

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 254 / 2007
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) Kishore Dasgore -VS- Union of India & Ors

Advocate for the Applicants:- Mr. L.P. Sharma
Mrs. R. Bhattacharjee
Mr. S. Chakrabarty

Advocate for the Respondants:- CASE

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IP/BD No. <u>042466</u> Dated <u>17.9.2007</u></p> <p><u>[Signature]</u> Registrar</p>	<p>19.9.07.</p> <p>lm</p>	<p>Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.</p> <p><u>[Signature]</u> Vice-Chairman</p>

Staps taken along with envelopes

[Signature]
18.9.07

Recd
Chhinda
Sr. Case

24.9.07

25.9.07

L. Advocate for the applicant called the copy of the final order on 21.9.07.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 254 of 2007

DATE OF DECISION: 19.09.2007.

Shri Kishore Basfore
.....Applicant/s

Mr. L. P. Sharma
..... Advocate for the
Applicant/s.

- Versus -

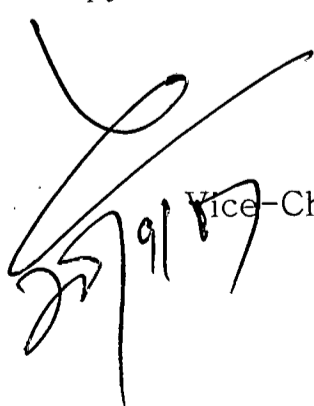
U.O.I. & Ors
.....Respondent/s

Mr. G. Baishya, Sr.C.G.S.C.
..... 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

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.254 of 2007

Date of Order: This the 19th Day of September, 2007.

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

Shri Kishore Basfore,P/N.213187,
aged about 36 years,
son of late Dularchand Basfore,
resident of Satgaon Railway Colony,
P.S. Noonmati, Guwahati-20 in the
District of Kamrup.

Applicant

By Advocate Mr. L. P. Sharma, Mrs. R.Bhattacharjee,
Mr.S.Chakraborty

-Versus-

1. Union of India, Represented by the
Secretary to the Govt. of India,
Ministry of Defence, New Delhi-1.
2. The Station Commander, Station-Cell
Headquarters 51, Sub Area,
C/O, 99 APO.

Respondent

By Advocate Mr. G. Baishya, Sr.C.G.S.C

ORDER (ORAL)

K.V.SACHIDANANDAN, V.C:

The claim of the applicant is that the applicant is working as Conservancy Safaiwala under the Respondent No.2 since last 15 years in the pay scale of Rs.2,550 -3200/- p.m. The applicant was placed under suspension by order dated 31.5.2003 alleging that the applicant was detained in custody with effect from 25.5.2003 in connection with Noonmati Police Station Case No.182/2003 under Section 448/302 of the Indian Penal Code issued by the Respondent No.2.It is made clear that the applicant was suspended under Sub Rule 2 of Rule 10 of the Central Civil Services (Classification, Control &

✓

Appeal) Rules, 1965 and the applicant shall be remained under suspension until further order. The applicant was under suspension from 25.5.2003 but he has not been paid any subsistence allowance. The applicant submitted representations dated 31.12.2003 (Annexure-II), 13.7.2004 (Annexure- III), 31.3.2005, (Annexure-IV) 30.6.06 (Annexure -V) and legal notice dated 9.11.2006 (Annexure VI). But the Respondent did not take any action to pay the subsistence allowance to the applicant. Aggrieved by the certain action of the Respondents the applicant has filed this O.A. seeking the following reliefs:-

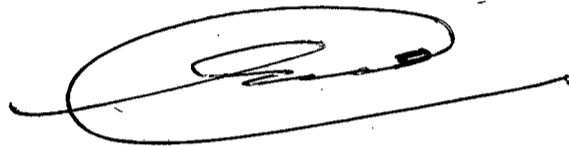
- “(i) Direct the Respondents to pay the subsistence allowance to the applicant with effect from 31.5.003 31.5.2003 as per provision of law within a period of 15 days from the date of the order to be passed by this Hon’ble Tribunal.
- (ii) Declare that the suspension order dated 31.5.2003 to be illegal, void in law and inoperative as the applicant has not been paid any subsistence allowance as provided under F.R. 53 and direct them to pay the subsistence allowance at 50% with effect from 31.5.2003 to 31.8.2003 and from 1.9.2003 at 75% till the suspension order thereon.
- (iii) Direct the Respondents to pay interest @ 0% p.a. from 31.5.2003 till payment of the subsistence allowance accrued thereon.”

2. I have heard Mr. L. P. Sharma learned counsel for the applicant and Mr. G .Baishya, learned Sr.C.G.S.C. for the Respondents. When the matter came up for hearing the learned counsel for the applicant has submitted that he will be satisfied if direction is given to the Respondents to dispose of the representation dated 30.6.2006 (Annexure 5) and pass appropriate order and shall consider within the time frame. Counsel for the Respondents has submitted that he has no

objection if such direction is given. In the interest of justice this Court directs the applicant to make a comprehensive representation before the 2nd Respondent within 15 days from the date of receipt of this order and on receipt of such representation the Respondent No.2 or any other competent authority shall consider and dispose of the same with a speaking order within a time frame of 1 month,

3. O.A. is disposed of, accordingly. There shall be no order as to costs.

4. Liberty is given to the applicant to approach this Tribunal with appropriate forum, if he is still aggrieved.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

LM

OA (in 2+3 sets) & 1/2 No 2 envelopes
is filed today by Sh. L.P. Sharma, Advocate
to be posted on 19.9.07.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

AT GUWAHATI

O.A. NO. 254 OF 2007

Shri Kishore Basfore, P.No.213187

....Applicant

- Vs -

Union of India and ors

....Respondents

SYNOPSIS

The applicant Shri Kishore Basfore is belong to Schedule Case and is working as Sweeper/Safaiwala since 1992 in the pay scale of Rs.2550 -3200/- under the Station Commander, Station Cell, Headquarters, 51, Sub Area, C/o. 99 APO. The applicant has been placed under suspension by order dated 31.5.2003 by the Station Commander. Though in the said suspension order it was mentioned that payment regarding subsistence allowance will be issued separately, but till to-day no such order has been issued, nor the applicant has been paid his subsistence allowance as per Rule from the date of his suspension i.e. 31.5.2003 till this date inspite of his representation/appeal dated 31.12.2003, 13.7.04, 31.3.2005, 30.6.06, and legal notice dated 9-11-2006. This petition/application is for payment of subsistence allowance from 31.5.2003 to the petitioner.

क शोर

(Kishore Basfor)
Applicant

Dated th Sept/2007

APPENDIX A

FORM -I

(See Rule 4)

Filed by
D. P. Sharma
Advocate - 8

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL
ACT, 1985

Title of the Case: Original Application No. of 2007

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For use in Tribunal's Office

Signature of the applicant

Date of filing

or

Date of Receipt by Post

Registration No.

Signature
for Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
AT GUWAHATI

O.A.NO. 254 OF 2007

FILED

Filed by

Kishore Basfore

Advocate

*d. P. S. Haring
Advocate*

Shri Kishore Basfore, P/No.213187, aged about
36 years, son of late Dularchand Basfore,
resident of Satgaon Railway Colony, P.S.
Noonmati, Guwahati-20 in the district of
Kamrup.

.... Applicant

-Versus-

1. Union of India, Represented by the
Secretary to the Govt of India, Ministry of
Defence, New Delhi-1.
2. The Station Commander, Station Cell,
Headquarters 51, Sub Area,
C/o. 99 APO

... Respondents

1. Particulars of the order against which the
application is made.
- 1.1. Order communicated vide No.7202/Estt/R/(Dis)
dated 31-5-2003 placing the applicant under
suspension issued by the Brig. Station Commander,
Station Cell, H.Q. 51, Sub Area, C/o.99 APO.
2. Jurisdiction of the Tribunal

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The applicant declares that the subject matter of the order against which laments redressal is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1. That the applicant is a resident of Satgaon Railway Colony, P.S. Noonmati, Guwahati in the district of Kamrup. The applicant originally hails from the State of Bihar in Chapra District and he belongs to Schedule caste community (Basfore-Sweeper).

4.2. That the applicant has his old widow, ailing mother, his wife and two minor children and all the family members of the applicant is residing with the applicant at (Noonmati) Satgaon Rly. colony. The wife of applicant is also unemployed.

4.3. That the applicant is working as Conservancy Safaiwalla under the Respondent No. 2 since last 15 years in the pay scale of Rs. 2,550 - 3200/- p.m. plus other allowance admissible to civilian central Government employees, as the petitioner is a civilian employee under the Respondent No. 2.

4.4. That the applicant was placed under suspension

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suspension by order No.7202/Est/R/(Dis) dated 31.5.03, alleging that the applicant was detained in custody with effect from 25.5.2003 in connection with Noonmati Police Station case No. 182/2003 under section 448/302 of the Indian Penal Code issued by the Respondent No.2. In the said suspension order it was mentioned that he has received information from the Officer, in-charge, Satgaon Police outpost dated 28.5.03 that the applicant was under custody for a period exceeding forty eight hours. It was further mentioned in the said suspension order that the applicant has been suspended with effect from the date of detention i.e. from 25.5.03 in terms of the Sub Rule 2 of Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 and the applicant shall be remained under suspension until further order.

A copy of the suspension order dated 31.5.03 issued by the Respondent No. 2 is annexed herewith and marked as Annexure -I.

4.5. That though the applicant was under suspension from 25.5.03 but he has not been paid any subsistence allowance. Therefore, the applicant, after release from the custody, he by his letter dated 17th September, 2003 intimated that the applicant should be paid subsistence allowance as per rule admissible to him. The said letter was duly received by the Respondent No. 2.

4.6 That the applicant thereafter sent reminders to the Respondent No.2 on 31.12.03,13.7.04 and 31.3.05 to consider the case of the applicant. The office staff of the Respondent No. 2 did not allow the applicant to meet the Respondent No.2 personally. On 23.5.2006, the applicant proceeded to meet the Respondent No. 2 in his office chamber to explain the whole fact and to know the reason under what circumstances, the subsistence allowance to the applicant has not been paid. But the Sentry/Guard who was present in front of the door of the office chamber of the Respondent did not allow the applicant to enter in the office chamber of the Respondent No. 2 on the pretext that the Respondent No. 2 has ordered the Guards/Sentries not to allow the applicant to enter in the office chamber of the Respondent No.2. Immediately on the next day i.e. 24.5.2006, the mother and the wife of the applicant went to meet the Respondent No.2, but they were also not allowed to enter in the office chamber of the Respondent No.2 by the Guards.

Copies of the letter dated 31.12/2003, 13.7.2004 and 31.3.2005 are annexed herewith and marked as Annexure II, III and IV respectively.

4.7 That as the Respondent did not take any action to pay the subsistence allowance to the applicant nor he was allowed to meet the Respondent No.2, the applicant filed an appeal before the Respondent No.3 on 30.6.2006 through proper channel and requested the Respondent No.3 to direct the Respondent No.2 to pay

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pay the subsistence allowance from 25.5.2003 or to vacate the suspension order dated 31.5.2003 (Annexure-I).

4.8 That the applicant, now learnt that the officials of the Respondent No.2 did not process the appeal filed by applicant on 30.6.2006. But, however, the applicant sent an advance copy of the appeal to the Respondent No. 3.

A copy of the appeal dated 30.6.2006 filed by the applicant is annexed herewith and marked as Annexure V.

4.9. That as the Respondent No.2 and 3 failed to take any action on the applications, appeal preferred by the applicant and finding no other alternatives, the applicant served a legal notice by registered with A/D post to the Respondent No.1 and 2 on 9.11.2006 asking the Respondent No.1 and 2 to pay the subsistence allowance from 25.5.2003 as per F.R. admissible to the applicant. The said legal notice was duly received by the Respondent No. 1 and 2. But till to-day the Respondents failed to take any action for payment of the subsistence allowance to the applicant inspite of receipt of the said legal notice dated 9.11.2006.

A copy of the said legal notice dated 9.11.2006 sent on 11.11.2006 is annexed herewith and marked as Annexure VI.

5. Grounds for Relief with Legal Provisions:

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5.1 That it is submitted that suspension is defined as state of being debarred. An employee when he is suspended is thus debarred from any privilege, from the execution of an office. It is a temporary deprivation of office, but by reason of suspension, the person suspended does not lose his office nor does he suffer any degradation. He only ceases to exercise the powers and to discharge the duties for the time being. He cannot draw his salary but he gets his suspension allowance.

Suspension means action of debarring or state of being debarred, especially for some time, from a function of privilege, temporary deprivation of one's office or position, the state of being temporarily kept from doing or deprived of something. Suspension of an employee does not amount to dismissal or termination of the contract of employment/service.

When serious allegations are imputed against an employee, then normally it would not be desirable to allow him to continue in post where he was functioning, and the word "suspension" refers to that state, when any employee is temporarily debarred by his employer for the time being, from performing any of his official function or enjoying certain privilege.

But in the instant ^{Case} applicant has not acted in a manner which is prejudicial to interest of the Respondents and he also in no way connected with the case referred above and as such the suspension is not at all desirable and the same may be set aside.

5.2 That it is submitted that an employee may be sus-

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suspended under Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, Rules 4 and 5 of the Railway Servants (Discipline and Appeal) Rules, 1968, Rules, 3, 4, 5, 5-A and 5-B of the All India Services (Discipline and Appeal) Rules, 1969, Fundamental Rules 52 to 54-B and under Railway Establishment Code and F.R.53 provides the provisions for payment of subsistence ^{allowance} to a suspended employee during the period of suspension and the Government servant under suspension shall be entitled to the following payments, viz.

(i) in the case of a Commissioned Officer of the Indian Medical Department ^{ment} or a Warrant Officer in civil employment, who is liable to revert to military duty, the pay and allowances to which he would have been entitled had he been suspended while in military employment;

(ii) in the case of any other Govt. servant -

a) a subsistence allowance at an amount equal to the leave salary which the Government servant would have been drawn if he had been on leave or on half average pay or on half pay and in addition dearness allowance bases on such leave salary:

Provided that where the period of suspension exceeds ~~three~~ months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows :

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first three months if, in the opinion of the said authority, the period of sus-

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suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant;

(ii) the amount of subsistence allowance may be reduced by a suitable amount not exceeding 50 percent of the subsistence allowance admissible during the period of first three months, if in the opinion of the said authority, the period of suspension has prolonged due to reasons, to be recorded in writing, directly attributable to the Government servant.

(iii) the rate of dearness allowance will be based on the increased or, as the case may be, decreased amount of subsistence allowance under the sub clause (i) and (ii) above.

Provided that the Govt. servant shall not be entitled to the compensatory allowance unless the said authority satisfied that the Government servant continues to meet the expenditure for which they are granted; and the said Rule is applicable in case of both permanent and temporary Govt. servant.

But in the instant case, the applicant was placed under suspension by order dated 31.5.2003, but the applicant has not been paid any subsistence allowance from the date of his suspension till this date. The applicant is entitled 50% subsistence allowance from 31.5.2003 to 31.8.03 and from 1.9.2003 75% till this date, as till to-day no statement of imputation/charge sheet etc. has so far been served by the Respondent No.2 to the applicant.

5.3 That delay in disposing the proceeding is directly attributable on the part of the Respondent No.2,

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and no action has so far been taken by the Respondent No.2 inspite of receipt of the letters of applicant dated 31.12.03, 13.7.04,31.3.05 and 30.6.2006 and as such the applicant is entitled to get his subsistence allowance as provided under F.R.53(1)(ii)(a)(i),(ii)and (iii) and 53(b) of the F.R.

5.4. That it is submitted that though, in the order of suspension dated 31.5.2003, it was specifically mentioned that order regarding payment of subsistence allowance admissible to the applicant during the period of his suspension will be issued seperately, but till to-day, no order regarding payment of subsistence allowance has so far been issued and as a result of which the applicant has not been paid any subsistence allowance and action of the Respondent No.2 in not issuing the order of payment of subsistence allowance -and non payment of subsistence allowance is illegal and violations of the right guaranted to the applicant under various laws applicable to him and as such the impugned suspension order dated 31.5.2003 is illegal and the applicant is entitled to get his subsistence allowance as provided under F.R. 53.

5.5. That due to illegal actions of the Respondents in not paying the subsistence allowance, the applicant and his family members consisting his old, widow, ailing mother, his wife and two school going minor children are suffering immense hardship and the applicant have no income of his own. -due to financial condition, the children of the applicant had to left their school since January, 2006 and if this situation is allowed to be continued, the applicant and other family members shall have to die in starvation.

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5.6. That it is submitted that the Noonmati P.S. has not yet submitted any charge sheet against the applicant before the Court in connection with the Noonmati P.S. Case No. 187/2003 for which the applicant was arrested and it is not known when the police will submit charge sheet before the Court against the applicant, and as such the prolong suspension of the applicant is illegal and non payment of subsistence allowance is a deprivation of right to live to the applicant and such the suspension order is illegal and liable to be set aside and the Respondent No. 2 may be directed to pay the subsistence allowance to the applicant immediately as provided under F.R. 53.

6. DETAILS OF REMEDIES EXHAUSTED

That the applicant declare that he has already filed an appeal on 30.6.2006 against the order dated 31.5.2003 before the highest authority but the same has not yet been disposed of.

7. MATTERS NO PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT.

The applicant declares that he has not previously filed any application, writ petition, or suit regarding the matter in respect of which the instant application has been filed before any Court, authority or other Tribunal or any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

That in view of the aforesaid facts and circumstances details of which has been mentioned above in paragraph 4 of the application as well as in the grounds above

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above, the applicant prays for the following relief:

- i) direct the Respondents to pay the subsistence allowance to applicant with effect from 31.5.2003 as per provision of law within a period of 15 days from the date of the order to be passed by this Hon'ble Tribunal.
- ii) declare that the suspension order dated 31.5.03 to be illegal, void in law and inoperative as the applicant has not been paid any subsistence allowance as provided under F.R. 53 and direct them to pay the subsistence allowance at 50% with effect from 31.5.2003 to 31.8.2003 and from 1.9.2003 at 75% till the suspension order continues.
- iii) direct the Respondents to pay interest @10% p.a. from 31.5.03 till payment of the subsistence allowance accrued thereon.
- iv) cost of the application, and
- v) any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case and pass such other order or orders as this Hon'ble Court/Tribunal may deem, fit and proper.

9. INTERIM ORDER, IF ANY PRAYED FOR:

That the Respondent No.2 may be directed to pay at 75% of subsistence allowance from the date of filing this application before this Hon'ble Tribunal.

10. PARTICULARS OF THE IPO

IPO for Rs. 50/- vide No. 32 G 042466 dated 17-9.2007 payable at Guwahati.

11. LIST OF ENCLOSURES

Annexure -I to VI as stated in the Index

किसोर

VERIFICATION

I, Shri Kishore Basfore, P/No. 213187, aged about 36 years son of late Dularchand Basfore, resident of Satgaon Railway Colony, P.S. Noonmati, Guwahati-20 in the district of Kamrup(M), profession - Service (now under suspension), Hindu by Caste do hereby verify that the contents of paragraphs 1, 2, 3, 4 to 4.9 are true to my knowledge and those made in paragraphs 5 to 5.6, 6, to 10 being matters of records are true to my information derived therefrom and the rest are my humble submissions made before this Hon'ble Tribunal and that I have not suppressed any material fact.

किसोर

Dated th Sept/2007

(Kishore Basfore)
SIGNATURE OF THE APPLICANT

Annexure - I

2)

Station Cell
HQ 51 Sub Area
C/O 99 APO

7202/Est/R/(Dis)

31 May 2003

ORDER

Whereas a case against Shri Kishore Basfore (P/No 213187) Conservancy Safaiwala, Station Cell HQ 51 Sub Area in respect of criminal offence is under investigation.

And whereas the said Shri Kishore Basfore, (P/No 213187) Conservancy Safaiwala, Station Cell HQ 51 Sub Area was detained in custody wef 25 May 2003 under Noonmati Case No 18270/JU/S/448/302 IPC as per information received from Officer -In-Charge Satgaon Police Out Post dated 28 May 2003 for a period exceeding forty eight hours.

Now, therefore, the said Shri Kishore Basfore, (P/No 213187) Conservancy Safaiwala, Station Cell HQ 51 Sub Area is deemed to have been suspended with effect from the date of detention, i.e. 25 May 2003 in terms of sub-rule (3) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and shall remain under suspension until further orders.

[Handwritten signature]

(SC Uppal)
Brig
Station Commander

Copy to:

Shri Kishore Basfore
P/No 213187 Conservancy
Safaiwala, Station Cell
HQ 51 Sub Area

[Handwritten mark]

Order regarding subsistence allowance admissible to him during the period of his suspension will ^{be} issued separately.

Certified to be true Copy

[Handwritten signature]
Advocate.

ANNEXURE -II

From: Kishore Basfore,
P/No. 213187 Conservanc
Safaiwala, Station
Cell, HQ 51 Sub Area
(under suspension.)

Dated 31th Dec/2003

To
The Station Commander,
Station Cell, HQ 51, Sub Area,
C/O. 99 APO

Sub: Payment of Subsistence allowance.

Sir,

I have the honour to state that I was placed under suspension by your order No. 7202/Est/R(DIS) dated 31.5.2003 alleging that I was detained in custody w.e.f. 25.5.2003 under Noonmati Case No.182/2003 under section 448/302 IPC as per information received from the Officer-in-Charge, Satgaon Police Out Post dated 28.5.2003 for a period exceeding 48 hours and you placed me under suspension with effect from the date of detention i.e. 25.5.03 alleging in terms of Sub Rule 2 of Rule 10 of the Central Civil Service (Classification, Control and Appeal) Rule, 1965 and shall remain under suspension until further order.

In the said order of suspension, you specifically mentioned that you are issuing order regarding payment of subsistence allowance admissible to me during the period of my suspension separately.

Though more than 7 months have already been elapsed you have not issued any order regarding payment of subsistence allowance nor you have paid any subsistence allowance to me and due to non payment of my subsistence allowance, I along my family members consisting with my old, widow, ailing mother, my wife and two minor school going children are

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Certified to be true Copy


advocate.

are suffering immense financial hardship and on many occasions, we have to spent our nights without any bread and if this situation is allowed to be continued, my family members shall have to die in starvation as I have no other means of livelihood or income to maintain my family.

Under the circumstances, I would fervently request you kindly to pay my subsistence allowance at 50% w.e.f. 31.5.2003 to 31.8.03 and at 75% from 1.9.2003 till this date.

Sir, I could do venture so, because you are the fountain head of all the hopes and aspiration of the poor suspended employees like us.

A very early action is earnestly solicited.

Yours faithfully,

Sd/-

D ated 31.12.2003

(Kishore Basfore)
C.Safaiwalla(U/S)

Certified to be true Copy

[Signature]
Advocate.

ANNEXURE -III

To
The Station Commender,
Station Cell,
HQ 51, Sub Area,
C/O 99APO

Dated 13.7.2004

Sub: Payment of subsistence allowance.

Sir,

Kindly refer to my letter dated 31.12.2003 on the subject mentioned above. Though more than seven months have already been elapsed, you have not taken any steps to pay my subsistence allowance as per rule.

You are, therefore, requested to look into the matter personally and pass order for payment of the subsistence allowance immediately and save my family from starvation.

Yours faithfully,

Sd/-Kishore Basfore
P/No.213187, Conservancy
Safaiwala, Station Cell,
(Under Suspension)
HQ 51 Sub Area, C/o.99APO

Certified to be true Copy

[Signature]
Advocate.

ANNEXURE -IV

Dated 31 .3.2005

To
The Station Commender,
Station Cell, HQ 51/ SuB Area,
C/O.99 APO

Sub: Payment of subsistence allowance.

Sir,

Kindly refer to my letter dated 31.12.2003, followed by a reminder thereto on 13.7.2004 on the subject mentioned above. Though more than 1 year 10 months have already been elapsed from the date of my suspension, you have not paid any subsistence allowance to me.

However, for your ready reference I am enclosing herewith a copy of my letter dated 31.12.2003.

I, therefore, earnestly request you kindly to pay my subsistence allowance at an early date and save my family.

If no reply is received within two months from to-day I shall refer the matter to the Secretary to the Govt. of India, ~~Min~~ Ministry of Defence, New Delhi for his necessary action.

Yours faithfully,

Sd/-Kishore Basfore,
* P/No.21 3187, Convernancy Safaiwalla(U/S)
Station Cell, HQ 51, Sub Area,

Certified to be true Copy
[Signature]
Advocate

Certified to be true Copy
[Signature]
Advocate

Dated 30th June/2006

ANNEXURE -V

To
1. The Secretary to the Govt. of India,
Ministry of Defence, New Delhi-1.

2. The Officer Commanding,
Head Quarters Eastern Command,
C/o.99 APO.

(Through the Station Commender, Station Cell)

Respected Sir,

sub: Appeal Against suspension order and non-payment
of subsistence allowance.

I most humbly and respectfully beg to lay before you the following few lines for favour of your kind consideration and necessary orders:

1. That Sir, by order dated 31.5.03, I was placed under suspension by the Station Commendar, Station Cell, Headquarter, 51, Sub Area, C/o.99 APO, alleging that I was detained in custody for exceeding 48 hours and therefore he placed me under suspension in terms of Sub Rule 2 of Rule 10 of the Central Civil Service (Classification, control and Appeal) Rule, 1965. A copy of the suspension order dated 31.5.03 is enclosed herewith.

2. That Sir, in the said suspension order it was specifically mentioned that a separate order regarding payment of subsistence allowance will be issued, but the Station Commender have not issued any such order nor he paid me the subsistence allowance with effect from 31.5.2003 till this date and as a result my family members have been suffering immense hardship.

3. That Sir, due to non payment of my subsistence allowance, I along with my family members consisting with my old, widow, ailing mother, my wife and two minor school going children are suffering immense financial hardship and on many occasions, we have to spent our night without any bread and the entire facts were intimated to the Station Commendar vide my letters dated 31.12.2003, 13.7.2004, and 31.3.2005, but he deliberately and intentionally failed to take any action to pay my subsistence allowance.

4. That Sir, I am a Schedule Caste poor employee and I have no other income and I am also illeterate and if this situation is allowed to be continued, I shall have to die in starvation along with my family members.

5. That Sir, one of the employee of the office of the Station Commender informed me that the Station Commender has asked him not to put up any of my representation to him for the reason best known to him.

Under the circumstances, I would earnestly request you kindly to look into the matter personally and direct the Station Commender, Station Cell, HQ 51 Sub Area, C/o.99 APO to release pay my subsistence allowance immediately.

Yours faithfully,
Sd/- Kishore Basfore,

P/No.213187, Conservancy
Safaiwalla, (U/S), Station Cell,
HQ, 51, Sub Area, C/o 99 APO.

Certified to be true Copy

[Signature]
Advocate.

Rina Bhattacharyya
Advocate
Gauhati High Court.

West Jyotinagar, Guwahati-21, (Assam)
House No.- 30 (Near Kall Mandir)
Phone No.-2558498(R),2661582(Ch),98640-49252(M)

ANNEXURE - VI
Date: 7.11.06

To,
The Station Commander,
Station Cell
H.Q 51, Sub area,
C/O 99, A.P.O.

Sir,

Under the instruction and authority of my client Sri Kishore Basfore P/No. 213187, aged about 36 years, son of Late Dulal Chand Basfoer, resident of Satgaon Railway Colony, P.S Noonmati, Guwahati-20, in the district of Kamrup, do hereby serve this notice on you as follows.

o/c

1. That my client is working as Conservancy Safaiwalla in the station Cell, HQ 51 Sub area, C/O 99 APO since last 15 years in the pay scale of Rs. 2550/-- Rs. 3200/--.

2. That my client was placed under suspension by order no. 7202/Est/R(Dis) dated 31.5.2003 alleging that my client was detained in custody W.E.F 25.5.2003 in connection with Noonmati Police Station case No. 182/03 under section 448/302 Indian Penal Code as per information received by you from the Officer In Charge, Satgaon, Police out post dated 28.5.2003 for a period exceeding 48 hours. By the said order, it has also been mentioned that my client has been suspended W.E.F the date of detention i.e 25.5.2003 in terms of Sub rule 2 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and he shall remain under suspension until further order.

3. That though, my client was suspended from 25.5.2003 but you have not paid him any subsistence allowance to him till this date as provided under F.R. 53.

4. That due to non payment of subsistence allowance to my client, my client and his family member consisting of his mother, wife and three dependent children of his brother is suffering immense hardship.

5. That under F.R 53 a person is entitled Subsistence allowance equal to the leave salary which the Govt. servant would have been drawn if he had been on leave or on half average pay or on half pay and in addition dearness allowance based on such leave salary. It is pertinent to mention here that during the initial period of three months, the person suspended is entitled

RS

Certified to be true copy
R.P. O.
Advocate.

Rina Bhattacharyya
Advocate
Gauhati High Court.

West Jyotinagar, Guwahati-21, (Assam)
House No.- 30 (Near Kali Mandir)
Phone No.-2558498(R),2661582(Ch),98640-49252(M)

for 50% of his salary and after completion of initial three months the person suspended is entitled for 75% of the subsistence allowance if, it is in the opinion of the authority that suspension period has been prolonged due to reason not directly attributable to the govt. servant.

From the above it appears that the suspension period has been prolonged due to the reason of the authority as till today my client has not been issued any show cause or charge sheet as required under the law.

Under the facts and circumstances stated above, I, on behalf of my client, do hereby demand of you that you should pay to my client an amount equal to 50 % of his salary as subsistence allowance for the period from 25.5.2003 to 25.8.2003 and thereafter from 26.8.2003 onward my client is entitled for 75% of his salary as subsistence allowance and you should pay the subsistence allowance to my client within a period of 15 days from the date of receipt of this notice, failing which, I have further instruction from my client to file case against you in the court of competent jurisdiction.

Yours faithfully,

R Bhattacharyya
Rina Bhattacharyya
Advocate
9.11.06

Copy for information and necessary action to:-
The Secretary, Govt. of India, Ministry of Defence, New Delhi.

Yours faithfully,

R Bhattacharyya
Rina Bhattacharyya.
Advocate
9.11.06

Certified to be true Copy
R. B. Sen

