

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 274/96.....

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet O.A-274/96..... Pg.....1.....to.....2.....
2. Judgment/Order dtd. 29/11/96..... Pg.....No..... Separate order Disposed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 274/96..... Pg.....1.....to.....17.....
5. E.P/M.P..... N.I.L..... Pg.....to.....
6. R.A/C.P..... N.I.L..... Pg.....to.....
7. W.S..... N.I.L..... Pg.....to.....
8. Rejoinder..... N.I.L..... Pg.....to.....
9. Reply..... Pg.....to.....
10. Any other Papers..... Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 276 & 26

..... K. C. Ghose Applicant(s)

-Versus-

Minor. of Dr. D. S. ... Respondent(s)

Mr. D. M. ... P. K. Roy ... Advocates for Applicant(s)

Mr. B. K. ... R. C. ... Advocates for Respondent(s)

Office Notes Date Courts' Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPO/HD No 3493/96
Dated 26.11.96

27/11/96
D. P. Register
27/11/96

29-11-96 Learned counsel Mr. P. K. Roy
for the applicant, moves this
application. The applicant,
Shri Kartick Ch. Ghosh, is a Diesel
Assistant Driver, N.F. Railway,
Badarpur. In this application he
has sought an order directing the
respondents to allot him Type II
Railway Quarter at Badarpur. He
has submitted several representa-
tions to that effect and the latest
representation, which is pending
before the competent authority of
the respondents, is the represen-
tation dated 30-10-96. On perusal
of the application and hearing the
counsel for the applicant I consi-
der that this application is not
to be admitted for scrutiny and
decision but it is to be disposed
of with directions to the respon-
dents.

Accordingly the application is
disposed of with the direction to
the respondents to issue final
order on allotment of admissible
quarters to the applicant on merit
and according to rules and after

contd/-

✓

Re: Respondent(s)

(a) Advocates for Abhijit Chatterjee

(a) Advocates for Respondent(s)

5.12.96copy of order
issued to the party

vide O.no- 3998 to 4002

dtd- 6.12.96

(a) Advocates for Abhijit Chatterjee

(a) Advocates for Respondent(s)

(a) Advocates for Abhijit Chatterjee

(a) Advocates for Respondent(s)

(a) Advocates for Abhijit Chatterjee

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI DIVISION

Verbal

Member

6/12/96

29-11-96 due consideration of his prayer made in his representations within 2 months from the date of receipt of copy of this order by the respondent No.4. The Assistant Mechanical Engineer, N.E. Railway, Badarpur.

Further the respondents are directed to keep in abeyance allotment of quarter No, L292(A) situated at Badarpur Type II to any other person pending disposal of the representations of the applicant as mentioned above.

Application is disposed of.

No order as to costs.

29/11
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH,

GUWAHATI.

O. A. No. 274 of 1996.

Shri Kartick Ch. Ghose.

.....Applicant.

-Versus-

Union of India & ors.

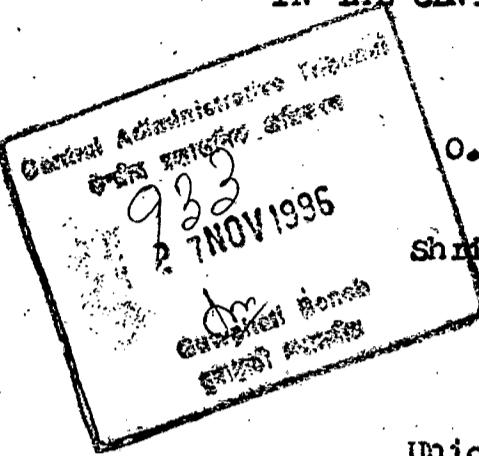
.....Respondents.

I N D E X.

<u>Sl. No.</u>	<u>Particulars.</u>	<u>Annexure.</u>	<u>Page.</u>
1.	Application.	-	1 - 8.
2.	Verification.	-	9
3.	Order Dated 17.6.95.	A	10.
4.	Representation dt. 20.9.95.	B	11.
5.	Order dt. 29.6.95.	C	12-13.
6.	Order 31.10.95.	D	14.
7.	Representation dt. 4.8.96.	E	15.
8.	Representation dt. 30.10.95.	F	16 - 17.

Filed by -

Advocate.



Filed by
Kartick Ch. Ghose
.....
Applicant
Thomas P. K. Roy
Advocate
27-11-96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

(An application u/s. 19 of the Administrative
Tribunal Act, 1985)

O.A. No. 276 of 1996.

1. Particulars of the Applicant.

Shri Kartick Ch. Ghosh,
Diesel Assistant Driver,
Traffic Colony,
P.O. - Badarpur,
District - Karimganj.

2. Particulars of the Respondents.

1. Union of India,
represented by the Secretary,
Railway Board, Rail Bhawan,
New Delhi - 110001.
2. The General Manager,
N. F. Railway, Maligaon,
Guwahati - 781011.
3. The Divisional Railway Manager,
N. F. Rly, Lumding.
4. The Assistant Mechanical Engineer,
N. F. Rly, Badarpur,
P.O. - Badarpur,
District - Karimganj, Assam.

Filed by
Kartick Ch. Ghosh
- Appellant
Anupam P. K. Roy
Advocate
27-11-96

5. The Chairman,

Housing Committee, N. E. Rly.

Lumding.

3. Details of the Application.

1. Non-allotment of Type-II Rly. Quarter.

2. Non-consideration of applicant's representation dated 20.9.95 and subsequent other representation.

4. Jurisdiction of the Tribunal.

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

5. Limitation.

The applicant declares that the application is within the period of limitation.

6. Facts of the case.

6.1. That the applicant was initially appointed in the North East Frontier Rly., as a Khalashi on 21.12.82 under the Loco Foreman, Badarpur.

6.2. That after his joining as Khalashi he was allotted with a Type-I (better type) Rly. Quarter (No. 613-A), but after sometime i.e. on 17.8.83, the Respondent had cancelled the said allotment on the ground that he is not entitled to the type of Quarter and allotted a different Type-I Quarter (No. L-9-C) which the applicant occupied accordingly.

6.3.....

6.3. That during 1987, the applicant was promoted as 2nd Fireman Steam Engine and on his promotion he became entitled to Type -II quarter and as such, he applied for allotment of a Type-II quarter, which is commensurable with his grade.

6.4. That since the applicant's turn in the 'list waiting for allotment of quarter' did not come then, he was not allotted with the quarter immediately but during June, 1995 a Type -II quarter (No. 242) fell vacant and the said quarter was allotted to the applicant on 17.6.95.

A copy of the order dated 17.6.95 is annexed as Annexure - 'A' to this application.

6.5. That the applicant states that he initially found the quarter to be distantly located which would put him in much inconvenience in getting medical treatment of his old and ailing mother and later he also found that the quarter was also inhabitable because of erection of some unauthorised pacca structure by some anti-social elements within the compound of the quarter. The applicant therefore after initially praying for allotment of a quarter near Railway Hospital on 23.6.95, filed a formal application on 20.9.95 praying for allotment of a suitable quarter pointing out

that.....

work
to
Knick
8

that the quarter No. L/242 allotted to him is not habitable because of the unauthorised structure.

Copy of the representation dated 20.9.95 is annexed Annexure - 'B' to this application.

6.6. That the applicant states that after the applicant had refused to occupy the Type-II quarter No. L/242 as aforesaid, it was allotted to Alok Sarkar, a driver vide order dated 29.6.95 and on his refusal it was again allotted to Shri Subodh Ch. Das, D.A.D. who also refused to occupy the same because of the same ground of unauthorised structure. The Asstt. Mechanical Engineer, N.F.Rly, Badarpur, thereafter allotted a different Type -II quarter No. 589-B) to Shri Subodh Ch. Das, D.A.D. vide his order dated 31.10.95 being satisfied that the quarter is not habitable because of the unauthorised structure.

Copies of the order dated 29.6.95 and 31.10.95 are annexed hereto as Annexure -- 'C' and 'D' to the application.

6.7. That the applicant states that the Assistant Mechanical Engineer, Badarpur, the Respondent No. 4 thereafter removed the name of the applicant from his position in the priority list in a most discriminatory manner adopting different standard for different persons inasmuch as on similar refusal to occupy the quarter on the

ground.....

ground of construction of unauthorised structure, the name of Shri Subodh Ch. Das was not removed and although his name was below the name of the applicant in the priority list was allotted a different and better Type-II quarter No. 589-B.

6.8. That the applicant thereafter approached the Respondent No. 4 a number of times for allotment of a suitable quarter and although the Respondent No. 4 initially gave some assurance, did not consider his case and therefore the applicant made another representation on 4.8.96 for consideration of his case, but that did not yeild any result.

A copy of the said representation dated 4.8.96 is annexed as Annexure - 'E' to this application.

6.9. That the applicant states that recently during October, 1996 a Type-II quarter (No. L-292A) fell vacant, ^{II} on retirement of Shri M. S. Jaisware, Ex-Driver and the applicant immediately on 30.10.96 filed a representation before the Chairman, Housing Committee to direct the Asstt. Mechanical Engineer, Badarpur to allot the said quarter to the applicant. Copies of the said representation were also forwarded to all concerned. But the Respondents remained silent and did not allot the same to the applicant. The said quarter is still vacant and is not allotted to

anybody.....

anybody but the applicant has learnt that the Respondent No. 4 is taking steps to allot the same to some other person depriving the applicant again.

Copy of the said representation dated 30.10.96 is annexed as Annexure - 'F' to the application.

6.10. That the applicant states that the Respondents could not have acted so unfairly and treated his case in a discriminatory manner by treating his ~~refusal~~ refusal to occupy the quarter as a 'refusal of an allotment', though similar refusal by Shri Subodh Ch. Das, and others were not treated as refusal of an allotment and given him a better and suitable alternative allotment.

6.11. That the applicant states that the Respondents are taking steps to allot the said quarter (No. L. 292A) to some other employee who are below him in the waiting list depriving him of his due allotment and therefore unless the Respondents are restrained by this Hon'ble Tribunal in making such allotment to others, the applicant would suffer irreparable loss and injury inasmuch as there is no likelihood of getting any suitable quarter ~~as~~ vacant in near future.

7. Grounds.

1. That the applicant submits that non-consideration of his case for allotment of a better and habitable quarter

while.....

Kasturba Gandhi

- 7 -

while considering the case of others in arbitrary, unreasonable, discriminatory and is violative of the provision of Article 14 and 21 of the Constitution of India.

7.2. That the applicant submits that he has a right for getting allotment of a habitable quarter commensurable with his grade and the Respondents are denying him of that right and as such he is entitled for a direction from the Hon'ble Court for getting the said allotment, which is the basic need of an employee.

8. Details of the remedy exhausted.

There is no remedy available to the applicant under the statutory rules. However he filed representation before the Respondent No. 4 and 2 but he received no response from any of them.

9. Matter not previously filed or pending with any other Court.

The applicant declares that he has not previously filed any application in the instant subject matter.

10.....

1944-1945
1945-1946

10. Reliefs sought.

In view of the facts and circumstances stated above, the applicant prays that the Hon'ble Tribunal may be pleased to -

1. Direct the Respondents to allot quarter No. L-292(A) Type II to the applicant, which is vacant or any other type II quarter
MR. 166

A N D

In the interim direct the Respondents to keep the said Type II Quarter No. L-292(A) vacant till disposal of the O.A.

II. Particulars of the application fee.

I.P.O. No - 69/349379

Payable at - G.P.O. Gwadar

Date - 26.11.96

Amount - 50.00

Verification.....

VERIFICATION.

I, Shri Kartick Ch. Ghosh, son of late Nirapada Ghosh, aged about 30 years, do hereby verify that the statements made in paragraphs 61, 62, 63, 67, 69, 610, 611 are true to my knowledge, and those made in paragraphs 64, 65, 66 6-8 are true to my information derived from the record which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal and I sign this Verification on the 12th day of November, 1996 at Badarpur.

Date - 12.11.96

Place - Badarpur.

Kartick Ch. Ghosh.

Signature of the Applicant.

Annexure - A.

Copy of Form
Xerox

N. F. Railway.

OFFICE ORDER.

On vacation of Rly. Qrs. No. L/265'B' type II (Elect) at BPS by sir, Indra Lal Nx. 'Dr' G/BPB is allotted to Sri Naren Dutta DAD/BPB (from Better type list).

On vacation of Rly. Qrs. No. 575'C' type II (Elect) at BPP by Sri Nani Gopal Das II Ex. Dr. 'G'/BPP. was allotted to Sri Abdul Quddus Dr. 'G'/BPP vide this office order No. M/BPIG-4/Allot/95 dt. 19.01.95 (From without list).

On vacation of Rly. Qrs. No. C/242'A' type II (Elect) atx BPP by Sri Nani Gopal Dey Ex. Dr/BPB is allotted to Sri Kartik Ch. Ghose DAD/BPB (From better type list).

On vacation of Rly. Qrs. No. 120'B' type II (Elect) at BPP by Sri Sashi Mohan Malakar Ex. Dr. 'G'/BPP is allotted to Sri Rabindra B Marak DD'E'/BPP. (From without list).

No. M/BP/G-4/Allot/95.
Dt. 17.06.95.

(S. P. Ambasta).
Asstt. Mech. Engineer,
N. F. Railway.

Copy to -

1. Party concerned.
2. LF/EF/GLOW/BPB. for information & necessary action please.
3. DRM(P)/LMG for information please.
4. Br. SECT. NFRMU/EU/BPB for information Please.

Sd/- Illegible.

17.6.95.

(S. P. Ambasta),
Asstt. Mech. Engineer,
N. F. Railway.

Attested
P. K. Roy
Adarsh
27/11/95

*Copy of
Letter
to
B.P.B.*

Annexure - 'B'.

AME/BPB.

N. F. Rly.

Thro - LF/BPB.

Sub:- Allotment of Qrs.

Ref:- Your allotment order No. M/BP/G-4/Allot/95
Dt. 17.6.95.

Sir,

I have the hon our to inform you that Qr. No. L/242A type II was allotted in my favour vide your order under reference and I preferred an appeal, for consideration, dt. 23.6.95 to allot me a Qr. nearest to Railway Hospital on grounds of my mother's illness. But neither such consideration is made yet nor my name is shown in the bottom of seniority list published from your end vide No. M/BP/Qrs. (Priority/95 dtd. 15.9.95).

Moreover as per decision of Housing Committee I was to regain my priority from the bottom to the former position vide No. 2/314/0 Pt. XI dt. 10.5.89 para 6.8 and your notification No. M/BP/G-4(Policy)/94 dt. 11.7.94.

Further it is observed that an unauthorised pucca structure has constructed attached to the above Qr. and a family is residing there for which the said Qr. is being refused by one after another allottee to avoid chaos.

Under the above circumstances kindly assign my priority position as early as possible and requested to let me know the position and thus oblige.

Yours faithfully,

Sd/- Kartick Ch. Ghosh.

DAD/BPB.

Dt. 20.9.95.

*Alotd
P.K. Roy
Advocet
27/11/96*

Annexure - C.

OFFICE ORDER

- 1) On vacation of Rly. Qrs. No. L/24 'B' type -III (Elect) at BPB. by Smt. Sandya Rani Dutta, W/O. Late R. C. Dutta, Ex. Rly. 'Dr' /BPB is allotted to Sri Sankar Ch. Dey, Driver/BPB.
- 2) On vacation of RLY Qrs. No. L/242 'A' type II (Elect) at BPB. which was allotted to Sri Alok Kumar Sarkar 'Dr' /BPB, vide this office letter even No. Dt. 24.07.95. On refusal this Qrs. is allotted to Sri Subodh Ch. Das, DAD/BPB. as per priority of running without Qrs. list on vacation of Sri N. G. Dey Ex. 'Qr' /BPB.
- 3) On vacation of Rly. Qrs. No. 589 'A' type-II (Elect.) at BPB. by Sri P. B. Dey Driver /BPB is allotted to Sri Jitendra Deb Batman DAB/BPB as per priority of running without Qrs. List.
- 4) On vacation of Rly. Qrs. No. T/116 'D' type -II (Elect) at BPB by Sri R. C. Dutta, Choudhury Ex 'Dr' /BPB is allotted to Sri Sudhir Ch. Nath F/Men/BPB as per running without Qrs. list.
- 5) On vacation of Rly. Qrs. No. 578 'B' type II (Elect) at BPB by Sri N. C. Das Ex. EMC under/LF/BPB is allotted to Sri Parimal Kanti Dey, Jr. Clerk under LF/BPB. as per without Qrs. list.
- 6) On vacation of Rly. Qrs. No. 588 'K' type I (Elect) at BPB. by Sri G. L. Das Driver /BPB is allotted to Sri Damodar Rabha F/Mar BPB.

.....

Attest
P.K. Roy
Advocate
27/11/95

Annex. C.

- 7) On vacation of RLY. Qrs. No. 588 'J' type I (Elect) at BPB, by Sri Subash Ch. Das DAD/BPB is allotted to Sri Chakromony Macherary F/Men/BPB.
- 8) On vacation of RLY Qrs. No. L164 'B' type I (Elect.) at BPB by Sri N. M. Mazumder, 'Dr' /BPB is allotted to Sri Kani Rn. M Narzary, F/Men/BPB.
- 9) On vacation of RLY. Qrs. No. 567 'L' Type I (Elect.) at BPB, by Smt. Rina Rani Das W/O. Late Ranadhir Das Ex. 'Dr' /BPB is allotted to Sri Swapnil Kr. Das II F/Men/BPB.

Sd/- Illegible.

29/9/95.

(P.K. Mazumder),
Asstt. Mech. Engineer,
N. E. Railway.
BADARPUR.

No. M/EP/Qrs. (Allot) 95 Pt. II. dt. 29.09.95.

Copy to :

- 1) DRM(P) /LMG for information Please.
- 2) Staff concerned thru :- LF/BPB they are instructed to submit the vacation & occupation report within 7(seven) days after receiving this office order.
- 3) LF/EF/CIOW/BPB for information and necessary action Pl.
- 4) Vt. Sec. NFRMU/EU/BPB for information Pl.

Sd/- Illegible.

29/9/95.

(P.K. Mazumdar,)
Asstt. Mech. Engineer,
N. E. Railway.
BADARPUR.

P.K. Roy
Advocate
27/10/95

Annexure - D.

OFFICE ORDER.

Office of the AME/BPB.

N. F. Railway.

On vacation of RLY. No. 589 'B' type II (Elect) at BPP. by Sri D.K. Sen Ex. Driver (P)/BPP. is allotted to Sri Subodh Ch. Das, DAD/BPP. Sri Das cannot occupy Rly. Qrs. L/242A type II allotted to him vide even No. dt. 29.9.95 due to unauthorised structure.

No. M/BP/Qrs. (Allot)/95 Pt.II.

Sd/- Illegible.

31.10.95.

Asstt. Mech. Engineer.
N. F. Railway.

Copy to :

- 1) DRM(P)/LMG for information please.
- 2) Staff. concerned, Through LF/BPB they are instructed to submit the vacation & occupation report within 7 (seven) days on receiving this office order.
- 3) LF/EF/CIOW/BPB for information & necessary action please.
- 4) Br. Sec. NFRMU/EU/BPB for information Pl.

Sd/- Illegible.

31.10.95.

(P.K. Mazumdar),
Asstt. Mech. Engineer,
N. F. Railway/BPB.

*AKW/d
P.K. Roy
Adarsh
27/10/95*

Kartick Ghosh
19

Annexure - E.

To

AMR/BPB

N. F. Riy.

Through Thro : LF/BPB.

Sir,

Sub:- Priority for allotment of Qrs.

I beg to inform you that I was offered allotment of a Riy. Qr. vide No. M/BP/G-4/Allot/95 dt. 20.6.95 which I could not accept due to an unauthorised structure adjacent to that Qr. and my mother's illness. As such my priority lost for one year as per rule.

Now the above one year has already elapsed on 23.6.96. So, you are requested to recast my priority and intimate me the actual position of my seniority after recasting and thus oblige.

Yours faithfully,

Sd/- Kartick Ghosh.
DAD/BPB.

Dt. 4.8.96.

A. H. A.

P. K. Roy

Advocate
27/11/96

Copy
sent to
Chairman

Annexure - 'F'.

To

Chairman,
Housing Committee,
Lumding, N.E. Railway.

(Sr. DEN/LMG).

Thro : LF/BPB.

Sir,

Reg: Allotment of Qrs.

Ref.: My representation dt. 24.9.96.

With extreme regret, I like to let you know that my representation dt. 24.9.96 was not replied at all, not to speak of requisite redress, and this way I am placed at the point of extreme hardship of housing.

Now, my simple request is to have a Type II Qrs. vacated first for the purpose of which AME/BPB. may please be instructed under intimation to Sr. DME(Power) LMG, so that the deserving applicant on the top of priority for allotment of Qrs. my just and lawful claim is fulfilled.

That, in the respective matter, I am much frustrated, as I received no reply from any and, while to have the real justice initiating legal proceedings may be required, for which I shall not be responsible, but the responsibility will go towards allotting authority initially and so on.

I believe.....

Attest,
P.K. Roy
Advocate
27/11/96

Kartick Ch. Ghosh

Annex. F.

I believe, to end my hardship on just and lawful demand, you will arrange early allotment to avoid unnecessary litigation.

Expecting an early reply within a fortnight, I conclude with best regards.

Yours faithfully,

Sd/- Kartick Ch. Ghosh.
30.10.96
(K. C. GHOSH),
DAD/BPB.

Dt. 30.10.96.

Copy to :-

- 1) Divisional Railway Manager,
N. F. Railway/Lumding, in reference to my representation
dt. 24.9.96.
- 2) Sr. DME(Power)/LMG with a copy of representation
dt. 24.9.96 and 15.8.96 for his kind information
and necessary action.
- 3) AME/BPB.
- 4) LF/BPB in reference to my earlier representation
dt. 15.8.96 and 24.9.96.

Copy by Registered post in advance to :-

- 1) Divisional Railway Manager,
N. F. Railway/Lumding.
P.O. - Lumding, Dt. Nowgong (Assam).
- ii) Chairman,
Housing Committee,
Lumding, N. F. Railway,
(Sr. DEN/LMG.)
P.O. - Lumding Dt. Nowgong, Assam.

AA4500

P.K.Gop
Advocate
27/11/96