

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 181/2007

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SECTION OFFICER (Judl.)

*Debata
05/10/17*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

1. Original Application No. 181/07

2. Misc Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Nitin Bonnah vs. Union of India & Ors

Advocate for the Applicant(s) A.C. Sauma

S. Saikia, M. Sauma

Advocate for the Respondent(s) Railways advocate

Notes of the Registry Date Order of the Tribunal

This application is in form
is filed/C. F. for Rs 50/-
deposited vide P.W.D.
No. 346654564

Dated 30-6-07

DR
Registrar

Retaining copy's
in our offices
are received.

DR

The Applicant was in occupation of the quarter No.117/H-Type-II at New Guwahati Colony allotted in his favour and his contention is that he is staying in the said quarter with his family. While so, it is alleged that Survey Committee have found the Applicant to have subletted his quarter to third party and Annexure-2 order is passed canceling his allotment. Immediately he submitted representation ~~for submitted representation~~ on 14.9.2005 against the said order. But the Respondents did not reply to that nor any enquiry was made. Thereafter, all of a sudden Annexure-4 order has been issued imposing damage rent without issuing any prior notice nor the Applicant was heard. Hence this O.A.

6
Contd..

2
-2-
O.A. 181/07

Contd.
3.7.2007

Mr.A.C.Sarma, learned counsel for the Applicant submitted that action of the Respondents is violative of Articles 14, 19 & 309 of the Constitution of India and no notice whatsoever was issued to the Applicant.

Considering the issue involved I direct the Registry to issue notice to the Respondents, returnable by four weeks.

Post on 19.7.2007. In the interest of justice Annexure-4 order dated 9.5.2007 will be kept in abeyance in so far as the Applicant is concerned till the next date.


Vice-Chairman

/bb/

Notice & order
sent to D/Section
for issuing to
R-1 to 5 day regd.
A/D post.

22.8.2007

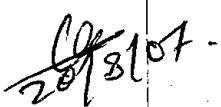
Heard learned counsel for the parties. Judgement delivered in open Court, Kept in separate sheets.

The O.A. is disposed of in terms of the order. No costs.

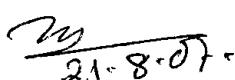

Vice-Chairman

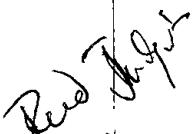
bb

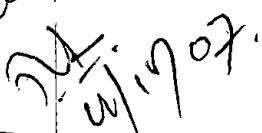
Notice duly served
on R-1


20/8/07

Notice duly served
on R-NO-1.


21-8-07


Reddy


21.8.07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.181 of 2007

DATE OF DECISION: 22.08.2007

Sri Hiten Baruah Applicant/s

MR.A.C.Sarma Advocate for the
..... Applicant/s:

- Versus -

U.O.I. & Ors Respondent/s

Dr.J.L.Sarkar, Railway Standing Counsel. Advocate for the
..... Respondents

CORAM

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

1. Whether reporters of local newspapers may be allowed to
see the Judgment?

Yes/No

2. Whether to be referred to the Reporter or not?

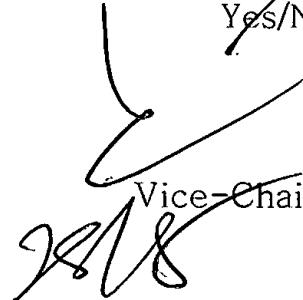
Yes/No

3. Whether to be forwarded for including in the Digest Being
compiled at Jodhpur Bench & other Benches ?

Yes/No

4. Whether their Lordships wish to see the fair copy
of the Judgment?

Yes/No


Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 181 of 2007.

Date of Order: This, the 22nd day of August, 2007.

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

Sri Hiten Baruah
S/o Late Cheni Ram Baruah
Resident of Quarter No.117/H-Type(II)
at New Guwahati. ...Applicant.

By Advocates S/Shri A. Sarma, S.Saikia & U.Sarma.

- Versus -

1. The 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. Dist: Kamrup (Assam).
3. The Chief Area Manager
N.F.Railway, Guwahati.
4. The Divisional Personnel Officer (D.P.O.)
N.F.Railway, Guwahati.
5. The Senior Coaching Depot Officer
N.F.Railway, Guwahati. ... Respondents.

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

ORDER (ORAL)

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

The Applicant is presently working as Senior Clerk in
the office of the Senior Section Engineer, Carriage and Wagon



(C/W) B.G., N.F.Railway, Guwahati. He is residing in the Railway quarter No. 117/H-Type (II) at New Guwahati since 16.01.1995.

Vide Annexure-2 order dated 02.09.2005 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 14.09.2005 (Annexure-3) before the Respondents stating that he never subletted the quarter to any third party and requested the authority to review 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 dated 9.5.2007 (Annexure-4) has been issued by the Respondent No.4 declaring to recover damage rent at the prescribed rate from the regular salary of the Applicant w.e.f. May, 2007 alongwith arrears 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 No. GHY/CDO/GEN/QRS/ C&W dtd 2-9-05 passed by the respondent No.5 Annexure-2.
- (2) To set aside and quash the office Order issued memo No.E/APO/1/SURVEY OF QRS/GHY



dtd. 9-5-07 issued by respondent
No.4 - Annexure-4."

2. Heard Mr.A.C.Sarma, 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 has produced an order dated 14.8.2007 issued by the Respondents revoking the cancellation order of Railway quarter allotted to the Applicant. The contents of the said letter is reproduced herein below:-

" The cancellation order of Railway quarters No.117-H, Type-II at Bamunimaidam, NGC Which was communicated to vide this office letter No.GHY/CDO/GEN/ QRs/C&W dated 02/09/05 is being revoked. The original allotment order of the QRs in favour of you will be retained."

Learned counsel for the Applicant submitted that practically the relief has already been granted. This Court is also of the view that since the relief has already been granted by revoking the cancellation of allotment of quarter, the O.A. will not stand on its legs. Therefore, the O.A. is closed recording the submission of Applicant's counsel. It is made clear that the Applicant is at liberty to approach this Tribunal, if he is further aggrieved.



The Original Application is disposed of as above at the admission stage itself. There shall, however, be no order as to costs.

A handwritten signature in black ink, enclosed within a roughly oval-shaped outline. The signature appears to read "K.V. SACHIDANANDAN".

(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/

- 2 JUL 2007

DISTRICT : KAMRUP

गुवाहाटी ब्यालिस्ट
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-GAUHATI-BENCH,
GUWAHATI

(An application under Section 19 of the Administrative
Tribunal Act, 1985)

O.A. No. 181 /07.

Sri Hiten Baruah

... Petitioner.

- Vs -

The Union of India & Ors. ... Respondents.

S Y N O P S I S

The applicant is at present working as a Senior Clerk in the office of the Sr. Section Engineer, Carriage and Wagon (C/W) B.G., N.F. Railway, New Guwahati and residing at Quarter No. 117/H-Type-II at New Guwahati Colony, Guwahati with his family since 16-1-1995. The respondent No. 5 vide his order dtd. 2-9-05 cancelled the order of allotment of the applicant's quarter alleging that a survey committee appointed by the administration found that the applicant subletted his quarter to some third party. The applicant submitted representation before the authority on 14-9-05 denying 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. That respondent authority did not pass any order dispossessing applicant's representation,

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but passed an order on 9-5-07 imposing damage rent to the tune of Rs. 1,71,015.00 on the applicant without issuing any prior notice to the applicant nor giving any opportunity of hearing to the applicant, the applicant is presently drawing an amount of Rs. 8,870.00 per month as monthly salary and if 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

Sonu Sarker
Advocate, Guwahati.

केन्द्रीय प्रशासन अधिकार
Central Admin. Control & Tribunals

- 2 (B) 2007

गुवाहाटी न्यूर्यापीठ
Guwahati Bench

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH:

GUWAHATI

O.A. No. 181/07

Sri Eiten Baruah

- Vs -

The Union of India & Ors.

LIST OF DATES

1. 16-01-1995 - Applicant took possession of quarter.
2. 02-09-2005 - Respondent No.5 issued the order cancelling the allotment of quarter.
3. 14-09-2005 - Applicant submitted representation.
4. 09-05-2007 - Respondent No.4 issued Order imposing damage rent.
5. 06-06-2007 - Applicant submitted appeal.

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DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH :

GUWAHATI

O.A. No. 181 /07

Sri Hiten Baruah

- Vs -

The Union of India & Ors.

I N D E X

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IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Filed the Petition
13
Hiten Baruah.
Guwahati - Court Circular.

O.A. No. 181 12007.

BETWEEN

Sri Hiten Baruah

S/O Late Choni Ram Baruah

Resident of Quarter No. 117/H-Type (II)
at New Guwahati Colony.

... APPLICANT

- AND -

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, Dist-Kamrup (Assam).

3. The Chief Area Manager (CAM)

N.F.Railway, Guwahati.

Contd... 2/-

4. The Divisional Personal

Officer (D.P.O.), N.F.Railway
Guwahati.

5. The Senior Coaching Depot

Officer, N.F.Railway,
Guwahati.

... RESPONDENTS.

DETAILS OF APPLICATION :

1. 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,
Guwahati (respondent No.5) cancelling the allotment order of
Qrs. No. 117/H-Type-II at NGC in the name of the applicant.

ii) The Office Memo No. E/APO/1/Survey of Qrs/GHY dtd.
9-5-07 issued by the Divisional Personal Officer, N.F.Railway
Guwahati (respondent No.4) impessing damage rent of Rs. 1,71,015/-
on the applicant

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of
the instant application for which he wants redressal is within
the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

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

4(ii) That, the applicant is at present working as a Senior Clerk in the Office of the Sr. Section Engineer, Carriage and Wagon(C/W) B.G., N.F.Railway, New Gauhati, and he is residing in Railway Qrs. No.117/H-Type-II at New Guwahati, which was allotted to him vide order No. M/260 Qrs/GHY dtd. 2-12-94 and handed over to the petitioner w.e.f. 16-1-95.

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

4(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 quarters No.117/H-Type-II vide his memo No GHY/CDO/GEN/Qrs./C&W dtd. 2-9-05.

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

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H/T/EnB/SG/CH

4(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 sub letted the Qrs. to a private party there by violating the provision of Rule-31(III) and 15A of Railway Service(Conduct) Rules 1966, the applicant was also advised to vacate the Qrs and to hand over the same to the new allottee whose allotment order was to be followed.

4(v) That, the applicant submitted a representation on 14-9-05 to the respondent No.5 to review the order of cancellation of applicant's Qrs. stating inter-alia that he had been residing in the Qrs. with his family and he had not sub letted the Qrs. or any part of it to any third party as alleged.

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

4(vi) That, the respondent authority did not dispose off the representation submitted by the applicant nor any new allottee ever came to the applicant's Qrs. to take over the same and as such the applicant is peacefully residing in the Qrs. and the applicant was under bonafide presumption that the respondent authority was satisfied with the applicants reply.

4(vii) That, the applicant in his representation clearly stated that the cancellation order in respect of his Qrs. was passed ex parte without giving any prior notice or any opportunity of hearing to applicant which amounts to gross violation of the rules of natural justice as provided under the Constitution of India.

4(viii) That, the applicant respectfully begs to state that the applicant in his representation dtd. 14-9-05 wrongly mentioned that disciplinary proceeding was initiated against him on the basis of survey committee report but in fact there was no such disciplinary proceeding was ever initiated against him. This mistake could occur due to the fact that the applicant being a physically handicap person on account of very poor eye sight he entrusted one of his colleague to draft the representation and the applicant failed to detect the mistake due to his poor eye sight.

4(ix) That, to the utter surprise of the applicant the respondent No.4 vide his memo No. E/APO/1/Survey of Qrs./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 Qrs. 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-4)

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

(A copy of the above appeal is annexed as Annexure-5)

4(xi) That, the applicant is at present drawing an amount of Rs.8,870/- only as monthly salary after various deductions made from his salary and if the proposed recovery on account of damage rent is imposed on the applicant it will be quite impossible from the part of the applicant to manage the minimum monthly family expenditure also.

(A copy of the last pay slip of the applicant is annexed as Annexure-6)

4(xii) That respondent authority has imposed damage rent on similar allegation on some other employees also and one of such employee already approached this Hon'ble Tribunal filing O.A. No. 151/07 and this Hon'ble Tribunal vide order dtd. 14-6-07 has already Interferred in the matter and was pleased to direct the Railway authority to disposed of the representation first and till disposall of the representation further directed the authority to keep the recovery order in abeyance.

(A copy of the above order is annexed as Annexure-7)

4(xiii) That, the applicant respectfully submits that he being a similarly situated employee his case is also covered by the above order already passed by this Hon'ble Tribunal and he is also entitled to the similar protection against the impugned order passed by the respondent authority.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5(i) For that, the office order No. GHY/CDO/GEN/QRS/C&W dtd. 2-9-05 issued by the respondent No.5 and the order issued vide memo No.E/APO/1/Survey of QRS/GHY 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.

5(ii) For that, the respondent authority committed wrong in passing the impugned orders without issuing any prior notice to the applicant and without allowing him any opportunity of hearing so as to enable him to explain his case and as such the impugned orders are bad and liable to be quashed.

5(iii) For that, the applicant was not at all aware about any alleged survey of his Qrs. by the Survey Committee and as such the impugned order of cancellation of applicant's Qrs. and order of recovery of damage rent passed on the basis of alleged experts survey by the survey committee are bad and liable to be quashed.

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

5(v) For that, the applicant was under a bonafide belief that the respondent authority was satisfied with his representation made against the impugned order of cancellation of allotment of Qrs. in as much as no any further information or

action was initiated against the applicant during a long period of about 2 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 order is bad and liable to be quashed.

5(vi) For that, the applicant has not violated the provision of Rule 3.1(III) and 15-A of the Railway Service(Conduct) Rule 1966, as alleged in impugned order dtd. 2-9-05 and as such the impugned orders are bad and liable to be quashed.

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

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

6. DETAILS OF THE REMADIES EXHAUSTED :

The applicant declares that he has exhausted all the remedies available to him and submitted representation to the respondent authority which was not disposed of.

7. MATTER NOT PENDING WITH ANY OTHER COURT :

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

8. RELIEF SOUGHT :

Under the facts and circumstances as stated above the applicant prays for the following reliefs :

- i) To set aside and quash the office Order No. GHY/CDO/GEN/QRS/C&W dtd 2-9-05 passed by the respondent No. 5 - Annexure-2.
- ii) To set aside and quash the office Order issued vide memo No. E/APO/1/SURVEY OF QRS/GHY dtd. 9-5-07 issued by the respondent No. 4 - Annexure-4.

9. INTERIM RELIEF PRAYED FOR :

The applicant prays that pending disposal of the application the impugned orders may kindly be stayed.

10. PARTICULARS OF THE POSTAL ORDER :

Indian Postal Order No. : 34G.654564.

Date : 2.7.07.

Issuing Office : Guwahati G.P.O.

Payable at : Guwahati G.P.O.

11. LIST OF ENCLOSURES :

An Index showing the particulars of documents is enclosed herewith.

VERIFICATION

I, Sri Hiten Baruah, son of Late Cheni Ram Baruah, aged about 48 years, resident of Quarter No.117/H-Type-II at New Guwahati Colony, do hereby solemnly affirm and verify that the statements made in the accompanying application in its paragraph -1 to 4 and 6,7 are true to my knowledge and rests are my humble submission before this Hon'ble Tribunal. And I have not suppressed any material fact.

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

Hiten Baruah

S I G N A T U R E

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ANX-1

To

AME/GHY
or F Rly

DDd 1/1/95

Sub - Handing Over and taking over
of Charge of Rly QRS No 117(H)
Type - II at NAC.

Ref. AME/GHY's Office Order No.
M/260/QRS/GHY. dd 2-12-94

In terms of the above quoted
Office Order we the undersigned
have handed over and taken over
the charge of Rly QRS No 117(H) Type II
at NAC wef 16/1/95.

This is for your information
and necessary action please.

Handed over by

Sukhangshu Nath Sarker
Ex - CTG/NAC

Taken over by

Hiten Boraue
SAC clerk

Copy for information and necessary
action to:

- (1) AME/GHY
- (2) AME/AM
- (3) AME
- (4) AME
- (5) AME
- (6) AME

Certified to be true.
Zia.

Handed over by

Sukhangshu Nath Sarker
Ex - CTG/NAC

Taken over by

Hiten Boraue
SAC clerk



12

Annex-2 24

768168

N.F.RAILWAYS

Office of the

**Sr. Coaching Depot Officer,
Guwahati. Dt. 02.09.2005**

0-GHY/CDO/GEN/Ors/C&W

Сі Еден Загін

Clerk

Index S8E48W1N6C

through ADMENIGS

Sub: Cancellation of allotment order of Qrs. No. 117/H Type -II at NGC.

... APO/GHY Survey of Ors dated 19.08.05.

allotted to you under Rule 17 B. Type II. Letting 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 sublet 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.

Your appointment of the Quarters No. 117/H Type -II 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. The allotment order of this quarters is to be followed.

Sr. CDO/GHY

AMERICAN MUSEUM OF NATURAL HISTORY
NEW YORK, N.Y.

ESKOM GAMES. For information please

For information and necessary action please

ADD MEANING for information and necessary action please

SSE Working Group - For information and necessary action

SEEKS FOR INFORMATION AND NECESSARY ACTION

ISSUE & SWING - for information and necessary action

Sr. CDO/GHY

Certified to be true
S. J. M.
A.D.

The Sr. CDO,
N.E. Railway,
Guwahati.

Dated: 14-09-05

Sub: Review of cancellation of allotment order of Qtr. No. 117/H type H at NGC

Ref: Your letter no GHY/CDO/GEN/Qrs/CRW dated 2-09-05

Sir,

Most humbly I beg to state the following in reference to your letter no. cited above:-

1. That in the Railway Qtr. No. 117/H type H at New Guwahati, I have been residing with my family.
2. That I have no accommodation at Guwahati other than the above Railway Qtr. from where I have been sincerely rendering service to the Indian Railways.
3. That cancellation of my Qtr allotment will cause great hardship to me as well as to my family and will through my whole family to the street.
4. That I have not sub-letted the said Railway Qtr. to anybody or my part thereof.
5. That I have not violated any provision of Railway Service (Conduct) Rule-1966.
6. That the allegation brought against me by the survey committee, that I have sub-letted the said Qtr., is concocted and baseless.
7. That the allegation brought against me is not established.
8. That on the basis of vague report of the survey committee disciplinary proceedings has been initiated against me and the process is still uncompleted.
9. That the cancellation order of my Qtr allotment is being passed ex-parte without giving me an opportunity of being heard, which is-
 - a. Violative of the principle of natural justice,
 - b. Violative of the Article 14 & 21 of the Constitution of India,
 - c. Arbitrary, and
 - d. Void ab initio.

Certified to be true
By
AD

14/9/05

(14)

I, therefore, request your Honam to kindly review the matter judicially and revoke the cancellation order of my Off. appointment on the following grounds:

1. That I have no accommodation other than the said Railway Office at Guwahati.
2. That the cancellation order will through my whole liability to the street.
3. That the cancellation order is ex parte.
4. That the cancellation order is:
 - a. Violative of the principle of natural justice,
 - b. Violative of the Article 14 & 21 of the Constitution of India,
 - c. Arbitrary, and
 - d. Void ab initio.

And for this act of your kindness I shall remain grateful to you.

Thanking you, Sir.

Yours faithfully

H. Baruah

(Hiten Baruah)

Sr. Clerk(C&W)

New Guwahati

P. S.
14.9.85
Party Work
and
Secretary.
to Sir.

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Anx - 4

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.KAKATI)
DPO/GHY

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

Dated: 9/15/2007

Copy forwarded for information and necessary action to:-

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

*Certified to be true.
2/15/07
Advocate.*

9/15/07
DPO/GHY

Sl. No.	Name of Staff	Design	B.U.No	Quarter No.	Location	Dt. Of Survey	Damage rent		A/c
							Plinth area	Rate	
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	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
06.	Sri Abhoy Kr.Das	ALP/NGC	456	611L/Type-I	NGC	03-08-05	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 Harpani 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	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 Kharateswar Borg	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	04-03-05	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.	OS.7I	456	144C/Type/II	NGC		65.68 Sqm	01-08-05 to 30-11-05 @ Rs.86 Psqm = 28342.00 01-12-05 to 30-04-06 @ Rs.99 Psqm = 162558.00	190800.00
12.	Sri Jogeswar Deka,	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

Certified to be true
A/C
ACW

Contd-2

(r7)

ANX - 5 29

To,
The CAM,
N.F. Railway/GHY
(Through proper channel)

Date : 06-06-07.

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

Ref : 1. DPO/GHY's Memorandum No. E/APO/1/Survey of Qrs/GHY
Dated 09-05-07.
2. Sr. CDO/GHY's Order No. GHY/CDO/GEN/Qrs/C&W dated
02-09-05.
3. My application to the Sr.CDO/GHY dated 14-09-07.

Respected Sir,

Most humbly I beg to state the following for your kind consideration and befitting act of justice please.

1. That Sir, I have been residing with my family at the Rly Qtr No.117/H, New Guwahati Rly colony since the occupation of the same.
2. That Sir, Sr.CDO/GHY(Quarter allotting authority) Had cancelled the allotment of my Qtr arbitrarily on the basis of an erroneous report of Survey Committee constituted by the administration, that I had sub-letted my Rly Qtr, vide the order under reference 2 without giving me an opportunity of being heard.
3. That Sir, I had never sub-letted my Rly Quarter or any part thereof.
4. That Sir, the order of the quarter allotting authority dated 02-09-07 is void ab initio on the following grounds-
 - a. That the order was arbitrary,
 - b. That the order was Ex-Parte,
 - c. That the order was violative of natural justice and
 - d. The order was violative of the Article 14 and 21 of the Constitution of India.
5. That Sir, I had applied to the quarter allotting authority to review the cancellation order of my quarter on the grounds mentioned in para 4 above vide my appeal dated 14-09-05(copy enclosed). But the quarter allotting authority has not intimated me anything about my said appeal till date.
6. That Sir, it is socked to me to receive another arbitrary order in the matter from the DPO/GHY cited under reference 1 to recover damage rent of my quarter along with an outstanding amount of Rs.1,45,700/-

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

(Rupees one lakh forty five thousand seven hundred only) from my salary.

7. That Sir, entire proceedings from the quarter allotting authority and the DPO/GHY to recover damage rent are –

- Ex-Parte,
- Arbitrary,
- Violative of natural justice,
- Violative of the Article 14 and 21 of the Constitution of India and
- Void ab initio.

Prayer :

It is therefore prayed before you to kindly consider my case judicially and to passe appropriate order –

- to revoke both the orders of quarter allotting authority and DPO/GHY and/or
- to constitute an enquiry commission to establish the truth behind the fact if your honour is not satisfied with my pleadings and/or
- to give direction to the DPO/GHY to stop the recovery of damage rent pending the disposal of this appeal.

And for this act of justice I shall remain grateful to you.

Thanking you, Sir.

Yours faithfully

H. Baruah
6/6/07
(Hiten Baruah)
Sr. Clerk (C & W)
New Guwahati.

DA: As above.

Copy for information and necessary action to:

- The Branch Secretary, NFREU/NGC Branch.
- The Branch Secretary, NFRMU/NGC Branch.

Ree
9/16/07
সহকারী প্রক্রিয়াকারী প্রক্রিয়াকারী
Ass't. Div. Manager and Engineer
q. No. 2022, P.O. 2022
N. F. Railway, New Guwahati

Centre/LMS *Pay-in-Slip* Jun-2007

Bank: 100090-Canara Bank, Chirali/Maligaon

A/c No: 08510 Alloch: 08510

Name: HITEN BARUAH PAY ALLOWANCES ---> Rs RLY RECOVERIES ---> Rs 8.1 NRB RECOVERIES ---> Rs 8.1

P/H Name: Lt CHANI RAM BARUAH Basic Pay # 5750 PF-Subsc. * 719 P Tax-Assam * 155

C/c No: 104201437 D.P. # 2875 CGIS-C * 30

Design: Sr. Clerk/G D.A. # 3019 Rent-Nominal * 118

Accumulated LAP: 220, LHAP: 144 SCA # 120 Water Charge* 15

Transport/G # 75 Amt-Electrics 782 6

Dunga. FA # 150 12

PF Advance # 1000 13

104500-07000 R/Pay: 5750 Gross Pay Rs. 11839 Deductn. Rs. 2969 NET PAY Rs. 8870.00

Increment: 01-Dec-2007 Reqd. Dt.: 31-Oct-2018

Axx-6

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Bank Payment

Certified to be true

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ADV

**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 Jageswar Das

- Son of Late Bogadhar Das
No.SNC/10A at Tringular Collony/PNO
- Pandu, Guwahati-12
Kamrup, Assam.

Applicant.

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

Versius -

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 E Railway, Guwahati.

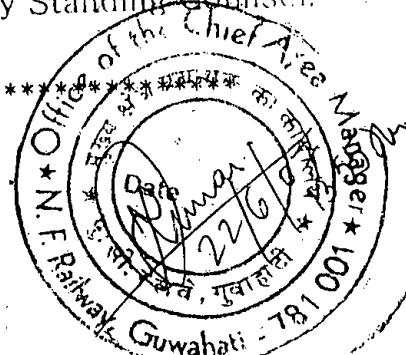
1. DPO/GIY (Divisional Personal Officer)
N.F.Railway, Guwahati.

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

... Respondents.

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

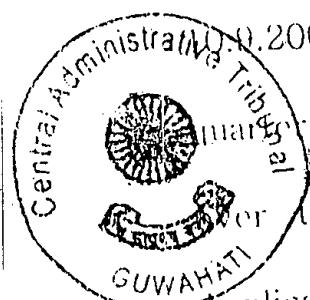
Certified to be true
John A. Vocars



ORDER (ORAL)

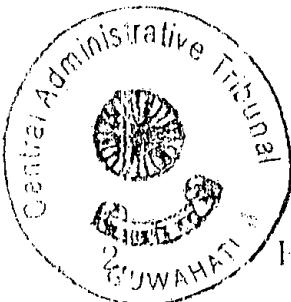
SACHIDANANDAN, K.V., (V.C.):

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 10.9.2005 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 alongwith arrears.



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.

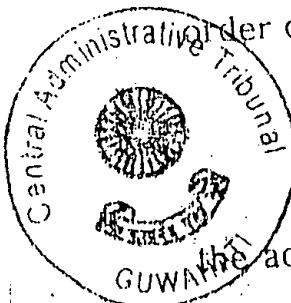
When the matter came up for consideration, learned counsel for the Applicant submitted that the impugned orders have been passed by the Respondents in total violation of principle of natural justice. He further submitted that neither any notice was issued to him at any point of time nor an opportunity 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

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

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

/BB/

15/6/07