

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO...80.....2009
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

1. Order Sheets.....3.....page.....1.....to.....5 ✓
2. Judgment/ order dtd. 23.03.2012 page.....01.....to.....4 ✓
3. Judgment & Order dtd..... ✓received from H.C. /Supreme Court.
4. O.A.80/2009.....page.....1.....to.....18 ✓
5. E.P/M.P. ✓page.....to.....
6. R.A./C.P..... ✓page.....to.....
7. W.S. Filed At Recd..... Page.....1.....to.....6 ✓
8. Rejoinder..... ✓page.....to.....
9. Reply ✓page.....to.....
10. Any other papers ✓page.....to.....
11. occupation & vacation of Qtr 01-04 ✓

B. 7/07/2015
SECTION OFFICER (JUDL.)

E. 7-2015

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 80 / 2009

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Shri. Sujit Ch. Chakraborty

Respondant(s) U.O.I. & OPS.

Advocate for the Applicant(s): Mr. A. Dasgupta
Mr. Kumar Ranoranjan Haloi

Advocate for the Respondant(s): 6 Rly Standing Counsel.

Notes of the Registrar	Date	Order of the Tribunal
<p>This application is in form is filed/C.F. No. Rs. 50/- deposited with <u>DD</u> No. <u>396 406320</u> Dated <u>28.4.09</u></p> <p><u>D.D. Registrar</u> <u>30/4/09</u></p> <p><u>30.4.09</u> 5 copies of Application with envelope received for issue notice to the Respondents. A copy of the same served upon the Rly. Standing Counsel.</p> <p><u>30/4/09</u></p>	<p>06.05.2009</p>	<p>Heard Mr.A.Dasgupta, learned counsel appearing for the Applicant and perused the materials placed on record.</p> <p>2. Issue notice in to the Respondents requiring them to file their written statement by 24th June 2009.</p> <p>3. Pendency of this O.A. shall not stand on the way of the Respondents to grant post retirement complimentary passes to the Applicant and his wife.</p> <p>4. Call this matter on 24th June 2009.</p> <p>5. Send copies of this order to the Respondents (along with the notices) and free copies of this order be supplied to the Applicant and to Mr. A. Dasgupta, Advocate for the Applicant and to Dr. M. C. Sarma, learned counsel for the Railways</p> <p><u>Y</u> (M.R.Mohanty) Vice-Chairman</p> <p>Lm</p>

24.06.2009 Mr.K.M.Haloi, learned counsel appearing for the Applicant is present. Dr. M. C. Sarma, learned counsel for the Respondents/Railways prays for time to file their written statement.

Call this matter on 27.08.2009 awaiting written statement from the Respondents.


(M.R. Mohanty)
Vice-Chairman

/lm/

07.08.2009

On the prayer of Dr.M.C.Sarma, learned counsel for the Railways, call this matter on 27.08.2009 awaiting written statement from the Respondents.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

27.08.2009

Written statement filed in Court to-day ; after serving a copy thereof on the learned counsel for the Applicant.

On the prayer of learned counsel for the parties, call this matter on 07.10.2009.


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

/lm

Notice copies along with order dated 6/5/09 send to D/Sec. for issuing to respondents by regd. A/D post.

12/5/09. D/No-2443 to 2448
Dt= 18-5-2009


Notice copies duly served on R- 3,4.

10.08.27.5.09

Notice duly served on R- 1,2,2.


13.6.09

Notice duly served on R. No- 1, 2, 3 & 4.


23.6.09.

23.6.09

No 275 filed.

No copy filed.

28.8.09 26.8.09
W/S filed by the
Regd. in the Court of
27.8.09. Copy served. 28/8/09

W/s filed.

2
6.10.09.

R. Das

Send copies of this order to the Applicant and Respondents.

D.
8/10/09

Copies of order dated 7/10/2009 sent to D/Sec. ~~for~~ issuing to the applicant and the respondents by post. D/No - 12253 to 12257

09.12.2009

Dt. 30-10-09

25/10/09.

No rejoinder filed.

/pg/

2
8.12.09

10.12.09

The order dt. 9.12.09 by wrongly typed out - It should be 11.12.09 instead of 11.10.09. Therefore, placed before the court on 11.12.09.

bm

07.10.2009

Heard Mr.K.M.Haloi, learned counsel for the Applicant and Dr.M.C.Sarma, learned counsel for the Railways and perused the materials placed on record.

In this case written statement has already been filed.

Subject to legal pleas to be examined at the final hearing, this case is admitted and set for hearing on 09.12.2009.

Send Copies of this order to the Applicant & Respondents.

Applicant shall remain free to file rejoinder in the meantime.

(M.R.Mohanty)
Vice-Chairman

On the request of proxy counsel for the applicant list on 11.1.2010.

(Mukesh Kr. Gupta)
Member (J)

11.12.2009

The controversy lies in a narrow campus. Applicant retired on 30.9.2001. According to respondents he vacated the quarter only on 25.4.2004. On the other hand applicant's case is that he handed over the said quarter to Md Habibur Rahman on 11.5.2002. On that account action was taken and a sum of Rs.53,990/- has been recovered from his

11.12.2009

gratuity amount. Applicant claims refund of the withheld money along with interest. The further grievance is that the Railway post retirement complimentary passes has also been withheld and not released till date.

In order to appreciate the controversy it would be necessary to examine the records of the accommodation in question besides the original/phostate copy from which Annexure-B dated 11.5.2002 has been typed out.

List on 22.1.2010.

(Mukesh Kr. Gupta)
Member (J)

pg

22.01.2010

On the request of counsel for the applicant adjourned to 15.2.2010. In the meantime necessary steps should be taken.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

No rejoinder filed.

12.12.2010

7.2.2010

The applicant
filed the photocopy
of vacation and occu-
pation report. Copy
sent.

7/2/2010


O.A. No. 80 of 2009


29-3-2010

Judgment/Final order
dated 23/2/2010 Prepared
and sent to the Dispatch
Section for issuing the
all the respondents by A.M.
Post and issued Advocate
for both sides
vide No 737 to 741
dated 29-3-2010

23.02.2010

Judgment pronounced in open
Court. Kept in separate sheets.
Application is dismissed. No costs.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Original Application No. 80 of 2009.

DATE OF DECISION : 23-02 -2010.

Shri Sudhir Ch. Chakraborty

.....Applicant/s

Mr K. M. Haloi

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Dr M. C. Sarma

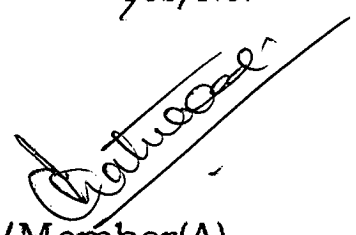
.....Advocate for the
Respondent/s

CORAM

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

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

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.


Member (J)/Member(A)

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :

O.A. Nos. 80 of 2009.

2010
d/

DATE OF DECISION : THIS IS THE 23rd DAY OF FEBRUARY, ~~2009~~.

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

Shri Sudhir Chandra Chakraborty
Son of Late Upendra Lal Chakraborty
Resident of Ananda Nagar,
Adabari Tiniali, Port Road,
Bye Lane No.1, P.O. Pandu,
Guwahati-12.

.....Applicant

By Advocate Mr K.M.Haloi

- Versus -

1. Union of India,
represented by the General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
2. General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
3. Assistant Personnel Officer,
N.F.Railway,
Guwahati-781001.
4. Senior Divisional Electrical Engineer,
N.F.Railway, Guwahati-1.
5. Senior Section Engineer,
Train Lighting, Maligaon,
Guwahati-781011.

.....Respondents

By Advocate Dr M.C. Sarma, Railway Counsel

d/

ORDERMR MADAN KUMAR CHATURVEDI, MEMBER (A)

The applicant is aggrieved against the deduction of Rs. 53,890/- towards the House Rent for the period from 01.10.2001 to 24.04.2004 against the gratuity and denial of post retirement free railway passes.

2. We have heard the rival submissions. The applicant is a retired employee of N.F. Railway. Initially he was appointed on 16.03.1960 as Khalasi. Subsequently he was promoted to the post of Khalasi helper, then to the post of Electrical Fitter Grade – III, Electric Fitter Grade – II and finally he was promoted to the post of Electric Fitter Grade I. Railway quarter, being quarter No. 162-D type – 1 at Triangular Colony, Pandu was allotted to him. The applicant retired on 30.09.2001 as Electric Fitter Grade – I. He sought permission to retain the quarter, consequent upon his retirement, for eight months.

3. On 07.05.2002, the Divisional Electrical Engineer, Guwahati alleged to have issued an order being office order No. 11 of 2002. By this order the Divisional Electrical Engineer, N.F. Railway allotted the quarter No. 162-D Type-1 at Triangular Colony, Pandu to Md. Habibur Rahman, Khalasi helper. Mr K.M.Haloi, learned counsel submitted that the applicant handed over the quarter on 11.05.2002 to Md. Habibur Rahman. A vacation-cum-occupation report duly signed by both parties, was produced before us. It was stated that this report was sent to the Divisional Electrical Engineer, N.F. Railway, Guwahati and copy was forwarded to SSE (W)/PNO and other railway officials. Mr. Haloi submitted that the railway authorities were aware of the vacation of the quarter, despite a sum of Rs. 53,890/- was deducted from applicant's gratuity. Besides, those employees who have completed 20 years of service at the time of retirement, they become entitled to free post retirement pass. It was stated that applicant had

completed more than 40 years of service at the time of retirement, despite free railway passes denied to the applicant.

4. Dr. M. C. Sarma, learned Railway Standing Counsel invited our attention on the letter of the applicant addressed to the D.G.M.G., N.F. Rly, Maligaon, the contents which reads as under:-

"To

The D.G.M.G.
N.F. Rly, Maligaon

Sub: Vacation of Qr. No. 162/D, type I at Trianglar Colony, Pandu.

Respected Sir,

Myself retired from service and hence want to vacate the Qr. mentioned under subject on 07.04.04.

In view of this I would be grateful to your honour for issuing necessary instructions to S.S.E/W/PNO to take up the quarter within 07.04.04."

This letter was duly signed by the applicant.

5. It is evident from the perusal of the aforesaid letter that the applicant expressed his desire to vacate the quarter No. 162/D at Triangular Colony, Pandu on 07.04.2004. From this it is quite clear that the applicant unauthorizedly occupied the quarter in question from 01.06.2002 to 07.04.2004. The quarter was stated to be handed over to the department on 25.04.2004. On this basis, it can be concluded that the joint report of handing over of the quarter to Md. Habibur Rahman on 11.05.2002 is not presenting a true and correct picture.

6. Dr. M.C. Sarma submitted that Md. Habibur Rahman never occupied that quarter and all throughout his service career he claimed House Rent Allowance and the quarter in question remained in the possession of the applicant only for which rent was charged as per law.

7. Apropos the non-issue of post-retirement railway passes, our attention was invited to Para 13 (iii) of the Master Circular

d.

No.E(G)2006 QR 1-6 (Master Circular) dated 20.04.2007 which reads as under :-

"One set of post-retirement pass should be disallowed for every month of unauthorized retention of Railway quarter by retired employeeThe 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...."

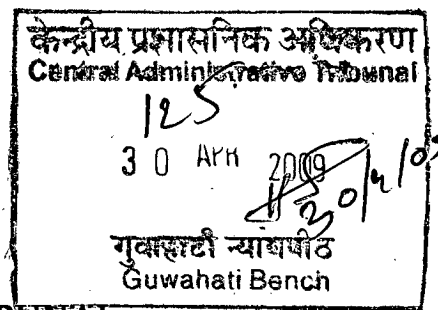
8. The post-retirement passes were not issued up to the date of vacation of the quarter. It was made clear that such passes could be issued to the applicant on opening of a pass account in his name on the basis of filing requisite application with required particulars. Since the conditions precedent for the issuance of passes were not satisfied, this facility was denied to the applicant. As such we do not find any merit in the application on this count.

9. It is abundantly clear from the perusal of letter dated 03.04.04, reproduced in para 4 that the Government quarter in question was not vacated on 11.5.02. It remained in the possession of the applicant till 25.04.04 as such house rent was correctly deducted from the amount of gratuity. Denial of free pass is consequential to the unauthorized retention of the Govt. quarter, as such the O.A is bereft of any merit.

In the result O.A stands dismissed.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH,

GUWAHATI

Original Application No.80/2009

Sri Sudhir Chandra Chakraborty
.....Applicant

-Versus-

Union of India & Ors.

.....Respondents

SYNOPSIS

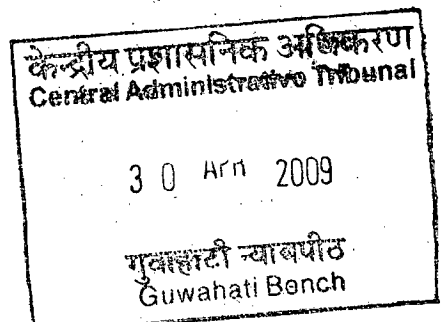
Applicant is a retired employee of N.F. Railway. Initially he was appointed as Khalashi in the N.F. Railway on 16.03.1960. He had undergone few promotions during his service tenure and he retired on 30.09.2001 as Electric Fitter Grade- I. As per the Railway department's norm, one employee can retain the departmental accommodation for 8 months after retirement with permission of the Divisional Electrical Engineer. The applicant applied for retaining the quarter being Quarter No. 162-D type-I at Triangular Colony, Pandu after his retirement. Accordingly, he got permission to retain the quarter from 1.10.2001 to 31.05.2002 on 07.05.2002, the Divisional Electrical Engineer, N.F. Railway by an order allotted the said quarter to one Md. Habibur Rahman. Pursuant to the said order the applicant handed over the quarter to Md. Habibur Rahman on 11.05.2002. A vacation-cum-occupation report was signed by the applicant and Md. Habibur Rahman on 11.05.2002 which was forwarded to the Divisional Electrical Engineer, SSE(W) and other railway officials. Subsequently, on 27.05.2002, the Divisional Electrical Engineer allotted the said quarter to one Bipul Chandra Das and cancelled his order dated 07.05.2002. Unfortunately, the applicant's gratuity was not released after his retirement and he was running from pillar to post for the same. Suddenly the Assistant Personal Officer, N.F. Railway vide order dtd 25/8/04 ordered for deduction of Rs. 62,827/- from the gratuity of the applicant as house rent and the electricity charges for retaining of the quarter from 01.10.01 to 07.04.04. The railway authorities have also deprived the applicant from post retirement complimentary passes which he is entitled under the rules. The applicant is entitled to two sets of passes every year, but from the date of retirement he did not get a single pass inspite of applying for the same.

Filed by

Kumar Manoharan Haloi

Advocate

30.04.2009



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH,

GUWAHATI

Original Application No.....80/2009

Sri Sudhir Chandra Chakraborty

.....Applicant

-Versus-

Union of India & Ors.

.....Respondents

LIST OF DATES

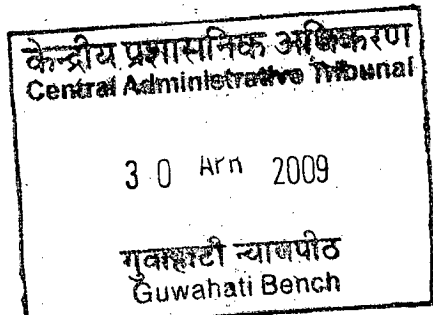
16.03.1960	Applicant was appointed as Khalashi in the N.F. Railway.
22.08.2001	Applicant was allowed to retain the Railway quarter after his retirement w.e.f. 01.10.2001 to 31.05.2002 vide letter No. EL/352/72/GHY-1091.
30.09.2001	Applicant was retired from service.
07.05.2002	The Divisional Electrical Engineer, N. F. Railway allotted the quarter retained by the applicant to one Md. Habibur Rahman.
11.05.2002	Applicant handed over the quarter to Md. Habibur Rahman.
27.05.2002	Divisional Electrical Engineer, N.F. Railway modified the order dated 07.05.02 and allotted the said quarter in the name of one Bipul Chandra Das.
7.7.2004 / 25.8.2004	Assistant Personnel Officer, N.F. Railway issued an order for deduction of Rs. 62,827/- from the gratuity of the applicant as house rent for the period from 01.10.2001 to 24.04.2004. Accordingly an amount of Rs. 53,890/- was deducted.
12.08.2005	Applicant applied for post retirement free pass.
04.03.2008	Applicant submitted representation for refund of the amount deducted from his gratuity amount.

Filed by

Kumar Manoranjan Haloi

Advocate

30.4.2009



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH,

GUWAHATI

Original Application No. 80 /2009

Sri Sudhir Chandra Chakraborty

.....Applicant

-Versus-

Union of India & Ors.

.....Respondents

INDEX

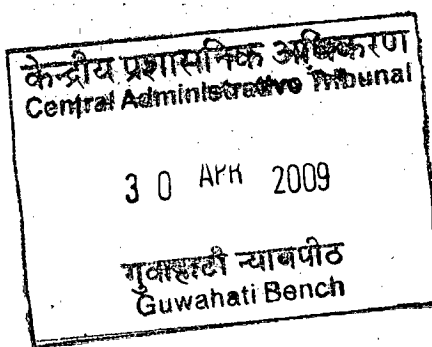
<u>Sl. No.</u>	<u>Particulars</u>	<u>Annexure</u>	<u>Page</u>
1.	Original Application		1-9
2.	Verification		10
3.	Annexure	A	11
4.	Annexure	B	12
5.	Annexure	C	13
6.	Annexure	D	14
7.	Annexure	E	15-16
8.	Annexure	F	17-18
10.	Vakalatnama		19 to 25
11.	Notice		
12.	10/3		

Filed by

Kumar Manoranjan Haloi

Advocate

30.4.2009



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
GUWAHATI

Filed by the applicant
through
Kumar Manojan Habi
Sachdev
30.4.2009

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

Original Application No.....80...../2009

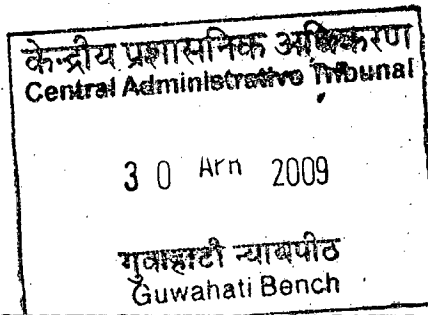
1. PARTICULARS OF THE APPLICANT: -

Sri Sudhir Chandra Chakraborty
Son of Late Upendra Lal Chakraborty,
Resident of Ananda Nagar,
Adabari Tiniali, Port Road,
Bye Lane No. 1, P.O - Pandu, Guwahati -12.

2. PARTICULARS OF THE RESPONDENTS: -

1. Union of India,
(Represented by the General Manager, N.F. Railway,
Maligaon, Guwahati - 11)
2. General Manager,
N.F. Railway, Maligaon,
Guwahati - 781011.
3. Assistant Personnel Officer,
N.F. Railway, Guwahati -781001.
4. Senior Divisional Electrical Engineer,
N.F. Railway, Guwahati - 1.
5. Senior Section Engineer,
Train Lighting, Guwahati.
Maligaon, Guwahati -781011

Dr. Arun Ch. Chakraborty



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

An order dated 07.07.2004 / 25.08.2004 passed by the Assistant Personnel Officer, N.F. Railway deducting Rs. 62,827/- from the amount of gratuity of the applicant.

4. JURISDICTION OF THE TRIBUNAL: -

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

5. LIMITATION: -

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

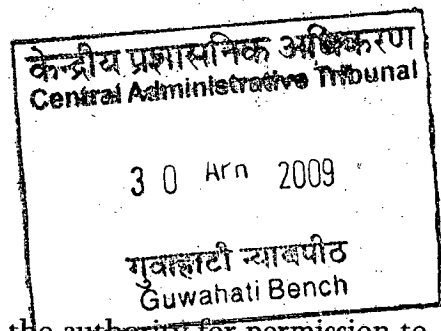
6. FACTS OF THE CASE: -

6.1 That the applicant is a citizen of India by birth and permanent resident of Ananda Nagar, Adabari Tiniali, Port Road, Guwahati - 12. He is entitled to the rights and protection guaranteed under the Constitution of India and other settled laws of the land derived there from.

6.2 That the applicant is a retired employee of N.F Railway. Initially he was appointed on 16.03.1960 as Khalashi. Subsequently, he was promoted to the post of Khalashi helper, then to the post of Electric Fitter Grade -III, Electric Fitter Grade -II and finally he was promoted to the post of Electric Fitter Grade -I. He was allotted a railway quarter, being Quarter No. 162 -D type- I at Triangular Colony, Pandu.

6.3 That the applicant retired on 30.09.2001 as Electric Fitter Grade - I. Immediately after retirement the applicant was not in a position to shift his family from the quarter to somewhere else. In

S. Uthir Ch. Chakrabarty



such a situation he applied before the authority for permission to retain the quarter after retirement. Accordingly, he got permission to retain the quarter from 01.10.01 to 31.05.02 vide DEE/GHY's memorandum No. EL/352/72/GHY-1091 dated 22.8.2001 and he had been staying there.

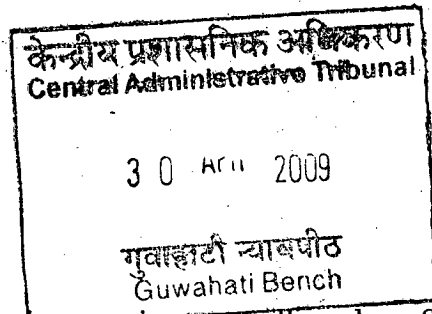
6.4 That as per prevailing railway rules an employee of Railway department can retain his quarter for eight months after retirement with permission of the Divisional Electrical Engineer, N.F. Railway, Guwahati – four months with normal rent and remaining four months with double the normal rent.

6.5 That on 07.05.2002 the Divisional Electrical Engineer, Guwahati issued an order being office order No. 11 of 2002. By this order the Divisional Electrical Engineer, N.F. Railway allotted the quarter No. 162-D Type –I at Triangular Colony, Pandu which was retained by the applicant in the name of Md. Habibur Rahman, Khalashi helper. Accordingly, on 11.05.2002 the applicant handed over the quarter to Md. Habibur Rahman, Khalashi helper with all electrical equipments therein. Md. Habibur Rahman also took possession of the same. A vacation-cum- occupation report was also duly signed by both the applicant and Md. Habibur Rahman and the same was sent to the Divisional Electrical Engineer, N.F. Railway, Guwahati with copy forwarded to SSE(W)/PNO and other railway officials.

A copy of the order of DEE dated 07.05.02 and the vacation- occupation report dated 11.05.02 are annexed hereto and marked as Annexure: - A & B respectively.

6.6 That the Divisional Electrical Engineer, N.F. Railway, Guwahati issued another order on 27.05.02 modifying his earlier order

17
Sd/- In Chakraborty



dated 07.05.02 and the quarter in question was allotted to Sri Bipul Ch. Das, Khalashi helper cancelling the allotment of the quarter in favour of Md. Habibur Rahman made vide order dated 07.05.02.

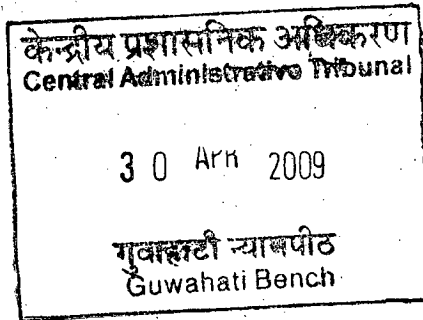
A copy of the order of Divisional Electrical Engineer dated 27.05.2002 is annexed herewith and marked as Annexure: - C.

6.7 That the applicant handed over the quarter to Md. Habibur Rahman on 11.05.2002 immediately after the order dated 07.05.2002 by which quarter retained by him was allotted to Md. Habibur Rahman. The railway authorities were aware of the vacation of the quarter by the applicant which is apparent from language of the order dated 27.05.02. In the said order it was clearly written that the quarter in question was allotted to Bipul Ch. Das on vacation of the quarter by the applicant. Surprisingly the Assistant Personnel Officer, N.F. Railway, Guwahati by an order being No. E/2/1/GHY (FS)/334 dated 07.07.2004 / 25.08.2004 addressed to FA CAO / PEN/ MLG ordered to deduct an amount of Rs. 62,827/- as house rent and electricity charge for the period of 01.10.2001 to 24.04.2004 from the gratuity of the applicant. Accordingly an amount of Rs. 53,890/- was deducted from applicant's gratuity.

A copy of the order dated 07.07.2004 / 25.08.2004 passed by the Assistant Personnel Officer, N.F. Railway is annexed herewith and marked as Annexure: - D.

6.8 That the employees of N.F Railway who have completed 20 years of service at the time of retirement, is entitled to free post retirement pass. The applicant had completed more than 40 years of service at the time of retirement and hence he is entitled to

Sd/-y G. Chakraborty



two sets of passes every year. After retirement he applied for post retirement free pass on 12.08.2005, but the same was not issued to him arbitrarily by the authority concerned.

A typed copy as well as photocopy of the application dated 12.08.2005 for free post retirement pass is annexed herewith and marked as Annexure: - E.

6.9 That the anomalies regarding allotment of railway quarter retained by the applicant was caused due to the multiple office order of the Divisional Electrical Engineer. The applicant handed over the quarter to one Md. Habibur Rahman as per the order dated 07.05.2002. Therefore he had committed no fault regarding the handing over of the quarter retained by him. As such deduction and holding up his gratuity is arbitrary and violative of service jurisprudence.

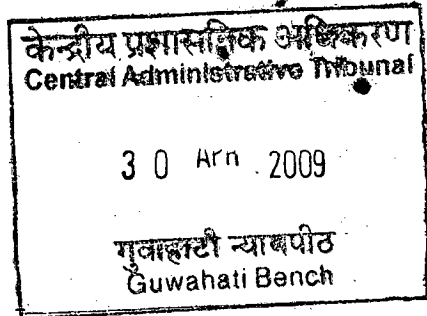
6.10 That the applicant submitted representation before the authority for refund of the amount illegally deducted from his gratuity and payment of interest on the gratuity amount for delayed payment. The applicant further prayed for issuing post retirement complimentary passes. But no attention has been paid by the authority to his prayer. The applicant submitted a representation on 04.03.08, but nothing was done by the authority concerned. No order either allowing his prayer or rejecting the same was passed.

A copy of the representation dated 04.03.08 is annexed as Annexure: - F.

7. GROUND FOR RELIEF WITH LEGAL PROVISION: -

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

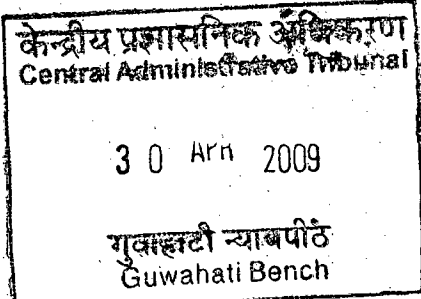
19
S. U. Chakrabarty



- GROUNDS

- A) For that the applicant was allowed to retain the quarter from 01.10.01 to 31.05.02 by the respondent authority and he handed over the quarter to the allottee on 11.05.02 in terms of an order dated 07.05.02, hence he cannot be held to be unauthorized occupant of the quarter. Thus the action of the respondents in deducting such huge amount from his gratuity as penal rent is illegal and without any authority.
- B) For that the applicant handed over the quarter to Mr. Habibur Rahman on 11.05.02 in terms of the order dated 07.05.02 whereby the quarter was allotted to Mr. Rahman. A copy of the vacation -occupation report dated 11.05.02 was sent to the Divisional Electrical Engineer, N.F. Railway, Guwahati with copies forwarded to SSE(W) /PNO and other railway officials. The fact that the quarter was vacated by the applicant was known to the Divisional Electrical Engineer, N.F. Railway, Guwahati which is clear from the language of his subsequent order dated 27.05.02 by which the quarter was allotted to one Mr. Bipul Ch. Das by cancelling the allotment given to Mr. Rahman. In the said order it was clearly written that the quarter was allotted to Sri Bipul Ch. Das on vacation of the quarter by the applicant. Thus the action of the respondents in charging penal rent and electricity charge upto 24.04.04 from the applicant and deducting the same from his gratuity is legally not tenable more so when the quarter was handed over by him within time to the allottee.
- C) For that it is settled that deduction of rent in respect of quarter which is not in occupation of a person is not sustainable in law. The applicant vacated the quarter on 11.05.02, which was known to the respondent, and as such he was not in occupation of the

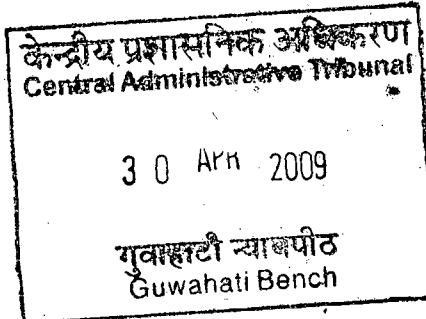
Sd/- R. Chakraborty



quarter from 11.05.02. Thus deduction of rent and electricity charges from his gratuity for the period he was not occupation of the quarter is beyond the parameters of law and amounts to arbitrary exercise of powers.

- D) For that gratuity is not a bounty, but a valuable right accrued and property of an employee. Hence delay in disbursement of the same makes the employee entitled to interest. That apart the same cannot be withhold by the employer on the ground that the employee had not vacated the quarter allotted to him while in service. The gratuity amount payable to an employee cannot be attached or any recovery be made from such amount. Thus the action of the respondents in withholding the gratuity of the applicant for a considerable long period and deducting amount from the same is legally not tenable and deserves interference from this Hon'ble Court.
- E) For that the applicant is entitled to two sets of post retirement complimentary passes every year. This is a part of terminal benefits given to a retired railway employee, but the respondents without assigning any reason is depriving the applicant from the post retirement passes. The applicant after his retirement could not avail a single pass till date due to the arbitrary action of the respondents
- F) For that post retirement complimentary passes cannot be withheld by the railway authorities except in cases where disciplinary proceeding is pending against the retired employee, which is not in the instant case as no proceeding is pending against the applicant. The applicant has reasons to believe that the railway authorities are withholding the passes on the alleged ground of non-vacation of the railway quarter. It is also an illegal action in view of the fact that post retirement complimentary

Shri G. Chakrabarty



Pratin G. Chakraborty

passes cannot be withheld for non-vacation of railway quarter. The action of the respondents is illegal, arbitrary and beyond all provision of law.

G) For that the applicant handed over the quarter on 11.05.02 and hence he was not in occupation of the same from 11.05.02. Even after vacation of the quarter he is deprived of the post retirement passes, which is not permissible in law. The action of the respondents in denying the applicant his right to avail post retirement passes is arbitrary, whimsical and violative of Article 14 of the Constitution of India.

H). For that the respondents arbitrarily withheld the gratuity of the applicant and deducted quarter rent and electrical charges from the gratuity amount illegally and hence the same is violative of Article 21 of the Constitution of India.

8. DETAILS OF THE REMEDIES EXHAUSTED: -

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

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

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

10. RELIEF SOUGHT: -

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

30 Apr 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

28

- (i) the impugned order No. E/2/1/GHY (FS) 7334 dated 07.07.2004 / 25.08.2004 shall not be set aside and quashed and upon hearing the parties be pleased to set aside and quash the said order;
- (ii) the respondents shall not be directed to refund the amount deducted from his gratuity and pay interest on the gratuity amount for delayed payment;
- (iii) the respondents shall not be directed to issue post retirement complimentary passes to the applicant.

11. INTERIM ORDER IF ANY PRAYED FOR: -

During pendency of this Original Application, in the interim, this Hon'ble Tribunal may be pleased to direct the respondent authorities to issue the post retirement free pass to the applicant in the interest of justice.

12. Details of IPO: -

IPO No. : 396-406320

Date of issue : - 28.4.2009

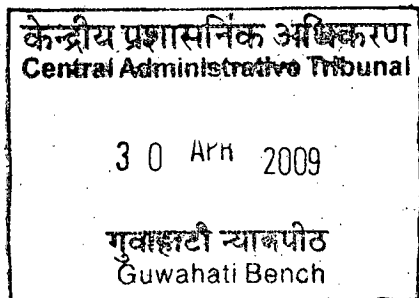
To whom payable : - Central Administrative Tribunal,
Guwahati.

Payable at : - Guwahati IPO.

13. Documents: -

Detail particulars of documents enclosed are indicated in the index.

D. J. Ch. Chakraborty



VERIFICATION

I, Sri Sudhir Chandra Chakraborty, Son of Late Upendra Lal Chakraborty, aged about 68 years, resident of Ananda Nagar, Adabari Tiniali, Port Road, Bye Lane No. 1, P.O – Pandu, District – Kamrup, Assam do hereby declare and verify that the statements made in paragraphs 6.1, 6.2, 6.3, 6.4, 6.8, 6.9, and 6.10 are true to my knowledge and that made in paragraphs 6.5, 6.6, 6.7 are true to my information derived from the records and rest are humble submissions before this Hon'ble Tribunal.

I signed this verification on this the 20th day of April 2009 at Guwahati.

Sudhir Ch Chakraborty

Signature

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal

30 Apr 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE: - A

Office of the
Dival. Electrical Engineer
Station Road, Guwahati -1

OFFICE ORDER NO. 11 OF 2002 /

The 7th May' 2002

In partial modification of this Office order No. 01 of 2002 circulated vide letter No. EL/252/73/GHY/201 dated 21.2.2002 the Rly. Quarter No. 135(H), type -II at NGC which will be vacated by wife of Late P.C. Rao, Ex. ELF/III under SSE(TL)/GHY is not hereby allotted to Shri Rupen Brahmo, ELF/II under SSE/TL/GHY on seniority basis.

The Railway quarter No. 710, type-I at GHY on vacated by Shri Dipak Saikia, ELF/III under SSE/TL/GHY is hereby allotted to Shri Mohan Deka, KH/Helper under SSE/TL/GHY on Seniority basis.

The Rly. Quarter No. M/6-B, type-I at GHY on vacation by Shri Natro Prasad Sharma, SPA/II under SSE/(P) /NGC is hereby allotted to Shri Bhacat Barkakati, Khal. helper under SSE/TL/GHY on Seniority basis.

✓ In partial modification of this Officer order No. 08 of 2002 circulated vide letter No. TL/252/73/GHY/340 dtd. 11.4.2002 the Rly. Qtrs. No. 162/D, type -I at Triangular Colony / PNO which will be vacated by Shri Sudhir Chakraborty, Ex. ELT/I under SSE/TL/GHY is hereby allotted to Md. Habibur Rohman, Kh. Helper under SSE/TL/GHY on seniority basis.

This has the approval of competent authority.

DEE/GHY

No. EL/252/13*/GHY/433

Dtd. 7.5.2002

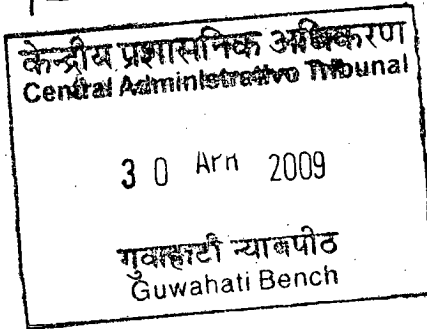
Copy forwarded for information and n/action to: -

1. APO/GHY, (2) SSE/TL/GHY, (3) SSE(P)/GHY, NGC, PNO
- 4) SSE (W)/GHY, PNO, (5) Secy, to NFREU/NO ghy, PNO,
- 6) Staff concerned.

Certified to be true Copy


Advocate

Sd/- Illegible
07/05/02
DEE/GHY



ANNEXURE: - B

To
The Divl. Electrical Engineer,
N.F. Railway, Guwahati

Date: 11.5.2002

Sub: - Vacation and occupation report of Rly Qr. No. 162/D type-I at
Tringular Colony, Pandu.

Ref: - Your office order No. 11 of 2002 circulated vide L/No.
EL/252/73/GHY433 dt. 07/05/2002.

Sir,

As per your above mentioned order I have handed over and taken over the Rly.
Qr. No. 162/D Type -I at Tringular Colony, Pandu on 11-05-02 with all electrical
equipment and also other equipotent of the above Qr.

TAKEN OVER BY -

HANDED OVER BY-

Sd/- Md. Habibur Rahman
(MD. H. RAHMAN)
Desig. : - Kh. Helper
Under : - SSE/TL/Ghy

Sd/- S. C. Chakraborty
(SRI S. CHAKRABORTY)
Ex.
Under SSE(TL)/GHY.

Copy forwarded for information and necessary action to: -

- (1) APO / GHY.
- (2) ADAO/GHY.
- (3) SSE(TL)/GHY.
- (4) SSE(P)/PNO.
- (5) SSE(W)/PNO

TAKEN OVER BY -

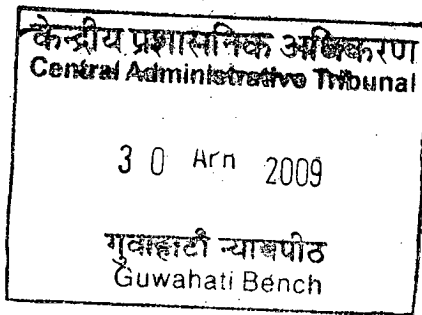
HANDED OVER BY-

Sd/- Md. Habibur Rahman

Sd/- S. C. Chakraborty

Certified to be true Copy

Advocate



ANNEXURE: - C

N. F. Railway

Office of the
Divil. Electrical Engineer,
N.F. Railway, Guwahati.

OFFICE ORDER NO. 13 OF 2002

To partial modification of this office order No. 11 of 2002 circulated vide letter No. EL/252/73/GHY/433 dt. 7-5-2002 the Railway Qr. No. 162 (D) type -I at Triangular Colony, PNO which on vacation by Sri Sudhir Chakraborty, Ex. ELF/I under SSE/TL/GHY is hereby allotted to Sri Bipul Ch. Das, KH/H under SSE/TL/GHY. The previous allotment order stand by as cancelled which was wrongly allotted to Md. H. Rahman, KH/H under SSE/TL/GHY.

This had the approval of the competent authority.

Divil. Electrical Engineer,
N.F. Railway, Guwahati.
Dated 27-05-2002.

No. EL/252/73/GH/473

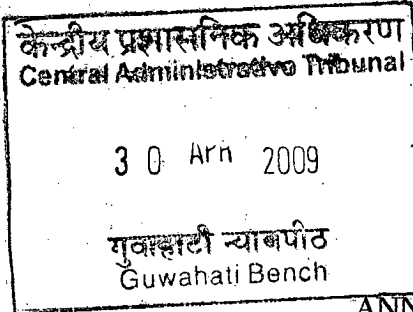
Copy forwarded for information and necessary action to: -

- | | |
|-------------------------|---------------|
| 1) APO /GHY | 2) SSE/TL/GHY |
| 3) SSE/P/GHY | 4) SSE/P/PNO |
| 5) Secy. To NFRNMU/GHY. | |
| 6) Staff concerned | |

Sd/- Illegible
27/05/02
Divil. Electrical Engineer,
N. F. Railway, Guwahati.

Certified to be true Copy


Advocate



ANNEXURE: - D

N. F. Railway

No. E/2/1/GHY(FS)/334

Dated. 7/7/04

25/8/04

To

FA CAO/PEN/MLG

Sub: - Release of DCRC money in favour of Sri S.C. Chakraborty, Ex.,
Design. ELF/I under SSE/TL/GHY.

Calculation of outstanding dues which is to be recovered from the DCRG money in favour of Sri S. C. Chakraborty.

1.	Retire	:	30/9/01	
2.	Total DCRG money	:	Rs. 1,12,077/-	
3.	Railway Qrs. No.	:	162/D, Tringular Colony, Pandu, Ghy-12 (Sqm =27,22.)	
4.	Railway Qrs. Vacated:	:	25/4/04	
5.	Electric Bill	:	Rs. 8353.45	
6.	No. Demand charge	:	Nil	
7.	M/Card, I/Card	:	Retired	
8.	D.P. Advance	:	Nil	
9.	Non Railway dues	:	Nil	
10.	Over payment	:	Arr. H/Rent Rs. 186/-	
11.	Medical Dues	:	Nil.	
12.	Withheld	:	Nil	
13. a)	Panel rent		1/10/01 to 31/1/02 = 4 months X @43/-	= Rs. 172/-
			1/2/02 to 31.5.02 = 4 months X @Rs. 86/-	= Rs. 344/-
			1/6/02 to 31/3/04 = 22 months X@2341/-	= Rs. 51502/-
			1/4/04 to 24/4/04 = 24 days X@78/-	= Rs. 1872/-

Rates

53,996/-

There is no other out standing dues to be recovered from the DCRG money as regard Railway and non Railways dues.

You are, therefore, requested to audit and payment of the balance amount of DCRG money to the on employee concerned.

DA/

1. Electrical Bill: - 1
2. Overpayment: - X
3. Mod of payment -1
4. PPO No.: - 1905010679(S)

Sd/- Illegible

25/8/04

APO /Guwahati

Asstt. Personnel Officer

N.F. Railway, Guwahati -1

Certified to be true Copy

Advocate

Rates fixed under what provision & low? Who & how it has been quantified?

-15

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
30 Aug 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE: - E

(Relevant Portion)

POST RETIREMENT PASS

193 / N.P - G. 193

19/A.G.19

APPLICATION FOR PASSES

Name of the Applicant : SUDHIR CH. CHAKRABORTY
Section and Sub-Section : SSE/TL/GHY under DEE/GHY
Capacity. Ex. ELF-I Pay 4750/- (Retired basic)
Passes required for : SELF & WIFE
From (Station.): GHY to (Station) KANNYAKUMARI & back to GHY
with break journey NJP, HWH - both ways

Sd/- Illegible
S.C. Chakraborty.
Signature

Date: - 12/08/05

Certified to be true Copy


Advocate

30 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

POST RETIREMENT PASS

गो. पी. - जी. 193/N. 193
जी. 193/A. G. 193

Annexure 'H'

Pass may be issued if due to card

पास का आवेदन पत्र
APPLICATION FOR PASSES

आवेदक का नाम/Name of applicant **SUDHIR CH. CHAKROBORTY**
अवकाश के उपबन्ध/Section and Sub-section **SSE/TL/GHY UNDER DEE/GHY**
पद/Post **Ex ELF-I** वेतन/Pay **4750/- (Retirement basic)**
किसके लिए पास चाहिए/Passes required for **SELF & WIFE**

कोस/From (Station) **GHY** स्टेशन तक/To (Station) **KANNYAKUMARI**
उपलब्ध रहने की अवधि/Period of availability **Madanville** **back to GHY with back journey N.S.P. R.W.**
तारीख/Date **12/8/05** **S.G. Bhatnagar - both ways**

b/cm
22-8-05

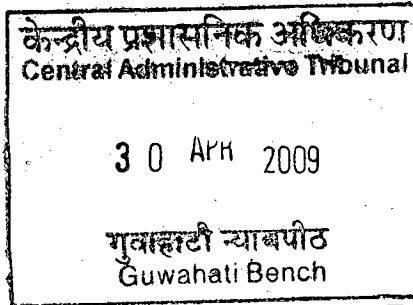
अधिकारी/Head of Section

I. नियुक्ति की तारीख/Date of appointment

II. **Foreign** **Home** **India** **Foreign**

III. **Home** **India** **Foreign**

की अवधि/Remarks



ANNEXURE: - F

To,

From:

1. The General Manager
N.F. Railway, Maligaon
2. Chief Personnel Officer,
N. F. Railway, Maligaon
3. Divisional Personal Officer
N.F. Railway, Guwahati.

Sri Sudhir Ch. Biswas,
Ex. ELF-I/TL/GHY
Ananda Nagar, Line No. 1
House No. 1460 (1460)
P.O. - Pandu, Guwahati -12

Date: - 26-02-08
04-03

Hon'ble Sir,

- Sub: - 1) Prayer for payment of deducted amount of Gratuity with interest and interest for delayed payment of Gratuity.
- 2) Prayer for immediate order to issue post retirement pass.

With due respect and humble submission I want to state the following for your kind consideration and necessary order please.

1. I retired from Rly. After 40 yrs. Service as ELF-I/TL/GHY on 30.09.2001.
2. I took permission to retain my Rly. Qr. No. -162 (D) Type- I at Triangular on usual rent as admissible.
3. As per office order No. 11 of Sr. DEE/GHY dtd. 07.05.2002 circulated under L/No. EL/252/73/GHY/133 dtd. 07.05.02. I handed over the quarter to Md. Habibur Rahman, Kh/Hlpr/SSE/TL/GHY under clear signature of Habibur Rahman on 11.05.02. Copies of office order No. 11 and vacation / occupation report are enclosed herein and marked as Annexure 'A' and Annexure "B" respectively.
4. That Sir, DEE/GHY again by office order No. 13 dated 27.05.2002 changed the office order no. 11 dated 05.05.2002 and ordered one Sri Bipul Ch. Das Kh/Hlpr to take over quarter No. 162 (D) type-I from me without giving me a copy of order No. 13 dtd. 27.05.02. Moreover I already handed over the quarter on 11.05.2002 giving copies to all concerned. Copy of order No. 13 dtd. 27.05.02 is enclosed and marked as Annexure 'C'.
5. That Sir, I remained in the dark as neither Habibur Rahman or Sri Dipul Das turned up to me to complete the formality of Handing over /taken over in SSE/W/PNO's office and SSE/Elect/PNO's office.

Certified to be true Copy

Advocate

30 Apr 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

6. Finding that my gratuity held up and post retirement passes not issued in my favour due to above anomaly in multiple office order of allotment (Annexure 'A' and Annexure 'C') of quarter, I finally got the quarter sealed by SSE/W/PNO on 07.04.04 through I vacated it on 11.05.02 and handed over to Habibur Rahman on 11.05.02 under clear signature.
7. That Sir, an amount of Rs. 53,890/- has been deducted from my Gratuity as per annexure 'D' enclosed.
8. The above amount may be paid back to me with interest.
9. Also delay of payment of Gratuity from 01.10.2001 to 23.08.04 may be paid interest as per rule.
10. The above claim is bonafide and legal and in support I enclose three nos. court case references and marked as Annexure 'E', 'F' & 'G', which are self-explanatory.
11. Also I applied for post retirement pass vide my application dated 12.08.05 but I was not issued the same copy of my application is enclosed and marked as Annexure 'H'

I, therefore pray to your Honour to issue necessary orders for -

- 1) Payment of deducted Gratuity with interest.
- 2) Payment of interest for delayed payment of Gratuity.
- 3) Immediate order for issue of post retirement pass as I handed over quarter in time and anomaly is attributed to multiple office orders of allotment of quarter (Annexure 'A' & 'C').

I also pray for personal hearing with one of Rly. Staff to act as my Counsel
Praying for your early order.

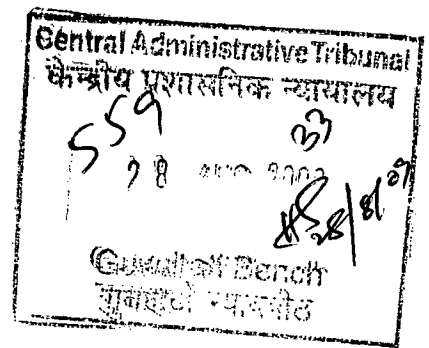
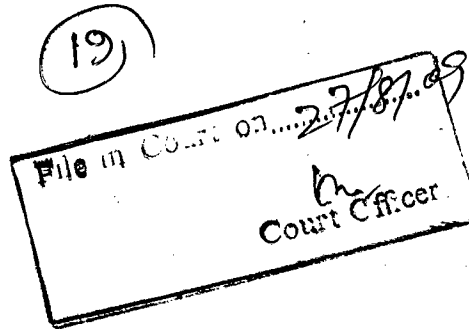
I remain,

D.A.: Annexure A to H

Address for Communication

Sri Sudhir Ch. Chakraborty
Ananda Nagar, Line No. -1
House No. - 1460 (1460)
P.O - Pandu, Guwahati -12
Date - 26-02-08.

Yours faithfully,
Sd/- Sudhir Chandra Chakraborty
(Sudhir Ch. Chakraborty)
Ex. ELF/TL/GHY



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.80/2009

Shri Sudhir Chandra Chakrabarty ... Applicant

Versus

Union of India & Others ... Respondents.

AND

IN THE MATTER OF

Written Statement on behalf of Respondents.

INDEX

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Written Statement ...	1 to 4.
2.	Verification ...	4.
3.	Annexure I ...	5.
4.	Annexure II ...	6.

Submitted.

Copy received
27/8/09
Advocate for applicant

Date ; 27.08.2009.

Dr.M.C.Sarma, 27/8/09
Railway Advocate

(20)

Filed by

www

27/09/09

Dr. M. C. Sarma

M.Com, Ph.D., LL.B.

Advocate, Gauhati High Court.

Railway Advocate, Central Administrative Tribunal

Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.80/2009

Shri Sudhir Chandra Chakrabarty ... Applicant

Versus

Union of India & Others ... Respondents

AND

IN THE MATTER OF

Written Statement on behalf of respondents.

The answering respondents respectfully SHEWETH:

1. That they have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which have been borne on records all other averments/allegations made in the application are hereby denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal to take a just and fair decision on the matter.

3. That according to a letter written by the applicant on 03.04.2004, addressed to the Deputy General Manager, N.F. Railway, Maligaon, the applicant expressed his desire to vacate the quarter No.162/D at Triangular Colony, Pandu, on 07.04.2004. This letter gave ample proof of the fact that the applicant continued to unauthorisedly occupy the quarter in question from 01.06.2002 upto at least 07.04.2004. In actual fact the quarter was handed over to the department concerned on 25.04.2004 according to letter No. W/W/Pno dated 25.05.2004 written by the Engineering department to the Deputy General Manager's office in compliance to his letter dated 07.04.2004. It is therefore clear that Annexure B of the O.A., namely the joint report of handing over of the quarter to one Shri Habibur Rahman on 11.05.2002 did not present a correct picture as he continued to occupy the quarter upto April, 2004 as per his own admission through his letter dated 03.04.2004. In this connection it is stated with due respect that the claim of the applicant made in

(2)

paragrapg 6.7 of the O.A. that he handed over the quarter on 11.05.2002 to Md.Habibur Rahman has been conclusively proved to be false by proof of his letter dated 03.04.2004.

A copy of letter dated 03.04.2004 written by the applicant to Deputy General Manager, N.F. Raly. is annexed hereto and marked as ANNEXURE I

While on this subject, the respondents beg to also state that while allowing the applicant to retain his quarter after retirement from 01.10.01 to 31.05.2002, the Senior Electrical Engineer allowed retention of the quarter for four months at normal rent and for four months on double the assessed rent as per rule. It was made clear in that order that "The period beyond 8(eight) months will be treated as unauthorised occupation". Therefore, charging of penal rent after the authorised period was as per rule and cannot be questioned.

A copy of the order No. EL/252/72/GHY-1091 dated 22.08.01 of DEE, Guwahati containing this order is annexed hereto and marked as ANNEXURE II

3.1. That the respondents beg to refer to paragraph 6.8 of the O.A. wherein the allegation has been made regarding non-issue of post-retirement passes. In that connection respondents beg to refer to Para 13(iii) of the Master Circular No.E(G)2006 QR 1-6 (Master Circular) dated 20.04.2007 which is reproduced below:-

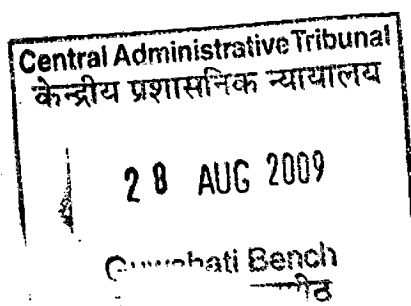
"One set of post-retirement pass should be disallowed for every month of unauthorised retention of Railway quarter by retired employee The concerned retired employee may be allowed the privilege of post-retirement passes, after the period, during which the forfeited passes would have been admissible, is over...."

In the case of the applicant therefore the period of disallowance for issue of post-retirement passes continued upto the date of his vacation of the quarter on 25.04.2004. Such passes could be issued to the applicant on opening of a pass account in his name on the basis of an application by him with required particulars.

4. Parawise comments

4.1. That in regard to paragraphs 6.1, 6.2, 6.3 and 6.4 the respondents have no remarks to offer as the statements made therein are part of the records which the applicant is put to the strictest proof thereof.

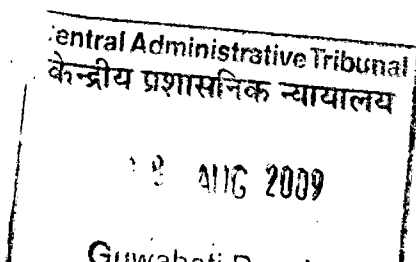
.... P. 3....



4.2. That as regards paragraphs 6.5, 6.6 and 6.7, the respondents beg to state that the real and correct position of the unauthorised occupation of the quarter in question by the applicant from 01.06.2002 upto 25.04.2004 has been explained in detail at paragraph 3 of this W.S. above. In this connection it is submitted that while the applicant falsely claimed to have handed over the quarter to one Habibur Rahman through a handing over-taking over note on 11.05.2002, he has nowhere submitted such a note in favour of Shri Bipul Ch. Das to whom the quarter was allotted by order dated 27.05.2002 in modification of the earlier order dated 07.05.2002. What the applicant appears to have done in the wake of the modification of the order of allotment of the quarter by the authorities was to continue to occupy the quarter till 25.04.2004 as proved by the letter he had written to the Deputy General Manager, N.F.Railway on 03.04.2004 authenticated in Annexure I of this Written Statement. The authorities were therefore duty bound to treat the period between 01.06.2002 and 25.04.2004 as unauthorised occupation of the quarter in question by the applicant as was amply made clear to him through last paragraph of letter No.EL/252/72/GHY-1091 dated 22.08.01 (Annexure II of this W.S.) written to the applicant by Divisional Electrical Engineer, which was acknowledged by the applicant on 24.08.2004. In this connection it is respectfully submitted that the contents of note No.E/2/1/GHY(FS)334 dated 25.08.2004 (Annexure D of the O.A.) were based on extant instructions and codal provisions and Master Circulars applicable to all Railway Staff of Indian Railways. The subsequent recovery of dues from the final settlement of the applicant was correct and based on rules.

4.3. That regarding paragraph 6.8, the respondents beg to reiterate the submission made in paragraph 3.1 of this Written Statement above and state that as per rule quoted therein one set of post-retirement pass is to be disallowed for every month of unauthorised ~~xxx~~ retention of Railway quarter by retired employees. The applicant would be entitled to post retirement passes as per rule after his vacation of the unauthorised occupation of the quarter on 25.04.2004 by requesting for opening of a pass account to the authorities concerned.

....P. 4.....



बॉक्स मध्ये विद्युत अंश
पु. हो. रेलवे/ गुवाहाटी
Sr. Divisional Electrical
N.F. Railway, G.

(4)

4.4. That as regards paragraphs 6.9 and 6.10, the respondents beg to point out the admission by the applicant in paragraph 6.9 stating that "he had committed no fault regarding the handing over of the quarter retained by him." This claim of the applicant that he committed no fault cannot be accepted as the applicant was clearly informed by the Divisional Electrical Engineer vide his letter dated 22.08.2001 that the "Period beyond 8(eight) months will be treated as unauthorised occupation"(Annexure II of this W.S.) The deductions made from the Gratuity dues of the applicant for the unauthorised occupation of the quarter in question were therefore covered by the rules and codal provisions.

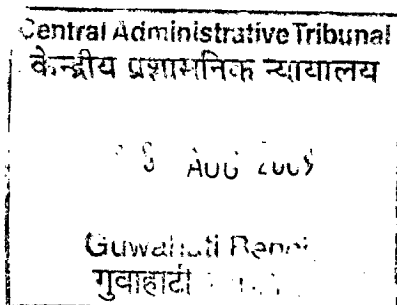
Under the circumstances and on the basis of facts submitted hereinabove, the respondents beg to submit that the applicant has no justification in claiming any relief and that the application deserves to be dismissed for want of any merit.

And for this act of kindness the respondents as in duty bound shall ever pray.

VERIFICATION

I, Shri Ram Dayal Meen, son of Shri Jainendra Meen, aged about 42 years and at present working as Sr. Overhaul, N.F. Railway, Maligaon, do hereby solemnly verify and affirm that the statements made in paragraphs 1 to 4 are true to the best of my knowledge and derived from records which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 24th day of August, 2009.



Signature B. Meen
Designation Sr. Overhaul
पु. सी. रेलवे/ गुवाहाटी
Sr. Divisional Electrical Engineer
N.F. Railway, Guwahati

37
वर्तमान में उपलब्ध विद्युत अभियंता
पु. सी. रेलवे/ गुवाहाटी
Sr. Divisional Electrical Engineer

(5)

Annexure - ~~DI~~ I

~~544/16/0~~

39

(24)

Y^o
Check up

The P.G.M.G.

N.F. Rly. Maligaon.

Sub: - Vacating of Gr NO. 162/D, type C
at Triangular Colony, Pander.

~~From~~
~~Mr. Bandyopadhyay~~
~~Mr. Bandyopadhyay~~

Respected Sir,

My self retired from service
and hence went to vacate the Gr.
mentioned under subject on 07-09-04.

In view of so I would be grateful
to your honour for issuing necessary
instruction to S.S.E./W/PNO to take up
the quarter within 07-09-04.

Thanking you.

Dated: Pander
The 3rd April 04.

Yours faithfully,

P. G. Chakrabarty
ELF/ gr/C.
Under Sr. S.E.E./ghy.

ATTESTED

Asstt. Personnel Officer
N.F. Railway Guwahati

ATTESTED

Asstt. Personnel Officer
N.F. Railway Guwahati

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
28 AUG 2009
Guwahati Bench
गुवाहाटी न्यायालय

(6)

(25)

Office of the
DEE/ Guwahati.MEMORANDUM :

Divisional Electrical Engineer, N. F. Railway,
Guwahati has accorded his permission to retain the Rly.
Qrs. No. 162-D type- I at Triangular Colony
in favour of Sri/ Smt/ Miss S.C. Chakraborty
son/ wife/ daughter of late _____
Ex. ELF/2 under SSE (TL) GHY
for a period of 4 (Four) months on normal rent and
4 (Four) months on double of the assessed rent
w.e. from 1/10/01 to 31/5/02

The period beyond 8 (Eight) months will be
treated as unauthorised occupation.

Shan
Divl. Electrical Engineer,
N. F. Railway, Guwahati.

No. EL/252/72/GHY-1091

Dated- 22-8-07

Copy forwarded for information & necessary action to:-

1. APO/Guwahati.
2. ADPO/Guwahati.
3. F.S. Section.
4. Pass section.
5. Staff concerned.

TESTED
Genl. Personnel Officer
N.F. Railway Guwahati

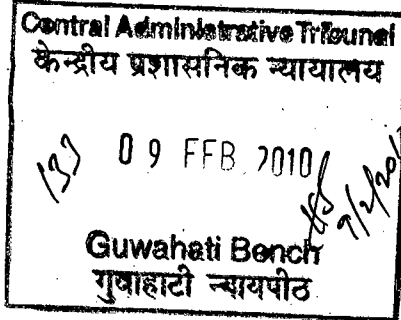
Central Administrative Tribunal
Guwahati Bench

Shan
Divl. Electrical Engineer,
N. F. Railway, Guwahati.

sb)13900

24/8/0425/8/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI



O.A. NO. 80 / 2009

In the matter of: -

Sri Sudhir Chandra Chakraborty

.....Applicant

-Versus-

Union of India and Ors.

.....Respondents

-AND-

In the matter of: -

An application to bring the photocopy of vacation and occupation report of Railway Quarter No. 162/D Type - I at Triangular Colony, Pandu (Annexure - B to the O.A. No. 80/2009) dated 11.05.2002 in record.

Humble application of the applicant above named -

MOST RESPECTFULLY SHEWETH: -

That the applicant has filed an Original Application being O.A. No. 80/2009 before this Hon'ble Tribunal seeking justice.

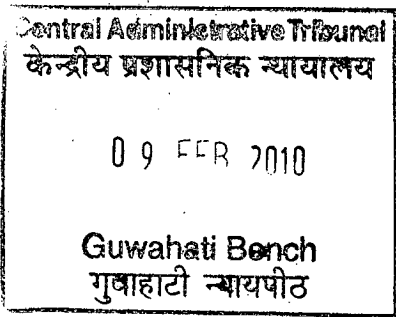
2. That the applicant has annexed the type copy of vacation and occupation report dated 11.05.2002 of Railway Quarter No. 162/D type -I Triangular Colony, Pandu in his original application as Annexure: - B.
3. That the applicant was asked by this Hon'ble Tribunal to bring the Photostat copy of Original of Annexure: - B in record. Hence the applicant has brought the same in record. The applicant will produce the Original Copy at the time of hearing
4. That this application may be considered as part of this Original Application being O.A. No. 80/2009 and it may be taken into account at the time of final hearing.
5. That this petition is made bonafide.

Filed by the applicant
through
Kumar
Manojan Habi
Advocate
9.2.2010

Sudhir Chandra Chakraborty

Copy received.

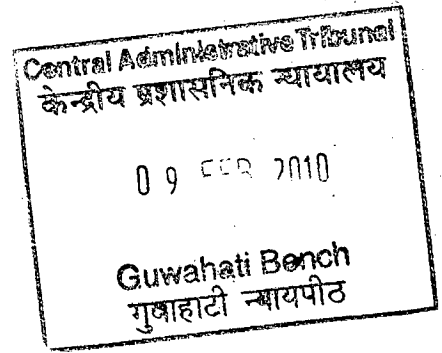
Recd
09.10.2010
By. Cancl.



It is, therefore, prayed that your Lordships would graciously be pleased to allow this petition and be pleased to consider this application as part of the instant original application and be pleased to allow the applicant to press this application at the hearing of the Original Application is the interest of justice.

And for this act of kindness your applicant as in duty bound shall ever pray.

Sd/- Sudhar Cordon Guwahaty 51



VERIFICATION

I, Sri Sudhir Chandra Chakraborty, Son of Late Upendra Lal Chakraborty, aged aboutyears, resident of Ananda Nagar, Adabari Tiniali, Port Road, Bye Lane No. 1, P.O – Pandu, District – Kamrup, Assam do hereby declare and verify that the statements made in paragraphs2 to 5.....are true to my knowledge and that made in paragraphs are true to my information derived from the records and rest are humble submissions before this Hon'ble Tribunal.

I signed this verification on this the 25.....day of January 2010 at Guwahati.

Sudhir Chandra Chakraborty
Signature

To
The Divl. Electrical Engineer.
N.F. Railway, Guwahati.

Date : 11-05-02

Sub : Vacation and occupation report of Rly.
Or. No. 162/D type-I at Tringular Colony
Pandu

Ref : Your office order No. 11 of 2002 circulated
vide L/No. EL/252/73/GHY/433 dt. 07/05/2002.

Sir,

As per your above mentioned order I have handed over
and taken over the Rly. Or. No. 162/D Type-I at Tringular
Colony, Pandu on 11-05-02 with all electrical equipment and
also other equipment of the above Or.

TAKEN OVER BY -

HANDED OVER BY -

MD. Habibur Rahman

(MD. H. RAHMAN)

Desig :- W.P. M-1001

Under :- SSE/TL/GHY

S. C. Chakraborty
(SRI S. CHAKRABORTY)

Ex.

Under SSE(TL)/GHY.

Copy forwarded for information and necessary action to :-

- (1) APO/GHY.
- (2) ABAO/GHY.
- (3) SSE(TL)/GHY.
- (4) SSE(P)/PNG.
- (5) SSE(W)/MIO.

TAKEN OVER BY -

HANDED OVER BY -

MD. Habibur Rahman

S. C. Chakraborty

Certified to be true copy

Advocate

