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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

Rep-103/04 order pg- 1 INDEX

Dismissed Date-9/11/04

O.A/T.A No. 1381/2004

R.A/C.P No. 481/04

E.P/M.A No. 103/04

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CP-481/04 order Pg-1 to 2- Dismissed Date 9/11/04

2. Judgment/Order dtd 27/07/2005 Pg. NO. 1to.....
Received from H.C/Supreme Court

3. Judgment & Order dtd.....Received from H.C/Supreme Court

4. O.A. 1381/04 Pg.....1to.....29

5. E.P/M.P. 103/04 Pg.....1to.....11

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8. Rejoinder Pg.....1to.....

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11. Memo of Appearance Pg.....1to.....

12. Additional Affidavit Pg.....1to.....

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

138/04

✓ Org. App./Misc Petn/Cont. Petn/Rev. Appl.....

In O.A.....

Name of the Applicant(s) .. B. R. Chantam.....

Name of the Respondent(s) .. Mr. G. K. Bhattacharyya.....

Advocate for the Applicant .. Mr. G. K. Bhattacharyya
Advocate for the Respondent .. Mr. B. Chaudhury and Mr. D. Goswami

Counsel for the Railway/CGSC..... Mr. S. Sarma
Mr. S. Das

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

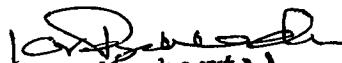
7.6.2004

Heard Mr. G. K. Bhattacharyya, learned
Sr. counsel for the applicant. Mr. S. Sarma,
learned counsel for the Railways was pre-
sent.

Issue notice on the respondents to
show cause as to why the application
shall not be admitted, returnable by
three weeks.

List on 29.6.2004 for admission.

In the meanwhile, amount of recovery
will not be enhanced.


Member(A)

Notice & Order
Sent to D/Section
for issuing to
respondent nos
1 to 5, by regd.
with A/D post.

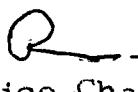
bb

29.9.04

Learned counsel for the respondents
seeks two weeks time to file reply
and states that the order of Tribunal
dated 7.6.04 shall be implemented and
no further recovery of enhanced rent
shall be made. The officer concerned
shall be kept in attendance on the
next date.

Stand over to 3.11.04.


Member


Vice-Chairman

D/Memo No=991

to 995, dt. 10/6/04,

pg


11/6/04.

(2)

O.A. 138 of 2004

postal A/D card
return from
resp. Nos - 1 to 5.
Clk
12/7/04.

3.11.04.

Present: Hon'ble Mr. Justice R.K. Batta,
Vice-Chairman.

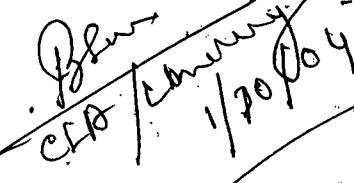
Hon'ble Mr. K. V. Prahladan, Administra-
tive Member.

At the request of learned counsel
for the applicant Stand over to 9th Nov.,
2004.


K. V. Prahladan
Member


R.
Vice-Chairman

28-7-04
Notice duly served
on 22-Nov-1 to 5
No-ar/s ha- been-87ed.

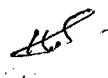

R.
1/8/04
C.P. 48/04 - 1m

order dt. 29/9/04
Sent to resp. Nos
1 to 3, along with
C.P. 48/04.


1/10/04

2.11.04

Written statement
has been filed
by the Respondents
at Flag 'A'


R.

2-12-04
ar/s ha- been-87ed.


R.

3.12.04. The learned counsel for the
applicant seeks adjournment of one
week for filing rejoinder. One week
time is granted. Rejoinder be filed
within one week with copy of the
learned counsel for the Respondents.
It has been made clear to the learned
counsel for the applicant that no
further adjournment shall be granted.
Stand over to 20.12.2004.


K. V. Prahladan
Member


R.
Vice-Chairman

1m

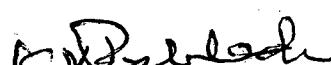
20.12.2004

List on 8.2.2005 for hearing.

Case is ready for hearing.


R.

mb


K. V. Prahladan
Member (A)

Notes of the Registry | Date | Order of the Tribunal

8.2.05

Division Bench is not available to-day.
Hence case is adjourned to 10.2.05
before Division Bench.

lm

Member (J)

10.2.05.

On the request of Mr. D. Goswami,
learned counsel for the applicant case is
adjourned to 14.2.05.

10.2.05
Member (A)

Member (J)

lm

14.2.2005

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

None appears for the parties.
List on 17.2.2005.

Member (J)

mb

17.2.05

Learned Sr. counsel Mr G.K. Bhatta-
charyya, appearing for the applicant
seeks sometime to file additional written
statement within a period of two
weeks.

Adjourned to 18.3.05 for hearing.

17.2.05
Member (A)

Member (J)

pg

18.03.2005

Present : The Hon'ble Mr. Justice G.
Sivarajan, Vice-Chairman
The Hon'ble Mr. K.V. Prahledan,
Member (A).

Mr. B. Choudhury, learned counsel for
the applicant submits that the applicant
has orally informed the counsel that he
would like to withdraw this application.
Learned counsel submits that he has not
received any written instruction in that
regard. Date 24.3.2005.

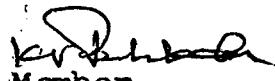
18.03.2005
Member

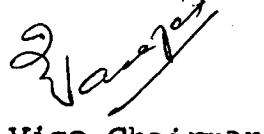
Vice-Chairman

Notes of the Registry Date | Orders of the Tribunal

27.7.2005

Mr. B. Choudhury, learned counsel for the applicant submits that he has got no instruction from his client in spite of request. Hence, this application is dismissed for non-prosecution.


Member


Vice-Chairman

bb

8.8.05
copy of the order
has been sent to the
office for relaying the
same to the L/Advocates
for the parties.

JTB

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI :

Central Administrative Tribunal

4 JUN 2004

2004

Bechu Ram Chowhan

BENCH : GUWAHATI

O. A. NO. 138 of 2004

Bechu Ram Chowhan

- Applicant

-Versus-

The Union of India and Others

- Respondents

LIST OF DATES/SYNOPSIS

29.4.65 : The applicant joined N.F. Railway as Box Porter, Mechanical and he was posted at Lumding.

After going through various grades of promotion the applicant is presently holding the post of Technician (Coaching) Grade-I at Lumding.

(Paragraph 4.1 at Page 3 & 4)

13.10.1987: The applicant, vide order No.M/258/LM/12CLX was allotted a Type-II Railway quarter numbered H/13-D at Harulongfar Colony at Lumding and he has occupied the same ever since.

(Paragraph 4.2 at Page 4)

9.2.2000 : The Respondent No.5 informed the applicant, vide his letter dated 258/LM/14/1, that during verification it was found that quarter No.H/13-D Type-II at BR HRIF Colony, Lumding has been sublet by the applicant and that his allotment order was cancelled vide DRM (Works) / LMG's letter No.W/212/LM/subletting of Rly.Qrs/W-4/285 dated 23.4.99 and he was

W-4/285

Filed by the applicant
through Devjit Gowan
4/6/04

advised to hand over his quarter to the next allottee.

(Annexure-I, ^{Page 21} Paragraph 4.1 at Page 3 & 4)

25.07.2001: The applicant was served with another letter No. 258/LM/14/1 by the Respondent No. 4 in reference to the earlier letter dated 09.02.2000 advising him to hand over the quarters to SEE/Works/ Line/ Lumding (Senior Section Engineer/ Works/ Line/ Lumding) with 7 days from the date of receipt of the letter without fail.

(Paragraph 5 at Page 5 & 6)

04.02.2003: Since the applicant failed to vacant the quarter within the permitted time the Respondent No.5 vide his letter No. M/258/LM/14/1 (Lose) addressed to the Respondent No.3 (Mechanical Bill Section) Intimated to the bill preparing office that the allotment order for the said quarter in favour has been cancelled on the ground of sub letting and since inspite of the advice to the hand over the quarter to SSE/Works/ Line/ Lumding he had failed to do so, that the bill preparing office was requested to recover damage rent against the said quarter from the monthly salary of the applicant on installment basis till such time he vacated the quarters. It was also intimated that the plinth area of the quarter was 53.35 square meters.

A copy of the said letter was also endorsed to respondent No.2 requesting him to initiate eviction proceeding for the said quarter.

Annexure- II, Page 22,
Paragraph 7 at Page 7

March 2003: The authorities started to deduct a sum of Rs. 1,707/- as rent and another sum of Rs. 1,707/- as penal/ damage rent from the salary of the applicant for the month.

Annexure- III, Page 23,
Paragraph 8 at Page 7

19.08.2003: After the applicant was finally able to locate a private house he shifted there and handed over the quarters to one Sri Alok Malakar, Technician Grade II (C & W), Lumding.

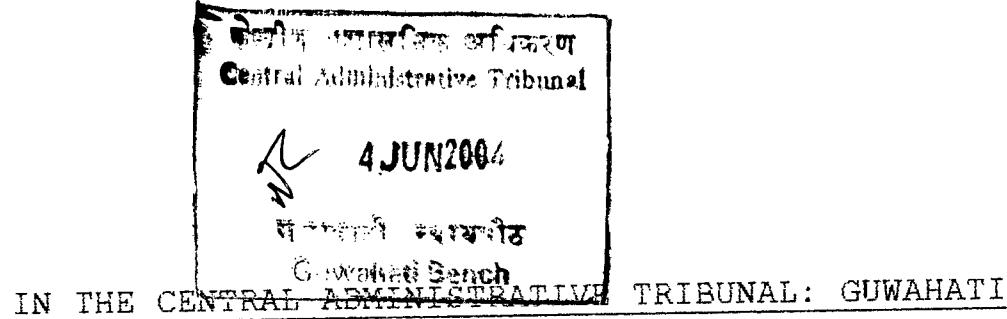
Annexure- IV, Page 24,
Paragraph 9 at Page 7

✓ 03.11.2003: The applicant submitted an appeal before the respondent No.2

Annexure- V, Page 26,
Paragraph 11 at Page 8

23.03.2004: The respondent No.4 vide his letter No. M/258/LM/14/Pt (Sub-let Qrs.) (Loose) informed the applicant that his appeal dated 03.11.2003 has been put up before the respondent No. 2 and as advised by respondent No.2 it was put up before the Additional Divisional Railway Manager, Lumding, who rejected the same.

Annexure- VI, Page 29,
Paragraph 12 at Page 8



BENCH: GUWAHATI

(An application under section 19 of the
Administrative Tribunal Act, 1985)

O.A. NO. 138 OF 2004

Bechu Ram Chowhan ... Applicant

-VERSUS-

The Union of India and others ... Respondents

I N D E X

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Filed by

Devanjit Goswami
4/6/2004
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

(An application under section 19 of the
Administrative Tribunal Act, 1985) —

O.A NO. of 2004

Bechu Ram Chowhan,
S/o late Garib Chowhan,
Technician Grade-I, (Coaching)
under Divisional Mechanical
Engineer (Carriage & Wagaon),
Lumding, resident of Shankar
Sthan, Fish Market,
P.O. Lumding, Dist. Nagaon,
Assam.

... Applicant.

-Vs-

1. Union of India,
represented by the General
Manager, N.F. Railway,
Maligaon, Guwahati-11.
2. Divisional Railway Manager,
N.F. Railway, Lumding,
Dist. Nagaon, Assam.
3. Divisional Railway Manager
(P), N.F. Railway, Lumding,
Dist. Nagaon.

Bechu Ram Chowhan
Filed by the applicant through
Dwight Goswami, Advocate
4/8/2004

4. Divisional Railway Manager
 (Mechanical) N.F. Railway,
 Lumding, Dist. Nagaon,
 Assam.

5. Sr. Divisional Mechanical
 Engineer, Lumding,
 Dist. Nagaon, Assam.

.... Respondents

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

- i) Order issued by the Respondent No.5 under memo No.M-258/LM/14/1 dated 9.2.2000 canceling the allotment of Type-II quarter at Harulongfar Colony, Lumding allotted to the applicant from a retrospective date, i.e. 23.4.99 without any show-cause notice.
- ii) Letter No. M/258/LM/14 (Loose) dated 4.2.03 issued by the Respondent No.5 addressed to Respondent No.3 asking him to recover damage rent from the applicant on installment basis till such time the applicant vacated the quarter.
- iii) Action of the authorities in recovering Rs. 1707/- p.m. from the salary of the applicant since March, 2003 without following the

BB

procedure laid down in section 7 of Public Premises (Eviction of unauthorized Occupants) Act, 1971.

iv) Order dated 23.3.004 issued by Additional Divisional Railway Manager rejecting the appeal of the applicant arbitrarily and mechanically.

2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION :

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

1. That the applicant joined N.F. Railway on 29.4.65 as Box Porter, Mechanical and he was posted at Lumding. After two years he was transferred to Carriage Department and posted as Khalasi. Thereafter in recognition of his loyal and faithful service he was promoted to the post

of Carriage Fitter Grade C. Thereafter he was promoted to the post of Carriage Fitter Grade-B in 1982 and then to the post of Carriage Fitter Grade-I in 1991-92. The applicant further states that after the implementation of 5th Pay Commission recommendation the post was re-designated as Technician (Coaching) Grade-I in scale of Rs. 4,500-7000 in 1996.

2. That, while serving as such the applicant was allotted a railway quarter which was numbered as H/13-D, Type-II at Harulongfar Colony at Lumding vide order No. M/258/LM/12 CL X dated 13.10.1987 and he occupied the same ever since.

3. That the Respondent No.5 by letter No.M-258/LM/14/1 dated 09.02.2000 informed the applicant that during verification it was found that quarters No.H/13-D Type II at BR HRIF colony, Lumding has been subleted by the applicant and that as per para (2) of Rly. Board's circular No.E/53/O/P.VI(C) dated 13/7-3/9/98 the allotment of quarters would be cancelled if any, allotted quarters are found sublet and since the said quarters have been found to be subleted vide DRM (Works) /LMG's letter No.W/212/LM/Subletting of Rly. Qrs/W-4/285 dated 23.4.99 the allotment order against the applicant was cancelled and he was



advised to hand over the said quarters to the next allottee.

A copy of Sr.DME/IC/Lumding's letter dated 9.2.2000 is annexed herewith and marked as Annexure-I.

4. That after receipt of the said letter canceling allotment order for the said quarters, the applicant personally met the Respondent No.5 and told him that the allegation about subletting of the quarters was not true and that he never expressed his desire to vacate the said quarters as stated in the said letter as he had nowhere to live. The applicant was told that Divisional railway Manager (Works)/Lumding had given a report about subletting of the said quarters and he could not do anything and that the applicant must vacate the quarters or be prepared to face the consequences.

5. That, the applicant did not vacate the quarters as the allegation was totally false. However, he was served with another letter by Respondent no.4 vide No.M/258/LM/14/1 dated 25.07.2001 in reference to the earlier letter dated 9.2.2000 advising him to hand over the quarters to SSE/Works/line/Lumding (Senior Section

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Engineer/ Works/Line/Lumding) within 7 days from the date of receipt of the letter without fail.

6. That since the applicant could not find any place to go and since he was fearing administrative reprisals for not handing over the quarters he started looking for an accommodation.

7. That the applicant failed to vacate the quarters at that time, the respondent No.5 vide his letter No.M/258/LM/14/1 (Loose) dated 04.02.2003 addressed to respondent No.3 (Mechanical Bill Section) intimated to the bill preparing office that the allotment order for the said quarters in favour of the applicant has been cancelled on the ground of sub-letting, and that in spite of the advice to hand over the quarters to SSE/Works/Line/Lumding he failed to do so and as such the bill preparing office was requested to recover damage rent against the said quarters from the monthly salary of the applicant on installment basis till such time he vacated the quarters. It was also intimated that the plinth area of the quarters was 53.35 square meters.

A copy of the said letter was also endorsed to Respondent No.2 requesting him to initiate eviction proceeding for the said quarters.

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A copy of letter dated 04.02.2003 is annexed herewith and marked as **Annexure-II.**

8. That accordingly the authorities started to deduct a sum of Rs. 1707/- as rent and another sum of Rs. 1707/- as penal/damage rent from the salary of the applicant for the month of March, 2003.

A copy of the pay slip for the month of March, 2003 is annexed herewith and marked as **Annexure-III.**

9. That the applicant was finally able to locate a private house and he shifted there and handed over the quarters to one Sri Alok Malakar, Technician Grade-II, (C&W) Lumding on 19.8.03, in whose favour allotment order had been issued.

A copy of handing over and taking over memorandum for the said quarters between the applicant and Sri Alok Malakar is annexed herewith and marked as **Annexure-IV.**

10. That in spite of the applicant having vacated the said quarters the damage rent from his

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salary continued to be recovered at the rate of Rs. 1707/- p.m.

on 3.11.2003

11. That the applicant submitted an appeal to Divisional Railway Manager, Lumding (Respondent No.2) narrating his grievances, violation of procedure, non-affording of reasonable opportunity of being heard in respect of the charge of sub-letting of quarters, absence of physical verification etc. and requested the Respondent No.2 to stop the illegal recovery of damage rent from his salary and to refund the amount already recovered. He further stated that he had not sub-let the quarters and that if he was issued with a charge sheet on such allegation he would have been able to prove his innocence.

A copy of appeal dated 03.11.2003 is annexed herewith and marked as Annexure-V.

12. That after the applicant was informed by the respondent No.4 vide his letter No.M/258/LM/14/Pt. (Sub-let Qrs.) (Loose) dated 23.03.2004 that his appeal dated 3rd Nov. 2003 had been put up before the Respondent No.2 and as advised by the Respondent No.2 it was put up before the Additional Divisional Railway Manager, Lumding who gave the following remarks.

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"I have gone through the entire case. It is established that Sri Bachu Ram Chowhan, Tech. Grade-I under SSE(C&W)/LMG had subletted his allotted Railway Qrs. No.H/13(D)/type II at H.R.L.F. colony/LMG, gravity of the offence justifies the punishment imposed by DA. As regards, refund of damage rent DPO's remarks on PP/6 and DME(IC)'s remarks on PP/7 holds good."

A copy of the ADRM's order is annexed herewith and marked as Annexure-VI.

13. That the applicant states that as a tenant of the Railway quarters he had been paying a rent of Rs.90/- p.m. but in the months of March, 2003 and April, 2003 an amount of Rs. 1707/- p.m. was recovered from his salary as rent and that from March, 2003 onwards an amount of Rs. 1707/- p.m. has been recovered as arrear/penal rent and an amount of Rs. 1,68,993.00 has been determined to be recovered from his salary of the applicant, of which an amount of Rs. 23,898.00 has already been recovered from his salary upto April, 2004. The applicant further states that the authorities have now threatened to deduct Rs. 4,000/- p.m. from May' 2004.

BB

14. That the applicant states that he is going to retire from service on 01.02.2005 and if not stopped the respondents are determined to recover the outstanding amount from his retiral benefits as well.

15. That the applicant states that the decision to get the applicant vacate the said quarters and to recover the damage rent from his salary on the ground of alleged sub-letting of the quarters without affording him the reasonable opportunity of being heard is totally illegal, arbitrary, and unlawful being violative of departmental rules as well as principles of natural justice and fair-play.

16. That the applicant begs to state that the Railway Board has issued from time to time various circulars with regard to subletting of quarters.

The railway board circular No. E(G) 79/RN-2-117 dated 09.04.1980 is quoted below:-

"No Railway servant shall sublet his quarter without the approval of the Divisional Railway manager or the Heads of the Departments.

The cases where subletting of quarters in full to the authorities are made, the action under discipline and appeal rules shall be taken and eviction proceeding under the provisions of the

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Public Premises (Unauthorized Occupation) Act, 1971 should be started for expeditious vacation of the railway quarter. Similar action should also be taken against the staff sub-letting a portion of quarters and on vacation of that portion shall be allotted to an other employee.

The staff violation the orders should be charged market rent or the penal rent after the finalisation of D & A rules inquiry"

The Railway Board circular No. E(D & A) 98 GS 1-1, dated 19.06.1998; RBE NO. 136/98 is quoted below:-

"1. Rules 15A of the railway services (Conduct) Rules, 1996 provides that save as otherwise provided in any other law for the time being in force, no railway servant shall sub-lease or otherwise allow occupation by any other person of Government accommodation which has been allotted to him.

2. It has been decided that as soon as the charge of sub-letting is established by the pool holder, the allotment of quarter will be cancelled and the disciplinary authority shall initiate disciplinary proceedings against the railway servant concerned. In such cases, the competent authority suspension also. It may also please be ensured that charge sheets are issued

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immediately in cases where employees are likely to retire shortly or where they have already retired, since such cases are likely to become time barred for initiation of disciplinary proceedings by virtue of the misconduct being more than four years old. "

17. That the applicant states that from the facts and circumstances narrated hereinabove it is evident that the respondents have acted malafide, in violations of Rules and procedure prescribed under the Public Premises (Eviction of unauthorized occupants) Act, 1971 and the principles of natural justice and fair-play in declaring the applicant unauthorized occupant of the quarters on the baseless, unsubstantiated and unproved allegation of subletting and further recovering damage rent assessed arbitrarily and illegally and the actions of the respondents in these respects have been most unfair and unjust and iniquitous and the applicant has no other remedy except to approach this Hon'ble Tribunal for the redressal of his grievances and unless some interim orders are passed protecting his rights the applicant will suffer irreparable loss and injury.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

I. For that the action of the authorities in canceling the allotment of the quarters

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allotted to the applicant on the unverified unsubstantiated and unproved allegations of Divisional Railway Manager (Worka) /Lumding in its letter dated 23.4.99 without giving any notice to the applicant for showing cause is illegal, unlawful and unconstitutional.

II. For that the applicant was entitled to have access to the complaint/report on the basis of which a decision was taken to cancel the allotment of quarters and also to be heard in respect of the allegation and the nature of evidence before a decision was taken, but the fact that no such opportunity was afforded to him before affecting adversely his rights and passing any order which had civil consequences, the respondents have blatantly violated the principles of natural justice and fair-play.

III. For that Railway Board's Circular No. E(G) 79/RN-2-117 dated 09.04.1980 has held that cases where subletting of quarters are made, the action under the discipline and Appeal Rules shall be taken and eviction proceeding under the provisions of the Public Premises (Unauthorized Occupation) Act, 1971 should be started for expeditious vacation of the railway quarter and market rent or the penal rent should be charged from the concerned staff after the

BB

finalisation of the D & A Rules inquiry. In this case the authorities as narrated in the foregoing paragraph never follows this circular and instead charged the applicant penal/ arrear rent without any inquiry under the disciplinary and appeal rules and as such the action of the authorities are bad in law and is liable to be set aside and quashed.

IV. For that, in terms of Railway Board's instructions laid down in its letter No.E(D&A) 98GS 1-1 dated 19.6.1998, it has been decided that as soon as the charge of sub-letting is established by the pool holder, the allotment of quarters will be cancelled and the disciplinary authority shall initiate disciplinary proceedings against the railway servant concerned and that it may also be ensured that charge sheets are issued immediately in cases where employees are likely to retire shortly. That the respondents did not follow these instructions in the matter of the applicant in spite of the demand of the applicant to issue charge sheet and hold an inquiry if the allegation had some basis.

V. For that after the arbitrary cancellation of the allotment order the authorities ought to have proceeded against the applicant under the provisions of Public Premises (Eviction

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of unauthorized occupants) Act, 1971 for eviction and recovering of penal or damage rent from the applicant.

That under section 4 of the Act the applicant would have been entitled to a notice and the opportunity to show cause and introduce evidence in his support.

VI. For that, in terms of Section 7 of the Public Premises Act, 1971, under sub-section (3) thereof, no order for payment of arrear rent, and damages shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Estate Officer. The respondent-authorities have clearly unsurped the jurisdiction of the Estate Officer both in the matter of eviction from the quarters as well as in the matter of recover of damage rent from the applicant.

VII. For that, eviction from the premises and the recovery of damages both are dependant on the proof of unauthorized occupation of a premises only and since the applicat was a duly authorized occupant and he had been paying rent regularly the conditions

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precedent to eviction and the recovery of damage rent were not satisfied and hence forcing the applicant to surrender occupation of the quarters and also order recovery of damage rent from him militates against all the norms and procedure and the rules governing allotment and retention of quarters.

VIII. For that the Respondent No.5 while endorsing a copy of his letter dated 04.02.2003 (Annexure-II) had requested Divisional Railway Manager (Works)/ Lumding which is the office of Sr. Divisional Engineer who is the ex-officio Estate Officer to initiate eviction proceeding, but the Estate Officer did not entertain the request presumably on the ground that no case for eviction was made out.

IX. For that, when no eviction proceeding was initiated by the Estate Officer, Respondent No.5 ought not to have usurped the jurisdiction of the Estate Officer and taken action which only Estate Officer is authorized under the Act to take. Thus, the action of the Respondent No.5 is without jurisdiction, malafide and illegal and the same is liable to be set aside and quashed.

X. For that, the Respondent No.5 vide his letter dated 04.02.03 had asked Respondent No.4 to recover damage rent from the

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applicant only till such time he vacated the quarters, but Respondent No.4 has been continuing to recover the damage rent even after vacation of the quarters by the applicant which is illegal, unlawful and malafide and as such it is liable to be set aside and quashed.

XI. For that the appeal of the applicant finally disposed of by Additional Divisional Railway Manager, Lumding was not considered properly and there was no application of mind by the Additional Divisional Railway Manager, Lumding in that misconstrued the contents of the appeal to think that it was an appeal against a punishment imposed under the Discipline and Appeal Rules and rejected the appeal but while doing so he relied on some PPs which were not disclosed to the applicant. This decision making process where reliance is placed on material which were obtained behind the back of the party adversely affected is violative of the well-settled principles of natural justice, that is audi-alterem partem. In Km. Neelima Misra v. Dr. Harinder Kant Paintal and others reported in AIR 1990 SC 1402, the Supreme Court held as follows -

"An administrative order which involves civil consequences must be made consistently with the rule expressed in

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the Latin Maxim audi-alterem partem. It means that the decision maker should afford to any party to a dispute an opportunity to present his case. A large number of authorities are on this point and we will not travel over the field of authorities. What is now not in dispute is that the person concerned must be informed of the case against him and the evidence in support thereof and must be given a fair opportunity to meet the case before an adverse decision is taken."

Therefore, the decision of the appellate authority is also malafide, unlawful and violative of principles of natural justice inherent in Article 14 of the Constitution and as such the order of the appellate authority confirming the order of the authorities below is liable to be set aside and quashed.

6. DETAILS OF REMEDY EXHAUSTED:

The applicant submitted an appeal dated 03.11.2003 before the Respondent No. 2 but the same was rejected by Additional Railway Manager, Lumding by letter dated 23.3.2004.

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

The applicant further declares that he has not previously filed any application, writ

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petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the impugned orders dated 4.2.2003 (Annexure-II) dated 23.3.2003 (Annexure-VI) should not be set aside and quashed and being in violation of the prescribed rules and procedure and after perusing the causes shown, if any and hearing the parties, set aside the impugned orders dated 4.2.2003 (Annexure-II) dated 23.3.2003 (Annexure-VI) and/or pass any other order/ orders as Your Lordships may deem fit and proper so as to grant adequate relief to the applicant.

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

PD

9. INTERIM ORDER: It is further prayed that pending disposal of the application/ Your lordships would be pleased to stay the operation of the impugned order dated 4.2.2003 (Annexure- II) and/or pass any other order/orders as Your Lordships may deem fit and proper.

AND FOR this act of kindness the applicant as in duty bound shall ever pray.

10. DOES NOT ARISE:

11. PARTICULARS OF THE BANK DRAFT/POSTAL ORDER
IN RESPECT OF THE APPLICATION FEE.

- (i) I.P.O No. : 114389594
- (ii) Date : 1.6.2004
- (iii) Issued by Guwahati Post Office.
- (iv) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the index.

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VERIFICATION

I, Sri Bachu Ram Chowhan, Son of late Garib Chowhan, aged about years, Resident of Shankar Sthan, Fish-Market, P.O. Lumding in the district of Nagaon, Assam do hereby verify that the statements made in Paragraphs No. 4(1, 2, 4, 6, 10, 11, 13, 14, 15, 16 and 17) are true to my personal knowledge and the statements made in paragraphs No. 4(3, 5, 7, 8, 9 and 12) are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this ^{4th} day of June, 2004 at Guwahati.

Place: Guwahati

Beehu Ram Chowhan.

Date: 4.6.2004.

-21-

H.P. Aly.

No. H-258/LM/14/1.

DME(M) is Office,

Lunding, dt. 07-02-2000

To: Shri Boodha Ram Chownan,
Tech. Cr. I/LMG,
(Thro. SEC(CAW)/LMG)

Sub: Cancellation of quarters allotment.

.....

During verification, it was found that Qrs. No. H/13(D) Type: II at HELP Colony/Lunding has been subletted by you.

As per para(2) of Aly. Bd. 's circular No. E/83/0/P. VI(C) dt. 13/7-3/9/98 circulated by DME(P)/LMG's vide his letter No.E/206/DAS/C/Pt. IV dt. 02.11.12.98, the allotment of Qrs. will be cancelled if any allotted Qrs. is found in subletting.

Since the Aly. Qrs. No. H/13(D) Type: II at HELP Colony/Lunding is proved the subletted to other vide DME(works)/LMG's letter No. 7/212/LM/Subletting of Aly. Qrs./V-4/285 dt. 23.4.99, so the allotment of order against your Qrs. is hereby cancelled v.e.f. 23.4.99.

However as you declared that you like to surrender your Qrs, the Qrs. has been allotted to the next allottee vide item No. 4 of D.M(E)/Lunding order No. H/258/LM/12 Pt. XV dt. 27.9.98.

You are advised to handover the Qrs. to the new allottee as per office order mentioned above and intimate to this office accordingly.

20-7-2000

Sd. DME/ IC/Lunding.

Copy to:-

- 1) DME(P)/Tech. I/LMG for information and necessary action.
- 2) CR. DME/LMG for information.
- 3) SEC(CAW)/LMG for information and necessary action.

Sd. DME/ IC/Lunding.

Affected by
Bhoolchawry
Adv.

N.F.Railway.

NO. M/258/LM/14/I (Looso).

Office of the
Civil Railway Manager (M)
Lumding, date 04.02.2003.

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TG,

CRM(P)/Lumding.

(Mach: Bill Section).

04/02/03

Sub:- Recovery of damage rent against the Lrs. NO.H/13 (^)type II at HRLF Colony/Lumding from the Monthly Salary of Shri. Bachu Ram Chowhan, CF.Gr.I under SSE(C&W)/Lumding.

.....

Rly. Lrs. NO.H/13 (^)type II at HRLF Colony/LMG was allotted to Shri. Bachu Ram Chowhan, CF.Gr.I under SSE(C&W)/Lumding, but allotment order has been cancelled due to subletting of the Lrs. w.o. P. 23.04.81999 vide this Office letter of even NO. dated 09.02.2000, and he was advisor to handover the Lrs. to SSE(Works/Lino)/Lumding but he failed to do so.

As such, you are requested to recover damage rent against the above Lrs. from the Monthly Salary of Shri. Bachu Ram Chowhan, CF.Gr.I under SSE(C&W)/Lumding on Instalment basis, till such time he vacates the Lrs.

Plinth area of the Lrs. NO.H/13 (^)type II at HRLF Colony/Lumding is 53.35 Sqms.

Action taken in this regard may be intimated to this Office.

Sr. CME/IC/Lumding.

Copy to:

1. CRM(W)/Lumding. He is requested to initiate eviction of the above Lrs. at the earliest under intimation to this Office please.

2. Shri. Bachu Ram Chowhan, CF.Gr.I THROUGH SSE(C&W)/LMG for information.

Sr. CME/IC/ Lumding.

E
Send the letter
to: *1/1/2003*

Attested by
Boudhury
Adv

CLIP NAME: 2003 70740/STN/DEPT 647430/L16006/10044 46
 PAYE 6 3500.00 PF-SUBCRPTW 6 438.00 GROSS PAYING 2007.00
 DUES 6 130.00 RENT. 6 1707.00 DEDUCT 1707.00
 CLUB/INST 6 444.00 GROUP EXC. 6 6.00 NET PAY 18237.00
 GROUPEX 6 125.00 SOCIETY DPGY 6 10.00 PAYE 18237.00
 SOCIETY DPGY 6 10.00 ADDL/RPTN RPT 6 1707.00 2
 110.00 6 110.00 2
 18237.00 6 18237.00 2

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ALTI
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ANNEXURE - IV

(Typed Copy)

To,

The DRM (M) / LMG.

N.F. Railway

(Through proper channel)

Sub :-Vacation and occupation of Rly. Qr.
No.H/13(D) type II at H.R.L.F. Colony,
Lumding.

Ref :-Your L/No. NC.M/258/LM/12/Pt.XVI dated
08.08.2003.

Sir,

In terms of your office order No. cited
above, I have vacated the Rly. Quarter No.H/13(D)
type II at H.R.L.F. Colony, Lumding and hand over
to Sri Alok Malakar Tech Gr. II/ CTW/LMG with all
electrict fittings correctly on date 12.08.03.

Dated. 12.08.2003

Yours faithfully
Bechu Ram Chowhan

In terms of the above order, I have taken
over the charge of quarter No. H/13(D) Type II at
H.R.L.F. Colony, Lumding on date 12.08.2003 with
all electrical fittings correctly from Sri Bechu
Ram Chowhan Tech Gr.I (CTW)/ LMG working under
SSE/CHG/LMG.

Dated. 12.08.2003

Yours faithfully
Alok Malakar

Attested by
Chandhury
Adv.

Copy to:-

1. SSE/CHG/LMG.
2. SSE/Elec./P/LMG.
3. SSE/Works/Line/LMG.
4. OS/EM/Mech: Bill/LMG - For kind information
and necessary action.

Sd/-

Illegible

20.08.2003

19.08.2003

Office Seal

Recd

R

Sd/-

Sd/-

Illegible

Illegible

20.08.2003

19.08.2003

To,
The Divisional Railway Manager,
M.F.R. Railway.
(Through Proper channel)

Sub : Cancellation of Allotment of Railway Quarter No. H/13(D),
at H.R.L.F. Colony and recovery of damage rent.

Ref : Sr.DME/IC/LMG's Letter No. M/258/LR/14/1(Loose), dated.
04.02.2003 and dt.09.02.2000, 25.07.2001.

Sir,

Respectfully, I beg to submit that I was allotted with a Railway Quarter No. H/13(D), Type II at HRLF Colony, Lumding since. And I was residing in that quarter with my family for a long period until 29.05.2003 when an compulsion handed over the said Quarter DME/Lumding.

Sir, in this connection I like to draw your kind attention on the gross violation of Rules specifically mentioned for identification of subletted Urs., procedure of enquiry and opportunities to defend the charges and other paraphernalia. In this case I was not a defaulter and residing in my authorized Qtr. Sr.DME/IC/LMG has unilaterally declared the said Qtr. No. H/13(D) as subletted ^{during} without being in the truth. So far my information the department did not conduct any Physical investigation now I was Questioned for alleged subletting rather on its own motion issued an unilateral order to ^{vacate} the Quarter (M-258/LR/14/1, dt. 09.02.2000) and hand over to the new allottee, (ironically the said letter mentioned herein was not handed over to me).

Sir, had I been subletted the Qtr. No.H/13(D), Type II at HRLF Colony to some one Sr.DME/IC/LMG would have issued a charge memorandum as per Rly.Cd's Rules. But in my case there is no charge of subletting as per RS(D&A) 1968 rather a letter violating all the rules and norms to surrender the said Qtr.

Sir, the most arbitrary part of the said order is to recover damage rent from my salary. Since the allegation of subletting is fictitious and no evidence recorded, I was not issued charge memorandum the recovery of damage rent from my salary is not only illegal but against the payment of wages Act.

Cont...P/2

Attested by
Bhawal Ray
Adv.

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(Page No. 2)

In this situation there is no any other alternative but to seek your judicious intervention to stop such illegal order to stop the recovery of damage rent and kindly refund the same to me as I have not been proved to be a delinquent through the set process of RS(D&A)1968.

With regards,

Yours faithfully,

Bechu Ram Chowhan
Tech 1 under S&E/C&H/Lm/

Dated, Lumding,

(BECHU RAM CHOWHAN)

The 3rd Nov/2003.

DME/IC/Lm/3
Forwarded for your
disposal please
B. S. S.
03/11/03

(Contd).

To
The Sr. Ame/CA /Lumding
N.F.Rly.

For kind attention of Shri Sankar Singh, Sr. Ame,
bullet subagent for damage rent against my Art No.H/13(0)
at HRLF colony, Lumding.

Reff: My application dated 13.11.2003.

Sir,

I would like to inform you that I was residing in Rly
Art. No.H/13(0) at HRLF colony since long duly allotted by my
controlling officer with my family. Suddenly I got an order for
cancellation of the allotment of the said Art. with some false
allegation of sub letting. (I-258/H/14 dt 09.02.0000).
Subletting of Rly. Art is against the service conduct rules
of RS(Conduct) 1966 and its attract the penal provision under
RS(D&A) 1968. That is if a Railway person found to be subletting
a Railway Art. He shall be first issue with a Charge Memorandum
under Rule 8 of the said set. And enquiry will be conducted
providing the Charge Officer all possible opportunity to defend
his case.

But sir, nothing of that sort was happened in my case and
instead of following the stipulated rules of the state I was
subject for harrassment for recovery of damage rent from my
salary and I had to handover the Art also and residing in private
Art.

Therefore, you are requested to examine the case and
pass necessary orders as per the rule as I am retiring in the
year 2005.

With regards,

Yours faithfully
Pechu Ram Chauhan.

Pechu Ram Chauhan
Tech/CA-I/777/C/1/M/1

Date: 23.03.2004

Attested by
Anubhav
A.D.

H.F. Railway

NO. M/256/LM/14/Pt:I (Sublet - 404.) (Lense),

DRM (M/s) Office
Lumding.
Date 23/03/04.

TO,

Shri. Bechu Ram Chowhan, Tech:Gr. I/LMG.

(Through: SSE/C&W/ Bain Yard / Lumding.

Sub:- Cancellation of Allotment of Railway
Wrs. M/0.4/13 (D) type II at H.R.L.F. Colony/
Lumding and recovery of damage rent.

Ref:- Your appeal D.O.MIL dated 3rd. Nov/03
addressing DRM/LM.

Your above appeal addressing DRM/Lumding has been put up
to DRM and as per advised by DRM, the same has been put up to ADM
/LMG who gave the following remarks:-

" I have gone through the entire case. It is established -
that Shri. Bechu Ram Chowhan, Tech:Gr. I under SSE/C&W//LMG
had subletted his allotted Railway Wrs. M/0.4/13 (D) type II
at H.R.L.F. Colony/LMG. gravity of the offence justifies the
punishment imposed by DA. As regards, refund of damage rent
DPO's remarks on PP/6 and DMB(IC)'s remarks on PP/7 holds
good. "

Please noted accordingly.

23/03/04
For DRM(M)/Lumding.

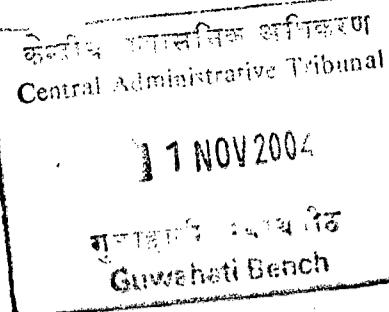
Copy to:

DPO/Lumding for information please.

For DRM(M)/Lumding.

2
B.R. Chowhan
29/03/04 at 15 hrs.

Attested by
B.R. Chowhan
Adm.



Filed by
Jagannath C.P.
1.11.04
N.P. & Co. Ltd.
नियन्त्रित अधिकार
प्राप्ति न्यायालय
D.L. 1000, Court, Guwahati
N.P. & Co. Ltd.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO 138/04

Sri. B.R. Chouhan.

-vs-

Union Of India & ors.

IN THE MATTER OF:

Written Statement filed by the
respondents.

1. That a copy of the O.A. has been served on the respondents and the respondents have gone through the copy of the O.A. filed by the applicant and have understood the contents thereof.
2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the O.A. are categorically denied. Further the statements which are borne on records are also denied and the applicant is put to the strictest proof thereof.
3. That before dealing with the various contentions made in the O.A. the deponent begs to raise the preliminary objection regarding the maintainability of the O.A. The O.A. is bad for non-joinder of necessary parties, waiver, estopped and acquiescence. It is stated that the claim made by the applicant contains disputed questions of facts and

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१०८८ शारीरिक आवश्यकता
५० दिन लाप्ति व्यापक
Div. Personn. Chir. (1/4)
N. R. १०८८ Luxing

the applicant has challenged the order dated 09.02.00 at belated stage and as such same is not maintainable and on this score alone the O.A deserves to be dismissed with cost. The applicant since has claimed protection and invocation of the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, the present O.A is not maintainable and liable to be dismissed with cost.

4. That with regard to the statement made in para
1, 2, and 3 the answering respondents admit only those
statements which are borne on records.

5. That with regard to the statement made in para 4.1 the answering respondents begs to state that the applicant is now presently working as Tech:GR.I under SSE (C&W)/Lumding. The statement regarding his loyal and faithfull service is not correct and same has got no connection with the present issue involved in the C.A.

6. That with regard to the statement made in para 4.2
the answering respondents begs to state that the
Rly.Qrs.No.H/13(D)type II at HRLF Colony/Lumding was allotted
to the applicant.

7. That with regard to the statement made in para 4.3 the answering respondents begs to state that the allotment of the Qrs.No.H/13(D) was cancelled for two reasons namely, (a) that the applicant sublet the Qrs, (b) the applicants application dated 15.7.99 wherein he wanted to surrender the Qrs.No.H/13(D) so that he can take occupation of his won house at Lumding.

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W.W.
3
Div. Person. Officer, Lumding
N. F. & C. Lumding
पश्चिम काशी बर्धमान
पू. शो. रेल लामडिंग

8. That with regard to the statement made in para 4.4 the answering respondents begs to state that the applicant did not meet the Respondent No.5 as to the matter of subletting of the Qrs. further, it is reiterate that the applicant by his own application dated 15.7.99 wanted to surrender his said quarter as he has already complited his own house at Lumding.

It is stated that the respondents when detected the fact of his subletting the Railway Quarter in contravension of the rules, and issued the letter DEN(I)/Lumding letter dated 23.4.99, the applicant to get ~~relied~~ from such departmental action wanted to surrender the Qrs and submitted the aforesaid application dated 15.7.99. Since the applicant already completed his own house atleast on or before 15.7.99, hence question of looking for ~~accommodation after the issued of the letter dated 25.7.81~~ has no basis at all.

A copy of the said letter dated 15.07.99 is annexed herewith and marked as Annexure-1.

9. That with regard to the statement made in para 4.5 the answering respondents begs to state that the applicant ~~sub-letted~~ the Qrs. and the fact was proved, as he did not vacate the Qrs. in reference to the letter dated 9.2.00 he was reminded vide letter dated 25.7.81

Copies of letters dated 9.2.00 and 25.7.81 are enclosed as Annexure-2 & 3.

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म
कार्यकारी विभाग
Div. Personnel Office (V/c)
N. P. R. v. Lumding

10. That with regard to the statement made in para 4.6 the answering respondents begs to state that the is has been stated in the proceeding paragraph, that the applicant submitted an application dated 15.7.99 wherein he stated that he completed his own house at Lumding and as such he wanted to surrender the Qrs, so that he can take occupation of his own house. So, question of looking for accommodation does not arise. The applicant however, never apprised the Hon'ble Tribunal regarding his application dated 15.07.99 and the said fact has been suppressed by him and on this score alone the application is liable to be dismissed with cost.

11. That with regard to the statement made in para 4.7 the answering respondents while denying the statement made therein begs to state that the the action taken in this regard has been done as per the relevant rules and following the due.

12. That with regard to the statement made in para 4.8 the answering respondents begs to state that the DRM(W)/Lumding vide his letter No.W/212/LM/ Subletting of Rly.Qrs./W-4/285 dated 23.4.99 intimated that the Qrs. No.H/13(D) type II at HRLF Colony/Lumding was subletted by the applicant and he was issued with a major penalty chargesheet and asked to submit his written statement of defence. He acknowledged, the charge Memo on 5.7.99. But he did not submit his defence. However, he wrote his application dated 15.7.99 wherein he stated that he already completed his own house and wanted to vacate the Qrs. so that he can take occupation of his completed own house. He

was reminded to submit his defence vide letter dated 15.9.99.

But he all along remained silent and did not submit any defence against the said charge sheet. In the context of the above, when the allotment of the Qrs. was cancelled for subletting and the same was allotted to another employee as per applicants application dated 15.7.99 (Ref. to the OA) the applicant did not responden to it, an appropriate decision was taken and a penalty of stoppage of increment for 2 years and 11 months (NC) was imposed upon him. He did not prefer to file any appeal against the imposition of penalty. he subletting was proved at the disciplinary proceeding and the order passed by the authority attained its finality.

That though the Qrs. allotted to another employee and the applicant was advised to handover the Qrs. to the allottee as per Annexure I, the applicant did not handover the Qrs. As such Annexure II to the OA was issued so that recovery of damage rent against the above Qrs. from the monthly salary of the applicant on instalment basis is made till such time he vacates the Qrs. Therefore, damage rent was calculated and recovery was started from March/2003. As per plinth area of the Qrs. i.e. 53.35 sqms. @ Rs.32 per sqms. (Previous rate= 1707/- was deducted as damage rent against the current Month of FEB/03/ and Rs.1707/- against arrear damage rent from 23.4.99 subject to final adjustment at the end of the deduction.

A statement showing the detail calculation of damage rent is annexed herewith and marked Annexure-4.

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CMJL

राष्ट्र कार्यकारी आयोग
पू. सी. रेल रामटिंग
Div. Personnel Office (I/c)
N. M. Lumding

13. That with regard to the statement made in para 4.9 the answering respondents begs to state that the applicant handed over the Qrs. to Shri Alok Malakar on 12.8.03. The Annexure IV to the OA is incorrect one to the extant of handing over and taking over dated.

14. That with regard to the statement made in para 4.10 the answering respondents begs to state that the applicant vacated the Qrs. on 12.8.03. Therefore, damage rent for the current months was stopped in fact. So far arrear damage rent is concerned Rs.1707/- was continued to be deducted from March/03 for the period from 23.4.99 to 11.8.03 at the previous rate.

15. That with regard to the statement made in para 4.11 the answering respondents begs to state that the allegations of the applicant herein this paragraph are incorrect and same are denied. It was confirmed by DEN(I)/Lumding by his letter dated 23.4.99 that the applicant subletted his Qrs. No.H/13(D)type II at HRLF Colony/Lumding. Further, the fact of subletting of the Qrs. was confirmed by a team who conducted Physical verification 23.9.2002.

It is denied that the applicant was not given any chargesheet, reasonable opportunity was not given to etc. It has already been narrated in the proceeding paragraphs that the applicant was issued a major Penalty Chargesheet dated 1.7.99 for subletting of the Qrs, which he acknowledged on 5.7.99 but he did not submit any defence. He was reminded to submit his written defence once again. And as he had

W.M.J

ग्रामीण शाखा
ग्रामीण विभाग
Div Personn. Officer (V.C)
N.P. & L.J. Lodon (V.C)

nothing to deny to the allegation. He by his application dated 15.7.99 wanted to surrender his Qrs. to get rid of the allegations of subletting of the Qrs. Though he was given all reasonable opportunity he did not avail the same.

The approaches of the applicant to the whole issue of subletting of Qrs. establishes the fact that he sublet his Qrs. he was given all reasonable opportunity to prove innocence even by issuing reminder letter and same justifies the disciplinary action and recovery of damage rent.

The applicants appeal dated 3.11.03 was disposed off vide letter No.M/258/LM/14 Pt.I (sublet-Qrs.) (Loose) dated 23.3.04.

16. That with regard to the statement made in para 4.12 the answering respondents deny the contentions and put the applicant to the strictest proof thereof.

17. That with regard to the statement made in para 4.13 the answering respondents begs to state that the allegation of the applicant that the Railway authority threatened to deduct Rs.4000/- per month from May/04. is without any basis.

On receipt of the annexure II to the OA, the respondents calculated the damage rent on the basis of the Plinth area of the Qrs. and the applicable rate, and so, recovery of damage rent started from the next month i.e. March/03 @Rs.1707/- for the month of March/03 itself and Rs.1707/- as damage rent from 23.4.99 on the basis of the previous rate.

The present position is that as the applicant

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राज्य कार्यालय आधिकारी
गोपी नाना यात्रा
Div. Personnel Officer (Q/c)
N.P.O. Lumonip

vacated the Qrs. on 12.8.93 the damage rent for the current month have been stopped and damage rent amount stands at Rs.1,34,742/- for the period from 23.4.99 to 11.8.93 after applying the revised rates time to time.

Out of this amount Rs.23,898/- have already been deducted as damage rent for current month and as arrear. As a result an amount of Rs.1,10,844/- is to be recover in the following manner:-

$$\begin{array}{rcl} 36 \text{ monthly instalment} \times \text{Rs.}3666.00 & = \text{Rs.}1,28,000.00 \\ 01 \text{ month instalment} \times \text{Rs.}2844.00 & = \text{Rs.}2,844.00 \\ & \hline \\ & \text{Rs. }1,10,844.00 \end{array}$$

(Detail statement is annexed herewith)

18. That with regard to the statement made in para 4.14 the answering respondents begs to state that the applicant is duty bound to pay the damage rent for subletting of the Qrs. as per Rly. Bd.'s letter No.E(D&A)QBSI-I dated 19.6.98 and the Ministry of Personnel, Public Grievances & Pensions Circular No.F.11012/97 Estt (A)dated 31.12.97.

19. That with regard to the statement made in para 4.15 the answering respondents while reiterating and reaffirming the statement made above begs to state that the allegations by the applicant herein this paragraph are baseless and same are denied.

20. That with regard to the statement made in para 4.16 the answering respondents begs to state that in deciding the issue, relevant Rly. Bd's Circular and Ministry of Personnel, Public Grievances and Pensions Circulars have been followed and as such there is no illegalities and infirmities.

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कानूनी अधिकारी
मूल नियमित
Div. Personnel Office (I/c)
N.R.C. - Luxon

21. That with regard to the statement made in para 4.17 the answering respondents begs to state that under the following grounds the applicant has got no legal right and as such the O.A deserves to be dismissed with cost;

(a) That the applicant subletted his Qrs. and it was reported on 23.4.99.

(b) The applicant to get rid of the allegation wanted to vacate the Qrs. on 15.7.99.

(c) That the applicant was charge sheeted on 1.7.99 and penalty was imposed on 9.2.00.

(d) That when the Charge was proved allotment of the Qrs. was cancelled and the applicant was asked to handover the Qrs. to the new allottee as the applicant on 15.7.99 desired to vacate the Qrs.

(e) Instruction was issued on 4.2.03 to recover damage rent from 23.4.99 as he did not vacate the Qrs. and to initiate evicting proceeding.

(f) Damage rent @ Rs.1707/- and arrear damage rent @ Rs.1707/- was deducted in Mar/03 & AP/03 for the period from 23.4.99.

(g) That the applicant vacated the Qrs. on 12.8.03.

(h) That recovery of current damage rent was stopped from Aug/03 but arrear damage rent continued to be recovered Rs.1707/- subject to adjustment on the basis of final calculation.

In the context of the above, the respondents state

✓

W.H.J.

४९
एस्ट फार्मिक अधिकारी
जॉ. सो० र० रामांग
एम पर्सनल ऑफिस (१/८)
N.R. & Co. Lunnon

that the allegation by the applicant have no basis at all and therefore, it deserves to be dismissed with costs.

22. That in view of the above facts and circumstances stated above the O.A is not maintainable and liable to be dismissed with cost.

VI

VERIFICATION

I Shri . .KHWAIKAPAM PRATAP SINGH . ., aged about .30 years, son of KHWAIKAPAM DINAMANI SINGH, resident of .Lumding, p.o. Lumding . Dist. Nagaon . Assam presently working as Divisional personnel officer (I/c) N.F. Railway, Lumding do hereby verify and state that the statement made in paragraphs 1, 2, 3, 4, 22 5 to 21 are true to my knowledge and those made in paragraph being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal. I am also authorised and competent to sign this verification on behalf of all the Respondents.

And I sign this verification on this 30th day of October, 2004.


Deponent

वर्ष कामिक वाधकारी
प० सं० रुद्र लामडिं
Divi Personnel Officer (I/c)
N.F.R.R. Lumding

3 set
- 41 -
- 12 -

Annexure - 1

119
POTDA
ECC
1/1

To S.S. 212/10/LMG.

(Through SSE/Coaching/LMG.)

With willingness to surrender Urs. NO.R/13(D)
at 10th Bldg Colony.

Respected Sir,

With profound respect and humble submission
I beg to state that I have completed my own house at Lumbding and
which I want to surrender my above mentioned Urs. So that
I can take possession of my own house.

Hope that you will be kind enough to consider
my prayer issuing allotment of the Urs. to needy employee.

For this act of kindness I will remain ever
grateful to you.

Thanking you,

Yours faithfully,

Decharam Chaudhary

C/Fitter C.I.I

Under SSE/Coaching/LMG.

To S.S. 212/10/LMG
Forwarded for disposal
Please
15/7/99

Attested
Under
A.D.

N.F.Rly.

No.M-258/LM/14/1.

DRM(M)'s Office,
Lumding, dt. 09-02-2000

To: Shri Bechu Ram Chowhan,
Tech. Gr. I/LMG.
(Thro. SSE(C&W)/LMG)

Sub: Cancellation of quarters allotment.
.....

During verification, it was found that Qrs. No. H/13(D) Type: II at HALF Colony/Lumding has been subletted by you.

As per para(2) of Rly. Bd.'s circular No.E/53/0/P.VI(C) dt. 13/7/9/98 circulated by DRM(P)/LMG's vide his letter No.E/206/DAS/0/Pt.IV dt. 02.11.12.98, the allotment of Qrs. will be cancelled if any allotted Qrs. is found in subletting.

Since the Rly. Qrs. No.H/13(D) Type: II at HALF Colony/Lumding is provided to be subletted to other vide DRM(works)/LMG's letter No.W/212/LM/Subletting of Rly. Qrs. W-4/285 dt. 23.4.99, so the allotment of order against your Qrs. is hereby cancelled w.e.f. 23.4.99.

However as you declared that you like to surrender your Qrs, the Qrs. has been allotted to the next allottee vide item No. 4 of DRM(M)/Lumding o/order No.M/258/LM/12 Pt.XV dt. 27.3.99.

You are advised to handover the Qrs. to the new allottee as per office order mentioned above and intimate to this office accordingly.

22/02/92

SR.DME/IC/Lumding.

Copy to:-

- 1) DRM(P)/Mech.Off Sec./LMG for information and necessary action.
- 2) SR.DEN/LMG for information.
- 3) SSE(C&W)/LMG for information and necessary action.

10/2
SR.DME/IC/Lumding.

copy

Attested
Under
R.D.W.

—43—
—16—
N. F. Rly.

(15) ~~SS~~
Annexure - 3:

NO. M/258/LM/14/1

Office of the
Divl. Railway Manager (M)
Lumding.

Date 25.7.01.

To.

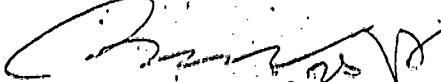
Shri. Bachu Ram Chowhan, Tech. Gr. I
(Thro: SSE(C&W)/Lumding.

Sub: Cancellation of Qrs. allotment order.
Ref: This Office letter of even no. Dtd;
9.2.00.

.....

You have been advised to hand over the Qrs. No. M/13 'D' type II HMLF Colony/LMG to the new allottee as the allotment order in favour of you had been cancelled vide letter under reference, but you have not hand over the same to the new allottee.

Therefore, you are advised to hand over the Qrs. No. M/13 'D' type II At HMLF Colony/LMG to SSE(Works/Line)/LMG. within 7 days from the date of received of this letter without fail.


for DRM(M)/LMG.

Copy to:
DRM(P)/Mech. Bill Sec:/LMG for information.
Sr.DEN (Cord)/LMG. for information.
SSE(C&W)/LMG for information and necessary action.
SSE(WORKS/Line)/LMG. for information and necessary action.


for DRM(M)/Lumding.

ofc (Aug 25/01) 2001

.....
S. R. M. (M) Officer
S. C. S. (M) Officer
N. F. Rly. 25/7/01
Q. St. Tech. Officer

Original

25/7

Attested
Wor
Adv.

DAMAGE RENT RECOVERY PARTICULARS AGAINST THE RLY.QRS.
NO.H/13-D TYPE-II OF SHRI BECHU RAM CHOWAN UNDER SSE/C&W/LMG.

1)	Allotment of Qrs.No.H/13-D Type-II was cancelled vide DME/Ic/LMG's letter No.M/258/LM/14/1(Loose) dated 9-2-2000 w.e.f.	23-4-1999	54
2)	Sri B.R.Chowan vacated the Rly. Qrs. on :-	19.8.03	
3)	Damage rent :-	23.4.99 to 19.8.03	
4)	Plinth area of the Qrs.:-	53.35 Sq.meter.	
5)	Rate of damage rent :- From 1.6.95 to 31.10.99 From 1.11.99 to 30.4.02 From 1.5.02 to till date.	@ Rs.32/- P.M. per Sq.meter. @ Rs.38/- P.M. -do- @ Rs.76/- P.M. -do-	
6)	Bill period commenced from :-	15th day each month to 14th day of next month.	
7)	Calculation of damage rent month-wise :- April/99 for 22 days May/99 to Sept/99 Oct/99 for 17days Oct/99 for 14 days. Nov/99 to March/02 April/02 for 16 days. April/02 for 14 days May/02 to July/03 Aug/03 for 4 days.	@ Rs.1707/- @ Rs.1707/- x 5 Mths. @ Rs.1707/- @ Rs.2027/- @ Rs.2027/- x 29 Mths. @ Rs.2027/- @ Rs.4055/- @ Rs.4055/- x 15 Mths. @ Rs.4055/-	= Rs. 1252/- = Rs. 8535/- = Rs. 936/- = Rs. 915/- = Rs. 58783/- = Rs. 1081/- = Rs. 1892/- = Rs. 60825/- = Rs. 523/- = Rs.134742/- = (-) Rs. 23898/- Balance = Rs.110844/-
8)	Already recovered damage rent @ Rs.1707 x 14		
9)	Mode of recovery total 37 instalments :- (Now being followed from May/04)	36 monthly instalments @ Rs.3000/- Remaining Rs.2844/- to be recovered in one instalment.	

for Divl.Railway Manager(P)
Nat'l Railway, Jaundpur

E/legal/damage rent.

Accepted
Wor
Adv