

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 307/2001

R.A/C.P No.

E.P/M.A No. 215/2001

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

ORDER SHEET

Original APPLICATION NO. 307 OF 2001

APPLICANT (S) S.K. Sarker

RESPONDENT (S) H.O.I. Joms

ADVOCATE FOR APPLICANT(S) M. Chandra, Mrs. N.D. Goswami, G.N. Chakrabarty

ADVOCATE FOR RESPONDENT(S) CGSC

Notes of the Registry	dated	Order of the Tribunal
<p>This application is in form but not in time. Condonation Petition is filed not filed vide M.P. No. C.F. for Rs. 50/- deposited vide IPO/B2 No. 56423.008. Dated: <u>30.7.2001</u></p> <p><i>Dy. Registrar.</i></p> <p><i>10/8/01</i></p> <p>Notice prepared and sent to D/S. for cross the Respondent No 1 to 3 by Regd A/D vide DINo <u>3085 to 3087</u> dtd <u>16/8/01</u></p> <p><i>16/8/01</i></p> <p><i>re. comply.</i></p> <p><i>4/11/01</i></p> <p>Order dtd 8/10/01 Communicated to the parties concerned - <i>5/10/01</i></p> <p>No written statement has been filed.</p> <p><i>15/11/01</i></p>	<p>14.8.01</p> <p>mb</p> <p>14.9.01</p> <p><i>14/9/01</i></p> <p>3.10.01</p> <p>mb</p> <p>16.11.01</p> <p>bb</p>	<p>Heard Mr.G.N.Chakrabarty, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>List on 14/9/01 for further order.</p> <p><i>11/11/01</i> Member</p> <p><i>10/11/01</i> Vice-Chairman</p> <p>List on 3/10/01 alongwith M.P. No. 215 of 2001 for order.</p> <p><i>10/11/01</i> Vice-Chairman</p> <p>List again on 16.11.2001 to enable the respondents to file written statement. Meanwhile operation of the interim order shall continue.</p> <p><i>10/11/01</i> Vice-Chairman</p> <p>List on 19.12.2001 for further order alongwith M.P.258/2001 and 215/01</p> <p><i>11/11/01</i> Member</p>

Rejoinder has been filed
by the applicant at
P. 30-34.

19.12.01

On the prayer of learned counsel
for the applicant case is adjourned to
25.1.02 for hearing.


Vice-Chairman

lm

W/S has been filed.

25.1.2002

A prayer has been made by Mr.B.C.
Pathak, learned Addl.C.G.S.C for the res-
pondents for adjournment. Mr.M.Chanda,
learned counsel for the applicant has no
objection.

Prayer is accepted. List the case
again for hearing on 22.2.2002.


Member

bb

14.3.2002

22.2.02

Copy of the order
has been sent to the
Office for issuing
the rule to the applicant
as well as to the
Addl.C.G.S.C. for the respondents
by hand.

Heard learned counsel for the
parties. Judgment delivered in open
Court. Kept in separate sheets. Applica-
tion is allowed. No costs.


Member

lm

WS
25/1/02

for 27/3/02
15/3/02

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 307 of 2001

Date of Decision 22.02.02

Shri S.K.Sarkar

Petitioner(S)

Mr.M.Chanda, Mrs.N.D.Goswami, Mr.G.N.Chakraborty

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

Mr.B.C.Pathak, Addl.C.G.S.C.

Advocate for the
Respondent(s)

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

THE HON'BLE

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

Judgment delivered by Hon'ble : ADMINISTRATIVE MEMBER

K. K. Sharma

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.307 of 2001

Date of Order: This the 22nd Day of February, 2002.

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

Shri Sanjay Kumar Sarkar,
S/o Shri Narendra Chandra Sarkar,
Resident of Burma Lines,
Cantonment Area,
Qr.No.DF-1/3.
Shillong. ... Applicant

By Advocate Mr.M.Chanda, Mrs.N.^D.Goswami, Mr.G.N.Chakraborty

-Vs-

1. The Union of India,
Represented by the Secretary,
Govt. of India,
Ministry of Defence,
New Delhi.
2. The Administrative Commandant,
Station Headquarter,
Shillong.
3. The Garrison Engineer,
Shillong Division,
Shillong.

Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R.

K.K.SHARMA, MEMBER(ADMN):

Only relief sought in this application is the allot-
or
ment of Type II/equivalent quarter to the applicant on the
basis of his seniority as on 14.7.92. The applicant is
working as Mate Electrician under the Respondent No.3. He
joined service in 1983. It is not disputed that the applicant
is entitled to Type II quarter.

I have heard Mr.M.Chanda, learned counsel appearing
on behalf of the applicant and Mr.B.C.Pathak, learned Addl.
C.G.S.C. for the Respondents. The applicant has stated that

16/2/02

contd/-

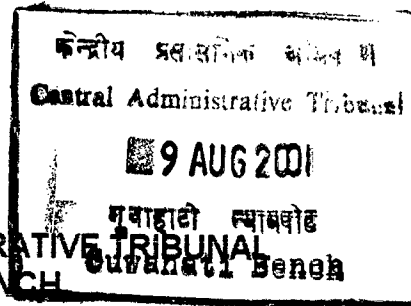
the vacancy of Type II quarter has occurred on retirement of an employee on 30th August 2001. In the Written Statement the Respondents have stated that the case of the applicant will be considered as and when ~~falls~~ vacancy occurs. It appears that the Respondents have no objection to consider the case of the applicant. The Respondents also stated that the applicant was in occupation of Quarter presently. ~~allotted~~ based on his application dated 15th July 1992.

2. In view of the written statement the Respondents are directed to allot an equivalent/Type II quarter to the applicant as per his seniority, based on the application dated 15th July 1992. Accordingly, application is allowed. No costs.

In the meanwhile, the applicant would not be asked to vacate the present quarter occupied by him.

K.K. Sharma
(K.K. SHARMA)
ADMINISTRATIVE MEMBER

LM



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 307/2001
Shri Sanjay Kumar Sarkar : Applicant
- Versus -
Union of India & Others : Respondents.

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Filed by

Date

Advocate

Filed by the applicant
through advocate - Sri
G. N. Chakraborty on
6-8-2007

Sanjay K. Sarkar

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

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

O.A. No. 307/2001

BETWEEN

Shri Sanjay Kumar Sarkar,

S/o Shri Narendra Chandra Sarkar,

Resident of Burma Lines,

Cantonment Area,

Qr. No.DF-1/3,

Shillong.

.....Applicant

-AND-

1. The Union of India,
Represented by the Secretary,
Govt. of India,
Ministry of Defence,
New Delhi.
2. The Administrative Commandant,
Station Headquarter,
Shillong.
3. The Garrison Engineer,
Shillong Division,
Shillong.

.....Respondents.

Sanjay Kumar Sarkar

DETAILS OF THE APPLICATION1. Particulars of order against which this application is made.

This application is made against non-consideration of representations submitted by the applicant for allotment of residential quarter as per his entitlement and praying for a direction upon the respondents to allot one Type II quarter in favour of the applicant near his work site which may fall vacant in near future in view of his nature of job and length of service, thereby redressing the long standing grievance of the applicant.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant was initially appointed as Mazdoor and joined under the respondents under No.MES-229684 on 24.5.1983. Subsequently, he was promoted as Mate Electrician in 1995 and has been continuing in the same capacity till the filing of this application. He is a low-paid employee and is drawing a basic pay of Rs.3300/- only in the scale of Rs.2650-4000/-.

4.3 That the post of MATE ELECTRICIAN is a post of essential category and the Mate Electrician is treated as "Key Person" and entrusted with essential duties which involve shifting duties. The applicant has to attend his shift duties in rotation under the following timings :-

6 A.M. TO 2 P.M.

Sanjay K. Sankar

2 P.M. TO 10 P.M.

10 P.M. TO 6 A.M.

From the above timings, it is apparent that the applicant is required to attend duties during odd hours which necessitates to and fro movements during night hours also.

4.4 That your applicant has got a son who is a patient of chronic Broncho-Asthma and needs constant medical care. With the slightest variation of weather conditions, sometimes his condition becomes such that he needs instant care and medical attention for which your applicant has to ensure his immediate availability at home should such contingent situation arises. This apart, the mother of the applicant is pretty old and ailing and at times it becomes unmanageable for his wife to manage both his ailing mother and sick son in the house single handed without assistance of the applicant, should an emergency arises and the situation becomes more serious when the applicant is away for night duties leaving his family without any male member in the house.

4.5 That since his joining in 1983, the applicant had been approaching the respondents time and again for a married accommodation but failing to have such accommodation, he had been managing in a private accommodation with great difficulties relying on his meagre income. Eventually the applicant submitted one representation on 15.7.1992 narrating his condition and praying for allotment of one quarter out of the "Key Persons" quarters which were under construction at the relevant time (since he belongs to the "Key Person" category) or any other quarter of his entitlement ^{for} sheltering his family.

(Copy of application dated 15.7.1992 is annexed hereto as Annexure-I)

4.6 That subsequently, one Qtr. No.DM-6/1 located in the Dudgeon lines in the Cantonment Area was allotted to the applicant vide order No.3020/A/0002/BS(R) dated 16.9.1994. Although the said quarter was in a dilapidated condition, but

Sanjay K. Sankar

considering the advantage of its proximity to the work site of the applicant vis-a-vis his domestic problems described above, the applicant occupied the quarter and housed his family therein even by undertaking some repairing of the house at his own cost in order to make it worth residing. Since then, the applicant had been residing in the same quarter allotted to him.

(Copy of allotment order dtd. 16.9.1994 is annexed hereto as **Annexure-II**)

4.7 That since the aforesaid allotment appeared to be a regular/permanent allotment, the applicant did not press further for allotment of a quarter from those which were then being constructed for the "Key Persons" one of which ought to have been allotted to him since he is a "Key Person". At that time, many persons were allotted "Key Persons" quarters and other type-II quarters leaving aside the prayer of the applicant for allotment of such quarter in his favour in view of his aforesaid allotment of quarter No.DM-6/1.

4.8 That subsequently, in 1998, the respondent No.2 issued letter to the applicant instructing him to vacate the quarter No.DM-6/1 under his possession on the plea that the said quarter was married accommodation meant for JCOs/OR which being surplus was allotted to him and the same is now required for the JCO/OR as required by Army Headquarter. It is pertinent to mention here that no such condition was communicated to the applicant at the time of allotment of the said quarter and this sudden instruction came as a bolt from the blue to the applicant.

The applicant immediately submitted representation on 11.3.98 against the decision/instruction to his utter misfortune, he was again instructed by the same respondent No.2 vide letter No.540/3/Q dated 22.3.1998 to vacate the quarter forthwith.

(Copy of letter dated 22.3.1998 is annexed hereto as **Annexure-III**)

4.9 That since then, the respondents have been constantly issuing letters to the applicant instructing him to vacate the quarter and threatening him that physical

Sanjay K. Sarda

eviction would be carried out to drive him out of the quarter. The applicant being in a helpless situation all on a sudden, submitted representations praying for allotment of a "Key Persons" quarter or a type II quarter for sheltering his family but all his prayers became abortive. In his applications dated 18.10.2000, and dated 13.12.2000, the applicant even applied for a specific quarter No.MES 124/1 (DM line) which was then going to fall vacant but the same was rejected on the ground of seniority which in his case, was wrongly changed and stepped down recording his seniority w.e.f. 15.02.99 i.e. according to his later application dated 15.02.99 and ignoring his original application dated ^{15.7.92} ~~15.2.99~~ thus making him junior to many juniors. Meanwhile during those years, quarters were allotted to many of his colleagues but his turn was not considered since he was allotted with the said quarter No.DM-6/1 which also he was eventually asked to vacate, although he belongs to "Key Person" category. The applicant since submitted number of representations praying for relief from such of his distress but in all cases, the respondents reiterated their stand threatening the applicant of physical eviction.

(Copy of Application dated 15.2.99, dated 18.10.2000, and dated 13.12.2000 are annexed hereto as Annexure IV-A, IV-B and IV-C, and copy of letters dated 17.8.2000 and dated 22.9.2000 are annexed hereto as Annexure ~~IV-A~~ and V-B respectively which are self-contained).

4.10 That on 18.12.2000, the applicant received one letter No.540/6/Q dated 13.12.2000 allotting him one quarter No.BS-21/4, Type-II located at Happy Valley Pump House area which is about 9 to 10 Km away from the place of his duty.

The said allotment was more disastrous for the applicant since shifting to such a remote place would not only put him to the risk of making to and fro movements during odd hours at night for attending duties (since he has to attend shift duties and since he is of "Key Person" category) but will accentuate the insecurity of his whole family as described in Para 4.4. above.

(Copy of letter dated 13.12.2000 in annexed hereto as Annexure-VI)

Sanjay K. Sankar

4.11 That having been pushed to such further miseries, the applicant submitted one representation on 19.12.2000 narrating the acute illness of his son, furnishing therewith one relevant certificate of Doctor and praying for reconsideration of his case for allotment of a quarter in DM line 124/1 area or DF line 13/1 area in the cantonment area.

(Copy of application dated 19.12.2000 is annexed hereto as **Annexure-VII**).

4.12 That thereafter, the respondents issued two letters bearing No.3020/A/1053/E3(R) dated 7.2.2001 and No.540/47/Q dated 29.4.2001 instructing the applicant to vacate the quarter No.DM-6/1 forthwith failing which physical eviction would be carried out, which was only the reiteration of their earlier stand.

(Copy of letter dated 7.2.2001 and dated 29.4.2001 are annexed hereto as **Annexure-VIII and IX** respectively.)

4.13 That on further appeal, the respondents eventually allotted one quarter No.DF-13 in Burma lines in the cantonment area provisionally vide letter No.540/17/Q dated 15.2.2001 after taking an undertaking from the applicant that the said quarter will have to be vacated by the applicant within one month as and when asked for.

(Copy of letter dated 15.5.2001 along with a copy of said undertaking is annexed hereto as **Annexure-X**).

4.14 That finding no other way under such a forced situation and in order to avoid the unpleasantness of the threatened physical eviction, the applicant vacated the quarter No.DM-6/1 and shifted to the allotted quarter No.DF-1/3 on 18.5.2001 which consists of only one room without any kitchen, bathroom etc.

It is not only frustrating but shocking that the applicant has been meted with such humiliating treatment in respect to a residential accommodation which is a basic need for an employee and that too after the satisfactory discharge of duties by the applicant for long 17 years. It is pertinent to mention here that there is 100 % reservation of quarters for "Key Persons" as per rule.

Sanjay K. Sarkar

However, with the shifting of the applicant to his newly allotted quarter No.DF-1/3, the matter of physical eviction stands infructuous since the order has been complied with.

4.15 That your applicant begs to state that there is 100 % reservation of quarters for the "Key Persons" and accordingly quarters have been constructed particularly for the "Key Persons" in the cantonment area. Since the applicant is a "Key Person", in all fitness of the things, one of the aforesaid quarters ought to have been allotted to him or alternatively an equivalent quarter in the same area ought to have been allotted to him in consideration of his application pending with the respondents since 15.7.92. But the respondents, on every occasion, preferred to deprive the applicant of his legitimate right and allotted only temporary accommodation to the applicant instead of a regular/permanent only thus keeping him in tenterhooks all along.

4.16 That your applicant further begs to state that some quarters are likely to fall vacant in the cantonment area in near future and one of these quarters can easily be allotted to the applicant treating his seniority from 15.7.92 i.e. the date on which he first applied for the quarter. It is relevant to mention here that the under mentioned quarters are likely to fall vacant shortly.

- i) Quarter No.MES 122/3, following retirement on one Shri S.C. Dey in December, 2001.
- ii) Quarter No.MES 123/5, following retirement on one Shri Lakshmi Singh in September, 2001.
- iii) Quarter No.MES 124/8, likely to be vacated by the family of Late Sushil Das, expired.

The Hon'ble Tribunal be pleased to direct the respondents to allot the quarter, falling vacant first, to the applicant in consideration of his long standing claim so that he does not become a victim of the contention – "justice delayed is justice denied".

4.17 That this application is made bonafide and for the cause of justice.

Sanjay K. Sarkar

5. Grounds for relief(s) with legal provisions.

5.1 For that the applicant is entitled for a married accommodation for which he applied as back as on 15.7.92 after which many persons including even those junior to him in length of service have been allotted with quarters.

5.2 For that the applicant, in view of his long span of service since 1983, has acquired a valuable right of having a family accommodation.

5.3 For that the applicant is a "Key Person" and has to attend duties even during odd hours at night for which he deserves a quarter near the place of work.

5.4 For that there are quarters, particularly meant for the "Key Persons" in the cantonment area near the place of work of the applicant and the applicant is entitled to have one such quarter. As per rule, there is 100% reservation of quarters for "Key Persons".

5.5 For that the applicant repeatedly approached the respondents for allotment of a married accommodation near his work-site which was not considered while similar request was considered in case of other employees.

5.6 For that for non-allotment of a suitable married accommodation the applicant has been struggling hard to shelter his family for the last 17 years which has caused extreme mental anxieties leading to a disturbed state of mind all along.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. All representations and prayers submitted by the applicant to the respondents turned to be infructuous.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

Sanjay Kumar Sankar

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to grant the following reliefs.

8.1 That the respondents be directed to allot one "Key Persons" quarter or an equivalent Type II quarter to the applicant in the cantonment area, near his place of work in consideration of his original application dated 15.7.92.

8.2 Costs of the application.

8.3 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief :-

9.1 That the Hon'ble Tribunal be pleased to restrain the respondents from dislodging the applicant from the quarter No.DF-1/3 in Burma lines, presently occupied by the applicant.

9.2 That in the event of any quarter falling vacant in the meantime in cantonment area be allotted to the applicant on priority basis as prayed for, considering his essential nature of duty.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | | |
|------|---------------|---|-------------------|
| i) | I.P.O. No. | : | 56 423 008 |
| ii) | Date of issue | : | 30-7-2001 |
| iii) | Issued from | : | G.P.O., Guwahati. |
| iv) | Payable at | : | G.P.O., Guwahati. |

12. List of enclosures.

As stated in the index.

Sanjay. K. Sankar


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VERIFICATION

I, Shri Sanjoy Kumar Sarkar, S/o Shri Narendra Chandra Sarkar, aged about 40 years, working as Mate Electrician, resident of Dozen Line Cantt area, Qtr. No.D/M6/1, Shillong, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 6th Day^{Aug} 17th, 2001.


(Signature)

- 11 -

Annexure - I

VB

ALLOCATION OF MARSHED ACCOMMODATION

With due respect I beg to state few lines for your sympathetic consideration please.

That Sir I M/s-229684 Shri Sanjay Kumar Sarkar, Mazdoor got appointed on 21-5-83. During my nine years service I requested many times for married accommodation as per entitlement. But I did not get any chance for the same.

That Sir, these days I am staying in Private accommodation with my wife and old mother and two minor childern. Sir I am being a low paid employee it has become very difficult for me to maintain with meager payment in such highly costed rented house that is also without any security.

That Sir, My old mother and my wife feel insecure during my night duties., and I always have mental disturb.

That Sir, It is well understood that key personnel quarter are being constructed in DM line If I would be given a chance for the same as per my entitlement. ~~xxxxxxxxxx~~ I shall be grateful to your honour.

In view of the above I therefore request you to allot me any quarter or Key Personnel elsewhere the vacancy falls.

Thanking you

Yours faithfully,

Mg#-229634 Shri
Sanjay Kumar Sarkar, Phuldoor (Pt.

2. a

Copy to [redacted]

Station 101
Shiloh 101

A copy of application is forwarded herewith.

Attentio
L. J. J.

ALLOTMENT OF ACCOMMODATION - KEY PERSONNEL CIVILIAN

Sl No	Quarter No & Location	Vacated By	Relieved By	Date of Relieving
①	DF 21/1	Sr. Tek Bahadur MTD	Sr. Bhim Bahadur Chhetri VM.	
②	DM 6/1	Sr. Jawahar Lal Koiri	Sr. Sanjay Kr Sarkar MA3	

Handing over to be completed within 7 days

NOTE -

All allotments pertaining to these individuals at sim/2 is superseded by this allotment letter.

Previous

Office of the Garrison Engineer
Shillong Division
Shillong - 793 002

16 Sep 1994

(M.K Gupta)
ES
Garrison Engineer
Office Copy

Tel: Mily 3233

3023/A/ 5002/BS(R)

BSO Shillong

1. The above allotments are hereby made

Distribution :-

1. Individual concerned

2. AAO BSO Shillong

3. Sd HQ Shillong

4. Office Copy

JPM

Tested
Sd
Adm

Tele Mil : 6242

-13-

Annexure-III

Station Mukhiyalaya
Station Headquarters
Shillong

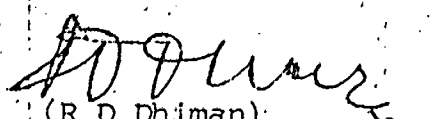
540/3/0

22 Mar 98

Shri S Saikar G E Shillong
(Individual concerned)

ALLOTMENT OF DEFENSE SERVICE PERSONNEL MARRIED
ACCOMMODATION TO NON-ENTITLED PERS (DEF CIVS)

1. Ref your application dated 11 Mar 98
2. You were allotted married accn of JCOs/OR being surplus at the time of allotment. As per Army HQ letter No 10562/P/Q3(B-1) dated 23 Jan 84, surplus married accn may be allotted to non-entitled persons who may be asked to vacate the same as and when reqd for the entitled pers (in this case JCOs/OR). Your contention that the provisions of above Army HQ letter were not communicated to you at the time of allotment is not justified. Since everybody serving in an organisation is supposed to know the existing rules before taking over the married accn.
3. You are once again advised to vacate the accn allotted to you as non-entitled person forthwith.



(R D Dhiman)
Col
Adm Comdt
for Stn Cdr

Copy to :-

HQ IOL Area (M) for info please

A.T/

✓

*Attest
S. J. Adm.*

Annexure - IV-A

21

To,

The Garrison Engineer
Shillong Division
Shillong-2

SUB: REQUEST FOR CHANGE OF ACCOMMODATION

Sir,

With due respect I beg to state few lines for your consideration and sympathetic orders please.

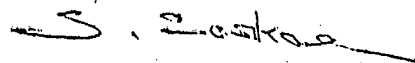
Sir, at present I am residing in Qtr No DM -6 which is located in Dozen line. It has come to the notice through reliable source that this building on demolition.

Sir, I may please be given priority in the Key Personnel Qtr which is authorised for me and in anywhere which is nearest to my duty station, as my son who is suffering from Asthma he needs every now and then attention also he is studying in Army School. Therefore, I may please shifted to nearest place ~~xxxx~~ so that I can look after my ailing son and every now and then, and serve with mental peace.

For this act of kindness I shall remain ever grateful to you.

Thanking you

Yours faithfully,



NES-229631 Shri
Sanjay Sarkar, Mato (Blect)


Dated: 15 Feb '99


A. S. Sarkar

Annexure - IV-B

To, The Station Headquarters
Shillong
(Through proper channel)

APPLICATION FOR ALIENMENT OF QTR HQ ACCN

Respected Sir,

1. With due respect I beg to state at present I am residing in DM-8/1 (DM line) and I have been served notice to vacate the above mentioned quarter immediately by Station HQ Shillong. From reliable sources I came to know that Qtr No MBS-124/1 (DM Line) is going to fall vacant very shortly. I therefore request your kind honour to allot me the nature above mentioned quarter and save me from distress.

2. For this act of kindness I shall ever remain grateful to you Sir.

Thanking you.

Yours faithfully,

S. Sanjay Kumar
(MBS/2PC364 Shri Sanjay
Kumar Sarker, Mate Elect)

Dated : 18 Oct 2000.

Recommended

M P Singh
(P. P. Singh)
Major
G. E. Shillong

Assistant
Dir
Adm

- 16 -
APPLICATION FOR ALLOTMENT OF MARRIED ACEN

Ann- IV-B Cond

27

The detail particular/date in r/o the applicant is appended below :-

1. MES No/Rank/Full Name of the applicant : MES/229684 Shri Sanjoy Kumar Sarker, Mate Elect
2. Name of the division/sub division : ACE E/M Shillong
(where the individual is working)
3. Date of application : 18 Oct 2000
4. Present Basic pay : Rs 3300/-PM
(As on date of application)
5. Whether key pers/Not key pers : Yes. Key pers
6. Whether individual holding any Govt acen at this station or any other station : Yes, Qtr No DM-6/1
7. Specific recommendation (If any by the concerned sub division officer) : -
8. Whether requesting for allotment fresh md acen or change of md acen : Allotment of fresh Qtr No MES/124/1.
9. If change of md acen, please ref : Yes, follow
Sl No 2 of CE Shillong letter No 3020/
A/321/E3(R) dated 12 Sep 98 the points
are to be strictly followed in terms
of para 57 of SAO 10/9/88.

S. Sanjoy Kumar
(Signature of the individual)

RECOMMENDED/NOT RECOMMENDED

(R. M. ROY)

AEE

AGE (E/M) SHILLONG

Ann-W-B Contd.

24

-17-

Annexure - IV - B Contd.

Tele M11 : 6062

310/993/EM

CE Shillong
(Rev Sec)

OFFICE OF THE AG

Shillong-795002

Oct 2000

APPLICATION FOR ALLOTMENT OF GOVT MD ACN : FWD OF

An application dt 18 Oct 2000 in respect of MES/229684 Shri Sanjoy-
Kumar Sarker, Mate Elect of this office is forwarded herewith duly
recommended for your further action please.

(Signature)

(RM Rout)

AEE

ACE E/M Shillong

Encls:(Three sheets)

33
30/10 ✓

*Pls find
SS
ade*

To,

(Through Proper Channel)

Sir,

- Thanking you,

Yours faithfully,

(MES/229684 Sri Sanjoy
Kumar Sarkar, Mate Eldct)

(1) Gr. E Letter No 3020/H/998 (E3 (R) d.t.
20 Dec 2000

(2) 3020/14/993/E3
✓
Attest
13 Dec 2020

Tale Mil : 6282

Station Mukhyalaya
Station Headquarters
Shillong

7 Aug 2000

Annexure - VA

500/10/00000000

Shri Santibala Dey
DM-17/3 Dudgeon lines
Shillong

Shri Gyand Das
DM-14/4 Dudgeon lines
Shillong

Shri Sanju Sarkar
DM-6/1 Dudgeon lines
Shillong

DM-2/2
Shri KB Thapa
DM-2/2 Dudgeon lines
Shillong

Shri Ganesh Bhagat
DM-27/1 Dudgeon lines
Shillong

ALLOTMENT OF DEFENCE SERVICE PERSONNEL MARRIED
ACCOMMODATION TO NON ENTITLED PERS (DEF CIVS)

As per para 4 of Army HQ letter No 10562/P/Q3(B-1) dated 23 Jan 84, Defence civilians allotted surplus service accommodation would be required to be vacated at short notice without claiming any alternative accn as and when required to the entitled service personnels. Since, you were allotted married accn of entitled service personnels being surplus, the same is hereby cancelled because it is required for the entitled service personnels who are on the waiting list. You are hereby, required to vacate the married accn allotted to you by 25 Aug 2000, failing which physical eviction will be carried out.

(Gharai Ram)
Col
Adm Comdt

Copy to :-

GE Shillong

MH Shillong

BSO Shillong

HQ 101 Area (Q)

A. B.

Please instruct the indls of your unit to vacate the accn by 25 Aug 2000, failing which eviction under PPE Act 1971 will be issued.

Accepted
S. S. Chawla

Tele Mil : 6242.

-20-

Annexure - V.B
Station Mukhyalaya
Station Headquarters
Shillong

540/6/Q/I

22 Sep 2000

Shri Sanju Sarkar
DM-6/1 Dudgeon lines
Shillong

Shri KB Thapa
DM-2/2 Dudgeon lines
Shillong

Shri Ganesh Bhagat
DM-27/1 Dudgeon lines
Shillong

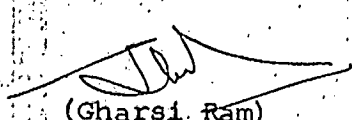
ALLOTMENT OF DEFENCE SERVICE PERSONNEL MARRIED
ACCN TO NON ENTITLED PERS (DEF CIVS)

1. Ref this HQ letter No 540/3/Q/Corr dated 27 Aug 2000.
2. Please vacate the married accn under your occupation by 30 Oct positively, failing which physical eviction will be carried out.

Copy to :-

GE Shillong - for info and necessary action.

A.T/


(Gharsi Ram)
Col
Adm Comdt

*Acting
SS
Adm.*

Tele Mil : 6242

Station Mukhyalaya
Station Headquarters
Shillong

540/6/2

Dec 2000

GE Shillong
BSO Shillong

ALLOTMENT OF MD ACCN : HAPPY VALLEY
(MES KEY PERS)

1. The following md accn of MES Key pers at Happy Valley are hereby allotted to the following indls provisionally as shown against each :-

- (a) BS-21/4 Type-II at Happy Valley - Shri Sanjay Sarkar, Mate/Elect of GE Shillong. His basic pay is Rs 3300/-
- (b) A-103/1 Type-II at Happy Valley - Ganesh Bhagat, Elect of GE Shillong. His basic pay is Rs 4110/-
- (c) MES-193/5 Type-II at Happy Valley - KB Thapa, MPA of GE Shillong. His basic pay is Rs 4270/-
- (d) BS-21/2 Type-II at Happy Valley - Sudan Thakuri, Mate/V/Man of GE Shillong. His basic pay is Rs 3650/-
- (e) P-16/D Type-II at Happy Valley - JN Sharma, Elect of GE Shillong. His basic pay is Rs 4500/-

2. Proper handing/taking over may please be carried out with the above indls. In case the indls failed to take over md accn within eight days, please intimate this HQ for our necessary action.

Anil Kaul)

Col

Offg Adm Comdt
for Stm Cdr

Copy to :-

AAO BSO Shillong

Shri Sanjay
Sarkar, Mate/Elect
GE Shillong

NOTE :-

1. The house is allotted to you provisionally as per your seniority. You will abide with policy framed by this HQ time to time.
2. You will not sublet the house.
3. Only auth pers of the family will be allowed to stay in the house.
4. You and your family members are not permitted to run private business from the allotted house.
5. You will maintain the house properly and take care of all hygienic conditions.
6. In case you failed to take over md accn within eight days, allotment letter will be cancelled and will be allotted to next indl on waiting list.

A.N.

From : MES/229684
Shri Sanjay Kumar Sarkar
Mate Electrician

Annexure - VII 21

To : The Station Headquarters
Shillong

(Through proper channel)

APPLICATION FOR CHANGING OF MD ACCOMADATION

1. Reference your letter No. 540/6/Q dt 13 Dec 2000.
2. Further to my appeal vide letter No N11 dated 13 Dec 2000, I once again pray to you for re-considering my case and asking for the allotment in DM Line 124/1 area or DF line 13/1 area under this Shillong Cantt area.
3. I have appealed earlier that my son is suffering from Chronic Broncho - asthma, which is a very critical disease and needs to the uniformly mentioned by the ~~sax~~ specialist Doctor as well as inclement climatic condition such as fog winds, severe cold from winter etc. May cause further re-deterioration of my son's health. Moreover availabilities of medical attendants and schools are also causing severe problem in comparrison to this place with the Happy Valley.
4. Also, as regards to my own duty, I shall find most inconvenient if I stay at Happy Valley.
5. So, in view of the above mentioned appeal, I may please be allotted md accn against any vacatted accn at DM Line or DF Line area.
6. I had already give a Application through AGE B/M via letter No 310/632/BM dt 15 Feb 99.
7. I shall be obliged if you kindly consider my case.

Thanking you.

Yours faithfully,

S. Sarkar

(MES/229684 Shri Sanjay
Kumar Sarkar)

Encls : (Doctor's Certificate
Xrox copy attached)

Copy to :-

GE Shillong
BSO Shillong

- Doctor's Certificate Xrox copy attached
for ready reference please.

*Recd
of Shillong
19/12/2000*
✓

*Accepted
22/12/2000
Adm*

Tele. Mil : 6060

24-23

Annexure - VIII

Garrison Engineer
Shillong Division
Shillong - 793002

3020/A/ 1053/E3(R)

07 Feb 2001

Shri Sanjay Sarkar, Mate. Elect
AGE E/M Shillong
Qtr No DM 6/1 at DM Line

Shri Ganesh Bhagat, Elect
AGE E/M Shillong
Qtr No 27/1 at DM Line

(Through Proper Channel)

VACATION OF SERVICE PERS QTR AT DM LINE

1. You are hereby directed to vacate the service pers Qtr at DM Line which are occupied by you at present. You have been allotted an alternative md accn vide Stn HQ Shillong letter No 540/6/Q dt 13 Dec 2000. In view of the above, it is again intimated to take over the alternative accn and vacate the service pers accn immediately failing which physical eviction will be carried out by competent authority.

(G. Chand)

BSO

AGE Shillong

Copy to :-

Stn HQ Shillong

- for info wrt your HQ letter No 540/47/Q dt 31 Jan 2001.

N O O

AGE E/M Shillong

- for info wrt our letter No 3020/A/1039/E3(R) dt 24 Jan 2001. Please instruct the concerned indl to vacate the service pers Qtr at an early date and ask them to take over the alternative accn as allotted to them vide Stn HQ Shillong letter No 540/6/Q dt 13 Dec 2000 as intimated to your office vide our letter No 3020/A/994/23 dt 16 Dec 2000 please.

Accused
S. P. Adw

Tele Mil : 6242

Station Mukhalaya
Station Headquarters
Shillong

540/47/Q

19 Apr 2001

GE, Shillong

VACATION OF SERVICE PERS ACCN AT DM LINE

1. Ref this HQ letter No 540/47/Q dated 31 Jan 2001 and your letter No 3020/A/1053 H2(R) dated 07 Feb 2001.
2. It is intimated to you with great concern that inspite of repeated reminders Shri Sanjay Sarla, Mate Elect of your Divs has not vacated Qtr No 6/1 DM Lines which belongs service pers. Your kind attention is drawn to this office letter No 540/6/Q dated 13 Dec 2000 under which we have allotted an alternative accn to the indl but the same has not been taken over by him till date.
3. You are hereby directed to order the indl to vacate Qtr No 6/1 DM Lines by 30 Apr 2001 without fail. Failing which physical eviction will be carried out.

Copy to :-

BSO, Shillong

CP/9

21/4

(Gharsi Ram)
Col
Adm Comd

Attest
27 Apr

-25-25-

Annexure - X

32

Ref: M/16212

Station Mukhyalaya
Station Headquarters
Shillong

15 May 2001

00
30
50017 (1)

GE Shillong

ALLOTMENT OF GOVT MD ACEN; DEF CTY

1. Qtr No DF-1/3 in Burma lines Shillong, is hereby allotted provisionally on temp basis with the undertaking cert to MFS-229684 Shri Sanjay Sarkar, Mate/Elect of GE Shillong. His basic pay is Rs 3300/-.
2. Proper handing/taking over may pl be carried out with the above named indl. In case indl fails to take over govt md acen within 8 days, Pl intimate this HQ for our necessary action.
3. In this connection, Para 1 (a) of this HQ letter No 540/6/Q dt 13 Dec 2000 pl be treated as cancelled.



(Gharsi Ram)
Col
Adm Comdt.

Copy to:-

BRG Shillong

AAO BRG Shillong

MFS 229684 Shri
Sanjay Sarkar
Mate/Elect
GE Shillong

1. The house is allotted to you provisionally on temp basis with the undertaking cert that Qtr No DF 1/3 at Burma Lines Shillong will be vacated by you within one month as when and when ask by Stn HQ Shillong. You will abide with policy framed by this HQ time to time.
2. You will not sublet the house.
3. Only auth pers of the family will be allowed to stay in the house.
4. You and your family members are not permitted to run private business from the allotted house.
5. You will maintain the house properly and take care all hygienic conditions.
6. In case you failed to take over md acen within eight days, allotment will be cancelled and will be allotted to next indl on waiting list.

19
16/5

Accepted
S. D. Adh

000
000

000
000

UNDERTAKING CERTIFICATE

I, SRI SANJAY KUMAR SARKAR, MATE ELECTRICIAN OF
GE SHILLONG DO HEREBY CERTIFY THAT QUARTER NO. DN-1/3 IN
BURMA LINES, SHILLONG ALLOTTED TO ME ON TEMPORARY BASIS
WILL BE VACATED BY ME WITHIN ONE MONTH AS AND WHEN ASK BY
STATION HEADQUARTER SHILLONG.

Station : Shillong

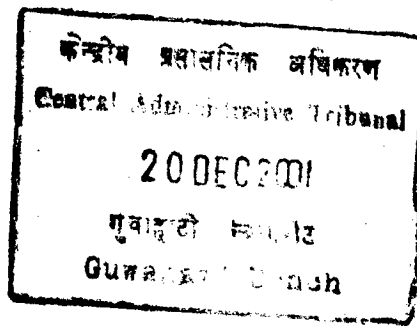
Dated : May 2001

S. Sanjay Kumar
Signature of the individual
Sri Sanjay Kumar Sarkar,
Mate Electrician
GE Shillong

COUNTERSIGNED

W. H.
(PP SINGH)
MAJOR
GARRISON ENGINEER

Attest for
D. J. A. C.



Filed by 33
19/12/01
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

-27-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO :307/01/3087

Shri Sanjay Kumar Sarkar & Others Others

-Versus-

Union of India and Others Respondents

- AND -

In the matter of

Filing written statement by Respondents No 1, 2, 3

(Written Statement)

The humble Respondents submit their written statements as follows :-

1. **Para 1 to 3.** It is stated that the same are matters of station seniority and availability of Government Quarters in the station what appears from record, the respondents do not admit any thing.
2. **Para 4 to 6.** The respondents beg to state that the allotment of married accommodation is considered by Station Headquarters, Shillong based on the seniority list, and accordingly allotment letters are issued by Station Headquarters. Based on the application dated 15 July 1992 Shri Sanjay Kumar Sarkar was allotted the Quarters No DM 6/1 from GE pool. However, Quarters No DM 6/1 is meant for service personnel and was allotted to the applicant purely as welfare measure. However, the applicant was asked to vacate the Quarter No DM 6/1 as the same was required for service personnel for whom it was constructed. This is consistent with the Army HQ policy. This has also been upheld by Hon'ble Guwahati High Court in the cases. Civil Rule No 25 (SH)/98 and Civil Rule No

57 (SH)/98. However, based on further representations made by the applicant his case was duly considered keeping in view of the applicant's welfare. However, to implement the Army Headquarters policy impartially the applicant was again asked to vacate Quarter No DM 6/1. Further the applicant had already been allotted Quarter No BS 21/4, Type-II at Happy Valley. However, the accommodation was not taken over by the applicant. It is pointed out that Happy Valley falling under GE Shillong and is not a remote area and many MES employees of GE Shillong reside in the said area. Keeping in view the applicants reluctant to take over BS 21/4 another Quarter DF-13 in Burma lines Shillong was allotted to the applicant purely on humanitarian ground and the same was taken over by the applicant in May 2001 which is still in occupation. However, the applicants contention that his seniority was down graded from 15 July 92 to 15 February 99 is not true as in the said period the applicant had been occupying Quarter No DM 6/1 which was allotted based on his application dated 15 July 92.

3. Para 7. The contention is not agreed to. The individual had filed the Original application No 307/01/3086 to the CAT and registered on 17 Aug 2001 and the same notice was received by this Cell on 28 Aug 2001. The eviction notice was issued to the individual on 17 Aug 2001 without knowing the fact of the subject case as we received the CAT Notice on 28 Aug 2001, and only on 28 Aug 2001 this office came to know about the case filed by Shri Sanjay Kumar Sarkar at CAT. As such it will be seen that the Notice was issued on a state when we had no knowledge about the case filed by Shri Sanjay Kumar Sarkar.

4. Para 8 & 9. The contention is not agreed to, as the applicant was in occupation of Quarter No DM 6/1 which was allotted based on his application dated 15 July 1992. However his case will be considered as and when falls vacant as per seniority of individuals.

5. The respondents beg to state that in view of the facts stated in this written statement, the application have no merit to get interim order.

-29-

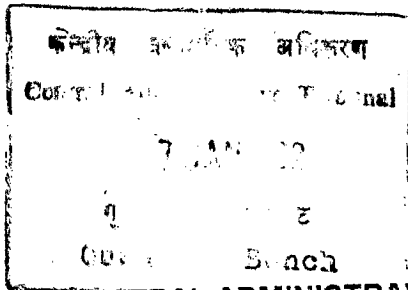
VERIFICATION

I, Ascem Kumar, Assistance Executive Engineer, Office of the Garrison Engineer Shillong as authorized do hereby solemnly declare that the contents in the written statements from Para 1 to 4 above are based on the information and derived from available records and true to my information and the rest are my humble submission before this Hon'ble Tribunal.

And I sign the verification on this day of 18 December 2001.

Ascem Kumar

DECLARANT



-30-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A. No. 307 of 2001

Shri Sanjay Kumar Sarkar

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the applicant in
reply to the written statement submitted by
the Respondents.

The applicant above named applicant most humbly and respectfully begs
to state as under :

1. That your applicant categorically denies the statements made in paragraph 2 and 4 of the written statement and further begs to state that the respondents have stated that the quarter No. DM 6/1 which was allotted to the applicant is meant for service personnel and as per the Army HQ policy, the Quarters meant for service personnel have to be given to service personnel which necessitated the applicant to vacate the said quarter and have also added that this policy has been upheld by the Hon'ble Gauhati High Court also. Applying the same analogy, the quarters constructed for the "key-personnel" should be given to the "Key-personnel" and the Applicant being a "Key-Personnel" (Mate Electrician) should get a key person's quarter as per the Army HQ policy as stated

37
Filed by the applicant
through advocate
Sri G.N. Chakravarty
on 3-1-2012

31- 38

and the decisions of the Hon'ble High Court under reference affirmatively supports the claim of this applicant only and not that of the Respondents.

As regards the Quarter No. BS 21/4, Type II at Happy valley area allotted to the applicant, it has already been stated in the O.A. that the applicant could not avail of that quarter No. BS 21/4 which was 9 to 10 km away from the place of his duty, since he has to attend shift duty in odd hours at night and he has an ailing son and old sick mother at home who need his emergent care too often and the applicant submitted relevant medical certificate also to that effect.

Further, the statement of the respondents that the seniority of the applicant for the purpose of allotment of his quarter has been reckoned with effect from 15.7.1992 on the basis of his application dated 15.7.1992 is not true. Had it been so, the applicant would have got his entitled quarter long back, but in fact, persons junior to the applicant have been allotted with quarter which clearly indicates that applicant's seniority has not been reckoned with effect from 15.7.1992. In 1994, as many as 40 quarters were constructed for "Key persons" some which were allotted to even those persons who are not only junior to the applicant but they even do not fall under the category of "Key person". Even on 1.1.2001, one such quater (Quarter No. MES 126/1 in D.M. Line) has been allotted to one Shri Sagar Rai, Safaiwallah who joined only on 26.8.1997 and is not a "key person". This apart, the following quarters which had been constructed for "key persons" have been allotted to those who are not "key persons" and are under their occupation now.

These are - Qtr Nos. 126/2 BSO T/1, 126/1 EM T/1,

126/6 BSO T/1, 126/3 B/R T/1 etc.

n

The Hon'ble Tribunal may be pleased to direct the respondents to produce all relevant records pertaining to the allotment of all the quarters mentioned above along with the application dated 15.7.1992 of the applicant and so also of Shri Sagar Rai and others who have since been allotted with "key-persons" quarters, before the Hon'ble Tribunal for perusal and examination.

It is relevant to mention here, that one quarter No. MES 123/5 in DM Line is going to be vacated soon by one Shri Laxmi Singh who has retired on 30.8.2001 and this may be allotted to the applicant without any difficulty, in terms of order dated 16.11.01 passed by the Hon'ble CAT in M.P. No. 258/2001 in O.A. No. 307/2001.

2. That the applicant emphatically denies the statements made in paragraph 3 of the written statement and begs to assert that the eviction notice claimed to have been issued by the Respondents on 17.8.2001 is a blatant lie and the fact remains that the Respondents after receiving the Notice on 28.8.2001 from the Hon'ble CAT, issued the eviction notice on 03.09.2001, antedating the same as 17.8.2001 deliberately. In this context, a photocopy of the relevant envelope which contained the eviction notice is enclosed herewith which bears the date of issue on 03.09.2001 indicating clearly that the eviction notice was issued and despatched on 03.09.2001 only. The said envelope was delivered to the applicant on 03.09.2001 only and the applicant, after opening the envelope, found that that letter inside the envelope was dated as 17.8.2001 while the Envelope contained the actual date i.e. 03.09.2001. That respondents now by making a false statement, is attempting to mislead the Hon'ble Tribunal.

A photocopy of envelope is annexed herewith as **Annexure-A**.

3. That the applicant categorically denies the statement made in paragraph 5 of the written statement and submits that in the facts and circumstances, he is entitled to the reliefs prayed for, and the O.A. deserves too be allowed with costs.

M

41

34-

VERIFICATION

I, Shri Sanjoy Kumar Sarkar, S/o Shri Narendra Chandra Sarkar, aged about 40 years, working as Mate Electrician, resident of Dozen Line Cantt area, Qtr. No.D/M6/1, Shillong, do hereby verify that the statements made in paragraphs 1 to 3 in this rejoinder are true to my knowledge and I have not suppressed any material fact.

3rd

And I sign this verification on this the 4th day of January, 2002.

Sanjoy Kumar Sarkar

5