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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 186/2003

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SECTION OFFICER (Judl.)

FORM NO.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

ORDERSHEET

Original Application : 186/03

Mise Petition No. : _____

Contempt Petition No. : _____

Review Application No. : _____

Applicants:- Rabindra Nath KalitaRespondents:- U.O.I. Govt

Advocate for the Applicants:- B.P.Das, P. Bhowmik & M. G. Sarma

Advocate for the Respondents:- CGSC

Notes of the Registry	Date	Order of the Tribunal
This application is to form part of the file of Contempt Case is and Application of F Ms. SC, deposited vide IPO/BG No. 96/158956	22.8.2003	Heard Mr. B.F. Das, learned counsel for the applicant assisted by Mr. P. Bhowmick and also Dr. M.C. Sarma, learned counsel for the respon- dents.
Dated 28.8.03 <i>Done B.P. Das 28/8/03</i>		Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.
stamps taken but not yet countersigned		Also, issue notice to show cause as to why an interim order as prayed for shall not be granted. Returnable by two weeks.
<i>DR</i> Emboldened lakhs. Notice furnished & sent to DFO for issuing the Bench Order No. 1 to 4 to Regd. A/C.		In the meantime, status quo as on today shall be maintained and the applicant shall retain the Quarter No. E/1, Station Road, Panbazar, Guwahati till the returnable date.
D.M.C. 1823/1833 B.P. Das 28/8/03 <i>DR 28/8/03</i>		List on 12.9.2003 for admission.
		<i>Vice-Chairman</i>

Memo of appearance
filed by Mr. B.K. Sharma,
Adv. on behalf of
Railway

21.9.03

Recd. v/s
12/9/03

12.9.2003 Present : The Hon'ble Sri K.V. Prahaladan, Member (A).

Written statement has been filed. The applicant may file rejoinder, if any.

Status quo as on today shall be maintained and the applicant shall retain the quarter.

List on 19.9.2003 for admission.

K.V. Prahaladan
Member

15. 9. 03

mb

19.9.03

List on 24.9.03 for Admission.

W/S submitted
on behalf of the Respondents.

K.V. Prahaladan
Member

lm

24.9.03 Present : The Hon'ble Mr K.V. Prahaladan, Administrative Member

File - copy order dtd

19/9/03

NJS
19/9/03

Copy of the order dated 19/9/03 has been sent to the D/Section for issuing the same to learned advocate both the parties.

23/9/03

Heard Mr P. Bhowmick, learned counsel for the applicant and Mr B.K. Sharma, learned senior counsel for the respondents regarding retention of railway quarter No.E/1 at Guwahati. The main contention of the applicant is that the quarter occupied by him is not a non pooled accommodation. As per the record produced by the respondents, the quarter occupied by the applicant is a non pooled accommodation.

I have given my anxious consideration to the submissions made by both the parties. Accordingly the interim order dated 22.8.2003 stands vacated. The respondents are directed to offer the applicant an alternative accommodation considering his seniority

contd..

Office Note	Date	Tribunal's Order
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24.9.2003

and status. The respondents may also favourably consider the case of the applicant for retention of new quarter upto 12.3.2004.

The application is accordingly disposed of at the admission stage itself.

Received copy
Under DMS
For S.C.Rly
B.K. Sharma
25/9/03

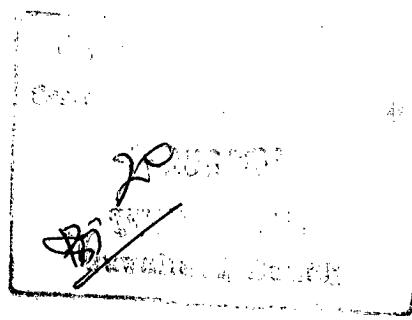
25.9.03

Copy of the order
has been sent to the
aptee. for issuing the
leave to the applicant
by post.

pg

K.C. Bhattacharya
Member

Office Note	Date	Tribunal's Order



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 186 /03.

Sri Rabindra Nath Kalita Applicant

-Versus-

Union of India & Others Respondents

DATE

25.7.02

LIST OF DATES AND SYNOPSIS

The applicant was promoted to senior administrative grade and was transferred to Central Railway, Head Quarter, Mumbai vide Railway Board's order No. PE (O iii- 2002/P.M./21. Accordingly the applicant joined in Central Railway, Mumbai as Chief Commercial Manager and was later posted as Chief Safety Officer.

Annexure-1, page-13.

27.2.03

The applicant vide Railway Board's order No. E (O iii-2003/TR/166 was transferred to newly created zone North Central Railway, Head Quarter, Allahabad.

Annexure-2. page-15.

2/4.09.02

The applicant was accorded permission to retain Railway Bungalow from 27.7.02 to 26.9.02 on payment of normal rent and thereafter from 27.9.02 to 31.1.03 on

contd..

X

payment of normal rent and thereafter from 27.9.02 to 31.3.03 on payment of double the assessed rent as permissible on educational ground.

Annexure-3, page- 16.

23.1.03 The applicant was accorded permission to retain the aforesaid quarter in Guwahati for a further period of two months from 1.2.03 to 26.3.03 on payment of double the assessed rent (as permissible) on medical ground vide office order No. 545 E/1/363 (O)

Annexure-4, page-17.

4.10.01 As per Railway Board's letter No.E(9)
AND 2001 Qr. 1-19 and letter No. E (9)97
2.9.02 Qr.1-28 an Officer who is transferred to new zone is entitled to retain his quarter at the previous place of posting as such the applicant is entitled to retain his quarter at Guwahati upto

12.3.04.

[Annexure-5 & 6 (Page-18&19)]

17.3.03 The Respondent No.3 allowed retention of
contd..

the quarter in question to the applicant for a period of one year from 27.7.02.

[Annexure-7 (page-20)]

24.3.03 Representations submitted by the applicant before Respondent No.2 and Secretary, Railway Board.

[Annexure-8(page-21 to 23)

Annexure-9 (page -24 & 25)]

3.4.03 The Secretary, Railway Board asked for comments from Respondent No.2 on the representations made by the applicant .

[Annexure-10 (Page-26)]

27.4.03 Reminder issued by the Secretary, Railway Board askeing for comments from the Respondent No.2.

[Annexure-11 (Page-27)]

24.7.03 Railway Board directed the Respondent No.4 to take action as per its instruction dated 2.9.02 i.e. annexure-3 and dated 4.10.01 i.e. annexure-5.

[Annexure - 12 (page-28)]

contd..

31.7.03 In the absence of any further action from Respondents No.2, 3 and 4, the Railway Board by a letter dated 31.7.03 allowed the applicant to retain his quarter for a period of one year from 12.3.03.

[Annexure-13 (page-29)]

31.7.03 Representation made by applicant to the Respondent No.2 to allot him suitable accommodation as per Railway Board's order as mentioned above.

[Annexure-14 (Page-30)]

1.8.03 Office Order No. 877 issued by the office of the Respondent No.2 allotting Bungalow No.179 type 6 at Nambari, Maligaon, at Guwahati for a period from 1.8.03 to 31.10.03 in total disregard of Railway Board order dated 31.7.03 as mentioned above.

[Annexure -15 (page-31)]

4.8.03 Representation made by the applicant to the Respondent No.2 ventilating his grievances as regards allotment of quarter upto 31.10.03 only which

contd..

is contrary to Railway Board's order dated 31.7.03 i.e. annexure-13.

[Annexure-16 (Page-32)]

5.8.03 Representation made by the applicant to the Secretary Railway Board intimating him about non-compliance of order dated 31.7.03.

[Annexure-17 (page-33 & 34)]

Filed by:

(N. Goswami)

ADVOCATE

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE

TRIBUNALS ACT, 1985

19 AUG

REGD. AT BENCH

Original Application No. 186/2003

Shri. Rabindra Nath Kalita

.....Applicant.

-Versus-

Union of India & Ors.

.....Respondents.

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Rabindra Nath Kalita

Signature of the Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 186/2003

Shri. Rabindra Nath Kalita

S/o. Sri. Chandra Kr. Kalita

Presently working as Chief Passenger Transportation
Manager, North Central Railway, Allahabad,
UTTAR PRADESH.

.....Applicant.

-Versus-

1. Union of India
represented by the Chairman,
Railway Board,
Rail Bhawan,
New Delhi – 110 001.
2. Mr. Vipan Nanda
General Manager,
N.F. Railway,
Maligaon
3. The Chief Personnel Officer,
N.F. Railway,
Maligaon
4. The Senior Deputy General Manager,
N.F. Railway,
Maligaon

....Respondents.

DETAILS OF APPLICATION

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

Office order No.877 dated 1.8.2003 issued for the General Manager, N.F. Railway, vide No.Z/314/8/allotment/Pt XXXIV/877(loose).

2. Jurisdiction of the Tribunal:-

12
Rabindra Nath Kalita
Filed by -
the Applicant -
through
Advocate -
Narendranath Gomesi Advocate - 03.

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

3. Limitation:-

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

4. Facts of the case:-

1. That the applicant is a citizen of India and a permanent resident of Milanpur, Chandmari, Guwahati-21. Being a citizen of India, the applicant is entitled to all the rights and privileges guaranteed under the Constitution of India and other laws of the land. The applicant joined the Indian Railway Traffic Service(ITRS) on 01.09.1982. Since then, the applicant has been serving in various places within the territory of the Union of India. The applicant served as Secretary to the General Manager, N.F. Railway, Maligaon for a period of six(6) years and 9 months i.e. from November 1985 to July 2002 in the Selection Grade. The applicant was promoted to the Senior Administrative Grade and transferred to Central Railway, HQ Mumbai on 25.07.02 vide Railway Board's order No.E(O)III-2002/PM/21 dtd.25.07.02. Accordingly, the applicant joined at Central Railway, HQs Mumbai on 29.07.02 as Chief Commercial Manager, (Freight Marketing) and was later posted as Chief Safety Officer.

The copies of the aforesaid order dated 25.07.02 is annexed hereto and marked as ANNEXURE-1.

2. Thereafter, the applicant vide Railway Board's Order No.E(O)III-2003/TR/166 dated 27.02.03 was transferred to the newly created Zone North Central Railway with its Head Quarter at Allahabad. Accordingly, the applicant was released from Central Railway on 12.03.03 and

Rahendra Nath Kalita

thereafter he reported to his duties as Chief Passenger Transportation Manager, North Central Railway, Allahabad on 13.03.03 and from 31.03.03 to 25.07.03 he had shouldered the additional charge of Chief Safety Officer of the North Central Railway.

A copy of the aforesaid order dated 27.02.03 is annexed hereto and marked as ANNEXURE-2.

3. That as per relevant Rules applicable for retaining quarters on transfer to one place to another, the applicant is eligible to retain a quarter at Guwahati for a period of 2(two) months on normal rent. Further he is also entitled to retain the quarter for another 6(six) months on medical and educational grounds on payment of twice the normal rent. In short, an officer on normal transfer is entitled to retain his quarter for a period of 8(eight) months. Accordingly, the applicant was allowed to retain his quarter at Guwahati for a period of 2(two) months on normal rent and another period of 6(six) months on payment of double the normal rent vide office order dated 2/4-09-02 and 23.01.03. In this regard, the applicant states that prior to his transfer to Central Railway, Mumbai, he was in Guwahati occupying Railway Quarter No.E/1, Station Road, Panbazar, Guwahati.

The copies of the aforesaid orders dated 2/4-09-02 and 23.01.03 are annexed hereto and marked as ANNEXURE-3 & 4.

4. That the applicant respectfully states that as per Railway Board's letter No.E(G)2001 Qr 1 – 19 dated 4.10.01 RBI No.198/2001 and letter No.E(G) 97 Qr 1 – 28 dated 2.9.02, an officer who is transferred from one Zone to a new Zone is entitled to retain his quarter at the previous place of posting for a period of one year on normal rent from the date of release from the place of his old posting to the new Zone. As per letter dated

Rahulendra Nath Kalita

4.10.01, it stipulated therein “**previous place of posting**” of the applicant will be at Guwahati for the purpose of retention of quarter on transfer to the new zone. Accordingly, the applicant, who was transferred from N.F. Railway to Central Railway by an order dated 25.07.02 and subsequently thereafter as he was transferred from Central Railway to new Zone at North Central railway by an order dated 27.02.03 and who was subsequently released on 12.03.03 is entitled to retain his quarter at Guwahati for a period of one year on normal rent from the date of his release from the Central Railway, i.e. on 12.03.03.

Copies of the aforesaid letter dated 4.10.01 and 2.9.02 are annexed hereto and marked as ANNEXURE-5 & 6.

5. That the applicant said that in view of his entitlement of retaining quarter for a period of one year on normal rent from 12.03.03 as stated above, the applicant applied for the same before the respondent authorities and on consideration of the same, the Respondent No.3 by a Memorandum dated 17.03.03 allowed retention of the quarter in question for a period of one year from 27.07.02 (i.e. from the date of his release from N.F. Railway, Maligaon to Central Railway, Mumbai) to 26.07.03.

A copy of the aforesaid Memorandum dated 17.03.03 is annexed hereto and marked as ANNEXURE-7.

6. That being aggrieved by the action on the part of the authorities in depriving the applicant from the benefit of the aforesaid Railway Board's letters dated 4.10.01 and 2.9.02, the applicant submitted representations before the GM(P), N.F. Railway, Maligaon and the Secretary, Railway Board on 24.03.03. The Office of the Secretary, Railway Board after considering the representation by a letter dated 3.4.03 directed the GM, N.F. Railway to provide facts of the case along with N.F. Railway's

Rahindra Nath Kalita

comments on the applicant's representation covering each and every point raised by the representation. Thereafter, the Office of the Secretary, Railway Board by another letter dated 27.04.03 repeated the direction to the G.M., N.F. Railway for providing the comments as stated by his previous letter dated 3.4.03 as stated above.

The copies of the aforesaid representations dated 24.03.03, letter dated 3.4.03 and 27.04.03 are annexed hereto and marked as
ANNEXURE - 8, 9, 10 & 11.

7. That in the aforesaid circumstances, after considering the applicant's representation, the Railway Board by a letter dated 24.07.03 directed the Respondent No.4 to take action in terms of the Board's instruction dated 2.9.02 and 4.10.01 as enclosed at Annexure-3 and 5 to this petition. Thereafter, in the absence of any further action from the Respondent No.2,3 and 4, the Railway Board by a letter dated 31.07.03 allowed the applicant to retain his quarter for a period of 1 year from 12.03.03.

The copies of the aforesaid letters dated 24.07.03 and 31.07.03 are annexed hereto and marked as ANNEXURE-12 and 13.

8. That, thereafter, the applicant met the Respondent No.2 in his office on 28.07.03 and 31.07.03 and apprised the Board's order referred to above. After perusal of the Board's order, the Respondent no.2 informed him that he is not bound by Board's order and in any circumstances the applicant will have to vacate the quarter in question. The Respondent No.2 has also threatened the applicant that if he does not vacate the quarter, he and his family will have to face consequences. Alternatively, the Respondent No.2 suggested that the applicant may file an application for allotment of an alternate suitable quarter on "**humanitarian grounds**". Thereafter, to put an end to the controversies and to avoid confrontation with his

Rahimude Nabi Rahim

superior officer, the applicant filed an application on 31.07.03 for allotment of an alternative suitable quarter with due retention period as is entitled to him as per Railway Board's order as mentioned above. However, to his shock and surprise, the Respondent No.2 by an order dated 1.8.03 allotted the applicant Bungalow No.179, Type-6 at Nambari, Maligaon, Guwahati for the period from 1.8.03 to 31.10.03 in total disregard of the Board's order dated 31.07.03 as mentioned above.

A copy of the aforesaid letter dated 31.07.03 and the order dated 1.8.03 are annexed hereto and marked as ANNEXURE-14 & 15 to this petition.

9. Thereafter, the applicant by a letter dated 4.8.03 requested the Respondent No.2 ventilating his grievances as regard allotment of quarter up to 31.10.03 only, which is contrary to the Railway Board's letter dated 31.07.03 as mentioned above. Thereafter, the applicant by a letter dated 5.8.03 appraised the facts relating to non-compliance of the Railway Board's order dated 31.07.03 to the Secretary, Railway Board.

A copy of the aforesaid letter dated 4.8.03 and the representation dated 5.8.03 are annexed hereto and marked as ANNEXURE-16 & 17.

10. That, the applicant respectfully state that the Respondent No.2 has taken an adamant stand for not allowing the applicant to stay in his quarter in question as per Railway Board's instruction and order as mentioned above. Therefore, the applicant apprehends that he may be evicted from his quarter forcefully in violation of provisions of law and particularly the instructions issued by the Railway Board dated 31.07.03 as mentioned above.

Rahimne wath kelite

11. That your applicant respectfully state that, the respondent No.2 in complete violation of the Railway Board's instructions allowing the applicant to retain his quarter up to 11.3.04 virtually coerced the applicant to shift to another quarter and that too for a period from 1.8.03 to 31.10.03 with a malafide intention to depriving the applicant of his right of accommodation in the quarter which he is presently occupying along with his old parents, wife and school going children. Further, the applicant respectfully state that his father is about 80 years old and he is suffering from severe cardiac problem and presently he has been admitted in the City Heart Hospital. Therefore, great irreparable loss and injury would be caused to the applicant if he is compelled to vacate the quarter in question in violation of the Railway Board's instruction dated 31.07.03 at Annexure-13 to this petition.

5. Grounds for relief with legal provisions:-

1. For that the applicant respectfully stated that the Railway Board being the highest authority of the Indian Railways, the Respondent No.2 and other officials are duty bound to follow the orders of the Board. In the facts and circumstances of the case, the action on the part of the authorities particularly, the Respondent No.2 in attempting to shift the applicant to another quarter, that too for a period up to 31.10.03 only is ex facie in violation of the Railway Board's letter dated 31.07.03. Therefore, the respondent authorities are liable to a direction from this Hon'ble Court to give effect to the Railway Board's order dated 31.7.03 and not to act upon the order dated 1.8.03 issued on behalf of the Respondent No.2.

2. For that, the Railway Board having allowed the applicant to retain his quarter in question till 11.03.04 by a letter dated 31.07.03 on the basis of

Rahimnath Sekh

earlier circulars regarding retention of quarters, the contrary stand taken by the Respondent No.2 in allotting the applicant a separate quarter and permitting him to stay therein from 1.8.03 to 31.10.03 only is ex facie in violation of the order issued by the superior authority and therefore, the Respondent No.2,3 & 4 are liable to a direction from this Hon'ble Court to give effect to the order dtd. 31.07.03 issued on behalf of the Railway Board permitting the applicant to retain his quarter up to 11.03.04.

3. For that, in any view of the matter, the inaction on the part of the Respondent No.2,3 & 4 in not implementing the Railway Board's letter dated 31.7.03 is ex-facie in violation of provisions of law and if the same is not implemented by the Respondent No.2,3 and 4, the same would amount to violation of Article 14 & 16 and other provisions of the Constitution of India and therefore this is a fit case for a direction to the Respondent No.2,3 and 4 to implement the Railway Board's letter dated 31.07.03 in letter and spirit without any further delay and not to disturb the applicant from his present quarter at Guwahati until further order.

4. For that in any view of the matter, in the facts and circumstances of the case, the Respondent No.2,3 & 4 are liable to a direction from this Hon'ble Court to not to disturb the applicant from his present quarter at Guwahati till 11.3.04 or until further order/instruction of the Railway Board in regard to the same.

6. Matters not previously filed or pending with any other Courts :-

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.

7. Details of the remedies exhausted:-

1. The applicant being aggrieved by the non-implementation of the order dated 31.07.03 issued by the Railway Board at Annexure-13 to the petition and particularly, after receipt of the allotment of an alternative quarter up to 31.10.03 only as stated above, the applicant has submitted a representation before the Respondent No.2 on 4.8.03 and subsequently thereafter filed another representation dated 5.8.03 before the Railway Board. But, till date, the same has not been acted upon by the authorities and therefore, the applicant apprehends that he may be forcefully evicted from his quarter in violation of provisions of law and fears that penal /damage rent may be imposed on him.

8. Relief Sought:-

In view of the facts mentioned in paragraphs above, the applicant prays for the following reliefs:-

1. To direct the Respondent Nos.2,3 and 4 to permit the applicant to retain his Quarter No.E/1, Station Road, Panbazar, Guwahati, for a period up to 11.3.04 in compliance with Railway Board's letter dated 31.07.03 at Annexure-13. to the petition and set aside the letter dated 1.8.03 issued on behalf of the Respondent no.2 at Annexure-15 to this petition.

9. Interim prayer prayed for pending decision on the application:-

The applicant seeks the following interim relief:-

To direct the Respondent No.2 to not to compel the applicant to vacate his present Quarter No.E/1, Station Road, Panbazar, Guwahati, till 11.3.04 and not to impose any penal/damage rent.

10. The applicant is represented by his counsel.

11. Particulars of the Postal Order filed in respect of the application if any:-

P.O. No. 96158956 in favour of the Registrar, CAT.

Issued by G.P.O Guwahati..

Payable at Guwahati.

12. List of Enclosures:-

As per index.

Rahimdin Watto Salat

VERIFICATION

I, Shri. Shri. Rabindra Nath Kalita, S/o. Sri. Chandra Kr. Kalita, aged about 47 years, Presently working as Chief Passenger Transportation Manager, North Central Railway, Allahabad, UTTAR PRADESH., resident of Milanpur, Chandmari, Guwahati-21, do hereby verify the contents of paragraphs 1, 2, 3, 4(10), 4(11), 6, 8, 9 and ... are true to my personal knowledge and paragraphs 4(1) to 4(9), 7 and 11.....are believed to be true and that I have not suppressed the material facts.

Date: 18.05.03

Place: Guwahati

Rabindra Nath Kalita

Signature of the Applicant

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F01
Ganesh

29

-13-

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

WIRELESS/POST COPY
ISSUED ON: 25.07.2002

THE GENERAL MANAGERS

CENTRAL RAILWAY/ MUMBAI

EASTERN RAILWAY/ KOLKATA

NORTHERN RAILWAY/ NEW DELHI

NORTH EASTERN RAILWAY/ GORAKHPUR

NORTHEAST FRONTIER RAILWAY/ GUWAHATI

SOUTHERN RAILWAY/ CHENNAI

WESTERN RAILWAY/ MUMBAI

YARLAJEEV RAILWAY/ KOLKATA

NO. E(O)III-2002/PW 21 (1) MINISTRY OF RAILWAYS HAVE DECIDED THAT 1. MR. SUNIRA BASSI, SELECTION GRADE/ IRTS/ NORTHERN RAILWAY, SHOULD BE TRANSFERRED TO CENTRAL RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE BY MAKING SUITABLE LOCAL ADJUSTMENTS;

2. SHRI VISHAL AGARWAL, SELECTION GRADE/ IRTS/ EASTERN RAILWAY, SHOULD BE APPOINTED TO OFFICIATE IN SA GRADE ON EASTERN RAILWAY ITSELF BY MAKING SUITABLE LOCAL ADJUSTMENTS;

3. SHRI RIN KALITA, SELECTION GRADE/ IRTS/ NORTHEAST FRONTIER RAILWAY, SHOULD BE TRANSFERRED TO CENTRAL RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE BY MAKING SUITABLE LOCAL ADJUSTMENTS;

4. SHRI N K TULI, SELECTION GRADE/ IRTS/ NORTHERN RAILWAY, SHOULD BE TRANSFERRED TO SOUTHERN RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE BY MAKING SUITABLE LOCAL ADJUSTMENTS;

5. SHRI D K MISRA, SELECTION GRADE/ IRTS/ NORTHERN RAILWAY, SHOULD BE TRANSFERRED TO NORTH EASTERN RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE BY MAKING SUITABLE LOCAL ADJUSTMENTS;

6. SHRI G D BRAHMA, SELECTION GRADE/ IRTS/ RAILWAY BOARD, SHOULD BE TRANSFERRED TO SOUTH EASTERN RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE BY MAKING SUITABLE LOCAL ADJUSTMENTS; AND

Contd.....2.

Confidential to be given to
Shri Adv. D. C. Joshi

SHRI J N JHA, SELECTION GRADE/IRTS/ SOUTH EASTERN RAILWAY, SHOULD BE APPOINTED TO OFFICER IN 6A GRADE ON SOUTH EASTERN RAILWAY ITSELF BY MAKING SUITABLE LOCAL ADJUSTMENTS (.)

TRANSFERS INVOLVED HAVE THE APPROVAL OF THE PRESIDENT (.)

THE ABOVE PROMOTION ORDERS WILL BE SUBJECT TO THE OUTCOME OF DA NO. 16/2000 FILED BY SHRI B.K. NAYAK BEFORE HON'BLE CENTRAL

COMMISSIONERATE THE NEW KOLKATA BENCH.

DATES ON WHICH THE ABOVE OFFICERS NELLQUISHI ASSUME CHARGE MAY BE ADVISED (.)

RAILWAYS (.)

(A. K. MEAGH)
JOINT SECRETARY (G)
RAILWAY BOARD

COPY TO:

1. PGS to MR, MBR(A), MSR (B), Sr. PPSs to CRB, FC, ML, MS, ME, MM, OSD to MR, PG to Secretary, AM(T), ADV E(GC), JS (G), JS (C), DPR, DS(C)/CRB, DB(E), DB(D), JDE(GC), US (E), VIG(C), ERB-1, GMH, Library, Reception, G-Palay, G-Accommodation, & US(C), Railway Board.
2. PGS to Secretary, AM(T), N, E, BE, NE, NF, B & C Railways.
3. The FAOs & OAOs, N, E, BE, NE, NF, B & C Railways.
4. The Pay and Accounts Officer, Railway Board, Rai Bhawan, New Delhi.
5. The General Secretary, AIRF, R No. 248 & NFIR, R No. 258-C, Rai Bhawan, New Delhi.
6. The General Secretary, IRPOF, R No. 268 & the Secretary General, FROA, R No. 258-A, Rai Bhawan, New Delhi.
7. The Secretary General, AIRPFA, Room No. 258-D, Rai Bhawan, New Delhi.
8. Shri G D Bhatia, IRTS, Railway Board.

ANNEXURE -2

02-27-2003 13:42:47
2070 BRUTX0049 SVH BRUTXA

HGYTXA==UCGXXXP==GUPXX

-15-

A64-66.

XER TIME 1230 NDRE 27/2 1E.

TO GENERAL MANAGERS, CRCLY US, WRLY CDS,

C.S.D., MGRLY JASAI PUR.

NO.F(0)111-2003/ATR/166 AGA MINISTRY OF RAILWAYS HAVE DECIDED THAT

1. SHRI R K TANDON, SA GRADE/IRTS/WESTERN RAILWAY, SHOULD BE TRANSFERRED TO WEST CENTRAL RAILWAY AND POSTED IN THE CADRE.

2. SHRI R N KALITA, SA GRADE/IRTS/CENTRAL RAILWAY, SHOULD BE TRANSFERRED TO NORTH CENTRAL RAILWAY AND POSTED IN THE CADRE, AND

3. SHRI MUKUL MARWAL, SA GRADE/IRTS/CENTRAL RAILWAY, SHOULD BE TRANSFERRED TO WEST CENTRAL RAILWAY AND POSTED IN THE CADRE AGA

TRANSFERS INVOLVED HAVE THE APPROVAL OF THE PRESIDENT AGA
DATES ON WHICH THE ABOVE OFFICERS REINOUCH/ASSUME CHARGE MAY BE
ADVISED AGA

RAILWAYS

MORI SENT LN 14 27/2.

280

REBUL XER0014

DT TX0051

RECEIVED LN 27/02/12:54 HRS TRANSMITTED ON 27/02/14:20 HRS

NNNN

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Arrived 08/03/03
18-2-03

27

NOTIFICATION FROM THE RAILWAY.

16-

OFFICE RENT.

The undersigned, R. N. D. B. M. has received permission to retain
the following premises No. 6/1, Railway Station Colony,
Kolita, Ex. Secy. to Gth M.P. Bly.
for the following periods as under:-

- 1) From 27.01.2002 to 26.09.2002 - on payment on normal
rent.
- 2) " 27.09.2002 to 31.01.2003 - on payment on double
the assessed rent as
permissible on extra-
class ground.

(S.K. CHOWDHURY)

A.P.O./OAS.

FOR GENERAL MANAGER (P).

R.O. 5452/16503(S).

Malgana, dated 2-02-2002.

Copy forwarded for necessary
action to:-

1. General Manager(P)/Central Railway/
CST/Chhat.
2. 5452/16503(S)/M.G.
3. PA & CO/Central Railway, CST/Chhat.
4. PA & CO/CST/M.G.
5. 05/06-Hill Office.
6. Shri R. S. Kalita, Ex. Secy. to Gth/M.P.
(Now posted on P.Bly. in R.O./1879),
C/o. Dy.CGM/148, G. No. 227, CST/Chhat.

(S.K. CHOWDHURY)

A.P.O./OAS.

FOR GENERAL MANAGER (P).

Complied to be true w.r.t.
Dipak, ADVOCATE

X

V

- 17 -

N.F. RAILWAYOFFICE ORDER

SDGM/N.F.Rly has accorded permission to retain the Railway Bunglow No.E/1, Railway Station Colony, GHY. by Shri R.N.Kalita, Ex. Secy to GM/N.F.Rly now CSO/Central Rly. Mumbai, for a further period of 2 months from 01.02.03 to 26.03.03 on payment of double the assessed rent (as permissible) on Medical ground.

AC
23.1.03

(S.K.Chowdhury)
AO/GAZ,
for GENERAL MANAGER(P)/MLG

NO. 545E/1/363(6)

Dated 23.1.03.

Copy forwarded for information & necessary action to:-

1. General Manager(P)/Central Railway, Mumbai.
2. SDGM, DGM(G).
3. FA & CAO/Central Rly. Mumbai.
4. FA & CAO/EGA/MLG.
5. OS/EO/Bill at office.
6. Sri R.N.Kalita, Ex.Secy to GM/N.F.Rly now CSO/Central Rly. Mumbai.

AC
23.1.03

for GENERAL MANAGER(P)/MLG.

Certified to be true copy
S. K. Chowdhury
Advocate/Advocate

C. N. E. TIER RAILWAY.

MISC-1645.

No. E/9/0 - 4 Ft. VI (C)

OFFICE OF THE
GENERAL MANAGER (P),
MALIGAON :: GUWAHATI - 781 001.

Dated : 19-10-2001.

To

GM/MLG, GM (CON)/MLG, AGM/MLG,
 All PHODS, DRMS, ADRMS, DAOs, WAO/NBQS, DBWS,
 Dy. CME/NBQS, DBWS, All Area Manager, All Sr. DFOs,
 All AEN, Sr. ARM/CHY, NJP, Sr. DEN/MLG, DEN/DBRT,
 WM(EWS)/BNGN, All Sr. DME (D),
 All Controlling Officers of non-divisionalised offices,
 The GS/NFREU, NFRMU, AISCTREA & NFROBCEA.

02-11-

Sub:- Retention of Railway accommodation at the
previous place of posting.

A copy of Railway Board's letter No. E (G) 2001 QR 1 - 19 dated 4-10-2001 (RBE No. 198/2001) on the above mentioned subject is forwarded herewith for information and guidance.

(A. K. Roy)
 19/10/01
 APO/MPP
 for GENERAL MANAGER (P)/MLG.

(Copy of Railway Board's letter No. E (G) 2001 QR 1 - 19
dated 4-10-2001, RBE No. 198/2001)

Sub: Retention of Railway accommodation at the
previous place of posting.

*Total
8 months*

Under extant orders, Railway officers/staff on transfer from one place to another involving change of residence are authorized to retain the accommodation at the previous place of posting initially for a period of two months and further on request on medical/educational grounds for another six months. A doubt has arisen as to whether during the period of such authorized retention of Railway accommodation, if an officer/staff is again transferred to Northeast Frontier Railway, will he be entitled to retain the accommodation under the extant orders governing retention of Railway accommodation on transfer/posting to Northeast Frontier Railway, notwithstanding that the quarter held was not at the previous place of posting.

2. It is clarified that, in such a case, the place where the employee is in authorised retention of Railway accommodation in terms of the permission granted in his/her favour by the Competent Authority, may be taken as "the previous place of posting" for the purpose of retention of Railway accommodation provided that the concerned employee has not been allotted any regular accommodation at the new place of posting.

3. These instructions shall also apply to cases where retention of quarter is/had been permitted under any other general or specific order of the Ministry of Railways, including eligible cases of retention of quarters on transfer to new zones.

4. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

महाप्रबंधक का कार्यालय
 Office of the
 General Manager

दिनांक : 3 OCT 2001

महाप्रबंधक का कार्यालय
 Office of the
 General Manager

दिनांक : 3 OCT 2001

Signature : *ASHOK BHANDARI*

(ASHOK BHANDARI)
 DIRECTOR ESTT. (GENL.)

N.F.RAILWAY.

Office of the
General Manager (P)
Maligaon, Guwahati-11.

Misc- 1663.
No.E/9/0-4(C)Pt.VI

Date: 01 SEP 2002

Dated: 25-09-2002.

To
GM, GM(Con) & AGM/MLG,
All PHODs/DRMs/ADRs/Sr.DPOs,
All DAOs, CWM/NBQS & DBWS, WAO/NBQS & DBWS,
All Area Managers, All Sr.DME(D)s & All AENs,
OSD/RNY, DEN/DBRT & Dy.CE/Br.Line/MLG, DGM(G)/MLG,
Sr.DEN/MLG, Dy.CSTE(MW)/MLG.
All Non-divisionalised Units,
All SPOs & APOs/P.Branch/MLG.
The GS/NFREU, NFRMU, AISCTREA & NFROBCEA.

**Sub:-Retention of Railway accommodation at the previous place
of posting in favour of officers/staff posted to new Zones.**

A copy of Railway Board's letter No.E(G)97 QRI-28 dated 02-09-2002 (RBE No.146/2002) on the above mentioned subject is forwarded for information and necessary action. Board's earlier letter dated 18-07-2000 as referred to in their present letter was circulated under GM(P)/MLG's No.Misc-1621-E/9/0-4(C) Pt.V dated 24-08-2000.

25/09/02
(P.G.JOHNSON)

APO/Ruling.

for GENERAL MANAGER (P).

(Copy of Railway Board's letter No. E(G)97 QRI-28 dated 02-09-2002)

As you are aware Ministry of Railways have set up seven new Zones namely East Central Railway, North Western Railway, East Coast Railway, South Western Railway, West Central Railway, North Central Railway and South East Central Railway. East Central Railway and North Western Railway would be functional w.e.f. 01-10-2002 and the rest from 01-04-2003 in terms of notification dated 14-06-2002 and 04-07-2002.

The issue of retention of Railway quarters at the previous place of posting in favour of officers/staff posted to new Zones/Divisions has been considered by Railway Board in their Meeting held on 01-08-2002 and it was decided to extend some incentive to those officers/staff who are posted to new Zones/Divisions so that operationalisation of new Zones/Divisions become smooth,

Now therefore, in exercise of the powers contained in their letter No.E(G)99 QRI-16 dated 18-07-2000, the Ministry of Railways (Railway Board) have decided in public interest to relax the existing provision and allow retention of Railway accommodation in favour of officers/staff posted to new Zones/Divisions at their previous places of posting for a period of one year on payment of normal rent subject to the following conditions :-

- (i) Such retention of Railway quarter at the previous place of posting will be allowed for a period of one year from the date of relief of the official from the old posting or till a Railway quarter is allotted at the new zone or leased accommodation is arranged by the officer, whichever is earlier.
- (ii) A certificate must be given by an officer not below the rank of SDGM of the new zone about the officials intending to retain accommodation that they have applied registered for allotment of entitled category of accommodation and that accommodation was not available at the new Zone.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Sd/-
(M.S.SAINI)
JT. DIRECTOR ESTT. (GENL.)

*Decided to be true
S. Saini
D.P.CAT
C. S. Saini*

NORTHEAST FRONTIER RAILWAY

MEMORANDUM

Consequent on transfer of Shri R.N.Kalita (SAG/IRTS), ex. Secy. to N.F.Railway and ex. CSQ/Central Railway to North Central Railway, Allahabad as CPTM/N.C.Railway in terms of Railway Board's Order No. 3(O)II-2003/TR/166 dated 27-02-2003, he is hereby permitted to retain Railway Bungalow No. E/1, Station Road, Panbazar, Guwahati for a period of one year from 27-07-2002 to 26-07-2003, on payment of rent mentioned below:-

1. From 27-07-2002 to 12-03-2003 = On payment of rent as already intimated vide this Railway's memorandum of even number dated 2/4/09-2002 and dated 23/24-01-2003.
2. From 13-03-2003 (i.e. date of joining in N.C.R.) to 26-07-2003 = On payment of normal rent in terms of Railway Board's extant instructions.

This issues with the approval of SDGM/N.F.Railway.

CKR
17.3.03
(S.K.Chowdhury)
APO/Gaz.
For General Manager (P)

Ref. G/SE/1/363(O)

Maligaon, dated: 17-03-2003

2. To be forwarded for information and necessary action to:-

1. OSD/N.C.Railway, Allahabad.
2. SDGM & DGM(G)/Maligaon.
3. FA & CAO(EGA)/MLG.
4. OS/EO-BILL/MLG.
5. Shri R.N.Kalita, CPTM/N.C.Railway at Maligaon.

CKR
17.3.03
(S.K.Chowdhury)
APO/Gaz.
For General Manager (P)

*Confidential to be given to
DGM (G) & DGM (P)*

Dated: 24.03.2003

ALLAHABAD.

To,

The General Manager (P),
N.E. Railway, Maligaon,
Guwahati.

Through GM, N.C. Railway, Allahabad

Sub: Retention of Quarter No. E/1 Officers' Colony, Station Road, Guwahati.

Ref: Your Memorandum No. 545-E/1/363(o) dated: 17.03.2003.

Please connect my application dated 17.03.2003 on the captioned subject, addressed to S.D.G.M., N.E. Railway, through Dy. C.P.O. (G)/NF Railway, Maligaon, enclosing O.S.D., NCR's letter No. OSD/NCR/House Retention /Pt.II dated: 13.02.2003 on the same subject.

While thanking you for grating permission to me to retain my above mentioned quarter at Guwahati, consequent on my transfer from Central Railway to N.C. Railway, Allahabad, I wish to bring to your kind notice an error in the memorandum No. 545-E/1/363 (o) dated: 17.03.2003 issued by you permitting the said retention of quarter.

That the date from which I should be allowed retention of the quarter for one year should be the date of my relief from Central Railway i.e. 12.03.2003 (I worked full day on 11.03.2003 on central Railway before moving out to NCR which I joined on 13.03.2003) and not the date of my relief from N.E. Railway i.e. 27.07.2002, as stated in the memorandum in reference.

Subject to the above
D.S. CONCERNED

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To substantiate this contention, I wish to bring to your kind notice the provisions under Railway Board's letter No. E(G)97 QR I-28 dated 02.09.2002. The spirit of the letter, spelled out in the second para is "to extend some incentive to those officers and staff who are posted to New Zones/Divisions become smooth". Therefore, the cause for allowing the retention of quarter for one year arises only from a date after the order of posting of the officer / staff to new zone / division is issued and not from a date retrospective to that date. Your reckoning of the date of my relief from N.F. Railway as the starting date of retention of the quarter for one year is erroneous because the fact that the quarter was under my authorised retention during the period when I was transferred from Central Railway to N.C. Railway is relevant only for determining my eligibility for retention of the said quarter for a further period of one year (Pl. refer para 2 of Railway Board's letter No. E(G)2001 QR 1-19 dated: 04.10.2001, RBE No. 198/2001). However, the period under authorised occupation of the quarter from the date of my relief from N.F. Railway till my transfer and relief from Central Railway to N.C. Railway should not be counted as a part of the one-year to which I am entitled for further retention. This will defeat the very purpose for which Railway Board appears to have accorded this facility to those posted in new zones.

Secondly, Railway Board's letter No. E(4) 97 QR -1-28 dated 02.09.2002 clearly states that the period of retention of the quarter will be on normal rent. "This itself testifies that the period during which "other than normal rent" has already been paid (in my case twice the normal rent has been paid from the third month of retention) cannot be a part of the "One-year on payment of normal rent." This substantiates my contention and Railway Board's instructions that the period of one year retention must start only after orders for posting in a new zone are issued, i.e. specifically from the date of relief from the Railway from which the officer is transferred to the new zone. Your order contained in the memorandum regarding

83
-23-

"payment of rent" in the different periods indicated is itself in contravention of Railway Board's orders and is therefore erroneous.

I pray to you fervently therefore, to review the orders issued in your memorandum and permit me to retain my quarter for a period of one year from the date of my relief from Central Railway to N.C. Railway i.e. from 12.03.2003 on payment of normal rent.

I will remain grateful for this kind act of yours.

R.N. Kalita
(R.N. KALITA)

CPTM, N.C. Railway, HQ,
ALLAHABAD.

Copy to:

1. SDGM/N.F. Railway, for information and necessary action please.

34
24
Dated, 24-3-2003
Allahabad

The Secretary
Railway Board,
Rail Bhawan
New Delhi - 110001

Subject: Retention of Quarter on account of posting to New Zone

Ref: Railway Board's letters No.

1. E(G)2001QR1-19 dated 4-10-2001 (RBE No. 198/2001)
2. E(G) 97 QR1-28 dated 2-9-2002.

I wish to apprise you of a problem of retention of my quarter consequent on coming to North Central Railway (New Zone).

I was working on Northeast Frontier Railway till I was promoted to SAG and transferred to Central Railway in July 2002. I joined Central Railway in SAG on 22 July 2002 and served that Railway till 11-3-2003.

Subsequently, I was transferred to North Central Railway vide Railway Board's Order No. E(O)III-2003/TR/166 dated 26-2-2003. I joined North Central Railway established as CPTM on 13-3-2003.

When I was transferred to Central Railway, I was permitted retention of my quarter (No. E/1, Railway Officers' Colony, Station Road, Guwahati) for a period of eight months (*2 months on normal rent and 6 months on double rent*) till 26-3-2003. During this period of authorised retention, I was not allotted any Quarter at Central Railway, Mumbai against my application for the same. (Copy of certificate issued by GM(G Central Railway enclosed).

On joining North Central Railway at Allahabad, I applied for a quarter but was informed that no suitable quarter is available for allotting to me. Under the circumstances and as provided for in Railway Board's letters in reference, I applied to Northeast Frontier Railway through OSD/ North Central Railway on 13-3-2003 for retaining the retention of my aforesaid quarter at Guwahati for a period of one year on normal rent from the date of my relief from Central Railway, till March 2004.

However, GM(P), Northeast Frontier Railway issued a Memorandum No. 3435/1/33(O) dated 17-3-2003 (copy enclosed) permitting me retention of the quarter till 26-07-2003 only. This is because GM(P), Northeast Frontier Railway reckoned the date of my relief from Northeast Frontier Railway to Central Railway as the starting date for the period of retention for one year instead of reckoning it from the date of my relief from Central Railway, which should have been the case, as per Railway Board's letters in reference.

Swarajit Chatterjee, Advocate

35
25

Moreover, as will be seen from the aforesaid Memorandum issued by GM(P), Northeast Frontier Railway, the stipulation of permission to retain the house for one year "on normal rent" is also not fulfilled since I have already paid "twice the normal rent" from the third month of retention.

In the light of the above, I seek your kind clarification on the following issue:

Whether the date from which retention of the Quarter for one year on normal rent on account of my transfer to North Central Railway (New Zone) will be:

12th March 2003, the date on which I was relieved from Central Railway,

OR

13th March 2003, the date on which I joined North Central Railway,

OR

27th July 2002, the date on which I was relieved from Northeast Frontier Railway to join Central Railway.

The necessary instructions clarifying the above may kindly be communicated to GM(P) Northeast Frontier Railway also, so that my grievance can be redressed at an early date, since, otherwise my family will be subjected to severe inconvenience. It may not be out of place to bring to your kind notice the fact that my 80 year old father, who suffered a heart attack in January 2003, is presently bedridden and is not in a position to be shifted out in immediate future. Since, I do not have any brother, my wife has the onerous responsibility of looking after him at Guwahati in addition to looking up our two school going children.

I will, therefore, be very grateful to you for your personal intervention in this regard and request an early and favourable dispensation.

Thanking you,

Yours sincerely,


(R.N. Kalita)
CPTM, North Central Railway
Allahabad

As stated,

OBB-10-2014-14144 FROM:

TO: BE/32/6244/1

PAGE: 01

Please review FAX

Date: 27/01/2003 Ad. No. 05322-56100

ભારત સરકાર GOVERNMENT OF INDIA
 રેલ મંત્રાલય MINISTRY OF RAILWAYS
 (રેલવે બોર્ડ RAILWAY BOARD)

રેલ ભારત, નई દिल્હી-110001, તિથિ
 Rail Bhawan, New Delhi-110001, dated

No. E(G)2003/RN3-5.

The General Manager,
 Northeast Frontier Railway,
 Maligaon,
 Guwahati.

Kind Attn: Secretary to GM / N.C.Rly/
 All stations

Sub: Retention of Railway accommodation at F.I.,
 Railway Officers' Colony, Station Road, Guwahati
 by Shri R.N. Kalita, CPTM on his posting to
 N.C.Rly.

Shri R.N. Kalita, CPTM, North Central Railway has represented to Railway Board that on his posting to new Zone, i.e., N.C.Rly he has not been permitted retention of Railway accommodation for a period of one year as provided for in Railway Board's instructions No. E(G)97 QR1-27 dated 2/9/2002. A copy of representation is enclosed. Ministry of Railways desire to have complete facts of the case as also N.C.Rly's comments on the representation of Shri Kalita covering each and every point raised in the representation. Any other information, which N.C.Rly may find relevant, may also be furnished.

OK (R.P.)
 (RAVINDER PANDAY)
 DESK OFFICER ESTT. (GENT.)

CPTM

894 file
 194

Qualified to be true
 D. D. Patel,
 Advocate

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

0532 2560524

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रेल भवन, नई दिल्ली-110001, तिथि
Rail Bhawan, New Delhi-110001, dated

200

No. E(G)2003 RN3-5.

After Shri R.N. Kalita
CPTM/MCILY

The General Manager,
Northeast Frontier Railway,
Maligaon,
Guwahati.

Sub: Retention of Railway accommodation at E/1,
Railway Officers' Colony, Station Road, Guwahati
by Shri R.N. Kalita, CPTM on his posting to
N.C.Rly.

Please refer to this Ministry's letter of even number dated 3/4/2003 (copy
enclosed) on the above noted subject. Your Railway's reply has not yet been
received. Please expedite.

Onward
(RAVINDER PANDEY) 27/4/03
DESK OFFICER ESTL (GENL.)

DA: As above.

Subject to the above letter
Dhruv D'Souza
ADVOCATE



रेल भवन, नई दिल्ली-110001, फ़ॉक्स

ANNEXURE-12
28-28

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

रेल भवन, नई दिल्ली-110001, फ़ॉक्स
Rail Bhavan, New Delhi-110001 dated

24/4/03

No. E(G)2003/RN3-5.

The SPCM,
Northeast Frontier Railway,
Maligaon,
Guwahati.

Sub: Retention of Railway accommodation at E/1,
Railway Officers' Colony, Stabon Road, Guwahati
by Shri R.N. Kalita, CPTM on his posting to
N.F.Rly

Ref: Board's letters of even number dated 30.4.2002 and
17.7.2003 and
N.F.Rly's letter No. 1545E/1/363(O) dated
18.6.2003.

While examining the representation of Shri R.N. Kalita for retention of
Railway accommodation at Guwahati, it has been observed that N.F.Rly has been
hesitating to answer Board's letters of 7th and 17th July 2003. However, going by the
facts on record, Board has taken the view that it is difficult to appreciate that
Shri Kalita is in occupation of non-pooled accommodation.

In view of the above, Board desire that action may be taken by the Railway in
terms of Board's instructions dated 2/9/2002 and 4/10/2001 permitting retention of
quarter No. E-1 under occupation with Shri Kalita at present.

Necessary action may be taken by N.F.Rly accordingly under advice to this
office.

(M/S SAINI)
J.T. DIRECTOR ESTT. (GENL.)

क्रमांक (दिनांक) : 2003-07-24
ISSUE (D) FRENCH

लालै
ISSUED
क्रमांक (दिनांक) : 2003-07-24
Signature
क्रमांक
Date

Received on 24/07/2003
By [Signature]

ANNEXURE-13

THE GOVERNMENT OF INDIA
THE MINISTRY OF RAILWAYS
(RAILWAY BOARD)

रेल भवन, नई दिल्ली-110001, तिथि 11-7-2003
Rail Bldg, New Delhi-110001, dated

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-29-

No. E(G)2003 FN3-5.

The SDGM,
Northeast Frontier Railway,
Maligaon,
Guwahati.

Sub: Retirement of Railway accommodation at E/G,
Railway Officers' Colony, Station Road, Guwahati
by Shri R.N. Kalita, CPTM on his posting to
N.C.Rly.

Ref: Board's letters of even number dated 24/7/2003 and
N.F.Rly's letter No. 545E/1/363(O) dated
18/6/2003.

Further to Railway Board's letter of even number dated 24/7/2003, it is
clarified that in terms of Board's letter No. E(G)97 QR1-28 dated 2/8/2002 Shri R.N.
Kalita, CPTM/N.C.Rly is entitled to retention of above Railway quarter at Guwahati
for a period of one year from the date of his relief from Central Railway (i.e.
12/3/2003 to join the new Zone).

11.4.2004 *[Signature]*
M.S. SAINT
DIRECTOR ESTT. (GENL.)

[Signature]

To

S.D.A.M

N.F. Railway
Malgam.

31/7/03

Sub: Vacatin of Quarters No E/1/GHY and
request for another quarter.

Sir,

I have been asked to vacate Qr No E/1 at GHY therefore to enable my family alongwith my ailing father and mother to shift without much difficulty, I would request a suitable quarter to be allotted on humanita. grounds in my favour in GHY/Malgam Rly colony, for the remaining period of retention due to me.

I will be grateful if you kindly allot me any of the following quarters which are likely to fall vacant shortly:

- 1) DG 51 at GHY
- 2) DG 52 at GHY
- 3) 179 Numberi (T VI) at Malgam.

Yours faithfully,

R.N. KALITA

CPTM N.C. RAILWAY
ALLAHABAD

(On leave at GHY)

Identified to be true w.r.t.
R.N. KALITA
Advocate.

N.F.RAILWAY

OFFICE OF THE
GENERAL MANAGER
MALIGAON, GUWAHATI-11.

OFFICE ORDER NO.: 877

DATED :- 01.08.2003.

Bungalow No. 179, Type -VI at Nambari on vacation is allotted to Sri R.N.Kalita, Ex.Secy. to GM/N.F.Railway/Maligaon now CPTM/N.C.Railway as a special case on humanitarian ground as requested by him for three months i.e. from 01.08.2003 to 31.10.2003.

01/08/03
for General Manager

No.Z/314/8/Allotment/Pl.XXIV/877(Loose)

Dated :- 01.08.2003

GM/N.C.Railway/Allahabad, Dy.CPO/Gaz/N.C.Railway/Allahabad,
FARCAO/MLG, PDA/MLG, Dy.CPO/Gaz/BII/MLG, Sr.DEN/MLG
CTC/Ano/MLG, SSE(Power)/Nambari, SSE(W)/Nambari,
Sri R.N.Kalita, CPTM/N.C.Railway/Allahabad.

SPECIAL ATTENTION OF ALLOTEES IS DRAWN.

1. White washing of kitchen/bathrooms, repair and whitewashing of one bed room shall be done, if considered necessary, at the time of handing over the bungalow to the new allottee.
2. Minor repairs including schedule periodical repair and roof treatment etc. shall be done after occupation and will not be accepted as reasons for non-occupation.
3. The repairs should not involve any modification/alteration.
4. Occupation report shall given within fifteen days of the issue of allotment order or date of vacation by earlier allottee whichever is later, failing which the allotment will be cancelled and given to the next person in turn. This will apply in every case except when the allottee is away from HQ, on leave/training or sick.
5. The Engg. Department shall attend to the minimum repairs outline at point No.1 above within this period of fifteen days. It will be the responsibility of allottee officer to have the repairs carried out at non-completion will not be considered a valid reasons for not giving the occupation report.

01/08/03
for General Manager

Debbarma Associates
Debbarma Associates
Certified to be true copy
Debbarma Associates

NORTH CENTRAL RAILWAY
HEAD QUARTERS OFFICE
ALLAHABAD

No: Quarter/RNK/03

Dated. 04.8.2003

General Manager
N. F. Railway
Maligaon,
Guwahati-11

Sub: Your office Order no. 877 issued vide letter
No.Z/314/8/allotment/pt. XXXIV/877 (Loose)
dated 1.8.2003

Sir,

Kindly connect my letter dated 31.7.03 addressed to the SDGM, N.F.Railway on the subject of vacation of Quarter no. E/1/GHY and request for another quarter.

I had written this letter on your telling me to do so, on the understanding that if I shift to the new quarter I will be able to retain it upto 11 March, 2004, the period upto which Railway Board has permitted me retention vide their letter no. E(G)2003 RN 3-5 dated 24.7.2003 & 31.7.2003. I had apprised you of the physical condition of my 80 year old father who is a cardiac patient and of the extreme difficulty my children would face in going to school. Despite these serious problems I had agreed to shift to the house in deference to your wishes after the discussion I had with you in your office on 28.7.2003.

However, I was surprised to find that in the subject letter of allotment issued to me by your office on 01.08.2003, it is has been stipulated that Bungalow no. 179, type VI at Nambari, Maligaon has been allotted to me only for 3 months from 01.08.2003 to 31.10.2003.

Kindly appreciate sir, that after 31.10.2003 I will be in distress for accommodation and my family, including my ailing father will be in serious problem. Even now, the condition of my father is such that any shock may prove to be fatal to him. I, therefore, request you to kindly modify the allotment order to permit me to stay in that house for the remaining period of retention i.e. upto 11.3.2004. Shifting my family to the new house for only a period of 2-1/2 months (since the house is actually likely to be vacated only by mid August, 2003 by the present occupant) will serve no purpose.

I will be grateful to you for ever, for your benevolence and kind orders in this respect.

Thanking you,

Yours faithfully,
Kalita
(R. N. KALITA)
CPTM/N.C.Rly.
Allahabad.

Original to be taken out

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**NORTH CENTRAL RAILWAY
HEAD QUARTERS OFFICE
ALLAHABAD**

No: Quarter/RNK/03

Dated. 05.8.2003

To,
Secretary,
Railway Board,
Rail Bhawan,
New Delhi-110011.

Sub: Retention of Railway Quarter No. E/1 at Guwahati.

Ref.: Railway Board's letter No. E(G) 2003.R.N. 3-5 dated 24.7.03
and 31.7.2003.

Sir,

Kindly refer to the above mentioned letters permitting me the retention of Railway Quarter No. E/1 at Railway Officers' Colony, Station Road, Guwahati for a period of one year from 12.3.2003 in up to 11.3.2004.

I am constrained to inform you that on 28.7.03 when I met the N.F. Railway authorities including the General Manager, along with my request to extend the retention of my aforesaid quarter as per Railway Board's orders, I was refused the same. I was ordered by the General Manager to shift into another quarter at Maligaon since Qr No. E/1 at Guwahati was already allotted to Area Manager, Guwahati, although Railway Board has permitted me retention of the same. Incidentally I had mentioned in my representation dated 30.06.03 to Railway Board, that the Area Manager, Guwahati already has a designated non-pooled quarter no. DG - 51 which he is presently occupying.

I was told that I and my family would have to face dire consequences if I did not carry out these orders (verbal). On the contrary, if I shifted out immediately, the General Manager promised to get me transferred back to N.F. Railway which would help me look after my family better.

After a 45 minute discussion with the General Manager, I felt that discretion would be the better part of valour, since I was at a disadvantage of being far away from my family including a seriously ailing 80 year old father for whom any shock could prove fatal, and I agreed to concede to his proposal, despite the fact that I had Railway Board's orders in my hand.

(Signature)
ADFC/CC/II

I was compelled to write an application requesting the change of quarters on "humanitarian ground", which I did simply because I wanted to put an end to the extreme tension and unhappiness I and my family were undergoing: I, however requested in the application for allotment for the remaining period of retention due to me.

On 1.8.03, Friday, late in the evening I was handed over an allotment letter for Bungalow No. 179 at Nambari, Maligaon (copy enclosed) in which it was stipulated that the allotment was given for 3 months only from 1.8.2003 to 31.10.2003. Incidentally the quarter has not yet been vacated by the present incumbent and is likely to fall vacant sometime in Mid-August 03 leaving thereby only two and half months at best for my occupation. Shocked by this letter I met the General Manager again to request him to reconsider my request for allotment of the quarter for the remaining period of my retention i.e. till 11.3.04, as ordered by Railway Board. The General Manager did not relent.

I had to return to my HQ at Allahabad during the weekend since my leave was getting over. I have sent a letter(by FAX) on arrival on 4.8.03 to General Manager requesting him to reconsider and extend the validity of the allotment up to 11.3.04 (Copy enclosed).

I am informing you of the above development with utmost despair for not having got justice. I fear now that I may even be hounded by unleashing of the instruments of harassment that General Manager has in his arsenal on me and my family for no fault of ours.

I am particularly apprehensive of the consequence this may have on the health of my father, who is a heart patient of acute condition.

In view of the above, I pray to you seeking justice and protection from being persecuted. I also seek your advise as to the course of action I should take now.

Thanking you,

Encl: As above.

Yours faithfully,

Ratna

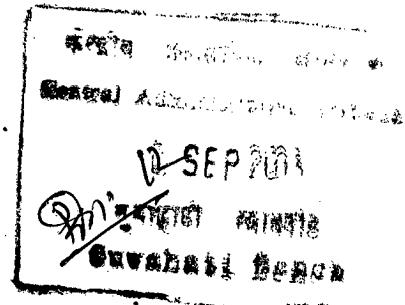
(R. N. Kalita)
C.P.T.M./NCR
ALLAHABAD

Copy to:

1. Chairman Railway Board.
2. Member staff Railway Board.
3. Member Traffic Railway Board.

for kind information and necessary action please.

(35)



Filed by
Sisodia
Advocate

12/09/05.
For B.K. Sharma
S.C. Secy.

Senior Deputy General Manager
Guwahati
N.C.R. & D.S.C. Ltd.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 186/2003

Sri Rabindra Nath Kalita

...Applicant

versus

Union of India & Ors.

...Respondents

Written statement on behalf of Respondents.

The answering Respondents beg to state as follows:

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 to 4.3 of the OA, the answering Respondents do not admit anything contrary to the relevant records. it is stated that the Applicant was/is occupying the railway quater bearing No. E/1 at Station Road, Panbazar, Guwahati, a non-pulled accommodation earmarked for Area manager, Guwahati, posted at Guwahati and the quater in question has been allotted to him. The Area Manager Guwahati is a key post for train operation in Guwahati area and is in

Page 2

fact, the most important Lumding Divisional post at
Guwahati.

3. That with regard to the statements made in paragraphs 4.4 and 4.5 of the O.A., the answering Respondents denied that the Applicant is entitled to retain the quater at Guwahati for a period of one year from the date of his release from the Central Railway i.e. on 12.3.2003. The Applicant has not interpreted the Railway Board instruction correctly. Thus there was no occasion for the Applicant to apply for retention of the quater for another one year from the date of released from Central railway. His such retention of the quater is permissible upto 26.7.2003 and not upto March, 2004. He was granted the permission for retention of the quater upto 26.7.2003 in terms of the instructions of the railway Board. The "Old posting" as per Board's letters dated 4.10.2001 and 2.9.2002 is NF Railway, Guwahati for the purpose of retention of the quater at old station. There cannot be a different interpretation as has been sought to be advanced by the Applicant i.e. one for the retention of the quater and another for reckoning the period of one year. Further, if the interpretation sought to be given by the Applicant is to be accepted, then the period of retention of quater at old station will vary between officials who have gone on transfer directly to a new zone and officials who have gone on transfer to a new zone via ~~an order~~ another Railway zone as in the case of the Applicant. Thus the contention of the Applicant that he is entitled to retain the quarter for another one year

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with effect from 12.3.2003 is not acceptable.

As per the Rules and procedure followed for earmarked quarters, he is entitled for only 2 months from the date of release from NF Railway i.e. from 27.7.2002 to 26.9.2002. The Applicant was initially allotted Qr.E/I/GHY when he was posted as Area Manager/GHY in 1986. This quater is under Lumding Divisional control and hence meant for Lumding Divisional officers. Actually the Applicant should have been asked to vacate this quater when he took over as CPRO in 1988 itself, but that did not happen. It is a fact that this was non-pooled quater earlier but somehow another quater was ^{allotted} to the then Area manager. At that time the Applicant was secretary to General Manager (from 1995-2002) continued occupation of this quater for a very long period uninterrupted. The Applicant is not entitled to continue in this quater E/I/GHY indefinitely.

4. That with regard to the statements made in paragraphs 4.5 of the OA, it is stated that first of all, the official is not entitled to retention of his quater at GHY for a period of one year from 12.3.2003 in view of the reasons already clarified above. Therefore even though the Applicant had applied for retention of quater from 12.3.2003, he was allowed retention of quarter. as per Board's letter dated 2.9.2003 for one year from 27.7.2002 only i.e. from the date of his release from NF Railway/GHY to C. Railway/Mumbai.

5. That with regard to the statements made in paragraph 4.6 of the OA, it is stated that there was nothing to be aggrieved about by the Applicant as the benefit due as per the Railway Board's letters dated 4.10.2001 and 2.9.2002 had been afforded to the Applicant. The Applicant was entitled to retention of quarter at Guwahati for a period of one year from 27.7.2002 only as per the Board's letters as already explained above. In fact as per the Board's letter dated 17.9.2002 regarding earmarked quarters, he is entitled for only 2 months from 27.7.2002 i.e. upto 26.9.2002 only.

Inspite of the above position, the Applicant represented and as indicated Railway Board asked NF Railway to furnish comments on the Applicant's representation. Accordingly detailed parawise comments were furnished vide letter No. 545E/1/365(8) dated 18.6.2003 by NF Railway to the Railway Board based on Applicant's representation dated 24.3.2003, addressed to Secretary/Railway Board.

6. That with regard to the statements made in paragraphs 4.7 of the OA, the answering Respondents state that even though all relevant points had been brought out in reply to Board vide letter dated 18.6.2003, Railway Board again vide their letter dated 24.7.2003 directed the NF Railway to take action in terms of their letters dated 4.10.2001 & 2.9.2002. In their letter dated 24.7.2003, Railway Board had also mentioned that it is difficult to appreciate that Sri Kalita is in occupation of non-pooled accommodation

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inspite of the fact that it was clearly brought out in NF Railway's letter dated 18.6.2003 that Qr.E/1/GHY in occupation by Sri Kalita is a non-pooled quarter earmarked for Area Manager/GHY.

As far as Board's letters dated 4.10.2001 & 2.9.2002 are concerned, in respect of retention of quarter on transfer to new zone and period of retention, the logical interpretation regarding period of retention has already been brought out above considering all the above points, detailed comments in response to Board's letter dated 24.7.2003 were sent by NF Railway vide their letter dated 25.7.2003. In this letter dated 25.7.2003, NF Railway has reiterated and clarified that Qr.E/1/GHY is a non-pooled quarter earmarked for Area manager, Guwahati. To remove whatever doubt there was with the concerned authorities of the Board, the following points have also been clarified in this letter. That quarters at Guwahati are meant for Lumding Divisional officers and it may not be proper or is there any need for other than Guwahati posted officers to be accommodated at Guwahati. That a Senior Area Manager has already been posted at Guwahati and this Qr.E/1/GHY has already been allotted to him. That Area Manager, Guwahati is a key post for train operations in Guwahati area and is in fact the most important Lumding Divisional post at Guwahati. That there is acute shortage of quarters for officers posted at Guwahati presently. That keeping the above points in mind, Qr.E/1/GHY has been earmarked for Area manager posted at Guwahati and that it is very necessary that

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he actually stays at Guwahati, given the importance attached to this post.

Besides the above points, it was also brought out in letter dated 25.7.2003 that the Applicant owns a double storied house at Guwahati, which was completed with HBA assistance. Also that the Applicant's father himself owns a double storied house at Guwahati and that his sister who is posted as Junior Scientific officer in NF Railway Head Quarter at Guwahati is staying separately in a Railway quarter in Maligaon Railway Colony. As such there should not be any difficulty for alternate accommodation for the Applicant's family or taking care of his family members at Guwahati.

Notwithstanding all the above points, it was also indicated in the letter dated 25.7.2003 that if the Applicant still requires a Railway quarter, the same could be considered as a special case, but in Nambari Officer's Colony, Maligaon, which is meant for officers posted in Head quarters.

However, without waiting for the said letter, Railway Board immediately issued another letter dated 31.7.2003 wherein they have allowed the Applicant to retain the Qr.E/1/GHY for a period of 1 year from 12.3.2003. Obviously the contents of the letter dated 25.7.2003 have not been taken into account by the Board while issuing their letter dated 31.7.2003. As such this was again taken up with the Railway Board by letter dated 4.8.2003 to enable correct interpretation of the Board's circular dated 2.9.2002 and also for

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taking into account the various other points brought out. Meanwhile the Applicant personally met the Respondents in Guwahati during the last week of August, 2003 and requested for providing an alternate accommodation on humanitarian grounds to enable him to vacate Qr.E/1/BHY. Based on this request, the Applicant was allotted a Type-VI quarter in Maligaon Officers Colony as a special case on out of turn bases. This point was also clearly brought out in our letter dated 4.8.2003 to Railway Board.

7. That with regard to the statements made in paragraph 4.8 of the OA, the answering Respondents state that the Applicant did meet the Respondent No. 2 in his office on 28.7.2003 & 31.7.2003. However, the other points regarding apprising of Board's order dated 31.7.2003, Respondent No. 2 informing him that he is not bound by Board's order and in any circumstances the Applicant will have to vacate the quarter in question, threatening the Applicant etc. are not factual. Also that the Respondent No. 2 suggesting that the Applicant may file an application for allotment of an alternative suitable quarter on humanitarian grounds is also not factual. In fact, the Applicant was advised by the Respondent No.2 that in case he has a problem for accommodation after vacating his Qr.E/1/BHY, alternative accommodation for him in Maligaon officers colony will also be considered on humanitarian grounds.

The Applicant himself has mentioned that to end the controversies and to avoid confrontation with his

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superior officer he filed an application on 31.7.2003 for allotment of an alternative suitable quarter for the remaining period of retention due to him. It must be mentioned here that the Applicant made out this application in his own hand ^{and} also requested for a suitable quarter on humanitarian grounds to enable his family to shift without much difficulty. Based on this request by the Applicant, Bungalow No. 179(Type-VI) at Nambari/Maligaon was allotted to him as a special case on humanitarian grounds as already mentioned above. This allotment was done even though number of senior officers were waiting for type-VI quarters at that time. The Applicant was advised vide letter dated 31.7.2003 that this allotment is only for 3 months upto 31.10.2003 and he had also assured that he will occupy the above Bungalow No. 179 at Nambari, the moment the same is vacated. It was only then the allotment letter was issued to the Applicant. As such the Applicant's contention that he was shocked and surprised by the order dated 1.8.2003 allotting the Bungalow No. 179 cannot be accepted *is* not correct.

The allotment of Bungalow No. 179 for a period of 3 months only also needs to be clarified. Qr.E/1/GHY being a non-pooled quarter earmarked for Area manager, was allotted to the incumbent Area Manager who is presently without a quarter and the Applicant was asked to vacate this quarter. Actually as per Board's letter dated 17.9.2002 the Applicant is entitled for only 2 months i.e. upto 26.9.2002 only. Even as per Board's letter dated 2.9.2002, the one year retention period

given to the Applicant was over. Even then he was allotted another quarter in Maligaon Officers Colony as a special case, on out of turn basis only to help him vacate the Qr.E/1/GHY without much difficulty. This allotment was given for 3 months in view of the fact that during this time the Applicant may be provided a quarter in Allahabad where he is posted or he may find alternate private accommodation which could even be his own house, his father's house or his sister's house in Guwahati. Also for the reason that number of Senior Officers are waiting for Type-VI quarters and it may not be fair to allot the Applicant a Type VI quarter on a long term basis.

It is also to be brought out that Board's letter dated 31.7.2003 that the Applicant is entitled to retain Qr.E/1/GHY for a period of one year from 12.3.2003 is part of correspondence between the NF Railway and the Railway Board. It is only an interpretation by the Board and cannot be taken as an order. In fact copy of this Railway's letter has not been endorsed to the Applicant even. Technically Board issues only policy circulars/guidelines and it is only the GM of a Railway who is the sole & final authority to decide on the nomination of non-pooled quarters and also allotment to such non-pooled quarters. As such technically, Board's letter dated 31.7.2003 is not in order. Therefore as already mentioned above, this has already been clarified to the Railway Board vide letter dated 4.8.2003.

6. That with regard to the statements made in

paragraph 4.9 of the OA, the answering Respondents beg to state that it is a fact that the Applicant vide his letter dated 4.8.2003 requested the Respondent No. 2 for modifying the allotment order to stay in the quarter No. 179 for the remaining period of retention i.e. upto 11.3.2004. In response to the Applicant's above representation dated 4.8.2003, a reply was sent to him on 22.8.2003, explaining the fact that the subject allotment letter was issued only after he had assured that he would occupy the above Bungalow No. 179 the moment it is vacated. The Applicant was also advised that since Qr.E/1/GHY is a non-pooled quarter, which has already been allotted to another officer, he should therefore arrange to vacate Qr.E/1/GHY without further delay and occupy Bungalow No. 179 at Nambari at the earliest. He was also advised that the Bungalow No. 179 has been vacated and ready for occupation and that any extension beyond 31.10.2003 for this bungalow will be considered at the appropriate time. Thus it can be seen that the option beyond 31.10.2003 was not closed and the same could have been considered at the end of the allotted period.

The Applicant has mentioned that he has represented to Secretary/Railway Board vide his letter dated 5.8.2003, which was not copied to NF Railway. However, this letter has been received as an Annexure along with the original application received from the Hon'ble Tribunal. The contents of this letter of Applicant dated 5.8.2003 are not fully accepted in view of the reasons already mentioned above. No further

direction has also been received from the Railway Board to NF Railway on this letter of Applicant dated 5.8.2003

9. That with regard to the statements made in paragraphs 4.10 of the OA, the answering Respondents state that the Applicant has stated that the Respondent No. 2 has taken an adamant stand for not allowing the Applicant to stay in his quarter in question, which is not factual. In fact allotment of another quarter No. 179 (Type-VI) at Nambari as a special case on humanitarian ground in favour of the Applicant even though number of senior officers were waiting for Type-VI quarters, would not support this argument. The Applicant has also mentioned that he apprehends eviction from his quarter forcefully in violation of provisions of law and instructions issued by the Railway Board dated 31.7.2003. This apprehension is also not appreciated especially when the Respondents have gone out of the way to provide alternate accommodation to the Applicant even on "out of turn" basis. In any case, it is to be mentioned that whatever action is required to be taken in future will be as per the rules and procedures that are required to be followed in such cases.

10. That with regard to the statements made in paragraph 4.11 of the OA, the answering Respondents state that the allegation that the Respondent No. 2 virtually coerced the Applicant to shift to another quarter and that too for a period from 1.8.2003 to 31.10.2003 with a malafide intention is not acceptable

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and categorically denied. The Applicant is a senior officer and even the application given for allotting alternate accommodation was written in his own hand. In fact, it is only after advising the Applicant that the allotment of Bungalow No. 179 (Type-VI) is only for 3 months upto 31.10.2003 and also after his assurance that he will occupy the above bungalow the moment the same is vacated, that the allotment order for the said quarter was issued. In fact the Applicant had made out the application dated 31.7.2003 by his own hand as already mentioned above and requested on humanitarian grounds to allot a suitable quarter so that his family could shift without much difficulty. Therefore the Applicant's allegation that he was virtually coerced to shift to another quarter is just not acceptable. Further the Applicant is also not being compelled to vacate the quarter as stated. It is really unfortunate that the Applicant could go to the extent of maligning the Respondent No. 2 just to make out a case.

It is to be again clarified here that Qn.E/1/GHY is a non-pooled quarter earmarked for Area Manager/Guwahati. The NF Railway administration is only trying to ensure that the non-pooled quarters are provided to the nominated officers working at Guwahati so that there is no problem for them to discharge their duties. This endeavour of the administration is also being implemented as per procedure in vogue and not with any malafide intention as is being projected by the Applicant. In fact the same procedure is being adopted in case of other officers also like the

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Applicant who are staying in non-pooled quarters in Guwahati. Because the Applicant had expressed some difficulty, another quarter No. 179 which is a Type-VI house, which is normally allotted to Higher Administrative Grade officers, was allotted to the Applicant as a special case on humanitarian grounds even though number of senior officers to the Applicant were waiting for Type-VI quarters. The idea in allotting this quarter only for 3 months was mainly because of the facts already explained above. In case all the options as brought out could not materialise permission for extension for retention of this bungalow beyond 31.10.2003 could also have been considered as already mentioned in this Railway's letter dated 22.8.2003, addressed to the Applicant. However, inspite of the above reasons the Applicant suddenly has decided to approach the Hon'ble Tribunal which is not understood. Also it would appear that the case in the Board's office has been so far dealt at the level of Jt. Director. Board's reply are yet to be received in response to the Applicant's letter dated 5.8.2003. Even if the Applicant is not satisfied with N.F. Railways action so far, he can still approach to the highest level in the Board. As such, it is to be noted that the Applicant has not exhausted all the administrative channels available to him in seeking his remedy. Therefore, his application filed in the Hon'ble Tribunal should be considered as prematurated and on this ground itself the petition should be inadmissible and liable to be dismissed.

11. That in view of the facts & circumstances narrated above, none of the grounds urged in paragraph 5 is sustainable and the Applicant is not entitled to any relief.

Railway Board letter dated 31.7.2003 has been issued by the Jt. Director which is not the highest authority in the Board's office. This letter has not been accepted and necessary clarifications have been furnished by NF Railway vide their letter dated 4.8.2003, addressed to Railway Board, NF Railway is also not in a position to follow instructions as per Board's letter dated 31.7.2003, the reasons for which have already been brought out hereinabove.

Respondents No. 2 has not forced the Applicant to shift as alleged. On the other hand the Applicant himself requested in writing to allot another quarter so that he cold vacate Qr.E/1/GHY. This has already been clarified above as also the reason for allotting another quarter for a period of 3 months only.

In view of above position, when the Board's letter dated 31.7.2003 is itself in doubt, the question of its violation does not arise. On the other hand, Boards letter dated 31.7.2003 does not take into account their own letter dated 17.9.2002 and content is of NF Railway's letter dated 25.7.2003. Therefore any direction to NF Railway to give effect to Board's letter dated 31.7.2003 is not called for at this stage. Also NF Railway is not particular that the Applicant should act upon its order dated 1.8.2003 but is only particular that the Applicant vacates his quarter

E/1/GHY for the reasons already brought out earlier.

The Applicant has reiterated his point regarding Board's letter dated 31.7.2003 on the basis of earlier circulars regarding retention of quarters. It has also been brought out that the Applicant was allotted a separate quarter and permitted him to stay therein only upto 31.10.2003 which is violation of Board's order. NF Railway's position on thee have already been clarified above.

In view of above, there is no need for any direction to NF Railway to give effect to Board's letter dated 31.7.2003 as already brought out.

The Applicant has reiterated about implementation of Railway Board's letter dated 31.7.2003 and that its non-implementation would amount to violation of article 14 and 16 and other provisions of the Constitution. NF Railway's position regarding Board's letter dated 31.7.2003 and its reason for non-implementation have already been pointed out above. The circumstances under which the Applicant was asked to vacate Qr.E/1/GHY and allotted another quarter at Nambari Officer's Colony have also been explained. As such the action taken by NF Railway does not amount to any violation of provisions of law nor any violation of any provisions of the Constitution. Therefore there is no case for any direction to be given to the NF Railway for implementing the Board's letter dated 31.7.2003. On the other hand direction needs to be issued to the Applicant for vacating his present Qr.E/1/GHY in view

of the reasons already brought out above.

The position of the case from the Respondents side has already been brought out in detail. The facts regarding Qr.E/1/GHY being a non-pooled quarter, the necessity for the Applicant to vacate this quarter, out of turn allotment of another quarter in favour of the Applicant have all been covered in detail in the earlier paras. It should be clear from the above details that NF Railways has gone out of the way to help and accommodate the Applicant with another quarter. Further the Applicants petition and NF Railways letter to railway Board have not been disposed of yet. Also as already brought out in para 4.11. the Applicant has still not exhausted all administrative channels available to him.

Under the circumstances, it is felt that there is no need for any direction by the Hon'ble Tribunal.

12. That with regard to the statements made in paragraphs 6 and 7 of the OA, the answering Respondents do not have any comment.

13. That with regard to the statements made in paragraph 7.1 of the OA, the Respondents state that the representation dated 4.8.2003 submitted by the Applicant to the NF Railway has already been replied to vide out letter dated 22.8.2003. In this, NF Railway, based on the reasons brought out, has advised the Applicant to vacate his Qr.E/1/GHY and occupy the Bungalow No. 179 at Maligaon. The Applicants representation to railway Board dated 5.8.2003 has not

been replied to. As such the remedy sought is still not exhausted and that the normal administrative channels are not closed yet for the Applicant. Therefore the Applicants apprehension of forceful eviction is prematured and not justified at all. It is also to be assured that whatever action is required to be taken in future will be only as per rules and procedure that are required to be followed in such cases.

14. That with regard to the statements made in paragraph 8 of the OA, the answering Respondents state that as already brought out in our remarks in earlier paragraphs, Qr.E/1/GHY is a non-pooled quarter earmarked Area Manager and is already allotted to the present incumbent. Also an alternative quarter has been allotted to the Applicant in Maligaon area as a special case on "out of turn" basis even though the officers quarters position is tight and number of officers are waiting for quarters. Further the Applicant has his own private house and his father's house in Guwahati besides his sister who is staying in a railway quarter in Maligaon. As such there is no justification in the relief being sought i.e. to direct the Respondents to permit the Applicant to retain his present Qr.E/1/GHY upto 11.3.2004. As far as NF Railways letter dated 1.8.2003 is concerned, this need not be acted upto by the Applicant if he is able to arrange alternate accommodation on his own.

15. That with regard to the statements made in paragraph 9 of the OA, the Respondents state that as

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already mentioned above there is no justification in the Applicants request for retaining his present Railway Qr.E/1/GHY. As such there is no alternative for the Applicant but to vacate his Qr.E/1/GHY and move into a alternate Railway quarter in Maligaon area or make his own arrangement for accommodation elsewhere. As far as imposition of penal/damage rent is concerned the same shall be dealt with as per rules and procedures that are required to be followed in such cases.

16. That the answering Respondents submit that the instant OA is not maintainable there being alternative available to the Applicant. The OA is also hit by the principles of waiver, estoppel and acquiescence. Further the OA is bad for non-joinder of necessary party.

17. That under the facts and circumstances state above, the OA is liable to be dismissed with cost. The answering Respondents crave leave of the Hon'ble Tribunal to produce the relevant records/documents at the time of hearing of the case.

In view of the above reasons, the interim relief prayed for by the Applicant is not tenable and hence need to be rejected.

Verification . . .

VERIFICATION

I Shri P. C. Kumar, aged about 55 years, son of Shri S. P. PUTTASWAMY, resident of Maligaon, Guwahati-II, presently working as SDGM, N.F. Railway do hereby verify and state that the statement made in paragraphs _____ are true to my knowledge and those made in paragraph _____ 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 _____th day of September, 2003.



Deponent
Other Deputy General Manager
N.F. Railway, Maligaon, Gauhati

✓

NORTH CENTRAL RAILWAY
HEAD QUARTERS OFFICE
ALLAHABAD

No: Quarter/RNK/03

Dated. 05.8.2003

To,
Secretary,
Railway Board,
Rail Bhawan,
New Delhi-110011.

Sub: Retention of Railway Quarter No. E/1 at Guwahati.

Ref: Railway Board's letter No. E(G) 2003 R.N. 3-5 dated 24.7.03
and 31.7.2003.

Sir,

Kindly refer to the above mentioned letters permitting me the retention of Railway Quarter No. E/1 at Railway Officers' Colony, Station Road, Guwahati for a period of one year from 12.3.2003 in up to 11.3.2004.

I am constrained to inform you that on 28.7.03 when I met the N.F. Railway authorities including the General Manager, along with my request to extend the retention of my aforesaid quarter as per Railway Board's orders, I was refused the same. I was ordered by the General Manager to shift into another quarter at Maligaon since Qr. No. E/1 at Guwahati was already allotted to Area Manager, Guwahati although Railway Board has permitted me retention of the same. Incidentally I had mentioned in my representation dated 30.06.03 to Railway Board that the Area Manager, Guwahati already has a designated non-pooled quarter no. D6 -51 which he is presently occupying.

I was told that I and my family would have to face dire consequences if I did not carry out these orders (verbal). On the contrary, if I shifted out immediately the General Manager promised to get me transferred back to N.F. Railway which would help me look after my family better.

After a 45 minute discussion with the General Manager, I felt that discretion would be the better part of valour, since I was at a disadvantage of being far away from my family including a seriously ailing 80 year old father for whom any shock could prove fatal, and I agreed to concede to his proposal, despite the fact that I had Railway Board's orders in my hand.

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SN-304 7/8

N. F. Railway

Office of the
General Manager(P)
Maligaon, Guwahati-11

No.454E/I/363(O)

04 August 2003

To
The Secretary,
Railway Board,
New Delhi-110001.

Attn:- M. S. SAINI, JT.DIRECTOR ESTT.(GENL.)

Sub:- Retention of Qr.E/1/GHY by Sri R.N.Kalita,
presently CPTM/N.C.Riy.

Ref:- Board's letter No.E(G)2003PN 3-5 dated
24-07-2003 & 31-07-2003.

* * * *

In response to above referred Board's letter dt.24-7-03, it is to be mentioned that there was no hesitation in answering Board's earlier letters dated 7th & 17th July,2003. The delay was only because the enclosure was not received along with the Board's letter dated 7-7-03. The same was received here along with Board's letter dated 17-7-03 on 22-7-03 only and reply was sent on 25-7-03 itself.

It would appear that Board's letter referred above dt.24-7-03 has been despatched before receipt of this Railway's letter of even no. dtd.25-7-03. It is to be mentioned that Board's instructions dtd.2-9-2002 & 4-10-2001 permitting retention of Qrs. to officers was considered in the case of Sri Kalita as brought out in our earlier letter dtd.18-6-03. Subsequently it has been clarified vide Board's letter dt.31-7-03 that Sri Kalita is entitled to retention of Qr.E/1/GHY for a period of one year from 12-3-03.

However, it is to be reiterated the fact that Qr.No.E/1/GHY is a non-pooled Qr. earmarked for Area Manager, not pooled as presumed by Board and that the same has already been allotted to a Sr.AM posted at GHY, which need to be appreciated. In any case the issues pertaining to the subject matter have already been dealt with and decided by the GM/N.F. Railway, who is the competent authority in this case.

Under the circumstances, it was not feasible to extend the retention of permission of Qr.No.E/1/GHY given to Sri Kalita as already indicated in our earlier letter dt.25-7-03. Meanwhile Sri Kalita has requested for providing an alternate accommodation to enable him to vacate Qr.No.E/1/GHY. It is for Board's information that a suitable Quarter in Maligaon Officers' colony has already been allotted to Sri Kalita which he is likely to occupy shortly.

W.W
18/8/03
(P. K. Singh)
Dy.Chief Personnel Officer(Gaz)
For General Manager (P)



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Filed by the
applicant through
Pallab Bhattacharya
Advocate, 24.09.03

Rabindra Nath Kalita

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH



O.A. No. 186/2003

Sri. Rabindra Nath Kalita

.....Applicant.

-Versus-

Union of India & Ors.

.....Respondents.

-AND-

IN THE MATTER OF:

An affidavit in reply filed on behalf
of the applicant against the Written
Statements filed on behalf of the
respondents.

AFFIDAVIT-IN-REPLY

I, Rabindra Nath Kalita, S/o. Shri. Chandra Kr. Kalita, aged about 47 years, presently working as Chief Passenger Transportation Manager, North Central Railway, Allahabad, Uttar Pradesh, resident of Milanpur, Chandmari, Guwahati-21, do hereby solemnly affirm and say as follows:-

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1. That I am the applicant in the instant Original Application, and, as such, I am competent to file this affidavit and accordingly I swear the same. A copy of the Written Statement filed by the respondents has been served upon my counsel. I have gone through the same and understood the contents thereof. I am fully acquainted with the facts and circumstances of the case. Save what has been specifically admitted herein and what appears from the record of the case, all the averments and submissions made in the Written Statement are denied by me.

2. That I deny the correctness of the statement made in paragraph 1 of the statement and state that in the O.A. I had impleaded FOUR Respondents of whom Respondent No.1 is Union of India represented by the Chairman, Railway Board, Rail Bhawan, New Delhi-110 001. Respondent Nos.2,3 and 4 are officials of N.F. Railway, a Zone under the Railway Board. Since the very cause of the application before the Hon'ble Tribunal is based on violation of orders of the Respondent No.1 by Respondent Nos.2,3 and 4, an independent written statement from the former is prayed for to meet the ends of justice. This is sine qua non since at several places of the written statement, the

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Rahimdin Nath Kalita

respondent No.3 has challenged/rejected the orders/interpretation of the Railway Board which is not only a superior office to the Zonal Railway, which the Deponent represents, but is also the Supreme authority of the Indian Railways, whose orders/instructions have to be carried out by the inferior office like N.F. Railway, which is one of the several zones functioning under the Railway Board.

3. That I deny the correctness of the statement made in paragraph 2 of the written statement and beg to state that the Quarter No.E/1, which is being presently occupied by me is not a NON-POOLED accomodation. This fact has been adequately proved by the following:-

(i) The allotment letter no.E/NGC/QRS/13 dated 17.7.86 of this Quarter to me does not indicate that it was Non-Pooled, which is normally done in case of non-pooled quarters.

(ii) I continued to remain in this accomodation while working in the capacities of (a) Chief Public Relation Officer, N.F. railway (1988-1992) at H.Q. Maligaon; (b) CPR0-cum-Senior Area Railway Manager (1992-1994); (c) Deputy Chief Operations Manager(Goods)-cum CPR0, N.F. Railway at HQ Mali-

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gaon (1994-1995); (d) Secretary to General Manager, N.F. Railway at HQ Maligaon (1995-2002). During all these years of working in various Divisional and Head Quarter posts. I was never told that Quarter No.E/1 was a non-pooled accomodation, nor was I ever asked to vacate the said accomodation on this premise. If it was a non-pooled accomodation. I should have been asked to vacate it in 1988 itself, when I took over charge as Chief Public Relation Officer, N.F. Railway at H.Q. Maligaon.

(iii) In fact, another Quarter No.DG-51 at Guwahati has been the non-pooled accomodation for Area Manager, Guwahati and successive Area managers have continued to occupy this Quarter till date.

(iv) Even while issuing the memorandum dated 17.3.2003 (Annexure-7 to the O.A), whereby permission to retain the quarter no.E/1 was granted upto 26.7.2003 on account of my posting to a new Zone (N.C. Railway, Allahabd), no mention was made by the General Manager(P), N.F. Railway regarding the accomodation being a non-pooled one.

(v) Finally and conclusively, the Railway Board itself vide letter dated 24.7.2003

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Rahindra Nath Saha

(Annexure-12 to the O.A) has "after going by the fact on record" rejected the N.F. Railway's plea that Quarter No.E/1 is a non-pooled accomodation.

From the above, it is amply clear that an accomodation, which was not Non-pooled for 17 long years can not suddenly be termed as non-pooled unless there is malafide intention to harass me and my family. The idea of making it a non-pooled quarter is only an afterthought and without any basis. Even if it has to be made non-pooled, it can be done only after the present incumbent vacates the quarter and not during his occupancy.

A copy of the aforesaid allotment order dated 17.7.86 is annexed hereto and is marked as ANNEXURE-18.

4. That I deny the correctness of the statement made in paragraph 3 of the Written Statement and beg to state that, the statement made by me in para 4.4 and 4.5 of the OA that I am entitled to retain the quarter at Guwahati for a period of one year from the date of my release from the Central Railway i.e. on 12.3.2003 is not just my interpretation. It is the policy of the

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Rahimdin Nath Rabha

Government of India, Ministry of Railways communicated vide Railway Board's letter dated 4.10.2001 and 2.9.2002 circulated to all Zonal Railways and confirmed vide Railway Board's letters dated 24.7.2003 and 31.7.2003 addressed to N.F. Railway specifically. The last two letters were issued by the Railway Board, which is the supreme authority in Indian Railways, after examining threadbare (a) the extant rules on the subject; (b) my representations to Railway Board on the subject and (c) N.F. Railway's parawise comments to Railway Board on my said representation. The Railway Board vide letter dated 24.7.03 directed N.F. railway to take action permitting retention of Quarter No.E/1 under my occupation in terms of Board's instructions dated 2.9.2002 and 4.10.2001. The Railway Board further vide their letter dated 31.7.2003 to N.F. Railway categorically stated that the Applicant "is entitled to retention of aforesaid Railway quarter at Guwahati for a period of one year from the date of his relief from Central Railway i.e. 12.3.2003 to join the new Zone".

After this conclusive and specific order of the Railway Board, any doubt on the interpretation of the rules regarding retention of the said quarter by me has been finally set to rest. However, the respondent No.1 may be directed to

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clarify
file a separate written statement to certify his stand on the issue.

Railway Board's instructions for retention of quarter on posting to a new Zone for a case like mine basically mean the following in brief:

(a) If an officer was transferred from Zone A to Zone B (neither being a new Zone), he is allowed to retain his quarter normally on TRANSFER account for 8 months (2 months on normal rent and 6 months on double rent). In my case, it was transfer from N.F. Railway to Central Railway.

(b) if the officer is transferred again from Zone B to Zone C, which is a New Zone within the aforesaid 8 months of normal retention and he had not been allotted any quarter in Zone B during this period of his tenure there AND he has not been allotted any quarter in Zone C (New Zone) on his joining there - then he is allowed to retain his quarter in ZONE A (which he was occupying before his transfer to ZONE B)

In my case, I was in Central Railway (Zone B) for about 7 1/2 months, less than 8 months of my normal retention period), during

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Rahindra Nath Sealit

which I was not allotted any quarter in Central Railway, Mumbai against my application for the same. I was transferred to North Central Railway, Allahabad (new Zone) after I had spent 7 months of my tenure and was released to join the New Zone before 8 months of normal retention was over.

At Allahabad, I applied for a quarter, but was informed that being a new Zone, no quarter was available for allotment to me. I submitted the certificates of non-allotment of quarter in my favour both at Mumbai and at Allahabad, to N.F. Railway.

The situation of non-availability of quarters is the same in all the 7 new Zonal Railways. Therefore, all officers (numbering a few hundreds) posted to 7 New Zones have been permitted to retain their quarters so that their families do not suffer. Mine is perhaps the only case in Indian Railways, where the Zonal Railway has created such obstructions in violation of Railway Board's order.

The contention in the Written Statement regarding the accomodation being an earmarked one is not tenable in view of the issues clarified under para 3 above. It has been a long standing

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policy of the N.F. Railway Administration that the quarters in Greater Guwahati area have been treated as interchangeable since officers working in the Divisional units at Guwahati often get transferred to Head Quarters at Maligaon and vice versa. To avoid frequent shifting of accommodation of officers from Guwahati to Maligaon and vice versa, they were allowed to continue in their quarter either at Guwahati or at Maligaon irrespective of whether they were posted in Guwahati or in Maligaon without having to request for specific permission for the same. There would therefore be approximately as many Divisional officers living in Maligaon area as there would be Headquarter officers living in Guwahati area even today. The respondent No.3 by his own admission has stated that I was never asked to vacate the quarter during my several tenures of posting in the last 17 years and secondly that another quarter was available for the Area Manager. This quarter is DG-51 which has already been indicated in para 3 above, which has been the non-pooled quarter for Area Manager. It is amply clear from this that I was never asked to vacate the quarter in context because it is not a non-pooled house and that another quarter exists as non-pooled for Area Manager (Qtr.No.DG-51).

Rahindra Nath Talukdar
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My "continued occupation of the quarter for a long period uninterrupted" as stated by the respondent was because the N.F. Railway Administration decided to continue my service in the various capacities in Guwahati - Maligaon area, for which I can not be faulted. To the statement made in the Written Statement that " the applicant is not entitled to continue in this quarter E/1/Ghy indefinitely" , it is clarified that I have never asked for permission to continue in this quarter "indefinitely" - I have asked for retention of the quarter only for a specific period upto 11.3.2004 that I am rightfully entitled to, as authorised by Railway Board itself.

5. That with regard to the contention expressed in para 4 of the Written Statement, the Railway Board, which is the highest decision making Administrative Authority of the Indian Railways has itself given the decision on the retention of the said quarter for one year from 12.3.2003 and directed N.F. Railway accordingly. A written statement from the Respondent No.1 may be called for to verify this.

6. That I deny the correctness of the statement made in paragraph 5 of the written

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Rahindra Nath Sealika

statement and beg to state that, the fact that N.F. Railway's interpretation of the rules of retention circulated vide Railway Board's letter dated 4.10.2001 and 2.9.2002 was wrong, has been proved beyond doubt by the Board's letter dated 24.7.02 and 31.7.03 which were issued after N.F. Railway sent the detailed parawise remarks on my representation dated 24.3.2003, referred to earlier. A written statement of Respondent No.1 may be called for to verify this.

7. That I deny the correctness of the statement made in paragraph 6 of the written statement and beg to state that, in this para, respondent No.3, who is the Deponent of WS is contesting, challenging and making allegations against Respondent No.1 throughout, in the following issues:-

Firstly; Railway Board has vide letter dated 24.7.2003 conveyed its decision to N.F. Railway that Quarter No.E/1/Ghy is not a non-pooled one and therefore retention of the same for one year should be given to the applicant and the action taken to be advised to Board accordingly.

The Respondent No.3, the deponent of the WS is contesting the respondent No.1(Railway

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Relatives want safety

Board) by stating that Qr.No.E1/Ghy is a non-pooled one.

Secondly; Respondent no.3 has made an allegation against Respondent No.1(Railway Board) that the latter issued letter dated 31.7.2003 without taking into account N.F. Railway's letter dated 25.7.2003.

Thirdly; the Respondent No.3(Deponent) is accusing the Respondent No.1 (Railway Board) of wrong interpretation of its own rules, by alluding to the provisions of Board's circular dated 2.9.2002.

A written statement of Respondent No.1 may be called for on the above issues so that his stand is also known.

In this para of the Written Statement, it is being reiterated by the Respondent No.3 that Quarter No.E/1/Ghy is a non-pooled one. It has already been established vide rejoinder to para 2 of the Written Statement vide para 3 above that it is not a non-pooled quarter and therefore all issues brought out by the respondent No.3 related to non-pooled quarter have no relevance in the case. The issue regarding occupation of Division-

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al quarter at Guwahati and Head Quarter at Maligaon has already been clarified in the rejoinder to para 3 of the WS vide para 4 above.

The respondent No.3 has stated that myself, my father and my sister have houses in Guwahati. This is not relevant to the issue at hand which is whether or not I should be permitted retention of my rightfully occupied quarter in the light of Railway Board's order permitting the retention of the quarter for one year from 12.3.2003 to 11.3.2004 - a period of which less than 6 months remain from now. However, my position with respect to possession of a house is like this:-

I have two married sisters, one of whom has been given the house belonging to my father and she lives with her family (husband and children) in that house. This house is situated on a steep hill which involves a strenuous climb on foot. My father, who is 80 years old and is an acute cardiac patient can not physically climb this hill. thereby, making it impossible for him to live in that house. My other sister working in the N.F. Railway headquarter has been living in a small type-III quarter in Maligaon with her family (husband and two children). The question of my

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family comprising my wife, two children and old parents seeking accomodation in that quarter is absurd. I constructed a house in Guwahati, presently under occupation of tenants. The ground floor is a small hall type accomodation leased out to an office. It is not a residential accomodation. The first floor involves climbing of stairs which my father is prohibited from indulging. For kind information of the Hon'ble Tribunal, my father has had two cardiac strokes in the recent past (one in January, 2003 and the second on 15th August, 2003) and he was in hospital from 15th August to 27th August. Presently, he is laid up on absolute bed-rest as advised by the Doctors. He had his last check-up on 10th September, 2003, wherein, the attending physician has advised further bed rest and heavy medication to be continued. Under these circumstances, it is physically impossible to shift him around at this stage.

Incidentally, there are innumerable instances of Railway Officials owning their houses but living in Railway quarters. The fact that a house was constructed by me was done in full knowledge of the N.F. Railway authorities, whose formal permission was obtained before the construction was started. The Railway authorities

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Rahindra Nath Kalita

have never advised me to shift out of the railway quarter to my own house, at any stage. Railway officials, who opt to live in private accommodation, whether own or on lease, are entitled to draw House Rent Allowance. Those who opt to live in Railway accommodation, have to pay House Rent to the Railways, at defined rates. In case of officers essential for day to day working of the organisation, the Railways, in fact, insist that they live in Railway accommodation, which has been the case with me throughout my career.

In the instant case, the issue at hand is not whether I have a house of my own, my father, my sister or my relatives, but it is whether or not I should be permitted retention of the existing quarter, in view of Railway Board's clear order to the affirmative. In this connection, it would be pertinent to mention that all over Indian Railways, many officers own houses in their places of posting but continue to occupy Railway Quarters. On N.F. Railway, I can specifically cite the case of Shri. M.C. Sarma, who retired as Additional General Manager, N.F. Railway. He continued to occupy a Railway Quarter at Maligaon despite the fact that he owned a house in Guwahati, constructed with HBA assistance from N.F. Railway. Another example is that of one Dr.Sen

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Laskar, who is presently working in N.F. Railway, who also continues to occupy a Railway Quarter despite owning a house constructed with HBA assistance. These cases are only illustrative and not exhaustive of many more similar cases on N.F. Railway itself, not to speak of the entire Indian Railways.

On the subject of N.F. Railway allotting a quarter to me in Maligaon, it is stated as has already been stated in the OA filed before this Hon'ble Tribunal that I had come on leave from Allahabad to Guwahati and met the respondent No.2 and 3 with a view to obtain the official permission to retain Quarter No.E/1/Ghy till 11.3.2004, for the remaining period of retention as ordered by Railway Board vide letter dated 24.7.2003 and 31.7.2003 referred to earlier. Respondent no.3 expressed his helplessness in the matter stating that though he had received Railway Board's order and though he knew that legally the retention has to be permitted as sought for, he was barred from issuing these orders by Respondent No.2, who is his controlling officer. He admitted that it was unfair and illegal to deprive me from my rightful retention but that since respondent No.2 had warned him not to issue the retention orders, he could not do so and advised me to meet respondent

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Rabindev Nath Kalita

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; No.2 personally. Normally such cases of quarter allotment or retention are too insignificant to be handled by an officer of the level of respondent No.2. However, in order to find a solution, I met the respondent No.2. The latter not only refused to permit the retention, he also threatened me that if I did not vacate the quarter No.E/1/Ghy and if I referred to Railway Board's orders, I and my family would have to face dire consequences. I, a relatively junior officer, constrained by being posted in far-off Allahabad with my family comprising my wife, two small school going children and my old and ailing parents having to fend for themselves was faced with a shockingly hostile situation that put me in a major dilemma. My primary concern was my 80 year old father who is an acute cardiac patient for whom any shock could prove fatal.

During a 45 minute onesided discussion, respondent No.2 stated that the only way I could save my family from the onslaughts of the harrassment of the Railway Administration, while I am away at Allahabad would be by shifting to an alternative accomodation at Guwahati or Maligaon since the respondent No.2 was hell bent upon proving to the Railway Board (respondent No.1) that only his (respondent No.2) writ runs in N.F.

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Railway and that he would not obey the orders of the Board. The unsavoury epithets used by respondent No.2 during this discussion can not be put down in writing for the sake of maintaining decency. I was forced to conclude that under the circumstances, discretion would be the better part of valour and if by shifting to another accomodation, the conflict and confrontation can be resolved and if peace on the family front could be maintained, it may be better to willy-nilly agree to shift. It is important to note here that all this while, the change of accomodation that was being discussed was for the remaining period of retention as permitted by Railway Board, that is upto 11.3.2004.

I was directed to submit an application to respondent No.3 asking for an alternative accomodation. On my letter, however, the respondent No.3 made a lot of additions and alterations in the language, adding phrases like "..... to enable my family alongwith my ailing father and mother to shift without much difficulty....." and ".....Qtr to be allotted on humanitarian grounds", retaining however the crucial portion ".... for the remaining period of retention due to me" Respondent No.3 states that a quarter would be allotted only if I wrote the

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letter in those words since the respondent No.2 had ordered him so. My original letter dated 31.7.2003 with the alterations made by respondent no.3 in pencil in his own handwriting, is available as a proof that coercion and intimidation was used on me throughout, in the matter.

On 1.8.2003 (Friday), late in the day when the office was closing down, I was handed over an allotment letter of Quarter No.179, Nambari, Maligaon, from 1.8.2003 to 31.10.2003 i.e. for a period of 3 months only, contrary to the request for allotment for the remaining period of retention due to me, i.e. upto 11.3.2004. A few issues emerging from this need mentioning: Firstly; Quarter No.179 was actually occupied at that time and was likely to fall vacant sometime in mid-August thereby leaving hardly 2 1/2 months for my occupation; Secondly, there was no explanation on the letter as to why the quarter was given to me only upto 31.10.2003 and not upto 11.3.2004 despite my written request for this and the verbal assurance of respondent No.2 and 3; Thirdly, DG-51 at Guwahati, the non-pooled quarter for Area manager, was in the process of being vacated with the outgoing Area Manager's personal effects lying in packed condition to be moved out in a day or two, but the same was not allotted to me despite

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this house being indicated as my first preference. Allotment of this house, situated near my present Quarter E/1 would have obviated the difficulty my small children, whose schools are situated in Guwahati area, would have to face in commuting from Maligaon which is far away.

Respondent No.3 could not explain why the quarter was allotted only for 3 months and stated that this was done as per order of respondent No.2. I met the respondent No.2 again to request him to re-consider the decision and modify the order to cover the allotment for the entire period of retention upto 11.3.2004. Respondent No.2 refused to modify the same. I realised that I was trapped by committing of breach of trust by respondent No.2 but had no alternative but to return to Allahabad immediately since my leave was getting over.

8. That I deny the correctness of the statements made in paragraph 7 of the written statement and beg to state that the developments during my meeting with respondent No.2 and 3 for retention of Quarter No.E/1/Ghy have been explained vide rejoinder to para 6 of the WS above. It is clear that the quarter No.179 at Maligaon was allotted to me not as a favour but with a

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Rahindra Nath Sealika

malicious intention to shift me away from quarter No.E/1/Ghy for which Railway Board had already ordered retention upto 11.3.04 and then to evict me from the quarter at Maligaon after 31.10.2003. This is very clear from the fact that vide letter dated 26.8.2003, the allotment of quarter No.179 at Maligaon was cancelled by General Manager, N.F. Railway. This was done even when the Hon'ble Tribunal had issued an order dated 22.8.2003 to maintain status quo. The respondent No.2 therefore violated the Hon'ble Tribunal's orders too.

The statement of the respondent No.3 that the Railway Board's instruction vide letter dated 31.07.2003 regarding entitlement of the applicant for retention of Quarter No.E/1/Ghy for a period of one year from 12.3.2003 is only an interpretation by the Board and can not be taken as an order is not tenable, when stated by the respondent No.3 who represents the Zonal Railway. The written statement of Respondent No.1 should also be obtained to know his stand on this. Vide letter dated 24.7.2003 (Annexure-12 to the O.A) Railway Board (Respondent No.1) had specifically issued orders to N.F. railway(Respondent No.3) to take necessary action permitting retention of quarter no.E/1 under occupation with me, under advice to the Railway Board. Further to this

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Rahimza Nabi Kalita

letter, vide letter dated 31.7.2003 (Annexure-13 to the O.A) addressed to the N.F. Railway (Respondent No.3) the Railway Board (Respondent No.1) specified that I am entitled to retention of the above Railway quarter at Guwahati for a period of one year from the date of his relief from central railway (i.e. 12.3.2003 to join the new Zone)". Since the respondent No.3 (N.F. Railway) is contending that the instructions are not orders but are mere interpretations of the Railway Board, the written statement of respondent No.1 (Chairman, Railway Board) may be obtained for his stand on the issue. Similarly, for resolving the question as to whether "the GM of a Railway is the sole and final authority" to decide matters and whether or not he is obliged to carry out the instructions of the higher office of Railway Board, the written statement of the respondent No.1 may be obtained for his stand on the issue.

The respondent further goes on to state that 'technically Board's letter dated 31.7.2003 is not in order'. This also needs to be clarified by obtaining a written statement from respondent No.1 against whom the statement is made.

A copy of the aforesaid letter dated 26.08.03 issued vide Office Order No.833 on behalf of

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Rahimov with Sabita

Rahimnath Kalita

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the Respondent No.2 is annexed hereto and is marked as ANNEXURE-19

9. That I deny the correctness of the statement made in paragraph 8 of the written statement and beg to state that the letter dated 22.8.2003 which the respondent No.2 has claimed to have sent to me in response to my representation dated 4.8.2003 has not been received and therefore no comment can be offered, except that the subject allotment letter was issued without any prior hint that it would be for a period from 1.8.2003 to 31.10.2003 only. It is only too obvious that I, who had Railway Board's orders directing N.F. Railway to permit retention of quarter No.E/1/Ghy upto 11.3.2004 in my hand would certainly not have agreed to bargain for an alternative quarter for a period upto 31.10.2003 only.

The statement regarding advice being given to me that Quarter No.179 has been vacated and is ready for occupation and that any extension beyond 31.10.2003 for this quarter would be considered at the appropriate time is not true. If the N.F. Railway's intention was holy, the allotment of quarter No.179 should have been made valid up to 11.3.2004 right in the beginning and the

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Railway should not have cancelled the allotment subsequently on 26.8.2003 despite the Hon'ble Tribunal's order to maintain status quo, issued on 22.8.2003.

10. That I deny the correctness of the statement made in paragraph 9 of the written statement and reiterates and reaffirm all the averments made in paragraph 4.10 of the O.A and paragraphs 7,8 and 9 of this affidavit.

11. That I deny the correctness of the statement made in paragraph 10 of the written statement and beg to state that, the respondent No.3 has in this para stated that the case has been dealt at the level of Jt.Director. This is a surprising contention because respondent No.2,3 and 4 are all very senior officers of the Indian Railways and are fully aware that there are certain methods of functioning of a Bureaucratic organisation. The Railway Board and its officers do not function in such a directionless, haphazard and irresponsible manner. The order of the Railway Board are recorded on file by the officers of appropriate level and they are communicated to the Zonal Railways and others by other officers of appropriate level for that purpose. My case was dealt with by the Member Staff himself, who

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Rahindra Singh Kukreja

Rahindra Nath Nath

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recorded his order on the file. Any order issued by a Member is treated as an order by the Railway Board itself. These orders were then communicated in writing on behalf of the Railway Board by the Joint Director concerned. Member staff of the Railway Board happens to be of the rank of a full Secretary to Govt. of India, higher than the rank of General Manager of a Zonal Railway. Therefore, the contentions of respondent No.3 that my case was dealt at the level of Jt. Director and that I did not approach the highest level in the Board is not correct.

The Railway Board, which is the highest Office in the Indian Railways, comprises the Chairman, who is of the rank of Principal secretary to the Govt. of India and 6 members, each of the rank of a full Secretary to the Govt. of India. The Board has the dual functions of framing policies as the Ministry of Railways and executing these policies as the Railway Board. No Zonal Railway can disobey the orders of the Railway Board even if the letters on behalf of the Board are signed by lower functionaries. Incidentally, the letters from the Board to N.F. Railway in my case were initially signed by a Desk Officer who is a much junior functionary. But, the N.F. Railway (Respondent No.2,3 and 4) had to reply to

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them and carry out the orders.

I have exhausted all the administrative channels available to me in seeking my remedy by going right upto the concerned Member of the Board (Member Staff) who has issued the orders, which have now been disobeyed by the respondents 2,3 and 4. Before filing the application in the Hon'ble Tribunal, I met the Member Staff in Railway Board's office and sought his advice after briefing him of the developments that took place during the meeting with respondent no.2 on 28/7/2003 and 31.7.2003. Member Staff advised me not to shift from Quarter No.E/1/Ghy since the Railway Board had already given orders of retention upto 11.3.2004. It is on finding no other recourse for redressal of my grievances that I had to approach this Hon'ble Tribunal.

12. That I deny the correctness of the statement made in paragraph 11 of the written statement and beg to state that the respondent No.3 has once again contended that the Railway Board's letter dated 31.7.2003 has been issued by the Jt. Director, who is not the highest authority in the Board's office, a rejoinder to which has already been given in para 11 above. Incidentally, Railway Board's letter dated 31.07.2003 has to be

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Rahimne Wala Sakhi

Rahindra Singh Sahai

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read as a sequel to Board's letter dated 24.7.2003 as is evident from the contents. The orders in my case were issued on file by the Member Staff and only communicated to N.F. Railway by the Jt. Director concerned.

Again, in the same para, the respondent No.3 has stated that "Boards letter dated 31.07.2003 is itself in doubt". There is a sinister contradiction appearing in almost every para of the W.S. by the respondent No.3 between the orders issued by Railway Board (Respondent No.1) and the statements given by N.F. Railway (Respondent No.2,3 and 4). This makes it imperative that a separate written statement on the issues be called for from the Respondent No.1 (Chairman, Railway Board), if the Hon'ble Tribunal desires to know the truth.

Other issues brought out in the para by Respondent No.3 are repetitions and have been already dealt with in the earlier paras.

13. That I deny the correctness of the statement made in paragraph 13 of the written statement and beg to state that the letter dated 22.08.2003 purported to have been issued by the N.F. railway has not been received by me. As far

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as my apprehensions regarding the forceful eviction and/or imposition of penal rent after 26.7.2003 are concerned, the behaviour and threats meted out by respondent no.2 on 28.7.2003 to me when I met him were enough to justify them and for me to understand the malicious intentions of the respondent No.2. My feeling of insecurity is borne out of the fact that since respondent No.2 blatantly refused to follow any of the instructions of even the Railway Board, he would not hesitate in flouting all rules and procedures that the respondent No.3 has referred to in this para. Even while verbally proposing to allot an alternative quarter till the end of the rentention period i.e. till 11.3.2004, the actual allotment was given only upto 31.10.2003, leaving little scope for trust and faith on respondent No.2 by me - hence the apprehensions.

14. That I deny the correctness of the statement made in paragraph 14 of the written statement and beg to state that the rejoinder to the issues brought out in this paragraph of the WS has already been given earlier. The respondent No.2 has already cancelled the allotment order of quarter No.179 at Nambari vide a letter dated 26.8.2003, as stated earlier, despite the Hon'ble Tribunals' orders of 22.8.2003 to maintain status

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quo.

15. That I deny the correctness of the statements made in paragraphs 15 of the written statement and reiterates and reaffirm all the averments made in paragraph 9 of the O.A.

16. That I deny the correctness of the statements made in paragraph 16 of the written statement and beg to state that, in view of the multitude of contradictions and conflicts between the orders issued by the respondent No.1 and the WS filed by the Respondent No.3 a separate written statement may be called for from Respondent No.1, since the very cause of my grievance placed before the Hon'ble Tribunal is the violation of orders of respondent No.1 by respondents No.2,3 and 4.

17. That as such, under the facts and circumstances above, it is respectfully prayed that this Hon'ble Court may be pleased to allow the instant O.A. in the interest of justice.

18. That the statements made in this affidavit and at paragraphs 1,2,5,6,7(part),9,10,11,12, 13 & 15 are true to my knowledge, those made in paragraphs 3,4,7(part), 8 and 14 being matters of record of the case are true to my information

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Rahindra Nath Saha

derived therefrom which I verily believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this 24th day of September, 2003 at Guwahati.

Rahindra Nath Kalita

Identified by me

Deponent

Pallab Bhowmik

Advocate 

Signed before me

Biju Baran Sarker
Advocate
24/9/03

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OFFICE ORDER

No. E/NCC/OKS/13.

N. F. RAILWAY.

New Guwahati, dt: 17.7.86.

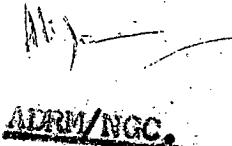
Sub:- Allotment of Bungalow No. E/1 at GHY.

Bungalow No. E/1 at Guwahati (under LMG division control),
 on vacation by Shri U.C.Saikia, is allotted to Shri R.N.Kalita,
 Area Officer/New Guwahati.

Copy to:

ADM/NCC.

1. SDGM/MLG for information.
2. IOW/GHY.
3. Sr. EP/22/GHY.
4. Shri R.N.Kalita, AG/NGC. with ref. to his application dt. 4.7.86.
5. DAO/LMG.
6. DPO/LMG.



ADM/NCC.

Attested
 Pallabi Bhowni
 Advocate
 24.09.86.

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE
GENERAL MANAGER
MALIGAON, GUWAHATI-78

CX

OFFICE ORDER NO.883

August 26, 2003

The allotment of Bungalow No.179 Type-VI at Nambari to Shri R. N. Kalita, ex. Secretary to GM/N. F. Railway, Maligaon (now CPTM/N. C. Railway) vide Office Order No.877 circulated under this office No. Z/314/8/Allotment/Pt.XXXIV/877(Loose) dated 01.08.2003, is hereby cancelled.

This issues with the approval of the competent authority.

✓
26/8/03
for GENERAL MANAGER

No.Z/314/8/Allotment/Pt.XXXIV/883(Loose)

August 26, 2003

Copy forwarded for information and necessary action to:-

1. GM/N. C. Railway, Allahabad
2. Dy.CPO/Gaz./N. C. Railway, Allahabad
3. FA&CAO/MLG
4. PDA/MLG
5. Dy.CPO/Gaz/Bill/MLG
6. Sr.DEN/MLG
7. CTCI/Auto/MLG
8. SSE(Power)/Nambari
9. SSE(W)/Nambari
10. Shri R. N. Kalita, CPTM/N. C. Railway, Allahabad

✓
26/8/03
for GENERAL MANAGER

Attested
Pallash Bhattacharjee
Advocate
24, 09, 03