

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH ::::: GUWAHATI

Contempt

ORDER SHEET
APPLICATION NO

5 OF 2001 (OA 34/2000)

Applicant (s) S. C. Deb & Sons

Respondent(s) U. O. I & Sons

Advocate for Applicant(s) M. Chanda, N. D. Goswami, G. K. Chakraborty

Advocate for Respondent(s) Sr. Case

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition has been filed by the counsel for the petitioner for initiation of contempt proceeding against the respondents for non-compliance of the Judgement and order dated 16.6.2000 passed in O.A. 34/2000.

21.3.01

Heard Mr. M.Chanda, learned counsel for the petitioners.

Mr. Chanda submits that he is not pressing for this petition. Accordingly the petition is dismissed as not pressed.

Vice-Chairman

Revised before the Hon'ble Court for further order.

22/3/01

Section Officer

22.3.2001

Copy of the order has been sent to the Office for issuing the to the L/Advocate for the parties

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

C.P. No. 5 /2001
IN O.A. No. 34/2000

Shri Subhas Chandra Deb & 65 others.

- Versus -

Union of India and others.

- And -

In the matter of :

An application u/s 17 of the Administrative Tribunal Act 1985 praying for initiation of contempt proceeding against the contempners for non-compliance of the judgement and order dated 16.6.2000 passed in O.A. 34/2000.

- And -

In the matter of :

Shri Subhas Chandra Deb

Working under the office of the
Garrison Engineer, Umroi,

Cantonment Military Engineering Services

Umroi, Meghalaya.

..... Petitioner.

- Vs -

1. Major General S.S. Puri

Army Headquarter, Engineer-in-Chief's

Branch, Kashmir House, DHQ,

P.O. New Delhi, New Delhi-110011.

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Filed by me applicant -
Munira H.D. Goswami
Adm. Secy.
5/3/01

2. Mr. A.K. Pathak
Garrison Engineer (P)
Umroi Cantonment Borpani
Shillong - 793 003.

..... Alleged Contempners.

The petitioner above named most humbly and respectfully beg to state as under -

1. That the abovenamed petitioner and 65 others approached this Hon'ble Tribunal through a original Application No. 34/2000 (S.C. Deb & Other - Vs - Union of India & Others) claimed their House Rent Allowance at the rate of B-2 cities which is applicable at Shillong, with effect from May 1991. This original application was contested by the respondents and the case was finally decided in favour of the petitioners on 16.6.2000 whereby the Hon'ble Tribunal was pleased to direct the respondent to pay their claims who are found entitled to HRA for the period to which they be found entitled to or with effect from May 1991 which may be applicable to individual case calculating the House Rent Allowance at the rate of B-2 class cities i.e. at the Shillong rate, within a period of three months from the date of communication of this order.

Copy of the judgement and order dated 16.6.2000 in O.A. No. 34/2000 is enclosed as Annexure-I.

2. That immediately after pronouncement of the judgement the petitioner has obtained a certified copy of the judgement and order dated 16.6.2000 in O.A. No. 34/2000. The same was submitted with a representation dated nil addressed to the Garrison Engineer (P) Umroi , Umroi Cantonment, Borpani,

Shillong- 793003. But thereafter no action was initiated by the respondents/alleged contempners till date and thereby violated the order and direction passed by the Hon'ble Tribunal in the judgement and order referred above. The non-compliance of the judgement and order dated 16.6.2000 passed on O.A. No. 34/2000 is a willful violation of the Hon'ble Tribunal orders which is amount to contempt of court. Therefore, Hon'ble Tribunal be pleased to initiate contempt proceeding against the contempner for willful non-compliance of the Hon'ble Tribunal order.

A copy of the representation is annexed as Annexure -2.

3. That your petitioner beg to state that the Hon'ble Tribunal was pleased to grant for extention of time for implementation of the judgement and order dated 16.6.2000 passed in O.A. No. 34/2000. But this period also over. Till now no action was initiated by the alleged contempner. Therefore, the action of the contempner is amount to willful disobedience of the judgement and order dated 16.6.2000 passed in O.A. No. 34/2000. Therefore, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the contempner for non-compliance of the judgement and order dated 16.6.2000 passed in O.A. No. 34/2000 and further be pleased to impose punishment in accordance with law.

4. That this petition is filed bonafide and for the ends of justice.

Under the facts and circumstances stated above the Hon'ble Tribunal be pleased to initiate contempt proceeding against the contempner for willful non-compliance

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of the judgement and order dated
16.6.2000 passed in O.A. No. 34/2000
and further be pleased to impose
punishment upon the contempners in
accordance with law and also pleased
to pass any other order or orders as
deem fit and proper.

And for this act of kindness the petitioner as in
duty bound shall remain ever grateful.

Affidavit

A F F I D A V I T

I, Shri Subhas Chandra Deb, ~~son of applicant in the above~~
~~contempt petition~~
~~aged about~~ years working under Garrison Engineer,
 Umroi Cantonment, Military Engineering Services, Umroi,
 Meghalaya, petitioner in the above contempt petition do
 hereby solemnly affirm and declare as under.

1. I am the petitioner in the above contempt case
 as such I am well acquainted with the facts and
 circumstances of the case and also competent to
 serve this affidavit and I have been duly authorised
 by the other petitioners.
2. That the statement made in para 1 to 4 are true to
 my knowledge and I have not suppressed any material
 facts.
3. That this affidavit is made for the purpose of
 filing contempt petition before the Hon'ble Central
 Administrative Tribunal, Guwahati Bench, Guwahati
 arising out of the judgement and order dated 16.6.2k
 passed in O.A. No. 34/2000.

And I sign this affidavit in this 5th day of ^{march} Feb 2001

Identified by

Narendra Goswami

Advocate

Deponent

Solemnly affirmed and declared

before me by the deponent who is

identified by Mrs. N. D. Goswami
 Advocate on 5.3.2001.

[Signature]
 Advocate
 Central Administrative Tribunal
 Guwahati Bench

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DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal Guwahati Bench, Guwahati to initiate contempt proceeding against the alleged contemners/respondents for willful and deliberate non-compliance of judgement and order dated 16.1.2000 passed in O.A. No. 34/2000 and further be pleased to impose punishment upon the contemners/ Respondents for willful and deliberate non-compliance of judgement and order dated 16.6.2000 passed in O.A. No. 34/2000.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE - 1

Original Application No. 34 of 2000.

Date of decision : This the 16th day of June, 2000.

Hon'ble Sri D.C.Verma, Member(J).

Shri Subhas Chandra Deb & 65 Ors.
All the applicants are working
under Garrison Engineer, Umroi
Cantonment, Military Engineering
Services, Umroi,
Meghalaya

....Applicants

By Advocate Mr. M.Chanda.

-versus-

1. Union of India
through the Secretary to the
Government of India, Ministry
of Defence, New Delhi.
2. The Headquarter Chief Engineer,
Eastern Command, Fort William,
Calcutta.
3. The Controller of Defence Accounts,
Narengi,
Guwahati.

The Army Headquarter Engineer-
in-Chief's Branch, Kashmir House,
DHQ, P.O. New Delhi
New Delhi-110011.

The Garrison Engineer(P),
Umroi,
Umroi Cantonment, Borpani,

shillong-793003

...Respondents

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

O R D E R

D.C.VERMA, MEMBER(J).

All the 66 applicants of the present OA are working
under the Garrison Engineer, Umroi Cantonment in different
capacities namely, Electrician, Fitter General
Mechanics/Motor Pump Attendant, Fitter Pipe Carpenter,
Mason Valveman, Painter, Blacksmith, Hammerman, Upholster,
CAn Waiver, Mazdoor, Mate, Safaiwala, Chowkidar, Peon
Duftry, L.D.C., U.D.C. and Steno etc. in the grade of

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Group C and D employees. The applicants have claimed House Rent Allowance (for short HRA) at the rate of B-2 cities which is applicable at Shillong, with effect from May 1991.

2. The applicants' case is that earlier they were getting HRA as admissible to the employees residing at Shillong and they had been drawing HRA at the same rate from 1987 to April 1991. However in May 1991 the said HRA was stopped. Consequently the applicants filed O.A.No.79 of 1997. The said O.A. was decided by this Tribunal on 4.3.1998. The Tribunal observed as below:

"This is a matter long pending since 1991 and it cannot be allowed to linger on in this manner. The respondents, particularly the Army Headquarters, Engineer-in-Chief's Branch, New Delhi, are therefore directed to make final decision on the claim of the applicants after consideration of the relevant facts and rules with regard to the payment of HRA to the applicants at the rate applicable to Shillong. They shall issue a speaking order in the matter within 3 months from date of their receipt of this order. The applicants are at liberty to contest the decision of the respondents if they are aggrieved with it.

The application is disposed of. No order as to costs."

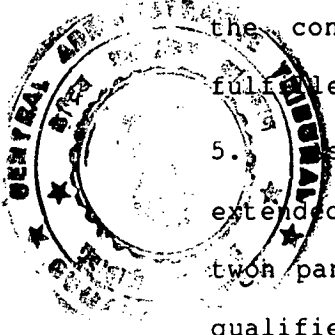


3. The learned counsel for the applicants has submitted that HRA is admissible to places which are within 8 kilometres of municipal limit of classified cities, but which are not included within Urban Agglomeration of any city. The requirement for this 8 kilometres certificate is as per the clarification 3 given at page 11 of the "Swamy's Compilation of F.R.S.R. Part-V of the HRA and CCA" and in O.M.No.21011/19/88-E-II.B dated 22.9.1989 (Annexure 9 to the O.A.). It provides that in all cases where the Collector certified that the area in question depends for its essential supplies on the qualifying city even though there may be another municipal area within the 8 kilometres radius, Government would consider on merits whether grant of House Rent Allowance in such case would be justified. Clarification 3 provides that the required certificate^{is} to be obtained from

the.....

the Collector of a District for the purpose of grant of House Rent Allowance under this order. As per the applicants vide Annexure 12 dated 21.8.97 the Deputy Commissioner of Nongpoh gave a certificate to the effect. Still the respondents have not allowed HRA to the applicants at par with the employees residing at Shillong.

4. Learned counsel for the respondents has submitted that as per the certificate dated 21.5.91 given by the Deputy Commissioner, East Khasi Hills District, Shillong (Annexure 2 to the O.A.) the "Umroi Cantonment is located at a distance of 32 kms (By road) from Shillong town." The submission of learned counsel for the respondents is that the distance is considered by normal route of conveyance, i.e. Rail or Road. Consequently it has been submitted that the condition of 8 kms laid down in the rule is not fulfilled.



5. As per rule the benefit of concession of HRA may be extended to the employees working in a place which though a town panchayat is dependent for its essential supplies on a qualified city and is within the 8 km limit of the 'periphery' of the qualified city. In the certificate (Annexure-2 to the OA) given by the Deputy Commissioner, East Khasi Hills District it is mentioned that "satisfactory facilities do not exist in an around Umroi Cantonment for accommodation on here, Health coverage, education, essential commodities, transportation etc. Therefore, Government employees working there have to depend to a great extent on Shillong city to meet their day to day necessities." Thus from the certificate (Annexure-2) all other conditions which are required for grant of HRA is fulfilled except that the Deputy Commissioner has mentioned that the Umroi Cantonemtn is located at a distance of 32 kilometres by road from

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Shillong. The other certificate given by the Deputy Commissioner, Nongpoh having jurisdiction over the place mentioned that Umroi Cantonment is non-municipal area and is not a notified area. The certificate further indicates that "UMROI CANTT is within a distance of 8 kilometres from the 'periphery' of the municipal limits of SHILLONG." The certificate further shows that "excepting SHILLONG there is no other municipality notified area of cantonment within a distance of 8 kilometres from UMROI CANTT and it is generally dependent for its essential supplies e.g. foodgrains, milk, vegetables, fuel, Health coverage, education, transportation etc. on SHILLONG TOWN." Thus the certificate dated 21.8.97 from the Deputy Commissioner, Nongpoh, clearly shows that Umroi Cantonment is within a distance of 8 kilometres from the 'periphery' of the municipal limits of Shillong city. It is admitted to the parties that as per rule the distance is to be from the 'periphery'. Earlier certificate given by the Deputy Commissioner, East Khasi Hills District, to the effect that the distance is 32 kilometres by road is not from the periphery. Thus the certificate issued by the Deputy Commissioner, Nongpoh gives a correct distance from the periphery as required under the rules. All other conditions, as have been stated above given in Annexure-2 and 12 to the OA, fulfills the requirement of the rules.

6. Submission of learned counsel for the respondents is that total dependency on Shillong is not acceptable in view of accommodation now available at Umroi.

7. The submission of the learned counsel for the respondents cannot be accepted. Even if it be accepted that some accommodation is now available at Umroi, this

Contd...

would not ease the situation because for all other essential supplies of life as indicated in Annexures 2 and 12, the employees are dependent on Shillong Town.

8. Learned counsel for the respondents has further submitted that some of the applicants are not entitled for HRA because 5 of the applicants are in fact residing in Government residential accommodation and they are therefore not entitled for any HRA. As per written statement of the respondents some of the applicants have even retired. This is a question which is not to be decided in this case and it will be for the authorities to examine individual cases for grant of HRA. It is only held that those who are entitled to HRA they would be entitled at the rate of B-2 class cities i.e. at the Shillong rate and not below that. Accordingly the O.A. is allowed in the light of the observation made above. The respondents shall pay arrears after adjustment of HRA if any, paid earlier to the applicants who are found entitled to HRA for the period to which they be found entitled to or with effect from May 1991 which may be applicable to individual case claculating the House Rent Allowance at the rate of B-2 class cities i.e. at the Shillong rate, within a period of three months from the date of communication of this order.

9. The O.A. stands allowed. No order as to costs.

Certified to be true Copy

प्रमाणित प्रतिलिपि

Sd/MEMBER(J)

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-8

গুৱাহাটী বেঞ্চ, গুৱাহাটী-৮

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ANNEXURE-2

To

The Garrison Engineer,
Umroi Military Station.
P.O. Barapani
Shillong-793103

(Through Proper Channel)

**Subject : PRAYER FOR IMMEDIATE IMPLEMENTATION OF JUDGEMENT
AND ORDER DATED 16.6.2000 PASSED IN OA NO- 34/2000**

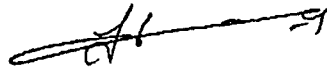
Respected Sir,

1. I like to draw to your kind attention on the subject cited above and further beg to state that being aggrieved for non-payment of HRA, at the Shillong rate, I approached the Hon'able CAT Guwahati Bench through OA No-34/2000 claiming payment of HRA with retrospective effect. The Hon'able Tribunal passed the judgement and order on 16.6.2000, in my favour for payment of HRA with retrospective effect accordingly. You are requested to implement the judgement and order dated 16.6.2000 passed in OA No-34/2000 immediately without any further delay. An early action is highly desired.

2. A copy of the judgement dated 16.6.2000 is enclosed for your ready reference.

Yours faithfully,

Dated _____ Aug 2000


(SC DEB)
C/O GE Shillong
Shillong-1 (Meghalaya)

Message for T.R. Das.
Fax no. 0361 529056