

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No... 67/95.....

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SECTION OFFICER (Judl.)

Shakti
1.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

O.A.No. 67/95

Misc.Petn.

C.P. No.

R.Appl:

.....U. N. Bordalai.....APPLICANT'S
frs.

.....U. O. I.T. O. S. RESPONDENT'S

Mr. J. L. Sarkar, Mr. M. Chanda FOR THE APPLICANTS

.....

.....

Mr. S. Ali, Sr. Counsel FOR THE RESPONDENTS

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

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^o of admission of the application. Perused the statement 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 statement and further orders.

Heard ^{Counsel} ~~Mr Sarkar~~ on the interim relief prayer. Without prejudice to the determination 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

the application is in
order and within time
C. F. & P. No. 501-

deposited vide

PO/E No. 883880

Dated 28/3/95

Mr. A. M. 30/4/95
Mr. C. M. 10/5/95
Mr. S. M. 10/5/95

contd...

O.A. 67/95

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 copies for
notices are yet to be
received.

Member

Order of 31.3.95 issued pg
to the counsel of parties
vide no. 1624-25
of 18.4.95

by
19/4

Requisites are issued
on 21.4.95 & issued
vide no. 1766-68 & 264-85

by
24/4

19.5.95

4.5.95

Memo of appearance
filed by S. Ali, Sr. Case.

22/5

W/statement has not
been filed.

22/5
18/5

31.5.95

pg

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

22/5

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.

Member

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

O.A. NO. 67 of 1995.
T.A. NO.

DATE OF DECISION 14-7-1995.

Sri Upendra Nath Bordoloi.

(PETITIONER(S))

Shri M.Chanda.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Shri 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 ? *yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? *no*
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Member (A).

Sanglyine
14/7/95

14.7.95

The applicant was transferred from Guwahati to Shillong on promotion as Draftsman Gr.II(C). He joined in Shillong on 10.01-1994. He had retained the Government quarter allotted to him in Borjhar even after he had joined in Shillong and the respondents have therefore directed him to vacate the quarter and also to pay damage charge for the unauthorised retention and occupation of the CPWD quarter No.P-208 at Borjhar. Mr M.Chanda, the learned counsel for the applicant has stated that the applicant had since vacated the quarter⁷ and that the limited issue he desires to be considered in this application is whether

G.L.SANGLYINE, MEMBER (A)

O R D E R

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

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., Cleaves Colony, Dhankhet, Shillong.
 3. Executive Engineer, Assam Aviation Works Division, C.P.W.D., Guwahati-15.
- • • Respondents.

- Versus -

By Advocate Shri M.Chanda.

Sri Upendra Nath Bordoloi, son of Nildhar Bordoloi, Draftsman Grade-II, Office of the Superintending Surveyor, Works, Shillong.

• • • Applicant.

Shri G.L.Sanglyine, Member (Administrative).

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

Original Application No. 67 of 1995.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

the applicant is liable to pay damage charge or penal rent for the retention of the quarter.

2. Before he joined in Shillong he submitted a letter dated 4.1.94 bluntly telling the Executive Engineer, Assam Aviation Works Division, CPWD, Guwahati that he (applicant) shall not vacate the quarter as his family will stay in the quarter. The Executive Engineer rejected this assertion of the applicant and "requested" the applicant to vacate the quarter within 31.8.1994 failing which licence fee at Market rate will be recovered. Unlike in the previous occasion, this time the applicant made a request for retention of the quarter on personal ground vide his letter dated 18.8.1994 which was forwarded by the Superintending Surveyor of Works (NEZ), CPWD, Shillong to the said Executive Engineer at Guwahati vide his letter dated 1.9.94. The Executive Engineer rejected the request on 13.9.1994 and informed the applicant that he is liable to pay licence fee at market rate with effect from 1.9.1994 till the date of vacation of the quarter. The applicant did not vacate the quarter and on 1.3.1995 he again made request for retention of the quarter. The Executive Engineer asked the applicant to vacate the quarter No.P-208 and hand over possession of the same forthwith vide his letter dated 21.3.1995 and to pay damage charges for unauthorised retention and occupation of the quarter with effect from 1.9.1994, the bill for which was being sent separately. The applicant submitted this application on 30.3.1995 and vide interim order dated 31.3.1995, the respondents were directed to allow the applicant to retain the quarter upto 31.5.1995 without prejudice to the determination in this application whether the applicant was liable to ^{pay} damage

14-7-95

charge or penal rent for the retention of the quarter.

3. The quarter No.P-208 is one of the CPWD quarters at Borjhar which were meant for use by the Departmental Staff only and are not General Pool Quarters. According to the relevant rules, the quarters can be retained only upto 2 months by the employees after his transfer but on payment of normal licence fee. In this case, however, on consideration of the representation of the applicant he was allowed to retain the quarter upto 31.8.1994 on payment of normal licence fee. The case of the respondents is that thereafter the applicant had retained and occupied the quarter unauthorisedly and he is liable to pay damage charge or licence fee at market rate for the same. The respondents further contend that the applicant who had been transferred has no right to retain government quarters on ground of keeping his family members in the old station. The applicant on the other hand relies on O.M.12035(24)/77-Pol.II dated 15.2.84 and on O.M. No.12035(24)/77-Pol.II(Vol.II) dated 27.1.1987 in support of his contention that he is entitled to retain the government quarter in the old station even after he had been transferred to another place in the North Eastern Region for the bonafide use of his family members. He has purported that Annexure 3 and 4 to the application are those O.Ms, which is not correct. Annexure 3 and 4 are a summary of various circulars as mentioned therein, though not typed out by the applicant. At any rate the above mentioned O.Ms and Annexures 3 and 4 are applicable to Central Government Servants who have been "posted to" North Eastern Region and who occupied General Pool accommodation in their last places of posting. It has not been shown that the applicant falls under the categories of such employees.

contd... 4/-

14-7-95

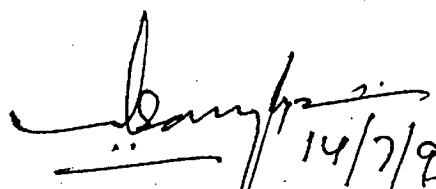
The O.Ms as well as Annexures 3 and 4 are not therefore of any assistance to the applicant in his contention. The rules allow him to retain the quarter for 2 months only after his transfer. However, the respondents have allowed him to retain the quarter upto 31.8.1994 on payment of normal rent after consideration of his request. The applicant had retained the quarter beyond 31.8.1994 without any sanction or permission of the authorities concerned. Therefore, there is no doubt that after 31.8.1994 he had retained the quarter No.P-208 at ~~at~~ Borjhar without any authority and had occupied the same unauthorisedly till the date he vacated the quarter. The competent authorities concerned of the respondents are therefore within their lawful right to direct the applicant to vacate the quarter and also to pay damage charge or licence fee at market for his unauthorised occupation of the aforesaid quarter. It is seen from the letter dated 21.3.1995 (Annexure 14) that a decision to charge damage charges had been taken and the process of recovery of the same was being initiated. However, in view of the allegations of the applicant in para 6(ix) of his application that the authorities concerned allowed other employees, who had been transferred out, to retain their quarters in the old station, Borjhar the respondents are directed to reconsider the case of the applicant. The facts of those other employees cited as instances in the said para are to be compared with the facts of the applicant and thereafter the applicant is to be treated in the same manner as the respondents have treated the others, if they are ^{on} similar footings with the applicant. The respondents

contd... 5/-

14.7.95

will issue final order on merit on the basis of such reconsideration which will include refixation 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.

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


(G.L.SANGLYINE)
MEMBER (A)

14/7/95

3

OA 67/95

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI-5

ORIGINAL APPLICATION NO:

MISC. PETITION/ REVIEW APPLICATION/ CO. PETITION NO.

..... APPLICANT(S)
versus

..... RESPONDENT(S)

FR is received from
the applicant.

6.7.95


Learned counsel Mr M.
Chanda for the applicant and
learned Sr.C.G.S.C Mr S.Ali
for the respondents.

In the FR, the applicant
states that he has vacated
the job w.e.f. from 30th
May'95, ~~and also~~
reporting to the Executive
Engr., Assam Aviation
Works Divn, CPWD,
Gt. 15.

Both the counsel completed
their submissions. Hearing
concluded. Judgment reserved.


Member

The FR is submitted
for the perusal & order.


22/6/95

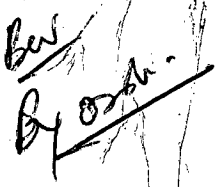
C.7.95

14-7-95

Learned counsel Mr.M.Chanda
for the applicant. Mr.S.Ali, Sr.C.G.S.C
for the respondents.

Both the counsel are
Argument concluded.
Judgment reserved.

Order pronounced. Application
is disposed of in terms of directions
given in the order. Interim order
stands vacated. No order as to costs.


By order.

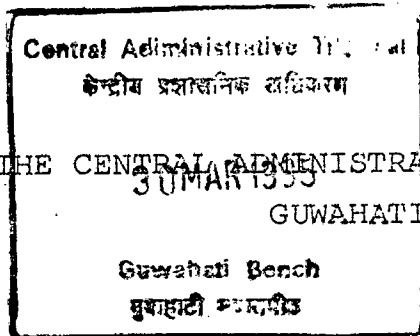
lm


Member

8.8.95

Copy of Judg. Order dtd. 14.7.95
issued to all concerned along-
with OA. 66/95.





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI

O.A. 67/95

Filed by the applicant
Hemanta M. Choudhury
30.3.95

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

Sri Upendra Nath Bordoloi

-versus-

Union of India & Ors.

..... Applicant.

..... Respondents

I N D E X

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Received copy
S. C. G. S. C.
30/3/95

1. Particulars of the applicant.

Sri Upendra Nath Bordoloi,
S/o Nildhar Bordoloi,
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., Cleaves 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 dated 13.9.94,
bearing No. 1(1)/AAWD/94/2546 and letter No. 12035(2)/
94 Pol.II (Pt.-I) dated 17.6.94 and letter No. 1(1)/
AAWD/95/713 dated 21.3.95 and also for retention of
Govt. Quarter No. P/208 at Guwahati till final examination
of his son and daughter is over i.e. 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 cause of action of this case has arisen within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case :

(i) That the applicant is a citizen of India and 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 Central Public Works Department, in short C.P.W.D., under the Govt. of India, Ministry of Urban Development, He was posted at Guwahati in the office of the Executive Engineer, Aviation Works Division, Assam, C.P.W.D, Guwahati-15, in the year 1989, and stayed here at Guwahati till December, 1993. The applicant was thereafter transferred and posted to Silchar vide order dated 3.8.93, but the transfer order dated 3.8.93 was partially modified and the applicant was posted in the office of the Superintending Surveyor of Works (NEZ), Shillong vide office order No. 9(57) Coord/Gr. III/1338 dated 17.9.1993. The

applicant was relieved from the office of the Executive Engineer, Guwahati, vide order dated 29.12.93 and joined at Shillong on 10.1.1994.

A copy of the extract of posting 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 departmental quarter No. P/208, Type-II at Guwahati, which was under his possession during his tenure at Guwahati. Accordingly the applicant kept his family in the departmental quarter at Guwahati, although he joined at Shillong on 10.1.94 in the office of the Superintending Surveyor of Works C.P.W.D., Shillong. The details of the member of the applicant retained at Guwahati are given below :-

1. Smti Banu Bordoloi, - Wife of the applicant, under medical treatment at Guwahati.
2. Miss Shyamali Bordoloi, - Daughter, reading in Class XII in Kendriya Vidyalaya, at Borjhar, Guwahati appearing for the final examination and shall be completed in April, 1995.
3. Miss Kakali Bordoloi, - Reading in Class IX in Kendriya Vidyalaya, Borjhar, Guwahati.

applicant was relieved from the office of the Executive Engineer, Guwahati, vide order dated 29.12.93 and joined at Shillong on 10.1.1994.

A copy of the extract of posting 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 departmental quarter No. P/208, Type-II at Guwahati, which was under his possession during his tenure at Guwahati. Accordingly the applicant kept his family in the departmental quarter at Guwahati, although he joined at Shillong on 10.1.94 in the office of the Superintending Surveyor of Works C.P.W.D., Shillong. The details of the member of the applicant retained at Guwahati are given below :-

1. Smti Banu Bordoloi, - Wife of the applicant, under medical treatment at Guwahati.
2. Miss Shyamali Bordoloi, - Daughter, reading in Class XII in Kendriya Vidyalaya, at Borjhar, Guwahati appearing for the final examination and shall be completed in April, 1995.
3. Miss Kakali Bordoloi, - Reading in Class IX in Kendriya Vidyalaya, Borjhar, Guwahati.

4. Mr. Upokul Bordoloi, - Reading in Class V in Central School, Borjhar. Appearing Final examination w.e.f. 12.4.95 and the result will be declared in the first week of May '95.

(iii) That the applicant immediately after issuance of his ~~xxxx~~ relieving order submitted an application dated 4.1.94 addressed to the Executive Engineer, Assam, Aviation Works Division, C.P.W.D., Guwahati with the request for retention of the Govt. quarter No. P-208 for bona fide use and stay of his family members at Guwahati.

A copy of the application dated 4.1.94 is annexed as Annexure-2.

(iv) That surprisingly, the D.D.O. Office of the Superintending Surveyor of Works (NEZ), Shillong under letter No. 1/2/93/SSW/NEZ/573 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 that eight months from the date of transfer, whereas, admissibility, of double House Rent Allowance, and, retention of Govt. accommodation in the old station for bona fide use, were permitted, to the Central Govt. Civilian Employees, serving in this Region vide Govt. of India's office Memorandum 11016/1-E.II(B)/84 dt.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. 200014/3/83-B.IV, dated the 14th December, 1983, on the subject noted above, and to state that the question of payment 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 decided 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 for 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 27.1.87 are quoted below :

"Retention of/Allocation 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 31.10.86 and in respect of Lakshadweep from 1.3.84 to 31.10.86 -

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

...

5. O.M. No. 12035(24)/77-Pol.II, ~~dated 15.2.1984~~ (Vol.II) dated 27.1.1987.

"I. Civilian Central Government employee 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 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

- (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, undertakings, Government companies, autonomous bodies etc."

From above it is quite clear that the Central Government Employees serving in N.E. 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 photocopy of the scheme of retention of allotment of laternative accommodation issued under O.M. dated 15.2.84 read with 27.1.87 are enclosed as Annexures 3 and 4.

(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 retains his Government accommodation at the old station at Guwahati for a period beyond 8 months from the date of his transfers from Guwahati. The applicant after receipt of the letter dated 5.4.94 submitted his detail reply by representation dated 18.5.94 quoting the reference of special concession granted by the Govt. of India vide circular No. 12035 (24) 77 Po..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 North Eastern Region and

and also granted House Rent Allowance 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 15.2.1984.

A copy of the letter dated 5.4.94 and letter dated 18.5.94 are enclosed as Annexure- 5 and 6.

(vi) That the executive Engineer, Assam, Aviation Works Division, Guwahati, vide his letter No. 1(1)/AAWD/94/2277 dated 9.8.1984 addressed to the Superintending Surveyor of Works, Shillong, wherein it is stated that the scheme of retention of Government accommodation in the N.E. Region and the scheme is restricted General Pool accommodation existing in places other than N.E. Region and as such the applicant is liable to vacate the Government accommodation at Guwahati, the S.S.W., NEZ was requested to direct the applicant to vacate the Government accommodation immediately. It is further stated that the action for recovery for licence fee for the unauthorising period of occupation may

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 4.1.94 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 in last part of September/94.

A copy of letter dated 9.8.94 and representation dated 18.8.94 are annexed as Annexures - 7 and 8.

(vii) That the S.S.W., Shillong vide his letter No. 9(1)/94 SSW (NEZ)/1308 dated 1.9.94 forwarded the representation of the applicant for retention of Quarters at Borjhar Airfield at Guwahati, for use of family members of the applicant and the Executive Engineer was requested to consider the case of the applicant sympathetically. But the

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 of 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 has 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 Arunabhal 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 Government 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/97 dtd. 20.6.94 requested to the Executive Engineer, to consider the representation of the applicant 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 children 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, w.e.f. 1.5.94 till the vacation of quarter whereas the son and daughter 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 '1995 and the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant till May 1995, to retain the quarter, at Borjhar, Guwahati without any damage charge.

(xii) That the application is made bona fide 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-208 at Borjhar Airport at Guwahati for use of family members of the applicant till the final examination of applicant's son and daughter is over i.e. 31st May, 1995 without any damage charge.

2. That the letter No. 1/2/93/SSW/NEZ/572 dated 5.4.94 (Annexure-5) 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) ~~xxxxxxasixdxxxxxxquashedx~~ and No.1(1)/AAWD/95/713 dated 21.3.95 be set aside and quashed.
3. To pass any other order or orders deemed fit 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 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 bona-fide use of family members of the applicant.
5. For that wife of the applicant is under regular medical treatment at Guwahati.
8. Interim relief prayed for :

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

1. That the respondents be directed to allow the applicant to retain the Govt. quarter No. P-208 (Type-II) till the examination of his son & 7 daughter is over i.e. till 31st May, 1995.
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 court of law or Tribunal.

11. Particulars of the postal orders :

- | | |
|---------------------|--------------------|
| i. Postal Order No. | : 883880 |
| ii. Date of Issue | : 25-3-95. |
| iii. Issued from | : G.P.O., Guwahati |
| iv. Payable at | : G.P.O., Guwahati |

12. Index of documents is enclosed :

As per Index

13. Enclosure :

As per Index.

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

I, Shri Upendra Nath Bordoloi, son of Nildhar Bordoloi, 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 :

D. D. Bordoloi

Signature

Date :

27/2/95

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 T.O. 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
1.	A.K.Saha	CCD-III/CPWD/Calcutta
2.	J.C.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

Contd...

*Attested
@
Adm*

1	2	3
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
9.	P.K. Bora	CCD/Gauhati
10.	Somesh Bardhan	CCD-IV/Calcutta
11.	Ajoy Bakhandi	CCD-IV/Calcutta
12.	S. Chakraborty	CCD-IV/Calcutta
13.	D. Adhikari	MCD/Shillong
14.	Kalayan 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

Attested
By
Adv

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 above promotee, 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.

A.H. Fed
Chula
A.V.

ANNEXURE - 2

To

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

Subject :- Rentention of Govt. Quarter.

Sir,

I beg to inform you that I have been transferred to Shillong on promotion. As my family will stay at Guwahati Airport hence Quarter No. P-208 which was allotted to me shall not be vacated by me at present.

This is for your information.

Yours faithfully,

Dt. 4.1.94

Sd/- Illigible

4.1.94

Place - Guwahati

(U.N.Bordoloi)
D/Man-III

Attested
@ Under
24/1/94

ANNEXURE- 3 & 4 Series

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

And

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

dated 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 1.11.83 to 31.10.96 and in respect of Lakshadweep from 1.3.84 to 31.10.86.

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

Attested
G. S. S.
Adv.

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 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.

*Attested
@hls
Adi*

ANNEXURE - 5

GOVERNMENT OF INDIA
OFFICE OF THE SUPDTG. SURVEYOR OF WORKS (NEZ)
CENTRAL PUBLIC WORKS DEPARTMENT
SHILLONG-793003

.....

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

Dated, Shillong the 5 April,
1994.

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 & Desig.	Date of Joining this office	Date of relief from previous office	Date of which the period of 8 months will expire
1.	Sri U.N.Bordoloi D/Man Gr. II	10.01.94	28.12.93	28.08.94
2.	Sri K C Baruah D/Man Gr. II	18.01.94	10.01.94	10.09.94
3.	Sri B.C.Bora D/Man	08.02.94	31.01.94	30.09.94

Attested
Adv.

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 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".

Sd/- Illegible 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, 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

Accepted
@hde
Adv.

ANNEXURE-6

To

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

(Through Proper Channel)

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

Ref : Your Memo No. 1/2/93/SSW/NEZ/572
dt. 5.4.94.

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 S.S.W. (NEZ), CPWD,
Shillong on promotion dt. 10.1.94 leaving my family at
Guwahati Airport. Accordingly I have given a letter to
the Executive Engineer, A.A.W.D., CPWD, on 4.1.94 for
the retention of Govt. Qurt.

Subsequently from your office a Memo has been issued
on the subject matter stating non-admissibility of HRA etc.

In North Eastern Region, the Union of India has
provided some special facilities vide circular No. 12035
(24)77 dt. 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.

Instances are there where employees were allowed to
retain Govt. accommodation at Guwahati when he was

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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 qtrd. No. P-217, P-140, P-138, P-137, P-129, P-142 and P-130 who have already opted for NAA and no longer they are CPWD, enjoying the CPWD qtrs. till date since 9/90 and so far no action has been initiated against them. The fact clearly states that, there is no scarcity of Govt. residential accommodation at Guwahati Airport. The estate officer (Ex.Engineer, AAWD, Guwahati) is not allowing the retention in my case is nothing but simple harassment.

Under the above circumstances, I request your goodself so allow me the facilities extended to the Central Govt. Employees within N.E.Region provided by the Union of India and oblige.

Yours faithfully,

Sd/- Illigible 18.5.94

Date - 18.5.94

(U.N.Bordoloi),

Place - Shillong

Drafts Man.Gr. II

O/o SSW (NEZ), CPWD, Shillong

Copy to :-

1. The Estate Officer (Ex. Engrs. AAWD), Guwahati Airport, C.P.W.D., Guwahati-15, for information and necessary action please.
2. The Regional Secy., EDSA, 234/A. J.C. Bose Road, Calcutta-20 for information and necessary action. A photocopy of letter No. 1/2/93/SW/NEZ/572 dt. 5.4.94 is enclosed.
3. The Branch Secy., CPWD, Shillong-3 for information and necessary action. A photocopy of letter No. 1/2/93/ /SW/NEZ/572 dt. 5.4.94 is enclosed.

Sd/- Illigible 18.5.94
(U.N.Bordoloi)

Attentd
Chin
Adv.

ANNEXURE-7

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 C.P.W.D. Quarters at Gauhati
Airport.

Ref : Your letter No. 1(2)/94/SSW/972
dated 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 General 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 unauthorised period of occupants may be taken as per rule.

Attest
Chakraborty
Sd/-

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 Division
C.P.W.D. Guwahati-15

Copy forwarded

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.
2. Shri B.C. Bora, D/Man Gr. II C/o S.S.W. (NEZ), CPWD, Shillong. His representation dated 15.3.94 received through SSW (NEZ) vide his letter No. 1(2)/SSW/NEZ/94/470 dated 22.3.84 has been considered but his request cannot be entertained. As such he is requested to vacate his quarter No. P.227 by 31.8.94 failing which Licence Fee at Market Rate shall be recovered from him.
3. Shri U.N. Bordoloi, D/Man, Gr. II/C/O SSW (NEZ) CPWD, Shillong. His request for retention of quarter No. P-208 made vide his letter No. Nil dated 4.1.94 cannot be entertained. He is therefore requested to vacate the above said quarter by 31.8.94 failing which recovery of Licence Fee shall be made at Market rate.
4. The Head Clerk, Assm Avn., Works Division, CPWD, Guwahati-15. He is requested to put up the cases of other officials who have not vacated their quarters after their transfer to other places.

Sd/- Illigible
Executive Engineer

*Attested
By
Adv.*

ANNEXURE - 8

To

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

(Through Proper Channel).

Sub : Retention of C.P.W.D. Quarter at Gauhati Airport.

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

Sir,

Regarding retention of my quarter (P-208/T-D) was already intimated to you vide my letter No. dt. 4.1.94 and copy of letter No. dt. 18.5.94.

That Sir, in Shillong also I am not getting any Govt. accommodation, so that, I can shift my family safely. Moreover at Guwahati, Kendriya Vidyalaya Barjhar my two daughters are studying in the higher classes, one is Class-XII and other one is at class IX and in stage being a father of my children I cannot hamper their education lines and my wife is also need medical treatment and she cannot walk in the hill station.

Sir, I am also a Govt. servant under C.P.W.D. and there are so many incident those who have enjoying the quarter facilities, and I am also a Govt. employee under Union of India in N.E. Region.

Sir, as above kindly allow me to retain the Govt. quarter and save my mental harassment and save their educational lives of my children.

Thanking you,

Yours faithfully,

Date 18.8.94

Place - Shillong

Sd/- Illigible 18.8.94.

(U.N.Bordoloi) D/Man,
O/o the ESW(NEZ)

Copy to the

1. The Chief Engineer (NEZ) Shillong. He is requested to take necessary precaution to retention of Govt. quarter and save my family.
2. The Regional Secretary, Calcutta-20
3. The Branch Secretary, Shillong

To the case
with EE/AAWD Guwahati
Airport and with CE(NEZ)
for a good solution.

Sd/- Illigible 18.8.94

(U.N.Bordoloi)

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ANNEXURE-9

GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT

No. 9(1)/SSW(NEZ) 1308

Dt. 1.9.94

To

The Executive Engineer,
Assam Avn. Works Division,
C.P.W.D., Gauhati-15Sub : Representation in respect of S/Sri B.C.Bora,
D/Man Gr. II, Sri U.N.Bordoloi, D/Man Gr. II
and Sri K.C. Barua; D/Man Gr. II respectively.

This is to enclose herewith 3(three) representations submitted by the above noted incumbents which are self-explanatory. The above cited officials are seeking to retain the Govt. Quarters occupied by them at Borjhar Air Field; Guwahati-15 for keeping of their respective family. Hence their requests may be considered sympathetically.

Enclo : As above

Sd/-

SUPERINTENDING SURVEYOR OF WORKS (NEZ)
CENTRAL PUBLIC WORKS DEPARTMENT
DHANKHETI : SHILLONG-3

Copy to :

1. The Chief Engineer (NEZ)/CPWD/Shillong-3, with a request to take up the matter with the Executive Engineer/AAWD/CPWD/Ghy-15; for favourable consideration please.
2. S/Shri B.C.Bora; D/Man Gr. II
" U.N.Bordoloi -do-
" K.C.Bora -do- for information

Sd/- Supdt. Surveyor of Works
(NEZ)

Attended
Qu
Adv

ANNEXURE-10

Govt. of India
Central Public Works Department

No. 1(1)/AAWD/94/2546

Dated the 13th Sept. '94

To

The Superintending Surveyor of Works (NEZ)
C.P.W.D.,
Cleve's Colony
Shankheti,
Shillong-3

Sub : - Representation in respect of S/Shri B.C.Bora,
D/Man Gr II, Sri U.N. Bordoloi, D/Man Gr. II &
K.C. Baruah, D/Man Gr. II respectively.

Ref : Your letter No. 9(1)/94/SSW(NEZ)/1308
dt. 1.9.94.

Sir,

With reference to your above mentioned letter, the representations of S/Shri B.C.Bora, U.N.Bordoloi and K.C. Baruah D/Man Gr. II, sent under your letter under reference, have been considered by the undersigned and it is regretted to intimate that their request for retaining CPWD Qrts. at Borjhar cannot be entertained. However, Shri Bora, D/Man Gr. II is permitted to retain the quarter upto 30.9.94 at normal licence fee. S/Shri Bora, Bordoloi and Baruah may kindly be informed accordingly.

Yours faithfully,

Sd/- Illigible

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

A. Hestred
@ Shila
Adv.

Copy to :

1. The Chief Engineer (NEZ), CPWD, Cleve's Colony, Dhankheti, Shillong-3, with reference to SSW (NEZ)'s letter under reference.
2. Shri B.C. Bora, D/Man Gr. II office of Suptdg., Surveyor of Works, CPWD, Dhankheti, Shillong-3. He is allowed to retain the Qrt. No. P-227 upto 30.9.94. If he does not vacate the quarter on 30.9.94 then licence fee at market rate shall be charged from him w.e.f. 1.10.94 till he vacates the quarter.
- ✓ 3. Shri U.N. Bordoloi, D/Man Gr. II, Office of the Suptdg. Survey of Works (NEZ), CPWD, Cleve's Colony, Dhankheti, Shillong-3. His request made vide his letter dt. 18.8.94 cannot be entertained. He is to pay licence fee at market rate w.e.f. 1.9.94 till he vacates the quarter.
4. Shri K.C. Baruah, D/man Gr. II office of the Suptdg. Surveyor of Works (NEZ) CPWD, Cleves Colony, Dhankheti, Shillong-3. His request dt. 18.8.94 cannot be entertained. He was allowed to retain the quarter No. P-308 till the annual examination of Kendriya Vidyalaya which were over 1.4.94. As such he is to pay licence fee at market rate w.e.f. 1.5.94 till he vacated the quarter.

Sd/-

Executive Engineer

A Hestad
@ Chila
Adv.

ANNEXURE-11

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

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

Sub : 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 &
iv. 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.

A Hestered
Dhule
Adv.

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 ~~category allotment does not~~ 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 to be charged from unauthorised occupants of Govt. accommodation varies from station to station and is based on the prevailing marked rent in the adjoining private localities. Therefore, the damages to be charged in Gauhati 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)

Attended
Chen
Adv.

ANNEXURE-12

GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING SURVEYORS OF WORKS (NEZ)
CENTRAL PUBLIC WORKS DEPARTMENT
CLEVE'S COLONY, DHANKHETI
SHILLONG 793003

No. 1(2)94/SSW/972

Dated, Shillong the 20th 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.B. Bordoloi, Draftsman Grade-II addressed to Superintending 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 least station at their status.

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

Sd/- Illigible 18/6

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

A.H. 8/6
Chh
Adv.

ANNEXURE-13

To

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

(Through Proper Channel)

Sub : Retention of Government Quarter at Guwahati
Airport, 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 good-self to kindly consider to retention of Govt. Qtra. 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,

Enclo : School Certificate 1No.

Date : 1.3.95, Shillong-3

Yours faithfully,

Sd/- *K.C. Baruah* M/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

*Accepted
Chhla
Adv.*

ANNEXURE-13

To

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

(Through Proper Channel)

Sub : Retention of Government Quarter at Guwahati
Airport, 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 good-self to kindly consider to retention of Govt. Qtra. 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,

Enclo : School Certificate 1No.

Date : 1.3.95, Shillong-3

Yours faithfully,

Sd/- *W. N. Baruah*
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

*Accepted
Chhla
Adi*

ANNEXURE-13

KENDRIYA VIDYALAYA BORJHAR
GUWAHATI-17

CERTIFICATE

The following children of Rank Droughtsman Gr. II
Name Shri Upendra Nath Bordoloi of S.S.W. (NEZ) C.P.W.D.
Shillong Unit are studying in this Vidyalaya.

1. Miss Shyamoli Bordoloi Class VII Ad.No.6503
2. Miss Kakoli Bordoloi Class IV C " " 6504
3. Master Upkol Bordoloi Class V/B Regd.No. 8009

The current Academic session is from 01.05.94 to
30.4.95.

Sd/- Principal
7.1.95
Kendriya Vidyalaya, Borjhar

Attested
@hule
Adv.

ANNEXURE- 14

Govt. 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)
CPWD; 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.

In spite 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 with effect from 1.5.94.

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

Sd/-

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

Attested
Chh
Adv.

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 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 requests/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 forthwith and hand over the vacant possession of the same to this office.

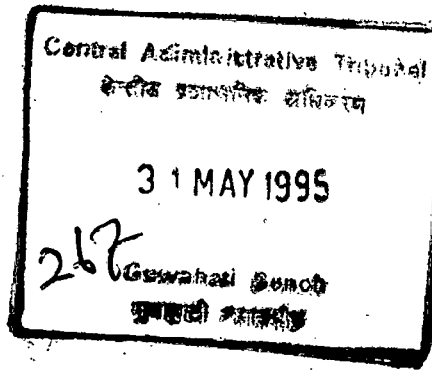
damage charges bill in respect of the quarter for unauthorised, occupation w.e.from 1.9.94 is being sent separately for effecting necessary recovery from you which may also please be noted.

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, C.P.W.D, Guwahati-21 for favour of information.

Sd/- Illigible 21.3.95

Executive Engineer

*Attested
@hbr
Lr.*



Filed by

Sharma
C.M.D. SHARMA ADT 31/5/95
Sr. 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. 67/95

Shri Upendra Nath Bordoloi

-Vs-

Union of India and Ors.

-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. 342/94 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. 67/95, the instant case is liable to be dismissed.

*Received
@ Adm.
31-5-95*

3. That with regard to statemats 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 accomodation only for 2 months and he was to vacate the quarter No. P/208 Type-II by 10.3.94 but he has not yet vacate the quarter.
5. That with regard to statements made in paragraphs 6.3 of the application, the Respondents beg to state that the applicant filed an appeal to the Authorities vide letter dtd. 4.1.94 allow him to retain the Govt. quarter on the ground he will stay in the quarter. (Annexur2-R-2).
6. That with regard to statements made in paragraph 6.4 of the application, the Respondents beg to state that 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 keep his family.
- ✓ 7. That with regard to statements made in paragraph 6.5 of the application, the Respondents beg to state that it is true that the DDO, Office of the Superintending Surveyor of Works (NEZ), CPWD, Shillong vide his letter No. 1/2/92/SSW/NEZ/572 dt. 5.4.94 has informed ~~DDO~~ the applicatt that he is not entitled to draw the House Rent Allowance

at new station if he retains the Govt. accomodation 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 O.M. No.12035/24/77-POL.-II dt. 15.2.1984 (FRSR V Page 437).
14-16
An extract of the relevant govt. orders are reproduced below.

" A government servant, who, on transfer has been permitted to retain Govt. accomodation at the old station on payment of normal rent or penal rent or retains Govt. accomodation 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 respondent to discontinue payment of HRA with effect from 11.9.94 is perfectly in order. An extract of the FRSR V P-437 is
14-16
enclosed in R43.

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. dt. 29.3.84, is admissible only to those Central Govt. Civilian employees who are transferred from outside North Eastern Region and who continue to keep their families out-

side N.E. Region at the last duty station. Those 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~~ 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. accomodation is concerned, the respondent 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 failute to vacate the Govt. accomodation 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. accomodation 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 or out letter or even number dt. 17.6.94, the position regarding provisions for retention of General Pool residential accomodation availdte at the stations other than North Eastern Region has been indicated. Retention of accomoda- tion at the last station of posting is to be allowed to an

-5-

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 ~~00016~~ the Govt. accomodation occupied by the applicant is not "General Pool" accomodation, it is a Departmental quarter meant for the CPWD Staff posted 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 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

the applicant is not entitled to any of the reliefs prayed for and as such the applicant 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 31st day of MAY/95 at Guwahati.


DECLARENT:

7-51- Annexure I

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

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : :: GUWAHATI - 5

C.A.242/94

Sri Sharath Ch. Bora ... Applicant
-S-
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 (ADMIN.).

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

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

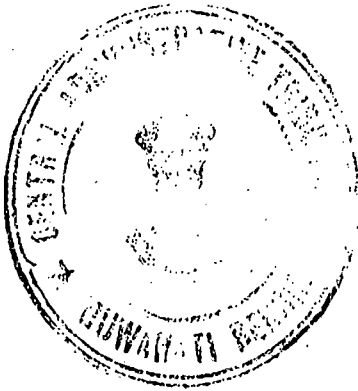
22.12.94 Mr J.L. Sarkar with Mr M. Chanda for
the applicant. Mr S. Ali, learned Sr. C.G.S.C.
for the respondents.

From Annexure-3 it is clear that the
applicant who has been transferred ^{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 appli-
cant 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

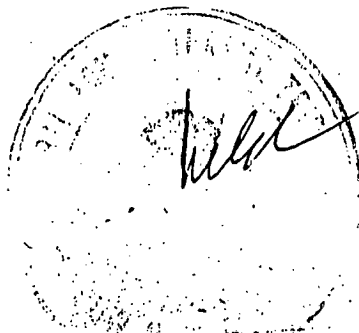
COURT ORDER

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....



3
D.A.No.242/94

DATE

COURT ORDER

22.12.94

direct that the respondents shall not evict the applicant until 31.12.1994.

The application is summarily rejected subject to the above direction.

Mr S. Ali, the learned Sr. C.G.S.C. was present at the hearing on notice.

Copy of the order to be supplied to the counsel for the parties.



Sd/- VICE CHAIRMAN

Registered with A/D

Sd/- MEMBER (ADM)

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.

[Signature]
SECTION OFFICER (J)

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 <i>plus</i> 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 -54- Annexure - R-2
O.A. No. 66/95
65
Government Of India
Central Public Works Department

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.

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.

RR-3

(14)

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 & F
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.

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(15)

GENERAL RULES AND ORDERS

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.

(iv) Refusal by a Government servant of a quarter of a different class from that for which he is eligible shall not constitute refusal for the purpose of these orders unless he has the option to apply for accommodation of a class next below the one to which he is entitled by virtue of his emoluments and he refuses such accommodation when allotted on the basis of his application.

(v) Refusal by a Government servant of accommodation (other than single room hostel accommodation or hostel accommodation where messing and payment of service charges are compulsory) allotted out-of-turn on his own application shall constitute refusal for the purpose of these orders, even when the accommodation provided is of a lower class than that for which he is eligible.

(vi) Accommodation (including tents, single-roomed tenements, etc.) provided to displaced Government servants by the Ministry of Rehabilitation under the various housing schemes on payment of rent as fixed by that Ministry will not be treated as Government accommodation for the purpose of these orders and such allottees will be entitled to house rent allowance, if otherwise admissible and subject to para. 5 (a) below.

(vii) Displaced Government servants who have not been allotted residential accommodation by Government but who are in unauthorised occupation of such accommodation and are paying damages to Government, shall be deemed to have been provided with Government accommodation and as such shall not be eligible for house rent allowance. Such persons cannot also be considered as "sharing Government accommodation" for the purpose of paragraph 5 (c) below.

(viii) Female Government servants residing in the Western House Hostel and the Working Girls' Hostel, Delhi, or elsewhere in Government-run hostels are not entitled to house rent allowance. Government servants living in hostels run by autonomous and semi-Government organisations, which are not run on commercial lines (i.e., Central Government employees allotted hostel accommodation are not charged market rent, but a subsidised rent), would not be entitled to house rent allowance.

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

(x) A Government servant who was not in occupation of Government accommodation at his old station and who, on transfer,

leaves his family behind at the old station because he has not rented a house or has not been allotted Government accommodation at the new station, will be eligible for house rent allowance for a period of six months from the date of his assumption of charge at the new station or till he rents a house or is allotted Government accommodation at the new station, whichever is earliest. The house rent allowance in such cases shall be regulated as follows without prejudice to the entitlement to H.R.A. with reference to the place of duty in terms of para. 1:—

- (1) During the first two months of the date of assumption of charge at the new station.
- (2) For the next 4 months.

At the same rate at which it was drawn at the old station.

At the rate at which it was being drawn by him at the old station or the maximum amount that would have been admissible to him at the new station, had he taken a residence on rent there, whichever is less. The Administrative Ministries/Departments and the Comptroller and Auditor-General in respect of staff serving under them/him, may allow the Government servant, pending his taking on rent a residence or allotment of Government accommodation to him at the new station, to draw House Rent Allowance at the above rates till the end of the sixth month or till the end of current academic year of his child(ren), whichever is later, after satisfying themselves about the period of completion of academic year of the child(ren).

In either case the grant of House Rent Allowance under these provisions shall not be admissible beyond the date on which he rents a house or is allotted Government accommodation at the new station.

EXPLANATION. —The expression "rents a house" as used above shall not include accommodation as stipulated in para. 2 (b) (v).

NOTES 1 to 3.—Not Printed.

H.R.A. not admissible if staying in Inspection Quarters. —The issue regarding admissibility of H.R.A. during the stay in Inspection Quarters of their posting has been under consideration for some time past. It has now been decided in consultation with the Ministry of Finance that

57 (206) 15 R-4
No. 2(6)/91-E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, dated 17th Nov. 1994

OFFICE MEMORANDUM

Subject: Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region - Clarification on the admissibility of HRA.

The undersigned is directed to refer to this Department's O.M. No. 11016/1/E.II(B) dated 29.3.84, on the above cited subject and to say that some references have been received from Ministries/Departments seeking clarification about the admissibility of HRA under para 1(c) of the above mentioned O.M.

2. The point raised and the clarifications are given as under:-

POINT RAISED

Whether benefit of HRA would be admissible under Para 1(c) of the above mentioned O.M. to those civilian Central Govt. employees in the North-Eastern Region, who have not been posted from outside N.E. Region but have been transferred within North-Eastern Region and keep their families at the last duty station.

CLARIFICATION

The benefit of HRA under para 1(c) of this Min's. O.M. dated 29.3.84, 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 the 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 NE Region from outside the NE Region will not be entitled to this benefit.

(C. Balachandran)
Under Secretary to the Govt. of India.

All Ministries/Departments to the Govt. of India.
All Financial Advisers.

Copy to:

20/11/94

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

New Delhi, the 17-6-94

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

~~Assam~~ Aviation Works Division

G. P. W. D. Guwahati-15

Diary No. 792

Date 30/6/94

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

ir,

Please refer to your letter No.1(1)/AAWD/93/1423 dated 1.5.94 addressed to Shri S. Patnaik, D.E.II on the subject mentioned above. Parawise 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.

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- v) The damages or rate of licence 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,

(R.D. Sahay)

Deputy Director of Estates (Policy)

17 59 R-6
Assam Aviation Works Division

C.P.W.D. Guwahati-18

Diary No. 18

Date 2-2-94

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/94/1884 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. Sahay)

Deputy Director of Estates (POLICY)

action
flagged
2-7-94