

5

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

*O.A. NO. 23/2009*  
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*HC. W.P. No 3549/2008*

*P.Govt 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)..... Jaldin 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 Registry

Date

Orders of the Tribunal

Original application form  
is filed. F. No. 39/0112  
is posted. Reg. No. 20  
No. 39.G.39.0112.

Dated....9....2....09.....

N. Sarmo  
Dy. Registrar

APR  
16/2/09

Slips taken without  
envelope. Excess Re. 2/-  
has been deposited on  
slip No. 2869 dt. 16.2.09  
undertaking given for  
Service.

APR  
16/2/09

Copies of notices  
along with order  
dated 3/4/09 send  
to D/Sec. for signing pg  
to resp. dy regd. A/D  
post. D/No-1706-1714  
Date D= 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  
(M. R. Mohanty)  
Vice-Chairman

2  
O.A. 23/09

Office duty served  
on R-1, 6, 7, 8,

2009  
05/09/09

① No w/s filed.

28/5/09.

lm

(N.D. Dayal)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

No w/s filed.

14/08/09

Notice served for Respdt. No 9  
for Dr. J.L. Sarkar, learned Standing  
counsel for the Railways, call this matter  
on 03.09.2009 awaiting written statement  
from the Respondents.

Entered in ~~Recd in~~ at 14/08/09  
by ~~DR. J.L. SARKAR~~ /bb/  
Date of record 14/08/09

(M.K. Chaturvedi)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

28/9/09 for Dr. J.L. Sarkar, learned Standing  
counsel for the Railways, call this matter  
on 03.09.2009 awaiting written statement  
from the Respondents.

No w/s filed.

Entered in ~~Recd in~~ at 16/10/09  
by ~~DR. J.L. SARKAR~~ /bb/  
Date of record 16/10/09

(M.K. Chaturvedi)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

19.10.2009 for Dr. J.L. Sarkar, learned Standing  
counsel for the Railways, call this matter  
on 03.09.2009 awaiting written statement  
from the Respondents.

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

Entered in ~~Recd in~~  
by ~~DR. J.L. SARKAR~~

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.

No W/S filed.

23  
1.12.09

List on 2<sup>nd</sup> December, 2009.

3.12.09  
W/S filed.  
copy served.  
~~3/12/09~~

/pb/

(Madan Kumar Chaturvedi)

Member (A)

(Mukesh Kumar Gupta)

Member (J)



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.

w/s filed

23  
16.12.09

No rejoinder filed.

23  
18.1.2010

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/



19.1.2010 Reply has been filed. Admit. Subject to legal exception, if any.

20.1.2010

Rejoinder has  
been filed by the  
Applicant. Copy  
served.  
18/1/2010  
/lim/

**Mdan Kr. Chaturvedi) (Mukesh Kumar Gupta)**  
**Member (A) Member (I)**

The case is ready  
for hearing.

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 inquesting, but not

/bb/

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

*W* 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 (AI)

(Mukesh Kumar Gupta)  
Member (J)

Figure 10. The effect of the number of hidden neurons on the classification accuracy of the proposed model.

10

**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)
<b>- versus -</b>	
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 23<sup>rd</sup> day of February 2010

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Medan 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.

*J.S.*

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) AJC 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 retiring dues of an employee so as not to render him without any means of livelihood. Further reliance was placed on 2007 (58) AJC 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.

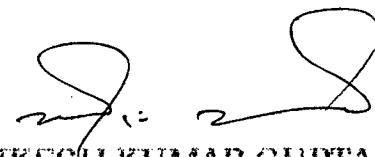
7. We have carefully perused said judgments. Vide earlier judgment observation made was that it is the duty of the employee to vacate the accommodation after retirement, but at the same time it was observed that it was the duty of the authorities to release retirement dues of the employee so as not to 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

# 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, applied 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

Cashier

16 FEB 2009

गुवाहाटी न्यायालय  
Guwahati Bench

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

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		Z. Khalid, Advocate

*For Dr. J.V. Sankar  
S.C. Railways  
S.C. 17/2/09*

16 FEB 2009

गुवाहाटी बायपीर  
Guwahati Bench

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 <sup>(10)</sup> 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 enmical 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

16 FEB 2009

गुवाहाटी न्यायालय  
Guwahati Bench

-:( 2 ):-

Notice from the applicant, the authority stated that necessary action is being taken for eviction of the unauthorised person but upto 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 grievances 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.

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गुवाहाटी न्यायपीठ  
Guwahati Bench

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.

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गुवाहाटी न्यायपीठ  
Guwahati Bench

-:( 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 Bongaigaon 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.

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गुवाहाटी न्यायालय  
Guwahati Bench

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

Md. Jaldin Ali

Filed by the petitioner  
through

L. Khalid  
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 No 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

ay ✓

contd ... 2

16 FEB 2009

গুৱাহাটী ন্যায়পীঠ  
Guwahati Bench

-:( 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 DEN, New Bongaigaon,  
N.F.Railway, District Bongaigaon,  
Assam. Pin 783380
8. The Chier 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 ag. inst which  
the application is made :

The application is made against the following  
Order :

Md Jaldin Ali

contd ... 3

16 FEB 2009

गुवाहाटी न्यायालय  
Guwahati Bench

-:( 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. Jaldin, Al.

16 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-:( 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. Jaldin Ali

contd. . . 5

16 FEB 2009

-:( 5 ):-

गुवाहाटी न्यायपीठ  
Guwahati Bench

4.4 That the applicant ~~bege~~ 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 upto now nothing has been done to evict the unauthorised person and as a result 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. Jaldion Alr

16 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

--:( 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 surrendered 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. Jaldin Ara

-:( 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

Md. Joldan Ali

16 FEB 2009

गुवाहाटी न्यायालय  
Guwahati Bench

-:( 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.

Md Jaldin Ali

contd ... 9

16 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-:( 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 10<sup>th</sup> day  
of February, 2009 at Guwahati.

Md Jaldin Ali  
S I G N A T U R E

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 NBC. B.G colony and have shifted to Abhayapuri (Maldoba) Quarter along with the wife but the wife does not come to me and has remained in the

16 FEB 2009

Guwahati Bench  
Guwahati Court

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

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

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

Due to nonvacation 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.

16 FEB 2009

23 NOV 2004

Certified to be  
true copy  
J. Ishaq Ali

To,

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

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

Anwome - Ag<sup>4</sup>

केन्द्रीय प्रशासन विधिवाली न्यायालय  
Central Administrative Tribunal

16 FEB 2009

गुवाहाटी न्यायालय  
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 :- Vacant 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 BNBN.  
for information and necessary  
action thereon please.

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

For a record for  
disposal  
16/6/05

Certified to be  
true copy  
L-Subash  
16/6/05

R  
16/6/05  
R  
16/6/05  
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16/6/05  
R  
16/6/05  
R  
16/6/05

To,

The D.M.E./N.F.Rly./N.R.O.

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

Copy to:- AI/NRQ. OC/GRP & OC/NBQ. SE/W/NBQ. SS/EIC/BG/NRQ.  
OC/PS/nonqaigaon for information and necessary  
action into please.

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

Ref :- My previous application dt. 23rd June/04.  
Your Office L/No. 11/XM/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  
erson 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 carly & oblige.

Copy to D.R.M.(P)/RNY & Sr.  
D.M.E./RNY. OC/PS & SP/PS RNRQ  
for information and necessary  
action therein please.

Yours faithfully,

Md. J. Alim Ali

2-3-06

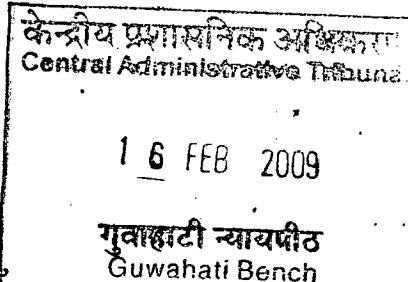
Ex-Tech/Gr.-I  
Under SSE/C&W/NBQ N.F. Rly.

D.M.E./N.B.Q.  
P.I. Sort out  
the issue under  
inf. to the office  
9/8/06

for my work  
please

Section Engineer  
P. S. R. R. N. F. Railway, New Bazaar

Certified to be  
true copy  
L. Devalal  
H. Devalal



3/3/06

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 ~~xxixxx~~ vacated the Rly. Qrs prior to my retirement and made overed to Md. Gul Hussain, Khalshi~~h~~helper 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 random. The Jeep which was purchased by me.

Therefore, I pray to you , please look into the matter and arrange to vacate the said Rly. <sup>Quarters</sup> as soon as possible and oblige thereby.

Yours faithfully,

Md. Jaldin Ali

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

Dated, NBQ/  
the 13/3/06.

forwarded  
please.

Sr. Section Engineer (C & W)

20 दी. रेलवे न्यु इंजिनियरिंग

(N.F. Railway, New D.

13/3/06

Certified to be  
true copy  
J. Chetan  
Moderator

Repd with A/D

Date : 15.6.08

To

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

Central Administrative Tribunal

16 Dec 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Sub : Non-payment of Gratuity

Ref : My earlier representation dated 23.5.04,  
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. Afzal 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. Icendia  
Advocate

16 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-:( 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  
Z-1  
Hectorate

Office of the  
DME/NBQ.

Dt- 31.7.06.

To,

Mr. Gangadhar Choubey, B.A.LL.B.  
Advocate & Legal Consultant  
M.G.Road, Abhayapuri, Ward No. III  
P.O. Abhayapuri, Dist. Dangigaon (Assam).

देशभूमि अधिकार परा  
Central Administrative Tribunal

16 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

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

Sir,

In response to your Letter No. N.I.I. Dated-24/7/06 this is to inform you that your client Md. Jaldin Ali, Ex-C/fitter Cr-I/NBQ under SSE/C&W/NBQ submitted an application for vac-  
ation before his retirement i.e. 30.4.04 and the said Str. 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 forcely vacation of the said Qtr. Vide his L/No. N.I.I. Dt-2/3/06 and the office received on 10.3.06 and it has been learnt that, his son Md. Abtaf Ansari is occupying the Qtr unauthorisely.

In this regard it is informed to you that the legal authority is Sr DEN/II/Rangia. N.F.Rly (Estate Officer), who is empowered for eviction. However this office made corres-  
pondance for necessary action for eviction of the said Str. vide this office L/No. 1.M/QCW/QR/06. Dated-22.3.06 to ADEN/NBQ. 2. Reminder even L/No. Dt-20.6.06. 3. L/No. M/QCW/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-8.7.06.

This is for your information and necessary action please.

Yours faithfully.

( J. Lakra. DME/NBQ ).

C.C.  
Give a copy to  
Sr DEN/II/RNY with  
forwarding letter.  
3/7/06.

Certified to be  
true copy  
L. Ichalil  
Advocate

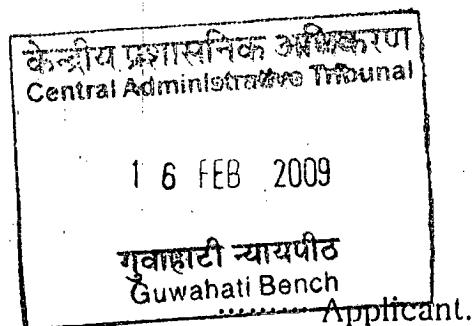
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

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 Manager  
North East Frontier Railway  
Maligaon, Guwahati-11  
Dist: Kamrup, Assam.
2. The Divisional Mechanical Engineer  
N.F.Railway, P.O: & District: Bongaigaon  
Assam.
3. Divisional Railway Manager  
N.F.Railway, Rangiya Division  
P.O: Rangiya, Dist: Kamrup  
Assam.
4. The Superintendent of Police, Bongaigaon  
P.O: & District: Bongaigaon  
Assam.

*Certified to  
be true copy  
Z. Khalid  
Advocate*

16 FEB 2009

गुवाहाटी न्यायालय  
Guwahati Bench

6. The Senior DEN/HI,  
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.

O R D E R (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,

-19-

16 FEB 2009

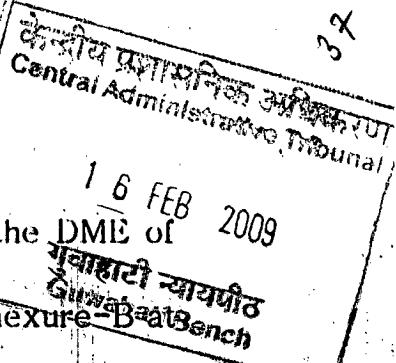
गुवाहाटी न्यायालय  
Guwahati Bench

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.E.Railways initiated eviction proceeding in respect of Quarters No.163/3 (Type I) 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-B at Bench 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.

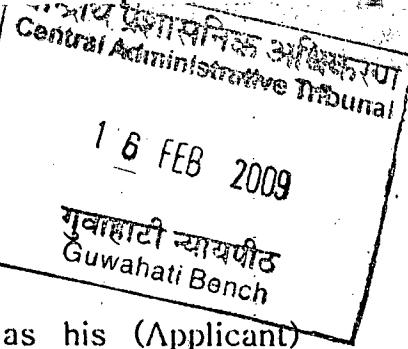
2. It is stated that a copy of this O.A. has already been supplied to Dr.J.L.Sarkar, learned Standing counsel for the Railways.

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.

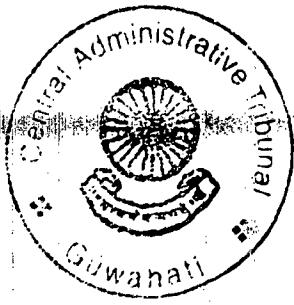
5. In the aforesaid premises, this case is, hereby, disposed of with direction to the Respondents to redress the grievances of the



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.



3d. Vice-Chairman

TRUE COPY  
प्रतिलिपि  
अनुभाग अधिकारी 11.2.08  
Section Officer (Judi)  
Central Administrative Tribunal  
गुवाहाटी न्यायपीठ  
Guwahati Bench  
गुवाहाटी/Guwahati-5

11/8

Annexure - "D"

मूल प्रति/(Original)  
रु० सौ० रु० र० न० N. F. RAILWAY

रु० ती०-ए० ज०  
N. F. AUG.

रु०/No. ८०० एच आर०/CHR. ता०/Date १०४  
ठेका भ/To The  
प्रिय महोदय/Dear Sir, Md. J. Al. Tech.  
मैं ..... की गद मैं नीचे लिखे विवरण के अनुसार ..... रु० जमा करता हू०  
I have the honour to remit as per details below the sum of Rs. ....  
on account of DCRB

	रु०/Rs.
बैंक सं०/Cheque No:	583202
मनी शहर०/Money Order	10/12
डाक टिकट/Postage Stamp	207
मनी शहर० का खर्च/Cost of Money Order	1
डाक टिकट का खर्च/Cost of Receipt Stamp	1
कुल/Total	209

कृपया पावनी स्वीकार करें तथा चलान रसीद बाकाया दर्ता करें वाद लोटती डाक से भेज दें।  
Please acknowledge and return the enclosed receipt duly Signed by re-  
turn of P.M.

कृत द्वारा दिया गया रसीद को चाहीदा रू० १०० रु० का रसीद बाकाया दर्ता करें।

रसीद द्वारा दिया गया रसीद को चाहीदा रू० १०० रु० का रसीद बाकाया दर्ता करें।  
name of Chief Accounts Officer:

याद दूरा समीट फार० दे लेना चाहीदा रू० १०० रु० का रसीद बाकाया दर्ता करें। हस्ताक्षर कर दें।  
और वापस 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.

याद रकम 20 रु० से अधिक हो तो इच्छा के दरमाने की रकम रसीद की रकम से अधिक या जायगा।

Ten Paise receipt stamp should be affixed to the receipt if the  
exceeds Rs. 20.

N. F. Rly. Press-क

*Certified to be  
true copy  
J. Chalde  
Haldwani*

-23-

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

N.F.RAILWAY

ALIPURDUAR Jn. J.O.

हिल्पनी :- यिस बहुत ने जारी किया गया है उसके बाद केवल तीन महीने सक चुनाया जा सकता है।  
N.B :- CURRENT FOR THREE MONTHS ONLY AFTER THE MONTH OF ISSUE.

10/12/2008

भारत सरकार मुद्रावाहक भारत सुरक्षा प्रतिक

अदाता के लालने  
A/C PAYEE ONLY

UNDER RS.

Two Hundred Eight Only

MD.JALDIN ALI

PAY  
राशि RUPEES

Two Hundred Seven Only

SBI, BONGAIGAON

SI No. 001860

NFR

॥ ५८३२०२ ॥

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Officer  
16 FEB 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

रु. RS.

207/-

Abul Kumar Roy

वि. स. एवं म. ले. अ.

F.A & C.A.O.

Ass't. Divl. Finance Manager  
N.F. Rly. / Alipurduar Jn.

Certified to be  
true copy  
Z. Chakraborty  
Handwritten

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUWAHATI BENCH, GUWAHATI

OA. NO. 23 of 2009

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

- 3 DEC 2009

Guwahati Bench  
गुवाहाटी बैच

Md. Jaldin Ali ..... Petitioner

-Vs-

Union of India & Ors ..... Respondent

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'a letter No.M/QCW/OR/04 dtd.19.4.04 as Jaldin Ali's wife Nurjaha Begum and his eldest son Aftab 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

*Sonam Gaurakhan*  
सोनम गौरक्षण  
अधिकारी  
Divisional Personnel Officer  
ग्रुप सी रेलवे, रायगढ़  
N. F. Railway, Rangpur

Filed by the respondent  
through Dr. J. L. Sankar  
S. C. Raihara  
10/10/2009

*Riced W.M.  
D.N.M.  
3/12/09*

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Central Administrative Tribunal  
भूत्तन कार्यालय  
Division: Personnel Officer  
S. C. रेण्डे, रंगिया  
E. V. Railway, Baniya

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.

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.

- 3 DEC 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

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.

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Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

3 DEC 2009

AFFIDAVIT

I, Sri Sonmesh Cakrabarty, Son of Dr. Paradee Caren Cakrabarty

Guwahati Bench

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 <sup>Nov</sup> October, 2009 at Guwahati.

Sonmesh Cakrabarty  
Signature

अधिकारी कार्यालय

Division: Personnel Officer

गोपी रेलवे, रंगिया

M. P. Railway, Rangiya

- 3 DEC 2001

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

2001

(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 (2<sup>nd</sup> 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

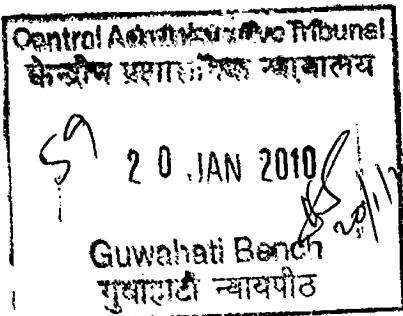
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
- 3. DEC 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH,  
GUWAHATI.

File in Court on... 20/1/10  
Court Officer.

Filed by  
Md. Jaldin Ali

through X. Phulid  
A.W.  
19-1-10  
46



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 estranged 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.

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20. Jan. 2010

Chittagong Branch

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 ~~free~~ 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 retirement, 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 <sup>gratuity</sup> ~~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 ~~g~~ 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

26.10.2010

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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.

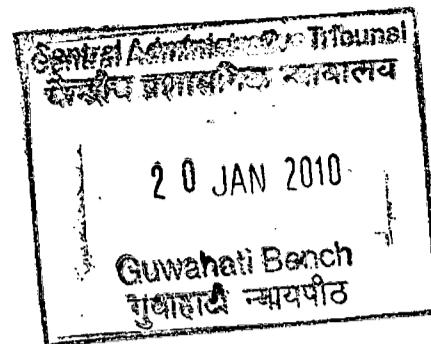
7. That the applicant begs to submit that the respondent as per the welfare measure of the department should have help the applicant in times of his distress and helplessness, instead they are punishing the applicant by forfeiting his gratuity without any fault in his part.

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.

Ma. Jaldon Aei



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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- Naldooba, 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).