

7

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 180/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Shahita
05/10/2007

ORDERS SHEET

1. Original Application No. 180/07

2. Misc Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant(S) Harapal Deka VS Union of India & Ors

Advocate for the Applicant(S) A.C. Sarma, S. Saikia

A.C. Sarma.....

Advocate for the Respondant(S) Railway advocate....

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed by P. for Rs 50/-
deposited in P. D.
No. 346654563
Dated 20.6.07

DR
Registrar

3.7.2007

Mr.A.C.Sarma, learned counsel for the Applicant submitted that against Annexure-1 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

/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

Ret. H. O. is
in. in. in. in. in. in.
received.

Received
23/7/07
Vice-Chairman
Advocate

23/7/07
Advocate
23/7/07
Advocate

✓
16.7.07

As per House
count's order dated. 3.7.07
The applicant submitted
a document which ~~was~~
kept in the record at Hagia

Pro.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

O.A. No. 180 of 2007.

DATE OF DECISION : 19-07-2007

Shri Harapaty Deka.

.....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.

20/7/07
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.180 of 2007.

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

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

Shri Harapaty Deka
S/o Late Hangsha Ram Deka
Resident of Qr. No. 708/D-Type-I
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. DPO/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. 708/D-Type-I at New Guwahati Colony. According to the averment following the prescribed

L

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 28.6.07 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-1.
- 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-2.

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

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH,
GUWAHATI

O.A. No. 180/07.

Sri Harapaty Deka

- 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 & W), N.G.C., and residing at Quarter No. 708/D-Type-I at New Guwahati Colony, Guwahati. The respondent No.5 vide his order dtd. 2-9-06 cancelled the order of allotment of the applicant's 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.1,07,135.00 on the applicant without issuing any prior notice to the applicant nor giving any opportunity of hearing to the applicant. The applicant

Contd...2/-

- 2 -

submitted an appeal before the authority on 28-6-07 against the above order. The applicant is presently drawing an amount of Rs. 6,665.00 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

Somit Sarkar.

Advocate, Guwahati

- 2.11.2007

गुवाहाटी बेंच
Guwahati Bench

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :

GUWAHATI

O.A. No. 180/07.

Sri Harapaty Deka

- Vs -

The Union of India & Ors.

LIST OF DATES

1. 02-09-2005 Respondant No.5 cancelled the allotment order of the applicant quarter.
2. 09-05-2007 Respondant No.4 issued order imposing damage rent on the applicant.
3. 28-06-2007 Applicant submitted appeal before the respondent No.3.

...

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :

GUWAHATI

O.A. No. 180/07.

Sri Harapaty Deka

- Vs -

The Union of India & Ors.

I N D E X

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2.		Verification -	9
3.	1	Copy of Order dtd. 2-9-05 issued by respondent No.5. -	10
4.	2	Copy of order dtd. 9-5-07 issued by the respondent No.4. -	11
5.	3	Appeal dtd. 28-6-07 submitted by the applicant. -	13
6.	4	Pay slip of the applicant -	14
7.	5	Copy of the order dated 14-6-07 passed by the Hon'ble Tribunal. -	15

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH:
GUWAHATI

(An application u/s 19 of the Administrative Tribunal
Act, 1985)

O.A. No. 180 /07.

*Filed by the Petitioner
Harapati Deka
through sonit saikia
advocate.*

1. PARTICULARS OF THE APPLICANT :

Sri Harapati Deka
S/O Late Hangsha Ram Deka
Resident of Qr.No.708/D-Type-I
at New Guwahati Colony,
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. DPO/GHY (Divisional Personal Officer)
N.F.Railway, Guwahati. *ই (Station Road)*
5. Senior Coaching Depot Officer/GHY
N.F.Railway, Guwahati.

Contd...2/-

3. PARTICULARS OF THE ORDER AGAINST WHICH
THE APPEICATION 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 at Guwahati(Respondant No.5) cancelling the allotment order of quarter No.708/D-Type-I at N.G.C., Guwahati, 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 at Guwahati(respondant No.4) imposing damage rent of Rs.1,07,135.00 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.

Contd...3/-

Harapathy Deba

ii) That, the applicant is at present working as a Carriage Fitter Grade-I under Senior Section Engineer Carriage and Wagon, New Guwahati Colony and he is residing in Railway Qr. No.708/D-Type-I at N.G.C. 11/11/05.

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&W dtd. 2-9-05

(A copy of the above order is annexed as Annexure-1)

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 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 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 with him he could not annexe the same with this application.

Contd....4/-

Harapady Deka 14

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.1,07,135.00 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-2)

ix) That, the applicant submitted an appeal against the aforesaid order of recovery of damage rent before the respondent No.3 on 29-6-07 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-3)

Contd...5/-

15
Harcourtly Deke

x) That, the applicant is at present drawing only an amount of Rs.6,665.00 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-4)

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-5)

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.

Contd...6/-

16
Honorably Deqa

7. GROUND FOR RELIEF WITH LEGAL PROVISION :

- i) For that, the effice order dtd. 2-9-05 issued by the respondant No.5 and the order dtd. 9-5-07 issued by the respondant 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 respondant 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 exparte 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.
- v) For that, the applicant was under bonafide belief that the respondant 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 respondant 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 ^{order} is bad and liable to be quashed.

Contd...7/-

17
Haranath Deora

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 PENDING WITH ANY OTHER COURT :

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

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-1.
- ii) To set aside and quash the office order issued vide memo No.E/APO/1/Survey of quarters/Guwahati dtd. 9-5-07 issued by the respondent No.4- Annexure-2.

Contd....8/-

Harapathy Deka

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. : 34G-654563.

Date : 2. 7. 07.

Issuing office : Guwahati G.P.O.

Payable at : Guwahati G.P.O.

Contd....9/-

Harapady Deka

VERIFICATION

I, Sri Harapaty Deka, Son of Late Hangsha Ram Deka, aged about 48 years, resident of Qr.No.708/D-Type-I at New Guwahati Coloney, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphy- 3 to 6 and 8 and 9 are true to my knowledge and rests are my humble submission before this Hon'ble Tribunal and I have not surpressed any material fact.

And I sign this verification this 22nd day of July, 2007 at Guwahati.

Harapaty Deka

SIGNATURE



10

ANx-1

N.F. RAILWAY.

Office of the
Sr. Coaching Depot Officer,
Guwahati, DU.02.09.2005

No. GHY/CDO/GHY/Qrs/C & W

To
Sri Harapati Deka
Tech
Under SSE C&W/NGC
Through ADME/NGC

Sub-Cancellation of allotment order of Qrs. No. 708/D Type-I at NGC

Ref- Survey Committee's report endorsed by APO/GHY vide his letter
No. E/1/ APO/GHY/Survey of Qrs dated 19.08.05

Railway quarters No. 708/D Type-I at NGC was allotted in favour of you for your residential purpose. But during survey by the survey committee it has been found that instead of residing yourself in the quarters you have subletted the quarters to a private party. Thus you have committed a serious misconduct violating the provision of Rule.3.1 (iii) and 15 A of Railway Service (Conduct) Rule. 1966.

Hence your allotment of the Quarters No. 708/D Type-I at NGC is being cancelled with immediate effect.

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

[Signature]
Sr. Coaching Officer

Copy to :-

1. CAM/GHY for kind information.
2. DGM/G/MLG- For information please.
3. APO/GHY -for information and necessary action please.
4. ADME/NGC - for information and necessary action please.
5. SSE/Works/NGC - For information and necessary action
6. SSE/Elec/NGC- for information and necessary action.
7. SSE/C&W/NGC- for information and necessary action.

Certified to be true.
[Signature]
Advocate

11

Ann-2

22

N.F.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.KAKATI)
DPO/GHY

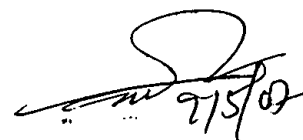
No-E/APO/1/Survey of Qrs./GHY

Dated: 9/5/2007

Copy forwarded for information and necessary action to:-

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

sn Harpati Deka
Certified to be true.
DPO/GHY
Advocate.


DPO/GHY

12

Damage rent

SN	Name of staff	Design	B.U.No	Quarter No	Location	Dt. Of Survey	Plinth area	Rate
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
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
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
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
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
05.	Sri Prakash Bose,	-do-	456	603A/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
06.	Sri Abhoy Kr.Das	ALP/NGC	456	611J/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
07.	Sri Harpati Deka,	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
08.	Sri Hiten Barua	S/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
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
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
11.	Sri Ramesh Hira,	OS/II	456	244C/Type-III	NGC		65.68 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm= 28242.00 01-12-05 to 30-04-06 @ Rs.99 Psqm= 162558.00
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

Contd-2

2/5/07

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

(13)

Ann-3 2a

Sub - Appeal against order of recovery of Damage Rent

Ref: DPO/GHY: [unclear] dated 12/07/07
Dated: 02/08/07

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-
TOS/IS type - 12 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/ [unclear] 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- 171015 (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 22nd June of 2007

Yours faithfully

Harapally Bora

[unclear]

(Harapally Bora)
(Khargoswar-Bordi)

Tech. [unclear] / [unclear]

Under SSG/ [unclear] / NAC

Certified to be true
[Signature]
Advocate

R
[Signature]
22/6/07

25
14

Ann-4

IT Centre/LMG *Pay-In-Slip* May-2007/Jun-2007 GU:30013 BU:44456 Duty: 31 LWP: 0 Str:NGC SN- 110
Alocn:06310 PAY_ALLOWANCES--->Rs RLY_RECOVERIES--->Rs B_1 NRB_RECOVERIES--->Rs B_I
Name :H P DEKA Basic Pay * 4625 PF-Subsc. * 578 P Tax-Assan * 125
V/H_Name:hankha ram deka D.P. * 2313 VPF * 1500
EmpNo :04120851 D.A. * 2428 CGIS-C * 30
Desgn. :TCH/I SCA * 120 Rent-Nominal* 70
Accumulated LAP:313, LHAP:206 Transport/B * 75 Water Charge* 5
Arr Electric* 438 7
Dunge, FA * 150 3

Scale:04500-07000 R/Pay:4625 GROSS Pay Rs.9561 Deductn. Rs.2896 NETPAY Rs.6665.00
Next Increment :01-Jul-2007 Retd. Dt.:31-Dec-2019

Cash Payment

Certified true
Pia
ADV

(15)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

A7X-524

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/40A at Tringular Collony/PNO
Pandu, 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.

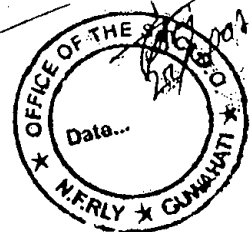
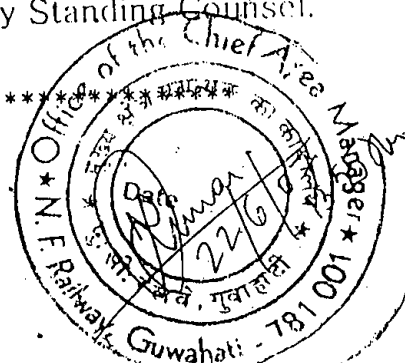
The General Manager
N.F.Railway, Maligaon
Guwahati-11
Kamrup, Assam.

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.

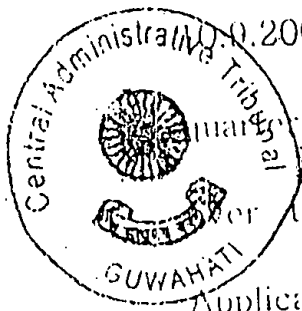
By Dr. J.L.Sarkar, Railway Standing Counsel.

22-6-07
22/6/07
22/6/07
Certified to be true
Sia
Advocate



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



10.9.2005 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-

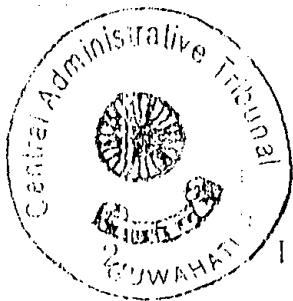
B) before the fifth Respondent stating that he never subletted the quarter to any third party and requested the authority to enquire the matter fresh. However, his representation is not disposed of nor further committee was made to enquire the matter afresh. But much to his surprise, the impugned memorandum 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

(17)

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

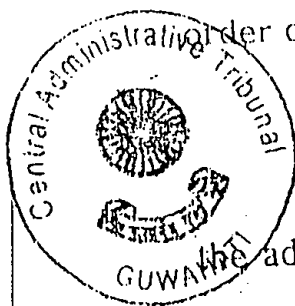
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(18) ()

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 the admission stage itself. There shall, however, be no order as to costs.

Sd/ 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 (Adm)
C. A. T. Guwahati Bench
Guwahati-5.