

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

CA. NO. 23/2009
O.A./TA/ NO.....2009
R.A./CP/NO.....2019
E.P./M.P./NO.....2015

1. Order Sheets.....2.....pg.....1.....to...4.✓
2. Judgment/ order dtd. 23.03.2010 pg.....1.....to.....5.✓
3. Judgment & Order dtd.....✓.....received from H.C. /Supreme Court.
4. O.A. 23/2009.....page.....1.....to.....23.✓
5. E.P/M.P.✓.....page.....to.....
6. R.A./C.P.....✓.....page.....to.....
7. W.S. ...file 1 to 4 and 6 to 9...Page.....1.....to.....5.✓
8. Rejoinder...filed by the applicant...page.....1.....to.....4.✓
9. Replypage.....to.....
10. Any other papers AIC 275 ALLD. page.....1.....to.....5.✓
He. W.P No 3549/2008

PS
13/07/2015
SECTION OFFICER (JUDL.)

10/7/2015

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

1. Original Application No.

23/09

2. Misc Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant(S) Talbin Ali VS- Union Of India & Ors

Advocate for the Applicant(S) A. Khaleque, Z. Khalid

Advocate for the Respondent(S) Railway advocate

Notes of the Registrar

Date

Orders of the Tribunal

This application form
is filed in the Court
and posted on 16.02.09

No. 39.6.39.0.112

Dated 9.2.09

Sunil
Dy. Registrar

16/2/09

Slips taken with out
envelops. 2x Rs. 20/-
has been deposited with
Slip no. 2869 dt. 16.2.09
undertaking given for
service.

16/2/09

Copies of notices
along with order
dated 3/4/09 send
to D/Sec. for issuing pg
to resp. by regd. A/D
post- D/No-1706-1714
Date 13-4-2009

03.04.2009

None appears for the

Applicant nor the Applicant is present.
Perused the materials placed on record
of this case. A copy of this Original
Application has already been served on
Dr. J.L.Sarkar, learned Standing counsel
for Railways, who is present in Court
today. A preliminary hearing is given to
Dr J.L.Sarkar.

Issue notice to the
Respondents requiring them to file
written statement by 29.05.2009.

Call this matter on 29.05.2009
awaiting written statement from the
Respondents.

Copy of this order be sent to the
(along with notices)
Respondents in the address given in the
O.A.

(M.R.Mohanty)
Vice-Chairman

O.A. 23/09

Notice duly served
on R-1, 6, 7, 8,

comp
05/10/09

① No W/s filed.

28.5.09.

No W/s filed.

21.7.09

14/08/09

Notice served
for Respondt No. 9.

14/8/09
/bb/

2.9.09 03.09.2009

No W/s filed.

No W/s filed.

18.10.09

19.10.2009

29.05.2009 Mr.A.Khalique, learned
counsel for the Apploicant is present.
On the Prayer of Dr.J.L.Sarkar,
learned Standing counsel for the
Railways, call this matter on 22.7.09
awaiting written statement from the
Respondents.

lm

(N.D.Dayal)
Member(A)

(M.R.Mohanty)
Vice-Chairman

22.07.2009

Mr.A.Khalique, learned counsel for the
Applicant is present. On the prayer of
Dr.J.L.Sarkar, learned Standing counsel for the
Railways, call this matter on 03.09.2009
awaiting written statement from the
Respondents.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

On the prayer of Dr.J.L.Sarkar,
learned Standing counsel for the Railways,
call this matter on 19.10.2009 awaiting
written statement from the Respondents.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

None for the Applicant.
Dr.J.L.Sarkar, learned counsel appearing
for the Respondents seeks and allowed
four weeks time to file reply.

List on 18.11.2009.

(M.K.Chaturvedi)
Member (A)

(M.K.Gupta)
Member (J)

/bb/

O.A. No. 23 of 2009

18.11.2009

Proxy counsel on behalf of Dr. J.L. Sarkar, learned counsel for respondents seeks further two weeks time to file reply. We may note that Learned Standing counsel for Respondents have been allowed time to file reply since April, 2009. As matter relates to pensionary benefits, we gives last opportunity to file reply.

List on 2nd December, 2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

02.12.2009

Learned proxy counsel has stated that reply will be filed during course of the day. Vide order dated 18.11.2009 last opportunity was granted to file reply. If reply is not filed during course of the day, matter will proceed without reply on 17.12.2009.

List the matter on

17.12.2009.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

17.12.2009.

Mr. Z. Khalid, learned counsel for the Applicant states that rejoinder is being filed to-day. Accordingly, case is adjourned to 19.1.2010.

List on 19.1.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

No w/s filed.

3
1.12.09

3.12.09

w/s filed.
copy served.

3/12/09

w/s filed.

3
16.12.09

No rejoinder filed.

3
18.1.2010

O.A.23 of 2009

19.1.2010

Reply has been filed. Admit. Subject to legal exception, if any.

List the matter for hearing on 15.2.2010.

20.1.2010

Rejoinder has been filed by the Applicant. Copy served.
20/1/2010

/lm/

(Madan K. Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

15.02.2010

On the request of Dr.J.L.Sarkar, learned Standing counsel for Railways, adjourned to 23.02.2010. He states that inadvertently he did not notice the case being listed today.

The case is ready for hearing.

12.2.2010

The case is ready for hearing.

/bb/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

12.03.2010

Heard Learned counsel for the parties. Hearing concluded. For the reasons recorded separately, O.A. is dismissed. No costs.

24-3-2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

Judgment/Final order dated 23/2/2010 prepared and sent to the S/Secy for issuing the all the subpoenas by post vide NO 197 to 705 dated 23-5-2010

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 23 of 2009

DATE OF DECISION: 23.02.2010

Md. Jaldin Ali

APPLICANT(S)

Mr A. Khaleque

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

RESPONDENT(S)

Dr J.L. Sarkar, Railway Standing Counsel

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

1. Whether reporters of local newspapers may be allowed to see the Judgment?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Yes/No

Yes/No


Member (J)

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.23 of 2009

Date of Order: This the 23rd day of February 2010

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

Md. Jaldin Ali
Ex. Technician, Grade-I,
N.F. Railway under S.S.E.(C&W),
New Bongaigaon,
Resident of Village- Nalduba, P.O. Lalmati,
District- Bongaigaon, Assam.

..... Applicant

By Advocate Mr A. Khaleque.

- versus -

1. Union of India, represented by the
Secretary to the Government of India,
Railway Department,
New Delhi-110001.
 2. The General Manager
North East Frontier Railway,
Maligaon, Guwahati-781011,
District-Kamrup, Assam.
 3. The Divisional Mechanical Engineer
N.F. Railway,
P.O. & District - Bongaigaon,
Assam, Pin-783380.
 4. The Divisional Railway Manager
N.F. Railway,
Bongaigaon, P.O.& District- Bongaigaon,
Assam, Pin 783380.
 5. The Superintendent of Police
Bongaigaon, P.O.& District - Bongaigaon,
Assam, Pin - 783380.
 6. The Senior DEN/II
Rangia Railway Division, N.F. Railway,
Rangia, District- Kamrup,
Assam, Pin-781354.
- J

7. The ADEN,
New Bongaigaon,
District - Bongaigaon,
Assam, Pin - 783380.
8. The Chief Personnel Officer
N.F. Railway,
Maligaon, Guwahati-781011,
District- Kamrup, Assam.
9. The Divisional Personnel Officer
Rangia Railway Division, N.F. Railway,
P.O.- Rangia, District- Kamrup,
Assam, Pin-781354. Respondents

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

.....

ORDER (ORAL)

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

In this second round of litigation, Md. Jaldin Ali claims gratuity with further direction not to deduct any penal rent and issue Free Railway Passes as entitled under the rules.

2. On earlier occasion he had approached this Tribunal vide O.A.No.136/2008 seeking precisely the same relief. Said O.A. was disposed of vide order dated 07.08.2008 with the following direction:

"Since it is the positive case of the Applicant that the Quarters in question is in unauthorized occupation (may be by some of his family members) and since he has expressed his helplessness in the matter (as it appears from his various representations), the Authorities should have taken expeditious steps to get the Quarter vacated and redressed the grievances of the Applicant pertaining to payment of gratuity to him.

In the aforesaid premises, this case is, hereby, disposed of with direction to the Respondents to redress the grievances of the Applicant by treating the copy of this O.A. as his (Applicant) representation to them (Respondents) and the Respondents should act promptly pertaining to his claim for release of gratuity; since the Applicant has retired from service 4 years back from now.



Respondents, in any event, should settle the claim of the Applicant latest by end of December 2008.

With the aforesaid observations and directions, this case stands disposed of at admission stage."

3. Admittedly, he retired on 30.04.2004 and as per reply filed, his wife and his eldest son occupied said Quarter allotted to him while in service upto August 2008. Formal handing over and taking over had been carried out on 25.08.2008. His grievance is that he vacated said Quarter prior to his retirement and since his family members were in occupation of said Quarter, he made numerous representations to evict the unauthorized occupants so that his claim could be settled. He has alleged that his son had virtually turned him out from said Quarter and occupied it forcefully. Further grievance is that no gratuity had been released till date.

4. We have heard Mr A. Khaleque, learned counsel for applicant and Dr J.L. Sarkar, learned counsel for respondents, perused the pleadings and other material placed on record.


5. According to respondents' reply, since said Quarter allotted to him was in occupation of his family members upto August 2008 unauthorisedly, he was liable to pay penal rent. Till he clears such penal rent he is not entitled to DCRG etc.

6. Reliance has been placed by applicant on 2010 (85) AIC 275 (Allahabad High Court) Civil Misc. Writ Petition No.3549 of 2008, Mahipal Singh Chauhan vs. State of U.P. and others, to contend that that it is the duty of the authorities to release retiral dues of an employee so as not to render him without any means of livelihood. Further reliance was placed on 2007 (58) AIC 273 (Allahabad High

Court) Civil Misc. Writ Petition No.8825 of 2000, Ram Deo Lal Srivastava vs. Commissioner/Secretary, Food and Civil Supplies Department, U.P. Government, Jawahar Bhawan, Lucknow and others, decided on 24.04.2007, to contend that gratuity and pension amount which were withheld should be released immediately.

7. We have carefully perused said judgments. Vide earlier judgment observation made was that it is the duty of the employee to vacate the accommodation after retirement, but at the same time it was observed that it was the duty of the authorities to release retiral dues of the employee so as not to render him without any means of livelihood. Both aspects have to be read in conjunction and not in isolation. Similarly, in Ram Deo Lal Srivastava (supra) the amount was withheld as applicant therein occupied the Quarter in question and certain note for recovery had been issued. We may note that observations made in earlier case were in peculiar facts and circumstances of said case as no notice had been issued in specific requiring him to pay damage rent. Applicant in present case has nowhere pleaded such aspects. Therefore, such judgments are rendered totally distinguishable. Therefore, applicant is liable to pay penal rent as prescribed under the rules.

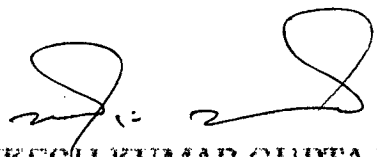
8. Not even a word has been stated neither any order has been passed in pursuance to direction of this Tribunal in aforesaid O.A. regarding the amount of penal rent that has to be recovered. In the circumstances we would not be able to make any observation as to what quantum he is liable to pay as penal interest. It goes without saying that unless and until he has formally handed over the Quarter, mere writing letters to the concerned authorities would not constitute



that he has vacated the Quarter. Railways would be justified to act strictly in accordance with law. Therefore, direction is issued to the respondents to pass a reasoned and speaking order highlighting the total amount to be recovered as penal rent besides, rate at which said amount is to be recovered.

9. Aforesaid exercise shall be carried out by the respondents as expeditiously as possible and not later than two months from date of receipt of this order. O.A. is disposed of. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

nkm

12

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

G. A. R. 6

[See Rule 22 (1)]

RECEIPT

No. 2869

Date: 16.2.2009

Received from Mr. J. Ali, Applicant With

Letter No. OA - 23/09 dated 20

the sum of Rupees Twenty only.

In cash/by IPO on account of Extra charge for excess
by bank draft Regd. No. 6 to 9

.....in payment of

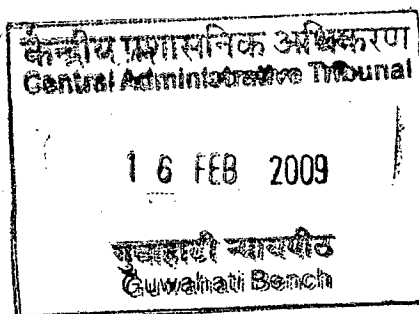
Rs. 20/-

Signature

[Signature]

Cashier

4



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH,
GUWAHATI :

An application under section 19 of the
Central Administrative Tribunal Act, 1985.

O.A.No. 23 /2009

Md Jaldin Ali ... Applicant

- versus -

Union of India & ors ... Respondents

FILING SLIP

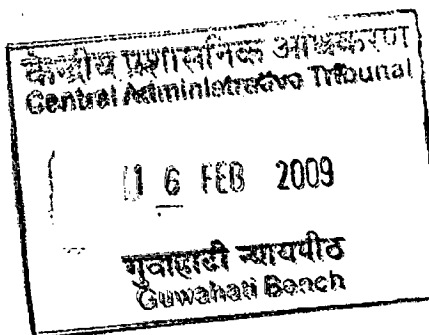
I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Petition with verification ...	1-9
2.	Annexure-A ...	10
3.	Annexure-A1 ...	11
4.	Annexure-A2 ...	12
5.	Annexure-A3 ...	13
6.	Annexure-A4 ...	14, 15
7.	Annexure-B ...	16
8.	Annexure-C ...	17-21
9.	Annexure-D ...	22-23
10.	W/S by R.Nos 1 to 4 on 6 to 9	24-28
11.	Rejoinder - 29-32	

Filed by :

Z. Khalid,
Advocate

R
For Dr. J.L. Sankar
S.C. Railways
17/2/09



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI :

O.A. NO. 23 /09

Md. Jaldin Ali ... Applicant

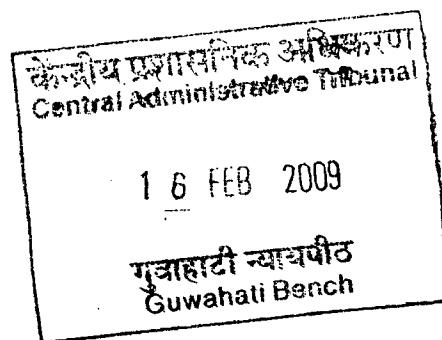
- versus -

Union of India & ors ... Respondents

Synopsis of the above-noted O.A. are as follows :

The applicant Md. Jaldin Ali worked as Technician, Grade-I, under Mechanical Engineer, N.F. Railway, Bongai-gaon and he retired from his service on 30.4.94, and at present he is getting his regular pension. The Gratuity money payable to the applicant has not been paid as yet on the plea that he has not surrendered his Railway quarter. The applicant has not been given the facility of free Pass which is allowed to all the retired persons of the Railway. The applicant handed over the Railway quarter prior to his retirement date and it was allotted in the name of Md. Gul Hussain but Md. Gul Hussain could not take the quarter as it was authorisedly occupied by one of the son of the applicant who is in enmity terms with the applicant. The applicant wrote several letters to the authority and to Police to evict his son using force as per the Rules of the Railway as the applicant is a helpless old man. But the authority did nothing to evict the unauthorised person and as a result the gratuity of the applicant is not paid. That in reply to the Pleader's

contd ... 2

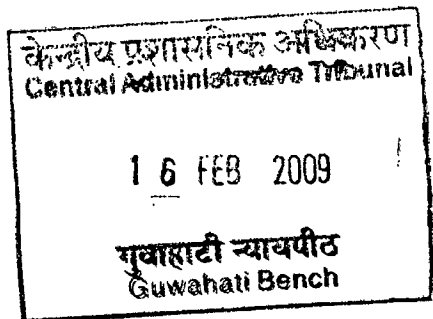


-(2):-

Notice from the applicant, the authority stated that necessary action is being taken for eviction of the unauthorised person but uptil now nothing has been done.

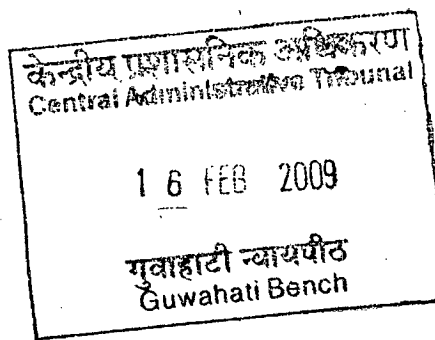
Being helpless the applicant approached this Hon'ble Court/Tribunal, and the Hon'ble Tribunal registered the petition as O.A.No.136/08, and in its order dated 7.8.2008 directed the authority to redress the grievancs of the applicant Promptly pertaining to the claim for release of the Gratuity within four months.

In response to the Hon'ble Tribunal Order, the authority settled the matter by their order dated 15.9.08 and paid the amount of Rs.270/- as Gratuity deducting the panel house rent of the Quarter. The applicant prays that the authority may be directed to pay the entire gratuity money without deducting the panel rent in view of the fact that the applicant constantly requesting the authority to evict the unauthorised occupants by using force as per the rules of the Railway.



LIST OF DATES

- 28.2.04 : Applicant surrendered his allotted Railway quarter No.163/3, Type-I at B.G.Colony, Bongaigaon and the same was allotted to Md. Gul Hussain.
- 30.4.04 : The applicant retired from his job as Technician, Grade-I under Mechanical Engineer, N.F. Railway at Bongaigaon.
- Applicant's son Aftab Ansari forcibly occupied the said Railway quarter.
- 23.6.04 : Applicant wrote to the D.M.E., N.F. Railway for expelling the said unauthorised occupant but no reply.
- 21.11.04 : Applicant wrote to Supdt. of Police to take action against the unauthorised occupant but no action was taken.
- 2.3.06 : Submitted representation before the authority for evicting the unauthorised occupants.
- 13.3.06 : Another representation before the authority for evicting the unauthorised occupants.
- 31.7.06 : Authority replied the Pleader's Notice filed by the applicant.
- 13.5.07 : Another representation filed for paying the Gratuity after evicting the encroachers.



-(2):-

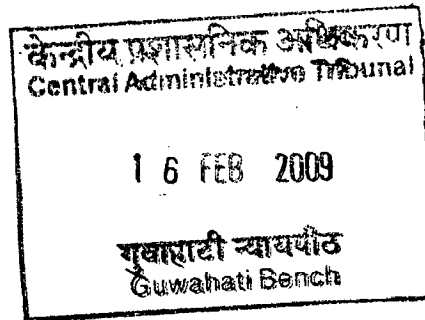
13.5.08 : Applicant filed another representation before the General Manager, N.F.Railway.

7.8.08 : Hon'ble Central Administrative Tribunal in O.A.No.136/08 directed the authority to take prompt action on the claim of the applicant for release of Gratuity.

15.9.08 :

The D.M.E./New Bengaigaon in its Order dated 15.9.08 informed the Sr.D.M.E., Rangia to the effect that the unauthorised occupant voluntarily left the Quarter.

10.12.08 : The Asstt. Divisional Finance Manager, N.F.Rly, Alipurduar, issued a cheque for Rs.207/- as Gratuity to the applicant.



IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH : GUWAHATI :

Md. Jaldin Ali
Filed by the petitioner
through
Z. Kaulid
Advocate

O.A. NO. 23 /2009

AN APPLICATION UNDER SECTION 19 OF
CENTRAL ADMINISTRATIVE TRIBUNAL ACT.

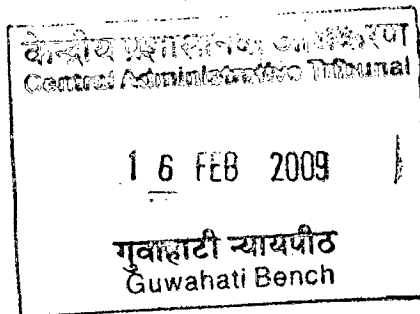
Md. Jaldin Ali,
Ex. Technician, Grade-I,
N.F. Railway under S.S.E. (C & W),
New Bongaigaon,
Son of
resident of village Nalduba, P.O. Lalmati,
district Bongaigaon, Assam,

... PETITIONER

- v e r s u s -

1. Union of India,
represented by
The Secretary to the Govt. of India,
Railway Department, New Delhi. Pin 110001 ✓
2. The General Manager,
North-East Frontier Railway,
Maligaon, Guwahati-11, district-
Kamrup, Assam. Pin 781011 ✓
3. The Divisional Mechanical Engineer,
N.F. Railway, P.O. & District Bongaigaon,
Assam. Pin 783380 ✓

contd ... 2



-(2):-

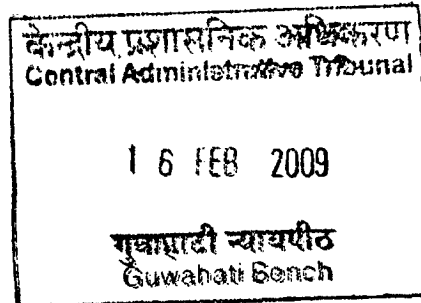
4. The Divisional Railway Manager,
N.F.Railway, Bongaigaon, P.O. & Dist.
Bongaigaon, Assam. Pin-783380 ✓
 5. The Supdt.of Police,
Bongaigaon, P.O. & District-
Bongaigaon, Assam. Pin -783380 ✓
 6. The Senior DEN/II,
Rangia Rly. Division, N.F.Railway,
Rangia, District Kamrup, Assam. Pin 781354 ✓
 7. The ADEN, New Bongaigaon,
N.F.Railway, District Bongaigaon,
Assam. Pin 783380 ✓
 8. The Chief Personnel Officer,
N.F.Railway, Maligaon, Guwahati-II,
district Kamrup, Assam. Pin 781011 ✓
 9. The Divisional Personnel Officer,
Rangia Railway Division, N.F.Railway,
P.O. Rangia, District Kamrup, Assam,
Pin 781354 ✓
- ... RESPONDENTS.

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

The application is made against the following
Order :

Md Taldin Ali

contd ... 3



-(3):-

- 1) Subject in brief : Payment of Gratuity by the Bill dated 10.12.2008 for Rs.207/- after deducting the Panel rent of Quarter No.163/B Type-I without taking any action against the unauthorised occupants of the said Quarter.

2. Jurisdiction of the Tribunal :

The petitioner declares that the subject matter against which he wants redressal is within the jurisdiction of this Tribunal as the petitioner and the main respondents against whom the relief is sought are within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The applicant further declares that the application is within the limitation prescribed under section 21 of the Central Administrative Tribunal Act.

4. Facts of the Case :

- 4.1 That the applicant was appointed in a Railway Job in the year, 1967 and he retired from his job as Tech/Grade-I on 30.4.2004 from the office of the S.S.E.(C&W), New Bongaigaon under N.F.Railway. The applicant got his pension after his retirement and till today he is getting his pension. But the applicant is not getting his Gratuity till today.

Md. Taldin Ali

-(4):-

That it may be mentioned that the applicant vacated his Quarter No.163/B Type-I at B.G.Colony, Bongaigaon, Prior to his retirement. The applicant shifted his wife and other family members to his original house at Uttar Pradesh. But one of his son namely Aftab Ansari (34 years of age) illegally occupied the said Quarter and the authority has not taken any action to evict the unauthorised occupier from the applicant house and further stopped the payment of his Gratuity. The applicant also filed an F.I.R. before the Supdt. of Police, Bongaigaon for illegally occupying his quarter against his son. (Copy enclosed as Annexure-"A").

4.2 That the applicant begs to state that he wrote several representations before the authorities to evict the unauthorised occupant from the quarter of the applicant but no action has taken by the authorities and as a result the legitimate Gratuity payable to this applicant has not yet been paid.

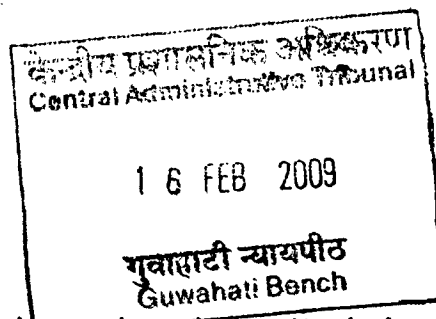
(Copy of those representations are annexed herewith and marked as Annexure-"A" series).

4.3 That finding no reply of those petitions the applicant served one Advocate's notice on the respondents and in reply to the applicant's notice the respondent No.3 gave a reply to his Advocate.

(Copy of the reply of the respondent No.3 is annexed herewith and marked as Annexure-"B").

Md. Taldin Ali

contd. ... 5

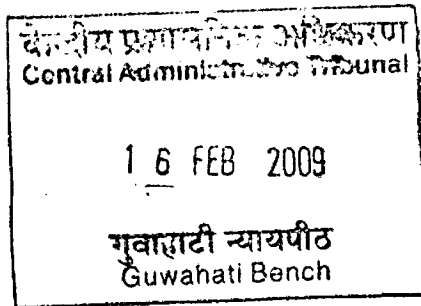


-(5):-

- 4.4 That the applicant ~~begs to state~~ that in reply to the Advocate Notice the respondent No.2 had categorically stated that necessary action has been taken for eviction of the said quarter, but uptil now nothing has been done to evict the unauthorised person and as a sresult the gratuity of the applicant has been stopped by the respondent.
- 4.5 That the applicant begs to state that the Railway authority as per the Rules of Administration can easily evict an unauthorised occupier from the Railway Quarter but the authorities has not done any thing to clear the unauthorised occupants and as a result the legitimate gratuity of the applicant has not be paid for no fault of him.
- 4.6 That the applicant begs to state that the unauthorised person may be estranged son of the applicant but the applicant has no connection with him and as such he prayed the authority to evict him by using force.
- 4.7 That the applicant finding no way out approach this Hon'ble Tribunal and filed a petition and the same was registered as O.A. No.136/08. The Hon'ble Tribunal after hearing both the parties directed the respondent to act promptly, pertaining to the claim for release of gratuity of the applicant latest by end of December, 2008.

(Copy of the said order is annexed and marked as Annexure-"C").

Md. Jaldin Ali



-(6):-

4.8 That the applicant begs to state that in pursuance of the Hon'ble Tribunal's order dated 7.8.2008, the authority paid the applicant Rs.207/- by cheque as his gratuity deducting panel rent of the said quarter although he was entitled to get Rs.1,40,000/- (Rupees one lakh forty thousand) as gratuity.

5. GROUND FOR RELIEF WITH LEGAL PROVISION :

5.1 The action of the respondent by deducting the panel rent of the quarter is arbitrary and illegal and a gross violation of right under Article 16 of the Constitution of India, although the applicant suffered his quarter.

5.2 That the inaction of the respondent in evicting the unauthorised person from the quarter which was vacated by the applicant prior to his retirement, and only for that reason the deduction of panel rent of the quarter from applicant's gratuity money is against the principle of natural justice.

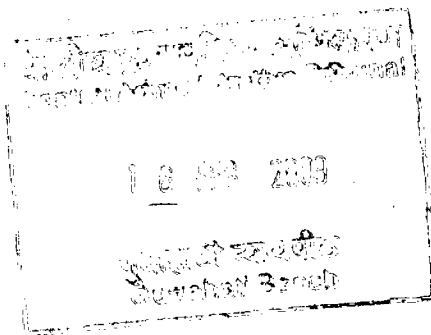
5.3 That the respondent acted illegally by not issuing Free Travelling Passes to the applicant after his retirement which is given to all the retired employees of the Railway which is also a discriminatory action of the respondent in respect of this applicant.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he availed of all the remedies available to him under the relevant rules.

Md. Jalilur Aki

contd ... 7



-(7):-

7. MATTER NOT PENDING BEFORE ANY OTHER COURTS :

The applicant declares that the matter regarding deduction of panel rent from his money has not been made to any other Court of law or any other Authority or any other Bench of the Tribunal. The applicant further declares that the present petition is specifically for getting the full gratuity money and his Free Travelling Railway Passes without deduction of panel rent from him.

8. RELIEF SOUGHT :

8.1 The respondents may be directed to pay the applicant full amount of the gratuity money without deducting panel rent and his Free Railway Travelling passes for which he is entitled as per Rules.

9. INTERIM ORDER IF PRAYED FOR :

No interim order is prayed for.

10. Particular of Bank Draft in respect of application fee of I.P.O. No. 396 390112

Name of issuing Post office- Guwahati G.P.O.

Date of issue of Postal Prder : 5.2.09

Post Office at which payable : Guwahati G.P.O.

contd ... 8

Ma. Jaldam Bai

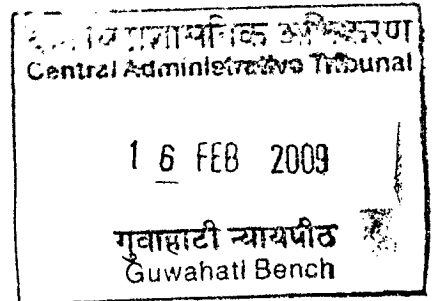
-(8):-

11. LIST OF ENCLOSURES :

- 11.1 Copy of F.I.R. dated 23.11.2004.
- 11.2 Copy of application dated 16.6.2005 for vacating my Railway quarter from unauthorised person.
- 11.3 Another application dated 2.3.2006.
- 11.4 Copy of application for vacating quarter of the applicant from unauthorised person.
- 11.5 Copy of application for vacating quarter of the applicant from unauthorised person.
- 11.6 Copy of application dated 15.6.2008 filed by the applicant to all the respondents.
- 11.7 Copy of letter from Divisional Mechanical Engineer, N.F.Railway, Bongaigaon, Assam.
- 11.8 Copy of the order of this Hon'ble Central Administrative Tribunal dated 9.8.2008.
- 11.9 Copy of the order passed by the respondent for payment of Gratuity.

Yd Jaldin Ali

contd ... 9



-(9):-

VERIFICATION

I, Md. Jaldin Ali, aged about 62 years, son of Late Basai
by religion Muslim, by profession retired
serviceman, a resident of village Nalduba, P.O.Lalmati,
district Bongaigaon, Assam do hereby verify that the
statements made in paragraphs 4.1 to 4.6 are true to my
knowledge and not suppressed any material facts.

And I sign this verification on this 16th day
of ~~January~~^{February}, 2009 at Guwahati.

Md Jaldin Ali
SIGNATURE

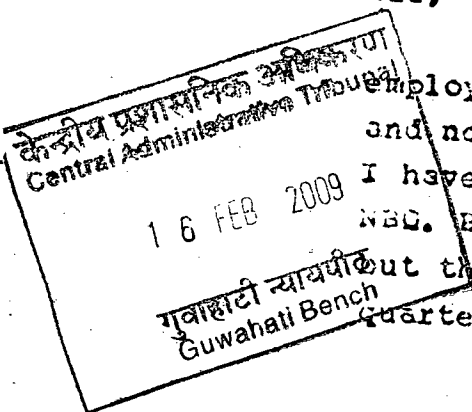
To,

The Superintendent of Police,
Bongaigaon.

Dated, Bongaigaon the 23-11 Nov./2004.

Sub :- F.I.R. concerning threatening by
Md. Aftab Ansari.

Sir,



Respectfully I beg to state that I was Rly. employee as Grade - I fitter being period at Bongaigaon and now I have retired from services on 30.04.04. Though I have surrendered the allotted Rly. quarter No. 163/B W.B. S. Colony and have shifted to Abheyapuri (Maldoba) but the wife does not come to me and has remained in the quarter along with the son.

My son Aftab Ansari has sold the Jeep No. AXA-1620 and demanding money of ransom. The purchase of Jeep was for his livelihood and for management of family after my retirement.

My son has formed a gang and threotant with dere consequences of life. The to fear created by son my movement has been risky. The physical assault has been regular featime.

My wife is associated with my son and they want to make my old age miserable.

Due to nonvocation of Rly. quarter the Rly. authority has detained my gratuity and regular railway pass.

Therefore, I request you kindly to safeguard my interest and life as I can service peacefully.

For this act of your kindness I shall be ever grateful to you.

Yours faithfully,

Md. Jaldin Ali

(Md. Jaldin Ali)

New Bongaigaon.

PC 050/04

20/11/04

Certified to be
True copy
L. Chandra
Sharma

To,

The D.M.E./N.F. Rly./NBQ.

Through SSE/C&W/NBQ. N.F. Rly..

Annuome - Ag ✓

केन्द्रीय प्रशासनिक न्यायाधीश Central Administrative Tribunal
16 FEB 2009
गुवाहाटी न्यायपीठ Guwahati Bench

Copy to : AM/NBQ. OC/CRP & OC/RPF/NBQ. SE/W/NBQ, SS/ELC/BC/NBQ.
ASC AE/NBQ OC/PS/Bongaigaon for information and necessary
action into please.

Sub :- Vacation of Rly. Qrt. 163-B type I (Elec.) from
30.04.04 on my retirement on & from 30.04.04 and
shifted to another place at Naldaba, P.O. Lalmati.

Ref :- My previous application dt. 23rd June/04
Your Office L/No. M/QCM/QR/04, dt. 19.04.04.

Sir,

With reference to the above, I beg to draw your
kind attention to the fact that I have already vacated the
Rly. Qrt. prior to my retirement and made overed to Md. Gul
Hussain, Khalashi under SSE/C&W/NBQ. But he could not take
over charge of the Rly. Qrt. due to unauthorised occupation
of another persons, beyond of my knowledge.

Hence, I request you would be so kind as to arrange
to vacate the Rly. Qrt. by police force from your end as am
not so responsible for the same. It is depend upon you.

Therefore, I fervently pray to take departmental
action as per Rules of the administration in connection of
vacation the Rly. Qrt. as the Rly. Qrt. has already been
vacated by me.

Soliciting your prompt action to vacate the same
early & oblige.

Copy to DRI(P)/RNY & Sr.
DME/RNY OC/PS & SP/PS BNGN.
for information and necessary
action therein please.

Yours faithfully,
Md. Jaldin Ali
16.6.05
(Md. Jaldin Ali)
Ex.- Tech/Gr. I
under SSE/C&W/NBQ N.F. Rly.

Forwarded for
disposal

16/6/05

Certified to be
true copy
L. K. Chakrabarti
Advocate

2
16/6/05

2
16.6.05

2
16/6/05

2
16/6/05

To,

The D.M.E./N.F.Rly./NRQ.

Through SSE/C & W/NBQ. H.F. Rly.

Copy to: AI/NBQ. OC/GRP & OC/NBQ. SE/W/NBQ. SS/ELC/NG/NBQ.
OC/PS/Bongqigaon for information and necessary
action into please.

Sub :- Vacation of Rly. Qrt. 163-B type I (11ec.) from
30.04.04. on my retirement on & From 30.04.04.
and shifted to another place at Naldoba, P.O.-
Lalmati.

Ref :- My previous application dt. 23rd June/04.
Your Office L/No. M/QCM/QR/04, dt. 19.04.04.

Sir,

With reference to the above, I beg to draw your
kind attention to the fact that I have already vacated
the Rly. Qrt. prior to my retirement and made overed to
Md. Gul Hussain, Khalashi under SSE/C&W/NBQ. But he
could not take over charge of the Rly. Qrt. due
to unauthorised occupation of another persons, beyond
of my knowledge.

Hence, I request you would be so kind as to
arrange to vacate the Rly. Qrt. by police force from your
end as am not so responsible for the same. It is depend
upon you.

Therefore, I fervently pray to take departmental
action as per Rule of the administration in connection of
vacation the Rly. Qrt. as the Rly. Qrt. has already been
vacated by me.

Soliciting your prompt action to vacate the
same early & oblige.

Copy to DRM(P)/RNY & Sr.
DME/RNY. OC/PS & SP/PS RNY
for information and neces-
sary action therein please.

Yours faithfully,

H. J. G. M. A.
2-3-06

Ex-Tech/Gr. -I
Under SSE/C&W/NBQ H.F. Rly.

DME/NBQ
P.I. Sort out
the issue under
inf. to this office
9/3/06

Forwarded
Please

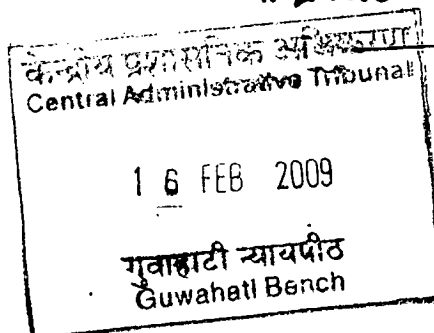
Section Engineer (& W)
N. F. Railway, New Bongaigaon

केन्द्रीय प्रशासनिक अधिकारी Central Administrative Tribunal
16 FEB 2009
गुवाहाटी न्यायपीठ Guwahati Bench

Certified to be
true copy
L. K. Choudhary
Advocate

To
The D.M.E./N.F. Rly/
New Bongaigaon .

Through SSE (C&W)NBQ
N.F. Railway.



Copy to:- Sr. DME/RNY/N.F.Rly.

Sub:- Vacation of Rly. Qrs. No. 163/B, Type-I at B.G. Colony, I have retired from my Rly. Service on 30.04.2004.

Ref:- My previous application dt. 23rd June/2004.
Your Office L/No. M/QCM/QR/04 dtd. 19.04.04.

Sir,

With due respect and humble submission, I beg to draw your kind attention to the fact that I have already ~~vacated~~ vacated the Rly. Qrs prior to my retirement and made overed to Md. Gul Hussain, Khalsi ~~holder~~ holder under SSE (C&W) NBQ. But . could not taken over charge of the Rly.Qrs. due to unauthorised occupation of my son Md. Aftab Ansari, aged 32 Years. I am shifted at Noldoba. He does not come to me and has remained in the Quarter.

My son Aftab Ansari has sold the Jeep No. AXP 1820 and demanding money of randam. The Jeep which was purchased by me.

Therefore, I pray to you , please look into the matter and arrange to vacate the said Rly, ^{Quarter separately} as ~~xx~~ soon as possible and oblige thereby.

Yours faithfully,

Md. Jaldin Ali

Dated, NBQ/
the 13/3/06.

(Md. Jaldin Ali)
Ex. Tech. Gr-I, under
SSE(W& C & W)/NBQ.

forwarded
Please
All
Sr. Section Engineer (C & W)
N.F. Railway, New Bongaigaon

13/3/06

Certified to be
true copy
Z. Khatun
Advocate

Regd with A/D

Date: 15.6.08

To

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

Central Administrative Tribunal
16 Feb 2009
গুৱাহাটী ন্যায্যপীঠ Guwahati Bench

Sub : Non-payment of Gratuity

Ref : My earlier representation dated 23.6.04,
16.6.05 and 2.3.06 regarding vacation
of my Quarter No. 163/B, Type-I at B.G.
Colony, Bongaigaon.

Ref : Divisional Mechanical Engineer,
Bongaigaon's letter dated 31.7.2006.

Sir,

With reference to the above quoted letter in the
above subject, I beg to lay the following few lines for
favour of your kind consideration and necessary action :

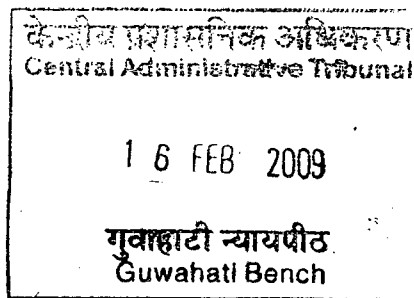
That sir, I served the Railway for 37 years on
different capacity and retired on 30.4.2004 as Technician
Grade-I from D.R.M. Rangia and I am now getting Pension.
That sir, prior to my retirement I handed over the Quarter
to one Gul Hussain in whose name the Quarter was allotted
but Md. Gul Hussain could not took the possession as one
of my son forcibly occupying the same.

That my aforesaid son namely Md. Aftab Ansari is
a very wicked person. He is now about 34 years old but
he always misbehave me and he assaulted me many a time
demanding money from me. I also informed the Police.

That sir, after vacating my quarter I took my wife
to my permanent home at J.F. where my family members are

contd ...2

Certified to be
true copy
Z. Icerahid
Advocate



-(2):-

living. That for not vacating the quarter by my above mentioned son the Authority have stopped the payment of my Gratuity and stopped the dues. In my earlier representation I requested your honour to take action on the unauthorised occupant of my quarter by using force as per Rule of the Railway administration, but upto now nothing has been done.

In reply to my Advocate notice, the Divisional Mechanical Engineer, Bongaigaon stated that he is taking necessary action for evicting the unauthorised occupants.

But nothing has been done to evict the unauthorised person and as a result I am deprived from my legitimate gratuity for last 4 years. That sir, I have come to know that the authority is going to deduct Panel house rent from me for the quarter for no fault of mine.

I now therefore request you kindly to evict the unauthorised person and pay my legitimate dues to me at an early date.

Yours faithfully,

Sd/-
(MD JALDIN ALI)
Ex-Technician, Gr.I,

Copy to :

1. Divisional Mechanical Engineer, N.F.Railway, Bongaigaon.
2. Divl.Railway Manager, N.F.Railway, Rangia Division, Rangia.

*Certified to be true copy
L. K. Chakraborty
Advocate*

No-M/CCW/QR/06.

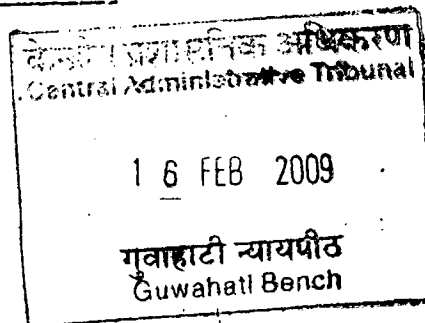
-16-

Office of the,
DME/NBQ.

Dt- 31.7.06.

To,

Mr. Cangadhar Choubey, B.A.LL.B.
Advocate & Legal Consultant
M.G.Road, Abhayapuri, Ward No. III
P.O. Abhayapuri, Dist. Bongaigaon (Ascm).



Sub:- Railway Qtr.No.163/B Type-I at B.G.Colony NBQ.

Sir,

In response to your Letter No.Nil.Dated-24/7/06 this is to inform you that your client Md.Jalidin Ali.Ex-C/Fitter Gr-I/NBQ under SSE/C&W/NBQ submitted an application for vacation before his retirement i.e.30.4.04 and the said Qtr. was allotted to Md.Gul Hussain,C/Khal/NBQ under SSE/C&W/NBQ but your client could not handover to the allottee as per rule.

Your client has re-submitted an application for forcible vacation of the said Qtr.Vide his L/No.Nil Dt-2/3/06 and the office received on 10.3.06.and it has been learnt that, his son Md.Abtal Ansari is occupying the Qtr unauthorisely.

In this regard it is informed to you that the legal authority is Sr DEN/II/Rangiya. N.F.Rly(Estate officer),who is empowered for eviction. However this office made correspondence for necessary action for eviction of the said Qtr.-- vide this office L/No.1.M/CCW/QR/06.Dated-22.3.06 to ADEN/NBQ. 2. Reminder even L/No.Dt-20.6.06.3.L/No.M/CCW/QR/06.Dt-17.4.06 to DEN/II/RNY.4.Reminder even L/No.Dt-23.7.06 and also 5.ADEN/NBQ communicated to DEN/II/RNY vide his L/No.GE/3/NBQ Dt-8.1.06.

This is for your information and necessary action please.

Yours faithfully.

(J. Lakra. DME/NBQ).

CAB.
Give a copy to
Sr DEN/II/RNY with
foregoing letter.
31/7/06.

Certified to be
true copy
L. Ichhalip
Advocate

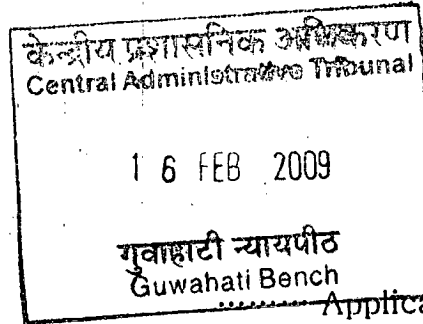
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Original Application No.136 of 2008.

Date of Order: This, the 7th day of August, 2008.

HON'BLE MR. MANORANJAN MOHANTY, VICE-CHAIRMAN

M.I. Jaldin Ali
Ex. Technician, Grade-I
N.F.Railway under S.S.E. (C&W)
New Bongaigaon
Resident of Village: Nalduba
P.O: Lalmati, District: Bongaigaon
Assam.



By Advocates Mr.A.Khaleque and Mr.Z.Khalid.

- Versus -

1. Union of India
Represented by the Secretary
Govt. of India, Railway Department
New Delhi.



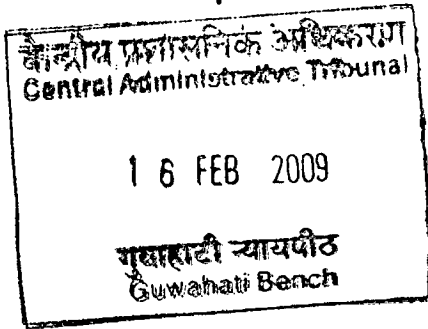
The General Manger
North East Frontier Railway
Maligaon, Guwahati-11
Dist: Kamrup, Assam.

The Divisional Mechanical Engineer
N.F.Railway, P.O: & District: Bongaigaon
Assam.

4. Divisional Railway Manager
N.F.Railway, Rangiya Division
P.O: Rangiya, Dist: Kamrup
Assam.

5. The Superintendent of Police, Bongaigaon
P.O: & District: Bongaigaon
Assam.

*Certified to be true copy
Z.Khalid
Advocate*



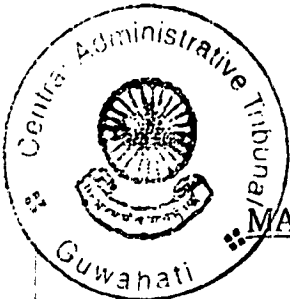
6. The Senior DEN/II,
Rangiya Railway Division
N.F.Railways
P.O: Rangiya, District: Kamrup
Assam.
7. The ADEN, New Bongaigaon,
N.F.Railways
P.O: New Bongaigaon,
District: Bongaigaon, Assam.
8. The Chief Personnel Officer
N.F.Railways, Maligaon
Guwahati-781 011.
9. The Divisional Personnel Officer
Rangiya Railway Division
N.F.Railways
P.O: Rangiya, Dist: Kamrup
Assam.

Respondents.

None present for the Respondents.

ORDER (ORAL)

07.08.2008

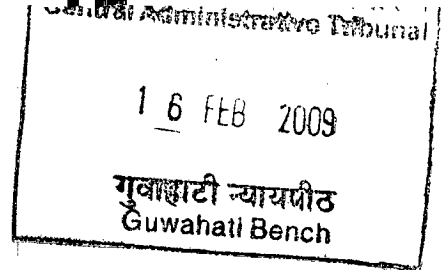


MANORANJAN MOHANTY, (V.C.) :

Applicant faced retirement from the services of the Railways on 30.04.2004. Before that date, he intimated the authorities about his desire to surrender the Railway Quarters No.163-B (Type I) at B.G. Colony at Bongaigaon. It appears, accordingly, the Quarters in question was allotted to one Md. Gul Hussain but the Quarters in question could not be handed over to the new allottee; for the reason of the fact that the some of family members of the Applicant forcibly refused to vacate the Quarters in question and, in the said premises,

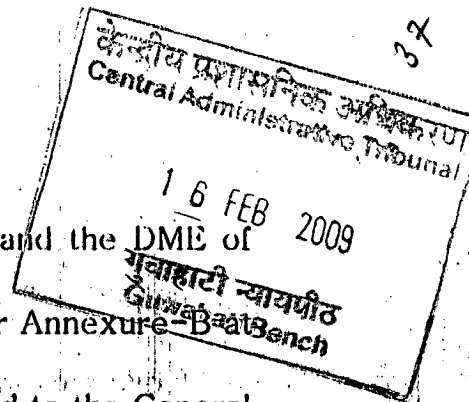
Y
O

-19-3



the Respondent Authorities, who released the pension in favour of the Applicant, have withheld the gratuity amount payable to the Applicant. It is the positive case of the Applicant that he approached the local Superintendent of Police and other authorities of the Railways to take steps to vacate the unauthorized occupants from the Quarters in question and to release his gratuity; for which he submitted representations to the officers of the N.F.Railways on 23.06.2004, 16.06.2005, 02.03.2006, 10.03.2006 and 13.03.2006. He also submitted a representation to the local Superintendent of Police on 23.11.2004. It appears from the materials placed on record that on receipt of his representations, an Officer of the N.F.Railways (DME/NBQ) wrote a letter to ADEN/NBQ on 22.03.2006 and sent another reminder on 20.06.2006. It appears that on receipt of said communications, the ADEN/NBQ sent a letter to the DEN/II/Rangiya; who is the Estate Officer, competent to evict unauthorized occupants from the Railway Quarters/premises in exercise of powers under PP(EUO) Act, 1972. It appears that the said Estate Officer was also moved by the Officer (DME/NBQ) of the N.F.Railways on 17.04.2006 and again on 28.07.2006. It is not known as to whether the said Estate Officer of the Rangiya Railways Division of N.F.Railways initiated eviction proceeding in respect of Quarters No.163/3 (Type D) at B.G. Colony at Bongaigaon. It appears further that the Applicant (who was desperate to get his gratuity amount) served a notice on the

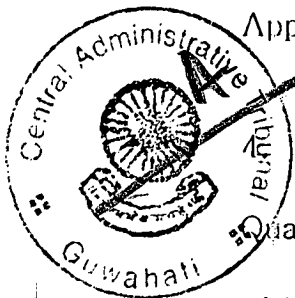




Respondents (through his Advocate) on 24.07.2006 and the DME of New Bongaigaon replied thereto on 31.07.2007 under Annexure page 14 of this O.A. Finally, the Applicant represented to the General Manager of N.F.Railways under Annexure-A/4 dated 15.06.2008 and, without hearing from the Respondents about payment of gratuity, the Applicant has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

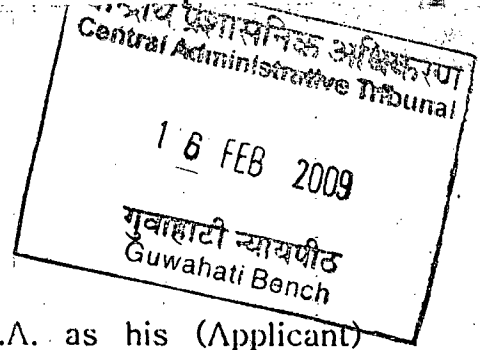
2. It is stated that a copy of this O.A. has already been supplied to Dr.J.L.Sarkar, learned Standing counsel for the Railways.

3. Heard Mr.A.Khaleque, learned counsel appearing for the Applicant and perused the materials placed on record.



Since it is the positive case of the Applicant that the Quarters in question is in unauthorized occupation (may be by some of his family members) and since he has expressed his helplessness in the matter (as it appears from his various representations), the Authorities should have taken expeditious steps to get the Quarter vacated and redressed the grievances of the Applicant pertaining to payment of gratuity to him.

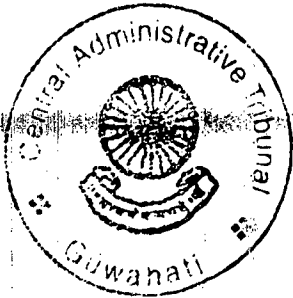
5. In the aforesaid premises, this case is, hereby, disposed of with direction to the Respondents to redress the grievances of the



Applicant by treating the copy of this O.A. as his (Applicant) representation to them (Respondents) and the Respondents should act promptly pertaining to his claim for release of gratuity; since the Applicant has retired from service 4 years back from now. Respondents, in any event, should settle the claim of the Applicant latest by end of December 2008.

6. With the aforesaid observations and directions, this case stands disposed of at admission stage.

7. Send copies of this order to the Respondents (along with copies of the O.A.) and free copies of this order be supplied to Mr.A.Khaleque, learned counsel appearing for the Applicant and to Dr.J.L.Sarkar, learned Standing counsel for the Railways.



SD. Vice-Chairman

TRUE COPY
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-5
11.8.08
11/8

मूल प्रति/(Original)
६० सी० रेलवे/N. F. RAILWAY

६० सी०-एच० सी०
N. F. - AUG-8

६०/No. सी० एच आर०/CHR. ता०/Date 198

सेवा में/To The.....

प्रिय महोदय/Dear Sir, Md. J. Ali. Tech

मैं..... को मद में नीचे लिखे विवरण के अनुसार..... ६० जमा करता हूँ

I have the honour to remit as per details below the sum of Rs.....

..... on account of DCRB

	६०/Rs.
चेक सं०/Cheque No: 58202	
मनी ऑर्डर/Money Order	207
डाक टिकट/Postage Stamp	19/12
मनी ऑर्डर का खर्च/Cost of Money Order	
रीटि टिकट का खर्च/Cost of Receipt Stamp	
कुल/Total	

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
16 FEB 2009
गुजराती न्यायपीठ
Gujarati Bench

कृपया पावनी स्वीकार करें तथा संलग्न रसीद वाक्यांश हस्तक्षेप के बाद लोटती डाक से भेज दें।
Please acknowledge and return the enclosed receipt duly Signed by return of Post.

रसीद हस्ताक्षर लेना अधिकारी के नाम (जिसे रसीद जारी है) / Receipt to be made out in name of Chief Accounts Officer.

यदि द्वारा रसीद फार्म के समान फार्म नहीं है तो इसे अलग से प्रिंट कर हस्ताक्षर कर दें।
If a separate receipt form is not used please stamp and sign this document and return.

ऊपर लिखी हुई रकम प्राप्त की।
Received the amount above mentioned.
यदि रकम 20 रु० से अधिक हो तो इस पर दस पैसे का रसीद टिकट चिपकाया जायेगा।
Ten Paise receipt stamp should be affixed to the receipt if the exceeds Rs. 20.

Certified to be true copy
Z. Khalid
Helwan

-23-

40

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
वि.स. एवं मु.ले.अ. उत्तर पूर्व सीमा रेलवे मालीगांव F.A & C.A.O., NORTH EAST FRONTIER RAILWAY, MALIGAON

टिप्पणी :- जिस महीने में जारी किया गया है उसके बाद केवल तीन महीने तक भुनाया जा सकता है।
N.B :- CURRENT FOR THREE MONTHS ONLY AFTER THE MONTH OF ISSUE.

N.F. RAILWAY

ALIPURDUAR Jn. 10

10/12/2008

आदाता के खाते में
A/C PAYEE ONLY

UNDER RS.

Two Hundred Eight Only

MD. JALDIN ALI

PAY

रुपये RUPEES

Two Hundred Seven Only

SBI, BONGAIGAON
SI No. 001860
NFR

रुपये से कम

को या अधिकानुसार OR ORDER

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
16 FEB 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

रु. Rs. *****207/-

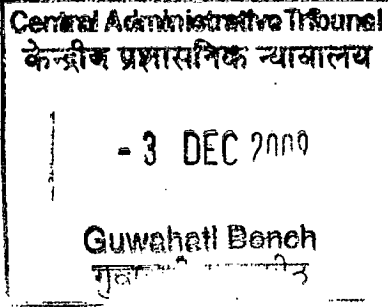
Arul Kumar Roy
वि.स. एवं मु.ले.अ.
F.A & C.A.O.
Asstt. Divl. Finance Manager
N.F. Rly. / Alipurduar Jn.

॥ 583202॥

Certified to be
true copy
Z. Choudhury
Advocate

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

OA. NO. 23 of 2009



Md. Jaldin Ali

..... Petitioner

-Vs-

Union of India & OrsRespondent

Written Statement of Respondent No. 1 to 4 and 6 to 9

1. That the Respondents have gone through the OA and understood the contents thereof.
2. That in reply to statements made in para 4.1 respondents denies the correctness of the statement that "applicant vacated the Quarter No.163/B, Type-I at BG colony, Bongaigaon prior to his retirement". Applicants wife Nurjaha Begum and his eldest son Md. Aftab Ansari have been occupying quarter upto 24.8.08. Formal handing over and taking over had taken place on 25.8.08.
3. That in reply to the statements made in para 4.2 and 4.4 respondent beg to state that quarter was allotted to Md. Gul Ilussain vide DME/NBQ's letter No.M/QCW/OR/04 dtd.19.4.04 as Jaldin Ali's wife Nurjaha Begum and his eldest son Altan Ansari were occupying the said quarter and vacated the same only on 24.8.08 and formal handing over and taking over has taken place on 25.8.09(Annexure -R1). As they are family members of the applicant question of eviction does not arise.
4. That in reply to statements in 4.5 to 4.8 respondents begs to state that after retirement it is the duty of the employee to hand over the vacant quarter to the officials of the Railway and also submit clearance from the Electrical department of the Railway that the electrical equipments have been deposited to the Railways. Till such clearance is obtained the amount of DCRG cannot be released. As per Railway Boards instruction

Somnar Chandra Barua
बिन्दु कर्मिक अधिकारी
Divisional Personnel Officer
पु. सी. रेलवे, रंगिया
N. F. Railway, Rangiya

Filed by the respondents
Through Dr. J.L. Sankar
S.C. Railway
10.12.09

*Recd 4/12/09
JLD
3/12/09*

Railway employees on retirement may be permitted to retain quarter for four months on normal rent and may also be sanctioned further four months on educational or sickness account on payment of double rent. After eight months as above damage rent shall be charged for the overstay. After retirement if the quarter is not vacated the DCRG should be withhold.

Sameer Guwahati
अखिल कार्यिक अधिकारी
Divisional Personnel Officer
उ. सी. रेलवे, रंगिया
E. S. Railway, Rangya

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
- 3 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

In case the accommodation is not vacated the Railway Administration has right to recover or adjust from the DCRG the normal rent, double the rent or damage rent as the case may be and return only the balance if any on vacation of Railway Quarter.

Any other amount remain unpaid after the above deduction, shall be recovered without consent of the pensioner by the concerned Accounts officer from the Dearness Relief of the pensioner. The applicant has been paid the balance of gratuity as stated by him in para 4.8 after deducting the rent of the quarter for the period of occupation beyond the permissible period.

Copy of the relevant portion of the instructions in Railway Servants Pension Rules 1993 is enclosed as Annexure R-1.

Under the circumstances stated above the OA deserves to be dismissed.

-26-
-3-

43 3.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

- 3 DEC 2009

Guwahati Bench
Son of

AFFIDAVIT

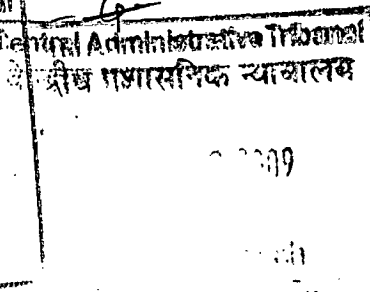
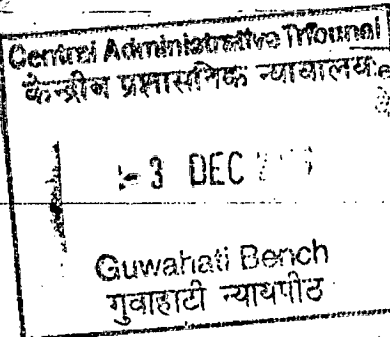
I, Sri Somesh Chakrabarty

Lt. Sarada Chandra Chakrabarty aged about 58 years verify
that statements made in para 7 to are true to my
knowledge and belief. I have not suppressed any material facts.

And I sign this verification on this.....13th..... the
day of ^{Nov.}October, 2009 at Guwahati.

Somesh Chakrabarty
Signature

अवकाश कार्यालय अधिकारी
Divisional Personnel Officer
पु. सी रेलवे, रंगिया
P. S. Railway, Rangiya



ANNEXURE

R1

(iii) One set of post-retirement pass should be disallowed for every month of unauthorised retention of Railway quarter by retired employee in terms of provisions of Railway Servants Pass Rules. The concerned retired employee may be allowed the privilege of post-retirement passes, after the period, during which the forfeited passes would have been admissible, is over. A show cause notice to this effect may be issued to the retired employee before disallowing the pass.

(iv) The provisions under Sub Rule (8) of Rule 16 of the Railway Services (Pension) Rules, 1993, as reproduced below for ready reference, shall be strictly followed.

Note:

In respect of Railway servants holding Government accommodation allotted by Directorate of Estate, procedure as specified under Rule 16(1) to Rule 16(7) of Railway Services (Pension) Rules 1993 would be applicable.

(Ref: E(G)2000 QR1-23 dated 1/6/2001)

Sub Rule 8 of Rule 16 of Railway Services (Pension Rules), 1993

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

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

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

(d) Any amount remaining unpaid after the adjustment made under clause (c), may also be recovered without the consent of the pensioner by the concerned

Attested

Advocate



Accounts Officers from the dearness relief of the pensioner until full recovery of such dues has been made.

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

(Ref: No. F(E)III/97 PN1/14 (Amendment) dated 24/5/2000)

Item No.XX below Column No. 3, in Schedule IV (Post Retirement Complimentary Pass) of Railway Servants (Pass) Rules, 1986 (2nd Edition, 1993)

"(XX) One set of post-retirement complimentary pass shall be disallowed for every month of unauthorised retention of /railway quarters by retired officer/staff. For this purpose, a part of month exceeding 10 days in any calendar month shall be taken as a full month. A show cause notice to this effect may be issued to the concerned retired employee before disallowing the complimentary passes. The concerned retired employee shall be allowed the post-retirement complimentary passes after the period during which forfeited passes could have been admissible is over."

(Ref: No. E(W)99 PS 5-1/4 dated 3/11/99)

14.0 Powers to relax

Notwithstanding anything contained in the general orders, guidelines etc. in regard to allotment/retention and charging of rent in respect of Railway accommodation in Railway Board's Master Circular No. 49 (No. E(G)92 QR1-20 - Master Circular) dated 19/1/1993 as further amended from time to time, the Ministry of Railways (Railway Board), for reasons to be recorded in writing, may make reasonable relaxations in public interest in all or any of the existing provisions therein regarding allotment/retention of Railway accommodation and charging of rent therefor, for a class/group of employees.

Every proposal meriting relaxation to cover a group of such individuals affected by extreme hardship on medical grounds, shall be considered by the full Board in terms of laid down policy guidelines/instructions regulating the subject

Attested


Advocate

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

- 3. DEC 2009

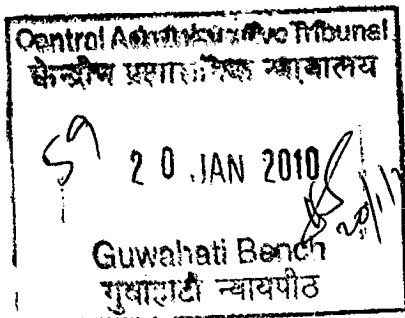
Guwahati Bench
गुवाहाटी न्यायपीठ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNEL : GAUHATI BENCH.
GUWAHATI.

File in Court on... 19/1/10
Court Officer.

Filed by

Md. Jaldin Ali
through L. Khalid
AN.
19-1-10



O.A. No. 23/09

Md. Jaldin Ali ----- Applicant

-Vs-

Union of India & others ---Respondent.

Rejoinder filed by the applicant on the written
statement of the respondent,

The applicant have received a copy of the written
statement submitted by the respondent and after going
through the same have filed the rejoinder as follows :-

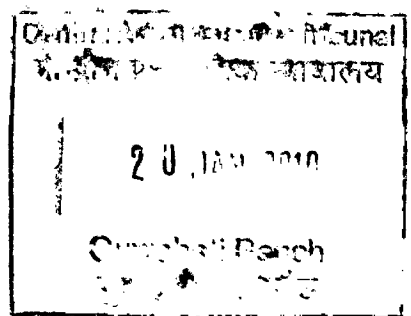
1. That the statement made by the respondent in their
written Statement are denied by the applicant except those
which are specifically admitted by the applicant and those
which are matter of records.

2. That the statement made in paragraph 2 of the
Written Statement are not correct. The applicant beg to
state that he vacated the quarter prior to his retirement
on 30.4.04, and the said quarter was allotted to on Gul
Hussain. But his estanged son Md. Aftab Ansari (32) who
was in enemical terms with the applicant forcibly occupied
the house and he kept his mother (applicant's wife) for
about 3 months and after that the wife of the petitioner
came out of that quarter and the petitioner took her to
his native house at Lucknow, Uttar Pradesh.

It is a blatant lie that the wife of the applicant
Nurjaha Begum was in that house upto 24.8.08 and it is also

Contd---2/p.

Recd.
19/1/10
Sc. - 132



-2-

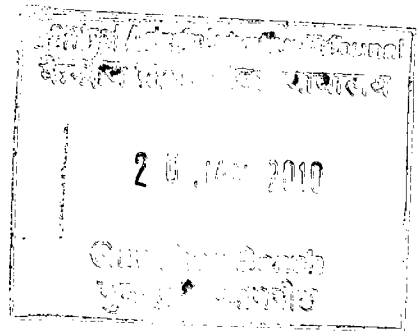
false that Nurjahan Begum formally handed over the house on 25.8.08.

3. That with regard to the statement made in paragraph 2 of the Written Statement the applicant beg to state that it is true that the quarter in question was allotted to Md. Gul Hussain and it is also ~~xxx~~ true that after vacation of the quarter by the applicant his son Md. Aftab Ansari who live as a seperate family forcibly and unauthorisedly occupied the quarter. The wife of the applicant left the quarter within 3 months of his refirement, so the question of occupying by the family of the applicant does not arise at all. The applicant submitted a large number of representation after his retirement till filing of this case before the Tribunal stating that Aftab Ansari (may be his son) is a unauthorised person and he should be evicted from that house and thereby his ^{gratuity} ~~gratify~~ amount may be released. The applicant also filed F.I.R., before the local police and also to the Supdt. of Police, Bongaigaon but no action was taken to oust the unauthorised occupant.

4. That with regard to the statement made in paragraph 4 of the Written Statement the applicant beg to state that it is true that as per rules the employee is to hand over the vacant quarter within 4 months of retirement but the applicant vacated the same prior to his retirement and his wife vacated the quarter within 3 months of his retirement, but his son who lived as a separate family forcibly kept the house in his possession. The applicant expressed his helplessness before the authority and police but the authority did not take any action to get the quarter vacated for last 5 years and after receiving direction of this Hon'ble Tribunal got the quarter vacated on 25-8-08.

Contd-----3/p.

Md. Jaldin Ali



5. That the applicant begs to submit that the respondent took a very vindictive attitude towards the applicant in deducting all the amount of the gratuity as panel rent of the quarter, without deciding all his appeals and representation which were pending before them.

6. That the respondent acted illegally and arbitrarily by deducting all his hard earned gratuity without giving him a chance to defend him which is against the principle of natural justice.

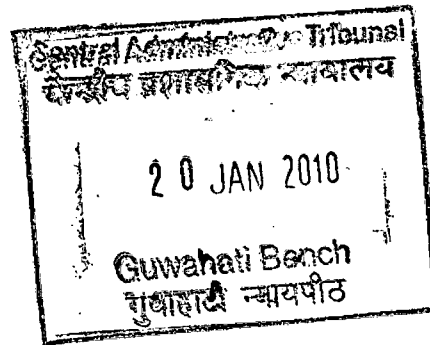
7. That the applicant begs to submit that the respondent as per the welfare measure of the department should have help the applicant in times of his distress and helplessness, instead they are punishing the applicant by forfeiting his gratuity without any fault in his part.

Under the circumstances it is prayed that your Lordship would be pleased to quash the written statement and be further pleased to direct the respondent to pay the Gratuity amount to the applicant with interest and cost.

It is further prayed that Your Lordship would be pleased to direct the respondent to issue Travelling passes to the applicant as he is entitled to get passes like other employees.

Contd-Verification.

Mr. Jaldan Sir



- 4 -

VERIFICATION

I, Md. Jaldin Ali Son of Late Basni Ali ,
aged about 64 years, by religion- Muslim, by
profession- Retired Serviceman, a resident of
Village- Naldoba, P.S. and District Bongaigaon,
Assam do hereby verify that the statements made
in paragraph 1 to 5 are true to my knowledge and
I have not suppressed any material facts.

And I sign this verification on this 14th
day of December, 2009 at Guwahati.

Md. Jaldin Ali

(Signature).