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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Dismissed Date-24/09/2003

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O.A/T.A No...329/2001

R.A/C.P No...20/2002

E.P/M.A No...101/03

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allowed Date-06/08/03

SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 329 / 2001

Applicant (S) Chaturbhuj Rai & ors.

Respondant(S) U.O.I. & Ors.

Advocate for the Applicant: M. Chanda, Ms. N.D. Goswami, G.N. Chakrabarty, H. Debo.

Advocate for the Respondant: G.C.S.E

Notes of the Registry	Date	Order of the Tribunal
<p>this application is in form but not in the Condensation Petition as it is filed vide M.P. No. <u>X</u> C.F. for Rs. 50/- deposited vide IPO/BD No. <u>74548698</u> Dated <u>16.8.2001</u> <u>N32181</u> Dy. Registrar</p>	29.8.01	<p>Present : Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The controversy raised in this application relates to the payment of House Rent Allowance (HRA) payable at B-2 class cities, i.e. as applicable at Shillong with effect from May, 1991.</p> <p>All the 18 applicants are working in the cadre of Group 'C' and 'D' under Station Commander, Umroi Cantonment, Shillong in different capacities and appointed on different dates. The issue raised in this application has already been adjudicated upon in O.A. 34/2000 (Subhas Chandra Deb Vs U.O.I.) disposed on 16.6.2000. This application thus is allowed, directing the respondents to pay the House Rent Allowance to the applicants in the light of the same decision which squarely covers this case also. The respondents are also ordered to pass the necessary order for payment of HRA at the rate of B-2 cities. The respondents are also ordered to pay the arrears of the HRA on adjustment of HRA, if any, paid earlier to the period to which they would be found entitled to or with effect from May, 1991 which may be</p>

Contd/-

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29.8.01

applicable to individuals case calculating the House Rent Allowance at the rate of B-2 class cities i.e. at the x Shillong rate, within a period of three months from the date of communication of this order.

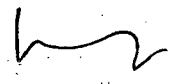
The application is allowed. There shall, however, be no order as to costs.

11.9.201

Copy of the order has been sent to the D/Sec for issuing the same to the L/Adv. for the parties.

HS

MB



Vice-Chairman

mb

judicial

TUESDAY

APPROVED BY THE CHIEF JUSTICE

FOR THE CHIEF JUSTICE

BY THE CHIEF JUSTICE

BY THE CHIEF JUSTICE

BY THE CHIEF JUSTICE

BY THE CHIEF JUSTICE

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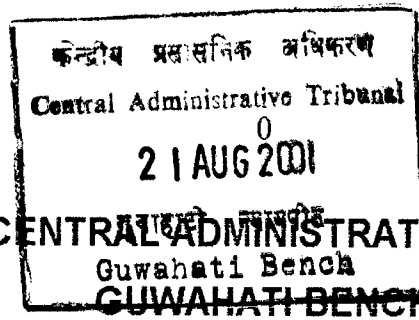
BY THE CHIEF JUSTICE

BY THE CHIEF JUSTICE

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BY THE CHIEF JUSTICE

BY THE CHIEF JUSTICE



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Filed by me applicant
through N.D. Goswami
Advocate.
16/8/01

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 329/2001

Shri Chaturbhuj Rai & others : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Date

Advocate

चद 2 अग 2001

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

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No...../2001

BETWEEN

1. Shri Moti Lal Rai
2. Shri Dilkeshwar Singh
3. Shri Sarreshwar Burman
4. Shri Hari Nath Pd. Singh
5. Shri Surendra Rai
6. Shri Raghu Bansh Rai
7. Shri Chaturbhuj Rai
8. Shri Bas Deo Rai
9. Shri Dil Maya Sonar
10. Shri Ram Shankar Shah
11. Shri Deep Singh
12. Smti Padma Rai
13. Smti Sita Thapa
14. Smti Binati Devi
15. Smti Biro Devi
16. Smti Madina Khatoon
17. Smti Maya Devi
18. Smti Anita Hindu

.....Applicants

(All are working in the office of the Station Headquarters, Umroi, Military Station,
C/o 99 APO).

2022/23/214

-AND-

1. The Union of India,
Through the Secretary to the
of Defence,
New Delhi.
2. The Controller of Defence Accounts,
Narangi,
Guwahati.
3. Station Commander,
24 Mountain Brigade,
C/o 99 A.P.O.
4. Station Headquarter,
Umroi Cantonment,
Umroi.
C/o 99 APO

.....Respondents.

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but praying for a direction upon the respondents to extend the same benefit in accordance with the judgment and order passed by this Hon'ble Tribunal on 16.06.2000 in O.A. No.34/2000 to the applicants and to pay them House Rent Allowance (HRA) at the rate of B-2 class cities i.e. at the rate applicable at Shillong with effect from May, 1991.

2. Jurisdiction of the Tribunal.

2023/12/14

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. All the applicants are working in the cadre of Group 'C' and 'D' under Station Commander, 24 Mountain Brigade, C/o 99 A.P.O., Umroi Cantonment, Umroi, Shillong in different capacities and appointed on different dates.

4.2 That as the grievances and reliefs sought for in this application are common, therefore the applicants humbly pray for grant of permission under Section 4.(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 to move this application jointly in a single application before the Hon'ble Tribunal.

4.3 That the applicants are working in the office of the ~~Garrison-engineer (P)~~, *Station Commander* MES, Umroi which had initially been functioning with its official address at S.E.Falls, Shillong since 1970. On construction of permanent office accommodation at Umroi, the entire office of the Station Headquarter was shifted from Shillong to Umroi Cantonment area at Umroi where it started functioning from the 12th December, 1987. *da-*

4.4 That Umroi being a newly upcoming Cantonment, the basic civic amenities such as residential accommodation, marketing facilities, school facilities in vernacular medium, hospital facilities etc. are not available in the area. So virtually, for all basis day to day need, the staff of garrison Engineer (P), Umroi is fully dependent on the nearest township i.e. Shillong and this fact has duly been certified by the District Administration of Umroi vide the Dependency

4.4 That Umroi being a newly upcoming Cantonment, the basic civic amenities such as residential accommodation, marketing facilities, school facilities in vernacular medium, hospital facilities etc. are not available in the area. So virtually, for all basis day to day need, the staff of garrison Engineer (P), Umroi is fully dependent on the nearest township i.e. Shillong and this fact has duly been certified by the District Administration of Umroi vide the Dependency Certificate issued on 26.10.187 by the Deputy Commissioner, East Khasi Hills, Shillong.

4.5 That on the strength of the dependency certificate dated 26.10.1987 issued by the Deputy Commissioner, East Khasi Hills District (under which the Umroi Cantonment falls), the Garrison Engineer (P), Umroi was allowed to draw the House Rent Allowance to the applicants at par with the Central Government Civilian Employees serving at Shillong in accordance with Para 2 (ii), (iii) of Controller of Defence Accounts, Basistha letter No. Pay/6/HRA & HCA dated 9.1.1986 (in the case of Garrison Engineer, Borjhar).

4.6 That the Under Secretary to the Government of India, vide his O.M. No. 21011/19/88-E-II (B) dated 22.9.1989 regarding admissibility of City Compensatory Allowance (CCA) on the basis of dependency Certificate stated that the CCA may be admissible in terms of Para 3 (h) (iii) of Ministry of Finance O.M. No. 2(37) E.II (B)/64, dated 27.11.65 to Central government employees working at places within 8 km of the periphery of the qualified city at the rates admissible in that city, even though they may not be resided within the Municipal limits of that city and the President is pleased to decide that the Central Government employees working at places within 8 kilometers of a qualified city which not an urban Agglomeration town/city may be granted CCA admissible in the qualified city provided there is no sub-urban municipality, notified area or cantonment within 8 kms limit of the places and further there should be a

Dr. 2/2/14

certificate of the Collector/Deputy Commissioner having jurisdiction over the area that the place is generally dependent for its essential supplies i.e. food grains, milk, vegetables, fuel etc. on the qualified city and the above certificate would remain valid for a period of three years after which a fresh certificate will be required for continuance of the said allowance. The same principle also adopted by the Ministry of Finance for grant of House Rent Allowance (HRA) to the Central Government civilian employees who are working at a place within 8 kilometers of a qualified city which is not an urban agglomeration town/city.

Copy of O.M. dated 22.9.1989 is annexed hereto and marked as **Annexure-I.**

4.7 That in the instant case, the Umroi Cantonment is situated within 6 kilometers from the qualified city i.e. Shillong as per aerial distance as certified by the National Airports Authority, Shillong airport vide their certificate dated 04.09.1991. as regards distance by Road, the Deputy Commissioner, East Khasi Hills who is having jurisdiction over Umroi Cantonment area has certified vide his certificate dated 28.1.1992 that the Umroi Cantonment is within 8 kilometres distance from the periphery of the municipal limits of Shillong. It has also been certified that the Umroi Cantonment is generally dependent for its essential supplies on Shillong Twon.

Copy of the certificate dated 04.09.1991 and certificate dated 28.01.1992 are annexed hereto and marked as **Annexures II and III** respectively.

4.8 That in accordance with the policy laid down by the Government of India, as described in Para 4.6 above and the circumstantial position as described in the preceding paragraphs above, the employees working in Umroi Cantonment are fully eligible and entitled to draw the HRA at the rates applicable to other

civilian central government employees working in Shillong town and they had been drawing the HRA accordingly since 1987 too.

4.9 That surprisingly, the Area Accounts Officer, Shillong suddenly stopped the payment of HRA at Shillong rate to the employees of Umroi Cantonment from May, 1991 raising some objections as to the authority of such payment and started paying HRA at the rate applicable in unclassified places, and asked for certain clarification/Govt. approval etc.

4.10 That following such action of the Area Accounts Officer Shillong, the garrison Engineer (P), Umroi submitted due clarifications to the Area Accounts Officer, Shillong vide his letter No.1651/P/621/E.1(P) dated 17.5.1991 substantiating the payment of HRA at Shillong rate to the employees of Umroi Cantonment in view of the dependency certificate issued by the district Administration, forwarding therewith the relevant dependency certificate etc. Thereafter, series of department communications were made within the various authorities including the Army Headquarter and also the Controller of defence Accounts but the matter remained inconclusive and the employees of Umroi cantonment continued to get the HRA at the rate of unclassified places instead of that at Shillong rate, suffering heavy financial loss on that account.

4.11 That having been deprived of the benefit of HRA at Shillong rate with effect from May, 1991 in spite of their all eligibilities, and in spite of the sympathetic gesture of the local authorities, the employees of Umroi Cantonment persuaded the the appropriate authorities time and again for payment of HRA at Shillong rate but all this efforts ended abortive due to the vindictive attitude of the higher authorities.

4.12 That eventually, 66 nos. of employees (other than these applications) of the Umroi Cantonment, finding no other alternative approached this Hon'ble Tribunal through O.A. No. 34 of 200 claiming HRA at the rate of B-2 cities which

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is applicable at Shillong, the qualified city for Umroi. The Hon'ble tribunal after hearing the parties and after carefully examining the case on merit passed its judgment and order on 16.6.2000 in O.A. No. 34 of 2000 wherein it was held as follows :

"It is only held that those who are entitled to HRA they would be entitled at the rate of B-2 class cities i.e. at the Shillong rate and not below that. Accordingly the O.A. is allowed in the light of the observation made above. The respondents shall pay arrears after adjustment of HRA, if any, paid earlier to the period to which they be found entitled to or with effect from May 1991 which may be applicable to individual case calculating the House Rent Allowance at the rate of B-2 class cities i.e. at the Shillong rate, within a period of three months from the date of communication of this order.

9. This O.A. stands allowed. No order as to costs."

Copy of the judgment and order dated 16.6.2000 is annexed hereto as Annexure-IV.

4.13 That consequent upon the judgment dated 16.6.2000, the applicants of this application approached the respondents praying for extending the same benefit to them also as given to 66 other applicants included in the aforesaid judgment. In spite of their all out efforts the applicants failed to get the justice from the respondents regarding their claim of HRA at Shillong rate. Even a Lawyer's notice was sent to the Respondents on 16.12.2000 but no action has yet been taken by the respondents to redress the grievance of the applicants.

4.14 That the present applicants are similarly situated as those in O.A. No. 34 of 2000 and they are entitled to get HRA at the B-2 class city i.e. Shillong rate

22/25/21/21

since they are depending upon the Shillong city for all day to day basic requirements and this is a fit case for the Hon'ble Tribunal to interfere and to be pleased to direct the respondents to grant HRA to the applicants at the Shillong rate i.e. the rate applicable to B-2 cities.

4.15 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that there is no Government accommodation or facility to hire private accommodation at Umroi for the applicants serving under Garrison Engineer, Umroi.
- 5.2 For that all applicants under the compelling circumstances required to stay in the private hired accommodation at Shillong.
- 5.3 For that the applicants are fully dependent for all their day to day basic requirements upon Shillong city.
- 5.4 For that the Deputy Commissioner, East Khasi Hills district had granted dependency certificate from time to time as required for grant of HRA at Shillong rate in accordance with O.M. dated 27.11.1965.
- 5.5 For that the aerial distance between Shillong and Umroi is only 6 kilometers as certified by the National Airport Authority.
- 5.6 For that ~~For that~~ Umroi is situated at a distance of 8 kilometers from the periphery of Shillong city as certified by the Deputy Commissioner, East Khasi Hills District, Shillong.
- 5.7 For that as per provisions laid down in the O.M. dated 27.11.1965, the applicants are entitled to HRA at Shillong rate with effect from May 1991.
- 5.8 For that Shillong city is declared as B-2 class city in respect of HRA and the civilian central government employees working there have been drawing the HRA at the B-2 class cities rate.

5.9 For that the grant of HRA has strongly been recommended by the Chief Engineer, MES, Garrison Engineer, Umroi and also obtained necessary dependency certificate from time to time as required under the provision of O.M. dated 27.11.1965.

5.10 For that under similar facts and circumstances, this Hon'ble Tribunal has directed for payment of HRA at Shillong rate to 66 other employees of the same organisation i.e. Umroi cantonment vide its judgment passed on 16.6.2000 in O.A. No. 34/2000 which has been implemented by the respondents.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other court.

The applicant further declares that they had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to grant the following reliefs.

8.1 That the respondents be directed to pay the House Rent Allowance (HRA) to the applicants at the rate of B-2 class cities i.e. at the Shillong rate as the applicants are fully dependent upon the Shillong city for all their day to day basic requirements.

8.2 That the respondents be directed to pay the HRA prayed above to the applicants at Shillong rate with effect from May, 1991.

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8.3 That the Hon'ble tribunal be pleased to declare that the applicants are entitled to HRA at the rate of B-2 cities i.e. Shillong rate as in case of the judgment and order dated 16.6.2000 in O.A. No. 34/2000.

8.4 Costs of the application.

8.5 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicants pray for the following relief :-

9.1 That the respondents be directed to consider the payment of current HRA to the applicants at the rate of B-2 cities i.e. at Shillong rate with immediate effect.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 76548698
- ii) Date of issue : 16.8.2001
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

VERIFICATION

I, Shri Chaturbhuj rai, resident of Shillong, presently working in the
Umroi cantonment, under ~~Garrison Engineer~~ *Station Commander*, Umroi one of
the applicants in this Original Application, duly authorised by the all other
applicants to verify the statements made in the application. Accordingly I do
hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true
to my knowledge and those made in Paragraph 5 are true to my legal advice and
I have not suppressed any material fact.

And I sign this verification on this the*16th* day of August, 2001.

चतुर्भुज राय

Copy of Ministry of Finance (Department of expenditure) O.M. No. 21011/19/88-E-II(B) dated 22nd Sept., 1989 regarding of admissibility of CCA on the basis of Dependency Certificate.

1. The undersigned is directed to refer to para 3(h) (iii) of this Ministry's O.M. No. F.2(37)E.II(B)/64 dated 27.11.65 as amended/modified from time to time, and to say that the matter regarding grant of compensatory (City) Allowance to Central Govt. employees working at places with 8 Kms of the periphery of a qualified city at the rates admissible in that city even though they may not be residing within the municipal limits of that city, has been under consideration of this Ministry for some time past. In consultation with the Staff side of the National Council (JCM) the President is pleased to decide that Central Govt. employees working at places within 8 Kms of a qualified city which is not an urban Agglomeration town/City may be granted Compensatory (City) Allowance admissible in the qualified city provided that :

- I) There is no other Sub-Urban municipality, notified area or Cantonment within 8 Kms limits of the places; and
- II) It is certified by the Collector/Deputy Commissioner having jurisdiction over the area, that the place is generally dependent for its essential supplies i.e. food grains, milk, vegetables, fuel etc. on the qualified city.

Certificates at (I) and (II) above will remain valid for a period of three years after which a fresh certificate will be required for continuance of the allowance.

2. It is clarified that the above concession is admissible irrespective of the fact whether the qualified city has been classified for the purpose of CCS on the basis of its population under general orders or special orders. Extension of existing concession to a particular city shall not be construed as classification made general or special orders.

It is further clarified that this concession will not be admissible in respect of places which are within 8 Kms. of a qualified city/town which has been given the status of a U.A. town/city.

3. These orders take effect from the date of issue.

4. In so far as the persons serving in the Indian Audit and Accounts Department are concerned these orders issued after consultation with the Comptroller and Auditor General of India.

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

Annexure-II

NATIONAL AIRPORTS AUTHORITY

Shillong Airport.

Ref No. BP/Misc-57/2464

Dated 04.09.1991

Yr. Ref : Your letter No. 1651/P/654/E1

Sub : ISSUE OF DEPENDENCY CERTIFICATE IN RESPECT OF THE OFFICE
OF THE GARRISON ENGINEER (PROJECT) UMROI.

To
The Executive Engineer,
Garrison Engineer (Project)
Umroi (Meghalaya)

Sir,

It is intimated that the serial distance from Shillong to Shillong Airport
(Barapani) is 6 Kms. as confirmed from Aircraft.

Yours faithfully,

Sd/- Illegible

(N. GOAPY)
Aerodrome Officer,
National Airports Authority,
Civil Aerodrome,
Barapani, Shillong.

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CERTIFICATE

It is certified that :-

- (a) "Umroi Cantt is a Non-Municipal area ** village/Panchayat/Non-Municipal area.
- (b) Umroi Cantt is not a municipality or notified area or cantonement.
- (c) Umroi Cantt is within a distance of 8 Kilometers from the periphery of the municipal limits of Shillong.

OR

- (d) Although there is no *** municipality/notified area/cantonment within a distance of 8 Kms from Umroi Cantonment the latter is generally dependent for its essential supplies, e.g. foodgrains, milk, vegetables fuel, health coverage, education, transportation etc. on Shillong Town.

Seal of the Collector/
Deputy Commissioner

Sd/-

Signature of the Collector
Deputy Commissioner having
Jurisdiction over the place

Dated 28.1.92

- * Name of the place in respect of which the proposal relates.
- ** The civic status of the place, i.e. village, panchayat, non-municipal area etc. should be indicated.
- @ Name of the qualified town/city.
- *** The name of the other municipality within 8 kms limit.
- # Delete whichever is not applicable.

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Annexure-IV

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 34 of 2000.

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

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

Shri Subhas Chandra Deb & 65 Ors.

All the applicants are working under Garrison
Engineer, Umroi cantonment, Militar
Engineering Sevices, Umroi,
Meghalaya.

.....Applicants

By Advocate Mr. M. Chanda

-versus-

1. Union of India
through the Secretary to the
Government of India, Ministry
Of Defence, New Delhi.
2. The Headquarter Chief Engineer,
Eastern Command, Fort William,
Calcutta
3. The controller of Defence Accounts,
Narengi,
Guwahati.
4. The Army Headquarter Engineer-in-Chief's Branch,
Kashmir House,
DHQ, P.O. New Delhi
New Delhi-110011
5. The Garrison Engineer(P),
Umroi
Umroi Cantonment, Borpani.

Respondents

....

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

ORDERD.C. VERMA, MEMBER (J).

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

4/12/2000

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

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

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

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

3. The learned counsel for the applicants has submitted that HRA is admissible to places which are within 8 kilometres of municipal limit of classified cities, but which are not included within Urban Agglomeration of any city. The requirement for this 8 kilometres certificate is as per the clarification 3 given at page 11 of the "Swamy's Compilation of F.R.S.R. Part - V of the HRA and CCA" and in O.M. No. 21011/1988-E.II.B dated 22.9.1989 (Annexure 9 to the O.A.). It provides that in all cases where the Collector certified that the area in question depends for its essential supplies on the qualifying city even though there may be

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another municipal area within the 8 kilometres radius, Government would consider on merits whether grant of House Rent Allowance in such case would be justified. Clarification 3 provides that the required certificate is to be obtained from the collector of a District for the purpose of grant of House Rent Allowance under this order. As per the applicants vide Annexure 12 dated 21.8.97 the Deputy Commissioner of Nongpoh gave a certificate to the effect. Still the respondents have not allowed HRA to the applicants at par with the employees residing at Shillong.

4. Learned counsel for the respondents has submitted that as per the certificate dated 21.5.1991 given by the Deputy Commissioner, East Khasi Hills District, Shillong (Annexure 2 to the O.A.) the "Umroi Cantonment is located at a distance of 32 Kms (By road) from Shillong town." The submission of learned counsel for the respondents is that the distance is considered by normal route of conveyance, i.e. Rail or Road. Consequently it has been submitted that the condition of 8 Kms laid down in the rule is not fulfilled.

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

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

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

7. The submission of the learned counsel for the respondents cannot be accepted. Even if it be accepted that some accommodation is now available at Umroi, this would not ease the situation because for all other essential supplies of life as indicated in Annexures 2 and 12, the employees are dependent on Shillong Town.

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

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

Sd/- Member (J)

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