

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 273/2007

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

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

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SECTION OFFICER (Judl.)

Stahl
16/10/17

Contd.
14.11.2007

Under the circumstances it is therefore humbly prayed that hon'ble Tribunal be pleased to permit the counsel for the applicant to withdraw this application with a liberty to approach to the higher authority by a representation."

In the aforesaid premises, this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, is hereby permitted to be withdrawn with liberty to the Applicant to approach the higher authority of the Railways for redressal of this grievance, if any, in the matter.

This Original Application is accordingly dismissed being withdrawn.

Send copies of this order to the Respondents along with copies of this Original Application and free copies of this order be sent to the Applicant; to Mr. Baharul Islam, Advocate for the Applicant and to Dr.J.L.Sarkar, learned Standing counsel for the Railways.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

16.11.07

As per Courts order Dtd 14.11.07 copy of the order alongwith the copy of the application are sent to the office for issuing the same to the applicant as well as to the Respondents by post and copy of same to the L/Adv. to the parties.

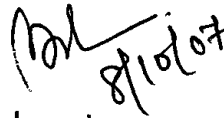
21.11.07

Sent vide D/Nos 1411 to 1417 on 19.11.07

Stating the actual facts that the quarter was never sublated to any person or individual and required the authorities to enquire the matter again. The applicant filed a representation 7.9.05 before the Respondent No 4 (Divisional Officer/GHY) that the applicant stated before the concerning authority but no action was taken to dispose of the representation nor any further committee was made . And the memorandum was not dispose till today. As such the instant original application have been filed seeking for appropriate relief.

Hence this instant application.

Filed by


8/10/07
Advocate

20.9.2007
20.9.2007
20.9.2007
20.9.2007

केन्द्रा अशा अशा अशा अशा
 Central Administrative Tribunal
 10 OCT 2007
 गुवाहाटी बेंच
 Gauhati Bench

1091302/24/2007/15
 8

DIST - KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GAUHATI BENCH, GUWAHATI

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

O.A No.....273...../07

Sri Kameswar Bordoloi APPLICANT

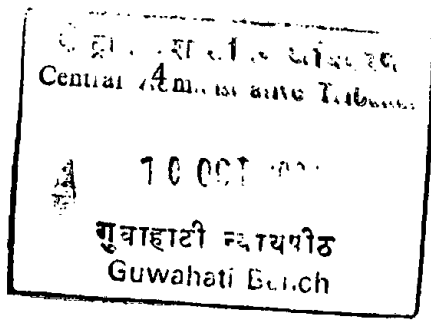
-VS-

THE UNION OF INDIA & OTHERS.....RESPONDENTS

LIST OF DATES

1	09-05-07	Memorandum issued by (Respondent No 4)
2	7-9-05	Representation furnished by the applicant to the respondent No 4
3	09-05-2007	Office Calculated quarter damage rent
4	May/June 2007	Current pay slip in the month of May/June ^{July} 2007
5	12-09-07	Similar order passed by this Hon'ble CAT (Sri Tagar Deka-Vs- U.O.I & Ors) Vide No 246/07
6	30-07-2007	Similar order passed by this Hon'ble CAT (Mr. Pradip Kr. Das-Vs- U.O.I & Ors) Vide No 201/07
7	04-08-2007	Misjudgment of facts by the survey team Respondent No 4

Filed By
Bar
 Advocate



১০/১০/০৭
১০/১০/০৭

DIST – KAMRUP

IN THE CENTRAL, ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI

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

O.A No...273...../07

Sri Kameswar Bordoloi.....Applicant

-VS-

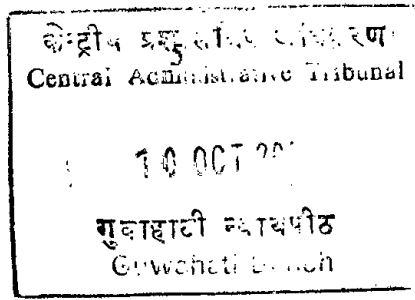
THE UNION OF INDIA & OTHERS.....RESPONDENTS

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Filed By Dol
Advocate 8/10/07

DIST - KAMRUP



IN THE CENTRAL, ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI

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

O.A No. 273...../07

I. PARTICULARS OF THE APPLICANT

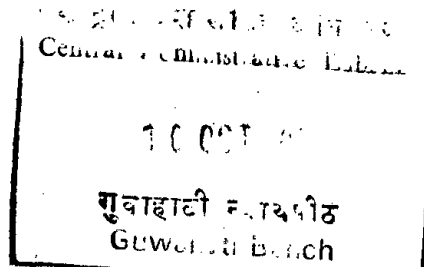
Sri Kameswar Bordoloi ,
Son of Late Boga Bordoloi,
Resident of Quarter No 611p/Type1,
New Guwahati, Railway Colony, Guwahati -21
P.O- Bamunimaidan .
P.S- Chandmari Dist _ Kamrup (Assam)
And permanent Resident of Village – Tarani Kalbari
P.O.–Boghara
P.S- & Dist- Morigaon , Assam.

II. PARTICULARS OF THE 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
Maligaon , Guwahati -11 , Kamrup , Assam.
- 4.DPO/GHY (Divisional Personal Officer) N.F . Railway
NGC, Bamunimaidam, New Guwahati Rly Colony,
Guwahati- 21.
- 5.Senior Coaching Depot Officer / GHY N.F. Railway
NGC, Bamunimaidam, New Guwahati Rly Colony,
Guwahati- 21.

Filed by the applicant
Through
Mr Babant Islam
Advocate
8/10/07

N.F. Railway Guwahati



No 9102 of 2007
 10/10/07

PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE

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

III. JURISDICTION OF THE TRIBUNAL:

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

IV. LIMITATION

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

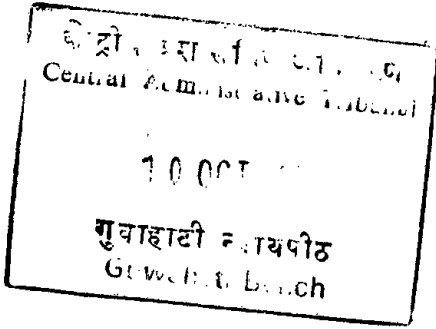
VI. FACTS OF THE CASE

1. That the applicant is a citizen of India and a resident of abovementioned locality 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 , he is working in a post of KHLPR, NGC under SSE/ C/ 1C/GHY, at Divisional officer , NGC, Bamunimaidan, Guwahati-21. and as such he is residing in the official allotted Railway quarter , located at New Guwahati Railway Colony . Since from the date of allotment.

3. 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 9-05-07 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 memorandum No E/APO/1/Survey of Qrs/ GHY dated 09-05-07 issued by Respondent No 4 is annexed herewith and marked as **ANNEXURE - A**

4. That Your humble applicant immediately thereafter in response to the office order furnished a representation before the Respondent No 4 . Because the applicant never subletting his residing allotted Railway quarter to any private or individual person. The said representation was duly received by the respondent No 4 dated 7-9-05.

A photocopy of the representation dated 7-9-05. furnished by the applicant to Respondent No 4 is Annexed and marked as **ANNEXURE - B**

5. That the applicant has allotted N.F Railway Quarter vide bearing No 611P7/ Type I at NGC , Bamunimaidan , Guwahati -21 . The applicant has been residing the same quarter since from the date of allotment till today.

6. That the applicant states that the total damaged rent has been calculated at Rs.107135/- which has been recovered from the applicant from the Month of May,2007.

A photocopy of the Office calculated quarter damaged rent is annexed herewith and marked as **ANNEXURE - C**

7. 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 a KHLPR, NGC under SSE/ C/ 1C/GHY, at Divisional officer , NGC,

No 2/10/2007/19/15

Bamunimaidan, Guwahati-21, it is stated that the gross pay of the applicant is Rs.8113/-, however after deduction, the applicant receives a net pay of Rs.3328 P.M. 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.

copies of pay slip of ~~May~~ & June^{& July} are annexed herewith and marked as **ANNEXURE -D & D1** respectively.

8. That the applicant beg to state that the applicant and his whole family member has been residing in Railway allotted Quarter since from the date of the allotment to till date. The applicant was socked to receive a copy of the memorandum on 09-05-07 issued by Divisional Personal Officer (Respondent No 4) whereby it was intimated that he is in unauthorized occupation of the railway 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 unauthorized occupation.

9. That Your applicant humbly is praying to the Hon'ble Tribunal to get relief. Whereas I never renders as sublatted my quarter to any private person or individual and as such the 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 order in the mentioning cases vide O.A No 201/07 (Pradip Kr. Das - vs- U.O.I & Ors) dated 30-07-2007 & Similar order passed by this Hon'ble CAT (Sri Tagar Deka-Vs- U.O.I & Ors) Vide No 246/07.

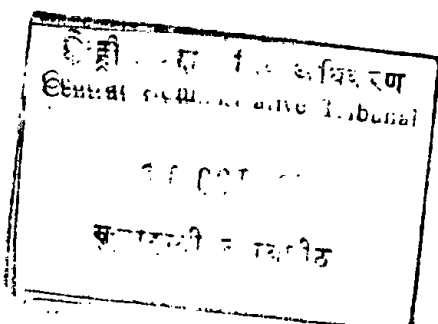
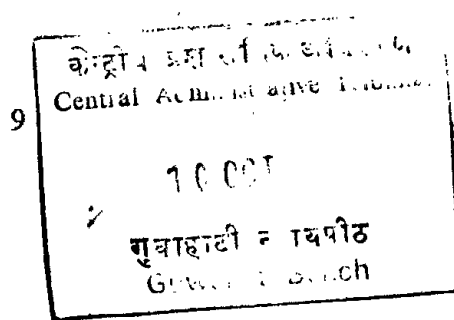


Photo copies of Similar order passed by this Hon'ble CAT (Sri Tagar Deka-Vs- U.O.I & Ors) Vide No 246/07 dated 12.9.07 & similar order vide O.A No 201/07 (Pradip Kr. Das - vs- U.O.I & Ors) dated 30-07-2007 . Passed by this Hon'ble Tribunal are annexed herewith and marked as **ANNEXURE -E & E1** respectively.

11
 10/07/2007
 10/07/2007



10. That the applicant begs to state that the respondent authority admit the subletting quarter were frivolous and concocted one . The statement recently declared misjudgment of facts by the survey team Respondent No 4 dated 04-08-07.

A photocopy of the declaring misjudgment of facts by the survey team Respondent No 4 dated 04-08-07 annexed herewith and marked as **ANNEXURE -F**

11. That it is respectfully submitted that the petitioner is residing in the allotted N.F Railway Quarter vide bearing No 611p/ Type I at NGC , Bamunimaidan , Guwahati -21, 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 PROVISIONS

1. For that the memorandum No. E/ APO/I /Survey of Qrs/ GHY Dated 9-5-07 issued by respondent No 4 (Divisional Personal Officer) N.F Railway , Guwahati , is violation of the natural justice.
2. For that the applicant states that the impugned memorandum passed by the authorities is violation 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 7-9-05 the applicant was under bonafide belief that the respondent authorities will consider his case and will pass appropriate orders. However he was socked and surprised to received memorandum dated 09-05-07.
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 respondent in issuing memorandum dated 9.5.2007, without following the proper procedure is arbitrary and unjustified. Therefore, the impugned action of the respondent authority is liable to be interfered with under original application.
6. That under the facts and circumstances as have been narrated above, Your petitioner has a strong prima Facie case in his favor. 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 memorandum dated 9-5-07 (Annexure A) respectively.

7. For that the applicant craves 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.

X. RELIEF SOUGHT

Under the circumstances, the applicant therefore prays FOR THE FOLLOWING RELIEFS:-

- 1) TO SET ASIDE AND QUASH THE OFFICE MEMORENDUM DATED 9-5-07 ISSUED BY DIVISIONAL PERSONAL OFFICER, GUWAHATI) ANNEXURE - A.
- 2) PASS ANY SUCH ORDER / ORDERS AS MAY DEEM FIT AND PROPER.

XI. INTERIM ORDER PRAYED FOR:-

THERE IS NO INTEIM PRAYER OF THE APPLICANT.

XII. PARTICULARS OF THE POSTAL ORDER:

INDIAN POSTAL ORDER No: 32G 043202

DATE : 09.10.07

ISSUING OFFICE : GPO - Ghy.

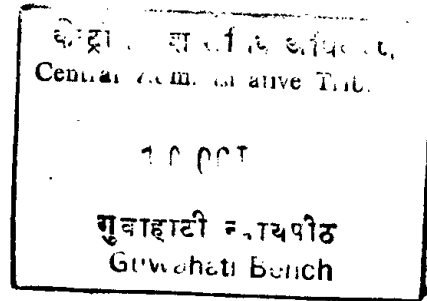
PAYABLE AT : The Registrar, CAT, GB, Ghy-5

XIII. LIST OF ENCLOSURES

AS INDEX SHOWING THE PARTICULARS OF DOCUMENTS IS ENCLOSED.

13
10/10/07
GPO - Ghy

केन्द्रीय प्रशासकीय न्यायालय
Central Administrative Tribunal
10 OCT 07
गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Sri Kameswar Bordoloi - Son of Late Late Boga Bordoloi, Resident of Quarter No 611p/Type1, New Guwahati, Railway Colony, Guwahati- 21 P.O- Bamunimaidan, P.S- Chandmari Dist - Kamrup (Assam) And permanent Resident of Village - Tarani Kalbari P.O.-Boghara_P.S- & Dist- Morigaon, Assam, do hereby solemnly affirm and my knowledge and belief I verify the above statement made thereof and sign it at Guwahati. I have not suppressed any material fact.

Verified on.....^{8/15}.....day of october, 2007 at Guwahati

Sri Kameswar Bordoloi

SIGNATURE

N.E.Railway

Office of the
Divl. Personnel Officer
Station Road, Gurwahat

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


Dated: 9/5/2007

No-F/APO/I/Survey of Qtrs/GHY

Copy forwarded for information and necessary action to:-

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

Sr. Kamewar Bordoloi


DPO/GHY

Certified to be True Copy
Advocate, Date..... 8/10/07

To,

ADME/NGC
N. E. Railway

ANNEXURE No:- B

16

Through proper channel

Sub :- Submission.

Ref :- Your Memorandum No. AME/NGC/DA/7-Pt-II/8 dated 31.08.05.

Sir,

Respectfully I beg to submit that an allegation of "subletting" of my railway Quarter has been brought vide memorandum under reference dated 31.08.05, is absolutely based on wrong footings.

In this context, I do submit that during last year devastating flood around Guwahati & Nowgaon, the dwelling house of Sri Swadesh Das, an Ex. Railway Employee, had been damaged. He sought shelter to me, I being close to him. I rendered him temporarily to share my accommodation completely on humanitarian ground, without any iota of pecuniary transaction. *77 - Present Sri Das left my house & I am living in the present.*

In the premises, it is prayed that your kind honour will be pleased to appreciate that the spirit does not invite any allegation. It is therefore, most respectfully prayed that your kind prudent honour will further be pleased to expel the charges levied upon me & oblige.

Dated :- 7.09.05

Yours faithfully,

22 AM/11/105 AD-07.9.2005

*To ADME/NGC
Forwarded for necessary
order please.*

*File 1721
ADME/NGC
11/09/05*

Kameswar Bordoloi

(Kameswar Bordoloi)
Fitter/Khal (II) / NGC

*Copy to be made
10/10/07*

13.	Sri C.K.Kumar.	CF1	456	702G.type-I	NGC	05-08-08	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
14.	Sri Dilip Kumar Das.	F Khal(H)	455	505G.type-I	NGC	04-08-05	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
15.	Sri Munna Kurmi.	RR bearer NGC	455	505L type-I	NGC	04-08-05	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
16.	Sri Kuleswar Das.	L Pilot(G)	456	505J type-I	NGC	04-08-05	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
17.	Sri Kameswar Bordoloi.	KHLPR	455	611P.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
18.	Sri Nabin Kt.Singh.	ALP NGC	460	605M.type-I	NGC	04-08-05	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
19.	Sri A.K.Masato.			704E.type-I	NGC	04-08-05	36.882Sqm	Transferred to B/PB
20.	Sri S.R.Marak.	Shunter	458	230K.type-II	NGC		55.87Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00
21.	Sri Bishnu Bhowmick	RR bearer/ Cook	455	706K.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
22.	Sri Sachin Baishya.	Asstt.RR/ Cook	455	708M.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
23.	Sri Tagar Deka.	FTR III	454	609N.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
24.	Sri Masur Brahma.	Asstt.RR/ Cook	455	611G.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

Certified to be True Copy

Advocate, Date.....

Contd-3

9/15/07

Ann-D

Centre/LMS *Pay-in-Slip* Jun-2007
 :00136-Canara Bank, Sikh Temple
 :KAMESWAR BORDALOI
 F/M, NORDALOI BORDALOI
 Emp No : 04121954
 Design: IKINLP
 Accumulated LAF: 50, LHAF: 10
 Transport 1/6 *
 2007 00136013 DU: 44155 Duty: 30 LHP: 10 SWINCC SH
 070 No: 000817
 >Rs P/L RECOVERIES >>> Rs B_I NRS RECOVERIES >>> Rs P
 1930 17-50522 * 471 P Tax-Adm * 110
 1965 09122 * 15
 2063 00122 * 230 4
 30 10000 * 3651
 75 00000 * 150 2
 NETPAY Rs. 3328.00
 Bank Payment
 State: 02350-04000 R/Pay: 13790 Gross Pay Rs. 5113 Deduct: Rs. 4785
 Next Increment: 01-Oct-2007 Retd. Dt: 31-Mar-2013

Ann-D

e/LMG *Pay-in-Slip* Jul-2007/Aug-2007 GU:30013 BU:44455 Duty: 31 LWP: 0 Stn:NGC SN- 2
 00138-Canama Bank, Sikh Temple/GHY A/C No.:008819
 Alocn:08211 PAY_ALLOWANCES--->Rs RLY_RECOVERIES--->Rs B_I NRB_RECOVERIES--->Rs B_I
 :KAMESWAR BORDALOI Basic Pay * 3930 PF-Subsc. * 491 P Tax-Assam * 110
 /H_Name:BAGA BARDALOI D.P. * 1965 CGIS-D * 15
 EmpNo :04121454 D.A. * 2063 Arr Electric* 368 3
 Desgn. :KHHLP SCA * 80 OP-B/Pay * 131
 Accumulated LAP:65, LHAP:20 Transport/G * 75 OP-DA * 68
 NDA * 378 OP-DP * 65
 Dmg Rent * 3651
 Durga. FA * 150 1

Scale:02650-04000 R/Pay:3790 Gross Pay Rs.8491 Deductn. Rs.5049 NETPAY Rs.3442.00 Bank Payment
 Next Increment :01-Oct-2007 Retd. Dt.:31-Mar-2013

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.246 of 2007

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

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

Sri Tagar Deka,
Son of Late Ganaram Deka,
R/O Railway Quarter No.609 N/Type-1,
New Guwahati Colony, Near Kalibari,
Bamunimaldan, Guwahati-21, Kamrup, Assam.

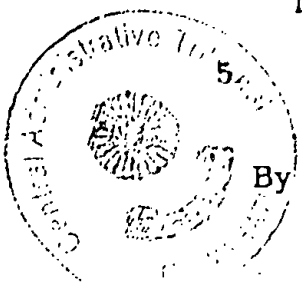
By Advocate Mr.R.C.Das, Mr.O.Pasdu,
Mr.C.Bhattacharjee

-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.

Senior Coaching Depot Officer/GHY,
N.F.Railway, Guwahati.

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



ORDER (ORAL)

K.V.SACHIDANANDAN,V.C.:

The applicant is working in the post of ETR/III under the N.F.Railway. The applicant is residing of Quarter No,609 N/Type-1 at NGC, Bamunimaldam, Guwahati-21. According to the applicant he is residing in the said quarter with effect from 01.01-2001. The applicant has received an Office Memorandum dated 9.5.2007 issued

Memorandum dated 09.05.2007 issued by the Divisional Personal Officer, N.F. Railway, Guwahati. The applicant has received a True Copy of the said Memorandum. Advocate, Date: 12/9/2007

Advocate, Date: 12/9/2007

by the Divisional Personal Officer, whereby it was intimated that a Survey Committee appointed by the administration found that applicant had subletted. The applicant has made representation dated 15.5.2007 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. 1,07,135/- 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.

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 5th 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. 5 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.

Sd/ VICE CHAIRMAN



Date of Application f 20.9.07
Date on which copy is ready : 20.9.07
Date on which copy is received : 20.9.07
Certified to be true copy

Section Officer (J.dl)
C. A. T. Guwahati Bench
Guwahati.

20/9/07

Confidential - True Copy
Advocate, Date 20/9/07

ANNEXURE No: 18-20-

ANNEXURE - E1
S. No. 142

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.BACHIDANANDAN, VICE-CHAIRMAN

Sri Prudip 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

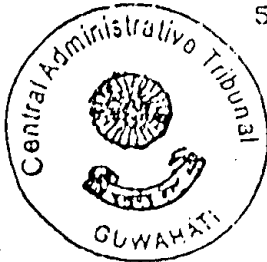
3. CAM/GHY (Chief Area Manager)
N.F.Railway, Guwahati.

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



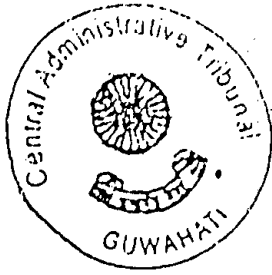
ORDER (ORAL)

K.V.BACHIDANANDAN, 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 Personnel

Certified to be a true Copy
Advocate, Date: 31/7/07

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 last annual 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 Officer, 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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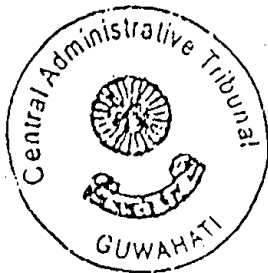
- 17-22

25

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 along with 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

(S. S. Chakrabarty)
 Section Officer (Judl) 2/8/07
 C. A. T. Guwahati Bench
 Guwahati

2/8

Certified to be True Copy
 Advocate, Date 2/8/07

N.F. RAILWAY

Office of the
Sr. Coaching Depot Officer
Guwahati

No: GHY/CDO/GEN/OA/50/07

To
Sri 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 found genuine. Consequential orders will be followed on the basis of above.

Sr.CDO/GHY

Copy to:-
DRM (P) /LMG

}—for kind information please

2.CAM/GHY

3.DPO/GHY

—for information and necessary action please

Sr.CDO/GHY

0. 18/08/07
18/08/07
18/08/07