

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 110/01.....

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SECTION OFFICER (Judl.)

B. K. S.
7.12.17

FORM NO.4
(See Rule 42)

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

ORDER SHEET
Original APPLICATION NO 110 OF 2001

Applicant (s) Ganesh Ch. Mandal & sons

Respondent(s) U.O.I & sons

Advocate for Applicant(s) Adil Ahmed

Advocate for Respondent(s) C G S E.

Notes of the Registry	Date	Order of the Tribunal
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21.3.01

Mr. A. Ahmed, learned counsel
the applicants.

Issue notice on the respondents as
to why the application shall not be
admitted. Returnable by six weeks. List
on 9.5.2001 for consideration o
admission.

Vice-Chairman

trd

27/3/01
2.5.2001

Application is admitted. Call
for further records.

List on 13.6.2001 for orders.

Vice-Chairman

bb

3 Gms steps
along with envelope
received.

26-3-2001

Service of Notice papers
issued to the respon
dents vide D. No. 1164-66
Dated 26.03.21.

Service report are
still awaited.

26/3/01

done with stamping
H. K. S. S.

13.6.01

None appears for the applicant.
List on 4.7.01 for orders.

Member

① Notice duly served
on R.No. 1 & 2,
respondent No. 3
are still awaited.

lm

04.07.01

Four weeks time allowed to enable the respondent
to file written statement.

List on 10-08-01 for orders.

② No. written statement
has been filed.

mb

10.8.01

On the request of respondents 4 weeks
time is allowed to file written statement.
List on 14/9/01 for order.

Member

No written statement
has been filed.

By
9.8.01

mb

14.9.01

List on 12/10/01 to enable the respondents
to file written statement.

Vice-Chairman

No. wts has been filed.

By
13.9.01

No. written statement
has been filed.

mb

12.10.01

Mr. B.C. Pathak, learned Addl.C.G.B.C
submitted that he will be filing written
statement shortly. List after on 28.11.2001
enabling the respondents to file written
statement.

By
11.10.01

No. wts has been
filed.

bb

28.11.01

List the matter for hearing after
6 weeks. In the meanwhile, the respondents
may file written statement, if any.

List on 16.1.02 for hearing.

Member

No. written statement
has been filed.

By
24.11.01

By
15.1.02

Member

(3)

4

O.A. 110 of 2001

Notes of the Registry	Date	Order of the Tribunal
W/s has been filed on behalf of the respondents at P-51 — 70 NS 7/10/02	16.1.02	It has been stated by Mr. B.C. Pathak, learned Addl. C.G.S.C., the written statement filed on 7th January, 2002. Copy of the same was served to the applicant. Office to verify and tag the written statement. Let the case be listed for hearing on 22.2.02.
	lm	U Vice-Chairman
	22.2.02	Sh. A. Ahmed, learned counsel informs that analogous matter is pending before the Hon'ble Supreme Court and has been fixed in the month of March as per his information and he wants to be heard analogously and prays for adjournment. Mr. B.C. Pathak, learned Addl. C.G.S.C. informed that on similar matters, orders of this Tribunal has been stayed by the High Court. He also ^{requests} produces that the matter may be fixed lately. In view of the mentioned above the case is adjourned to 26.4.02 for hearing.
	lm	CC Sharma Member
	26.4.02	List on 8.5.02 in presence of Mr. A. Ahmed learned counsel for the applicant who is on accommodation.
	lm	Vice-Chairman
	8.5.2002	List again for hearing on 15.5.2002 in presence of Mr. A. Ahmed, learned counsel for the applicant who is on accommodation.
	nkm	Vice-Chairman

By 30/5/02

Notes of the Registry	Date	Order of the Tribunal
<p>1. On 10/10/1944, the Tribunal has received a request from the Ministry of the Interior for the purpose of the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>2. The Tribunal has decided to grant the request and to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>3. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>4. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>5. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>6. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>7. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>8. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>9. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>10. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p>		
<p>11. On 10/10/1944, the Tribunal has received a request from the Ministry of the Interior for the purpose of the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>12. The Tribunal has decided to grant the request and to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>13. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>14. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>15. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>16. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>17. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>18. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>19. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p> <p>20. The Tribunal has decided to order the investigation of the activities of the German Reich in the territory of the French Republic.</p>		

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O.A.110/2001

Notes of the Registry


Date

Order of the Tribunal

15.5.2002

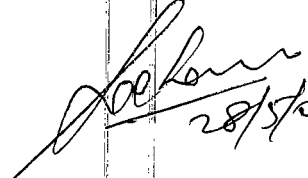
Heard counsel for the parties.
Judgment delivered in open Court, kept
in separate sheets.

The application is ^{dismissed} ~~disposed of~~ in
terms of the order. No order as to
costs.


Vice-Chairman

bb

Received copy
for Respondent.
No- 2


28/5/02

Notes of the Registry Date

Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.X. No. 110 of 2001. . XX

DATE OF DECISION 15.5.2002.....

Ganesh Ch. Mandal & 15 Others.

APPLICANT(S)

Mr.A.Ahmed.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Others.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

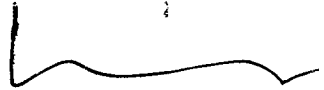
THE HON'BLE MR JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE

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

5.

Judgment delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.110 of 2002.

Date of Order : This the 15th Day of May, 2002.

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

1. G.C.Mandal, Duftry(OTP)
2. K.P.Ketwat, Peon
3. Lal Babu, Master Craftman
4. N.Limbu, Duftry (OPT)
5. Kanu Debnath, Peon
6. S.Jabbar, Chowkidar
7. B.Havi Zealing, Safaiwala
8. Karna Bh Chetry, V/Man
9. S.Francis, V/Man
- 10.I.P.Joshi, CMD
- 11.S.K.Mandal, CMD
- 12.A.Phom, Peon
- 13.Chandrama Mahato, FGM
- 14.Rasheed Hazam, Chowkidar
- 15.R.N.Bora, Mazdoor
- 16.Jalandar Pradhan, Mate.

Applicants.

All the applicants are serving under the Garrison Engineer, 868 E.W.S., C/o. 99 A.P.O.

By Advocate Mr.A.Ahmed.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence, New Delhi.

2. The Garrison Engineer
868 E.W.S.
C/o. 99 A.P.O.

3. The Controller of Defence Accounts
(C.D.A.), Ministry of Defence
Udyan Vihar, Guwahati - 171.

. . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.):

In this application under section 19 of the

Contd./2

Administrative Tribunals Act, 1985 have sought for the following reliefs :

a) a direction to the respondents to pay license free at the rate of 10% of monthly pay with effect from 1.7.87 or from the actual date of posting in Nagaland if it is subsequent thereto as the case may be up to date and continue to pay the same until compensation is not withdrawn or modified by the Government of India or till Rent Free Accommodation is not provided;

b) direct the respondents to pay the 10% compensation in lieu of Rent Free Accommodation in terms of Hon'ble Tribunal's Judgment and Order in O.A. No.48/91 and O.A.No.266/96, 143/99 and other similar cases decided by this Hon'ble Tribunal;

c) to pay the cost of the case to the applicants;"


1. Mr.A.Ahmed, learned counsel for the applicants submitted that the case is squarely covered by the decisions rendered by this Tribunal in O.A.Nos.48/1991, 266/1996 and in 143/1999. Subsequent decision was passed in O.A.124/1995 as well as the decision rendered in O.A.125/1995. The decision rendered by this Tribunal in M.Lepdon AO and 46 Others -vs- Union of India & Others (O.A.43/91) on 26.11.93 was set aside by the Hon'ble Supreme Court on appeal reported in AIR 2001 SC 2826 U.O.I & Others -vs- M.Lepdon & Others. It was held that the compensation in lieu of rent free accommodation are entitled to those persons who fulfil the eligibility criteria as prescribed in the Office Memorandum No.12-11/60-ACC-I dated 2.8.1960.

2. I have also heard Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. In view of the settled

position, it would not be appropriate to issue any direction.

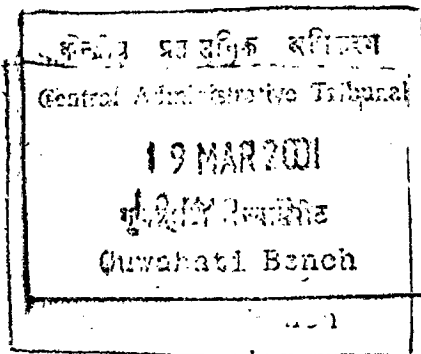
The application accordingly stands dismissed.

No order as to costs.



(D.N.CHOWDHURY)
VICE CHAIRMAN

BB



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 110 OF 2001.

Sri Ganesh Chandra Mandal & others
-Applicants.

-Versus-

The Union of India & Others.

-Respondents.

I N D E X

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7.	Annexure-5	49 to 50

Filed by

(Adil Ahmed)

Advocate.

G. Mandal

Filed by
Shri Guresh chandra Mandal
through [Signature]
applicant no 1
(A/C AHMAG)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. OF 2001.

BETWEEN

Sl. No.	MES No.	Name	Designation
11	311640	Sri G. C. Mandal	Duftry (OTP)
21	243485	" K. P. Ketwat	Peon
31	238266	" Lal Babu	Master Craftsman
41	237947	" N. Limbu	Duftry (OPT)
51	243725	" Kanu Debnath	Peon
61	220150	" S. Jabbar	Chowkidar
71	243686	" B. Havi Zealing	Safaiwala
81	328385	" Karna Bh Chetry	V/Man
91	237897	" S. Francis	V/man
101	228925	" I P Joshi	CMD
111	243724	" S.K. Mandal	CMD
121	243486	" A Phom	Peon
131	243754	" Chandrama Mahato	FGM
141	220055	" Rasheed Hazam	Chowkidar
151	243948	" R. N Bora	Mazdoor
161	243904	" Jalandar Pradhan	Mate

-Applicants.

AND

1) The Union Of India
Represented by the Secretary
to the Government of India,
Ministry of Defence, New Delhi.

2) The Garrison Engineer,
868 E.W.S.,
C/o 99 A.P.O.

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- 3) The Controller of Defence Accounts
(C.D.A.), Ministry of Defence,
Udyan Vihar, Guwahati- 171.

-Respondents.

DETAILS OF THE APPLICATION:

- 1) PARTICULARS OF THE ORDER AGAINST
WHICH THE APPLICATION IS MADE:

- i) The application is made for non-payment of license free at the rate of Rs. 10% compensation in lieu of Rent free accommodation.
- ii) The application is made for non-implementation of scheme of license free under House Rent Allowance in terms of Judgment and order passed in O.A No. 48/91, O.A. No. 266/96 O.A. No. 143/99 and other similar cases decided by this Hon'ble Tribunal.

- 2) JURISDICTION OF THE TRIBUNAL:

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

- 3) LIMITATION:

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

36
40
Officer

4) FACTS OF THE CASE :

Facts of the case in brief are given below:

4.1 That your humble applicants are citizens of India and as such, they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Defence Civilian Employees. They are serving under the Ministry of Defence, New Delhi since a long time.

4.2 That your applicants beg to state that all the applicants are serving under the Garrison Engineer, 868 E.W.S., C/o 99 A.P.O.

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

4.4 That your applicants beg to state that the Government of India under various Memorandums, Circulars, letters, etc. the

Chandel

Defence Civilian Employees are eligible for House Rent Allowance, especially vide Circular No. 11013/2/B6-E-11 (B) dated 23-9-86 issued by the Government of India, Ministry of Finance, Department of Expenditure, New Delhi.

Annexure-1 is the photocopy of Circular dated 23-9-86 issued by the Government of India, New Delhi.

4.5 That the Defence Civilian Employees and also all Central Government Employees posted at Nagaland required to be provided with Rent Free accommodation. Such employees are also entitled to compensation in lieu of Rent Free Accommodation.

4.6 That your applicants beg to state that former Nagaland Hills and Tuansang area and the present State of Nagaland is considered as Specially difficult area for the purpose of Rented Accommodation. In Nagaland irrespective of station of the entire territory the whole state has been considered as a difficult area from the point of view of availability of the Rented House and therefore the Central Government employees are given Rent Free Accommodation. The housing situation in the State of Nagaland in general is not improved and therefore rented house at reasonable rates are not available till date.

4.7 That your applicants beg to state that in the Office Memo dated 23-09-86 at Annexure 1 there is clear recommendation of

Quondal

4th Pay Commission and the same is accepted by the Central Government and accordingly the applicants are entitled to House Rent Allowance and also compensation in lieu of Rent Free Accommodation.

It is pertinent to mention here that these applicants earlier also have filed an application for only House Rent Allowance before this Hon'ble Tribunal through O.A. No. 124/95 and O.A. 125/95. This Hon'ble Tribunal by its common order dated 24-8-95 directed the Respondents to pay House Rent Allowance to the Defence Civilian Employees posted at Nagaland at the rate applicable to the Central Government employees in 'B' (B1 & B2) Class cities/towns for the period from 1-10-86 or from the actual date of posting in Nagaland if it is subsequent thereto, as the case may be applicable from time to time as from 01-03-91 onwards and continue to pay the same. This Order was, however, challenged by the Respondents before the Apex Court and the Apex Court along with other appeals disposed of the appeal of the Respondents in dealing with Special Duty Allowance along with other allowances in Civil Appeal No. 1572/97 and allowed to draw the Special Duty Allowance however, the Apex Court did not make any reference to the House Rent Allowance in Order dated 17-2-97 passed in Civil Appeal No. 1572/97 to the applicants. Therefore, it is now settled that the Defence Civilian Employees posted in Nagaland are entitled to payment of House Rent Allowance. Accordingly

Chondal

the Respondents paid House Rent Allowance to the applicants from 01-10-1986.

Annexure-2 is the photocopy of Judgment & Order passed by this Hon'ble Tribunal in O.A. Nos. 124/95 & 125/95.

Annexure-2 (A) is the photocopy of Civil Appeal No. 1572 of 1997 passed by the Hon'ble Supreme Court.

4.8 That your applicants beg to state that as per judgment & Order passed in O.A. Nos. 124/95 and 125/95 applicants are entitled to House Rent Allowance. But the Respondents did not agreed to pay license free at the rate of 10% of their monthly salary with effect from 1-7-87 or from the date of actual posting in Nagaland. Other Central Government Employees like P & T Department are granted House Rent Allowance at prescribed rate and also granted compensation at the rate of 10% to their basic pay in lieu of Rent free Accommodation.

4.9 That your applicants beg to state that some employees of Geological Survey of India belonging to Group C & D, posted in Nagaland filed an application before the Hon'ble Tribunal vide O.A. No. 48/91 claiming House Rent Allowance at the rate applicable to the 'B' (B1, B2) Class cities, 15% to their pay and also claimed compensation at the rate

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of 10% in lieu of Rent Free Accommodation. The aforesaid application was allowed by this Hon'ble Tribunal vide its Judgment & Order dated 26-11-93.

Annexure ■ 3 is the copy of Judgment & Order dated 26-11-93 passed in O.A. No. 48/91.

4.10 That your applicants beg to state that the similarly situated Defence Civilian employees serving in Nagaland filed an O.A. No. 266/96 and other series of cases before the Hon'ble Tribunal vide their Judgment dated 10-6-97 allowed the series of Original applications and directed the Respondents to pay the House Rent Allowance at prescribed rate and also to pay 10% compensation in lieu of Rent Free Accommodation.

It may be stated that earlier similarly situated persons who are working along with the instant applicant filed Original Application No. 143/99 before this Hon'ble Tribunal for payment of license fee at the rate 10% compensation in lieu of Rent Free Accommodation the Hon'ble Tribunal vide their Judgment dated 06-11-2000 allowed the Original Application and directed the Respondents to pay the license fee to the applicants.

Annexure=4 is the photocopy of Judgment and Order dated 10-06-97 passed in O.A. No. 226/96 and other series of cases.

Chondal

Annexure-5 is the photocopy of judgment and order dated 06-11-2000 passed in O.A. No. 143/99.

4.11 That your applicants beg to state that the similarly situated Defence Civilian Employees of Canteen Store Department posted in Dimapur are getting the House Rent Allowance and also 10% compensation in lieu of Rent Free Accommodation.

4.12 That your applicants beg to state that they have failed to obtain the benefit of license free at the rate of 10% in lieu of Rent Free Accommodation. The applicants filed representation before the Respondents for payment of 10% compensation in lieu of Rent free Accommodation. Till date the Respondents have not paid 10% compensation in lieu of Rent Free Accommodation. Hence they have compelled to file this Original Application before this Hon'ble Tribunal seeking justice.

4.13 That your applicants beg to state that since the applicants are similarly situated with those other Defence Civilian Employees and also the Central Government Employees posted in Nagaland, the Respondents ought to have extended the said benefit to the employees serving under the Garrison Engineer, 868 E.W.S. It is well proposition of law that when a decision is made by the court in case of Central Government Employees it is not necessary for similarly situated other employees to approach this Hon'ble Court and

Chondal

similar benefits also to be extended to them. However, the Respondents have again forced the applicants to approach this Hon'ble Court.

4.14. That the applicants beg to state that they have fulfilled all the terms and conditions for getting license free compensation at the rate of 10% in lieu of Rent Free Accommodation for being posted Nagaland. As such, they are entitled to get benefit.

4.15 That the application is filed bona fide and for the ends of justice.

1 GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the applicants are being similarly placed with the applicants of Original Applications No. 48/91, 266/96, 143/99 and other series of cases. As such, the same benefits ought to have to extend to the present applicants.

5.2 For that the applicants being Central Government Employees serving in Nagaland and being attached with the Armed Forces are entitled to get financial benefits mentioned above.

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

Glondal

5.3 For that the applicants having fulfilled all criteria for granting payment of 10% license free in lieu of Rent Free accommodation and as such the Respondents are liable to pay the applicants the above said license free compensation.

5.4 For that it is settled proposition of law that when the same principle is laid down it should be applicable to all other similarly situated persons and should grant the same benefit without requiring them to approach the Hon'ble Court of law.

5.5 For that the applicants have been denied the said benefit without any principle being heard. There is a violation of principal of natural justice in the denial of the said benefits to the applicants and proper relief are required to be granted to the applicants.

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

6) DETAIL REMEDY EXHAUSTED:

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


Opinion

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

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

8. RELIEF PRAYED FOR:

Under the facts and circumstances narrated above it is prayed that your Lordship may be pleased to admit this petition and issue notice to the Respondents to show cause as to why the reliefs sought for in this application should not be allowed, call for the records of the case and on perusal of the records and after hearing the parties and/or cause or causes that may be shown may be pleased to grant the following reliefs:

- [a)  a direction to the Respondents to pay license free at the rate of 10% of monthly pay with effect from 1-7-87 or from the actual date of posting in Nagaland if it is subsequent thereto as the case may be up to date and continue to pay the same until compensation is not withdrawn or modified by the Government of India or till Rent Free Accommodation is not provided;]

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[b) direct the respondents to pay the 10% compensation in lieu of Rent Free Accommodation in terms of Hon'ble Tribunal's Judgment and Order in O.A. No. 48/91 and O.A. No. 266/96, 143/99 and other similar cases decided by this Hon'ble Tribunal;]

[c) to pay the cost of the case to the applicants;]

c) any other relief or reliefs that may be entitled to the applicants.

9) INTERIM ORDER PRAYED: No.

10) APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O.

I.P.O.No. : 26503687

Date of Issue: 26.2.2001

Issued from : Garwahati

Payable at : Garwahati.

9) LIST OF ENCLOSURES:

As stated in index.

- Verification.

Glondal

VERIFICATION

I, Shri Ganesh Chandra Mandal, MES 311640 -
Serving as Duftry (OTP) in the Ministry of
Defence under the Garrison Engineer, 868
E.W.S, C/o 99 A.P.O. one of the applicants of
the this application and I am authorised to
sign this verification on behalf of other
applicants and verify the statements made in
the accompanying application and in paragraphs
4.1 to 4.3, 4.5, 4.6, 4.8, 4.11, 4.12 are true to my knowledge,
those made in paragraphs 4.4, 4.7, 4.9, 4.10 are
true to my information being matters of record
and which I believe to be true and those made
in para 5 are true to my legal advice and I
have not suppressed any material facts.

And I sign this verification on this
the 19th day of March 2001 at Guwahati.

Ganesh Mandal

- 22-15-

- 22-15-

ANNEXURE - 1

20

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

254

New Delhi, the 23rd September, 1986

OFFICE MEMORANDUM

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

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

.....2

28/9/86
Attchd
1
Asstt Secy

Employees shall be admissible at the following rates:

(1) COMPENSATORY (CITY) ALLOWANCE:

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

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

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(11) HOUSE RENT ALLOWANCE:

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

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

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

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

5. Pay for the purpose of these orders, will be 'Pay' as defined in F.R. 9 (21) (a) (i). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include, in addition to pay in the pre-revised scales, dearness pay, dearness allowance, additional Dearness Allowance. Ad-hoc DAA and Interim Relief appropriate to that pay, admissible under orders in existence on 31.12.1985.

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

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

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

9. Hindi version of the order is attached.

sd/-
(B.P. Verma)
Joint Secretary to the Government of India.

sd/-
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.124 of 1995

With

Original Application No.125 of 1995

Date of decision: This the 24th day of August 1995
(AT KOHIMA)

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

The Hon'ble Shri G.L. Sanglyne, Member (Administrative)

O.A.No.124/95

Shri Krishna Sinha and 116 others

All are serving in the Office of the Garrison Engineer,
868 EWS C/o 99 APO.Applicants

- versus -

1. Union of India represented by
The Secretary, Defence,
Government of India, New Delhi.
2. The Garrison Engineer,
868 EWS C/o 99 APO.
3. The Garrison Engineer,
869 EWS, C.o. 99 APO.Respondents

O.A.No.125/95

Shri N. Limbu and 14 others

All are serving in the Office of the Garrison Engineer,
868 EWS C/o 99 APO.Applicants

- versus -

1. Union of India represented by
The Secretary, Defence,
Government of India, New Delhi.
2. The Garrison Engineer,
868 EWS, C/O 99 APO.Respondents

For the applicants in both the cases : By Advocate Shri A. Ahmed

For the respondents in both the cases : By Advocate Shri S. Ali, Sr. C.G.S.C.



Attended
Shri S. Ali
Advocate

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O R D E R

CHAUDHARI J. V.C.

Mr A. Ahmed for the applicants.

Mr S. All, Sr. C.G.S.C. for the respondents.

Both these cases involve same question and therefore are being disposed of by this common order.

Facts of O.A.No.124 of 1995:

The applicants belong to Group "C" serving in the Defence Department as civilian employees. The application is restricted to applicants at serial No. 1 to 117. These applicants are from inside North Eastern Region and are serving in different capacities as Central Government employees in Nagaland under GE 868 EWS 99 APO. Their grievance is that they are being denied the payment of:

- i) Special (Duty) Allowance (SDA) payable under Memo No.20014/3/83-E-IV of the Government of India, Ministry of Defence dated 14.12.1983 read with O.M.No.4(19)/83/D, Civil-I dated 11.1.1984
- ii) House Rent Allowance (HRA) as per the circular No.11013/2/86-E-II(B) dated 23.9.1986 issued by the Government of India, Ministry of Finance
- iii) Special Compensatory (Remote Locality) Allowance SCA(RL) under the Ministry of Defence letters No.16037/E/A2 HQ 3 Corps (A) C/o 99 APO and No.B/37269/AG/PS3(a)/165/D/(Pay)/Service dated 31.1.1995
- iv) Field Service Concession (FSC) vide letter No.16729/GG4 (clv)(d) dated 25.4.1994 of Army Headquarter, New Delhi, although they are entitled to get these concessions.

2. Although no written statement has been filed, Mr S. All, learned Sr. C.G.S.C., fairly states that we may decide the matter.

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In the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim. 99

Facts of O.A.No.125 of 1995:

3. The applicant Nos.1 to 15 (other applicants already deleted) who belong to Group "A", "B", "C" and "D" employed in the Defence Department as civilian employees and posted in Nagaland make a grievance that the respondents are denying them the benefit of SDA, HRA, SCA(RL) and FSC although they are entitled to get these concessions.

4. The respondents have not filed any written statement. However, Mr S. Ali, learned Sr. C.G.S.C., fairly states that we may decide the matter in the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

REASONS (common to both the cases) :

5. The applicants place reliance upon the O.M. dated 14.12.1983 which provides that Central Government civilian employees who have All India Transfer liability will be granted SDA at the rate prescribed thereunder per month on posting to any station in the North Eastern Region. Likewise, the letter of Ministry of Defence dated 31.1.1995 provides that the Defence Civilian Employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of SCA(RL) together with other allowances as may be admissible. The O.M. dated 23.9.1986 issued by the Ministry of Finance (Department of Expenditure) provides that on the recommendation of the 4th Pay Commission it has been decided that the Central Government employees shall be entitled to HRA, on a slab basis related to their pay and separately prescribed for "A", "B-1" and "B-2", "C" class and "Unclassified" cities with effect from.....

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from 1.10.1986. It is further provided that HRA at the rates prescribed shall be paid to all employees (other than those provided with Government home/hired accommodation) without requiring them to produce rent receipts, but on compliance with the prescribed procedure thereunder. It also provides that where HRA at 15% has been allowed under special orders the same shall be given as admissible in "A", "B-1" and "B-2" class cities and it shall be admissible at the rates in "C" class cities in other areas. The memorandum issued by the Army Headquarter - Org 4(civil)(d) dated 25.4.1994 bearing No.16729/ GG4(Civ)(d) on the subject of FSC to civilians paid from Defence Service Estimates including civilians employed in lieu of combatants and NC&E (both posted and locally recruited) provides that it is proposed to extend the same concessions to Defence civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas and the same shall be paid at the rates prescribed under the said memorandum. It has, however, been provided that SCA such as bad climate allowance etc. shall not be in addition to these allowances.

6. The applicants have based their respective claims on these memorandums.

7. It appears that the applicants in both the cases had filed a Civil Suit in the court of DC(Judicial), Dimapur, Nagaland, being Civil Suit No.255/89 making the same claims. The civil court by judgment and decree dated 19.12.1994 has allowed the claims and directed the respondents to make the payment accordingly. The civil court relied upon the decision of this Tribunal in O.A.Nos.48, 49 and 50 of 1989 of the Central Administrative Tribunal, Guwahati Bench. The decree has not been complied with, but the applicants have now stated in the applications that they would not proceed with the execution of the decree as they have now realised that they had obtained the decree from the court which lacked inherent

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jurisdiction to entertain and try the suit in view of the
of jurisdiction arising under the provisions of the
Administrative Tribunal Act and, therefore, they have
approached this Tribunal for relief by these applications.
Since the applicants were agitating the claim in respect
of SDA and HRA in a wrong forum it is just and proper to
give them the benefit of exclusion of the period of
pendency of the civil suit for the purpose of holding the
said claims within limitation in these applications. The
relief sought in respect of the other two claims is
within jurisdiction.

8. The question of entitlement for all these
claims in respect of Defence civilian employees have
exhaustively examined by us in the decision in the case
of S.C. Omar, Assistant Executive Engineer, -vs- Garrison
Engineer and another (O.A.No.174 of 1993) reported in SLJ
1995(1) CAT (Guwahati Bench) ^{p.74}. We have held in that case
that SDA and SCA(RL) are payable to civilians with All
India transfer liability posted in Nagaland even if they
get Field Service Concessions. We have not accepted the
plea that admissibility of Field Service Concession
deprives them of these benefits. In view of this
conclusion since facts are identical and as we had also
referred to the earlier decisions in O.A.No.48/89 and
O.A.No.49/89 dated 29.3.1994 in support, we are satisfied
that the relief claimed by the applicants in the instant
applications relating to SDA and SCA(RL) must be allowed.
We, therefore, declare that the applicants in the
respective applications are entitled to be paid SDA with
effect from 1.12.1938 or from the actual date of posting
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as the case may be. We further declare that the applicants in the respective applications are entitled to be paid SCA(RL) also, with effect from 1.10.1986. For specifying these dates in respect of these two reliefs we rely upon O.M.No.20014/16/86/E-IV/E-II(B) dated 1.12.1988. This is consistent with the decision in S.C. Omar's case (Supra). It is, however, made clear that this applies only to such of the applicants who are appointed outside N.E. Region, but are posted in N.E. Region on tenure basis.

9. Consistently with the view we have taken in Omar's case on the nature of FSC and with the view taken that SDA and SCA(RL) are payable independently of FSC we hold that on the subject the applicants in the respective applications are entitled to draw the same as provided in the letter of the Government of India No.37269/AG/PS 3(a)/D(Pay & Services) dated 13.1.1994 with effect from 1.4.1993 subject to fulfilment of other conditions prescribed therein.

10. Lastly, in so far as the claim for HRA is concerned we follow our decision in O.A.No.48/91 dated 22.8.1995 and hold that under the O.M. dated 23.9.1986 the applicants are entitled to draw the HRA prescribed for B class cities with effect from 1.10.1986 at the rates prescribed from time to time since 1.10.1986 whether on percentage basis or flat rate or slab basis till (28.2.1993) and thereafter to be regulated in accordance with the O.M.No.2(2)93-E-2(B) dated 14.5.1993 with effect from 1.3.1991 and continued to be paid.

11. For the purpose of the aforesaid order it is made clear that as now held by the Hon'ble Supreme Court the benefit of SDA is admissible only to those employees who are appointed outside the North Eastern Region and are posted in the North Eastern Region. It will be open

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to the respondents to ascertain the case of each applicant for that purpose if necessary. Further it is made clear that this order has been passed on the footing that all the applicants in the two cases are posted in Nagaland.

12. For the aforesaid reasons following order is passed:

(A) O.A.No.124/95:

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986.

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

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Advocate

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iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below.

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

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(B) O.A.No.125/95

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RE) is payable from 1.10.1986.

(b) The respondents are directed to pay to the applicants SCA(RE) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the F to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment the case may be in respect of each applicant upto

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and to continue to give the same as long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



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Section Officer (A)

Central Administrative Tribunal

Delhi

10/11/91

Signature of the Vice Chairman

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ANNEXURE-2(a)

~~ANNEXURE-2(a)~~

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Certified to be true copy
J. S. Chandra
Additional Registrar (Jud.)
3/3/97
Supreme Court of India

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997
(Arising out of SLP (C) No. 14088 of 1996)

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Union of India & Ors. etc.

... Appellants

Versus

A. Prasad, B.S.O. & Ors. etc.

... Respondents

WITH

CIVIL APPEAL NOS. 1572-1576, 1577, 1578, 1579, 1580-1585/97
(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42,
15740, 25108-10 of 1996, SLP (C) No. 4396/96 (CC-
5040/96) and SLP (C) No. 4398/96 (CC-6860/96))

O R D E R

Leave granted. We have heard learned counsel
for the parties.

These appeals by special leave arise from the
various orders passed by the Central Administrative
Tribunal, Gauhati Bench in different matters. The main
order was passed on 17.11.1995 in RA No. 4/95 in OA
No. 49/89.

The Government of India have been issuing
orders from time to time for payment of allowances and

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Asst. Secy

facilities for civilian employees of the Central Government servants working in the States and Union Territories of the North-eastern region. It is not in violation of the Special Duty Allowance was ordered by the Government @ 25% of the basic pay subject to a ceiling of Rs. 400/- per month on posting on any station in the North-eastern region. Subsequently, the Government have been issuing orders from time to time. In the proceedings dated April 17, 1995, the Government modified the payment of the Special Duty Allowance and Special Compensatory (Remote Locality) Allowance as under:

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilian employees in the newly defined Field Areas, Special Compensatory (Remote Locality) Allowance and other allowances not concurrently admissible along with Field Service Concessions."

It is contended by Mr. P.P. Malhotra, learned counsel appearing for the Union of India, that the view taken by the Tribunal that they are entitled to both, is not correct and that they would be entitled

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to either of the allowances. Shri P.P. Rao, learned senior counsel appearing for some of the respondents has contended that those civilian employees working in the defence service at various stations in the North eastern region were given Special Duty Allowance with a view to attract the competent persons and the persons having been deployed, are entitled to the same and the amended concessions would be applicable to those employees who are transferred after April 17, 1975. All those who were serving earlier would be entitled to both. Shri Arun Jaitely, learned senior counsel appearing for some of the respondents has drawn our attention to the distinction between Field Area and Modified Field area and submitted that in cases where civilian employees are supporting the field defence persons deployed for the border operational requirements facing the immense hostilities, they will be denied the payment of both allowances while the personnel working in the Modified Field Area, in other words, in barracks, will be entitled to double benefit of both the allowance. This creates hostile discrimination and unjust results.

Having regard to the respective contentions, we are of the view that the Government having been

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extending the benefit of payment of Special Duty Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17, 1995, they are entitled to both the Special Duty Allowance as well as Field Area Special Compensatory (Remote Locality) Allowance. The same came to be modified w.e.f. that date. Therefore, irrespective of the fact whether or not they have been deployed earlier to that date, all are entitled to both the allowances only upto that date. Thereafter, all the personnel whether transferred earlier to that or transferred from on or after that date, shall be entitled to payment of only one set of Special Duty Allowance in terms of the above modified order.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities

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Advocate

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in hilly areas risking their lives as envisaged in the proceedings of the Army dated January 13, 1994. But the Modified Field Area, in other words, in the defence terminology, "barracks" in that area is a lesser risking area; hence, they shall not be entitled to double payment. Under these circumstances, Mr. P.P. Malhotra is right in saying that the wording of the order requires modification. The Government is directed to modify the order and issue the corrigendum accordingly.

The appeals are disposed of accordingly. It is made clear that the Union of India is not entitled to recover any payments made of the period prior to April 17, 1995. No costs.

(K. RANASWAMY)

(G. T. NARAYAN)

NEW DELHI
FEBRUARY 17, 1997

Adm
Adm to

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

Original Application No. 48 of 1991

Date of order : This the 26th day of November 1993.

Shri S. Haque, Vice-Chairman

Shri S.L. Sanglyine, Member (Administrative)

Shri A. Lepdon Ao and forty six (46) others,
Group 'C' & 'D' employees posted in the
Office of the Director,
Geological Survey of India,
Operation Manipur-Nagaland, Dimapur,
District Kohima, Nagaland

.... Applicants

By Advocate Shri M.N. Trikha

- Versus -

1. Union of India, through the Secretary
to the Government of India,
Ministry of Steel and Mines,
Department of Mines, New Delhi
2. The Director General, Geological Survey
of India, 27, Jawaharlal Nehru Road,
Calcutta: 700 013
3. The Deputy Director General, Geological
Survey of India, North East Region,
Asha Kutir, Laitumkhrah, Shillong-793 003
4. The Director, Geological Survey of India,
Operation Manipur-Nagaland, Dimapur. Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C. and
Shri A.K. Choudhury, Addl. C.G.S.C.

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A.K.C.
Advocate

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ORDER

HARDY J.

The applicants numbering 47 (fortyseven) are Group 'C' and 'D' employees under the Director, Geological Survey of India, Operation Manipur-Nagaland, at Dimapur, Nagaland. This application by them under Section 19 of the Administrative Tribunals Act 1985 claiming House Rent Allowance (HRA) at the rate applicable to 'B' class cities, i.e. at the rate of 15% of their pay and also claim compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

2. It is an admitted fact that the employees of the respondent Directorate are entitled to rent free accommodation in Nagaland, but they were not given free government accommodation.

3. Learned counsel Mr N.W. Trikha for the applicants submits that it was established vide judgment dated 31.10.1999 in I.A.No.42(G)/89 of this Bench and duly confirmed by the Supreme Court vide order dated 18.2.1993 in Civil Appeal No.2705/91 that Nagaland in general is 'B' class city and the Central Government employees there are entitled for benefits of 'B' class cities granted by various circulars and office memoranda. Mr Trikha read out the relevant Office Memoranda. These submissions are not disputed by learned Sr. C.G.S.C. Mr S. Ali. We have perused the judgments and orders referred to by Mr Trikha. Nagaland had been recognised

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as to class cities in general vide our judgment and order dated 31.10.1990 in J.A.No.42(G)/89 read with the Supreme Court order dated 18.2.1993 in Civil Appeal No.2705 of 1991. This being the established position, we held that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wisely with effect from 1.10.1986 pursuant to Office Memorandum No.11013/2/86-E-11(B) dated New Delhi, the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure A/7).

4. After the fixation of the HRA on flat rate basis groupwisely the Government of India further granted compensation to Group A, B, C and D employees in lieu of rent free accommodation with effect from 1.7.1987 vide Government of India, Ministry of Finance, Department of Expenditure O.M. No.11015/4/86-E.11(B)/87 dated 13.11.1987 which reads as follows:-

" The undersigned is directed to refer to para 1 of this Ministry's Office Memorandum of even number, dated 19.2.1987, regarding Central Government employees belonging to Groups 'B', 'C' and 'D' and also para 1 of O.M. of even number, dated 22.5.1987, regarding Central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under Central Government all over the country vide Ministry of Urban Development (Directorate of Estates)'s O.M.No.12035/(1)/85-Pol.II(Vol.III) (i), dated 7.8.1987, the President is pleased to decide that Central Government employees belonging to Groups 'A', 'B', 'C' and 'D' working in various classified cities and unclassified places will be entitled to compensation in lieu of Rent-free Accommodation as under -

- (i) Amount charged as licence fee for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates)'s above mentioned O.M. dated 7.8.1987; and

S. S. Astle
Advocate

(11) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No.11013/2/86-E.II(B), dated 23.9.1986, for Central Government employees belonging to Groups 'B', 'C' and 'D' and para 1 of O.M.No.11013/2/85-E.II(B), dated 19.3.1987, for Central Government employees belonging to Group 'A'.

2. Other terms and conditions for admissibility of compensation in lieu of rent-free accommodation indicated in this Ministry's Office Memorandum, dated 19.2.1987 and 22.5.1987, remain the same.
3. These orders shall take effect from 1.7.1987.

The compensation is fixed at 10% of the monthly emoluments calculated with reference to pay vide NOTIE under para 2 of the Government of India, Ministry of Finance Office Memorandum No.11015/4/85-E.II(B)/87 dated 25.5.1987. These Office Memoranda had been circulated by Geological Survey of India, Calcutta vide order No.14017(1)/83-3(HRA) dated 26.9.1988 for necessary action by all branches. Therefore, we hold that the applicants are entitled to compensation at the rate of 10% of pay in lieu of rent free accommodation with effect from 1.7.1987 in terms of O.M.No.11015/4/86-E.II(B) dated 13.11.1987 in addition of the HRA.

5. The applicants were not entitled to 10% compensation in lieu of rent free accommodation for the month of November 1979 and they are liable to refund that amount.

6. In the result, this application is allowed. The respondents are directed to pay HRA to the applicants at the rate of 15% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of O.M.No.11013/2/86-E.II(B) dated 23.9.1986. The respondents are further directed to pay compensation at 10% of the monthly....

By *Atul*
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monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987 besides HRA. The respondents shall realise 10% of pay of the applicants paid in excess with salary for the month of November 1979.

7. The respondents shall implement the above directions and pay all arrears within three months (90 days) from the date of receipt of copy of the order.

8. Intimate all concerned immediately.

Sd/- S. Haque
VICE CHAIRMAN

Sd/- G.L. Sanglyina
MEMBER (ADMIN)

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40 - ANNEXURE-4
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266/96 and series

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

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

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

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

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 othersApplicants
By Advocate Mr A. Ahmed

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

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Sd/-
Advocate

6. Original Application No.91 of 1996
Shri Daniel Sangma and 81 othersApplicants
By Advocate Mr S. Sarma and Mr B. Mehta.
-versus-
Union of India and othersRespondents
By Advocate Mr G. Sarma, Addl. C.G.S.C.
7. Original Application No.87 of 1996
Shri C.T. Balachandran and 32 othersApplicants
By Advocate Mr S. Sarma and Mr B. Mehta
-versus-
Union of India and othersRespondents
By Advocate Mr G. Sarma, Addl. C.G.S.C.
8. Original Application No.45 of 1997
Shri L. Shashidharan Nair and 9 othersApplicants
By Advocate Mr S. Sarma and Mr B. Mehta
-versus-
Union of India and othersRespondents
By Advocate Mr G. Sarma, Addl. C.G.S.C.
9. Original Application No.197 of 1996
Shri P.C. George and 66 othersApplicants
By Advocate Mr S. Sarma
-versus-
Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.
10. Original Application No.28 of 1996
Shri Hiralal Dey and 8 othersApplicants
By Advocate Mr A.C. Sarma and Mr H. Talukdar
-versus-
Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

B

Attested
by
S. Sarma

11. Original Application No.190 of 1996

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

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

12. Original Application No.191 of 1996

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

-versus-

Union of India and othersRespondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

13. Original Application No.55 of 1997

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

-versus-

Union of India and othersRespondents

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

14. Original Application No.192 of 1996

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

-versus-

Union of India and othersRespondents

By Advocate Mr ~~A.K. Choudhury~~ ^{S. Ali, Sr.} Addl. C.G.S.C.

AB

Att. to
Advocate

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15, Original Application No.20 of 1997

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

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

.....

ORDER

Date of decision: 10-6-1997

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

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ORDER

BARUAH.J. (V.C.)

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

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

The applicants are employees of the Government of India working in various departments including Defence Department. O.A.Nos.266/96, 268/96, 279/96, 18/97 and 14/97 are Defence Civilian employees under the Ministry of Defence, O.A.Nos.91/96, 87/96, 45/97, 197/96 and 28/96 are employees in the Subsidiary Intelligence Bureau Department under the Ministry of Home Affairs, in O.A.No.190/96 the members of the applicant Association are employees under Doordarshan, Ministry of Information and Broadcasting, and at present posted at Kohima, in O.A.No.191/96 the applicants are employees of the Department of Census, Ministry of Home Affairs, in O.A.No.55/97 the applicants are employees under Railway Mail Service under the Ministry of Communication, in O.A.No.192/96 the members of the applicant Union are employees of All India Radio, and in O.A.No.26/97 the applicant is an employee under the Comptroller and Auditor General.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In.....

Attest
[Signature]
Adm. Secy

In the said order.

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

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

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11/2/97

Deputy Registrar (G)
Central Administrative Tribunal
Guwahati Bench

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE - 5
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Original Application No.143 of 1999

Date of decision: This the 6th day of November 2000

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

Shri Krishna Sinha and 267 others.

.....Applicants

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Defence Department, New Delhi.
2. The Garrison Engineer,
868 E.W.S.,
C/o 99 A.P.O.
3. The Controller of Defence Accounts,
(C.D.A.), Ministry of Defence,
Guwahati.

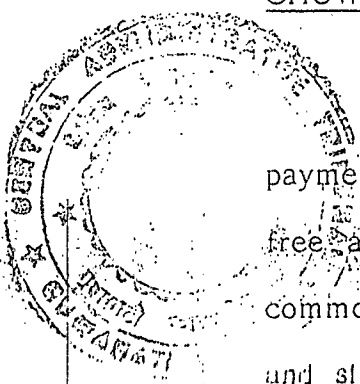
.....Respondents

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

.....

ORDER

CHOWDHURY.J. (V.C.)



The applicants are 268 in number. Their grievance is non-payment of license fee at the rate of 10% compensation in lieu of Rent free accommodation. Since the application pertains to common grievance, common cause of action and the nature of relief sought for is also same and similar, having regard to the facts of the case leave is granted under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1957 to agitate the matter in this single application.

2. All the applicants at the relevant time were serving under the Garrison Engineer at 868 EWS, C/o 99 APO in the rank of Electrician HS II, HS I, Fitter Pipe HS I, Ref. Mech. HS II, FGM (SK), Plumber, Mate, etc. It has been stated by Mr A. Ahmed, learned counsel for the applicants that the applicants have already been granted House Rent

Attested
28/11/2000
A. Ahmed

Allowance by the Tribunal in O.A.No.124/1995 and O.A.No.125/1995 disposed of on 24.8.1995. It has also been stated that the order of the Tribunal dated 24.8.1995 was assailed before the Apex Court and the Apex Court refused to interfere with the order of the Tribunal. A number of like decisions rendered by the Tribunal have also been cited before me. This case also is squarely covered by the decisions rendered by the Tribunal in the earlier cases and also O.A.No.143 of 1998 disposed of on 18.9.2000.

3. In the light of the decisions rendered by this Tribunal the application is allowed and the respondents are directed to pay license fee at the rate of 10% of monthly pay with effect from 1.1.2000 from the actual date of posting in Nagaland whichever is later and continue to pay the same till the compensation is not withdrawn or modified by the Government of India or till Rent free accommodation is not provided.

No order as to costs.

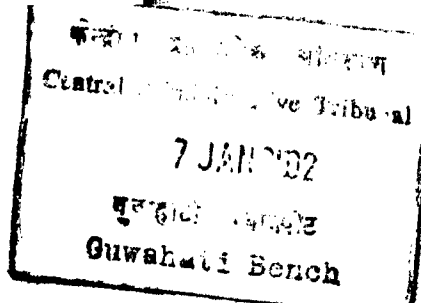
55/ VICECHAIRMAN

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 10/11/2000

Section Officer (J)
 अनुमान अधिकारी (न्यायिक शाखा)
 Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
 Guwahati Bench, Guwahati-8
 गुवाहाटी न्यायालय, गुवाहाटी-8

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Filed by
D. S. S. S. S.
7/1/02
Add. C. B. S. C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No 110/2001

Shri Ganesh Chandra Mandal & Others

... Applicants

-Vs-

Union of India & Others

... Respondents

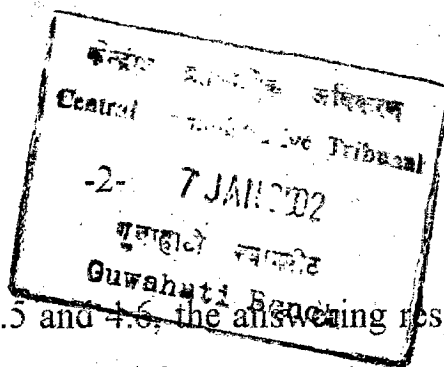
IN THE MATTER OF ;
WRITTEN STATEMENT SUBMITTED BY
RESPONDENTS NO 1 7 2.

WRITTEN STATEMENTS

The humble Respondents beg to submit their Written Statement as follows :-

1. I, Ashok Kumar, Major, Garrison Engineer, 868 Engineer Works Section, C/O 99 APO beg to state that I am respondent No 2 of the above OA and as such I am fully acquainted with the facts and circumstances of the case. A copy of OA No. 110/2001 has been served upon me and I have gone through the same and have fully understood the contents thereof save and except, whatsoever is specifically admitted in this written statement, other statements and contentions of the application, may be treated to have been denied by me.
2. That with regard to paras 4.1 to 4.3 the respondents have no comments.
3. That with regard to Para 4.4 the respondents beg to say that they have been advised to traverse and/or deal with such allegations and/or statements made in the said application, which are relevant for determination of the issue involved in the said application; rest of the allegations and/or statements made in the said application may be deemed to have not been admitted.

Contd . . . 2/-



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4.1. That with regard to Paras 4.5 and 4.6, the answering respondents state that there are no Govt. orders for payment of compensation in lieu of rent free accommodation for the petitioners. As per the general orders issued by Ministry of Finance, the Central Govt. Employees are eligible to draw HRA as admissible at the place of posting in case Govt. accommodation is not provided. The petitioners are drawing HRA as confirmed by them in the petition. Further it is stated that the facility of compensation in lieu of rent free accommodation is applicable only to such of the Govt. Employees who are entitled to the facility of rent free accommodation in accordance with Govt. of India. Ministry of Urban Development (Directorate of Estates) O.M.No 12-11/60-ACC-I dt 2.8.1960 and who have not been provided with such accommodation. As per aforesaid O.M.dt 2.8.1960, this facility is provided only in the case of those where it is obligatory for the concerned employees to stay at the office premises for proper discharge of official duties. The petitioners are not required to stay at the office premises round the clock for discharge of their official duties.

Annexure R-1 is the photocopy of Ministry of Urban Development O.M.No. 12-11/60-ACC-I dt 2.8.1960.

Annexure R-2 is the photocopy of Ministry of Finance latest O.M.No. 2(7)/97-E.II(B) dt 21.12.1999 regarding revision of rates of compensation in lieu of Rent Free Accommodation.

4.2. However, Ministry of Defence have issued orders classifying the forward areas as Field Areas and Modified Field Areas and certain additional compensation have been provided for civilians working in such areas. The petitioners are working in such areas classified as Field areas and they are eligible for certain additional non-monetary benefits as given in Annexure "C" to Govt letter No A/02584/AG/PS3(a)/97-S/D(Pay/Services) dt 25.1.64. The applicants in above O.A. have been permitted to construct accommodation in Defence land and facilitated with electricity and water supply.

Annexure R-3 is the photocopy of Govt letter No A-2584/AG/PS3(a)/97-S/D(pay/Services) dt 25-1-1964.

5. That with regard to Para 4.7 it is denied that Ministry of Finance O.M.No. 11013/2/86-E-II(B) dt 23.9.1986 is concerned with compensation in lieu of rent free accommodation. It can be seen that O.M. dt 23.9.86 only laid down the scale of HRA in various places.

6. That with regard to para 4.8 it is stated that no Central Govt. Employee who is not covered by Ministry of Urban Development O.M. dt 2.8.19060 (Annexure R-1) is entitled to both HRA as well as any compensation in lieu of rent free accommodation. The petitioners may be directed to furnish the Govt. orders under which they are claiming 10% of their Basic Pay in lieu of rent free accommodation. In fact they are enjoying HRA as well as Field Service Concessions which include rent free accommodation.

7. That with regard to para 4.9 it is stated that the judgement in OA No. 48/91 is not related to civilians under Ministry of Defence and as such have no further comments.

8. That with regard to Paras 4.10 and 4.11 it is stated that the applicants in OA No. 266/96 have already been given free accommodation as part of Field Service Concessions; they have not been granted any compensation in lieu of rent free accommodation. The judgement of Hon'ble CAT Guwahati on OA No. 143/99 has been challenged in the Hon'ble High Court, Guwahati through Writ Petition No 1569/2001 and stay order obtained vide order dated 14.03.2001.

Annexure R-4 is the photocopy of Stay order dated 14.03.2001.

9. That with regard to Paras 4.12 to 4.15 and 5.1, as already stated above, no Central Govt. employee is eligible for both HRA as well as compensation in lieu of rent free accommodation. In fact the petitioners have been given permission to construct temp accommodation in Defence Land and facilitated with electricity and water supply and they are not entitled for any further compensation in the form of licence fee at the rate of 10% of Basic Pay.

10. In view of the facts stated herein, prayer of the petitioners in the above O.A. and on the grounds of the application are not maintainable in law as well as in fact, and as such the application is liable to be dismissed at the admission hearing itself.

In the premises aforesaid, it is therefore prayed that your Lordships would be pleased to hear the parties peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with costs.


Contd... 4/-

VERIFICATION

I, Shri Ashok Kumar, S/O Shri Ramesh Singh, presently working as Major, Garrison Engineer, 868 Engineer Works Section, C/O 99 APO being competent and duly authorised to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1 to 3, 5 to 7 & 9 are true to my knowledge and belief, those made in paragraphs 4.1, 4.2 & 8 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. *I have not suppressed any material fact*

And I sign this verification on this 7th day of Jan 2002

At Guwahati.


MAJ ASHOK KUMAR
 Major
 Garrison Engineer

- 5 -

Announcement

G.I., M.H. & W., O.M. No. 12-11/60-ACC-I, dated 2-8-1960

The undersigned is directed to refer to this Ministry's O.M. No. 3765-W.III/49, dated 26-11-1949 and No. 5219-W.III/50, dated August 1950, laying down that the criterion for grant of rent-free concession shall be the obligatory stay of the incumbent at the office premises for proper discharge of official duties. The position has been reviewed in the light of observations made by 2nd Pay Commission and it has been decided, with the concurrence of Ministry of Finance, that where for the efficient discharge of duties it is necessary that an employee should live on or near the premises where he works, it would be desirable that he should be provided with a Government residence. But the residence should be rent-free or rent recovered at reduced rates only if the nature of his duties or conditions under which they have to be performed are such that a higher scale of pay or special pay, etc., would be granted but for the concession of rent-free accommodation or recovery of rent at reduced rates. It has also been decided that this concession should, in future, be allowed only with the concurrence of Ministry of Finance in each case.

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2. The Ministry of Home Affairs, etc., are requested to review the rent concession already allowed to Government servants in the Ministry and the offices attached and subordinate to them, in consultation with their associated Finance. For this purpose lists of cases which do not fulfil the criterion mentioned above, indicating therein the category of employees, their scales of pay, the orders under which the concession has been allowed and whether the concession has had the concurrence of the Ministry of Finance and other relevant details.

— 6 —

Annexure A-2
56

No.2(7)/97-E.II.(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 21/12/1999

OFFICE MEMORANDUM

Subject: Grant of compensation in lieu of rent free accommodation.

The undersigned is directed to refer to this Ministry's O.M. of even number 27.8.1997 on the subject mentioned above and to say that consequent upon revision of rates of licence fee for residential accommodation under Central Government all over the country vide Government of India, Ministry of Urban Development (Directorate of Estates) O.M. No. 18011/2/98-Pol III dt. 29.6.99 the question of revision of amount of compensation in lieu of Rent Free Accommodation in so far as it relates to the component of licence fee has been under consideration of the Government for some time.

2. The matter has been considered and the President is pleased to decide that the Central Government employees who are entitled to the facility of rent free accommodation in accordance with the Ministry of Urban Development (Directorate of Estates) O.M. No. 12-11/60-ACC-I dt. 2.8.60 and who have not been provided with such accommodation, will be entitled to compensation in lieu of rent free accommodation as under:-

(i) The lowest amount charged as licence fee for the entitled type of accommodation as fixed in terms of Government of India, Ministry of Urban Development (Directorate of Estates) above mentioned O.M. dt. 29.6.99 and

(ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of this Ministry's O.M. No. 2(30)/97-E.II(B) dated 3.10.97 as amended from time to time.

3. These orders take effect from 1.7.99, the date from which the flat rate of licence fee was revised.

4. All other conditions, laid down in this Ministry's O.M. No. 11015/4/86-E.II(B) dt. 19.2.87, 22.5.87 and 4.5.88 shall continue to be applicable, while regulating grant of compensation in lieu of rent free accommodation under these orders.

5. So far as persons serving under the IA&AD are concerned, these orders issue in consultation with C&AG of India.

6. Hindi version of this O.M. is attached.

N.P. Singh
21.12.99
(N.P. Singh)

Under Secretary to the Government of India

To,

All Ministries/Departments of Govt. of India etc. as per standard distribution list.
Copy (with spare copies) forwarded to C&AG, UPSC etc. as per standard endorsement list.

57 Annexure-2-3
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IMMEDIATE

No. A/02584/AG/PS3(a)/97-S/D (Pay/Service)
Government of India,
Ministry of Defence,
New Delhi, the 25th January 1964.
5 Magha 1885 (Saka).

To

The Chief of the Army Staff.

Subject:- FIELD SERVICE CONCESSIONS TO ARMY PERSONNEL
AND DEFENCE CIVILIANS IN OPERATIONAL AREAS

Sir,

I am directed to convey the sanction of the President to the grant w.e.f. 1.2.64 of the field service concessions as given in the following paragraphs to Army personnel (including Army Postal Service personnel) and Defence Civilians in the defined areas.

2. The concessions detailed in Annexure 'A' to this letter will be admissible to Army personnel of detachments, units and formations located in the areas defined in Annexure 'B' to this letter. These concessions will not be admissible to static formations/units e.g. Military Farms, MFS, Recruiting Offices, Training Centres and Establishments, MCC Directorates and units, TA-units unless embodied, Recruiting Offices and Record Offices and Lok Sahayak Sena Units. The personnel of the Defence Security Corps employed with units whose personnel are eligible for the grant of these concessions will also be allowed these concessions.

3. Personnel of Formations/Units, which will not be given field service concessions, being static or outside the concessional areas, will be governed by normal conditions applicable in peace stations for all purposes, e.g., provision of family accommodation, medical facilities for families and grant of TA and DA.

4. Officers, JCOs and ORs who have been allowed to retain family accommodation in the last duty station and who on issue of these orders will not be entitled to retain such accommodation, may continue to retain the accommodation until such time as married accommodation in the Officer's duty station is made available or the family may be allowed to go to a selected place of residence at Government expense, if they so choose, in accordance with para 2 and 7 of annexure 'A', as applicable.

5. Defence Civilians, including civilians employed in lieu of combatants and HCU(E) (both posted and locally recruited) serving in the areas defined in Annexure 'B' with units and formations whose combatant personnel have been allowed field service concessions under para 2 above will be entitled to the concessions detailed in Annexure 'C' to this letter.

P.T.O.

6. Individuals/detachments from static/field units not covered by the above which are attached for operational purposes to units or formations during the concessions will be entitled to the concessions enumerated at Serial Nos 1, 3, 11 and 12 of Annexure 'A', if attachment is less than two weeks. If the attachment is for two weeks or more, the concessions enumerated at Serial Nos 4, 5, 6, 7 and 10 of the Annexure will also be admissible in addition. No cash allowance will be admissible in either case.

7. These orders supersede the provisions contained in this Ministry's letters referred to below:-

(a) No. P.69/1/59/260-3A/D(Pay/Services) dated 1st July 1960 as modified by No. 92682/AG/P. dated 1st June 1962.

(b) No. 96459/AG/PS3(a)/5 dated 30th January 1962 as extended by No. 92682/AG/P. dated 25th March 1962.

(c) No. 92587/AG/PS3(a)/92 dated 10th November 1962 as modified by No. 92587/AG/PS3(a)/336/S dated 5th April 1963 and Corrigendum No. 1286-S/D(Pay/Services) dated 19th October 1963.

(d) No. 92711/Dirg 4(Civ) dated 11th January 1963 as amended.

9. These orders will be in force for a period of two years after which they will be reviewed.

10. This issues with the sanction of the Ministry of Finance (Defence) vide their letter No. 92-S/PD of 1963.

Yours faithfully

Sd/-
(V. Doraiswamy)
to the Government of India

Under

Copy forwarded to:-

xxxxxxx

Copy for copy.	संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपाक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि ट. के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि दे तारीख Date of making over the copy to the applicant.
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59

IN THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

(WP(C))

No. 1569 of 2001

Union of India & Ors

Appellant
Petitioner

Versus

Sri Krishna Sinha & Ors

Respondent
Opposite-Party

Appellant
or
Petitioner

Mx. Debashis Sur
Advs. C.G.S.C

Respondent
or
Opposite-Party

B

Noting by Officer for Allocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2		

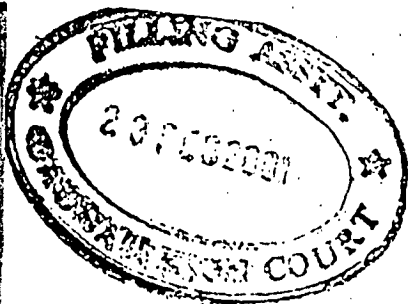
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Original



-AND-

In the matter of:

Impugned order dated 6.11.2000
passed by the Chairman, Central
Administrative Tribunal, Gauhati
Bench in O.A. No.143/99.

-AND-

contd...2

2/6/13

- 3 -
11
-2- 68- 72-

In the matter of:

1. The Union of India,
represented by the Secretary
to the Government of India,
Defence Department, New Delhi.
2. The Garrison Engineer,
#68 E.W.S., C/O 99 A.P.O.
3. The Controller of Defence Accounts,
(C.D.A) ,Ministry of Defence, Guwahati.

....Respondents
Petitioners

-vs-

- | | | | |
|-----|--------|----------------------------------|------------------|
| 1. | 243506 | Shri Krishna Linha, | Elect HS II |
| 2. | 237851 | Shri S K NAir, | Reft/Mech HS I |
| 3. | 237856 | Shri Kailash Prasad, | Fitter Pipe HS I |
| 4. | 238006 | Shri B.D. Sahni, | Elect HS I |
| 5. | 238370 | Shri G K Borah, 62000 | Elect HS I |
| 6. | 238368 | Shri R K Gogoi, | Elect HS II |
| 7. | 237830 | Shri J N Boruah, | Elect HS II |
| 8. | 243731 | Shri R K Paul, | Elect (SK) |
| 9. | 220255 | Shri Keshava Rao, | Elect (SK) |
| 10. | 243732 | Shri .ukumar Karmakar, | Elect (SK) |
| 11. | 243741 | Shri R. tan Roy, | Elect (SK) |
| 12. | 243784 | Shri Ashutosh chanda, | Elect (SK) |
| 13. | 243867 | Shri Rakesh Chandra chanda , | Elect (SK) |
| 14. | 238365 | Shri Judda Bahadur, | Elect (SK) |
| 15. | 243749 | Shri Bir Bahadur Mourya, | Elect (SK) |
| 16. | 238382 | Shri Tapan Kr Mensharma, | Elect (SK) |
| 17. | 238008 | Shri Moti chanda Koiti, | Elect (SK) |
| 18. | 310013 | Shri Satya Narayan Das, | Elect (SK) |

contd...3

19. 238142 Sri Si ahi Prasad, Elect (SK)
20. 220111 Shri Jeparson Sangma, Refg/Mech HS II
21. 238134 Shri Maqbul Miya, FGM(SK)
22. 243738 Shri Sawapan Kr Baidya, FGM(SK)
23. 243739 Shri Bijoy Krishna Goswami, FGM(SK)
24. 243531 Shri Ram Swarup Mondal, FGM(SK)
25. 243818 Shri Himangshu Paul FGM(SK)
26. 237220 Shri Ram Prasad Mahato, I/Repairer
27. 237493 Shri Ram Pravesh singh, Plumber
28. 224743 Shri Tulu Ram Boro, Mate
29. 243753 Shri Bal Bahadur Mazdoor
30. 243503 Shri Murari Mahato, Mate
31. 243898 Shri Rajesh Kr Khati, Mate
32. 243897 Shri Kamal Bahadur Dorjee, Mate
33. 243752 Shri Bilash chandra Dey, Mazdoor
34. 243750 Shri Sheo Kr Prasad , Mazdoor
35. Sri NK Gaichung, Mazdoor (243789)
36. 243504 Shri Luchan Tanti ,Mate
37. 243819 Shri Vimsen Kurmi, Mazdoor
38. 243957 Shri Bhanu Bhakta, Mate
39. 220213 Shri Baljit Ram ,mate
40. 243442 Shri Haren chandra Das, Elect HS II
41. 2443734 Shri Rajendra Prasad, Elect(SK)
42. 243505 Shri Tulshi Tanti, Mate
43. 243518 Shri Pradip Kr Dey, Elect (SK)
44. 243917 Shri Kisheto Sama, Mazdoor
45. 237837 Shri Dimbeswar Borah, Elect HS I
46. 228740 Shri Jitesh ch Das, C/Jointer HS II
47. 238016 Shri K P Pillai, F/Pipe HS II
48. 237828 Shri R K Nair, FGM HS II
49. 228628 Shri Z R Choudhury, FGM HS II
50. 238014 Shri A.G. Methew, F/PIPE(SK)
51. 238491 Shri PG Patil ,FGM HS II
52. 243066 Shri Khagen Kolita, FGM HS II

53. 230134 Shri N K Das, FGM(SK)
54. 238015 Shri D Robt F/Pipe HS II
55. 238215 Shri Birendra Singh, FGM HS II
56. 237890 Shri Ram Jattan Yadav, Mate
57. 243903 Shri B K Dutta, Mate
58. 238238 Shri Jakhu Ram Mate
59. 220067 Shri R.C. Tiwari, FGM(SK)
60. 220308 Shri B Patra, F/PIPE(SK)
61. 220115 Shri Mahabir Das, Mate
62. 237883 Shri Jainath Koiri, V/MAN
63. 237931 Shri Chaman Lal Mate
64. 208206 Shri Rameswar Neog, Mate
65. 237925 Shri S. tyanarayan Sah, FGM(SK)
66. 237824 Shri Nagen Saikia F/PIPE(SK)
67. 362396 Shri Maha Sharma, Mate
68. 243733 Shri Nilimaya Chanda, FGM(SK)
69. 238369 Shri Dil Bahadur Thapa, Mate
70. 243730 Shri M Parasuraman, Mazdoor
71. 243529 Shri Indra Deo Mistri, Mazdoor
72. 243626 Shri Brijanandan Mahato, Mate
73. 220272 Shri Harinder Kumar, V/Man
74. 238292 Shri Udesb Ram FGM(SK)
75. 220274 Ram Swik, V|MAN
76. 243758 Shri R Suresh Prasad, V|MAN
77. 243945 Shri Atul Nath, Mazdoor.
78. 243507 Shri P K Sanyal, Mate
79. 243511 Shri Subash chandra, V|MAN
80. 243737 Shri Ajay Ali Ahmed, FGM(SK)
81. 237867 Shri Ajit ch Deb, FGM(SK)
82. 237898 Shri B. in Ch Doley, FGM HS II
83. 238141 Shri Ram Daur Koiri, V|MAN
84. 220051 Shri Sant Raj, FGM(SK)
85. 220109 Shri Ram Girish Harizan, Mate

86.	237892	Shri K K Damudaran Nair, FGM(SK)
87.	220113	Shri Ganga Bahadur, Mate
88.	220064	Shri Shiv Chanda, FGM(SK)
89.	238519	Shri Ram Roop Koiri, Mate
90.	243729	Shri G V. rghise, V/MAN
91.	220054	Shri Deo Nath Singh, FGM(S)
92.	237878	Shri Ram Prasad Sah, V/MAN
93.	263650	Shri C Sukumar, V MAN
94.	238146	Shri Gopal ch Shil V/MAN
95.	237484	Shri Ramid, V/MAN
96.	237806	Shri Tarapada Biswas, FGM HS II
97.	237929	Shri Brinchi Lal Yadav, V/MAN
98.	238010	Shri J.C. Ho ag hain, F/PIPE HS I
99.	220337	Shri B N Dowrah, F/PIPE(SK)
100.	237962	Shri Pachu Naik, V MAN
101.	220335	Shri K V Gopinathan, Elect (SK)
102.	243514	Shri Dhan Bahadur Gurung, Mate
103.	243578	Shri Khem Lal Sharma, Mazdoor
104.	208188	Shri Motilal Mahato, Mate
105.	243510	Shri M yang Toshi Ao, Mate
106.	238363	Shri Sahced Hazam, Mate(OTP)
107.	243515	Shri Nanda Kishor Mahato, FGM(SK)
108.	220334	Shri Kamal Baruah, V MAN
109.	238434	Shri Him Lal Regmi, Mate
110.	237900	Shri B sant S n, Mate
111.	238262	Shri Pradeshi, Mate
112.	237868	Shri Chandreswar Singh, FGM(SK)
113.	220315	Shri Ram Sakal Mahato, V/MAN
114.	243600	Shri Asamu Tanti, Mazdoor
115.	243902	Shri S D Nath, Mate
116.	243519.	Shri Abhi Ram Das, FGM (SK)
117.	237991	Shri Ache Lal, Mate
118.	238138	Shri Chandra Rajak, F/PIPE(SK)

119. 243742 Shri Swapan Kr Mondal, Elect (SK)
120. 238268 Shri S Karim, F/PIPE (SK)
121. 238380 Shri C Gopi, V/MAN
122. 220112 Shri Rajendra Prasad, Mate
123. 243899 Shri Bom Bahadur Sonar, Mazdoor
124. 220075 Shri Ram Pravesh Yadav, FGM (SK)
125. 243953 Sri Nepal Krishna Nandi, Mazdoor
126. 243954 Sri Gour ch Das, Mazdoor
127. 248463 Sri Tikaram Sonar, F/PIPE (SK)
128. 242616 Sri Kesoram Ke al, V/MAN
129. 238352 Sri R N Pandit, FGM HS 11
130. 237951 Sri B B K Baruah, Elect (SK)
131. 243642 Sri G J Thomas, V/MAN
132. 220102 Sri Besh Bahadur Mate
133. 320114 Shri C.B. Sharma, FGM HS II
134. 220076 Shri Nank Yadav, Mate
135. 243745 Shri Bisso Jochai Mazdoor
136. 243747 Shri Desai Rai, Mazdoor
137. 243516 Shri Ramanand Singh Yadav, Mate
138. 238007 Shri A.N. Tripathi, FGM (SK)
139. 237993 Shri Jharkhanda Koiri, Mate
140. 243502 Shri K Govindan Mate
141. ~~2435~~ 243513 Shri K Lakshmanan, FGM (SK)
142. 238489 Sri Ram Chandra Champati, V/MAN
143. 220074 Sri Chowthi Bhaat, Mate
144. 237888 Sri T M Babukutty, F/PIPE HS I
145. 243756 Sri N C Roy, Elect (SK)
146. 220104 Sri Giridhari Yadav, Mate
147. 220350 Sri R Shanmugam, FGM (SK)
148. 238367 Sri K P Roy, Elect (SK)
149. 237935 Sri Shiv Kumar Thakur, FGM (SK)
150. 220322 Sri M N Kataki V/MAN
151. 238599 Sri Kanai Ghosh FGM (SK)
152. 243868 Sri D C Deb, Elect (SK)
153. 243755 Sri Pranab Chakraborty, V/MAN
154. 243580 Sri K Subramani, V/MAN

155. 280323 Sri Upen Kalita, Mason HS I
 156. 220239 Sri R A Sharma, Carp(SK)
 157. 237912 Sri Kishor Das, Mate
 158. 243689 Sri Nibemo Lotha, Carp(SK)
 159. 242851 Sri MD Sharma, Mate
 160. 243895 Sri Ram Bahadur, Mazdoor
 161. 238217 Sri Rajpuri, Mate
 162. 243550 Y S
 Sri/Aso, Mate
 163. 237903 Sri P Sarkar, Mate
 164. 243656 Sri Samar Sarkar, V/MAN
 165. 243684 Sri S Subash, Mate
 166. 243799 Sri K Shaji, RCM(SK)
 167. 228494 Sri J K Das, Carp SH I
 168. 243782 Sri Robinson Moivah, Carp HS II
 169. 243760 Sri R Gogoi, Carp SK
 170. 243765 Shri Jon. Pong Ao, Carp SK
 171. 243784 Shri Baliram Sharma, Carp SK
 172. 243764 Sri Samir Kr D y, Carp SK
 173. 243761 Sri Samar Kr Pal, Mason
 174. 238212 Sri Basant Tanti, Mason
 175. 237877 Shri Ramnath Rajbhar, Mason
 176. 237906 Sri Kalai Kuttum, F/PIPE
 177. 243367 Sri D Boru, F/ PIPE
 178. 258216 Sri Manager Ansari, Painter
 179. 238133 Sri Hamid, Painter
 180. 243141 Sri Jawat Khan, Mason
 181. 237980 Deo H rijan, H/MAN
 182. 243495 Sri Juluk Bow, Mate
 183. 243896 Sri Manik Chandra Kar, Mate
 184. 237997 Sri shivpujan singh, Mate
 185. 237992 Sri Joginder Prasad, Mate

contd...7

186.	238145	Sri Mukhu Harizon, Mate
187.	237472	Sri B Kalita, Mate
188.	220282	Sri Premlal Maqar, Mate
189.	237886	Sri Darjan, Mate
190.	220177	Sri Kameswar shaw, Mate
191.	243518	Sri Tripathakshi Harizon, Mate
192.	237891	Sri Motilal Prasad, Mate
193.	243488	Sri J A Cilary, Mate
194.	238520	Sri Kasiram, Mate
195.	243499	Sri sukhdeo shah, Mate
196.	243489	Sri Jagdheri Yadav, Mate
197.	243498	Sri K Sangma, Mate
198.	243496	Sri M M Borah, Mate
199.	243491	Sri Harichand Koiri, Mate
200.	243820	Sri Pet r Ruchium, Mate
201.	237855	Sri Som Bahadur, Mate
202.	208219	Sri Suresh Guala, Mate
203.	243432	Sri Shivamuni, Mate
204.	237876	Sri akil Khan, Mate
205.	237908	Sri P Anthony Raj, Mate
206.	243412	Sri Chandeswar Ram, Mate
207.	243763	Sri Narayan ch Mazunder, Mazdoor
208.	243490	Sri Surja Bahadur, Mazdoor
209.	243767	Sri T K Baruah, Mazdoor
210.	243766	Sri S Pandiyan, Mazdoor
211.	243762	ri B Gogoi, Mazdoor
212.	243757	Sri Ram Bichan, Mazdoor
213.	243796	Sri Lalai Nar Ao, Mazdoor
214.	243787	Sri Suresh Ram, Mazdoor
215.	243781	Sri D Gajanand, Mazdoor
216.	243596	Sri sunil Baruah, Mazdoor
217.	243759	Sri Champak Kanwar, Mazdoor
218.	243785	Sri shyamli De, Mate
219.	237916	Sri Lalchand, Mason (SK)
220.	468512	Sri P K Bose, Mate

250. 220275 Shri Bhadaï Ram ,Mate
251. 243803 Shri Raja Ram Harizan, Mazdoor
252. 243559 Shri Panbhrû Tanti, Mate
253. 220154 Shri Mouji Rajbhar, Mate
254. 243527 Shri E R Marak, Mate
255. 243523 Sri Gorjan Tanti, Mate
256. 243414 Sri Rajendra sharma, Mazdoor
257. 220189 Sri Khem Bahadur, Mate
258. 243524 Sri Jotan Mazumdar, Mate
259. 243794 Sri shiben Paul, Mazdoor
260. 220153 Sri Ramanand Koiri, Mate
261. 237401 Sri Prabhu Nath Misra, Mate
262. 243901 Sri Filex Lepcha, Mate
262. 243735 Sri Jugamay Das, FGM(SK)
264. 238366 Sri T K Baruah, Elect(SK)
265. 223827 Sri Waren ch. Boro, Elect(SK)
266. 243927 Smti sumitra Roy, Mazdoor
267. 243927 --- Smti
267. 243866 Shri Keyhon chang, Mazdoor
268. 228302 Shri T N Hazarika, Elect HS II

....Respondents

Copy of order of
Advocate

Sl.No.

Date

Office notes, reports, orders, or
proceeding with signature

14.3.2001

-Before-

The Hon'ble the Chief Justice Mr. N.C.Jain
The Hon'ble Mr. Justice P.G. Agarwal

ORDERN.C.Jain, C.J.

Notice be issued to Mr. A.Ahmed,
Advocate who appears for the applicants
before the Tribunal for 10.4.2001.

The operation of the impugned
judgment and order dated 6.11.2000 passed by
the Central Administrative Tribunal, Guwahati
in OA No. 143/99 is stayed until further
orders.

The be issued to
Mr. A.Ahmed,
Advocate who appears
before the Tribunal

15.3

Krishna Vamshi Murthy
16/2/2001