

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES,1990)

**INDEX**

O.A.T.A No...77/2003.....

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

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

1. Orders Sheet. O.A-77/2003.....Pg.....1.....to.....3.....
2. Judgment/Order dtd. 22/08/2003.....Pg.....1.....to.....4..... response
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....77/2003.....Pg.....1.....to.....17.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S. Filed by the Respondents.....Pg.....1.....to.....12.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

( RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 77/03

Misc. Petition No.       

Contempt Petition No.       

Review Application No.       

Applicant (s) U. K. Paul.

- Vs. -

Respondent (s) U. G. I. Form

Advocate for the applicant (s) D.A. Kaijum, J.H. Saikia

Advocate for the respondent (s) Case. N. Uddin

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in form Contempt.</p> <p>20F056237</p> <p>24/8/03 2(8)</p> <p>By Registrar</p> <p>Steps taken along with envelopes.</p>	10.4.2003	<p>Heard Mr. D.A. Kaijum, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by three weeks.</p> <p>List on 9.5.2003 for admission and further orders.</p> <p>In the meantime, the respondents are directed not to make any further recovery from the applicant till the returnable date.</p>

Vice-Chairman

mb

Notice prepared and sent to  
S/s for imis etc respondents  
No. 1 to 5 by Regd. A/D.

S/N No. 726 to 730 dated 22/4/03

No. reply has been  
billed.

22/4/03

9.5.2003

Heard Mr. B.H. Saikia, learned counsel for the applicant and also Mr. S. Sarma, learned counsel appearing for the respondents. Mr. S. Sarma prayed for some time to obtain necessary instruction on the matter.

Prayer allowed. Put up the matter on 21.5.2003 for further orders.

In the meantime interim order shall continue till the next date.

  
Vice-Chairman

bb

23.5.2003

List again on 27.6.2003 to enable the respondents to file reply, if any.

In the meantime, interim order dated 10.4.2003 shall continue.

  
Vice-Chairman

mb

27.6.2003

The respondents are yet to file written statement. Further time is allowed to the respondents to file written statement.

List again on 25.7.2003 for admission.

In the meantime, interim order dated 10.4.2003 shall continue.


  
Vice-Chairman

mb

25.7.2003

Present : The Hon'ble Mr. N.D. Dayal, Administrative Member.

None appears for the applicant. Mr. S. Sarma, learned counsel appearing on behalf of the respondents produced the enquiry report as part of the written statement. The application may now be listed for hearing on 11.8.2003.

  
Member

No reply has been  
filed.

22  
22.5.03

Order dtd. 23/5/03  
Communicated to the  
Parties Court.

2615

No reply has been  
filed.

26  
26.6.03.

Pl. comply order dated  
27.6.03.

27  
27.6.03

Order dtd. 27/6/03  
Communicated to the  
Parties Court.

27  
27/7/03.

14.7.03

W/S filed  
by the Respondent.

14

mb

Notes of the Registry	Date	Orders of the Tribunal
-----------------------	------	------------------------

11.8.03

Mr J.H.Saikia, learned counsel for the applicant stated that though he has received the written statement, he is yet to get the copies of the Annexures. Mr S.Sarma, learned counsel for the respondents submitted that he will furnish the copies in a short time.

List again on 14.8.03 for hearing.

COX

pg

Vice-Chairman

14.8.2003

Put up before the Division Bench on 22.8.2003.

Vice-Chairman

bb

22.8.2003

present: The Hon'ble Mr.Justice D.N. Vice-Chairman.

The Hon'ble Mr.K.V.Prahaladan Administrative Member.

Heard counsel for the parties. Judgement delivered in open Court, kept in separate sheets.

The application is disposed of in terms of the order. No costs.

Member

Vice-Chairman

bb

COX

11/9/2003

Copy of the Judgt has been sent to the D/Sec. for receipt the one to the applicant as well as to the Dy. Standing Counsel.

HS

Notes of the Registry

Date

Orders of the Tribunal

000

000

00

00

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. ~~XXXX~~ No. 11177 of 2003.

DATE OF DECISION 22.8.2003

.... Uttam Kumar Raul ..... APPLICANT(S).

.... D.A. Kaiyum, J.H. Saikia & N. Uddin ..... ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS-

.... Union of India & Others ..... RESPONDENT(S)

.... Mr. S. Sarma, Standing counsel for the Railway .... ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE MR. K.V. PRAHALADAN, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman.

7

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.77 of 2003.

Date of Order : This the 22nd Day of August, 2003.

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

THE HON'BLE MR K.V.PRAHALADAN, ADMINISTRATIVE MEMBER.

Sri Uttam Kumar Paul  
Khalasi under Deputy Chief Engineer/  
Con/MLG, N.F.Railway, Maligaon  
Guwahati - 11.

. . . . Applicant.

By Advocates Mr.D.A.Kadyum, J.H.Saikia & N.Uddin.

- Versus -

1. Union of India  
Represented by the Secretary  
to the Govt. of India  
Department of Railway  
New Delhi.

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

3. Dy. General Manager (G) MLG  
N.F.Railway, Maligaon  
Guwahati-11.

4. The Deputy Chief Engineer/  
Con/G-J/MLG, N.F.Railway  
Maligaon, Guwahati-11.

5. The Section Engineer  
Works(West) PNO  
N.F.Railway, Maligaon  
Guwahati-11.

. . . . Respondents.

By Mr.S.Sarma, Standing counsel for the Railway.

O R D E R

CHOWDHURY, J.(V.C.) :

The matter pertains to recovery of damage rent for unauthorised occupation of Railway quarter. The applicant is working for gain under the respondent No.4 as a Khalasi. The applicant while working as such he was served with a notice dated 30.4.1998 asking for explanation for unauthorised occupation of Railway quarter No.S&C/97-D, Type-I BBC colony/PNO w.e.f.27.11.1995 and as to why damage charge would not be recovered from his salary. The applicant submitted his explanation and denied the allegation. Finally the respondents

Contd./2

authority conducted an enquiry. The applicant was also intimated to appear before the enquiry. In the enquiry the Enquiry Committee found that the applicant was unauthorisedly occupying the Railway quarter No.S&C/97-D Type-I. The authority accepted the Enquiry Committee report which recommended recovery. His damage rent for the period w.e.f.28.10.1996 to 26.9.1998 was assessed of Rs.26,665/- out of which an amount of Rs.3,021/- had already been deducted by the impugned notice dated 27.12.2002. The authority decided to deduct the balance amount of Rs.23,644/- from the applicant's monthly salary bill from January, 2003 in 36 equal installments of Rs.657/- each. The applicant thereafter submitted representation before the Dy. Chief Engineer/Con/Mlg, N.F.Railway, Maligaon against the aforementioned imposition of recovery. On his failure in getting appropriate remedy from the authority, the applicant moved this Tribunal by way of this Original Application. This Bench issued notice upon the respondents and directed them not to make any further recovery from the applicant. Mr.D.A.Kaiyum, learned counsel for the applicant has assailed the action of the respondents as arbitrary and discriminatory.

2. The respondents submitted the written statement contesting the claim of the applicant. The respondents contended that the recovery of the damage rent was made as per the existing norms by following the procedure prescribed by law. The applicant was unauthorisedly occupying the Railway quarter and by communication dated 30.4.1998 he was asked to clarify his position. The reply submitted by the applicant, according to the respondents, was not convincing and therefore the authority took steps for recovery of damage rent. The applicant and N.F.Railway Employers' Union approached the authority to institute a enquiry committee to find out the facts. The respondents also asserted that during enquiry, the applicant did not extend co-operation to the enquiry committee. The



applicant even did not accompany the committee members, when they proposed to visit the spot to enquire the facts by taking evidences of the neighbours. On assessment of the facts situation it was found that the applicant was in unauthorised occupation of the quarter and therefore the authority took steps for recovery of panel rent as per law.

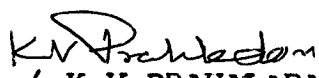
3. We have heard Mr.D.A.Kaiyum, learned counsel for the applicant and also Mr.S.Sarma, learned Standing counsel for the Railway at length.


4. Materials on record clearly indicated that the applicant was duly intimated about the steps taken by the respondents for recovery of the damage rent. The respondents authority provided the applicant reasonable opportunity to explain his position and also requested him to accompany the enquiry committee for the spot verification. In the circumstances the applicant's claim that the authority acted illegally in holding the spot enquiry without giving adequate opportunity to him cannot be accepted. The enquiry was pertaining to the fact as to whether the applicant was in unauthorised occupation of Railway quarter. The respondents authority was the competent authority to decide on its own procedure and accordingly decided to hold spot enquiry intimating the applicant also to accompany them and on holding spot enquiry and on assessment of materials the enquiry committee submitted its report which was duly accepted by the authority. We do not find any infirmity in the steps taken by the respondents for recovery of the damage rent. Materials indicated that the authority decided to take panel interest from the applicant for <sup>unauthorised</sup> occupation of Railway quarter for the period 28.10.96 to 26.9.98. By letter dated 27.12.2002 the authority decided to recover the damage rent from the applicant. Considering the facts that the applicant is a low paid employee

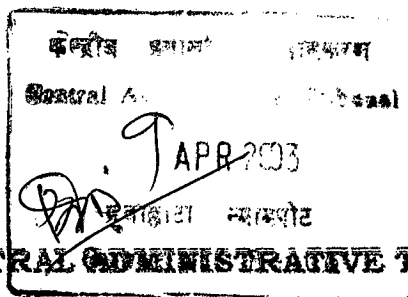
serving as Khalasi and other like facts, we feel that it would be appropriate for the authority to take lenient view in fixing the quantum of recovery from the applicant. Admittedly, the applicant is a low paid employee who is working as Khalasi. The alleged unauthorised occupation took place in 1996 and steps for recovery was only started in 1998.

5. Considering all the aspects of the matter, we are of the opinion that ends of justice will be met, if the matter is sent back to the respondent Nos.3 & 4 Dy.General Manager (G) MLG and the Dy.Chief Engineer/CON/G-J/MLG to consider the matter of the applicant afresh as to the realisation of rent. Accordingly, we remit the matter to the concerned authority to make a fresh look on the recovery of the rent for unauthorised occupation of the Railway quarter and take appropriate steps as per law. The amount that had already been paid by the applicant shall also be adjusted and thereafter the authority shall take all the necessary measures for recovery as it think fit and proper on the facts and circumstances of the case. The applicant may also file a fresh representation to the concerned authority narrating the extenuating circumstances. The respondents shall also take into consideration the representation in deciding the matter. It is expected that the authority shall favourably respond to the grievances of the applicant and sympathetically consider his case to lessen his financial burden by toning down the same as it consider it to be just and reasonable with utmost expedition, preferably within a period of three months from the date of receipt of the order. Till the completion of the aforesaid exercise the interim order passed by us on 10.4.2003 shall continue to operate.

Subject to the observations made above, the application stands disposed of. There shall, however, be no order as to costs.

  
( K.V.PRAHALADAN )  
ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 77/2003.

Sri Uttam Kumar Paul

----- Applicant.

- Versus -

The Union of India & Ors.

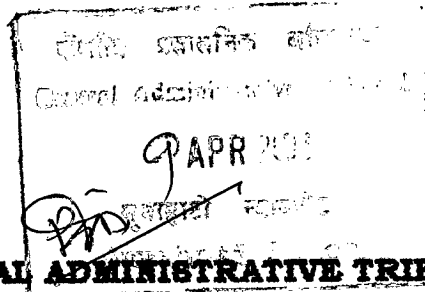
----- Respondents.

I N D E X / synopsis

Sl.No.	Particulars	Page No
1.	Application -----	1 to 9
2.	Annexure- A ----- ( Letter No. W/38/CON/G-J/MLG/pt.III/90, dtd.30-4-98.)	10
3.	Annexure- B ----- ( Reply letter dated 30-4-98)	11
4.	Annexure- C ----- ( Letter/order No. Z/314/O dated 20-7-98)	12
5.	Annexure- D ----- ( Letter dated 26-9-98 )	13
6.	Annexure- E ----- ( Letter dated 29.12.98 )	14
7.	Annexure- F ----- ( Letter No. W/38/CON/MLG/pt.-III/988, dtd. 27-12-02)	15
8.	Annexure- G ----- ( Letter dated 6-1-2003 )	16
9.	Annexure- H ----- ( Representation dated 10-7-96	17

Filed By:-

  
( NASIR UDDIN )  
Advocate.



Filed by  
Sue Petitioners  
through  
Nasir Uddin  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 77/2003.

Sri Uttam Kumar Paul  
----- Applicant.

- Versus -

The Union of India & Ors.  
----- Respondents.

I N D E X

Sl.No.	Particulars	Page No
1.	Application -----	1 to 9
2.	Annexure- A -----	10
3.	Annexure- B -----	11
4.	Annexure- C -----	12
5.	Annexure- D -----	13
6.	Annexure- E -----	14
7.	Annexure- F -----	15
8.	Annexure- G -----	16
9.	Annexure- H -----	17

Filed By:-  
Na 8/4/03  
( NASIR UDDIN )  
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

Uttam Kumar Paul

Original Application No. 77/2003.

SRI UTTAM KUMAR PAUL  
-----Applicant.

- Versus -

The Union of India & Ors.  
-----Respondent.

**1. Details of Application:-**

i). Name of the Applicant:- Sri Uttam Kumar Paul

ii). Designation and particulars of Office

in which employed or was the last

employed before ceasing to be in service :- Khalasi under Dy. Chief

Engineer/ Con/MLG,

N.F. Railway, Maligaon,

Guwahati-11

iii). Office address :-

Sri Uttam Kumar Paul, Khalasi

C/O Deputy Chief Engineer/

Con/MLG, N.F. Railway,

Maligaon, Guwahati-11.

iv). Address for service of notices :-

As stated above.

**2. Particulars of the respondent:-**

i). Name of the respondents:-

i). The Union of India,  
represented by the Secretary  
to the Govt. of India,  
Department of Railway,  
New Delhi.

Contd.2-----

- ii). The General Manager,  
N.F. Railway, Maligaon,  
Guwahati-11.
- iii). Dy. General Manager (G) MLG  
N.F. Railway, Maligaon,  
Guwahati-11.
- iv). The Deputy Chief Engineer/  
CON/G-J/MLG, N. F. Railway  
Maligaon, Guwahati-11.
- v). The Section Engineer,  
Works (West) PNO,  
N.F. Railway,  
Maligaon, Guwahati-11.

14  
Kumar Jyoti  
Httan

**3. Particulars of the order against which application is made as:-**

- i). Order No. W/38/CON/G-J/MLG/pt.III/90.2  
W/38/CON/MLG/pt.-III/988
- ii). Date: 30.4.1998 & 27-12-02.
- iii). Passed by: The Deputy Chief Engineer/  
Con/G-J/MLG, N.F. Railway,  
Maligaon,  
Guwahati-11 ( Res.No.4).
- iv). Subject in brief: The order No. W/38/CON/G-J/MLG/pt.III/90, dated 30.4.98 passed by the respondent No. 4 where by the petitioner asked to furnish explanation within 10 days as to why the petitioner unauthorisedly occupied the Railway Quarter No. S & C/97-D, type-I BBC Colony/ PNO w.e.f. 27.11.95 with further information that, damage will be recovered from salary bill of the petitioner and other necessary action will be taken as per rule.

**4. Jurisdiction of the Tribunal:-** The subject matter of the instant application is unauthorized recovery of damage charge from the salary of the petitioner by the respondent authorities. The parties are from Maligaon in the district of Kamrup, Assam and the cause of action arose within the jurisdiction of this Tribunal, hence this Tribunal has jurisdiction to adjudicate the matter.

5. **Limitation:-** The respondent No. 4 vide a letter dated 30.4.98 asked the petitioner to furnish the explanation as to why he has occupied the Railway quarter unauthorisedly, otherwise damage charge will be recovered from his salary and other necessary action will be taken against him. Subsequently he replied the explanation on 8.5.98. Thereafter by a letter dated 20.7.98 issued by the respondent No.2 asked the respondent No. 4 asked to submit inspection report and by a letter dated 26.9.98 the respondent No. 5 submitted the inspection report. The respondent No. 2 by a letter dated 27.12.2002 informed the petitioner that an amount of Rs. 26,665.00 will be deducted from his monthly salary bill w.e.f. Jan' 2003 in 36 equal installments of Rs. 657.00. Thereafter the petitioner filed another reply to the respondent No. 4 on 25.02.2003 with an information that he never occupied the above mentioned railway quarter, hence the order of deduction of money from his salary is illegal and arbitrary. Hence the present application has been filed within the period of limitation.

6. **Facts of the case:-** I). That the respondent No.4 vide a letter No. W/ 38/CON/G-J/MLG/pt.III/90, dated 30.4.98 informed the petitioner that, he has unauthorisedly occupied the Railway quarter No. S & C /97-D, Type-I BBC Colony/ PNO w.e.f. 27.11.95. Hence he asked to furnish explanation within 10 days, otherwise damage charge will be recovered from his salary and other necessary actions will be taken against him as per rule.

A copy of letter dated 30.4.98 is annexed herewith

as **ANNEXURE- A.**

II). That the petitioner henceforth submitted the reply of the show cause notice/letter dated 30.4.98 to the respondent No. 4 on 8.5.98. In his show cause reply the petitioner stated that he never occupied the

Contd.4-----

Handwritten signature and text: "gagan kumar" with a checkmark.

**above mentioned quarter unauthorisedly even for a day.**

**A copy of show cause dated 8.5.98 is annexed**

herewith as **ANNEXURE- B.**

III). That the respondent No. 2 vide a letter/order No. Z/314/0, dated 20.7.98 direct the respondent No. 4 to send inspecting Official either to SSE (Works) PNO West Office or to his office to verify the records if so necessary for clarified the unauthorized occupation of the Railway quarter by the petitioner since 28.10.96.

**A copy of letter/order dated 20.7.98 is annexed**

herewith as **ANNEXURE- C.**

IV). That the respondent No. 3 by a letter dated 26.9.98 informed the respondent No. 2 that, the petitioner has vacated the said railway quarter without any intimation to the respondent No. 3, which was under the petitioner's unauthorized occupation from 28-10-96. The respondent No. 3 battened the said quarter on 26.9.98. He also informed that some unknown person tried to break the battened for unauthorized occupation.

**A copy of letter dated 26.9.98 is annexed herewith**

as ANNEXURE- D.

V). That the respondent authorities without giving any opportunity and/or being heard of the petitioner already recovered Rs. 3,021.00 @ Rs.1,007.00 per month for the month of August, September & October' 98 from his salary. Hence the petitioner challenge the administrative illegal actions under the banner of the Union. Subsequently by an order dated 9.12.98 the respondent No. 3 informed the respondent No. 4 that, from the record he has not found any unauthorized occupation of the Railway quarter by the petitioner from 28.10.96 to 26.9.98. Moreover, the



petitioner was not caught red handed during the period of unauthorized occupation of the railway quarter. In view of the fact he suggested to stop the damaged rent recovery from the salary of the petitioner for the time being and to make an arrangement for further enquiry, so that proper justice may be given.

A copy of order/ letter dated 9.12.98 is annexed  
herewith as ANNEXURE- E.

VI). That without further enquiry the respondent No. 4 vide a letter No. W/38/CON/MLG/pt.III/988, dated 27.12.2002 informed the petitioner that, it was found that the petitioner had unauthorisedly occupied the above mentioned Railway quarter w.e.f. 28.10.96 to 26.9.98. The damage rent for these period has been assessed of Rs. 26,665.00 out of which an amount of Rs. 3,021.00 has already been deducted from his salary. The balance amount of Rs. 23,644.00 will be deducted from his salary w.e.f January'2003 in 36 equal installment of Rs. 657.00. The amount of Rs. 657.00 has already deducted from his salary for the month of January'2003.

A copy of order/letter dated 27.12.2002 is annexed  
herewith as ANNEXURE- F.

VII). That the petitioner henceforth submitted the reply to the respondent No. 4 on 6.1.2003. In the reply the petitioner denied all the allegations brought against him stating inter alia that, he never occupied the above mentioned Railway quarter for a single day and after more than four years of the anticipated the said incident and enquiry had been conducted without giving any opportunity whatsoever to the petitioner astonishingly passed an order of recovery of damaged rent amounting to Rs. 26,665.00 from his salary. And requested to the concerned

Final  
order  
17

authority to provide an opportunity of being heard with furnishing a copy of the enquiry report with a further request to suspend the unfair order of recovery of damaged rent imposed upon him. But it is a matter of regret that till date neither a copy of the enquiry report submitted to him for his defence nor suspend the order of recovery of damaged rent imposed upon him.

A copy of reply dated 6.1.2003 is annexed herewith as ANNEXURE- G.

**7. Grounds for relief:-**

I) That by the letter dated 30.4.98 Annexure- A, issued by the respondent No. 4 informed the petitioner that, he has unauthorizedly occupied the said Railway quarter w.e.f. 27.11.95. Thereafter, by a letter/ order dated 20.7.98 Annexure- C, the respondent No.2 informed the respondent No. 4 that the petitioner unauthorizedly occupied the aforesaid Railway quarter since 28.10.96. From this facts it is clear that, there is no intimation between the Inspecting Officer and the Supervising Officer to enquire the matter whether the said Railway quarter was vacate or unauthorizedly occupied by the petitioner. It is the duty of the respondent No. 4 to inspect the railway quarters each and every month and the inspection report should be submitted to the concerned authority. During the period of 27.11.95 or 28.10.96 to 26.9.98 he never inspected the said Railway quarter and he is unable to caught red handed the petitioner in such a long period of his so called unauthorized occupation of the said railway quarter.

II). That the said Railway quarter had been allotted to one Jantu Choudhury, P/Helper under DCOS, Pandu, N.F. Railway by an order NO. 2036, dated 11.6.96. By a representation/communication dated 10.7.96

Contd.7-----

18  
uttam Kumar Sanyal

said Choudhury informed the concerned authority that, the said railway quarter was very much broken condition and it was not in a position to occupy the same. Therefore he requested the authority to change his allotment order and allot another quarter. The same was forwarded by one of the representative of the Central Housing Committee of the Union, N.F. Railway, Maligaon.

A copy of representation/communication dated 10-7-96

is annexed here with as **ANNEXURE-H.**

III). That the respondent authorities illegally and arbitrarily passed the order dated 27.12.2002 by which an amount of Rs. 26,665.00 would be deducted from the petitioner's salary @ Rs. 657.00 P.M. without sending a copy of the enquiry report to defend himself and/or giving any opportunity of being heard of the illegal actions of the respondent authorities.

IV). That the representation dated 6.1.2003 submitted by the petitioner to the respondent No. 4 is still pending for his kind necessary actions. Non disposal of the representation submitted by the petitioner is a violation of natural justice and administrative fair play.

V). That the petitioner presently residing in a rented house situated at Maligaon for which he has to pay of Rs. 1,500.00 P.M. as house rent and he is looking upon his wife and two school going children. It is not possible to maintain his family in such a high price days from his meager salary of Rs. 3,140.00 P.M., hence he requested the respondent authorities by representation dated 6.1.2003 to suspend the said illegal and arbitrary order of recovery of damaged rent imposed on him, but no action has been taken till date.

8. **Matters not previously filed or pending with any other court:-** The

Contd.8-----

applicant states that, regarding this matter no application is being made and/or no other case pending in any other court or tribunal for adjudication till date.

9. **Relief (s) sought:-** In view of the facts and circumstances in preceding paragraphs and grounds mentioned above, the applicant prays for the following reliefs:-

I). For setting aside the orders issued by the respondent No. 4 vide No. W/38/CON/G-J/MLG/pt.-III/98, dated 30-4-98 (Annex-A) & W/38/CON/MLG/pt.-III/988, dated 27.12.2002 (Annexure-F).

II). The respondent authorities may be directed to enquire the matter afresh in presence of the petitioner and/or other concerned authorities by giving an opportunity to the petitioner to defend himself for the illegal and arbitrary actions of the respondents.

III). The respondent authorities may be directed to return the amount of Rs. 3,024.00 which was deducted from the salary of the petitioner for the month of August, September & October '98 @ Rs. 1,007.00 P.M. and for the month of January 2003 @ Rs. 657.00 with an interest @ 18% P.A. till realization.

IV). And/or any other relief as Your Honour may deem fit and proper in the facts and circumstances of the case for the interest of justice.

10. **Interim order, if any prayed for:-** Pending final decision of the application, the impugned order No. W/38/CON/MLG/pt.-III/988, dated 27.12.2002 issued by the respondent No. 4 (Annexure-F) may kindly be stand stayed.

11. **Particulars of Postal order in respect of the application fees:-**

i). No. of IPO , dated .3.2003.

ii). Post Office by which payable: Ulubari Post Office, Guwahati-7.

12. **List of enclosures:-**

Contd.9-----

20  
Utham Kumar Paul

- ## VERIFICATION

And I sign this verification on this      day of March' 2003 at Guwahati.

Identified by me,

Nasir Uddin  
Advocate.

N.F. Railway

Office of the  
Dy. Chief Engineer/Con/G-J  
Maligaon N.F. Railway

No.W/38/CON/G-J/MLG/Pt.III / 90

dt. 30-4-98. GHY-110

To,  
Shri Uttam Kr. Paul,  
Khalasi at office.

Sub: Unauthorised occupation of Rly.Qrs.  
No.S&C/97-D, Type-I at BBC Colony,  
Pandu.

Ref: ADGM/N.F.Rly./MLG's letter No.Z/314/0  
dtd.2.1.98.

It is informed that you have occupied the  
Rly.Qrs. No.S&C/97-D, Type-I BBC colony/PNO w.e.f.  
27.11.95 unauthorisedly vide ADGM/MLG's letter No.  
under reference. You are hereby asked to furnish  
explanation in this regards within 10 days to the  
undersigned, otherwise damarage charge will be  
recovered from your salary bill and other necessary  
action will be taken against you as per rule.

for Dy.CE/CON/G-J/MALIGAON

Copy to:-

ADGM/N.F.Rly./MLG for information please.  
This has in reference to his letter mentioned  
above.

for Dy.CE/CON/G-J/MALIGAON

Certified to be true copy  
J. H. Sarkis  
Advocate

To  
The Deputy Chief Engineer/Con/G-J.,  
Maligaon,  
Guwahati - 781 011.

Sub:- Reply to your 'Show Cause'  
letter sent to me over my  
alleged unauthorised occupation  
of Railway Qrs. No.S&C/97-D,  
Type-I at BBC Colony, Pandu.

Sir,

I have received your letter under  
Memo No.W/38/Con/G-J/MLG/Pt.III/90 dated 30.04.98.

In the said letter in question, you  
have asked me to submit my explanation as to why  
I have occupied the Railway Qrs.S&C/97-D, Type-I  
at BBC Colony, Pandu w.e.f. 27.11.95 unauthorisedly.

In this connection, I beg to inform that  
I have neither occupied the said quarters unauthorisedly  
from the date you have mentioned in your letter nor I  
have even dared to stay in the above quarters unautho-  
risedly even for a day since I am a very law abiding  
employee under your kind disposal.

This is for your kind information and  
necessary favourable action.

With regards,

Yours faithfully,

*Uttam Kr. Paul*

( Uttam Kr. Paul )  
Khalasi

Dated, the  
8th May/98.

=000=

*Recd*  
*8/5/98*

*certified to be true copy*  
*J. H. Jais*  
*Sd/-*

N.F. RAILWAY

Office of the  
General Manager/Maligaon,  
Guwahati-781011.

Dated : 20-7-98.

No. Z/314/0

To  
Dy.CE/Con/G-J/MLG.

Sub:- Unauthorised occupation of Rly.Qrs.No.  
S&C/97-D, Type-I at BBC colony, Pandu.

Ref:- Your No. W/38/Con/G-J/MLG/Pt.III/427 dt.  
15-7-98.

It is clarified that Rly.Qrs.No. S&C/97-D,  
Type-I at BBC colony was under unauthorised occupation  
of Shri Uttam Kr. Pal, Khalasi under your establishment  
since 28-10-96.

A copy of ICW's report No. Q/1 dt. 5-12-97 is  
enclosed.

Further inspecting official may please be  
sent either to SSE(Works)/PMO West Office or to this  
Office to verify the records if felt necessary.

( P.K. Das )  
Asstt.Dy.General Manager

certified to be true copy  
J. H. Jaisia  
Advocate

10/8/98  
one  
to be  
in case  
pl

Dy.CE/Con/G-J/MLG  
W/  
Pm.  
089  
31/7/98



N.F. RAILWAY

N.F.—G:40A  
RB-GL:19

S.No.Q/ 1-A  
From:- Section Engineer  
Works(west)PNO  
N.F.Railway

Dated 26.9.98  
Dy.GM(G)MLG  
ADGM(G)MLG  
N.F.Railway

Sub.....Position of Railway Qr No.Sec/97.

Ref:...Type-I at B.B.C. Colony, Pandu.

On 26.9.98 at the time of site verification it was noticed that Shri Uttam Kr. Paul working as khalasi under Dy.CE/Con/G-1/MLG has vacated the railway Qr. No. Sec/97-D type -1 at B.B.C. Colony Pandu without any intimation to the under signed, which was under his occupation as unauthorized from 28.10.96. The under Sign battened the said Qr. on 26.9.98, so that no further damaged can be done by miscreants on 28.9.98 it was notice the some unknown persons tried to break, the battened and seat for unauthorising the said Qr.

So you are requested to arrange allotment the said Qr. as early as possible so that the Qr. may save from unauthorized.

This is for your information please.

Sd/- Illegible.

Copy to:-

(i)Sr. DEN/MLG,

(ii). Dy. CE/CON/G-J/MLG, for information and necessary action please.

Sd/- Illegible.

*Certified to be true copy  
J. A. Saini  
Advocate*

P.P.17

Re:-Recovery of damage rent from Shri U.K. Paul, Khalasi cwds

Dy.CE/C/G-J

From the record it reveals that Shri Paul has stated that he has not unauthorized any Rly. accommodation. But the JOW concerned had inspected the site on 26.9.98 where as he has stated that the period of unauthorized occupation from 28.10.96 to 26.9.98 moreover the JOW concerned could not caught red handed that Shri Paul unauthorizedly occupied the Rly. accommodation. In his report, JOW concerned has stated that Shri Paul has vacated the said Qr. Without intimation to him. Here is a flow of complication for which Shri Paul has challenged the admns action under the banner of the union.

In view of the fact state above, I would like to suggest to stop the damage rent recovery for the time being and arrange for enquiry so that proper justice may be given in the issue.

Sd/- Illegible.

9.12.98

Dy. CEC/G-J.

*Certified to be true copy  
J. H. Saxena  
Advocate*

N.F.Railway.

Office of the  
Dy. Chief Engineer/Con  
Maligaon, Guwahati-11.

No. W/38/CON/MLG/Pt-III / 988

Dated 27-12-2002.

✓ Sri Uttam Kr. Paul,  
Khalasi at office.Sub : Recovery of damage rent for unauthorise  
occupation of Rly. Qrs. No. S&C/97-D  
Type-I at BBC Colony.

You are hereby informed that as per the report of the enquiry committee submitted to CPO/IR and as informed by APO/CON/MLG it is found that you had unauthorisedly occupied Railway Qrs. No. S&C/97-D Type-I at BBC Colony w.e.f. 28-10-96 to 26-9-98 and recommended recovery.

The damage rent for the above mentioned period has been assessed of Rs. 26,665.00 out of which an amount of Rs. 3021.00 has already been deducted. The balance amount of Rs. 23,644.00 will be deducted from your monthly salary bill from January, 2003 in 36 equal installments of Rs. 657.00 each.

This issues with the approval of XEN/CON-II/Maligaon.

OS/CON/MALIGAON.

Copy to : E-Bill Sec/Con/MLG for information and necessary deduction from Sri Paul, Khalasi from his monthly salary bill as stated above.

OS/CON/MALIGAON.

certified to be true  
J. Mr. Sarita  
Advocate

R  
30/12/02

To,  
Dy.CE/CON/MLG,  
N.F.Railway, Maligaon.

Respected Sir,

Sub : Prayer seeking justice in regards to recovery of damage rent imposed on me for unauthorise occupation of Rly.Qr. No. S & C/97-D Type-I at BBC Colony.

Ref: OS/CON/MLG's letter No.W/38/CON/MLG/Pt.III/988 Dt. 27.12.2002.

-----X-----

With due respect and humble submission I beg to lay the following few lines seeking justice and immediate suspension of the order as mentioned vide OS/CON/MLG's letter under reference.

That Sir, I had not at all occupied the above mentioned Rly. Quarter and thus question of unauthorise occupation does not arise. From the very beginning I am categorically denying the charge of unauthorise occupation brought against me but all went in vain. Now, after more than 4(four) years period of the anticipated said incidence a fierce enquiry had been conducted and most astonishingly ordered recovery of damage rent amounting to Rs. 26,665/- from my salary bill.

That Sir, it is not understood that how and on what basis the enquiry had been conducted when I have not occupied any Rly. quarter unauthorisedly through out my entire service period since I have my own house at Pandu. Moreover, without intimating me anything about the contents of the enquiry report on which ground decision had been taken in regards to my undone guilt and recommended recovery is most astonishing.

So, Sir, I am requesting you earnestly to kindly suspend the unfair order of recovery of damage rent imposed on me and thus save a meagerly earning employee under your kind control from disaster.

Moreover, Sir, I want to mention that if the order of recovery of damage rent is not cancelled within a period of 15(fifteen) days, I will be compelled to take shelter of the court for justice.

Further more, it is my fervent request to your kindness to kindly provide me with a copy of the enquiry report for which act of kindness I shall remain even grateful to you and oblige thereby.

With regards to you.

Encl : A copy of the OS/CON/MLG's  
Letter as mentioned under reference

Dated : Maligaon the 6<sup>th</sup> Jan'2003.

Yours faithfully,

Uttan K. Paul

(U. K. Paul)

Khalasi under OS/CON/MLG

*certified to be true copy  
J. H. Saxta  
Advocate*

TO  
The Chairman,  
Dy. General Manager/G,  
Central Housing Committee,  
General Manager's Office,  
N.E. Railway, Maligaon.

Sir,

Sub : Allotment of Qrs. No. S&C 97/A or  
97/B type-I at BBC Colony.

Ref : Your office order no. 2035 dtd. 11-6-96.

With due respect I beg to state that I have been  
allotted Qr. No. S&C/97/D Type-I at BBC Colony vide your  
office order referred above. I have gone to occupy the  
said Qr. but it is seen that this is very much broken  
condition and it is not in a position to occupy.

I, therefore, request your honour to kindly  
change my allotment order and allot either Qr. No. S&C/97/A  
or S&C 97/B which are lying vacant and for which I shall  
remain ever to grateful to you.

Yours faithfully,

*Shanku Choudhury*

(Shanku Choudhury)

P/Helper

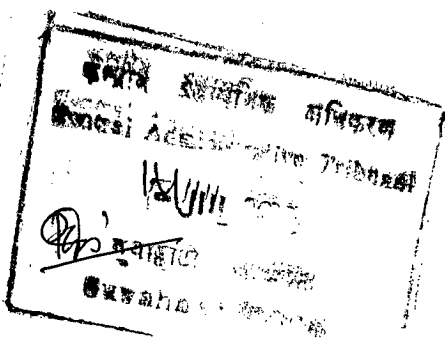
under DCOS/PAN/2/H.P.R.Y.

Dated : 10/7/96

*:- G.M. Maligaon:-  
Shanku J. Choudhury, P/Helper  
was allotted Qr. No. S&C 97-D, Type-I  
condition of the said Qr. is  
in bad condition and it is  
lying vacant for long time as per report  
in view of this he may be  
considered for another Qr. as  
he applied for same for.*

*certified to be  
J.A. S&C  
Advocate*

*10/7/96  
Members  
Central Housing Committee  
N.E. Railway*



*Filed by:  
Siddhartha Saman  
Advocate  
For B.V. Sharma,  
S.C. Railways,  
14/7/03*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

OA NO. 77/2003

Uttam Kr. Paul

..... Applicant

-VS-

Union of India & Ors.

..... Respondent

*Vinodha Kumar Aggarwal*

WRITTEN STATEMENT FILED BY THE RESPONDENTS

1. That the Respondents have received a copy of OA and have gone through the same. The statements which are specifically admitted herein below rests may be treated as total denial. The statements which are not borne on records are also denied and the thereof.
2. That the answering respondents before dealing with the parawise reply of the OA beg to give the back ground of the case. The applicant Sri U.K. Paul is working under Dy. Chief Engineer/Construction/ N.F.Railway Maligaon as Khalasi i.e. under Group 'D' service. The management of Railways' residential accommodation meant for staff is being dealt by Sr. Section Engineer/Section Engineer of the Open line organisation of zonal Railway while the applicant is working under construction organisation, though both the organisation are broadly known as N.F.Railway but having separate aims and objectives with their separate entity and management.

- 19 -

2

Virendra Kumar Agrawal

Consequent upon the illegal occupation of Rly Quarter No. S & C/97-D Type-I BBC Colony Pandu, Guwahati-12 w.e.f. 28.11.95. ADGM/N.F.Rly, Maligaon's letter No. Z/314/Ø dated 2.1.98 (Annexure-I) & SSE/West/N.F.Rly/PNO's letter No. Q/1 dated 11.11.96 (Annexure-II) had requested the Dy. CE/CON/G-J/MLG to recover damage rent from Sri U. K. Paul, Khalasi of this office, he had unauthorisely resided in aforesaid Qrs.

Accordingly, a letter ~~to~~ to SSE/W/West/Pandu was issued from this office vide letter No. W/38/CON/G-J/MLG/Pt-II/1874 dated 4.2.98 (Annexure-III) advised him to submit the damage rent of the Qrs. unauthorisedly occupied by the applicant Sri Paul.

As alleged by the open line organisation that Sri Paul had indulged himself in unauthorised occupation of Rly. Qrts. in question, Sri Paul, the applicant was asked to clarify his position vide this office letter No. W/38/CON/G-J/MLG/Pt.-III dated 30.4.98 (Annexure-IV) within a stipulated time frame, else damage rent will be recovered from him i.e. the applicant, ~~the applicant~~. The applicant had denied that he had unauthorisedly occupied any Railway quarter.

As the applicant had failed to submit a convincing reply regarding the allegation against him, the Rly. Administration i.e. Dy. CE/CON/G-J/MLG has ordered the mode & manner of affecting the recovery of damage rent from the default applicant vide respondent No. 4 letter dated 6.8.98 (Annexure-V). It is fact that the

applicant and N.F.R.E.U (a recognized Railway Union) approached

applicant and N.F.R.E.U (a recognized Railway Union) approached the authority to institute a enquiry committee to find out the facts (Annexure-VI & VI(1)). But during enquiry conducted by the appointed committee, it is on record that the applicant had not extended co-operation to the committee. It is already brought out in the report submitted that the applicant had even denied to accompany the committee members, when they proposed to visit the spot to enquiry the facts by taking evidences of the neighbours regarding the charge of illegal occupation of quarters by the applicant. A copy of the enquiry report enclosed as Annexure-VII & VII(1). The report is very clear about the alleged possession of the quarters by the applicant, the duration has been authenticated vide ADGM/MLG's letter No.Z/314/0 dated 2.1.98 and SSE/W/West/Pandu letter No.Q/1 dated 11.11.96 are enclosed as Annexure-I & II.

Hence, the applicant's claim <sup>of</sup> illegal deduction is not correct on the contrary the applicant has tried to mislead the employer as well as Hon'ble Court by suppressing the material facts, hence indulged himself in punishable offence.

After verification it was found that the date of unauthorisedly occupation was w.e.f. 27.11.95 instead of 28.10.96 attributed due to typographical mistake as appeared in the monthly colony quarter report submitted by SSE/W/PNO. It revealed from the record that date of occupation was w.e.f. 28.11.95 and to authenticate the factual position some monthly quarter position report are enclosed as Annexure-VIII to VII(8). N.F.R.E.U had also requested the Rly authority to set a enquiry committee vide letter No.EU/SR/MLG-II dated 27.1.2000 (Annexure-VI). On enquiry

it is found that Sri U.K.Paul unauthorisely occupied the said Qrs



it is found that Sri U.K.Paul unauthorisely occupied the said Qrs and therefore necessary disciplinary action was taken as per the extent rule in vogue. The respondent No.4 vide his letter dated 28.11.2001 as Annexure-IX deputed SSE/W/CON/HQ/G-J/MLG to enquiry. Accordingly SSE/W/Con/HQ/G-J/MLG has submitted the enquiry report on 19.12.2001 as Annexure-X.

The applicant Sri Paul approached to N.F.R.E.U again to solve this matter.N.F.R.E.U raised the matter in PNM meeting on 20.12.2001 as item No.88/17 as Annexure-XI wherein enquiry was sought on the matter. Accordingly respondent No.2 vide letter No.E/301/33/89(U) dated 28.1.2002 deputed APO Bill/MLG and AEN/CON/MLG (both gazetted officers) to associate in fact finding enquiry committee. Thereafter, that fact finding enquiry committee comprises of APO/Bill/MLG and AEN/CON/MLG had conducted the enquiry, the Enquiry report are enclosed as Annexure-VII.

After conducting enquiry, the enquiry committee has submitted the report to competent authority. The competent authority has accepted the report as Annexure-XII. After that letter to respondent No.4 was issued vide letter No.W/38/Con/MLG/Pt-III/988 dated 27.12.2002 addressing him to recover the damage rent as Annexure-XIII.

As per the enquiry report it was proved that Sri Paul had unauthorisedly the said Qr. w.e.f. 27.11.95. *Occupied*

3. That with regard to the statement made in para 1 to 5 of the OA the answering respondents while reiterating and reaffirming the statement above deny the contentions raised by the applicant and beg to state that the deduction as alleged has been made

22-  
34

after holding proper enquiry into the matter affording him reasonable opportunity of hearing.

4. That with regard to the statement made in para 6(1) of the OA the answering respondents beg to state that as per Asstt. Dy. General Manager/MLG's letter No.Z/314/Ø dated 2.1.98 (Annexure-I), respondent No.4 written letter to Sri Paul vide letter dated 30.4.98 (Annexure-IV). It is proved by the fact finding enquiry report as Annexure-VII that Sri Paul had unauthorisedly occupied the said Qr. w.e.f. 27.11.95 and resided therein.

5. That with regard to the statement made in para 6(ii) of the OA the answering para 6(ii) of the OA the answering respondents state that the statement given by the applicant that he has never occupied the said Qr. and allegation brought against him is not correct. During the enquiry, member of the enquiry committee requested the applicant to accompany with enquiry committee to the site of said Qrs. to find the actual facts from adjacent resident/neighbopur of the Qrs. in question. The applicant who approached the Rly. for conduction of enquiry he had refused to accompany the enquiry committee for the spot verification of the said Qrs. The enquiry committee with IDW Sri I Hussain and SOSR, Sri J.Goswami had visited the site, verify the actual fact and discussed issue of occupation of said Qrs by the applicant. Resident of the adjacent to Qrs when approached by the committee member, conformed that the applicant had occupied the said Qrs. The proceeding of enquiry on 20.6.2002 enclosed as Annexure-XIV(I).

23- 15

6. That with regard to the statement made in para 6(iii) of the OA the answering respondents while denying the contentious made therein beg to state that the respondent No.3 vide letter No.Z/314/Ø dated 20.7.98 (Annexure-XV) directed the respondent No.4 to verify the record. Vide SSE/W/West Pandu's letter No.Q/1 dated 11.11.96 as Annexure-II it was clearly mentioned that the applicant was unauthorisedly occupied the said Qr. w.e.f. 28.11.95.

7. That with regard to the statement made in para 6(iv) of the OA the answering respondents beg to state that the contention as narrated are not correct. It is also indicated therein the letter that the applicant had left the Qrs. which he was unauthorisedly holding so long without any prior or after intimation to them. it is also fact that he apprehended that if this Qrs. had not allotted to any allottee immediately on vacation of the Qr. by the applicant there had been a chance of recurrence of unauthorised occupation as had been committed by the applicant as Annexure-XVI.

8. That with regard to ~~the~~ the statement made in para 6(V) of the OA the answering respondents state that the contention is fabricated, baseless and far from the truth. The proof of evidence is the self style preparation and presentation. There is no such records/ recommendation are available on records. The submission is totally baseless and such presentation shows the ulterior motive of the applicant who has been found to be in-

- 24 -  
36

dulged himself in the default, time and again. Further, PP papers as is indicated are the perusal matter which cannot be treated as order or authentication for any conclusive evidence. The presentation is highly illegal and the punishable offence to the personal/persons indulge himself/themselves in such illegal activity.

9. That with regard to the statement made in para 6(VI) of the OA the answering respondents while denying the contentious made therein beg to state that as it evident from the enquiry report after enquiry report vide after enquiry report vide Annexure-VII which had been accepted by the competent authority vide Annexure-XII. Thereafter it was decided to recover the damage rent as permissible, as per extent rule in the case of a person found to be guilty of unauthorised occupation of Rly.Qrs. Accordingly respondent No.4 issued a letter No.W/38/CON/MLG/Pt-III/988 dated 27.12.2002 (Annexure-XIII).

10. That with regard to the statement made in para 6(VII) of the OA the answering respondents state that from the report it reveals that at that time of enquiry the applicant had attended before the enquiry committee and denied that he has not unauthorised occupied the said Qr. But when the enquiry committee directed him to accompany him to the site verification, Sri Paul the applicant had refused to go the site verification as it clearly mentioned in proceeding enquiry on 20.6.2002 Annexure-XIV(1). This action on the part of the applicant has amply proved that he does not like to face the facts which he covered so long with false averments. (subsequently find in the inspection at site as it apprehended in the report submitted by the enquiry committee).

25-37

It is clearly drawn the report that the applicant had been occupied the Qrs. as mentioned above for long time which had been authenticated from records above.

11. That with regard to the statement made in para 7(i) it is stated that it is a matter of concern that the applicant having no basic knowledge of management but tries to advise the administration about their duties. The applicant was found guilty of unauthorised holding of Qrs. by presence and records and from the report of the enquiry committee as well. Therefore, finding no alternative tries to beat about the bush to create wrong/flimsy impression to hide his offence. SSE/W/West/PNO has been the in charge of maintaining of Qr. of the BBC colony where the said Qr. was situated, after receiving the information from neighbour of the said Qrs Sri I Hussain, JE/II/W/Nambari Ex-JE/II/W/West PNO and SOSR, Sri J. Goswami inspected the Qr. and found that Sri Paul had occupied the Qr. unauthorisedly, accordingly report was given by his letter No.Q/1 dated 11.11.96 as Annexure-II.

12. That with regard to the statement made in para 7(II) of the answering respondents beg to state that there is no such type of office order bearing NO.2036 dated 11.6.96 issued from the Chairman Dy. General Manager/G/N.F.Rly/MLG in favour of Sri J. Choudhury. The office order No. 2036 dated 15.1.93 as Annexure-XVII. It can be seen in order that no allotment order of Qr. No.S&C/97-D, Type-I at BBC Colony Pandu is available. The context having know realities as per the record concern, therefore base-

- 26- 3

less and far from the truth.

13. That with regard to the statement made in para 7(III) of the OA the answering respondents while denying the contentious made therein beg to state that no arbitrary action was taken by the administration. In each and every date of enquiry, the applicant was given prior intimation in writing to make it convenient to attend the enquiry as per the date, time and venue fixed for the purpose. It is also on record that Sri Paul had refused to sign in any paper during enquiry and also to accompany to the Qrs for spot verification at the time of enquiry and to accompany to the spot verification. The necessary documents are enclosed herewith as Annexure-XIV(1) to XIV(4).

14. That with regard to the statement made in para 7(IV) of the OA the answering respondents beg to state that as per the request of the applicant and demanded by N.F.R.E.U in the PNM meeting the fact finding enquiry committee was formed. The enquiry report was accepted by competent authority and advised the respondent No.4 to recover the damage rent vide Annexure-XII. Accordingly respondent No.4 had started to recover the damage rent with prior intimation to Sri Paul the applicant vide this office letter No. W/38/Con/G-J/MLG/Pt.-III/988 dated 27.12.2002 (Annexure-XIII).

15. That with regard to the statement made in para 7(V) of the OA the answering respondents beg to state that as per request of the applicant and N.F.R.E.U as Annexure-VI & VI(1)- the fact finding enquiry was done, enquiry report are enclosed at Annex-

ure-VII and as per decision of competent authority as Annexure-XII, the action was taken to recovery of the damage rent from the applicant which is admissible as per the extent rule in vogue.

16. That with regard to the statement made in para 8 of the OA the answering respondents offer no comment on it.

17. That with regard to the statement made in para 9(i) of the OA the answering respondents beg to state that after conducting fact finding enquiry by enquiry committee (Annexure-VII). The competent authority has accepted the enquiry report (Annexure-XII) on the basis of letter as Annexure-XII Dy.CE/Con/MLG had issued the letter No.W/38/Con/MLG/pt.III/988 dated 27.12.2002 as Annexure-XIII to recover the balance amount of damage rent of the said Qrs.

18. That with regard to the statement made in para 9(ii) of the OA the answering respondents while denying the contentious made therein beg to state that despite notice issued by the enquiry committee during the proceeding of the enquiry from time to time, the applicant has failed to attend before the enquiry committee on several occasion which had caused delay in finalisation of enquiry, necessary documents enclosed as Annexure-XIV(I) & XIV(4) and submission report thereof. It is also on record that applicant had even refused to sign the proceeding of enquiry conducted by the committee vide Annexure-XIV(I) and also refused to received the official letter of enquiry (Annexure-XIV(2) & XIV(3). It is the glaring instance of disobedience and gross misconduct on the part of an employee. Further more, the

accused trends his employees is found guilty of offence, committing unauthorised occupation and usage of the said Qrs. in question .

19. That with regard to the statement made in para 9(iii) of the OA the answering respondents beg to state that as the applicant had done the illegal to unauthorised the said Qrs. so as per extent rule of N.F.Railway action to be taken and started to recover the damage rent of the said Qrs.

20. That with regard to the statement made in para 9(IV) of the OA the answering respondents offer no comment on it.

21. That with regard to the statement made in para 10 of the OA the answering respondents beg to state that the offence committed by the applicant has been established beyond any reasonable doubt as such, the respondent may be allowed to continue the recovery from the applicant to reimburse the public money from the alleged person w.e.f. 28.11.95.



VERIFICATION

I Shri Virendra..Kumar..Agrawal....., aged about 40.....  
years, son of ~~Shri Virendra~~ Ram Prakash..Agrawal..., resident  
of ..Maligaon..Cunahadi.....  
presently working as ..DY..Chief..Engineer..(construction)..N.F. Railway  
N.F. Railway, Maligaon do hereby verify and state that the  
statement made in paragraphs ..~~as above~~<sup>1,3,5,7,8,16,19,20 & 21</sup>.....  
are true to my knowledge and those made in paragraph <sup>2,4,6,9,10-15,17,18</sup> Being  
A  
matters of records are true to my information derived  
therefrom, which I believe to be true and the rest of my  
humble submissions before this Hon'ble Tribunal. I am also  
authorised and competent to sign this verification on behalf  
of all the Respondents.

And I sign this verification on this ..13..th day  
of ....June..., 2003, 2002.

Virendra Kumar Agrawal.  
Deponent