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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Kalish

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 353/2000

... .. *Surey. Ahmed aad. on.* APPLICANTS
versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S) *Mr. A. Ahmed*
ADVOCATE

FOR THE RESPONDENT(S) *C. G. S. C.*

Notes of the Registry

DATE

COURT'S ORDER

25.10.00

Present: Hon'ble Mr. Justice D.M.
Choudhury, Vice-Chairman.

Heard Mr. A. Ahmed learned counsel for
the applicant and Mr. A. Deb Roy, Sr. C.G.S.C.
for the respondents. A

Application is admitted. Call for
records. Issue notice on the respondents.
Returnable by 4 weeks. List on 24.11.00
for orders. Endeavour will be made to
dispose of the application at the Admi-
ssion stage.

[Signature]
Vice-Chairman

Read / not d C.F.
for R.A. 5/1/2000
vide I.P.O. No 503749
Dated 23.10.2000

[Signature] 24/10/2000
By Registrar.

[Signature] 24/10/2000

lm

[Signature]

Notice prepared and sent
to D/S for issuing the respondents
No. 1 to 3 vide D/N
2549, 51 dtd 9/11/2000

[Signature]
6/11/2000

① Service report are
still awaited.

[Signature]
23/11/2000

① Notice served by hand
on R. No. 2. other respod.
are awaited.

[Signature]
4.1.2001

nkm

[Signature]
24/11/2000

List for hearing on 27.11.00 on
the prayer of Mr. A. Ahmed, learned
counsel for the applicants. Endeavour
will be made to dispose of the matter on
that day.

[Signature]
Vice-Chairman

27.11.2000

It is stated by Mr A. Ahmed, learned counsel for the applicants that this case is squarely covered by the earlier decisions rendered by this Tribunal, namely, in O.A.No.266 of 1996. ~~The Respondents did not file its W.S. as ordered.~~ and other similar matters. Mr A. Deb Roy, learned Sr. C.G.S.C., however, submits that he wants to obtain some instructions from the respondents in this matter. Accordingly he prays for three weeks time. Prayer allowed. Let the case be listed on 18.12.2000. Endeavour will be made to dispose of the matter on that day itself. ~~In the mean- time the Respondents may, Submit the Written Statement.~~

Vice-Chairman

nkm

27.11.

5.1.01

Written statement is yet to be filed. Mr A. Deb Roy, learned Sr.C.G.S.C has stated that written statement is in the process of filing and seeks more time.

List on 2.2.01 for hearing. In the meantime the respondents may file written statement, if they so advised.

Vice-Chairman

No. written statement has been filed.

pg

22. Current pending at Shillay. Adjourned to 7.3.2001.

22

30.3.2001

Copy of The Judgment 7.3.01 has been sent to the office for issuing the due to the applicant as well as to the Sr. C.G.S.C. for the Respondents.

Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court. The application is allowed to the extent indicated in the order. No. costs.

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH.

O.A./XXX. No. 353/2000 of

7.3.2001
DATE OF DECISION

Shri Suraj Ahmed

PETITIONER(S)

Mr. A. Ahmed

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India

RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 353 of 2000.

Date of order : This the 7th day of March, 2001.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Shri Suraj Ahmed
P. No. 6827445 C/Cook
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO. & 7 Ors.

..Applicants

By Advocate Mr. A. Ahmed.

-versus-

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of
Defence, New Delhi.
2. The Commanding Officer,
165 Military Hospital,
C/o 99 A.P.O.
3. The Area Accounts Officer,
Ministry of Defence,
Bivar Road, Shillong,
Meghalaya

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)

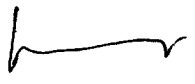
CHOWDHURY J.(V.C.).

This is an application seeking direction for implementation of the scheme of House Rent Allowance as per the Office Memorandum No. 11013/2/86-EII (B) dated 23.9.1986 and also for non implementtion of the like judgement rendered by the Tribunal in O.A. Nos. 226 of 1996 and 212 of 1999.

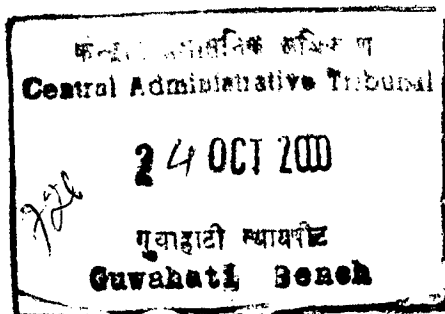
2. The applicants are of Central Government employee belonging to Group D and they are serving under the Ministry of Defence. It has been stated in the Bar that the case is sqarely covered by the number of judgements rendered by this Tribunal in the line of the judgement rendered by the Apex Court.

2. Considering all the aspects of the matter I am of the view that the applicants are entitled House Rent Allowance at the rate applicable to the Central Government employees of 'B' class cities and towns for the period from 1.10.86 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991 onwards and continue to pay the same till the said Notification is force. Accordingly the respondents are directed to pay the applicants House Rent Allowance as above and this must be done as early as possible preferably within a period of three months from the date of receipt of a certified copy of this order.

3. The application is accordingly allowed to the extent indicated above. There shall, however be no order as to costs.


(D.N. CHOWDHURY)
Vice-Chairman

trd



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 353 OF 2000.

Shri Suraj Ahmed & Ors.

..Applicants.

-Versus-

Union of India & Others

.. Respondents.

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Filed by
Advocate. (ADV. AHMED)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 353 OF 2000.

BETWEEN

- 1] Shri Suraj Ahmed
P. No. 6827445 C/Cook.
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.
- 2] Sri Nikhil Dutta,
P. No. 487753 W/man
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.
- 3] Sri Deenanath Prasad,
P. No. 487739 W/man
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.
- 4] Sri Asserfi Lal,
P. No. 487754 W/man
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.

Filed by
Shri Suraj Ahmed applicant-
No. 1
through [Signature]
(ABIL AHMED)
Petitioner &

Smed

51 Smt. Indrawati Kumari,
P. No. 487737 W/S
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.

61 Sri Khakhu Mazumdar,
P. No. 487738 W/S
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.

71 Sri Diliram Tarang, Safaiwala
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.

81 Sri Nar Bahadur Khadka, Cook,
Office of the Commanding Officer,
165 Military Hospital,
C/o 99 APO.

..Applicants

-AND-

11 Union of India, represented
by the Secretary to the Govt.
of India, Ministry of Defence,
New Delhi.

21 The Commanding Officer,
165 Military Hospital,
C/o 99 A.P.O.

31 The Area Accounts Officer,
Ministry of Defence,

Smed

Bivar Road, Shillong,
Meghalaya.

.. Respondents.

1. DETAILS OF THE APPLICATION:

- I] The application is made for non-implementation of Scheme of House Rent Allowance as per Office Memo No. 11013/2/86-EII(B)Government of India, Ministry of Finance (Department of Expenditure), New Delhi dated 23rd September 1986 and also non-implementation of similar judgment & order passed in O.A. No. 226 of 1996 and O.A. No. 212 of 1999 passed by this Hon'ble Tribunal for payment of House Rent Allowance to the similarly situated persons..

2. JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

LIMITATION:

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

Signed

The facts of the case in brief are given below:

4.1 That your humble applicants are all Indian Citizens as such they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Central Government employees belong to Group D and they are serving under the Ministry of Defence as Defence Civilian Employees.

Now they are serving under the Office of the Commanding Officer, 165 Military Hospital, C/o 99 A.P.O. at Nagaland.

4.2 That all the applicants have got common grievances, common course of action and nature of their relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this instant application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant application redressal of their common grievances.

4.3 That your applicants beg to state that the Government India, Ministry of Finance (Department of Expenditure) vide their Office Memorandum No. 11013/2/86-E. II (B), New Delhi

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dated 23rd September 1986 granted House Rent Allowance to the Central Government Civilian Employees.

Annexure-A is the photocopy of Office Memorandum No. 11013/2/86-E. II (B), New Delhi dated 23rd September 1986.

4.4 That your applicants beg to state that your applicants are also entitled to the benefit of House Rent Allowance. It is pertinent to mention here that in spite of this office memorandum the Respondents have not implemented the above said House Rent Allowance to the similarly situated persons. Some of the similarly situated persons who are working along with the instant applicants approached this Hon'ble Tribunal by filing Original Application No. 18 of 1997 in the name of Sri Hari Krishan Mazumdar and 24 others and O.A. No. 212 of 1999 in the name of Sri Satya Ram Deka for payment of House Rent Allowance. The Hon'ble Tribunal vide its judgment dated 10th June 1997 also on 19-09-2000 allowed the prayer of the applicants and directed the Respondents to pay the House Rent Allowance.

Annexure-B is the Photocopy of Judgment and order 10th June 1997 passed in O.A. No. 18 of 1997 along with other similar cases.

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Annexure-C is the photocopy of judgment & Order dated 19-09-2000 passed in O.A. No. 212 of 1999 by this Hon'ble Tribunal.

4.5 That your applicants beg to state that the Respondents have already implemented the Judgement & Order dated 10th June 1997 of the Hon'ble Tribunal passed in O.A. No. 18 of 1997. The applicants of the said O.A. have already drawn the House Rent Allowance with arrears from 1986. Now they are regularly drawing the House Rent Allowance with their monthly salary.

4.6 That your applicants beg to state that they approached the Respondent No. 2 to give them the similar benefit of House Rent Allowance with similarly situated person who are working along with them. Accordingly, the Office of the Respondent No. 2 prepared the House Rent Allowance bill with arrears for the instant applicants. The said bill was sent to Respondent No. 3 for payment of House Rent Allowance. But most surprisingly the Respondent No. 3 rejected the said bill with a plea that the instant applicants are not party in O.A. No. 18 of 1997. As such, the applicants are compelled to approach this Hon'ble Tribunal for seeking justice. And also for a direction to the Respondents for payment of House Rent Allowance in terms of similarly situated persons who are enjoying this benefits.

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4.7 That your applicants beg to state that all the applicants are entitled to get the benefits of House Rent Allowance and they have also fulfilled all the terms and conditions of House rent allowance as admissible to the Central Government Civilian employees.

4.8 That your applicant begs to state that similarly situated Defence Civilian persons who are working in Nagaland have also filed O.A. No. 124, 125 of 1995 for payment of House Rent Allowance before this Tribunal. The Hon'ble Tribunal vide its order dated 24-08-1995 allowed the Original application by directing the Respondents to pay House Rent Allowance to Defence Civilian Employees posted at Nagaland. The above said order of the Tribunal was also affirmed by the Hon'ble Supreme Court of India vide Civil Appeal No. 1572 of 1997 passed on 17-02-1997.

4.9 That your applicants beg to state that finding no other alternative the applicants have compelled to approach this Hon'ble Tribunal for seeking justice.

4.10 That this petition is made bona fide and for the cause of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION

5.1 For that the applicants having fulfilled all the Criterion laid down by the Office Memorandums towards granting the House Rent Allowance, the Respondents can not deny

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the same to the applicants without any jurisdiction.

5.2 For that there is no justification in denying the said benefits to be granted to the applicants and the denial has resulted in violation of the Articles 14 and 16 of the Constitution of India.

5.3 For that the application has been denied the said benefits without any principle of being heard. There is a violation of the principle of natural justice in denial of the benefits to the applicants and accordingly proper reliefs and required to be granted to the applicants.

5.4 For that it is a settled proposition of law that when the same principle have been laid down in given cases, all other persons who are similarly situated should be granted the said benefits without requiring them to approach in the court of law.

5.5 For that the Hon'ble Apex Court of India has already affirmed the judgement & order of this Hon'ble Tribunal regarding payment of House Rent Allowance to the Defence Civilian persons who are working at Nagaland. As such, the Respondents cannot deny the same benefit to the applicants.

5.6 For that the action of the Respondents are illegal, arbitrary and not sustainable in law.

General

The applicants crave leaves of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this application and direct the Respondents to give the following reliefs to the applicants:

1] House Rent Allowance as per Office

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Memorandum No. 11013/2/86-E (II)(B) dated 23-09-1986 issued by the Joint Secretary, Govt. of India, Ministry of Finance (Department of expenditure) New Delhi.

2] House Rent Allowance in terms of Judgment and Order passed in O.A. No. 18 of 1997 and also in O.A. No. 212 of 1999 regarding payment of House Rent Allowance to the similarly situated persons.

8.3 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.4 Cost of the Case.

9. APPLICATION IS FILED THROUGH ADVOCATE

10. PARTICULARS OF I.P.O.

I.P.O. No.	: 26 503749
Date of issue	: 23.10.2000
Issue from	: GUWAHATI G.P.O.
Payable at	: GUWAHATI

11. LIST OF ENCLOSURES: As stated above.

C. med

VERIFICATION

I, Shri Suraj Ahmed, P. No. 6827445
C/Cook serving under the Office of the
Commanding Officer, 165 Military Hospital, C/o
99 APO. applicant No. 1 of the this applica-
tion and I am authorised to sign this
verification on behalf of other applicants and
verify the statements made in the accompanying
application and in paragraphs 4.1, 4.2, 4.5 to
4.8 are true to my knowledge,
those made in paragraphs 4.3, 4.4 are
true to my information being matters of record
and which I believe to be true and those made
in paragraph 5 are true to my legal advice and
I have not suppressed any material facts.

And I sign this verification on this
the 24th day of October 2000 at Guwahati.

Suraj Ahmed
Declarant

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No. 11013/2/86-E.II (B)
Government of India
Ministry of Finance
(Department of Expenditure)

New Delhi, the 23rd September, 1986

OFFICE MEMORANDUM

Subject: Recommendations of the Fourth Pay Commission
- Decisions of Government relating to grant
of Compensatory (City) and House Rent
Allowances to Central Govt. Employees.

The undersigned is directed to say that
consequent upon the decisions taken by the Govern-
ment on the recommendations of the Fourth Pay
Commission relating to the above mentioned allowances.
vide this Ministry's Resolution No. 14(1)/IC/86
dated 13th September, 1986, the President is pleased
to decide that in modification of this Ministry's
O.M. No. F.2(37)-E.II(B)/64 dated 27.11.1965 as
amended from time to time, Compensatory (City)
and House Rent Allowances to Central Government

Attested
[Signature]
Secretary

.....2

Employees shall be admissible at the following rates:

(1) COMPENSATORY (CITY) ALLOWANCE:

Pay Range (Basic pay)	Amount of CCA in class of cities (Rs. p.m.)		
	A	B-1	B-2
Below Rs. 950/-	30	25	20
Rs. 950 and above but below Rs. 1500/-	45	35	20
Rs. 1500 and above but below Rs. 2000/-	75	50	20
Rs. 2000/- and above	100	75	20

Note:- For 14 special localities, where CCA at the rate applicable to B-2 class city are being paid, fresh orders will be issued separately.

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(ii) HOUSE RENT ALLOWANCE:

Type of accommo- dation to which entitled	Pay range in revised scales of pay for entitlement.	Amount of HRA payable (In Rs. p.m.)		
		A, B-1, B-2 Class cities	C Class cities	Un- class fied places
A	750-949	150	70	30
B	950-1499	250	120	50
C	1500-2799	450	220	100
D	2800-3599	600	300	150

2. H.R.A. at above rates shall be paid to all employees (other than those provided with Government owned/hired accommodation) without requiring them to produce rent receipts. These employees shall, however, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. H.R.A. at above rates shall also be paid to Govt. employees living in their own houses subject to their furnishing certificate that they are paying/contributing towards house or property tax or maintenance of the house.

.....4

Attended
28/11/2011

84

3. Where H.R.A. at 15 per cent of pay has been allowed their special orders, the same shall be given as admissible in A, B-1 and B-2 class cities. In other cases, covered by special order, HRA shall be admissible at the rate in C class cities. In both these cases there shall be no upper pay limit for payment of HRA.

4. The other conditions at present applicable for grant of HRA in cases of sharing of accommodation and other categories shall continue to be applicable.

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5. Pay for the purpose of these orders, will be 'Pay' as defined in P.R. 9(23)(a)(1). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include, in addition to pay in the pre-revised scales, dearness pay, dearness allowance, additional Dearness Allowance, Ad-hoc D.A. and Interim Relief appropriate to the pay, admissible under orders in existence on 31.12.1985.

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Handwritten signature/initials

.. 5 ..

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6. These orders shall be effective from 1.10.1986. For the period from 1.1.1986 to 30.9.1986, the above allowances will be drawn at the existing rates on the notional pay in the pre-revised scale.

7. These orders will apply to civilian employees of the Central Govt. belonging to Group 'B', 'C' and 'D' only. The orders will also apply to the Group 'B', 'C' & 'D' civilian employees paid from the Defence Services Estimates. In regard to Armed Forces Personnel and Railway employees, separate orders will be issued by the Ministry of Defence and Department of Railways respectively.

8. In so far as the persons serving in the Indian Audit & Accounts Deptt. are concerned this order issues after consultation with the Comptroller and Auditor General of India.

9. Hindi version of the order is attached.

SA/-
(B.P. Verma)

Joint Secretary to the Government of India.

Attested
[Signature]
Assistant

18-
~~ANNEXURE B~~
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266/96 and series

Date of decision: This the 10th day of June 1997
(AT KOHIMA)

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 othersApplicants
By Advocate Mr A. Ahmed

-versus-

Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

- ✓ 2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 othersApplicants
By Advocate Mr A. Ahmed

-versus-

Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

- ✓ 3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 othersApplicants
By Advocate Mr A. Ahmed

-versus-

Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

- ✓ 4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 othersApplicants
By Advocate Mr A. Ahmed

-versus-

Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 othersApplicants
By Advocate Mr A. Ahmed

-versus-

Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

A.H. 161
10/6/97
D.N. Baruah

(4)

6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 others
By Advocate Mr S. Sarma and Mr B. Mehta.

.....Applicants

-versus-

Union of India and others
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....Respondents

7. Original Application No.87 of 1996

Shri C.T. Balachandran and 32 others
By Advocate Mr S. Sarma and Mr B. Mehta

.....Applicants

-versus-

Union of India and others
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....Respondents

8. Original Application No.45 of 1997

Shri L. Shashidharan Nair and 9 others
By Advocate Mr S. Sarma and Mr B. Mehta

.....Applicants

-versus-

Union of India and others
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....Respondents

9. Original Application No.197 of 1996

Shri P.C. George and 66 others
By Advocate Mr S. Sarma

.....Applicants

-versus-

Union of India and others
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....Respondents

10. Original Application No.28 of 1996

Shri Hirallal Dey and 8 others
By Advocate Mr A.C. Sarma and Mr H. Talukdar

.....Applicants

-versus-

Union of India and others
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....Respondents

B

Attstl
J.S.
H. Talukdar

11. Original Application No.190 of 1996

1. National Federation of Information and Broadcasting Employees, Doordarshan Kendra, Nagaland Unit, represented by Unit Secretary - A. Beso.
2. Mr A. Beso, working as Senior Engineering Asstt. (Group C), D.D.K., Kohima.Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

12. Original Application No.191 of 1996

- Shri Kedolo Tep and 16 othersApplicants
- By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

13. Original Application No.55 of 1997

1. Shri Ranjan Kumar Deb, Secretary, All India R.M.S. & Mail Motor Service Employees Union and 32 others.
2. Shri Prasenjit Deb, S.A., Railway Mail Service, Dimapur Railway Station, Dimapur, Nagaland.Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and othersRespondents
By Advocate Mr G. Sarma, Addl. C.G.S.C.

14. Original Application No.192 of 1996

1. National Federation of Information and Broadcasting Employees, All India Radio, Nagaland Unit, represented by Unit Secretary - Mr K. Tep.
2. Mr Kekolo Tep, Transmission Executive, All India Radio, Kohima, Nagaland.Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

Attended
S. A. I. S. V.
S. A. I. S. V.
S. A. I. S. V.

15, Original Application No.26 of 1997

Shri Jagdamba Mall,
General Secretary, Civil Audit & Accounts
Association, and 308 other employees of
the Office of the Accountant General,
Kohima, Nagaland.

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

ORDER

Date of decision: 10-6-1997

Judgment delivered in open court at Kohima (circuit
sitting). All the applications are disposed of. No order as to
costs.

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

Attended
Sd/-
Advocate

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O R D E R

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the applications by this common order.

2. Facts for the purpose of disposal of the applications are:

The applicants are employees of the Government of India working in various departments including Defence Department. O.A.Nos.266/96, 268/96, 279/96, 19/97 and 14/97 are Defence Civilian employees under the Ministry of Defence, O.A.Nos.91/96, 87/96, 45/97, 197/96 and 28/96 are employees in the Subsidiary Intelligence Bureau Department under the Ministry of Home Affairs, in O.A.No.190/96 the members of the applicant Association are employees under Doordarshan, Ministry of Information and Broadcasting, and at present posted at Kohima, in O.A.No.191/96 the applicants are employees of the Department of Census, Ministry of Home Affairs, in O.A. No.55/97 the applicants are employees under Railway Mail Service under the Ministry of Communication, in O.A.No.192/96 the members of the applicant Union are employees of All India Radio, and in O.A.No.26/97 the applicant is an employee under the Comptroller and Auditor General.

3. All the applicants are now posted in various parts of the State of Nagaland. They are, except the applicant in O.A.No.55/97, are claiming House Rent Allowance (HRA for short) at the rate applicable to the employees of 'B' class cities of the country on the basis of the Office Memorandum No.11013/2/86-E.II(B) dated 23.9.1986 issued by the Joint Secretary to the Government of India, Ministry of Finance (Deptt. of Expenditure), New Delhi, on the ground that they have been posted in Nagaland.

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The President of India issued an order dated 8.1.1962 to the effect that the employees of P&T Department in the Naga Hills and Tuensang Area who were not provided with rent free quarters would draw HRA at the rate applicable to the employees of 'B' class cities of the country on the basis of O.M.No.2(22)-E.II(B)60 dated 2.8.1960. However, the authorities denied the same to the employees ignoring the circular of 1986. Situated thus, being aggrieved some of the employees approached this Tribunal and the Tribunal gave direction to the authorities to pay HRA to those applicants with effect from 18.5.1986. Being dissatisfied with the aforesaid order passed by this Tribunal in O.A.No.42(G) of 1989, S.K. Ghosh and others -vs- Union of India and others the respondents filed SLP and in due course the Supreme Court dismissed the said SLP (Civil Appeal No.2705 of 1991) affirming the order of this Tribunal passed in O.A.No.42(G) of 1989 with some modification. We quote the concluding portion of the judgment of the Apex Court passed in the above appeal:

"We see no infirmity in the judgment of the Tribunal under appeal. No error with the reasoning and the conclusion reached therein. We are, however, of the view that the Tribunal has not justified in granting arrears of House Rent Allowance to the respondents from May 18, 1986. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendation of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal, therefore, disposed of. No costs."

From the judgment of the Apex Court quoted above, it is now well established that the employees posted in Nagaland would be entitled to get HRA as indicated in the aforesaid judgment.

4. The said judgment relates to the employees of the Telecommunication and Postal Department. Later on, the civilian employees of the Defence Department as well as employees of the other departments of the Central Government who were not paid HRA, therefore, being aggrieved by the action of the respondents.....

Att. to
S. K. Ghosh
Minister

respondents in refusing to give the benefit of the HRA in terms of the judgment of the Apex Court quoted above, some employees approached this Tribunal by filing several original applications. All the applications were disposed of by this Tribunal by a common order dated 22.8.1995. In the said order this Tribunal allowed the original applications and directed the respondents to pay HRA to those applicants. The Tribunal, in the aforesaid order, among others observed as follows:

"1.(u) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same."

Thereafter the civilian employees of Defence Department also claimed HRA on the basis of the said judgment of the Apex Court and circular dated 23.9.1986 by moving various applications, namely, O.A.No.124/95 and O.A.No.125/95. This Tribunal by yet another common order dated 24.8.1995 passed in O.A.Nos.124/95 and 125/95 allowed the applications directing the respondents to pay HRA to the Defence civilian employees posted in Nagaland in the same manner as ordered on 22.8.1995 above. These orders were, however, challenged by the respondents before the Apex Court and the said appeals alongwith some other appeals were disposed of by the Apex Court in C.A.No.1592 of 1997 dealing with Special (Duty) Allowance and other allowances. However, the Apex Court did not make any reference to HRA in the order dated 17.2.1997. Therefore, it is now settled that the employees posted in Nagaland are entitled to HRA.

5. In view of the above and in the line of the Apex Court judgment and this Tribunal's order dated 22.8.1995 passed in O.A.Nos.48/91 and others we hold that all the applicants in the above original applications are entitled to HRA at the rate

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applicable to the Central Government employees of 'B' class of cities and towns for the period from 1.10.1986 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991 onwards and continue to pay the same till the said notification is in force.

6. Accordingly we direct the respondents to pay the applicants HRA as above and this must be done as early as possible, at any rate within a period of three months from the date of receipt of the order.

7. In O.A.Nos.91/96, 87/96, 190/96, 191/96, 45/97, 192/96, 197/96 and 55/97, the applicants have also claimed 10% compensation in lieu of rent free accommodation. The learned counsel for the applicants submit that this Tribunal in O.A.No.48/91 and others have already granted such compensation. Mr S. Ali learned Sr. C.G.S.C. and Mr G. Sarma, learned Addl. C.G.S.C., do not dispute the same.

8. We have gone through the order dated 22.8.1995 passed in O.A.No.48/91 and others. In the said order this Tribunal, among others, passed the following order:

"2.(a) Licence fee at the rate of 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided."

The aforesaid judgment covers the present cases also. Accordingly, we hold that the applicants are entitled to get the compensation in lieu of rent free accommodation in the manner indicated

In.....

Attested
[Signature]
Advocate

in the said order.

9. Accordingly we direct the respondents to pay to the applicants 10% compensation in lieu of rent free accommodation as above. This must be done as early as possible, at any rate, within a period of three months from the date of receipt of this order.

10. All the applications are accordingly disposed of. However, considering the entire facts and circumstances of the case we make no order as to costs.

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

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17/7/77

Deputy Registrar (OP)
Central Administrative Tribunal,
Chandigarh Bench

Attested
By *[Signature]*
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.212 of 1999

Date of decision: This the 19th day of September 2000

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

Army No.6825636 Shri Satya Ram Deka,
Chowkidar,
307 Station Workshop,
E.M.E., C/o 99 APO.

.....Applicant

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Defence Department, New Delhi.
2. The Commanding Officer,
165 Military Hospital,
C/o 99 A.P.O.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

D.N. CHOWDHURY. J. (VC)

Heard Mr A. Ahmed, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. It has been submitted by the learned counsel for the parties that this case is squarely covered by the earlier decision rendered by this Tribunal in similar applications in the light of the decision of the Hon'ble Supreme Court.

2. The applicant is a civilian employee belonging to Group 'D' and is serving in the Defence Department as Defence Civilian employee as Chowkidar at 307 Station Workshop, E.M.E., C/o 99 A.P.O. Earlier he served in Nagaland in the Office of 165 Military Hospital, C/o 99 APO, as Chowkidar, from 1979 till June 1993.

Attested
Sd/-
Advocate

3. In this application the applicant is claiming House Rent Allowance (HRA for short) at the rate applicable on the basis of the Office Memorandum No.11013/2/86-E-II(B) dated 23.9.1986 issued by the Joint Secretary, Government of India, Ministry of Finance (Department of Expenditure), New Delhi, due to his posting at Nagaland. This Tribunal by a common order dated 24.8.1995 passed in O.A.No.124/1995 and O.A.No.125/1995 allowed the applications directing the respondents to pay HRA to the Defence civilian employees posted in Nagaland in the same manner as in the order passed by this Tribunal on 22.8.1995 in similar O.A.s. In those applications, the Tribunal held that the employees were entitled to HRA at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991 onwards and continue to pay the same till the said notification is in force.

4. In view of the orders mentioned above, the respondents are directed to pay House Rent Allowance to the present applicant also as above, and the same should be done as expeditiously as possible at any rate within a period of three months from the date of receipt of this order.

5. The application is accordingly allowed to the extent indicated above. There shall, however, be no order as to costs.



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प्रतिनिधि

Section Officer (J)

अनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-7
गुवाहाटी न्यायपीठ, गुवाहाटी-७

Sd/VICE CHAIRMAN

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20/09/2000

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