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4
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 15/2004

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E.P/M.A No. 6/2004

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Ord. App/ Misc. Petn/ Cont. Petn/ Rev. Appl. 15/04
In O.A.

Name of the Applicant(S) Honakanta Kalita

Name of the Respondent(S) M.O.I. Guw.

Advocate for the Applicant Bahael Islam, S. Sarma, Smt. H. Den'

Counsel for the Railway/ C.G.S.C. Mr. B. C. Pathak, S. B. D. Ray,
Adv. C.G.S.C.

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

The application is filed in the sum but not in time. Condonation application filed in the C.R. for Rs. deposited vide I.P.O. BZ No. 116387054
Dated 21.11.03.

23.1.2004, Present: Hon'ble Shri Bharat Bhushan, Member (J)

Hon'ble Shri K.V. Prahladan, Member (A).

Heard Mr. S. Sarma, learned counsel for the applicant. Issue notice to the respondents. Four weeks for written statement and two weeks thereafter for rejoinder, if any. Notice for condonation of delay may also be issued. List it on 5.3.04.

K. Prahladan
Member (A)

J
Member (J)

The extra charge for respondent no- 6 & 7, Rs. 10/- on 5.3.2004 only received, vide memo no- 1146, dt. 9/2/03.

None present for the parties. List on 1.4.2004 for admission.

11/2/04.
Notice of order dt. 23/1/04
Sent to O/Section for issuing
to respondent nos. 1 to 7 mb
along with M.P. 6/04.

K. Prahladan
Member (A)

⑨ O.A. 15/2004

8.4.2994 List on 29.4.2004 for
admission.

K.C. Pathak
Member (A)

mb

29.4.2004 List on 17.5.2004 for admission

K.C. Pathak
Member (A)

mb

17.5.2004 On the plea of learned counsel
for the applicant, the case is passed
over for the day.

K.C. Pathak
Member (A)

mb

18.5.2004 Pass over.

K.C. Pathak
Member (A)

mb

19.5.04

Adjourned list on 21.5.04
for hearing.

By order

21.5.2004 present: The Hon'ble Shri K.V.Prahladan,
Administrative Member.

Heard Mr.Baharul Isalm, learned coun-
sel for the applicant and Mr.B.C.Patshak,
learned Addl.C.G.S.C. for Union of India.

Copy of the
order has been
sent to the Office
for issuing the
same to the applicant
as well as to the
Addl. C.G.S.C. for the
respon.
L.R.

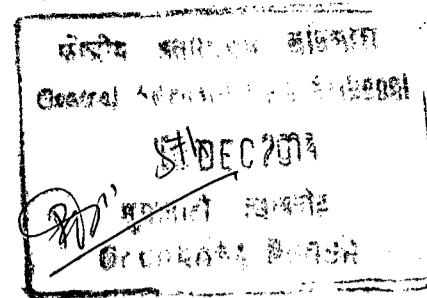
The application has been filed against
the recovery of demurrage charge from the
applicant. The matter is being dealt with
by the B.S.N.L. as can be seen from lett-
ers at Annexure-3 and Annexure-11 as well.
This Tribunal has no jurisdiction over
the B.S.N.L.

The O.A. is disposed of with a libe-
rty to the applicant to move appropriate
forum.

K.V.Prahladan
Member (A)

bb

Received & copy
26/5/04



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH
GUWAHATI.

(AN APPLICATION UNDER SECTION OF ~~105~~
OF THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT,
1985)

ORIGINAL APPLICATION NO. 15 of 2004

Sri Har Kanta Kalita Applicant

-Versus-

Union of India and others
..... Respondents

LIST OF DATES AND SYNOPSIS

Application : 1 to 17

Verification : 18

Annexure - 1 : is the photocopy of the allotment order vide dated 7/7/77 issued by the Divisional Engineer(Phone).

Annexure - 2 : an order dated 24/8/95 issued by the Account Officer, Guwahati Telephone by which Rs.986/- has been deducted from the salary of the petitioner for the month of August, 1995 as demurrage charge.

Annexure - 3 : A copy of letter dated Nil issued by the Respondent No.5 to the Respondent No.3.

Annexure - 4 : An order and judgement dated 7/1/94 passed by the Hon'ble Tribunal in the O.A.53/90.

Annexure - 5 : An letter dated 17/3/94 issued by the Respondent No.3.

Contd...2

Annexure - 6 : A allotment order dated 10/10/2000 issued by the Assistant General Manager(PLG) for C.G.M.T., Assam, Telephone.

Annexure - 7 : Representation dated 20/10/2000.

Annexure - 8 : Representation dated 25/1/2002

Annexure - 9 : The representation dated 5/2/2002

Annexure - 10 : The representation dated 7/3/2002.

Annexure - 11 : Letter dated 18/4/2002 issued by the Respondent No.5.

Annexure - 12 : Last Representation dated 22/11/02.

Annexure - 13 : A copy of order dated 6/8/2001 in O.A. No.259/99
This application is made for setting aside the impugned order vide No. AG/HRA/95-96/59 dated 24/8/95 issued by the Respondent No.5 and thereafter the Respondents may be directed to refund demurrage charge which was recovered from his salary illegally w.e.f. the August, 1995 till 10/10/2000 alongwith interest at the rate of 18% from the date of illegal deduction of the demurrage charge from his salary till realisation and also to pay the house rent allowance w.e.f. from the July, 1977 till June, 1989 in favour of the petitioner which was illegally deducted by the respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

B E T W E E N

Shri. Harkanta Kalita,
son of late Nibharsha Ram Kalita,
resident of Panbazar.

P.S.Panbazar, Guwahati-1.

...Appellant.

- Versus -

1. The Union of India,
represented by the Secretary to
the Govt. of India, Ministry of
Communication/Director of General
Tele-Communication, Sansur Bhawan,
New Delhi.
2. The Chief General Manager,
Assam Telecom Circle Guwahati.
3. The General Manager, Finance,
Assam Telecom Circle, Guwahati-7.
4. The Deputy General Manager (Plg),
Office of the Chief General Manager,
Assam Telecom Circle, Guwahati-7.
5. The Telecom District Manager,
Kamrup, Telephones, Guwahati-7.
6. The Chief Account Officer, (IFA),
Office of the GM., Kamrup, Telecom
District, Guwahati-7.

Contd. page 2/-

Harkanta Kalita

filed by
Sri Harkanta Kalita
through
Birendra Sharma
Advocate

7. The Sub-divisional Engineer,
Telephone Exchange, Guwahati-1.

... Respondents.

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:-

This application is against the illegality committed in passing the order vide letter No.PLBG-11/9-220 dated 1-8-95 and D.E.(PNA) office of the T.D.M.Guwahati's letter No.B/H-1/unauthorised occupation/53 dated 11.8.95 for recovery of ~~demurrage~~ charge of Rs.986/-per month from the Salary of the petitioner with effect from the month of August, 1995 vide letter No.A6/HRA/95-96/59 dated 24.8.95.

2. JURISDICTION OF TRIBUNAL:-

The applicant declares that such subject matter of the illegality committed for recovery of the damage charge from the salary of the petitioner from the month of August, 1995 for non vacating accomodation in Group-'D' the mess at Upper Strand Road, Panbazar against which the redressal is sought is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:-

The applicant further declares that the application is within the period of limitation.

4. FACT OF THE CASE:-

(i) That, the applicant is a citizen of India and a permanent resident of Assam and as such, he is entitled to

Contd.page-3/-

Harakanta Kalita

to the rights and protections as guaranteed by the Constitution of India.

(ii) That, the applicant was appointed in the Telecom Deptt. in the year of 1970 and thereafter he was promoted in different capacities in view of his sincerity, and the fullest devotion to the duty.

(iii) That, the applicant is a Central Govt. Employee and presently working as Wireman in the selection grade under control of the Sub-divisional Engineer, Telephone Exchange, Guwahati i.e. the Respondent No.6 and under the establishment of the Respondent No.4.

(iv) That, the Respondent No.1 is the Head of the Telecom Department and the Respondent No.2 is the administrative head and overall supervision of the entire Assam Telecom Circle under whom the Respondent No.4 exercised overall supervision of entire telephones of Kamrup district. The Respondent No.5 and 6 are subordinate authority under the Respondent No.4 for smooth functioning of the affair of the Kamrup Telecom District.

(v) That, the applicant may appointed as such by the Respondent No.4 and his condition of the service is regularised by the Respondent No.5 namely as regards leave, salary and other allowances etc.

(vi) That, the applicant had been allotted a seat in the Type-II Group-'D' Mess(4 seated) at Upper Strand Road, Panbazar Guwahati-1 on 17.7.1977 as per allotment order dated 7.7.77,

Haran Kumar Sarma

dated 7.7.77, issued by the Divisional Engineer (Phone).

A copy of the allotment order vide Memo No.B/H-32/77-78/18 dated Guwahati the 7.7.77 is annexed and marked as Annexure-1.

vii) That, the applicant begs to state that after bifurcation of the Posts and Telegraphs Department into Department of Posts and Department of Telecom, all the occupants of Postal quarter except the members of the petitioner's mess have been shifted to type-II quarter No.18, 26 and 30 of Telecom Department at lower strand Road, Panbazar, Guwahati-1. However, later on, separate quarter have been allotted to other members of the Mess individually, but only the petitioner had been allotted a seat in the Linemen Mess at CTO Compound, Panbazar, Guwahati-1.

(viii) That, the petitioner further begs to state that he could not shift to lineman Mess and had to stay in the original Mess as the room had already been occupying by a Mess Member with his family. On the other hand, the circle union of NFTE Lineman Mess Class-C had also stood against the allotment of a seat in the Lineman Mess and they submitted a Memorandum to the Respondent No.2 i.e. the Chief General Manager, Assam Telecom Circle Ulubari, Guwahati-7 in that respect and as a result the petitioner was compelled to stay in the Group-D Mess for long.

(ix) That, thereafter, all of a sudden, a sum of Rs. 986.00 (Rupees nine hundred and eighty six) has been deducted from

*Gora Kalita
m/s*

from the salary of the petitioner for the month of August, 1995 as demurrage charge which was continued till 10.10.2000 without any prior notice either from the Respondent No.2 i.e. the Chief General Manager, Assam Telecom Circle or the GNT (General Manager Telecom), Guwahati administration.

A copy of the order vide No.A6/HRA/95-96/59 dated 24.8.95 issued by the Account Officer, Guwahati Telephones is annexed and marked as Annexure-2.

(x) That, the petitioner begs to state that the same case was happened in respect of Shri Baikuntha Kalita, Lineman, Sri Praneswar Bezbaruah, etc, and Sri Bhabit Ch. Deka, R/M(all attached to GM,Kamrup) and the demurrage charge recovered from their pay, has been refunded.

Hence in the light of the above two cases, the Chief Account Officer (IA) Office of the General Manager, Kamrup, Telecom District, Guwahati-7 i.e. the Respondent No.5 reviewed the case of the petitioner and he satisfied to waive the demurrage charge and accordingly recommended the case of the petitioner by sending his representation to the Respondent No.3 on humanitarian ground since the petitioner is a very poor employee who is facing the financial hardship.

A copy of the letter dated Nil issued by the Respondent No.5 to the Respondent No.3 is annexed and marked as Annexure-3.

(xi) That, the petitioner further begs to state that one Shri Nripen Deka and one Sri S.Tamuli had to prefer a case

case before this Hon'ble Tribunal in the year of 1990 against the illegal deduction of their house rent allowance which was registered as O.A.No.53 of 1990 and the Hon'ble Tribunal, after hearing both the parties, passed an order on 7.1.94 by which their applications was allowed and the Respondents were directed to pay the house rent allowance to both the applicants since July, 1977 and continued to pay HRA until department allot them with entitled accommodation i.e. type-II. The respondents were also further directed to pay the arrear house rent allowances from 1977 within the 30 days from the date of receipt of the said order.

In compliance with the said order, the Respondent No.3 had issued a letter vide No. STES.21/53 dated 17.3.94 to the then Chief Superintendent, Central Telegraph Office, Guwahati-1 by which he requested him to pay the arrear of HRA to both the said officials upto the vacation of the Mess and accordingly, the respondents had already paid the arrear house rent allowance with effect from 1977 to them, but to the utter surprise, of the petitioner, the respondents have deliberately and intentionally avoided to pay the house rent allowance with effect from July, 1977 till June, 1989 to the petitioner which was illegally deducted by them from the Respondents, although he submitted several representations to the respondents. The petitioner is entitled to receive the said deducted house rent allowance with effect from July, 1977 till June, 1989 like similarly situated above named two officials as per order/judgement dated 7.1.94 in O.A.No.53/90.

A copy of the order/judgement dated 7.1.94 passed

...7/-

Hazarika Kanta Kalita

passed by this Hon'ble Tribunal in O.A. No.53/90 and a letter dated 17.3.94 issued by the Respondent No.3 are annexed and marked as Annexure-4 and 5 respectively.

(xii) That, the petitioner begs to state that after bifurcation of the department, the Type-II, Group-D Mess had been handed over to the department of the Post. During this period, keeping the ~~the~~ senior staff like the petitioner aside, type quarter No.14, 21, 22, 26 and 29 have been allotted among the same other junior staffs. Moreover two quarters bearing No.10 and 18 belongs to Telecom Department had been allotted to two Postal employees and not only both of them are occupying the said quarter, but also the occupant of the quarter No.18 had let out the quarter to a telecom employee.

(xiii) That, the petitioner further begs to state that there was three rooms in the said Mess where the petitioner used to stay. The first room was allotted to Sri Sukumar Sarma, an employee of the Postal Department as the Mess belongs to the said department. The second room (single seat) was occupied by the petitioner and the 3rd one was utilised by the Postal department as godown for their use and as such the petitioner has been continuously using the said room (single seat) as per earlier order dated 7.7.77, issued by Divisional Engineers, Phones (Annexure-1) who could not be treated as an unauthorised occupant of the said room.

(xiv) That, the petitioner begs to state that he was never occupying any Departmental quarter, but only a single seat

Harkanta Kalita

seat was occupied by him as per departmental order dated 7.7.77 (annexure-1) as mentioned above. Moreover, he had never been asked to vacate the said Mess by the respondents. The petitioner had to vacate the said Mess only on 10.10.2000 since he was allotted a departmental quarter of Type-I, bearing No. 17 at C.T.O. campus on 10.10.2000 vide order No. PLBG.11/39/111 dated 10.10.2000, issued by the Asstt. General Manager (PLG) and as such the recovery of HRA demurrage charge from the salary of the petitioner with effect from August 1995 by the respondents is quite unjustified, arbitrariness, illegal and against all the principles of law.

A copy of the allotment order dated 10.10.2000, issued by the Asstt. General Manager (PLG) for C.G.M.T. Assam Telecom is annexed and marked as Annexure-6.

(xv) That, the petitioner begs to state that he submitted representations since the month of January, 1989 to the Respondents for recovery of HRA demurrage charge since the month of August, 1995 which was illegally deducted by the Respondents from the salary of the petitioner, but nothing has been done by the respondents about the said matter, the reason is based known to them.

The petitioner craves leave this Hon'ble Tribunal to produce the said representations at the time of hearing.

(xvi) That, the petitioner respectfully states that while his series of representations remain unattended by the respondents the petitioner, finding no alternative, submitted another representation on 20.10.2000 to the Account Officer

Hukaranta Kalita

Officer (cash) office of the General Manager, Kamrup Telecom District, Ulubari, Guwahati-7 by which he requested him to arrange to refund the whole amount of demurrage charge recovered from his monthly salary and also to pay the house rent allowance for the period with effect from 7.7.77 to June, 1989 which was duly received by the respondents. Thereafter the petitioner again submitted another representation on 28.2.01 to the Respondent No.5 for refunding the said demurrage charge. After receiving the said representations, the Respondents had assured him that his matter was under active consideration for which he would have to wait for an effective result for some time. For their said assurance, the petitioner had to wait till 25.1.2002 with a hope of receiving back the H.R.A. demurrage charge from the respondents. Finding no alternative, he submitted representations on 25.1.2002, 5.2.2002, 7.3.2002 to the Respondents respectively praying before them to consider his case sympathetically on humanitarian ground and arrange to refund the demurrage charge and H.R.A. which was duly received by the respondents.

Copies of representations dated 20.10.2000, 25.1.2002, 5.2.2002 and 7.3.2002 are annexed and marked as Annexure-7, 8, 9 and 10 respectively.

(xvii) That, the petitioner begs to state that after receiving those representations, the Divisional Engineer (PLG) office of the General Manager, Kamrup Telecom District, Guwahati-7 had issued a letter vide No. B/H-1/Qrt.rent/2002-03/88 dated 18.4.2002 to the chief Account Officer (IFA), Guwahati-7 i.e. the respondent No.5 by which he had reviewed the case of the petitioner thoroughly and found that the petitioner was

...10/-

Harkamta Kalita

was not unauthorised occupant of the group-D Mess at upper strand road,Guwahati and he also admitted that the petitioner could not shift to the linemen Mess as one of the Mess member,Sri Baikuntha Kalita,L/M had occupied the said Mess with his family.Under the above circumstances, the petitioner case was duly recommended by the Divisional Engineer (PLG) for waiving of the damage charge in favour of the petitioner because it was found from the relevant records available in that office that there was no fault on the part of the occupant i.e.the petitioner.

A copy of the letter dated 18.4.2002 is annexed and marked as Annexure-11.

(xviii)That, even after lefts of 7 months from the issuance of the letter dated 18.4.2002 (Annexure-11) by the Divisional Engineer (PLG) Guwahati to the Respondent No.5, but he had not taken any steps to arrange to refund his recovered demurrage charge.Finding no alternative, the petitioner submitted another representations on 11.11.2002 requesting him to refund the demurrage charge, recovered from his salary along with admissible interest at the rate of 18% within a period of one month otherwise he would be compelled to take legal help for cheek of getting justice which was duly received by the respondent on 25.11.2002 and after receiving the same the Divisional Engineer (PLG) had duly recommended his case again for waiving . If the damage charge in favour of the petitioner because it was found from the relevant records available in that office that there was no fault on the part of the occupant i.e.the petitioner.

Contd.page-11/-

Harakuntha Kalita

A copy of the representation dated 22.11.2002 is annexed and marked as Annexure-12.

(xix) That, the petitioner also begs to state that previously also the respondents had illegally recovered the special duty allowance during the period from 23.11.89 to 2.8.90 from the salary of the petitioner and also an order of dies non for his absence on 27.1.93 and 28.1.93 was issued against him for which he was compelled to approach the Hon'ble Tribunal for filing an application which was registered as O.A.No.259/99. After hearing both the parties, this Hon'ble Tribunal was pleased to pass an order on 6.8.2001 by which the order of dies non as mentioned above was set aside and quashed . Further this Hon'ble Tribunal was pleased to give direction the respondent to reexamine the entire matter as to payment of S.D.A. to the petitioner for aforementioned period . In the event if it appears that there is no S.D.A. paid to applicant during the aforementioned period the respondents shall refund the same to the applicant within the month of their form. In this way the respondents have been continuously harrassing the petitioner. Even after finding no fault on his part.

A copy of the order dated 6.8.2001 is annexed and marked as Annexure-13.

(xx) That, the petitioner further begs to state that his representation dated 22.11.02 issued to the Respondent No.5 is not yet disposed of and even after strong recommendation on the part of the Divisional Engineer (PLG) office of the General Manager, Kamrup Telecom District, Guwahati-7 for

Akram Aslam

for waiving of the demurrage charge in favour of the petitioner as there was no fault on his part, the respondents remained silent for which the impugned order dated 24.8.95, issued by the respondent No.5 by which the demurrage charge of H.R.A. at the rate of Rs.986 (Rupees nine hundred eighty six) only with effect from 24.8.95 was deducted from his monthly salary without any prior notice to the petitioner amounts to continuing wrong on the part of the respondents which is not only vague but also an arbitrarily order.

Therefore, it is preminimally a fit case where this Hon'ble Tribunal may interfere and to set aside the impugned order dated 24.8.95, issued by the respondent No.5 and to direct the respondents to repay the H.R.A. demurrage charge with effect from August, 1995 till 10.10.2000 in favour of the petitioner for the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS.

- a) For that the respondent No.5 has earred in law in issuing the impugned order dated 24.8.95 (Annexure-2) by which the H.R.A. demurrage charge at the rate of Rs.986/- (Rupees nine hundred eighty six) was deducted from his monthly salary for nonvacating accommodation in Group-D Mess at Upper Strand Road, Panbazar.
- b) For that the respondent No.5 had arbitrarily issued the impugned order dated 24.8.95 without any prior notice to the petitioner by which the H.R.A. demurrage charge at the rate of Rs.986/- (Rupees nine hundred eighty six) was deducted from his monthly salary with effect from August, 1995 and as such the said action of the respondent No.5 for issuing

Harkishankar Kalita

issuing the impugned order dated 24.8.95 is quite illegal and is liable to be set aside for the ends of justice.

c) For that the impugned order is *prima facie* malafide and has been issued in colourable exercise of power to give undue harassment to the applicant.

d) For that the impugned order was passed in a most arbitrary manner in violation of all established norms and procedures as well as the principles of natural justice and as such the impugned order is liable to be set aside and quashed.

e) For that the impugned order was passed behind the back of the applicant without showing cause to the applicant which is punitive in nature and the same being passed arbitrarily without affording the applicant any opportunity of being heard and the impugned order can not be sustained in law and is liable to be set aside and quashed.

f) For that the impugned order was passed mechanically and without jurisdiction which is bad in law and as such the same is liable to be quashed.

g) For that since the petitioner had been allotted a seat in the Type-II Group-D Mess(4 seated)at upper Strand Road, Panbazar on 17.7.1977 as per allotment order dated 7.7.77 (Annexure-1) and as such he has been continuously using the said room as per aforesaid order dated 7.7.77 and also he was never occupied any departmental quarter,

....4/-

Harkanta Kalita

quarter, but only single seat was occupied by him as per said order who had never been asked to vacate the Mess by the respondents till 10.10.2000 that on which he was allotted only a departmental quarter by the respondents vide order dated 10.10.2000 (Annexure-6) and as such he could never be treated as an unauthorised occupant of the said room, but inspite of that the respondents had deducted at the rate of Rs.986/- (Rupees nine hundred eighty six) from his monthly salary with effect from 24.8.95 which is highly illegal and improper for which the impugned order is liable to be set aside.

h) For that the petitioner has been denied the equality before the law by waiving the demurrage charge and house rent allowance to the same other situated employees which were also illegally deducted from their salary and as such the petitioner has also a right to life as enshrined in Article 14, 16 and 21 of the Constitution of India.

i) For that although the respondents had duly admitted after verifying the relevant records that he was not unauthorised of the concern from for which his representations were duly recommended to the concerned authorities, but even then the petitioner's prayer for refunding the H.R.A. demurrage charge with effect from August, 1995, is not considered by the respondents by not disposing the representations and as such the impugned order is liable to be set aside and quashed for the ends of justice.

j) For that moreover, the decision of the administra-

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administrative authorities should always be based on the principles of natural justice, fair dealing and equity enshrined in the constitution of the country and does not lead into mental torture and harassment in a pre planned and therefore, the respondent No. ... and ... acted illegally and arbitrarily in gross violation of the principles of natural justice by issuing the impugned order dated 24.8.95 which is liable to be set aside for the ends of justice.

k) For that in any view of the matter the action on the part of the respondents are not sustainable in the eye of law and as such appropriate direction is required to be given to the respondents in the instant case to refund the HRA demurrage charge at the rate of Rs.986/- (Rupees nine hundred eighty six) per month with effect from August, 1995 with interest at the rate of 18% per annum as accrued thereon in favour of the petitioner which was illegally deducted from his salary by the respondents for the ends of justice. Moreover, the petitioner is also entitled to receive the House Rent Allowance (HRA) with effect from July, 1977 till June, 1989 from the respondents which was illegally deducted by the Respondents from the salary of the petitioner like similarly situated two officials, namely (1) Sri Suren Tamuly and (2) Sri Nripen Deka.

6. DETAILS OF REMEDIES EXHAUSTED:-

That, the petitioner declared that he had exhausted all the remedies available to him and there is no alternative remedy available to him.

Contd. page-16/-

Akash Kantak Kalita

That the petitioner had submitted representations on 20.10.2000, 28.2.2001, 25.1.2002, 5.2.2002, 7.3.2002 and lastly on 22.11.2002 to the respondents respectively, requesting to them to consider his prayer by refunding him the HRA demurrage charge at the rate of Rs.986/- per month with effect from August, 1995 which was illegally deducted from his salary by way of impugned order along with the interest, but the respondents have not yet consider his appeal.

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

That, the petitioner further declares that he had not filed any application or writ petition or suit regarding grievances in respect of which this application is made before any court or any other bench of the Tribunal or any other authority except a representation dated 22.11.2002 issued to the respondent No.5 which is not yet disposed of.

8. RELIEF SOUGHT FOR:-

That under the above facts and circumstances the petitioner prays that the instant petition be admitted, entire record may be called for and after the hearing the parties on the cause or causes and on perusal of the records be pleased to set aside the impugned order vide No. A6/HRA/95-96/59 dated 24.8.95 issued by the respondent No.5 and thereafter the respondents may be directed to refund of demurrage charge which was recovered from his salary illegally with effect from August, 1995 alongwith interest at the rate of 18% from the date of illegal deduction of the demurrage charge from

Akashendra Kalidre

from his salary till realisation and also to pay the house rent allowance with effect from July, 1977 till June, 1989 in favour of ~~is~~ the petitioner which was also illegally deducted from his salary by the Respondents or may pass such other order or orders as your honour may deem fit and proper in favour of the petitioner for the ends of justice.

9. INTERIM ORDER PRAYED FOR:-

During the pendency of this application, the petitioner has prayed before the Hon'ble Tribunal to give necessary direction to the respondents to refund of demurrage charge which was illegally deducted from his salary with effect from August, 1995.

10. DETAILS OF INDEX:-

An index with duplicate containing the details of the documents to be relied upon is enclosed.

11. POSTAL ORDER:-

Postal order No. 11G-387054

Date 21/11/03

Issuing post office

Guwahati, payable at-Guwahati.

12. LIST OF ENCLOSURES:-

As per index regarding the documents (Annexure- 1 to 13 submitted herewith plus one Vakalatnama.

....18/-

Harakanta Kalita

VERIFICATION.

I, Shri Harkanta Kalita, son of late Nibharsha Ram Kalita, aged about 58 years, resident of Panbazar, Guwahati-1, Police Station Panbazar, by profession service, by religion Hinduism, do hereby verify that the statements made from paragraph 1 to 12 are true to my knowledge and that I have not suppressed any natural facts.

And I sign this Verification on this 5th day of December, 2003 at Guwahati.

Harkanta Kalita

Signature.

ANNEXURE- I

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE DIVISIONAL ENGINEER PHONES:GUWAHATI-781001.

Memo No.B/H-32/77-78/18

Dated at Guwahati, the 7-7-77.

Single seat accomodation in the Bachelor's Mess for Group-D officials at Uppar Strand Road, P&T Colony, Panbazar, Guwahati-781001 is hereby allowed to the following officials.

1. Sri Gajen Das, P/man, attached to D.E.Phones, Ghy.
2. Sri Harkanta Kalita, W/M attached to A.E.Elect. Gauhati.
3. Sri Suren Ch.Tamuli, T/M attached to C.S.C.T.O., Gauhati
4. Sri Nripen Deka, T/M, attached to C.S.C.T.O.GH.

Provisional seat rent @ 7/- (Rupees seven) only per month inclusive of Service charges but exclusive of electric consumption charges, is recoverable from the monthly salary of the official with effect from the date of occupation on the Mess. The allottee shall have to occupy the seat accomodation within 7(seven) days on receipt of this allotment order and intimate the same to this office immediately failing which the seat rent will be deducted from the pay of the officials as per departmental rates on the subject.

Sd/-

DIVISIONAL ENGINEER::PHONES
Guwahati-781001.

Copy to :-

- 1 to 4. the officials from Sl.No.1 to for information and necessary action.
5. C.S.C.T.O. Gauhati for information and necessary action.
6. A.E.Electrical, Gauhati for information and necessary action.
7. J.E.(Civil), O/O the D.E.Phones, Gauhati for information and necessary action.
8. H.O.Pay Bill., O/O the D.E.phones, Gauhati.
9. G.M.W.E. Circle Shillong with reference to No. Bldg/1529/Union/Misc/Corr.
10. Spare.

Divisional Engineer:::Phones
Guwahati-781001.

*Adjusted by
S. D. Deka
Advocate*

DEPARTMENT OF TELECOMMUNICATIONS

From : The TDM/Guahati To : The S.D.E. M/C
Guahati.

A No. A 6/HRA/95-96/59 Dated at Guahati the 24/8/95.

Subject :- Recovery of damage Charge for
non vacating accomodation in Gr. "D"
Mess at Upper-Strand Road, Panbazar
in r/o Sri H.K.Kalita W/M.

Please refer to TDMGH's letter No. B/H-1/unauthorised
occupation/50 dtd. 24.5.95 regarding recovery of damage charge
of Rs.986.

The recovery is being effected from salary of Sri
Hara Kanta Kalita, W/M from the month of August, 1995 as per order
of C.G.M.T.Guahati's letter No. PLBG-11/9-220 dt. 1.8.95 and DE
(P & A) O/O the TDMGH's Letter No. B/H-1/unauthorised occupation
/53 dt. 11.8.95.

The recovery of above charges may please be informed
to official accordingly.

Sd/-

Accounts Officer
Guahati Telephones.

Copy to :- The DE(P&A) O/O the TDM/GH. for information
w.e.f. to his letter cited above.

2) The A.G.M.(Plg) O/O the CGMT/GH. for information
w.e.f to his letter No. cited above.

Sd/-

Accounts Officer
Guahati Telephones.

Attested by
Shubh
Advocate

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
O/O THE GENERAL MANAGER
KAMRUP TELECOM DISTRICT
GUWALIATI-781007

To

The Dy. General Manager (Plg)
O/o the Chief General Manager
Assam Telecom Circle
Guwahati-781007

Sub:- Refund of damarage charge – case of Shri Hara Kanta Kalita, Wireman .

Ref:- Your letter no. PLBG/119/Pt-I/11 dated 22-01-22 .

Kindly refer to your letter cited above on the captioned subject .

In this regard, it is intimated for your information that the above case was thoroughly examined and it is seen that similar cases were arisen in respect of Shri Baikuntha Kalita, Lineman who approached the CAT and the court ordered for payment of damarage charge and House Rent Allowance respectively . The damarage charge was also waived by Circle Office in the case of Shri Praneswar Bezbaruah, SSS attached to O/o the G.M., Kamrup Telecom District, Guwahati .

Hence, in the light of the above two cases, I myself reviewed and satisfied to waive the damarage charge and accordingly, recommended the case on humanity round since the poor employee is facing with great financial hardship .

The representation of the official is also sent herewith your disposal .

Chief Accounts Officer (IAA)
O/o the G.M. Kamrup Telecom District
Guwahati-7 .

*Attested by
S. Saha
Advocate*

ANNEX-E-4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 53 of 1990.

Date of Order : This the 7th Day of January, 1994.

Justice Shri S. Haque, Vice-Chairman.

1. Shri Nripen Deka &
2. Shri Suren Tamuli,
Telegraph man under Central Telegraph
Officer, Panbazar, Guwahati . . . Applicants

By Advocate Shri B. Malakar.

- VERSUS -

1. The Telecom. District Manager,
Guwahati.

2. Central Telegraph Officer,
Guwahati.

3. Union of India through the
Secretary, Telecom. Sanchay Bhawan,
New Delhi. . . . Respondents.

By Advocate Shri A.K. Choudhury, Addl.C.C.S.C.

ORDER

Applicants Shri Nripen Deka and Shri Suren Tamuli
are Telegraph employee (Group-D) working under Central
Telegraph Officer, Panbazar, Guwahati. They have filed
this application under Section 19 of the Administrative
Tribunals Act 1985 complaining that deduction of house
rent allowances with effect from ~~1988~~ * 7th July, 1977
and prays for direction on the respondents to pay those
arrear house rent allowances and with order to continue
payment of the same until they are accommodated in

* corrected
vide order
dated 6.5.94.

7.1.94

contd.../-

Affested by
Advocate
S. Haque

entitled quarters (type-II). Respondents contested by filing written statement. Learned counsel Mr B. Malakar submits on behalf of applicants. Learned Addl.C.S.S.C Mr A.K. Choudhury submits on behalf of respondents.

2. Both the applicants were allotted one seat each in a four seated room in departmental mess and they pay * July, 1977
Rs. 7/- each as seat rent. But since ~~XXXXXX XXXX~~ their house rent allowances were deducted. The deduction of house rent of the applicants was made under the order of PMG. There are instances that officers occupying one room each in such mess paying Rs. 40/- as room charge were allowed to draw house rent allowances. It is stated in written statement that they are entitled to such deduction under the order of PMG. Mr Choudhury submits that employee occupying any type of Government quarter is not entitled to house rent allowance. Mr Malakar submits that applicants are entitled to type-II quarter and one seat in a four seated room of a mess cannot be equated with type-II quarter to which they are entitled. As per rules under FR GR those occupying Government accommodation entitled under service conditions are debarred from drawing house rent allowances. One seat in a four seated room of a mess cannot be held to be entitled accommodation i.e. type-II quarter. Deduction of house rent allowance for providing such seat was unjustified. Officers were allowed to draw house rent allowances although they occupying one room on payment of room charge but applicants HRA are deducted inspite of paying rent for the seat, thus there was discrimination to Group C employees and this cannot

7.7.74

contd... 1/2

be allowed to sustain. No separate rules have been framed by the department regarding HRA for the period the employee temporarily stay in the mess with short of entitled accommodation.

3. Upon hearing counsel of the parties and considering the facts and circumstances it is held that deduction of house rent allowance of the applicants from ~~August~~, ~~1977~~ was illegal. They are entitled to get house rent allowance for that period and until provided with entitled accommodation.

4. This application is allowed. The respondents are directed to pay house rent allowance to both the applicants since ~~August~~ ~~1977~~ and continue to pay HRA until department allot them with entitled accommodation i.e. Type-II.

The respondents are further directed to pay the arrear house rent allowances from ~~July~~ ^{* 1977} within 30 days from the date of receipt copy of this order/judgment.

Sd/VICE CHAIRMAN

Certified to be true Copy

প্রমাণিত প্রিমিয়া

22/9/97

Section Officer (S)

অসম প্রযোগী নথি প্রক্রিয়া

Central Administrative Tribunal

পূর্ব প্রদেশ প্রিমিয়া

Gauhati Bench, Guwahati

অসম প্রযোগী নথি প্রক্রিয়া

22/9/97

CONFIDENTIAL (27)

GOVERNMENT OF INDIA
 DEPARTMENT OF TELECOMMUNICATIONS
 OFFICE OF THE CHIEF GENERAL MANAGER TELECOM :: ASSAM CIRCLE
ULUBARI:::GUWAHATI:::781007.

No. STES - 21/53

Dated at Guwahati, the 17.03.1994.

To,

Sri M.C. Deb Barma,
 Chief Superintendent,
 Central Telegraph Office,
Panbazar, Guwahati:::781001.

Sub:-

Payment of House Rent Allowance (HRA) to Sri
 Nripen Deka and Sri S. Tamuli in pursuance to
O.A. No. 53/1990.

In the O.A. No. 53 of 1990, the Hon'ble CAT, Guwahati has held that the deduction of H.R.A. of the above named officials from August, 1987 onwards as illegal and directed the department to pay House Rent Allowance (HRA) to the officials till they are provided with Type-II Departmental Quarter.

Accordingly you are requested to pay the arrear of H.R.A. to both the officials upto the vacation of the mess.

Particulars of payment may please be intimated to this office early.

Ranu Paul
 17/3/94

(R.N. PANDA.)

Deputy General Manager (Admn.),
 for Chief General Manager,
Assam Telecommunications Circle...

....

Copy to:-

1) The T.D.M., Guwahati for information please.

Ranu Paul
 17/3/94
 for Chief General Manager,
Assam Telecommunications Circle.

*Attached by
 Ranu Paul
 Advocate*

ANNEXURE-6

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM
ASSAM CIRCLE GUWAHATI-781007

NO. PLBG- 11/39, III

Dated at the Guwahati the 31-JULY-2000. M. No. 3600.

The Chief General Manager Telecom, Assam Circle, Guwahati is pleased to allot one Type..... Quarter bearing No..... at to Sri
Sri the in exchange of his existing quarter No..... type at on temporary basis.

The allottee shall pay standard rent @ Rs 15/- (Rupees. 15/- only) Only per mensem in addition to necessary charges of electricity, water and other services with effect from the date of occupation of the said quarter.

The standard rent is provisional and is subject to revision with retrospective effect. The allottee shall be liable to pay the revised standard rent with retrospective effect or with effect from the date of which the standard rent is revised whichever is later.

The allottee shall occupy the said Quarter within 7(seven) days from the date of receipt of this letter and intimate the date of occupation to all concerned immediately, failure of which may lead to cancellation of this allotment and continuation in present accommodation will be treated as unauthorized occupation.

All dues of electrical bills etc shall have to be paid/cleared up by the allottee in case he vacates the quarter for any reason.

The earlier allotment order for your present accommodation stands cancelled with immediate effect.

Asstt. General Manager(PL.G)

Copy for forwarded for information and necessary action to

1. The AE (BLG), Circle office, GUWAHATI: He is requested to arrange the quarter to handover to the mention officials.

2. Sri Harendra Nath Chakraborty, O/o the ... C.D.O. (I.C.) Guwahati. He will intimate the date of occupation to all concerned immediately.

3. The GM & Estate officer, Kamrup Telecom District, Guwahati.

4. The A.O (A&P) O/o the CGMT, Guwahati.

5. The SDE (Electrical) O/D, Telecom, T.E Bldg, Panbazar, Guwahati.

6. ~~Vis. A.C. & A.O. Assam State, Guwahati~~

7. The draughtsman, Circle office Guwahati

For C.G.M.T, Assam Telecom, Guwahati

Affected by
a λ

St. John,
Advocate

To
The accounts office (cash)
O/O the General Manager
Kamrup Telecom District
Ulubari, Guwahati-781007

2X

83

Dated at Guwahati the 20.10.2000

Sub:- Refund of demurrage charge recovered from salary.

Sir,

I have the honour to represent the following few lines for favour of your kind information and early necessary sympathetic order please.

That sir, I have been allotted a single seat accomodation in the Bachelor's Gr-D mess at upper strand road P&T colony, Panbazar, Guwahati-1 accompanied by other three members vide DEP, Guwahati's letter No. B/B-32/77-78/10 dtd. 7.7.1977 and accordingly house rent allouage together with seat rent had been deducting from my salary upto June/89 which is not legal since I was occupying only a single seat and not a quarter. However, from July/1989 only seat rent was being recovered.

That sir, suddenly from the month of August/98 a sum of Rs. 986.00 (Rupees Nine hundred eighty six only) is deducting every month which is still going on from my monthly salary as demurrage charge without issuing any notice to me. However, after one month, I received a notice on 22.8.1998 where I have been shown as unauthorized occupant of the Departmental quarter.

That sir, I like to reiterate that I am not occupying any Departmental quarter, but a single seat is occupying as per Departmental order mentioned above. Moreover, I have never been asked to vacate the mess. So, the recovery made from my salary is quite unjustified.

On the light of the facts stated above, I fervently request you honour kindly to arrange to refund the whole amount of demurrage charge recovered from my monthly salary and also to pay the house rent allowance for the period from 7.7.1977 to June, 1989.

With Thanks,

Yours Faithfully

H.Kalita

(H.K.Kalita) Wires an
O/O the SDE P/C Panbazar
Guwahati

Copy to:-

1. A.E. Building O/O the CGMT Assam circle for information and necessary action please.
2. District Secretary MRTC Gr-C (PHTO) Guwahati for information and necessary action.

(H.K.Kalita) Wires an
O/O the SDE P/C
Panbazar, Guwahati

.....

Attested by
Solan
Adm. cat

To
Dy. General Manager (Plg)
o/o the Chief General Manager
Assam Telecom Circle
Guwahati -781007 .

Dated at Guwahati, the 25-01-2002 .

Sub:- Submission of original letter regarding refund of damage charge
Recovered from my pay .

Sir,

With reference to the above subject, I am submitting herewith letter dated 20-10-2000 with the stated subject which was already submitted to your office . It is known that no action was taken in the above matter, as Photostat copy was supplied to your office . However, I do hope that you would be kind enough to take proper action for the same as I am facing immense difficulties ~~in~~ marriage ceremony of my daughter .

Thanking you sir in anticipation .

Yours faithfully,

(Hara Kanta Kalita)
Wireman
o/o the SDE, F/C
Panbazar, Guwahati

Advance copy to Dy. General Manager (plg) o/o the C.G.M.I.
Guwahati for favour of necy. action please .

Attested by
S. Kalita
Adm. Secy.

ANNEXURE - 9

To

The Dy. General Manager (Plg)
o/o the Chief General Manager
Assam Telecom Circle
Guwahati-781007

Through 'proper channel'.

Dated at Guwahati, the 05-02-2002.

Sub:- Request for refund of demarage charge.

Sir,

With due respect, I have the honour to represent the following few lines for favour of your kind information and sympathetic order please.

1. That Sir, I had been allotted a seat in the Type II Gr. D Mess (4 seated) at Upper Strand Road, Panbazar, Guwahati - in the year 1977 and all the facts have elaborately explained in my earlier applications.
2. That Sir, after bifurcation of the Posts & Telegraphs Deptt. into Department of Posts and Department of Telecom, I had been allotted a seat in the Lineman Mess at CTO compound, Panbazar, Guwahati-1
3. That Sir, I could not shift to Lineman Mess as the room had already been occupying by some other person with his family. On the other hand, the Divisional Branch of NFTE Lineman & Class-C union had also stood against the order of allotment of a seat in the Lineman Mess and they submitted a memorandum to you in this respect.
4. That Sir, all the other members of the Mess except myself where I was staying, have been shifted to some other quarter.
5. That Sir, after bifurcation of the Deptt. the Type II Gr. D Mess has been handed over to Deptt. of Posts. There were three rooms in the said Mess and accordingly the Postal Department has allotted the 1st room to Shri Shiva Kumar Sharma, an employee of their Department. The 2nd Room was occupied by me and the 3rd one was used by the Postal Deptt. as go-down for their use.
6. That Sir, no notice was served to me for recovery of demarage charge and HRA either by the Office of the CGMT, Guwahati or GMT, Guwahati.
7. That Sir, same case was happened in respect of Shri Balkuntha Kalita, Lineman, Shri Praneswar Bezbarua, SSS and Shri Bhupit Ch. Deka, R/M (all attached to GM, Kamrup) and the damarage charge recovered from their pay, has been refunded. Only my case is not settled so far.

Revd
11/02/02

Attested by
Sachin
Advocate

On the light of the facts stated above, I most fervently request your honour kindly to consider my case sympathetically on humanity ground and arrange to refund me the demarage charge and HRA for which act of your kindness I shall remain ever grateful to you.

Thanking you sir keenly looking forward.

Yours faithfully,

(Hemanta Kalita)
Wl.eman
o/o the SDE, Fault Control
Panbazar, Guwahati-1.

The Chief General Manager
Assam Telecom Circle
Ulubari
Guwahati - 781007.

Through Proper Channel.

Dated at Guwahati, the 07-03-2002.

Sub:- Request for refund of demurrage charge.

Sir,

With due respect, I have the honor to represent the following few lines for favour of your kind information and sympathetic order please.

1. That Sir, I had been allotted a seat in the Type-II Gr. D Mess (4 seated) at Upper Strand Road, Panbazar, Guwahati-1 in 17-07-1977 and all the facts have been elaborately brought to the notice of your subordinates vide my earlier applications.
2. That after bifurcation of the Posts & Telegraphs Deptt. into Department of Posts and Department of Telecom, all the occupants of Postal quarter except the members of our Mess have been shifted to Type-II Qr. No. 18, 26 & 30 of Telecom Deptt. at Lower Strand Road, Panbazar, Guwahati-1. However, later on, separate quarters have been allotted to other members of the Mess individually; only I had been allotted a seat in the Linemen Mess at CTO Compound, Panbazar, Guwahati-1.
3. That I could not shift to Lineman Mess and had to stay in the original Mess as the room had already been occupying by a Mess member with his family. On the other hand, the Circle union of NFTE Lineman Mess Class-C had also stood against the allotment of a seat in the Lineman Mess and they submitted a memorandum to you in this respect. And as a result, I compelled to stay in the Gr. D Mess for long.
4. That after bifurcation of the Deptt., the Type-II, Gr. D Mess has been handed over to Deptt. of Posts. During this period, keeping the senior staff like us aside, Type-II Qr. No. 14, 21, 22, 26 & 30 have been allotted among the some other junior staff. Moreover, two quarters bearing no. 10 and 18 belong to Telecom Deptt. had been allotted to two postal employees and not only both of them are occupying the said quarters, but also the occupant of the qr. No. 18 has let out the quarter to a Telecom Employee.
5. That Sir, there was three rooms in the Mess where I used stay. The 1st. room was allotted to Shri Sukumar Sharma, an employee of Postal Deptt. as the Mess belongs to that Deptt. The 2nd. Room was occupied by me and the 3rd. one was utilized by the Postal Deptt. as go-down for their use.

Contd. To 2.

Attested by
Sukumar
Advocate

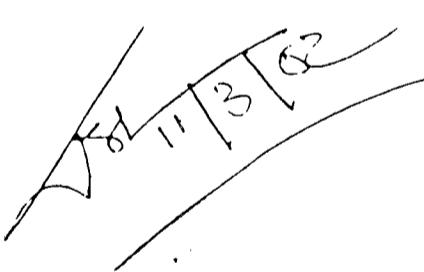
6. That Sir, all of sudden , a sum of Rs. 986.00 has been deducted from my salary for the month Aug, 95 as demurrage charge which is continued till 10-102000 without any prior notice either from o/o the CGMT or GMT, Guwahati *administration* .
7. That Sir , same case was happened in respect of Shri Baikuntha Kalita, Lineman , Shri Praneswar Bezbaruah, SSS and Shri Bhabit Ch. Deka, R/M (all attached to GM, Kamrup) and the demurrage charge recovered from their pay, has been refunded . Only my case is not settled so far .
8. That Sir, there was no other alternatives for a poor employee like me , but to occupy a In Gr. D Mess for prevention of NFTE Lineman & Gr. C Union on shift from Gr. D Mess to Lineman Mess and for non-allotment of a quarter inspite of repeated requests .

On the light of the facts stated above, I most fervently request your honour kindly to consider my case sympathetically on humanity ground and arrange to refund the demurrage charge and HRA for which act of your kindness , I shall remain ever grateful to you .

Thanking you sir .

Yours faithfully,

(Hara Kanta Kalita)
Wireman
O/o the SDE, F/C, Guwahati-1



BHARAT SANCHAR NIGAM LIMITED
O/O THE GENERAL MANAGER
KAMRUP TELECOM DISTRICT
GUWAHATI-7.

From

The Divisional Engineer (Plg)
O/o the General Manager
Kamrup Telecom District
Guwahati -781007.

To

The Chief Accounts Officer (IFA)
O/o the General Manager
Kamrup Telecom District
Guwahati -781007.

No. B/H-1/Qtr. Rent/2002-03/88

Dated at Guwahati, the 18-04-2002.

Sub:- Refund of Damage Charge - case of Shri Haru Kanta Kalita, Wireman.

Ref:- DGM (Plg) o/o the GMT/Kamrup letter No. PLBG:11/9/Pt-1/19 dt. 13-02-2002.

With reference to the above letter, the case of Shri Hara Kanta Kalita, W/M has been reviewed thoroughly and found that the said Kalita was not unauthorized occupant of the Gr. D Mess at Upper Strand Road, Guwahati. The seat was allotted vide letter no. B/H-32/77-78/18 dated 07-07-1977 by the then Divisional Engineer, Guwahati- 781001.

Due to bifurcation of Land & Building in between Postal & Telecom Deptt. the said Mess building falls under Postal side and the occupants of the said Mess were asked to vacate and shift to newly created Lineman Mess at CTO Compound vide CGMT/GH's letter no. PLBG-11/9-159 dated 02-11-1993, but Shri Kalita could not shift to Lineman Mess as one of the Mess member, Shri Balkuntha Kalita, L/M had occupied it with his family.

An investigation as per instruction of the then TDM- cum- Estate Officer was carried out and found that there was a family as mentioned above.

Although the Deptt. was not able to get vacated the family of Shri Balkuntha Kalita, consequently Shri HK. Kalita was declared as unauthorized occupant and finally imposed a damage charge @ Rs. 986.00 per month as penalty upon him vide Circle office letter no. PLBG-11/9-211 dated 01-05-95.

So, the action was taken by the then TDM-cum-Estate Officer as per instruction issued by the Circle Office stated above.

Contd. To Page 2.

Attested by
Sohor
Advocate

- 2 -

The case was recommended for waving off the damage charge in favour of Shri H.K. Kalla because it is found from the relevant records available in this office that there is no fault on the part of the occupant.

This is for your perusal and necessary action please.

Divisional Engineer (Plg)
o/o the G.M. Kamrup Telecom District
Guwahati-7.

Copy to - The Divisional Engineer (Admin) o/o the CMT/Kamrup, Guwahati for information and necessary action please.

Divisional Engineer (Plg)
o/o the G.M. Kamrup Telecom District
Guwahati-7.

To

ANNEXURE - 12

35

The Chief Accounts Officer
O/o the General Manager
Kamrup Telecom District
Guwahati - 781007.

Sub:- Refund of Damage Charge recovered illegally from my salary.

Respected Sir,

Kindly refer to the letter bearing no. BH-1/Qtr-Rent/2002-03/88 dated 18-04-2002 issued by the Divisional Engineer (Plg) o/o the General Manager, Kamrup Telecom District, Guwahati addressed to you on the subject referred above. By the said letter your honour was informed that I was not unauthorized occupant of the Gr. D Mess at Upper Strand Road, Guwahati and the recovery of Damage Charge was unauthorized and in the said letter your honour was also informed that necessary action be taken to refund the Damage Charge so recovered from me. In this connection, I may refer to my letter dated 28-02-2001 addressed to you on the matter requesting your goodself to refund my recovered Damage Charge.

That Sir, even after a lapse of seven months from the issuance of the letter mentioned above by the D.E. (Plg) o/o the G.M.T, Guwahati addressed to you, your honour has not taken any step yet to arrange to refund of my recovered Damage Charge.

Under the above circumstances, I once again request your honour to arrange to refund of Damage Charge recovered from my salary alongwith admissible interest @ 18% within a period of one month else I shall be left no other alternative but to take legal help for the check getting justice. I shall be highly grateful to you to get a reply on this from your end at your earliest.

Thanking you.

Most Sincerely Yours,

Hara Kanta Kalita

(Hara Kanta Kalita) 22/11/02
Wireman.

Copy to :- 1. The Divisional Engineer (Plg) o/o the G.M.T, Guwahati-7 w.r.t. his letter no. B/H-1/Qtr-Rent/2002-03/88 dated 18-04-2002. His honour is requested to further intervene in the matter.

2. The Divisional Engineer (Admin) o/o G.M.T, Guwahati for his kind information and necessary action.

*He said
M. K. Kalita
25/11/02*

(Hara Kanta Kalita)

25/11/02

*Attested by
S. D. Baruah
Advocate*

Contra - 02

The case was recommended for waiving off the damage charge in favour of BRTC
by BRTC because it is found from the relevant records available in this office that there is no fault on
part of the occupant.

This is for your perusal and necessary action please.

Divisional Engineer (Plg)
o/o the G.M. Kamrup Telecom District
Guwahati-7.

To : The Divisional Engineer (Admin) o/o the GMT/Kamrup, Guwahati for information and
necessary action please.

Divisional Engineer (Plg)
o/o the G.M. Kamrup Telecom District
Guwahati-7.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. *43*

Original Application No. 259 of 1999.

Date of Order : This the 6th Day of August, 2001.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

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

Shri Harakanta Kalita,
son of late Nibharsha Ram Kalita,
resident of Panbazar,
P.S. Panbazar, Guwahati-1.

... Applicant.

By Advocate Sri Sukumar Sarma.

- Versus -

1. Union of India,
represented by the Secretary
to the Govt. of India,
Ministry of Communication/
Director General of Telecommunication,
Sanchar Bhawan,
New Delhi.

2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.

3. The Telecom District Manager,
Kamrup, Guwahati-7.

4. The Accounts Officer,
Office of the Telecom District Manager,
Guwahati-7.

5. Sub Divisional Engineer, M.C.
Telephone Exchange, Guwahati-1. ... Respondents.

By Shri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C)

The controversy raised in this application pertains to an order dated 7.3.94 by which the respondents sought to recover excess payment regarding Special Duty Allowance during the period from 23.11.89 to 2.8.90, and also an order of dies non for his absence on 27.1.93 and 28.1.93.

2. The applicant is presently working under the respondents as fireman. By the impugned order dated 7.3.94 the

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*Attested by
Sukumar
Sarman
Advocate*

respondents ordered for recovery of a sum of Rs.1161/- which according to the respondents was an excess payment made during the period of leave of the applicant. Admittedly, the applicant was absent from 23.11.89 to 2.8.90 on medical ground. During that period he was suffering from tuberculosis. The applicant stated and contended that he was not paid SDA during the leave period and therefore in the circumstances question of recovery of SDA from him did not arise. Admittedly the purported recovery was made on 7.3.94 against the payment which was made for the period of November 1989 to August 1990. No reason as such are shown what prevented the respondents for making such recovery early. Be that as it may, since the matter is in dispute we are of the view that the matter requires re-consideration. Accordingly the respondents are directed to examine the records and thereafter ascertain as to whether any SDA was recovered from the applicant during the aforesaid period. The applicant should also be shown the records and made known to him any excess payment made to him. The respondents are directed to complete the above exercise within 1 month from the date of receipt of this order. As regards the order of dies non we however, could not uphold the order of dies non for 27.1.93 and 28.1.93. Admittedly on the own showing of the respondents it received casual leave application on 6.2.93 though the applicant claimed that he submitted the application on 26.1.93 and left the same in the attendance register written by Sri I.Bora, Technician. Assuming that he filed the application on 6.2.93 that could not have been a ground for declaring dies non. The order dated 7.3.94 and 29.9.94 holding the absence of the applicant as dies non for the period of 27.1.93 to 28.1.93 are set aside and quashed.

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The respondents are also directed to re-examine the entire matter as to the payment of SDA to the applicant for the aforementioned period on giving reasonable opportunity to the applicant to make his statement ^{and produce relevant documents}. After completion of the enquiry the respondents shall furnish him a copy of the order. In the event it appears that there was no SDA paid to the applicant during the aforementioned period the respondents shall refund the same to the applicant within a month therefrom.

With this observation the application stands disposed of. There shall, however, be no order as to costs.

sd/ VICE CHAIRMAN
sd/ MEMBER (Adm)

Enclosed to the true Copy

প্রাধিক নথিপত্র

27/5/2017

Section Officer (D)
নাম্বার প্রিসারি (প্রাধিক আলি)
Central Administrative Tribunal
কেন্দ্রীয় প্রাধিক অধিকার
মুখ্যমন্ত্রী বেঁচ, গুৱাহাটী
১০০০০ প্রাপ্তি, ১৩/৮/২০১৭

27/8/2017