,
Takle Road, New Forest Estate.

Sub : Occupation of Bungalow No.46 Takle Road - regarding.

Ref : No.35-29/98-ICFRE DDG(R) dated 3.6.99.

Sir,

I wish to invite your kind attention to the above reference wherein you had wished to retain the allotted quarter for two years. Your request was put up before the House Allotment Committee on 9.7.99. The Committee rejected the request and I have been directed to intimate that you are eligible to occupy Bungalow No.46 Takle Road till 3.8.99. In case you do not vacate on 3.8.99, market licence fee amounting to Rs 3306/- would be charged to you and eviction proceedings shall be initiated under Public Premises (Eviction of Unauthorised Occupants Act) 1971. I am endorsing a copy of this letter to your Surety to pay market licence fee after 3.8.99 in case you fail to vacate the said quarter on that day.

Yours faithfully,

(SUDHANSHU GUPTA)

Registrar,

Forest Research Institute.

c.c. 1. Shri P.C. Tayagi, surety of Shri Bala Prasad.

2. Secretary, ICFRE.

Attested
Advocate

5/61/99/Forests (CF)
GOVERNMENT OF MANIPUR
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
IMPHAL MANIPUR

Imphal the 24th August 1999

To,

The Registrar,
Forest Research Institute,
Dehradun.

Subject: Retention of Bunglow N. 46 Takle Road, FRI Campus

Sir,

Kindly refer to your office letter n. 4 - 25 / 99. Buldg. /B.Prasad dated the 15th July 1999 regarding the subject cited above. I had requested through my pervious letter n. 35-29 /98- ICFRE DDG @ dated 3-6-99 that I may be allowed to retain the quarter allotted to me for two years for my children education. I had also pointed out that any AIS officer, allotted to North Eastern States, might do so while repatriating to their parent cadre. As mentioned in your above referenced letter my application has been rejected by House Allotment Committee. In this context, in continuation of my above mentioned letter in this regard, I have to submit to you as follows:

1. Since ICFRE follows instruction, direction, order, rule, etc. of Govt. of India in cases in which, it does not have its own rules and regulation and to the best of my knowledge ICFRE does not have rule for IFS officers repatriating to North Eastern States. It is submitted that ICFRE should allow retention of quarter as provided in para 2 (ix) of office memo. of Ministry of Finance, Govt. of India N. 11(2) 297- F 11 (11) dated 22nd July, 1998. It is to be noted that ICFRE is following this memo for payment of salaries for officers, scientist and staff posted in Institute of Rain and Moist Deciduous Forests Research, Jorhat. Further, it was not clarified by ICFRE or by you before my joining to ICFRE or during my deputation to ICFRE that facilities extended by Govt. of India from time to time shall not be provided by ICFRE.
2. As mentioned above it has been learnt that the House Allotment Committee rejected my request. My earlier application was addressed to the Estate officer, FRI. I am not aware of terms of reference of House Allotment Committee. I will like to get a copy of the order delegating such power to the committee. However, as far as I presume that such committees are usually are recommending committees and finally a decision has to be taken by competent authorities which in this case are you, Director FRI or Director General, ICFRE. Hence I feel that rejection of my application by the committee may not stand scrutiny from the point of view of office procedure.

Attested
Advocate

3. Your said letter does not elaborate reasons behind rejection of my request. Knowing the reasons, behind the rejection, will help me to put up the facts, figures and logic to convince you. Therefore, I have to request you to inform me on what basis my application was rejected.
4. I guess that my application may have been turned down on the pretext of para 1(v) of the office memo n.12035 /31-96 Pt. II dated the 7th Sept. 1998 of Directorate of Estate, Ministry of Urban Affairs and Employment, Govt. of India, which states that the order for retention of quarter will not be applicable in cases where officers are posted to Public Sector Undertaking, Autonomous Bodies, etc. The contention of the order should not be interpreted that Govt. of India would not like the extension of such facilities to those officers. By providing the exceptional clause, Govt. of India has probably just respected the autonomy of such organisations. Besides, ICFRE is neither a Public Sector Undertaking as it has not been registered under Indian Company Act nor an autonomous body like Union Public Service Commission, Election Commission, Municipal Corporation, etc. which have been provided autonomy under constitution.
5. Many IFS officers, allotted to North Eastern States had retained their quarters in FRI and other ICFRE institutes when they were repatriated in past. Few are still retaining. Besides, many IFS officers, not even allotted to North Eastern States, had retained their quarter much more than two months, allowed in such case.
6. It is also to be noted that AIS officers, allotted to North Eastern States retain their quarter in autonomous organisation like ICFRE, when they are repatriated.
7. I will like to draw your attention to SR-317-B-11(2) according to which, accommodation may be retained on medical / educational ground for eight months with payment of first two months at normal license fees, another two months on double license fees, next two months on four times license fees and last two months on six times license fees. Therefore, the decision of charging market rate just after two months may be unduly harsh as I had requested the retention of the quarter on educational ground.

In view of above facts, I have to request you once again, to allow me to retain Bungalow N.46 for two years. In case my request is not acceded to, I would like to approach Director, FRI and Director General, ICFRE for seeking justice as I had joined ICFRE on usual terms and conditions of deputation and retention of the quarter was part of such terms and conditions.

Thanking you,

Yours faithfully,

Copy : The Principal Chief Conservator of Forests, Govt. of Manipur

(Bala Prasad)

Attested
Advocate

Dated the 27th March, 2000**NOTICE UNDER SUB-SECTION (1) AND CLAUSE (B)(II) OF SUB-SECTION (2) OF SECTION 4
OF THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

To

Shri Bala Prasad,
Bungalow No. 46,
Takle Road, Dehra Dun

PRESENTLY

Conservator of Forests,
Functional Circle,
Mantripukhuri, Forest Complex,
Imphal, Manipur-795 002

Whereas I, the undersigned, am of the opinion on the Grounds specified below that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from the said premises.

GROUND

Shri Bala Prasad was repatriated to his parent cadre after completion of his tenure in Forest Research Institute, Dehra Dun on 31/05/99. He was permitted to retain the Bungalow No. 46, Takle Road upto 31/10/99 by the Estate Officer, FRI. Shri Bala Prasad un-authorisedly continues to retain the above bungalow after 31/10/99 on the grounds, which are not covered under the rules. He submitted a letter dated 06/09/99 and requested for retention of Govt. accommodation on the grounds that All India Officers posted to N.E. Region can retain Govt. accommodation at their last station of posting for bonafide use of their family members. But the above contention has already been clarified vide Government of India reference No. 3-1/96-RT dated 12/03/96 in case of Shri S.R. Mehta, PCCF, Government of Mizoram. The copy of the reference has already been sent to Shri Bala Prasad vide this office letter of even number dated 10/03/2000. The provision of retention of the residential accommodation by the All India Officers of N.E. cadres is valid only in case of residential accommodation under the control of the Ministry of Urban Development New Delhi. The rules, ipso-facto, do not apply to the limited pool of residential accommodation available for officers of FRI. Hence claim for retention of Govt. accommodation allotted to Shri Bala Prasad from FRI pool is not valid.

Whereas, after considering continuous occupation of premise of FRI by Shri Bala Prasad, I have come to the conclusion that Shri Bala Prasad is in unauthorised occupation of Bungalow No. 46, Takle Road, New Forest.

Attested
Advocate

Now, therefore, in exercise of the powers conferred on me under sub-Section (1) of Section 4 of the public premises (Eviction of Unauthorized occupants) Act, 1971. I hereby upon you to show cause on or before 10/04/2000 why an order of eviction should not be made against you.

And in pursuance of clause (b) (ii) of sub-Section (2) of section 4, I also call upon you to explain before me or otherwise through a duly authorized representative along with the evidence which you intend to produce in support of your claim. In case, you fail to appear in person or through a duly authorized representative on the said date and time, the case will be decided ex parte.

SCHEDULE

Bungalow No. 46, Takle Road, New Forest, Dehra Dun, alongwith out houses bounded and built as under:-

East FRI land
West Trevor Road Houses (Bungalow No. 33)
North Bungalow No. 45
South Bungalow No. 47

Dated the 22nd March, 2000

Attested
Advocate

24/3/2000
Signature and Seal of
Estate Officer.

No.1/2/99/Forests-FC
GOVERNMENT OF MANIPUR
OFFICE OF THE CONSERVATOR OF FORESTS: FUNCTIONAL CIRCLE
IMPHAL MANIPUR

Imphal the 7th April, 2000

To,

The Estate Officer,
Forest Research Institute, Dehradun.

Subject: Retention of Bunglow N. 46 Takle Road, FRI Campus, Dehradun

Sir,

Please refer to your notice under sub-section (1) and clause (B)(II) of sub-section (2) of section 4 of public premises (Eviction of Unauthorised Occupation) Act, 1971 vide your letter n. 4 - 25 / 99. Buldg. /BP dated the 27th March 2000, regarding subject cited above. I have to submit to you as follows:

1. You are aware that I have submitted my representation to the Director General, Indian Council of Forestry Research (ICFRE), Dehradun vide the letter of this office of No.5/61/99 Forests (CF) dated the 27th March, 2000. The copy of the said letter was duly endorsed to you. Since the matter is under consideration of the Director General, it is submitted that let the matter be decided by him and only after that you may decide your own course of action.
2. The contention of unauthorized occupation is unsustainable as the house was allotted to me by competent authority and I have been duly paying house license fee. Even till date I have paid the fee upto March 2000. I have requested Director General, ICFRE to allow me to retain the house. Until my request is turned down by him, the contention is unsustainable.
3. Drawing parallel to my case and that of Shri S.R.Mehta shall not stand scrutiny as Mr. Mehta was not on deputation to ICFRE whereas retention of the house is part of terms & condition of my deputation to ICFRE. Further, the stand of the government of India in such cases has changed after acceptance of the recommendation of Fifth Pay Commission though your previous letter No.4-25/99-Bldg/BP that you have enclosed the letter No.3-1/96-RT dated 12-3-96 of Ministry of Environment and Forests, Government of India, but the letter was not enclosed. You were apprised of the issue vide letter of this office of even No. dated the 28th March, 2000.
4. You had called me or my representative on the 10th April, 2000. As your notice dated 27th March was received in my office on the 6th April 2000, I am not in position to come because I will not be able to take permission from the Govt. of Manipur within stipulated time. Besides, again you have not clarified whether it

Attested
Advocate

would be possible for your office to pay my TA/DA by entitled class. This matter was also pointed out at the time on your last notice. In this context it is again requested that if you have to fix a date, can be fix up the date of my personal presence in the month of May and I may be informed at least 20 days in advance so that due permission from Govt. of Manipur may be obtained. Kindly also clarify regarding payment of TA/DA.

5. In your said notice the date of my repatriation was wrongly mentioned. For future correspondence, kindly note that the date of my repatriation was 3/6/99.

Therefore, I have to request to wait till a final decision is taken by Director General, ICFRE. If a date is to be fixed for my personal presence, please fix up around middle of May and I may be informed immediately on fax No.0385-224307 so that I may take permission from Govt. of Manipur in time.

Thanking you,

Yours faithfully,

(Bala Prasad)

Conservator of Forests, Functional Circle
Government of Manipur.

Imphal the 7th April, 2000.

Memo No.1/2/99/Forests-FC

- Copy to :- 1. The Director General, ICFRE, Dehradun
2. The Director, FRI, Dehradun - with a request to advise the Estate Office to desist from taking any action till a final decision in this regard is taken by Director General, ICFRE.

(Bala Prasad)

Conservator of Forests, Functional Circle
Government of Manipur.

Attested
Advocate

Speed Post

No.57-2/94 -ICFRE
Indian Council of Forestry Research & Education,
PO New Forest, Dehra Dun - 248006.

Dated 20th April, 2000

To

Shri Bala Prasad, IFS,
Conservator of Forests,
Functional Circle,
Imphal, Manipur.

Sub: Retention of Bungalow No.46, Tinkle Road, FRI Campus, Dehra Dun.

Sir,

With reference to your letter dated 27.03.2000 on the subject cited above, I am to inform that your request for retention of Bungalow No.46 of the FRI/ICFRE for two years beyond your date of repatriation and relieving from ICFRE has been considered by the Director General, ICFRE but could not be acceded to. The provisions contained in Ministry of Finance, Govt. of India O.M. dated 22nd July, 1998 are applicable only in the case of general pool residential accommodation under the Control of the Directorate of Estate, Ministry of Urban Development, New Delhi. These rules do not apply to the limited residential accommodation with subordinate offices and autonomous organization of the Ministry of Environment and Forests. Secondly, amongst others seven IFS officers are expected to join FRI/ICFRE Hqs. shortly on their appointment on deputation in this Council and they are to be provided official residential accommodation.

Yours faithfully,

A.K. Pandey
17.04.2000
(A.K. Pandey)
Secretary,
Indian Council of Forestry Research & Education etc.

Copy forwarded to the Director, FRI for information and necessary action.

Attested
[Signature]
Advocate

W. B. Dev

General pool
Residential accommodation
under Control & Directorate
of Estate, Ministry of
Urban Development

12035/31/96-Pol.II

Government of India

Ministry of Urban Affairs & Employment

Directorate of Estates

New Delhi, Directorate 27th September 1998.OFFICE MEMORANDUM

Subject: Retention of General Pool Accommodation by Civilian Central Government Employees and Officers of All India Services posted to North Eastern States, Sikkim, Andaman & Nicobar Islands and Lakshadweep.

Guidelines for retention/allotment of alternate accommodation to the Central Govt. Employees and officers of All India Services posted to the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh, Mizoram, Sikkim, Andaman & Nicobar Islands and Lakshadweep were reviewed by the Cabinet Committee on Accommodation in its meeting held on 16.7.98 and based on the decision taken, following orders are issued:-

1. Civilian Central Government employees serving in the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh, Mizoram, Sikkim and Union Territories of Andaman & Nicobar Islands and Lakshadweep.

- Last place & P
- (i) The officers, who are posted to the aforesaid States/UTs and who desire to keep their families at the last place of their posting, will be eligible to retain entitled type of accommodation, on payment of Govt. etc. normal licence fee.
 - (ii) It is the responsibility of the officer concerned to intimate to the Directorate in advance the need for reimbursement of charge immediately prior to the posting to the North-East Region and the date of joining at the new station.
 - (iii) The request for retention of accommodation should reach the Dte. Of Estates within one month of relinquishing of the charge at the last station of posting.
 - (iv) The concession of retention of the Govt. accommodation would also be admissible if the Govt. servant is transferred from one State to another in the NE-Region.
 - (v) The orders are applicable only in case the officers are posted to Central Govt. officers, officers of the Union Territories and these orders will not be applicable in cases where officers are posted to "Public Sector Undertakings/Autonomous Bodies etc."
 - (vi) Retention of Govt. accommodation shall also be admissible to those officers who own houses at the last place of their posting.

Attested
Advocate


2. All India Services Officers.

The above provisions of retention of Govt. accommodation are also applicable to officers of All India Services (IAS, IPS & IFS), as per details given below:-

- (i) Officers of All India Service Cadres belonging to Assam, Meghalaya, Manipur, Tripura, Mizoram, Arunachal Pradesh, Sikkim and Jharkhand, who revert to the cadres at the end of their normal tenure with the Central Govt. or while working in any State outside the NE Region, are posted to the said States may be allowed retention of entitled type of accommodation on payment of the rate of normal licence fee, for a period of three years in each case, including the concessional period of retention admissible under rules at present. Such AIS officers of these States, who are reverted prematurely in public interest, may also be allowed retention of entitled type of accommodation of bonafied family use for the balance period of their tenure or three years whichever is longer.
- (ii) The officers of AIS belonging to the AGMU Cadre or to State cadres other than the States of the North Eastern Region excluding Sikkim, on their deputation to any of the North Eastern States, Sikkim or to the U.Ts. of Andaman & Nicobar Islands and Lakshadweep shall be allowed retention of accommodation at par with Central Govt. employees under para 1 above.
- (iii) The facility of retention of accommodation under sub paras (i) and (ii) above will be available to the officer of All India Services posted to North Eastern States, Sikkim and U.Ts. of A&N Islands and Lakshadweep from Delhi only till such time as the proposed multi-storied hostel accommodation for the families of All India Service officers serving in the aforesaid States/U.Ts. is completed. Thereafter, these officers will not be eligible for retention of accommodation from general pool/tenure pool on transfer/re-posting to these States/U.Ts.

3. All India Service officers, who have since been reverted to their respective cadres in the North Eastern States/U.Ts. of A&N Islands & Lakshadweep/Sikkim prior to issue of these orders, but in whose cases three years period of retention is not yet over, will also be eligible to retain the Govt. accommodation for a maximum period of three years from the date of such reversion. Normal rate of licence fee, shall be chargeable w.e.f. 16.7.1999.

4. Officers, who have been posted to NE Region, and are presently retaining the same accommodation or accommodation one type below then their entitlement on

Attested

 Advocate

of one and half times of the normal licence fee, will be
ted to retain the accommodation on payment of normal licence
ence fee w.e.f. 16.7.99.

Officers, who have since been posted to NEH prior to
7.98 and have not yet been provided one type below accommo-
ation as per extant instructions and are still retaining
the house within the permissible period of retention will
also be eligible to retain the entitled type of accommodation
on payment of normal licence fee w.e.f. 16.7.1998.

6. These orders supersede all the previous orders
issued by this Directorate in this regard.

7. The extant orders on the subject are valid upto 30.6.99.

Sd/-
(H.D.Sahay)
Deputy Director of Estates

- To
- 1) All Ministries/Departments of the Govt. of India.
 - 2) All attached and subordinate offices of the
Ministry of Urban Affairs & Employment.
 - 3) All officers and Sections in the Dte. of Estates.
 - 4) All regional offices of Dte. of Estates.
- Copy to:-
- 1) Ministry of Finance, Deptt. of Expenditure (E. II D. Sec.)
 - 2) Ministry of Personnel & Training North Block, N. Delhi.
 - 3) Ministry of Home Affairs, North Block, New Delhi.
 - 4) Deptt. of J&K Affairs, North Block, New Delhi.
 - 5) Ministry of Environment & Forests, Paryavaran Bhavan.
 - 6) Shri P. Gopal Krishnan, Dy. Secretary, Cabinet Sectt., N.D.
 - 7) PS to UAE/HOS UAE.
 - 8) PS to Secretary/Spl. Secretary/All Joint Secretaries.
 - 9) Guard file/Policy-IV.

Sd/-
(Mahendra Singh)
Asstt. Director of Estates

Attested
[Signature]
Advocate

संख्या: 11/11/90

भारत सरकार
शहरी कार्य और रोजगार मंत्रालय
संयुक्त निदेशालय

42

नई दिल्ली, दिनांक, 15.9.90

कार्यालय आपन

विषय:- जम्मू और कश्मीर में तैनात केन्द्रीय 'सिविल सेवाओं' के अधिकारियों द्वारा पिछली तैनाती के स्थान पर सामान्य पूल के आवास को रिटैन करना।

अधोदस्तावेजी को यह कहने का निदेश हुआ है कि जम्मू और कश्मीर में तैनात केन्द्रीय 'सिविल सेवाओं' के अधिकारियों द्वारा अपनी पिछली तैनाती के स्थान पर सामान्य पूल के आवास को रिटैन करने के प्रश्न ने पिछले कुछ समय से सरकार का ध्यान आकृष्ट कर रखा था। दिनांक 16.7.90 को हुई बैठक में अधिमंडल की आवास समिति द्वारा इस मामले पर विचार किया तथा निम्न निर्णय लिए गए:-

- (क) जम्मू और कश्मीर में तैनाती की उत्तर-पूर्वी क्षेत्र में तैनाती के समकक्ष माना जाएगा।
- (ख) जम्मू और कश्मीर में तैनाती होने पर सामान्य पूल के रिहायशी आवास का रिटैनेशन इस निदेशालय के दिनांक 7.9.90 के कार्यालय आपन सं. 12035/31/96-जी.सि.-11 के द्वारा प्राधान्यों द्वारा निर्धारित किया जाएगा। सूचना-संदर्भ हेतु प्रतिलिपि संलग्न है।
- (ग) किसी सरकारी कर्मचारी का जम्मू और कश्मीर राज्य से उत्तर-पूर्वी क्षेत्र के किसी भी राज्य, सिक्किम, अण्डमान और निकोबार द्वीप समूह तथा तमिल नाडु में स्थानांतरण होने पर तथा विलोपना भी उपरोक्त छूट दी जाएगी।
- (घ) जम्मू और कश्मीर में तैनाती होने पर सरकारी आवास रिटैन करने की प्रविधा 30.6.1999 तक अनुमत्त होगी तथा आवश्यक समीक्षा के बाद ही आगे एक्सटेंशन दी जाएगी।
- (ङ) यह आदेश दिनांक 16.7.90 से लागू होगा।

रत्न देव सहोय

रत्न देव सहोय

संयुक्त उप-निदेशक (जी.सि.)

सेवा में,

1. भारत के सभी मंत्रालय/ विभाग।
2. शहरी कार्य और रोजगार मंत्रालय के सभी सम्बद्ध तथा अधीनस्थ कार्यालय।
3. संयुक्त निदेशालय के सभी अधिकारी व अनुभाग।
4. समन्वयक अनुभाग/ जी.सि. 1, जम्मू।

Attested
Advocate

11(2)/92-E II(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, Dated July 22, 1990.

OFFICE MEMORANDUM

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands — Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid*, were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows:

(i) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(ii) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(iii) Special (Duty) Allowance

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special (Duty) Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special (Duty) Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special (Duty) Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1990.

Attention is also invited in this connection to the clarificatory order issued in this Ministry's O.M. No. 11(2)/95-E.II(B) dated January 12, 1990, which shall continue to be applicable to Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

Attested

[Signature]
Advocate

(iv) Special Compensatory Allowances:

Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Locality Allowance, Bad Climate Allowance, Tribal Area Allowance, Composite Hill Compensatory Allowance, etc., which are location-specific, have either been separately issued or are under issue based on Government decisions on the recommendations of the Fifth Central Pay Commission relating to allowances. These orders shall apply to the eligible Central Government employees posted in the localities in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands, on the area(s) of their posting and subject to the observance of the terms and conditions specified. Such of those employees who are entitled to the Special (Duty) Allowance or the Island (Special) Allowance shall also be entitled, in addition, to the Special Compensatory Allowance(s) as admissible in terms of these separate orders.

Central Government employees entitled to Special Compensatory Allowances, separate orders in which are yet to be issued, will continue to draw such allowances at the existing rates with reference to 'notional' pay which they would have drawn in the applicable pre-revised scales of pay but for the effect of the corresponding revised scales till the revised orders are issued on the basis of the recommendations of the Fifth Central Pay Commission and the Government decisions thereon.

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 1, 1980 and further liberalised in O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall be applicable.

(vi) Travelling Allowance for Journeys on Transfer; Road Mileage for Transportation of Person on Transfer; Joining Time with Leave

The existing provisions as contained in this Ministry's O.M. No. 20014/3/B3-E.IV dated December 1983 shall continue to be applicable.

(vii) Leave Travel Concession

In terms of the existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dat-
14, 1983, the following options are available to a government servant who leaves his family be-
headquarters or another selected place of residence, and who has not availed of transfer travel-
for the family :

- (a) the government servant can avail of the leave travel concession for journey to the Home a block period of two years under the Normal Leave Travel Concession Rules;

on

- (b) In lieu thereof, the government servant can avail of the facility for himself/herself to travel from the station of posting to the Home Town or the place where the family is residing and (restricted only to the spouse and two dependent children of age up to 10 years in respect of sons and up to 24 years in respect of daughters) also to travel once a year to visit the government station of posting.

These special provisions shall continue to be applicable.

In addition, Central Government employees and their families posted in these territories shall avail of the Leave Travel Concession, in emergencies, on two additional occasions during their career. This shall be termed as "Emergency Passage Concession" and is intended to enable Government employees and/or their families (spouse and two dependent children) to travel home town or the station of posting in an emergency. This shall be over and above the normal of the employees in terms of the O.M. dated December 14, 1963, and the two additional passes. Emergency Passage Concession shall be availed of by the entitled mode and class of travel under the normal Leave Travel Concession Rules.

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/00 B-1 dated December 1, 1999, Officers drawing pay of Rs. 12,500 and above and their families, i.e. dependent children (up to 18 years in respect of sons and up to 15 years in respect of daughters) are permitted to travel by air on Leave Travel Concession between ~~Delhi and Ahmedabad~~ Ahmedabad, the North East and Calcutta, and vice versa; between Port Blair to the Andaman & Nicobar Islands, Calcutta, Madras and vice versa; and between the South in the O.M. No. 20014/16/00 B-1 dated 1999.

Attested
[Signature]
Advocate

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Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/16/86-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt. (Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees in Occupation of Hired Private Accommodation

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting

As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependants of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

6. Hindi version will follow.

Last Seen 28/12/97

N. Sunder Rajan

(N.SUNDER RAJAN)

Joint Secretary to the Government of India

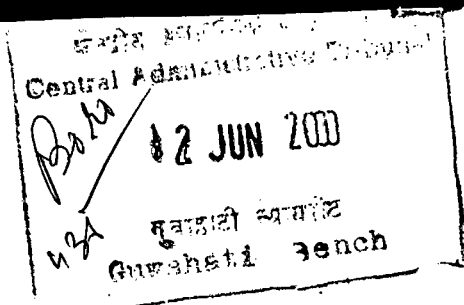
To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and Administrator, Lakshadweep.

Attested
By
Advocate



Filed by:
The Respondent No.
2, 3, 4 and 5
through
Wk Goswami
Advoca
12/6/2000

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. 164 of 2000

Shri Bala Prasad ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

WRITTEN STATEMENT ON BEHALF OF

THE RESPONDENTS NO. 2,3, 4 AND 5.

The answering Respondents beg to state as follows : .

1. That the answering Respondents have been served with copies of the above O.A. They have gone the same and have understood the contents thereof. Save and except the statements which are specifically admitted herein below, other statements made in the O.A. are categorically denied. Further the statements which are not borne on records are also denied and the Applicant is put to the strictest proof thereof.

2. That before dealing with the various contentions raised in the O.A. parawise, the answering Respondents beg to make the following

PRELIMINARY SUBMISSIONS

(A) The erstwhile F.R.I. & Colleges & Govt. of India organisation constituted of following units :

- (i) Forest Research Institute and its outlying Centre.
- (ii) Indian Forest College.
- (iii) Directorate of Forest Education.

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- 2 -

A. State Forest Service Colleges.

B. Rangers Colleges.

Under the re-organisation by the Govt. of India the erstwhile Forest Research Institute & College was divided into 03 parts namely :

(a) Forest Research Institute & Colleges was converted Indian Council of Forestry Research & Education (hereinafter called I.C.F.R.E.) with six Institute under it with Forest Research Institute (hereinafter called F.R.I.) as one of the Institute.

(b) Indira Gandhi National Forest Academy.

(c) Directorate of Forest Education including 03 SFS Colleges & 05 Rangers Colleges.

✓ The Indian Council of Forestry Research & Education was converted into an autonomous body in the year 1991. The Order No. 1-8/89-RT dated 30.05.91 issued by the Joint Secretary to the Govt. of India, Ministry of Environment and Forests, New Delhi regarding ICFRE being an autonomous body is annexed and marked as ANNEXURE-R/1. The other two constitutes remained as purely Central Govt. organisations. Prior to this re-organisation the residential accommodations available in F.R.I. Campus was shared by all the above three organisations. In the course of time Indira Gandhi National Forest Academy to the Indian Council of Forestry Research and Education the Govt. decided that while the Administrative Control of the FRI Estate will remain with FRI which is one of the Institutes under the ICFRE and the accommodation will be shared by the officers of these organisations as below :

(i) Tenure and Non-tenure officers of Forest Research Institute.

(ii) One Type-VII Bungalow and one Type-VI Bungalow for Director, Forest Education and Principal, SFS College respectively.

In addition faculty members of the SFS Colleges situated at Dehradun were and are also provided appropriate accommodation.

In FRI Estate the accommodation available for allotment is as below :

(a) Type-IV	- 55 Bungalows
(b) Type-V	- <u>82 Bungalows</u>
(c) Type-VI	- 15 Bungalows
(d) Type-VII	- 04 Bungalows
(e) Type-VIII	- 01 Bungalows
Total	- 157 Bungalows

Type-VIII Bungalow is reserved for Director General, Indian Council of Forestry Research & Education. Whereas 101 Bungalows of Type-V, VI and VII are equally shared by Tenure as well as Non Tenure Officers i.e. out of 101, 50 Bungalows are reserved for tenure officers who join the organisation on deputation basis. Providing residential accommodation to the officers appointed to these organisations is the pre-condition of appointment. The total number of officers who are eligible for allotment of above accommodation available in FRI Estate and going to occupy the said accommodation is eight and the bungalows vacant in Forest Research Institute are four at present.

(B) The applicant was allotted bungalow No. V/46 Takle Road on his joining as CF in March 1897 and non-completion of his tenure he was reverted his cadre Manipur on 31.05.1999. The Applicant however retaining the bungalow allotted to him after reversion to his parent cadre. The Applicant is still in unauthorised occupation of the bungalow till today, inspite of repeated requests to vacate the house on the plea for two years for his children education. The Applicant also pointed out that any AIS Officers allotted to North Eastern States might do so after getting repatriated to their parent cadre/State. In this connection, it is to submit that a clarification was given to the Principal CCF, Govt. of Mizoram, Aizawl by the Ministry of "Environment & Forests, New Delhi with a copy endorsed to the Director General ICFRE, Dehra Dun vide their letter No. 3-1/96-RT dated 12.03.1996 annexed and marked as ANNEXURE-R/2. The said Annexure clearly indicated that claim for retention of accommodation allotted to North Eastern states is not valid during their deputation tenure at FRI. Accordingly, Shri Bala Prasad was informed about he clarification received from the Ministry. In an another case, the Directorate of Estate has clarified that retention of accommodation by AIS Officers of North East Region after their reversion to their parent cadre are applicable in respect of general poor accommodation only. It was also brought to the notice of Applicant that these orders will not be applicable in cases where officers are posted to Public Sector undertakings.

Autonomous bodies etc. Keeping this in view the claim for retention of accommodation by Applicant from FRI pool is not valid.

(C) In the letter No. 3-1/96-RT dated 12.3.96 received from the Ministry of Environment & Forests, New Delhi it has been clarified therein that the provision of retention of residential accommodation by the AIS Officer of the North Eastern Cadre and J&K is valid only in case of the residential accommodation under the control of Directorate of Estate, Ministry of Urban Development, New Delhi. The Rule ipso facto do not apply to the limited pool of residential accommodation available with the subordinate offices and autonomous organisation of Ministry of E & F, New Delhi. In FRI Estate limited bungalows are available for officers of this organisation as also for the sister organisations i.e. IGNFA, DFE and SFS College to cater the needs of eligible officers. There is always a long queue for allotment of entitled of class accommodation. In most of the cases the officers have been allotted one step lower than their entitlement because of shortage of accommodation. At present, there are other officers also from the North Eastern cadres who are working on deputation and are likely to exhaust their tenure very soon. At the same time there are lots of officers from North East and other States who are likely to come on deputation. In case Applicant is allowed to retain the accommodation there will be no possibilities to provide accommodation to any officer coming on deputation from any State. Another outcome of the retention of accommodation by officers posted to North Eastern

Region after their repatriation from ICFRE/FRE estate where only limited accommodation is available would be that the officers posted in Indian Council of Forestry Research & Education would be staying outside and the family of officers repatriated to North Eastern States would be occupying accommodation in FRI Estate. All these outcomes would be against the principles of natural justice, fairness and non-arbitrariness and would create chaos in administration of ICFRE and FRI.

(D) The FRI Estate accommodation cannot be treated as par with the General Pool Accommodation of the Directorate of Estate, New Delhi. The Ministry of Environment & Forests, New Delhi under their letter No. 3-1/96-RT dated 4.7.1996 addressed to the Under Secretary to the Govt. of Mizoram, Environment and Forests Department, Aizawl (Mizoram) it has been further clarified in consultation with the Directorate of Estate that retention of accommodation by the AIS Officers of any region are applicable in respect of general pool accommodation only (Annexure:R/III). Keeping in view, the clarification received from the Ministry the decision taken by the Estate Officer to evict the Applicant from bungalow No. 46 of FRI estate is justified.

PARAWISE REPLY

4.1 The averment of the Applicant is denied. Applicant was appointed to the post of Deputy Conservator of Forests in ICFRE w.e.f. 12.3.97 and was posted in the Directorate of Research, ICFRE on deputation basis. Subsequently he was appointed to the post of ADO

(Planning) in the ICFRE HQ w.e.f. 22.7.1997. He was repatriated to his parent cadre w.e.f. 31.05.1997. He was provided accommodation in bungalow No. V/46, Takle Road, New Forest in FRI Estate w.e.f. 15.05.1997 as per his entitlement. The allotment order is annexed and marked as ANNEXURE:R-IV.

4.2 The answering Respondents deny the contention of the Applicant. The Applicant applied for retention of bungalow No. V/46, Takle Road for a period of two years on the ground of his children education but he was not entitled to retain the bungalow for two years as the relevant rules applicable in FRI Estate did not permit him to do so. A clarification was also sought from the Ministry in this regard in similar type of case and ministry gave clarification that the rules for retention ipso facto do not apply to limited pool of accommodation. Directorate of Estates in O.M. No. 12035/31/96-pol. II dated 7.9.98 further clarified that the orders are applicable only in cases the officers are posted to the Central Government offices. Officers of the Union territories and these orders will not be applicable in cases where officers are posted to Public Sector Undertakings. Autonomous Bodies etc. The cabinet committee on accommodation passed the above OM on 16.7.1998, while reviewing the guidelines on retention/allotment of alternate accommodation to families of officers posted in North Eastern States. The contention of Applicant asking accommodation was not having any basis and show cause notice under Section 4 of the Public Premises (Eviction of

Unauthorised Occupants) Act, 1971 was initiated against the Applicant. The action of Estate officer was in accordance with the judgment delivered on 24.8.94 by Bombay Bench of Central Administrative Tribunal in case of PK Kutty Vs. Union of India & others in O.A. No. 433 of 1994. The copy of OM dated 7.9.88 along with the letter from Government of India is collectively annexed and marked as ANNEXURE:R-V colly.

4.3 The answering Respondents do not admit anything which are contrary to relevant records.

4.4 and 4.5 The contention of the Applicant is denied. The entitlement of Applicant to retain accommodation in FRI estate was neither applicable to applicant nor he had any right to occupy accommodation beyond permissible limit. The Annexure:R-V colly gives clear directions from Government of India. The Applicant is yet to remit market rent and is to be evicted after following due process of law. The copy of notice under sub-section 1 of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

4.6 The answering Respondents do not admit anything which are contrary to relevant records.

4.7 The contention of the Applicant is denied. The averment of the Applicant is false vexatious and is with malafide intentions. The Applicant's letter to Director General, ICFRE had no bearing to his illegal occupation. The Director General, ICFRE later rejected the application of Applicant. The claim of the

Applicant is thus having neither any substance nor having any legal validity.

4.8 The answering Respondents do not admit anything which are contrary to relevant records.

4.9 The answering Respondents deny the contention of the Applicant. The Applicant was appointed on deputation to the ICFRE, Dehra Dun, which is an autonomous organisation, registered under the Society Registration Act, 1860 (Act 21 of 1860) under the Ministry of Environment & Forests. The OM dated 7.9.98 decided by cabinet committee on 16.7.98 is not applicable to autonomous bodies therefore the Applicant does not have any right to continuously occupy bungalow No. 46 situated at Takle Road in Forest Research Institute estate.

4.10 The contention of the Applicant is denied. The OM dated 22.7.98 is from Government of India, Ministry of Finance, Department of Expenditure has neither suppressed the OM dated 16.7.98 of Director of Estate, nor it has any applicability in the matters of FRI Estate. The Applicant is trying to equate two disjoint sets and is trying to draw capricious conclusions and is requesting Hon'ble Tribunal to interfere in allotment of quarters in Forest Research Institute estate which is part of autonomous organisation. The house allotment in FRI estate where limited houses are there is a policy decision of the administration and cannot be agitated before the Hon'ble Tribunal.

4.11 The contention of the Applicant is strongly denied. The rules of Government of India in matters of

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estate ipso facto cannot be applied to limited pool of accommodation of FRI estate. The OM of Estates dated 16.7.98 clearly indicated that the retention of accommodation is only valid in general pool accommodation and the said rules were not applicable in autonomous organisations. The OM dated 22 July 1998 from Ministry of Finance from Government of India Para (IX) stated that the facility of Government accommodation at the last station of posting by the Central Government employees posted to specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of works and housing OM No. 12035/24/77-Vol VI dated Feb 12 1984 as amended from time to time. Thus the direction of the cabinet committee on 16.7.98 as stated in OM of Estates dated 7.7.98 was not suppressed, therefore the retention of accommodation by the Applicant is unauthorised and illegal one.

4.12 The contention of Applicant is strongly denied. The ICFRE is an autonomous body and rules of Government of India ipso facto can not be applied particularly when FRI estate having limited pool of accommodation is not under the control of Government of India. The applicability of rules of Government of India in any autonomous body cannot be a matter of right as regards house allotment is concerned.

4.13 The contention of Applicant is strongly denied. The status of FRI estate has not changed. The FRI

estate still continues to be Reserve forest and is with FRI, rules framed by Government of India in gazette of India Part II Section 3 Subsection (ii) No. 25-5/69-F dated 11.3.74 still have got validity. The rules define Estate Officer in relation to Dehradun, the Registrar, Forest Research Institute and colleges/IGNFA, the "Residence" means any residence for the time being under the control of the Estate Officer. The said residence of Applicant No. 46 is still under the control of Estate Officer and the entire residences/buildings of Indian Council of Forestry Research & Education at Dehradun are housed in FRI estate. When entire Indian Council of Forestry Research & Education buildings in Dehradun are housed in FRI Estate and administrative control for allotment of houses to the officers of ICFRE Forest Research Institute, ICFRE did not find any reason to frame any rule regarding House allotment. The said house allotment rules thus were found exhaustive in all respects by ICFRE. The rules framed for the FRI and Colleges and its outlying centre still are valid in ICFRE Dehradun. Because status of Forest Research Institute estate has not changed and entire Estate still continues with Registrar, FRI.

4.14 The contention of Applicant is strongly denied. There have been no instances when the occupied residence of Forest Research Institute estate have been allowed to be occupied by any officer of North East cadre or any cadre. It is submitted that in few cases when officers failed to vacate eviction notices were issued to the officers and officers vacated houses of

Forest Research Institute Estate before they could be forcefully vacated. In case of order under sub section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 a notice has been issued to the Applicant a copy of which has been faxed to the Applicant and has also been sent by registered post to the said premise and to the Applicant. The copy of Section 5 notice has been annexed and marked as ANNEXURE:R-VI.

4.15 The contention of Applicant is strongly denied. The Applicant's contention is based on false frivolous vexatious and malafide grounds. The Applicant has quoted OM dated 7.9.98 of Directorate of Estates and himself has agreed that the said OM is not applicable to autonomous bodies. The other contention of Applicant that ICFRE is not an autonomous body is to mislead the Hon'ble Tribunal and to gain time so that Applicant continues to stay in the said premise.

4.16 The contention of the Applicant is strongly denied. The benevolent legislation cannot be applied to categories, which are not covered by the amplitude of such legislation. The Applicant is trying to mislead Hon'ble Tribunal by mismatching his cause with officials occupying residences under General pool accommodation. The Government of India has also clarified that such retention ipso facto is not applicable in limited accommodation. The Government of India has further clarified. Since the Applicant is not posted to North Eastern States but belongs to MT cadre at par his cadre allotment by the Central Government.

There is no question of posting but it is obligatory for the Applicant to serve in that cadre for which he belongs in case Directorate of Estates. The OM dated 7.9.98 was from Director of Estate and the OM dated 22.7.98 could not have suppressed OM dated 7.9.98 since it was issued later. Therefore, the Applicant's arguments to retain bungalow No. 46 do not have any basis. The officers of North Eastern Region want to provide the education to their children beyond the North Eastern Region they should make their own arrangements, as they get extra allowances to serve in such region.

4.17 There is no co-relation between the Institute established in Assam and the case filed by the Applicant for retention of accommodation in Dehradun. Application of OM dated 22.7.98 in Indian Council of Forestry REsearch & Education for the purpose of salary and other benefits is capricious argument as there is no match between officers working in Jorhat and officers working in Dehra Dun and comparison of salary between the two. The comparisons drawn by the Applicant neither allows him to retain accommodation nor he gains eligibility to occupy the said premise.

4.18 The contention of Applicant stated in the application are neither covered under OM of Government of India, Ministry of Finance or covered under set of rules framed by Forest Research Institute. The circular of Ministry of Urban Affairs and Employment Director of Estates dated 7.9.98 further defeats the averments of Applicant. Where it has been specifically mentioned

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that the retention of accommodation for officers posted in North Eastern States will not be applicable to Public Sector Undertakings and autonomous Bodies. Government of India has also claimed its stand that the rules ipso facto do not apply to the limited pool of residential accommodation available with subordinate office and autonomous organisations of the Ministry of Environment and Forests. It is therefore humbly prayed before this Hon'ble Tribunal that the application need not be admitted and answering Respondents crave leave of this Hon'ble Tribunal to dismiss the application of Applicant.

5.1 to 5.6 The contentions set out in these paragraphs of the application under caption "GROUNDS" are false, misconceived, incorrect and are denied. The Respondents are not filing detailed reply to grounds and crave leave of this Hon'ble Tribunal to do the same. If so desired by this Hon'ble Tribunal in reply the submission made hereinabove may kindly be referred to and they may be treated as reply to the grounds in the application.

3. In view of the facts and submissions made hereinabove, the application deserves to be rejected and the answering Respondents pray accordingly.

Verification.....

VERIFICATION

I, Shri Dr. Jasbir Singh, aged about 52 years, presently working as Scientist, SE & Head of office, Institute of Rain & Moist Decidenous Forest Research, Jorhat under Indian Council of Forestry Research & Education, Dehradun, do hereby solemnly affirm and verify that the statements made in paragraphs 2(A), 2(B), 2(D), 41, 42, 44 are true to my knowledge ; those made in paragraphs _____ are true to my information derived from records and the rest are my humble submissions before the Hon'ble Tribunal.

And I am authorised and competent to sign this verification on this the 12 th day of June 2000.

Jasbir Singh

TO BE PUBLISHED IN PART I SECTION 1 OF THE GAZETTE OF INDIA)

No.1-8/89-RT
Government of India
Ministry of Environment and
Department of Environment, Forests & Wildlife
(Research & Training Division)

B-Block, Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi- 110003.

Dated the 30 May, 1991.

ORDER

Whereas Government of India have decided to constitute the Indian Council of Forestry Research and Education, a subordinate office of the Ministry of Environment and Forests into an autonomous Institution vide Resolution No. 1-8/89-RT dated 22.6.1990 and?

Whereas the Indian Council of Forestry Research and Education Society, hereinafter called the Society, has been constituted and registered as such under the Societies Registration Act, 1850 vide Registration No.596/1990-91 dated 12.3.1991 of the Assistant Registrar Societies, Firms and Chits, Government of U.P., Dehra Dun;

Now, therefore, Government of India hereby transfers w.e.f. June 1, 1991 the Offices of the Indian Council of Forestry Research and Education, Dehra Dun, together with its research institutions set out below:-

- (1) Forest Research Institute, Dehra Dun
- (2) Institute of Forest Genetics and Tree Breeding, Coimbatore.
- (3) Institute of Wood Science and Technology, Bangalore.
- (4) Institute of Deciduous Forests, Jabalpur.
- (5) Institute of Arid Zone Forestry Research, Jodhpur.
- (6) Institute of Rain & Moist Deciduous Forest Research, Jorhat.

to the Indian Council of Forestry Research and Education Society.

The Director General of Indian Council of Forestry Research and Education, and every employee holding any office under him immediately before the handing over of the Council to the Society, shall be treated as on deputation with the Society but shall hold his office in the Society by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement or other terminal benefits as he would have held such office, if the Society had not been constituted and shall continue to do so until the Society duly absorbs such employee in its regular service.

.....2/-

(15)

- 2 -

Provided that during the period of deputation of any such employee with the Society, the Society shall pay to the Central Government in respect of every such employee, such contribution towards his leave salary, pension and gratuity as a Central Government may by order determine:

Provided further that any such employee who has in respect of the proposal of the society to absorb him in its regular service intimated within such time as may be specified in this behalf by the Society, his intention of not becoming a regular employee of the Society, shall not be absorbed by the Society.

Orders regarding transfer of assets and liabilities of the Indian Council of Forestry Research and Education, Dehra Dun to the Indian Council of Forestry Research and Education Society, Dehra Dun would issue separately. Pending issue of the orders in this behalf, the Society would be entitled to the use of the assets in use at any or all of the subordinate offices afore-mentioned.

(Sd/-)
(MANU KSHETRAPAL)
JOINT SECRETARY TO THE GOVT. OF INDIA.

To
The Manager
Government of India Press
Faridabad (with Hindi version)

Copy to:-

- 1) Director General, Indian Council of Forestry Research and Education, P.O. New Forests, Dehra Dun.
- 2) All Ministries/Departments of Government of India including Planning Commission, President's Secretariat, Vice President's Secretariat, etc.
- 3) Prime Minister's Office, South Block, New Delhi.
- 4) All Attached and Subordinate Offices of the Ministry of Env. & Forests,
- 5) Pay and Accounts Officer, M/o Environment and Forests, N. Delhi
- 6) Director of Audit, Central Reserve, AGPS Building, I.P. Estate, New Delhi.

SECRETARY

24-3 14:57 FROM

TO 9376350273

P.O.

ANNEXURE R-II (58)

सूचक :
 Telegram : PAHYAVARAN,
 NEW DELHI

दूरभाष :

Telephone : 4361774

टेलिक्स (द्विभाषीय) :

Telex : (bi-lingual) : W-66185 DCE IN

Fax : 4360678

भारत सरकार

पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA

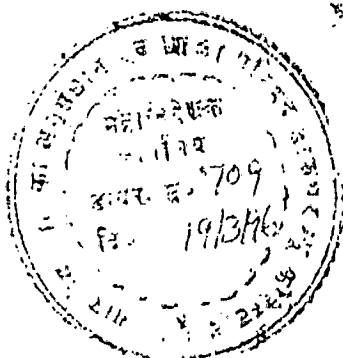
MINISTRY OF ENVIRONMENT & FORESTS

पर्यावरण भवन, सी. जी. ब्लॉ. कॉम्प्लेक्स

PAHYAVARAN BHAWAN, C.G.C. COMPLEX

लोदी रोड, नई दिल्ली-110003

LODHI ROAD, NEW DELHI-110003



No. 3-1/96-KT

March 12, 1996

To

Shri S.R. Mehta,
 Principal Chief Conservator of Forests,
 Govt. of Mizoram,
 Aizawl - 795001.

SUB: Retention of residential accommodation by the All India Service officers of the North-Eastern region and J&K.

Sir,

With reference to your letter No. A-19018/1/95-PCCF dated 26.2.96, I am to clarify that the provision of retention of residential accommodation by the All India Service officers of the North-Eastern cadres and Jammu & Kashmir is valid only in case of the residential accommodation under the control of Directorate of Estates, Ministry of Urban Development, New Delhi. The rules, if-so-facto, do not apply to the limited pool of residential accommodation available with subordinate offices and autonomous organisations of the M/o Environment & Forests. Hence, your claim for retention of accommodation allotted to you from FRI pool at Dehradun is not valid.

Yours faithfully,

(JAGDISH KISHWAN)

Dy. Inspector General of Forests

Copy to: Director General, ICFRE, Dehradun - 248006.

(JAGDISH KISHWAN)

Dy. Inspector General of Forests

ANNEXURE-III 51

ANNEXURE-R-III

ANNEXURE-III

(61)

No. 501/16-RT

Government of India
Ministry of Environment & ForestsParyavaran Bhawan,
CGO Complex,
Lodi Road,
New Delhi-3,
Dated: 4.7.96To: Shri. Lianzuala,
Under Secretary to the Govt. of Mizoram,
Environment & Forest Deptt.,
Aizawl, Mizoram.Sub: Retention of/allotment of alternative residential
accommodation to All India Service Officers posted
to North-eastern region- representation regarding.

Ref: Your letter no.A.19099/12/95-FST dated 24th April '96.

Sir,

With reference to your letter cited above, I have to inform you that the matter related with the representation submitted by Shri S.R. Mehta, Principal Chief Conservator of Forests, Mizoram, has been examined in this Ministry in consultation with the Directorate of Estates, Govt. of India. The Directorate of Estates has clarified that retention of accommodation by AIS Officers of N-E Region, their reversion to their parent cadre are applicable in respect of general pool accommodation only. Keeping this in view the claim for retention of accommodation by Mr. Mehta from FRI pool is not valid. Mr. Mehta may please be informed accordingly.

Yours faithfully,

(D.D. SHARMA)
SR. ASSTT. INSPECTOR GENERAL OF FORESTS (RT)

1. *Civilian Central Government employees serving in the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram.*

(ii) The officers of AIS belonging to the AGMU cadre or to State cadres other than the States in the North-Eastern Region excluding Sikkim, on their deputation to any of the North-

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ANNEXURE- VI

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03 JUN-2000 15:06 FROM

TO 0376350273

P.03

ANNEXURE- VI

ANNEXURE R.IV

6A

No. 4-25/99-Bldg/BP
Forest Research Institute,
Indian Council of Forestry Research & Education,
P.O.New Forest, Dehra Dun

Dated the 31-5-2000

**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC PREMISES
(EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

To,

Shri Bala Prasad,
Bungalow No. 46,
Takle Road, Dehra Dun

PRESENTLY

Conservator of Forests,
Functional Circle,
Mantripukhri, Forest Complex,
Imphal, Manipur-795 002

Whereas I, the undersigned, am of the opinion on the Grounds specified below that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from the said premises.

GROUND

Shri Bala Prasad was repatriated to his parent cadre after completion of his tenure in Forest Research Institute, Dehra Dun on 31/05/99. He was permitted to retain the Bungalow No. 46, Takle Road upto 31/10/99 by the Estate Officer, FRI. Shri Bala Prasad un-authorisedly continues to retain the above bungalow after 31/10/99 on the grounds, which are not covered under the rules. He submitted a letter dated 06/09/99 and requested for retention of Govt. accommodation on the grounds that All Indian Officers posted to N.E. Region can retain Govt. accommodation at their last station of posting for bonafide use of their family members. But the above contention has already been clarified vide Government of India reference No. 3-1/96-RT dated 12/03/96 in case of Shri S.R. Mehta. PCCF, Government of Mozoram. The copy of the reference has already been sent to Shri Bala Prasad vide this office letter of even number dated 10/03/2000. The provision of retention of the residential accommodation by the All India Officers of N.E. cadres is valid only in case of residential accommodation under the control of the Ministry of Urban Development New Delhi. The rules, ipso-facto, do not apply to the limited pool of residential accommodation available for officers of FRI. The matter with regard to retention of accommodation was reviewed and clarified by the cabinet committee on accommodation

2-5

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P.04

in its meeting held on 16-7-98 stating that the orders for retention will not be applicable in cases where officers are posted to Autonomous bodies. Hence claim for retention of Govt. accommodation allotted to Shri Bala Prasad from FRI pool is not valid.

Shri Bala Prasad was called upon by the Estate officer to show cause on or before 10/04/2000 vide this office Notice dated 27/03/2000 under Sub-Section (I) and clause (B) (II) of Sub- Section (2) of Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. But, Shri Bala Prasad, failed to appear before the undersigned on the scheduled date and time.

WHEREAS, after considering continuous occupation of premise of FRI by Shri Bala Prasad, I have come to the conclusion that Shri Bala Prasad is in unauthorised occupation of Bungalow No. 46, Takle Road, New Forest. Now, therefore, in exercise of the powers conferred on me under sub-Section (1) of Section 5 of the public premises (Eviction of Unauthorized occupants) Act, 1971. I hereby order the said Shri Bala Prasad and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises by 18/06/2000. In the event of refusal or failure to comply with this order within the period specified above, the said Shri Bala Prasad and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary and simultaneously license fee at three times of market license fee will also be charged as per instructions contained in Ministry of Works and Housing (Dte. of Estates) O.M. No. 18011 (12)/73-Pol.I, dated 31st July, 1976 and No. 18011(12)/73-Pol.II/Pt., dated 29th May, 1981.

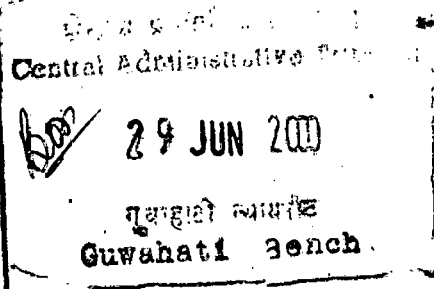
SCHEDULE

Bungalow No. 46, Takle Road, New Forest, Dehra Dun, along with out houses bounded and butted as under: -

East FRI land
West Trevor Road Houses (Bungalow No. 33)
North Bungalow No. 45
South Bungalow No. 47

Dated the 31st May, 2000

Signature and Seal of
Estate Officer.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

IN THE MATTER OF:

O.A. NO. 164/2000

Between

Shri Bala Prasad - Applicant

-Versus-

Union of India

& others -Respondents.

REJOINDER OF THE APPLICANT IN REPLY TO THE WRITTEN
STATEMENT FILED BY THE RESPONDENT NOS. 2, 3, 4 AND 5:

The applicant begs to state as follows:

1] That with reference to paragraph No.2(A), 2(B), 2(C), 2(D) of the written statement it is stated that the applicant was entitled to type VI quarter since he was promoted to the post of Assistant Director General Indian Council of Forestry Research and Education (in short ICFRE) with effect from 06-05-1997; but he did not apply for Type VI quarter because retention of Type VI would have created difficulties for the Officers posted at ICFRE/FRI (Forest Research Institute), Dehra Dune as there ~~was no vacant~~ quarters in Type VI and there were a number of unoccupied quarters in Type V. The contention of the respondents that there is limited pool accommodation and that the same may not be provided for retention is

Bala Prasad

not tenable because in their own admission at present there are four quarters still lying vacant in the Forest Research Institute. Further, they have also not stated how many are likely to fall vacant or how many have been rented by the officers beyond the permissible period of two months.

All the quarters of the ICFRE/FRI may be treated as general pool accommodation, except those specifically earmarked/designated for Director General, ICFRE, and Directors of Institutes. The only distinction made is between tenure and non-tenure Officers, i.e., tenure Officers who are going on deputation to ICFRE AND FRI and non-tenure officers who are regular employees of the ICFRE and FRI. The quarters are identified for the tenure and non-tenure officers. All tenure Officers who are entitled for Type V quarters have got Type V quarters and no tenure Officer who is entitled to Type-V quarters is waiting for TypeV quarter.

The contention of the respondents that many officers may like to retain the quarters at the time of repatriation to N.E. Cadres is also not correct as there are very few officers of N.E. Cadres to ICFRE/FRI who are going to complete their tenure within one or two years and have requested, or are likely to request for retention of quarters. Therefore, the contention that limited pool accommodation will be exhausted if such retention is allowed has

Bala Prasad

no basis as there are already four quarters lying unoccupied as on date and more likely to fall vacant in Type V category.

The officers of the Indira Gandhi National Forest Academy (IGNFA) are not allotted ICFRE/ FRI quarters. The Director IGNFA is the only one occupying a Type VI quarter in FRI and one Officer of ICFRE is occupying a Type VI quarter in IGNFA complex. IGNFA has its own residential complex.

In this connection it is reiterated that the provision of retention of residential accommodation by the All India Service officers of N.E. Cadres is applicable in the instant case as the same Rules are followed by the ICFRE/FRI. The respondents have admitted that they have not framed any Rule and the eviction proceeding has been initiated by applying the Rules framed by the Union of India.

2] That with reference to paragraph Nos. 4.1 to 4.18 the applicant reiterates the statements made in the Original Application. It is further reiterated that as admitted by the respondents in paragraph No. 4.13 the ICFRE/FRI has not framed any Rule and as such the applicant submits that the provisions for provisions for retention of the accommodation by AIS Officers is applicable to him.

3] That with reference to paragraph Nos. 5.1 to 5.6 the applicant submits that the

Bala Prasad

grounds stated in the Original Application are legally tenable.

4] That with reference to paragraph no. 3 the contentions raised by the respondents have no legal basis. In this connection, the deponent submits that it is fit case wherein this Hon'ble Tribunal may be pleased to grant the relief sought for in the Original application.

-Verification-

I, Sri Bala Prasad, Son of Murari Prasad Shrivastawa, aged about 41 years presently working as conservator of Forests, Functional Circle, Mantripukhri Forest Complex, Imphal, Manipur-795002 do hereby verify that the statements made in paragraph Nos. 1, 2, 4 Are true to my knowledge and those made in paragraph Nos. 1 — are matters of records derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

Bala Prasad

Signature.

Place: Guwahati

Date: 30/6/2000