

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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PS 03/6/2015
SECTION OFFICER (JUDL.)

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

1. ORIGINAL APPLICATION No : 187 / 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
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5. Review Application No : -----/2009 in O.A. No.-----
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Applicant (S) : Sri Pradip Kumar Sinks

Respondent (S) : Union of Indis nps

Advocate for the : Mr. P. Bhowmick
{Applicant (S)} Mr. N. Goswami

Advocate for the : Mrs. Bhawati Devi
{Respondent (S)} Rly.

Notes of the Registry	Date	Order of the Tribunal
<p>The application is in form is filed for Rs. 50/- deposited vide IPO/ED No. <u>399 423985</u> Dated <u>14.9.09</u></p> <p><u>15.9.09</u> Dy. Registrar <u>15/9/09</u></p> <p><u>15.9.09</u> 5 (Five) copies of Application with envelope received from issue notices to the Respondents No 1 to 5. Copy served.</p> <p><u>15/9/09</u></p>	<p>16.09.2009</p>	<p>Heard Mr. P.Bhowmick, learned counsel for the Applicant and Mr.S.N.Tamuli, learned counsel represented on behalf of Dr.J.L.Sarkar, learned Standing counsel for the Railways.</p> <p>While, the Applicant was posted as Assistant Vigilance Officer (Electrical), N.F.Railway H.Q.Maligaon, Guwahati, an Air Conditioner machine was found to be installed in the office chamber of the N. F. Railway, H.Q., Maligaon, Guwahati.</p> <p>It is pertinent to note that the Applicant was an Assistant Grade</p> <p style="text-align: right;">Contd/-</p>

16.09.2009

Officer. As per Railway Board Circular No. 2002/ Elect(G)/ 115/1 dated 19.07.2005, Air Conditioners could only to be provided in the rooms of the Branch Officers. (Junior Administrative Grade and above). It was submitted by the learned counsel that the A. C. Machine was already fitted in the room when Applicant occupied that room. He did never ask for Air Conditioner.

Respondent No.4, directed the recovery of Air Conditioner machine rental plus power consumption charges of Rs.54,598.00 from the salary of the Applicant in 12 install^ments. No opportunity of being heard was provided to the Applicant. The learned counsel for the Applicant stated that without any enquiry, the department can not pass any order for recovery.

In the aforesaid premises, a prima facie case having been found in favour of the Applicant. I Admit this case. Notices be issued to the Respondents requiring them to file their reply/written statement/counter to this case by 04.11.2009. As an ad interim measure, I direct the Respondents not to proceed with the recovery of this amount of Rs. 54,598/- and to keep that demand in abeyance till the disposal of this case.

While passing this ad interim order I grant liberty to the Respondents to move an application for modification/alteration of interim order before the date fixed.

Send copies of this order to the Respondents by Speed post at the cost of

Contd/-

O.A. 189 of 2009

Contd/-

16.09.2009

the Applicant and the learned counsel for the Applicant undertakes to deposit the cost of postages, in course of the day.

Free copies of this order be also supplied to the learned counsel appearing for both the parties.

(M.K. Chaturvedi)
Member(A)

/lm/

04.11.2009

Shri N.Goswami, learned counsel for Applicant is present. Smt. Bharati Devi, learned counsel for Railways states reply would be filed during course of the day. Adjourned for two weeks. In the meantime, rejoinder may be filed.

List on 17.11.2009. Interim order will continue till next date.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

17.11.2009

Learned counsel states that applicant has proceeded to attend training course till 15th of January, 2010. Therefore, he seeks some time to file rejoinder.

Accordingly, list on 22nd January, 2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

Copies of notices along with order dated 16/9/2009 send to D/Sec. for issuing to the respondents by speed post, A/D at the cost of applicant.

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

18/9/09.
TF/No-11381 to 11385
D/- 18-9-2009

21/11/09

R
18/9/09
For Dr. J.L. Sankar
S.C. Railways.

O.A. 189/09

① Service report
awaited.

22.01.2010

Learned proxy counsel for
respondents prays for adjournment.

List on 29.1.2010.

3.11.09

5.11.09
N/S filed by the
Respondents through
Mrs. B. Devi Rly.
Counsel copy
served. /pg/

8/9/10

29.01.2010

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

M.A. No.133/2009 has been filed by
the Respondents seeking vacation of stay
order dated 16.09.2009. We notice that
pleadings are complete and this matter
should be heard finally.

In the circumstance, we are of the
opinion that there is no necessity to vacate
the interim order at this stage. Thus, M.P.
133/2009 stands disposed of.

M.A. No.118/2009 has been filed by
Respondents seeking deletion of Respondent
No.1 from the array of parties on the ground
that no relief is claimed against said
Respondent.

On examination of the matter we find
that relief claimed by Applicant, namely,
recovery of certain amount is not against
said Respondent but against Respondent
Nos.2 to 5. Therefore, there is no necessity to
continue with Respondent No.1 on record.

In the circumstances M.A. No.118/2009
is allowed and Respondent No.1 is deleted
from the array of parties.

On the request of proxy counsel for
Respondents, list on 17.02.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

Notice duly served
on R. No.135

01.12.09

NO rejoinder
filed

21.1.2010

22.1.2010

Rejoinder filed
in the Court copy
served.

8/2/10

The case is ready.

28.1.2010

O.A. No.189 of 2009

17.02.2010 Sri N.Goswami, learned counsel for applicant states that he has taken consent of Mrs. Bharati Devi, learned Railway Standing Counsel, for adjournment.

Accordingly list on 08th March 2010.

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

/PB/

08.03.2010 Proxy counsel for Ms B.Devi states that the counsel is unwell and prays for adjournment.

List on 17.3.2010.

(Mukesh Kr. Gupta)
Member (J)

/pg/

17.03.2010 Mr P. Bhowmick, learned counsel for applicant and Mrs B. Devi, learned counsel for the respondents are present. On the prayer of learned counsel for applicant adjourned to 23.03.2010.

(Madan Kumar Chaturvedi)
Member (A)

nkrn

23.03.2010 Ms.B.Devi, learned counsel for the Railways is directed to find out ^{that} under what circumstances, Air Conditioner machine, ~~was~~ fitted in the room of applicant was replaced on 03.05.2006 and whether applicant had made a request for the same. Reply should be filed within two weeks.

List for hearing on 07.04.2010.

(Madan Kr. Chaturvedi)
Member (A)

/bb/

The case is ready
for hearing.

16.3.2010

The case is ready
for hearing.

22.3.2010

The case is ready
for hearing.

06.4.2010

17.04.2010

O.A. 189/2009

for applicant states that he has taken

consent of Mrs. Bhatia, learned

for Railway

adjustment

Accordingly list on 08 March

07.04.2010

Heard Mr P.Bhowmick, learned counsel for the applicant and Ms. B. Devi, learned counsel for the respondents. Hearing concluded.

For the reasons recorded separately O.A. is disposed of.

23-4-2010

Judgment/Final order

dated 23-4-2010 (Bhatia)

and sent to the D/Secy

for issuing to respondents /pg/

by Post vide

No 925 to 929

dated 26-4-2010

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

Ms. B. Devi, learned counsel for the Railways is directed to find out under what circumstances Air Conditioner machine was fitted in the room of applicant was replaced on 03.02.2006 and whether applicant had made a request for the same. Reply should be filed within two weeks.

List for hearing on 07.04.2010.

(Madan Kr. Chaturvedi)
Member (A)

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 189 of 2009.

DATE OF DECISION: 07 -04-2010.

Shri Pradip Kumar Sinha

.....Applicant/s

Mr P. Bhowmick

.....Advocates for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Ms B. Devi, Railway counsel


.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)

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


Member (J)/Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :

O.A. Nos.189 of 2009.

DATE OF DECISION : THIS THE 7th DAY OF APRIL, 2010.

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

Shri Pradip Kumar Sinha,
S/o Shri Priya Lal Sinha
District Electrical Engineer,
New Bongaigaon Workshop,
N.F.Railway
New Bongaigaon – 783 381.
District Bongaigaon, Assam

.....Applicant

By Advocate Mr P. Bhowmick

- Versus -

1. Union of India,
represented by the Chairman,
Railway Board, Rail Bhawan,
New Delhi – 110001.
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati – 781 011.
3. Shri Ranajit Mitra,
Chief Electrical Engineer,
N.F.railway, Maligaon,
Guwahati – 781011.
4. The Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati – 781 011.
5. Shri Pradip Kumar Singh,
Dy. Chief Personnel Officer (Gaz.)
N.F.Railway, Maligaon,
Guwahati – 781 011.

.....Respondents

By Advocate Ms B. Devi, Railway counsel.



ORDER (ORAL)

MR MUKESH KUMAR GUPTA, MEMBER (J)

Communication dated 12.6.2009 (Annexure-2) requiring recovery of Rs.54,598/- towards realization of rental charges & electric power consumption charges on account of running of Air-conditioning machine is questioned in present O.A. The applicant seeks direction to respondents not to make recovery of aforesaid amount.

2. The contention raised by applicant is that said Air Conditioning machine had been installed prior in time he took over charge of post in question, which has been denied by the respondents stating that it was installed on 3.5.2006, which fact is also supported by statements made by Shri Dipak Chandra Das, SSE, Shri Samiran Biswas, SSE and Shri Jogeswar Prashad, AC Fitter Gr.II placed on record as Annexure-C series by the respondents. The basic dispute which needs consideration is whether it is the applicant who required the respondents official to install air conditioning machine in his room or there already existed AC in his room on 17.4.2006, when he assumed the charge of post in question.

3. We have heard Mr P. Bhowmick, learned counsel appearing for the applicant, Ms B.Devi, learned counsel appearing for the respondents & perused the material placed on records. On examination of the matter, we find that no proper enquiry had been conducted by the respondents before making recovery, except to take evidence of three officials, which would establish that AC machine was fitted therein only on 3.5.2006. On bare perusal of said statements it is



clearly established that no proper enquiry was made by affording adequate opportunity of hearing to the applicant. Enquiry had been undertaken behind his back which do not satisfy the principles of natural justice.

4. In the circumstances, we quash and set aside the order dated 12.6.2009 and remand the matter back to competent authority to hold a proper enquiry into the entire episode i.e. installation of AC machine in the concerned room of applicant i.e. whether it was installed on 3.5.2006 or it existed prior to date of holding & assuming charge of the post. The applicant will be afforded an opportunity to cross examine the aforesaid officials to establish the entire episode and thereafter the respondents would be at liberty to regulate their claim. Aforesaid exercise should be carried out as expeditiously as possible but not later than 4 months from the date of receipt of this order.

O.A stands disposed of. No costs.



(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER



(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH: : GUWAHATI

M.P. No. Of 2010
In
O .A. NO. 189 of 2009

Sri Pradip Kumar Sinha

Applicant

-Vs-

Union of India & others.

Respondents.

AFFIDAVIT

I, Subbarh Chandra, Son of Smt. Ramerh Lal, aged about 3.6... years, Occupation - Railway servant, resident of 462 - Nambani Maligaon do hereby solemnly declare as follows :-

1. That presently, I am working as Dy. Chief Electrical Engineer and as such I am well acquainted with all the facts and circumstances of the case.
2. That it is the admitted fact of the applicant that the applicant was an Assistant Grade Officer and as per Railway Board letter dated 19.7.05 the air conditioners were to be provided in the rooms of Branch Officers (Junior Administrative Grade and above).
3. That during the course of enquiry the predecessor of the applicant (Sri S.Bhattacharjee) in his letter dated 9.09.09 it was categorically stated that there was no Air Conditioning machine in the Chamber of AVO/Elect/MLG during his tenure. The successor of the applicant Sri B.C.Das by his letter dated 16.06.09 requested the SE/AC/MLG to remove the A/C (window type RAC) installed in his chamber(AVO/Elect/MLG) vide annexure- B of the W/S.

A copy of the letter of Sri S. Bhattacharjee is enclosed herewith and marked as Annexure- I

Filed by
Charan Deb
f/A, Guwahati
7/4/10

Subbarh Chandra
উপ মূল্য বিজ্ঞানী ই.জি.বি.এল.
Dy. Chief Electrical Engineer/T.L.
প.সি. রেলওয়ে, মালিগাঁও

4. That the deponent begs to state that the applicant though did not place any formal order of requisition of the said A/C he misused his official capacity by influencing the Construction staff to get the AC machine installed in his chamber as he is the common Vigilance Officer for both Open Line and Construction.

5. That it may be mentioned herein that A/C machine (Window type RAC) can be fitted only against the existing permanent hole in the wall. And there is no system of getting the signature of any officer in the demand note when any A/C machine is installed in his chamber.

6. That the deponent further begs to state that the Chief Electrical Engineer/MLG is having a lot of responsibilities and generally he has no occasion to check the Chambers of each and every Officer until and unless the matter is brought to his knowledge.

7. That the statements made in paragraphs 1,2,3,4 & 5 are true to my knowledge and belief and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this affidavit on this 7 th day of April, 2010 at Guwahati.

Subhash Chandra

Deponent
उप मुख्य बिजली इंजीनियर/टो.एल.
Dy. Chief Electrical Engineer/T.L.
पू. सो. रलवे, मालिगाँव
N. F. Rly. Maligaon

Annexure - (1)

SN-19

N.F.RAILWAY

Confidential

No. Nil

Dt.9.09.09


To
Shri S.Chandra
Dy.CEE/TL/HQ

Sub:- Enquiry in connection with use of Air Conditioner
by Shri P.K.Sinha, AVO/Elect/MLG(now DEE/NBQS)
in his office chamber.

Ref:- Your letter No. EL/CON/5/Pt.II dt. 9.9.09.

Reference above, the remark of the under signed are furnished
below:-

1. My tenure as AVO/Elect/Maligaon was from 3.1.2000 to 15.4.2006.
2. There was no AC machine in the chamber of AVO/Elect/MLG during my tenure.


(S.Bhattacharjee)
Efficiency Officer
Maligaon

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

ORIGINAL APPLICATION NO. 187 /2009

Shri Pradip Kumar Sinha ...

-Versus-

Union of India & others ...

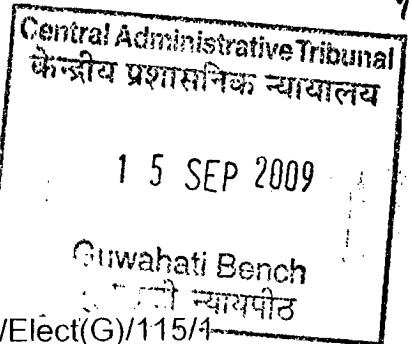
Applicant

Respondents

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
15 SEP 2009
Guwahati Bench गुवाहाटी न्यायपीठ

SYNOPSIS

An application under Section 14 of the Administrative Tribunal Act, 1985 filed by the Applicant being aggrieved by the Order No. EL/CON/5/Pt.II/54 dated 12.6.09 issued by Shri Ranajit Mitra, Chief Electrical Engineer, N.F.Railway, Maligaon (Respondent No.3) directing realization of rental charges and electrical power consumption charges amounting to Rs.54,598.00 (Rupees Fifty Four Thousand Five Hundred Ninety Eight) only on account of running of Air Conditioning machine in the chamber of the applicant while he was discharging duties as Assistant Vigilance Officer (Electrical) in N.F.Railway H.Q., Maligaon, Guwahati-781011 for the period from 17.4.06 to 9.6.09. The impugned action being a minor penalty within the meaning of Rule 6(1)(iii) of the Railway Servants (Discipline and Appeal) Rules, 1968, the procedure prescribed under Rule 11 of the said Rules ought to have been followed before directing such recovery and also in view of the fact that as per the Railway Board Vigilance Circular dated 12.5.06 (Annexure-5), the applicant will be deemed to be under the purview of the Chief Vigilance Commissioner for the purpose of discipline for a period of 5 years from the date of reversion from the Vigilance Department i.e. 9.6.09. As such, prior sanction of the Chief Vigilance Commissioner ought to have been obtained before issuing any such recovery order. Such sanction having not been obtained, the applicant has been constrained to approach this Hon'ble Tribunal against the high handed action of the Respondent No.3 i.e. Shri Ranajit Mitra, Chief Electrical Engineer, N.F.Railway, Maligaon with the active connivance of Shri Pradip Kumar Singh, Deputy Chief Personnel Officer (Gaz.), N.F.Railway, Maligaon, Guwahati-781011.



LIST OF DATES

- 19.7.05 Annexure-1 Railway Board circular No.2002/Elect(G)/115/1-
whereby it has been intimated that Air Conditioners
were to be provided in the rooms of the Branch
Officers (Jr. Administrative Grade & above).
- 17.4.06 to
9.6.09 The applicant was discharging duties as Assistant
Vigilance Officer (Electrical) in the N.F.Railway H.Q.,
Maligaon, Guwahati-781011 on deputation. At that
time, Air Conditioner machine was found installed in
the office chamber of the applicant.
- 12.5.06 Annexure-5 Railway Board Vigilance Circular No. 2005/N-
1/CVC/18 whereby it was directed that all Vigilance
personnel will be deemed to be under the Chief
Vigilance Commission's purview for the purpose of
consultation in disciplinary matters. This is
irrespective of their grade. This cover will extend to a
period not less than 5 years from the date of reversion
from the Vigilance Department.
- 12.6.09 Annexure – 2 Respondent No.3 issued letter No.EL/CON/5/Pt.II/54
directing recovery of rental charges and electrical
power consumption charges amounting to
Rs.54,598.00 from the applicant's salary.
- 15.6.09 Annexure – 3 Vide order No.E/34/LPC-OUT/Bill (0), Respondent
No.4 issued Last Pay Certificate in favour of the
applicant on being transferred to New Bongaigaon
Railway Workshop as District Electrical Engineer

wherein it has been stated that in terms of Annexure-2 letter dated 12.6.09, Air Conditioner machine rental plus power consumption charges of Rs.54,598.00 would be recovered from the salary of the application in 12 instalments.

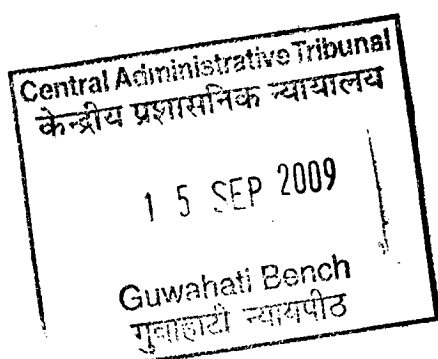
22.6.09 Annexure – 4 Representation filed by the Applicant praying for withdrawal of the order of recovery.

24.6.09 Annexure – 6 Representation filed by the applicant intimating the A.P.O., New Bongaigaon being the Bill preparing officer.

24.6.09 Annexure – 7 Letter No. EL/CON/5/Pt.II/64 issued by the Respondent No.3 forwarding a copy of the letter No. Z/Vig/Mis/2009 dated 16.6.09 filed by the next incumbent in the office of the applicant to the applicant. The Respondent No.3 intimates the applicant that Shri B.C.Das, the next incumbent in the office of the Assistant Vigilance Officer (Electrical) requested for removal of the Air Conditioner, but why similar action was not taken by the applicant.

13.7.09 Annexure – 8 Representation made by the applicant before the Respondent No.3 against Annexure-7 letter as the same got absolutely no bearing with the recovery sought to be made from the salary of the applicant.

10.9.09 Annexure – 9 Representation made by the applicant before the Chief Workshop Manager, N.F.Railway, New Bongaigaon requesting him not to give effect to the order of recovery in view of the telephonic request of the Respondent No.3 to the Chief Workshop Manager to effect the said recovery.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

ORIGINAL APPLICATION NO. 189/2009

Shri Pradip Kumar Sinha ... Applicant
 -Versus-
 Union of India & others ... Respondents

I N D E X

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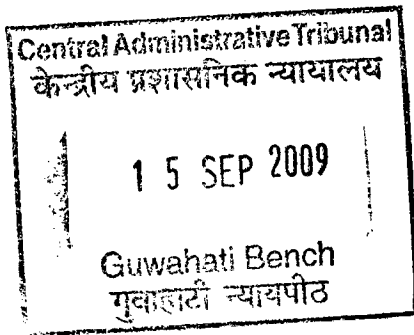
Filed by 35-
Applicant
Gyangan
Nabendu Ghosh
Advocate 14-9-09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

ORIGINAL APPLICATION NO. 189 /2009

Shri Pradip Kumar Sinha,
S/o Shri Priya Lal Sinha,
District Electrical Engineer,
New Bongaigaon Workshop,
N.F.Railway,
New Bongaigaon - 783 381,
District Bongaigaon, Assam.

... APPLICANT



- A N D -

1. Union of India,
Represented by the Chairman,
Railway Board, Rail Bhawan,
New Delhi - 110001.

Deleted vide
order dt. 20.1.10
passed in M.P.M.
118/09.
Dr.

2. The General Manager,
N.F.Railway, Maligaon,
Guwahati - 781 011.

3. Shri Ranajit Mitra,
Chief Electrical Engineer,
N.F.Railway, Maligaon,
Guwahati - 781 011.

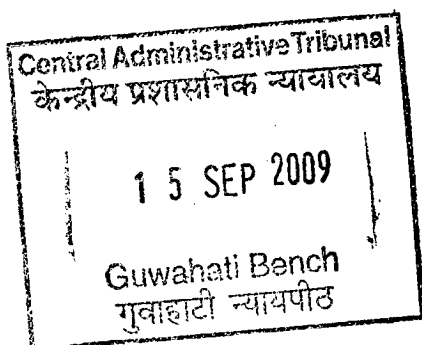
Pradip kumar Sinha

Contd...

- 2 -

4. The Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati - 781 011.

5. Shri Pradip Kumar Singh,
Dy. Chief Personnel Officer (Gaz.)
N.F.Railway, Maligaon,
Guwahati - 781 011.



... RESPONDENTS

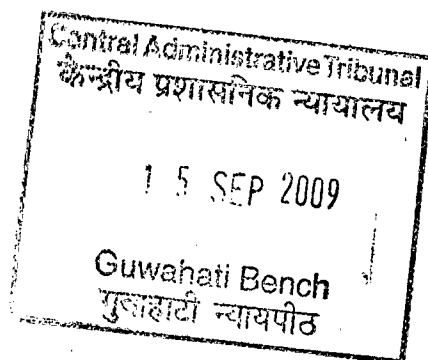
DETAILS OF THE APPLICATION :-

1. Particulars of the Order against which the application is made :

This Original Application is filed by the Applicant being aggrieved by the Order No. EL/CON/5/Pt.II/54 dated 12.6.09 issued by the Respondent No.3 directing realisation of rental charges and electrical power consumption charges amounting to Rs.54,598.00 (Rupees fiftyfour thousand five hundred ninety eight) only on account of running of Air Conditioner machine in the chamber of the Applicant while he was discharging duties as Assistant Vigilance Officer (Electrical) in N.F.Railway H.O., Maligaon, Guwahati-781 011 for the period from 17.4.06 to 9.6.09.

Pradip kumar Singh

Contd...



2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order against which he seeks redressal is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicant is a 1st Class Graduate in Electrical Engineering from the Assam Engineering College, Jalukbari, Guwahati having passed the same in the year 1984. The applicant joined service in N.F.Railway as the Senior Electrical Chargeman on 6.10.86. Thereafter, the applicant was promoted to Electrical Foreman in the year 1991. Thereafter, the applicant was promoted to the post of Senior Section Engineer in the year 1998. In November, 2003, the applicant was promoted as Assistant Electrical Engineer. Thereafter, the applicant was posted as Assistant Vigilance Officer (Electrical) in the year 2006

Pradip Kumar Sinha.

Contd....

- 4 -

and worked as such from 17.4.06 to 9.6.09. Thereafter, the applicant relinquished charge as Assistant Vigilance Officer (Electrical) and was transferred on promotion as District Electrical Engineer, N.F.Railway Workshop New Bongaigaon, N.F.Railway.

4.2 That while the applicant was posted as Assistant Vigilance Officer (Electrical), from the date of assumption of the said office, an Air Conditioner of 1.5 Ton capacity was found to be installed in his official chamber at the N.R.Railway H.Q., Maligaon, Guwahati. In this connection, it would be pertinent to mention that the applicant was an Assistant Grade Officer and as per Railway Board letter No. 2002/Elect(G)/115/1 dated 19.7.05, Air Conditioners were to be provided in the rooms of Branch Officers (Junior Administrative Grade and above). As such, strictly speaking, the official chamber of the Applicant ought not to have been installed with such Air Conditioner machine. But it is not the chamber of the Applicant alone which was fitted with such Air Conditioner machine. In fact, there are other chambers of Assistant Grade Officers like the chamber of the Assistant Vigilance Officer (Engineering) which is being manned by Sri Subrata Bose now, the chamber of Assistant Vigilance Officer

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Pradip Kumar Saha.

15 SEP 2009

Guwahati Bench
गुवाहाटी न्यायाधीश

- 5 -

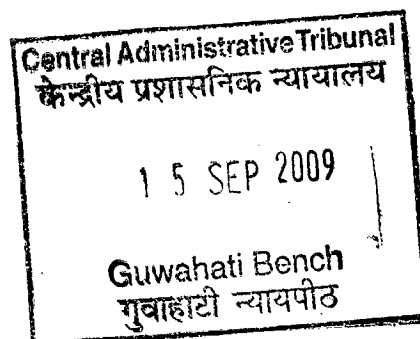
(Personnel) which post is being held by one Sri Narayan Mukherjee, the chamber of Senior Vigilance Officer (Traffic) which post is being held by Sri Dilip Kumar Bhowmick and the chamber of Vigilance Officer (Accounts) which post is being held by Sri Haren Kumar Das are also fitted with such Air Conditioner machines.

A copy of the aforesaid circular dated 19.7.05 is annexed hereto and marked as ANNEXURE - 1.

4.3 That the applicant states that after he had relinquished charge as Assistant Vigilance Officer (Electrical) and had joined in his new place of posting on promotion as District Electrical Engineer at New Bongaigaon Railway Workshop, he was shocked and surprised to come to know that the Respondent No.3 vide letter No.EL/CON/5 Pt.II/54 dated 12.6.09 was pleased to direct recovery of rental charges and electrical power consumption charges amounting to Rs.54,598.00 (Rupees Fifty Four Thousand Five Hundred Ninety Eight) only. It is interesting to note that the said letter is addressed to the Deputy Chief Personnel Officer (Gaz.), N.F.Railway, Maligaon, Guwahati without any intimation to the Applicant.

Pradip Kumar Sinha .

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A copy of the aforesaid letter dated 12.6.09 is annexed hereto and marked as ANNEXURE - 2.

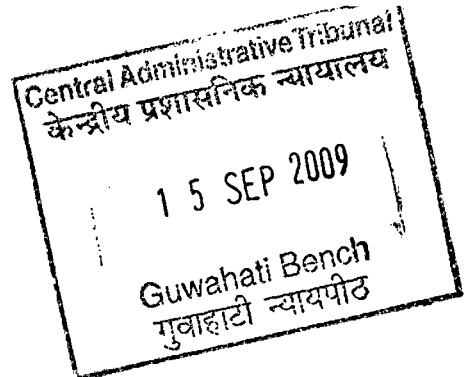
4.4 That thereafter, the office of the Respondent No.4 i.e. Chief Personnel Officer, N.F.Railway, Maligaon, Guwahati vide order No. E/34/LPC-OUT/Bill (O) dated 15.6.09 was pleased to issue the Last Pay Certificate in favour of the Applicant on being transferred to New Bongaigaon wherein it has been stated that in terms of Annexure-2 letter dated 12.6.09, Air Conditioner machine rental plus power consumption charge of Rs.54,598.00 would be recovered from the salary of the Applicant in 12 instalments.

A copy of the aforesaid order No. E/34/LPC-OUT/Bill (O) dated 15.6.09 is annexed hereto and marked as ANNEXURE - 3.

4.5 That on coming to know about such unauthorized and illegal recovery being made, the Applicant submitted a representation before the Respondent No.3 i.e. Chief Electrical Engineer, N.F.Railway, Maligaon on 22.6.09 whereby the Applicant prayed for withdrawal of the aforesaid

Pradip Kumar Sinha

Contd...



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order for recovery of Air Conditioner machine rental and charge for consumption of electrical power which is in violation of the principles of natural justice as well as relevant Service Rules. The order for such recovery being a minor penalty within the meaning of Rule 6(1)(iii) of the Railway Servants (Discipline and Appeal) Rules, 1968, the procedure prescribed for imposition of such penalty by Rule 11 of the said Rules has been violated.

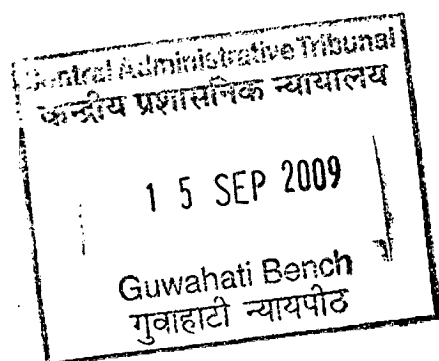
A copy of the aforesaid representation dated 22.6.09 is annexed hereto and marked as ANNEXURE - 4.

4.6 That in this connection, it would be relevant to state that as Railway Board Vigilance Circular No. 2005/N-1/CVC/18 dated 12.5.06, the Applicant will be deemed to be under the purview of the Central Vigilance Commission for the purpose of discipline for a period of five years from the date of reversion from the Vigilance Department, as such the prior consent of the Chief Vigilance Commissioner ought to have been obtained before issuing any such recovery order.

A copy of the aforesaid circular dated 12.5.06 is annexed hereto and marked as ANNEXURE - 5.

Pradip Kumar Sinha.

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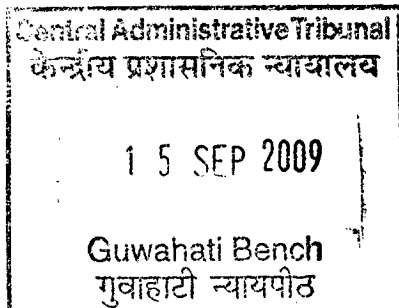


4.7 That immediately after receipt of the Last Pay Certificate dated 15.6.09 (Annexure-3 to this Application), the applicant vide letter dated 24.6.09 addressed to the A.P.O., New Bongaigaon being the Bill preparing Officer, intimated him that he was not the only Assistant Grade Officer in the Vigilance Department of the N.F.Railway using Air Conditioner in alleged violation of the Railway Board circular dated 19.7.05 referred to above. There were several other officers using such Air Conditioners and it is only the Applicant who has been singled out for unfair treatment. In this connection, it would be pertinent to mention that the said Air Conditioner was never installed at the request of the Applicant. In fact, the Air Conditioner existed on the date on which he assumed charge as Assistant Vigilance Officer (Electrical) i.e. 17.4.06. Therefore, the Applicant not being the instrumental in installation of the said Air Conditioner machine, the said recovery ought not to have been made from his salary in complete violation of the principles of natural justice and the extant rules.

A copy of the aforesaid representation dated 24.6.09 is annexed hereto and marked as ANNEXURE - 6.

Pradip Kumar Sinha

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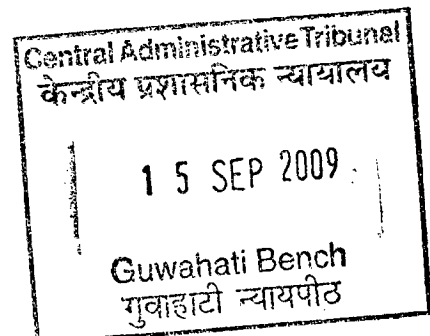
4.8 That thereafter, the applicant was further shocked and surprised to receive a letter No. EL/CON/5/Pt.II/64 dated 24.6.09 issued by the Respondent No.3 whereby the Respondent No.3 was pleased to inform that Sri B.C.Das, the next incumbent in the post of Assistant Vigilance Officer (Electrical) at Maligaon i.e. the post earlier held by the Applicant, on assumption of office, issued a letter to SE/AC/MLB vide his letter No. Z/Viq/Mis/2009 dated 16.6.09 requesting removal of the Air Conditioner machine and accordingly, the said Air Conditioner was removed. The applicant was asked to intimate why similar action was not taken by him while he held the said post.

A copy of the aforesaid letter dated 24.6.09 is annexed hereto and marked as ANNEXURE - 7.

4.9 That the applicant states that in view of the aforesaid letter dated 24.6.09, he immediately vide letter No. EL/PKS/DEE/NBQS/467 dated 13.7.09 intimated the Respondent No.3 the fact that Sri B.C.Das who is the next incumbent to the post earlier held by the Applicant as Assistant Vigilance Officer (Electrical) had requested for removal of the Air Conditioner existing in his

Pradip Kumar Sinha .

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chamber has got absolutely no bearing with the recovery sought to be made from the salary of the Applicant. As has been pointed out earlier, the Applicant was not at all instrumental in getting the Air Conditioner installed in the chamber of Assistant Vigilance Officer (Electrical) while he held the said post. In fact, the said Air Conditioner had already existed reportedly from a very long time. Since he had absolutely no hand in installation of the said Air Conditioner, it would be very unfair to order recovery of rental charge and electrical power consumption charge without issuing him any notice of any kind what so ever.

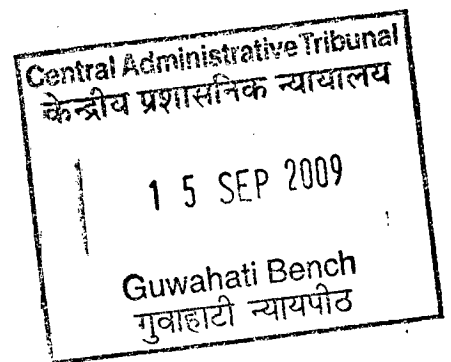
A copy of the aforesaid letter/representation dated 13.7.09 is annexed hereto and marked as ANNEXURE - B.

4.10 That in this connection, it would be relevant to mention that although vide letter dated 12.6.09 at Annexure-2 to this Application, the Respondent No. 3 had directed recovery of the said amount of Rs.54,598.00, the said recovery was not given effect to till August, 2009 due to reasons best know to the Respondents.

4.11 That in fact, the Applicant had been verbally intimated by the Chief Workshop Manager,

Pradip Kumar Sinha .

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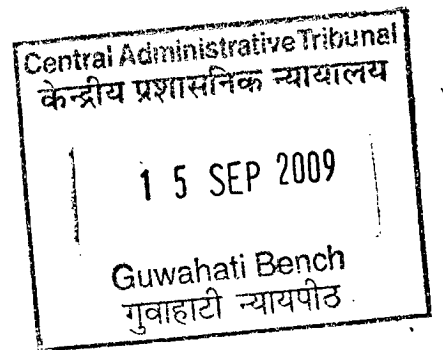
New Bongaigaon under whom he is discharging his duties now at New Bongaigaon that he has requested by the Respondent No.3 to give effect to the said recovery. As such, vide letter dated 10.9.09, the Applicant had requested the said Chief Workshop Manager, New Bongaigaon not to recover the said amount as the order for recovery had been passed in a whimsical manner in total violation of the principles of natural justice and the representation submitted by him for withdrawal of the said recovery order was pending before the Respondents as the same has not been disposed of till date.

A copy of the aforesaid representation dated 10.9.09 is annexed hereto and marked as ANNEXURE - 9.

4.12 That as such, from the facts and circumstances stated above, it is manifestly clear that the manner in which the Respondent No.3 i.e. Shri Ranajit Mitra had proceeded to recover the said amount from the salary of the Applicant in totally whimsical and arbitrary manner in complete violation of the principles of natural justice in as much as before the said recovery was given effect to, the Applicant was at least entitled to a notice as per the provisions of Rule 11 of the

Pradip Kumar Sinha .

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Railway Servant (Discipline and Appeal) Rules, 1968 and therefore, it is quite apparent that malafide intention is writ large in the impugned action of the Respondent No.3. The Respondent No.3 due to reasons best known to him had proceeded to harass the Applicant after he had relinquished charge as Assistant Vigilance Officer (Electrical) in violation of Railway Board Vigilance Circular dated 12.5.06.

4.13 That in this connection, it would be relevant to state that the Applicant has discharged duties as Assistant Vigilance Officer (Electrical) from 17.4.06 to 9.6.09 and while being posted as such, he in his official capacity had maintained a close watch on the activities of the Electrical Department of N.F.Railway at Maligaon, Guwahati which is being headed by the Respondent No.3. Therefore, it is quite natural that the Respondent No.3 had some grudge against the Applicant as he being an officer subordinate to him in the same Department while discharging duties as Assistant Vigilance Officer (Electrical) on deputation under the Chief Vigilance Officer, N.F.Railway, Maligaon was observing the activities of the Respondent No.3 and therefore, the Respondent No.3 in collusion with the Respondent No.5 being the Deputy Chief Personnel Officer had

Pradip kumar Sinha .

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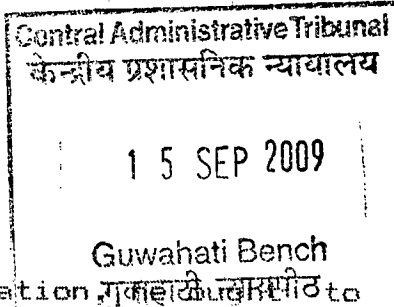
- 13 -

engineered issuance of the Last Pay Certificate dated 15.6.09 (at Annexure-3 to this Application) to be issued by the Senior Personnel Officer subordinate to the Respondent No.5 and has ordered recovery of the said amount of Rs.54,598.00 which is a minor penalty within the meaning of Railway Servants (Discipline and Appeal) Rules, 1968 and the Applicant ought to have been issued at least a show cause notice before the said recovery was sought to be made. Therefore, connivance of the Respondent no.5 through Shri P.K.Singh, Deputy Chief Personnel Officer is also apparent on the face of the record.

4.14 That in view of the facts and circumstances stated above, it can safely be inferred that the Respondent No.5 Shri P.K.Singh, being the Deputy Chief Personnel Officer (Gaz.) had also proceeded with a malafide intention in harassing the Applicant at the behest of the Respondent No.3 because he being a senior officer in the Railway Administration ought to have been considered whether it was permissible on the part of the Respondent No.3 to order recovery of the said amount from the salary of the Applicant in violation of the relevant Service Rules and Railway Board Vigilance circular dated 12.5.06. The Respondent No.5 being the senior officer in the hier-

Pradip Kumar Sinha

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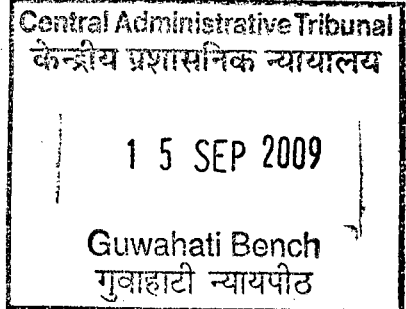
archv of the Railway Administration गुवाहाटी बेंच to have been applied his mind objectively to the facts in issue and should have weighed the implication of his actions before conniving with the Respondent No.3 as he has done in the instant case. Therefore, malafide action on the part of the Respondent No.5 can also be inferred in the facts and circumstances of the instant case.

4.15 That the fact that the Respondent No.3 Shri Ranajit Mitra had proceeded in a malafide manner against the Applicant in directing recovery of the said amount is further accelerated from the fact that he being the Head of the Electrical Department of the N.F.Railway, it was incumbent upon him to at lease inform the Chief Vigilance Officer who being the Head of the Vigilance Department at N.F.Railway, in view of the fact that many Assistant Grade Officers in the Vigilance Department who are not authorized to use Air Conditioner are doing so in violation of the Railway Board circular. But no such intimation was given by the Respondent No.3 to the Chief Vigilance Officer before initiating the impugned action against the Applicant. This is also a relevant consideration to be taken note of by this Hon'ble Tribunal while examining the allegation of malafide made by the Applicant in the factual matrix of the instant

Pradip Kumar Sinha.

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case.



4.16 That the Applicant is a cardiac patient and is undergoing treatment at the Railway Hospital, Perambur to which he was referred to by the Medical Director, Central Hospital, N.F., Railway, Maligaon, Guwahati and all these illegal and malafide action on the part of the Respondent No.3 with the active connivance of the Respondent No.5 has cause him a lot of mental and physical stress which had a detrimental affect on his health.

4.17 That although the order of recovery was issued on 12.6.09, but till date no recovery has been made from the salary of the Applicant. Now as is apparent from Annexure-7 representation dated 10.9.09 of the Applicant, the Chief Workshop Manager, New Bongaigaon had been arbitrarily intimated by the Respondent No.3 to give effect to the said recovery from the salary of the Applicant from the month of September, 2009. As such, the Applicant has been constrained to approach this Hon'ble Tribunal now.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that, the Applicant states that as has been stated in the preceding paragraphs, the

Pradip Kumar Sinha

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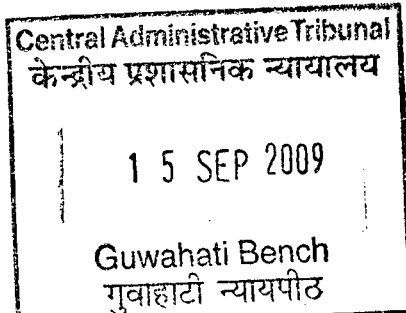
Respondent No.3 with the active connivance of the Respondent No.5 had sought to recover the afore-said amount of Rs.54,598.00 in complete violation of the provisions of Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968 and in this view of the matter alone, the impugned orders dated 12.6.09 and 15.6.09 are bad in law and are liable to be set aside.

5.2 For that in the factual matrix of the instant case, as has been stated in the preceding paragraphs, goes to show that the Respondent No.3 with the active connivance of the Respondent No.5 has sought to recover the aforesaid amount of Rs.54,598.00 from the salary of the Applicant with a malafide intention to cause undue harassment to the Applicant in complete violation of the principles of natural justice and administrative fair-play.

5.3 For that from the facts and circumstances of the case stated above, a malafide action on the part of the Respondent No.3 with the active connivance of the Respondent No.5 can be inferred in the impugned action for recovery as because the Applicant while he had discharging his duties as Assistant Vigilance Officer (Electrical), he might have rubbed the shoulder of the Respondent No.3 in

Pradip Kumar Saha

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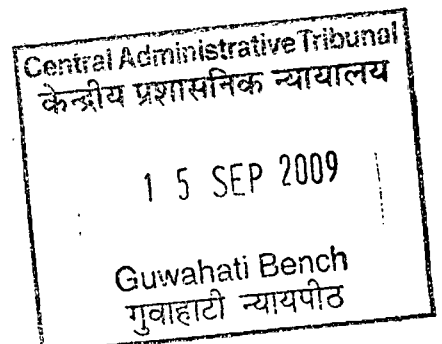
a way which might have annoyed the Respondent No.

3 being the Head of the Electrical Department of the N.F. Railway. Therefore, it is quite natural on the part of the Respondent No. 3 to have personal grudge and enmity leading to the issuance to him the orders just to harass the Applicant leaving out many other similarly situated officers, with all impunity and the Respondent No. 3 has kept the Chief Vigilance Officer, N.F. Railway, the administrative head of the Vigilance Officers in dark and only the Applicant had been singled out for unfair treatment.

5.4 For that mala fide action on the part of the Respondents No. 3 and 5 in issuing the impugned order of recovery from the salary of the Applicant is further accentuated from the fact that they being senior officers in the hierarchy of the Railway Administration are well aware of the fact that the Railway Board vide circular dated 12.5.06 referred to above had offered protection to officers for a period of 5 years after reversion of such personnel from the Vigilance Department and therefore, it was incumbent on their part to obtain the prior sanction of the Chief Vigilance Commissioner in directing such recovery in the facts and circumstances of the case. The same having not been done, it is, therefore, manifestly clear that the action of the

Pradip Kumar Sinha

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Respondents No.3 and 5 leading to issuance of the impugned order of recovery is out and out malafide action and is a blatant and fragrant violation of authority conferred upon them. As such, it is respectfully submitted that it is preeminently a fit case wherein in exercise of power conferred upon it under Section 14 of the Administrative Tribunal Act, 1985, this Hon'ble Tribunal would be pleased to set aside the impugned order dated 12.6.09 and pass strictures against the Respondents No. 3 and 5 for such colourable exercise of power on their part.

6. DETAILS OF THE REMEDIES EXHAUSTED :

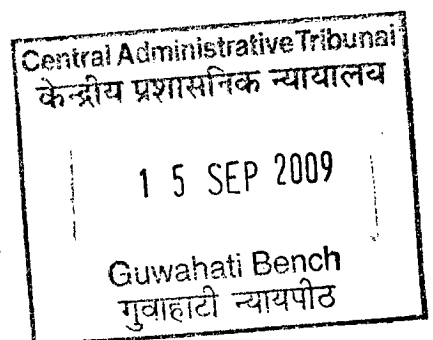
That the Applicant had made representations dated 22.6.09 (Annexure-4), 24.6.09 (Annexure-6), 13.7.09 (Annexure-8) and 10.9.09 (Annexure-9). But the said representations had not been considered till date by the Respondents.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :-

The applicant further declares that he had not previously filed any application, writ petition or suit, regarding the matter in respect of which this application has been made, before

Pradip Kumar Smitra

Contd...



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any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :-

In view of the facts mentioned in paragraph 6 above, the Applicant prays for the following reliefs :-

(i) To set aside and quash the order No.EL/CON/5 Pt.II/54 dated 12.6.09 (at Annexure-2 to this Application)

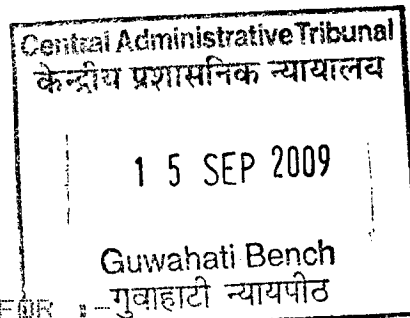
(ii) For a direction to be issued upon the Respondents, particularly the Respondent No.4 not to give effect for recovery of Rs.54,598.00 from the salary of the Applicant in 12 equal instalments as stated in the Last Pay Certificate dated 15.6.09 (at Annexure-3 to this Application) and to issue a correct and proper Last Pay Certificate in lieu thereof to the Applicant.

(iii) For issuance of appropriate strictures upon the Respondents No. 3 and 5 for harassing and humiliating the Applicant.

(iv) Any other relief or reliefs to which the Applicant is entitled to in law and equity.

Pradip Kumar Smita .

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9. INTERIM ORDER, IF ANY PRAYER FOR :-

Pending final disposal of this Original Application, the Applicant seeks the following interim relief :-

The Applicant prays for an interim order for suspending the operation of the Order No.EL/CON/5 Pt.II/54 dated 12.6.09 (at Annexure-2 to this Application) and the deductions for recovery of Rs.54,598.00 sought to be made in 12 equal equal instalments vide Annexure-3 to this Application.

10. This Original Application is filed through Advocate.

11. Particulars of Postal Order filed in respect of the application fee :-

IPO No. : 396 423985

Date of issue : 14-9-09

Amount : Rs 50.00

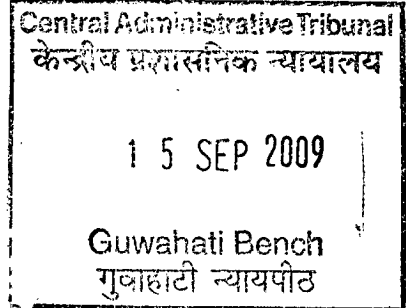
Issuing Post Office :- Guwahati.

Payable at : Guwahati.

12. List of enclosures :

As stated in the Index.

Pradip Kumar Sinha

VERIFICATION

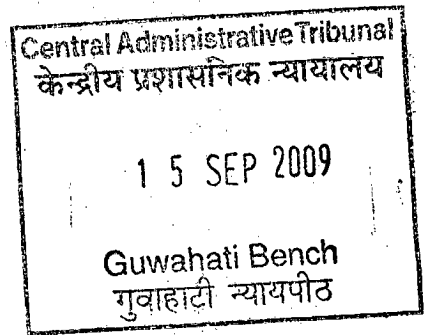
I, Shri Pradip Kumar Sinha, S/o Shri Priya Lal Sinha, aged about 49 years, presently serving as District Electrical Engineer, N.F. Railway, New Bongaigaon Workshop under the Office of the Chief Workshop Manager, New Bongaigaon- 783381, District Bongaigaon, Assam and resident of Railway Quarter No. R/22, Officers Colony, New Bongaigaon - 783381 in the District of Bongaigaon, Assam do hereby verify that the contents of paragraphs 1, 4, 6, 7, 8, 9, 10... to 11..... are true to my personal knowledge and paragraphs 2, 3 and 5 to 8..... believed to be true on legal advice and that I have not suppressed any material facts.

And I sign this verification on the
13th day of September, 2009 at Guwahati.

Date : 13-09-09

Pradip Kumar Sinha.
Signature of the applicant

Place : Guwahati



GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.2002/Elec (G)/115/1

New Delhi, dated: 19.07.2005

General Managers,
All Indian Railways including
Production Units.

Sub: Provision of Air-conditioners in the chambers of JAG/ SG officers.

Ref: Board's letter of even number dated 21.09.2004.

In partial modification of Board's letter of even number dated 21.09.04 it has been decided that air-conditioners may be provided in the rooms of branch officers (JAG and above) thereby doing away with the need of frequent alterations required in connection with filment /removal of air-conditioners.

2. This disposes of Northern Railway's reference No.197-Elec/P/O dated 23.12.2002 on the subject.

3. This issues with the concurrence of Finance Directorate of Ministry of Railways.

- sd -
(Sanjay Kubha)
Joint Director Elec. Engg. (G)
Railway Board.

Copy to: CEEs / All Indian Railways including PUs.

- sd -
(Sanjay Kubha)
Joint Director Elec. Engg. (G)
Railway Board.

Copy to: 1. FA & CAOs / All Indian Railways including PUs.

2. Dy. Comptroller & Auditor General of India/ Railways, Room No. 224,
Rail Bhawan, ND (with 45 spares).

- sd -
For Financial Commissioner/ Railways

Copy to: F(X)II & G(Acc) branches, Railway Board.

attested
N. K. Mehta
Secretary

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ANNEXURE 2.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

15 SEP 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

NORTHEAST FRONTIER RAILWAY

Office of the
Chief Electrical Engineer
Maligaon, Guwahati-11

No.EL/CON/5 PL.II / 54

Dated: 12.6.2009

To

Dy. Chief Personnel Officer (Gaz.),
N.F. Railway, Maligaon.

Sub: Realization of rental charges and electric power
Consumption charges on account of running of
Air-conditioning machine in the chamber of
Shri P.K. Sinha, AVO(Elect)/HQ/MLG.

Ref: Sr.DEE/GHY's letter No.EL/conf/GHY/09-10
Dated 27.5.2009 to CEE/MLG.

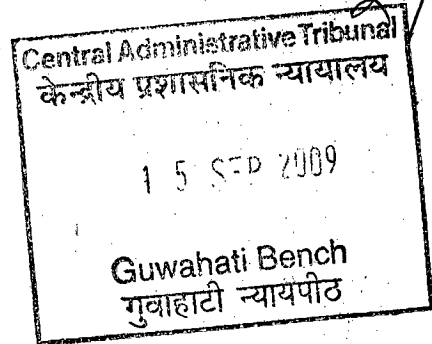
Enclosed please find a copy of the above letter along with
other papers.

Shri P.K. Sinha, AVO(Elect) enjoyed air-conditioning facilities
in his chamber from 8.5.2006 to 9.6.2009. He got one 1.5T AC
machine installed in his chamber without any intimation to
Electrical Branch, while working as AVO(Elect).

As per Railway Board's letter No.2002/Elec(G)/115/1 dated
19.7.2005(copy enclosed), air-conditioners may be provided in the
rooms of Branch Officers (JAG & above). Therefore, Shri Sinha was
not at all entitled for having air-conditioner in his chamber. The
estimated charge for consumption of electrical energy and rental of
AC machine is to the tune of Rs.54,598/-. The detail calculation is
given in the enclosed Annexure-A.

.....2/-

*Attested
N. C. Choudhary
Sawyer*



// 2 //

Dy.CPO/Gaz. is requested to kindly realize the above amount from the monthly salary of Shri Sinha in a no. of instalments so as not to cause much financial hardship.

PDA/Maligaon may please be kept informed after the first instalment is deducted from the monthly salary of Shri Sinha.

Encl: As above (7 sheets).

(Ranajit Mitra)
Chief Electrical Engineer

Copy to:

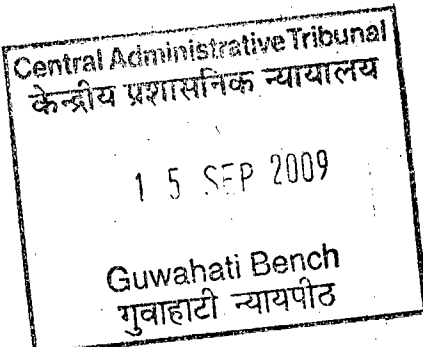
- 1) Secretary to GM for kind information of GM.
- 2) SDGM & CVO, NF Railway, Maligaon-for inf.pl.
- 3) PDA/N.F.Railway, Maligaon-for inf. please.

Encl: As above(7 sheets)

Copies of the above documents in 7 sheets are enclosed for their kind information.

(Signature) 12.6.09
(Ranajit Mitra)
Chief Electrical Engineer

Sh. Pradip Kumar Sinha
DEE/NFRLY
NBQ



25
ANNEXURE-3

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager (P)
Maligaon, Guwahati-11

No. E/34/LPC-OUT/Bill (O)

Date : 15.06.2009

Last Pay Certificate in favour of Shri Pradip Kumar Sinha, AVO/Elect/MLG, who has been transferred on promotion as DEE/NBQ vide this office order No. 05/2009(Elect) dated 30.04.09. Pay and allowances have been drawn upto 31.05.2009. His PF No. - 01909320 - NC. PAN of I/Tax - AHSPS7712A.

Pay and allowances of May, 2009

Pay	Rs. 21,070.00
Gr. Pay	Rs. 5,400.00
DA	Rs. 5,823.00
HRA	Rs. 5,294.00 *
SCA	Rs. 400.00
Tr. all	Rs. 1,952.00
Newspaper	Rs. 75.00
SDA	Rs. 3,309.00
Gross	Rs. 43,323.00

Recoveries of May, 2009

NFRPOA	Rs. 50.00
PF	Rs. 2,206.00
VPF	Rs. 10,000.00
GIS	Rs. 60.00
I/Tax	Rs. 500.00
A.P. Tax	Rs. 208.00
OP-SDA	Rs. 1,174.00
Total	Rs. 14,198.00

Other details :-

1. He has relinquished the charge of AVO, Elect on 09.06.2009.
2. He is not in occupation of Rly. accommodation at MLG/PNO.
3. Pass and CL accounts are maintained by the office of CVO, N.F. Railway/Maligaon, who will intimate the same separately.
4. **Pay drawn particulars :**

Months	Gross	PF	VPF	GIS	ITAX	APTAX
Mar, 09	42248	2206	10000	60	500	208
Apr, 09	45616	2206	10000	60	500	208

5. Pay Band Rs. 15600-39100, Grade Pay Rs. 5400.
6. In terms of CEE/N.F. Railway's letter No. EL/CON/5 PL.II/54 dated 12.06.09, A.C. Machine rental plus power consumption charge of Rs. 54,598.00 may please be recovered from him in 12 installments. One A.C. machine was provided/used in his office chamber of AVO/Elect/Maligaon without following the Railway Board's norms from 08.05.2006 to 09.06.2009. The recovery particulars may please be sent to this office as well as CEE/MLG & Principal Director of Audit/Maligaon.
7. Outstanding dues, if any will be intimated as and when the same is made available to this office.

Forwarded for information & necessary action to :-

- a) CWM/N.F. Railway/NBQ
- b) FA & CAO/EGA/Maligaon
- c) APO/N.F. Railway/NBQ
- d) Shri Pradip Sinha, DEE/N.F. Railway/NBQ

Kumar

(S. P. SENGUPTA)
SPO/GAZ.

for General Manager (P)
For General Manager (P)

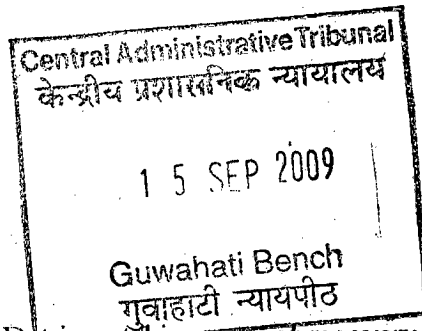
प. पी. सेलवे, मालिगाँव

attested
N. Kumar
Advocate

No.PKS/Per/09/02

Dated: 22.6.09

To,

Chief Electrical Engineer
N.F.Railway, Maligaon.

Sub: - ~~Detrimental~~ issuance of recovery letter for consumption
Of Electrical Energy on account of running of Air-
Conditioning Machine amounting to Rs. 54,598/-

Dear Sir,

It is learnt & understood from a reliable source, that you have issued a letter to Dy.CPO/GAZ whimsically without making natural justice to agreed Officer. I therefore solicit your kind soul to consider and review the same to find out the truth from the admixture of falsehood.

As a subordinate Officer of you, I have respect and admiration will always appear to me as demigod. Yourself is worthy of respect every moment. I affirmed that it is always good to tell the truth as to make accessible to the mind of you. I request you never be authoritarian, despotic, impatient, ill tempered on the basis of Sr.DEE/GHY's report to you against me.

You can make always yourself understood if you take enough trouble that recovery of Rs. 54,598/- for A.C. Machine and consumption of Electrical Energy from 08.05.06 to 09.06.09 must proved beyond reasonable doubt that I have unlawfully used the same in person. The A.C. machine was installed before taking over charges as AVO/Elect. I used in position not in person as noticed that my co- workers are enjoying the same.

To begin with, to express opinion on points that the entire vigilance organizations official chambers below junior administrative officers chamber are fitted with A.C.Machines on essence of sensitive acts and leads to the temperate on the consciousness that one may not make a mistake in expressing conclusions of vigilance enquiry and judgements. My case is contrary view not in position but in person alike other my co- vigilance officers, but there is a sense of infallibility of you of charging and recovery of bill against them that to determine the question on the facts on which present appeal is made. When your statement in the decision that particular thing happened on 08.05.06 and is not to be permitted that your filing letter date 12.06.09 appearing to be wrong. You can easily immediately draw the attention to the error from the date of my joining. In such case the administration has made a mistake in installing the A.C.Machine three years ago. The guilty persons who have committed such offence having regard to the circumstance is desirable to be dealt with.

(Contd..P/2)

Attended
N. G. G. G. G.
Advocate

For the purpose of satisfying yourself, I embark on a dangerous sea if you attempt to define the subject matter is to be proved beyond reasonable doubt against me. You have lost yourself control by grave and sudden provocations by Sr.DEE/GHY have lead to act as you did.

You have given me no opportunity to explain circumstances appearing against me reserving my right to make defence as natural justice as per law under Indian Constitution as legal aid. By no opportunity of hearing from me contemplated for your own benefit and solely for the purpose of with a presumption of biased and vindictive attitude against me.

In the circumstance of my case, it would be proper and particular of recovery of the same of all officers of Senior Scale and Assistant Scale by adopting Railway Board Circular as a matter of prudence and caution. In this case, two views are dangerous. As I am the chronic heart patient since long undergone medical treatment & Care at Perambur Central Hospital, Chennai, it is to be recorded and noted that your letter of humiliation, harassment and mental anxiety & stress is very dangerous to my life. If death of me takes place after the incident of your letter, you must have been personally responsible and accountable of injuries caused not only to me but also my family for which justice will be seek at the temple of justice by my family for compensation. Your letter is an inadvertent negligence constitute malice of you. I am making clear claim of right in a defence that the A.C.Machines were provided in official position of incumbent since long for official use. From that object you can not penalize me that I did it. I lay too much stress on discrepancies of you without any attempt of natural justice to me to the real value and effect. I think it is a deliberate attempt of you to suppress or depart from the truth. It is unfair to discard on account of such discrepancies and error of holding A.C. Machine evidences to all Officers of N.F.Railway Headquarter.

Where the circumstantial evidence is sharply conflicting, it is a safe rule to lean in favour of my version by reason of the presumption of the innocence and to detract the recovery from my salary by issuing a letter to Dy.CPO/GAZ which formed the Subject matter to the material circumstances. As your letter in the disposition is really inconsistent to recovery. Hence you are requested to withdraw such letter or instruct Dy.CPO/GAZ not to make any henceforth recovery, as shrewdness must be brought by bear upon the facts elicited till disposal of my appeal reply.

Thanking you.

Yours faithfully,

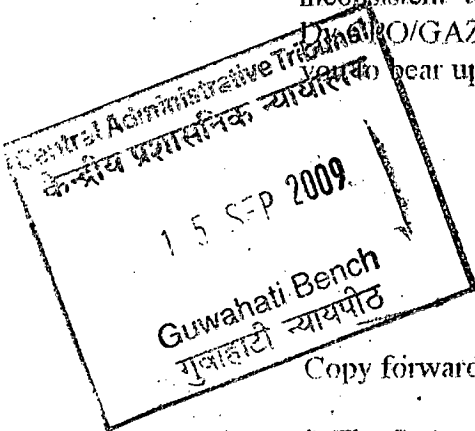
(P.K. Sinha)

DEE/NBQS.

Copy forwarded for kind information & immediate action to: -

- The Secretary to GM: - He is requested to bring the appeal to the notice of the honourable G.M. for his kind knowledge & suitable action in this regard.

(Contd.P/3)



(P/3)

15 OCT 2009

Guwahati Bench

ii) CVO/MLG :-

He is requested to exercise inherent powers for the deduction of recovery amount since it is a disputed and maliciously letter which contravenes the facilities enjoyed by the predecessors and present incumbent officers of vigilance organization in the Senior Scale and Assistant Scale since long period in their official position. As such there is no corroboration of recovery letter from all the Vigilance Officers of Senior and Assistant ranks but against a particular vigilance officer when he was spared.

iii) Principal Director
of Audit :-

The issuance contents of Chief Electrical Engineer is slips -up to natural justice & pitfalls of administration in indulging causing palpable negligence and delinquency on the uses of A.C. Machine below JAG Officers.

iv) Dy. CPO/GAZ :-

He is requested not to make any forceful deduction from my monthly salary as I am facing serious economic crisis for heavily medical expenditure incurring monthly for aligned bedridden mother since long. The deduction will cause serious effect & injury to her treatment.

Yours faithfully,

(P.K. Sinha)

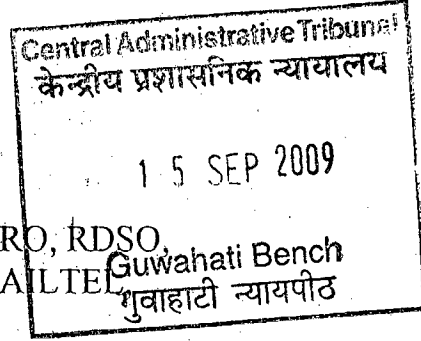
DEE/NBQS.

Government of India
Ministry of Railways
Railway Board

No.2005/V-1/CVC/1/8

New Delhi, dated May 12, 2006

- (I) **General Manager (Vigilance)**
CR, ER, ECR, ECoR, NR, NCR, NER, NFR, NWR,
SR, SCR, SER, SECR, SWR, WR, and WCR.
- (II) **Chief Vigilance Officer (CVO)**
CLW, DLMW, DLW, ICF, RCF, RWF, CORE, METRO, RDSO,
IRCON, RITES, IRFC, CONCOR, KRCL, IRCTC, RAILTEL,
MRVC and RVNL



**Sub: Protection against victimization of
Vigilance officials.**

Please refer to Board's letter of even number dated 24/06/2005 (RBV No.12/2005), laying down parameters for protection of the Vigilance officials/ ex-Vigilance officials.

2. The Commission has viewed seriously certain instances of harassment and attempts of victimization of vigilance officials of certain organizations. The need to allow the vigilance officials to work independently and freely without any fear, which is the foundation for effective vigilance administration in any organization, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that "those posted to the Vigilance Organisations should not have the fear of returning to their parent cadre with the possibility of facing the anger and displeasure of those against whom they made inquiries". The Committee had also recommended that "those working in vigilance Organisation should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification".

Contd...p/2..

Attested
N. G. Meena,
Advocate

3. The Commission has considered the problem of possible victimization of Vigilance officials after they finish their tenure in the vigilance Department and revert to their normal duties. In the case of CVOs, already the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his ACR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVOs response before coming to any conclusion on the need to investigate such complaints.

4. In order that the required degree of protection is conferred on the Vigilance officials supporting the CVO and keeping in view the spirit of the Santhanam Committee which with commendable foresight had anticipated very clearly some of these issues, the Commission issues the following consolidated instructions in exercise of its powers under Section 8(1) (h) of the CVC Act:

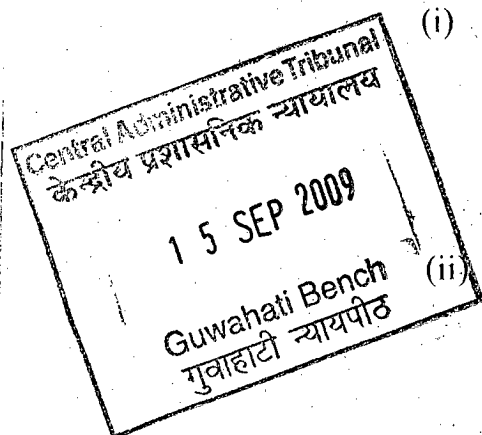
- (i) All personnel in vigilance Units will be posted only in consultation with and the concurrence of the CVOs. Any premature reversion before the expiry of their tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.

The ACR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.

- (iii) Since the problem of victimization occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:

- (a) On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer(s).

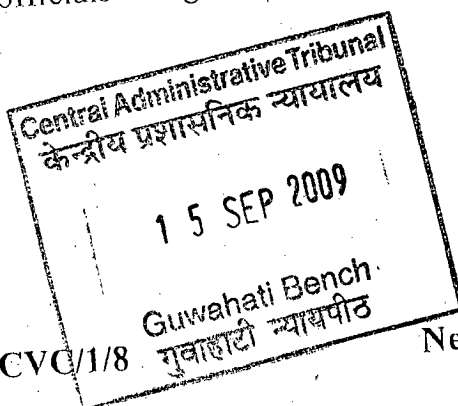
Contd...p/3..



(b) All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.

(c) All Vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organization to the Commission if they perceive any victimization as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the Vigilance department.

5. The above instructions may be noted for strict compliance. The CVO should report promptly to the Commission, the details of any real or perceived victimization of any official who is working in the vigilance unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Units, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/superseded in matters of promotion.



No.2005/V-1/CVC/1/8

New Delhi, dated May 12, 2006

Copy to :-

The General Managers/All Indian Railways & PUs - for information please.

(Sanjay Goel)
Director Vigilance (M)
Railway Board

(Sanjay Goel)
Director Vigilance (M)
Railway Board

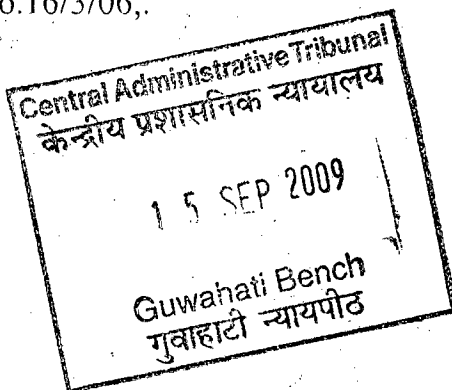
32-66

No.2005/V-1/CVC/1/8

New Delhi, dated May 12, 2006

Copy to -

The Secretary, (Kind Attn.: Shri V. Kannan, Director), Central Vigilance Commission, Block A, GPO Complex, INA, New Delhi - 110 023- for information w.r.t. their letter No.006/VGL/022 dated 28.03.2006 contained in their Circular No.16/3/06,.



(Sanjay Goel)
Director Vigilance (M)
Railway Board

Copy to -

All Board Members, All Addl. Members, All Director Generals, All Advisors, All Executive Directors, All Joint Secretaries/Inspector Generals, All Constituents of PREM Group, The Secretary, RBSS (Group-A) Officers' Association, The Secretary, RBSS (Group-B) Officers' Association, The Secretary Railway Board Ministerial Staff Association and the Secretary Railway Board (Group-D) Employees' Association.

All Officers and the Branches of Vigilance Directorate.

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ANNEXURE-6 ConfidentialNORTHEAST FRONTIER RAILWAY

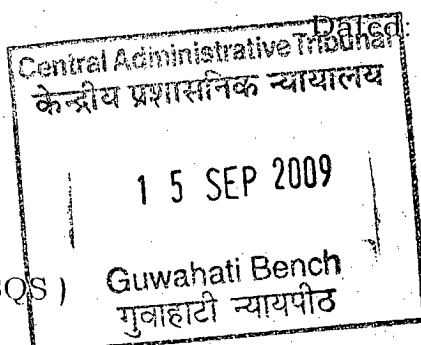
Office of the
Chief Electrical Engineer
Maligaon: Guwahat-1.1

No.EL/CON/5/Pt.II/64

Dated: 24.6.2009

To

✓ Shri P.K. Sinha,
DEE/NBQS



(Through : CWM/NBQS)

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub: Realization of rental charges and electric power
Consumption charges on account of running of
Air-conditioning Machine in the chamber of
Shri P.K. Sinha, AVO(Elect)/HQ/MLG.

Ref: DEE/NBQS's letter No.PKS/Per/09/02 dated 22.6.09
to CEE, copies to Secretary to GM, CVO, PDA and
Dy.CPO/Gaz.

Shri B.C. Das joined as AVO(Elect)/MLG on 16.6.2009 and
immediately after taking over, he issued a letter to SE/AC/MLG
vide AVO(E)'s letter No.Z/Vig/Misc/2009 dated 16.6.2009, **(copy
enclosed)** requesting SE/AC/MLG to remove the room air-
conditioner.

The air-conditioning machine was removed, as was
intimated by SE/AC/MLG vide his letter dated 17.6.2009 **(copy
enclosed)**.

Shri P.K. Sinha, DEE/NBQS (Ex.AVO(Elect)/MLG) may
please indicate **why similar action could not be taken by him
in getting the AC machine removed.**

Enclo: 2

Ranajit Mitra 24/6/09

(Ranajit Mitra)

Chief Electrical Engineer

Copy to:-

- 1) Secretary to GM
- 2) CVO/MLG
- 3) PDA/MLG
- 4) Dy.CPO/Gaz/MLG

Copy of the above mentioned two
letters are enclosed for their
kind information.

Enclo: 2

(Ranajit Mitra)

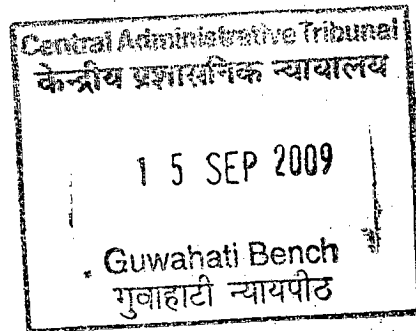
Chief Electrical Engineer

Shri P.K. Sinha
N. C. Manna
Advocate

R. S. 28/07/09
R. S. 28/07/09

N.F.Railway

NO.EL/PKS/DEE/NBQS/380

Office of the
DEE/WS/NBQ
Dt: 24.06.09

To,

APO/W/NBQS.

Sub: - Undemocratic /Unconstitutional and violative Order
of SPO/GAZ against establishment Code & rule of
personnel department.

Ref:- i) LPC No. E/34/LPC-OUT/BILL (o) dated: 15.06.09.
ii) My personal letter No.PKS/Per/09/02, Date: 22.6.09
(Copy enclosed)

The passionless thinking of SPO/GAZ/Maligaon's signed letter on behalf of GM/P, Maligaon forwarded to you for recovery of Rs. 54,598/-from my salary is proved the inadequacies, in efficiencies, obscured and complicated with unimaginative interpretation of use of A.C.Machine with Electrical consumption against me.

Now the question of burden of proof, effect of such discrepancies by SPO/GAZ ignoring the Chief Personnel Officer without filing any necessity of his instruction. SPO/GAZ has failed to make up of mind to bring to notice of CPO & GM/Maligaon for their through marshalling of the facts and it is undoubtedly presumed that they were ignored. I entirely deny that I never used in person or in position for my own interest & benefit. The entire vigilance Organisation is streamlined with provision of A.C.Machine for all Officers below JAG rank since long. The allegation is pinpointed to a particular person not as a whole Officer of the Vigilance, which is a legal wrong.

It is important to remember that Law we regard as desirable and not to do things in the effort to influence of Superior Officers. They tend to forget that temples of law has at his disposal for social justice.

I therefore, request you that in the mass of false evidence, the General Manager is only the authority & CPO for accountable of personnel Branch, administration with sound and practical knowledge of the legal principles to the issue. Now I raise the question to the Personnel Branch, the question of burden of proof against me, effects of such discrepancies lies with CPO and Chief Electrical Engineer. As there is falsehood, I request you to keep suspension of arbitrary deduction from my monthly salary bill till it is proved by Chief Electrical Engineer & CPO/Maligaon that there is truth but there is total admixture of falsehood.

AY/one

(P.K. Sinha)
DEE/NBQS.

(Contd...P/2)

*Attested
N. G. Meena
Sawachi*

(P/2)

Copy forwarded for favour of kind information & necessary action to: -

i) Secretary to GM/MLG:-

for kind information of honourable GM.

Even in the case of disciplinary and Appeal rules, the administration confer 'benefit of doubt' as a natural justice for proving his innocence against the alleged charges but in my case, no "benefit of doubt" given to me by the Chief Electrical Engineer to be heard.

ii) Chief Personnel Officer/MLG: -

He is requested to investigate and to ask explanation from Dy.CPO/GAZ/MLG that how he entirely denied and kept ignorance of his Superior Officer and forwarded the letter for deduction to APO/NBQS. Otherwise CPO has to face the legal problem at the temple of justice for violation of establishment rules & natural justice to me by Dy.CPO/GAZ.

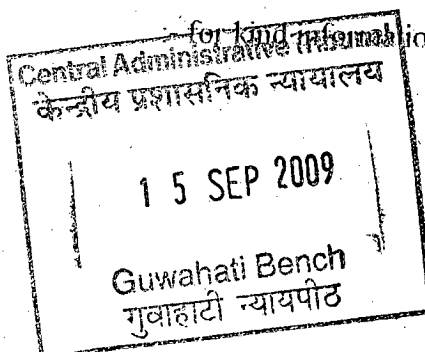
iii) Pricipal Director of Audit/
Maligaon.

: - For information & n/action please.

There is lack of awareness of rules by CEE & CPO/MLG, therefore it is absolutely necessary to save you from legal troubles arising mercilessly of ignorance of N.F.Railway whole administation. The Audit has to make investigation on topics forwarded by Chief Electrical Engineer/MLG for involvement of PDA in this issue otherwise legal frame will be raised as a Co-accused.

iv) CWM/NBQS

for kind information please.



P.K. Sinha
(P.K. Sinha)
24/06/09
DEE/NBQS.

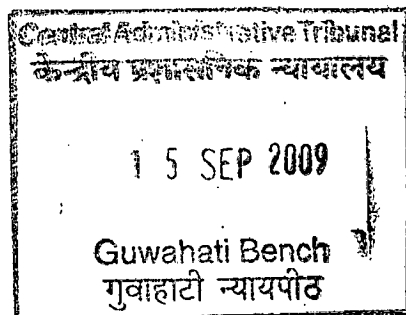
N.F.Railway

(CONFIDENTIAL)

No.EL/PKS/DEE/NBQS/467

To,
CEE/MLG
N.F.Rly.

(Through CWM/NBQS)

Office of the
DEE/WS/NBQ
Dt: 13.07.09.

Sub: - Realisation of Rental Charges and Electric Power Consumption charges on account of running of Air-Conditioning Machine in the chamber of Sri P.K.Sinha, AVO(Elect)/HQ/MLG.

Ref: - Your Letter No. EL/CON/5/Pt-II/64, dated: 24.6.2009.
(Received on 08.07.09)

In reference to the contents of the letter mentioned above, Sri B.C.Das, AVO/Elect's L/No. Z/Vig/Misc/2009, dt: 16.06.09 was addressed to Section Engineer/AC/MLG, for removal the same. SE/AC/MLG is sufficiently empowered to do the same. It is not understood why Sri B.C.Das instead of giving copy to CVO/MLG and Sr.DEE/GTY, superseding them, given the copy to CEE/MLG. The forwarding of Sri B.C.Das's letter copy to the undersigned and comparison of the case of me has no relevancy at all because Sri B.C.Das case is pro after taking of the charge of AVO/Elect/MLG and my case is pre after relinquishing the charge of AVO/Elect/MLG.

Therefore, it is established that the allegation made against me has no corroboration with Sri B.C.Das. Hence, you are therefore requested to prove allegation against me with documentary evidence but in my earlier letter also I reminded you but you have failed to establish the case with documentary evidence. Sri B.C.Das case is cognizance offence having nexus with you is proved.

I am putting the question under what establishment rule you have taken such decision of recovery without giving me the opportunity to be heard as a benefit of doubt of natural justice. Instead of doing the same, you are protecting yourself by showing Sri B.C. Das, AVO/Elect, case i.e further a mistaken decision of you. Until & unless, the allegation is proved no further reply will be given by me. It is proved the unsoundness of your mind by reason of mis-conception alleged against me.

I may put the question to you why Sri B.C.Das and not other AVO & SVO disconnected and surrendered the A.C. Machines. You have not referred their letters of surrendering to me.

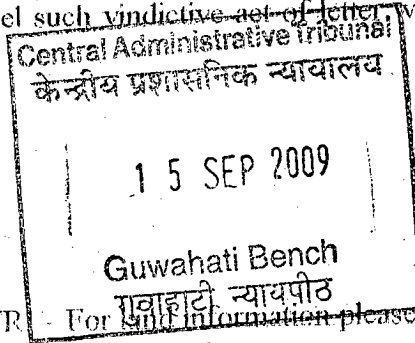
It is needless to mention here that it is justifiable to put the questions of A.C. machine's provision & installation directly to the Chief Vigilance Officer, who is responsible and accountable to give reply any official queries and not by his sub-ordinates Officers. Would you not agree the such discrepancies in official communication but intent wrongfully unreasonable under colour of your office against me?

(Contd...P/2)

Attended
N. G. Meemmi
Advocate

It is a matter of common knowledge that still now you did not apply your judicial mind the error/omission of Sr.DEE/GHY that a particular AC Machine installed or did not installed before my joining as AVO with official proof. Therefore when there is mis-application of rules of provision of A.C.Machines departmentally thereto, you are requested to enquire & ask your Sr.DEE/GHY about official records.

As you have failed to make the natural justice to my innocence, I therefore request you to withdraw or cancel such vindictive act of letter with malice for peace & harmony for both of us.



P.K. Sinha
13/09/09
(P.K. Sinha)
DEE/WS/NBO.

Copy to: 1) Secretary to GM/NFR - For kind information please.

2) CVO/MLG- For kind information please.

Sri B.C.Das, AVO/Elec. case is total insubordination of his immediate Controlling Officer keeping him in darkness by not endorsing copy of his letter to CVO/MLG

3) PDA/MLG - For kind information please.

4) CPO/MLG- For kind information please.

In reference to my letter, dated: 24.06.09, it is requested to ask the case from CEE/MLG, under which documents of established allegations the letter was issued by the Personnel Branch violating establishment code & rule of natural justice. I am in doubt the genuineness of documents under CEE/MLG is lying. The personnel branch is solely accountable & liable for violation of establishment rules and entertaining ultra vires attitude against me by CEE/MLG on false plea.

P.K. Sinha
13/09/09
(P.K. Sinha)
DEE/WS/NBO.

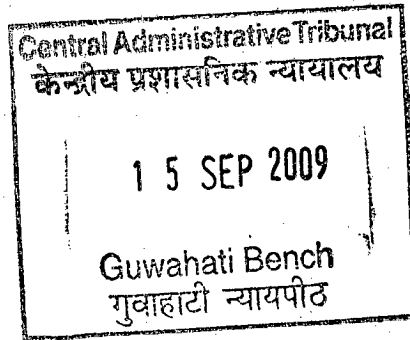
38 72
ANNEXURE - 9

N.F.Railway

No. EL/PKS/DEE/NBQS/

To,

CWM/NBQS.



Office of the
DEE/WS/NBQ.
Dt: 10.09.09.

Sub: - Arbitrary decision of forceful deduction of Rs. 54,589/- from my salary Bill.

As discussed on 09.09.09, you have verbally told me that Chief Electrical Engineer telephonically advised you to comply his instruction of recovery of Rs. 54,589/- from my salary. You are aware that I have made several appeals and demanded documentary evidence/proof that I have installed the same. But no efforts have been taken by the higher authorities for disposal of the same.

In this context, it is pointed out that in the LPC, it was clearly stated the word "Provided/Used". The administration himself violated the Railway Board's order and provided A.C. machine not only in my chamber but also in other AVOs and SVOs chambers. The recovery is very much conflicting in reference to the word used in the LPC.

The disposal of the decision by the Chief Electrical Engineer on reviewing my appeal given to him, the telephonic advise for forceful deduction is prejudicial in face of my appeal lying pending at CEE & CPO.

In this context, I therefore intimate you that the administration compels me to seek justice at the court of law.

This is for your kind information to communicate to CEE/MLG.

P.K. Sinha
10/09/09
(P.K. Sinha)
DEE/WS/NBQ.

Copy to: APO/WS/NBQ- In reference to his verbal intimation that CPO directly instructed him on telephonically and his intimation of his inability to me that he has to obey his CPO's telephonic advise and will make deduction from current month salary. He is requested to intimate his CPO for legal action to be taken by me at the court of law for unconstitutional activities.

P.K. Sinha
10/09/09
DEE/WS/NBQ.

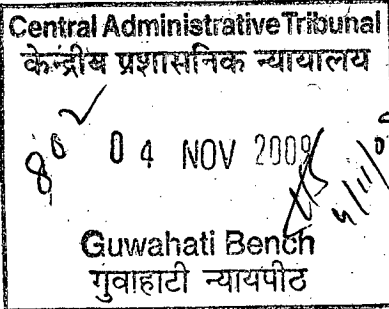
*Attended
N. Chatterjee
S. Chatterjee*

73

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI**

O.A. No. 189 of 2009



Sri Pradip Kumar Sinha

..... Applicant

-Vs-

Union of India & others

..... Respondents.

INDEX & LIST OF DATES

SL.No.

PARTICULARS.

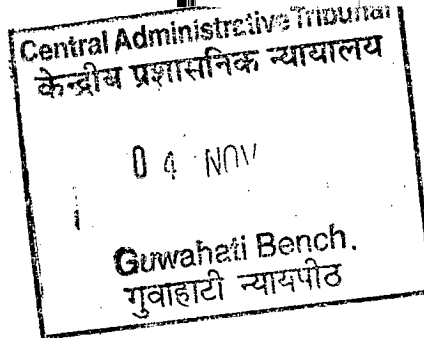
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|----|-----------------------------|-------|
| 1. | ANNEXURE-A (Dated 27.5.09) | 8 |
| 2. | ANNEXURE -B (Dated 16.6.09) | 9 |
| 3. | ANNEXURE-C | 10-13 |
| 4. | ANNEXURE | |

Filed by

Bharati Sen

Advocate, Guwahati. 9/11/09



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Filed by
Secret. Officer
P.H.D. Guwahati
Pradip Kumar Singh
4/11/09
By. Chief Personnel Officer (Gas)
श्री सी. पी. सेवक, मालोगर्ग

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI

O.A. No. 189 of 2009

Sri Pradip Kumar Sinha

..... Applicant

-Vs-

Union of India & others

..... Respondents.

WRITTEN STATEMENTS ON BEHALF OF
THE RESPONDENTS.

The Written statements of the Respondents are as follows: -

1. That a copy of the Original Application No. 189/09 (herein after referred to as the " application" has been served upon the respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except the statements which are specifically admitted by the respondents, the rest of the statements made in the application may be treated as denied.
3. That the statement made in paragraph 4.1 to the application the answering respondent has no comment unless contrary to the records.
4. That the statement made in paragraph 4.2 to the application are not true and the same are hereby denied. The answering respondent begs to state that the predecessor of the applicant Sri S. Bhattacharjee in his letter dated 9.9.09 clearly stated that there was no Air Conditioning machine in the Chamber of AVO/Elect/MLG during his tenure. The

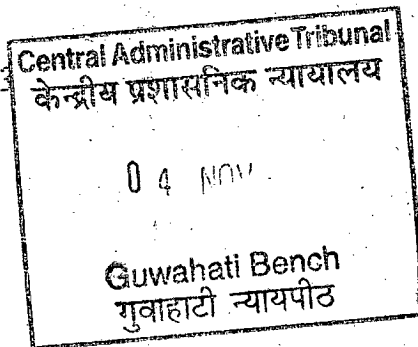
41-
applicant himself admitted that such category of employee is not entitled to enjoy Air Conditioning (AC) machine as per Railway Board's circular letter dated 19.7.05 (Annexure -1 to the OA). It is absolutely false and vague contention of the applicant that while he assumed office an AC machine of 1.5 T capacity was found to be installed in his official chamber. The fact that an AC machine was installed in the chamber of the applicant came to the knowledge of the Chief Electrical Engineer (CEE) when he received a letter dated 27.5.09 from the Sr. DEE/GHY. The applicant's successor Sri B.C Das in his letter No.Z/Vig/Misc/2009 dated 16.6.09 also advised for the removal of the machine.

Copy of the letter dated 27.5.09 of the Sr. DEE/GHY and a copy of the letter-dated 16.6.09 of the applicant's successor is annexed hereto as Annexure-A and Annexure -B respectively.

5. That with regard to the statements made in paragraph 4.3 and 4.4 to the application the answering respondent begs to state that it is the responsibility of the CEE to intimate the Personnel Branch about the deduction of the amount from the salary of the applicant so that the Railway Administration does not suffer any loss. A copy of the letter vide Annexure 2 to the OA was intimated to the Chief Vigilance Officer (CVO) for information. Thereafter the office of the Chief Personnel Officer (CPO) intimated the applicant by a communication vide Annexure -3 to the OA regarding issuance of last pay certificate and recovery of the calculated amount of Rs.54, 598 (Rupees Fifty Four Thousand Five Hundred and Ninety Eight) charged for unauthorized usage of AC machine.

6. That the statements made in paragraph 4.5 and 4.6 to the application are not admitted and are hereby denied by the deponent. The Annexure -5 to the OA has no bearing in the instant case.

Pradeep Kumar Singh
मुख्य कार्यकारी अधिकारी (राबो. ११)
Chief Personnel Officer (Gas)
मुख्य कार्यकारी अधिकारी (गैस)



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Pradeep Kumar Singh
Chief Personnel Officer (Gao)
सी. पी. ओ. रेलवे, मालवेगांव
गुवाहाटी, असम

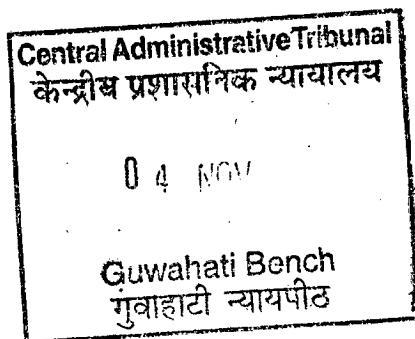
7. That with regard to the statements made in paragraph 4.7 to the application the deponent begs to submit that the contentions averred in the said paragraph have no relevance with the Annexure- 6 to the OA and hence denied by the deponent.

8. That similarly the Annexure- 7 to the OA has no relevance to the facts and circumstances stated in paragraph 4.8 to the OA and hence denied by the deponent.

9. That while denying the statements made in paragraph 4.9 & 4.10 to the OA the deponent begs to state that the applicant installed AC machine during his tenure as AVO/Elect/MLG. The applicant enjoyed AC machine, which he is not entitled to in his official capacity and as such he misused his power in securing benefit in his favour. The competent authority after proper scrutiny of the matter has rightly issued the recovery order dated 12.6.09 for good and sufficient reasons as he caused pecuniary loss to the Railway. Further the administration issued a reply letter on 24.6.09 vide office memo No. EL/CON/5/Pt.II/64 to the applicant on his representation and was to make further scrutiny on the matter as per prayer of the applicant. The fact of unauthorized utilization of the AC machine is substantiated from the following documents:

- i) Letter No. EL /CON/Misc dated 2.9.2009 of Shri Dipak Ch. Das SSE/Elect/CON/MLG.
- ii) Statement dated 27.8.2009 of Shri Samiran Biswas, Elect. Supervisor under SSE / Elect/CON/MLG.
- iii) Statement dated 27.8.2009 of Shri Jogeswar Prasad, AC Fitter Gr.II under SSE/ Elect/ CON/MLG.
- iv) Copy of challan No.EL/CON/206/MLG/355 dated 3.5.2006

Copies of the letter dated 2.9.2009, statements dated 27.8.2009 and the challan dated 3.5.06 are annexed hereto as Annexure- C series.



43-
 Pradeep Kumar Singh
 Chief Personnel Officer (Genl)
 रेलवे, मालेशिया
 29

10. That the averments made in paragraph 4.11 & 4.12 to the application are not admitted by the deponent and the same are hereby denied by the deponent. The competent authority has rightly issued the recovery order in installments after thorough enquiry and considering the permissible limit of use and enjoyment of an officer and such mode of recovery is neither whimsical, arbitrary nor it violates the principle of natural justice. The deponent further begs to state that the strict adherence of Rule 11 of the Railway Servant (Discipline and Appeal) Rules, 1968 is not required in the facts and circumstances of the instant case.

11. That the statements made in paragraph 4.13 are false, frivolous and baseless having no iota of law and the same are stoutly denied by the answering respondent. The administration has no malafide intention to undulate its employee unreasonably and to harass him unjustly. The respondent No. 3 has no grudge on the applicant or on anybody else in the railway establishment. No reference was received from the Vigilance Organization by the Respondent No. 3 regarding observation of his activities. Realization of charges accrued as a result of securing unauthorized benefit and misuse of official capacity can safely be termed as reasonable and justifiable for the cause of justice. From the facts and circumstance eventually led to the conclusion that it is a **clear** case of misuse and misappropriation of public money and the amount needs to be recovered from the incumbent concerned. Similar realization of the amount is also made from the stockholders whenever there is a shortage of material under his control.

12. That the deponent has denied the statements made in paragraph 4.14 & 4.15 to the application and begs to state that the Railway Board's Circular (Vigilance) dated 12.5.06 vide Annexure -5 to the OA is silent about such type of recovery and hence not applicable in the instant case. Moreover the CVO/MLG after receiving a copy of the CEE's letter dated 12.6.09 never suggested the CEE to refrain from

advising such recovery. The Respondent No.3 came to know only after a copy of the letter dated 27.5.09 from the senior DEE/GHY that one AC machine was installed in the chamber of AVO/Elect/MLG. On enquiry it was ascertained that the said machine was installed during the tenure of the applicant in his chamber as AVO/Elect/MLG without any intimation, thereby violating the Railway Board's Guideline hence the CEE was compelled to request the Dy. CPO (Gaz)/MLG to realize the calculated amount from the monthly salary of the applicant by installments without causing financial hardship. The examples cited by the applicant regarding unauthorized usage of facilities by the other officers in violation of the Railway Board's circular does not in any perspective justify the applicant's unauthorized usage of facilities.

13. That the statements made in paragraph 4.16 to the application are not acceptable at all by the deponent.

14. That the statements made in paragraph 4.17 to the application the deponent denies the correctness of the same and begs to state that the Railway Administration after through enquiry and scrutiny of the matter from all sources was constrained to issue necessary instruction for recovery of charges from the applicant.

15. That the submissions set forth in the ground portion are not acceptable and the same are hereby denied by the answering respondent.

16. That the deponent begs to submit that the respondent /authority is legally entitled to recover the charges of Rs. 54,598.00 (A/C machine charges + power consumption charges) from the salary of the applicant due to unauthorized enjoyment of A/C in his chamber during his tenure from 8.05.06 to 9.6.09 as AVO/Elect/MLG as a defalcation of Railway administration.

Pradeep Kumar Singh
मुख्य कार्यकारी अधिकारी (सचिव)
Chief Personnel Officer (Gaz)
प. व. सी. रेलवे, मालभूमि 78

17. That from the facts and circumstances quoted above, no arbitrary and illegality has been committed by the Railway Authority and there is no violation of principle of natural justice as alleged by the applicant. The applicant has no prima facie case at all.

18. That the application filed by the applicant is baseless and devoid of merit and as such not tenable in the eye of law and liable to be dismissed.

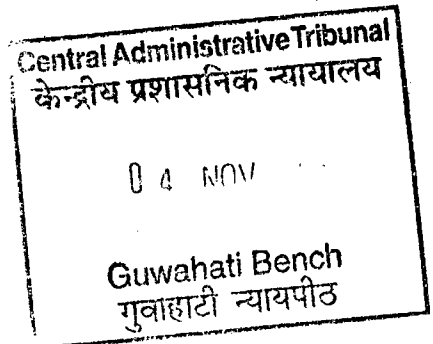
19. That the respondent/authority has rightly passed the recovery order and there is no infirmity and irregularity in passing the impugned order. As such the interference of the Hon'ble CAT is unwarranted for the ends of justice.

20. That in view of the matter raised in the application and the reasons set forth thereon, there cannot be any cause of action against the respondents at all and the application is liable to be dismissed with cost.

In the premises aforesaid, it is, therefore, prayed that Your Lordships would be pleased to peruse the documents on record and after hearing the parties be pleased to dismiss the application with cost. And pass such other orders/orders as to the Hon'ble Court may deem fit and proper considering the facts and circumstances of the case and for the ends of justice.

And for this the humble respondent as in duty bond shall ever pray.

Chief Personal Officer (Genl)
प. सी. पी. ऑफिसर (जनरल)
प. सी. पी. ऑफिसर (जनरल)



VERIFICATION

I, Shri. Pradeep Kumar Singh Son of Bhupral
Singh resident of Naligaon
at present working as the Syso. Officer
being competent and duly authorized to
sign this verification on behalf of all the Respondents do hereby
solemnly affirm and state that the statements made in paragraph
4, 6, 7, 8, 10, 11, 13, 14, 15 are true to my knowledge and belief, and the
statements made in paragraph 5, 9, 12, 16 are true to my
information derived from records which I believe to be true and
the rests are my humble submission before this Hon'ble
Tribunal. I have not suppressed any material fact.

And I sign this verification on this 4th day of
November 2009 at Guwahati.

Pradeep Kumar Singh
DEPONENT

उप मुख्य कार्मिक अधिकारी (राज.)
By. Chief Personnel Officer (Govt.)
१० सी० रेलवे, मालगोवा
M. P. Railway Maligaon.

RAILWAY
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

04 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

N F Railway

ANNEXURE - A

SN: 28

Office of the
Sr.Div.Elect.Engineer
N F Railway, Guwahati
Station Road -1
dated 27.05.2009

No.EL/conf/GHY/09-10

To,
Chief Electrical Engineer
Maligaon, N.F. Railway

Sub:- Air-conditioning facility in the chamber of Un entitled Officer.

Ref:-ADEE/MLG's L/No.EL/1/1/MLG dated 23.04.09

As per Railway Board's policy guidelines circulated vide L/No 2002/Elec(G)/115/1 dated 19/7/05 that, Air-conditioner may be provided in the rooms of branch officers(JAG & above). ADEE/MLG informed vide above referred letter that, Shri P.K.Sinha AVO/Elect has been enjoying air-conditioning facility in his chamber since from 08/05/2006 to till date.

It has been come to know that, 1.5T AC machine was installed in his chamber with out any intimation, thereby violated Railway board's policy guidelines.

The average Energy Consumption incurred against AC machine installed in his chamber is enclosed in Annexure-A. This is for information and action for installation of 1.5TAC in his chamber with out information neither to ADEE/MLG/Sr.DEE/GHY nor from HQ's and Railway Board's guidelines for provision AC in the officers chamber also not followed.

Enclosures:

1. ADEE/MLG's letter
2. Railway board guidelines
3. Pooled rate of electricity charges
4. Annexure-A

H. Ghal
Sr.Div.Elect.Engineer
N F Railway/Guwahati

Verified to be true copy:
Tikky Rachel Teba
Advocate, Guwahati

-9-

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ANNEXURE - B

SN: 29

NORTHEAST FRONTIER RAILWAY

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
04 NOV
Guwahati Bench
गुवाहाटी न्यायपीठ

Office of the
Chief Vigilance Officer
Maligaon, Guwahati-11

Date. 16.06.09

No. Z/Vig/Misc/2009

To,
SE/AC/MLG

Sub: Removing of window type RAC From AVO/Elec./ MLG's Chamber.

As soon as, the undersigned join as AVO/Elect/MLG, it is seen that a window type RAC was installed in AVO/Elec./ MLG's Chamber.

You are, therefore, advised to remove the same immediately. I am not running the RAC please.

(B.C.Das)
AVO/Elect./MLG

Copy: 1) CEE/NFR/MLG : For favour of kind information please.

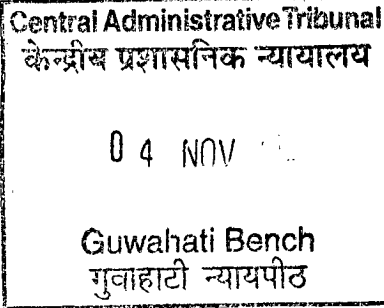
Subs
16/6/09

AVO/Elect./MLG

PS to CEE
Pl. file it. I have sent
a photocopy of this letter to
SE/AC/MLG (Shri Borgen) with
an instruction to remove
the Room Air-Conditioner at
the

A. Mitt
CEE
16-6-2009

Verified to be true copy
Tikky Rachel Soha
Advocate, Guwahati



N.F.Railway

Office of the
SSE/CON/MLG

Dt. 02.09.2009

No. EI/CON/MISC

To
Dy.CEE/TL

(for kind attention of Shri S.Chandra,Dy.CEE/TL)

Sub:- Enquiry in connection with use of Room Air Conditioner
by Shri P.K.Sinha ,AVO/Elect/MLG (now DEE/NBQS)
in his Office chamber.

As per the records available in this office and the statements given by the concerned staff (who issued that Air Conditioner and other who installed it in the chamber of Shri P.K.Sinha the then AVO/Elect/MLG) the following information is furnished :

The Air Conditioner (Window Type, SL.No.1109507004115, make-Videocon) was received from M/s. Videocon Ind.Ltd. Aurangabad on 25.10.2005 and it was installed on 03.5.06 in the chamber of AVO/Elect/MLG. The challan (No.EL/CON/2006/MLG/355 dated 03.05.06) was also issued on the same date in favour of SE/IBM /MLG on the instruction of Shri R.C.Yadav Ex.SSE/Elec/CON/MLG.

Enclo:

1. Statement of Shri Samiran Biswas, Elect/Supervisor .
2. Statement of Shri Jogeswar Prasad, AC/Fitter/Gr.II.
3. Copy of Challan .

Verified to be true copy.
Tibky Rachel John.
Advocate, Guwahati.

(Dipak Chandra Das)
SSE//Elect/CON/MLG

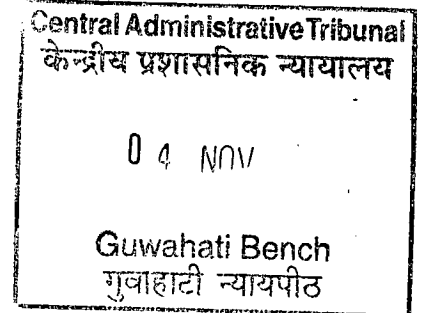
Statement of Shri Samiran Biswas, Electrical Supervisor under SSE/Elect/CON , Maligaon in connection with use of Air Conditioner by Shri P.K.Sinha the then AVO/Elect/MLG in his office chamber

On 03.05.06 Shri Haradhan Chakraborty, ELF/Gr.II under SSE/Elect/CON//MLG who was looking after store of SSE/Elect/CON/MLG told me that the then SSE/Elect/CON/MLG Shri R.C. Yadav who was at LMG on that day gave telephonic instruction to send two nos. Air Conditioner to open line for installation in the chamber of AVO/Elect/MLG and Dy.COM/Coaching. As Shri R.C.Yadav , the then SSE/Elect/CON/MLG was not available in Maligaon hence I signed the challan for issue of AC machines .

After that it is not known to me who took these machines and installed in the chamber of AVO/Elect/MLG and Dy.COM/Coaching .

Dt.27.08.09

Samiran Biswas
27-8-09
(Samiran Biswas)
Elect.Supervisor under
SSE/CON/MLG



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SN-16 85

**Statement of Shri Jogeswar Prasad, AC Fitter/Gr.II under
SSE/Elect/CON/Maligaon in connection with use of Air Conditioner by
Shri P.K.Sinha the then AVO/Elect/MLG in his office chamber**

On 3.05.06 about 10.00 hrs in the morning when I was in the GM/CON Office, Shri Haradhan Chakraborty, ELF/Gr.II called me on Railway phone (23494) and told that you come here in the Office of SSE/CON/MLG at Kamakhya and install AC machine in the chamber of AVO/Elect/MLG immediately as SSE/CON/MLG has instructed over telephone and told that it is very urgent.

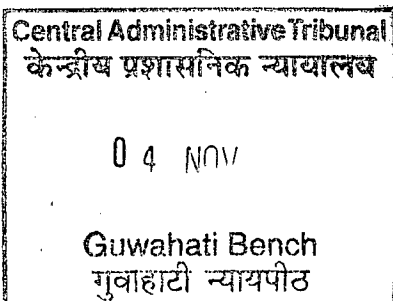
After getting the instructions I went to the Office of SSE/CON/MLG immediately, received one window AC 1.5 ton, Videocon make and tested it along with one contractor's staff. After that myself along with the contractor's staff took the AC and went to the chamber of Shri P.K.Sinha, the then AVC/Elect/MLG and installed that machine in the hole already provide in his chamber.

Dt.27.08.09

जुगेश्वर-प्रसाद 27-08-09
(Jogeswar Prashad)
AC/Fitter/Gr.II under
SSE/Elect/CON/MLG

Shri Prasad made his statement in Hindi.
This was recorded in English and the Hindi
version of the same was explained to Shri Prasad.

glnr
27.08.09.
Dy.-CEE/TL.



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SN-15

N.F.Rly

Date: 3-5-86

Shallan no:- 21/cont/2006/MLG/355

From:- SSE/cont/MLG/126

To:- SE/5BM/MLG

Sending here with the following material through air for urgent required for designation. Ref for urgent required for A.VOLK 2 Dy com coaching. in per order from SSE/cont/MLG at LMC.

1. A.C. Machine 1.5 Ton Cap = 1 no.

Make: Videocon SLNO-1109507004115

Split Type A.C. Machine 1.5 Ton = 1 no.

Cap.

Team Two only.
Please ack Receipt.

जुग 272-927/1

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

04 NOV

Guwahati Bench
गुवाहाटी न्यायपीठ

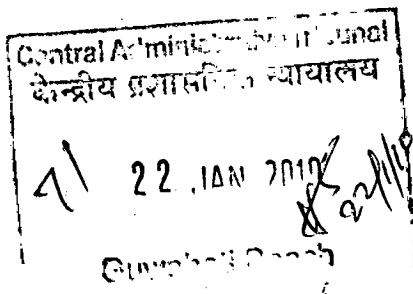
Signature
106
Senior Engineer
CON/ Electrical EMLO
N.F. RLY. GHY-1

- 53 -

File in Court on <u>22.11.10</u> Court Officer.
--

Filed by:-
Palleli Sheela
Advocate, 22.01.2010
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH



O.A. No. 189/2009

Shri Pradip Kumar Sinha,

..... Applicant

- Versus -

Union of India & Others

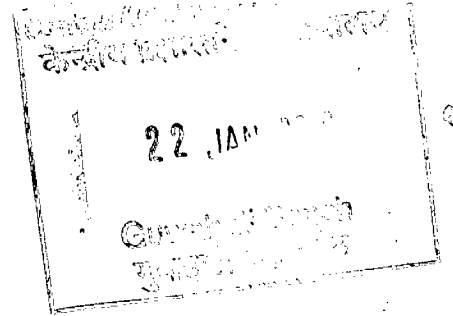
..... Respondents

A Rejoinder filed on behalf of the Applicant against the
Written Statement filed by the Respondents.

Received Rejoinder
for Mr. B. Devi. R/A
Pradip Kumar Sinha
22/1/10

1. That all the averments and submissions made in the Written Statement herein after referred to as 'Counter' is denied by the applicant save what has been specifically admitted herein and what appears from the record of the case.
2. That I reiterate and reaffirm the statements made in paragraph 4.1 of the O.A. as the same are borne out of records.
3. That I deny the correctness of the statements made in paragraph 4.2 of the Counter and respectfully state that the Air Conditioner machine was installed in the chamber occupied by me while I was discharging duties as Assistant Vigilance Officer (Electrical) in N.F. Railway H.Q. Maligaon. It is totally incorrect to say that my predecessor Shri S. Bhattacharjee vide letter dated 9.9.09 had clearly stated that no Air Conditioner machine was installed in chamber of AVO (Electrical)/MLG during his tenure as copy of no such letter has been annexed along with the counter filed by the Respondents. I reiterate and reaffirm the statement that I was not the only Assistant Vigilance Officer in whose chamber Air conditioner machine was found to be installed. Air Conditioner was and is

Pradip Kumar Sinha

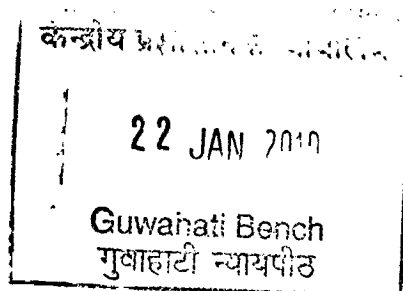


being continued to be installed in the chambers of the following Assistant and Senior Vigilance Officers :-

Sl.No.	Name of Officer	Designation	Particulars of A.C. machines
1.	Shri H.K. Das	VO/Accounts	Videocon make SN- 11116072015902
2.	Shri D. Bhowmick	SVO/Traffic	Carrier make, S No.-NIL
3.	Shri S. Bose	AVO/Engineering	Citizen make, S.N.-667-03-04
4.	Shri N. Mukherjee	AVO/Personnel	Carrier make, SN-04 x 5-14015

Shri M. Gopal Sr. Division Electrical Engineer, N.F. Railway, Guwahati had no business to write letter dated 27.5.09 (Annexure-A to the Counter) as because if I have been using A/C machine since 3.05.06 why no action was initiated against me then and why ADEE/ MLG had reported this fact only on 23.04.09. Letter dated 27.5.09 is based on a letter dated 23.4.09 issued by ADEE/MLG who had allegedly informed that the applicant has been enjoying the Air Conditioner facility in his chamber since 8.5.06. As such, it is clear that the said letter dated 27.05.06 is bereft of any truth and is being made with dishonest intention of misleading this Hon'ble Tribunal. That apart, if I was not entitled to use the A/C machine, the competent authority could very well have removed the same.

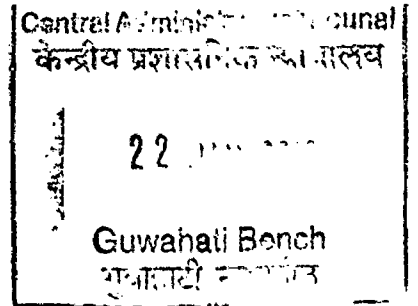
Pradip Kumar Sinha



4. That I deny the correctness of the statements made in paragraph 5 of the Counter and respectfully state that letter dated 12.6.09 (Annexure-2 to the O.A.) has been issued with a malafide intention by the respondent No.3 just to harass the applicant who has been singled out for unfair treatment by the respondent No.3. In this connection, it would be relevant to state that recovery of any amount is a minor penalty within a meaning of Rule 6 (1) (ii) of the Railway Servants (Discipline & Appeal) Rules, 1968 and therefore it was mandatory on the part of the respondents to issue notice as per Rule 11 of the said Rules. The same having not been done order dated 12.6.09 is out and out an illegal order and therefore liable to be set aside.

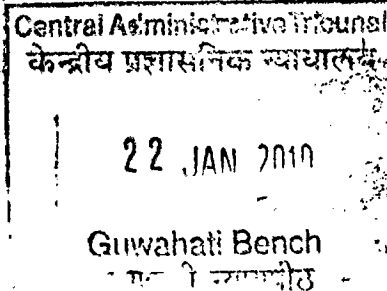
5. That I deny the correctness of the statements made in paragraphs 7,8 and 9 of the counter and reiterate and reaffirm the statements made in paragraphs 4.7, 4.8, 4.9 and 4.10 of the O.A. In this connection, I reiterate and reaffirm the fact that I was not at all instrumental in installing the Air Conditioner machine in the chamber of AVO (Electrical) while I was discharging duties as such. In fact, the Air Conditioner machine existed even before I assumed the charge as AVO (Electrical) on 17.4.06. In fact as per the own admission of the respondents at Annexure-C series at Page-10 of the Counter i.e. letter dated 2.9.09 issued by one Shri Dipak Chandra Das, SSE/Elect./Con./MLG it is apparent that the Air Conditioner machine was received from M/S Videocon Ind. Ltd., Aurangabad on 25.10.05 and I had assumed the charge as AVO (Electrical) on 17.4.06. As such, it is quite apparent on the fact of records the demand note towards installation of the said Air Conditioner machine was never signed by me as AVO (Electrical). In fact, the said document turns in its face and reveals the falsehood resorted to by the respondents to unnecessarily harass and humiliate me. As such, it is apparent on the fact of the records that the allegations of malafide made by me

Preadip Kumar Sinha



against the respondent Nos. 3 and 5 stands proved. That apart, documents annexed as part of Annexure-C series of the Counter at page-11,12 and 13 are documents manufactured at the behest of the respondent No. 3 just to harass and implicate me as having been instrumental in installing the A.C, in the chamber of AVO (Electrical) when in fact, the said document does not even raise any iota of doubt as to whether I had any hand in installation of the said A.C. In fact, the last sentence of the document at page-12 of the Counter i.e. the statement of Shri Jogeswar Prasad, A.C. Fitter, Grade-II. would go to show that he had installed the machine in the hole already provided in the chamber. This itself proves the fact that there was already a machine installed, otherwise there would have been no existing hole to install the A.C. machine. This further corroborates the stand of the applicant that A.C. machine already existed prior to 17.4.06 the date on which the applicant assumed charge as AVO (Electrical) MLG. In this connection, it would be relevant to state that from letter dated 2.09.09 at page 10 of the counter that challan dated 3.05.06 was issued in favour of SE/IBM/MLG on the instruction of Shri R.C. Yadav, Ex.SSE/Elec./Con./MLG, whereas a copy of the said challan annexed at page 13 of the counter does not reveal that the notice was received by SE/IBM/MLG. This itself goes to show that the document annexed as Annexure-C series have been manufactured later for the purpose of the case. It appears from the documents furnished by the respondents with the counter that the A/C machine was purchased by the construction wing of N.F. Railway than how could the machine be installed in the open line wing of N.F. Railway where the applicant was serving as A.V.O. (Elect.), it needs to be ascertained whether Deputy Chief Electrical Engineer (Con.) , N.F. Railway, Maligaon, the head of the electrical department of the construction wing had authorized such installation. How could the Respondent No.3 know about the installation of the A/C machine only on 27.05.09 when the

Pradip Kumar Sinha.

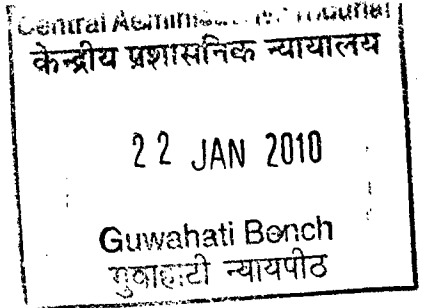


said machine was allegedly installed on 3.05.06 from the construction wing of N.F. Railway and why the Deputy Chief Electrical Engineer (Construction) had not intimated the respondent No.3 about such new installation. This itself proves the false hood of the story concocted by the respondents and why the respondent No.3 had not questioned the applicant about the alleged illegal installation of A/C machine immediately after 27.05.09 when the applicant was holding the post of A.V.O. (Electrical) till 9.06.09. Why impugned letter dated 12.06.09 was issued after repatriation of the applicant on 9.6.09. That apart there is no evidence of any kind to prove that at that relevant date i.e. 3.05.09 Shri R.C. Yadav Ex. SSE/Elec./Con/MLG was at Lumding on official duty.

6. That I deny the correctness of the statements made in paragraph 10 of the counter and reiterate and reaffirm the fact that the order of recovery sought to be made from my salary cannot be resorted to without enquiry as per the provision of Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968. The respondent can not arbitrarily make deductions from my salary merely by making an enquiry which is an eye wash and which does not prove anything against me and whether I had any hand in the installation of the A.C. In this connection it is a settled provision of law that when the law prescribes a particular mode of doing things, it is to be done in that manner alone and not any other and therefore, in this view of the matter the recovery sought to be made from my salary vide order dated 12.6.09 is bad in law and is liable to be interfered with.

7. That I deny the correctness of the statements made in paragraph 11 of the Counter and reiterate and reaffirm the fact that the malafide intention on the part of respondent No.3 in seeking to arbitrarily recover of an amount Rs. 54, 598/- is

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writ large in impugned orders dated 12.6.09 and 15.6.09 as the same has been issued in an arbitrary manner in complete the violation of the principles of natural justice and the extant Rules. In this connection it would be relevant to state that even assuming while denying that I had been instrumental in installing the A/C machine allegedly on 3.05.06, why the respondents kept quiet for 3 years and had initiated the impugned action only on 12.06.09 i.e. after my repatriation from the vigilance department on 9.06.09.

8. That I deny the correctness of the statements made in paragraph 12 of the Counter and reiterate and reaffirm all the averments made in paragraphs 4.14 and 4.15 of the O.A. The fact that CVO/MLG had not restrained the respondent No.3 from resorting to recovery from the salary of the applicant, does not in any manner justify the action of the respondent No.3. In fact, as per Railway Board Circular dated 12.5.06 (Annexure- 5 to the O.A.) it was incumbent upon the CVO/MLG to take note of the fact that I am being harassed and humiliated by the respondent No. 3 with the active connivance of the respondent No.5. In this connection, it is being made abundantly clear that I am not at all instrumental in installing the Air Conditioner machine in the chamber of AVO (Electrical), MLG. In fact, the Air Conditioner machine was found to be installed even before I assumed charge on 17.4.06 and I am being singled out for unfair treatment, as has been stated in the preceding paragraphs as because I am not the only Assistant Vigilance Officer in whose chamber Air Conditioner has been found to be installed.

9. That I deny the correctness of the statements made in paragraph 13 of Counter and reiterate and reaffirm the statements made in paragraph 4.16 of the

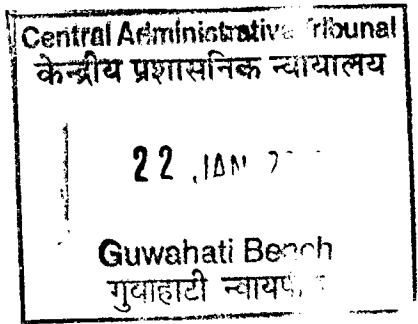
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O.A. and respectfully state that malafide actions of the respondent Nos. 3 and 5 indeed had a detrimental affect on my health.

10. That I deny the correctness of the statements made in paragraph 14 of the counter and reiterate and reaffirm the statements made in paragraph 4.17 of the O.A. In this connection, I respectfully state that no enquiry within the meaning of the extant of the Rules was conducted by the respondent No.5 before ordering the recovery to be made from my salary and in this view of the matter alone impugned orders dated 12.6.09 and 15.6.09 are bad in law and are liable to be set aside.

11. That as such, under the facts and circumstances stated above, it is respectfully submitted that as because orders dated 12.6.09 and 15.6.09 have been issued by the respondent No.3 and respondent No.5 in an illegal and malafide manner, this Hon'ble Tribunal may be pleased to set aside the same. Since, in the facts and circumstances of the case, malafide actions of the respondent Nos. 3 and 5 stands proved strictures ought to be issued against the respondent Nos. 3 and 5 so that fair, honest and upright officers are not harassed in a manner as had happened in the instant case and further allow this application with exemplary cost.

Preadip Kumar Smita.

**VERIFICATION**

I, Shri Pradip Kumar Sinha, son of Shri Priya Lal Sinha, aged about 49 years, presently serving as District Electrical Engineer, N.F. Railway, New Bongaigaon Workshop under the office of the Chief Workshop Manager, New Bongaigaon – 783381, District - Bongaigaon, Assam and resident of Railway Quarter No. R/22, Officers Colony, New Bongaigaon – 783381 in the district of Bongaigaon, Assam do hereby verify that the contents made in paragraphs 1,2,3,5,8,9,10 and 11 are true to my personal knowledge and paragraphs 4,6 and 7 believed to be true on legal advise and that I have not suppressed any material facts.

And I sign this verification on this 21st day of January, 2010 at Guwahati.

Date: 21.01.2010.

Pradip Kumar Sinha
Signature of the Applicant

Place: Guwahati.