

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 289/03

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SECTION OFFICER (Judl.)

Abul
20/01/17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 289/103

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Name of the Appellant(s): A. Magomedov
A. Chakraborty

Name of the Respondent(s): Ceo 2018

Advocate for the Appellant: - Mr M.Chanda, G.N.Chakraborty,
S. Naik & S. Chakraborty

Advocate for the Respondent: - Adv. Counsel.

Notes of the Registry	Date	Order of the Tribunal
Application is filed but not in time.	19.12.2003	List on 6.1.2004 for admission.
Non-objection Petition is filed / not filed C.F or Rs. 50/- deposited vide IPO/DD No. 99704658 Dated 11/11/03	30.12.2003	Heard Mr.M.Chanda, learned counsel for the applicant. The respondents are directed not to make any recovery till the next date.
Notice and order Dt. 30/12/03		List on 6.1.2004 for admission.
sent to the D/S for service to both the parties.		
Received 4 copies for the respondents 11/12/03 N.F. 2018/mch	bb	

6.1.2004 Heard Mr. M. Chanda, learned counsel for the applicant.

The O.A. is admitted. Notice may be issued. List the case on 9.2.2004 for order.

Meanwhile interim order shall continue until further orders.

To comply order dated
6.1.04.

NB

6.1.04

KV Balakrishnan
Member

bb

1.3.2004

Order dt. 1/3/04, sent
to the learned Advocates
of both the parties.

(See
17/3/04)

On the plea of the proxy counsel for the learned Railway Counsel, the O.A. is adjourned till 25.3.04. Meanwhile the interim order shall continue.

KV Balakrishnan
Member

nkm

25.3.2004

Four weeks time is allowed to the respondents to file written statement. List on 28.4.2004 for order.

Interim order shall continue till the next date.

To comply order
dated 25/3/04

NB
25/3/04

order dt. 25/3/04, sent
to learned Advocates
of both the parties. 28.4.2004

(See
30/3/04)

Four weeks time is given to the respondents to file written statement on the plea of learned counsel for the respondents. List on 28.5.2004 for orders.

Interim order dated 30.12.2003 shall continue.

KV Balakrishnan
Member (A)

mb

28.4.04

28.5.2004
Vakalatnama filed
by the Rly. Comsels.

No. WLS has been
filed.

29.5.04

Four weeks time is given to the respondents to file written statement. List on 2.7.2004 for orders. Interim Order dated 30.12.2003 shall continue.

KV Balakrishnan
Member (A)

Notes of the Registry

Date

Orders of the Tribunal

24.12.2004

Written statement has been filed. List the case for hearing on 1.2.2005. In the meantime, applicant may file rejoinder, if any.

Case is ready for hearing.

✓
22-2-05

The Case is ready for hearing.

✓

bb

16.02.2005

Present : The Hon'ble Mr. M.K. Gupta, Judicial Member.

Adjourned on the request of Mr. M. Chanda, learned counsel for the applicant to 23.02.2005.

✓
Member (J)

mb

23.02.2005

Mr. M. Chanda, learned counsel for the applicant as well as Mr. S. Sehgal, learned counsel for the Railways were present.

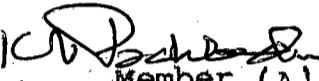
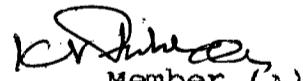
On the plea of the learned counsel for the applicant three weeks time is allowed to the applicant to file rejoinder. List it for hearing on 16.3.2005.

✓
Member (A)

bb

(3)

O.A.289/2003

Notes of the Registry	Date	Orders of the Tribunal
10.8.04 No. ar/s - han-geon 87/ed. An	11.8.2004	Ms. U.Das, learned counsel appearing on behalf of Mr. S.Sengupta, learned counsel for the Railways, prays for two weeks time to file written statement. Prayer allowed. List the case on 31.8.2004 for written statement. Interim order shall continue until further orders.
order dt. 11/8/04 issuing to learned Advocate of both parties 13/8/04	bb	 Member (A)
30-8-04 no ar/s han-geon 87/ed. An	31.8.2004	Ms. U.Das, learned proxy counsel appearing on behalf of Mr. S.Sengupta, prays for four weeks time to file written statement. Allowed. List on 30.9.2004 for orders. Interim order shall continue until further orders.
order dt. 31/8/04 issuing to learned Advocate of both parties 31/8/04	bb	 Member (A)
22-11-04 S/R awaited. No ar/s han-geon 87/ed. An	23.11.2004	On the plea of learned counsel for the applicant four weeks time is given to the xxx applicant to file rejoinder. List on 24.12.2004 for orders. Interim order shall continue.
25.11.04 W/S submitted to the Respondents. An	mb	 Member (A)
23/12/04 W/S han-geon 87/ed. An	888	

Notes of the Registry Date Order of the Tribunal

16.3.05

On the prayer of the counsel for the parties the case is adjourned to 30.3.05.

16.3.05

Rejoinder submitted
by the Applicant.

pg

30.3.2005

Case is ready for hearing.

29-3-05

6.5.05
Copy of the Judgment
has been sent to the
Office. for sending the
same to applicant as well
as to Mr. R. S. Standby
Counsel.

SL

Heard Mr. M. Chanda, learned
counsel for the applicant and Mr. S.
Sengupta, learned Railway Counsel.
Hearing concluded. Judgment delivered in
open court, kept in separate sheets. The
application is disposed of. No order as
to costs.Issue urgent copy of the judgment
to the learned counsel for the parties.

Vice-Chairman

nkm

Recd.
J. S. S.
C.P.R.
S. S.
10/3/05
R.A.G.H.

Notes of the Registry Date Orders of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXXX No. 289 of 2003

DATE OF DECISION 30.3.2005

Smt Alpana Mazumder

APPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty,

Mr S. Nath and Mr S. Chakraborty ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

The Union of India and others

RESPONDENT(S)

Mr S. SEngupta, Railway Counsel

ADVOCATE FOR THE
RESPONDENT(S).

THE HONBLE MR. G. SIVARAJAN, VICE-CHAIRMAN

THE HONBLE MR.

1. Whether Reporters of local papers may be allowed to see the
judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the
Judgment ?

4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.289 of 2003

Date of decision: This the 30th day of March 2005

The Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

Smt Alpana Mazumdar
Sister Instructor,
Office of Medical Director
Central Hospital, Maligaon,
N.F. Railway, Guwahati.Applicant
By Advocate Mr M. Chanda, Mr G.N. Chakraborty,
Mr S. Nath and Mr S. Chakraborty.

- versus -

1. The Union of India, through the
General Manager,
N.F. Railway, Maligaon,
Guwahati.
2. The Medical Director,
Central Medical Hospital,
Maligaon, Guwahati.
3. The Chief Medical Superintendent
N.F. Railway, Lumding, Assam.
4. DRM (P)
N.F. Railway,
Lumding, Assam.Respondents

By Advocate Mr S. Sengupta, Railway Counsel.

.....
O R D E R (ORAL)

SIVARAJAN. J. (V.C.)

The applicant is a Sister Instructor in the Central Hospital, Maligaon, N.F. Railway, Guwahati. She was initially appointed as Staff Nurse in the Medical Wing of the N.F. Railway on 7.1.1987. She was promoted to the post of Nursing Sister on 23.7.1993 in the scale of pay of Rs.5,500-9000. Later, she was temporarily appointed on officiating basis as Sister Instructor in the scale of pay of Rs.5,500-9000 and transferred and posted to Central Hospital, Maligaon under Chief Medical Superintendent. The

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applicant while working as Nursing Sister at Lumding was allotted Railway Quarter bearing No.E/14-A at Upper Babupatty on 30.10.1995. On her promotion and appointment as Officiating Sister Instructor at Maligaon, she initially applied for retention of the Quarter occupied by her for a period of two months which was granted. She applied for retention of the Quarter for a further period upto 31.3.2002 (Annexure-8). The respondents issued a communication dated 25.2.2002 stating that the occupation of the quarter beyond 6.2.2002 was unauthorised. The applicant was directed to vacate the quarter. It was followed by another communication dated 28.3.2002 reiterating the same with a threat to evict the applicant from the quarter. The respondents also stated in the said communication (Annexure 10) that the retention requested for in Annexure-8 was not granted for non-production of supporting certificate. The applicant then submitted a representation dated 17.4.2002 (Annexure-11) pointing out that she has not been provided with a Railway Quarter in the transferred station and that if she is vacated from the quarter she and the members of her family will suffer. It is also stated therein that as per Railway Board Circular No.E(G)98.QR-I-10 dated 15.9.1998 (Annexure-12) the applicant being posted to Training Institute is entitled to retention of the quarter for a period not exceeding two years on payment of normal rent. The applicant accordingly requested the respondents for permission to retain the quarter for a period of two years. The respondents, it is seen, pursuant to the said request had allotted quarter in the transferred place as evident from the communication dated 4.7.2003 (Annexure-13). The applicant had accordingly shifted her residence to the new place and vacated the quarter occupied by her. The



respondents, it is seen, has issued a communication dated 7.1.2003, which is impugned in this application, stating that for permission to retain the old quarter upto 6.8.2002 the applicant has to submit sick or educational certificate and further for the period after 6.8.2002 damage rent would be charged. The applicant, it is seen, has submitted another representation dated 23.1.2003 (Annexure-16) in reply to Annexure-15. Since there was no consideration of the representations (Annexures 11 and 16) and since recovery proceedings were initiated, the applicant has filed this application challenging Annexure-15 communication.

2. The respondents have filed a written statement denying the various allegations made in the application and also stated that the request for extension made by the applicant in Annexure-8 could not be considered for the reason that the applicant did not submit the required certificates. It is also stated that the applicant is not entitled to the benefit of the Circular dated 15.9.1998 (Annexure-12) as also the Master Circular dated 19.1.1993 (Annexure-17). It is further stated that since the occupation of quarter by the applicant was unauthorised the applicant was directed to produce the requisite certificates for the period upto 6.8.2002 and to pay damage rent for the period from 6.8.2002 till the vacating of the quarter.

3. Mr M. Chanda, learned counsel for the applicant, submits that the applicant was temporarily transferred and posted at Maligaon, initially for a period of one year and therefore, the Master Circular at Annexure-17 dated 19.1.1993, particularly para 8.7 (a), (b) and (d) would apply. The counsel further submits that since the applicant was appointed as Sister Instructor in

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a Training Institute she is also entitled to the protection available under Circular dated 15.9.1998 (Annexure-12) which provides for retention of the quarter for a period not exceeding two years. The counsel further submits that if both the circulars are applied the applicant is entitled to retain the quarter for the period not exceeding two years on payment of normal rent. The counsel also submits that though these matters were specifically mentioned in the representations (Annexures 11 and 16) the respondents did not consider the same nor passed any orders thereon.

4. Mr S. Sengupta, learned Railway counsel, on the other hand, submits that the applicant did not furnish the sick certificate or the educational certificate of the children in order to enable the respondents to consider the request for retention of the quarter. Learned counsel also submits that an opportunity was also provided to the applicant to furnish those certificates to enable the respondents to consider the request for the period upto 6.8.2002, but the applicant failed to comply with the same. The counsel further submits that the Circulars (Annexures 12 and 17) relied on by the applicant has no application in the case of the applicant. The counsel further submits that all these circumstances are specifically answered in the written statement filed by the respondents.

5. Having considered the rival contentions, I am of the view that the concerned respondents before whom Annexures- 11 and 16 representation are made to consider the question of application of the circulars, Annexures 12 and 16 relied on by the applicant and Annexures A and B produced alongwith the written statement relied upon by the respondents. This is particularly so since there is

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some dispute as to whether the appointment of the applicant to the post of Sister Instructor is a temporary one or to a Training Institute to which Annexures 12 and 16 Circulars have application. This is all the more so when the learned counsel for the applicant submits that the appointment of the applicant as Sister Instructor is temporary in nature, while the learned Railway Counsel states that the appointment to the post of Sister Instructor is on a regular basis and therefore, a permanent appointment. It is relevant in this context to note that though the applicant had submitted Annexure-8 request for retention of the quarter for a further period from 6.2.2002 upto 31.3.2002 the same was not replied immediately, but it is only in Annexures 10 and 15 communications that it is stated that the same was not considered for the reason that it was not accompanied by the requisite certificates. Had the respondents at least considered the representation (Annexure-11) submitted by the applicant in the manner required, particularly when the applicant had relied upon Annexure-12 Circular and taken a decision with reference to the same this application in this fashion could not have been filed. Now the case of the respondents in regard to the application of Annexure 12 has been projected for the first time in the written statement alone and, that apart, there is no answer to the application of Annexure-17 Master Circular in the written statement. I am of the view that the respondents failed to consider the relevant circulars mentioned earlier while passing the impugned order (Annexure-15). In the circumstances, I set aside the said order and direct the respondents to reconsider the same and pass orders in accordance with law particularly with reference to the circulars relied on both by the applicant

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and by the respondents within a period of three months from the date of receipt of a copy of this order. It is made clear that the order so passed must be a speaking order dealing with all relevant circulars. The applicant will be free to make a detailed representation/ argument note before the respondents, in which case the respondents will consider the same also before passing orders as directed hereinabove.

10. In view of the fact that the impugned order is set aside there is no need for any interim relief. In other words there cannot be any recovery until fresh order is passed as directed hereinabove.

The applicant is accordingly disposed of. No order as to costs.

G. Sivarajan

(G. SIVARAJAN)
VICE-CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O. A. NO. 289 / 2003

Smti Alpana Mazumdar. ... Applicant

-Versus-

Union of India & Others ... Respondents

Lists of dates and synopsis of the case

Date

Synopsis of particulars in the application

07.01.1897 - The applicant was initially appointed as Staff Nurse in the Medical Wing of the N.F.Railway.

23.07.1999 - Applicant was promoted as Nursing Sister in the pay scale of Rs.5,500-9,000.

30.10.1995 - A railway quarter bearing No.E/14-A at Upper Babupatty, Lumding was allotted to the applicant.

26.06.2001- DRM (P), Lumding invited applications vide letter bearing Np.E/90/6/I (Med) Sister Instructor for filing up of 2 unreserved posts of Sister Instructor. (Annexure-1)

23.07.2001- The applicant submitted her candidature through proper channel for the post of Sister Instructor and she was called for the written as well as viva-voce tests. (Annexure-2)

19.10.2001- Applicant was invited to attend viva-voce test. (Annexure-3)

03.12.2001- DRM (P) Lumding vide office order bearing No. 0/2-A/Pt.III (Med) appointed the applicant temporarily on officiating basis as Sister Instructor in the pay scale of Rs.5,500-9,000.

(Annexure-4)

04.12.2001- Chief Matron, Lumding, instructed the applicant to report to the Medical Director, Maligaon on 07.12.2001 for further duty. (Annexure-5)

07.12.2001- The applicant reported for duty at Maligaon Central Maligaon as Sister Instructor.

28.12.2001- The applicant was posted at Central Hospital, Maligaon against the post of Sister Instructor.

(Annexure-6)

04.12.2001- The applicant submitted an application addressed to the Chief Medical Superintendent, Lumding for retention of her quarter in the old station at Lumding from 07.12.2001 to 06.02.2002.

(Annexure-7)

01.02.2002- The applicant submitted another application for retention of the said railway quarter before expiry of the aforesaid period of 2 months.

(Annexure-8)

25.02.2002- Chief Medical Superintendent, Lumding asked the applicant to vacate the railway quarter under her possession at Lumding, failing which necessary action would be initiated against her for contamination of the order. (Annexure-9)

28.03.2002- Chief Medical Superintendent vide his letter bearing No.M/231/1/LM-2 dated 28.03.2002 stated that due to non-submission of supporting certificates for retention period of the applicants possession of the said quarter is over on 06.02.2002 and the applicant was asked to vacate the railway quarter and to handover the said to the Matron. (Annexure-10)

17.04.2002- The applicant submitted detail representation praying interalia permission for retention of the railway quarter at Lumding. In her representation applicant further stated that being a faculty member she is entitled to retain the quarter in the old station in terms of the Railway Board's Circular dated 15.09.1998, which was circulated by the General Manager (P), Maligaon vide letter dated 08.12.1998. (Annexure-11)

15.09.1998- Railway Board issued a circular instructing that the faculty members of the Training Institute are entitled to retain the quarters at previous post of posting for a period not exceeding 2 years on payment of normal rents. The circular dated 15.09.1998 by the General Manager(P), Maligaon vide letter dated 08.12.1998.

(Annexure-12)

07.01.2003- Chief Medical Superintendent, Lumding vide his letter bearing No.H/231/LM dated 07.01.03 addressed to the Medical Director, Central Hospital, Maligaon requested to ask the applicant to submit seek or educational certificate to extend the permission to retain the quarter at Lumding otherwise damage rent would be charged at the rent of Rs.69.70 sq.mt. for the plinth area of the railway quarter.

(Annexure-15)

23.01.2003- The applicant submitted a representation to the Medical Superintendent, Divisional Railway Hospital, Lumding, whereby she requested to allow her to retain the quarter at Lumding till her status of posting is clarified by the authority and also prayed for stay of the operation of deduction of the damage rent, but to no result.

(Annexure-16)

27.01.2003- The applicant submitted a representation to the Medical Director Central Hospital, N.F.Railway, Maligaon, wherein she stated that she was transferred and posted temporarily as Sister Instructor and after completion of 1 year of service she has got no communication in this regard extending the service. (Annexure-18)

19.01.1993- Railway Board issued a master circular, dated 19.01.93, wherein there is a specific provision

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for retention of the quarter in the previous duty station on temporary posting. (Annexure-17)

04.07.2003- Office of the Medical Director, N.F.Railway, Maligaon vide letter-bearing No.H/Q-3/Allot/Type-II, dated 04.07.03 allotted a railway quarter to the applicant bearing ✓ No.162/A, Type-II at Adarsha Colony, Maligaon.

(Annexure-13)

20.05.2003- The applicant served a Lawyer Notice upon the Chief Medical Superintendent, Railway Hospital, Lumding praying interalia for stoppage of recovery of damage rent. (Annexure-19)

29.07.2003- The applicant took over the railway quarter at Maligaon after vacating the quarter at Lumding.

(Annexure-14)

PRAYER

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that

may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Court be pleased to set aside and quash the impugned letter bearing No.H/231/LM dated 07.01.2003 (ANNEXURE-15).
- 8.2 That the Hon'ble Court be pleased to declare that imposition of damage rent is illegal, arbitrary and void-ab-initio.
- 8.3 That the Hon'ble Court be pleased to declare that the applicant is entitled to retain the quarter at least for a period of 2 years in terms of the Railway Board's
- 8.4 Costs of the application.
- 8.5 To grant any other order or Order(s) to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O. A. No 289 /2003
Smti Alpana Mazumdar : Applicant

- Versus -

Union of India & Others: Respondents.

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Date 15-12-2003

Filed by
Nirupaksh Kravang
Advocate

Alpana Mazumder

Filed by the applicant
through advocate
G.N. Chakravarty
15th Dec 2003.

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

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

O. A. No. _____/2003

BETWEEN

Smti. Alpana Mazumdar.
Sister Instructor,
O/O- The Medical Director,
Central Hospital, Maligaon
N.F.Rly., Guwahati-11.

...Applicant

-AND-

1. The Union of India,
Through General Manager,
N.F.Rly. Maligaon,
Guwahati-11.

2. The Medical Director,
Central Medical Hospital,
Maligaon, Guwahati-11.

3. The Chief Medical Superintendent,
N.F.Rly. Lumding, Assam.

4. DRM (P)
N.F.Rly. Lumding, Assam.

...Respondents.

Alpana Mazumder

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned letter dated 07.01.2003 and also against the illegal and arbitrary recovery of damage rent charged against the Railway Qtr.No.E/14-A at Upper Babupatty, Lumding duly allotted to her on 30.10.1995 after being found eligible as per the rules and also praying for a declaration that the applicant is entitled to retain the Rly. Qtr. at least for a period of 2 years while posted outside the station in which she was working in an ex-cadre post as per Railway Board Circular dated 15.09.1998.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such she is entitled to all the rights, protections and

Alpana Magonde

privileges as guaranteed under the Constitution of India.

4.2 That your applicant was initially appointed as Staff Nurse in the Medical wing of the N.F.Railway on 07.01.1987, thereafter she was promoted as Nursing Sister on 23.07.1993 in the pay scale of Rs. 5,500-9,000.

4.3 That your applicant while working at Lumding Railway Hospital under the Chief Medical Superintendent as Nursing Sister the DRM (P), Lumding invited applications vide letter bearing No. E/90/6/I (Med) Sister Instructor, dated 26.06.2001 for filing up 2 unreserved post of Sister Instructor in the scale of Rs.5,500-9,000 by holding selection from Nursing Cadre of N.F.Railway who were eligible having required educational qualification.

A copy of the letter dated 26.06.2001 is enclosed herewith and marked as ANNEXURE-1.

4.4 That your applicant after receipt of the Circular dated 26.06.2001 submitted her candidature through proper channel for the post of Sister Instructor and accordingly she was called for the written as well as viva-voce tests which would be evident from the letter bearing No.E/7-N-S/MED, dated 23.07.2001 and letter bearing No.H/268/LM/Pt.XIL, dated 19.10.2001.

Alpana Magueder

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Copies of the letter dated 23.07.2001 and letter dated 19.10.2001 are enclosed herewith and marked as ANNEXURE-2 and 3 respectively.

4.5 That it is stated that the applicant was selected for appointment to the post of Sister Instructor on the basis of her performance in the written and viva-voce examination. The DRM(P), Lumding vide office order bearing letter No.0/2-A/Pt.III(MED) Lumding dated 03.12.2001 appointed the applicant temporarily on officiating basis as Sister Instructor in the pay scale of Rs.5,500-9000 and by the same order the applicant was transferred and posted in Central Hospital, Maligaon with immediate effect.

A copy of the order dated 03.12.2001 is enclosed herewith and marked as ANNEXURE-4.

4.6 That your applicant was spared by the Chief Matron, Lumding vide letter dated 04.12.2001 with the instruction to report to the Medical Director, Maligaon on 07.12.2001 for further duty.

A copy of the letter dated 04.12.2001 is enclosed herewith and marked as ANNEXURE-5.

4.7 That your applicant thereafter reported for duty at Maligaon on 07.12.2001 and posted at Central Hospital, Maligaon, as Sister Instructor. This fact would be evident from the Office Order issued under letter bearing No.H/283/1/Med/Pt.V (CH) dated 28.12.2001,

Alpana Maneeswar

thereafter the applicant started discharging her duty in ex-cadre post as Sister Instructor in the Nursing Training Institute under Medical Director at Central Hospital, Maligaon.

A copy of the letter dated 28.12.2001 is enclosed herewith and marked as ANNEXURE-6.

4.8 That your applicant beg to state that while she was working at Lumding, a Railway quarter bearing No.E/14-A at Upper Babupatty allotted to her on 30.10.1995 after she was being found eligible.

The applicant on 06.12.2001 submitted an application addressed to the Chief Medical Superintendent, Lumding for retention of her quarter in the old station at Lumding from 07.12.2001 to 06.02.2002. She had submitted another application on 01.02.2002 for retention of the said railway quarter before expiry of the aforesaid period of 2 months.

Copy of the application dated 06.12.2001 and 01.02.2002 are enclosed herewith and marked as ANNEXURE-7 & 8 respectively.

4.9 That it is stated that the Chief Medical Superintendent, Lumding vide his letter bearing No. H/231/1/LM-2 dated 25.02.2002 as Medical Superintendent in-charge vide letter bearing No.H/231/1/LM-2 dated 28.03.2002 asked the applicant to vacate the railway quarter under her possession at Lumding failing which necessary action would be initiated against her for

Alpana Majumder

contamination of orders and it is also stated in the letter dated 28.03.2002 that the applicant was permitted to retain the quarter for a period of 2 months w.e.f.07.12.2001 to 06.02.2002 as per Railways order dated 24.12.2001. It is further stated in the said letter that due to non-submission of supporting certificates for retention period her possession of the said quarter is over on 06.02.2002 and the applicant was asked to vacate the railway quarter and to handover the same to Matron, LMG otherwise necessary action would be taken without further intimation. Be it stated that copies of the letter dated 25.02.2002 and 28.03.2002 in fact received by the present applicant in the month of April, 2002.

Copies of the letter dated 25.02.2002 and 28.03.2002 are enclosed herewith and marked as **ANNEXURE-9 & 10** respectively.

4.10 That your applicant after receipt of the letter dated 25.02.2002 and 28.03.2002 submitted detail representation on 17.04.2002 praying interalia permission for retention of the railway quarter at Lumding on the ground that she is suffering a lot with her family members for non allotment of any railway quarter at the present station at Maligaon, Guwahati. The applicant further stated in her representation that being a faculty member she is entitled to retain the quarter in the old station in terms of the Railway Board's Circular dated 15.09.1998 which was circulated

Alpana Majeed

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by the General Manager (P), Maligaon vide letter dated 08.12.1998. In this connection it may be stated that as per Railway Board's instruction the faculty members of the Training Institute is entitled to retain quarters at previous post of posting for a period not exceeding 2 years on payment of normal rents. The aforesaid decision of the Railway Board was approved by the President of India and the said circular was issued with the concurrence of Finance Director of the Ministry of Railways.

It is quite clear from the Railway Board Circular dated 15.09.1998 that the applicant has acquired a valuable and legal right to retain the quarter in the previous post of posting, however, the period of such benefit is restricted to 2 years. As such, the applicant is entitled to retain the railway quarter, which was duly allotted in her name at least for a period of 2 years.

Copy of the representation dated 17.04.2002 and the Railway Board's Circular dated 15.09.1998 circulated by the General Manager (P), Maligaon vide letter dated 08.12.1998 are enclosed herewith and marked as ANNEXURE-11 & 12 respectively.

4.11 That it is stated that after submission of her representation on 17.04.2002 no decision was taken by the Railway Authorities in the light of the Railway Board Circular dated 15.09.1998 regarding her entitlement to retain the railway quarter in the

Alpaana Maguender

previous station as faculty member. Be it stated that the applicant is working as a teacher/instructor in the Training Institution as such she falls within the definition of faculty members and the case of the applicant regarding entitlement to retain the railway quarter in the previous station is squarely covered by the Railway Board Circular dated 15.09.1998.

4.12 That it is stated that the Office of the Medical Director, N.F.Railway, Maligaon vide letter bearing No.H/Q-3/Allot/Type-II dated 04.07.2003 allotted a railway quarter being numbered as 162/A, Type-II at Adarsha Colony, Maligaon. The applicant immediately thereafter shifted her dependent family members at Maligaon and vacated and handed over the railway quarter in the previous duty place at Lumding and the applicant taken over the railway quarter at Maligaon on 29.07.2003.

Copy of the letter dated 04.07.2003 and taking over letter dated 29.07.2003 are enclosed herewith and marked as ANNEXURE-13 & 14 respectively.

4.13 That it is stated that the Chief Medical Superintendent, Lumding vide his letter bearing No.H/231/LM dated 07.01.2003 addressed to the Medical Director, Central Hospital, Maligaon it is requested to ask the applicant to submit seek or educational certificate to extend the permission the permission of retention of the above quarter, otherwise damage rent

Alpana Mazumdar

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would be charged at the rate of Rs.69.70 sq.mt. for the plinth area of the railway quarter. The applicant on receipt of the said letter submitted a representation on 23.01.2003 to the Medical Superintendent, Divisional Railway Hospital, Lumding, wherein the applicant stated that after joining on 07.12.2001 at Maligaon she was never asked to join in her permanent post at Lumding and it was also not communicated to her that her temporary transfer had been converted to permanent one. Moreover, the applicant was not given any promotional benefit. The applicant further stated that no communication was made to her in the representation-dated 17.04.2002 where she has referred the Railway Board's Circular dated 15.09.1998 and further requested vide her representation dated 23.01.2003 to allow her to retain quarter till her status of posting is not clarified by the Authority during pendency of the appeal and also prayed for stay of the operation of deduction of the damage rent, but to no result.

Copy of the impugned letter dated 07.01.2003 and representation dated 23.01.2003 are enclosed herewith and marked as ANNEXURE-15 & 16 respectively.

4.14 Most surprisingly the Railway Authorities started recovery of the damage rent without any notice from the pay bill of November, 2003 of the applicant is violative of principles of natural justice. It is stated that an amount of Rs. 475/-has already been

Alpana Mazumdar

recovered from the salary of the applicant for the month of November, 2003. The applicant came to learn from a reliable source that the damage rent calculated by the Railway Authorities from 07.02.2002 to 31.07.2003 @ Rs.38 per sq.mt. and the total amount of damage rent stand to Rs.68,475 and it is apprehended that an amount of Rs.1000/-p.m is likely to be recovered from the pay bill of December, 2003 onwards and in such a compelling circumstances the applicant finding no other alternative approaching this Hon'ble Tribunal to restrain the respondents for passing an appropriate order not to make any further recovery on the alleged ground of Damage rent from the pay bill of the applicant till disposal of this application otherwise it will cause irreparable loss and injury to the applicant in as much as the applicant is entitled to retain the railway quarter in the previous place of posting at least for a period of 2 years as per Railway Board's Circular dated 15.09.1998. Be it stated that the applicant was initially posted for a period of 1 year but thereafter no decision was taken by the Railway Authorities for extending her service as Sister Instructor even if it is assumed that the applicant is placed on temporary posting in the Headquarter station at Maligaon even then she is entitled to retain the quarter in terms of the Railway Board's Master Circular dated 19.01.1993, where there is a specific provision for retention of the quarter in the previous duty station on temporary posting. In this connection it may

Alpana Mazumder

be stated that the applicant on 27.01.2003 submitted a representation to the Medical Director, Central Hospital, N.F.Railway, Maligaon wherein she has stated that she was transferred and posted temporarily as Sister Instructor in the Central Hospital, Maligaon and she has completed 1 year service as indicated in her letter of appointment and further requested for necessary action in this regard but surprisingly no communication is made in this regard extending the service of the applicant as Sister Instructor at Central Hospital, Maligaon.

Copy of the Master Circular dated 19.01.1993 and representation dated 27.01.2003 are enclosed herewith and marked as ANNEXURE-17&18 respectively.

4.15 That it is stated that the applicant also served a Lawyer's Notice through her Lawyer upon the Chief Medical Superintendent, Railway Hospital, Lumding on 20.05.2003 praying interalia for stoppage of recovery of damage rent, but to no result.

Copy of the Lawyer's Notice dated 20.05.2003 enclosed herewith and marked as ANNEXURE-19.

4.16 That it is categorically stated that the Railway Authorities since posting of the applicant at Maligaon, all along recovered normal rent from the applicant for occupation of her railway quarter in the previous duty station at Lumding, more particularly from a period of

Alpana Majeender

07.02.2002 to 31.07.2003, therefore the Railway Authorities are now barred by law of estoppels to charge damage rent against the same railway quarter at this belated stage, since the normal rent has already been recovered from the salary of the applicant for the period damage rent is charged the case of the applicant is also covered by the circular dated 19.1.1993.

4.17 That this application is made bona fide and for the ends of justice.

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

5.1 For that, the applicant was temporarily transferred and posted at Guwahati against an ex-cadre post in the interest of public service.

5.2 For that, as per Railway Board Circular dated 15.09.1998 the applicant being a faculty member working in the ex-cadre post and posted in the Headquarter at Maligaon temporarily from the previous duty station, Lumding therefore she is entitled to retain the quarter in the previous place of posting at least for a period of 2 years on payment of normal rent basis. Moreover, the case of the applicant is further covered following the Master Circular of Railway Board dated 19.01.1993, wherein, it is stated that in a special case a railway employee is entitled to retain the railway quarter in

Adpana Mazumdar

previous duty station while posted temporarily in a outside station.

5.3 For that, damage rent is being charged against the applicant without following the procedure established by law and the decision for charging damage rent is in violation of Railway Board Circular dated 15.09.1998 and Railway Board Circular dated 19.01.1993.

5.4 For that, no railway quarter was allotted to the applicant while transferred and posted at Maligaon in the post of Sister Instructor.

5.5 For that, the railway quarter was allotted to the applicant only on 04.07.2003 and the same was taken over by the applicant on 29.07.2003. As such, respondents are not entitled to make any recovery as damage rent from the pay and allowances of the applicant.

5.6 For that, applicant repeatedly approached the competent Railway Authorities for grant of permission for retaining the railway quarter duly allotted in the previous duty station but to no result.

5.7 For that, the recovery of damage rent has been affected without providing any opportunity or show cause to the applicant from the month of November, 2003 in a most arbitrary manner without taking into consideration the Railway Board Circular dated 15.09.1998 and circular dated 19.1.1993.

Alpana Mazumder

5.8 For that, the appointment and posting of the applicant to the post of Sister Instructor has been affected by the Railways in public interest.

5.9 For that, nature of appointment and posting of the applicant to the post of Sister Instructor in the Headquarter at Maligaon on temporary basis for a period of 1 year but the applicant is retained and her services utilized in the same station without passing any further order as required under the law.

5.10 For that, the applicant vacated the railway quarter at Lumding as soon as the railway quarter allotted to her in the new place of posting at Maligaon.

5.11 For that, in spite of the repeated representation no decision was taken by the Railway Authorities regarding her claim for entitlement of retention of railway quarter duly allotted at the previous duty station in the light of the instruction contained in the Railway Board Circular dated 15.09.1998, and 19.1.1993 as such, imposition of damage rent and recovery of the same is contrary to law.

5.12 For that, Railway Authorities already recovered the normal rent from the applicant for the period for which now damage rent is now sought to be imposed as such they are barred by law of estoppel.

Alpana Mazumder

6. Details of remedies exhausted.

That the applicant states that she has exhausted all the remedies available to her and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that she had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Alpana Mayronal

- 8.1 That the Hon'ble Court be pleased to set aside and quash the impugned letter bearing No.H/231/LM dated 07.01.2003 (ANNEXURE-15).
- 8.2 That the Hon'ble Court be pleased to declare that imposition of damage rent is illegal, arbitrary and void-ab-initio.
- 8.3 That the Hon'ble Court be pleased to declare that the applicant is entitled to retain the quarter at least for a period of 2 years in terms of the Railway Board's Circular dated 15.09.1998 as well as Railway Board Circular dated 19.01.1993.
- 8.4 That the respondents be directed to refund the amount already recovered on account of damage rent from the pay and allowance from the applicant from November, 2003.
- 8.4 Costs of the application.
- 8.5 To grant any other Order or Order(s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for

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

Alpaia Mazumdar

9.1 That the Hon'ble Tribunal be pleased to restrain the respondents from making further recovery of damage rent till disposal of this application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : 9G 704658
- ii) Date of Issue : 11.11.03
- iii) Issued from : G.P.O, Guwahati.
- iv) Payable at : G.P.O, Guwahati.

12. List of enclosures.

As given in the index.

Alpana Mazumder

VERIFICATION

I, Smti Alpana Mazumdar, D/O Late Dhirendra Chandra Mazumdar, aged about 46 years, resident of Adarsha Colony, Maligaon, Guwahati, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 18th day of December, 2003.

Alpana Mazumdar

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Chairman N.F.Rly.
Institute of
Nursing
N.F.Railway.
[1/1]

Pr. E/90/6/1(Med) Sister Instructor, Maligaon, dtd: 26-6-2001.

Office of the
General Manager (P),

B.R.M.(P)/Lumding and others.

Sub:- Selection for filling up 2(UR)
Posts of Sister Instructor in
scale Rs. 5500-9000/-

It has been decided to fill 2(UR) posts of
sister Instructor in scale Rs. 5500-9000/- by holding
selection from Nursing Cadre of N.F.Rly. on the following
terms and conditions.

Qualification:- Master of Nursing. If not available
B.Sc/ Post basic, B.Sc, even if this
is not available candidate with
Diploma in Nursing education and
Administration or any other equivalent
post basic Diploma, with 8 years of
teaching and administrative
experience in Nursing.

Nursing cadre employee full filling the above
condition may apply for the post of Sister Instructor in
scale Rs. 5500-9000/-

You are, therefore, requested to give wide
publicity with the above amongst the Rly. Employee (nursing
cadre) working under you and forwarded their application
if any to this office by 15/7/2001 positively.

Schedule of selection (No absentee selection will be
held.)

- 1) Written- 25/07/2001.
- 2) Viva-voce 05-8-2001

sd/-
for General Manager (P),
Maligaon, N.F.Rly.

Pr. E/7-N.S/Mod Lumding dtd: 07/2001.

Copy forwarded for information and raction to:-

- CMS/Lumding.
- MG/Lo/BPB.

for Civil Rly. Manager (P),
N.F.Rly. Lumding.

21/7/01
at 9.15 hrs

ANNEXURE-2

NOTIFY

TO N.S/MD.

QMG/LMG.

Office of the
DEW(P)/Lundings,
Dt. 23/07/2001.

Sub:- Selection for filling up of 02(UR) posts
of Sister Instructor in scale Rs.
5500.90/- (Rs.).

In continuation of this office letter of even no.
at 23/7/2001, sgt. Alpona Mazumder, N/Sister working under you
may also be directed to appear in the above selection(written
test) to be held on 25.7.2001 at 10.00 hrs in CPO/MLG's office
without fail.

This is as per telephonic conversation with APO/EC
and HQ on 23/07/2001.

21/7/01
A.K. DEY

A.K. DEY,
(APO/EC)
For.D.I.L.L.Y. Manager(P)/LMG,
W.M.L.Y. LUNDING.

Copy to :- GM(P)/MLG for information and necessary action please.

A.K. DEY,
(APO/EC)
For.D.I.L.L.Y. Manager(P)/LMG,
W.M.L.Y. LUNDING.

A.Dated
by
Advocate
on 18/12/03

AM 140/

Marked to all
Sgt. Alpona
W.M.L.Y.
LUNDING

NORTHEAST FRONTIER RAILWAY

No. E/268/LM/Pt. XII

Office of the
Chief Medical Supdt.
Lumding, dated 19.10.2001.

To.

Smti. John Joyce Hemlatha, S/Nurse/LMG

Smti. Alpana Mazumdar, M/Sister/LMG.

Thru : Chief Matron/LMG.

Sub : Selection for filling up of 02(UR)
posts of Sister Instructor in
scale Rs. 5500-9000/-

As per telephonic instruction of Dr. N.K. Hazarika,
Dy. CMD/Admin/LMG, You are requested to attend Dr. Hazarika's
Chamber on 22.10.01 at 10.00 hrs. for Viva-voce test of the
above noted selection.

Medical Supdt/Lumding.

Copy to : Dy. CMD/Admin/LMG for information please.

Copy to : Chief Matron/LMG for information. She is requested
to spare the staff concerned accordingly and issue
pass in favour of then ex. LMG to KYQ and back.

Medical Supdt/Lumding.

.....

A Desired
Dolley Addele
on 10/12/03

N. F. RLY.

OFFICE ORDER.

Office of the
Divil. Rly. Manager (P)/Lumding,
Dt. 3/12/2001.

In terms of GM (P)/MLG's Office order NO. E/90/6/1 (MED)/
sister Instructor dt. 2/11/2001, on being selected for promotion
to the post of Sister Instructor in scale Rs. 5500-9000/-, the
following Nursing Sister/ Staff Nurse under CMS/LMG are hereby
temp. appointed to officiate as Sister Instructor in scale Rs.
5500-9000/- and is transferred & posted under MD/CH/MLG with immediate
effect.

S/NO. Name

Design/Station.

✓ 1) Smt. Alpana Majumder, Nursing Sister/LMG
2) " Ton Joye Hemalatha, Staff Nurse/LMG.

They must be spared immediately.

This issues with the approval of the competent
authority.

For. Divil. Rly. Manager (P)/LMG,
N. F. RLY: LUMDING.

NO. E/2-1/Pt. III (MED) Lumding, Dt. 3/12/2001.

Copy forwarded for information & action to :-

1) CMD/MLG
2) F&C NO/MLG
3) MD/CH/MLG
4) DV. CMD/T&A/MLG
5) CMS/LMG

They are requested to spare the
above staff concerned immediately
without fail, to avoid excess
copies for staff concerned. Operations, as relief in their places
has already been posted and reported.
please also intimate this office the
date of sparing of the above mentioned
staff. From. CMS/LMG.

6) Chief Marion/LMG: along with (without fail, to avoid excess
copies for staff concerned. Operations, as relief in their places
has already been posted and reported.
please also intimate this office the
date of sparing of the above mentioned
staff. From. CMS/LMG.

7) BMO/MLG at office
8) S/copies for P/Cases
9) Copy to F/NO. E/122/LM/MED/Pt. III (Recd).
10) *Recd* 3/12/01

For. Divil. Rly. Manager (P)/LMG
N. F. RLY: LUMDING.

AKR No:-

Recd 3/12/01
5/12/01

M/13/ML
Dt. 4/12/2001

To
Alpana Majumder,
S/Sister/Med/LMG.

Sub : Sparing

Ref : - DRM(P)/LMG & O.O.NO-0/2A/PF.111(Med) Luming
Dt. 3/12/2001.

In reference to the above quoted letter, you are hereby spared from this and on the after noon of 4/12/2001 on transfer and posted at Nursing Institute at Central Hospital/Maligaon as Sister Instructor in Scale of Rs. 5500/- - 9000/- under MD/CH/Maligaon on existing vacancy and also advised you to report to MD/CH/MLG on 5/12/2001 for your further duty. (Report on 5/12/2001)

Copy to (1) DRM(P)/LMG
(2) MD/CH/MLG
(3) CHA/LMG.

Per no
7/12/2001
Chief Matron/Luming
for information N. F. Railway
& necessary action please.

Special : (a) She has credited 5 days casual leave on her leave account.

(b) One set privilege pass is due in her credit.

Chief Matron/Luming
N. F. Railway

Alpana
Majumder
S/Sister
Med/LMG
Dt. 18/12/03

5/12/2001
S/Sister
Med/LMG

M.P. Railway.

ANNEXURE-6

Office of the
Medical Director,
Central Hospital,
Malignani, G.O. 731 011.

Dt. 28-12-2001.

ORDER.

In terms of GM(P)/MLG's Office Order No. L/90/6/1 (MED) Sister Instructor Dt. 2/5-11-2001 and on being spared by Chief Matron/MLG's Office DRM(P)/MLG's Office Order No. L/90/6/1 (MED) Sister Instructor Dt. 02-12-2001, Mrs. Jhen Joyce Nenolato, Staff Nurse in scale Rs. 5000/- 8000/- and Smt. Alpana Magunder, Nursing Sister in scale Rs. 5500/- 9000/- reported to this office on 06-12-2001 and 07-12-2001 respectively for further duties as Sister Instructor in scale Rs. 5500/- 9000/-.

They are hereby temporarily appointed to officiate as Sister Instructor in scale Rs. 5500-9000/- and posted at Central Hospital/MLG against the post of Nursing Instructor (Rs 5500-9000/-) available for one year from the date of operation as per CMD/MLG's L/No. L/90/5/3 (MED) Sister Tutor Dt. 31-5-2001 has concurred by PA & CMO/MLG vide O.No.FE/2/14/3 Pt.V Dt. 28-3-2001.

This has the approval of Competent Authority.

For MEDICAL DIRECTOR/CH/MLG

No. L/203/1/Med/Pt.V (CH)

Dt. 28-12-2001.

Copy forwarded for information and necessary action to:-

- 1) GM(P)/MLG.
- 2) PA & C MO/CH/MLG.
- 3) Sister Tutor/CH/MLG.
- 4) Staff Concerned. Smt Alpana Magunder
- 5) Staff Clerk (S.U.N. - 502).
- 6) P.C. Office.
- 7) DRM(P)/MLG: He is requested to send the P/Case, M.Sheet, leave account immediately.

28/12/01
A. P. O. / Medical
for MEDICAL DIRECTOR/CH/MLG

Received
12/12/01
Ad. Secy
03

25
APPLICATION FORM FOR RETENTION OF ORS. ANNEXURE 7
AFTER RETIREMENT/EXPIRED/TRANSFER.

1) a) Name (in block letters):- ALPANA MAZUMDAR
b) Date of Birth :- 24.12.58 SF
c) Designation :- Nursing Sister

2. Date of appointment :- 07.01.1987

3. Controlling Officer :- CMS/LMS

4. Ors. No. Type & Location :- B/14/A Upper Babubatty
Lumding.

5. Poolod/Non-Poolod :- Poolod.

6. Allotment order Reference :- date 30.10.95

7. I have boon/will be/rotirod/rotiring on. NO.

8. Transferred to CH/MLG on 06.12.2001.
(Tick one)

9. Kindly Permit me to retain the above accommodation for a period of :

10. i) 2 (Two) months from Dec. 2001 to Jan 2002
for the reason as under.

ii) Sickness of NM

iii) Academic session of (dependent Sister of NM) of 2001-2002

Date :-

04/12/01

Signature of the applicant.

Alpana Mazumdar
Nursing Sister

Advised
Supt. Approve
18/12/03

Recd
5/12/2001

Ministerial Lumding
N. P. R. I. - 1

UK

Date 01.02.02

2/6

Sh. CMS/SC/LMG,
Divisional Regt, Dispilal
Lauding. N.G. Regt

Sub: Retention of Qrs after transfer.

Sir,

~~Kindly~~ arrange to extend my Qrs.
Retention permission upto 31.03.02 of which
I applied previously upto January 2002, on
06.12.01. for the Qrs. No. B/14/A. (Type II,
pacca) Upper Bantipatip, Lauding.

Thank you.

Date 01.02.02
Lauding.

Alpana Majumder
S/o Smt. Smt. / CH/MLG

~~Alpana Majumder
S/o Smt. Smt. / CH/MLG~~
Alpana Majumder
Advocate
02/12/03

NORTHEAST FRONTIER RAILWAY

No. H/231/1/LM-2

Lumding, dated 25.2.02.

To.

Smti Alpana Mazumdar,
Sister Instructor/MD/CH/MLG.

10/4/03

Thro : Chief Matron/IC/MLG
under MD/CH/MLG.Sub : Unauthorised rotation of Rly Qrs. No.
E/14-A type - II at Uppor Babu Patty/Lumding

Ref : This office letter No. H/231/1 dated 7.1.

It is apprised that you have been occupying the Qrs. No. E/14-A type- II at Uppor Babu Patty/Lumding unauthorisedly since 7.2.02.

You are hereby advised to vacate the above mentioned Qr. and handed over to Chief Matron/LMG within 7 (seven) clear days from the date of the receipt of this letter. Else necessary action will be initiated against you for contravention of orders.

W,
Chief Medical Supdt/Lumding.

Copy to : MD/CH/MLG : He is requested to instruct the above named to vacate the Qrs. at LMG immediately which is unauthorisedly since 7.2.02 under her occupation. And also requested to recover the damage, if any, as per extant rule.

W,
Chief Medical Supdt/LMG.

*Smti Alpana Mazumdar
Sister Instructor/MD*

*W
7/4/03*

*Alpana Mazumdar
Sister Instructor/MD
7/4/03
J. M. M.*

NORTHEAST FRONTIER RAILWAY

No. H/231/1/LM-2

Lumding, dated 20.3.02.

To.

Smti. Alpanna Mazundor, Ex. Staff Nurse/LMG.
now at MLG as a Instructor/CH/MLG.

Thro : MD/CH/MLG.

Sub : Unauthorised retention of Rly Qrs.

No. E/14-A type- II at upper Babupatty
Lumding.

Ref: Your letter No. Nil dated 01.02.02
and this office letter No. H/231/LM
dated 18.02.02.

It is informed you that you were permitted by DRM/LMG
to retain the above Qrs. for a period of 5 months w.e.f. 7.12.2001.
to 6.2.2002 (Ref. this office letter No. H/231/LM dated 24.12.01).
You have not permitted for further 55 days retention of Rly Qrs.
Due to non submission of supporting certificate your retention period
of the above Qrs. is over on 6.2.2002.

It is seen that you have not yet vacated the above
mentioned Qrs. till date.

You are requested to vacate the Qrs. No. E/14-A type- II at
LMG immediately and handed over to Matron/LMG. otherwise necessary
action will be taken without further intimation.

(Dr. R.K. Roy)
MS/IC/LMG.

Copy to : MD/CH/MLG.

for information and necessary action
Chief Matron/LMG. please.

(Dr. R.K. Roy)
MS/IC/LMG.

*A. D. Patel
Alpanna Mazundor
on 18/2/03*

To

The MS/IC,
Divisional Rly. Hospital,
Lumding, N.F.Railway.

Through Proper Channel.

Sub : Retention of Rly. Ors. NO. E/14/A Upper Babu Patty,MLG

Ref : Your Office order letter NO. E/28/1 LM-2.

Sir,

With reference to the above mentioned subject I like to state that I have been appointed temporarily to officiate as sister Instructor for an unspecified period and transferred to Central Hospital, Maligaon, Nursing Training Institute, M.L.G. N.F.Rly. as per GM(P)/MLG's Office order NO. E/90/6/1(Med) Sister Instructor and accordingly I joined on duty on 7.12.01.

That Sir, I was permitted to retain the quarter for 2 (two) months and made another prayer for allowing me further time of which not permitted.

Sir, since my joining to above mentioned post at M.L.G., I have not allotted any Rly. Quarter at the present working station for which I am suffering a lot with my family members as well as my belongings.

That Sir, As per Rly. Board Circular NO. E(G)98, OR-1-10 of 15.9.98 (Sub.allotment of Quarter and retention thereof on transfer.....1.1. officers and staffs on their posting to training institutes as faculty members, may be permitted to retain Rly. Quarter at the previous place of posting for the period of not exceeding two year on payment of normal rent.

So, I therefore earnestly request your goodself to be kind enough to exercise your good office considering the above circumstances to permit me to retain for further admissible period to which I am entitled and oblige.

In support of my claim/request made before you, I hereby submitted Copy of (1) transfer order,
" " (2) to Rly. Boards Circular,
" " (3) GM(P)MLG's Office Order,
" " (4) Joining report.

Thanking you,

Dated: 17/04/02

Yours faithfully,

M. J. Parashar
M. J. Parashar
Matron Magistrate
N. F. Rly. Lumding

Accepted
18/03/03
Matron Magistrate
N. F. Rly. Lumding

Received

17/04/02

ANNEXURE - 12.

N. F. Railway.

Misc- 1595.

No. E/9/6-4 (C) Pt. IV.

Maligaon, dated

8-12-1993.

To
GM(C'n)
All HQOs, All DRMs, All DAOs, WADs/ NBO & BMS.
All Controlling Officers of own Divisionalised.
The GS/AFREU, Sub:- Retention of Quarter at the previous
place of posting by the faculty of
the GS/AFREU. the Training Institutions.
The GS/AFREU.

A copy of Railway Bd's letter N.E(G)OR 1-10 dated 15.9.93
in the above subject is forwarded herewith for information and
necessary action.

for General Manager (P):MLG.

(Copy of Railway Bd's letter N.E(G)OR 1-10 dated 15.9.93.)

Sub:- As above.

Board have had under consideration grant of permission to
retain Railway quarter at the previous place of posting in favour
of the faculty members of the Training Institutes. It has been
decided by the Board that Officers and Staff on their posting to
Training Institutes as faculty members may be permitted to retain
Railway quarter at the previous place of posting for a period not
exceeding 2 years on payment of normal rent.

This has the sanction of the President and issues with the
concurrence of the Finance Directorate of the Ministry of Railways.

Attested
S/ -
(Ravinder Pandey)
DESK OFFICER/ESTABLISHMENT(G).

ad/-3P.11.03

3
ANNEXURE - 13

Office of the
Medical Director/CH.
N.T. Railway/Maligaon

Date:- 04-07-2003

OFFICE ORDER NO. 13

1. The Rly. No. 211/A at Adrasia colony/MLG under
occupation by Smt. May Verghese, Ltr. Matron/CIV-II under
MLG/MLG is hereby allotted to Smt. Farul Das, NS/CH/MLG
Priority No.1 of higher type of priority.

2. The Rly. No. 212/A Type-II at Adrasia colony/MLG under
occupation by Smt. Farul Das, NS/CH/MLG is hereby allotted to
Smt. Alpana Maniwar, Instructor/CIV/MLG, Priority No.1 of
Hospital staff Nurse priority.

3. Occupation report to be submitted to the office within 15
days of receipt of the order under intimations to SGE(W) &
SGE(P).

This has the approval of the Competent Authority.

AFO/Mod/Sacy/MLG
For Chairman/CH/CH/ N.T. Rly.
Maligaon

MSH/2-3/allot/Type-II

Dated:- 04-07-2003

Copy forwarded for information necessary action to:-

1. PAC/CH/CH/MLG
- ✓ 2. SGE(W)/MLG
- ✓ 3. SGE(P)/MLG
- ✓ 4. Members of CH/CH/MLG
- ✓ 5. Matron/Gr-I/CH/MLG
- ✓ 6. Staff concerned
- ✓ 7. E/Till at office
- ✓ 8. F/Cases

Ramswami 9/7/03
AFO/Mod/Sacy/MLG
For Chairman/CH/CH/ N.T. Rly/MLG

A/Deed
Recd. 10/7/03
of 10/7/03

To,

The Chairman,
Housing Committee,
Central Hospital,
Malignon,
Guwahati-781011.

Date : 29th July, 2003

Sub :- Handing over and Taking over of Qtr. No. 162 (A), Type-II at
Adarsha Colony, Maligaon, Ghy-11

Ref :- Your Office Order No. H/Q -3/ Allot/ Type-II Dt. 04.07.2003

Sir,

With reference to the above, we, the undersigned have handed over and taken the
Quarter No. 162(A), Type-II at Adarsha Colony, Maligaon, Ghy-11 on 29th July, 2003

This is for your information please.

Handed over by

Signature :

Parul Das

(Smt. PARUL DAS)

SN/CH/MLG

Taken over by

Signature :

Alpana Mazumdar

(Smt. ALPANA MAZUMDAR)

Instructor/CH/MLG

AU - 07

Bu - 502

P.F - C41 888 34

Copy forwarded for information and necessary action to :-

- 1) FA & CAO/XP/EN/MLG
- 2) SSE (W) /MLG
- 3) SSE (P) MLG
- 4) Matron/Gr.I/CH/MLG
- 5) E/Bill Clerk at Office
- 6) P/Case
- 7) E.S. Clerk (E) at Office
- 8) Staff Concerned

C/14/10 - 038426

Signature 29/07/03

Parul Das

(SMT. PARUL DAS)

SN/MED/MLG

Signature

Alpana Mazumdar

(SMT. ALPANA MAZUMDAR)

Instructor / MED/MLG

Received on 29/07/03

Accepted by Advo/Advocate
on 18/12/03

N.F.RAILWAY

No. II/231/LM.

Office of the
Chief Medical Supdt.
Lauding, dt. 7.1.2003.

To.

MD/ CH/Maligaon.

Sub : Permission for retention of Qrs. No.
B/14 - A type . II at Upper Babu
Patty/ LMG.

Ref : Your letter No.P/C - 321 E/2/264 H
dated. 03.01.2003.

Reference above Smt. Alpana Majundor, Ex. Nursing
Sister/LMG now at CH/MD/MLG was permitted to retain the
above Qrs. for a period of 2 (Two) months w.e.f. 7.12.01
to 6.2.02 vide this office letter No of even No dated
24.12.01.

You are requested to ask the above named to submit
sick or educational certificate to extend the permission
of retention of the above Qrs. upto 6.8.2002. After 6.8.2002
, damage rent will be charged.

The plint area of the above Qrs. is 69.70 Sq. m.

Chief Medical Supdt/LMG.

Copy to : Smt. Alpana Majundor, Sister Instructor/ MD/ CH/MLG
for information.

Chief Medical Supdt/LMG.

Alpana
Babu
Advocate
on 18/12/02

To
 The Medical Superintendent
 Divisional Rly. Hospital
 Lumding: N.E. Rly.
 Lumding: N.E. Rly.

Dt. 23/01/2003
 Dt. 23/01/2003

Through Medical Director
 Through Medical Director
 Central Hospital, Maligaon, N.E.Rly.
 Central Hospital, Maligaon, N.E.Rly.

Ref: Your letter H/271/LM dt 7.1.2003.

Sub: Retention of Qrs No E/14/A upper Babupatty/ Lumding.

Sir,

With reference to your above-mentioned letter and subject I like state that I have ordered to move from Lumding to Maligaon very temporarily to officiate as the sister instructor available for one year.

Ref. Medical Director letter No. H/283/1/med/pt-V(CH) dt.28/12/2001.

Myself joined on 7/12/2001. Administration, as I presumed time to time extended the period of temporary transfer till date to utilize my service. I have not been asked to join my permanent post at Lumding or it was not communicated too that my temporary transfer had been converted to permanent one. No promotional benefit, if any, was given to me. If I am asked without extending period of my temporary transfer, to join in my previous assignment I am ready to do so.

So, Sir, my status has not yet been clarified by administration where my claim will be maintained. On the otherhand I have been made to officiate as an instructor in an educational institution of Railway which give me right to enjoy benefit of Railway Boards circular ME(G)98, OR - 1-10 of 15/9/98 which I have already quoted to you through my letter dt.17/4/2002.

To strengthen my claim of retention of quarter I also like to take protection of 'Temporary Transfer' (copy attached herewith).

Be it be mentioned that inspite of my claim I have not been provided with a quarter at the place of temporary officiating at Maligaon. Time to time I made prayer to the authority for allowing me to keep/retain my quarter at

*Alleged
Sister
Ad. Secy
on 16/12/03.*

Lumding particularly, for the period of my temporary transfer with extended period amongst other document. I have also got no reply of my appeal dt.17/4/02.

So Sir, I am entitled to retain my quarter for further period on the above circumstances.

Therefore, I request you to consider and allow my request to retain my quarter till my status of posting is not clarified by the authority and during pendency of the appeal, deduction of damage rent may kindly stayed and obliged.

Thanking you,

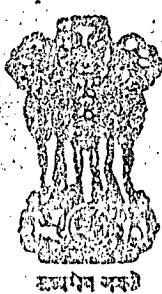
Yours faithfully

Dated Maligaon
23/01/2003

Alpana Mazumder

(Ms Alpana Mazumder)
Sister Instructor
Central Hospital N.F. Rly.,

Received
Alpana
23/01/03



भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड Railway Board)

घार्टरों का आवंटन और
स्थानांतरण पर उन्हें रोके रखने की अधिकारी

पर

मास्टर परिपत्र

Master Circular

ON

Allotment of Quarters and retention
thereof on transfer, etc.

Allotted
Quickly
on 10/12/03.

MC. NO. 49.

R.B.E. NO. 12/93.

HO. E(G)92 QR 1-20 (MASTER CIRCULAR) New Delhi, dated: 19.1.93

For General Managers,
All Indian Railways and
Production Units & others.

Sub: Allotment of Quarters and retention thereof
on transfer, etc.

At present instructions/orders regarding allotment of quarters and/or retention thereof, in the event of transfer from one station to another are contained in a number of letters issued by this Ministry from time to time. It has been decided to consolidate all of them in one single Master Circular, for the purpose of facility and convenience.

2.1. One of the benefits to which the Railway employees are entitled is provision of residential accommodation, on payment of a standard rent which is at subsidised rates. As per extant policy, separate pools of allotment are maintained for essential and non-essential staff. Actual classification as per local condition has been left to the discretion of Zonal Railways Administration. While doing so, the Zonal Railways Administration is required to keep in mind the need for special consideration in respect of certain classes of Railway staff, for instance, women and Harijan employees, who for traditional reasons, require special protection in the matter of residential accommodation. They need special dispensation particularly when employed at small stations, where separate housing facilities do not otherwise exist.

(Ref: HO.E(G)57 LG 5-1 dated 21.2.1958)

2.2. If, in any case, a quarter belonging to a particular pool is allotted to the eligible dependent of an employee working in a different department, thereby causing a shortfall in the quota of quarter in that pool, the deficiency so caused in that pool of quarters should be made good at the earliest available opportunity, in order that the balance is restored at the earliest.

(HO.E(G)85 QR 1-14 dated 18.8.86)

2.3. Allotment of quarters to gazetted and non-gazetted staff, where two employees of opposite sexes in occupation of two separate quarters at the same station, allotted under normal rules, carry one another, shall be regulated as under:-

a) No Railway employee (gazetted or non-gazetted), shall be allotted a railway quarter if the spouse has already been allotted a quarter at the same station, unless such quarter is surrendered. This will, however, not apply where the husband and wife are residing separately in pursuance of an order of judicial separation made by any court.

not acceptable for the purpose of retention of railway quarter on educational ground.

v) In case an employee requests for retention of quarter on the ground of sickness of self or a family member and also on account of education of a child/children, the permissible periods for retention of quarter on the ground of sickness and/or education will run concurrently, and not in separate spells.

6.7 Temporary Transfer:

During the entire period of "temporary" transfer an employee may be permitted to retain the quarters at former place of posting on payment of normal rent/flat rate of licence fee/rent. Temporary transfer should not, however, be ordered for a period of more than 4 months unless there are pressing circumstances.

b) Temporary transfers of non-gazetted employees initially for a period in excess of 4 months or by extension of the temporary transfer for periods aggregating more than 4 months should be ordered personally by an authority not lower than the Divisional Railway Manager. In respect of Gazetted employees, such temporary transfers should be ordered with the approval of the General Manager.

c) In cases where temporary transfer is converted into permanent one, the railway employee may be allowed to retain the railway accommodation at the old duty station for further period as admissible on permanent transfer on payment of rent as prescribed therefore, from the date on which the employee is informed of the permanent transfer. This period will be over and above the period already allowed to the employee on temporary transfer.

The Railway Administrations should review all cases of temporary transfer well before expiry of the period of 4 months of temporary transfer and decide whether the temporary transfer already ordered should continue to be temporary or be converted into a permanent one, to ensure that in the cases where temporary transfers are converted into permanent ones, the total period of retention of Railway quarters on payment of normal rent flat rate of licence fee/rent is normally restricted to a period of 6 months.

Note: If an employee already on temporary transfer to a station is again transferred to yet another station either on temporary or on permanent basis, the permissible period of retention of railway quarters as applicable in the case of temporary or permanent transfer will count from the date of transfer of the employee from the station concerned, for the purpose of retention of quarter at the original station. In the case of permanent transfer of an employee to another station from the station where she/he was on temporary transfer, the limit of six months as in para 7(a) above, for retention of quarters at the original station on normal rent flat rate of licence fee/rent will not apply.

To,
The Medical Director,
Central Hospital
N.F. Railway, Maligaon.

DL.27/01/2003

Through: Proper channel

Ref: GM(P)MLG's office order No. E/90/C/1 (med) Sister Instructor
dt.2/5/11/2001.

Sir,

In reference to your office order No. and dated mentioned above I have been selected for promotion and ordered to temporarily appointed to officiate as Sister Instructor in scale Rs.5,500 – 9,000/- and was transferred and posted under MD/CH/MLG. Accordingly, I have been reported to this office for further duties on 07/12/2001 and from the date of operation I have completed one year.

This is for your information and necessary action please.

Thanking you,

Dated Maligaon
27/01/2003

Yours faithfully

Alpana Mazumder

(Ms Alpana Mazumder)
Sister Instructor
Central Hospital N.F. Rly.,

Maligaon,

Am-capt.
Sister
Scal/01/03

Adm'd
Adm'd
or 18/12/03

Ref. No.

Date 20.5.2003

To,

Copy to :-

Chief Medical Superintendent, 1) Chief Medical Director,
Divisional Railway Hospital, 2) Medical Director,
Lumding - 782447, Central Hospital, Maligaon.
Nagaon, Assam.

3) D R M.,
N.F.Rly, Lumding,
Nagaon, Assam.

R/Sir,

Under instructions from and on behalf of my client Alpana Mazumdar, Sister - Instructor, Central Hospital Maligaon, Assam I do hereby give you this notice for the reasons appearing below :

- 1) That my client was working as a Nursing Sister at Divisional Railway Hospital Lumding & being selected, in interview, my client was asked to join in the post of Nursing Instructor at Central Hospital Maligaon and accordingly on - 7.12.2001 she joined in the post of Nursing Instructor. Then by an office order vide No. H/283/1/Med/Pt. v (CH) dtd. Maligaon 28.12.2001 my client was informed that she was appointed VERY TEMPORARILY TO OFFICIATE FOR ONE YEAR ONLY.
- 2) That during her tenure at Lumding my client was allotted a Railway Quarter at Lumding & after joining at Central Hospital she has not vacated it with an anticipation that after completion of her term of officiating for a year she shall be sent back to her original place of job at Lumding.
- 3) That even after one year of joining & operation at Maligaon my client was not sent back in her original post, Nor -over she is not getting any benefit for joining as a Nursing Instructor and no quarter was also allotted to her at Maligaon.

Contd... 2 ...

*Appealed
Appealed
Appealed
On 18/5/03*

Ref. No.

Date 20.5.2003)

- 2 -

4) That under the circumstances on 27.01.2003 my client by written application informed the Medical Director, Central Hospital N.E.Rly, Maligaon about her completion of term which was received by the Authority on 30.01.03. But did not issued any direction further.

That in the mean while my client was issued with a notice No. H/261/1/LM 2, Lumding 25.2.02 & subsequent thereto, to vacate the quarter allotted to her within 7 days otherwise damage rent be recovered for her.

5) That thereafter on 23.01.2003 my client preferred an appeal before Medical Superintendent, Divisional Railway Hospital, Lumding through Medical Director, Central Hospital Maligaon stating the state of affairs & for fixing up her status & position in present assignment and she also prayed during the pendency of the Appeal she may be allowed to retain retain the quarter at her original place of job. But till the appeal preferred by my client has not been disposed of in proper perspective & way.

6) That it is my instruction that during pendency of the said appeal you are trying utmost for her removal from the quarter even threatening to impose penal damage rent.

7) That from office order No. E/60/4(Med) Pt II dt. 28.4.03 my client came to know that her original post has not clubbed with other post of Nursing cadre of Maligaon unit & identity of the posts are maintained separately as ex cadre and her lien etc. are to be maintained by the respective division for their further advancement etc.

8) That it is my instruction that prayer of my client in view of circular No. E/906/1(Med) sister Instructor, Maligaon, dtd. 26.6.2001 & Board's circular No. E(G) 98 OR 1 -10 of 15.9.98 has been disposed in negative without hearing my client.

Contd... 3 ...

Ref. No.

Date 20.5.2003

- 3 -

9. That I understand that there is no fault with my client rather for administrative lacunae & non-proper & clear guideline my client is being thrown hither & thither.

That I understand that my client is entitled legally to retain the quarter in Lumding from where she was ^{was} very temporarily, for a year was taken to officiate as Nurse Instructor and the officiating expires on 6.12.2002.

Under the above premises to avoid future litigation I have been duly instructed by my client to request you to fix up the present status of my client relating to her assignment, employment, posting and benefit attached with the post immediately and during pendency of her appeal/prayer of my client she may be permitted to retain the quarter at Lumding ~~to withdraw the notice~~ also to stop the processes, if any, for deducting & recovering penal and damage rent & also to withdraw the Notice No. H/261/1/LM 2 Lumding 25.2.02.

My clients reserves the right to issue
80 C.P.C. notice.

ADVOCATE.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

23 NOV 2004

४०१ ग्रामीण राज्य नगर
Guwahati Bench

64
Mr. G. M. D.
Medical Director
CEN
N. S. B. M. A. B.
23 NOV 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

IN THE MATTER OF :

O. A. No. 289 of 2003

Alpana Mazunder ... Applicant

- VS. -

1. Union of India.
2. The Medical Director,
Central Medical Hospital,
Maligaon, Guwahati-11.
3. The Chief Medical Superintendent,
N.F. Railway, Lunding, Assam.
4. Divisional Railway Manager(P),
N.F. Railway, Lunding, Assam.

... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of
the respondents.

The answering respondents most respectfully beg to
Sheweth as under :

1. That, the answering respondents have gone through
the copy of the application filed by the applicant and have
understood the contents thereof.
2. That, the application suffers for want of valid cause
of action. The recovery of damage rent etc. for her keeping/
retaining the Railway quarter at Old Station at Lunding beyond
the authorised period consequent on her regular transfer of
service at Maligaon under Central Hospital, Maligaon is to be

Mr. G. M.
Medical Director,
CENTRAL Railway,
N. S. Rd., Bangalore

-: 2 :-

as per rules provided for the subject. The applicant did not obtain the required permission of the competent authorities for retention of the Railway quarters at Old Station (Lunding) beyond the period permitted to her for such retention (from 7.12.01 to 6.2.02) and recovery of damage rent etc. is due to be made from her under normal rules, and such recovery cannot give rise to any valid cause for filing the instant application before the Hon'ble Tribunal. The recovery of damage rent etc. is as per rules, which is also clear from Chief Medical Superintendent/Lunding, N.F. Railway's letter dated 7.1.03 (copy annexed as Annexure-15 to application).

3. That, the applicant has got no right for filing the case before the Hon'ble Tribunal as she has got no permission or authority for retention of the Railway quarters beyond the permissible period, and no sanction/written permission was also accorded to her for such retention, and no rules/law permits her to retain quarter at Lunding beyond permissible period.

Further, the extant rules also which is in force since past and mentioned at paragraphs 1701, Chapter XVII of Indian Railway Establishment Manual 1968 Edition, published by Railway Board, Govt. of India, and Paragraph 1901 of Chapter XIX of Indian Railway's Code for Engineering Department 1989 Edition published by Ministry of Railways, Government of India clearly provides as under :

" While residential quarters for Railway servants may be provided by Railways where conditions are such that private enterprise does not adequately meet the demand for housing the Railway servants or where it is necessary for special reasons to provide quarters for certain Railway servants near to their work, no Railway servant has any right to be provided with quarters."

-: 3 :-

Again, under extant rules, a Railway servant on transfer from one Station to another which necessitates change of residence, may be permitted to retain the Railway accommodation at the former Station of posting for period of two (2) months on payment of normal rent or single flat rate of licence fee. On request by the employee, on educational or sickness account, the period of retention of Railway accommodation may be extended for a further period of six (6) months on payment of special license fee, i.e. double the flat rate of license fee/rent. Further, extension beyond the aforesaid period may be granted on educational ground only to cover the academic session in which he/she was transferred on payment of special license fee and beyond the permitted/permmissible limits, however, no further extension will be allowed on any ground whatsoever and no request or representation on this score is entertainable.

In this connection, a copy of the Railway Board's letter No.E(G) 2000 QRI-23 dated 1.6.2001 circulated under GM(P)/N.F.RLY/Maligaon's letter dated 18.6.01 is annexed hereto as Annexure-B for ready perusal.

4. That, the application is not maintainable in the present form and is fit one to be dismissed in limine.

5. That, for the sake of brevity, the meticulous denial of each and every statements/allegations of the applicant has been avoided, without admitting the correctness of those statements which are not specifically admitted hereunder.

Further, the respondents do not admit any of the allegations/statements of the applicant except those which are either borne on records or are specifically admitted hereunder and the applicant is put to strictest proof of those statements which are either not borne on records or are not specifically admitted by the respondents.

6. That, the case is quite vexatious one without any substance and is the outcome of the after-thought of the applicant.

67
Mr. Girish
Motera
CEN
S. B. Maligon

-: 4 :-

7. That, the application is time barred. The application is hit under Section 21 of the Central Administrative Tribunal Act, 1985. From the annexures 9 and 10 to the application (letters dated 25.2.02 and 25.3.02) of the Railway Administration it is evident that she was already informed/intimated that damage rent would be recovered. The applicant has filed the case after 6 months also after her representation dated 17.4.02.

8. That, with regard to averments made to the application in paragraphs 4.1 to 4.13 of the application it is submitted that except those which are borne on records or are specifically admitted here-under, no other allegations/averments of the applicant are admitted, and, the applicant is put to strictest proof of all these statements of her which are not admitted here-under.

It is denied that the impugned order for recovery of damage rent etc. for retention of the Railway quarter at Lundia beyond the permitted period is illegal and arbitrary or the applicant was entitled to retain the Railway quarter at Lundia for atleast 2 years or that the Railway Board's Circular dated 15.9.98 as contended by her is applicable in her case. The applicant was promoted as Nursing Sister on 28.7.1993 in scale Rs.5500 - 9000/- and not on 23.7.1993 as claimed by her at paragraph 4.2 of the application. It is also to mention here-in that she is still to acquire the requisite qualification prescribed for the post held by her for which she has been time and again asked to undergo necessary training to acquire Degree/Diploma (the latest instruction being on 7.4.04), which she is still to comply. The requisite qualification for the post held by her was already indicated in the Notice dated 26.6.01 copy of which has been annexed as Annexure-I to the application.

✓
Medical Director
CENTRAL HOSP.
N. F. Rly. Institutions

-: 5 :-

9. That with regard to averments at paragraph 4.10 to 4.13 of the application it is to submit herein that the applicant after being selected for promotion to the post of Sister Instructor in Scale Rs.5500 - 9000/- was posted in the School of Nursing under Central Hospital, Maligaon as Sister Instructor against the post of Sister Instructor in the School of Nursing. The post of Sister Instructor was not the post of that Hospital and it was inadvertently/wrongly mentioned in the Office Order dated 28.12.01 as posting at Central Hospital against the post of Nursing Instructor of that Hospital.

It is a fact that the applicant was a staff of School of Nursing under the Central Hospital which is not treated as a training Centre of employee. Moreover, the School of Nursing under Central Hospital, Maligaon is not included in the list of training Centre in Indian Railways as will reveal from the Railway Board's letter No.E(MPP) 2001/3/9 dated 10.3.03, a copy of which is annexed hereto for ready perusal as Annexure- 'A' hereto.

Since the establishment under which she was posted at Maligaon was not a Training Institute and it is an educational institution only, the applicant was not entitled to retain her quarter at her previous place of posting at Lunday in terms of Railway Board's Circular No. E(C) 98 O R 1-10 dated 15.9.98.

Further, in the transfer order No. 0/2-D/Pt.III(Med), Lunday dated 3.12.01 a copy of which has been annexed as Annexure 4 to the application and in the notification dated 26.6.2001 issued calling for application from the candidates to fill up the posts (Copy annexed as Annexure-1 to the application), there were no mention about temporary transfer etc. Rather it was a regular transfer but posted temporarily against the post of Nursing Instructor as will reveal from Office Order

69
Medical Director
CEN
K.L. MUNJAMON
1977

-: 6 :-

dated 28.12.01, ~~Copy enclosed~~ as Annexure-6 to application. As such, it was not necessary to ask her to join in original post. In General Manager(P)/Maligaon's Circular No.E/90/6/ 1(Md) Sister Instructor dated 16.8.01 ^(Annexure 1 to Application) it was never mentioned that the post of Nursing Instructor to be filled up was a post of temporary nature.

It is also to state herein that, the applicant was also quite aware that for retention of the Railway quarter at Old Station, Lumding, the proper sanction of the competent authority is required and as such she herself submitted application for retention of the quarter at Lumding for 2 months from 7.12.2001 to 6.2.2002 and same was accorded. It is also evident from Annexure-15 to the application (letter of Chief Medical Supdt/Lumding dated 7.1.2003) that she was also asked to submit sick or educational certificate if she wanted to extend the permission for retention of the quarter at Lumding upto 6.8.2002 and that after 6.8.2002 damage rent will be charged. But she never submitted the required documents. She continued with the occupation of the quarter at Lumding without prior permission/sanction for retention of the quarter. She was also given the notice on 25.2.02 (Annexure-9 to the application) to vacate the quarter at Lumding with intimation that necessary action for recovery of damage rent etc. action as per rules would be taken against her.

It is also to submit herein that the annexures-9 and 10 of the application (letter dated 25.2.02 and 23.3.02) clearly shows that due notice for vacating the quarter and recovery of damage rent were given to her.

Contd.....7

✓ *Uma Bala*
Medical Director
CENTRAL HOSPITAL
N.B.P.

-: 7 :-

As such giving her further notice for recovery of damage rent and or for submission of certificates required for extension of permission period further, does not arise, and for her present plight she is to blame herself.

9.(a) That with regard to averments at paragraphs 4.14 and 4.15 of the application it is to state that, the School of Nursing under Central Hospital, Maligaon is not included in the list of training centre in Indian Railways circulated vide Railway Board's letter No.E(MPP)2001/3/9 dated 10.7.03 and as such it does not come under the purview of the list of training institutions in Indian Railways and it cannot be treated as a training centre of employees in N.F. Railway, and hence the applicant cannot be treated as a faculty member of a training institute and her case cannot come under the purview of training institutions in Indian Railways and thus she was not entitled to retain her Railway quarter at Lundia for 2 years as claimed by her. As can be seen from Railway Administration's letters No.H/231/1/LM/2 dated 25.2.02 and 28.3.02 copies of which have been annexed as Annexures- 10 and 11 respectively to the application, the applicant was clearly informed about recovery of damage rent as per extent rule and also that necessary action will be taken without further intimation.

Copy of the Railway Board's letter No.E(MPP)2001/3/9 dated 10.7.03 is annexed hereto as Annexure-A for ready perusal.

9.(b) There was no question of stoppage of recovery of damage rent. As such action had to be taken by the Railway Administration in terms of the extent rules on the subject for her retention of the Railway quarter at Old Station of

Medical Director,
CENTRAL HOSPITAL
N. F. R. Y., Maligno.

- 3 :-

posting in Lunding unauthorisedly without permission and also against the provisions in extant rules on the subject inspite of issue of several letters to her for vacating that quarter. The question raised by her about issuing legal notice also has got no relevance in the case when she was previously informed in clear language about recovery of damage rent as per rules, and that no further intimation etc. would be given to her on the issue and rule does not permit her to retain the quarter at Lunding beyond authorised/ permissible period. Further she cannot be treated as a faculty member.

10. That, with regard to events of the applicant at paragraph 4.16 and 4.17 it is submitted that the contentions of the applicant in these paragraphs are not correct and hence not admitted. Estoppel, as contended by the applicant, cannot ^{be} applied against the Government if it jeopardises the constitutional process of the Government. In the instant ~~case~~, recovery of rent for the period from 7.2.2002 to 31.7.2003 does not give her any right to claim that only normal rent should be recovered from her. It is hereby submitted that she was already advised to vacate the Railway quarter at Lundia after the permissible period was over and further informed specifically that for her occupation of the Railway quarter at Lundia beyond the permissible period, she would be liable to pay damage rent etc. as per extant rules and procedures.

It is also denied that the application has been made bona fide and for the ends of Justice as contended by the applicant.

Mr. B. M. Rao
Medical Director
CENTRAL HOSPITAL
N.R. BLD. Mysore

-: 9 :-

11. That, in view of what have been submitted in the above paragraphs of this Written Statement, none of the ground for relief as mentioned at paragraph 5 of the application and relief as sought for under paragraphs 8 and 9 of the application, are sustainable under law and fact of the case and thus the prayers of the applicant are liable to be rejected.

It is also reiterated that :

- (a) the applicant has got no right and valid grounds for retention of the quarter at Lunding (the previous place of her posting) under her occupation without any further permission.
- (b) that, the School of Nursing under Central Hospital is not included in the list of training centre in Indian Railways as circulated vide Railway Board's letter dated 10.7.03 and as such ^{she is} ~~not~~ entitled to keep Railway quarter at Lunding for 2 years.
- (c) the timely intimation to her to vacate the quarter at Lunding, or else, damage rent will be recovered, is a sufficient notice to her prior to effecting recovery of damage rent and sufficient compliance of the requirements of the natural Justice aspect and the law/ rules on the subject does not lay down or prescribe for issuing any notice of other mode.

*Mr. [Signature]
Medical Director
CENTRAL HOSPITAL
N. F. Rly. [Signature]*

-: 10 :-

(d) that, the recovery of damage rent is made in conformity of the extant rules etc. on the subject for retention of the Railway quarter beyond the permissible period and there has been no arbitrary action in enforcing such recovery.

(e) Railway quarters are allotted at a particular place/station as per Station seniority of the applicants for the quarter and the moment her seniority etc. permitted at Maligaon, for allotment of Railway accommodation/quarter at Maligaon. She was allotted a Railway quarter at Maligaon.

(f) the retention of quarter at Lundia by her beyond the permissible period is an illegal act on her part.

12. That, it is submitted that all the actions taken in the case by the respondents are quite legal, valid and proper and in consonance to the provisions of extant rules on the subject and have been taken after due application of mind and that the present case is based on wrong premises and suffers from misconception and mis-interpretations of rules and law on the subject besides being a surmise only and is the result of her after-thought action in order to frustrate the Government action or delay in effecting the recovery of the damage rent.

13. That, necessary enquiries are still under process to ascertain further information etc., if there be any, and the answering respondents crave leave of the Hon'ble Tribunal to file additional Written Statement, if found necessary for ends of Justice.

6/19/2005
Medical Director
CENTRAL HOSPITAL
N. F. Rly. Maligon

-: 11 :-

14. That, under the facts and circumstances of the case, as stated in the foregoing paragraphs of the Written Statement, the instant application is not maintainable under law and fact of the case and is liable to be dismissed.

VERIFICATION

I, Dr. K. K. Senlaskar son of S. Kamalayya Senlaskar, aged about 57 years, by occupation Railway Service, working as Medical Director, Central Hosp of N.F. Railway Administration at Maligon do hereby solemnly affirm and state that the statements made in paragraphs 1 and 5 are true to my knowledge and those made in paragraphs 2, 8, 9 and 9(a) are based on information as gathered from records of the case which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal and I sign this verification on 6/15 of September, 2004.

6/19/2005
NORTHEAST FRONTIER RAILWAY
FOR AND ON BEHALF OF
UNION OF INDIA.

Mr
Medical Director,
CENTRAL HOSPITAL
N. F. Rly. Maligon.

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

RBE No. 121 /2003

Training Manual

Correction Slip No. 2 /2003

New Delhi, dated 10.7.2003

No. E(MPP)2001/3/9

The General Manager
All Indian Railways/PUs
Metro Railway/Kolkata
Railway Electrification/Allahabad
RDSO/Lucknow
CAO/COFMOW/New Delhi.

Sub:- List of Training Centres on Indian Railways

In continuation of Board's letter of even number dated 28.10.2002,
Ministry of Railways have decided to include the following training centres
under Main Training Centres and Other Training Centres as shown below:-

Main Training Centres

Welding Training Centre/Diesel Locomotive Works
Welding Training Centre/Integral Coach Factory
Welding Training Centre/Rail Coach Factory

Other Training Centres

Central Railway

Area Training Centre/Bhopal
Basic Training Centre(ELW)/Bhusawal
Basic Training Centre(Diesel)/Pune
Basic Training Centre(ELS)/Bhusawal
Basic Training Centre(ELS)/Kalyan
Basic Training Centre/Kurla Car Shed/Mumbai
Diesel Training Centre/Itarsi
Divisional Training Centre/Bhusawal
Divisional Training Centre/Bhopal
Divisional Training Centre/Daund
Divisional Training Centre/Jhansi
Divisional Training Centre/Karnak Bunder/Mumbai
Simulator Training Centre/Bhusawal
Divisional Training Centre/Nagpur

14/7/03

21

10/10/03

Northern Railway
Bridge Staff Training Centre/Tuglakabad
Basic Training Centre /Charbagh/Lucknow

Northeast Frontier Railway

Divisional Training Centre (Engineering)/Tinsukia
Divisional Training Centre (Engineering)/Kathiawar
Divisional Training Centre (Engineering)/Alipurduar Jn.
Divisional Training Centre (Engineering)/Lumding

Southern Railway

Permanent Way Training Centre/Bangalore
Permanent Way Training Centre/Mdurai
Permanent Way Training Centre/Tambaran
Permanent Way Training Centre/Quilon

North Central Railway
BTC(Wagon W/S)/JHS

North Western Railway

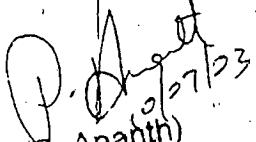
Divisional Engineering Training Centre/Ajmer
Divisional Engineering Training Centre/Baridkui

RPSF Trg. centre/Gorakhpur

A revised list of training centres is attached as Annexure - A and this
supersedes all other lists issued earlier.

The Ministry of Railways have decided to modify the "Manual on
Management of Training", (Edition, 1993) as per the Correction Slip No. 2/2003
enclosed.

DA: Correction Slip No. 2/2003
of Manual on Management of Training


P. Ananth
(P. Ananth)
Director (Manpower Planning)
Railway Board

NO.E(MPP)2001/3/9

New Delhi, Dated, 10.7.2003

XX Annex 3
193/1

1. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi for information with 35 spares.
2. The General Secretary, AIRF, 4 State Entry Road, New Delhi for information with 35 spares.
3. The Secretary General, FROA, R.No.256 A, Rail Bhawan, New Delhi for information with 5 spares.
4. The Secretary General, IRPOF, R.No.268, Rail Bhawan, New Delhi for information with 5 spares.
5. All Members, Departmental Council and National Council and Secretary Staff Side National Council, 13-C, Ferozeshah Road, New Delhi (90 spares)
6. The Secretary General, All Indian RPF Association, Room No.256, Rail Bhawan, New Delhi-110 001 for information with 5 spares.

For Secretary/Railway Board.

Copy to:-

CRB, FC, ML, ME, MM, MS, MT, DG(RHS), DG(RPF), AM(Budget), AM(CE), AM(C&IS), AM(Comm.), AM(Elect.), AM(Fin.), AM(Mech.), AM(Plg.), AM(Project), AM(PU), AM(Sig.), AM(Staff), AM(Rly Stores), AM(T&C), EDEE(G), AM(Tfc), AM(Works), Adv(Vig), Adv. Fin(Exp), Adv.(IR), LA, EDF(B), ED(B)(R), ED(Trg.&MP), ED(Trg.&MP), EDME(TOT), EDME(Dev), EDME(V), EDCE(B&S), EDCE(G), EDCE(Plg.), ED(Projects), ED(Projects)/DMRC, ED(Re), FDEE(Dev.), EDEE(G), ED(Safety), JS, JS(C), JS(E), JS(G), JS(P), IG/RPF(Hrd), C, EDF(S), ED(Stat&Eco), EDRS(C), EDRS(G), EDRS(P), EDRS(S), EDRS(V), GC, EDT(M), EDT(MC), EDT(P), ED(T&C), ED(CP), ED(PM), ED(PG), EDTC(R), EDTC(FM), EDTT(F), EDTT(FM), EDTT(M), EDTT(S), EDV(A), EDV(E), EDV(T), ED(V), E(Trg.), E(NG), E(NG)II, E(G)

MANUAL ON MANAGEMENT OF TRAINING (JUNE 1998)

ADVANCE CORRECTION SLIP NO. 02/2003

Appendix-I of the Manual on Management of Training (Edition – 1998)
may be replaced with the attached list.

(Authority: - Board's letter No.E(MPP)2001/3/9 dated 10.7.2003)

-2-

41. Civil Engineering Training Centre/Kanpur/NR
42. Civil Engineering Training Centre/Allahabad/NR
43. Civil Engineering Training Centre/Tambaram/SR
44. Civil Engineering Training Centre/Kacheguda/SCR
45. Civil Engineering Training Centre/Guntakal/SCR
46. Technical Training Centre/Chittaranjan Locomotive Works/Chittaranjan
47. Technical Training Centre/Diesel Component Works/Patiala
48. Technical Training Centre/Diesel Locomotive Works/Varanasi
49. Technical Training Centre/Integral Coach Factory/Perambur
50. Technical Training Centre/Rail Coach Factory/Kapurthala
51. Technical Training Centre/Rail Wheel Factory/Bangalore
52. Technical Training Centre/Bhopal/CR
53. Welding Training Centre/Diesel Locomotive Works/ Varanasi
54. Welding Training Centre/Integral Coach Factory/ Perambur
55. Welding Training Centre/Rail Coach Factory/ Kapurthala
56. Jagjivan Ram RPF Training Centre/Lucknow/NR

OTHER TRAINING CENTRES

1. Area Training Centre/Bhopal/CR
2. Area Training Centre/Kalyan/CR
3. Area Training Centre/Jhansi/CR
4. Area Training Centre/Damoh/CR
5. Area Training Centre/Bhusawal/CR
6. Area Training Centre/Ajni/CR
7. Area Training Centre/Kacheguda/SCR
8. Area Training Centre/Lower Parel/WR
9. Area Training Centre/Bandra/WR
10. Area Training Centre/Ajmer/WR
11. Area Training Centre/Bandikui/WR
12. Area Training Centre/Junagadh/WR
13. Area Training Centre/Kota/WR
14. Area Training Centre/Vadodara/WR
15. Area Training Centre/Mhow/WR
16. Area Training Centre/Valsad/WR
17. Basic Training Centre(C&W)/Ajni/CR
18. Basic Training Centre(C&W)/Matunga/CR
19. Basic Training Centre(C&W)/Mumbai/CR
20. Basic Training Centre(C&W)/Bhusawal/CR
21. Basic Training Centre(Elect.)/Matunga/CR
22. Basic Training Centre(Loco)/Bhusawal/CR
23. Basic Training Centre(Loco)/Jharisri/CR
24. Basic Training Centre(C&W)/Jhansi/CR
25. Basic Training Centre(Loco)/Parel/CR

ANNEXURE-A

NAMES OF MAIN TRAINING CENTRES AND OTHER TRAINING CENTRES

MAIN TRAINING CENTRES

1. Zonal Training Centre/Bhusawal/CR
2. Zonal Training Centre/Bhuli/ER
3. Zonal Training Centre/Chandausi/NR
4. Zonal Training Centre/Muzaffarpur/NER
5. Zonal Training Centre/Alipurduar JN /NFR
6. Zonal Training Centre/Trichy/SR
7. Zonal Training Centre/Maula Ali/SCR
8. Zonal Training Centre/Sini/SER
9. Zonal Training Centre/Udaipur/WR

10. Supervisors' Training Centre/Jhansi/CR
11. Supervisors' Training Centre/Kancharapara/ER
12. Supervisors' Training Centre/Lucknow/NR
13. Supervisors' Training Centre/Gorakhpur/NER
14. Supervisors' Training Centre/New Bongaigaon/NFR
15. Supervisors' Training Centre/Bangalore/SR
16. Supervisors' Training Centre/Secunderabad/SCR
17. Supervisors' Training Centre/Kharagpur/SER
18. Supervisors' Training Centre/Ajmer/WR

19. S&T Training Centre/Byculla/CR
20. S&T Training Centre/Liluah/ER
21. S&T Training Centre/Malda/ER
22. S&T Training Centre/Ghaziabad/NR
23. S&T Training Centre/Gorakhpur/NER
24. S&T Training Centre/Pandu/NFR
25. S&T Training Centre/Poondi/WR
26. S&T Training Centre/Maula Ali/SCR
27. S&T Training Centre/Kharagpur/SER
28. S&T Training Centre/Sabarmati/WR

29. Electrical Training Centre/Thakurli/CR
30. Electrical Training Centre/Asansol/ER
31. Electrical Training Centre/Kanpur/NR
32. Electrical Training Centre/Ghaziabad/NR
33. Electrical Training Centre/Gorakhpur/NER
34. Electrical Training Centre/Avadi/SR
35. Electrical Training Centre/Vijayawada/SCR
36. Electrical Training Centre/Lallaguda/SCR
37. Electrical Training Centre/Tatanagar/SER
38. Electrical Training Centre/Rourkela/SER
39. Electrical Training Centre/Vadodara/WR
40. Electrical Training Centre/Mahalaxmi/WR

-3-

- 26. Basic Training Centre(Loco)/Jabalpur/CR
- 27. Basic Training Centre(Diesel)/Kurla/CR
- 28. Basic Training Centre/Manmad/CR
- 29. Basic Training Centre/Nasik/CR
- 30. Basic Training Centre/New Katni/CR
- 31. Basic Training Centre(TRS)/Itarsi/CR
- 32. Basic Training Centre (C&W)/Itarsi/CR
- 33. Basic Training Centre (Engg.)/Jabalpur/CR
- 34. Basic Training Centre (Traction Distribution)/Ajni/CR
- 35. Basic Training Centre (at Electric Loco Shed) Ajni/CR
- 36. Basic Training Centre(ELW)/Bhusawal/CR
- 37. Basic Training Centre((ELS)/ Bhusawal/CR
- 38. Basic Training Centre(Diesel)/ Pune/CR
- 39. Basic Training Centre(ELS)/Kalyan/CR
- 40. Basic Training Centre/(Car Shed)/Kurla/Mumbai/CR
- 41. Basic Training Centre/(Wagon Worksop)/Jhansi/CR
- 42. Basic Training Centre/Jamalpur/ER
- 43. Basic Training Centre/Jodhpur/NR
- 44. Basic Training Centre/Bikaner/NR
- 45. Basic Training Centre(C&W)/Alambagh/Lucknow/NR
- 46. Basic Training Centre(C&W)/Amritsar/NR
- 47. Basic Training Centre//Jagadhari/NR
- 48. Basic Training Centre/Charbagh/Lucknow/NR
- 49. Basic Training Centre/Gorakhpur/NER
- 50. Basic Training Centre/Izatnagar/NER
- 51. Basic Training Centre/Erode/SR
- 52. Basic Training Centre/Perambur/SR
- 53. Basic Training Centre/Guntapalli/SCR
- 54. Basic Training Centre/Hubli/SCR
- 55. Basic Training Centre/Lallaguda/SCR
- 56. Basic Training Centre/Vijayawada/SCR
- 57. Basic Training Centre(C&W)/Ajmer/WR
- 58. Basic Training Centre(C&W)/Lower Parel/Mumbai/WR
- 59. Basic Training Centre/Dahod/WR
- 60. Basic Training Centre/Kota/WR
- 61. Basic Training Centre(Loco)/Ajmer/WR

- 62. C&W Training Centre/Tikiapara/ER
- 63. C&W Training Centre/Dhanbad/ER
- 64. C&W Training Centre/Ambala/NR
- 65. C&W Training Centre/Ghaziabad/NR
- 66. C&W Training Centre/ Allahabad/NR
- 67. C&W Training Centre/Amritsar/NR
- 68. C&W Training Centre/Kanpur/NR
- 69. C&W Training Centre/Rewari/NR
- 70. C&W Training Centre/Jagadhari/NR
- 71. C&W Training Centre/Lucknow/NR
- 72. C&W Training Centre/Miraj/SCR
- 73. C&W Training Centre/Dharwar/SCR

74. Permanent Way Training Centre/Jhansi/CR
75. Permanent Way Training Centre/Dhanbad/ER
76. Permanent Way Training Centre/Mugalsarai/ER
77. Permanent Way Training Centre/Sadulpur/NR
78. Permanent Way Training Centre/Shamli/NR
79. Permanent Way Training Centre/Allahabad/NR
80. Permanent Way Training Centre/Haridwar/NR
81. Permanent Way Training Centre/Jagadhari/NR
82. Permanent Way Training Centre/Jalandhar/NR
83. Permanent Way Training Centre/Jodhpur/NR
84. Permanent Way Training Centre/Lucknow/NR
85. Bridge Staff Training Centre/Tuglakabad/NR
86. Permanent Way Training Centre/Palghat/SR
87. Permanent Way Training Centre/Villupuram/SR
88. Permanent Way Training Centre/Bangalore/SR
89. Permanent Way Training Centre/Madurai/SR
90. Permanent Way Training Centre/Tambaram/SR
91. Permanent Way Training Centre/Quilon/SR

92. Transportation Training Centre/Ferozpur/NR
93. Transportation Training Centre/Jodhpur/NR
94. Transportation Training Centre/Khari-Amrapur/NR
95. Transportation Training Centre/Kurushetra/NR
96. Transportation Training Centre/Lucknow/NR
97. Transportation Training Centre/Shajahanpur/NR
98. Transportation Training Centre/Subedarganj/Allahabad/NR
99. Transportation Training Centre/Erode/SR
100. Transportation Training Centre/Villupuram/SR
101. Transportation Training Centre/Shoranur/SR
102. Transportation Training Centre/Adra/SER

103. Divisional Training Centre/Bhusawal/CR
104. Divisional Training Centre/Bhopal/CR
105. Divisional Training Centre/Daund/CR
106. Divisional Training Centre/Jhansi/CR
107. Divisional Training Centre/Karnak Bunder/Mumbai/CR
108. Divisional Training Centre/Nagpur/CR

109. Divisional Training Centre(Engineering)/Tinsukia/NFR
110. Divisional Training Centre(Engineering/TFC)/Katihar/NFR
111. Divisional Training Centre(Engineering)/Alipurduar In /NFR
112. Divisional Training Centre(Engineering)/Lumding/NFR
113. Divisional Training Centre(Engineering)/Ajmer/WR
114. Divisional Training Centre(Engineering)/Bandikui/WR

115. Diesel Drivers' Training Centre/Jamalpur/ER
116. Divisional Training Centre/Moradabad/NR
117. Drivers/Assistant Drivers-Training Centre/Ajni/CR

18. Diesel Traction Training Centre/New Katni/CR
19. Diesel Training Centre/Itarsi/CR
20. Diesel Traction Training Centre/Patratu/ER
21. Diesel Traction Training Centre/Mughalsarai/NR
22. Diesel Traction Training Centre/Alambagh/Lucknow/NR
23. Diesel Traction Training Centre/Bhagat-ki-Koti/Jodhpur/NR
24. Diesel Traction Training Centre/Ludhiana/NR
25. Diesel Traction Training Centre/Shakur Basti/Delhi/NR
26. Diesel Traction Training Centre/Tuglakabad/Delhi/NR
27. Diesel Traction Training Centre/Gonda/NER
28. Diesel Traction Training Centre/Malda/NFR
29. Diesel Traction Training Centre/Guwahati/NFR
30. Diesel Traction Training Centre/Siliguri/NFR
31. Diesel Traction Training Centre/Ponmalai/SR
32. Diesel Traction Training Centre/Kazipet/SCR
33. Diesel Traction Training Centre/Guntakal/SCR
34. Diesel Traction Training Centre/Rajmundry/SCR
35. Diesel Traction Training Centre(NG)/Nagpur/SER
36. Diesel Traction Training Centre/Ratlam/WR
37. Diesel Traction Training Centre/Abu Road/WR
38. Diesel Traction Training Centre/Sabarmati/Ahmedabad/WR
39. Diesel Traction Training Centre/Mahalaxmi/WR
40. Diesel Traction Training Centre/Bandra/WR
41. Motorman Training Centre/Kalyan/CR
42. Motorman Training Centre/Kurla/CR
43. Electrical Training Centre/Perambur/SR
44. Traction Training Centre/Tambaram/SR
45. TRD Training Centre/Chakradharpur/SER
46. Electrical Training Centre/Bilaspur/SER
47. RPF Training Centre/Kurdiwadi/CR
48. RPF Training Centre/Dhanbad/ER
49. RPF Training Centre/Gorakhpur/NER
50. RPF Training Centre/Digboi/NFR (Should be Dibrugarh instead of Digboi)
51. RPF Training Centre/Trichy/SR
52. RPF Training Centre/Maula Ali/SCR
53. RPF Training Centre/Midnapore/SER
54. RPF Training Centre/Valsad/WR
55. RPSF Training Centre/Gorakhpur
56. Personnel Training Centre/Jodhpur/NR
57. Thermit Welding Training Centre/Lucknow/NR
58. Technical Training Centre/Metro Rail/Kolkata
59. NDT Training Centre/RDSO/Lucknow
60. Simulator Training Centre/Bhusawal/CR

N. E. RAILWAY.

Office of the
GENERAL MANAGER(P)
Gauhati.

REGD. NO. 1639

Dated, 18-06-2001.

To

GS/Utilisation, GM(CO)/Utilisation, AGM/MIG,
DSGR/G/MIG, All PHODs, All DRMs, All ADMs,
All LDCs, All GRDPOS, Dy. GM/MBGS, DEWS,
MAG/MBGS, DEWS, All Sr. DME/D, All ADMs, APO/ZTE/APDJs,
All Area Managers, All Non-divisionalised Units,
the GS/UTLIS, NARAH, AIHOTREA & NEHOBABA/MIG.

Sub:- Retention of Railway Quarter on transfer,
deputation, retirement etc.

A copy of Rly. Bd's letter No. E(G)2000QR1-23 dated 13.6.2001 (RLE No. 100/2001) on the above mentioned subject
is forwarded for information and necessary action. Board's
written letter No. E(G)2000QR1-23 dated 30.11.2000 as
referred to in their pre-contr. letter was circulated vide
GM(P)/MIG's No. Nine-1628-P/9/0-4(0) Pt. V, dated 16.1.01.

B3.

RAGMWS
15/06/01

(P.G. Johnson)
Asstt. Personnel Officer/R.
for GENERAL MANAGER(P)/MIG.

(Copy of Rly. Bd's Letter No. E(G)2000 QR1-23 dt. 13.6.2001.)

Sub:- Retention of Railway quarter on transfer, deputation,
retirement etc.

The instructions governing retention of Railway accommodation by
Railway employees in the event of their transfer, deputation, retirement etc, as
contained in Ministry of Railways (Railway Board)'s letter of even number
dated 30-11-2000, have been further reviewed by the Railway Board and it has
been decided to revise/modify the said instructions as under:-

1. Permitted Transfer:

(a) A Railway employee on transfer from one station to another which necessitates change of residence, may be permitted to retain the railway accommodation at the former station of posting for a period of two months on payment of normal rent or single flat rate of licence fee. On request by the employee, on educational or sickness account, the period of retention of railway accommodation may be extended for a further period of six months on payment of special licence fee, i.e. double the flat rate of licence fee/ rent. Further extension beyond the aforesaid period may be granted on educational ground only, to cover the academic session in which he/she was transferred on payment of special licence fee.

Beyond the permitted/permmissible limits, however, no further extension will be allowed on any ground whatsoever. Therefore, no request or representation on this score shall be entertained. For all occupations beyond the permitted period, immediate action should be taken to cancel the allotment, declare the occupation as unauthorised and initiate eviction proceedings, charging damage rent for the over-stay.

(b) Where the request made for retention of Railway quarter is on ground of sickness of self or a dependent member of the family of the concerned employee, he will be required to produce the requisite Medical Certificate from the authorized Railway Medical Officer for the purpose.

(c) In the event of transfer during the mid-school/college academic session, the permission to be granted by the competent authority for retaining railway accommodation in terms of item (a) above will be subject to production of the necessary Certificates from the concerned school/college authority.

2. Railway officers/staff proceeding on deputation to newly formed Railway Public Sector Undertakings/Societies.

Railway officers/staff posted on deputation to newly formed Railway Public Sector Undertakings /Societies may be permitted to retain Railway accommodation but this facility can be provided by the Board on merits on request by the PSUs and will be applicable only for a period of five years from the date of incorporation of the PSU/Society. Rent chargeable will be at normal rate (flat rate of licence fee) for a period of two months. On request of the concerned employee, the period of retention of railway accommodation may be extended for an overall period upto five years from the date of incorporation of the PSU/Society, on payment by the PSU/Society to the Railways, an amount equivalent to the house rent allowance admissible to the officer plus the flat rate of licence fee prescribed by the Railways from time to time in respect of the concerned Railway accommodation. The concerned PSU/Society may, however, recover the normal licence fee from the Railway employee.

3. Railway officers/staff proceeding on deputation to other PSUs etc.

Railway officers/staff posted on deputation to other Railway and non-Railway PSUs/Societies already established for more than five years would be permitted to retain the Railway quarters only for a period of two months at normal rent chargeable from the date they have joined Public Sector Unit. After this period, they will be treated as unauthorised occupants and action taken accordingly.

4. Railway officers/staff posted to Central Ministries at Delhi under Central Staffing Scheme.

Railway officers/staff proceeding on deputation to other Central Government Ministries under the Central Staffing Scheme may be allowed retention of Railway houses subject to the following:-

(i) Railway employees must apply for the General Pool accommodation for the level of entitlement plus one level below within fifteen days of his/her joining the new post under Central Staffing Scheme.

(ii) The retention of existing Railway accommodation shall be permitted till the first house is allotted to him/her from the General Pool either of the type he/she is entitled to or of one level below irrespective of its location,

OR

The retention of existing accommodation shall be permitted till the time a person junior in the waiting list for General Pool accommodation gets an accommodation allotted in the normal course;

Whichever is earlier.

(iii) Rent chargeable would be at normal rate for two months and, thereafter, on payment of special licence fee, i.e. at double the normal licence fee.

5.2. Retirement:

5.2.1. Railway employees on retirement, including voluntary retirees and those retired compulsorily, may be permitted to retain non-ear-marked Railway accommodation for a period of 4 months on payment of normal rent/flat rate of rooms fee and the next 4 months on educational or sickness account on payment of special licence fee, i.e., double the normal rent or double the flat rate of rooms fee. This is also applicable to audit staff doing Railway audit work. The cases of retirement on medical invalidation grounds are also to be treated similarly with normal retirement.

5.2.2. Beyond the permitted/permisable period, however, no further retention will be allowed on any ground, whatsoever. Therefore, no request for representation on this score shall be entertained. For all occupations beyond the permitted period, therefore, immediate action should be taken to cancel the allotment, declare the occupation as unauthorised and initiate action proceedings, charging damage rent for the over stay.

6. Non-Engagement Requirements in Committees, Commissions etc.

In cases of engagement of a retired Railway employee in Committee, Commission and Tribunal (even the Tribunal of Railways, like RCT), he/she will be entitled to any Railway accommodation and should vacate the accommodation within a period of two months of having joined such a

Committee/Commission/Tribunal etc. However, in case of re-employment on the Railways, the extant orders will continue to be applicable.

7. Allotment and vacation of earmarked/non-pooled accommodation in the case of transfer, deputation etc.

The instructions applicable to employees of Zonal Railways/Railway Board, prior to Railway Board's circular No. E(G)2000/QR 1-23 dated 30-11-2000, will be followed. On Railways, PUs etc., where rules for such accommodation are not already defined, action should be taken to define the same.

8. Withholding of DCRG etc. in the case of post-retirement retention of quarter

To prevent unauthorised retention of Railway accommodation by the retired Railway employees, Railway Administration should take the following steps to discourage them from such action:-

- (i) No 'Claim' certificate should not be given, unless the employee, after retirement, has vacated the Railway quarter and cleared all his arrears of rent, electricity and other charges, etc.
- (ii) The retirement/death gratuity or special contribution to P.F., as the case may be, should be withheld in full for non-vacation of railway quarter, not only after superannuation but in all cases of cessation of service, namely, voluntary retirement, death etc. Further, the amount withheld should remain with the Administration only in the form of cash without conversion into any type of security, lest the very purpose of withholding full D.C.R.G. should get defeated. It may also please be kept in view that the gratuity should be released, as soon as the quarter is vacated; so that there is neither any hardship to the retired employee or his/her family, nor there is any claim for payment of interest on withheld gratuity for reasons of administrative delay.
- (iii) One set of post-retirement pass should be disallowed for every month of unauthorised retention of Railway quarter by retired employee in terms of provisions of Railway Servants Pass Rules. The concerned retired employee may be allowed the privilege of post-retirement passes, after the period, during which the forfeited passes would have been admissible, is over. A show cause notice to this effect may be issued to the retired employee before disallowing the pass.

(v) The provisions under Sub Rule (3) of Rule-16 of the Railway Services (Pension) Rules, 1993, as reproduced below for ready reference, shall be strictly followed:

"(3) (a) In case where a railway accommodation is not vacated after superannuation of the Railway servant or after cessation of his services such as on voluntary retirement, compulsory retirement, medical invalidation or death, then, the full amount of retirement gratuity, death gratuity or special contribution to provident fund, as the case may be, shall be withheld.

(b) The amount withheld under clause (a) shall remain with the railway administration in the form of cash.

(c) In case the railway accommodation is not vacated even after the permissible period of retention after the superannuation, retirement, cessation of service or death, as the case may be, the railway administration shall have the right to withhold, recover, or adjust from the Death-cum-retirement Gratuity, the normal rent, special licence fee or damage rent, as may be due from the ex-railway employee and return only the balance, if any, on vacating of the Railway accommodation.

(d) Any amount remaining unpaid after the adjustment made under clause (c), may also be recovered without the consent of the pensioner by the concerned Accounts Officers from the dearness relief of the pensioner until full recovery of such dues has been made.

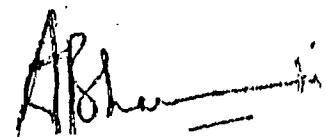
(e) Dispute, if any, regarding recovery of damages or rent from the ex-railway employee shall be subject to adjudication by the concerned Estate Officer appointed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971)."

(i) In respect of Railway servants holding Government accommodation allotted by Directorate of Estates, procedure as specified under Rule-13(1) to Rule-16(7) of Railway Services (Pension) Rules, 1993 would be applicable.

(ii) The policy of allowing PSUs to pay the cost of construction of houses and thereafter retain half of the number of houses equivalent to the 50% cost of construction is discontinued. Railway should encourage the PSUs to build houses on railway land, subject to the condition that 50% of the number of such houses built would be made available to Railway officers and the balance can be allotted to officers working in the PSUs.

9. This letter supersedes Railway Board's letter of even number dated 30-11-2000.

10. This issues with the concurrence of the Finance Directorate of Ministry of Railways (Railway Board) and the approval of Hon'ble Minister for Railways.

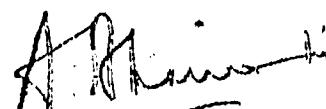

(ASHOK BHANDARI)
DIRECTOR/ESTABLISHMENT(G)

No.E(G)2000 QR1-23

New Delhi, dated 1.6.2001

Copy forwarded to :-

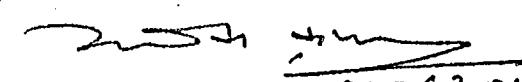
1. FA&CAO, All Indian Railways and Production Units.
2. Joint Director(Finance), RDSO, Lucknow.
3. General Secretary, IRCA, New Delhi.


(ASHOK BHANDARI)
DIRECTOR/ESTABLISHMENT(G)

No.E(G)2000 QR1-23

New Delhi, dated 1.6.2001

Copy to DAI (Railways) - (with 46 spares)


01-06-2001
for FINANCIAL COMMISSIONER/RAILWAYS

90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of:

O.A. No. 289/2003

Smti Alpana Mazumdar

-Vs-

Union of India & Ors.

-AND-

In the matter of:

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

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

1. That the applicant categorically denies the statement made in paragraphs 2, 3, 4, 5, 6 and 7 of the written statement and begs to submit that there are strong and valid cause of action which warranted filing of this application before this Hon'ble Tribunal since the respondents resorted to illegal and arbitrary recovery of damage rent from the applicant against the quarter occupied by her. The respondents in their written statement have suppressed the material fact by contending that the transfer of the applicant to Maligaon was a regular transfer whereas it was merely a temporary transfer for a period of one year only which is evident from Annexure-6 of the Original Application. Having joined in the temporary officiating post of Sister Instructor at Central Hospital, Maligaon, the applicant was not provided with any residential accommodation in her new place of posting (Maligaon) for which she had to keep her family in her old quarter at

Filed by the applicant
through advocate Sri
G. N. Chakraborty on
16/3/05

Lumding under unavoidable circumstances. She accordingly submitted representations to the respondents praying for retention of her quarter at Lumding since it was not possible for her to shift her family to Guwahati in view of her temporary posting for one year only at Guwahati. But the respondents did not consider her representations nor the same was rejected too and only she was being asked to vacate the quarter without providing her any alternative accommodation at her new place of posting. The contention of the respondents that this application is time barred is misconstrued since the application has been filed on 18.12.2003 only after the issuance of the impugned letter dated 07.01.2003 by the respondents and as such it is well within the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985. The IREM rules for allotment of quarters as quoted by the Respondents in their written statements are not applicable in case of the applicant since her case is a case of temporary transfer which resulted into only temporary shifting of her headquarter and that too in the public interest. As such it is distinguished from the normal allotment rules of the Department. Therefore this application is made in accordance with law and stands on its own merit and hence deserve to be allowed with costs.

2. That the applicant categorically denies the statements made in paragraph 8, 9, 10 (a) and 10 (b) of the written statement and further begs to state that it is clearly evident from the office order dated 28.12.2001 (Annexure-6 of the O.A) that the post of Sister Instructor at the Central Hospital, Maligaon in which the applicant was temporarily posted was available for one year only which implies that she might be shifted to her old station on completion of her one year tenure at Maligaon. She was also not provided with any quarter at Maligaon where she

could shift her family. In such a situation she did not have any other alternative but to continue to keep her family in her old quarter at Lumding and in the event of her vacating the quarter at Lumding, she would not only stand out of shelter with her family both at Lumding and Maligaon but would also lose her station seniority for quarter at Lumding in addition to her non-seniority at Maligaon as well which means that temporary promotion as Sister Instructor would concurrently lead to her ouster with her entire family from her shelter at her old station (Lumding) as well as new station (Maligaon) which is against the principles of natural justice, more so when her posting at Maligaon was in public interest. Situated thus, the applicant submitted representation praying for retention of her quarter at Lumding wherein she had sheltered her family and further in her representation dated 17.04.02 she had also prayed for grant of permission retention of quarter at Lumding in terms of Rly. Board's Circular No. E (C) 98. OR 1-10 dated 15.09.98. The respondents thereafter neither rejected her representation dated 17.04.02 nor informed her as to non-applicability of the Boards Circular dated 15.09.1998 aforesaid in her case which they have now taken plea of in their written statement as a matter of their after thought. This led to her presumption that her case might be considered in the light of Circular dated 15.09.98 and her presumption derived further support from the fact that the respondents had recovered normal House Rent against the quarter in question all along from the applicant. However, after a quarter having been allotted to her at Maligaon only on 04.07.03, the applicant immediately thereafter vacated the quarter at Lumding. As such recovery of damage rent is violative of all procedures established by law. It is relevant to mention here that the applicant is also entitled to retention her quarter at her old station for her posting in a

temporary post at Maligaon in terms of Railway Board's Master Circular dated 19.01.93 (Annexed as Annexure- 17 in the O.A). But surprisingly the Respondents acting arbitrarily started sudden recovery of damage rent from the applicant in an illegal, unfair and capricious manner without providing any reasonable opportunity of being heard to the applicant which is the cardinal principle of natural justice.

3. That with regard to the statements made in paragraph 11 and 12 (a), (b) and (c) of the written statement, the applicant begs to reiterate what have been stated in the preceding paragraph hereinabove and further begs to submit that this application has been filed bonafide and all the grounds and reliefs mentioned therein are in conformity with law and on the contrary, all the actions of the respondents are malafide and not sustainable under law.
4. That the applicant categorically denies the statements made in paragraph 13 and 14 of the written statement and begs to submit that the contention made in the written statements are after thoughts of the respondents and suppression of material facts and mis-construction/mis-application of law with an ulterior motive of frustrating the due process of law and cause of justice.
5. In the facts and circumstances stated above, the application deserves to be allowed with costs.

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VERIFICATION

I, Smti Alpana Mazumdar, D/O Late Dhirendra Chandra Mazumdar, aged about 47 years, resident of Adarsha Colony, Maligaon, Guwahati, do hereby verify that the statements made in Paragraph 1 to 4 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 11th day of ~~February~~^{March}, 2005.

Alpana Mazumdar