

(DESTRUCTION OF RECORD RULES, 1990)

✓
O.A/T.A No. 252/95.....

E.P/M.A No.....

- SECTION OFFICER (Judl.)

7.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 252 OF 1995

TRANSFER APPLN.NO. OF 1995

CONTEMPT APPLN.NO. OF 1995 (IN NO.)

REVIEW APPLN.NO. OF 1995 (IN NO.)

MISC. PETITION NO. OF 1995 (IN NO.)

..... H.P. Barman APPLICANT(S)

-vs-

..... N.O. 1 ... Respondent(S)

For the Applicant(s)

... Mr. In person

Mr.

Mr.

Mr.

For the Respondent(s)

Mr. B.K. Sharma,

OFFICE NOTE

DATE

ORDER

17.11.95

The application is in
form and within time.

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 344045

Dated 9.11.95

nkm

Mr H.P. Barman appears in person
and prays for admission. List for consideration
of admission in presence of the learned
Railway Counsel, Mr B.K. Sharma on 24.11.95.

Member

24.11.95

Applicant in person.

Mr B.K.Sharma for the respondents.

Perused the statements of grievan-
ces and reliefs sought for in this
application. Application is admitted.
Issue notice on the respondents by
Registered Post. Written statement after
6 weeks as requested by learned Railway
counsel Mr B.K.Sharma.

List on 12.1.1996 for written
statement and further orders.

Member

Order arising to show
requisite costs to
the applicant - from the
f. no. 251/95-

5/12

OA/TA/CP/PA/MP No. 252 of 1995

OFFICE NOTE

DATE

ORDER

'X' is received from 12.1.96
 as per account - and
 states that copy of
 the application has
 been received by
 the counsel of union
 24. before the dt. of
 admission.

Submitted,

14/12

w/ statement - has not
 been filed

15/12

w/ statement - has not
 been filed

15/12

w/ statement - has not
 been filed

15/12

pg

16-2-96

lm

15-3-96

1.5.96

nkm

None is present. Written statement
 has not been submitted. Adjourned to
 16.2.96 for written statement and further
 orders.

Member

None is present. Written statement
 has not been submitted. Adjourned to 15-3-
 15-3-96, for written statement and further
 orders.

Member

Counter has not been filed.
 List on 1-5-96 for counter and further
 orders.

Member

Mr B.K. Sharma, learned counsel for
 the respondents is present and prays for time to
 file written statement. Allowed.

List on 5.6.96 for written statement
 and further orders.

Member

10.7.96

None present. Written statement has not been submitted.

List for written statement and further orders on 5.8.96.

W/ statement has not been
b. k.
2/8

ba
Member

pg

10/7/96

5.8.96

None present. Written statement has not been submitted. Mr S. Sarma prays for one months time for submission of written statement on behalf of Mr B.K. Sharma, learned Railway Counsel. Allowed.

List on 2.9.96 for orders.

W/ statement has not been
b. k.
2/8

ba
Member

nkm

ba
5/8

2.9.96

None present.

Written statement has not been submitted.

List for written statement and further order on 20.9.96.

W/ statement has not been
b. k.
2/9

ba
Member

trd
m
2/9

20.9.96

None present.

Written statement has not been submitted.

List for written statement, and further orders on

8.10.96.

wt statement has not been submitted

7/10

ba
Member

trd

20/9

3-10-96

None is present. Written statement has not been submitted. List for written statement and further order on 12-11-96.

no statement has not been submitted

ba
Member

lm

9/10

12.11.96

None is present. Written statement has not been submitted.

List for written statement and further orders on 2.12.96.

ba
Member

nkm

12/11

16.4.97

None is present. Written statement has been submitted.

List for hearing on 30.4.1997.

2-1-97
Dis. Filed by
in Resps.

ba
Member

pg

17/4

30-4-97

Mr.H.P.Barma the applicant seeks adjournment for 3 months due to his medical treatment. None for the respondents.

This case to be listed for hearing on 6th August 1997.

Member

In

6.8.97 Adjourned to 20.8.97

By order

20.8.97

On the prayer of Shri H.P.Barman, the applicant, hearing is adjourned to 24.9.1997.

Member

pg

24.9.97

Shri H.P.Barman, the applicant is present in person. Mr S.Sengupta, learned Railway counsel is present and submits that he will take up this case for the Railways and prays that the hearing may be adjourned to next week. Prayer allowed.

Hearing adjourned to 1.10.97.

Member

pg


1.10.97

Adjourned to 29.10.97

By order

29.10.97

The applicant, Mr H.P. Barman, is present in person. Mr B.K. Sharma, learned Railway Counsel, is present on behalf of the respondents. Both sides have concluded their submissions. Hearing concluded. Judgment reserved.


Member

nkm


3/11

26.11.97

Judgment pronounced. The application is dismissed. No order as to costs.


Member

4/12/97

Copy of the Judgment
has been issued to the
Secy. for issuing the
order to the parties.

vide No. 3670 to 3673

dated 12-12-97

pg


26/11

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 252 of 1997

DATE OF DECISION 26.11.97

Shri H.P.Barman

(PETITIONER(S))

Applicant appeared in person.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Shri B.K.Sharma, Railway standing counsel

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE ~~JUSTICE~~ SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member

[Signature]
26.11.97

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 252 of 1995.

Date of Order : This the 26th Day of November, 1997.

Shri G.L.Sanglyine, Administrative Member.

Shri H.P.Barman,
Ex-Divisional Commercial Superintendent,
N.F.Railway &
now Advocate, Durgasorobar,
Guwahati-9.

. . . Applicant

Applicant appeared in person.

- Versus -

1. Union of India
represented by General Manager,
N.F.Railway, Maligaon, Guwahati-11.

2. Divisional Railway Manager,
Tinsukia Division,
P.O. & Dist. Tinsukia.
Assam.

3. Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati-11.

. . . Respondents.

By Advocate Shri B.K.Sharma, Railway
Standing counsel.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

Shri H.P.Barman, the applicant, was an employee of North East Frontier Railway who retired from service on 31.8.1989. While he was serving in Maligaon he was promoted to the Senior Scale on adhoc basis and was transferred and posted as officiating Divisional Commercial Superintendent, Dibrugarh. He accepted the promotion and joined the post in Dibrugarh but he retained his own departmental quarter at Maligaon while serving in Dibrugarh for which the respondents had charged rent including penal rent of Rs.3534/- for period from 21.12.1988 to 23.10.1989. This amount was recovered from the salary and gratuity of the applicant. After his retirement the applicant had made representations on 4.12.1989 and 2.4.1990. The contents of these representations will be discussed herein after. The applicant had once come before

10
this Tribunal over this matter and in the O.A.No.16/93 it was found that the respondents did not bother to give the reply to the applicant. As a result that O.A. was disposed of with a direction to the respondents to dispose of the representation dated 2.4.1990. The respondents had considered the prayer of the applicant as reflected in the representation dated 2.4.1990 and had come to the following conclusion in their letter dated 26.4.1995:

"Further more, the recovery of house rent has also been made from you strictly as per rules/instructions. Since you had retained your Rly. accommodation at Maligaon but retired from service from Tinsukia Division, no rules permit to recover normal rent beyond the period mentioned in CPO's Memorandum No.545E/1/341(O) dated 29.12.89/1.1.90, endorsing a copy to you and others."

and hence this application.

2. The crux of the contention of the applicant is that his transfer on promotion from Maligaon to Dibrugarh was a temporary transfer and therefore realising penal rent for the retention of his Old quarter at Maligaon is not according to rules and it is illegal. Mr B.K.Sharma, learned Railway standing counsel, contested the contention of the applicant. Heard both sides. In case of temporary transfer Railway rules/instructions permit retention of quarters in the old station for the whole period of temporary transfer on payment of normal rent. The rules/instructions also stipulate that in the case of Gazetted Officers the fact that a transfer is a temporary transfer is to be specifically mentioned by the General Manager that such transfer is a temporary transfer. In order to appreciate the actual position in the case of the applicant it is necessary to refer to the order of transfer of the applicant from Maligaon to Dibrugarh. It is

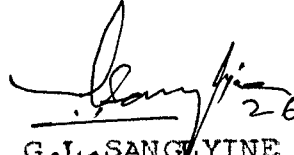
seen that the transfer order does not contain such certificate that the transfer of the applicant to Dibrugarh was a temporary transfer. On the other hand it shows that the applicant was on promotion transferred against a vacancy in Dibrugarh causing a chain of transfers and a corresponding vacancy in Maligaon was filled up by another person. In the absence of any specific order that the transfer of the applicant was a temporary transfer and in view of the existence of the rules/instructions to that effect, the contention of the applicant that his transfer was a temporary transfer cannot be accepted. Further, it has to be seen from circumstances whether the transfer of the applicant was a temporary transfer. Temporary transfer is normally treated as on tour and TA/DA as on tour are drawn. But in the case of applicant the TA/DA and other allowances were drawn as if he was on ordinary transfer. Thus by this action the applicant himself had accepted that his transfer was not a temporary transfer. In the order dated 2.2.1995 passed in O.A.No.16 of 1993 this Tribunal directed the respondents to dispose of the representation dated 2.4.1990 submitted by the applicant. On rejection by the respondents as stated earlier the applicant had approached this Tribunal again now. In his petition dated 2.4.1990 the applicant had appealed to the competent authority of the respondents against recovery of rent on 10% of emolument for two months after retirement for the Quarter No.42/A at West Maligaon, that is from 1.9.1989 to 23.10.1989. In this representation dated 2.4.1990 he had stated that in his earlier petition dated 4.12.1989 he had prayed -

(a) for normal rent for 2 months after his transfer to Dibrugarh as DCS with effect from 20.10.1988, and

(b) for normal rent for two months after his retirement on 31.8.1989.

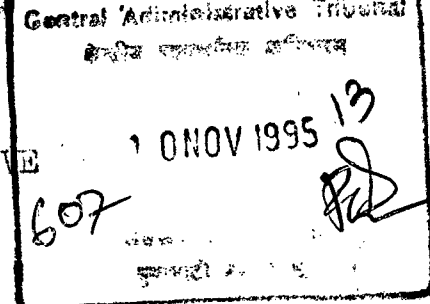
He has stated in the representation dated 2.4.1990 that his first prayer was granted and prayed further that the second prayer may also be granted. Thus it is evidently clear that he had not prayed for normal rent for the period of retention of the quarter after the expiry of the period mentioned at (a) above. Thereby he himself had conceded that he was not entitled to normal rent for the quarter after the expiry of 2 months from 20.10.1988. The only consideration thus left is whether for the 2 months after 31.8.1989 as prayed at (b) above the rent for the quarter shall be at normal rent. The respondents have given their reasons as mentioned hereinabove in support of the rejection of the prayer of the applicant. There is a rule that on superannuation an employee can retain quarter upto 2 months after retirement at normal rent. The quarter retained by the applicant was not in the place of his posting from where he retired from service. According to the respondents it was also situated in another Division. After the expiry of the initial 2 months from 20.10.1988 the applicant had retained the quarter on payment of rent other than normal rent. In the facts and the circumstances I am of the view that the rule for allowing an employee to retain the quarter at normal rent for 2 months after the date of superannuation is not applicable in the case of the applicant.

In the light of the above I find no merit in the application of the applicant. The application is hereby dismissed. No order as to costs.


(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER

26.11.97

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985



Title of the case : Shri H.P.Barman

... Applicant

Vs.

Union of India
represented by General Manager,
N.F.Rly., Maligaon , Guwahati-11.

I N D E X

Sl. No.	Description of documents Relied Upon	Page No.
1.	Application	1 -6
2.	GM(P)'s No.E/72/C-Pt.VIII(O) dt. 9.4.85	7 -
3.	Rly. Board's No. PC-IV/86/Emp/AI-7 dt. 9.2.87	8
4.	Representation dated 2.4.90	9
5.	Representation dated 27.7.92	10 -11
6.	Orders of the Hon'ble Tribunal dt. 2.2.95 in A/No.16/93	12 - 18
7.	GM(P)'s No. 545E/1/341/PN(O) dt. 26.4.95	19 - 20
8.	Representation dt. 30.5.95	21

[Signature]
Signature of the
Applicant

For use in Tribunal's Office

Date of filing

or

Date of receipt by post

Registration No.

Signature
for Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Application No. 252/1995

Files by P. P. Barman, Asst. Secy. to Govt. of Assam, in person 6.11.95

new Sri H.P. Barman, Ex. *Divisional Commr. Supdt/Dibrugarh, N.F. Rly.*
Advocate,
Durgasarobar,
Guwahati- 9. ... Applicant.

Vs.

- | | | |
|---|--------------|--------------|
| 1. Union of India
represented by General Manager,
N.F.Rly., Maligaon, Guwahati-11 | XXXXXXXXXXXX | Respondents. |
| 2. Divisional Railway Manager,
Tinsukia Division,
P.O: & Dt. TINSUKIA
Assam. | | |
| 3. Chief Personnel Officer,
N.F.Rly., Maligaon,
Guwahati- 11. | | |

DETAILS OF APPLICATION :

1. Particulars of the order against which the application is made.

The application is directed against the order under letter No. 545E/1/341/PN(O) dt. 26.4.95 passed by the General Manager(P), N.F.Rly., Maligaon.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Tribunal.

3. Limitation :

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

4. Facts of the case:

1. That the applicant was transferred from the Rly. Hd. Qrs., Maligaon to Dibrugarh as Divisional Commercial Supdt. on 21.10.8

contdd..2.

15
App Bano
6.11.91

- for a very short period of 10 months 10 days at the verge of his retirement (31.8.89) in the exigency of service. The then Chief Commercial Supdt., the immediate boss was apprised of the difficulties of transfer at the verge of retirement who consoled the applicant that he would be taken back to Hd. Qrs., Maligaon against the next vacancy.
2. That during this short period of transfer no Rly. Qrs. was given ~~the~~ to the applicant at Dibrugarh and normal rent @ Rs 49/- p.m. for retention of his Qrs. at Maligaon was being recovered from his monthly salary bills.
3. That just in the month of retirement in August' 89 without giving any notice to vacate the Qrs. penal rent of Rs 934/- was recovered through the Salary Bill of Aug.'89 and balance Rs 2200/- + Rs 592.25 was recovered for the above transferred period and for the further period of 1 month 23 days after retirement from the DCRG amount vide CPO's No. 545E/1/341/PN(O) dt. 1.12.89.
4. That the Rly. Board's letter No. E(G)78 BN 2-4 of 5.11.79 provides that if officers and staff retain the Qrs. beyond the permissible limit action should be taken to get the Qrs. vacated and at the same time rent at penal rate should be charged immediately such permission period is over inspite of their appeals for further retention of the Qrs. at normal rent. If there is any favourable decision on their appeals cash refund of excess rent recovered may be allowed.
5. That it was also revealed that a sum of Rs 162/- as Water charge at the rate of Rs 18/- for the said Qrs. was doubly recovered once through Salary Bills of Nov.'88 to July'89 and through DCRG amount vide CPO's No. 545E/1/341/PN(O) dated 1.12.89.
6. That the applicant requested the SDGM through proper channel under his representation dated 4.12.89 that the period of his transfer from 21.10.88 to 31.8.89 is very short and temporary in nature and as such normal rent is recoverable for retention of the Qrs. (42 A) at Maligaon and if there is, however, any difficulty to treat the above period of transfer as temporary

16
H. P. Bama

temporary transfer, normal rent for 2 months on transfer and 2 months on retirement is recoverable.

7. That normal rent for retention of Qrs. is permissible for 2 months after transfer and 2 months after retirement vide Extract from GM(P)'s Memo No. E/72/C-Pt VIII(C) dt. 9.4.85.

A copy of the above Extract dt. 9.4.85 is annexed hereto as Annexure I.

8. That normal rent for temporary transfer exceeding 180 days is permissible with transfer grant and not with daily allowance vide Rly. Board's letter No. PC-IV/86/Emp/AL - 7 dt. 9.2.87. Transfer grant was allowed to the applicant and not Daily Allowance.

A copy of the above Rly. Board's letter dt. 9.2.87 is annexed and marked as Annexure ~~IX~~ II

9. That the SDGM arbitrarily considered normal rent for 2 months only on transfer for the period from 21.10.88 to 20.12.88. Even the period of 1 month 23 days for retention of Qrs. after retirement as sought for vide applicant's representation dt. 2.4.90 was not considered by the SDGM

A copy of the representation dt. 2.4.90 is annexed hereto and marked as Annexure III.

10. That the General Manager, N.F.Rly. was approached vide representation dated 27.7.92 of the applicant against the above order of the SDGM and requested to recover normal rent treating this short period of transfer as temporary transfer and for 1 month 23 days after retirement under the rules.

A copy of the representation dt. 27.7.92 is annexed hereto and marked as Annexure IV.

11. That no reply to the above representation was given and as a result the applicant had to approach this Hon'ble Tribunal vide his Application No. 16/93. This case was disposed

17
H.L. Bama

disposed by this Hon'ble by its order dated 2.2.95 directing the Respondent to dispose of the representations dt. 2.4.90, 4.3.91 and 27.7.92 on merit after due consideration of relevant facts, rules and law with liberty to the applicant to submit fresh application, if advised to do so.

A copy of the order dated 2.2.95 of this Hon'ble Tribunal is annexed hereto and marked as Annexure V.

12. That the Respondent disposed the representations vide their letter No. 545E/1/341/PN(O) dt. 26.4.95 informing the applicant that no rule permits to recover normal rent. Even GM(P)'s Memo and Rly. Board's letter (Annexure I & II) on the basis of which normal rent is claimed has not been dealt with in the reply of the Respondent. As such the applicant submitted a representation dated 30.5.95 to the General Manager for giving a speaking order but to no effect.

A copy of GM(P)'s above letter No. 545E/1/341/PN(O) dt. 26.4.95 and A copy of the said representation dt. 30.5.95

are annexed hereto and marked as Annexure VI. & VII

5. Grounds for relief with legal provisions:

- (i) For that the impugned order of the GM(P) in his No. 545E/1/341/PN(O) dt. 26.4.95 informing that no rule permits to recover normal rent without touching the GM(P)'s Memo and Rly. Board's letter which permit normal rent Annexure I & II is not a speaking order and as such liable to be quashed.
- (ii) For that without giving notice to vacate the qrs., recovery of penal rent in the month of retirement and from DCRG is illegal and violative of natural justice and as such is liable to be set aside as this act infringes the provision of the Rly. Board's letter No.E(G)76 BN 2-4 dt. 5.11.79.
- (iii) For that recovery of penal rent after retirement for 1 month 23 days in violation of provision of GM(P)' Memorandum No. E/72/O-Pt. VIII(C) dt. 9.4.85 (Annexure I) is illegal

6. Details of the remedies exhausted:

The representations dated 2.4.90 and 27.7.92, Annexure III and IV submitted by the applicant requesting the General Manager to treat the very short period of transfer for 10 months 10 days as temporary transfer and give him benefit of normal rent for retention of his Qrs. at Maligaon were disposed of by saying that no rule permits normal rent ignoring Rly. Board's instructions vide GM(P)' letter dt. 26.4.95 (Annexure VI.).

The applicant further declares that he had not previously filed any application in any other bench of the Tribunal. This present application is as a result of earlier Application No. 16/93 filed in this Hon'ble Tribunal.

19
H.P. Barman

8. Reliefs sought:

It is prayed that the Hon'ble Tribunal may be graciously pleased to set aside the order of the GM(P) under his letter No. 545E/1/341/PN(O) dt. 26.4.95 Annexure VI and direct the Respondent to treat the short period of transfer as temporary transfer and give benefit of normal rent in terms of Rly. Board's letter No. PC-IV/86/Emp/AI-7 dated 9.2.87 (Annexure II) and GM(P)'s Memorandum No. E/72/C-Pt.VIII(C) dt. 9.4.85^{Annexure I} and also to refund a sum of Rs 162/- water charge for the qrs. recovered in excess.

And any other relief or reliefs the Hon'ble Tribunal deems fit and proper.

And for act of kindness, the applicant shall remain ever pray.

9. Interim order Nil.
10. Application not sent by registered post.
11. Particulars of Postal Order 09 344045 dt 3.11.95
12. List of enclosures: 1.
- I. GM(P)'s No.E/72/C-Pt.VIII(C) dt.9.4.85
 - II. Rly.Board's No. PC-IV/86/Emp/AI-7 dt. 9.2.87
 - III. Representation dated 2.4.90
 - IV. Representation dated 27.7.92
 - V. Orders of the Hon'ble Tribunal dt. 2.2.95 in A/No. 16/93
 - VI. GM(P)'s No. 545E/1/341/PN(O) dt.26.4.95
 - VII. Representation dt. 30.5.95

- VERIFICATION -

I, Sri Haripada Barman s/o late Rajani Kanta Barman, retired DCS/DBRT aged about 63 years, resident of Durgasaroba do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and that I have not suppressed any fact.

Date :

Place :

H.P. Barman
6.11.95
Signature of the applicant

To - Registrar.

Powers presently being exercised by authorities in permitting retention of railway accommodation by Railway Employees, on different grounds and powers now delegated by the G.M. to authorities due to enhancement, in the period of retention by Railway Board.

Sr. No.	Nature of power/subject.	Period of Retention	Reasons for Retention	Rate of Recovery	Existing powers presently being exercised by.	Powers now to be exercised by as delegated by the G.M.
1(a)	Permanent Transfer/ Superannuation	2. (two) months	Permanent/ transfer/ superannuation.	Normal rent.	HODs/Addl. HODs in respect of Gazetted & non-Gazetted employees of Hqs. DRMs/ADRM in respect of gazetted & non-Gazetted employees of Divn. Dy.CME/workshops/NBQ for staff under him.	HODs/Addl. HODs for Gazetted and Non-Gazetted employees of Hqs. DRMs/ADRM for Gazetted & Non-Gazetted employees of Divn. Dy.CMEs/WS/NBQ & DBWS for officer & staff concerned under them.
(b)	Permanent transfer.	Next 6 (six) months	Education of children or sickness of self or a member of family on requisite school medical certificate.	Double the assessed rent or double the normal rent of 10% of emoluments whichever is highest.	HODs/Addl. HODs for Gazetted & Non-Gazetted employees of Hqs. DRMs/ADRM for Gazetted & non-Gazetted employees of Division.	- do -
(c)	Retirement (Superannuation).	Next 6 (six) Months	- do -	- do -	HODs/Addl. HODs, DRMs/ADRM Dy.CME/WS/NBQ for 2 months only for children's education or on sickness account. GW for 6 (six) months	For 6 (six) months other than first 2 months on normal rent as against Sl. No. (a).

FILED
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BEN
2/11/85

An extract of Rly. Board's letter No. PC-IV/86/Emp/AL-7
dated 9.2.1987-

Syb: Travelling allowance Rules- Provision
of full Daily Allowance- Implementation of the
recommendation of the Fourth Pay Commission.

Consequent upon the decision taken by the Govt.
on the Fourth Pay Commission's recommendation relating
to Daily Allowance, sanction of the President is hereby
conveyed, in partial modification of this Ministry's
letter of even number dated 4.12.86 of this Ministry's
letter of even No. dated 4.12.1986 (Para 1 (B) of
Annexure), to the grant of full Daily Allowance upto
180 days on tour to the Railway Employees belonging to
Group 'B', 'C' and 'D' as follows:-

(a) On Tour/Temporary Transfer :

Limit for grant of Daily Allowance for days of
halts.

The admissibility of Daily Allowance for continuous
halts at places outside the Railway servants Hd. Qrs.
during tour/temporary transfer will be as follows:-

(i) First 180 days - Full Daily Allowance.

(ii) Beyond 180 days - Nil.

Consequent upon the grant of fully daily allowance
for the period of temporary transfer upto 180 days, in
modification or instructions contained in Board's letter
No. F(E)1/69/AL/28/10 dtd.16.5.1973 as amended from time
to time, the transfer grant will not be admissible for
temporary transfer not exceeding 180 days.

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HAB
Aw
6/11/88

Copy.

ANNEXURE III

Dated 2.4.80

From

H.P.Barman, B.A.LL.B.
Advocate,
Retd. DCS/Dibrugarh
Durgasorobar, Guwahati-9

To

The SDGM,
N.F.Rly. Maligaon.

Sir,

Sub: Appeal against recovery of rent
on 10% of emolument for 2 months
after retirement for the Qrw. No.42/A
at West Maligaon.

Ref: My representation dated 4.12.89

I beg to state that I requested you to recover House Rent vide my above representation on normal rent (A) for 2 months after my transfer to DBRT as DCS N.e.f. 20.10.88 and (b) for another 2 months after my retirement on 31.8.89 as per rules but you have been kind enough to consider the (a) only rejecting the (b). For very short period I had to leave Rly. Hd. Qrs., Maligaon to join at DBRT as DCS on 21.10.88 and retire on 31.8.89.

In the above circumstances I had to retain the above Rly. Qrs. at West Maligaon and vacated the same on 24.10.88 after retirement on 21.8.89.

Would you kindly appreciate the difficulties and arrange to recover normal rent and refund the excess on 10% emoluments for one month 22 days from 1.9.89 to 23.10.89.

Yours faithfully,

Sd/-

(H.P.Barman)
Ex. DCS/DBRT
Advocate.

Attested
APP
B&W
8/4/95

Copy.

ANNEXURE IV.

23

To
The General Manager,
N.F.Rly. Maligaon,
Guwahati- 781011

Sub: Remaining Part Of the settlement dues.

Sir,

I have the honour to inform you that I retired on 31.8.89 as DCS/DBRT. The following dues have not yet been paid to me though the concerned authorities have been approached with written representations and also by personal interview. I would request you to look into these just to avoid unwanted and irksome litigation.

1. I was due retirement on 3.8.89 and transferred to DBRT on 21.10.88 as DCS/DBRT for 10 months 10 days. I request the SDGM vide by representation dated 4.12.89 to treat this short period of transfer as a temporary transfer and retain the Rly. qrs. on normal rent in terms of Rly. Board's letter No. E(G)74Q RI-3 of 21.9.78 SL No. ER 125/79. But the SDGM considered normal rent for 2 months only after transfer and the rest period for penal rent till 23.10.89, date of vacation. I required on 31.8.89 and vacated the quarter on 23.10.89. Under the existing rules, Quarters can be retained for 2 months after retirement on normal rent. This rule has not been honoured.

A sum of Rs 3726.25 has been recovered as penal rent @ Rs 349.00 p.m. against the normal rent Rs 49.00 vide CPO's DCRG letter No. 585E/1/ 341/PN(O) dt. 1.12.89. If the entire period of my stay at DBRT for 10 months 10 days cannot be considered as a temporary transfer to give me the benefit of retention of the qrs. at normal rent, at least I am entitled to retain qrs. at normal rent for 2 months after transfer and ~~two months after retirement~~. For these two periods, a sum of Rs 1096.00 has been recovered as excess for penal rent.

2. A sum of Rs 58.00 as electric charge for December '89 has been recovered twice- once by DPO/TSK vide his letter No. EG/N/Corres./88/1 dt. 7.8.89 through Salary Bill for the month of August '89 and second time by CPO from DCRG vide CPO's letter No. 585E/s/341/PN(O) dt. 1.12.89.

3. I have already represented vide my letter dt. 6.3.91 that as per rule final settlement dues are payable at the time of retirement. I retired as DCS/DBRT on 31.8.89, but the leave encashment was paid on 1.10.90, Group Insurance, on 31.3.90 and the amount of commutation, on 30.11.89, despite my d.e. letter dated 3.9.89 to DPO/TSK followed by letter dt. 11.12.89 enclosing M.O.P, Receipt Acknowledgement in reference to DPO/TSK's letter No. EB/2(Gazetted) dt. 26.11.89 and my d.e. letter to DRK/TSK dt. 6.3.90.

The above payment of final settlement dues were blocked for a considerable period for which I am entitled to get interest @ 18% p.m. and accordingly total interest comes to Rs 10,821.00 as summed up below:-

contd....2.

<u>Amount of interest</u>	<u>On the amount of dues</u>	<u>Rate of Interest</u>	<u>Period</u>
Rs	Rs		
70201.00	36928.00 (Leave Encashment)	13%	13 months from 1.9.89 to 1.10.90
423.00	4032.00 (Group Insurance)	13%	7 months from 1.9.89 to 31.3.90
3197.00	71045.00 (amount of commutation)	13%	3 months from 1.9.89 to 20.11.89
.....			
Rs 10921.00 Total interest.			

Thus total amount of dues are as under :-

1. Refund of excess penal rent Rs 1096.00
2. Refund of excess elec. charge 58.00
3. Interest as shown above 10821.00

Total Rs 11975.00

Would you kindly look into this and arrange payment of the above dues without further delay.

Yours faithfully,

Dated 27.7.92

Sd/-
(H.P. Barman)
Ex. DCS/DBRT

Copy to CPO/PNO

Copy to DRM/TSK, P.O. Tinsukia, Dist. Tinsukia

I For informat-
I tion and
I necessary
I action please.

Sd/ (H.P. Barman)
Ex. DCS/DBRT

Attest
H.P. Barman
6/8/95

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 16 of 1993.

Date of Order : This the 2nd Day of February, 1995.

Shri G.L.Sanglyine, Member (Administrative)

Shri Haripada Barman.

Advocate,

Durgasorobar, Guwahati-9.

... Applicant

Applicant appeared in person.

- Versus -

1. Union of India

represented by General Manager,

N.F. Railway, Maligaon, Guwahati-11.

2. Divisional Railway Manager,

Tinsukia Division,

P.O. & Dist. Tinsukia, Assam.

3. Chief Personal Officer,

N.F. Railway, Maligaon, Guwahati-11

... Respondents.

By Advocate Shri B.K. Sharma, Railway counsel.

ORDER

G.L.SANGLYINE, MEMBER (A)

This application has been submitted by the applicant on 28.1.93 under Section 19 of the Administrative Tribunals Act 1985. The relief sought for in this application is as follows ;

" If the Railway Administration can show rules that the entire period of transfer for 10 months 10 days cannot be treated as temporary transfer at the verge of retirement of the applicant, then the applicant claim a sum of Rs. 11975.00 toward refund of penal rent, electric charge and interest as shown in paragraph 6(vii) above. "

2. The applicant Shri Haripada Barman appears in person and makes his submission. Shri B.K. Sharma, learned

contd...2/-

Railway counsel, appears for the respondents. While the import of the above relief is being scrutinised Shri Sharma has raised objections to the maintainability of this application. His objections are -

- (i) the applicant cannot seek such relief as above without challenging the order of transfer which, in fact, the applicant had carried out, and
- (ii) the applicant is in contravention of Rule 10 of the Central Administrative Tribunal (Procedure) Rule, 1987 as it seeks plural remedies.

The applicant has countered the objections by saying that he is a retired Railway official and cannot challenge the transfer order after his retirement. But in connection with the penal rent charged on him he had made his representation dated 4.12.1989 (Annexure-1) requesting the authorities to treat his transfer to Dibrugarh as a temporary transfer as it involved a short period from 31.10.1988 to 31.3.1989 only. He further submits that his application in the manner it has been filed has avoided multiplicity of proceedings. Moreover, he says that the Railway counsel cannot raise such objections which are not part of the pleadings of the respondents in their written statement. Be that as it may, the fact remains that apart from its tenor, the relief sought for has to be understood only through scrutiny and deliberations. After such exercise, it is revealed that the relief sought for in this application involved the nature of transfer order, the penal rent, electric charges and the interest on various amounts claimed by the applicant on the alleged delay in the payment of his dues. It has

contd....3/-

27

become clear that there are more than one cause of action involved in this application, at least, broadly two, namely, Penal rent and interest. This clearly is in contravention of the aforesaid rule 10 and for this reason alone the application is liable to be dismissed. However, I am inclined to look into the contents of this application further.

3. The applicant submitted his representations dated 4.12.89 and dated 2.4.90 regarding Penal rent. He submitted his representations dated 6.3.91 and 27.7.92 regarding interest. The delay was however condoned vide our order dated 13.8.93 in Misc. Petition No. 7 of 1993.

4. The applicant retired from service as Divisional Commercial Superintendent, Dibrugarh on 31.8.1989. Before that he was transferred from Maligaon Headquarters to Dibrugarh on 31.10.1988 and had joint in his new post at Dibrugarh. He retained his Railway quarter No. 42A in Maligaon West. This quarter was released by him only on 23.10.1989 after his retirement. For this retention of the quarters he was charged rent for the period from 21.12.1988 to 23.10.1989 as below -

"Normal rent- 21.10.88 to 20.12.88
@Rs. 45/-p.m. = Rs 90.00
Penal rent- 21.12.88 to 23.10.89
@Rs 340/- pm i.e. 10%
on basic pay of
Rs 3400/- Rs 3534.00
Difference of increased rate
of qrs. rent w.e.f. 1.7.87 to
23.10.89 @Rs5/- (Rs50-45) comes Rs 140.00
to ~~Rs 1400.00~~

Total amount to be recovered Rs 3674.00

Amount recovered from salary bill
as well as Gratuity
Rs 3726.00 - Rs 3674.00

Excess recovery made Rs 52.00 "

contd...4/-

6
1-9-89
23-10-89
4/2/90

28

5. The applicant was transferred from Maligaon to Dibrugarh as mentioned above and the period of his stay in Dibrugarh from 31.10.88 to 31.8.89 was 10 months 10 days. He has not shown that he had made any representation against the order of transfer in any manner. On the other hand, it was stated by him that, as in duty bound, he had carried out the order without demur. It was only on 4.12.89, after his retirement, that he had submitted a representation to SDGE, Maligaon in connection with penal rent charged on account of retention of the Railway quarter that he had raised the question of temporary transfer. Even in this representation he did not make any prayer for treating the transfer as a temporary transfer. In fact it is only an expression of his view that as the period of his transfer "is very short and temporary in nature." normal rent only was to be charged. He was not sanguine of his stand and added that if the authorities could not agree with his view, then normal rent should be charged for the initial two months from 31.10.1988 and for another two months from 31.8.89. Apparently, the authorities ~~could not agree with his view~~ granted his prayer regarding the first period. The applicant has not shown that the order of transfer has stipulated that his transfer to Dibrugarh was a temporary transfer. In fact, he could not have shown for he himself had treated the transfer as a permanent transfer by drawing the normal allowances and enjoying the facilities admissible in the case of permanent transfer. The period from his transfer to the date of his retirement is more than 180 days mentioned in the last paragraph of Annexure-~~II~~ to the written statement

contd... 5/-,

(Railway Board letter No.FC-IV/35/Emp/AL-7 dated 9.2.1987) on which applicant strongly relies. It is under these circumstances as can be seen that the rent for the quarter was charged as above. Whether the applicant occupied another Railway quarter in his new place of posting in Dibrugarh is not a question in this application. Occupation of Government quarters and payment of rent for the same are regulated by specific rules which are unambiguous. The applicant has also to be governed by those rules and has to comply with them. Apparently he had not made requests to the authorities concerned at the appropriate time for allowing him to retain the quarters by paying normal rent on ground of temporary transfer but it was only when he felt the pinch of penal of penal rent that a request was made vide letter dated 4.12.1989 in the manner it was made. Similarly it is expected that the authorities concerned would observe the rules. The applicant was officially allowed to retain the quarters on payment of Penal rent in terms of memorandum dated 9.4.85 of General Manager (P). If so, it is not understood why they had not allowed the applicant to pay normal rent for the period from 1.9.89 to 23.10.89, which is less than 2 months after his retirement unless there are other reasons preventing them to do so. It appears that the respondents have not even sent a reply to the applicant in response of his letter dated 2.4.90 (Annexure-II).

6. The applicant had retired on 31.8.1989 but according to him (i) his leave encashment of Rs. 36,928/- was paid on 1.10.1990, (ii) Insurance money of Rs. 4032/- was paid on

contd... 6/-

31.3.90 and (iii) Commutation of Pension of Rs 71,045/- was paid on 31.11.1989 and these delays are not attributable to him. He therefore claims interest of Rs 10,821/- on account of delay in payment of his dues. The respondents gave excuses for delay in payment of ~~the~~ amount of leave encashment and term and delay of one year and 1 month as a 'slight delay'. They state that the delay was unintentional and was caused by various factors. At any rate, they contend that there is no rule provided for payment of interest on delay of payment of leave encashment amount. Regarding the delay in payment of Insurance money the respondents put ~~the~~ blame on the applicant. They state that he had failed to submit the claim in time. He had submitted the claim in the Division only on 2.3.90 which was received in Headquarters on 21.3.90. The applicant however referred to letter dated 27.9.89 by General Manager(P) which shows that he had submitted the claim in time. Commutation of Pension was due to the applicant immediately after the date of his retirement but he was paid on 30.11.1989, three months after his retirement. The respondents claim that it is not an abnormal delay and no interest is payable for delay in payment of amount of Commutation of Pension as there is no instruction from the Railway Board for payment of such interest. These are the contentions in their written statement but the fact remains that the General Manager, N.F. Railway, Maligaon, Guwahati has not so far sent the applicant a reply to his letters dated 6.3.91 and 27.7.92 in which he had requested for payment of the aforesaid amount of interest. The applicant

contd... 7/-

now submits that he is entitled to the interest claimed and has placed reliance on the following decisions -

1. AIR 1985 SC 356 in State of Kerala vs. ^{M.P.Nair} ~~State of~~
2. (1987) 4 ATC 206 in Harendra Nath vs. State of Bihar and others, and
3. (1989) 4 SLR 572 (Mad.) in V. Mahalingam Iyer vs. Accountant General, Tamil Nadu.

The learned Railway counsel has submitted that each case has to be decided on its own merit and facts and these decisions relied on by the applicant can be distinguished in the facts of the present case of the applicant. There cannot be any dispute to this position. However unfortunately the representations of the applicant are lying unattended to by the General Manager, N.F. Railway. In view of the following order it is necessary to consider the relevance of those decisions to the facts of the case of the applicant or to determine whether the three amounts on which interest is claimed are retiral benefits or whether interest is payable.

7. In the light of the foregoing discussions, the respondents are directed to dispose of the representations dated 2.4.90, dated 4.3.91 and dated 27.7.92 submitted by the applicant on merit within 6(Six) months from the date of receipt copy of this order after due considerations of the relevant facts, rules and law. As a result thereof, the applicant will be at liberty to submit fresh application (s), if he is advised to do so, before this Tribunal.

8. As a result, the application is disposed of as above. There is no order as to costs.

Sd/- MEMBER (ADMIN)

Attested

H.B.

Secy.

6/11/95

Registered With A/D.N.F. RailwayOFFICE OF THE
GENERAL MANAGER (P)
GUWAHATI-781011

No. 545E/1/341/PN(G).

Dated 26-4-95.

To
Shri H.P. Barman, Ex.DCS,
Vill. Durga Sarobar,
Guwahati-9,
PIN- 781009.

Sub: Your representations dt. 2.4.90, 4.3.91
and 27.7.92 for payment of interest for
delayed payment of some final settle-
ment dues.

Ref: Hon'ble CAT/GHY's order dt. 2.2.95
in OA No. 16 of 1993.

.....

In compliance with the order of the Hon'ble
CAT/GHY in OA No. 16/93, the representations cited above
have further been considered in relation to the relevant
rules and orders of the Ministry of Railways (Rly. Board)
and is being communicated to you for your satisfaction.

2. In the representations, you requested for
payment of interest for delayed payment of (i) leave
encashment of Rs 36,928/- (ii) Insure money (GIS) of
Rs 4032/- and (iii) Commutation of pension of Rs 71,045/-
paid on 31.11.89.

2.1 You had retired as senior scale officer of
this Railway and are quite aware about the rules/orders
as well as system of working. The pension and all other
final settlement dues of the Gazetted Officers are
sanctioned and paid centrally from Headquarters while
the payment of leave encashment, bill is made by the
Division from which the Officer has retired. While making
payment of your leave encashment, it is observed that
some delay has occurred in observing the formalities and
also due to communication gap in between Headquarters
and Tinsukia Divn. from which you had retired. But the
fact remains that for this unfortunate and unintentional
delay, no rules/ instructions permit for making payment
of interest on the relevant amount. Even though the said
amount has been received by you on 1.10.90, you will
appreciate that the bill was prepared much earlier in
the Division, but delay has occurred in passing the bill
for some reasons or other which cannot be termed as
intentional for which you are to bear with.

2.2 As regards delay in payment of GIS money of
Rs 4032/-, it is stated that the delay occurred due to the
reasons that your application for payment of the same was
submitted in prescribed form in the Division only on
2.3.90 as per date put by you in the form which was
received in CPO's office on 21.3.90 and passed for payment
on 23.3.90. Therefore, there was no delay in this respect.

contd.....2.

37

2.3 As regards the payment of interest on Commutation of pension, it is stated that the Commutation value was passed by FA & CAO(Pen) on 27.11.89 which was received by you on 30.11.89 i.e. within 3 months from the date of your retirement on 31.8.89. Even though the commuted value of pension was received by you on 30.11.89, you have drawn your full pension (Rs 1700/-+ Relief) upto that date without any deduction against commutation of pension amounting to Rs 566/-. Therefore it is not understood as to how you are claiming double benefit i.e. drawal of full pension + relief as well as interest which in no case may be admissible as per relevant facts, rules and law.

3. In view of the facts explained herein above, it is expected that you will appreciate that no injustice has been caused with any ill motive in regard to payment of your final settlement dues. Further more, the recovery of house rent has also been made from you strictly as per rules/ instructions. Since you had retailed your Rly. accomodation at Maligaon but retired from service from TSK Divn., no rules permit to recover normal rent beyond the period mentioned in CPO's Memorandum No. 545E/1/341(O) dated 29.12.89/1.1.90, endorsing a copy to you and others.

for GENERAL MANAGER(P).

Attested

APB

for

6.11.95

24

To
The General Manager
N.F.Rly., Maligaon
Guwahati - 11.

Through, the Chief Commercial Manager,
N.F.Rly.

Sub: Deprivity of benefit of temporary transfer for 10 months 10 days as DCS/DBRT at the verge of retirement and claim for interest for delayed payment of interest retirement dues.

Ref: Hon'ble CAT/GHY's order dt. 2.2.95, my representation dt. 17.4.95 and GM/P's reply vide letter No. 545E/1/341/PN(O) dt. 26.4.95.

Sir,

Most respectfully I beg to submit that the Rly. Administration has been directed by the Hon'ble CAT/GHY vide orders dt. 2.2.95 that the grievances of the applicant should be examined on merit after due consideration of the relevant facts, rules and law. The reply vide GM(P)'s letter No. 545E/1/341/PN(O) dt. 26.4.95 to me did not discuss the relevant rules and hence this representation.

I was transferred to DBRT as DCS for a very short period of 10 months 10 days w.e.f. 31.10.88. During this short of my stay at DBRT, normal rent was being recovered from my Salary Bills. Only in the month of my retirement (August '89) all on a sudden, recovery of penal rent was started without informing the need of the same. CCS told me to bring me back Hd. Qrs.

The rules for retention of Rly. Qrs. at normal rent are (1) 2 months for permanent transfer and 2 months for superannuation vide GM(P)'s Memorandum No. E/72/O-Ptviii(O) dt. 9.4.85. The SDGM considered 2 months normal/for transfer but did not consider the latter.

(2) Normal rent in case of temporary transfer - The Rly. Board's letter No. PC-IV/86/3mp/AL-7 provides that on tour/temporary transfer for first 180 days full daily allowance and beyond 180 days no daily allowance but transfer grant admissible. My short stay at DBRT for 310 days exceeds 180 days and I drew Transfer grant so I am entitled to get the benefit of temporary transfer when I rendered dedicated and devoted service to the Rly. for more than 35 years.

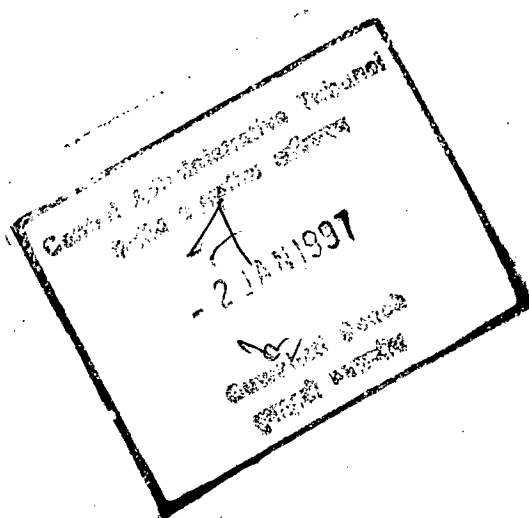
So far as the question of interest for the delayed payment of Leave Encashment (12 months), Group Insurance (7 months) and amount of commutation (3 months) is concerned, the same is payable as the retirement dues are valuable rights and properties.

I would, therefore, request you to kindly give me the benefit of temporary transfer for my short stay at DBRT as DCS in terms of the rules mentioned above.

For this act of kindness, the applicant shall ever pr

Yours faithfully

Dated 30.5.95.



Hand in Prison
Per B.L.

31/1

Hand in Prison
Per B.L.

Hand in Prison
Per B.L.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :

O.No. 252 of 1995

Shri H.P. Barman ... Applicant.

Vs.

Union of India & Ors.... Respondents

AND

IN THE MATTER OF :

Written statement for and on
behalf of the respondents.

The answering respondents beg to state as follows :-

1. That the answering respondents have gone through a copy of the application filed by the applicant and have understood the contents thereof.

2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.

Contd....2

3. That with regard to the statements made in paragraph 4.1 of the application, it is stated that the applicant was transferred to Dibrugarh Town on permanent basis due to exigency of service and public interest. On verification of the records it is asserted that the applicant failed to produce any document in support of his statement as mentioned in this para that the then Chief Commercial Supdt. assured him to take back him at HQs. Such a statement made by the applicant is vague and with the sole purpose of making out a case and hence categorically denied.

4. That with regard to the statements made in paragraph 4.2 of the application, it is stated that the applicant was permanently transferred to Dibrugarh where he had not made any application to the competent authority for allotment of Quarters. As per extant rules, Rly. Qrs. are normally provided on request from the employees. It may be further added that a Railway employee on transfer may be permitted to retain the railway accommodation at the former station for a period of 2 months on payment of normal rent and another 6 months @ double the normal rent. However, rent was recovered @ the normal rate in absence of clear orders of the competent authority which was lost ~~sight~~ sight of inadvertently, as the officer concerned did not apply for retention of quarter. This however does not mean that he was allowed to retain quarter at former station treating his transfer as temporary.

5. That with regard to the statements made in paragraph 4.3 of the application, it is stated that there is no

system to serve any notice for vacation of Rly. Qrs. to the employees who are on the verge of retirement. A railway employee, as per rule prevailing at the material time, was permitted to retain Rly. quarters on retirement for a period of 2 months from the date of retirement on payment of normal rent on request. Further permission for retention of railway quarters for a period of 6 months was permissible on educational or sickness account on payment of double the normal rent on specific request of the employee.

On verification of the records, it has come to the notice that the applicant has not made any request or preferred any appeal to the administration for retention of his quarters at the former station either in case of his transfer nor in case of retirement. It is, therefore, crystal clear that the amount of penal rent as highlighted in this application has been correctly recovered by the administration from his salary bill while he was in service and also from the amount of DCRG after retirement.

6. That with regard to the statements made in paragraph 4.4 of the application, it is stated that a railway employee on retirement may be permitted to retain the railway accommodation for a period 2 months on payment of normal rent and the next 6 months on payment of double the normal rent. It is pertinent to mention here that any retention of quarters on transfer/retirement the application of the employee required to be submitted within the time frame stipulated in Dy.GM's circular No. Z/314/31-B Pt.II dt 25.4.88 annexed as ANNEXURE-I.

On expiry of the permissible period as indicated above, the allotment of quarters will be deemed to have been terminated automatically. Retention of Quarters by the employee after the expiry of the permissible period will be treated as unauthorised. During the period of unauthorised occupation the employees is required to pay damage rate of rent in respect of the quarters. If the employee desires to vacate the quarters, he may report to Inspector of Works concerned. After such vacation IOW will take over the quarters and at the same time issue a vacation report in favour of the employee as per the extant rule. It is reiterated that the employee need not wait for any notice to be served to him for vacation of the quarters. It is apparent that there is no hindrances in surrendering/vacation of railway accommodation by the employee. In this instant case, the railway accommodation was under his occupation unauthorisedly. As such, refund of cash in regard to excess rent recovered does not arise.

7. That with regard to the statements made in paragraph 4.5 of the application, it is stated that an amount of Rs. 162/- was deducted twice inadvertently/against Qrs. charge @ Rs. 18/-. Necessary steps have been taken toward refund of the said amount.

8. That with regard to the statements made in paragraph 4.6 of the application, it is stated that the applicant was holding a responsible post of Divisional Commercial Supdt. He was quite well conversant that Sr. Dy. General Manager was not the competent authority to

pass any order for treating his transfer as temporary and to pass order for recovery of normal rent. Since his transfer was permanent there was no reason to recover the normal rent for the period as mentioned in his application.

9. That with regard to the statements made in paragraph 4.7 of the application, the answering respondents do not admit anything contrary to relevant records of the case. However, it is pertinent to mention that the applicant never applied for retention of quarters either on transfer account or on retirement account within the permissible period.

10. That with regard to the statements made in paragraph 4.8 of the application, it is stated that the applicant was transferred on permanent measure for which he was eligible to draw transfer allowance which he has already ~~ready~~ received. In this context, it is pertinent to mention that he could not possibly claim both the benefits such as treating the transfer period as temporary and also to draw the transfer allowance as permissible in case of permanent transfer.

11. That with regard to the statements made in Paragraph 4.9 of the application, it is stated that the administration did not allow the applicant to retain his quarters at the former station for the entire period from 21.10.88 to 23.10.89 (date of vacation of Qrs.) on normal rent. He was allowed only for retention of quarters for a period of 2 months on normal rent with effect from 21.8.88 to 8.12.88 and the rent of the balance period for the

retention of quarters was effected strictly as per existing rules. The extract of GM(P)'s memorandum dated 9.4.85 is annexed as ANNEXURE -2.

12. That with regard to the statements made in paragraph 4.10 of the application, it is stated that there is no record available in regard to the representation at 27.7.92 forwarded to GM by the applicant. Further, no such acknowledgement has also been produced by the applicant in support of his statement. It is reiterated that there was no scope to recover normal rent as his transfer was absolutely permanent in nature and therefore, the action in this respect has been correctly taken by the administration and it is evident that there was no lacuna/lapses left out to reconsider the case.

13. That with regard to the statement made in paragraph 4.11 of the application, it is stated that in response to the order dated 2.2.95 of the Hon'ble Tribunal, Guwahati, the administration has given a proper reply after considering the merit of the representations dated 2.4.90, 4.3.91 and 27.7.92.

14. That with regard to the statements made in paragraph 4.12 of the application, it is stated that the representations of the applicant has been carefully examined and disposed with in terms of existing rules and regulations. He

Contd....7

was also categorically mentioned vide this office letter No. 545E/1/341 PN'O) dated 26.4.95 that no injustice was caused with any ill motive in regard to recovery of house rent. The applicant retained the railway accommodation at Maligaon on retirement from service from Tinsukia Division. as such no rules permitted to recover normal rent beyond the period of two months as mentioned in his representation dtd 30.5.95.

15. That with regard to the grounds made in para 5 of the application, it is stated that the matter has already been discussed in the foregoing paras and ~~there~~ applicant is not entitled to any reliefs. None of the grounds are maintainable

16. That in view of the facts and circumstances stated above, it is prayed that the Hon'ble Tribunal may dismiss the case as there is no merit in this O.A. filed by the applicant which deserved to be rightly rejected.

17. That under the facts and circumstances stated above, the instant application is not maintainable and liable to be dismissed.

VERIFICATION.

I, Smt M. Brahm, aged about 36 years, by occupation Railway Service, working as Deputy Chief Personnel Officer of the Northeast Frontier Railway administration, do hereby solemnly affirm and state that the statements made in paragraph 1 and 2 are true to my knowledge, those made in paragraph 3 to 15 are true to my information derived from the records of the case which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

✓ M. Brahm
DEPUTY CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY
MALIGAON :: GUWAHATI-781011
FOR & ON BEHALF OF
UNION OF INDIA.

११ मुख्य कर्मिक अधिकारी (राज.),
Dy. Chief Personnel Officer (G)
पू० सो० रेलवे, गुवाहाटी-781011.
N. F. Rly., Guwahati-781011.

...

No. Z/314/31-B Pt.II

DATED: 25-4-1988

To : All HODs | for wide circulation amongst staff.
All Unit Heads |

It is generally noticed that applications for retention of quarters by the employees who retire/get transferred/meet some calamity, are received after a lapse of 2/3 months which is highly irregular as per extant rules, with the result that this office is not able to plan the further allotment of quarters to the staff who are waiting for allotment. In order to provide relief to the staff favouring early allotment and plan them better, it is desired that the following procedure should be followed henceforth :-

1.0 Retirement cases :

1.1 The employee should make the application preferably one month before the date of retirement and should ensure that the same is received by this office atleast 15 days before the date of retirement.

1.2. The controlling officer should ensure that before initiating the settlement dues to the employee, the intention of the employee either to retain the Qrs. or to vacate the same, is made clear to the administration.

2.0 Transfer cases :

When the employee is transferred out of Hdqrs. the application should be received by this office within a week of the issue of the transfer orders. This application should clearly indicate the period of retention of quarters.

3.0 Death cases.

3.1 In case of unfortunate happening of premature death of the employee the application for retention of quarters should be sent to this office so as to reach within 15 days of the occurrence.

Further extension of quarters.

In case of seeking further extension of retention of quarters in all cases the application should preferably be made before a month so as to reach this office at least 15 days before the expiry of the extended dates of previous extension.

Contd...

5.0 In case the applications are not received within a period stipulated above, the employee may be liable for a penalty amounting to a penal rent for a month or refusal for permission of retention of a quarters at the discretion of the administration.

S. K. Bhardwaj
(S. K. BHARDWAJ)
DY. GENERAL MANAGER (G)

Copy to :-

- 1) The President, N.F.R.M.U/PNO
 - 2) The President, N.F.R.E.U/PNO
- for information. They are requested to co-operate to help for early allotment of quarters.

S. K. Bhardwaj
(S. K. BHARDWAJ)
DY. GENERAL MANAGER (G)

Annex 2 SN-97
N. F. RAILWAY.

Office of the
General Manager (P).
Gauhati-11

MEMORANDUM.

Sub : Delegation of powers - Retention
of Railway accommodation by Railway
employees.

The General Manager, in consultation with the FA & CAO
has accorded his sanction to the grant of retention of
Railway accommodation by Railway employees on different
grounds, to the authorities as shown in the Annexure
enclosed to this Memorandum, due to enhancement in the
period of retention by the Railway Board vide their letter
No. E(G)83 RN2-6 dated 17-12-83, modified vide Board's
letter No. E(G) 83 RN2-6 dated 27-8-84, circulated under
this office circulars MISC-1244 and MISC-1261 of case
No. E/9/O-4(C) PII dated 1-5-84 and 27-10-84 respectively.

With the issue of this Memorandum, this office Memo-
randa of even numbers dated 9-2-82 and 2-6-82 stand
superseded.

While permitting retention of Railway accommodations,
H.O.Ds./Addl. H.O.Ds, DRMs / ADRMs, Dy.CME/Workshops/NAQ
and DWS must record whether reasons for permitting
the retention of accommodation are sufficient as per Rly.
Board's instructions, issued from time to time.

The H.O.Ds./ All. H.O.Ds, ADRMs./Dy.CME/WS/NAQ and
DWS should furnish details to Sr.DGM at Headquarters, and
DRMs at Divisions for over-seeing those details periodically.

For General Manager (Personnel).

Contd. ... 2.

41
MISC/1276

No.E/72/O-Pt.VIII (C).

Maligaon, dated the 9th April '85.

Copy is forwarded for information, guidance, and necessary action to :-

1. All Heads of Departments.
2. DRMs/KIR, AFDJ, LMG, TSK.
3. Dy.GM(G) & DY.CPO(G) with 3 spare copies for each.
4. DRM(P)s/KIR, AFDJ, LMG, TSK.
5. DAOs/KIR, AFDJ, LMG.
6. WAOs/NBQ, DEWS.
7. DY.CME/Workshops/NBQ & DEWS. with 3 spare copies for each.
8. Addl.CMO. & DY.CE(Bridges)/Line/Maligaon.
9. All District and Asstt. Officers of Non-Divisionalised Offices.
10. The Genl.Secy./NFRMU/PNO. with 40 spare copies.
11. The Genl.Secy./NFRMU/PNO. with 50 spare copies.
12. All Cadre SPOs and APOs and PA to CPO.
13. SAO/Finance/FA&CAO's Office/Maligaon with reference to his U.O.No.FE/15/1/Pt.II dated 21-3-85.
14. CA to ACPO, and CA to OSD/IR.

Encls: 3c(Three) ev.OAO with 3 spare copies for each.

1. DRMs/KIR, AFDJ, LMG, TSK.

2. DAOs/KIR, AFDJ, LMG.

For General Manager (Personnel).

3. WAOs/NBQ, DEWS.

4. DY.CME/Workshops/NBQ & DEWS. with 3 spare copies for each.

5. Addl.CMO. & DY.CE(Bridges)/Line/Maligaon.

6. All District and Asstt. Officers of Non-Divisionalised Offices.

7. The Genl.Secy./NFRMU/PNO. with 40 spare copies.

8. The Genl.Secy./NFRMU/PNO. with 50 spare copies.

9. All Cadre SPOs and APOs and PA to CPO.

10. SAO/Finance/FA&CAO's Office/Maligaon with reference to his U.O.No.FE/15/1/Pt.II dated 21-3-85.

Powers presently being exercised by Authorities in permitting retention of Rly. accommodation by Rly. Employees on different grounds, and powers now delegated by the G.M. to authorities due to enhancement in the period of retention by Rly. Board.

Memorandum No. E/72/0-Pt. VII(C) dt. 9-4-85.

Sr. No.	Nature of power/subject.	Period of retention	Reason for retention.	Rate of recovery.	Existing powers presently being exercised by.	Powers now to be exercised by, as delegated by the GM.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

1(a)	Permanent Transfer/superannuation.	2 (two) months.	Permanent transfer/Superannuation.	Normal rent.	HODs/Addl. HODs in respect of Gazetted & non-gazetted employees of Hd. Qrs. DRMs/ADRs in respect of gazetted & non-gazetted employees of Divn. Dy. CME/Workshops/NBQ for staff under him.	HODs/Addl. HODs for Gazetted & non-Gazetted employees of Hd. Qrs. DRMs/ADRs for Gazetted & non-gazetted employees of Division. Dy. CMEs/Workshops/HQ & DBS for officers and staff under them.
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(b) Permanent Transfer. Next 6 (six) months.

Education of children or sickness of self or a member of family on requisite school/Medical certificate.

Double the assessed rent or double the normal rent or 10% of emoluments, whichever is highest.

HODs/Addl. HODs for Gazetted & non-gazetted employees of Hd. Qrs. DRMs/ADRs for Gazetted & non-gazetted employees of Division.

- do -

(c) Retirement (Superannuation). Next 6 (six) months.

- do -

- do -

HODs/Addl. HODs, DRMs/ADRs, Dy. CME/WS/NBQ for 2 (two) months only for children's education or on sickness account. GM for 6 (six) months.

for 6 (six) months other than first 2 (two) months on normal rent as against Sl. No. 1(a).

- do -

90

1	2	3	4	5	6	7
<p>(a) Temporary 4 (four) months from the date of transfer.</p>						
<p>(b) Temporary 30 to 36 months. Temporary transfer. For special duty. For special duty. For special duty. For special duty. For special duty. For special duty. For special duty.</p>						
<p>(c) Temporary 2 (two) months. Deputation & secondment in India including with RIFES/IRCON.</p>						
<p>(d) Normal rent.</p>						
<p>(e) Normal rent.</p>						
<p>(f) Normal rent.</p>						
<p>(g) Normal rent.</p>						
<p>(h) Normal rent.</p>						
<p>(i) Normal rent.</p>						
<p>(j) Normal rent.</p>						
<p>(k) Normal rent.</p>						
<p>(l) Normal rent.</p>						
<p>(m) Normal rent.</p>						
<p>(n) Normal rent.</p>						
<p>(o) Normal rent.</p>						
<p>(p) Normal rent.</p>						
<p>(q) Normal rent.</p>						
<p>(r) Normal rent.</p>						
<p>(s) Normal rent.</p>						
<p>(t) Normal rent.</p>						
<p>(u) Normal rent.</p>						
<p>(v) Normal rent.</p>						
<p>(w) Normal rent.</p>						
<p>(x) Normal rent.</p>						
<p>(y) Normal rent.</p>						
<p>(z) Normal rent.</p>						

HODS/ADDL.HODS for officers & staff in Divisions. Dy.CME/Workshops/NHQ & DMS for officers and staff under them.

HODS/ADDL.HODS in Divisions. DMS/ADMS in Divisions.

HODS/ADDL.HODS in Divisions. Dy.CME/Workshops/NHQ & DMS for non-gazetted staff. General Manager for gazetted officers.

General Manager.

HODS/ADDL.HODS in Divisions. Dy.CME/Workshops/NHQ & DMS for officers & staff in their respective spheres.

(2)	(3)	(4)	(5)	(6)	(7)
Deputation & Secondment in India including with RITES/IRCON.	*Next 6(six) months.	On educational/ sickness account & thereafter up to end of current academic session, that is, end of annual examination & not the whole session itself.	Market rent, as envisaged in Rly. Bd's letter No. F(X)1-72/RN3 /1 dt. 23-9-76, circulated under CPO's No. MISC/ 803 dt. 27-4-77.	General Manager.	HODs, HODs in Hd. Qrs. DRMs in Divisions. Dy. CME (Workshops)/NBQ & DEWS non-gazetted staff. General Manager for staff.

*This relaxation will continue to be valid for a period of 2 years from 27-8-84 the date of issue of Rly. Bd's letter No. E(G)83RN2-6 dt. 27-8-84, circulated under CPO's No. 7261 of 27-10-84 to those who proceed on deputation at their own for RITES/IRCON.

Death. 4(four) months for the family from the date immediately after death of employee.	Death.	Normal rent.	HODs/Addl. HODs in Hd. Qrs. DRMs/ADRs in Divisions, Dy. CME (Workshops)/NBQ for officers and staff working under them.	HODs/HODs in Hd. Qrs. DRMs/ADRs in Divisions, Dy. CME (works)/NBQ and DEWS officers and a working under them.
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For GENERAL MANAGER (SONNEL).

3/4/85

(Shamshad Ali)
5.4.85