

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
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SECTION OFFICER (Judl.)

Bahar
10/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application NO. 275/07
 2. MiBs Petition No. _____
 3. Contempt Petition No. _____
 4. Review Application No. _____

Applicant(S)... Muma Kusoni VS Union of India & Crs

Advocate for the Applicants... Baharul Islam
Chinnoy Bhattacharyee

Advocate for the Respondant(S):

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide PC No. <u>826/043147</u> Dated <u>4.10.07</u> For Registrar <i>[Signature]</i></p> <p><i>Petitioner's brief for issue notices are with envelopes received, copy served.</i></p> <p><i>[Signature]</i></p>	14.11.2007	<p>Mr. Baharul Islam, learned counsel for the Applicant is present. Dr. J.L. Sarkar, learned Standing counsel for the Railways, on whom a copy of the Original Application has already been served, is also present.</p> <p>At the outset, the Advocate for the Applicant has filed a memorandum seeking permission to withdraw the present case. Relevant portion of the said memorandum reads as under:-</p> <p>"(1) That the above application is fixed today for motion admission.</p> <p>(2) That due to some unavoidable reason the applicant prefers this application praying permission to withdraw the instant application.</p> <p style="text-align: right;">Contd...</p>

OA-275/07

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this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, is hereby permitted to be withdrawn with liberty to the Applicant to approach the higher authority of the Railways for redressal of this grievance, if any, in the matter.

This Original Application is accordingly dismissed being withdrawn.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/

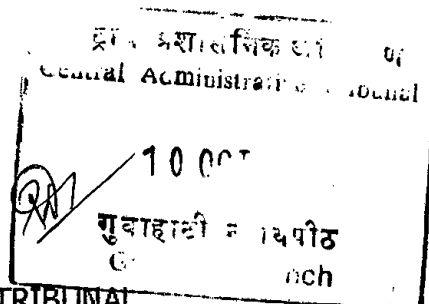
16.11.07

As per Court's
order dtd. 14.11.07
Copy of the order
alongwith copy of
the application are
sent to the office for
issuing the rule to
applicant as well
as to the Respondents
and copy of the
rule to the L/As
for the parties.

Sent vide
D/Nos 1418
to 1424
on 19.11.07

21/11/07

DIST - KAMRUP



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BENCH, GUWAHATI

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

O.A No. 275/07

Sri Munna KurmiApplicant

-VS-

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

SYNOPSIS

The applicant is an employee under the N.F. Railway, as a post of RR/Bearer NGC under SSE/ C/ 1C/GHY, at Divisional officer, NGC, Bamunimaidan, Guwahati-21. Along with Family. The applicant is residing Railway Quarter bearing No. 605 L /Type -I at, NGC, Bamunimaidan, Guwahati-21 along with family since the date of allotment. The gross pay of the applicant is Rs.7924/-, however after deduction, the applicant receives a net pay of Rs 1161/-P.M. The applicant was asked 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 allotted quarter of the applicant and termed the same as unauthorized occupation.

Stating the actual facts that the quarter was never subletted to any person or individual and required the authorities to enquire the matter again. The applicant filed a representation 6.10.2005 before the Respondent No4 (Divisional Officer/GHY) that the applicant stated before and no action was taken to dispose of the representation nor any further committee was made. And the memorandum was not disposed till today. As such the instant original application seeking for appropriate relief.

Hence this instant application.

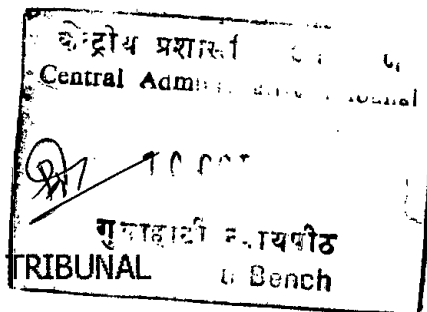
Filed by

Advocate

Munna Kurmi

DIST – KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI



Munna Kurmi

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

O.A No...275...../07

Sri Munna KurmiApplicant

-VS-

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

LIST OF DATES

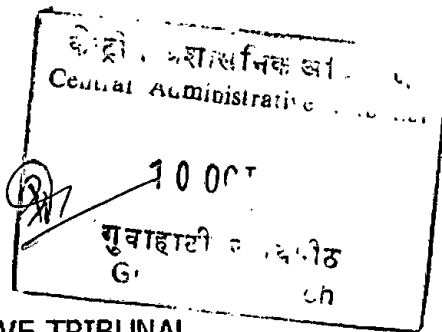
1	09-05-07	Memorendum issued by (Respondent No 4)
2	6.10.2005	Representation furnished by the applicant to the respondent No 4
3	09-05-2007	Office Calculated quarter damage rent
4	July/August 2007	Current pay slip in the month of May/June 2007.
5	12-09-07	Similar order passed by this Hon'ble CAT (sri 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

31.08.05-
07.09.05-
06.10.05-
19.10.05-

Filed By

Advocate

4/10/07



DIST - KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI

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

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Sri Munna KurmiApplicant

-VS-

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

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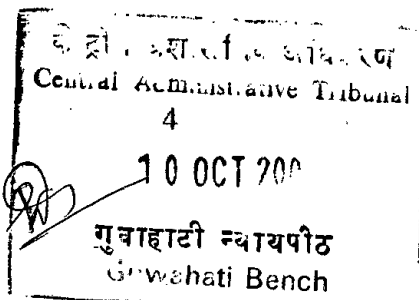
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Filed By

Advocate

Munna Kurmi

DIST - KAMRUP



IN THE CENTRAL, ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI

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

O.A No...275...../07

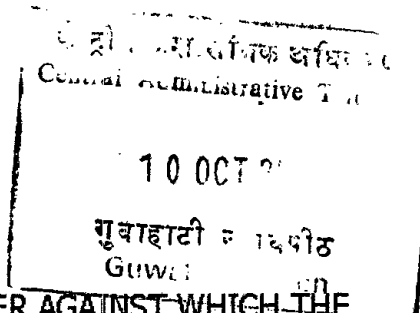
I. PARTICULARS OF THE APPLICANT

Sri Munna Kurmi,
Son of Late Prahallad Kurmi,
Resident of Quarter No 605L Type1,
New Guwahati, Railway Colony , Guwahati -21
P.O- Bamunimaidan
P.S- Chandmari Dist _ Kamrup (Assam)
And permanent Resident of Village – Dimapur ,
Netaji Colony
P.O 7 P.S- Dimapur , Dist- Kohima , Nagaland

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. Baharud Islam
Advocate,
27/10/07



III. 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 thereunder.
2. That the applicant is an employee engaged with the Deptt. of N.F Railway , as a post of RR/Bearer NGC Under 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

Munim - Guwahati

10 OCT 2007

গুৱাহাটী ন্যায়দণ্ডী
Guwahati Bench

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 dated 10-09-05 furnished a representation before the Respondent No 4 . Because the applicant never subletting his resideing allotted Railway quarter to any private or individual person. The said representation was duly received by thr respondent No 4 dated 15-05-2007.

A photocopy of the representation dated 15-05-07 furnished by the applicant to Respondent No 4 is Annexed and marked as Annexure B

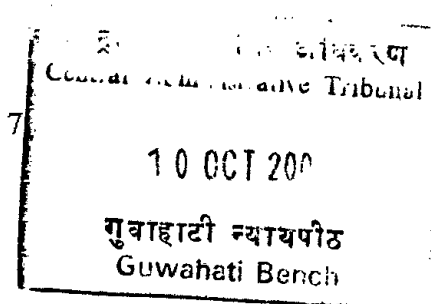
5. That the applicant has allotted N.F Railway Quarter vide bearing No 605 L/ Type I at NGC , Bamunimaidan , Guwahati -21 . The applicant has been residing the same quarter since from the date of allotment till today.

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 RR/Bearer NGC Under under SSE/ C/ 1C/GHY, at Divisional officer , NGC, Bamunimaidan, Guwahati-21 , it is stated that the gross pay of the applicant is Rs 7924/- After, other deduction the applicant receives a net pay of Rs 1161/- 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.

নুম্মো কুৱাৰী



A copy of the current pay slip is annexed herewith and marked as Annexure – D

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 averment that the applicant is praying to the Hon'ble Tribunal. Whereas I never renders as sublattd my quarter to any private person or individual and as such the respondents authotities 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 and. Similar order passed by this Hon'ble CAT(sri tagar deka-Vs- U.O.I & Ors) Vide No 246/07 dated 12.9.07

A photocopy 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 and 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.

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

A photocopy of the declaring misjudgement of facts by the survey team Respondent No 4 dated 04-08-07 annexed herewith and marked as Annexure –F

Munna Kumar

11. That it is respectfully submitted that the petitioner is residing in the quarter with family since from the date of allotment till today .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

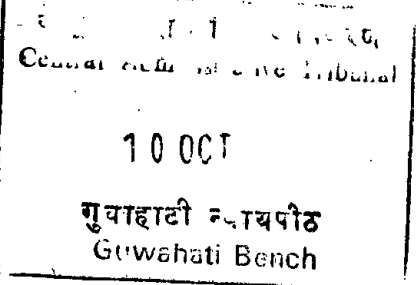
1. For that the memorandum No. E/ APO/I /Survey of Qrs/GHY dated 9-5-2007 issued by respondent No 4 (Divisional Personal Officer) N.F Railway , Guwahati , is violative of the natural justice.
2. For that the applicant states that the impugned memorandum passed by the authorities is violative of applicants 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 6.10.2005 the applicant was under bonafide belief 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 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 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 in law as well as on facts and the same is as such liable to be appropriately interfered with by this Hon'ble Tribunal.

केन्द्रीय प्रशासनिक अपील बोर्ड
Central Administrative Tribunal

10 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

Mumma Kuamri



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. The humble applicant filed a Writ Petition Vide No 4824/07 which was disposed of on 14/9/07 with a direction to file the application before this Hon'ble Court .

X. RELIEF SOUGHT

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

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

X. INTERIM ORDER PRAYED FOR:-

THERE IS NO INTERIM PRAYER OF THE APPLICANT.

XI. PARTICULARS OF THE POSTAL ORDER:

INDIAN POSTAL ORDER NO: 32 G. 043147

DATE : 4.10.07.

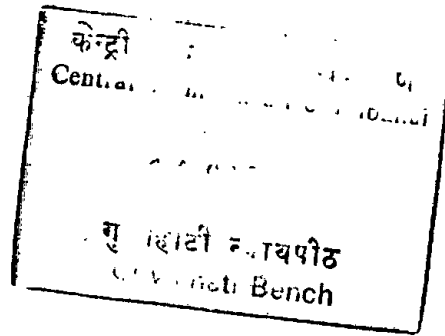
ISSUING OFFICE : GPO, GHY.

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

XII. LIST OF ENCLOSURES

AS INDEX SHOWING THE PARTICULARS OF DOCUMENTS IS ENCLOSED.

Kumar



VERIFICATION

I, Sri Munna Kurmi_Son of Late Prahallad Kurmi, aged about 25 yrs Resident of Quarter No 605L Type1, New Guwahati, Railway Colony , Guwahati -21 ,P.O- Bamunimaidan ,P.S- Chandmari Dist __ Kamrup (Assam)And permanent Resident of Village – Dimapur ,Netaji Colony P.O 7 P.S- Dimapur , Dist- Kohima , Nagaland , do hereby solemnly affirm and my knowledge and belief I verify the above statement made thereof and sign it at Guwahati.

Verified on 10th day of October, 2007 at Guwahati

Munna Kurmi

SIGNATURE

Office of the
Diyl: 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/GHLY.

(G.K.KAKATI)
DPO/GHLY

No-E/APO/I/Survey of Qrs./GHLY

Dated: 9/5/2007

Copy forwarded for information and necessary action to:-

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

Sy. Numa Karna

9/5/07
DPO/GHLY

cc: 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To ,
The SR CDO/GHY N.F RLY
Through the SR /local/NSC

Sub:-Prayer for regularize the allotment order of quarter .

Ref-Prayer order RLY/CDO/...../LOCO Ghy 06.10.2005

Sir

With profound respect interference to the above noted to informed you that I have notice your above noted order for cancellation of quarter.

That sir in respect to the above ,I like to inform you that in the defence for the charge of subletting issued by the ADMN/NSC vide-SF/5 ADMN /NS/DA/7 PT.LTD/C. dated 31.8.05. I had already been submitted my statement vide. Application dated 07.9.05.

In my defense quarter above I pointed out that] R.Building.....

Allotted to reside with me on humanitarian ground the surety for few days only. Due to his present dwelling house had been changed for flood havoc.

That sir now bardarai vacated and left from my quarter and I am residing there along with my family . There are no any subletting at present.

As such you are requested to enquire the matter and to regularize the allotted order of quarter, by canceling the above noted cancellation order and allow me to retain the quarter.

I assured your honour that in future also I shall not sublet my quarter to any body without your approval.

So your favourable consideration and kind order is requested accordingly . So that I can stay in the quarter along with my family and worth the govt.sympathy and oblige thereby.

Your faithfully

Sd-illigible Munna kurmi
RR BEARER of the loco NSC
Rly Q. no 605 L
Dated 19.10.2005

Copy of application
Not 4.10.07

To: The SACDO/LtJ N.A.Ry
through the SA (Lond/NGL)

Subj: prayer for regularise the allotment order of quarters
Ref: 10/10/10, N.A.Ry, Rly/P.D. 60/60/10/10/10 or 05.10.2005.

Sir,
With profound respect, in reference to the above it is to
inform you that, I have notice your above noted order for
cancellation of quarters.

That Sir, in respect to the above, I like to inform you
that in the defence for the charge of subletting issued by the
Adm/Secy vide no. 54/6 50 AM/Secy/DO/7 P.4/6 of 21.8.05, I had
already been submitted my statement with application dated 07.9.05.

In my defence stating above I pointed out that my J.R.
Bardoloi, a small son had been allowed to reside with me
on humanitarian grounds for a few days only, due to
his parents dwelling house had been damaged by flood water.

That Sir, now Mr Bardoloi vacated and left from my quarters and
I am residing there along with my family. There are no any
subletting at present.

As such you are requested to enquire the matter and to
regularise the allotment order of quarters, by cancelling the above
noted cancellation order and allow me to retain the quarters.
I assure you however that in future also I shall not sublet
my quarters to anybody without your approval.

So your favorable consideration and kind order is requested
accordingly so that, I can live in the quarters along with my family
and make the spot suitably and habitable thereby.

Yours faithfully

Munim. K. Houri

R.R. Service of
SA (Lond/NGL)
Rly. P.D. no 605/4
21.10.2005.

Type Copy Enclosed
as pag NO -12

13.	Sri C.K.Kumar,	CF/I	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 107135.00
14.	Sri Dilip Kumar Das,	F/Khal(H)	455	605G/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 107135.00
15.	Sri Munna Kurmi,	RR/bearer NGC	455	605L/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 107135.00
16.	Sri Kuleswar Das,	L/Pilot(G)	456	605J/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 107135.00
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 107135.00
18.	Sri Nabin Kr.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 107135.00
19.	Sri A.K.Mahato,			704E/type-I	NGC	04-08-05	36.882Sqm	Transferred to BPB
20.	Sri S.R.Marak,	Shunter	458	230K/type-II	NGC		58.87Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-05 @ Rs.99 Psqm= 145700.00 171015.00
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 107135.00
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 107135.00
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 107135.00
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 107135.00

Submitted to 43 Plus Copy
 Date 4-10-07

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ST:KAMRUP

ANNEXURE No: 2

Centre/LMS *Pay-in-Slip* May-2007/June-2007 GU:30013 BU:44455 Duty: 31 LWP
Alocn:08211 PAY ALLOWANCES--->Rs RLY RECOVERIES--->Rs B_I NRB RECOVERIES--->Rs B_I
Name :MUNNA KURMI Basic Pay * 2960 PF-Subsc. * 370 P-Tax-Assam * 80
P/H_Name:***** D.P. * 1480 VPF * 200 LIC/MLG * 513
EmpNo :04234390 D.A. * 1554 CGIS-D * 15 COOP NSC * 1285 30
Design : BEARER SCA * 40 Rent-Nominal* 70
Accumulated LAP:59, LHAP:89 Transport/G * 75 Durga. FA * 150 3
NDA * 269

Scale:02550-03200 R/Pay:2960 Gross Pay Rs.6378 Deductn. Rs.2693 NETPAY Rs.3695.00 Cash Payment
Next Increment :01-Apr-2008 Retd. Dt.:31-Jan-2041

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ANNEXURE No. *D1*

-21-

Station: NGC *Pay-in-Bill* Jun-2007/jul-2007 CUI: 30013 DUN: 44405 Duty: 30 LHP: 0 STAIN: NGC SH: 40
Alloc: 0821: PAY ALLOWANCES--->PA RLY RECOVERIES--->RS B_I NMS RECOVERIES--->RS
MUNNA KURNI BASIC Pay * 2960 PF-Subsc. * 370 P. Ex-Assign * 120
D.P. * 1480 VPF * 200 LHP-MLG * 512
D.A. * 1554 CGIS-D * 15
SCA * 40 Ann Electric * 499 9
Accumulated LAP: 59, LHAP: 89 Transport/G * 75 Dmg Rent / * 3651
NDA * 220 Durga. FA * 150 2

Scale: 02550-03200 R/Pay: 2960 Gross Pay Rs. 6329 Deductn. Rs. 5478 NETPAY Rs. 851.00
Next Increment: 01-Apr-2008 Retd. Dt.: 31-Jan-2041
Cash Payment

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Out of Station : NGC Gross Pay : 309046 Deductn.: 96092 Net Pay: 212954

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4/10/07



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,
 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.

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

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

ORDER (ORAL)**K.V.SACHIDANANDAN, V.C.:**

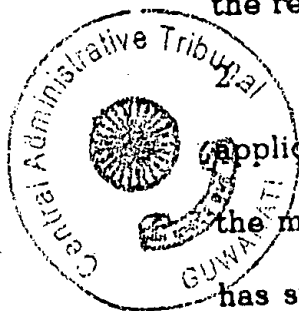
The applicant is working in the post of ETR/III under the N.F.Railway. The applicant is residing of Quarter No,609 N/Type-1 at NGC, Bamunimaidam, Guwahati-21. According to the applicant he is residing in the said quarter with effect from 01.01-2001. The applicant has received an Office Memorandum dated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

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 Advocate, Date: 12/9/07

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



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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.

SA/ VICE CHAIRMAN



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

Section Officer (Judl) 20/9/07
 C. A. T. Guwahati Bench
 Guwahati-5.

Certified to be True Copy
 Advocate, Date: 4/10/07

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ANNEXURE - E1

SL 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.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

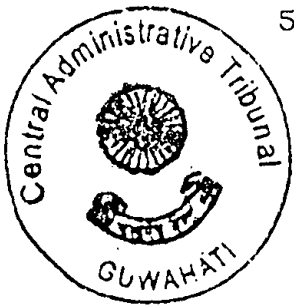
By Advocates Mr.J.Roy, R.C.Das, Mr.R.B.Deka, Mr.M.Sarkar

- 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)

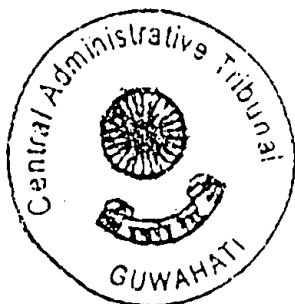
K.V.SACHIDANANDAN, V.C:

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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Advocate, Date.....
4/10/07

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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."

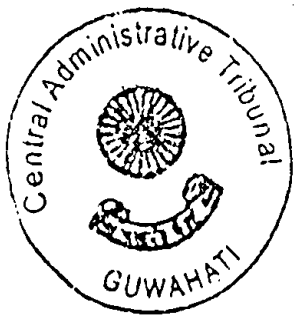
2. I have heard Mr. R. C. Das, learned counsel for the applicant and Dr.J.L.Sarkar learned Standing Railway counsel for the respondents. When the matter came up for consideration, learned counsel for the applicant submitted that the Respondents have passed the impugned orders in total violation of principles 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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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

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

Certified to be True Copy
Advocate, Date 4/10/07

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

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4/10/07
Address, Date