

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 154/8001.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet. O.A-154/8001 Pg. 1 to.... 3
2. Judgment/Order dtd. 06/03/8002 Pg. 1 to.... 4 allowed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 154/2001 Pg. 1 to.... 24
5. E.P/M.P..... N.I.L. Pg. to.....
6. R.A/C.P..... N.I.L. Pg. to.....
7. W.S.F..... Filed by the Respondents Pg. 1 to.... 4
8. Rejoinder..... Pg. to.....
9. Reply..... Pg. to.....
10. Any other Papers..... Pg. to.....
11. ~~Memo of Appearance~~.....
12. Additional Affidavit.....
13. Written Arguments..... Pg. 1 — to — 3
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO ... 154 OF 2001.

Applicant (s) Chandi Nath Sarma

Respondent (s) U.O.I. Govt.

Advocate for Applicants (s) G.K. Bhattacharjee, G.N. Das

Advocate for Respondent (s) B. Chaudhury
CASC

Notes of the Registry | Date | Order of the Tribunal

This application is in form but not in time. Condonation
Petition is filed. Not filed vide
M.P. No. 1616 to C.E.
for Rs 5/- deposited vide
IPO/B No. 6G 792255
Dated.....23.....4.....2001.....
Dy. Registrar.

25.4.2001

nkm

The application is admitted. Call
for the records. List it for orders on 8.6.01.

Vice-Chairman

Mr. S. Sarma, learned counsel for the
respondents asked for time to file written
statement.

List on 5-7-2001 for order.

Notice is prepared and
Sent to D/Section for
Issuing to the Respondents
No. 1 to 4. vide D.No. 1616 to
1619 dt. 03-5-2001

5.7.01

H.C. Sharma
Member

List on 10.8.01 to enable the
respondents to file written statement.

NB
3/5/2001

lm

Vice-Chairman

(2)

① Service report are still awaited.

10.8.01

None is present for the applicant.
List on 7/9/01 for order.

② No. written statement has been filed.

By
4.7.01

mb

7.9.01

2 weeks time is allowed to the respondents to file written statement.

List on 10/10/01 for order.

No. written statement has been filed.

By
9.8.01

mb

No. wts has been filed.

10.10.01

List on 28.11.01 to enable the respondents to file written statement.

vice-Chairman

No. written statement has been filed.

pg

By
9.10.01

28.11.01

Mr S.Sarma, learned counsel for the respondents prays for time to file written statement. Prayer allowed.

List on 2.1.2002 for order.

ICU Member

No. written statement has been filed.

No. wts has been filed.

2.1.02

Though opportunity

Though the opportunity was given to the respondents, the respondents have not filed the written statement. The case be listed for hearing on 6.2.02. In the meanwhile the respondents may file written statement.

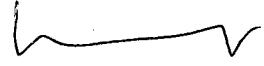
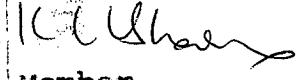
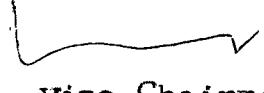
ICU Member

No. written statement has been filed.

By
5.2.02

lm

7
M
O.A. No. 154 of 2001

Notes of the Registry	Date	Order of the Tribunal
	6.2.02 mb 28.2.	Prayer has been made on behalf of Mr. G.K.Bhattacharyya, learned counsel for the applicant for adjournment of the case. Prayer is allowed. List on 28.2.2002 for hearing.  Vice-Chairman
	6.3.02 pg	Heard in part. LWT on 6/3/2002. Ran A.K.Jr 28.2. Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.  Member  Vice-Chairman

Notes of the Registry

Date

Order of the Trib

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 154 of 2001

Date of Decision. 6-3-2002.

Sri Chandi Nath Sarma

Petitioner(s)

Sri G.K.Bhattacharyya, B.Choudhury

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

Sri J.L.Sarkar, Railway standing counsel

Advocate for the
Respondent(s)

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

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

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

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 154 of 2001.

Date of Order : This the 6th Day of March, 2002.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman

The Hon'ble Mr K.K.Sharma, Administrative Tribunal,

Shri Chandi Nath Sarma,
son of Late Ratneswar Sarma,
Resident of Kushalnagar,
P.O. Bamunimaidan,
Guwahati-21.

... Applicant

By Advocate Sri G.K.Bhattacharya, B.Choudhury.

- Versus -

1. The Union of India,
Represented by the General Manager,
N.F.Railway, Maligaon,
Guwahati.
2. Divisional Railway Manager,
N.F.Railway, Lumding,
District - Nagaon, Assam.
3. Senior Divisional Mechanical
Engineer (Diesel),
New Guwahati,
N.F.Railway.
4. Senior Section Engineer (Works)
N.F.Railway,
New Guwahati. Respondents.

By Advocate Sri J.L.Sarkar, Railway standing counsel.

O R D E R

CHOWDHURY J.(V.C)

The applicant is a Railway servant and presently working as a Junior Engineer-II (Electrical) at Diesel Shed, New Guwahati. He was allotted a railway quarter No. 332(C) Type II at New Guwahati vide allotment order dated 15.12.93. According to the applicant he surrendered the quarter allotted to him with effect ^{from} 15.1.2000. The applicant stated that on 23.1.2000 he received a letter dated 7.1.2000 issued by the respondent No.3 informing

the applicant that the railway quarter allotted to him was cancelled. On receipt of the communication dated 7.1.2000 from the office of the Senior Divisional Mechanical Engineer stating that the said quarter had been sub leted by the applicant, the applicant vacated the quarter on 15.1.2000. The applicant however stated that by the communication dated 9.3.2000 damage rent was deducted from him for the period from the date of sub letting to the date of vacation of the quarter. The applicant ^{had} already vacated the quarter and by communication dated 25.1.2000 the authority took possession of the said quarter. The applicant submitted his application dated 3.2.2000 before the respondent No.3 claiming House Rent Allowance admissible under the rules. Since the respondents did not respond to it, the applicant moved this Tribunal praying for a direction on the respondents to pay him the house rent allowance. The applicant also mentioned about the enquiry held by the respondents under Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968 on the allegation that he had sublet the railway quarter in question. The applicant submitted his written statement and in due course the respondents imposed penalty on the applicant vide order dated 26.4.2000 stopping his increment for 2 years without cumulative effect. It has been stated that the applicant has preferred an appeal against that order and that appeal is still pending before the authority.

2. The respondents submitted its written statement. In the written statement the respondents stated that the applicant's claim for house rent allowance was forwarded to the DGM(G), N.F.Railway, Maligaon for clarification

and the matter is still under consideration. As regards the applicant's contention as to the recovery of damage rent the respondents stated that the damage rent was deducted for the period from the date of sub-letting to the date of vacation of quarter. In the written statement the respondents also mentioned that the appeal of the applicant addressed to the appellate authority received on 10.1.2001 and the same was forwarded to the appellate authority for disposal.

3. We have heard Mr B.Choudhury, learned counsel for the applicant as well as Mr J.L.Sarkar, learned Railway standing counsel for the respondents at length. On consideration of the materials on record it appears that the applicant is not occupying any railway quarter. He vacated the same quarter on 15.1.2000 and the applicant is now living in his own house. A railway servant living in a house owned by him, his wife, children, father or mother shall also be eligible for house rent allowance under the scheme adopted by the Railway authority. In the office memorandum it is indicated about the mechanism for providing house rent allowance to the railway servants on fulfilling the required conditions. In the circumstances we do not find any justification for not providing the house rent allowance to the applicant as per rules. On the teeth of the opposition raised by Mr J.L.Sarkar we hold that the applicant is entitled to the house rent allowance as per law. As to the legality of the order of imposition of penalty on the applicant we are not passing any order in view of the fact that the matter is under consideration before the appellate authority. In our considered opinion the appellate authority is required to decide the appeal.

Let the appellate authority decide the appeal, preferably within a period of 3 months from the date of receipt of this order.

4. For the reasons stated above we direct the respondents to take up the matter pertaining to granting of house rent allowance to the applicant and pass necessary order thereon within a period of 3 months from the date of receipt of this order.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

K.K.Sharma

(K.K.SHARMA)
ADMINISTRATIVE MEMBER

D.N.Chowdhury

(D.N.CHOWDHURY)
VICE CHAIRMAN

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 154/2001

Sri C. N. Sarma

Vs.

U.O.I. & Ors

In the matter of :

Written Argument by the counsel of
the respondents.

The counsel of respondents most respectfully
submits as under :

1. That the application is not maintainable
because it is hit by the vice of plurality of remedies viz.,
(a) Prayer for House Rent Allowance and (b) Relief against
the disciplinary case after departmental action under the
Railway Servants Discipline and Appeal Rules, 1968. The OA
deserves to be dismissed on that ground.

2. That the applicant un-authorisely sublet the
Quarter and after detection surrendered and vacated the
Quarter on 25.1.2000. He has not thereafter requested for
allotment of Rly. Quarter because he is not in need of Rly.
accommodation. It is respectfully submitted that it is not a
case where he has been debarred from allotment of Rly.
Quarter. The applicant is not entitled to House Rent
Allowance. The respondents are however further examining the
case of the applicant as regards House Rent Allowance.

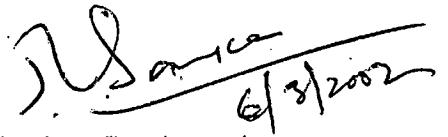
3. That the appeal in disciplinary case is under
consideration of the competent authority and shall be
disposed as per law and procedure expeditiously.

Final
Arg.

Dec 2001
C.A.T. Guwahati

4. It is humbly submitted that the OA deserves to be dismissed.

A copy of this written argument is being given to the counsel of the applicant. Submitted Please.


(J. L. Sarkar)
6/3/2002

Advocate.

6 MAR 2002
Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI
Guwahati Bench

13
[Signature]

O.A. NO. 154/2001

Sri C.N.Sarma

=Vs=

Union of India & Others.

In the matter of :

Written statement on behalf of
the respondents.

St. Div.
Filed by respondent
through S. Chakraborty
6/3/2002

The respondents in the above case most
respectfully beg to state as under :

1. That the respondents have gone through the original application and have understood the contents thereof.
2. That the respondents do not admit any statement except those which are specifically admitted in this written statement. Statements not admitted are denied.
3. That before traversing the parawise statement of the original application the respondents beg to state the brief history of the case as under:

That the applicant is at present posted at NGC Diesel Shed and he was allotted Railway Quarter No. 332-C Type-II at New Guwahati. According to Quarter allotment Rule 1989 (hereinafter referred to as the said rule) a Railway employee can not sublet the quarter allotted to him. Para 10.5 of the said Rule reads as under:

Contd..2-1

" 10.5 It shall be clearly understood by the railway employee occupying a railway quarter that the quarters are meant for his bona fide use only. He shall not sublet any part or whole of the house. Complaints in this regard shall be addressed to Chairman, Housing Committee. If the complaint is justified he shall report the matter to the Controlling Officers for necessary DAR action and the allotment shall be cancelled forthwith. "

It is stated that the applicant subletted the quarter allotted to him w.e.f. 10-11-99. As per the quarter allotment rule, 1989 the allotment of the said quarter was cancelled by the Office letter dated 7.1.2000 and damage rent was imposed from the date of subletting to the date of vacatin of the quarter. Besides, DAR action was taken by stopping the applicant's increment for 2 years with non-cumulative effect.

4. That in reply to the statements in para 4.1 to 4.4 it is stated that Sr.Divisional Engineer, Maligaon issued Office letter dated : 27/12/1999 to the D ME/D/NGC for taking necessary action departmentally against the applicant for subletting the quarter No. 332(C) Type-II w.e.f. 16-11-1999. As per the said rule the allotment of the said quarter was cancelled by the Officer letter No. M/258/D/NGC/2 dated. 7/1/2000 and the applicant was asked to vacate and hand over the said quarter to Senior Section Engineer (Works), New Guwahati. The applicant vacated the said Quarter on 25/1/01.

5. That in reply to the statements in para 4.5 to 4.7 it is stated that the application of the applicant claiming House Rent Allowance was forwarded to DGM(G)/N.F.Rly./MLG for clarification as to whether he can be given such allowances. It is denied that the applicant was given verbal assurance regarding House Rent Allowance.

As per the said Rule the disciplinary action was initiated against the applicant by Mem. No. M/258/D/NGC/2 dt'd: 9/3/2000, and the damage rent was deducted for the period from the date of sub-letting to the date of vacation quarter.

6. That in reply to the statements in para 4.8 to 4.9 it is stated that after considering the defence submitted by the applicant the disciplinary authority imposed penalty of stoppage of next increment for 2 years without cumulative effect. It is stated that the applicant did not take any permission to leave Head Quarter in the month of November 1999. He was present on duty. Therefore, it is denied that the applicant was out of station. It is further stated that any allottee, to keep his relatives other than family, has to take prior permission from his controlling officer. No such permission was obtained by the applicant.

7. That in reply to the statements in para 4.10 it is stated that the appeal of the applicant addressed to the appellate authority i.e. DRM/LMG was received by the respondent No.3 on 10/1/2001 and the same was forwarded to the appellate authority for his disposal. ✓

8. That in reply to the statements in para 4.11 the respondents reiterate the statements made in foregoing paras.

9. That in the facts and circumstances of the case the application deserves to be dismissed with cost.

VERIFICATION

I, Sri Trikalagya Rabha working as Sr. Divisional personnel officer N.F.Railway, Lumding, do hereby verify that, the statements made in the paragraphs 1 to 9 are true to my knowledge.

Lumding.

05 th March 2002.

Signature: Srikalagya Rabha

विद्युत कमिक्स अधिकारी
Sr. Divl. Personnel Officer
गोप्ता रेलवे, गोप्ता
N: G. Rly., Lumding

केन्द्रीय न्यायालय का अधिकारी
Central Administrative Tribunal

24 APR 2001

गुवाहाटी न्यायालय
Guwahati Bench

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

O. A. NO. 154 /2001.

Shri Chandi Nath Sarma .

... Applicant .

-Versus-

Union of India and others.

... Respondents .

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Application ...	1 to 11
2.	Verification ...	12
3.	Annexure-I ...	13
4.	Annexure-II ...	14
5.	Annexure-III ...	15.
6.	Annexure-IV ...	16
7.	Annexure-V ...	17-18
8.	Annexure-VI ...	19-20
9.	Annexure-VII ...	21
10.	Annexure-VIII ...	22-23
11.	Annexure-IX ...	24

Filed by:-

Bikram Choudhury
(Advocate)

23.04.01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
(An application U/s. 19 of the Administrative Tribunal
Act, 1985)

ORIGINAL APPLICATION NO. OF 2001

Shri. Chandi Nath Sarma,
son of Late Ratneswar Sarma,
Resident of Kushalnagar,
P.O. Bamunimaidan,
Guwahati-781021.

...APPLICANT

-VERSUS-

1. The Union of India.
Represented by the General Manager
N.F. Railway, Maligaon,
Guwahati.
2. Divisional Railway Manager,
N.F.Railway, Lumding,
District - Nagaon, Assam.
3. Senior Divisional Mechanical
Engineer (Diesel),
New Guwahati,
N.F.Railway.

Chandi Nath Sarma
Filed by the applicant through
Bikram Choudhury, Advocate, 23-04-01

4. Senior Section Engineer (Works)

New Guwahati,

N.F.Railway.

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

i) Illegal and arbitrary action of the authorities in denying the applicant the house rent allowance otherwise admissible to him as provided in the Railway Boards Circular dtd. 26.7.67.

ii) Office order No. M/258/D/NGC/2 dtd. 26.4.2000 passed by the Respondent No. 3 whereby a penalty of stoppage of next increment for 2 years without commutative effect was imposed on the applicant and illegal and arbitrary action of the appellate authority (Respondent No.2) in not disposing of the appeal dtd. 12.6.2000.

2. JURISDICTION

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Tribunal.

3. LIMITATION.

The applicant further declares that the

Contd.../-

application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE

1. That, the applicant initially joined service under the N.F.Railway as #Electrician Grade-III in the year 1967 and in due course he was promoted to Junior Engineer-II (Electrical) in the year 1998 and at present he is posted as such at Diesel Shed, New Guwahati and the applicant was allotted a railway quarter No. 332(C) Type II, at New Guwahati vide Office allotment order No. M/258/D/NGC/1 dtd. 15.12.93.

2. That the applicant begs to state that on 7.1.2000, he submitted a letter to Respondent No. 3 stating the facts due to which he was surrendering the railway quarter allotted to him w.e.f. 15.01.2000.

A copy of the letter dtd. 7.1.2000 is annexed herewith and marked as ANNEXURE-I.

3. That, subsequently, on 23.1.2000 the applicant received letter No. M/258/D/NGC/2 dtd. 7.1.2000 issued by Respondent No. 3, whereby the applicant was informed that the railway quarter allotted him had been cancelled with immediate effect on receipt of a commu-

nication dtd. 27/30.12.99 from the office of Senior Divisional Engineer stating that the said quarter had been subletted by the applicant. However, in the context, the applicant states that the said allotted quarter was cancelled without giving him any prior notice of cancellation. In the said letter the applicant was further directed to hand over the quarter to Respondent no. 4 and to produce a clearance report regarding vacation of quarter from Respondent no. 4. In the above mentioned letter, the office Superintendent (Electrical) was also directed to recover damage rent till a clearance report regarding vacation of quarter is obtained and produced from respondent no.4.

A copy of the letter dtd. 7.1.2000 is annexed herewith and marked as ANNEXURE-

II.

4. That the applicant begs to state that on receipt of the letter dtd. 7.1.2000 (Annexure-II), the applicant immediately vacated the quarter on 25.1.2000 and accordingly handed over the possession to Respondent no. 4 who accepted the same by his letter No.G/NGO/2 dtd. 25.1.2000. The applicant thereafter submitted the letter in the office of Respondent no. 3.

A copy of the letter dtd. 25.1.2000 is annexed herewith and marked as ANNEXURE-

III.

5. That, thereafter, the applicant on 3.2.2000 made an application to Respondent No. 3 claiming house rent allowance which is admissible to him as per rules after surrendering the quarter allotted on the ground of unauthorized subletting but there was no response to his letter. The applicant, thereafter had been visiting the office of respondent authorities several times and he was given verbal assurance that house rent allowance will be given to him.

A copy of the application dtd. 3.2.2000 is annexed herewith and marked as ANNEXURE-IV.

6. That, in the meanwhile, the respondent authorities had calculated the damage rent at Rs. 2100/- (Rupees two thousand and one hundred only) and had started recovering the same in installments from the applicant.

Some copies of the pay-in-slip showing the recovery of damage rent are annexed herewith and marked as ANNEXURE-V.

7. That, as such, the applicant was surprised to receive one Memorandum no M/258/D/NGC/2 dtd. 9.3.2000 from Respondent No. 3 on 15.3.2000, whereby the applicant was informed that the respondent authorities has proposed to take action against him under Rule 11 of the

Railway Servants (Discipline and Appeal) Rules, 1968.

The charge was that the applicant had subletted the railway quarter No. 332(C) Type II at New Guwahati allotted to him. It is relevant to mention here that the applicant had already vacated his quarter on 25.1.2000 against which he had submitted a vacation report dtd. 25.1.2000 from Respondent no. 4 and damage rent was being recovered.

A copy of the said Memorandum dtd. 9.3.2000 is annexed herewith and marked as **ANNEXURE-VI.**

8. That, on receipt of the charge memorandum, the applicant immediately, on 24.3.2000, submitted his written statement in defence denying the charge and stating that during the month of November, 1999 his family was out of station for treatment of his wife and during this period one of his relatives was there for ^{applicant} looking after the quarter. When ~~the~~ ^{applicant} returned to Guwahati, he came to know that somebody wrongly reported to Sr. D.E.N., Maligaon, that he was subletting the quarter on the basis of which he had to vacate the quarter.

A copy of the said defence is annexed herewith and marked as **ANNEXURE-VII.**

83

Contd.../-

9. That, as such, the applicant was surprised to receive the impugned order No. M/258/D/NGC/2 dtd. 26.4.2000, passed by the Respondent No. 3, whereby, the applicant was informed that the explanation to the minor penalty charge memorandum dtd. 9.3.2000 submitted by him was not found satisfactory and a penalty of stoppage of next increment for 2 years without cumulative effect has been imposed.

A copy of the impugned order dtd. 26.4.2000 is annexed herewith and marked as ANNEXURE-VIII

10. That, thereafter, the applicant immediately on 12.06.2000, submitted an appeal to Respondent no. 2 challenging the order of penalty (Annexure-VIII) dtd. 26.4.2000 and that there was no justification in imposing the penalty as damage rent had already been deducted from the applicant's salary and prayed that he be exempted from the charge and house rent allowance be paid to him which is otherwise admissible to the applicant as per rules. It is pertinent to mention here that the appellate authority is required to dispose of such an appeal in terms of provision laid down in Rule 22 (2) (a), (b) and (c) of the Railway Servants Discipline and Appeal Rules, 1968.

A copy of the appeal dtd. 12.06.2000 is annexed herewith and marked as ANNEXURE-IX.

11. That the applicant begs to state that the applicant had officially surrendered the quarter allotted to him as per letter dtd. 7.1.2000 (Annexure-I) on the information received by the respondent No. 3 that he had subletted the quarter and the authorities had also recovered the damage rent. As such, now the action of the authorities in imposing a minor penalty of stoppage of next increment for 2 years without commutative effect is illegal and arbitrary and that there can be no justification in not giving him house rent allowance as admissible to him as per Railway Board's circular.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

- i) For that, the impugned order of imposing a penalty of stoppage of next increment for two years without commutative effect was passed in violation of rules and in flagrant violation of the principles of natural justice and as such the impugned order is bad in law and is liable to be set aside.
- ii) For that, the action of the authorities in imposing the penalty by a non-speaking order on the charge of subletting even after recovering the damage rent on the same charge is wholly illegal and arbitrary and such action is not sustainable in law and as such the impugned order is liable to be set aside.

- iii) For that, establishment rule 17 of the House Rent Allowance entitles a railway servant to House Rent Allowance if he is debarred from allotment of railway quarter due to subletting and as such, the action of the authorities in not giving the allowance is illegal and arbitrary and is not sustainable in law.
- iv) For that the applicant was debarred from occupying the quarter without giving him any opportunity of being heard and as such the action of the authority is bad in law and liable to be set aside.
- v) For that in any view of the matter the applicant is entitled to house rent allowance and that not being done the action is liable to be set aside.

6. DETAILS OF REMEDY EXHAUSTED

The applicant had represented against the order of imposing penalty (Annexure-VIII) by his appeal dated 12.06.2000 (Annexure-IX) and there has been no response.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

That applicant further declares that he has

Contd.../-

not previously filed any application/writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other Bench of this Hon'ble Tribunal and no such application/writ application or suit is pending before any of them.

8. PRAYER

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the applicant shall not be given the house rent allowance as permissible under the Rule and as to why the appellate authority (Respondent No.2) should not be directed to dispose of the appeal without further delay and after hearing the parties and perusing the causes shown, if any, be pleased to direct the authorities to give house rent allowance as admissible to the applicant and direct the Respondent No. 2 to dispose of the pending appeal dtd. 12.6.2000 with a speaking order within a stipulated time and/or pass any other order/ orders as Your Lordships may deem fit and proper.

And for this act of your kindness, the applicant as in duty bound shall ever pray.

9. INTERIM ORDER : NIL.
10. DOES NOT ARISE.
11. POSTAL ORDER NO. ~~6G792255~~ DATED 23.4.01 OF
GUWAHATI POST OFFICE IS ANNEXED.
12. LIST OF ENCLOSURE
As stated in the index.

VERIFICATION

I, Shri Chandi Nath Sarma, son of Late Ratneswar Sarma, aged about 55 years, resident of Kushalnagar, P.O. Bamunimaidan, Guwahati-21 in the district of Kamrup, Assam, do hereby verify that the statements made in paragraphs No. 1, 2, 5, 10 and 11 are true to my personal knowledge and the statements made in paragraphs No. 3, 4, 6, 7, 8 and 9 are believed to be true on legal advice and that I have not suppressed any material fact.

Place : 23-04-01.

Date : Guwahati

Chandi Nath Sarma,
Signature of the applicant

(Typed)

To

Dated 07/01/2000

30

The Sr.DME/NGC N.F.Rly.
through proper channel.

Sub :- surrendering of Rly.Qr.No.332/C at New Guwahati
Rly. Colony.

sir,

With due respect I would like to lay the following
few lines for your kind consideration please .

That Sir, Rly.Qr.No.332/C at NGC Rly Colony was
allotted in favour of me against your letter No.258/D/NGC/1
dated 15.12.93. But Sir, I have to stay with my old ailing
mother where she lives at her own house at Hangrabari and
needs frequent nursing ,as I am only the son of her to do
some .

Due to the above circumstances I do hereby surrender-
ing my Rly Qr.No.332/C type II w.e.f. 15.01.2000 .

Therefore I request you would be kind enough to
consider my case and oblige please .

Thanking you .

Yours faithfully,

C.N.Sarma
JE-II(E)
Dl. Shed NGC

Date 07.01.2000

Attested by
Ghoshalwary
Advocate

....

N. E. TATKAR

Office of the
Sr. D.M.E. (P.T.T.S.E.L.) /NGC

No. W/258/D/NGC/2

Dated 7.1.2000

To
Sri. C. N. Sharma

JE (D.M.E.)

Sub:- Cancellation of allotment order of Fly. Qr.

No. 332 (c) Type - II (A.M.)

Ref:- Sr. D.M.E. / LG's letter No. G/3/15/SuP Dated
27/3/2000.

The Fly. Qr. No. 332 (c) Type - II (A.M.) which was allotted to you
vide this office allotment order No. W/258/D/NGC/1. Dated 15/12/99
is subletted by you. This was communicated to this office
vide above referred letter.

In view of the above, the allotment order of the above
Qr. No. 332 (c) Type - II (A.M.) stands as cancelled with immediate
effect. You should hand over the quarter to SSE/W/NGC and
produce a clearance report regarding vacation of quarter ob-
tained from SSE/W/NGC to this office.

Sr. D.M.E. (P.T.T.S.E.L.) /NGC

My best

- 1) DGM/G/MLG } for information please,
 2) Sr. D.M.E. }
 3) SSE/W/NGC }
 4) CS/E - to arrange recovery of damage rent at the prevailing
 rate from Sri. C. N. Sharma, JE (D.M.E.) till such time
 a clearance report regarding vacation of Qr. is
 obtained and produced from SSE/W/NGC.

Sr. D.M.E. (P.T.T.S.E.L.) /NGC

Bhandarkar

- LS -

(Typed)

ANNEXURE-III

N. F. Railway
No. G/NGC/2

N. F. MLG 40 A
RB-GK 19
Dated 25.01.2000

From :- SSE((W) NGC

To Sr. DME/D/NGC

N. F. Rly.

N. F. Rly.

Sub :- Vacation report of Rly. Qr. No. 332/C

Ref :- Type-II, electrified of NGC.

SDME/D/NGC's L/No. M/258/D/NGC/2 dt. 07.01.2000.

In continuation of the L/No. under ref. the Rly. Qr. No. 332/C, Type-II at NGC has been vacated by Sri C. N. Sharma, JE/II/D on date 25.01.2000.

Accordingly the said Qr, has been kept under lock and Key of SSE(W)NGC on 25.01.2000.

Moreover it is vadiated from this end that the said Qr. may be allotted to the next senior most immediately to prevent unauthorise encroachment etc.

Sd/-Illegible,

Section Engineer (Works)

N. F. Railway New Guwahati.

Copy to :

1. DGM/G/MLG
2. SDEN/MLG For information please.
3. Sri C. N. Sharma
JE/II/D

Section Engineer (Works)
N. F. Railway New Guwahati.

Chandru

.....

(Typed)

To

SR.DME/DSL/NGC
N.F.Rly.

Sub :- House rent allowance .

Ref :- SSE(W) NGC's L/NO G/NGC/2 dated 25.01.2000 .

with reference to the above, the Rly.Qr.No.
332/C Type -II at NGC has been vacated by me to
SSE/W/NGC on 25.01.2000 .

I therefore, like to request you, to grant House
rent allowance in favour of me .

Thanking you ,Sir.

yours faithfully,

C.N.Sarma

JE-II(EL)

NGC Diesel Shed

Date 3.2.2000 .

.....

Attested by

Advocate

ANNEXURE V

N.F.RAILWAY/ESPC-MLG. AU-BU = 15-423 PAY-EN-SLIP FOR FEBRUARY 2000 I.DUE DEPT MECHANIC SRL.NO 18
 CHANDINATH SARMAH
 DESIGNS
 PFNO #01399901-HC
 BASIC PAY 6050.00 PF 804.00 GROSS PAY 6939.00
 DA 2239.00 VPF 2000.00 TOT. DESIGNS 2644.00
 CONVEY ALL 75.00 HOUSE RENT 65.00
 NHA 260.00 PROF-TAX 65.00
 SCA 120.00 GRIS 65.00
 EMPLY PLN ALL 175.00 O.P. ADVANCE 150.00 NET PAY 6095.00
 150.00 005

ALLOCATION NO#

SIGNATURE

ALLOCATION NO#

SIGNATURE

N.F.RAILWAY/ESPC-MLG. AU-BU = 15-423 PAY-EN-SLIP FOR MARCH 2000 I.DUE DEPT MECHANIC SRL.NO 18
 CHANDINATH SARMAH
 DESIGNS JE-
 PFNO #01399901-HC
 BASIC PAY 6050.00 PF 804.00 GROSS PAY 6859.00
 DA 2239.00 VPF 2000.00 TOT. DESIGNS 3494 12770.00
 CONVEY ALL 75.00 PROF-TAX 65.00
 SCA 120.00 GRIS 65.00
 EMPLY PLN ALL 175.00 O.P. ADVANCE 150.00 NET PAY 5165 7880.00
 150.00 005
 Damage Rent 715.00

Attested by

Deendayal
Advocate

N.F.RAILWAY/EDFO-MLG. AU-BU = 15-423

CHANDINATH SARMAH

DESIGNER JE-2

PFNO 801399901-NC

BASIC PAY
DA
CONVEY ALL
RSA
SCA
EMIY FLN ALL

PAY-IN-SLIP FOR

APRIL 2006 I.DUE DEPT MECHANIC SRL.NO 1381 RE-00
504.00
2000.00
956.00
30.00
150.00
712.00
GROSS PAY * 8772.00
TOT.DEDNS * 2651.00
NET PAY * 6121.00

ALLOCATION NO#

N.F.RAILWAY/EDFO-MLG. AU-BU = 15-423

CHANDINATH SARMAH

DESIGNER JE-2

PFNO 801399901-NC

BASIC PAY
ARREAR-PAY
TA
CONVEY ALL
ARR DA / I-E
RSA
SCA
EMIY FLN ALL

PAY-IN-SLIP FOR

MAY 2006 I.DUE DEPT MECHANIC SRL.NO 1382 RE-00
504.00
2000.00
956.00
30.00
150.00
712.00
GROSS PAY * 8772.00
TOT.DEDNS * 2651.00
NET PAY * 7521.00

N.F.RAILWAY/EDFO-MLG. AU-BU = 15-423

CHANDINATH SARMAH

DESIGNER JE-2

PFNO 801399901-NC

BASIC PAY
ARREAR-PAY
CONVEY ALL
RSA
EMIY FLN ALL

PAY-IN-SLIP FOR

JUNE 2006 I.DUE DEPT MECHANIC SRL.NO 1383 RE-00
517.00
2000.00
956.00
30.00
150.00
712.00
GROSS PAY * 8820.00
TOT.DEDNS * 2792.00
NET PAY * 6728.00

Chandnay
2006

Standard Form of Memorandum of charge for imposing minor penalties (under Rule 11 of the I.C.U.C.A. Rules, 1962)

No. I.C.U.C.A./DING/2

Officer. SndME/DING (Name of Railway Administration)
(Place of issue)..... N.G.R. Dated. 7/3/2000

MEMO ANDR

Shri. C. N. Sharma..... (Designation) I.C.U.C.A./DING

Office in which working. S.G.I.D.I.N.G. is hereby informed that the President/Railway Board/Undersigned propose(s) to take action against him under Rule 11 of the Railway Servants(Discipline and Appeal) Rules, 1962. A Statement of the imputation of misconduct or misconduct which action is proposed to be taken as mentioned above is enclosed.

2. Shri. C. N. Sharma is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any should be submitted by the undersigned (through the General Manager.....), so as to reach the said General Manager within ten days of receipt of this Memorandum.

3. If Shri. C. N. Sharma fails to submit this representation within the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri. C. N. Sharma ex parte.

4. The receipt of this Memorandum should be acknowledged by Shri. C. N. Sharma.....
(By order and in the name of the President).

V. Selvam - SndME/DING

Name and designation of the competent authority.

(Signature)
(Name) V. Selvam

To Shri C. N. Sharma..... (Name, designation, Office of the Railway Servt.) I.C.U.C.A./DING under SndME/DING.

Wherever this Memorandum is issued by the Railway Board the President.

Where the President is the disciplinary authority.

2/3/2000

2/3/2000
Bhendlaury

Statement of Inspection of Microducts

This office has been informed by Mr. Divl. Engineer
N.E.Railway, Maligaon, vide his letter No.G.3/15/Sub dt.
27-10-1999 that Shri C. N. Sharma
Designate 11/NSC has subletted the Rly Qr.
No. 333 (C) 142 which was allotted to him.

This amounts to serious misconduct, for which he is charged.

W. G. C. T. S. 1910-1911
W. G. C. T. S. 1911-1912
W. G. C. T. S. 1912-1913
W. G. C. T. S. 1913-1914

Blondherry

(Typed)

ANNEXURE-VII

38

NO. NIL .

TO

The Sr.DME/D/NGC N.F.Rly.

Through proper channel .

Sub :- Defence of Memorandum .

Ref :- Your memorandum No.M/258/D/NGC II dated 9.3.2000 .

Sir.

Respectfully I beg to state that the following as defence against the memorandum cited above, I did not subleted my Qr.No. 332/c Type II NGC which have been changed in the memorandum . That Sir in the month of Nov. 1999 my family was out of Guwahati due to physical trouble of my wife. During the period my relative was there to looking after my Qr. I would like to say that somebody wrongly reported to sr.DEN/MLG about sublet the Qr. Subsequently I surrendered my Qr. on 25.1.2000 vide your letter No.M/258/D/NGC/2 dated 7.1.2000 . Moreover damage rent has been charged from my salary w.e.f. 15.11.99 . So the charge brought against me is not true .

Therefore I request you that you would be kind enough to consider my case and excuse me from the charge which has been brought against me .

Thanking you Sir.

yours faithfully,

C.N.Sarma
JE-II(Elat) NGC

Affested by
Bhoudhury
Asurati

.....

N. F. RLY.

Office of the
Sr.DME(DIESEL)/NGC

No. N/258/D/NGC/2

Dated 26.4.2000

To
Sri C.N. Sarma, SS/D/NGC
JE/II/A/NGC

Sub:- Issue of Notice of Imposition of
penalties to Sri C.N. Sarma, JE/II/NGC.

Enclosed find herewith one copy of Notice of
Imposition of penalties issued against you.

Sr.DME(DIESEL)/NGC

Copy to:- OS/E at office alongwith one copy of the
above NIP for record in P/Case of the
staff concerned.

Sr.DME(DIESEL)/NGC

Attested by
Bhadury
Advocate

Rule 1707(i) and items (i) and (ii) of Rule 1712(i).

No. M/258/D/NGC/2

From Smt. V. V. Sankar
D.A.E./D/NGC

To Smt. C. N. Sarma
D.E./I.I./NGC

With reference to your explanation to the charge sheet
No. M/258/D/NGC/2 Dated 9/3/2004 you are hereby
informed that your explanation is not considered satisfactory
and 225P. is accepted. Your DCAK function
is suspended. Date (24 months) 2 years
with a final notice before the same may
represent to DPM/LMC within 15 days of receipt of
this notice if he wishes to

Signature and Designation

When the Notice is signed by any authority other than the
Disciplinary authority here quote the authority passing the
order.
There quote the acceptance or rejection of explanation and the
penalty imposed.
(This portion must be detached, signed and returned the office
of issued.

ACKNOWLEDGMENT

To

I hereby acknowledge receipt of your Notice No.
dt. Dated
to the charge sheet No.
dt. Dated

Station

Signature of Thumb
Impression.
Designation.

Date

27/4/2004

Approved by
Bhandary
Date 27/4/2004

To
The DDC/Landing,
N.E.Railway.
(Through Proper Channel)

Dated - 12.06.2000

Sub-Appendix with the charge in the
reference.

Reft-Sr. I.M.E/D/NGC's Letter No. M/258/D/NGC/
2 dt. 26.4.2000.

Respected Sir,

Reference of letter no. cited above I would like
to say the following few lines for your kind consideration and
favourable orders.

That Sir, I have vacated my allotted quarter
No. 332/C Type-II NGC Rly. Colony on 25/1/2000 to refrain from
damage rent vide Sr. I.M.E/D/NGC's Order No. M/258/D/NGC/2 dated
7.1.2000 and handed over to SSE/W/NGC vide his acceptance
letter no. G/NGC/2 dt. 25.1.2000.

That Sir, one memorandum SF-11 was issued to me
vi de Sr. I.M.E/D/NGC No. M/258/D/NGC/2 dt. 9.3.2000 charging me
for subletting after vacation of quarter.

That Sir, the charge is not true as myself and
my family was not there in the quarter from 1st November, 1999 to
January, 2000 due to my wife treatment out side of Guwahati city
and a Medical Certificate produced. My relative was there in the
quarter in the above period for looking after the quarter and
subletting allegation arised from 15th Nov 1999 to onward. During
that period somebody wrongly reported to Sr. DSN/MLG regarding
the subletted of quarter by me. I returned to my quarter after
my wife treatment.

I have submitted my defence against the
charge SF-11 on dt. 24.3.2000, but I am very much regretted the
defence was not accepted and considered and punishment of
Annual increment is stopped for 24 months. A damage rent was
also deducted from my salary upto the date of surrendering the
quarter and not yet house rent allowance adjusted in the salary.

Hence I request your honour to look into my
case and considering all representation and merit and exempt
me from the charge and to order to refund the damage rent
and normalized the due increment which is implemented due to
impact of the case.

Hoping a prompt and sympathetic action and
oblige.

Thanking you Sir,

For ready reference

1. Cancellation of allotment Sr.
No. M/258/D/NGC/2 dt. 7.1.2000.
2. Vacation report of SSE/W/NGC
No. G/NGC/2 dt. 25.1.2000.
3. Memorandum SF-11 No. M/258/D/NGC
/2 dt. 9.3.2000.
4. Statement of imputation of
misconduct dt. 9.3.2000.
5. Defence memorandum dt. 24.3.2000.
6. Minor penalties order No. M/258/D/NGC/3 dt. 26.4.2000.
7. Issue imposing penalties No. 258/D/NGC/2 dt. 26.4.2000.
8. Doctors certificate No. HIL dt. 16/01/2000.

Yours faithfully,

Chandi N. Sarma

C. N. Sarma)
JE-II(E)

Attested by
Bhundibari
Astro