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3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original No. 51/2002
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant(s) Pham Bhupan Dey

Respondent(s) H.O.T. 70M

Advocate for Applicant(s) K.K. Bora

Advocate for Respondent(s) Railway Counsel

Notes of the Registry | Date | ORDER OF THE TRIBUNAL

This is continuation in form.
C.P. Regd. No. 504 deposited
Date 27.2.2002. None present for the applicant. List
on 8.3.2002 for admission.

Dy. Registrar

I.C.Usha
Member

bb

Notice preferred and
sent to all for filing the
Respondent No. 1 to 3
As Regd Ad. 1
11/3/02 | 8.3.02 | Issue notice of motion. Returnable
by two weeks. In the meantime, Respondents
may take instructions as to why interim
order as prayed for shall not be allowed.

List on 27.3.2002 for ~~of/for~~ admission.

Regd No. 795 to 797

I.C.Usha
Member

mb

27.3.2002 | It has been stated by Mr B.K.
Sharma, learned Railway Counsel, that he is
awaiting instructions in the matter for
resolving the situation. The case is
accordingly adjourned. List for orders on
1.4.02.

nkm

Vice-Chairman

(2)

1.4.02 Mr. S.Sarma, learned counsel for the Respondents wanted time for getting instructions in the matter. Prayer is accepted. List again on 12.4.2002 for admission.

ICUH
Member

mb

12.4.02 Mr. S.Sarma learned counsel for the Respondents prays for adjournment to file written statement. List on 13.5.02 for Admission.

ICUH
Member

13.5.2002

lm

W/S admitted
by the Respondents

15.5.02

Heard learned counsel for the parties.

Application is admitted. The Respondents have filed the written statement. The case may now be listed for hearing on 5.6.02. The applicant may file rejoinder if any, within two weeks.

Vice-Chairman

lm

7.6.2002

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.

Received a copy of
Judgement dt. 7/6/02
Meher Das
Adv. NKM
For B.K. Sharma
Standing Counsel
Ply.
on 12/6/02

ICUH
Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 51 of 2002

7.6.2002
Date of Decision.....

Shri Phani Bhusan Dey

Petitioner(s)

Mr K.K. Barua

Advocate for the
Petitioner(s)

Versus-

The Union of India and others

Respondent(s)

Mr S. Sarma,

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

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.51 of 2002

Date of decision: This the 7th day of June 2002

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

Shri Phani Bhusan Dey,
Diesel Mechanic Grade-III,
New Colony, Lumding
(Near Outdoor Railway Hospital)
District-Nowgaon.
By Advocate Mr K.K. Barua.

.....Applicant

- versus -

1. The Union of India, represented by Respondent No.2.
2. The General Manager (P),
Norht East Frontier Railway,
Maligaon, Guwahati.
3. The Divisional Railway Manager (P),
Lumding.

.....Respondents

By Advocate Mr S. Sarma.

.....

O R D E R (ORAL)

K.K. SHARMA, ADMINISTRATIVE MEMBER

By this O.A. the applicant has sought for relief regarding deduction of electric charges of Rs.66/- per month, penal rent of Rs.219/- per month and also for refund of the amount already deducted in respect of Type I Quarter No.740(A).

2. The applicant is working as a Diesel Mechanic Grade III under the Divisional Manager, N.F. Railway, Lumding. It is stated that the applicant by his letters dated 11.11.1997 and 9.12.1997 and also verbally informed the respondents that he had vacated the Quarter and prayed for cancellation of the vacation and occupation report. The

lc (U) *Sharma*

The applicant was informed by letter dated 30.8.2000, Annexure VI, that as per his verbal report he had vacated the Quarter and he was directed to submit the date of vacation and the name of the next allottee to whom charge of the Quarter and electrical fittings were given. On 27.2.2001 the applicant made an appeal to the SSE/Electric (P), N.F. Railway, Lumding to look into the matter of vacation and occupation report and to stop recovery of the electrical bill. The applicant also served a legal notice dated 12.4.2001 to the Divisional Manager, Railway, Lumding.

3. Mr K.K. Barua, learned counsel for the applicant, vehemently argued that the applicant never occupied Quarter No.740 (A) at South Hill Colony, Lumding and that the applicant had verbally requested for cancellation of the allotment. The learned counsel for the applicant argued that the recovery towards penal rent and electricity charges were not justified in this case.

4. The respondents have filed their written statement. Mr S. Sarma, learned counsel for the respondents referred to Annexure A to the written statement, which is the vacation/occupation of the electrified Quarter No.740 (A) Type I. It bears the signature of the applicant. It is seen from Annexure A that the applicant had taken occupation of the above Quarter with electrical fittings on 4.11.1997. Annexure B to the written statement is an order dated 4.12.2000 allotting Quarter No.740 (A), South Colony, to be vacated by the applicant, to Shri B. Pandey. This order was modified by order dated 17.5.2001 and whereby Quarter No.740 (A) was allotted to Shri Kamal Barua as per his turn basis. The respondents have also filed a letter dated 23.6.2001, Annexure D, from Senior DME/DSL/LMG

ICW/Chaw

to.....

to Senior DPO/LMG requesting him to recover normal rent from 4.11.1997 to 28.5.2001.

5. Accommodation was officially allotted to the applicant and has been allotted to another employee on vacation by the applicant. In view of Annexure A and Annexure C to the written statement I am unable to accept the submission of the learned counsel for the applicant that the applicant was not in possession of the Quarter in question. It appears that the respondents have already passed an order whereby penal rent charged from 1.2.2000 onwards had been reduced to normal rent.

6. In view of the factual position mentioned above, I do not find any merit in the application and the same is dismissed.

No order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI - BENCH.

Central Administrative Tribunal
Guwahati Bench

15 FEB 2002 (An application under Section 19 of the
Central Administrative Act, 1985).

Title of the Suit : O.A. No 51 of 2002.

Shri Phani Bhusan Dey.

.... Applicant.

- Vs -

Union of India and others.

.... Respondents.

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For use in Tribunal Office

Date of Filing - 15/2/2002

Registration -

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH.

O.A. No. 51 of 2002.

Shri Phani Bhusan Dey,

Siesel Mechanic Grade- III

son of Late Nikunja Bihari Dey,

aged about 40 years

New Coloney, Lumding

(Near Outdoor Railway Hospital)

District - Nowgaon.

.... Applicant.

- Versus -

1. Union of India represented by
Respondent No. 2.

2. The General Manager (P)

North East Frontier Railway

Maligaon, Guwahati- 11.

3. Divisional Railway Manager(P)

Lumding.

.... Respondents.

Details of application :

1. Particulars of the order against which the
application is made :-

This application is made against the order
dated 21-03-2001 under Office order No.EL/66/LM/1-123 dated
21-03-2001 for recovery of Electric Bill against Quarter
No.740-Ax at South Hill Colony Lumding.

A Copy of the order dated 21-03-2001

is annexed as Annexure- 'I'.

2. Jurisdiction of the Tribunal :-

The applicant declares that this Application
is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :-

That the applicant declares that this application is filed before this Hon'ble Tribunal within the prescribed time limit as prescribed in the Administrative Tribunal Act, 1985.

4.1. Facts of the Case :-

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 existing rules framed by the Respondents for the salary, of pay, transfer and promotion and also to continue in service till he attains the age of superannuation.

4.2. That the applicant is working as a Diesel Mechanic Grade-III under the Divisional Manager, N.F. Railway, Lumding.

4.3. That on 27-10-97 the applicant was allotted the Rly. Qtrs. No. 740(A) Type-I at South Hill Colony, Lumding vide order No. M/258/LM/12 Pt-XIV dtd. 27-10-97.

Copy of the order dated 27-10-97 is annexed
as Annexure- II.

4.4. That in his letter dated 11-11-1997 to the Divisional Manager N.F. Railway, Lumding the applicant has stated that the said Qtrs. was totally damaged and it was not possible for the applicant to live in the said Qtrs. with his family. The applicant had also stated that he had been promoted as Diesel Mechanic Grade-III on and from 25-10-97 and as such he prayed for allotment of a Type-II quarter instead of Type-I quarter.

Copy of the letter dated 11-11-1997 is
annexed as Annexure- III.

4.5. That on 29-11-1997 and 9-12-97 in his letter to the D.M.E. (P) N.F. Railway/Lumding the applicant had prayed for cancellation the vacation and occupation report of the said Quarter and allotment of one Type-II quarter to him.

Copies of the letters annexed as Annexures- IV & V.

4.6. That on 4-11-97 vide order No. DME/P/IMGSL/A/OM/255/LM/12Pt:XIV dated 27-10-97 and the applicant on his verbal report he had vacated the said quarter and the office had not received any vacation report from the applicant and in that connection it was intimated to the applicant to submit the date of vacation and name of the next allottee to whom take over charge of electrical fitting from the applicant to avoid anomalies at the time of giving electrical clearance and electrical bill etc.

Copy of the vacation Report is Annexed as
Annexure-VI.

contd... 4

4.7. That the applicant on 27-2-2001 in his letter to SSE/electric (P) N.F. Railway/Lumding had stated that he had put his signature on the handed over report on 4-11-97 without physically investigating the said quarter occupied by the earlier occupant when the applicant had investigated the said quarter he found that the said quarter totally damaged and not at all fit to reside in the said quarter with his family and as such he requested to stop recovery of electrical Bill and to refund the recovery amount already deducted from his salary.

Copy of the order dated 27-2-2001 is Annexed as Annexure-VII.

4.8. That in his letter to the applicant on 30-10-2000 Sr. DME/Lumding informed the applicant that the said quarter was allotted to him and the said quarter was occupied by him on 4-11-97 and his letter dt. 11-11-97 he stated that quarter was not occupied by him which was totally damaged and his name was taken into the ~~as~~ priority list as per his entitlement. Again SSE/works has given the remarks that the said quarter get vacant condition from 1-2-2000. As the quarter was belonging to DSL pool SR DME/DLS/LMG was requested to take ~~xit~~ suitable action in that respect.

Copy of the order dated 30-10-2002 is Annexed as Annexure-VIII.

4.9. That the applicant on 12-4-2001 issued Notice to the Divisional Manager Railway Lumding to refund the amount already deducted from his salary for electricit charge etc. but even after receiving the said notice the Respondents have not taken any action causing irreparable loss and injury to the applicant.

Copy of the notice dated 12-4-2001 is Annexed as Annexure-IX.

contd... 5

GROUND FOR RELIEF LEGAL PROVISION :

1) Deprivation of the Applicant's legal Right to draw his monthly salary as Diesel Mechanic without deducting electric charge, House Rent, and penal Rent for non-occupation of the Type-I quarter No. 740-A not fit for human habitation.

ii) Cancellation of the order dated 21-3-2001 for deduction of house Rent, electric charge and penal rent of the Type-I Quarter No. 740-A from the monthly salary of the applicant.

iii) The pleaders notice to the General Manager, Railway Guwahati to stop the deductions to be deducted from the monthly salary of the applicant and also to refund the amount already deducted from the applicant in respect of the Quarter No. 740-A, Type-I.

iv) Deprivation of his financial benefit as his salary has been reducing for deduction of House Rent, electric charge, and penal Rent even after non-occupation of the Type-I quarter No. 740-A which is illegal, arbitrary and unconstitutional.

6. Details of remedies Exhausted :-

The applicant has been exhausted all the remedies available to him by making several representations and pleader's notice but the respondents have not done anything

in this regard. Thus being deprived of justice and there being no other alternative remedy available the applicant is compelled to approach this Hon'ble Tribunal by filing this present original Application.

7. Matter not previously filed or pending with any other Court:-

That the applicant further begs to state that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application is made before any Court or any other authority or any other Bench of the Tribunal nor any such application is pending before any of the Bench of the Tribunal.

8. Reliefs sought for :-

In view of the facts and circumstances stated in paragraph 4 above the applicant prays for the following reliefs -

8.1. To set aside the order dated for deduction of electric charge of the vacant Type-I quarter at the rate of Rs.66/- per month from the monthly salary of the applicant.

8.2. To stop deduction of the penal rent of the Type-III quarter No.740(A) at the rate of Rs. 219/- per month from the monthly salary of the applicant.

8.3. To direct the Respondents to make all necessary arrangement to refund the amount already deducted from the monthly salary of the applicant even for non-occupation of the vacant Type-II quarter No.740(A).

8.4. To direct the Respondents to make necessary arrangement for allotment of a Type-II quarter in the name of the applicant as per his entitlement.

9. Interim Relief prayed :-

To stop deductions of House rent, penal Rent and electric charge from the monthly salary of the applicant for the Type-II Quarter No.740(A) not occupied by the applicant.

10. That this present application filed through Advocate.

11. Particulars of the I.P.O. :

- i) I.P.O. No. :- 7G.547193
- ii) Date of issue :-
- iii) Issued from :- Guwahati G.P.O.
- iv) Payable at :- Guwahati.

12. List of Enclosures :-

Stated in the INDEX.

- 8 -

VERIFICATION

I, Shri Phani Bhusan Dey, son of Late Nikunja Bihari Dey, aged about 40 years, by religion Hindu, by profession Service, resident of Lumding, New Colony, Nowgaon, Assam do hereby solemnly affirm and verify that the contents made from ^{paras} 1 to 4, 6, 7, 10, 11 and 12 are true to my knowledge and those made in paragraphs 8 and 9 are humble submission before this Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this Verification on this 15th day of February, 2002 at Guwahati.

Phani Bhusan Dey
Signature.

N.F. Railway .
No.EL/66/LM/1-123

Office of the
SR.SE(Elect)/LMG
Dt: 21-03-2001.

To,

Shri Phani Bhusan Dey,
Diesel Mechanics Gr.III,

Thro : SSE (DSL)/LMG.

Sub :- Recovery of Electric Bill against Quarter
No.740-A at South Hill Colony/Lumding.

Ref :- Your appeal dtd. 28-02-2001.

It is transpires from the records available in this
office, the Railway Qrs. No.740-A (Electrified) at South Hill
Colony/Lumding is under your occupation since 4-11-97 as
allotted vide DME(P)'s O/O No.M/255/LM/12/Pt-XIV dt. 27-10-97.

As such the electric charge in question which are being
realised from your salary bills are justified as the allotment
order of the said quarter has not been cancelled by the compe-
tent authority where from the allotment order issued.

In view of the fact, your prayer to stop recovery of
electric bill and refund of the amount already recovered.
can't be materialised unless the allotment order is
cancelled with retrospective effect in from 4-11-97.

This is for your information please.

Sd/- Illegible.
Copy to :- SR.SE(Elect)/Lumding.

SR.DME/DSL/LMG - This is informance to his letter No.M/LMG/
DSL/Qrs./Pt-I/3557 dt. 07-03-2001.

SR. DEE/LMG-For information.
OS/EM.Bill-DRM(P)'s Office.

Sd/- Illegible,
SR. SE(Elect)/Lumding.

OFFICE ORDER

The following allotment of quarters at Lumding are made to come into force with immediate effect.

1. Qrs. No.I/35/B Type: III(Elec.) at Loco Colony/LMG on being vacated by Shri B.N. Mishra, Ex.Dr.LI/LMG under DME (P)/LMG due to his retirement on 30-6-97/AN is hereby allotted to Shri Nikhil Ch. Das, Dr. (G)/LMG under SR. SE (Loco)/LMG as per turn in lieu of his Type:II Qrs. No.I/86/A Type-II at Loco Colony. (The Qrs. No.I/35/B is under retention for 4 months upto 31-10-97).
*Demaged Water
- recovered legal
rent, electricit
charge*

2. Qrs.No.I/256-A Type:II(Elec.) at Loco Colony/LMG on vacation by Shri Nikhil Ch. Das, Dr.(G)/LMG is hereby allotted to Shri Biren Chyam, DAD/LMG under SR.SE (Loco)/LMG as per turn.

3. Qrs.No.I/69/D Type:I at Loco Colony/LMG under custody of SR.SE (works) South/LMG is hereby allotted to Shri Nandeswar Borah, C/Khal, now Fitter under SR.SE (C&W)/LMG. This is in cancellation of item No.4 of this office allotment order of even No. Dt. 14-11-96.

4. ✓ Qrs. No.740/A Type:I(Elec.) at S.R. Colony/LMG on vacation by Smt. P. Laxamia wife Late P. Nowana, Ex.C/ Khalasi/Helper under SE (C&W)/LMG (expired on 24-12-96) as desired to get vacate is hereby allotted to Shri Phani Bhusan Dey, Khalasi/Loco now under SR.SE (Diesel)/LMG as per turn.

5. Qrs. No.697/A Type:I(Elec.) at New Colony/LMG on vacation by Shri Kishore, Ex.B/Maker under SR.SE(Loco)/LMG due to his retirement on 30-9-97/AN is hereby allotted to Shri Arun Kanti Dhar, Khalasi/Loco now under SR.SE(Diesel)/LMG as per turn. This is in cancellation of item No.6 of this office allotment order of even No. dt. 22-9-97.

Sd/- Illegible,
DME (P)/Lumding.

No.M/258/LM/12 Pt.XIV, dt. 27-10-1997.

Copy to :-

1. SR.SE(Loco)/LMG, SR.SE(Diesel)/LMG and SR.SE(C&W)/LMG together with the spare copies for staff concerned working under them.
2. Staff concerned are advised to Submit their vacation/occupation report as soon as they vacate/occupy their respective qrs.
3. Shri B.N. Misra, Ex. Sr. LI/LMG(Thro.0S/M/LMG) for information for item No.1 above.
4. SR.SE(works) South/LMG.
5. SR.SE(Elect.)/LMG.
6. Br-Secy, NFRMG and NFREU/LMG.

Sd/- Illegible,
DME (P)/Lumding.

To

The D.M.E.(P),
N.F. Railway, Lumding.

Through Sr. Section Engineer (Diesel)/Lumding.

Subject :- Prayer for allotment of Type-II Quarters instead of
Qrs. No. 740(A) Type-I (Elec) at S.H.Colony-Lumding.

Reference:- Your office order No. M/258/LM/12 Pt. XIV dtd. 17-10-97.

Sir,

With due respect and humble submission I beg to submit the following for your kind favour and sympathetic consideration please.

That Sir, as per your Office order No. quoted above I have been favoured for the allotment of Rly. Qrs. No. 740(A) Type-I at South Hill Colony, Lumding. But it is not possible to live in this quarters with the family members and dependents as the said Quarter is totally damage.

Sir, I am saying that I have been promoted as Diesel Mechanic Gr-III on & from 25-10-97.

So, I pray to your honour that you would be kind enough to favour me by allotting a type-II quarter instead of Type-I quarters.

For the act of kindness and generosity the poor employee will remain grateful for ever.

Yours faithfully,

Dated, Lumding

Phani Bhushan Dey,
Diesel Mechanic Gr-III
Under Sr. SE(Diesel) Lumding.

The 11-11-1997.

Sd/- Illegible.

To

The DME (P),
N.F. Railway/Lumding.

Through - Sr. Section Engineer (Diesel) Lumding.

Subject :- Cancellation the vacation and Occupation Report of
Railway Quarters No. 740(A) Type-I at South Hill
Colony-Lumding.

Reference :- Your Office order No 1 M/258/LM/12 Pt.XIV
dated 27-10-97.

Sir,

With profound respect and humble submission I beg
to submit the following for your kind favour and sympathetic
consideration please.

That Sir, as per your letter No. quoted above the
Rly. Qrs. No. 740(A) Type-I at South Hill Colony was allotted
to me, Accordingly when the wife of Late P. Nayana Ex. Carr:
Khalasi came to me, then I already signed the vacation and
occupation Report of that quarters.

But on 11-11-97 through my application it was
informed to your honour that the said quarters is totally
damage. Not possible & to like with my family members and
dependents.

As such I like to cancell the vacation and occupa-
tion report of Rly. Qrs. No. 740(A) Type-I at South Hill Colony,
Lumding. And praying for allotment of One Type-II Quarters.

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

Copy to :- Sr. SE/Elect/trg.

" " 90W/8/Imp.

Yours faithfully,

Dated, Lumding,
The 17-11-1997.

Phani Bhushan Dey
Diesel Mechanic Gr-III
Under Sr. SE (Diesel) Lumding.

✓
Annexure- "V".

To

The D.M.E. (P)
N.F. Railway, Lumding.

Through - Sr. Section Engineer (Diesel) Lumding.

Subject :- Cancellation the vacation and occupation Report
at Railway Quarter No. 740(A) Type-I at South Hill
Colony Lumding.

Reference:- Your office order No. MR 58/LM/RPT.XIV dated
27-10-97.

Sir,

With profound respect and humble submission, I beg
to submit the following for your kind favour and sympathetic
consideration please.

That Sir, as per your letter No. quoted above the
Rly. Qrs. No. 740(A) Type-I at South hill colony was allotted
to me. Accordingly when the wife of late P. Nayana Ex.Carr.
Khalasi come to me. Then I already signed the vacation and
occupation Report af that quarters. But on 11-11-97 through
my application it was, informed to your honour that the said
quarters is totally damage not possible to like with my ~~family~~
family members and dependents. As such I like to cancell the
vacation and occupation report of Rly. Qrs. No. 740 (A) Type-I
at South hill colony Lumding. And praying for allotment of
one Type-II quarter. For the act of kindness I shall remain
ever grateful to you.

Dated Lumding
the 9-12-97/1997.

Yours faithfully,

Phani Bhushan Dey.
Diesel Mechanic Gr-III
under Sr. SE (Diesel) Lumding.

Sd/- Illegible.

N.F. Railway
EL/66/LM/8 Rs-191

Dt. 30-8-2000.

SR. SE/Elect(P)
1BG.

Shri Phani Bh. Dey,
DSL/Pt/65/DSE/Eng.

Through : GS/DSL/LMG.

Vacation report of Qrs. No. 7409

at S.H. COL only, LMG.

It has been detected through the office record that you have been occupied the above qrs. on 4-11-97 under the Office order of DME/P/LMG's L/A/O M/255/LM/12 Pt:XIV dt. 27-10-97.

On your verbal report that you have been vacated the Qrs. but the office is not received any vacation report from you.

In this connection is intimated to submit the date of vacation and name of the next allottee to whom taken over charge of electrical fittings from you at an early in order to avoid anomalies at the time of giving electrical clearance and electrical bill etc. from this end.

Copy to :-

Sd/- Illegible.

1. SSE/DSL/LMG for your and N/a information ~~SMX~~ please.
2. DRM(P) Mech/LMG for your information & N/A please.

Sd/- Illegible.

To

SSE/Electric (P),
N.F. Railway/Lumding,
Through :- Proper Channel.

Sub :- Unnecessary recovery of Electrical bill of Qrs.No.740-A
at South Hill Colony, Lumding.

Ref :- Your letter No.EI/66/LM/QRS-191 dtd. 30-8-2K.

With reference to above, it is to inform you that the qrs. No.740/A at South hill colony/Lumding was allotted to me vide DME(P)LMG's letter No.M/258/LM/12/PT Xiv dtd. 27-10-97 while Smt. P. Laxammia wife of P. Nowana Ex-C/Khalasi helper under SSE(C/W) LMG expired on (24-12-96) came to me with handed over report in my working place, I have put signature wrongly on 4-11-97, without any investigate the said qrs. After one week when I personally investigate the above qrs. at that time Smt. P. Laxamma, wife of P. Nowana has occupied the qrs. when I throughly cheecked and the qrs. found that totally damage and not possible to like to my family members, the I come back and served prayer for cancellation of handed over vaccation and accopation report has been intimated to all concerned vide my application dtd. DME(DSL)/LMG on 1-12-97 DME(P) 11-11-97, 29-11-97 IOW/Work/South duly received by S. Singh Head clerk under SSE/W and Sr.SSE/Electric (P)/LMG on 1-12-97 which was duly acknowledged your end by Shri Badal Dey, Reader on (1-12-97 at 8.30 hours, since my cancellation Smt. P. Laxamma neighter any intimation to me nor any key of the qrs. and left qrs. without Locked.

There after, a gap of long period it has been seen that my pay slip Electric bill has already been recovered without any intimation to me. Salary bill from January/2001

of Rs.66/- in 8 instalment which totally unjustified, because I has not yet been recovered or delivered any inventory of Electrical equipments and building vacation occupation certificate from authority nor I have submit any occupation report to all concerned in this regard, without issuing Inventory of Electrical equipments against me before released Electrical/ grs. clearance of P. Nowana Ex/C/Khalasi under SSE (C&W) LMG, for payment of DCERG for which I unnecessarily harassment by the department, day to day.

In view of the above you are requested to look into this matter sympathetically and stop recovery of Electrical bill early, and refund the recovery amount Rs.66/-. So that I shall remain ever greatfull to you. Further it is also mention here, if Electrical bill/Debit/grs. rent try to recovered from my salary bill unnecessarily, so I shall go to bound with legal justice.

Dated, Lumding.

Yours faithfully,

The 27-2-2001.

DSL Mech-Gr-III
Under Sr. DME-DSL-LMG.

Copy to :-

1. Sr. DEE/LMG, for kind favour of
2. Sr. DME/~~SSE~~ DSL/LMG, information please.
3. Sr. DME (P)/LMG,
4. DRM(P)/EM, bill section for information.
5. SSE/IOW/Works/South, information.
6. SSE/Water supply information.
7. SSEI Electric informations.

Phani Bhushan Dey.

No.M-258/LM/12 Pt.XV.

DRM (M)'s Office,
Lumding, dt. 30-10-2000.

To : SR. DME/DLS/LMG.

Sub :- The Rly, Qrs. No.740(A) Type: I
at S.H. Colony/Lumding.

Shri Phani Bhusan Dey, D/Mechanic/LMG while working as Khalasi under DME (P)/Lumding was allotted the above mentioned Qrs. Accordingly the Qrs. was ~~occupied~~ by him on 4-11-97.

On 11-11-97 he submitted an appeal wherein he stated that the Qrs. was occupied by him without checking properly. The Qrs. is totally damaged. He demanded one Type:II Qrs. stating that he is entitled for type, II Qrs.

Accordingly his name was taken into the priority list as per his entitlement.

However, he submitted further appeal dt. 11-9-2000 to DME (P)/LMG stating the above facts. On the appeal SSE/ Works/South/LMG has given the remarks that the said Qrs. got vacant condition from 1-2-2000. It is taken their custody to save from un-authorised occupation.

Since the Qrs. is now belonging to DSL pool, it is requested to take suitable action in this respect from your end.

SR. DME/Lumding.

Copy to :-

1. SSE(Works) South/LMG for information.
2. SSE(DSL)/LMG for information and necessary action.
3. Shri Phani Bhusan Dey, D/Mech./LMG (Thro. SSE/DSL/LMG) for information in ~~xxix~~ reference to his appeal dt. 11-9-2000.

SR. DME/Lumding.

To

The Divisional Manager,
Railway, Lumding.

12-4-2001

Sir,

Under the instructions of my client Shri Phani Bhusan Dey, Diesel Mechanic Grade-III, Please take notice as follows :-

That my client was allotted one Type-I Qrs. No. 740-A (Electrified) at South Hill Colony at Lumding vide DME (P)'s O/O. No. M/255/LM/12/Pt-XIV dated 27-10-97 and my client could not occupy the said quarter as it was totally damaged and not at all fit for occupation.

That my client had not taken the key of the said quarter from the authority concerned nor did he signed any letter for handing over and taking over of the said Quarter from the earlier occupant of the said Quarter.

That my client in his letter dated 29-11-97 had already intimated DME (P) N.F. Railway, Lumding through Senior Section Engineer (Diesel) Lumding for cancellation of allotment of the said Quarter No. 740(A) Type-I at south Hill Coloney Lumding allotted to my client.

That my client had been promoted as Diesel Mechanic Grade-III on 25-10-97 and he was entitled for a Type-III Quarter and as such in his letter dated 11-11-97 is intimated the DME (P) N.F. Railway, Lumding praying for allotment of a Type-II Quarter instead of Type-I Quarters.

That on several occasions my client had intimated the authority concerned for cancellation of the vacation and occupation report of the said Quarter and allotment of Type-II Quarter but, no action has been taken by the authority concerned till this date, and the electric charge of the said Type-I Quarter has been deducted from his monthly salary at the rate of Rs.66/- from January, 2001, which is illegal and in fact my client has been penalised without any reason.

That at the time of leaving the said Type-I quarter Smti. P. Laxamna who was the occupant of the said Quarter had neither intimated my client nor handed over the key of the said quarter to my client and she left the quarter without any Lock which was known to the authority concerned and the said Quarter is still lying vacant after being vacated by Smti P. Laxamna.

That my client being the only earning member of his family had to face financial hardship as an amount of Rs.66/- has been deducted from his monthly salary for electric charge for the said Type-I Quarter even after not being occupied by my client.

That the electric charge of the said vacant Quarter has been deducted from salary of my client even after not being occupied by him for a single day and as such deduction of the electric charge from monthly salary of my client is not at all justified and the amount already deducted from his salary for electric charge should be

refunded to him. Further being a diesel Mechanic Grade-III, my client is entitled for a Type-II Quarter.

Under the circumstances as stated ~~xx~~ above, I have been instructed by my client to demand of you to refund the amount deducted from his monthly salary for electric charge of the said vacant Type-I Quarter and to stop the electric charge being deducted from his monthly salary within 15 days from the date of receipt of this notice failing which my client shall be compelled to take legal steps against you before the appropriate Court of law without any further reference to you.

(K.K. Barua)
Advocate.

Firday
Lumding Office
9/5/02
On 6/5/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

D.A No. 51/2002

Shri Phani Bhushan Dey

...Applicant

versus

Union of India & Ors.

...Respondents

Written statement on behalf of Respondents

The answering Respondents beg to state as follows:

Answer
1. That the answering Respondents have gone through the copy of the OA as served and they have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the OA are categorically denied. Further the statements which are not born on records are also denied.

2. That with regard to the statements made in paragraphs 4.1, 4.2 and 4.3 of the OA, the answering Respondents does not admit anything contrary to the records of the case.

3. That with regard to the statements made in paragraph 4.4 of the OA, it is stated that in pursuance of the allotment order dated 27.10.97 (marked as Annexure-II to the OA) the Applicant took over the charge of the quarter No. 740-A Type-I at South Hill Colony on 4.11.97 from Smt. P. Laxamma & the same was intimated

= 2 =

One

by him to the Sr. Divisional Mechanical Engineer (Power)/NF Railway, Lumding by submitting Vacation/Occupation report with the clear remarks "I have taken over & occupied the above mentioned quarter with Electrical fittings on 4.11.97" (copy of the vacation/occupation report is enclosed as Annexure-A.) After taking the charge of the quarter No. 740 (A) Type-I the Applicant submitted an application dated 11.11.97 to Divisional Mechanical Engineer (P)/Lumding informing that it was not possible to live in the said quarter with the family members & dependents as it was totally damaged. By the said application he prayed for allotment of the Type-II quarter as per his entitlement as he had got promotion to the post of Diesel Mechanics Grade-III with effect from 25.10.97 (photo copy of his application dated 11.11.97 is marked as Annexure-III to the OA).

4. That with regard to the statements made in paragraph 4.5 of the OA, the answering Respondents state that the applications dated 29.11.97 & 9.12.97 were received by the office, but the priority position for allotment of Type-II quarter did not permit to allot a Type-II quarter in his favour at that time.

5. That with regard to the statements made in paragraphs 4.6 of the OA, the Respondents state that the order No. quoted in this paragraph, does not tally with Annexure-VI to the OA. It may be mentioned here that vacation report of a quarter cannot be made verbally. It is to be made in writing. The Applicant

Draft

= 3 =

did not submit any vacation report to the Railway authority.

6. That with regard to the statements made in paragraph 4.7 of the OA, it is stated that the Applicant took over the charge of the quarter No. 740-A Type-I on 4.11.97. Thereafter he cannot take the plea that he did it without physical investigation. So, as per his occupation report necessary recovery of quarter rent & Electric bill are required to be deducted from his salary. Thus the averments of the Applicant herein this paragraph are denied as the same has no basis at all.

7. That with regard to the statements made in paragraph 4.8 of the OA, the answering Respondents state that the Applicant took over the charge of the quarter No. 740-A Type-I on 4.11.97 & his name was also taken in the Priority List for allotment of Type-II quarter as per his entitlement & seniority basis. But after taking over the occupation of quarter No. 740-A Type-I on 4.11.97 he kept the quarter in an un-manned condition from 1.2.2000. As a result, Sr. Section Engineer/Works/South, NF Railway, Lumding kept the quarter in his custody to save the Railway quarter from un-authorised occupation by the outsiders. The Commissions of the Applicant being the allottee of the quarter, in keeping the quarter (Railway property) in an hazardous condition tantamounts to gross indiscipline, Railway quarter is allotted to the Railway servant as a matter of privilege & shelter which he practically ignored.

= 4 =

8. That with regard to the statements made in paragraph 4.9 of the DA, it is stated that as the quarter was kept in an un-manned condition as narrated in the preceding paragraph, the said quarter was allotted to Shri B. Pandey, DSL/Khalasi/Helper Vide Senior Divisional Mechanical Engineer/Diesel, NF Railway, Lumding's allotment order No. M/LMG/DSL/Qrs-Allotment/3244 dated 4/5.12.2000 (copy enclosed as Annexure-B). By the said orders the Applicant was ordered to hand over the quarter to Shri B. Pandey, Diesel/Khalasi/Helper, but he remained silent. On 10.4.2001, he submitted an application to Sr. Divisional Mechanical Engineer (Diesel), NF Railway, Lumding interalia that he did not occupy the quarter No. 740-A though infact he occupied the quarter on 4.11.97 physically. The said quarter was further allotted to Shri Kamal Barua, Diesel Mechanics Grade-III vide office order No. M/LMG/DSL/Qrs-Allotment/3526 dated 17.5.2001 (copy enclosed as Annexure-B1) by cancelling the previous allotment order No. M/LMG/DSL/Qrs-Allotment/3244 dated 4/5.12.2000 which was issued in favour of Shri B. Pandey, DSL/Khalasi/Helper. However, the Applicant submitted vacation report by his application dated 29.5.2001 (copy enclosed as Annexure-C). Accordingly, a letter No. M/LMG/DSL/Qrs/Pt-I/3653 dated 23.6.2001 (copy enclosed as Annexure-D) was issued by Senior Divisional Mechanical Engineer (Diesel), NF Railway, Lumding whereby Senior Divisional Personnel Officer, NF Railway, Lumding was requested to stop recovery of

arrear penal rent & to arrange refund if arrear recovery had already been made with effect from 1.2.2000 & onwards & arrange recovery of normal rent with effect from 4.11.97 to 28.5.2001 as the Applicant vacated the quarter on 29.5.2001 endorsing a copy to the Applicant.

9. That the answering Respondents submit that the application suffers from non-disclosure of material particulars and there is suppression of material facts as will be evident from the narration of fact above. On this score alone the OA is liable to be dismissed.

10. That under the facts and circumstances stated above the instant OA is not maintainable and liable to be dismissed with cost.

Verification . . .

VERIFICATION

I Shri Sowindra Narayan Roy, aged about 58 years, son of Late Purush Ch. Roy, resident of Lumding, Darjeeling presently working as Divisional personnel officer, N.F. Railway do hereby verify and state that the statement made in paragraphs 1 are true to my knowledge and those made in paragraph 2 to 8 being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal. I am also authorised to competent to sign this verification on behalf of all the Respondents.

And I sign this verification on this 9th day of May April, 2002.

Deponent

Sowindra Narayan Roy.

*Divisional Personnel Officer
N.F. Railway, Lumding*

To
The Sr. DEE(2)/DEE(LY),
Lumding.

36

Subject-Vacation and occupation of Drs. NO.7401A) Type-1
electified south hill colony/Lumding.Refi-Your Office order NO.4/258/LM/12 Pt.XIV.
Dt.27.10.97.

Sir,

I have vacated the above Drs. no. 7401A/1997, and handed over to
Shri. Phoni Bhushan Ray, Khelasi Loco now under Sr. SE(Diesel)/Lumding.
With all electric fittings.

Yours faithfully,

(R.T.I. DE. SMT. P.LAKHWA)
W/o. Late. P. Bhurana,
Ex. Khelasi/Helper under Sr. SE(C&W)/L. M.I have taken over and occupied
the above Drs. with electric
fittings on 21/10/1997.Phoni Bhushan Ray
(Shri. Phoni Bhushan Ray,
Khelasi Loco now under
Sr. SE(Diesel)/Lumding.)

No. File : 07-4-11-97

SD: Sr. SE / DCL/ 25

Copy to:- 1) DRD(P)/EG/LMG
2) Dr. DEE/LMG
3) Cloc/south/LMG
4) Sr. DEE/LMG.S.M.D.
S.M.D. (अधिक)
Senior Section Engineer (Diesel)
पू. सी. रेलवे : लालिंग
N. F. Railway : Lumding

Yours faithfully,

(R.T.I. of Smt. P.LAKHWA)
W/o. Late P. Bhurana,
Ex. Khelasi/Helper under
Sr. (C&W)/LMG.

Attested.

सहायक अधिकारी/इंजिनियर (डिझेल)
Ass't. Tech. Engineer (Diesel)
पू. सी. रेलवे : लालिंग
N. F. Railway : Lumding.

Office of the
Sr. DME/DSL/LMG
Dt. 4.12.2000.

Office Order.

The following allotment of Qrs. at LMG is made to come into force with immediate effect.

1. Qrs. No. 871-C Type-III at Officers Colony under the custody of SSE/W/North/LMG is allotted to Shri Rakesh Kumar, SSE/D/Mech(Rg) for Administrative reason.
2. Qrs. No. 871-D Type-III at Officers Colony under the custody of SSE/W/North/LMG is allotted to Shri N. K. Rasaily, SSE/DSL/Mech. as per priority basis.
3. Qrs. No. 867-C Type-III at F.B.F. Colony on being vacatted by Shri R. Kumar, Vide SL NO. 1 above is allotted to Shri H. K. Sarma, JE-II/DSL/Mech. as per priority basis.
4. Qrs. No. LPS/9-A Type-II at B. F. Colony on being vacatted by Shri H. K. Sarma, JE-II/D/M, Vide item No. 3 above is allotted to Shri J. Patar, DSL/Elect-I as per priority basis on exchange ground.
5. Qrs. No. 98-B Type-II at R/Y Colony on being vacatted by Shri J. Patar, Vide item No. 4 above is allotted to Shri P. Chakraborty, DSL/Mech-III as per priority basis in exchange of his existing Type-I Qrs.
6. Qrs. No. 740-A Type-I at S.H. Colony willing to be vacatted by Shri P. B. Dey, DSL/Mech-III & now under the custody of SSE/W/South/LMG is allotted to Shri B. Pandey, DSL/Kha/HP as per priority basis.
7. Qrs. No. L/107-B Type-I at Loco Colony on being vacatted by Shri P. Chakraborty Vide SL. No. 5 above is allotted to Shri P. Barman, DSL/Kha/HP as per priority basis on exchange ground, of his existing Type-I Qrs.
8. Qrs. No. 228-B Type-I at HRLF Colony on being vacatted by Shri P. Barman, Vide SL. No. 7 above is allotted to Sri Dulal Malakar, DSL/Kha/HP as per priority basis.

Sd/-
Dt. 04.12.2000.
Sr. DME/DSL/LMG.

Copy No. M/LMG/DSL/Qrs-Allotment/3241

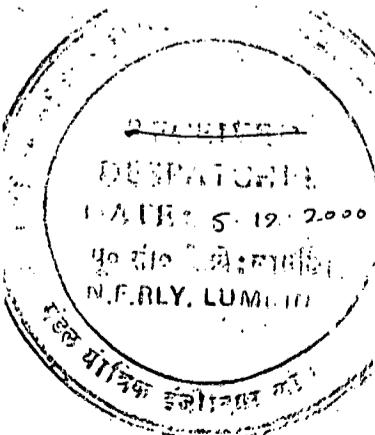
Dt. 04.12.2000.

Copy to: Party concerned. They are advised to submit Vacation/Occupation report Thro;- SSE/DSL/LMG within 7 days on receipt of this order positively.
" " SSE/DSL/G, SSE/Elect, SSE/W/South, SSE/W/North/LMG for information & N/action please.
" " Br, Secy. NFRMU, NFREU/LMG, for information please.

Sr. DME/DSL/LMG.

Bank of Baroda
op/118 8119 N

सहायक मंडल प्रभाल इंजीनियर (डिजल)
Asst. M. V. Mech. Engineer (Diesel)
पूर्ण संवेदनशील
N. F. Railway : Lumding.



Office of the
S.E. DME/DSL/LMG
Dt. 17.05.2001.

Office Order.

The following allotment of Qrs. at LMG is made to come into force with immediate effect.

1. 740-A Type-I at S.H. Colony to be vacatted by Shri P. B. Dey, DSL/Mech-III as per his willingness is allotted to Sri Kamal Barua, DSL/Kha/Hp, now DSL/Mech-III as per his turn basis. This supersedes the item No. 2 of this office order of even No. Dt. 13/14.03.2001.

Sd/-

Dt. 17.05.2001.
Sr. DME/DSL/LMG.

No. M/LMG/DSL/Qrs-Allotment/3526

Dt. 17.05.2001.

Copy to; Party concerned, Thro:- SSE/DSL/LMG. They are advised to submit vacation/occupation report within 07 days positively.

SSE/D/Mech, SSE/Elect & SSE/W/South/LMG, for information & N/action.

Br. Secy/NFREU & NFRMU/LMG, for information pl.



order at PP/138 Al Adressr. DME/DSL/LMG.

तहायक महाराष्ट्राचा इंजीनियर (डिजल)
Asstt. Mech. Engineer (Diesel)
पू. सी०. रेलवे: लाम्दिङ
N. F. Railway : Lumding.

Al Adressr. DME/DSL/LMG
17.05.01

6/190
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To

The Sr. Divisional Mechanical Engineer, DSL,
N. F. Railway, Lumding.

Through : Proper channel.

Sub :- Vacation and occupation report of Rly.Qrs.NO.740-A
Type-I at South Hill Colony/Lumding.

Ref :- Your Office order NO. M/LMG/DSL/Qrs.allotment-3526
dtd. 17.5.2001.

In terms of your above dated letter, it is to inform you that we are attended jointly at - SSE/Works (south)/LMG on 29.5.01 regarding handed over the Qrs.NO. 740-A type-I at South Hill Colony/Lumding . Accordingly SSE/Works(south) has handed over the key of the Qrs. to Shri Kamal Dey DSL/Mech/Gr-III on 29/5/01 at time 16 hours. the qrs. under custody of SSE/W/south/Lumding from

Which was duly occupied by Kamal Dey under his clear Signature.

This is for your kind information and necessary action please.

No. B(15)/826 dt 31/5/2001
to. Sri DmB/DSL/

Forwarded for kind action per

29/5/2001 (320)
SSE/Works (south) LMG
Dated.....
Occupied by : (Kamal Dey)
DSL/MT/Gr. III

(Occupied by)

1573

29/5/2001
SSE/Works (south) LMG
Dated.....
Occupied by : (Kamal Dey)
DSL/MT/Gr. III

Yours faithfully,

Phani Bhusan Dey
Desig- D/Fitter, gr-III
Dept - mech

1. COPY to DR m (P) bill Section N/actum pl LMG.
2. " " Sr. DmE / DSL / L MG.
3. " " SSE / DSL / L MG.
4. " " SSE / Elect (P) L MG.
5. " " SSE / IOW South L MG.
6. " " SSE / Water Supply L MG. Phani Bhusan Dey
7. " " Party OS / gr. D/Fitter gr. III
Dopt - mech

Kamal Dey
DSL/MT/Gr. III

OS / gr. D/Fitter gr. III
Dopt - mech

Dated - 29-5-2001
Signed

सहायक मंडल माइक्रो इंजीनियर (डिजल)
- sst. Engineer (Diesel)
पूर्ण सांख्यिकीय : लालिला

N.F.R

No. M/LMG/DSL/Qrs/Pt-I/3653

Office of the
Sr. DME/DSL/LMG
Dt. 23.06.2001.

To, Sr. DPO/LMG

Sub:- Refund of arrear penal rent w.e.f; - 01.02.2000 against Rly Qrs. No. 740-A Type-I at S.H. Colony under the occupation of Shri P. B. Dey, DSL/Mech-III.

Ref:- This office letter of even No. 17.05.2001.

Please refer to this Office Letter No. M/LMG/DSL/Qrs-Pt-I/3699 Dt. 11.04.2001, wherein you were requested to recover 'Penal Rent' from Shri P. B. Dey, DSL/Mech-III Wef:- 01.02.2000.

Shri Dey vacatted the Qrs. on 29.05.2001, So, you are requested to stop recovery of arrear penal rent & arrange refund to him if arrear recovery had already made wef:- 01.02.2000 & onwards & arrange recovery of normal rent wef:- 04.11.97 to 28.05.2001.

This has the approval of Sr. DME/DSL.

(Vipul Singh)
Sr. DME/DSL/LMG.

Copy to; Shri P. B. Dey, DSL/Mech-III, Thro:- SSE/DSL/LMG. It is learnt from your appeal Dt. 20.06.2001, that you have drawn HRA regularly when you possesses a Rly Qrs. under your occupation Wef:- 04.11.97 which is a serious offence on your part. Hence the recovery of HRA from your salary is justified.

Sr. DME/DSL/LMG.

9/9 - 23.86

At speed.

सहायक मंडल या वक्तव्य इंजीनियर (डिजल)
S. E. I. E. Ch. Engineer (Diesel)
पू. सू. रेलवे : लालमढ़ी
N. E. Railway : Lumding.