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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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O.A/T.A No. 247/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Kahli
09/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 247/07
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) Kamden Singh Das -VS- Union of India & Ors

Advocate for the Applicants:- R.C. Das, O. Pala, C. Bhattacharya

Advocate for the Respondants:- Railway Advocate

Notes of the Registry	Date	Order of the Tribunal
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This application is in form 12.9.07
is filed/C.F. for Rs. 50/-
deposited vide IPC/ED
No. 329/01949
Dated 5.9.07

[Signature]
By Registrar

lm

Petitioner's copy for
work notices are
received with envelopes
Copy saved.

[Signature]

25.9.07

C. Copy collected by
Mr. A. M. D. for the applicant
on 21.9.07

Received
By A. M. D. / copy to
N. F. R. 14
26-9-07

Judgment delivered in open Court.

Kept in separate sheets. Application is
disposed of. No costs.

[Signature]
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.247 of 2007

DATE OF DECISION: 12.09.2007

Shri Kandu Singh Das,

.....Applicant/s

Mr.R.C.Das

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Dr.J.L.Sarkar

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN

- 1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
- 2. Whether to be referred to the Reporter or not? Yes/No
- 3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? Yes/No
- 4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman

M

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.247 of 2007

Date of Order: This the 12th Day of September, 2007.

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

Sri Kandu Singh Das,
Son of Late Janiram Das,
R/O Railway Quarter No.127 K/Type-11,
New Guwahati Colony, Near Kalibari,
Bamunimaidan, Guwahati-21, Kamrup, Assam.

By Advocate Mr.R.C.Das, Mr.O.Pasdu,
Mr.C.Bhattacharjee

-Versus-

1. The union of India,
Represented by the Secretary,
Railway Board, Ministry of Railway,
New Delhi-110001.
2. General Manager, N.F.Railway,
Maligaon, Guwahati-11, Kamrup, Assam
3. CAM/GHY (Chief Area Manager),
N.F.Railway, Guwahati.
4. DPO/GHY (Divisional Personal Officer),
N.F.Railway, Guwahati.
5. Senior Coaching Depot Officer/GHY,
N.F.Railway, Guwahati.

By Advocate Dr.J. L. Sarkar, Railway counsel.

ORDER (ORAL)

K.V.SACHIDANANDAN,V.C.;


The applicant is working in the post of Technical/Grade -I under the N.F.Railway. The applicant is residing of Quarter No. 127 K/ Type-11 at NGC, Bamunimaidam, Guwahati-21. According to the applicant he is residing in the said quarter with effect from 20.05-2002. The applicant has received an Office Memorandum dated

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09.5.2007 issued by the Divisional Personal Officer, whereby it was intimated that a Survey Committee appointed by the administration found that the applicant is in unauthorized occupation of the quarter since the allotted him has been found subletted. The applicant has made representation dated 26.09.2005 before the respondents. The applicant also submitted that he was not aware of any survey of his quarter and he prayed for review of the cancellation order. The Respondents authority did not pass any order disposing applicant's representation but passed an order dated 9.5.2007(Annexure A) imposing damage rent to the tune of Rs. 1,71,015/- on the applicant without issuing any prior notice to the applicant nor giving any opportunity of hearing to the applicant. The applicant has drawn salary after recovery of the alleged damage rent in the months of May, 2007. Aggrieved by the certain action of the respondents the applicant has filed this O.A.

2. I have heard Mr. R. C. Das learned counsel for the applicant and Dr. J.L. Sarkar learned counsel for the Railway. When the matter came up for hearing the learned counsel for the applicant has submitted that no notice was issued to him nor any opportunity was given to him to explain his case. His representation was not attended to. His appeal is also pending. He also submitted that he will be satisfied if direction is given to the 4th respondents to dispose of the appeal within a time frame. Dr.J.L.Sarkar learned Railway Standing Counsel has submitted that he no objection in adopting such proposal.

3. Accordingly, I direct the respondent No. 4 or any other competent authority to consider the appeal of the applicant and pass a reasoned order on merit within a period of three weeks from the date



of receipt of this order after giving opportunity to the applicant to explain his case in person and communicate the same to the applicant forthwith.

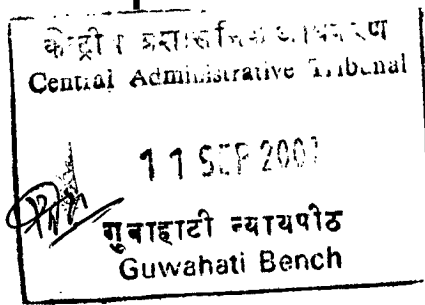
4. In the interest of Justice this Court further directs that the impugned order for recovery will be kept in abeyance till disposal of his appeal.

O.A. is disposed of at the admission stage itself. However, there shall be no order as to costs.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

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DISTRICT: KAMRUP

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

(An application U/S.19 of the Administrative Tribunal
Act, 1985)

O.A. No. 247 /2007

SRI KANDU SINGH DAS.

..... APPLICANT

-VERSUS-

THE UNION OF INDIA & ORS.

.....RESPONDENTS

SYNOPSIS

The applicant is an employee under the N.F. Railway, as a post of Technical/Grade-I under SSE/C/1C/GHY, at Divisional Officer, NGC, Bamunimaidan, Guwahati-21. The applicant is residing Railway quarter bearing No.127 K/Type-II at NGC, Bamunimaidan, Guwahati-21, along with family since on 20-05-2002. The gross pay of the applicant is Rs.10,183/-, however after deduction, the applicant receives a net pay of Rs.901/- per month. The applicant was shocked to receive a copy of the Memorandum on 09-05-2007 issued by Divisional Personal Officer (Respondent No.4) whereby it was intimated that he is in unauthorized occupation of the quarter since the allotted him has been found subletted and directed for recovery of damaged rent from regular salary bill from the month of May 2007 along with arrear and cancelled the allotment of the applicant and termed the same as unauthorised occupation.

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It is stated that the respondent authorities vide office order dated 10-09-2005 informed the applicant that staff quarter allotted to him and shown in the list as per survey committee's report the same has been handed over to private party in violation of provision of Rule 3.1(III) and 15(A) of Railway Service (conduct) Rules, 1966. Against the said office order, the applicant filed a representation dated 26-09-2005 before the Respondent No.5 (Annexure-III). Stating the actual facts that the quarter was never sublet to any person or individual and required the authorities to enquire the matter again. However, till 09-05-2007 no action was taken to dispose of the representation nor any further committee was made till the receipt of Memorandum on 09-05-2007. As such the instant original application seeking for appropriate relief.

Hence this instant application.

Filed by -


Advocate

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DISTRICT: KAMRUP

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

(An application U/S.19 of the Administrative Tribunal
Act, 1985)

O.A. No. _____ / 2007

SRI KANDU SINGH DAS.

..... APPLICANT

- VERSUS -

THE UNION OF INDIA & ORS.

.....RESPONDENTS

LIST OF DATES

1	10-09-2005	The applicant received the Office Order, which one issued by Respondent No.5.
2	09-05-2007	Office Memorandum issued by Respondent No.4.
3	26-09-2005	A representation filed by the applicant to the Respondent No.5.
4	09-05-2007	Impugned the Railway quarter damaged rent which one calculated by respondent No.4.
5	July, August / 2007	The applicant current pay slip in the month of July, August/2007.
6	30-07-2007	Similar order passed by this Hon'ble CAT dated 30-07-2007 (Mr. Pradip Kr. Das - VS - U.O.I. & Ors.) vide O.A. No.201/07.
7	04-08-2007	Declaring misjudgment of facts by the survey team passed by the Respondent No.4.

Filed By -


Advocate

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DISTRICT: KAMRUP

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

(An application U/S.19 of the Administrative Tribunal
Act, 1985)

O.A. No. _____ / 2007

SRI KANDU SINGH DAS

.....APPLICANT

- VERSUS -

THE UNION OF INDIA & ORS.

.....RESPONDENTS

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Filed By -


Advocate

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DISTRICT: KAMRUP

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI**

(An application U/S.19 of the Administrative Tribunal
Act, 1985)

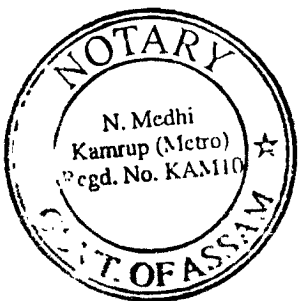
O.A. No. /2007

I. PARTICULARS OF THE APPLICANT: -

Sri Kandu Singh Das,
Son of Late Janiram Das,
R/O Railway Quarter No.127 K/Type-II,
New Guwahati Colony, Near Kalibari,
Bamunimaidam, Guwahati-21, Kamrup, Assam.

II. PARTICULARS OF RESPONDENTS: -

1. The Union of India,
Represented by the Secretary,
Railway Board, Ministry of Railway,
New Delhi-110001.
2. General Manager, N.F. Railway,
Maligaon, Guwahati-11, Kamrup, Assam.
3. CAM / GHY (Chief Area Manager),
N.F. Railway, Guwahati.
4. DPO/GHY (Divisional Personal Officer) N.F.
Railway, Guwahati.
5. Senior Coaching Depot Officer/GHY,
N.F. Railway, Guwahati.



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10-9-07
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Advocate / Notary

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Filed by the Applicant
Kandee Shing Das
Through: R. C. Das, Advocate 10/9/07

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Kandee Shing Das

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

The application is presented against the impugned office order dated 10-09-2005, issued by Respondent No.5 as (Sr. Coaching Dept. Officer, Guwahati.

- AND -

Impugned Memorandum dated 09-05-2007, issued by Divisional Personal Officer (Respondent No.4).

IV. JURISDICTION OF THE TRIBUNAL: -

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

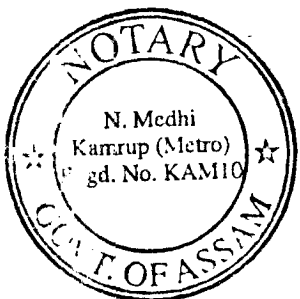
V. LIMITATION: -

The application declares that the application is within the period of Limitation under Section 21 of the Administrative Tribunal, 1985.

VI. FACTS OF THE CASE: -

1. That the applicant is a Citizen of India and a resident of abovementioned locality, in the district of Kamrup, Assam and as such the applicant is entitled to all rights, privileges and liberties guaranteed to the Citizen under the Part-III of the Constitution of India and laws framed there under.
2. That the applicant is an employee engaged with the Deptt. of N.F. Railway, as a post of Technical/Grade-I under SSE/C/1C/GHY. The applicant is presently posted at Divisional Officer, NGC, Bamunimaidan, Guwahati-21, and as such he is

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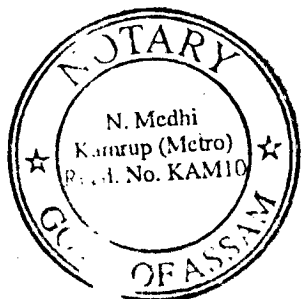
residing in the official allotted Railway quarter, located at New Guwahati Railway Colony. Since the date w.e.f. 20-05-2002.


3. That it is stated that before issue of Memorandum dated 09-05-2007 the respondent No.5, issued office order No.GHY/CDO/GEN/Qrs/C & W dated 10-09-2005 under Rule 3.1(III) and 15 A of Railway Service (Conduct) Rule 1966, thereby issuing a direction for cancellation of the allotment order of the Rly. Qrs. allotted in the name of the applicant and other similarly situated persons and further for handover / re-allotment of the same to the next allottee. However, in the order dated 10-09-2005 no specific mention was made as to the name and designation of the next allottee.

A copy of the office order No.GHY/CDO/GEN/Qrs/C & W dated 10-09-2005 issued by the Respondent No.5 is annexed and herewith marked as ANNEXURE - A.

4. That your humble applicant immediately thereafter in response to the office order dated 10-09-2005, furnished a representation before the Respondent No.5 for revocation of the quarter cancellation order dated 10-09-2005. Further a request was also made to conduct an enquiry as to the veracity of the survey committee report, whereupon, it was alleged that quarter allotted in the name of the applicant was subletted. The said representation was duly received by the Respondent No.5 under office seal on 26-09-2005.

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Advocate / Notary

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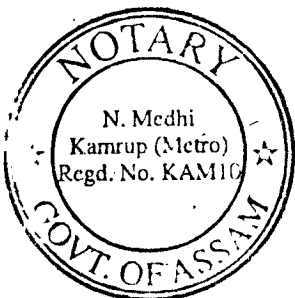
A photocopy of the representation furnished by the applicant to the Respondent No.5, is annexed and marked as ANNEXURE - B.

5. That it is stated that on 09-05-2007 to the utter surprise of the applicant, your applicant received a copy of the official memorandum bearing No.E/APO/I/Survey of Qrs./GHY, issued by Respondent No.4 with the approval of Respondent No.3, whereby a direction was issued for recovery of the Qrs. Damage rent at the prescribed rate to be fixed by the Rly. Board from the regular Salary Bill of the petitioner w.e.f. May, 2007. In this connection it is stated that the said memorandum was issued alleging inter-alia that during survey of quarter by the Survey Committee constituted by the administration, some quarters including that of the petitioner as shown in the attached statement enclosed in the memorandum dated 09-05-2007 were found subletted and as such the allotment order of the quarter which stood in the name of the applicant and other similarly situated persons were cancelled by the allotting authority.

A photocopy of the office memorandum No.E/APO/1/Survey of Qrs/GHY dated 09-05-2007 issued by Respondent No.4 is annexed herewith and marked as ANNEXURE - C.

6. That the applicant has allotted N.F. railway Quater vide bearing No.127 K/Type-II at NGC, Bamunimaidan,

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Advocate / Notary

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Guwahati-21. The applicant has been residing the same quarter since dated 20-05-2002 from the date of allotment till today.

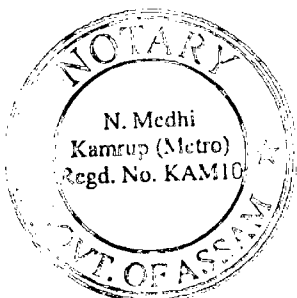
7. That the applicant states that the total damaged rent has been calculated at Rs.1,71,015/- which has been proposed to recover from the applicant from the month of May, 2007.


A copy of the office calculated quarter damaged rent is annexed herewith and marked as ANNEXURE - D.

8. That the applicant submits that the petitioner is a bonafide service holder engaged with the Deptt. Of Railway, N.F. section in the post of Technical-I / carpenter, it is stated that the Gross pay of the applicant is Rs.9,814/- after, other deduction the applicant receives a net pay of Rs.901/- per month. The applicant craves leave of this Hon'ble Tribunal to produce copies of the pay slip of the applicant in support of the statements made in the instant paragraph at the time of hearing of the instant case for a fair adjudication of the instant matter.

A copy of the current pay slip is annexed herewith and marked as ANNEXURE - E.

9. That your applicant humbly averment that the applicant is praying to the Hon'ble Tribunal. Whereas I never renders as sublated my quarter to any private person or individual and as such the




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Advocate / Notary

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Kandoo Shing Das

respondents authorities should not imposed any penalty due to damage of Railway Quarter without any previous notice, as per the Supreme Court verdict.

Hence it is pertaining to state that this Hon'ble Tribunal already passed the similar case vide O.A. No.201/07 (Pradip Kr. Das - VS - U.O.I. & Ors.) dated 30-07-2007.

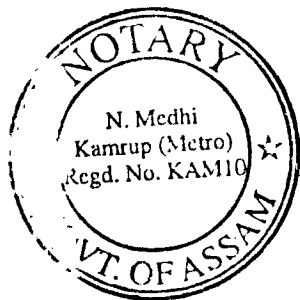
A photocopy of similar order vide O.A. No.201/07 (Pradip Kr. Das - VS - U.O.I. & Ors.) dated 30-07-2007 passed by this Hon'ble Tribunal herewith annexed and marked as ANNEXURE - F.

10. That the applicant begs to state that the respondent authority admit the subulating quarter were frivolous and concocted one. The statement recently declared misjudgment of facts by the survey team Respondent No.4 dated 04-08-2007.

A photocopy of the declaring misjudgment of facts by the survey team Respondent No.4 dated 04-08-2007 is annexed herewith and marked as ANNEXURE - G.

11. That the applicant respectfully states that he has been residing in railway allotted quarter since the date of his allotment i.e. w.e.f. 20-05-2002 to till date. The applicant states that on the day of survey, the applicant was discharging his official

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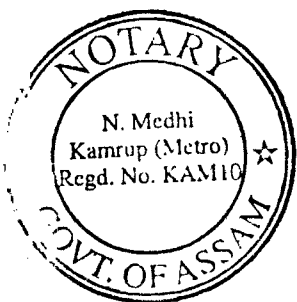
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obligation, whereas his mother, wife and three children was away in Pandu for marriage party, so no member left in the applicant said railway quarter, whereas the applicant was duty in harness, so the applicant said railway quarter was locked at that point of time. When the survey committee's or respondent authorities was visit the said railway quarter, which resulted the instant impugned action on the part of the railway authorities. As such the Survey Committee in a most mechanical manner and with a total non application of mind, submitted their report so far the applicant is concerned that the quarter in question was subletted without even considering it proper to enquire about the actual facts from the petitioner, or from neighbour by waiting them or by calling them. The survey committee should asked to the neighbour people of railway quarter, why the quarter was locked. So the survey committee was submitted wrong information to the respondent authorities or railway department.

12. That it is respectfully submitted that the petitioner is residing in the quarter with mother, wife and 3 children who an school going and as such, if the impugned action is given into effect, then great prejudice will be caused to the petitioner.

VII. GROUND FOR RELIEF WITH LEGAL PROVISION: :-

1. For that the office order No.GHY/CDO/GEN/Qrs/C & W dated 10-09-2005 issued by Respondent No.5 (Senior Coaching Dept. Officer) Guwahati and the Office Memorandum No.E/APO/1/Survey of Qrs/GHY dated




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Advocate / Notary

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09-05-2007 issued by Respondent No.4 (Divisional personal Officer) N.F. Railway, Guwahati, is violative of the natural justice.

2. For that the applicant states that the impugned office order / memorandum passed by the authorities is violative of applicants fundamental right as envisaged under Article 14 and 19 of the Constitution of India.
3. For that the applicant states that after filing of representation dated 26-05-2005 the applicant was under bonafide belief that the respondent authorities will consider his case and will pass appropriate orders. However he was shocked and surprised to received memorandum dated 09-05-2007, in this regard it is stated that inspite of representation and request the applicant was not informed as to whether any action was taken until he received memorandum dated 09-05-2007.
4. For that the entire action of the respondents being violative of the equity and administrative fair-play of the applicant.
5. For that the impugned action of the respondents in issuing memorandum dated 09-05-2007 and office order dated 10-09-2005 without following the proper procedure is arbitrary and unjustified. Therefore, the impugned action of the respondent authority is liable to be interfered with under its original application.



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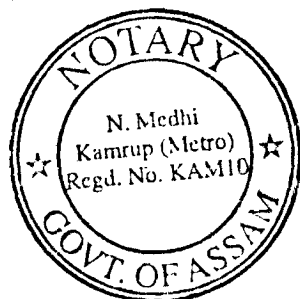
6. That under the facts and circumstances as have been narrated above, Your Petitioner has a strong prima facie case in his favour. Further, the petitioner shall suffer irreparable loss and injury if reasonable opportunity is not given to the applicant to place his case. Therefore, it is a fit case wherein this Hon'ble Tribunal may be pleased to issue appropriate interim directions to protect the interest of the applicant thereby setting aside the order dated 10-09-2005, 09-05-2007. (Annexure - A & C) respectively.
7. For that the applicant craves leaves to urge such further grounds in support of the present applicant at the time of hearing which may be considered relevant and necessary.
8. For that in any view of the matter, the impugned order is wholly untenable in law as well as on facts and the same is as such liable to be appropriately interfered with by this Hon'ble Tribunal.

VIII. **DETAILS OF THE REMEDIES EXHAUSTED:** -

The applicant declares that he has exhausted all the remedies available to him and there is no other alternative remedy available to him.

IX. **MATTER NOT PENDING WITH ANY OTHER COURT:** -

The applicant declares that there is no case pending before any other Court / Tribunal.



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Advocate / Notary

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X. **RELIEF SOUGHT:** -

Under the circumstances, the applicant therefore prays for the following reliefs: -

- (1) to set aside and quashed the office order dated 10-09-2005 issued by the Respondent No.5 (Senior Coaching Dept. Officer, Guwahati) ANNEXURE - A.
- (2) to set aside and quashed the office memorandum dated 09-05-2007 issued by Divisional Personal Officer, Guwahati) ANNEXURE - C.
- (3) pass any such order/orders as may deemed fit and proper.

XI. **INTERIM ORDER PRAYER FOR:** -

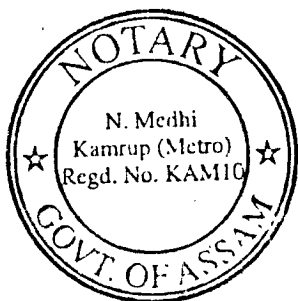
There is no interim prayer of the applicant.

XII. **PARTICULARS OF THE POSTAL ORDER:** -

Indian Postal Order No.:
Date :
Issuing Office :
Payable at :

XIII. **LIST OF ENCLOSURES:** -

As index showing the particulars of documents is enclosed.



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Advocate / Notary

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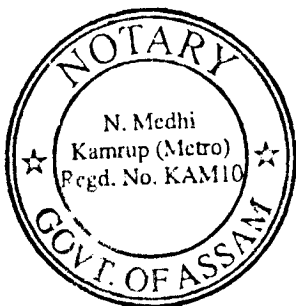
VERIFICATION

I, Sri Kandu Singh Das, Son of Late Janiram Das, aged about 45 years, R/O Railway Quarter No.127 K/Type-II, New Guwahati Colony, Near Kalibari, Bamunimaidam, Guwahati-21, Kamrup, Assam, do hereby solemnly affirm and my knowledge and belief I verify the above statement made there of and sign it at Guwahati.

Verified on ^{10th} day of September' 2007 at Guwahati.

Kandu Singh Das

SIGNATURE



N. Medhi
10-9-07
N MEDHI
Advocate / Notary

R.F. RAILWAY

Office of the
Sr. Coaching Depot Officer
Guwahati

OFFICE ORDER

The following Railway Qrs. were allotted to the staff concerned as shown in the list, but as per survey committee's report instead of residing in the allotted Qrs. they have submitted their Qrs. to private party which is violation of provision of Rule 3.1 (II) and 15A of Railway service (Conduct) Rule 1985.

Hence the allotment of the following Qrs. are cancelled herewith and staff concerned are advised to handover their Qrs. to the next allottee. New allotment order of the Qrs. to be followed.

SN	Name of the Staff	Designation	Working Under	Qrs. No. & Type	Location
1	Shri Kanak Ch. Boro	Tech/Gr-I	SSE/C/O/GHY	226-K, Type-II	NGC
2	Shri Akhil Ch. Bihma	Painter/Gr-I	SSE/C/O/GHY	122-G, Type-II	NGC
3	Shri Kundu Shing Das	Tech/Gr-I	SSE/C/O/GHY	127-K, Type-II	NGC
4	Shri Budhaswar Konwar	Tech/Gr-I	SSE/C/O/GHY	127-L, Type-II	NGC
5	Shri M. Tata Rao	S/Cleaner	SSE/C/O/GHY	702-E, Type-I	NGC
6	Shri Ahmed Ali	Tech/Gr-II	SSE/C/O/GHY	702-H, Type-I	NGC
7	Shri Narayan Tati	Tech/Gr-I	SSE/C/O/GHY	706-G, Type-I	NGC
8	Shri Pardip Choudhury	Carp. Gr-III	SSE/C/O/GHY	609-F, Type-I	Trangular Colony
9	Shri Jageswar Das	MOM	SSE/C/O/GHY	S&C-140-A, Type-II	PNO
10	Shri Lalchand Kahar	D/Smith/Gr.	SSE/C/O/GHY	706-J, Type-I	NGC

Sr. CDO/GHY

Dated-10.09.05

No. GHY/CDO/GE/QRs/C&W
Copy forwarded for information and necessary action to:-

- 1. CAM/GHY
- 2. DGM (G)/MLG
- 3. APO/GHY
- 4. SSE/C/O/GHY
- 5. SSE/Works/NGC
- 6. SSE/Works/East & West/PNO
- 7. SSE/Electric/NGC, PNO
- 8. Staff concern.

[Signature]
10/9/05

Sr. CDO/GHY

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[Signature]
Advocate

5/10/05

- 13 -

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To, The Sr. CDO / GHY.
N.E. Railway.

Date: 26-09-2005

Sub: Prayer for duly enquiry of Sub-Letting Quarters.

Ref: Office Order No. GHY/CDO/GEN/QRS/CQW
Dated: 10-09-2005.

Sir,

With reference to the above-sited subject that I Sri Kunda Singh Das, Son of Late Joniram Das, residence of Rly. Qr. 127 K / Type - II, Bamunimaidam, (Bigi Colony), Guwahati-21, Kamrup, Assam. Beg to states that I have been staying the above mentioned Rly. Qr. since from the date of joining service as a post of Tech/Gr - I. So I have been residing with my all family members as a etmployee of N.E. Railway since inter-alia till today.

The survey committee had imposed inadvertently wrong information to the railway department on accounts of sub-letting the Rly. Qr. So the concerned authority should not cancellation the said my allotted Rly. Qr., otherwise it will be prejudice.

Hence I request to you that you will kindly not to cancellation my quarter without any proper enquiry due to sub-letting. I hope you will do at your earliest convenience and thus oblige.

Thanking you

Kanda Shung Das -

Sri Kunda Singh Das

Dated: 26-09-2005.

Stamp: 26/9/05

Ad - 26/9/05

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Advocate

N.F.Railway

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Office of the
Divl: Personnel Officer
Station Road, Guwahati

MEMORANDUM

During the survey of quarters by the survey committee constituted by the administration the quarter shown in the attached statement were found subletted and accordingly the allotment order of the quarters were cancelled by the allotting authority.

Since the quarters have been found subletted and allotment cancelled the same treated as unauthorized occupation.

Due to unauthorized occupation of the quarters damage rent at the prescribed rate fixed by Railway Board, have been calculated and to be recovered from regular salary bill from May/07 current rate of damage rent along with arrear from the date of survey of the quarter.

This issues with the approval of CAM/GHY.

(G.K.KAKATI)
DPO/GHY

No-E/APO/1/Survey of Qrs./GHY

Dated: 9/5/2007

Copy forwarded for information and necessary action to:-

1. CAM/GHY,
2. Sr.CDO/GHY,
3. DRM (P)/LMG,
4. DFM/LMG,
- ✓ 5. Staff concerned,
6. Ch.OS (P)/Bill/GHY,
7. Concerned bill Clerk/E,



DPO/GHY

By Kundu Singh Das


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Advocate

- 15 -
-3-

25.	Sri Kanak Ch Boro	Tech/I	457	226K/type-II	NGC	09-08-05	58.87Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00 171015.00
26.	Sri Akhil Ch Brahma,	Painter/I	457	122G/type-II	NGC	09-08-05	58.87Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00 171015.00
27.	Sri Kundu Singh Das,	Tech/I	457	127K/type-II	NGC	08-08-05	58.87Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00 171015.00
28.	Sri Budheswar Konwar,	-do-	457	127L/type-II	NGC	08-08-05	58.87Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00 171015.00
29.	Md.Ahmed Ali,	Tech/II	457	702N/type-I	NGC	05-08-05	36.882Sqm	1-08-05 to 30-11-05 @ Rs.86 PSqm= 15860.00 1-12-05 to 30-04-07 @ Rs.99 Psqm= 91275.00 107135.00
30.	Sri Narayan Tati,	Tech/I	457	706G/type-I	NGC	05-08-05	36.882Sqm	1-08-05 to 30-11-05 @ Rs.86 PSqm= 15860.00 1-12-05 to 30-04-07 @ Rs.99 Psqm= 91275.00 107135.00
31.	Sri Pradip Choudhury.	CPTR/III	457	609F/type-I	NGC	05-08-05	36.882Sqm	1-08-05 to 30-11-05 @ Rs.86 PSqm= 15860.00 1-12-05 to 30-04-07 @ Rs.99 Psqm= 91275.00 107135.00
32.	Sri Jogeswar Das,	MCM	457	S&C/40A	Triangular Colony/PNO	10-08-05	62.67Sqm	1-08-05 to 30-11-05 @ Rs.86 PSqm= 26948.00 1-12-05 to 30-04-07 @ Rs.99 Psqm= 155108.00 182056.00
33.	Sri Lalchand Kahar.	B/Smith	457	706J/type-I	NGC	05-08-05	36.882Sqm	1-08-05 to 30-11-05 @ Rs.86 PSqm= 15860.00 1-12-05 to 30-04-07 @ Rs.99 Psqm= 91275.00 107135.00

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Advocate


DPO/GHY

25

- 16 -

IT Centre/LMG *Pay-in-Slip* Jul-2007/Aug-2007 GU:30014 BU:44457 Duty: 31 LWP: 0 Str:GHY SN- 2524
 Alocn:06211 PAY ALLOWANCES--->Rs RLY_RECOVERIES--->Rs B_I NRB_RECOVERIES--->Rs B_I
 Name :KANDU SINGH DAS Basic Pay * 4750 PF-Subsc. * 594 P Tax-Assam * 125
 /H_Name:Jani Ram Das D.F. * 2375 CGIS-C * 30 CCSShare CAL* 30
 EmpNo :04133262 D.A. * 2494 Water Charge* 15 CCSLoan-CAL * 1491 54
 Desgn. :TCH/1 SCA * 120 Arr Electric* 250 8
 Accumulated LAP:90, LHAP:101 Transport/G * 75 Dmg Rent * 5828
 Durea, FA * 150 2
 PF Advance * 400 14

Scale:04500-07000 R/Pay:4750 Gross Pay Rs.9814 Deductn. Rs.8913 NETPAY Rs.901.00
 Next Increment :01-May-2008 Retd. Dt.:30-Apr-2018

Cash Payment

7/1
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M
 Advocate

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.201 of 2007

Date of Order: This, the 30th Day of July, 2007.

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

Sri Pradip Kumar Das,
Son of Late Katia Das,
R/O. Rly.Qtr. No.117L/Type-II
NGC Bamunimaidan,
Guwahati-23, Kamrup, Assam.

.....Applicant

By Advocates Mr.J.Roy, R.C.Das, Mr.R.B.Deka, Mr.M.Sarkar

- Versus-

1. The Union of India,
Represented by the Secretary,
Railway Board, Ministry of Railway,
New Delhi-110001.
2. General Manager, N.F.Railway,
Maligaon, Guwahati-11.
Kamrup, Assam
3. CAM/GHY (Chief Area Manager)
N.F.Railway, Guwahati.
4. DPO/GHY (Divisional Personal Officer)
N.F.Railway, Guwahati
5. Senior Coaching Depot Officer/GHY,
N.F.Railway, Guwahati.

... Respondents

By Advocate Dr.J.L.Sarkar, Railway counsel

ORDER (ORAL)

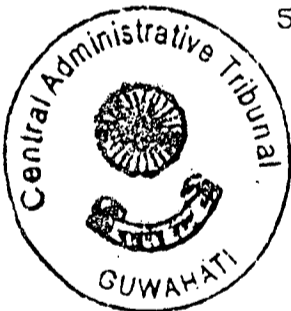
K.V.SACHIDANANDAN, V.C:

The applicant is working in the post of CF/Gr. I under SSE/C&W/NGC, N.F.Railway at administration NGC, Guwahati-23. The applicant is residing in Railway quarter bearing No.117L/Type-II at Bamunimaidam. According to the applicant, he is residing in the said quarter with effect from 26.12.2000. The applicant has received an office Memorandum dated 09.05.2007 issued by the Divisional Personal

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*M COPY
Advocate*

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Officer, whereby it was intimated that the applicant is in unauthorized occupation of the quarter since the quarter allotted to him was found subletted and directed for recovery of damaged rent from regular salary from May, 2007. The applicant stated that vide order dated 02.09.2005 (Annexure A) the Respondent informed him that staff quarter, allotted to him and shown in the list as per survey Committee's report, has been handed over to private party in violation of provisions of Rule 3.1 (III) and 15(A) of Railway Service (Conduct) Rules, 1966. The applicant has submitted representation dated 05.09.2005 (Annexure C) before the respondent No.5. But no action was taken by the respondents to dispose of the representation. Being aggrieved the applicant has filed this O.A. seeking the following reliefs.



- (1) to set aside and quashed the cancellation of Rly ,Qtr. Allotment order dated 02.09.2005 issued by the Respondent No.5 (Senior Coaching Dept. Officer, Guwahati) Annexure A.
- (2) To set aside and quashed the office memorandum date 09.05.2007 issued by the Divisional Personal Office, Guwahati) Annexure-D."

2. I have heard Mr. R. C. Das, learned counsel for the applicant and Dr.J.L.Sarkar learned Standing Railway counsel for the respondents. When the matter came up for consideration, learned counsel for the applicant submitted that the Respondents have passed the impugned orders in total violation of principles of natural justice. He further submitted that neither any notice was issued to him at any point of time nor any opportunity was given to him to explain his case. He further submitted that he will be satisfied if direction is given to the Respondents to consider and dispose of his representation within the time frame. Counsel for the Respondents has submitted that he has no objection if

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Advocate

such direction is given. Accordingly, the interest of justice, this Court directs the applicant to make a comprehensive representation to the 2nd respondent within two weeks from the date of receipt of this order and on receipt of such representation, the said authority or any other competent authority shall consider and dispose of the same alongwith the earlier representation and pass appropriate orders on merit communicating the same to the applicant within a period of three months thereafter. If requested, applicant shall be given a personal hearing. However, till disposal of the representation, Respondents are directed to keep the impugned order dated 09.05.2007 (Annexure- C) in abeyance.

The Original Application is disposed of as above at the admission stage itself. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN



Date of Application : 30.7.2007
 Date on which copy is ready : 2.8.2007
 Date on which copy is delivered : 2.8.2007
 Certified to be true copy

(Signature)
 Section Officer (Judl) 2/8/07
 C. A. T. Guwahati Bench
 Guwahati-5

(Signature)
 2/8

N.F. RAILWAY

Office of the
Sr. Coaching Depot Officer
GUWAHATI

Date: August 04, 2007

No. GHY/CDO/GEN/OA/150/07.

To
✓ Shri Akhil Ch. Brahma
S/O of Late Mirgu Brahma
R/O Railway Quarters no. 122/G. Type-II
New Guwahati Colony, near Kalibari,
Bamunimaidam, Guwahati-21
Kamrup, Assam.

Sub:- Implementation of Hon'ble CAT/GHY's order dtd. 14/06/07.
passed in OA 150/07.

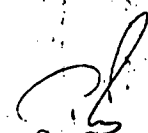
Ref:- Your representation dtd. 22/09/05 and 19/07/07

In terms of Hon'ble CAT/GHY's order mentioned above you were personally
heard by me on 03/08/07 in my chamber. The personal hearing was also attended by the
Survey Committee & DPO/GHY.

After going through the documents and your representation I have found that
there may be a misjudgment of facts by the survey team.

The representation submitted by you proves that you have not subletted your
official residence and was residing in the quarter on regular basis.

The case is found genuine. Consequential orders will be followed on the basis of
above.


Sr. CDO/GHY

- Copy to:-
- 1. DRM (P)/LMG } for kind information please.
 - 2. CAM/GHY
 - 3. DPO/GHY } for information and necessary action please.

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copy
Advocate*

Sr. CDO/GHY