

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 66/95.....

R.A/C.P No.....

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

- 1. Orders Sheet..... GAPg. 1to 2.....
- 2. Judgment/Order dtd. 1.11.79Pg. 1to 6.....
- 3. Judgment & Order dtd.....Received from H.C/Supreme Court
- 4. O.A..... 66/95Pg. 1to 42.....
- 5. E.P/M.P.....Pg.....to.....
- 6. R.A/C.P.....Pg.....to.....
- 7. W.S.....Pg. 1to 6.....
- 8. Rejoinder.....Pg.....to.....
- 9. Reply.....Pg.....to.....
- 10. Any other Papers.....Pg.....to.....
- 11. Memo of Appearance.....
- 12. Additional Affidavit.....
- 13. Written Arguments.....
- 14. Amendment Reply by Respondents.....
- 15. Amendment Reply filed by the Applicant.....
- 16. Counter Reply.....

SECTION OFFICER (Judl.)

[Handwritten Signature]
15/2/18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI: 5

O.A.No. 66/95
 Misc.Petn.
 C.P. No.
 R.Appl:

..... K. C. Boruah APPLICANT'S
 frs.
 V. O. I. & S. RESPONDENT'S
 Mr. J. L. Sarkar, Mr. M. Chanda... FOR THE APPLICANTS

 Mr. S. Ali, Sr. C.G.S.C. FOR THE RESPONDENTS

OFFICE NOTE ----- DATE ----- ORDER -----

This application is in
 form and within time
 C.F. of Rs. 50/-
 deposited via
 IPO/BD No. 88288/
 Dated 24/3/95

Amr
 30/3/95
 Mr. Registrar (4)
P.S.

31.3.95

Learned counsel Mr J.L.Sarkar with
 Mr M.Chanda for the applicant and learned
 Sr.C.G.S.C Mr S.Ali for the respondents are
 present.

Heard Mr J.L.Sarkar on the question
 of admission of the application. Perused
 the statements of grievances and reliefs
 sought for.

Application is admitted. Issue notice
 on the respondents by Registered Post.
 Written statement within six weeks.

List on 19.5.1995 for written state-
 ment and further orders.

Heard ^{Counsel} ~~Mr Sarkar~~ on the interim relief
 prayer. Without prejudice to the determina-
 tion whether the applicant is liable to pay
 damage charge or penal rent for retention
 of quarters after the expiry of prescribed
 period, the respondents are directed to
 allow the applicant to retain the quarter
 upto 31.5.1995. Until the question of payment
 of damage charge or penal rent is determined
 the respondents shall not collect damage
 charge or penal rent from the applicant ~~from~~

31.3.95

for the period of retention upto 31.5.1995.

Copy of this order may be furnished to the counsel of the parties.

Requisite for notices are yet to be received.

order d. 31.3.95 issued

to the counsel of parties vide no. 1617-18 dt. 18.4.95

pg

[Signature]
Member

[Signature]
18/4

[Signature]

Requisites are now

on 21.4.95 issued

vide no. 1769-77 dt. 26.4.95

19.5.95

Learned counsel Mr M.Chanda is present for the applicant and submits that the applicant has already served notice on the respondents that he will vacate the quarter on 31.5.1995. Written statement has not been submitted by the respondents. He submits ^{for} ~~that~~ early hearing to determine about the panel rent for the quarter.

List for hearing on 7.7.1995.

Respondents may submit written statement in the meantime.

[Signature]
24/4

4.5.95

Memo. of appearance filed by Mr. S. Ali Sr. Chf. Sr. Chf.

[Signature]

W/ statement has not been filed.

pg

[Signature]
18/5

31.5.95

W/S submitted by Mr. S. Ali Sr. Chf. on behalf of the Applicants. No. 1, 2 and 3.

[Signature]

[Signature]
Member

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 66 of 1995.
T.A. NO.

DATE OF DECISION 14-7-1995.

Shri Kanak Chandra Baruah

(PETITIONER(S))

Mr M. Chanda

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr S.Ali, Sr.C.G.S.C

ADVOCATE FOR THE
RESPONDENT (S)

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

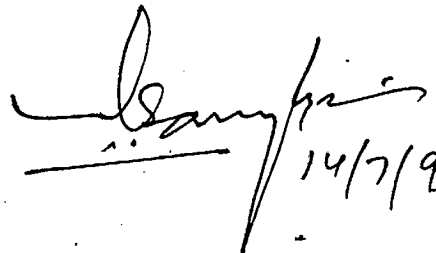
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
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 ?

Yes.

NO.

Judgment delivered by Hon'ble Member (A)


14/7/95

5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 66 of 1995.

Date of Decision : This the 14th Day of July, 1995.

Shri G.L.Sanglyine, Member (Administrative)

Shri Kanak Chandra Baruah,
Son of late Dharmeswar Baruah,
Draftsman Grade-II
Office of the Superintending Surveyor, Works,
Shillong. . . . Applicant

By Advocate Shri M.Chanda.

- Versus -

1. Union of India
through the Secretary to the Govt. of India,
Ministry of Urban Development,
New Delhi.
2. Superintending Surveyor of Works,
(NEZ) C.P.W.D., Cleve's Colony,
Dhankheti, Shillong.
3. Executive Engineer,
Assam Aviation Works Division,
C.P.W.D., Guwahati-15. . . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

ORDER

G.L.SANGLYINE, MEMBER (A)

Mr M.Chanda, the learned counsel for the applicant, has stated that the limited issue he desires to be considered in this application is whether the applicant is liable to pay damage charge or penal rent for the retention of Government Quarter.

2. The applicant is a Draftsman Grade-II in the office of the Superintending Surveyor Works, Shillong since 18.1.94. Before that he worked in Borjhar, Guwahati where he was allotted quarter No.P-308 and had occupied the same. He retained this quarter after he was released on his transfer to Shillong.

contd... 2/-

14.7.95

This he had done with permission of the Executive Engineer, Assam Aviation Works Division, C.P.W.D., Guwahati who had intimated the applicant vide his Memo. dated 5.3.94 to the effect that -

- (i) the applicant is allowed to retain the quarter P-308 till the annual examination of Central School, Borjhar where his children were studying,
- (ii) to vacate the said quarter thereafter, and
- (iii) to pay Licence fee at market rate for the retention of the quarter, if not vacated accordingly.

The quarter No.P-308 is one of the C.P.W.D quarters at Borjhar which were meant for use by the Departmental Staff only and are not General Pool quarters. The annual examination of Central School, Borjhar for the relevant academic year was over in the month of April, 1994. But even after April, 1994 the applicant retained the quarter. Therefore, the Executive Engineer took action to get the quarter vacated by the applicant and directed that Market Rent for the quarter be paid by the applicant after April, 1994 till the date of his vacation of the quarter. The applicant made representation and vide letter No.1(1)/AAWD/94/2546 dated 13.9.94 the Executive Engineer refused to allow further retention of the quarter by the applicant. He also intimated to the applicant vide letter No.1(1)/AAWD/95/713 dated 21.3.95 that Damage Charge Bill for unauthorised occupation of the quarter with effect from 1.5.1994 was being sent for recovery of the rent from the applicant and he also once again directed the applicant to vacate the quarter. The applicant had submitted this application before this Tribunal on 30.3.1995. By the interim order dated 31.3.1995 the respondents were directed to allow the applicant to retain

14.7.95

the quarter upto 31.5.1995 without prejudice to the determination whether penal rent or damage charge is payable or not. The applicant had since vacated the quarter on 26.5.1995.

3. The case of the respondents is that the applicant is liable to pay "damage charge" with effect from 1.5.1994 for his unauthorised retention and occupation of the CPWD quarter No.P-308 situated at Borjhar till 26.5.1995. According to them, under the relevant rules, the applicant could have retained the quarter for further two months only after he left Borjhar on his transfer to Shillong. However, on consideration of his representation and the fact that the relevant academic year of his children would end on 30.4.1994 he was allowed to retain the quarter till the annual examination of the Central School at Borjhar was over. They contend that the applicant is not entitled to retain the Government quarter after his transfer on the ground of education of his children. The applicant on the other hand relies on O.M.No. 12035(24)/77-Pol.II dated 15.2.1984 and on O.M.No.12035(24)/77-Pol.II(Vol.II), dated 27.1.1987 in support of his contention that he could legitimately or legally retain the quarter after his transfer for the bonafide use of the members of his family whom he has left behind in the old place of posting, namely, Borjhar. According to the applicant O.Ms. are as per extracts given by him at Annexure 5 & 6 of his application, which is not correct. Annexures 5 and 6 are to be found at page 556 and page 557 of Swamy's Compilation of FRSR Part-I General Rules, Twelvth Edition. O.M.No.12035(24)77-Pol.II, dated 15.2.1984 is to be found at page 137 of Swamy's Compilation of F.R.S.R Part V H.R.A. and C.C.A, 1990 Edition. However, the claim of the applicant is based on para 2.I. (i) and (VI) of the aforesaid page. 556-557 which are similar

14.7.95

with para 1 (a) and (f) of the O.M. dated 15.2.1984. Annexures 5 and 6, as will be seen, is included in III(A) of Appendix 9 of the said Edition under the Chapter "INCENTIVE FOR SERVING IN REMOTE AREAS" and under the heading "Retention of/Allotment of Alternative general pool accommodation to civilian employees/officers of A.I.S posted to North Eastern Region". The O.Ms above are applicable to Central Government employees "posted to" North Eastern Region who occupied General Pool accommodation in their last places of posting. It has not been shown that the applicant falls under the category of such employees.

4. According to the relevant rules relied on by the respondents, the applicant could retain the quarter only for two months after his transfer on payment of normal licence fee. The O.Ms relied on by the applicant are of no assistance to him. The applicant had in this case retained the quarter beyond 30.4.1994, which was the date extended by the authorities concerned, without sanction of the authorities concerned. Therefore, the applicant had unauthorisedly retained and occupied the quarter No.P-308, Borjhar after 30.4.1994. The competent authorities concerned of the respondents are therefore within their legitimate right to take action against the applicant in accordance with the rules relevant to occupation of Government quarters. However, in this case, they shall have to take action against the applicant, if they proceed to collect the extra rent from him, in the same manner they have done in ~~the~~ case of other employees who had also retained the government quarters as alleged by the applicant. It is the contention of the applicant in this application that the Executive Engineer, Assam Aviation Works Division, Guwahati allowed a number of employees to retain accommodation at the old station, Borjhar

14.7.95

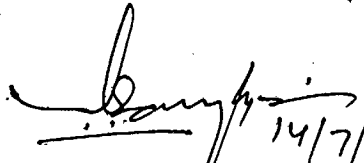
even after their transfers and he has cited a number of such instances in this application itself. There is no rebuttal to this allegation or any clarification in the written statement of the respondents or in the submission on their behalf. The facts of those instances given by the applicant are not before this Tribunal but suffice it to say that the respondents shall have to look into them and compare them with the facts of the applicant in order to ensure that no discriminatory treatment is meted out to the applicant. Further, it appears that the question of retention of the quarters at Borjhar is flexible. In the case of Sri B.C. Bora, Draftsman-II, he was allowed to retain the quarter upto 30.9.1994 on payment of normal rent on consideration of his personal difficulties (medical ground of his wife). The applicant also made representation dated 29.3.1994 after receipt of extension order dated 5.3.1994 for retention of the quarter on the ground of his personal difficulties (educational ground of his children). It is needless to say that personal grounds differ from person to person. In the same letter the respondents had rejected the request of the applicant but allowed the request of Sri Bora. It is needless to say that personal grounds differ from person to person. If Bora who was transferred to Shillong could be allowed to retain his quarter at Borjhar on payment of normal rent upto 30.9.1994 long after he joined in Shillong on consideration of personal ground, there is no justifying reason to support the action of the respondents in rejecting the request of the applicant for retention of the quarter at Borjhar on the basis of his personal ground. It is seen from the order dated 27.12.1994 of this Tribunal in O.A.No.242 of 1994 that Bora did not vacate the quarter after 30.9.1994.

contd... 6/-

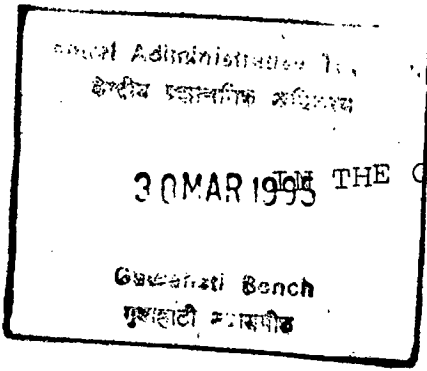
L
14.7.95

Therefore, it is expected of the respondents to treat the applicant at least equally with the case of Sri B.C. Bora aforesaid. It is also seen that in the case of Shri U.N. Bordoloi, Draftsman II who had joined in Shillong on 10.1.94, he was allowed to retain the quarter upto 31.8.94 on payment of normal licence fee on personal grounds. According to Annexure 14 to this application, Damage Charge Bill was being sent separately to the applicant for payment on account of his unauthorised occupation of the quarter with effect from 1.5.1994. In other words a decision was taken that the applicant is liable to pay "Damage Charges" and the process for recovery of the same was initiated. The respondents are therefore directed to reconsider the case of the applicant in the light of the observations and instances indicated above. The respondents will treat the case of the applicant in similar manner as they have treated the other employees if the facts are similar. The respondents will issue final order on merit on the basis of such reconsideration which will include re-fixation of quantum of extra rent, if any liable to be paid by the applicant, if required. The respondent No.3 will communicate such order to the applicant within three months from the date of receipt of this order.

5. The application is disposed of in terms of the above mentioned directions. Interim order stands vacated. No order as to costs.


(G.L.SANGLYINE)
MEMBER (A)

14/7/95



THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. 66/95-

Filed by the applicant
through M. Chandra A.W.
30.1.95

An application under Section 19 of the Central Administrative Tribunals Act, 1985.

Sri Kanak Ch. Baruha Applicant

-versus-

Union of India & Ors. Respondents

I N D E X

Sl. No.	Annexures	Particulars	Page No.
1	-	Application	1-20
2	1	Promotion & Posting Order	21-23
3	2	Letter dtd. 2.3.94	24
4	3	Letter dtd. 7.3.94	25
5	4	Letter dtd. 29.3.94	26
6	5 & 6	O.M. dtd. 15.2.84	27-28
7	7	Letter dtd. 5.4.94	29-30
8	8	Letter dtd. 5.4.94	31-32
9	9	Letter dtd. 9.8.94	33-34
10	10	Letter dtd. 18.8.94	35
11	11	Letter dtd. 17.6.94	36-37
12	12	Letter dtd. 20.6.94	38
13	13	Letter dtd. 1.3.95 with certificate	39-40
14	14	Letter dtd. 21.3.95	41-42

Received copy
Sub: 2. CG SC
30/3/95

1. Particulars of the applicant.

Sri Kanak Chandra Baruah
 Son of late Dharmeswar Baruah
 Draftsman Grade-II
 Office of the Superintending Surveyor, Works,
 Shillong.

2. Particulars of the Respondents :

1. Union of India,
 through the Secretary to the Govt. of India,
 Ministry of Urban Development,
 New Delhi.
2. Superintending Surveyor of Works,
 (NEZ) C.P.W.D., Cleve's Colony,
 Dhankheti, Shillong.
3. Executive Engineer, Assam Aviation Works Division,
 C.P.W.D., Guwahati-15.

3. Particulars for which this application is made.

This application is made against letter No. 1(1)/AAWD/94/2277 dated 9.8.94, letter No. 1(1)/AAWD/94/2546 dated 13.9.94 and letter No. 12035(2)/94 Pol. II (P.t I) dated 17.6.94 and letter No. 1(1)/AAWD/95/713 dated the 21.3.95 and also for retention of Govt. quarter No. P/308 Type III at Guwahati till 31st May 1995.

4. Limitation

That the Applicant declares that this application is made within the prescribed time of the C.A.T. Act.

5. Jurisdiction

That the applicant declares that the case of action of this case has been arisen within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case :

(i) That the applicant is a citizen of India, as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant was initially appointed as Draftsman Grade III in the year 1972 in the Central Public Works Department, Ministry of Urban Development. He was initially posted in Arunachal Pradesh, subsequently he was transferred and posted in the office of the Executive Engineer, Assam Aviation Works Division, C.P.W.D., Guwahati-15 in the year 1989 after serving nearly more than 4 years at Guwahati he was transferred and posted at Shillong on his promotion to the post of Draftsman Grade II in the office of the Superintending Surveyor of works (NEZ) C.P.W.D., Shillong vide officer order No. 9(57) Coord/Grade-III/1338 dated 17.9.93. The applicant thereafter joined at Shillong on 18.1.94.

A copy of the office order dated 17.9.93 is annexed as Annexure-1.

2. (ii) That after receipt of the promotion and posting order dated 17.9.93 the applicant had decided to retain his family at Borjhar, Guwahati in the quarter No. P-308 which was under his possession during his tenure period. Accordingly the applicant kept his family in the departmental quarter at Guwahati although he joined at Shillong on 18.1.94 in the office of the Superintending Surveyor of Works, C.P.W.D., Shillong and submitted application dated 2.3.94 addressed to the Executive Engineer, Assam, Aviation Works Division, C.P.W.D. with the prayer for retention of Govt. Quarter at Guwahati on the ground that two of his sons are reading in Class X and Class IX in Central School, Borjhar, Guwahati.

A copy of the application dated 2.3.94 is annexed as Annexure-2.

3. (iii) That the Executive Engineer, vide his letter No. 1(1)/AAWD/94/582 dated 7.3.94 addressed to the S.S.W. (NEZ), Shillong with a copy under intimation to the applicant informed that the standard Licence Fee at the rate of Rs. 110/- per month be deducted in each month for retention of Quarter No. P/308 (Type II) at Guwahati and it is further stated that the applicant is allowed to retain the Govt. Quarter No. P/308 till the annual examination of Central School, Borjhar and after that

he should vacate the above Quarter failing which he is liable to pay Licence Fee at market rate. The applicant after receipt of the letter dated 7.3.94 submitted a representation dated 29.3.94 requesting the Executive Engineer, Guwahati to allow the applicant to retain Govt. Quarter at Borjhar, Guwahati on the ground that one of his sons going to be appeared in the school final examination in the next year and the second son of the applicant is also studying at Borjhar Central School along with the elder son in Class-IX, and his annual examination will commence from 12.4.95 and result will be declared on 1st week of May, 1995. Therefore shifting of family from Guwahati to Shillong will hamper the education of the applicant's children.

Copy of the letter dated 7.3.94 and 29.3.94 are annexed as Annexure- 3 & 4.

iv. That surprisingly, the D.D.O., office of the Superintending Surveyor of Works (NEZ) Shillong under letter No. 1/2/93/SSW/NEZ/572 dated 5.4.94 informed to the applicant that House Rent Allowance at the new station would not be admissible, if he retains the Govt. accommodation at old station, for a period beyond eight months from the date of transfer, whereas, admissibility of double House Rent Allowance, and retention of Govt. accommodation in the old station for bonafide use, were permitted, to the Central

Government Civilian Employees, serving in this Region vide Govt. of India's office Memorandum No. 11016/1-E. II (B)/84 dated 29.3.84, whereby payment of double house rent allowance was granted to Central Govt. Employees. The relevant portions are quoted below :

"Payment of double House Rent Allowance :-

The undersigned is directed to refer to para 5 of this Ministry's O.M. No. 20014/3/83-E.IV. dated the 14th December, 1983, on the subject noted above, and to state that the question of payment of House Rent Allowance to Central Government Civilian employees who are posted in the States of Assam, Meghalaya, Manipur, Nagaland and Tripura, and the Union Territories of Arunachal Pradesh, Mizoram and Andaman and Nicobar Islands has been considered and the President is pleased to decide as follows :-

- a. Central Government employees who were in occupation of hired private accommodation at the last station of posting before transfer to any of the States/Union Territories mentioned above may be allowed to draw House Rent Allowance admissible to them at that station.

- b. Such Central Government Civilian employees may also be allowed to draw, in addition to (a) above, House Rent Allowance at the rates admissible at the new place of posting in the aforesaid States/Union Territories in case they live in hired private accommodation.
- c. The benefits mentioned in (a) and (b) above will also be admissible to Central Government employees who get transferred from one station of a State/Union Territory of the North - Eastern Region to another State/Union Territory of the North Eastern Region mentioned above.

From above it is quite clear that the applicant being a civilian Central Govt. employee of N.E. Region is also entitled to payment of double house rent allowance on his transfer and posting at Shillong from Guwahati in terms of O.M. dated 29.3.84. Therefore Memorandum dated 5.4.94 issued by the Drawing and Disbursing Officer vide letter dated 5.4.94 is liable to be set aside and quashed. The applicant also entitled to retain Govt. accommodation in the old station that is at Borjhar, Guwahati for bona fide use of his family members on his transfer and posting at Shillong in the office

of the Superintending Surveyor of Works NEZ Shillong. In terms of O.M. No. 12035 (24)/77 -POL.II (Vol.II) dated 27.1.1987. The relevant portion of the aforesaid office memorandum dated 27.1.1987 are quoted below :

"Retention of/Allotment of alternative general pool accommodation to Civilian employees/officers of A.I.S. posted to North-Eastern Region.

Orders have been issued from time to time as per details given below for retention of general pool accommodation/allotment of alternative general pool accommodation to civilian Central Government employees and officers of All India Service posted to the states of Assam, Meghalaya, Manipur, Nagaland and Tripura and Union Territories of Arunachal Pradesh, Mizoram, Andaman and Nicobar Islands for a period of three years from 1.11.83 to 31.10.96 and in respect of Lakshadweep from 1.3.1984 to 31.10.1986.

(1) O.M. No. 12035 (24)/77-Pol.II,
dated 15.2.1984.

.....

(5) O.M. No. 12035(24)/77-Pol.II (Vol.II),
dated 27.1.1987

" I. Civilian Central Government employee
s serving in the States of Assam, Meghalaya, Manipur,
Nagaland and Tripura and Union Territories of
Arunachal Pradesh and Mizoram (these two Union
Territories have now become States), Andaman and
Nicobar Islands and Lakshadweep.

- i. In the case of officers who are posted to
the aforesaid States/Union Territories and
who desire to keep their family at the last
station of posting, in the case of officers
who may be in occupation of accommodation
below their entitled type on the basis of
emoluments prescribed on the crucial date
of ~~emoluments~~ the relevant Allotment Year,
they may be allowed to retain the same
accommodation in case the accommodation
occupied is from Type B to Type E. For this
purpose, emoluments prescribed on the crucial
date for the relevant Allotment Year will
be taken into account and not the emoluments
on the date of transfer. Highest type of
accommodation that can be allowed to be
retained or allotted as alternative accommo-
dation will be Type.

- vi. The above concession would be admissible if
the Government servant is transferred from
one State/Union Territory to another within

the North Eastern Region.

- vi. The orders are applicable only in case the officials are posted to Central Government offices, offices of the Union Territories and these orders will not be applicable to cases where officers are posted to public sector undertakings, Government Companies, autonomous bodies etc.

From above it is quite clear that the Central Government Employees serving in North Eastern Region are also entitled to the benefit of retention of Government accommodation in the last station of posting, in case of posting and transfer within the N.E. Region is made. Therefore, the present applicant under the above scheme of Govt. of India is entitled to retain his Government accommodation at Guwahati i.e. in the last place of posting.

A copy of the scheme of retention of allotment of alternative accommodation issued under O.M. dated 15.2.84 read with 27.1.87 are enclosed as Annexure 5 & 6.

- v. That the Superintending Surveyor of Works, Shillong under his letter No. 1/2/93 SSW/NEZ/572 dated Shillong the 5.4.94 informed to the applicant that he is not entitled to house rent allowance in the new station if he retain his Govt. accommodation at the old station at Guwahati for a period beyond 8

from the date of his transfer from Guwahati. The applicant after receipt of the letter dated 5.4.94 submitted his detail reply by representation dated 17.5.94 quoting the reference of special concession granted by the Govt. of India vide circular no.12035 (24) 77 Pol.II dated 15.2.84 whereby the Govt. of India allowed retention of Government accommodation in the old station in the event of transfer from one station to another station within N.E. Region and also granted NRA in the new station even after retention of Government accommodation in the old station for bona fide reason, therefore the applicant requested by his letter dated 18.5.94 to allow him to retain in the Govt. accommodation at Guwahati under the scheme of office Memorandum dated 15.2.94.

A copy of the letter dated 5.4.94 and letter dated 17.5.94 are enclosed as Annexure- 7 & 8.

(vi) That the Executive Engineer, Assam, Aviation Works Division, Guwahati, vide his letter No. 1(1)/AAWD/94/2277 dated 9.8.94 addressed to the Superintending Surveyor of Works, Shillong, wherein it is stated that the scheme of retention of Government accommodation in the old station does not cover the Government accommodation in the N.E. Region and the scheme is restricted Central pool accommodation existing in places other than N.E. Region and as such the applicant is liable to vacate the Govt. accommodation at Guwahati, the S.S.W., NEZ was requested to direct the applicant

to vacate the Govt. accommodation immediately. It is further stated that the action for recovery for licence fees for the unauthorised period of occupation may be taken as per rule a copy of the said letter dated 9.8.94 also endorsed to the applicant wherein it is stated that his representation dated 15.3.94 has been considered but his request cannot be entertained. He was further requested to vacate his quarter by 31.8.94 failing which licence fee at market rate shall be recovered from him. This decision of the Executive Engineer communicated vide letter dated 9.8.94 is in total violation of the office memorandum 15.2.84 as such the letter dated 9.8.94 is liable to be set aside and quashed. The applicant submitted his reply on 18.8.94 against the letter dated 9.8.94 requesting the Executive Engineer to consider his case sympathetically on the ground that his wife is in advance stage and as per doctor's advice her expected date of delivery is on last part of September/94.

A copy of letter dated 9.8.94 and representation dated 18.8.94 are annexed as Annexures 9 & 10.

(vii) That the Executive Engineer thereafter issued office order under letter No. 1(1)/AAWD/94/2546 dated 13.9.94 addressed to the S.S.W. with a copy to the applicant wherein it is stated that the representation of the applicant has been considered but the same cannot be entertained. However the applicant was

allowed to retain his quarter upto 1.4.94 at normal licence fee at Guwahati, but if the applicants fails to vacate the quarter. Thereafter the licence fee at market rate shall be charged from the applicant with effect from 1.5.94 till the applicant vacates the quarter. This decision of the Executive Engineer is highly arbitrary, illegal and unfair as such letter dated 13.9.94 is liable to be set aside and quashed.

A copy of the letter dated 13.9.94 is enclosed as Annexure-10.

(viii) That the clarification given by the Deputy Director of Estates (Policy) vide his letter No. 12035(2)/94-Pol II Pt. I) dated 17.6.94 is contrary to the policy laid down in office Memo dated 15.2.84. In the said letter dated 17.6.94 it is stated that the scheme of retention is applicable to the General pool residential accommodation, existing in places other than the North Eastern Region. The clarification given in letter dated 17.6.94 by the Deputy Director of Estates (Policy) is contrary to the office memorandum dated 15.2.1984 and if the clarification is accepted then whole object of the office Memo. dated 15.2.84 shall be frustrated therefore the clarification dated 17.6.94 is liable

to be set aside and quashed. The applicant retained at his quarter at Guwahati for bona fide reasons and in terms of letter dated 15.2.84 read with O.M. dated 27.1.87.

A copy of the letter dated 17.6.94 is enclosed as Annexure-11.

(ix) That the applicant begs to state that the Executive Engineer, Assam Aviation Works Division, Guwahati, allowed number of employees to retain Govt. accommodation as the old station after the transfer in some other station in North Eastern Region as for example Sri N. Bhatta, Head Clerk of Guwahati Electrical Division No. 1 had been allowed to retain Govt. quarter at Guwahati when he was transferred to Manipur Central Division, Imphal. Secondly Sri N.C. Das, Peon, who had been transferred to Tura is enjoying retention of Govt. accommodation at old station at Guwahati. Thirdly, similar facility has been extended to the occupant of Govt. Quarter No. P-116, Guwahati, Airport, who has been transferred to Arunachal Pradesh. It may be further stated that the occupants of C.P.W.D. staff Quarter No. P-217, P-140, P-138, P-137, P-129, P-142 and P-130 who have already opted for National Airport Authority and they are no

longer C.P.W.D. staff but enjoying the C.P.W.D. Quarter till date since July, 1990 but no action has been initiated against those unauthorised occupants of C.P.W.D. Quarters and the above fact clearly shows that there is no scarcity of Govt. accommodation at Guwahati Airport but the Estate Officer unnecessarily started harassing the applicant. The applicant being an employee of the department entitled to retain the quarter on priority basis and the attempt of ousting the applicant from the aforesaid quarter, when others are allowed to retain the same is violative of Article 14 and 16 of the Constitution of India. It may be stated that Superintending Surveyor of Works, NEZ, Shillong, under his letter No. 1(2)/94/SSW/972 dated 20.6.94 requested to the Executive Engineer, to consider the representation of the similarly situated other applicants in the light of the O.M. dated 15.2.84 but to no result.

A copy of the letter dated 20.6.94 is annexed as Annexure-12.

(x) That the applicant submitted a representation with School certificates given by the Principal, Kendriya Vidyalaya, Borjhar on 1.3.95 for retention of Govt. quarter at Borjhar for educational purpose of the applicant's son addressed to the Executive Engineer, Assam Aviation Work Division with a copy to the Chief Engineer, C.P.W.D., NEZ, Shillong.

(xi) That the respondents issued the office order No. 1(1) AAWD/95/713 dated 21.3.95 directing to vacate the quarter, immediately and also stated to start recovery of damage charge, with effect from 1.5.94 till the vacation of quarter whereas the son of the applicant is now going to be appeared to the final examination in the month of April, 1995, therefore the applicant may vacate the quarter only after May '95 and the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant till May '95 to retain the quarter, at Borjhar, Guwahati without any damage charge.

(xii) That the application is made bonafide and for the cause of justice.

7. Reliefs prayed for :

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

1. That the respondents be directed to allow the applicant to retain his quarter No. P-308 at Borjhar Airport at Guwahati, for use of ~~his~~ family members of the applicant, till final examination of the sone of the applicant is over i.e. upto 31st May '95 without any damarage charge.

2. That the letter No. 1/2/93/SSW/NEZ/572 dated 5.4.94 (Annexure-6), No. 1(1)/AAWD/94/2277 dated 9.8.94, No. 1(1)/AAWD/94/2546 dated 13.9.94 (Annexure 10) and No. 12035(2)/94-Pol.II (Pt.I) dated 17.6.94 (Annexure-11 and letter No. 1(1)/AAWD/95/713 dated 21.3.95 be set aside and quashed.
3. To pass an other order or orders deem fit and proper under the facts and circumstances stated above.
4. Cost of the case.

The above reliefs are prayed on the following amongst other -

-G R O U N D S-

1. For that the applicant is entitled to retain the Government accommodation/quarter in the last station of posting i.e. at Guwahati for bona-fide use of his family members in terms of the O.M. dated 15.2.84 read with 27.1.87.
2. For that the benefit of special concession for retention of Quarter/Govt. accommodation also granted in the event of transfer of Central Govt. Employees from one state to

another state, one station to another station within the North Eastern Region, as per the office memorandum dated 15.12.84 read with ~~21~~ 27.1.87.

3. For that the applicant is also entitled to double House Rent Benefit granted vide O.M. No. 20014/3/83-E.IV dated 14.12.83.
 4. For that the Govt. quarter retained at Guwahati for bonafide use of family members of the applicant.
 5. For that wife of the applicant is under regular medical treatment at Guwahati.
8. Interim reliefs prayed for :

During the pendency of this application the applicant prays for the following interim relief :-

1. That the respondent be directed to allow the applicant to retain Govt. Quarter No. P-308 (Type-II) till final disposal of this application.
2. That the respondents be directed not to charge licence fee at market rate till disposal of this application.

3. That the letter No. 1(1)/AAWD/94/2277 dated 9.8.94 and letter No. 1(1) AAWD/94/2546 dated 13.9.94 be stayed till final disposal of this application.

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

9. Details of remedy exhausted :

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

10. That the matter is not pending in any other Court of law or Tribunal.

11. Particulars of the Postal Orders :

- | | |
|---------------------|--------------------|
| 1. Postal Order No. | : 883881 |
| 2. Date of Issue | : 20-3-95. |
| 3. Issued from | : G.P.O., Guwahati |
| 4. Payable at | : G.P.O., Guwahati |

12. Index of Documents is enclosed :

13. Enclosures :

As per Index.

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

I, Sri Kanak Chandra Baruah, Son of Late Dharmeswar Baruah, by profession - service, applicant in this case, do hereby verify that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts of the case.

Place : Guwahati

Date : 30-3-95

Kanak Chandra Baruah
SIGNATURE

ANNEXURE - 1

GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT

No. 9(57)/Coord/Gr.III/1338

Dated : 17.9.93

OFFICE ORDER

The Promotion orders of D/Man Gr. III(C) to Gr. II (C) issued under Office Order No. 9(57)/Coord/Gr. III/1025 dated 3.8.93 in respect of following D/Man. Gr. III(C) is hereby cancelled due to their refusal to accept as per terms of the order.

Sl. No.	Name	Office to which attached
S/Shri		
1.	A.K.Saha	CCC-III/CPWD/Calcutta
2.	J.G.Dutta	CCD-III/CPWD/Calcutta
3.	M.N.Kanji	CCD-I/CPWD/Calcutta
4.	R.C.Chakraborty	CCD-VII/CPWD/Calcutta
5.	T.C.Biswas (SC)	CCD-V/CPWD/Calcutta
6.	B.K.Datta	SSW (EZ)/CPWD/Calcutta
7.	A.K.Biswas (SC)	NLD/CPWD/Calcutta
8.	P.K.Paul	SSW (EZ)/CPWD/Calcutta
9.	S.S.Sarkar	CCD-VI/CPWD/Calcutta
10.	A.K.Halder (SC)	CCC-I/CPWD/Calcutta
11.	Srikanta Mandal (SC)	SSW (EZ)/CPWD/Calcutta

In reference to this office order No. 9(57)/Coord./Gr.III/1025 dated 3.8.93, the transfer/posting of following D/Man Gr. III(C) on promotion as D/Man Gr.II(C) is hereby partially modified as under.

A H...
(Signature)
A.H.

Sl.No.	Name	From	To	Remarks
1	2	3	4	5
S/Shri				
1	U.N.Bordoloi	<u>AAWD</u> Guwahati	<u>SSW (NEZ)</u> Shillong	Against existing vacancy
2	B.K.Guha	<u>CCC-II</u> Calcutta	<u>RCB</u> Raipur	Vice B.K.Roy, transferred to RCB-II/Barasat
3	K.C.Barua	<u>AAWD</u> Gauhati	<u>SSW (NEZ)</u> Shillong	Against existing vacancy

Consequent on the above cancellation, the following D/Man Gr. III(C) are hereby promoted as D/Man Gr. II(C) on purely temporary basis in the scale of Rs. 1400-40-1800-EB-50-2300/- from the actual date of assuming charges to higher post until further orders. On promotion, they will be on probation for a period of two years.

Sl.No.	Name	Office to which attached
/ S/Shri		
1.	S.K.Das	CCD-I/Calcutta
2.	S.C.Biswas	ACD/Agartala
3.	R.L.Das	DCD/Dhanbad
4.	M.L.Dey	CCD-III/Calcutta
5.	Nabani Aich	CCD-V/Calcutta
6.	Deb Kr. Chakraborty	CCC-II/Calcutta
7.	Smt. Niva Gogoi	CCD/Gauhati
8.	Tapas Barua	CCD-VI/Calcutta

A H...
Adv.

1	2	3	4	5
9.	P.K.Bora		CCD/Gauhati	
10.	Somesh Bardhan		CCD-II/Calcutta	
11.	Ajoy Bakhandi		CCD-IV/Calcutta	
12.	S.Chakraborty		CCD-IV/Calcutta	
13	D.Adhikari		MCD/Shillong	
14	Kalyan Sen		SSW(EZ)/Calcutta	

The promoted D/Man Gr. III(C) will have to intimate his acceptance/refusal of above promotion/posting within 15 days in respect of officials working in Calcutta and within 20 days in respect of officials working outside Calcutta from the date of issue of this letter. The controlling officers are hereby requested to ensure delivery of the promotion order to the particular person and to obtain written acceptance/refusal of promotion from the promoted person and communicate the same to this office within the days specified above. No conditional acceptance of promotion will be entertained.

In case no intimation of acceptance/refusal of above promotion is received from the promoted person within the specified date his promotion is liable to be cancelled without making any further reference. The controlling officer is also requested if any vigilance/disciplinary case is pending or contemplated against the abovepromotee, the effect of promotion should not be given to him and the fact may please be communicated to this office forthwith for further action. The promotee who accepts promotion unconditionally may please be relieved immediately without waiting for substitute with a direction to their place of posting.

Attested
 Dhd
 Adv.

ANNEXURE-2

To
The Executive Engineer,
Assam Aviation Works Division,
C.P.W.D.,
Guwahati-15

Sub :- Application for retention of Govt. Qtr.
No. P-308 - T.-III.

Sir,

Being relieved from your office, I joined S.S.W.
(NEZ), C.P.W.D., Dhankheti, Shillong-3, vide this
office order No. 15 (116)/93/SSW/NEZ/114 dt. 27th
Jan. '94 copy already endorsed to you.

In this connection, I beg to state that I am not
in a position to vacate the above quarter at present that
my two child studying in Central School, Borjhar,
Guwahati-17.

This is for your kind information please.

Thanking you,

Yours faithfully,

Dt. 2.3.94

Sd/- Indigible 2.3.94

(K.C.Baruah)
D'man Gr. II.

Attested
D'Baruah
Baruah

ANNEXURE-3

Government of India
Central Public Works Department

No. 1 (1)/AAWD/94/582

Dated the 7.3.94

To

The S.S.W. (NEZ)
C.P.W.D.,
Shillong-3

Sub :- Deduction of Licence Fee of Qrt. No.
P-308 (CPWD) at Gauhati Airport.

Sir,

Shri K.C. Baruah, D/Man, Gr. II is having Govt. Qrt. No. P-308 at Gauhati Airport. The standard Licence Fee of the above Qrt. is Rs. 110/- P.M. so it is requested to kindly deduct Rs. 110/- in each month compulsorily from his pay bill under intimation to this office for record in the Licence Fee register.

Yours faithfully,

Sd/-

(Dr. R.S. Sheoran)
Executive Engineer,
Assam Aviation Works Division,
C.P.W.D., Guwahati-15

Copy to :

Shri K.C. Baruah, D/Man, Gr. II w.r. to his letter dt. 2.3.94. He is allowed to retain Qrt. No. P-308 till the annual examination of Central School at Borjhar and after that he shall have to vacate the above said Qrt. failing which he shall have to pay Licence Fee at market rate.

Sd/- Executive Engineer
5.3.94

Attested
Chd
Adv.

ANNEXURE-4

To

The Executive Engineer,
Assam Aviation Works Division
C.P.W.D., Guwahati-15

(Through Proper Channel)

Sub : Request for retention of Govt. Quarter.
P-308 Type-III.

Ref : No. 1(1)/AAWD/94/582 dated 7.3.94.

Sir,

As letter addressed to the S.S.W(NEZ) copy endorsed to me I like to mention that, at present I am not in a position to vacate Govt. Qtrs. P-308, allotted to me due to some unavoidable circumstances i.e. two of my young sons are studying in the higher classes at Guwahati Airport, Central School Borjhar. One of my sone is going to be appeared in the School Final Examination in the next year.

In this stage it is not possible for me to change their School Guwahati to Shillong and hampered their educational life.

So please allow me to retain the Govt. Qtrs. at Guwahati Airport for another period of at least two years so that my sone can complete their final examination.

There is no proper accommodation at Shillong where I can shift my families. So please look into the matter and oblige.

Thanking you,

Dated 29th March, 94

Yours faithfully,

Sd/- Illigible 29.3.94

(K.C. Baruah, D/M, II)

A Herjed
@hke
Adv.

ANNEXURE-5&6

Extract of : O.M. No. 12035(24)/77-Pol.II dt. 15.2.84

&

O.M. No. 12035(24)/77-Pol.II (Vol.II)
dt. 27.1.1987.

"Retention of/Allotment of Alternative general pool accommodation to civilian employees/officers of A.I.S. posted to North Eastern Region.

Orders have been issued from time to time as per details given below for retention of general pool accommodation/allotment of alternative general pool accommodation to civilian Central Government employees and officers of All India Service posted to the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and Union Territories of Arunachal Pradesh, Mizoram, Andaman and Nicobar Islands for a period of three years from 1.11.1983 to 31.10.1986 and in respect of Lakshadweep from 1.3.1984 to 31.10.1986 -

1. O.M. No. 12035(24)/77-POL. II, dated 15.2.1984.

.....

2. O.M. No. 12035(24)/77-Pol.II (Vol.II) dated 27.1.1987.

2. I. Civilian Central Government employees serving in the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and Union Territories of Arunachal Pradesh and Mizoram (these two Union Territories have now become States) Andaman and Nicobar Islands and Lakshadweep.

Attested
Dhuli

- 34
- (i) In the case of officers who are posted to the aforesaid States/Union Territories and who desire to keep their family at the last station of posting, in the case of officers who may be in occupation of accommodation below their entitled type, on the basis of emoluments prescribed on the crucial date of the relevant Allotment Year, they may be allowed to retain the same accommodation in case the accommodation occupied is from Type B to Type E. For this purpose, emoluments prescribed on the crucial date for the relevant Allotment Year will be taken into account and not the emoluments on the date of transfer. Highest type of accommodation that can be allowed to be retained or allotted as alternative accommodation will be Type E.

- (vi) The above concession would be admissible if the Government servant is transferred from one State/ Union Territory to another within the North-Eastern Region.
- (vii) The orders are applicable only in case the officials are posted to Central Government offices, offices of the Union Territories and these orders will not be applicable in cases where officers are posted to public sector undertakings, Government companies, autonomous bodies. etc.

—

A Hester
Dhule
Adm.

Annexure-7

GOVERNMENT OF INDIA
OFFICE OF THE SUPTDC. SURVEYOR OF WORKS (NEZ)
CENTRAL PUBLIC WORKS DEPARTMENT
CLEVE'S COLONY, DHANKHETI
SHILLONG-793003

No. 1/2/93/SSW/NEZ/572

Dated Shillong the 5 April '94

MEMORANDUM

Sub : Inadmissibility of HRA at the new station, if Govt. accommodation is retained at the old station beyond a period of eight months.

The undermentioned officials attached to this office are hereby informed that the HRA at the new station (Viz. Shillong) will not be admissible in their case, if they retain the Govt. accommodation at the old station (Viz. Guwahati) for a period beyond eight months from the date of their transfer from Guwahati.

Sl.No.	Name & Designation	Date of joining this office	Date of relief from previous office	Date of which the period of 8 months will expire
1.	Shri U.N.Bordoloi, D/Man Gr. II	10.1.94	28.12.93	28.8.94
2.	Shri K.C.Baruah D/Man Gr. II	18.01.94	10.01.94	10.09.94
3.	Shri B.C.Bora, D/Man Gr. II	08.02.94	31.01.94	30.09.94

Attested
[Signature]
ALV

The relevant Govt. orders are reproduced below :-

" A Government servant, who, on transfer, has been permitted to retain Govt. accommodation at the old station on payment of normal rent of penal rent or retains Govt. accommodation unauthorisedly on payment of market rent, etc. will not be entitled to HRA at the new station for the period beyond 8 months from the date of his transfer".

Sd/- Illigible 4.4.94

Drawing and Disbursing Officer,
O/o the S.S.W. (NEZ), C.P.W.D.
Shillong-3

To

1. Shri U.N. Bordoloi, D/m, Gr. II
2. Shri K.C. Baruah, D/m Gr. II
3. Shri B.C. Bora, D/m Gr. II

Copy to :

1. The Executive Engineer, Assam Aviation Works Divn., Central P.W.D., Guwahati -781015. He is requested to intimate the date of vacation of Govt. accommodation by the above mentioned Officials as and when the same is vacated.
2. Bill clerk for necessary action.

Sd/-

DRAWING AND DISBURSING OFFICER.

AH sid
②
Adv.

Annexure - 11

No. 12035(2)/94-Pol.II(Pt.I)

Government of India
Directorate of Estates

New Delhi, the 17.6.94

To

~~The~~
 Er. R.S. Sheoran
 Executive Engineer,
 Assam Aviation Works Division,
 C.P.W.D.,
 Guwahati-15

Subject : Retention of Quarter.

Sir,

Please refer to your letter No. 1(1)/AAWD/93/1423 dated 11.5.94 addressed to Shri S. Patnaik, D.E.II on the subject cited above. Parawise replies to the clarification sought by you are given below :-

- i. A Govt. servant transferred with one State in the North Eastern Region is entitled for retention of Govt. accommodation at old station, provided he is transferred to a Central Govt. office.
- ii. A Govt. servant transferred to Central Govt. office within the North Eastern Region from one State to another is entitled to retain the Govt. accommodation at the last station of posting.
- iii. On posting to North Eastern Region a Govt. employee is
- &
iv. entitled to retain accommodation one type below his entitlement. If an employee is occupying his entitled type of accommodation he is sanctioned accommodation one category below his entitlement. Till allotment of the next below category accommodation matures he can be allowed retention of accommodation for a period of 2

Attested
 @
 Adv.

ANNEXURE-8

To

The Suptdg. Surveyor of Works (NEZ),
C.P.W.D., Cleve Colony,
Dhankheti,
Shillong-3

(Through Proper Channel).

Subject : In admissibility of H.R.A. at the new station if Govt. accommodation is retained at the old station beyond a period of eight months.

Reference: Your Memo No.1/2/93/SSW/NEZ/572 dt. 5th April, 1994-

Sir,

In response to the memorandum mentioned above on the subject I beg to draw your kind attention to the following few points for favour of your kind necessary action please.

I have joined in the office of the SSW (NEZ), CPWD, Shillong on promotion during 18.1.94, leaving my family at Guwahati Airport. Accordingly I have applied for retention of the residential qtrs. allotted to me at Guwahati Airport to the Ex. Engineer, Assam Aviation Works Division, Guwahati. But the Ex. Engineer, has refused to keep my request for the same vide his No. 1(1)/AAWD/94/828 dated 8.3.94.

Subsequently from your office ^a memo. has been issued ~~XXXXXXXXXXXX~~ on the matter stating non-admissibility of HRA etc. ~~XXXXXXXX~~

In North Eastern Region the Union of India has provided some special facilities vide circular No. 12035 (24)77 dated 15.2.1984 for the Central Govt. Employees who are working in N.E. Zone are entitled to retain Govt. accommodation at old station as well as they can draw HRA also.

Attested
@
ADV

Instances are there where employees were allowed to retain Govt. accommodation at the old station and to draw HRA. As for example, (1) Shri N. Bhatta, Head Clerk of Guwahati Elect. Divn. No. I. had been allowed to retain Govt. accommodation at Guwahati when he was transferred to Manipur Central Division, Imphal (ii) Shri N C. Das, Peon who has been transferred to Tura is enjoying retention of Govt. accommodation at old station, (iii) Similar facility has been extended to the occupant of Qtrs. No. P-116 of Guwahati Airport, who has been transferred to Arunachal Pradesh.

The occupants of CPWD. Staff qtrs. No. P-217, P-240 P-138, P-137, P-129, P-142 and P-130 who have already opted for and no longer they are CPWD staff, enjoying the CPWD qtrs. till date since 7/90 and so far no action has been initiated against them. The fact clearly states that, there is no scarcity of Govt. resdl. accommodation at Guwahati Airport. The state officer (Ex. Engineer AAWD, Gauhati) is not allowing the retention in my case is nothing but simple harassment.

Under the circumstances, I beg to request your good-self to go through the circulars once again carefully, and allow the facilities extended to the Central Govt. employees serving within the N.E. Region as provided by the Union of India and oblige.

Yours faithfully

Sd/- K.C. Boruah
Draftsman Gr. II

O/o the SSW (NEZ), Shillong.

Copy to :

1. The Estate Officer (Ex. Engrs. AAWD), Guwahati Airport, Guwahati-15 for information & necessary action pl.
2. The Regional Secy., EDSA, 234/4 A.J.C. Bose Road, Cal. 20 for information and necessary action. A photocopy of letter No. 1/2/93/SSW/NEZ/572 dt. 5.4.94 is enclosed.
3. The Branch Secy., EDSA, CPW, Shillong. 3 for information and necessary action. A photocopy of letter no. 1/2/93/SSW/NEZ/572 dt. 5.4.94 is enclosed.

Sd/- Illigible 17.5.94

(K.C. Boruah)

AHestel
@whole
ADV

Annexure-9

Central Public Works Department

No. 1(1)/AAWD/94/2277 Dated 9.8.94

To
The Superintending Surveyor of Works (NEZ)
C.P.W.D., Cleves Colony,
Dhankheti
Shillong-3.

Sub : Retention of CPWD quarters at Guwahati
Airport.

Ref : Your letter No. 1(2)/94/SSW/972 dt. 20.6.94.

Sir,

We have got 88 nos. quarters of various categories at Borjhar, Guwahati-15. These are C.P.W.D. quarters constructed for departmental staff against the sanctions issued by the Ministry of Works and Housing, New Delhi from time to time.

Regarding retention of these quarters by the staff transferred to other station inside the N.E. Region, a reference was made by us to the Directorate of Estates, Ministry of Urban Development. They vide their letter No. 12035(2)/94-Pol.II (Pt. I) dated 17.6.94 and even No. dated 20.7.94 (Copies enclosed) have replied that the rules quoted in your letter under reference, apply to the Central Pool Accommodation existing in places other than N.E. Region and do not apply to the Govt. accommodation available in the N.E. Region.

In view of above, you are requested to ask S/Shri B.C.Bora, U.N.Bordoloi and K.C.Baruah, all Draftsman Gr. II of your office to vacate the quarters immediately. Action for recovery of Licence Fee for the unauthorising period of occupants may be taken as per rule.

Attested
@
Adv

It is intimated that none of the above Draftsman
Gr. II have vacated their quarters.

Yours faithfully,

Enclo : As above

Sd/-

(R.S. Sheoran)
Executive Engineer
Assam Avn. Works Divnl,
C.P.W.D., Guwahati-15

Copy forwarded to :-

1. Shri K.C. Baruah, D/Man, Gr. II, C/o S.S.W. (NEZ),
C.P.W.D, Shillong-3. He may please refer this
office letter of even No. 582 dated 7.3.94 under
which he was allowed to retain the quarter No. P-308
till the Annual Examination of Kendriya Vidyalaya
which were over in 4/94. In spite of that he has
not vacated the above quarter. As such he is to pay
Market Rent after 4/94 till he vacates the above
quarter.

Sd/- Illigible
Executive Engineer

A. H. S. K. S.
@h
A. H. S. K. S.

ANNEXURE-10

To

The Executive Engineer
Assam Aviation Works Division
C.P.W.D., Guwahati-15

(Through Proper Channel)

Sub : Retention of C.P.W.D. Qtrs. at Guwahati Airport
Qtr. No. P-308

Ref : Your letter No. 1(1)/AAWD/94/2277 dtd. 9.8.94

Sir,

With reference to your letter No. mentioned above regarding Qtr. P-308 addressed to S.S.W. (NEZ) & copy to me has been received.

That Sir, it is not possible for me to vacate the above Qtr. at present as I am not getting any Govt. accommodation at Shillong where I can shift my family & live peacefully.

Moreover regarding retention of my Qtr. it has already been intimated to your good office vide letter dtd. 29.3.94. As a father I cannot change the school and hamper the education of my children since one of my son is going to be appeared in School Final Examination which will be held in next year i.e. 1995. Moreover, my wife is also need frequent medical check up as per doctor's advice.

Lastly it is my earnest request to reconsider my case for retention the Qtr. as I am a Govt. servant working in North Eastern Zone (Shillong) under great difficulties where private accommodation are not available easily and rent is also beyond my reach.

Yours faithfully,

Sd/- Illegible 18.8.94
(K.C.Baruah)
D/Man-II

Copy to :

1. The Chief Engineer (NEZ), CPWD, Shillong with the request to consider my grievances sympathetically mentioned as above and necessary consent may kindly be given to retain the Qtrs. at Guwahati Airport till the School Final Examination of my son is over.
2. Regional Secretary, Engineering Drawing Staff Association, CPWD, Nizam Palace, 234/4 Acharyya Bose Road, Calcutta-20. He is requested to take up the case with E.E./AAWD, Guwahati so that the Qtr. can be retained till the end of the Exam. of my son. As I am facing great difficulties due to the higher education & the illness of my wife. A copy of letter received from EE/AAWD is enclosed herewith for reference.
3. Branch Secy., Eng. Brg. Staff Association, Shillong to take necy. action on the above issue.

Sd/- Illegible 18.8.94
K.C.Baruah, D/Man II

AAWD-
@hul
Adv.

months on payment of a normal licence fee under SR-317-B-11 and further retention of 6 months may be allowed on special grounds on payment of twice the normal licence fee under Sr-317-B-22. If his turn for the next below category allotment does not mature even after expiry of this 8 months, he has to pay damages for the accommodation in his occupation. However, if the category of accommodation next below type is not at all available at the last station of posting and therefore such an employee cannot be allotted next below category of accommodation, in that case he may be allowed to retain the entitled category of accommodation.

- v. The damages and rate of licence fee to be charged from unauthorised occupants of Govt. accommodation varies from station to station and is based on the prevailing market rent in the adjoining private localities. Therefore, the damages to be charged in Guwahati may be worked out on the basis of prevailing market rent in the adjoining localities in Guwahati.
2. The position explained above is applicable to the general pool residential accommodation existing in places other than the North Eastern Region. These instructions shall not apply to the Govt. accommodation available within the North Eastern Region.

Yours faithfully,

Sd/- Illigible

(R.D.Sahay)

Deputy Director of Estates (Policy)

Attested
@hls
AV

Annexure-12

Government of India
Office of the Suptdg. Surveyors of Works (NEZ)
Central Public Works Department
Cleveland Colony, Dhankheti
Shillong-793003

No.1(2)94/SSW/972

Dated Shillong the 20 June '94

To

The Executive Engineer (Estate Officer)
Guwahati Airport,
Central P.W.D.,
Guwahati.

Sub : Retention of Quarter in the last station.

Kindly refer the representation of Shri B C Bora and Shri U N Bordoloi, Draftsman Grade-II addressed to Suptdg. Surveyor of Works (NEZ) with copy to you regarding retention of Quarter in the last station. Shri B C Bora and Shri U N Bordoloi joined this office on promotion after getting relieved from your office. Both of them intended to retain their Quarter at Guwahati Airport allotted by your office.

As per Govt. of India of Works, and Housing O.M. No. 12035(24)/77-Pol. II dt. 15.2.84 Para (f) "The facility of retaining allotment of Govt. accommodation in the previous station will also be available, if the Govt. servant is transferred from one state/union Territory to another within the North Eastern Region.

According to the above para both Shri B.C.Bora and Shri U.N.Bordoloi are eligible to retain Govt. Quarter at last station at their status.

Kindly consider the representation sympathetically and convey your direction to them through this office.

Sd/- Illigible 18.6.94
Suptdg. Surveyor of Works (NEZ)
Central P.W.D., Shillong-3

Attested
By
Adv.

Annexure-13

To
 The Executive Engineer,
 Assam Aviation Works Division,
 C.P.W. ., Borjhar Airport,
 Guwahati-781015

(Through Proper Channel)

Sub : Retention of Government Quarter at Guwahati
 Airprt, Borjhar.

Ref : 1. No. 1(1)/AAWD/94/2546 dt. 13th Sept.'94

Sir,

With reference to your office letter mentioned above addressed to S.E. (NEZ) and others regarding the subject as above.

In this connection once again I request your goodself to kindly consider to retention of Govt. Qtrs. at Guwahati Airport as because my children are studying in higher classes and in this stage being as a father I cannot hamper their educational life.

A School certificate regarding educational proof of my children is enclosed herewith for your ready reference please.

Therefore I request your honour a considerable decision is requested from your end please, for act of your kindness I shall remain ever grateful to you.

Thanking you,

Yours faithfully,

Enclo : School certificate
 1 No.

dtd. 1.3.95 Shillong-3

Sd/- K.C. Baruah D/m II

O/o S.S.W. (NEZ), Dhankheti
 Shillong-3

Copy to

The Chief Engineer (NEZ), C.P.W.D, Shillong with a copy of School Certificate for kind consideration please. (Through Proper Channel).

Sd/- K.C. Baruah, D/m II

*Attended
 Chandra
 Adv.*

Annexure-13

KENDRIYA VIDYALA BORJHAR
GUWAHATI-17

CERTIFICATE

The following children of Rank Draughtsman Grade II
Name Kanak Chandra Baruah of C.P.W.D. S.S.W. Unit
are studying in this Vidyalaya (NEZ) Shillong-3.

1. Master Debojit Baruah Class X-C Admn No. 5820
2. Master Biswajit Baruah Class IX-A " " 5819

The current Academic session is from 1st May '94
to 30th April 95.

Date 26.12.94

Sd/- Principal
Kendriya Vidyalaya
Borjhar

Attested
Principal
Adm.

ANNEXURE-14

REGD. A/D

Government of India
Central Public Works Department

No. 1(1)/AAWD/95/713

Dated the 21.3.95

To

Shri K.C. Boruah,
D/Man, Gr. -II/,
Office of the S.S.W. (NEZ)
C.P.W.D. Cleve's Colony,
Dhankheti,
Shillong-3

Sub : Vacation of Govt. Quarter No. P-308
at Guwahati Airport.

You had been transferred and relieved from this Division on 10.1.94 and according to the allotment rules you were entitled to retain the Govt. accommodation upto 2 (two) months from the date of relief i.e. upto 9.3.94. However your request had been considered to retain the quarter upto 4/94 (30.4.94) on educational ground. In this connection this office letter No. 1(1)/AAWD/94/2277/ dt. 9.8.94 may be referred to.

Inspite of repeated request/directions issued from time to time you have not yet vacated the Govt. quarter.

As such you have made yourself liable to pay penal rate for unauthorised occupation of said quarter w.e. from 1.5.94.

You are once again directed to vacate the quarter No. P-308 forthwith and hand over the vacant possession of the same to this office.

Damage charges bill in respect of the quarter for the unauthorised occupation w.e. from 1.5.94 is being sent separately for effecting necessary recovery from you which may also please be noted.

Attested
While
Adv.

Sd/- Executive Engineer,
Assam Aviation Works Division,
CPWD, Guwahati-15

Regd. A/D

Copy to :-

1. Shri U.N. Bordoloi, D/Man, Gr. II office of the S.S.W. (NEZ), CPWD, Cleve's Colony, Dhankheti, Shillong-3. considering your representation No. Nil dated 4.1.94 you were granted retention of Qtr. upto 8/94 and directed to vacate the Govt. Qtr. No. P-208 by 31.8.94 vide T.O. letter of even number dated 9.8.94.

A lot of request/directions had been issued to you from time to time but all requests/directions were in vein.

Hence you are once again requested to vacate the Qtr. No. P-208 forth with and hand over the vacant possession of the same to this office.

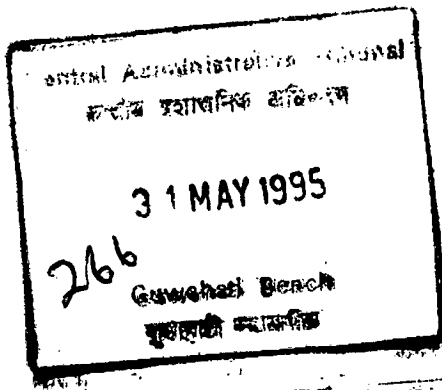
Damage charges bill in respect of the quarter for unauthorised, occupation, w.e. from 1.9.94 is being sent separately for effecting necessary recovery from you which may also please be noted.

2. The S.S.W. (NEZ), CPWD, Cleve's colony, Dhankheti, Shillong-3, for favour of further necessary action please.
3. The Superintending Engineer, Assam Central Circle, CPWD, Guwahati-21 for favour of information.

Sd/- 21.3.95
Executive Engineer

Attested
Chhla
Adm.

-93-



Filed by
 (MD. SHAIKAT ABU) 31/5/95
 Mr. Central Govt. Standing Counsel
 Central Administrative Tribunal
 Guwahati Bench, Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI:

In the matter of :-

O.A. No. 66/1995.

Shri Kanak Ch. Baruah

-Vs-

Union of India and others.

-And-

In the matter of :-

Written Statements submitted by
 the Respondents No. 1,2 & 3.

WRITTEN STATEMENTS::

The humble Respondents submit
 their Written statements as follows+

1. That before submission of parawise replies the Respondents beg to state that exactly a similar case being O.A. No. 242/94 Shri Bharat Ch. Bora -Vs- Union of India and others have been disposed up by the Hon'ble Tribunal on 22.12.94 summerily rejecting the same. The instant case is covered by the same judgment passed by this Hon'ble Tribunal.

Annexure-1 is the photocopy of the judgment dtd. 22.12.94 passed by the Hon'ble Tribunal.

2. That the Respondents submit that inview of the above judgment which covers the O.A. No. 66/95, the instant case is liable to be dismissed.

*Received
 Adv.
 31-5-95.*

- 44 -
51

3- That with regard to statements made in paragraphs 1,2,3,4 & 5 of the application, the Respondents have no comments on them.

4. That with regard to statements made in paragraphs 6.1 & 6.2 of the application, the Respondents beg to state that the applicant has already been relieved from the Office of the Executive Engineer, Assam Aviation Works Division, C.P.W.D., Guwahati-1 on 10.1.94 and joined at Shillong on 18.1.94. As per policy the Govt. servant transferred to a place outside the station is allowed to retained his accommodation only for 2 months and he was to vacate his quarter No. P/308-Type-iii by 10.3.94 but he has not yet vacate the quarter.

5. That with regard to statements made in paragraph 6.3 of the application, the Respondents beg to state that the applicant filed an appeal to the Authorities vide letter dtd. 2.3.94 allow him to retain the Govt. quarter on the ground of his two children studying in Central School at Borjhar. The retention was granted and accordingly he was to vacate the quarter on 31.5.94 but the applicant not yet vacate the quarter.

6. That with regard to statements made in paragraph 6.4 of the application, the Respondents beg to state that a representation dtd. 29.3.94 intimating his unwillingness to vacate the quarter on the same ground of education of his children at the same school at Guwahati. In this connection the respondents do not think that this ground entitles a government servant to have government premises at a place where he wants to educate his children.

7. That with regard to statements made in paragraph 6.5 of the application, the Respondents beg to state that it is true that DDO, Office of the SSW(NEZ), CPWD, Shillong vide his letter No.1/2/93/SSW/NEZ/572 dtd. 5.4.94 had informed the applicant that he is not entitled to draw the House Rent allowance at the new station if he retains the Govt. accommodation at old station for a period beyond eight months from the date of transfer. In this connection the respondents would like to refer and rely on the guidelines communicated vide OM. No. 12035/24/77-II dt. 15.2.1984 (FRSR V Page ~~137~~).

An extract of the relevant govt. orders are reproduced below. ¹⁴⁻¹⁶

* A government servant, who, on transfer has been permitted to retain Govt. accommodation at the old station on payment of normal rent or penal rent or retains govt. accommodation unauthorisedly on payment of market rent etc., will not be entitled to HRA at the new station for the period beyond 8 months from the date of his transfer."

In view of the above, the action of the respondents to discontinue payment of HRA with effect from 11.9.94 is perfectly in order. An extract of the FRSR V P-~~137~~ is enclosed in R-3. ¹⁴⁻¹⁶

8. That with regard to statements made in paragraph 6.6 of the application, the Respondents beg to state that the Ministry of Finance, Department of Expenditure, Govt. of India has clarified the relevant provision of their office Memo.No. 11016/1/E.II(B) dt. 29.3.84 as regards to the benefit of HRA to those civilian Central Govt. employees in the North Eastern Region. An extract of the relevant O.M. No.2(6)/94.E.II(B) dt. 17.11.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure is reproduced below.

" The benefit of HRA under Para 1(d) of this Ministry's O.M. dtd. 29.3.94 is admissible only to those Central Govt. Civilian employees who are transferred from outside North Eastern Region and who continue to keep their families outside N.E. Region at the last duty station. These Central Govt. employees on subsequent transfer to another state/Union Territory within North Eastern Region would continue to be entitled to this benefit provided their families continue to stay in the same place outside the North Eastern Region.

Those employees who have not been posted to the N.E. Region from outside the N.E. Region will not be entitled to this benefit.

Keeping in view the above guidelines and directives, the applicant is not entitled to the payment of double HRA (Annexure-R-4) since he has not been transferred from outside the N.E. Region.

9. That, with regard to statements made in paragraph 6.7 of the application, the Respondents beg to state that as regards the retention of the Govt. accommodation is concerned, the respondents would like to mention the following facts. The letter No.12035(2)/94-Pol.II (Pt.-I) dt. 17.6.94 of the Directorate of Estates (Annexure R-5) clearly indicates that the occupant in the event of his failure to vacate the Govt. accommodation within the period of 8 months from the date of his transfer, is liable to pay damage charges. The aspect of the retention of the Govt. accommodation has been further clarified by the Directorate of Estate vide his letter No.12035 (2)/94-Pol.II dt. 20.7.94 (Annexure-R-6). An extract of which is reproduced below.

"In Para 1 of our letter of even number dt. 17.6.94, the position regarding provisions for retention of General Pool

residential accomodation available at the stations other than North Eastern Region has been indicated. Retention of accomodation at the last station of posting is to be allowed to an employee on his transfer from any other place to the North Eastern Region.

it has been clarified that the instructions regarding retention of Govt. accomodation by the Central Govt. employees are not applicable to the Govt. accomodation available in the North Eastern Region. If an employee in occupation of Govt. accomodation in North Eastern Region is transferred to some other place within the region he is not governed by these instructions".

The applicant is, therefore, not entitled to retain his Govt. accomodation at Guwahati since he has not been transferred from outside the N.E. Region.

10. That with regard to statements made in paragraph 6.9 of the application, the Respondents beg to state that it is further clarified by the Respondent that the Govt. accomodation occupied by the applicant is not "General Pool" accomodation, it is a Departmental quarter meant for the CPWD staff poseted at Guwahati Airport in particular.

11. That with regard to statements made in paragraph 6.10 of the application, the Respondents beg to state that they would also like to draw attention of the Hon'ble CAT, Guwahati Bench to the judgment delivered in the O.A. No. 242/94 (Copy enclosed). This case was also similar in nature and the request of the applicant for retention of the Govt. accomodation was set aside. The applicant was Shri B.C. Bora, who was also one of the Govt. employee promoted and transferred from Guwahati to Shillong alongwith the present applicant.

12. That with regard to statements made in paragraphs 6.11 and 6.12 of the application, the Respondents have no comments on them.

13. That with regard to statements made in paragraph 7, regarding Reliefs prayed for, the Respondents beg to state that the applicant is not entitled to any of the reliefs prayed for and as such the application is liable to be dismissed.

14. That with regard to grounds of the application, the Respondents beg to state that none of the grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

15. That with regard to statements made in paragraph 8, regarding Interim relief prayed for, the Respondents beg to state that in view of the facts and circumstances narrated above the Interim order is liable to be dismissed.

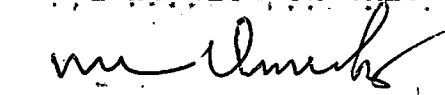
16. That with regard to statements made in paragraphs 9 to 13 of the application, the Respondents have no comments on them.

17. That the Respondents submit that the application is devoid of merit and as such the application is liable to be dismissed.

- Verification -

I, Shri Er. K.K. Choudhury, Executive Engineer, Assam Aviation Works Division, C.P.W.D., Guwahati-15 do hereby solemnly declare that the statements made above are true to my knowledge, belief and information and I sign this verification on this

31~~st~~st day of MAY/95 at Guwahati.



DECLARANT:

Annexure B/I

7 - 49 -

Assam Aviation Works Division
C. P. W. D. Guwahati-16
Diary No. 752
Date 10/3/95

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5

C.A.242/94

Sri Sarath Ch. Bora ... Applicant

Union of India & Ors. ... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI M.C. CHAUDHARI, VICE CHAIRMAN
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADM.).

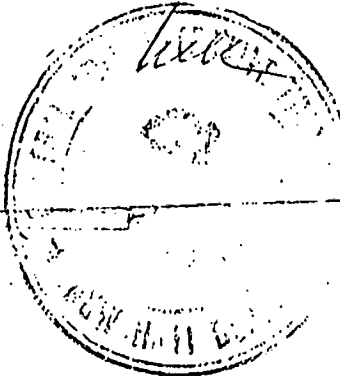
For the Applicant ... Mr. J.L. Sarkar,
Mr. M. Chanda.

For the respondents ... Mr. S. Ali, Sr. C.G.S.C.

22.12.94

Mr J.L. Sarkar with Mr M. Chanda for the applicant. Mr S. Ali, learned Sr. C.G.S.C. for the respondents.

From Annexure-3 it is clear that the applicant who has been transferred ^{has} does not want to vacate the quarter in question till he got clearance from the Doctor as his wife was in advanced stage of pregnancy. The same request was repeated by him in Annexure-9. Mr M. Chanda, learned counsel for the applicant states that according to the instructions received the applicant's wife has had the delivery in the month of November 1994. On that ground, therefore, the applicant cannot be allowed to retain the quarter in question.



22.12.94

Mr J.L. Sarkar who also appears for the applicant drew our attention to para 2 of Annexure-3, wherein the applicant had stated that as his child is reading in Assamese medium in Guwahati and as there is no school of that medium at Shillong that may be considered as a circumstance for his retaining the existing quarter and submits that for the sake of the education of the child the applicant may be allowed to retain the quarter at Guwahati. We do not think that this ground entitles a Government servant to have Government premises at a place where he wants to educate his children. He has to make his own arrangement. Moreover, the academic year as we were told would close by the end of December 1994 and it is for the applicant to plan for the next year for schooling of his child.



Mr Sarkar sought to urge a legal contention relying upon the O.M.s issued by the Government on 15.2.1984 and 27.1.1987 and contended that the applicant would be entitled to retain the accommodation at Guwahati even though he is transferred. First of all, it is not shown that the present accommodation is below the type to which the applicant is entitled to ~~the same~~ on the basis of emoluments as is the requirement of that circular. Secondly, Annexure-8 makes it clear that the said memoranda did not apply to Government accommodation available in the N.E. Region. That is also mentioned in the letter of the Deputy Director of Estates dated 17.6.1994, Annexure-10. The accommodation in question allotted to the applicant is

Government....

DATE

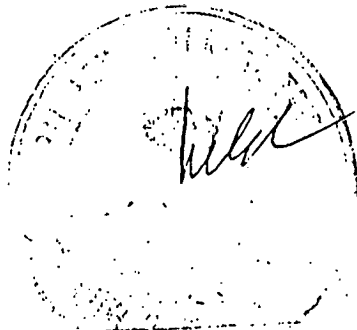
GOVT ORDER

22.12.94

Government accommodation. The benefit of those memoranda, therefore, cannot be available to the applicant. It is true that the Superintending Surveyor of Works, C.P.W.D., Shillong, had requested the Executive Engineer (Estate Officer), Guwahati Airport, C.P.W.D., twice, i.e. on 20.6.1994 and 1.9.1994 that the applicant may be permitted to retain his present accommodation and his representation may be sympathetically considered. The Executive Engineer informed the said Superintending Surveyor of Works by letter dated 13.9.1994, Annexure-9A, that the request of the applicant to retain the quarter cannot be entertained.

Lastly, the question of extending the benefit under ~~circular~~ under the memoranda even if were to be considered cannot be granted as the request of the applicant had been to permit him to retain the quarter till the need on medical ground was over. As earlier said that ground was owing to advanced stage of pregnancy of his wife. No other ground has been shown. Under the circumstances no prima facie case is disclosed for admitting the application. The applicant was informed as far back as on 8.3.1994 vide Annexure-2 that it will not be possible for the respondents to allow him to retain the quarter after 31.3.1994. The applicant has chosen to approach this Tribunal only on 19.12.1994. He has already had the advantage of retaining the quarter during all this time and as there does not appear to be any good reason to grant him further time, we

direct....



O.A.No.242/94

DATE	COURT ORDER
22.12.94	<p>direct that the respondents shall not evict the applicant until 31.12.1994.</p> <p>The application is summarily rejected subject to the above direction.</p> <p>Mr S. Ali, the learned Sr. C.G.S.C. was present at the hearing on notice.</p> <p>Copy of the order to be supplied to the counsel for the parties.</p>



sd/- VICE CHAIRMAN

sd/- MEMBER (ADM)

Registered with A/D

Memo No. : 1049

Date : 7/3/95

Copy for information & necessary action to :

- (1) Shri Bharath Chandra Bora, Draftsman Grade II, office of the Superintending Surveyor, Works, Shillong.
- (2) The Secretary, Govt. of India, Ministry of Urban Development, New Delhi.
- (3) The Superintending Surveyor of Works, (NEZ) C.P.W.D., Claves Colony, Dhankheti, Shillong.
- (4) The Executive Engineer, Assam, Aviation Works Division, C.P.W.D., Guwahati - 15.
- (5) Mr. M. Chanda, Advocate, Gauhati High Court, Guwahati.
- (6) Mr. S. Ali, Sr.C.G.S.C., C.A.T., Guwahati Bench, Guwahati.

[Handwritten Signature]
 SECTION OFFICER (J)
[Handwritten Date]

Concessional period of retention.—Employees/families may be permitted to retain the quarters for the periods noted against the events in the Table below, on payment of normal licence fee.

Events	Permissible period for retention of the residence
(i) Resignation, dismissal, removal or termination of service or unauthorized absence without permission ...	1 month.
(ii) Retirement or terminal leave ...	4 months.
(iii) Death of the allottee ...	12 months.
(iv) Transfer to an ineligible office at the station ...	2 months.
(v) Transfer to a place outside the station...	2 months.
(vi) On proceeding on foreign service in India ...	2 months.
(vii) Temporary transfer in India or transfer to a place outside India ...	4 months.
(viii) Leave (other than leave preparatory to retirement) ...	4 months.
(ix) Maternity leave ...	For the period of maternity leave plus the leave granted in continuation subject to a maximum of 5 months.
(x) Leave preparatory to retirement ...	For the full period of leave on full pay subject to a maximum of 180 days.
(xi) Study leave in or outside India ...	(a) In case of occupation of an accommodation below entitlement, for the entire period of study leave. (b) In case of occupation of the entitled type accommodation, for the period of study leave but not exceeding six months; if the study leave extends beyond six months, the officer may be allotted alternative accommodation, one type below entitlement, on the expiry of six months or from the date of commencement of the study leave if desired by the allottee.
(xii) Deputation outside India ...	For the period of deputation but not exceeding six months.
(xiii) Leave on medical grounds ...	For the full period of leave.
(xiv) On proceeding on training ...	For the full period of training.

8. Retention of Quarters
[Swamy's—FR & SR, Part I]

Normal period of retention.—An employee who is allotted a Government accommodation is normally permitted to retain the same till it is surrendered by him or he ceases to occupy the residence or the allotment is cancelled/deemed to have been cancelled for any reason by the Director of Estates.

The allotment of the accommodation will be deemed to be cancelled on expiry of the permissible period unless the employee resumes duty in an eligible office in the station immediately on expiry of the concessional period.—SR 317-B-11.

12-52- Annexure-R-2
O.A. No. 66/95

Government Of India
Central Public Works Department

68

No. 1(1)/AAWD/94/ 582

Dated the 7/3/94.

To,

The S.S.W. (NEZ),
CPWD, Shillong -3.

Sub :- Deduction of Licence Fee of Ort. No. P-308
(CPWD) at Guwahati Airport.

Sir,

Shri K. C. Baruah, D/Man, Gr.- II, is having
Govt. Ort. No. P-308 at Guwahati Airport. The standard Licence
Fee of the above Ort. is @ Rs. 110/- P.M. so it is requested
to kindly deduct Rs. 110/- in each month compulsorily from his
pay bill under intimation to this office for record in the
Licence Fee register.

Yours faithfully.

(Er. R. S. Sheoran.)
Executive Engineer,
Assam Aviation Works Division,
CPWD, Guwahati -15.

7/3/94

Copy to :- Shri K.C. Baruah, D/Man Gr.-II w.r. to his letter
dt. 2-3-94. He is allowed to retain Ort. No. P-308 till the
annual examination of central School at Borjhar and after that
he shall have to vacate the above said Ort. failing under he
shall have to pay Licence Fee at market rate.

EXECUTIVE ENGINEER.
7/3/94

K-3

(14)

53

13

RULES AND ORDERS

- 3. Calcutta ... All types
- 4. Madras ... All types
- 5. Bangalore ... All types
- 6. Shimla ... All types
- 7. Faridabad ... Types A, B, C & D
- 8. Indore ... All types
- 9. Nagpur ... All types
- 10. Ghaziabad ... Types A, B, C, D, E & E1
- 11. Chandigarh ... All types

The Government servants who after submitting applications refuse to accept accommodation offered/allotted or who, after having accepted such accommodation surrender it as referred to in Paras. (i), (ii) and (iii) above will be considered again for allotment of Government Accommodation at the same stations in accordance with the provisions of S.R. 317-B-10.

3. The Government servant who after submitting his annual applications for allotment succeeds in making his own arrangements for residential accommodation and informs the Directorate of Estates or, as the case may be, its Regional Offices, before any accommodation is offered/allotted to him will be deemed not to have submitted the application for the purpose of paragraph 1 above.

4. These orders take effect from 1-4-1985 and will remain in force up to 31st December, 1987, unless revised earlier.

5. This issues with the concurrence of the Finance Division of the Ministry of Works and Housing vide their U.O. No. 702/W & E/D II (a) 85, dated the 28th March, 1985.

[G.I., Directorate of Estates, O.M. No. 12034 (1)/82-Pol. III, dated the 10th April, 1985 and the 24th April, 1987.]

Admissibility of House Rent Allowance to Officials whose initial allotment has been restricted to particular locality on payment of licence fee.— In accordance with the orders issued in this Directorate's O.M. No. 12035/9/86-Pol. II, dated the 26th December, 1986, requests for restriction of allotment from officers who are not already in occupation of any general pool accommodation would be entertained only if they agree to bear the rental liability from the 8th day of date of issue of the first allotment letter. In cases where such requests are received before issue of the allotment letter, such requests would be entertained only if the persons agree to bear the rental liability in respect of quarter which would be allotted to them in their turn. In other words, in the case of persons who are not allottees of general pool accommodation, initial restriction of allotment would be made only on payment of licence fee of the quarter already allotted or that would be allotted till accommodation in the locality where initial allotment has been restricted is made.

GENERAL RULES AND ORDERS

(15)

Annexure -

R/3

2. The question of admissibility of House Rent Allowance in the case of employees whose requests for restriction of initial allotment have been acceded to, subject to the condition that they agree to bear rental liability in respect of quarters allotted to them but not occupied or that would have been allotted to them in their turn, has been examined in consultation with the Ministry of Finance (Department of Expenditure) and it has been decided that House Rent Allowance may be paid in such cases if they are otherwise eligible for H.R.A. However, H.R.A. will not be admissible from the date of commencement of the rental liability of the quarter allotted to them after restriction.

3. These orders will take effect from 26-12-1986. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.D. No. 11020/1/87-E. II (B), dated 8-9-1987.
[G.I., M.U.D., Dir. of Estates, O.M. No. 12035 (9)/86-Pol. II, dated the 20th October, 1987.]

(b) (i) The allowance shall not be admissible to those who occupy accommodation provided by Government or those to whom accommodation has been offered by Government but who have refused it. In the latter case, the allowance will not be admissible for the period for which a Government servant is debarred from further allotment of Government accommodation under the allotment rules applicable to him.

(ii) The house rent allowance drawn by a Government servant, who accepts allotment of Government accommodation, shall be stopped from the date of occupation, or from the eighth day after the date of allotment of Government accommodation, whichever is earlier. In case of refusal of allotment of Government accommodation, house rent allowance shall cease to be admissible from the date of allotment of Government accommodation. In case of surrender of Government accommodation, the house rent allowance, if otherwise admissible, will be payable from the date of such surrender.

NOTE. -In the case of surrender of Government accommodation, the house rent allowance, if otherwise admissible, will be payable from the date from which 'no accommodation certificate' is issued by the accommodation controlling authority.

(iii) A Government servant debarred from allotment of Government accommodation due to unauthorised sub-letting or for other breaches of rules, but excluding those covered by clause (b) (i) above will be eligible for house rent allowance during the period of such debarment, subject to the fulfilment of the usual conditions except that the condition that he must have applied for but not provided with Government accommodation will not be enforced in his case.

-SS- - 15 Annexure - R-5

No.12035(2)/94-Pol.II(Pt.D)
Government of India
Directorate of Estates
...

New Delhi, the 17-6-94

To
Er. R.S. Sheoran,
Executive Engineer,
Assam Aviation Works Division,
C.P.W.D.,
Guwahati-15.

Assam Aviation Works Division

C. P. W. D. Guwahati-15

Diary No. 792

Date 30/6/94

Subject:- Retention of quarter.
.....

Sir,

Please refer to your letter No.1(1)/AAWD/93/1423 dated 11.5.94 addressed to Shri S. Patnaik, D.E.II on the subject cited above. Farawise replies to the clarification sought by you are given below:-


- i) A Govt. servant transferred within one State in the North Eastern Region is entitled for retention of Govt. accommodation at old station, provided he is transferred to a Central Govt. Office.
- ii) A Govt. servant transferred to Central Govt. Office within the North Eastern Region from one State to another is entitled to retain the Govt. accommodation at the last station of posting.
- (iii&iv) On posting to North Eastern Region a Govt. employee is entitled to retain accommodation one type below his entitlement. If an employee is occupying his entitled type of accommodation he is sanctioned accommodation one category below his entitlement. Till allotment of the next below category accommodation matures he can be allowed retention of accommodation for a period of 2 months on payment of a normal licence fee under SR-317-B-11 and further retention of 6 months may be allowed on special grounds on payment of twice the normal licence fee under SR-317-B-22. If his turn for the next below category allotment does not mature even after expiry of this 8 months, he has to pay damages for the accommodation in his occupation. However, if the category of accommodation next below type is not at all available at the last station of posting and therefore such an employee cannot be allotted next below category of accommodation, in that case he may be allowed to retain the entitled category of accommodation.

...2/-

v) The damages at rate of licence to be charged from unauthorised occupants of Govt. accommodation vary from station to station and is based on the prevailing market rent in the adjoining private localities. Therefore, the damages to be charged in Guwahati be worked out on the basis of prevailing market rent in the adjoining localities in Guwahati.

2. The position explained above is applicable to the General Pool residential accommodation existing in place other than the North Eastern Region. These instructions shall not apply to the Govt. accommodation available with the North Eastern Region.

Yours faithfully,


(R.D. Sahay)
Deputy Director of Estates (I)

12 18 16-56 R-6

Assam Aviation Works Division

C.P.W.D. Guwahati-18

Order No. 18

Date 4-2-94

No.12035(2)/94-Pol.II
Government of India
Directorate of Estates

New Delhi, the 2-7-94

To

The Executive Engineer,
Assam Aviation Works Division,
C.P.W.D.,
Guwahati-15.

Subject:- Retention of quarter.

Sir,

Please refer to your letter No.1(1)/AAWD/94/1889 dated 4.7.94 on the subject cited above. In para 1 of our letter of even number dated 17.6.94, the position regarding provisions for retention of General Pool residential accommodation available at the stations other than North Eastern Region has been indicated. Retention of accommodation at the last station of posting is to be allowed to an employee on his transfer from any other place to the North Eastern Region. Such an employee continues to retain the accommodation on re-transfer to any other place within the North Eastern Region. In para 2 of the letter it has been clarified that the instructions regarding retention of govt. accommodation by the Central Govt. employees are not applicable to the government accommodation available in the North Eastern Region. If an employee in occupation of govt. accommodation in North Eastern Region is transferred to some other place within the region he is not governed by these instructions.

Yours faithfully,

(R.D. Saha,)

Deputy Director of Estates (POLICY)

action
flagged
R.D.S.