

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 178/09 ~~2009-2009~~
R.A./CP/NO.2015
E.P./M.P./NO.2015

1. Order Sheets..... 03pg..... 01to..... 05 ✓
2. Judgment/ order dtd. 14.05.10pg..... 01to..... 05 ✓
3. Judgment & Order dtd.....received from H.C. /Supreme Court.
4. O.A. 178/09page..... 01to..... 21 ✓
5. E.P/M.P.page.....to.....
6. R.A./C.P.page.....to.....
7. W.S. by RespondentPage..... 01to..... 03 ✓
8. Rejoinder.....page.....to.....
9. Replypage.....to.....
10. Any other paperspage.....to.....

20/7/2015
SECTION OFFICER (JUDL.)

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : 178 / 2009
2. Transfer Application No : ----- / 2009 in O.A. No. -----
3. Misc. Petition No : ----- / 2009 in O.A. No. -----
4. Contempt Petition No : ----- / 2009 in O.A. No. -----
5. Review Application No : ----- / 2009 in O.A. No. -----
6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Abdul Hussain

Respondent (S) : Union of India & ors.

Advocate for the : Mr. A. Dasgupta
{Applicant (S)} Mr. S. Chakraborty & Mr. K.M. Haloi

Advocate for the : -----
{Respondent (S)} Rty.

Notes of the Registry	Date	Order of the Tribunal
<p>09.09.2009</p> <p>This application is in form is filed/C.F. for Rs. 50/- & posted vide IPO/BD No. <u>37 422850</u> Dated <u>3.9.09</u></p> <p><u>N. Dasgupta</u> Dy. Registrar <u>8.9.09</u> <u>8/9/09</u></p> <p><u>8.9.09</u></p> <p><u>4 (Four) copies of Application with envelopes received for service notices to the Respondents no 1 to 4. Copy served.</u></p> <p><u>8/9/09</u></p> <p><u>K. Das</u></p> <p><u>Send copy of Order to the Respondents along with the copy of O.A.</u></p> <p><u>10/9/09</u></p>	<p>09.09.2009</p>	<p>Non-payment of Gratuity to the Applicant is the subject matter of grievance raised in this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985.</p> <p>We have heard Mr.A.Dasgupta, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways. Dr.J.L.Sarkar intends to obtain instruction in the matter.</p> <p>Call this matter on 21.10.2009 awaiting instruction from the Respondents.</p> <p><u>Send copies of this order to the Respondents along with copies of this O.A.</u></p> <p>Free copies of this order be also supplied to Mr.A.Dasgupta, learned counsel for the Applicant and to Dr.J.L.Sarkar, learned Standing counsel for the Railways.</p> <p><u>(M.K.Chaturvedi)</u> Member (A)</p> <p><u>(M.R.Mohanty)</u> Vice-Chairman</p>

/bb/

Copies of order dated 9/9/09 along with notices send to D/Sec. for issuing to respondents by regd. A/D post.

Free copies of this order also issuing to the L/counsel for both the parties.

D/No-1240-43
14/9/09. Of 14.9.09
Send copy of orders. D/No. 1270-1271
dtd 15-9-09

① Service report awaited.

20.10.09

A/D Card overruled from Resp't. No. 4

3/11

No w/s filed.

23.11.09

No w/s filed.

17.12.09

No w/s filed.

19.12.09

No w/s filed.

2.2.2010

21.10.2009

Proxy counsel for Dr.J.L.Sarkar, learned Standing counsel for the Railways, seeks four weeks time to file written statement.

List on 24.11.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

24.11.2009

Dr.J.L.Sarkar, learned Standing counsel for Railways seeks further time to file reply. Reluctantly we allow the adjournment.

List on 18.12.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

18.12.09

16.12.2009

Enabling the Respondents to file reply within four weeks extended period case is adjourned to 20.01.2010. (20.1.2010).

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/PB/

20.1.2010

Learned proxy counsel for the Respondents states that reply is ready and the same will be filed within a week.

List the matter on 3.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/Am/

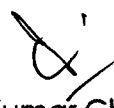
3-
O.A.178-09


03.02.2010

Vide order dated 20.01.2010, learned proxy counsel for Respondents stated that reply is ready and same would be filed within a week. Today Dr.J.L.Sarkar, learned Standing counsel appearing for Railways states that he needs four weeks further time to file reply.

As a matter of last chance, time is extended by four weeks to file reply.

List on 05.03.2010.



(Madan Kumar Chaturvedi)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

/bb/

05.03.2010

It is stated that Mr.A.Dasgupta, learned counsel, who is to argue for applicant, is not available due to personal reasons. Even rejoinder is not filed. Granting opportunity to file rejoinder, if any, case is adjourned to 16.03.2010.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/bb/

16.03.2010

Mr. K.M. Haloi, proxy counsel for Mr. A. Dasgupta, learned counsel for applicant appeared and prayed for three weeks time to file rejoinder.

List on 06.04.2010.



(Madan Kumar Chaturvedi)
Member (A)

/pb/

22.2.2010

W/S has been
filed by the Respondent.
Copy served.
22/2/2010.

No rejoinder
filed.


5.4.2010

O. A.178 of 2009

06.04.2010

Learned counsel for the Applicant states that rejoinder is not necessary. In the circumstances, matter may be heard on merit, ~~of the reply.~~

W/s filed.

26.4.2010

List the matter on 27.4.2010 for hearing as item No.1.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/lm/

27.04.2010

Proxy counsel states that Mr.A.Dasgupta, counsel for Applicant who is to argue the matter, is out of station and therefore, prays for adjournment.

W/s filed.

30.4.2010

List the matter on 3rd May 2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

lm

03.05.2010

Learned proxy counsel for respondents prays for adjournment on the ground that Dr.J.L.Sarkar, who is appearing for the respondents is in personal difficulty.

W/s filed.

11.5.2010

Adjourned to 12.05.2010.


(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

12.05.2010

Heard Mr. A. Dasgupta & Mr. K.M. Haloi, learned counsel for Applicant and Dr. J.L. Sarkar, learned Standing counsel for Railways.

Hearing concluded. Reserved for orders.



(Madan Kumar Chaturvedi)
Member (A)

/pb/

14.05.2010

Judgment pronounced in open court, kept in separate sheets.

The O.A. is dismissed in terms of said order.


(Madan Kumar Chaturvedi)
Member (A)

/pb/


28.8.2010

Judgment / Final order
sent to the A/S
for issuing receipt.

A — No 2085-2087
A — 228-208

Copy received for
Dr. J.L. Sarkar
SS. Railways
01/07/10

Copy received of
Order dated 14.5.2010


(K.M. Haloi)
21/6/10
Advocate for applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 178 of 2009

DATE OF DECISION: 14-05-2010.

Abdul Hussain

.....Applicant/s

Mr. A. Dasgupta

.....Advocates for the
Applicant/s

-Versus -

U.O.I & Ors.

.....Respondent/s

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

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER(A)

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 their Lordships wish to see the fair copy of the judgment ? Yes/No

Judgment delivered by


Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 178 of 2009

Date of Order : This the 14th Day of May, 2010.

THE HON'BLE MR M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

Abdul Hussain
Son of Late Abdul Hamid
Resident of Village – Pub Madhab Dev Nagar
Near Goshala Hill Side
P.O. – Devkotanagar
Guwahati – 11, Dist – Kamrup, Assam.

...Applicant.

By Advocate: Mr. A. Dasgupta

1. Union of India
(Represented by the General Manager
N.F. Railway, Maligaon
Guwahati – 11).
2. General Manager
N.F. Railway, Maligaon
Guwahati – 11.
3. Deputy General Manager (G)
N.F. Railway, Maligaon
Guwahati – 11.
4. Senior Divisional Engineer
N.F. Railway, Maligaon
Guwahati – 11.

...Respondents

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

ORDER

HON'BLE M.K. CHATURVEDI, MEMBER (A):

By this O.A., Applicant makes a prayer to issue direction to the Respondents for not deducting penal rent from the gratuity of the applicant and to release the service gratuity to the Applicant.

2. Applicant is a retired Railway employee. He was appointed on compassionate ground. After his appointment, the Railway Qtr. No. 23/B, Type-II at Central Gotanagar was allotted to him and he has occupied the said quarter. He was retired compulsorily from Railway Service w.e.f. 05.04.2007 due to punishment. He took permission to retain the said Railway quarter for next eight months. This permissible period has already been expired on 04.12.2007. He did not vacate the quarter on the ground that his mother and brother are living in the said quarter and they are not willing to vacate.

3. Mr. A. Dasgupta, learned counsel for Applicant relied on the Full Bench Judgments in the case of **Wazir Chand Vs. Union of India & Others [O.A. No. 2573 of 1989 dated 25.10.1990-Principal Bench]**. He also relied on some other decisions to buttress the point that Railway authorities can not deduct outstanding penal rent from gratuity amount. He referred the prescription of Section 4(6)(b)(i) and (ii) of the Payment of Gratuity Act, 1972 by which amount of gratuity can be withheld only in the context of the circumstances enumerated in the said Act and outstanding penal rent is not a condition for withholding the gratuity.

4. Dr. J.L. Sarkar, learned Standing Counsel for Railways submitted that the Applicant was under obligation to vacate the quarter after the expiry of permissible period of retention. Vacation means formal vacation. Since he was occupying the quarter, it was mandatory on his part to deliver the possession of the said quarter to the Railway authorities. It was not done. Whether he lives in the quarter or his relatives are not material aliunde to which it can be said that mitigating circumstances did exist for exonerating the applicant from payment of the penal rent.

5. In regard to the question, whether Railway authority can deduct the penal rent from gratuity amount, Dr. J.L. Sarkar, learned Standing counsel for Respondents invited my attention on the Sub Rule 8 of Rule 16 of the Railway Services (Pension Rules), 1993. The relevant portion of the said Rule reads as under:

"8(a) In case where a railway accommodation is not vacated after superannuation of the Railway servant or after cessation of his services such as on voluntary retirement, compulsory retirement, medical invalidation or death, then, the full amount of retirement gratuity, death gratuity or special contribution to provident fund, as the case may be, shall be withheld.

(b) The amount withheld under clause (a) shall remain with the Railway administration in the form of cash.

(c) In case the Railway accommodation is not vacated even after the permissible period of retention after the superannuation, retirement, cessation of service or death, as the case may be, the railway administration shall have the right to withhold, recover, or adjust from the Death-cum-retirement Gratuity, the normal rent, special licence fee or damage rent, as may be due from the ex-railway employee and return only the balance, if any, on vacation of the Railway accommodation.

(d) Any amount remaining unpaid after the adjustment made under clause (c), may also be recovered without the consent of the pensioner by the concerned Accounts Officers from the dearness relief of the pensioner until full recovery of such dues has been made.

(e) Dispute, if any, regarding recovery of damages or rent from the ex-railway employee shall be subject to adjudication by the concerned Estate Officer appointed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971)."

It was submitted that this is a special provision and it will prevail over the general provisions and the judgments referred to were not rendered in the context of the aforesaid special provision.

6. I have heard the rival submissions in the light of material placed before me and precedents relied upon. In the case of **Wazir Chand Vs. Union of India & Others** in O.A. No. 2573 of 1989, dated 25.10.1990, it was held vide para 11 that the right to withhold DCRG is subject to two important conditions. These being:

- (a) only an appropriate amount can be withheld from DCRG; and
- (b) if the same is permissible under the Rules in force.

7. It is a trite law canonized in the dictum: GENERALIA SPECIALIBUS, NON DEROGANT (general things will not derogate the special things.)

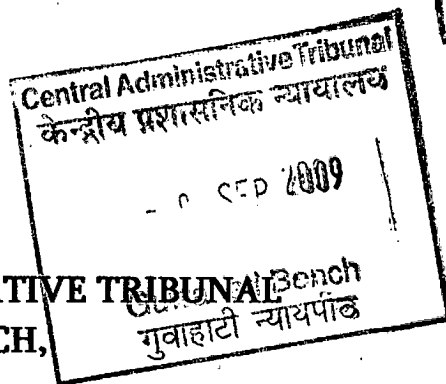
8. In conformity with the aforesaid dictum, it is imperative to apply the prescription of Sub Rule 8 of Rule 16 of the Railway Services (Pension Rules), 1993 which makes it abundantly clear that in the eventuality of Railway quarter accommodation has not been vacated after superannuation from the Railway Service and after the permissible period of retention full amount of retirement gratuity shall be withheld. There is no ambiguity in these provisions.

9. Indisputably, the family members of the Applicant are residing in the quarter even after the permissible period of retention. Applicant failed to fulfill obligation of surrendering the possession of the quarter to the Railway authorities. As such there exist no infirmity in deducting penal rent from gratuity amount.

In the result, O.A. stands dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE TRIBUNAL

/PB/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

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

Original Application No. 178/2009

Abdul Hussain

.....Applicant

-VS-

Union of India & Ors.

.....Respondents

SYNOPSIS

The applicant is a retired employee of NF Railway having retired on 05.04.07. He was given compassionate appointment on the death of his father who was also a railway employee posttd at Maligaon. The applicant was allotted a quarter being Qr. No. 23/B Type II at Central Gotanagar vide allotment order No. 2/314/4Pt. XIII/356 dated 21/07/70. He was staying in the quarter with his family, his mother and his brother with his family.

After his retirement he shifted his family to his own house, but could not hand over vacant possession of the quarter to the railway authorities as his mother & brother did not leave the quarter and continued to stay there. The applicant tried his best to hand over the quarter to the railway administration, but could not succeed. The railway authorities also did not release his gratuity.

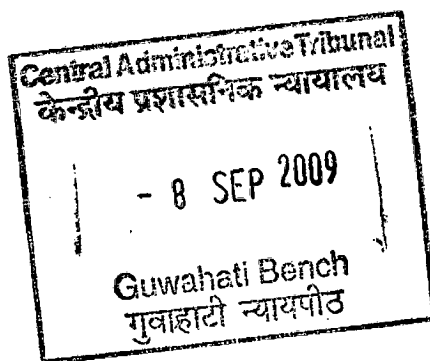
After some time the railway authority initiated a proceeding against the mother of the applicant by issuing notice under the Public Premises (Eviction of unauthorized occupants) Act, 1971 and an order of eviction was passed on 07.12.07 by the Estate Officer. Thereafter, no effective steps have been taken by the respondents to evict the unauthorized occupants and till today the applicant's mother & brother are occupying the quarter.

The respondents are now not releasing the service gratuity of the applicant and adjusting penal rent of quarter from the gratuity inspite of the fact that an order of eviction have been passed way back on 07.12.07.

Being highly aggrieved by the action of the respondents in not releasing the gratuity of the applicant and deduction of penal rent there from, the applicant has approached this Hon'ble Tribunal for redressal of his grievance as his representations before the General Manager, NF Railway Dy. GM (G), NF Railway failed to yield any result.

Filed by
Kumar Manojranjan Haloi
Advocate

Abdul Hussain



Abdul Hussain

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

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

Original Application No. 178/2009

Abdul Hussain

.....Applicant

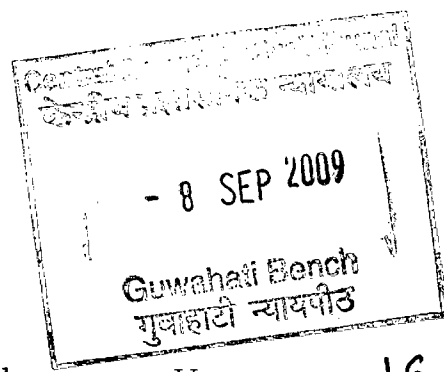
-VS-

Union of India & Ors.

.....Respondents

LIST OF DATES

<u>Dates</u>	<u>Particulars</u>	<u>Annexures</u>	<u>Pages</u>
21.07.70	Quarter allotted to the applicant vide order no. 2/314/4 Pt.XIII/356	I	8-11
05.04.07	Applicant retired from service.		
31.10.07	Case filed by the railways Before the Estate Officer against The mother of the applicant under the provisions of Public Premises (Eviction of Unauthorized & Occupants) Act, 1971.		
07.12.07	Order of eviction passed by the Estate Officer in Eviction Case No.EO/MLG/Qr./47/2007	II	12
24.07.08	Letter of Estate Officer to Sr. Divisional Engineer requesting him to evict the occupant.	III	13-14
11.08.08	Letter of the Chief Security Commissioner to the Estate Officer assuring him to provide	IV	15



Abdur Hussain

Assistance during eviction.

Representation submitted by the applicant to the Estate Officer to complete the eviction process and to take vacant possession of the quarter.

V

16

Letter of the mother of the applicant to Dy General Manager (G) asking him to allow her to stay in the quarter.

VI

17

12.11.08

Representation of the applicant Before the General Manager, NF Railway Maligaon.

VII

18-19

21.01.09

Representation of the applicant Before the Dy. General Manager (G), NF Railway, Maligaon.

VIII

20-21

Filed by

Umar Manoranjan Haloi
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

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

Original Application No.....178...../2009

Abdul Hussain

.....Applicant

-VS-

Union of India & Ors.

.....Respondents

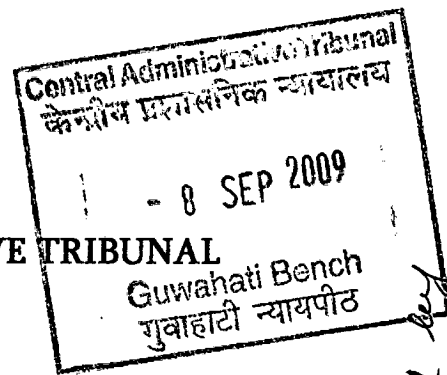
INDEX

<u>Sl. No.</u>	<u>Particulars</u>	<u>Annexure</u>	<u>Page</u>
1.	Original Application		1-6
2.	Verification		7
3.	Annexure	I	8-11
4.	Annexure	II	12
5.	Annexure	III	13-14
6.	Annexure	IV	15
7.	Annexure	V	16
8.	Annexure	VI	17
9.	Annexure	VII	18-19
10.	Annexure	VIII	20-21
11.	Vakalatnama		22-24
12.	Notice		
13.	W/S		

Filed by

Kumar Manoranjan Haloi
Advocate

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI**



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

Original Application No.....178...../2009

1. PARTICULARS OF THE APPLICANT: -

Abdul Hussain
Son of Late Abdul Hamid
Resident of Village - Pub Madhab Dev Nagar
Near Goshala Hill Side, P.O - Devkotanagar,
Guwahati -11, Dist - Kamrup, Assam.

2. PARTICULARS OF THE RESPONDENTS :-

1. Union of India,
(Represented by the General Manager, N.F. Railway,
Maligaon, Guwahati - 11)
2. General Manager,
N.F. Railway, Maligaon,
Guwahati - 781011.
3. Deputy General Manager (G),
N.F. Railway, Maligaon, Guwahati -11.
4. Senior Divisional Engineer,
N.F. Railway, Maligaon Guwahati - 11.

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

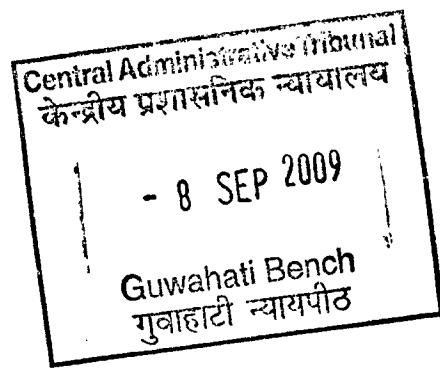
This application is made for non-payment of service gratuity due to the applicant and realization of penal rent of quarter from the due gratuity.

4. JURISDICTION OF THE TRIBUNAL: -

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

5. LIMITATION: -

The applicant further declares that the present application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

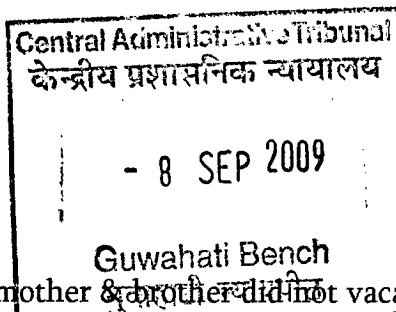


Abdul Husein

6. FACTS OF THE CASE: -

- 6.1 That the applicant is a retired railway employee having retired from service on 05.04.07 as OS -II from the office of CCO/MLG.
- 6.2 That the applicant states that his father was a railway employee and worked at Maligaon. He died while in service and on his death the applicant was given appointment on compassionate ground. On his appointment a Staff quarter bearing No. 23/B Type II at Central Gotanagar was allotted to him vide allotment order No. 2/314/4 Pt XIII/356 dated 21.07.70. It is stated herein that this quarter was earlier allotted to the father of the applicant and after his death the same had been re-allotted to the applicant.
- A copy of the allotment order dated 21.07.70 is annexed as Annexure: - I.
- 6.3 That the applicant states that after his retirement he has shifted his family to his own house at Madhab Dev Nagar, Boragaon, Guwahati, but his mother Mosuman Nesha and brother including his family, who were staying with the applicant in the quarter, did not leave the quarter and continued to occupy the same and till today the quarter in question is under their possession.
- 6.4 That due to unauthorized occupation of the aforesaid quarter by the mother & brother of the applicant he could not hand over vacant possession of the quarter to the railway authorities. As a result the railway authority have withheld his service gratuity and started realizing rent from him. Normal rent was realized for the period 05.04.07 to 04.08.07 and from 05.08.07 to 04.12.07 double of the assessed rent was realized.
- 6.5 That the applicant being unable to hand over vacant possession of the quarter approached the railway authority for initiating action for taking possession of the quarter in question. Accordingly, a case was filed by the railway authorities before the Estate Officer, N.F. Railway, Maligaon under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 on 31.10.07 against the mother of the applicant. A case, being Eviction Case No. EO/MLG/Qr/47/2007, was registered by the Estate Officer and initiated a proceeding was initiated by issuing notice to the mother of the applicant. The Estate Officer, thereafter, passed an exparte order on 07.12.2007 for vacation of the quarter by the unauthorized occupant within 15 days from the date of receipt of the order

A copy of the order dated 07.12.2007 passed by the Estate Officer is annexed as Annexure: - II.



Abdul Hussain

- 6.6 That the applicant states that his mother & brother did not vacate the quarter inspite of the order of the Estate Officer passed on 07.12.2007. The Estate Officer, thereafter, vide letter dated 24.07.08 addressed to Sr. DEN/MLG requested him to evict the unauthorized occupant from the quarter immediately and if required by application of force. In response whereof the Chief Security Commissioner, N.F. Railway, Maligaon vide his letter dated 11.08.08 assured the Estate Officer of providing assistance by deputing RPF Staff at the time of eviction.

Copies of the letter dated 24.07.08 and 11.08.08 are annexed as Annexure: - III & IV respectively.

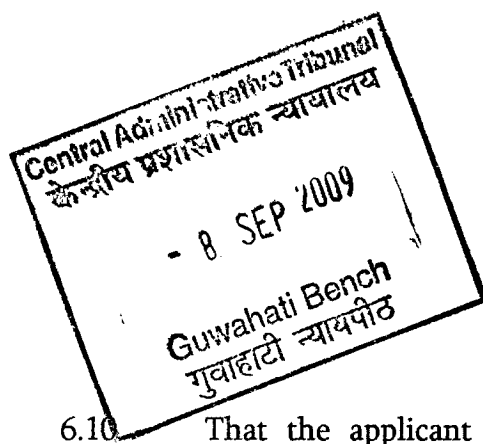
- 6.7 That the applicant states that surprisingly the railway authorities, thereafter, did not proceed in the matter and no steps were taken for evicting the unauthorized occupants and to take vacant possession of the quarter. The railway authorities are silent in this matter and realizing penal rent from the service gratuity of the applicant which is yet to be released. The applicant finding no alternative approached the Estate Officer to complete the eviction process and take vacant possession of the quarter so as to enable him to clear his liability of penal rent. But, unfortunately nothing has been done till date.

A copy of the representation submitted by the applicant before the Estate Officer is annexed as Annexure: - V.

- 6.8 That the applicant apprehends that the inaction on the part of the railway authorities in completing the eviction process and taking vacant possession of the quarter is the result of a connivance of the railway authority with his mother & brother. This is fortified from a letter of the mother of the applicant addressed to the Deputy General Manager (G), Maligaon who is also the Estate Officer asking him to allow her to stay in the quarter until the due amount of gratuity of the applicant is adjusted as penal or damage rent.

A copy of the letter addressed to Deputy General Manager (G), N.F. Railway, Maligaon by the mother of the applicant is annexed as Annexure: - VI.

- 6.9 That the applicant, thereafter, submitted a representation before the General Manager, N.F. Railway, Maligaon on 12.11.08 narrating the facts and circumstances and requested him to look into the mater and take appropriate action. This was followed by another representation before the Deputy General Manager (G) N.F. Railway, Maligaon on 21.01.09 to take vacant possession of the quarter.



Copies of the representation dated 12.11.08 and 21.01.09 are annexed as Annexure: - VII & VIII respectively.

Abdul Hussain

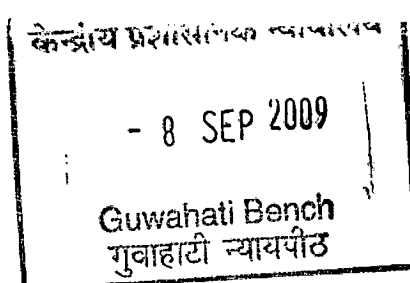
- 6.10 That the applicant states that the respondents have not yet evicted the unauthorized occupants from the quarter and have not taken possession of the same. His service gratuity has also not been released till date and the respondents are withholding his gratuity to adjust the penal rent from the gratuity.
- 6.11 That the applicant states that his mother is getting family pension and his brother is engaged in private works and capable of maintaining his family. That apart, the applicant is willing to take his mother in his house, but she is not vacating the quarter to stay with the applicant. Thus, the applicant is made to pay penal rent for no fault on his part and due to inaction on the part of the railway authorities who failed to evict the unauthorized occupant inspite of order of eviction.

7. GROUND FOR RELIEF WITH LEGAL PROVISION: -

Being highly aggrieved by the action of the respondents the applicant prefers this application on the following amongst other grounds: -

- GRUNDS -

- A) For that the respondents have failed to evict the unauthorized occupants from the quarter inspite of an order of eviction passed by the Estate Officer and they are penalizing the applicant by charging penal rent to cover their failure to act in accordance with law. The action of the respondents in withholding the gratuity of the applicant and adjustment of penal rent from the same is arbitrary and illegal.
- B) For that the respondents are aware of the fact that the applicant has left the quarter with his family on his retirement, but could not hand over possession of the quarter to the respondents as his mother & brother did not vacate the same and as a result a proceeding was initiated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against his mother by issuing notice and ultimately an order of eviction was passed on 07.12.07. In such circumstances the action of the respondents to charge penal rent from the applicant for alleged occupation of quarter, when in fact his is not in occupation of the same, is arbitrary, whimsical and against the provisions of law.
- C) For that it is settled law that deduction of rent in respect of quarter which is not in occupation of a person is not sustainable in law. The fact that the quarter in question is under occupation of an unauthorized person is known to the respondents and for



Al-Bashir Hussain

which an order of eviction has been passed, but the same was be given effect to for the reasons best known to the respondents and hence the action of the respondents in withholding the gratuity and realization of penal rent amounts to arbitrary exercise of powers.

- D) For that gratuity is not a bounty, but a valuable right accrued and property of an employee. Hence delay in disbursement of the same makes the employee entitled to interest. That apart, the same cannot be withheld by the employer on the ground that the employee had not vacated the quarter allotted to him while in service. The gratuity amount payable to an employee can neither be attached nor any recovery be made from such amount. Thus the action of the respondents in withholding the gratuity of the applicant for a considerable long period and realization of penal rent from the same is legally not tenable and deserves interference for this Hon'ble Tribunal.
- E) For that the failure on the part of the respondents to evict the unauthorized occupant of the quarter inspite of an order of eviction date 07.12.07 is a result of a connivance between the respondents and the unauthorized occupant which apparent from the letter (Annexure VI) wherein the mother of the applicant requested the Deputy General Manager (G) to allow her to occupy the quarter till the gratuity due to the applicant is adjusted with the penal rent. The applicant has been victimized by the respondents and made to suffer for no fault on his part.
- F) For that the respondents have arbitrarily withheld the gratuity of the applicant and realizing penal rent from the gratuity amount and hence the same is violative of Article 21 of the Constitution of India.

8. DETAILS OF THE REMEDIES EXHAUSTED: -

The applicant has no other alternative remedy except approaching this Hon'ble Tribunal. The applicant demanded justice which has been denied to him by the respondent authorities.

9. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT OR TRIBUNAL: -

The applicant declares that the subject matter of this application is not pending before any court of law, any other authority or any other branch of this Hon'ble Tribunal.

10. RELIEF SOUGHT: -

That in the premises aforesaid the applicant prays that this Hon'ble Tribunal may be pleased to call for the records, issue notices on the respondents to show cause as to why: -

- (i) the respondents shall not be restrained from deducting/ realizing penal rent for occupation of quarter from the gratuity of the applicant;
- (ii) the respondents shall not be directed to release the service gratuity to the applicant.

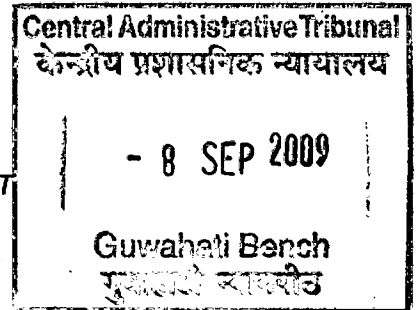
Abdul Hussain

11. INTERIM ORDER IF ANY PRAYED FOR: -

During pendency of this Original Application, in the interim, this Hon'ble Tribunal may be pleased to direct the respondent not to deduct / adjust any rent from the applicant's due gratuity in the interest of justice.

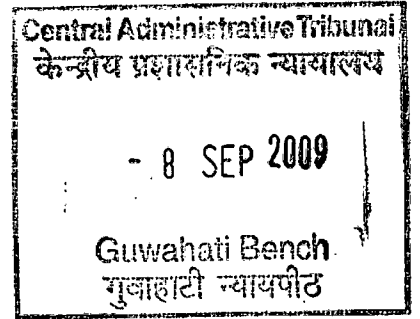
12. Details of IPO: -

IPO No. :- 396 422850
 Date of issue :- 03.09.2009
 To whom payable :- The Registrar, C.A.T.
 Payable at :- Guwahati GPO



13. Documents: -

Detail particulars of documents enclosed are indicated in the index.



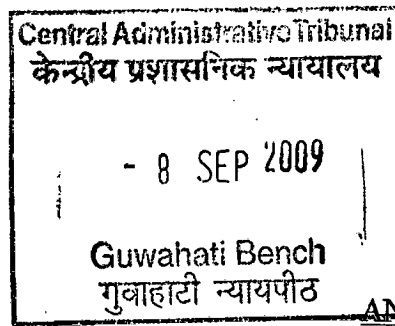
VERIFICATION

I, Abdul Hussain, Son of Late Abdul Hamiz, aged about 60 years, resident of Village - Pub Madhavdev Nagar, Near Goshala Hill Side, P.O - Devkotanagar, Guwahati - 11, District - Kamrup, Assam do hereby declare and verify that the statements made in paragraphs6.1., 6.3., 6.4., 6.7., 6.10. & 6.11..... are true to my knowledge and belief and that made in paragraphs6.2., 6.5., 6.6., 6.8. & 6.9..... are true to my information derived from the records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal.

I sign this verification on this the 4th day of September 2009 at Guwahati.

Abdul Hussain

Signature



ANNEXURE: - I

(Typed Copy Relevant Portion)

N.F. Railway

General Manager's Office,
Maligaon, Guwahati - 11.

No. Z/314/4 pt. XIII /356

Dated: - 22-0-7-70

OFFICE ORDER

- (A).....
(B).....
(C).....
(D).....

(E) The General Manager has approved of the following allotment of Staff quarters as recommended by the Housing Committee as a special case as they were originally appointed on compassionate grounds. These allotments will take effect from the date of causality of their Father / Husband with whom they were residing prior to their appointment and continued to reside in the same quarters.

<u>S. No.</u>	<u>Name</u>	<u>Designation / Office</u>	<u>Qrs. No. & Location</u>
1.	Miss Anjana Sengupta	Typist/DCOS/PNO	DS/14-A Type II Rest Camp
2.	Smt. Maniki Bordoloi	R/Sorter/PRO	68-G K. Bagan/GHY
3.	Smt. Bimala Das (she is entitled for type I and will be Allotted a type I qrs.)	R/Sorter/GM	83/B type II@ Goshala
4.	Sri Abul Hussain	peon/CCS/G	23/B type I(P) Central Gotanagar

Smt. Bimala Das, R/Sorter/GM's Office, SL No. 3 of (E) will take occupation of the Qrs. No. 25/B type I at Goshala which is now under occupation of Sri N.R. Mahajan, H/ Translator /CPO, SL. No. 3 of (C). Sri R.N. Mahajan, H/Translator/CPO will take occupation of qrs. No. 83/B type II (Pucca) at Goshala which is now under occupation of Smt. Bimala Das, R/Sorter/GM's Office SL. No. 3 of (E).

Sd/- Illegible

21/7/70

Chairman

Housing Committee/MLG

Copy to AEN/IC/PNO with 6 spare copies for IOWS.

CPO/Bill, FA&CAO/Inspection Section, EC/MLG,PNO,GHY,DCS, COS, DSTE, DEE/LMG. ASTE/WS/PNO, AO/NGC, SS/GHY, EF/PNO, COS, TA&CAO, CCS, PRO, Secy. to GM, CCS/G, CCS/CI/MLG. DMO, XEN/FCW/MLG. DCOS/PNO. CPO/MLG.

Representative N.F. Rly. Employees Union/Mazdoor Union Staff concerned.

Sd/- Illegible

21/7/70

Chairman

Housing Committee /MLG

Attested

Kumar Manoranjan Haloi
Schroate
08/09/09

General Manager's Office,
Calcutta, Ganapati - II.

No. Z/314/4 Pt. XIII/355

Dated 22 - 7 - 70.

OFFICE ORDER

(1) The General Manager has approved of the following allotments of staff quarters as recommended by the Housing Committee in lieu of flats previously allotted to them which they could not occupy due to unauthorised occupation. These allotments will take effect from the date of issue of this office order.

<u>S.No.</u>	<u>Name</u>	<u>Designation/Office</u>	<u>Flats.No. & Location</u>
1.	Sri Baharuddin Ahmed	Sr TC/GRY	L/132-C type II (P) Loco Colony
2.	Sri S.D. Goswami	III/GRY	ES/67-B type II (K) 5 F&G Colony.
3.	Sri P.L. Roy	Master/ASIA/ As. PNO	20/B type I Rest Camp.
4.	Sri J.C. Das	Master III/NGC	L/141 Type II (K) Adabari.
5.	Sri Santi Ranjan Mazumder	CL. Br/PNO	272/A type II (P) W. Gotanagar.
6.	Sri D. Prasad	IA an/Sr. PCW	316/C type I (P) Goshala.
7.	Sri P.R. Shastri	IA an/DSIC/PNO	267/B type I (P) Nambari.
8.	Sri Lalit Mohan Deb Nath	IA, STS WS/PNO	18-B type I Rest Camp.
9.	Sri Mohan Ch. Deka	IA, Sr. IC/PNO	343/12-3 type I Uzanbazar.
10.	Sri Bhabanti	IA, Sr. IC/PNO	313/S type I (P) Goshala.
11.	Sri Bhupen Ch. Dey	IA an/Asst. IC/PNO	234/C type I Goshala.
12.	Sri Siraj Ali	IA, Sr. IC	317/A type I (P) Goshala.
13.	Sri N.C. Acharjee	Pec. /F&G CAO	135/D type I (P) F. Colony.
14.	Sri Subal Ch. Malakar	S/Cleaner/DIC	317/D type I (P) Goshala.
15.	Sri Ganga Prasad	Pec. /COS/ALA	109/A type I (P) F&G Colony.
16.	Sri Manoranjan Dey	IA, COS/ALA	303/D type I (P) Goshala.
17.	Sri Kauna Bhaduri Chettri	IA, Sr. IC	126/F type I C. Gotanagar.
18.	Sri Kodai Kumar	IA, Sr. IC	10/C type I Goshala.

contd ...

(B) The General Manager has approved of the following allotment of staff quarters as recommended by the Housing Committee as a special case in consideration of their priorities. These allotments will take effect from the date of issue of this office order.

S.No.	Name	Designation/Office	rs. No. & Location	Date of Priority
1.	Sri Bhupani Sankar Chowdhury	AIOW/HQ	4/B type II (Pucca) East Gota-nagar.	8.12.62 Transfer
2.	Sri Surendra Nath Sarma	CI/OCS/CI.	168/A type II (Pucca) Goshala.	7-7-62 Transfer
3.	Sri Shyamapada Debnath	Carpenter/CI/IL/GHY	74/B type II (Pucca) Rest Camp.	27.8.58 Essential.

(C) The General Manager has approved of the following allotment of staff quarters as recommended by the Housing Committee as a special case since the staff was in occupation of the quarters as per census report of 1/1/63. These allotment will take effect from the date of occupation of the quarters.

S.No.	Name	Designation/Office	rs. No. & Location	Date of occupation.
1.	Sri Ratneswar Ojha	Journalist/PRO	73/A type II (P)/East Gota-nagar.	1.1.63
2.	Sri Ajit Chandra Malakar	CI/OS.T.	21/B type I Goshala	1.1.62
3.	Sri N.R. Mahajan	H/Translator/CI	25/B type I Goshala	23.2.61
4.	Sri D.N. Goswami	CI/GM's Office	292/A type II (P)/Goshala.	25.8.62.

(D) The General Manager has approved of the following allotment of staff quarters as recommended by the Housing Committee as a special case as Gorakhpur optees. These allotments will take effect from the date of issue of this office order.

S.No.	Name	Designation/Office	rs. No. & Location
1.	Sri N.K. Dutta Purkayastha	CI/FAC/CAO	148/A type II (P) Goshala
2.	Sri Debabrata Chowdhury	CI/CI/CAO	242/B type II (P) Goshala.

(E) The General Manager has approved of the following allotment of staff quarters as recommended by the Housing Committee as a special case as they were originally appointed on compassionate grounds. These allotments will take effect from the date of casualty of their Father/Husband with whom they were

contd ... 3

FORM-B

Under Sub-Section(1) of Section 5 of the "Public Premises"(Eviction of Unauthorised Occupant) Act, 1971.

EVICTON CASE NO. EO/MLG/qr/ 47 /2007.

Sri/Cmt. Mosuman Neshu, widow n/e Abdul Hussain 23/B, type-II
OS-II, CCO/MLG Rly Qr. No.
 Type II at Central Gotanagar, MLG

WHEREAS I, the undersigned am of opinion, on the reasons recorded below, that you are in unauthorised occupation of Public Premises specified in the schedule below:-

REASONS.

The case was heard ex.parte on date. Previously Notice u/s 4(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, was issued to the Opp. Party to show cause as to why an order of eviction should not be passed against him for unauthorised occupation of Railway Quarter under the provision of the said Act. Despite receipt of show cause Notice the Opp. Party did neither turn up for hearing nor submit any documentary evidence in support of his claim on the subject Rly. Quarter.

On perusal of the petition submitted by the petitioner - Rly. I am of the view that the Opp. Party is an Unauthorised Occupant of the Rly Qr. in question and hence, he is liable to be evicted from this "Public Premises" as per P.P. Act, 1971.

Ex.Party order is hereby passed for vacation of the said Rly Qr. by the Opp. Party.

Now, therefore, in exercise of the powers conferred on me u/s 5(i) of the Public Premises-(Eviction of Unauthorised Occupants) Act, 1971, I do hereby order you and all persons who may be in occupation of the said premises or any party thereof to vacate the said premises within 15 days from the date of receipt of this order. In the event of refusal or failure to comply with the order within the period specified above, you and all other persons concerned are liable to be evicted from the said premises, if need be by use of such force as may be necessary.

SCHEDULE.

Rly Qr. No. 23/B Type II at Central Gotanagar.

under P.S. Jalukbari Dist. Kamrup and bounded by :-

North: Resing Land South:

East : West :

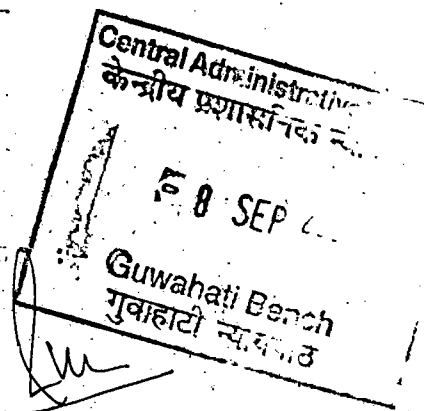
Copy forwarded for information and necessary action to

1. Sr.DEN/MLG. (2) CE/MLG. (3) CSC/MLG.

Date: 7/12/07

Estate Officer,
N.F. Railway/Maligaon.

Attested
Kumar Manoranjan Haloi
 Advocate
 08/09/09



NF Railway

No.: EO/MLG/G - 14/ Pt. - IV

Court of the
Estate Officer, NF Railway
Maligaon.

To,

Sr. DEN/MLG.

IN THE MATTER OF

Eviction of Rly. Qr. No. 23/B, Type - II at Central Gotanagar
by MOSUMAN NESHA

AND

IN THE MATTER OF

Eviction Case No.: EO/MLG/QR/47/2007.

Apropos to the captioned subject Mosuman Neshā widow mother of Abdul Hussain, retired OS/II under CCO/MLG had occupied the aforesaid Quarter unauthorized since 05-12-07 after expiry of permissible period on & from 05-12-07.

The said Qrs. is still under occupation of his family members in spite of Final order passed under Sec. 5(1) of P.P. Act. 1971 against them.

IPSO FACTO, water & Electric current was disconnected but illegally took electric and water connection from their own. It is a serious offence.

The undersigned is requested to evict the unauthorized occupant from the said Quarter immediately if so required, may do so forcibly under Sec. 5 (ii) of P.P. Act. 1971.

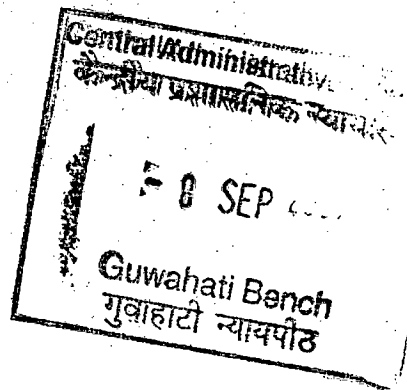
Contd. 2.

Attested

Kumar Manojan Haloi

Advocate

08/09/09

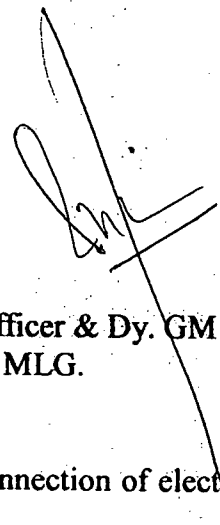


-14-

(2)

The action taken in the matter may please be intimated to the undersigned.

This may please be treated as MOST URGENT.


Estate officer & Dy. GM (G)
NF Rly. MLG.

Copy to:-

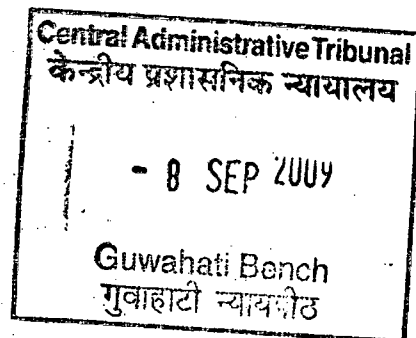
(i) ADEE/MLG. - He is requested to take action for disconnection of electrical connection in the manner deem fit & proper.

(ii) SSE/W/Hd. Qr. :-

He is requested to take similar action in respect of disconnection of water connection immediately

(iii) CSC/MLG - For information and kind action please.

Date: 24th July 08.



Estate officer & Dy. GM (G)
NF Rly, MLG



NORTHEAST FRONTIER RAILWAY

OFFICE OF THE CHIEF SECURITY COMMISSIONER
MALIGAON, GUWAHATI-781011

Phone : 2676020 FAX: 0361-2570376

August 11, 2008

No. P/57/A/CB/PI-IV

To,
Estate Officer & DGM (G)
N.F. Railway, Maligaon.

Sub: In the matter of eviction of Railway Qrs. No. 23/R Type-II
at Central Gotanagar by Mosuman Nesha and in the
matter of eviction.

Ref: Your office letter No. PO/MLG/G-14/PI-IV dated 25.07.08.

With reference to your letter No. cit-d'above, the necessary assistance will be rendered
by deputing RPF staff as and when eviction is fixed. As such it is requested for giving prior
instruction to detail staff for the same.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
- 8 SEP 2007
Guwahati Bench
গুৱাহাটী বেঞ্চ

for Chief Security Commissioner
N. F. Railway: Maligaon.

Copy for kind information and necessary action to:

- 1) Sr. DEN/MLG
- 2) IPE/MLG (P), IR-Coy/MLG and ENO-II-Coy/MLG. (Copies enclosed for necessary
action to provide adequate manpower for rendering necessary assistance).

for Chief Security Commissioner
N. F. Railway: Maligaon.

Attested
Kumar Nanoranjana Haloi
Advocate
08/09/09

CLD/ESH

5/6

BEFORE THE COURT OF ESTATE OFFICER, N.F. RAILWAY, MALIGAON

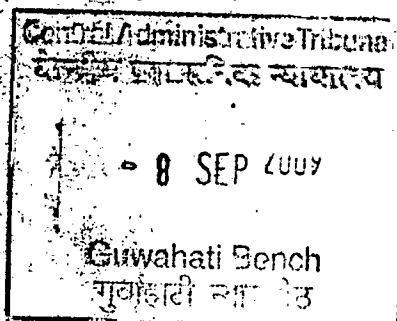
Sub:- Vacation of Railway Quarter No. 23 B Central Gotanagar.

Sir,

Most respectfully, I beg to state as follows:-

1. That I was allotted Type-II quarter No. 23 B Central Gotanagar, Maligaon Vide copy of allotment Order No. Z/34/4 Pt. XIII/356 dated 21/7/70 (copy enclosed).
2. That I have retired from service w.e.f. 5.4.07.
3. That I am trying to vacate the said quarters for handing over to the authorities but my dependent widowed mother is recalcitrant and not amenable to leave the quarters and regardless of my objections that she is still living therein.
4. That I am unable to vacate the quarters in this circumstances and request you kindly to arrange steps to have the quarters vacated and take over it for the Deptt. so that I can be cleared of any liability towards occupation of the said quarters any further.

And for this act of your discretion and judicious action I would ever pray.



Abdul Hussain

(Abdul Hssain)
Ex- OS-II
Office of the
Chief Claims Officer,
Maligaon, N.F. Railway.

Copy to:-

Chairman Housing Committee & DGM/(G), N.F. Railway, Maligaon for information and necessary action please.

*CLA/Estate
Pl. process the case*

*[Signature]
27/09*

*The qtr. may be
allotted to someone
else as per priority.*

*Attested
Kumar Manoranjan Haloi*

*Advocate
08/09/09*

To,
The Dy. General Manager (G),
N.F. Railway, Maligaon
Guwahati-781011

Sub:- Application for showing a compassionate view for an extended period until the arrangement of alternative measure.

Sir,

Most respectfully, I would like to lay a few lines for your kind consideration and necessary action please.

That sir, Myself, Mrs. Masuman Nessa, a widow of Late Abdul Hamid ex-employee of N.F. Railway. On the premature of demise of my husband, my eldest son Abdul Hussain got appointed in the compassionate ground. Since then we have been residing in Qrs. No. 23/B (Type-II), Central Gotanagar, the same quarter we had been residing before my husband demise. My son, Abdul Hussain got his retirement 31st March, 2006 and he has been residing in his own house at Madhab Dev Nagar, Near No. 2 Masjid Boragaon Guwahati, Dist- Kamrup (Assam). But he is reluctant to provide me and my one Un-married daughter and another divorced daughter.

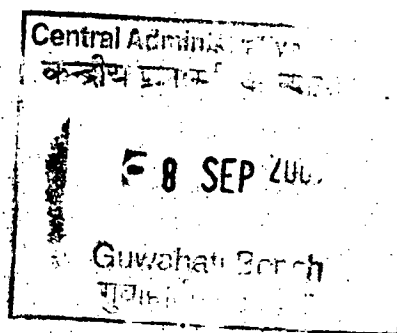
Moreover I would like to inform that the gratuity amount of my Son, Abdul Hussain is still with railway and is not released as yet.

In view of the above, I would like to request you to be kindhearted on our behalf so that we may either be allowed by the railway administration to stay in the same quarter until the due amount of gratuity is finished as penal or damage rent or may be released if he takes considerate step for our rehabilitation.

So, most fervently, I would like to request your good office to go through the matter with a compassionate heart so that we get a little more time for our dwelling. It will be a great cause to humanity, in granting a compassionate look into the matter.

Yours sincerely,

(Msmt. Masuman Nessa)
Qrs. No. 23/B, Central Gotanagar,
Maligaon, Guwahati-781011



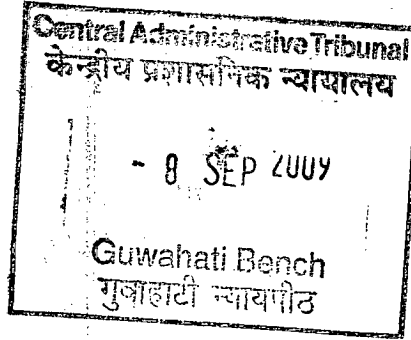
Attested
Kumar Manoranjan Haloi
Advocate

08/09/09

ADGM
U. consider
the
application

The original
is available
or otherwise
discuss with K. Guon

To,
The General Manager,
N.F. Railway,
Maligaon.



dt 12.11.08.

Respected Sir,

Sub:- Eviction of Railway Qr. No. 23/B, Type- II at Central Gotanagar.

I would like to approach you, with some humble request:-

1. That Sir, I am a retired employee and retired from service on 05/04/07 as OS – II from CCO/MLG.
2. That Sir, I was allotted Railway Qr. No. 23/B, Type-II at Central Gotanagar vide allotment order No. 2/314/4 Pt. XIII/356 dated ^{21/7/20} 21/07/07 after the demise of my father. After retirement from my service, I shifted my family to my own house at Madhab Nagar, near 2 no. Majid at Boragaon, Guwahati, Assam. But, my mother Smt. Masuman Nessa along with my brother is not willing to leave the said quarter and hence since 05/04/07 to 04/08/07 normal rent was realized and from 05/08/07 to 04/12/07 double of the assessed rent was realized.
3. That Sir, through I want to vacate and hand over the quarter since 05/04/07 to the Railway Administration, my mother and brother with the connivance with the Railway Authority tried to finish my gratuity money and finish my family by not handing over the Railway quarter to the authority.
4. That Sir, an eviction order was passed in eviction case no EO/MLG/QR/47/2007 under letter no. EO/MLG/G – 14/Pt. IV dated 24/07/08 which is lying without any action. Further, the Chief Security Commissioner vide letter no. P/57/A/GB/Pt. IV dated 11/08/08 requested the Estate Officer for fixing a date for eviction, but the Estate Officer remain silent since August/2008 till date.
5. That Sir, in this regard again I requested, respected Dy. GM (G) on 27/10/08 to evict the quarter and do needful so that I can get relief from penal rent and

Contd.....P/2

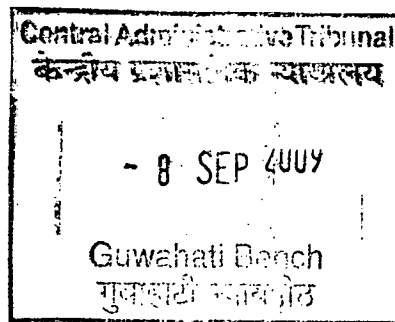
Attested
Kumar Ranarajan Haloi
Advocate
08/09/09

11211

mental agony. But the Estate Officer with the connivance with the other party delayed the matter and pushed me into distress.

Therefore, it is my humble request to look into the matter and do justice. If the administration fails to take immediate action within 10 days, I shall take the necessary steps as per provision of law.

Thanking you,



Yours faithfully,

Abdul Hussain

(Abdul Hussain)
Vill- Madhabdev Nagar,
Near Gosala
P.O.- Devkota Nagar
Guwahati - 781011
Dist.- Kamrup, Assam

Copy to:-

1. The Sr. Dy. General Manager/CVO
N.F. Railway, for information and necessary
action please.
2. The Dy. GM (G), N.F. Railway, MLG for
information and necessary action please.
3. The Estate Officer, N. F. Railway for
information.

o/c
Received for letter
Bach in
12/11/09

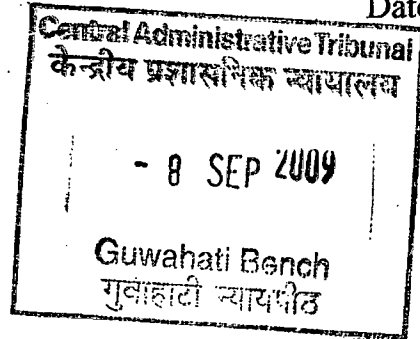
(Abdul Hussain)
Vill- Madhabdev Nagar,
Near Gosala
P.O.- Devkota Nagar
Guwahati - 781011
Dist.- Kamrup, Assam

REMINDER

To,

The Deputy General Manager/
N.F. Railway,
Maligaon.

Respected Sir,



Sub: - Eviction of Railway Qr. No. 23/B, Type-II at Central Gotanagar.

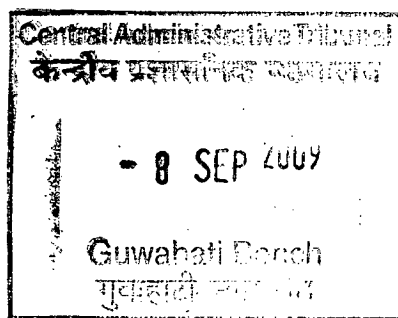
I would like to approach you, with some humble request and kind action please: -

1. That Sir, I am a retired employee and retired from service on 05/04/07 as OS - II from CCO/MLG.
2. That Sir, I was allotted Railway Qr. No. 23/B, Type-II at Central Gotanagar vide allotment order No. 2/314/4 Pt. XIII/356 dated 21/07/1970 after the demise of my father. After retirement from my service, I shifted my family to my own house at Madhab Dev Nagar, near 2 no. Majid at Boragaon, Guwahati, Assam. But, my mother Smt. Masuman Nessa along with my brother is not willing to leave the said quarter and hence since 05/04/07 to 04/08/07 normal rent was realized and from 05/08/07 to 04/12/07 double of the assessed rent was realized.
3. That Sir, through I want to vacate and hand over the quarter since 05/04/07 to the Railway Administration, my mother and brother with the connivance with the Railway Authority tried to finish my gratuity money and finish my family by not handing over the Railway quarter to the authority. As a result penal rent was realized by Railway quarter to the authority since 05/12/07 till date.
4. That Sir, an eviction order was passed in eviction case no. EO/MLG/QR/47/2007 under letter no. EO/MLG/G - 14/Pt. IV dated 24/07/08 which is lying without any action till date. Further, the Chief Security Commissioner vide letter no. P/57/A/GB/Pt. IV dated 11/08/08 requested the Estate Officer for fixing a date for eviction, but the Estate Officer remain silent since August/2008 till date.

Attested

Kumar Manoranjan Haloi
Advocate
08/09/09

- 21-
5. That Sir, in this regard I requested, respected Dy. GM (G) on 27/10/08 to evict the quarter and do needful so that I can get relief from penal rent and mental agony. But the Estate Officer with the convenience with the other party delayed the matter and pushed me into distress.
6. That Sir, there was loan from CCS/Kolkata for Rs. 86000/- which will be realized from the Gratuity of me. If the Gratuity amount is exhausted in the penal rent I and my family will be faced a lot of hardship. Further my mother and my brother were requested to come and leave with me, but they are playing foul trick and wanted to finish all my earnings. Therefore, it is my humble request to look into the matter and do justice by clearing the Railway Quarter as early as possible from the unauthorise possession of the occupants. Hope that this piece of letter will give me relief and I am also waiting for your kind favour on the above eviction matter with sincere thanks.



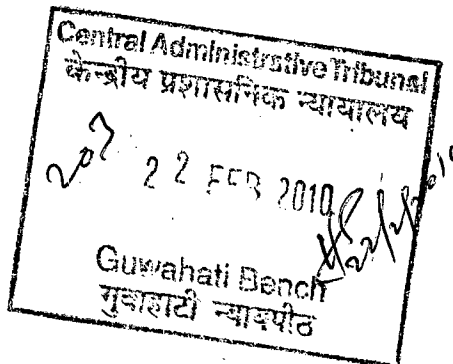
Yours faithfully,

Abdul Hussain

(Abdul Hussain)
Vill - Madhabdev Nagar,
Near Goshala,
P.O. - Devkota Nagar,
Guwahati - 781011
Dist. - Kamrup, Assam.

— 22 —

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI.



O. A. No. 178/2009

Shri Abdul Hussain

Vs.

Union of India & Ors.

(Written statement of respondents)

The respondents respectfully beg to state
as under :

1. That, Md. Abdul Hussain, a retired employee was working as OS/II in CCO/MLG's office. He was appointed on compassionate ground. After his appointment the Rly. Qtr. No. 23/B, Type-II at Central Gotanagar was allotted to him and he has occupied the said Qtr. And living there. He was retired compulsorily from Railway Service w.e.f. 05.04.07 due to punishment. He has taken permission to retain the Rly. Qtr. for next 8 months. Accordingly his permissible period has already been expired on 4.12.07. Accordingly he has to handover/vacate the Qtr. on 4.12.07 he did not vacate and continuing to keep the Quarter in occupation.

Rent of Rly. Qtr. after retirement are deductible from DCRG upto the date of vacation of the Quarter by handing over to Railways.

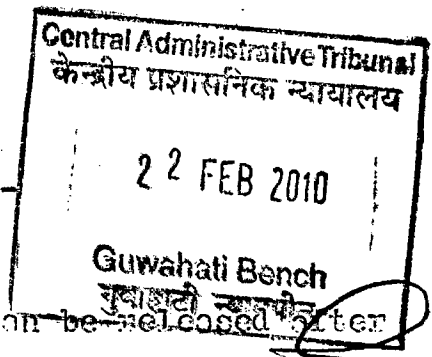
Contd....2

ANVITA SINHA
Dy. Chief Personnel Officer
N.F. Railway, Maligaon, Ghy-11

Anvita Sinha
19/1/10

A copy of the
OA. ws. has
already been
submitted to
the counsel for the
Applicant
on 22/2/2010

-: 2 :-



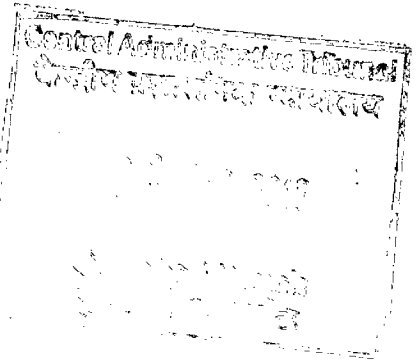
The gratuity amount can be released after getting all clearances including vacation of Railway Quarter otherwise the gratuity is kept withheld. The rent of the Quarter upto the period of occupation is required to be recovered from DCRG amount.

Md. A. Hussain has occupying the Quarter which was taken over by him but he has not vacated and handed over the Quarter to the administration after permissible period for which his gratuity amount has not yet been released. The same will be released after getting vacation report from the respective SSE (Works) concerned.

2. That, in the circumstances the O.A. deserves to be dismissed with cost.

ANVITA SINHA
Dy. Chief Personnel Officer
N.F. Railway, Maligaon, Ghy-11
Anvita Sinha

V E R I F I C A T I O N.

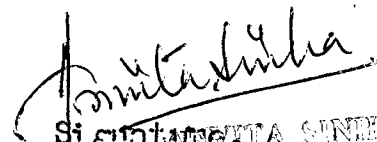


I, ~~Smt~~ ^{Smt} ANNITA SINHA....., ^{wife} ~~son~~ of
...Shreedep Sinha....., aged about 33....
years presently working as ..Dy. Secy./M.P.P.....
N. F. Railway Maligaon do hereby verify that statements
made in para 1 & 2 are true to my knowledge and belief
and I have been authorised by Respondent No. 1 to
sign this verification on his behalf, which I do
accordingly. I have not suppressed any material facts.

AND I sign this verification on this 19th
day of February, 2010 at Guwahati.

Date : 19.2.10

Place : Maligaon.


Signature: ANITA SINHA
Dy. Chief Personnel Officer
N.F. Railway Maligaon. Guwahati