

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 179/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

habib
05/10/17

ORDERS SHEET

1. Original Application No. 179/07

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) K. Prasa VS Union of India & Ors

Advocate for the Applicant(s) A-C. Sarma, S. Sathian

Mr. Sarma

Advocate for the Respondant(s) Railways advocate

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C. F. for Rs 50/-
deposited with P. 35
No. 246657563
Dated 30.6.07

3.7.2007

Mr.A.C.Sarma, learned counsel for the Applicant submitted that against Annexure-2 order dated 2.9.2005 canceling the allotment of quarter Applicant had submitted representation. He would like to produce the copy of such representation if available and if not any other document showing that he is staying in the quarter in 2005 allotted to him. Let it be done.

Post on 19.7.2007.

Vice-Chairman

Registrar

*Hand: Copy
of order
sent
RA
19/7/07*

/bb/

19.7.07

Heard counsel for the parties. By consent O.A is taken up for disposal. Accordingly the O.A is disposed of in terms of the order recorded separately at the admission stage itself. No costs

Vice-Chairman

*Received by
Ulpa Sarma
22/7/07
23/7/07*

16.7.07

As per Verille
Court's order of 3.7.07
the applicant has
submitted a document
which is kept in record
as set flag A.

Q. No.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

O.A. No. 179 of 2007.

DATE OF DECISION : 19-07-2007

Shri Khargeswar Bora.

.....Applicant/s

Sri A.C.Sarma

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Dr J.L.Sarkar, Railway Standing counsel.

.....Advocate for the
Respondent/s

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 wise to see the fair copy of the judgment ? Yes/No.

Vice-Chairman

20/7/07

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.179 of 2007.

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

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

Shri Khargeswar Bora
S/o Late Konlara Bora
Resident of Qr. No. 117/G-Type-II
At New Guwahati Colony,
Guwahati, Kamrup, Assam.

...Applicant

By Advocate Shri A.C.Sarma

- Versus -

1. Union of India,
Represented by the Secretary,
Railway Board, Ministry of Railways,
New Delhi-110 001.
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
3. CAM/GHY (Chief Area Manager)
N.F.Railway, Guwahati.
4. OPO/GHY (Divisional Personnell Officer)
N.F.Railway, Guwahati.
5. Senior Coaching Depot Officer/GHY
N.F.Railway, Guwahati.Respondents

By Advocate Dr J.L.Sarkar, Railway Standing Counsel.

ORDER (ORAL)

SACHIDANANDAN, K.V. (VC)

The applicant is working under the N.F.Railway and according to him he is a resident of Quarter No. 117/G-Type-II at New Guwahati Colony with effect from 14.5.03. According to the averment

following the prescribed rules respondent No.5 had cancelled the allotment order of the quarter but still nevertheless he continued in occupation of the same. On 9.5.07 respondent No.4 issued order imposing damage rent on the applicant. The applicant has filed an appeal before respondent No.3 on 19.6.07 which has not yet been disposed of. Aggrieved by the cancellation of allotment order and imposing damage rent the applicant has filed this O.A seeking the following reliefs.


- i) To set aside and quash the office Order No.GHY/CDO/GEN/Qrs./C&D dtd. 2.9.05 passed by respondent No.5 - Annexure-2.
- ii) To set aside and quash the office order issued vide memo No.E/APO/1/Survey of quarters/Guwahati dated 9.5.07 issued by the respondent No.4- Annexure-3.

2. Heard Mr A.C.Sarma, learned counsel for the applicant and Dr J.L.Sarkar, learned Railway standing counsel for the respondents. The applicant submitted that the impugned order has been passed by the respondents in total violation of natural justice. 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 further submitted that he will be satisfied if a direction is given to the 3rd respondent to dispose of the appeal within a time frame. Dr J.L.Sarkar, learned Railway standing counsel submitted that he has no objection in adopting such a proposal.

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

receipt copy of this order after giving opportunity to the applicant to explain his case in person and communicate the same to the applicant forthwith. In the interest of justice this Court further directs that impugned order for recovery will be kept in abeyance till disposal of his appeal.

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



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

केन्द्रीय प्रशासकीय न्यायालय
Central Administrative Tribunal

- 2 JUL 2007

गुवाहाटी बेंच
Guwahati Bench

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH,
GUWAHATI

O.A. No. 179/07.

Sri Khargeswar Bora

- Vs -

The Union of India & Ors.

S Y N O P S I S

The applicant is at present working as a Carriage filter Grade-I in the Senior Section Engineer(C & D),N.G.C., and residing at Quarter No.117/G-Type-II at New Guwahati Colony, Guwahati with effect from 14-5-03. The respondent No.5 vide his order dtd. 2-9-05 cancelled the order of allotment of the applicants quarter alleging that a survey committee appointed by the administration found that applicant subletted his quarter to some third party. The applicant immediately approached the respondent authority, denied the allegation of subletting the quarter and he asserted that he himself is residing in the quarter with his family. He also stated that he was not aware of any survey of his quarter and he prayed for review of the cancellation order. The respondent authority did not take any further action on the impugned cancellation order, but suddenly on 9-5-07 passed an order imposing damage rent to the tune of Rs. 17/015.00 on the applicant without issuing any prior notice to the applicant nor giving any opportunity of hearing to the applicant. The applicant

Contd...2/-

submitted an appeal before the authority on 19-6-07 against the above order. The applicant is presently drawing an amount of Rs. 7,071'00 per month as monthly salary and if the proposed huge amount of alleged damage rent is imposed on the applicant it will not be possible at all on his part to maintain the livelihood of his family. Hence this application before this Hon'ble Tribunal.

Filed by
Smit Saha
Advocate, Guwahati

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
- 2 JUL 2007
गुवाहाटी न्यायाधीश
Guwahati Bench

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :
GUWAHATI

O.A. No. 179/07

Sri Khargeson Bora

- Vs. -

The Union of India & Ors.

LIST OF DATES

1. - 14-05-2003 - Got occupation of the quarter.
2. - 02-09-2005 - Respondant No.5 cancelled the the allotment order of the quarter.
3. - 09-05-2007 - Respondant No.4 issued order imposing damage rent on the applicant.
4. - 19-06-2007 - Applicant submitted appeal before the respondent No.3.

...

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :

GUWAHATI

O.A. No. 179/07.

Sri Kharges Bora

- Vs -

The Union of India & Ors.

I N D E X

<u>Sl.No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page No.</u>
1.	-	Application	- 1 to
2.	-	Verification	-
3.	1	Handing/taking over report dtd. 14-5-03	-
4.	2	Order dtd. 2-9-05 by respondant No.5	-
5.	3	Office Order dtd. 9-5-07 imposing damage rent.	-
6.	4	Appeal submitted by the applicant.	-
7.	5	Pay slip of the applicant.	-
8.	6	Order dtd. 14-6-07 passed by the Honible Tribunal.	-

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH,
GUWAHATI

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

G.A.NO. 179/07.

1. PARTICULARS OF THE APPLICANT :

Sri Khargeswar Bora
S/O Late Konlara Bora
Resident of Qr.No.117/G-Type-II
At New Guwahati Coloney,
Guwahati, Kamrup, Assam.

2. PARTICULARS OF THE RESPONDENTS :

1. The Union of India,
Represented by the Secretary,
Railway Board, Ministry of Railway,
New Delhi-110 001.
2. The General Manager, N.F.Railway,
Maligaon, Guwahati-11.
Kamrup, Assam.
3. CAM/GHY (Chief Area Manager)
N.F.Railway, Guwahati.
4. OPO/GHY (Divisional Personal Officer)
N.F.Railway, Guwahati.
5. Senior Coaching Depot Officer/GHY
N.F.Railway, Guwahati.

Filed by the petitioner
Khargeswar Bora.
through Gomit Gohain,
Advocate

Charity of Swarn Borah

3. PARTICULARS OF THE ORDER AGAINST WHICH
THE APPLICATION IS MADE :

The instant application is made challenging the following orders.

- i) Order issued vide memo No.GHY/CDO/GEN/QRS/C&W dtd. 2-9-05 by the Senior Coaching Depot Officer, N.F.Railway at Guwahati(Res.No.5) cancelling the allotment order of Quarter No.117/G-Type-II at N.G.C. in the name of the applicant.
- ii) The Office memo No.E/APO/1/Survey of Quarters/ GHY dtd. 9-5-07 issued by the Divisional personal Officer, N.F.Railway, Guwahati(Respondant No.4) imposing damage rent of Rs.1,71,015.00/- on the applicant.

4. JURISDICTION OF THE TRIBUNAL :

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

5. LIMITATION :

The applicant further declares that the application is within the Limitation period as prescribed u/s 21 of the Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

- i) That, the applicant is a citizen of India and as such he is entitled to all rights and protection as guaranteed under the Constitution of India.

ii) That, the applicant is at present working as a Carriage filter Grade-I under Senior Section Engineer Carriage and Wagon, New Guwahati Colony and he is residing in Railway Qr. No.117/G-Type-II at New Guwahati Colony which was ~~ann~~ handed over to him with effect from 14-5-03.

(A copy of the handing over and taking over report is annexed as Annexure-1)

iii) That, while the petitioner was rendering his service to the respondent authority the respondent No.5 without any prior notice has cancelled the allotment order of petitioner's quarter vide his memo No.GHY/CDO/GEN/Quarters/C&D dtd. 2-9-05.

(A copy of the above order is annexed as Annexure-2)

iv) That, in the aforesaid cancellation order it has been alleged that during survey by the Survey Committee it was found that the applicant has subletted the quarters to a private party which amounts to violation of the provision laid down in Rule 3.1(iii) and 15-A of Railway Service(Conduct) Rules 1966. The applicant was also advised to vacate the quarter and to hand over the same to the new allottee whose allotment order was to be followed.

v) That, the applicant immediately approached the respondent authority and made it clear that he has not subletted the quarters to any third party as alleged, but he himself is residing in the quarters with his family and he was also not

Contd...4/-

Charge Swan Bohan.

aware at all as to when survey committee made survey of his quarter. He requested the authority to revoke the cancellation order of his quarters. He also submitted representation before the authority, but copy of the same not being available within him he could not annex the same with this application.

Khayal Swam Bhorah

vi) That, the applicant was peacefully residing in his quarter where he is still residing. Moreover no any new allottee came to take over the charge of the quarter and as such the applicant was under bonafide presumption that the respondent authority was satisfied with the reply of the applicant and they were not inclined to give effect to the order of cancellation.

vii) That, the applicant respectfully submits that the impugned cancellation order was passed ex parte without giving any prior notice to the applicant.

viii) That, to the utter surprise of the applicant the respondent No.4 vide his memo No.E/APO/1/Survey of Quarters/ GHY dtd. 9-5-07 has imposed damage rent to the tune of Rs.1,71,015/- on the applicant due to the alleged unauthorised occupation of the quarters by the applicant and it has been ordered for recovery of the same from the regular salary bill of the applicant, commencing from the month of May, 2007.

(A copy of the above memo is annexed as Annexure-3)

Contd...5/-

ix) That, the applicant submitted an appeal against the aforesaid order of recovery of damage rent before the respondent No.3 on 19-6-07 for revocation of the order of recovery. But nothing could be heard till now in this regard from the respondent authority. However the damage rent has not been deducted from the salary bill of the applicant for the month of May,2007. But it is learnt that, the respondent authority will start deduction from the month of June,2007.

(A copy of the above appeal is annexed as Annexure-4)

x) That, the applicant is at present drawing only an amount of Rs.7,071.00 per month as monthly salary after all deductions made from his salary by which it becomes difficult to manage his family expenditure and in such a situation if the recovery of huge amount of damage rent as proposed is imposed on the applicant he will have to face serious financial problem which may lead to the starvation of the family also.

(A copy of the last pay slip is annexed as Annexure-5)

xi) That, some similarly situated employee against whom also the respondent authority initiated similar action already approached this Hon'ble Tribunal and this Hon'ble Tribunal in O.A. No. 151/07 vide order dtd. 14-6-07 has interfered in the matter and was pleased to direct respondent authority to dispose off the representation first and till disposal of the representation further directed the authority to keep the recovery order in abeyance.

(A copy of the above order is annexed as Annexure-6)

xii) That, the applicant respectfully submits that he being a similarly situated employee he is also entitled to get similar protection against the impugned order passed by the respondent authority.

7. GROUND FOR RELIEF WITH LEGAL PROVISION :

i) For that, the office order dtd. 2-9-05 issued by the respondent No.5 and the order dtd. 9-5-07 issued by the respondent No.4 are violative of the rules of natural justice and as such both the orders are bad and liable to be quashed.

ii) For that, the respondent authority committed wrong in passing the impugned order without issuing any prior notice and without allowing any opportunity of hearing to the applicant and as such the impugned orders are bad and liable to be quashed.

iii) For that, the applicant was not aware about any alleged survey of this quarter by the Survey Committee and as such the impugned orders passed on the basis of such alleged ex parte survey if any are bad and liable to be quashed.

iv) For that, the impugned orders are violative of Article 14, 19 and 309 of Constitution of India as well as of the rule 15-A of the Railway Service(Conduct) Rules 1966 and as such those are liable to be quashed.

Contd...7/-

George Swamy B.S. Bah.

nikharge sway bulah.

v) For that, the applicant was under bonafide belief that the respondent authority was not going to give effect to the impugned cancellation order as no action was initiated by them during a long period of two years. But the respondent authority has committed wrong in passing the impugned order dtd. 9-5-07 imposing damage rent on the applicant without making any enquiry to the allegation in presence of the applicant and as such the impugned is bad and liable to be quashed.

vi) For that, the applicant has not violated the provision of Rule 30-I(iii) and 15-A of the Railway Service(Conduct) Rule 1966 as alleged and as such the impugned order are bad and liable to be quashed.

vii) For that, the applicant will suffer serious injustice, irreparable loss and injury if the impugned orders are given effect to.

viii) For that, in any other view of the matter the impugned orders are bad and liable to be quashed.

8. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that he has exhausted the remedies available to him.

9. MATTER NOT RENDING WITH ANY OTHER COURT :

The applicant declares that he has not challenged the impugned orders before any other court/Tribunal.

Contd...8/-

Change shan Bohan

10. RELIEF SOUGHT :

Under the facts and circumstances as stated above the applicant prays for the following relief.

- i) To set aside and quash the office order No. GHY/CDO/GEN/Qrs./C&D dtd. 2-9-05 passed by respondent No.5 - Annexure-2.
- ii) To set aside and quash the office order issued vide memo No.E/APO/1/Survey of quarters/Guwahati dated 9-5-07 issued by the respondent No.4- Annexure-3.

11. INTERIM RELIEF PRAYED FOR :

Pending disposal of the application the impugned orders may kindly be stayed.

12. PARTICULARS OF THE POSTAL ORDER :

Indian Postal Order No. : 346 654565
Date : 30-06-2007
Issuing office : Guwahati G.P.O.
Payable at : Guwahati G.P.O.

Contd...9/-

VERIFICATION

I, Sri Khargeswar Bora, S/O Late Konlora Bora, aged about 58 years, resident of Quarter No.117/G-Type-II at N.G.C., Guwahati, do hereby solemnly affirm and verify that the statements made in paragraph No.3 to 6 and 8 and 9 are true to my knowledge and rest are my humble submission before this Hon'ble Tribunal and I have not surpressed any material fact.

And I sign this verification this 2nd day of July, 2007 at Guwahati.

Khargeswar Bora

SIGNATURE

COO/247
N.F. Rly.

Dated 14th May/2003.

Sub: Handing over and Taking over the charge of Rly. Qns. No 117/E Type II at N.G.
Ref: - Your office order No. N-260/Qns/247/-
-COW/ Dated 8.5-2003.

In accordance with the above referred office order dated 8.5-2003, we in made signed handover and taken over the charge of the Rly Qns. No 117/E Type II at N.G. on 14-05-2003.

It is declared that there is no any unauthorized structure in the premises of the Qns. This is for your information and necessary action please.

Handed over by

Taken over by

Madhab Chandra Saha
(M.C. Saha)
Retd. Sr. Tech. (CP)

Khajee Swar Bora
(Khajeeswar Bora)
Tech. (CP) 8th class

Copy forwarded for information and action to -

- 1) Sr. SE (Work) / N.G.
- 2) Sr. SE (Elect) / N.G.
- 3) APO / N.G.
- 4) DRM (P) / N.G.
- 5) Sr. Qns / N.G.
- 6) Sr. SE (CO) / N.G.

Handed over by

Taken over by

Madhab Chandra Saha

Khajee Swar Bora

(M.C. Saha)
Retd. Sr. Tech. (CP)

(Khajeeswar Bora)
Tech. (CP) 8th class

व. न. रेलवे विभाग, न. ग. : 14/5/03

Handwritten signature

Handwritten signature

The Rly. Qns. No 117/E Type II at N.G. has been regularised on 14.05.03 accordingly.

Stamp: 14/5/03, N.F. Railway, New Guwahati

Certified to be true.
Pia.
ADV.

Senior Section Engineer (S & W) / SC
New Guwahati, N.F. Railway, New Guwahati

11

ANN-2

N.P. RAILWAY

N.O. GHY/ CDO/ GEN/ QRS/ C B W

Office of the
Sr Coaching Dept. officer
Gumrah, dt-02.05/2005

To
Sri K. Harageswar. Borah
Tech/ GRI
Under SSE/ C B W/ N.G.C.
Through ADME/ N.G.C.

Sub - Cancellation of allotment order of QRS No 117/G Type - II at N.G.C.

Ref - Survey Committee's report regarding by APO/ GHY vide his letter
No. E/11 APO/ GHY/ Survey of QRS dated 10.08.05

Railway quarters No. 117/G Type II at N.G.C. was allotted in favour of you for your residential purpose. Bill requiring survey by the survey committee. It has been found that instead of residing yourself in the QRS, you have subletted the quarters to a private party. This you have committed a serious misconduct violating the provision of Rule 111 (ii) B 15 A of Railway Service (conduct) Rule 1966.

Hence your allotment of the quarters No. 117/G Type - II at N.G.C. being cancelled with immediate effect.

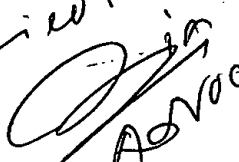
You are advised to vacate the QRS and handed over the QRS to the new allottee immediately. Further allotment order of this QRS is to be followed.


Sr CDO/ GHY.

Copy to:

1. C.A.M. GHY for information.
2. Divisional Office for information.
3. APO/ GHY for information and to be kept on a file.
4. APO/ GHY for information and necessary action if any.
5. SSE/ GHY for information and necessary action.
6. SSE/ GHY for information and necessary action.
7. SSE/ GHY for information and necessary action.

Sr CDO/ GHY.

Certified to be true

Advocate

(12)

Ann - 3

N.E. Railway

Office of the
Divl: Personnel Officer
Station Road, Guwahati

MEMORANDUM

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

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

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

This issues with the approval of CAM/GHY.

(G.K. KARATI)
DPO/GHY

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

Dated: 7/15/2007

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.

*Certified to be true.
M.A.
Advocate.*

Copy to Mr. Barua

(Signature)
DPO/GHY

(1)	(2)	(3)	B.U.No	Quarter No	Location	Dt. Of Survey	Damage rent		
							Plinth area	Rate	
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
01.	Sri Chankala Basfore,	CF/Gr.III	456	706.N/Type-I	NGC	05-08-05	36.882 Sqm	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
02.	Sri Sudhi Ram Hira,	Sr.Tech/CF	456	125L/Type-II	NGC	05-08-05	58.87 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
03.	Sri Pradip Kr.Das,	CF.Gr.I	456	117L/Type-II	NGC	03-08-05	58.87 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
04.	Sri Hamid Ali	-do-	456	117L/Type-II	NGC	03-08-05	58.87 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
05.	Sri Prakash Bose,	-do-	456	603A/Type-I	NGC	05-08-05	36.882 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
06.	Sri Abhoy Kr.Das	ALP/NGC	456	611/Type-I	NGC	05-08-05	36.882 Sqm	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
07.	Sri Harpati Datta	CF	456	708D/Type-I	NGC	05-08-05	36.882 Sqm	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
08.	Sri Hiten Barua	Clerk	456	117H/Type-II	NGC	03-08-05	58.87 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
09.	Sri Khargeswar Bora	CF I	456	117G/Type-II	NGC	03-08-05	58.87 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
10.	Sri D.N. Das,	CF II	456	704B/Type-I	NGC	04-08-05	36.882 Sqm	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
11.	Sri Ramesh Hira.	CF III	456	125C/Type-III	NGC		58.88 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 25315.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 145700.00	171015.00
12.	Sri Jogeswar Doloi,	CF I	456	702C/Type-I	NGC	05-08-05	36.882 Sqm	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

Copy to be true
 ADV

Contd-2

3. Staff concerned,
 6. Ch. Os. (M/D) (M/C)

To
The Chief Area Manager,
N. F. Railway, Guwahati
(Through Proper Channel)

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Amx-4

Sub: - Appeal against order of recovery of Damage Rent.

Ref. - DPO/GHY's Memorandum No- E/APO/1/Survey of Qrs./GHY

Dated- 9/05/07

Respected Sir,

I beg to state the following for your kind consideration and further necessary action please.

That Sir, I have been residing with my family at the Railway Qrs No- 117/G type -II at NGC Railway Colony since the occupation of the same. Sr. CDO/GHY (Qrs allotting authority) had cancelled the allotment of my Qrs arbitrarily on the basis of an erroneous report of survey committee constituted by the administration with the plea that I had subletted my Qrs vide Sr. CDO/GHY's order No- GHY/CDO/GEN/Qrs/C&W dated- 02/09/05.

That Sir, I had never subletted my Railway Qrs or any part thereof. However, I have received another arbitrary order in the matter from DPO/GHY cited under reference to recover damage rent of my Qrs along with an outstanding amount of Rs- 1,71,015/- (Rs One Lakh Seventy one thousand fifteen only) from my salary.

I therefore request your honour kindly look into the matter and arrange to release me from the deduction of amount so that I can live with my family peacefully.

Dated: New Guwahati
The 19th June of 2007

Yours faithfully

Khargeswar Borah

(Khargeswar Borah)

Tech (SIF) L/N/C

Order SSE (C&W) No.

Certified to be true.
ADV

(13)

Ann-5

IT Centre/LMG *Pay-in-Slip* May-2007/Jun-2007 GU:30013 BU:44456 Duty: 31 LWP: 0 Stn:MSC SN:100
 Name : KHARGESWAR BORAH Alch:06211 PAY ALLOWANCES --->Rs RLY RECOVERIES --->Rs 31 NRS RECOVERIES --->Rs 140
 F/H Name: LT. K. BCRA Basic Pay * 5125 PF-Subsc. * 641 P Tax-Appeal * 140
 EmpNo : 04102952 D.P. * 2563 VPF * 2500 RLY Inst/NSA * 3
 Desgn. : TCH/1 D.A. * 2691 CGIS-C * 30
 Accumulated LAP:315 LHAP:360 SCA * 120 Rent-Nominal* 112
 Transport/G * 75 Water Charge* 15
 NDA * 411 Arr Electric* 317
 Durga FA * 150 3

Scale:04500-07000 Ry Pay:5125 Gross Pay Rs.10985 Deductn. Rs.3914 NET PAY RETENTION
 Next Increment :01-Sep-2007 Retd. Dt.:30-Sep-2009 Cash Payment

*Certified to be true,
 P. in
 AOV.*

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Axx-6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 151 of 2007.

Date of Order: This, the 14th day of June, 2007.

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

Sri Jogeswar Das
Son of Late Bogadhar Das
No.SNC/10A at Triangular Colony/PNO
Pandit, Guwahati-12
Kamrup, Assam.

...Applicant.

By Advocates S/Shri J.Roy, R.C.Das & O. Pada.

- Versus -

1. The Union of India represented by the
Secretary, Railway Board
Ministry of Railway
New Delhi-110001.

The General Manager
N.F.Railway, Maligaon
Guwahati-11
Kamrup, Assam.

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

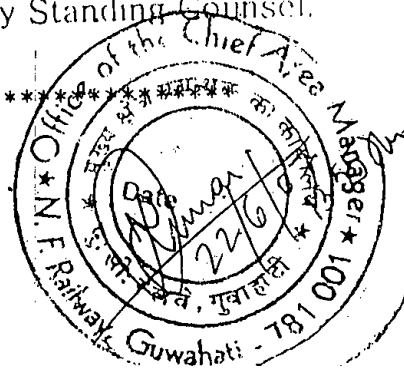
4. DPO/GHY (Divisional Personal Officer)
N.F.Railway, Guwahati.

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

... Respondents.

By Dr. J.L.Sarkar, Railway Standing Counsel.

*My Personal
22-6-07
Certified to be true
Advocate*

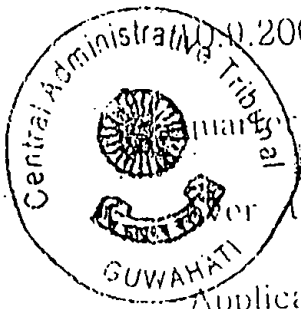


(27) 2

ORDER (ORAL)

SACHIDANANDAN, K.V., (V.C.):

The Applicant is presently working as MCM under N.F.Railway and is posted under Divisional Officer, Trangular Colony, Pandu. He is residing in the Railway quarter bearing No.140(A), Type-II along with his family since 5.12.2000. His gross pay is Rs.15,573/- and after deduction he is drawing Rs.10,048/- per month. Vide Annexure-A order dated



10.02.2005 his allotment was cancelled alleging that the said quarter was subletted to third party and he was advised to hand over the said quarter to the next allottee against which Applicant submitted representation dated 17.9.2005-(Annexure-B) before the fifth Respondent stating that he never subletted the quarter to any third party and requested the authority to enquire the matter fresh. However, his representation is not disposed of nor further committee was made to enquire the matter afresh. But much to his surprise, the impugned memorandum has been issued by the Respondent No.4 declaring the Applicant as unauthorized occupant and directed to recover damage rent at the prescribed rate from the regular salary of the Applicant w.e.f. May, 2007 along with arrears

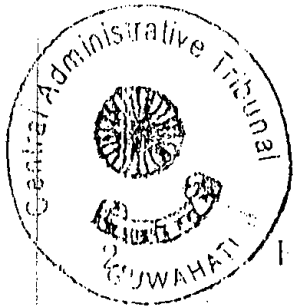
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without issuing any prior notice to the Applicant. Aggrieved by the action of the Respondents he has filed this O.A. seeking the following main reliefs:-

"(1) to set aside and quash the office order dated 10-09-2005 issued by the Respondent No.5 (Senior Coaching Dept. Officer, Guwahati) ANNEXURE-A.

(2) to set aside and quash the office memorandum dated 09-05-2007 issued by Divisional Personal Officer, Guwahati ANNEXURE-C."



Heard Mr.J.Roy, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways.

When the matter came up for consideration, learned counsel for the Applicant submitted that the impugned orders have been passed by the Respondents in total violation of principle of natural justice. He further submitted that neither any notice was issued to him at any point of time nor an opportunity was given to him to explain his case. His representation dated 17.09.2005 also has not been attended to. Therefore, the impugned orders are not in conformity with the Railway Rules. However, he submitted that he would be satisfied if a direction is given to the Respondents to consider and dispose of his representation (Annexure-B) within a time frame. Dr.J.L.Sarkar submits that

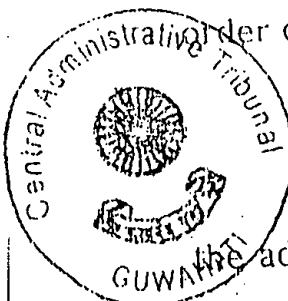
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Respondents have no objection in adopting such course of action.

3. Accordingly, in the interest of justice, this Court directs the Respondent No.5 or any other competent authority shall consider and dispose of this Annexure-B representation dated 17.09.2005 giving an opportunity to the Applicant to explain his case and pass appropriate orders on merit communicating the same to the Applicant within a period of three months time from today. 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 admission stage itself. There shall, however, be no order as to costs.

54/ VICE CHAIRMAN

Date of Application : 15.6.07
Date on which copy is ready : 15.6.07
Date on which copy is delivered : 15.6.07
Certified to be true copy

/BB/

Section Officer (P.I.)
C. A. T. Guwahati Bench
Guwahati-5.

15/6/07