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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 75/2000

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 75/2000

OF 199

Applicant(s)

Prabir Medhi and ors.

Respondent(s)

Union of India and ors.

Advocate for Applicant(s)

Mr. B. K. Sharma.

Mr. S. Sarma, Mr. B. K. Godwani.

Advocate for Respondent(s)

Mr. B. S. Basu, Mr. C. G. S. S.

Notes of the Registry	Date	Order of the Tribunal
<p>24.2.2000</p> <p>Application is admitted. Issue usual notices. Returnable by 24.3.00.</p> <p>The operation of the impugned orders vide Annexure-6 dated 7.10.99 and Annexure-8 dated 15.2.2000 are kept in abeyance until further orders. The respondents are at liberty to file an application for cancellation and/or modification of the interim order, if so advised.</p> <p>List on 24.3.00 for further order.</p> <p>2 - 3 - 2000</p> <p>Service of notices prepared and sent to D. Section for issuing to the same to D. Section for issuing to the respondents through Regd. post with A/D.</p> <p>mk NB 25/2/2000</p>	<p>24.2.2000</p> <p>24.3.00</p>	<p>Application is admitted. Issue usual notices. Returnable by 24.3.00.</p> <p>The operation of the impugned orders vide Annexure-6 dated 7.10.99 and Annexure-8 dated 15.2.2000 are kept in abeyance until further orders. The respondents are at liberty to file an application for cancellation and/or modification of the interim order, if so advised.</p> <p>List on 24.3.00 for further order.</p> <p>On the prayer of Mr. B. C. Das learned counsel for the respondents two weeks time is allowed for filing of written statement. List on 10.4.00 for filing of written statement and further orders.</p>

Member





Vice-Chairman

Member

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(2)

CA 75/2K

Notes of the Registry	Date	Order of the Tribunal
Notice issued to the respondents vide D.Nos. 665 to 668 Dtd 3-3-2000 By 3-3-2000 23-3-00 Service Reports are awaited. ① Notice duly served 23/3 on R. No-2. ③ No. Ws has been filed. By 7-4-2000 12-5-00 No Ws has been filed. By 19-7-00 No. Ws has been filed.	10.4.00 mk 27.4.00 nkm 15.5.00 nkm 12.6.00 nkm 27.6.00	<p>On the prayer of Mr.B.S.Basumatary, learned Addl.C.G.S.C., two weeks time is allowed for filing of written state- -ment.</p> <p>List on 27.4.00 for filing of written statement and further orders.</p> <p> Member</p> <p>Two weeks further time allowed for submission of written statement on the prayer of Mr B.C. Das, learned counsel for the respondents. List for written statement and further orders on 15.5.00.</p> <p> Member</p> <p>No written statement has been filed. Let the case be listed on 12.6.00 for written statement and further orders.</p> <p> Member(J)</p> <p>Present: Hon'ble Mr D.C. Verma, Judicial Member</p> <p>Mr B.C. Das, learned counsel for respond- ent Nos.2, 3 and 4 prays for time to file written statement. Two weeks time allowed for filing of written statement. Mr B.S. Basumatary, learned Addl. C.G.S.C. for respondent No.1 has filed a letter of absence. Written statement for respondent No.1 be also filed within the same period. List for orders on 27.6.00.</p> <p> Member(J)</p> <p>There is no Bench today. Adj. on 1-10-7-00 19/10 12</p>

Notes of the Registry

Date

Order of the Tribunal

14.7.00

Present :

At the request of Mr P.Bhowmick, learned counsel for the espondents the case is adjourned and posted on 2.8.2000 for filing written statement.

S. A.
Member(A)

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2-8-00

There is no bench. Adj'd
to 21-8-00.

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21-8-00

There is no bench. Adj'd
to 11-9-00.

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11-9-00

No bench. To be listed on
27-9-00.

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27.9.2000

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

Heard Mr S. Sarma, learned counsel for the applicant. Mr B.S. Basumatary, learned Addl. C.G.S.C. is present in Court representing the Union of India. Notice on respondent No.2 is duly served. Notices were also duly sent by registered post to respondent Nos.3 and 4. None of the respondent Nos.2, 3 and 4 has entered appearance nor filed any written statement. The case shall now proceed ex parte against the respondents. Let the case be listed for hearing on 18.12.00. ~~It would, however, be open for the respondents to file written statement.~~

Office to send a copy of this order to the respondents.

Vice-Chairman

26-9-2000

No written statement
has been filed.

By
26.9.2000

Copy of order dtd. 27/9/00
Communicated to Mr. P. Bhowmick
Adv. & Mrs. B.S. Basumatary
C.G.S.C. CAT. Gb Bench by
vide DMO _____
dtd _____

3-1-2000

Written Statement
has been filed by the
respondents No. 2 & 3.

By

W/S has been filed
by the R. No. 2-3.

By
9.1.2001

By
27/9/2000 nkm

Notes of the Registry	Date	Order of the Tribunal
<p>11-1-2000</p> <p>Reminder for the by the respondents.</p> <p>pg</p>	10.1.01	<p>On the prayer of the counsel for parties the case is adjourned to 31.1.2001.</p> <p>Vice-Chairman</p>
<p>The case is ready for hearing.</p> <p>29.1.2001</p>	<p>2/2/2001</p> <p>SRillay</p>	<p>Adj. to 21.3.2001</p> <p>Member</p>
	21.3.01	<p>On the prayer of Mr.B.C.Das learned counsel for the respondents case is adjourned to 11.4.01 for hearing.</p> <p>Member</p>
<p>15.5.2001</p> <p>Copy of the Judgment has been sent to the Office for filing the case to the applicant as well as to the L/Adv for the Respondents.</p> <p>nkm</p>	11.4.2001	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.</p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. No. . 75 of 2000

DATE OF DECISION 11/4/2001.....

Shri Prabin Medhi and 5 others

PETITIONER(S)

Mr B.K. Sharma, MR S. Sarma and

Mr. U.K. Goswami.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr K.N. Choudhury, Mr P. Bhowmick and

Mr. B.C. Das

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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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.75 of 2000

Date of decision: This the 11th day of April 2001

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

1. Shri Prabin Medhi,
SSG III (Chowkidar),
ICAR Research Complex for NEH Region,
Barapani.
2. Shri Kaushlendra Prasad,
K.P.O. (T-II-3),
ICAR Research Complex for NEH Region,
Barapani.
3. Shri Druna Sarma,
Fieldman (T-2),
ICAR Research Complex for NEH Region,
Barapani.
4. Shri Prabhat Ch Das,
Fieldman (T-II-3),
ICAR Research Complex for NEH Region,
Barapani.
5. Shri L.L. Srivastava,
Fieldman (T-II-3),
ICAR Research Complex for NEH Region,
Barapani.
6. Shri M.K. DAS,
Fieldman (T-II-3),
ICAR Research Complex for NEH Region,
Barapani.

.....Applicants

By Advocates Mr B.K. Sharma, Mr Sarma and
Mr U.K. Goswami.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Agriculture,
New Delhi.
2. The Director General,
Indian Council of Agricultural Research ICAR,
New Delhi.
3. The Director, ICAR,
ICAR Research Complex for NEH Region,
Barapani, Meghalaya.
4. The Finance and Accounts Officer,
ICAR, Research Complex for NEH Region,
Barapani, Meghalaya.

.....Respondents

By Advocates Mr K.N. Choudhury, Mr P. Bhowmick and
Mr B.C. Das.

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O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The six applicants are the members of the staff working under the respondents. The applicant No.1 is SSG III (Chowkidar) and the applicant Nos.2 to 6 are holding the post of T-2 and T-II-3 respectively. To cope up with the nature of the duties discharged by these employees they were allotted temporary sheds devoid of any basic amenities those were required to be provided. The concerned authority by order No.RC(P)14/87 dated 16/17.3.1988 informed all concerned about the approval of the Director for grant of House Rent Allowance (HRA for short) to those Chowkidars who are staying in barrack type houses of the Complex Headquarters at Shillong and not granted HRA earlier. By order dated 28.1.1995 a direction was issued for deduction of HRA admissible to them from their salaries from the month of August 1994 onwards. The aggrieved persons represented to the concerned authority. The concerned authority obtained approval of the Director for granting HRA to those persons who were staying in temporary sheds of the Complex Headquarters at Barapani with effect from the date specified. They were, however, ordered to pay electricity and water charges as fixed by the Estate Authority. By order dated 7.10.1999 steps were taken for deduction of the HRA from those persons from their salary. The full text of the order is reproduced below:

"The following officials/staffs were provided temporary accommodation with effect from the date mentioned against each and the HRA granted to them will be deducted from their salary.

Sl. Name & designation No.	Date of effect	Amount deducted
1. Shri Kaushlendra Prasad K.P.O. (T-II-3)	August 1994 to 27.6.99	Rs.25,742/-
2. Shri Prabin Medhi SSG III	August, 1994 to 26-7-99	Rs.20,392/-
3. Shri Druna Sarmah Fieldman (T-2)	August, 1994 to 18-8-98	Rs.17,327/-
4. Shri Prabhat Ch. Das Fieldman (T-II-3)	August, 1994 to 31-8-99	Rs.27,315/-
5. Shri L.L. Srivastava Fieldman (T-II-3)	6-7-94 to 21-8-99	Rs.26,848/-
6. Shri N.K. Das Fieldman (T-II-3)	6-7-94 to 21-8-99	Rs.27,283/-

This issues with the concurrence of F.A.O. and approval of Director."

Being aggrieved by the above order, the applicants submitted representation before the authority. The Administrative Officer by communication dated 15.2.2000 issued an order reaffirming the earlier order dated 7.10.1999. Failing to get appropriate remedy from the department, the applicants moved this Tribunal by way of the present O.A. assailing the legitimacy of the orders dated 7.10.1999 and 15.2.2000, Annexure 6 and Annexure 8 respectively, as arbitrary, discriminatory and unfair.

2. The respondents filed their written statement denying and disputing the claim of the applicants. In the written statement the respondents have stated that before shifting of the ICAR establishment from Shillong to its permanent place at Barapani, the authority arranged office accommodation by constructing big sheds having all civic amenities like toilet, bathroom, drinking water facilities etc. By the end of 1993 and beginning of 1994 the office started shifting from the sheds to its permanent building. The respondents, however, in their written statement, though denied that due to necessity of works and exigencies of administration the concerned staff were allotted barrack type of quarters in the year 1994, but the applicants finding that all facilities were available in the vacated sheds requested the authority to occupy the sheds and accordingly the Director of the Complex considered their request and permitted them to occupy the vacant sheds. It further stated that in the year 1998 some Chowkidars were entrusted with the watch and ward duty by the earlier authority of the Complex for day and night duty and upon seeing the plight of the Chowkidars the authority considered their HRA as they were provided with small room which was insufficient even for a single person. The respondent authority, however, stated that the Office Order dated 16/17.3.1988 was meant only for the Chowkidars and in particular the applicant No.1, which too was wrong as per the rules and for that purpose referred to communication dated 16.9.1980.

3. I have heard Mr S. Sarma, learned counsel for the applicants and also Mr B.C. Das, learned counsel for the respondents. Mr Das, seriously opposing the application, referred to the statements made in the written statement and the connected documents thereto. On going through the materials on record it thus emerges that the applicants were provided with wooden sheds purely as a temporary measure devoid of the basic facilities like toilets, kitchens etc. These sheds were allotted to them in view of the nature of the work that had to be rendered by these applicants. The view taken by me finds support from the report submitted by the Committee constituted vide office order No.RC(P)60/85 dated 3.11.1999 to examine the case in connection with deduction of HRA of the staff who were staying in the temporary sheds for some periods. The said report was annexed as Annexure RJ-3 in the rejoinder to the written statement submitted by the applicant. As per the report the committee met on 15.11.1999 and on scrutiny of the records relating to granting of HRA to the staff, the committee found that some of the staff were allotted temporary sheds in view of the exigency of the work during outside office hours as well as on Sundays and holidays. According to the committee the wooden sheds were purely temporary ones without any basic facilities like toilets, kitchen etc and these sheds could not be considered as equivalent of residential quarters. The report further stated that the staffs were allowed to stay on the condition that for any untoward happening from location and structure of the house, the administration would not be held responsible. It was also stated that the Director also personally visited the sheds and noted that those were in bad shape.

4. From the facts enumerated above it cannot be said that the claim of the applicants was meritless. The committee constituted by the respondents on spot enquiry rendered its opinion and suggested for withdrawal of the impugned order dated 7.10.1999. Since a duly constituted committee had passed its recommendations on scrutiny of facts, it would not be proper for me to intervene in this matter and leave the matter to be decided by the authority concerned. It is expected

that.....

that the authority which is in seisin of the matter shall dispose of the matter in a just and proper manner in the light of the finding given by the committee constituted by responsible persons.

5. Subject to the observations made above, the application stands disposed of, leaving the matter to be finally decided by the respondents by passing a reasoned order. Till the aforesaid exercise is completed the respondents shall keep in abeyance the order for recovery of the HRA paid to these applications.

6. No order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the Case : O.A. No. ... 75 of 2000

BETWEEN

Shri Prabin Medhi & Ors. Applicants

AND

Union of India & Ors. Respondents

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Filed by : S.Sarma Advocate.

Regn.No.:

File : C:\WS7\ICARHRA

Date : 24.1.2000.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An Application under section 19 of the
Administrative Tribunals Act 1985).

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Filed by
H. H. Mehta
Sonia
Associate
23/2/2000

O.A. No. 75 of 2000

BETWEEN

1. Sri Prabin Medhi,
SSG III, (Chowkidar),
I.C.A.R. Research Center for NEH Region
Umroi Road, Barapani.
- 2.. Shri, Kaushlendra Prasad,
K.F.O. (T-II-3), ✓
I.C.A.R. Research Center for NEH Region
Umroi Road, Barapani.
3. Sri Druna Sarma, ✓
Field man (T-2),
I.C.A.R. Research Center for NEH Region
Umroi Road, Barapani.
4. Sri Prabhat Ch. Das, ✓
Field man (T-II-3),
I.C.A.R. Research Center for NEH Region
Umroi Road, Barapani.
5. Sri L.L.Srivastava,
Field man (T-II-3), ✓
I.C.A.R. Research Center for NEH Region
Umroi Road, Barapani.
6. Sri M.K.Das, ✓
Field man (T-II-3),
I.C.A.R. Research Center for NEH Region
Umroi Road, Barapani.

..... Applicants

AND

1. Union of India, represented by the Secretary to the
Government of India, Ministry of Agriculture,
Krishi Bhawan, New Delhi-1.
2. The Director General,
Indian Council of Agricultural Research ICAR,
New Delhi-1.
3. The Director, ICAR,
ICAR Research Complex for NEH Region,
Umroi Road, Barapani, Meghalaya.
4. The Finance and Accounts Officer,

Handwritten signature

ICAR, Research Complex for NEH Region,
Umroi Road, Umiam. Meghalaya.

.....Respondents

DETAILS OF THE APPLICATION

1. Particulars of orders against which this application is made.

This application is made against the order dated 15.2.2000 by which the earlier order of recovery of SDA dated 7.10.99 has been made effective and the respondents sought to recover the amount already paid towards HRA. This application is also directed against the order dated 7.10.99 by which the decision for deduction of HRA has been conveyed.

2. JURISDICTION:

The applicants declare that the subject matter of the instant application for which they want redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

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

4. FACTS OF THE CASE.

4.1 That the applicants have come before this Hon'ble Tribunal challenging the order dated 15.2.2000 by which the respondents have decided to recover the amount already paid to the applicants towards HRA. The applicants in the instant application pray for an order from the Hon'ble Tribunal directing the respondents not to recover the amount already paid under the head House Rant Allowance (in short HRA). The applicant initially allotted the barrack type quarters and to that effect the respondents have issued an order dated 16.3.88 by which the approval of the competent authority has been conveyed for granting HRA who are staying

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in barrack type houses. Thereafter the respondents issued an order dated 28.1.95 by which the amount already paid to the applicants towards HRA had been sought to be recovered from their monthly salary. The applicants thereafter made representation against the said order dated 28.1.95. Acting on their representations, the respondents did not recover the said amount of HRA and paid their HRA. The respondents thereafter issued orders dated 30.4.97 and 29.10.97 by which again the approval for grant of HRA has been conveyed to the applicants. Shockingly enough the respondents once again issued an order dated 7.10.99 for recovery of amount already paid to the applicants towards HRA. The applicants immediately made an appeal on 21.10.99 to the respondent No 3 but without considering the said appeal, the respondents issued an order dated 15.2.2000 by which the earlier order dated 7.10.99 regarding recovery of HRA has been made effective with the approval of the respondents No 3 and 4.

4.2 That all the applicants are citizen of India and as such they are entitled to all the rights and privileges guaranteed under the Constitution of India.

4.3 That the applicants No 1, is a group D officer, working as a Chowkider, and the applicants No 2 to 6 are all Group C officers working under the respondent No 3 in their respective posts. The present application is directed against the common orders dated 7.10.99 and 15.2.2000 which has been issued in respect of all the applicants. The cause of action and the reliefs sought for by the applicants through this application are common and hence they pray before this Hon'ble Tribunal to allow them to move this application jointly invoking Its power under Rule 4 (5) (a) of the Central Administrative (Procedure) Rules, 1987.

4.4 That all the applicants are holders of group C and D posts under the respondents No 3 and presently they are posted at

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Shillong. All the applicants have got a common grievance raised in this application regarding the orders issued by the respondents, by which the HRA already paid has been sought to be recovered.

4.5 That the applicants being employees under the respondents i.e. the Ministry of Agriculture, all of them have got All India Transfer Liability and presently posted at N.E. Region, hence they are entitled to the payment of HRA. It is pertinent to mention here that time to time the respondents have been issuing various office memorandums for grant of HRA to the employees working in the North Eastern Region and who have not been granted with official accommodations. It is pertinent to mention here that the respondents due to the necessity of works and in view of exigencies of administration have allotted barrack type of quarters to the applicants in the year 1994 as the prescribed types of quarters were not ready at that time. Prior to the allotment, the respondents issued an order vide order No RC (P) 14/87 dated 16.3.88 by which the approval of the competent authority has been conveyed for grant of HRA to the employees who are staying in the barrack type of quarters.

A copy of the order dated 16.3.88 is annexed herewith as ANNEXURE-1.

4.6 That all the applicants as stated above were staying at the barrack types of quarters since 1994. The applicants No 1 to 4 are staying at the said barrack types of quarters since Aug 1994 whereas the applicants No 5 and 6 since July 1994. Hence all of them fulfill the eligibility criteria laid down in the Annexure-1 order dated 16.3.1988 hence they were entitled to draw HRA. The applicants on the strength of the said Annexure-1 order dated 16.3.88 had been drawing their due HRA.

4.7 That the respondents thereafter issued an order vide No RC (G) 42/92 dated 28.1.95 by which it has been communicated that

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the amount paid already towards HRA to the applicants will be recovered from their monthly salary. Immediately on receipt of the said order dated 28.1.95, the applicants made representations to the respondent No 3 on 2.2.95.

Copies of the order dated 28.1.95 and the representation filed by the applicant No.1 dated 2.2.95 are annexed as ANNEXURE 2 and 3 respectively.

4.8 That the respondents acting on their representations have canceled the recovery order and further they have been allowed to draw their HRA. Thereafter the respondents have issued orders vide No RC (P) 60/85 dated 30.4.97 by which again the approval of the competent authority towards payment of HRA has been conveyed to the applicants No 5 and 6 and a similar order vide order No RC (P) 60/85 dated 29.10.97 has also been issued in regard to the other applicants.

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Copies of the said orders dated 30.4.97 and 29.10.97 are annexed as Annexure-4 and 5.

4.9 That the applicants on the strength of the aforesaid orders were getting their HRA. The applicant thereafter issued once again an order vide No 7.10.99 by which the amount already paid to the applicants towards HRA has been sought to be recovered from their monthly salary. Immediately on receipt of the said order dated 7.10.99, the applicants made appeal to the convened authority on 21.10.99.

Copies of the order dated 7.10.99 and the appeal filed by the applicant No 1 dated 21.10.99 are annexed as ANNEXURE-6 and 7 respectively.

4.10. That the applicants begs to state that as stated above the employees working under the other Central Govt. Organisations are still getting HRA, who have not been granted with official accommodations. Hence there is no earthly reason as to why the

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applicants should not be paid their due HRA more so when the respondents themselves have approved such payment. it is pertinent to mention here that subsequently in the year 1999 the applicants have been granted with official accommodations and accordingly they have been shifted to said accommodations and presently they are not in receipt of any amount towards HRA as the specified official accommodations have been allotted to them.

4.11. That the appeal filed by the applicants are still pending disposal before the authority concerned and during the pendency of the said appeals, the respondent No 3 issued an order vide order No RC (P) 60/85 dated 15.2.2000 by which the earlier order dated 7.10.99 has been made effective. By the said order the respondents have implemented the order dated 7.10.99 when the appeals of the applicants were pending.

Copy of the order dated 15.2.2000 is annexed as
ANNEXURE-8.

4.12. That the applicants beg to state that the respondents issued the said order dated 15.2.2000 without giving any opportunity of hearing to the applicants and the said order has been passed without considering the appeal filed by them. It is pertinent to mention here that after issuance of the order dated 7.10.99. the respondents deducted the amount of HRA from the applicants but on their request same has been canceled.

4.13. That the applicants beg to state that the respondents while issuing the order dated 15.2.2000 have failed to take into consideration the earlier order dated 16.3.88 (Annexure-1), 30.4.97 (Annexure-4) and 29.10.97 (Annexure-5). It is further stated that before issuance of the order dated 7.10.99 and 15.2.2000 the respondents ought to have given a notice to that effect.

4.14. That the applicants beg to state that the respondents

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have issued the said impugned orders without considering the earlier orders granting HRA to them. On the other hand since there has been approval of payment of such allowance who were staying at barrack types of quarters, the respondents should not have issued the said orders dated 7.10.99 and 15.2.2000.

4.15. That the applicants beg to state that presently they are in receipt of the said allowance i.e. HRA and accordingly they have spent the said amount and now respondents by issuing the orders dated 7.10.99 and 15.2.2000 have sought to recover the amount already paid towards HRA to the applicants, without giving any opportunity of hearing to them which is violative of the principles of natural justice as well as their own orders approving such payment. The applicants now apprehending that in view of the orders dated 7.10.99 and 15.2.2000, the respondents may recover the amount mentioned in the said order from their pay bill for the month of February 2000. The applicants received the said order dated 15.2.2000 on 21.2.2000 and have come before the Hon'ble Tribunal at the earliest opportunity with a prayer for an interim direction to the respondents not to make any recovery by suspending the operation of the orders dated 7.10.99 and 15.2.2000 till disposal of this application. In case if the Hon'ble Tribunal is not pleased to grant the interim relief as prayed for, the applicants will suffer irreparable loss and injury.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that prima facie the impugned orders dated 7.10.99 and 15.2.2000 are not tenable in the eye of law and hence same are liable to be set aside and quashed.

5.2. For that the respondents have failed to take in to consideration Annexure-1 order dated 16.3.88, Annexure-4 order dated 30.4.97 and Annexure 5 order dated 29.10.97 in issuing the

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impugned orders dated 7.10.99 and 15.2.2000 and same are contradictory and hence liable to be set aside and quashed.

5.3. For that non-issuance of any prior notice to the applicants before issuing the impugned orders are violative of the principles of natural justice and hence same are liable to be set aside and quashed.

5.4. For that the action of the respondents in issuing the impugned orders without considering other similarly situated employees of other depts. are illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

5.5. For that the action of the respondents in issuing the impugned orders without considering the appeal filed by the applicants. are illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

5.6. For that in any view of the matter the impugned action of the respondents is not sustainable in the eye of law and hence same is liable to be set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants state that they have no other alternative efficacious remedies except by way of approaching this Hon'ble Tribunal.

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

The applicants state that they have not filed any application, writ petitioner suit in respect of the subject matter of this application before any other court, authority or bench of this Hon'ble Tribunal nor any other such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR

Under the facts and circumstances stated above it is

most respectfully prayed that the Hon'ble Tribunal may be pleased to admit the OA, call for the records of the case and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs:

8.1. To set aside and quash orders dated 7.10.99 and 15.2.2000.

8.2. To direct the respondents not to deduct any amount of HRA already paid to the applicants.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicants are entitled to under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for interim order directing the respondents not to recover any amount of HRA already paid to them by suspending the operation of Annexure-6 and 8 orders dated 7.10.99 and 15.2.2000 until further from the Hon'ble Tribunal.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. NO. : 06 456250
2. DATE : 20-2-2000
3. PAYABLE AT : GUWAHATI.

12. LIST OF ENCLOSURES:

As stated in the Index.

Placed

22

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

I Shri Prabin Medhi, aged about 44 years, son of late Kankha Ram Medhi, at present working as Chowkider, in the Office of the Director ICAR, Barapani. Meghalaya, Shillong, do hereby solemnly verify and state that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to my knowledge and the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are matters of records which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I am the applicant No 1 in the instant application and as such well acquainted with the facts and circumstances of the case and I am also authorised by the other applicants to sign the verification.

And I sign on this the Verification on this the 22nd Day of Feb, 2000.

Applicant.

Prabin Medhi

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
CEDAR LODGE, JOWAI ROAD, SHILLONG-793003

No. RC(P) 17/87

Dated Shillong, the 16th March, 1988.

ORDER

The approval of Director is hereby conveyed for granting of H.R.A. to those Chowkidars who are staying in barrack type houses of Complex Hrs. at Shillong and not granted H.R.A. earlier.

(B.I. CHOWDHURY) 17.3.88.
Asstt. Administrative Officer (Admn)

To

The Asstt. Administrative Officer (Estt.),
ICAR Research Complex for NEH Region,
Shillong.

Copy for information and necessary action to :-

1. The Accounts Officer, ICAR Research Complex for NEH Region, Shillong.
2. The Asstt. Administrative Officer (Budget Cell), ICAR Research Complex for NEH Region, Shillong.
- ✓ 3. All Chowkidars at Shillong.

16/3.

.....

Shri P. Meelhi

(Agril Engg)

ICAR Res Complex
Shillong.

NO.HC(G)42/92

Dated Barapani, the 28th January, 1995.

ORDER

The following officials/staffs of Complex Hqrs. Barapani were provided temporary accommodation w.e.f. August, 1994. MRA which is admissible to them will be deducted from their salary w.e.f. the month of August '94 onwards. They should also submit an undertaking to the Estate Officer immediately.

- 1) Sri. Kaushlendra Prasad, T-2
- 2) Sri. Druna Sarmah, T-2
- 3) Sri. Prabhat Ch. Das, T-2
- 4) Sri. Tarun Sarmah, T-2
- 5) Sri- P. Medhi, Chowkidar.

This issues with the concurrence of FAO.

Sd/- S. LASKAR
DIRECTOR.

Memo No.RC(G)42/92

Dated Barapani, the 28th January, 1995.

- 1) Asstt. Administrative Officer(E), ICAR Res. Complex, Barapani. He is requested to make the recovery of the MRA amount if already paid w.e.f. the above period.
- 2) Finance & Accounts Officer, ICAR Res. Complex for NEII Region, Barapani.
- 3) Estate Officer, ICAR Res. Complex, Barapani. He is requested to obtain the undertaking from the above officials with a intimation to the undersigned immediately.
- 4) Security Officer, ICAR Res. Complex, Barapani.
- 5) All concerned officials/PP.

Sri. P. Medhi

(M.J. KHARMANPHLANG)
ASSTT. ADMINISTRATIVE OFFICER (ADMN.)

To

The Director
ICAR Research Complex For NEH Region
Umori road, Barapani

Sub: HRA & arrears HRA from Aug 94 to Jan 95 not deducted-reg

Sir,

With reference to the subject cited above Office letter No.RC (G) 42/92 dated 28th January, 1995.

The temporary accomodation has been allotted to me is not exactly like residential houses and I am passing my days some how in this accomodation with my family members. The temporary shed has only two small rooms. During rainy season water is entering into the room through the top roof.

Therefore the present accomodation provided to me is lack of facilities like Sanitation, bathroom, kitchen etc. If you deduct HRA & HRA arrears from Aug 94 to Jan 95 from my salary I will have to face financial hardship.

Under the above circumstances if you consider the deduction of my house at a compensation rate of Rs 100/per month till entitled class of accomodation also not deducted HRA arrears from Aug 94 to Jan 95 from my salary, I will be highly obliged to you.

Thanking you,

Dated: 2th Feb. 95

Yours faithfully

P. Medhi
P. Medhi, Chowkidar
Estate office

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, BARAPANI, MIZORAM-793 103

No.RC(P)60/85

Dated Barapani, the 30th April, 1997

ORDER

The approval of Director is hereby conveyed for granting of H.R.A to S/Shri M.K. Das, Fieldman (T-1-3) and Sh. L.L.Srivastava Fieldman (T-2) who are staying in Temporary Shed of Complex Hqrs., Barapani with effect from 6.7.94. They should pay the Electricity and water charges as fixed by Estate Officer.

This issued with the concurrence of F.A.O.

(M.J. Kharmawphlang)
Administrative Officer

Copy for information & necessary action to:-

1. F.A.O., ICAR, Barapani with reference to his endorsement dated 31.3.97.
2. A.A.O(Estt), ICAR, Barapani with reference to his endorsement dated 17.4.97
3. Estate Officer, ICAR, Barapani.
4. Shri M.K. Das, Fieldman (T-1-3), ESHP Division, ICAR, Barapani.
5. Shri L.L. Srivastava, Fieldman (T-2), ESHP Divn. ICAR, Barapani.

.....
[Handwritten signature and notes]
Let the same be done accordingly.
[Handwritten signature]

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMHOI ROAD, UNIAM-795103, ARUNACHAL PRADESH.

NO.HC(P)60/85

Dated Barapant, the 29th Oct., 1997

ORDER

The approval of Director is hereby conveyed for granting of H.A.A. to S/Shri. Kaushikendra Prasad, Key Punch Operator (T-I-3), P.O. Das, Fieldman (T-I-3), Druna Sarmah, Fieldman (T-2), P. Medhi, Chowkidar who are staying in temporary shed of Complex Hqrs., Uniam with effect from the month of August, 1994. They should pay the electricity and water charges as fixed by Estate Officer.

This issued with the concurrence of F.A.O..

(G. SINHA)

ASST. ADMINISTRATIVE OFFICER (ADMN.)

Copy for information and necessary action to :-

1. Finance and Accounts Officer, ICAR Research Complex for N.E.H. Region, Uniam with reference to his endorsement dated 8-10-97.
2. Asst. Administrative Officer (Estate), ICAR Research Complex for N.E.H. Region, Uniam.
3. Estate Officer, ICAR Research Complex for N.E.H. Region, Uniam.
4. Shri. K. Prasad, K.P.O. (T-I-3), ICAR Research Complex for N.E.H. Region, Agril. Recons. & Stats., Division, Uniam.
5. P.O. Das, Fieldman (T-I-3), Animal Nutrition Division, ICAR Research Complex for N.E.H. Region, Uniam.
6. Shri. Druna Sarmah, Fieldman (T-2), Estate Management Division, ICAR Research Complex for N.E.H. Region, Uniam.
7. Shri. P. Medhi, Chowkidar, ICAR Research Complex for N.E.H. Region, Estate Cell, Uniam.

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM-793103, MIZORAM

NO. RC(P) 60/85

Dated Umiam, the 7th Oct., 1999

ORDER

The following officials/staffs were provided temporary accommodation with effect from the date mentioned against each and the HRA granted to them will be deducted from their salary.

Sl. No.	Name & designation	Date of effect	Amount deducted
1.	Shri. Kaushlendra Prasad K.P.O. (T-II-3)	August, 1994 to 27-6-99	Rs. 25,742/-
2.	Shri. Prabin Medhi SSB III	August, 1994 to 26-7-99	Rs. 20,392/-
3.	Shri. Druna Sarmah Fieldman (T-2)	August, 1994 to 18-8-98	Rs. 17,327/-
4.	Shri. Prabhat Ch. Das Fieldman (T-II-3)	August, 1994 to 31-8-99	Rs. 27,315/-
5.	Shri. L.L. Srivastava Fieldman (T-II-3)	6-7-94 to 21-8-99	Rs. 26,848/-
6.	Shri. M.K. Das, Fieldman (T-II-3)	6-7-94 to 21-8-99	Rs. 27,283/-

This issues with the concurrence of F.A.O. and approval of Director.

(N.J. KHARNAI)
ADMINISTRATIVE OFFICER

Copy for information and necessary action to :-

1. Finance and Accounts Officer, ICAR Research Complex for NEH Region, Umiam with reference to his endorsement dated 18-9-99.
2. Asstt. Administrative Officer (Estt.), ICAR Research Complex for NEH Region, Umiam.
3. Persons concerned by name.
4. Estate Officer, ICAR Research Complex for NEH Region, Umiam.

Accepted
for
mt

To

The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Umiam.

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(Through proper channel)

Sub : Appeal for reconsideration on the decision of
the Competent Authority for recovery of HRA
(B...20,3924.....) from my salary bill.
Ref : Office Order issued by Administrative Officer
vide No:RC(P)60/85 dtd. 07.10.1999.

Respected Sir,

Kindly refer to office order No.RC(U)42/92 dtd.
28.1.95 by which an order was issued to recover the
admissible HRA already paid to me with effect from August,
1994. Since the order was erroneous an appeal was made by
me vide my representation dated 2nd Feb., 1995 and May, 1997,
explaining that the temporary camping space was provided to
me was to facilitate working beyond the office hours i.e.
early in the morning and late in the evening/night, which
was of emergent nature. Since the space was less than the
standard room size (i.e. 10'x10') it was not constructed as
a residential accommodation. It was requested not to recover
the paid admissible HRA vide my letter dated 2nd Feb., 95 and
May, 97. The Competent authority was kind enough to consider
my request fervently and conveyed his decision to grant of
HRA to me wef August, 1994 vide order No.RC(P)60/85 dt.29th
Oct., 1997. Now after of lapse of two years of order dated
29.10.97 again an order No.RC(P)60/85 dt. 7.10.99 as referred
to above has been issued to recover the paid HRA from my
salary bills. In this connection, I am to state that the
temporary camping space provided to me was to facilitate
working beyond office hours as stated above and the space
area was less than the standard size room (10'x10') without
any other facilities such as bed room, kitchen, latrine,
bath room etc. and therefore it was not constructed as a
residential accommodation and HRA paid to me was absolutely
as per rules and the question of recovery does not arise.

In view of the aforesaid facts, it is my humble request
to the Competent authority to kindly again reconsider his
decision for recovery of HRA sympathetically and order
issued in this connection may kindly be modified as that
poor paid employee like me does not suffer financially.

Thanking you.

Yours faithfully,

Prabir Ch Meeli
(Prabir Ch Meeli)
Chairman SSJRM

Dated : 21.10.99

For Director
22/10/99
Recd. envelope
22/10/99

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMHOI ROAD, UMIAM-793103, MEGHALAYA

NO. RC(P) 60/85

Dated Umiam, the

2000.

O R D E R

The recovery of HRA issued vide this Office Order
NO. RC(P) 60/85 dated 7-10-99 in respect of the following staff
members stands effective.

- | | |
|-----------------------------|---------------------|
| 1. Shri. Kaushlendra Prasad | - K.P.O. (T-II-3) |
| 2. " Prabin Medhi | - SSG III |
| 3. " Druna Sarmah | - Fieldman (T-2) |
| 4. " Prabhat Ch. Das | - Fieldman (T-II-3) |
| 5. " L.L. Srivastava | - Fieldman (T-II-3) |
| 6. " M.K. Das | - Fieldman (T-II-3) |

This issues with the concurrence of F.A.O and approval
of Director.

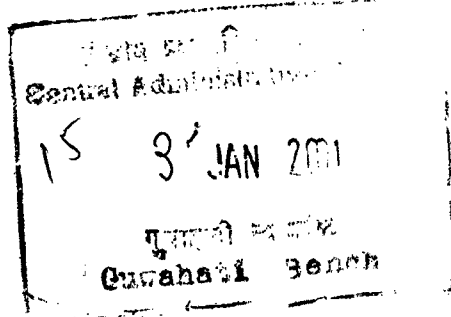
(M.J. KHARLA PHLANG)
ADMINISTRATIVE OFFICER

Copy for information and necessary action to :-

1. Finance and Accounts Officer, ICAR Research Complex for
NEH Region, Umiam with reference to his endorsement
dated 18-9-99 and 24-11-99.
2. Asstt. Administrative Officer, ICAR Research Complex for
NEH Region, Umiam. Necessary recovery may be made from
their salary accordingly as per order NO. RC(P) 60/85
dated 7-10-99.
- ✓ 3. Persons concerned by name. *Prabin medhi*
4. Personal file
5. Estate Officer, ICAR Research Complex for NEH Region, Umiam.

.....

*Allocated
to
on*



Filed by:
Bimal Chandra De
Advocate. 3,
3.1.2001.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::
AT GUWAHATI.

ORIGINAL APPLICATION NO. 75/2000.

Sri Prabin Medhi & Others. Applicant.

- Versus -

Union of India & Others. Respondents.

The Respondents No. 2, 3 and 4 beg to file their
Written Statement as follows :-

1) That all the averments and submissions made
in the Original Application are denied by the answering
Respondents save what has been specifically admitted herein
and what appears from the record of the case.

2) That with regard to the statement made in
paragraph 1 of the Original Application (hereinafter
referred to as the O.A.) the answering Respondents beg to
state that the Office Order No. RE(P) 60/85 dated 7.10.99
was issued to concerned staff of I.C.A.R. who sought per-
mission to occupy the I.C.A.R. accomodation when they were
in great need. All the applicants stayed in the Office
accomodation for more than 5 years with their family
members.

Before shifting of I.C.A.R. establishment from

contd... p 2.

2.

Shillong to its permanent place at Barapani, the authority arranged office accomodation by constructing big sheds having all civic amenities like toilet, bathroom, drinking water facilities etc. By the end of 1993 and beginning of 1994 the Office started shifting from the sheds to its permanent ~~the~~ building. The applicants finding that all facilities are available in the vacated ~~sheds~~ requested the authority to occupy the sheds and accordingly the Director of the Complex considered their request and permitted them to occupy the vacant sheds.

The answering Respondents as per rule issued order dated 7.10.1999 to recover accumulated House Rent from the concerned staff who occupied the Govt. accomodation since July and August, 1994 to June, July and August, 1999. In this connection it would be pertinent to state that ~~the~~ during the ~~period~~ the occupants including the applicants had drawn House Rent as per rate admissible to their entitlement. In this connection it would also be pertinent to state that when Govt. Servants occupy Govt. accomodation with all facilities, they have to pay Licence Fee. In the instant case licence fee was not charged from the applicants as the occomodation provided was not adequate. But the House Rent as ~~a~~ drawn by the applicants are recoverable from their salary as admittedly they are occupying Govt. accomodation. In thos connection it would be relevant to refer to Rule 8(a) of F.R. S.R. Part V which provides that HRA can be granted only on production of certificate in

contd....

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prescribed form that the employee concerned has incurred some expenditure on rent. In this regard a letter dated 18.3.2000 was also written by Respondent No. 4. Notwithstanding the fact that the applicants were staying in Govt. accomodation they had drawn HRA without submitting any certificate. Therefore, the impugned orders have been rightly issued for recovery of the same.

A copy of the letter dated 18.3.2000 is annexed hereto and is marked as Annexure - I.

In 1998-99 the external Audit verified the subject regarding payment of House Rent and detected the irregularities and made strong observation to recover the arrear House Rent. And accordingly, the authority issued two orders dated 7.10.99 and 15.2.2000 which are based on Audit Observation as per Rule. Since it is Govt. dues it must be recovered from the applicants & even after their retirement.

3) That with regard to the statements made in paragraphs 2 and 3 of the O.A. the answering respondents have no comments to offer.

4) That with regard to the statement made in paragraph 4.1 of the O.A. the respondents beg to state that they are bound to recover the HRA illegally drawn by the applicants, who earlier sought permission of the authority to enter into office accomodation. The applicants

contd....

occupied the said accomodation with their families for more than 5 years. The details of their date of entry as well as their vacation from office accomodation is indicated in Annexure - II.

It may be pointed out herein that vide office order dated 28.1.1995 respondents took step to recover the HRA which was drawn and paid to the concerned staff including the applicants. The respondents followed the relevant rules in issuing the office order dated 28.1.1995, but the order could not be made effective due to the request made by the applicants for drawal of HRA and submission of undertaking in that regard. Needless to say that the request of the applicants were acceded due to inadvertense but ultimately the impugned orders dated 7.10.1999 and 15.2.2000 were issued on the basis of Audit Remarks for recovery of HRA illegally paid to the applicants. Prior to issuance of the order dated 28.1.1995 the applicants did not raise any objection. The Applicant No. 1 entered into the accomodation in August, 1994 and stayed upto 26.7.1999. The other applicants also stayed in Govt. accomodation but at the same time were drawing HRA. The applicant No. 1 vide his communication dated 2.2.1995 (Annexire - III to the O.A.) did not in principle objected to the office order dated 28.1.95, but prayed for deduction of HRA at a compassionate rate. The allegation of unsuitability of the accomodation was raised only after issuance of the office order dated 28.1.1995. In

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any case the HRA which was illegally drawn by the applicants are recoverable from them.

5) That with regard to the statement made in paragraph 4.2 of the O.A. the respondents have no comments to offer.

6) That with regard to the statement made in paragraph 4.3 of the O.A. the respondents beg to state that orders dated 7.10.1999 and 15.2.2000 were issued as per Rule for recovery of their HRA.

7) That with regard to the statement made in paragraph 4.4 of the O.A. the respondents beg to state that the steps for recovery of HRA was taken on the basis of observation made by the Audit Team in its observation/ Report dated 17.6.1999. In this connection it would be pertinent to state that the applicants also submitted undertakings to refund the HRA.

Copies of Audit Observation dated 17.6.99 and the undertaking given by the applicants are annexed hereto and are marked as Annexures - III & IV respectively.

8) That with regard to the statement made in paragraph 4.5 of the O.A. the answering respondents beg to state that as per the offer of appointment of the

contd...

applicants it was not mentioned by the respondents that Govt. accommodation shall be provided upon their appointments. It is further denied that due to the necessity of works and in view of exigencies of administration the concerned staff were allotted barack type of quarters in the year 1994, but the applicants finding that all facilities are available in the vacated sheds requested the authority to occupy the sheds and accordingly the Director of the Complex considered their request and permitted them to occupy the vacant sheds. In 1988 some chowkidars were entrusted with the duty of watch and ward duty by the earlier authority of the complex for day and night duty and upon seeing the plight of the chowkidars the authority considered their HRA as they were provided with small room which was insufficient even for a single person. The office order dated 16/17th March, 1988 is concerned with only chowkidars and in particular to the applicant No. 1, which too was wrong as per rule. In this connection it would be pertinent to state that in the year 1980 the applicant No. 1 had requested the Sr. Administrative-Officer to consider for grant of HRA and upon receiving such request the officer communicated to the Accounts Officer vide his letter dated 16.9.1980 clearly mentioning that if any employee is provided with official accommodation HRA claim cannot be admitted as per rule.

A copy of the letter dated 16.9.1980 is annexed hereto and is marked as Annexure - V.

9) That with regard to the statement made in

contd....

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paragraph 4.6 of the O.A. the answering respondents beg to state that the applicants were accomodated in big sheds with all civic amenities which were originally built in office accomodation for its employees and not as stated by the applicants as barrack type quarters. As per order dated 16.3.88 issued by the earlier authority granting of HRA was only considered for the chowkidars which was also irregular as per rule.

10) That with regard to the statement made in paragraph 4.7 of the O.A. the respondents beg to state that the applicants had raised the question of unsuitability and non-cogent of living only after receiving the order dated 28.1.1995 which was issued as per rule for recovery of HRA. It was made with an intention to confuse the authority as no such problems were brought to the notice of the authority by the applicants prior to the order dated 28.1.1995.

11) That with regard to the statement made in paragraph 4.8 of the O.A. the answering respondents beg to state that the two orders dated 30.4.1997 and 29.10.97 were issued by the authority of the institute without following relevant rules. It may be noted here that even after getting these orders the applicants did not raise any plea regarding disadvantage of their staying condition in Govt. accomodation. So it is clear that it is their malafide intention to draw HRA ~~from~~ from the Govt. without being entitled for the same.

contd....

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12) That with regard to the statement made in paragraph 4.9 of the O.A. the answering respondents beg to state that wrong procedure was followed by the office while granting HRA to the applicants and subsequently the said mistake was detected by the authority. And upon such detection the office had issued appropriate order for the recovery of HRA. The applicants in order to cheat the authority expressed their alleged inconvenience faced by them in the said big sheds. But it is on the request of the applicants that the Director of the Complex had allowed them to occupy the office accomodation and upon such permission they had occupied with their family members and stayed for more than five years. It is on the basis of observation made by the Audit Team in its observation/report ~~made by the~~ dated 17.6.1999 that steps for recovery of HRA from the applicants was taken. Further the claim of the applicants is also not sustainable.

13) That with regard to the statement made in paragraph 4.10 of the O.A. the answering respondents beg to state that the applicants were drawing HRA as per their admissible rate fixed by the Govt. of India when they were staying outside the office accomodation. In this connection it is pertinent to mention that nowhere in the office Memorandum regarding offer of appointment it is mentioned that staff will be provided Govt. Quarters for residential purpose on joining the Govt. service, but it is mentioned that HRA/CCA/HCA will be given as per rule subject to

contd....

submission of certificate regarding payment of House Rent to any private party. It is the standing order of Govt. of India that every Govt. employee should furnish the Annexure - II as per Ministry of Finance, OM. No. 2(37)E.II (B)/64 dated 27.11.65. The applicants had previously furnished the Annexure - II to draw HRA as they resided on a house hired soon after joining. But such certificates could not be furnished since July/August, 1994 to June/August, 1999 as they have been occupying office accomodation.

14) That with regard to the statement made in paragraph 4.11 of the O.A. the respondents beg to state that the authority of I.C.A.R. cannot violate the observation/instruction of the Audit Party and the respondent No. 3 is duty bound authority to abide by the instructions.

15) That with regard to the statement made in paragraphs 4.12 and 4.13 of the O.A. the answering respondents beg to state that on the basis of observation made by the Audit Team the steps for recovery of HRA was taken and, as such, there is no scope to reconsider the request made by the applicants as it was done as per relevant rules.

16) That with regard to the statement made in paragraph 4.14 of the O.A. the answering respondents beg to state that payment of HRA to the applicants who were staying in Govt. accomodation for more than 5 years with their families was by mistake and in violation of the rule.

contd....

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10.

Upon detecting such irregularities by the Central Govt. Agency steps for recovery of HRA was taken.

17) That with regard to the statement made in paragraph 4.15 of the O.A. the answering respondents beg to state that the applicants were enjoying office accommodation and at the same time they were drawing undue HRA from the Govt. The office order dated 7.10.1999 and 15.2.2000 were issued to the applicants to realise the Govt. dues which was paid to them in the form of HRA by mistake. The mistake was detected by the Central Govt. Audit Team in 1999 regarding the irregularities in payment of HRA to the applicants who were staying in office accommodation for more than 5 years. The respondents upon receipt of such instruction from the Audit Team and detection of irregularities issued the office orders for recovery of HRA which was paid to them by mistake.

18) That under the facts and circumstances of the case it is respectfully submitted that the claim of the applicants is an evil intention to draw money from the public exchequer for which they are not entitled.

VERIFICATION ...

11.

VERIFICATION

I, Dr. Narendra Deo Verma, Son of Munilal Verma aged about 56 years, presently working as Director, I.C.A.R. Research Complex for N.E. Region do hereby verify that the statements made in paragraphs 1,3,5,6,9, 10, 11, 12, 13, 14, 15, 16 and 17 of the Written Statement are true to my knowledge and those made in paragraphs 2, 4, 7 and 8

being matters of record of the case are true to my information derived therefrom which I believe to be true and those made in paragraph 18 is based on legal advise. I have not suppressed any material fact.

Date : 29/12/2K
Place : Barapani

Narendra Deo Verma

SIGNATURE

डा. नरेंद्र देव / Director

भा. कृ. अनु. प.-उ. पूर्वी पर्वतीय अनुसंधान परिसर.

ICAR Research Complex For N.E.M. Region.

उमियम, मेघालय

Umiam, Meghalaya

-12-

30

ANNEXURE-I

Ref: RC/ACcts/C.C./HRA/99-2000/

URGENT PLEASE

To

✓ The Director,
ICAR Research Complex for N.E.H. Region,
Umroi Road, Umiam-793 103
Meghalaya

Sub: O.A. No. 75/2000/668 dated 03.03.2000 on the ground of grant of HRA/Recovery of HRA - regarding

Sir,

With reference to above, I am to inform you that in the above O.A., Finance & Accounts Officer of the Institute has been made a party to it vide respondent No 4 probably due to our endorsement in the file on the above subject.

Although Administration (as it is purely an administrative matters) is fully aware of the rule position to this effect but we take the opportunity to reiterate the same in support of our earlier endorsement.

As per rule HRA can be granted only on production of a certificate provided under Rule 8(a) Annexure-II of FR-SR Part V that the employees concerned incurred some expenditure on rent (photo copy of the rule i.e. page No. 26-27 and page 48 of FR-SR Part V is enclosed herewith for ready reference).

As the employees concerned does not fulfill the above condition HRA cannot be considered for them.

For analysis of actual interpretation of the above position we enclose a copy of page 50-51 of the Swamy's interpretation on Service Rules, wherein it has been clarified that if a Govt servant even if he stays in a vacant office room, he is not entitled to draw HRA but licence fee cannot be recovered as the accommodation cannot be equated to proper residential accommodation.

Under the above, we request you to kindly issue the necessary instruction to Admin./ Legal Cell to take up the matter with the Hon'ble CAF with a prayer to vacate the stay and not to allow the petition as prayed for and if necessary the matter may please be got clarified/confirmed from the Council.

Further, it will not be out of place to mention that the recommendation made by the Committee constituted vide office order No. RC(P)60/85 dated 03.11.99 is not at all in conformity with the rule.

Encl:- As above.

Yours faithfully,

Rajesh Sahay
(R. SAHAY)

Finance and Accounts Officer
ICAR Research Complex for N.E.H. Region
Umiam

Legal Cell

for n.a.p.

Diary No. 983. Dt. 18/03/2000
Give personal attention
See the work with it

18/03/2000
2K

Now Set endorsed

Conkd

CCS (Leave) Rules, 1972, may be granted compensatory (city) and house rent allowances during the first 40 days of leave at the same rates at which they were drawing these allowances before proceeding on leave. Where, however, under any special orders, such employees are eligible to draw these allowances for period of leave in excess of 40 days at a time, they will continue to be governed by those orders.

(b) The limit of 40 days shall be extended to 180 days in the case of such employees suffering from T.B./Cancer/other ailments during their leave taken on medical certificates when such certificates are in the forms prescribed. It is immaterial whether the leave is on medical certificate from its very commencement or it is in continuation of other leave. The question whether the allowances may be paid to an Officer suffering from TB/Cancer/or other ailments during leave on medical certificate exceeding 180 days shall be decided on merits by the Ministry/Department in consultation with the Expenditure Division in the Ministry of Finance. Drawal of allowances beyond 120 days will be subject to the furnishing of certificates in para. 8 (d) below.

GOVERNMENT SERVANTS OWNING HOUSES

7. (i) A Government servant living in a house owned by him, his wife, children, father or mother shall also be eligible for house rent allowance under these orders.***

(ii) ***

NOTE.—The grant of house rent allowance to Government servants referred to in (i) above will be subject to the fulfilment of the same conditions as apply to a Government servant residing in private rented accommodation.

(iii) In the case of a Government servant who owns a house at a place of duty but resides in a rented house instead, house rent allowance shall be paid in respect of the rented house, if otherwise admissible.

CERTIFICATES

8. (a) Every Government servant shall furnish along with his first claim for house rent allowance a certificate in the Form given in Annexure II.

(b) While non-gazetted officers shall furnish the requisite certificates to their Head of Office, Gazetted Officers shall furnish the same to their Accounts Officers.

(c) The following certificates shall be endorsed by the drawing and disbursing officers on the bill in which compensatory (city) and house rent allowances of non-gazetted officers are drawn by them:—

(i) "Certified that in the case of all Government servants for whom compensatory (city) and/or house rent allowances are drawn in this bill, the eligibility of the allowance(s) has been verified with reference to paragraph 3 of the Government of India, Ministry of Finance, O.M. No. 2 (37)-E. II (B)/64, dated 27-11-1965."

(ii) "Certified that the Government servants for whom house rent allowance is drawn in this bill (have applied for but) have not been provided with any Government accommodation."

(iii) "Certified that the certificates prescribed by Government have been obtained from the Government servants for whom house rent allowance has been drawn in this bill and I am satisfied that the claims are in accordance with the orders in force."

NOTE.—The words shown in the brackets in clause (ii) may be omitted if the Government servants for whom the allowance is drawn are not eligible for Government accommodation or if their cases are covered by the Notes under paragraph 4 above.

(d) The certificates required under sub-paras. Note 4 below (a) (i), (c) (iv), (d), (e), (f) and (k) of para. 6 will be as follows:—

(I) For drawal of Compensatory (City) Allowance

The Government servant concerned or his family or both continued, for the period for which compensatory (city) allowance is claimed, to reside at the same station (whether within its qualifying limits or in an adjoining area) from where he was placed under suspension. proceeded on leave/deputation abroad/training.

(II) For drawal of House Rent Allowance

The Government servant concerned continued for the period for which house rent allowance is claimed, to retain the house at the same station (whether within its qualifying limits or in an adjoining area) from where he was placed under suspension paid rent for it and did not sub-let whole of it.

NOTE 1.—The words "adjoining area" used in the above certificates refer to an area from which a Government servant normally attends to his duties.

NOTE 2.—If a part of an accommodation is sub-let by a Government servant during the events referred to in the sub-paras. quoted above, his house rent allowance will be regulated in the manner prescribed in paragraph (5) (b) (i) above.

-14- 82

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ANNEXURE II

[In substitution of the certificates prescribed in Annexures II-A and II-B of the Ministry of Finance, O.M. No. F.2 (37)-E. II (B)/64, dated 27-11-65]

Certificate to be furnished by all Central Government servants

(1) I certify that I* (have applied for the Government accommodation in accordance with the prescribed procedure but) have not been provided with Government accommodation/(have refused the allotment of Government accommodation) during the period in respect of which the allowance is claimed.

(2) I certify that I am residing in a house hired/owned by me/my wife/husband/son/daughter/father/mother/a Hindu undivided family in which I am a coparcener.

(3) I certify that I am incurring some expenditure on rent.
contributing towards rent.

Or

**I certify that the rent value of the house owned by me/owned by a Hindu undivided family in which I am a coparcener and in which I am residing is ascertainable in the manner specified in para. 7 of O.M. No. F. 2 (37)-E. II (B)/64, dated 27-11-65† I certify that I am paying/contributing towards house or property tax.

(4) I certify that I am not sharing accommodation allotted to my parent (child) by the State/Central Government, an autonomous public undertaking or semi-Government organisation such as municipality, port trust, etc., allotted rent-free to another Government servant.

(5) I certify that my husband/wife/children/parents who is/are sharing accommodation with me allotted to another employee of the Central/State Government/autonomous public undertakings or semi-Government organisations like municipality, port trust, etc., is/are not in receipt of house rent allowance from the Central/State Government/autonomous public undertakings or semi-Government organisations like municipality, port trust, etc.

(6) I also certify that my wife/husband has not been allotted accommodation at the same station by the Central/State Government/autonomous public undertakings or semi-Government organisations such as municipality, port trust, etc.

Signature.....

Date

Designation.....

*The words shown in brackets may be omitted if the Government servant is not eligible for Government accommodation or if his case is covered by Notes under paragraph 4 (b) of the O.M., dated the 27th November, 1965, or where it is not obligatory for him to apply for Government accommodation for eligibility for house rent allowance in terms of Ministry of Finance, O.M. No. 11011/1/E. II (B)/75, dated the 25th February, 1977.

**To be furnished by a Government servant living in his own house or in a house owned by a Hindu undivided family in which he is a coparcener.

†To be furnished by another Government servant being the wife, husband, son, daughter, father or mother of the Government servant owning the house who is sharing accommodation with the latter.

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of deputation his family continued to reside in the quarters and he was paid tour DA but not HRA. The Divisional Office has ordered for recovery of licence fee for the quarters for the period he officiated and the recovery was made. Now the official has claimed for payment of HRA for the above period on the plea that he has paid rent for the quarters. Kindly intimate whether the official's claim is in order.

As per D.G., P. & T., Letter No. 30-1/68-PAT, dated 17-7-1970, the drawal of HRA in such cases has to be regulated under Clause 4 (b) (xi) of the M.F., O.M., dated 27-11-1965. The recovery of licence fee for the period of temporary transfer is in order.

[FR & SR Part - V, Para. 4]

83

Admissibility of compensation in lieu of rent-free accommodation to SPMs

- I was working as Sub-Postmaster, Accounts from 1-9- to 10-4- in various Head Offices.

Now I am working as SPM of a no quarters office, with effect from 11-4-. My wife is working as SPM, in another SO provided with free quarters office. We both are not being drawn HRA. My predecessor who was working as SPM, Puthur, was drawn HRA + HRA in lieu of free quarters.

The SPMs, those who are provided with no quarters office are being drawn HRA to them as well as their spouse in addition to HRA in lieu of rent-free quarters by this HO.

Kindly clarify whether I am entitled to get HRA in lieu of rent-free quarters as this drawal is being drawn in contingency of the post.

Inasmuch as you are residing in the Government accommodation allotted to your wife free of rent, you are not eligible to draw HRA or compensation in lieu of rent-free accommodation.

[FR & SR, Part - V, Para. 5]

84

No recovery of Licence Fee for stay in a room in the office premises

On my transfer from Dibrugarh to Jorhat I was verbally permitted to stay in a vacant room in the rented office building. After a few months, I was directed to vacate and I did. Thereafter, my office had started recovery of HRA which I drew during the period of my stay. The Zonal Accounts Office has directed

- 15 -

to recover licence fee at 10% of pay in addition to the recovery of HRA, which I have objected to it.

Kindly clarify whether HRA and licence fee or fair rent can be recovered when there is no formal official allotment order as per SR 311 and whether SR 312 can be imposed on me. It is to be noted that when I was permitted to stay in the office building, Government quarters was not available though I applied for.

The question of non-entitlement of HRA and also recovery of licence fee arises only when an employee is allotted accommodation as per his entitlement.

From the details given by you it would appear that what has been allowed to you by way of staying in a vacant office room, cannot be equated to proper residential accommodation and hence recovery of licence fee is not in order.

However, HRA is admissible only on furnishing of certificate in the prescribed form to the effect that the official is incurring some expenditure on rent. In your case, you cannot give such a certificate and hence you will not get HRA.

[FR & SR, Part - V, Para. 8]

85

No Licence Fee is payable to post-attached quarters, during grace period after retirement

- A Postmaster, has retired from service on 1-8- FN. He was in occupation of the post-attached quarters beyond retirement, i.e., from 1-8- to 9-9-. The SPO, Rajahmundry Division has asked the retired PM to pay the normal rent for that period at Rs. 305 p.m. (i.e., HRA Rs. 220 plus Licence Fee Rs. 85), without citing any authority therefor. As it appears irregular, you are requested to intimate the amount of HRA payable by the retired PM for retaining the quarters from 1-8- to 9-9-.

Licence Fee should be charged at the same concessional rate as was being paid by the Government servant before his death, dismissal or retirement as the case may be. Similarly, the concession of LF free-quarters, if it was granted in any case, should continue during the period of grace.

Hence in this case, no LF is chargeable from the retired Postmaster.

[Audit Instruction below SR 316-A]

86

Retention of Departmental quarters beyond the grace period not allowed, if one gets transfer to another office covered by General Pool Accommodation

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM-793103, MEGHALAYA

NO.RC(P)60/85

Dated Umiam, the 7th Oct., 1999

ORDER

The following officials/staffs were provided temporary accommodation with effect from the date mentioned against each and the HRA granted to them will be deducted from their salary.

Sl. NO.	Name & designation	Date of effect	Amount deducted
1.	Shri. Kaushlendra Prasad K.P.O. (T-II-3)	August, 1994 to 27-6-99	Rs. 25,742/-
2.	Shri. Prabin Medhi SSG III	August, 1994 to 26-7-99	Rs. 20,392/-
3.	Shri. Druna Sarmah Fieldman (T-2)	August, 1994 to 18-8-98	Rs. 17,327/-
4.	Shri. Prabhat Ch. Das Fieldman (T-II-3)	August, 1994 to 31-8-99	Rs. 27,315/-
5.	Shri. L.L. Srivastava Fieldman (T-II-3)	6-7-94 to 21-8-99	Rs. 26,848/-
6.	Shri. M.K. Das, Fieldman (T-II-3)	6-7-94 to 21-8-99	Rs. 27,283/-

This issues with the concurrence of F.A.O. and approval of Director.

(N.J. KHARMA, PHLANG)
ADMINISTRATIVE OFFICER

Copy for information and necessary action to :-

1. Finance and Accounts Officer, ICAR Research Complex for NEH Region, Umiam with reference to his endorsement dated 18-9-99.
2. Asstt. Administrative Officer (Estt.), ICAR Research Complex for NEH Region, Umiam.
3. Persons concerned by name.
4. Estate Officer, ICAR Research Complex for NEH Region, Umiam.

ANNEXURE - III

100 East 11th, Room 700 (X)
D/O. The Principal Director of Anti-
Scientific Department, Calcutta Science
100, Prince of Wales Road, Calcutta 13

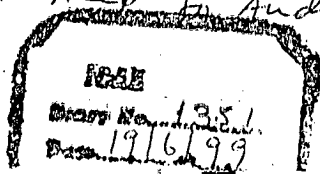
It is learnt that the following officials, residing with their families in the
my sheds (as were earlier constructed
for purposes) since last three/two

It may please be confirmed that the sheds as ~~were~~ allotted to the officials were fit for short accommodation. If not, why those sheds were occupied by those officials -

- 1) Shri J.L. Singh, T-4
- 2) " K. Barman, T-2-III
- 3) " L.L. Srivastava, T-2-III
- 4) " Probir Medhi, supporting stak.
- 5) " Munir Das, T-2-III
- 6) " Prabhat Ch. Das - T-2-III
- 7) " Rajen Srivastava, T-4
- 8) " Kaushlendra Prasad, T-2-III
- 9) " Drono Sharma, T-2-III

Therefore, it is requested to submit ^{proper} information regarding the date of occupation of the Temporary Sheds against each of the aforesaid officials and recovery of electricity charge / HRA etc. to Audit immediately. If no, recovery is being effected, the reason hereof may also be furnished to Audit immediately.

To
The Director,
ICAR, Bangalore,
Mysore.



गठित किया - परीक्षा १९४८ में
 १९४८ में अंतिम परीक्षा

THE DIRECTOR OF QUINCY

UNDERTAKING

I do hereby undertake the following with my full knowledge towards drawal of HRA for residing in the temporary sheds at old Farms Managers Complex, ICAR, Barapani, Meghalaya.

1. That ²they shall be refunding the total amount drawn as HRA in one lumpsum in event of any circular from the council is received contrary to the relief granted.
2. The Administration will not be held responsible from loss of property/live etc., in case of any damage to already deteriorated temporary sheds given to staff on temporary basis.
3. That the office never pressurised to live in this temporary shed.

Yours faithfully,

Kaushleeda Prasad.

(Kaushleeda Prasad)
T-3 K.P.O.
Agril EC 7024084
Statistician I - C.A.R.
Barapani

Dated 14.7.97

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UNDERTAKING

I do hereby undertake the following with my wife and children towards draft of HRA for residing in the temporary shed at old Paras Managers Compound, U.G., Borapani, Meghalaya.

1. That ⁹They shall be refunding the total amount drawn as HRA in one lumpsum in event of any circular from the council in received contrary to the relief granted.
2. The Administration will not be held responsible from loss of property/live etc., in case of any damage to already deteriorated temporary sheds given to staff on temporary basis.
3. That the office never premisesed to live in this temporary shed.

Yours faithfully,

Pladhi

(P. Medhi)
Chowkidar
Estate Office
I.C.A.R. Borapani

Dated: 14/7/97

UNDERTAKING

I do hereby undertake the following with my full knowledge towards drawal of HRA for residing in the temporary sheds at old Farms Managers Complex, ICAR, Barapani, Mechhalaya.

1. That ~~they~~ shall be refunding the total amount drawn as HRA in one lumpsum in event of any circular from the council is received contrary to the relief granted.
2. The Administration will not be held responsible from loss of property/live etc., in case of any damage to already deteriorated temporary sheds given to staff on temporary basis.
3. That the office never permitted to live in this temporary shed.

Yours faithfully

Shuman

(L. L. Srivastava)
Fieldman T-2
Farming System

Dated: -23/7/97.

Ceorder taking

I do hereby cender take the following with my full knowledge towards drawal of HRA for residing in the Temporary shed at old Farm Manager Complex ICAR Bhopal

1. That I shall be refunding the total amount drawn on HRA in one lumpsum in event of any Circular from the Council is received Contrary to the relief granted.
2. The Administration will not be held responsible from loss of property / Live etc in case of any damage to already deteriorated Temporary shed. Given to staff on Temporary basis.
3. That the office women premised to live in this Temporary shed.

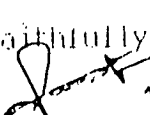
Mhr
(Mhr T-3)

UNDERTAKING

I do hereby undertake the following with my full knowledge towards drawal of HRA for residing in the temporary sheds at old Farms Managers Complex, ICAR, Karapani, Meghalaya.

1. That ⁹ I shall be refunding the total amount drawn on HRA in one lumpsum in event of any circular from the council is received contrary to the relief granted.
2. The Administration will not be held responsible from loss of property/live etc., in case of any damage to already deteriorated temporary sheds given to staff on temporary basis.
- 3) That the office never pressurised to live in this temporary shed

Yours faithfully,


14/9/98
(Arghha Das)
Animal Nutrition
I. C. A. R. Barapeta

41/

-23-

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UNDERTAKING

I, ²do hereby undertake the following with my full knowledge towards drawal of HRA for residing in the temporary sheds at old Farms Managers Complex, ICAR, Barapatti, Meghalaya.

1. That ~~they~~ shall be refunding the total amount drawn as HRA in one lumpsum in event of any circular from the council is received contrary to the relief granted.
2. The Administration will not be held responsible from loss of property/live etc., in case of any damage to already deteriorated temporary sheds given to staff on temporary basis.
3. That the office never promised to live in this Temporary shed.

Dated. 14.7.97.

Yours faithfully,
(Signature)
Desup (asazhak)
T-2 Western
I. C. A. R. Barapatti

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ANNEXURE - V 54

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR Research Complex for N.E.H. Region
Cedar Lodge, Jowai Road, Shillong-793003

No. RC(P)65/78

Dated Shillong, the 16th Sept., 1980.

To

The Accounts Officer,
ICAR Research Complex for N.E.H. Region,
Shillong-793003.

Sub:

H.R.A. to Chowkidars at Shillong.

Sir,

As per rules if any employee is provided with official accommodation, H.R.A. claim cannot be admitted in his case. A list of such persons who have been engaged as Chowkidars in our different buildings at Shillong and provided with accommodation, is enclosed herewith for necessary action.

Yours faithfully,

(V.K.Kaushal)
Senior Administrative Officer

Copy to Cashier, ICAR Research Complex for N.E.H. Region,
Shillong for necessary action.

16/9/80
(V.K.Kaushal)
Senior Administrative Officer

ncd
15/9/80

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A list of persons who have been engaged as Chowkidars & provided with Official accommodation.

1. Shri Bhim Bahadur Chhetri No.I
2. Shri Bhim Bahadur Chhetri No.II
3. Shri Biswanath Saha
4. Shri D.D. Lama
5. ✓ Shri P.C. Medhi ✓
6. Shri Giasuddin Ahmed
7. Shri D.R. Sarmah
8. Shri Pretious Dkhar ----- In place of Shri Allen Nongkhlaw.

....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

44
Filed by:
the Applicant
through
Ujjal K. G. G. G.
Advocate
10/11/2001
56

—O.A. No.75 of 2000

Sri Prabin Medhi, & Ors Applicants.

-vs-

U.O.I. & Ors Respondents.

REJOINDER TO THE WRITTEN STATEMENT.

1. That the applicants have received the copy of the written statement and have gone through the same. Save and accept the statements which are not specifically admitted hereinbelow, rests may be treated as total denial.

2. That with regard to the statement made in para 1 and 2 of the written statement the applicants while denying the contentions made therein beg to reiterate and reaffirm the statements made in the O.A.

In the nutshell in reply to the said para 2 of the written statement, the applicants beg to state that the accommodation was granted to the applicants by the respondents in the exigencies of work not on their own requests. To that effect order dated 16/5/90 and 24/11/94 may be referred to by which the respondents attached the services of the applicants and were granted temporary barrack types of quarters without bathrooms, kitchen etc. The said accommodations were far below the actual entitlement and the director himself conveyed his approval for granting of HRA vide Annexure-1 and Annexure-4 letters dated 16.3.88 and 30/4/97. These orders are still in operation and hence there can not be any deduction of HRA from the applicants.

Copies of the letters dated 16.5.90 and 24.11.94 are annexed herewith and marked as Annexure-RJ 1 & 2 respectively.

The rule cited by the respondents is in respect of "official accommodation", but in the present case the applicants are made to stay in barrack types of quarters without the required facilities, and hence the said rule is not applicable in the present case. The applicants have also denied the correctness of the Annexure-1 letter dated 18.3.2000 which was written in connection of the present case and same can not be treated as a guideline.

The applicants further beg to state that the action on the part of the respondents in issuing the impugned orders is the net result of audit verification. The respondents to cover their ^{skin} ~~schemes~~ have taken the shelter of audit verification. The applicants emphatically state that before the audit party Annexure-1 order dated 16.3.88 as well as Annexure-4 order dated 30.4.97 were never produced and same has resulted in issuance of aforesaid impugned orders.

3. That with regard to the statement made in para 3 the applicants offer no comment on it.

4. That with regard to the statement made in para 4 of the written statement the applicants beg to reiterate and reaffirm the statement made above as well as in OA for the sake of brevity. It is noteworthy to mention here that a committee was constituted to scrutinise the matter regarding the deduction of HRA from the applicants and after considering all the relevant factors as well as the condition of the said barrack types of quarters, it was decided not to make any such recoveries withdrawing

the Annexure-6 order dated 7.10.99. However, the minutes of the said meeting was never produce before the audit party which has resulted issuance of the impugned orders.

A copy of the report of the committee is annexed herewith and marked as Annexure- RJ-3.

Inspite of best effort the applicants could not collect the official copy of the said minutes and hence they pray before the Hon'ble Tribunal for a direction to the respondents to produce the said copy at the time of hearing of the case.

5. That with regard to the statement made in para 5, 6 & 7 of the written statement the applicants deny the correctness of the same and beg to state that the impugned orders have been issued without any authority and rule and with the help of some unconsignable contract the respondents want to justify their said action. It is further stated that the audit observation is very clear and same does not suggest any recovery. However, the respondents misinterpreting the same issued the impugned orders which are per-se-illegal.

6. That with regard to the statement made in para 8 of the written statement while denying the statement made therein beg to state that in view of Annexure-1 and Annexure-4 orders dated 16.3.88 and 30.4.97 the applicants are drawing HRA as the actual entitled accommodation is still not made available to them. The applicants are made to stay in the said quarter and now the issuing the impugned orders the respondents can not withhold the HRA as well as its recovery.

7. That with regard to the statement made in para 9 and 10 of the written statement the applicants while denying the contention made therein beg to state that the respondents of their own

- 4 -

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have granted HRA because of the fact that the accommodation made available to the applicants were not up to their entitlement and the same are only barrack types of quarter without any basic facility like toilet, kitchen etc. In fact, these wooden shades are purely temporary and same are virtually not even in shape. During the rainy season problem arises like water logging, frequent appearances of deadly snakes etc. The respondents because of exigency of services have allotted these barrack types of quarters to the applicants.

8. That with regard to the statement made in para 11 and 12 of the written statement the applicants beg to state that the orders granting HRA have been issued with the approval of director and since the said orders are still in operation the issuance of Annexure-6 order dated 7.10.99 and Annexure-8 order dated 15.2.2000 are without any jurisdiction.

9. That with regard to the statement made in para 13 of the written statement the applicants while denying the contention made therein beg to state that the rule cited by the respondents is in relation to official accommodation (actual and entitled) not in respect of barrack types of quarters and hence said rule will not be applicable in the present case. Apart from that the Director being the competent authority issued the order granting the HRA and same can not be withhold by an order of a subordinate officer.

10. That with regard to the statement made in para 14, 15, 16 & 17 of the written statement the applicants while denying the contention made therein beg to state that before the audit team the relevant documents granting HRA as well as the minutes of the committee meeting which was the expert body for consideration of the same were never produced and same has resulted in

issuance of impugned order which are per-se-illegal.

11. That with regard to the statement made in para 18 of the written statement the applicants deny the statement more specifically the statement "evil intention" and beg to state that as per their own admission in the written statement it is crystal clear from where the root of issuance of impugned orders exist.

In view of the aforesaid facts and circumstances the application deserves to be allowed with cost.

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

I Shri Prabhin Medhi, aged about 44 years, son of late Kankha Ram Medhi, at present working as Chowkider, in the Office of the Director ICAR, Barapani. Meghalaya, Shillong, do hereby solemnly verify and state that the statements made in paragraphs ...1, 3, 5 - - 11..... are true to my knowledge and the statements made in paragraphs2, 4..... are matters of records which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I am the applicant No 1 in the instant application and as such well acquainted with the facts and circumstances of the case and I am also authorised by the other applicants to sign the verification.

And I sign on this the Verification on this the 7th Day of Jan. 2000.

Applicant.

Prabhin Ch Medhi.

- 7 - ANNEXURE-RJ-1 50
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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
Umroi Road, Barapani, Meghalaya

NO.RC(E)4/88

Dated Shillong, the 16th May, 1990.

ORDER

The Director is pleased to approve attachment of the following technical staff in the General Section under the Farm Manager, Barapani to assist him in taking attendance and detailment of labourers at 7.30 A.M. every day:-

1. Shri. Prabhat Das, T-1-F.S.R.P
2. Shri. R.C. Tamuli, T-1 - Agril.Engg.

They will be allowed to leave Office one hour earlier in the afternoon.

(B.I. Chowdhury)
Asstt. Administrative Officer (Admn.)
CHS

Copy for information to :-

- ✓ 1. Persons concerned. They will remain in the General Section for one hour only in the morning time from 7.30 A.M. After that they will go to their respective Division.
2. Scientist Incharge (Agril.Engg.), ICAR Research Complex for NEH Region, Barapani.
3. Senior Farm Manager, ICAR Research Complex for NEH Region, Barapani.

Shri. Prabhat Das,
T-1 (F.S.R.P)

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, BARAPANI - 793103, MEGHALAYA

NO. RC(G) 42/93

Dated the 24th Nov, 1994.

ORDER

The following officials are hereby directed to attend the work of taking attendance of Casual workers at 7.30 a.m. and 1.30 P.m. (after lunch) respecting in General farm of ICAR Research Complex, Barapani in addition to their normal duties with immediate effect.

1. Sri. Prabhat Ch. Das.
Field man T - 2 (Animal Nutrition)
2. Sri. Laxman Lal -
Srivastava -
Field man T - 1 (FSRP)

This issues with the approval of the Director.

for Asstt. Administrative Officer
(Admn).

Copy for information & necessary action to:-

1. Sr. Farm Manager, ICAR Res. Complex for N.E.H. Region, Barapani
This refers to his letter No. RC/BAR/FN -14/92-93/637
dated 6/10/94.
2. The Heads of Division (Animal Nutrition/ FSRP)
3. Person Concerned. *Sm. P. C. Das*
4. Personal File of Sri. P.C. Das/ Sri L.L. Srivastava.

Sh. Prabhat Ch. Das
for n/a.

J. S. Gupta
26-11-94

REPORT OF COMMITTEE CONSTITUTED TO EXAMINE THE CASE CONNECTION WITH THE DEDUCTION OF HRA OF THE STAFF.

The committee constituted vide office order No, RC (P) 60/85 dated 3/11/99 to examine the case in connection with deduction of HRA of the staff who were staying in the temporary shades for some periods we met on the 15/11/99 and went through the records pertaining to granting HRA to the staff. From the documents it appears some of the staff were allotted temporary shades in view of the exigency of the work during outside office hours as well as on Sunday and holidays (live stock duties, taking attendance at 7.30 AM etc). These wooden shades were purely temporary ones without any basic facilities like toilets, kitchen etc. and can not be considered as equivalent of residential quarters. The staffs were allowed to stay on condition that 'for any untoward happening from location and structure of the house, administration will not be held responsible. The Director also personally visited the shades and noted that they are in bado shape'. Snakes usually found in the area, no cleanliness of the compound etc. therefore we feel the HRA paid to the staff so far were correct and recommend that the order no RC(P) 60/85 dated 7/10/99 for recovery of HRA paid to them may be withdrawn. Mr Rajesh Sahay, F.A.O. is out of station and could not attend the meeting.

(K.K.SATAPATHY)
Chairman

(RAMESH SINGH)
Member

Repar
pra 8

SS Gr III
SS Gr II

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7/10/99 ← Amt 6
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