

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./T.A No. 220/95
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 220 OF 1995
 TRANSFER APPLN.NO. 12 OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. R.P. Bora OF 1995 (IN NO.)

..... APPLICANT(S)

-vs-

..... RESPONDENT(S)

For the Applicant(s) Mr. M. Chanda

Mr.

Mr.

Mr.

For the Respondent(s) Mr. G. Sarma

Mr.

Addl. C.A.C.

OFFICE NOTE

DATE

ORDER

22.9.95

Learned counsel Mr M. Chanda moves this application on behalf of Smt Renu Prabha Bora. Learned Addl. C.G.S.C., Mr G. Sarma is present and has received the application. The application has been submitted on the ground that on 21.9.95 the applicant was threatened through the Messenger that she should vacate the Government Quarter No.321, Satgaon, Narangi, Phase-II. She attributed this action to the Administrative Commandant, Station Headquarter, Narangi, who according to her, got annoyed with her for having submitted O.A.No.163/95 before this Tribunal.

Issue notice to the respondents to show cause as to why this application should not be admitted and the interim relief prayed should not be allowed.

Adjourned to 9.10.95 for show cause and consideration of admission.

Pending consideration of show cause and admission on 9.10.95, the

This application is in form and within time.

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 3273/11.

Dated 24.9.95

22/9

N

Page No.

QA/TAX/CP/BA/MP No. 220/95 19

OFFICE NOTE

DATE

ORDER

22.9.95

respondents, particularly respondent No.4, Administrative Commandant, Station Headquarter, Narangi, Guwahati, are directed not to evict the applicant from the said Quarter.

Steps to be taken within 25.9.95.

Member

22.9.95

nkm

9.10.95

Learned Addl.C.G.S.C Mr G.Sarma prays for 3 days time to submit show cause.

List on 12.10.95 for show cause and consideration of admission.

Member

Pg

12.10.95

Learned Addl.C.G.S.C Mr G.Sarma has submitted the show cause. Same has been served on Mr M.Chanda, learned counsel for the applicant today, who requests for time till tomorrow.

List for disposal of show cause and consideration of admission on 13.10.95.

Member

Pg

Requisites are
gnd 2 csm
v.no. 4264-668 4.10.95

Copy of notice
directly send by
the Applicant's Adv.
to Mr G. Sarma, Adv.
CGSS. vide his letter
at 'C' file.

for
29/9

for 29/9

11.10.95

Show cause
reply on behalf
of the Respondents.

for

13.10.95 Learned counsel Mr M.Chanda for the applicant. Learned Addl.C.G.S.C Mr G.Sarma is present for the respondents.

Learned counsel Mr M.Chanda submits that the applicant may be allowed to withdraw this application and to take up the matter of her occupation of the Quarter No.321 Phase-II in Station Head-
quarters, Narengi/Prayer is allowed.
The applicant will be at liberty to submit representation again to the Administrative Commandant, Station Head-quarter, Narengi, Guwahati, respondent No.4, requesting him to allow her to remain in the quarter. She may do so within 31.10.95. The respondents who are well aware of her situation will thereafter consider her case sympathetically on economic and humanitarian consideration and the fact that they had tolerated her stay in the quarter for more than 6 years. If she submits the representation as indicated above, the respondents may allow her to continue to remain in the quarter till disposal of her representation.

The application is disposed of on withdrawal. No order as to costs.

Member

1.11.95

copy of order dtd.
13.10.95 issued to
all concerned vide
D/No. 4814-4818
D/A. 6.11.95.

22 SEP 1995

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THE CENTRAL ADMINISTRATIVE TRIBUNAL

Guwahati Bench

Filed by Mr.
Applicant -
M. Chandra
22.9.95

O.A. No. 220 / 95

Smti Renu Prabha Borah
Vs.
Union of India & Ors.

I N D E X

| Sl. No. | Annexure | Particulars | Page No. |
|---------|----------|--------------|----------|
| 1 | - | Application | |
| 2 | - | Verification | |

Re DGP
Y. Sarma.
ADJ PSC
CAT
22/9/95

Filed by :-
(Signature)
Advocate

smt Renu prabha Borah.

1. Particulars of the applicant

Smt. Renu Prabha Borah

Wife of late Krishna Ram Borah (Ex. Habildar)

P.O. Satgaon

Dist. Kamrup

..... Applicant

2. Particulars of the Respondents

1. The Union of India

Through the Secretary to

the Govt. of India

Ministry of Defence

New Delhi

2. The Additional Director General

of Staff Duties (SDGB)

General Staff Branch

Army Headquarters DHG

P.O. New Delhi-110001

3. The Administrative Commandant

Purav Kaman Mukhoyalaya

Headquarters

Eastern Command

Fort William

Calcutta 700021

4. The Administrative Commandant

Station Headquarter

Narengi, Guwahati

C/o 99 A.P.O.

..... Respondents

Smt Renu prabha Borah.

3. Particulars for which this application is made.

This application is made against apprehension of eviction without notice, from the Govt. Quarter No. 321, Satgaon, Narengi, Phase II, which was allotted to her husband late Krishna Ram Borah (6649 504 ACSD) Habildar Clerk, who was serving under Station Headquarters 28 Infantry Division under Station Headquarter, Narengi, who died in the year, 1988 while in service.

4. Jurisdiction

That the applicant states that the cause of action of the case has been arisen within the Jurisdiction of the Hon'ble Tribunal.

5. Limitation :

That the applicant states that the case is filed within the prescribed time period of the Administrative Tribunals Act, 1985.

6. Facts of the case

6.1 The the applicant is a citizen of India and as such, she is entitled to all the rights and privileges guaranteed by the Constitution of India. She is a widow of late Krishna Ram Berah, who was serving as Hawaldar under Station Headquarter, 28 Infantry Division under Station Headquarter, Narengi. The husband of the petitioner, died while in service in the year 1988.

Smt Remu prebha Borah.

6.2 That after the death of the petitioner's husband, the petitioner was allowed to stay in the same allotted Govt. quarter No. 321 at Satgaon, Narengi by the then Administrative Commandnat, and it was also assured verbally that the petitioner would be taken into service on compassionate ground on priority basis. but unfortunately, although she had appeared on five occasions for compassionate appointment to the Group 'D' post however she was not disturbed by the Station Headquarter, Narengi regarding her stay at Govt. Quarter even after the death of her husband.

6.3 That the applicant begs to state that she had one son and one daughter. Her son Sri Kushal Kumar Borah reading in Class VI in the Central School at Narengi and her daughter Miss Monalisa Borah aged about 9 years suffering from polio. The petitioner passing her days through financial hardship as she is to maintain the family only with the help of family pension and she is not in a position to hire a private accommodation with this meagre income.

6.4 That the name of the petitioner was duly sponsored by the Employment Exchange vide letter No. ORD. 6/95/127-28 dated 8.2.95 for the post of Conservancy Safaiwala in the Station Headquarter, Narengi. Thereafter she appeared before the Board of Interview for the post of Conservancy Safaiwala on

Smt+ Renu probha Borah.

21.2.95 at 10.00 hrs. She was declared selected in the said Interview and was verbally appointed to the post of Conservancy Safaiwala with effect from 1.3.1995 and she continued in the service till 28.8.95 although formal appointment order was not issued in her favour. All the required formalities had been completed viz. Police Verification, Medical fitness etc. but unfortunately the service of the applicant has been terminated with effect from 28.8.95 (A.N.) and the applicant being aggrieved by the verbal order of termination filed an application before this Hon'ble Tribunal which was registered as O.A. 163/95 and this Original Application was disposed of on 20.9.95 by this Hon'ble Tribunal with a direction to release the sanction for the post of Conservancy Safaiwala immediately and on receipt of the sanction the applicant to be absorbed on regular basis.

6.5 That the Administrative Commandnat, Station Headquarter, Narengi got annoyed for filing the O.A. 163/95 where the present applicant was also ~~app~~ one of the applicants in that case. ~~Thereafter the~~ and thereafter started harassing the petitioner by sending Army people through Military Engineering Service and she was threatened to vacate Govt. Quarter No. 321. The applicant finding no other alternative approaching this Hon'ble Tribunal for preventing the respondents from the eviction of the applicant from the Govt. Quarter No. 321.

srn + Renu prabha Bora.

✓ 6.6 That the applicant begs to state that on 21.9.95 she was ~~threatened~~ threatened through Messenger that she should vacate the Govt. Quarter with immediate effect otherwise she will be evicted from the Govt. Quarter.

6.7 That the applicant begs to state that the Deptt. ought to have appointed her on compassionate ground long back and also should have regularised the quarter in her name. Therefore when the applicant now selected for regular appointment to the post of Conservancy Safaiwala and expecting her regular appointment within a very short time she should not be evicted from the Govt. Quarter No. 321 till regular absorption to the post of Conservancy Safaiwala.

6.8 This application is made bonafide and for the cause of justice.

7. Reliefs sought for :

1. Under the facts and circumstances the applicant prays for the following reliefs :

1. That the respondents be directed not to evict the petitioner and her family from the Govt. Quarter No. 321 at Satgaon, Narengi, Phase II till her regular absorption as Conservancy Safaiwala, on compassionate ground.
2. That the applicant be allowed to retain at Govt. quarter No. 321 till regular absorption as Conservancy Safaiwala.

Smt + Renu prabha Boroah

The above reliefs are prayed on the following amongst other -

- G R O U N D S -

1. For that the petitioner is declared selected ~~Candidate~~ for the post of Conservancy Safaiwala in the Station Headquarter, ~~Kamliya~~ Narengi, Guwahati against a regular vacancy.
2. For that the respondents ought to have appointed the petitioner immediately after the death of her husband as per the law laid down by the Hon'ble Supreme Court in *Susma Goswami Vs. Union of India* and further the Govt. Quarter No. 321 ought to have regularised in the name of the applicant.
3. For that the House Rent was deducted from the pay bill for March, 1995, April 1995 and June 1995, although the pay bill was returned due to want of sanction.
4. For that the petitioner was verbally appointed as Conservancy Safaiwala with effect from 1st March 1995.
5. For that the daughter of the petitioner suffering from Polio and the petitioner have no other source of income.
6. For that due to humanitarian grounds.

Smt Renu prabha Borah.

8. Interim Reliefs prayed for

That the respondents be directed to allow the petitioner to continue to stay at Govt. Quarter No. 321, till final disposal of this application.

The above reliefs prayed on the grounds explained in para 7 of this application.

9. That the present applicant declares that she has not filed any other application before any other Court or Tribunal on this subject.

10. That there is no any other rule/law save and except filing this application before this Hon'ble Tribunal.

11. Particulars of the Postal Orders

| | |
|---------------------|---------------------|
| 1. Postal Order No. | : 327310 |
| 2. Date of Issue | : 14.9.95 |
| 3. Issued from | : G.P.O., Guwahati |
| 4. Payable at | : G.P.O., Guwahati. |

Smt Renu prabha Borah.

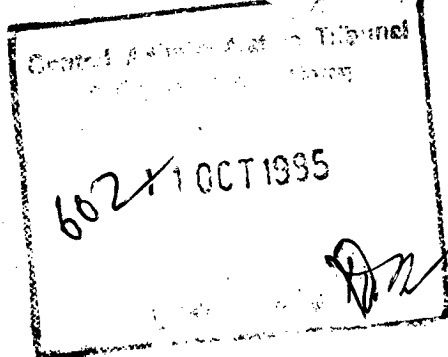
V E R I F I C A T I O N

I, Smt. Renu Prabha Borah, Wife of late
Krishna Ram Borah, P.O. Satgaon, Dist. Kamrup,
presently working as Conservancy Safaiwala in the
Station Headquarter, Narengi do hereby declare
and verify that the statements made in this application
are true to my knowledge and belief and I have not
suppressed any material facts.

And I sign this verification on this the 22nd
day of ~~Augux~~ September, 1995.

Smt Renu prabha Borah.

Signature



10
File by
H. P. Datta
Additional Central
Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench.
11/10/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

In the matter of :

O.A.No.220 of 1995.

Smt Renu Prabha Borah

... Applicant

- Versus -

Union of India & Ors.

... Respondents.

- AND -

In the matter of :

Show cause reply on behalf of the
respondents.

I, Col V.Kapoor, Adm Comdt., Station Headquarters
Guwahati (Narengi Camp) and Respondent No. 4 in the above
noted case do hereby solemnly affirm and declare as follows.

1. That I am one of the respondents in the above noted
O.A. and being called upon by this Hon'ble Tribunal to show
cause as to why the above noted case should not be admitted,
I do hereby show the causes as follows * and say categorically
that save and except what is admitted in this show cause
rest may be treated as total denial by all the respondents.

2. That with regard to the contents made in para
1 and 2, I beg to state that I have nothing to comment.

3. That with regard to the contents made in para 3
of the application I beg to state that Late Hav/CLK Krishna

contd. 2...

Received
10-10-95
12-10-95
cut-10-30 A.M.
Chh. Adv.

Ram Borah husband of applicant was serving in Headquarters 28 Inf Divn. C/O 56 APO (Located at Siachen Glacier in J & K) and not under Station Headquarters, Narengi as stated. The late Non Commission Officer was allotted separated family accommodation as entitled when the soldier was posted to field station where no facilities exist for married accommodation. Under the provision a soldier in field area can apply for separated family accommodation anywhere in India.

4. That with regard to the contents made in para 4 and 5 of the application, I beg to state that as the applicant wife of Late Hav/CLK Krishna Ram Borah is not a Govt. servant, the case is not maintainable in the HOn'ble Tribunal. Therefore the case may be dismissed with cost.

5. That with regard to the contents made in para 6.1 of the application, I beg to state that it is incorrect to say that Late Hav/CLK Krishna Ram Borah was serving under Station Headquarters, Narengi.

6. That with regard to the contents made in para 6.2 of the application, I beg to state that there is no provision to allow a widow to stay in the Govt. quarters from time to time. She was permitted to stay purely on humanitarian ground. However this favour should not be taken as right as her permanent stay unauthorisedly will deprive of the facility to entitled jawans who are serving in hard field areas. Rule does not permit the claim of the applicant.

7; That with regard to the contents made in para 6.3 and 6.4 of the application, I beg to state that I have got no knowledge.

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8. That with regard to the contents made in para 6.5 of the application, I beg to state that it is baseless that the applicant ^{who} is staying unauthorisedly for the last 7 years in Govt. quarter No.321, has been harrassed by the Administrative Commandant threatening her eviction through Army personnel and Military Engineering Services. Had the Administrative Commandant desired to do that, he could have called her to office and warned her. It will not be wrong to presume that this is her wishful presumption.

9. That with regard to the contents made in para 6.6 of the application, I beg to state that from time to time regular/routine surprise check has been carried out in the entire station to find out unauthorised occupants of Govt. quarters. There are more than 200 bonafide applicants who are serving in field areas in the waiting list for separated family accommodation. Moreover the applicant

10. That with regard to the contents made in para 6.7 of the application, I beg to state that the applicant unauthorised occupant of 321 SF quarter was warned and given notice to vacate the Govt. accommodation by this HQ.

Copies of communications in this respect are annexed to this written statement and same are marked as Annexure R1 and R2, respectively.

10. That with regard to the ~~xxxx~~ contents made in para 6.7 of the application, I beg to state that it is to mention that the responsibility for appointment on extreme compassionate ground of near kith and kin of a soldier who dies in harness is that of the unit where the

contd. 4....

soldier was last serving i.e. Headquarters 28 Inf Div., C/O 56 APO and not this Station Headquarters, Narengi. Moreover the accommodation where ~~the~~ the applicant is staying is not meant for civilian but strictly for serving soldiers.

Therefore the contention that ~~the~~ the applicant should not be evicted from Govt. quarters No.321 till her absorption to the post of conservancy safaiwala is untenable. She can be considered for allotment of Govt. quarters of her status when appointed as conservancy safaiwala in the station.

11. That with regard to the contents made in para 6.8 of the application, I beg to state that this application is not filed bonafide and as such the applicant is not entitled to any equitable relief.

12. That with regard to the contents made in para 7.1 and 7.2 of the application, I beg to state that the relief sought for should not be considered as it will be against the existing Govt. policy and will adversely affect the morale of the soldiers serving in high altitude and hard field areas as follows :-

- a) A soldier is entitled to free accommodation with allied services to which the applicant is no more entitled.
- b) When the applicant is absorbed in the post of Conservancy Safaiwala she will be entitled to a lower status Govt. accommodation on rent and allied charges payable to the Govt.
- c) Since her husband's death in 1988 the applicant has been staying in the soldiers separated family accommodation unauthorisedly without any rent

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which is a great loss to the state amounting to Rs.27,000/- (Twenty seven thousand only) approximately. The applicant will be considered for allotment of her entitled accommodation on appointment to post of conservancy Safaiwala in the Station.

13. That with regard to the contents made in ground No.1 of the application, I beg to state that it is a matter of records.

14. That with regard to the contents made in ground No.2 of the application, I beg to state that this has been very exhaustively explained in para 10 and 11 of this written statement.

15. That with regard to the contents made in ground No.3 of the application, I beg to state that this ground is absolutely baseless and unfounded. When the applicant's pay bill was not passed, the question of deduction of house rent during month of March & April 1995 does not arise. During the year no amount ~~was~~ has been realised from her.

16. That with regard to the contents made in ground No.4 ~~ix~~ of the application, I beg to state that it is a matter of records.

17. That with regard to the contents made in ground No.5 & 6 of the application, I beg to state that on humanitarian ground only the applicant has been staying for so long unauthorisedly, without any disturbance. But this cannot be taken a granted for permanent occupation as there are many soldiers in the waiting list.

contd. 6...

18. That with regard to the contents made in para 8 of the application, I beg to state that the interim relief prayed for by the applicant should not be granted as many deserving soldiers are in the waiting list.

19. That with regard to the contents made in para 9 and 10 of the application, I beg to state that I have no comments.

20. That ~~mx~~ the present application is ill conceived of law and misconceived of facts.

21. That the applicant has got no any legal right to file this application.

22. That the applicant may have a legal right only after her appointment as Safaiwala.

23. That there being no any prima facie case at all, the application is liable to be dismissed.

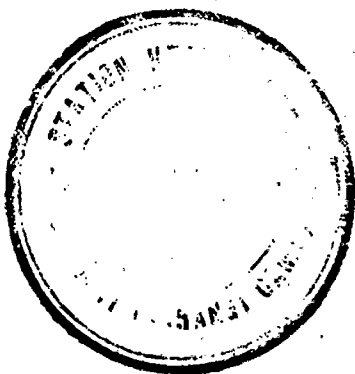
24. That the show cause reply is filed bonafide and in the interest of justice.

Verification

7 - 16 - 20

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

I, Col V. Kapoor, Adm Comdt. Station Headquarters, Guwahati (Narengi Camp) and Respondent No. 4 in the O.A. do hereby solemnly affirm and declare that the contents made in paragraph 1 of the show cause reply is true to my knowledge and those made from para 2 to 19 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal and I sign this verification on this 11th day of October, 1995 at Guwahati.



Col V. Kapoor,
Adm. Comdt.
Col
Adm Comdt
Guwahati

Mil Tele : 7231

Station Mukhyalaya
Station Headquarters
Guwahati (Narangi Camp)

6552/3/Q3A(1)

27 Jul 94

Mrs Bora W/O
Late No-664950 Hav/Clk
KR Bora
Quarter No - 321 (CR's SF accn)
Phase-II (Narangi Camp)

VACATION OF MARRIED ACCOMMODATION : CR's
SEPERATED FAMILY ACCOMMODATION

1. Please refer to this HQ allotment letter No 6552/3/Q3A dated 18 Jul 87.


2. It has been brought to the notice of this HQ that you are residing in Govt married accn qtr No-321 (CR's SF accn) since 18 Jul 87.

3. You have become un-authorized occupant of above quarters after demise of your husband and you are supposed to make the payment of market rate of rent after the demise of your husband.

4. You are requested to please vacate the said quarter by 05 Aug 94 failing which your quarter will be get vacated forcibly.

Sd/- x x x
(BC Sarma)
Lt Col
for Adm Comdt

CTC



Lt. Col
SSO

Mil Tele : 7231

Station Mukhyalaya
Station Headquarters
Guwahati (Naranghi Camp)

6552/3/Q3A

10 Aug 94

Mrs Bora W/O late No-6649504
Hav/Clk KR Bora
Quarters No-321 (OR's SF accn)
Phase-II (Naranghi Camp)

1988
28 Sep. Divn. 8 & 12
Separated family

VACATION OF MARRIED ACCOMMODATION : OR's
SEPARATED FAMILY ACCOMMODATION ATR NO-321

1. Please refer to this HQ letter No 6552/3/Q3A(1) dated 27 Jul 94 and your application dated 04 Aug 94.
2. You can not be permitted to retain quarter No 321, Phase-II (Naranghi Camp) for further period, since you are unauthorised occupant of the said quarter, you are hereby ordered to vacate the quarter No-321, Phase-II (Naranghi Camp).

Sd/- x x x
(DN Singh)
Lt Col
Offg Adm Comdt
for Stn Cdr



CTC



Lt. Col
SSO

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5

D.A.220/95

Smt. Reng Prabha Borah ... Applicant

-VS-

Union of India & Ors. ... Respondents

P R E S E N T

THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN).

For the Applicant ... Mr. M. Chanda.

For the Respondents ... Mr. G. Sarma, Addl.C.G.S.C.,

32
Sd/- MEMBER (ADMN)

Memo No. :

Date :

Copy for information & necessary action to :

- (1) Smt. Renu Prabha Borah, W/O. Late Krishna Ram Borah (Ex. Habildar),
P.O. Satgaon, Dist. Kamrup.
- (2) The Secretary, Govt. of India, Ministry of Defence, New Delhi.
- (3) The Additional Director General of Staff Duties (SDGB), General Staff
Branch, Army Headquarters DHG, P.O. New Delhi - 110 001.
- (4) The Administrative Commandant, RM Purav Kaman Mukhyalaya, Headquarters,
Eastern Command, Fort William, Calcutta - 700 021.
- (5) The Administrative Commandant, Station Headquarter, Narengi, Guwahati,
C/O. 99 A.P.O.

SECTION OFFICER (J)