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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 3 of 2002

DATE OF DECISION 10/4/2002

Sri Bijoy Krishna das

PETITIONER(S)

Mr. M. Chanda, Mrs. N. D. Goswami
Mr. G. N. Chakraborty & Mr. H. Dutta.

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Others.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman.

B

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.3 of 2002.

Date of Order : This the 10th Day of April, 2002.

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

Sri Bijoy Krishna Das
S/o Late Nityananda Das
Working as Civilian Switch Board Operator
Office of the 151, Base Hospital Telephone Exchange
C/o 99 APO
Guwahati-29. . . . Applicant.

By Advocate Mr.M.Chanda, Mrs.N.D.Goswami,
Mr.G.N.Chakraborty & Mr.H.Dutta.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Defence
New Delhi.
2. The Commandant
151, Base Hospital
C/o 99 APO.
3. The Administrative Commandant
Station Headquarters
Guwahati (Narengi Camp)
Guwahati-29. . . . 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 Administrative Tribunals Act, 1985 the applicant has assailed the legality and validity of the order dated 12.12.2001 for recovery of the House Rent Allowance paid to the applicant earlier in the following circumstances :

been

1. The applicant has/ working as a Civilian Switch Board Operator (CSBO) under the respondents since 1982. The

Contd..2

post of CSBO is a Group "C" category post. He got married in 1988 and his wife Smt. Shilpi Das is also working as CSBO in the Army Exchange, Narengi under the Station Headquarter, Narangi since 1984. She was allotted Govt. quarter in the camp complex at Narangi by the respondents vide order dated 11.8.1989. The applicant was paid HRA as admissible to him. By letter dated 24.11.2001 the respondent No.2 informed the applicant about an audit objection in payment of HRA. In the said communication it was indicated that during the audit period from April/2001 to May/2001 it was observed that the wife of the applicant Mrs. Shilpi Das (CSBO) was employed under Central Govt. office at Narangi and she was provided Govt. accommodation. It was also mentioned therein that as per the existing rule, as the wife of the applicant was allotted ^{Central} Govt. accommodation at the same station, the applicant would not be eligible for the HRA. The applicant was accordingly advised to intimate the date of occupation in Govt. accommodation & allotment letter, if any and the name & address of the office where his wife was employed. The applicant complied with the instructions and vide letter dated 5.12.2001 stated that Govt. accommodation was occupied on 12.8.89. He also enclosed the allotment letter. It also stated that his wife is working as CSBO station H.Q, Guwahati. The applicant informed that he was not aware of the rule position/ the drawal of HRA

whose spouse is allotted a Govt. accommodation. By the impugned order dated 12.12.2001 the respondents passed the recovery order, legitimacy of which is assailed in this proceeding as arbitrary and discriminatory.

2. Mr. M. Chanda, learned counsel appearing on behalf of the applicant in his usual/ ^{persuasive} manner argued that there is no fault on the part of the applicant in receiving the HRA. He was accepting his pay packet as usual which ... also included the HRA. The applicant is a low paid employee and he did not act with any motive or malice. He was not aware that he was not entitled to draw the HRA when his spouse was allotted Central Govt. accommodation.

3. Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents stated that ignorance of law cannot be in excuse. Mr. Deb Roy also submitted that since the applicant was receiving HRA which was not admissible to him in the set of circumstances the respondents only asked to refund the HRA already drawn by the impugned order.

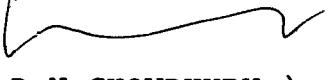
4. From the materials available, it emerges that the applicant received the HRA, though under the rules he was not entitled for the same. Whatever he has received is now to be returned back. Therefore, no infirmity as such is discernible in the impugned order. For the forgoing reasons I do not find any reason to intervene in the impugned order dated 12.12.2001 passed

by the respondents.

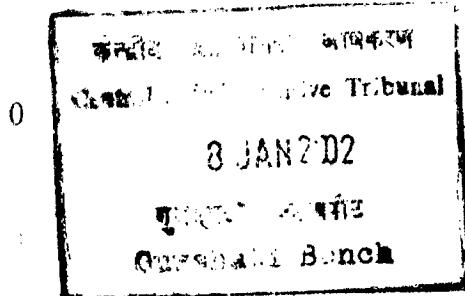
The application is accordingly dismissed.

There shall, however, be no order as to costs.

Interim order, if any, stands vacated.


(D.N.CHOWDHURY)
VICE CHAIRMAN

bb



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the case : O.A. No.³...../2001

Sri Bijoy Krishna Das : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Date

Advocate

*Filed by the applicant
through advocate G. P. Chakraborty, Esq.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

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

BETWEEN

Sri Bijoy Krishna Das

S/o Late Nityananda das

Working as Civilian Switch Board Operator

Office of the 151, Base Hospital Telephone Exchange,

C/o 99 APO,

Guwahati-29

.....Applicant

-AND-

1. The Union of India,

Represented by the Secretary to the

Government of India,

Ministry of Defence,

New Delhi.

2. The Commandant,

151, Base Hospital

C/O 99 APO

Bijoy Krishna Das.

3. The Administrative Commandant,
 Station Headquarters,
 Guwahati (Narangi Camp)
 Guwahati-29.

.....Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned letter bearing No. 465/2/Civ Est/Coy dated 12.12.2001 issued by the Respondent No. 2 instructing the applicant to deposit within 31.12.2001 an amount of Rs. 55,670/- (Rupees Fifty Five thousand six hundred seventy) only being the HRA paid to him by the Respondents failing which the amount will be recovered @ Rs. 1500/- per month from January, 2001 through regular pay bill.

2. Jurisdiction of the Tribunal.

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.

Byjoy krishna das.

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.

4.2 That your applicant was initially appointed as civilian Switch Board Operator (in short CSBO) under the respondents in the year 1982 and was posted at 151 Base Hospital, C/o 99 APO where he is working till date. The post of CSBO is a Group 'C' category post.

4.3 That the applicant got married with one Smt. Shilpi Das in the year 1988 and Smti Silpi Das, the wife of the applicant is also a Govt. servant who is working as CSBO in the Army Exchange, Narangi under the Station Headquarter, Narangi since 1984. She had been allotted with a Government quarter in the camp complex at Narangi by the Respondents vide order dated 11.8.1989 and she took the occupancy of the allotted quarter No. B/163, Phase No.I, B-Block on 12.8.1989.

Copy of allotment order dated 11.8.1989 is annexed herewith and marked as Annexure-I.

4.4 That the applicant had been paid House Rent Allowance (HRA) as per his entitlement all along, and had been continuing to get the same like other employees of the Department. Suddenly, by a letter dated 24.11.2001, the Respondent No.2 informed the applicant that

Bijoy Krishna Das

an audit objection has been raised during the audit period 4/2001 to 5/2001 regarding payment of HRA to the applicant on the ground that his wife has been living in a Govt. accommodation at Narangi and as such the applicant is not entitled to get the HRA. In the said letter dated 24.11.2001, the applicant was further instructed to furnish the following informations :

- (a) Date of occupation in Govt. accommodation & allotment letter, if any.
- (b) Name and address of the office where his wife Mrs. Shilpi Das (CSBO) is employed.

The applicant complied with instructions and furnished the above information vide his application dated 05.12.2001 submitted to the Respondent No.2.

Copy of letter dated 24.11.2001 and application dated 05.12.2001 are annexed herewith as Annexure-II & III respectively).

4.5 That eventually the Respondent No.2 vide his impugned letter dated 12.12.2001 informed the applicant that he has to deposit within 31.12.2001 an amount of Rs. 55,670/- (Rupees Fifty five thousand six hundred seventy) only which has been paid to him as HRA during the period from 12.8.1989 to 31.10.2001, as observed by the LAO (A) during audit, failing which the said amount would be recovered from his regular pay bill from January, 2002.

Copy of impugned letter dated 12.12.01 is annexed herewith as Annexure - IV

Byoy Krishna Das.

4.6 That the applicant begs to state that from time to time the applicant disclosed to the Respondents that he had been staying with his wife and children in the quarter allotted to his wife Mrs. Shilpi Das, which would be evident from his leave applications (enclosed) submitted on different occasions, wherein the applicant has clearly shown the address of his wife's quarter as his own address. As such, the Respondents have been paying the HRA to the applicant with their full knowledge that the applicant has been residing in the quarter allotted to his wife and at no point of time such payment of HRA to the applicant was objected by either the Respondents or the Auditors which was approved in all earlier audits. Now, suddenly an objection has been raised and has been acted upon by the Respondents arbitrarily without giving the applicant any opportunity of being heard and violating the principles of Natural Justice.

Copy of leave applications dated 17.12.1999 and 10.4.2000 are annexed herewith and marked as Annexure V and VI respectively.

4.7 That the applicant further begs to submit that the applicant being a technical person, is not aware of the financial rules and procedure as pleaded now by the respondents and believed to have been paid the HRA by the respondents as per rule only and in case of lapses, if any, the same cannot be attributed to the applicant.

Bijoy Krishna Das.

Further, it is a settled position of law that even in case of a fixed component like Pay, recovery of overpayment due to wrong fixation of pay at a belated stage or after a lapse of 10 years is not sustainable when the mistake is not attributable to the Government servant. The same spirit of law applies in the instant case also. Hence, the actions aforesaid of the Respondents in the instant case are not only contrary to law but are arbitrary, whimsical, capricious and mala fide.

- 4.8 That your applicant begs to state that the proposed recovery of HRA to the tune of Rs. 55,670/- from the applicant, if implemented, will put the applicant in extreme financial distress and mental sufferings, for no fault of his. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and it is a fit case for the Hon'ble tribunal to interfere with and to protect the rights and interests of the Applicant, directing the respondents not to affect the illegal recovery of HRA as proposed by them.
- 4.9 That this application is made bona fide and for the cause of justice.

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

- 5.1 For that no reasonable opportunity was given to the applicant of being heard of, before passing the impugned order dated 12.12.2001.
- 5.2 For that the principles of natural justice have been violated.
- 5.3 For that the lapses in payment of HRA in question to the applicant is not attributable to the applicant.
- 5.4 For that it is a settled position of law that even in case of pay, recovery of overpayment due to wrong fixation of pay at a belated stage is not sustainable when the mistake is not attributable to the employee concerned.
- 5.5 For that by paying the HRA to the applicant as per entitlement, the Respondents kept the applicant under the impression that he is entitled to get this money and accordingly he had spent the money in order to meet his livelihood and any recovery at this stage will put him in extreme distress.
- 5.6 For that the HRA received by the applicant was passed/approved by the Audits in all earlier occasions for more than a decade.
- 5.7 For that the Respondents paid the HRA to the applicant with their full knowledge and acquiescence that the applicant had been residing in the Government quarter allotted to his wife.

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 he 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 issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

8.1 That the impugned letter No. 465/2/Civ Est/Coy dated 12.12.2001 issued by the Respondent No.2 be set aside.

8.2 That the respondents be restrained from affecting any recovery of the HRA paid to the applicant, at any point of time.

Bijoy Krishna Das.

8.3 Costs of the application.

8.4 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 applicant prays for the following relief :-

9.1 That the operation of the impugned letter issued under No. 465/2/Civ Est/Coy. Dated 12.12.2001 be stayed till disposal of this application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I.P.O. No.	:	602 790465
ii)	Date of issue	:	18/12/2001
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 Bijoy Krishna Das, S/o late Nityananda Das, aged about 42 years, working as Civilian Switch Board Operator in the office of the 151, Base Hospital Telephone Exchange, C/O 99 APO, Guwahati, 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 3rd day of January, 2002.

Bijoy Krishna Das.

Annexure-I

FROM OF ALLOTMENT OF MARRIED ACCOMMODATION

Sl.No.	Station	LOC	Building No.	Vacated by	Handed over to	Remarks
1	Gauhati	Narangi	Mar. Qr No.B/163 phase I(Stn pool)	"	Mrs. Silpi Das, CSBO	To be taken over within 10 days from the date of issue of this allotment order

No.6552/4/93
Station Headquarters

Gauhati (Narangi camp)

11 Aug 89

Sd/- Illegible
(P.C.Choudhury)
Lt. Col.
For adm. Comdt.

Distribution

5. BSO Narengi - Please info on 10th day whether accom
has been taken over by the individual.

6. UABSO Narengi
7. BSO Borjar
8. UABSO Borjar
9. DFO Gauhati circle
10. Master File

certified 5
copy
for Mr. J. J. Das
Advocate

Byoy Krishna Das.

Annexure-II

465/2/Civ Est/COY
2001

151 Base Aspatal
151 Base Hospital
C/o 99 APO
24 Nov

Sri B.K.Das(CSBO)
151 Base Hospital
C/o 99 APO.

101

AUDIT OBJECTION FOR PAYMENT OF HRA.

1. It has been observed by LAO (A) Narangi, during the audit period 4/2001 to 5/2001 that your wife Mrs. Shilpi Das (CSBO) is employed under Central Govt. office in Narangi. She is living a Govt. accommodation at Narangi.
2. As per existing rule, a Govt. servant whose spouse is allotted accommodation at the same station by Central Govt. will not be eligible for H.R.A.
3. In view of the above, you are directed to intimate the following information for our necessary action on the subject :-
 - (a) Date of occupation in Govt. accommodation & allotment letter if any.
 - (b) Name & address of the office where your wife Mrs. Shilpi Das (CSBO) is employed.

Sd/- Illegible
(R.P.Choudhary)
Lt. Col
Coy Commander
For Commandant

Copy to :-

LAO (A) - for info.

UABSO
Narangi - for info & please intimate the Qtr No. and date of allotment

Station Headquarats
Narangi

*certified copy
copy to Mr. Advocate
K*

Bijoy Krishna Das.

Annexure-III

To
The Commandant
151 Base Hospital
C/o 99APO

Sub : Audit osn for payment of HRA

Ref : Your letter No. 465/2/Civ Est/Coy of 24-11-01.

Respected Sir,

As directed the following informations are furnished for your perusal please.

(a) Govt. accommodation was occupied on 12.8.89 (Copy of allotment letter enclosed).

(b) Mrs. Silpi Das, C.S.B.O. Station H.Q. Guwahati.

In this connection, I like to mention that I was not aware of the rule position regarding drawal of Hra whose spouse is allotted a Govt. accommodation.

Hence, I request your honour to kindly advise me in this regard for which I shall remain ever grateful.

Thanking you,

Date 5.12.2001

Yours faithfully,
Sd/-
(B.K.Das)
C.S.B.O.
151 BH
C/o 99 APO

*certified to
me today
for my Advocate*

Bijoy Krishna Das.

Annexure-IV

Read. SDS/By hand

151 Base Aspatal
151 Base Hospital
C/o 99 APO

465/2/Civ Est/Coy

12 Dec 2001

B.K. Das (CSBO)
151 Base Hospital
C/o 99 APO

Recovery of HRA

- Refer Stn HQ Cell letter No. 6552/4/23 dated 30 Nov 2001 and your letter No. Nil dated 05.12.2001.
- A sum of Rs. 55,670/- (Rupees fifty five thousand six hundred seventy only) has been paid to you (Appx'A enclosed) which was observed by LAO (A) Narangi, file their letter No.LA/1/0bs/BH/4/01 dated 06.01 dated 05 Nov 01.
- You are directed to deposit the said amount at the earliest by 31 December 2001. If you fail to deposit the amount will be recovered @ Rs. 1500/- per month from Jan 2002 through regular pay bill.

Sd/- Illegible
(R.P. Chaudhary)
Lt. Col.
Coy Commander
For Commandant

1982

DRR

Mar 1983
1989 wife allow to wife

1500
18003
1800020
540001

Certified to
True copy
for Advocate

Bijoy Krishna Das.

Annexure-IV(Contd.)

151 BH letter No. 465/2/CIV Est/Coy

Statement of over payment on account of HRA in respect of B.K.Das, CSBO.

Sl. No.	Name of person	Period	BP	Rate of HRS	Days	Months	Total over payment amount
1	B.K.Das(CSBO)	12.8.89 to 3.8.89	110	250	20	-	161.00
2	-do-	01/90 to 09/97	1130	250	-	97	$250 \times 97 = 24250.00$
3	-do-	10/97 to 12/97	4030	15%	-	03	$605 \times 4 = 1815.00$
4	-do-	1/98 to 4/98	4030	15%	-	04	$605 \times 12 = 2420.00$
5	-do-	5/98 to 4/99	4110	15%	-	12	$617 \times 12 = 4040.00$
6	-do-	5/99 to 7/99	4300	15%	-	15	$645 \times 15 = 9675.00$
7	-do-	8/99 to 7/2001	4400	15%	-	12	$660 \times 12 = 7920.00$
8	-do-	8/2001 to 10/2001	4500	15%	-	3	$675 \times 3 = 2025.00$
						Total	55,670.00

Sd/- Illegible
 (R.P Chaudhary)
 Lt. Col
 Coy Commander
 For Commander

465/2/Civ Est/Coy
 151 Base Hospital
 C/o 99 APO

12 Dec 2001

*certified to be
 true copy for record*

Bijoy Krishna Das.

Annexure-V

LEAVE APPLICATION FOR DEF CIV EMPS : 151 BASE HOSPITAL, C/O 99 APO.

(LEAVE CANNOT BE CLAIMED AS A MATER OF RIGHT APPLICATION WILL BE SUBMITTED BEFORE 07 DAYS FOR EX EXCEPT C/L AND HPL)

PART - I

Signature : Sd/-
(B.K.Das): CSBO.

-PART II

7. Remarks by the Mattron[IC Dept] : Recommended/Not recommended

Dated..... (Signature
of I/C with rank and full name)

S. Application received on

-PART-III

9. Remarks by the Coy Commander/OIC Civ EST: 06 day CL
sanctioning authority 06 days GH
sanctioned/not sanctioned from
17.12.99

Dated : 17.12.99

6 days C/L and 6 days G/H

1. 3rd sep 99- Janmashtami
2. 2nd Oct.99- Mahatma Gandhi's Birthday
3. 19th Oct 99- Dussehra
4. 07th Nov.99- DIWALI
5. 23rd Nov 99- Guru Nanak's Birthday
6. 25th Dec.99- Christmas Day.

certified to
be true copy
for
Advocat

Bijoy Krishna Das.

Annexure-VI

LEAVE APPLICATION FOR DEF CIV EMPS : 151 BASE HOSPITAL, C/O 99
APO.

(LEAVE CANNOT BE CLAIMED AS A MATTER OF RIGHT APPLICATION WILL BE
SUBMITTED BEFORE 07 DAYS FOR EX EXCEPT C/L AND HPL)

PART-I

1. Name of the employee (In block letter) : BIJOY KRISHNA DAS

2. Personnel No. & Designation : 487307 Trade C.S.B.O.

3. Leave application for CL : 42 days E.L. from 28.2.00
to 9.4.2000

4. Address /Present Address : Qtr No. B-163, Army
during the leave period Canntt.
Narangi, Guwahti-

5. Reason for : Mother expired

6. Date : 10.4.2000

Signature : Sd/-
(B.K.Das) CSBO.

PART-II

7. Remarks by the Matron IC Dept : Recommended/Not recommended

Dated 10.4.2000 (Signature of I/C with rank and full name)

8. Application received on

PART-III

9. Remarks by the Coy Commander/OIC Civ EST: 42 days EL
sanctioning authority sanctioned from
28.2.2000 to
9.4.2000

Dated : 10.4.2000

Signature

*certified to
be true copy
for Advocate*

4 MAR 2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

O.A. NO. 3/2002

Sri B.K. Das

- VS -

Union of India & Ors.

- AND -

IN THE MATTER OF ::

Written statement submitted by
the respondents.

The Respondents beg to submit the written
statement as follows.

1. That with regard to paras- 1,2,3,4.1&4.2 of OA, the respondents beg to offer no comments.
2. That with regard to para - 4.3 of OA, the respondents beg to state that the applicant Shri B.K. Das (CSBO) intimated this office (151 BH) that he got married with Smt Shilpi Das in February 1988 by submitting his marriage certificate dated 16/3/1988 (attached as Annexure - I) but at the same time he suppressed the fact from this office that his wife was also a Central Govt. Employee and has been working as CSBO in the Army Telephone Exchange under Station Hqrs, Narengi since 1984. While claiming reimbursement of tuition fee for his child, the applicant Shri B.K. Das (CSBO) fraudulently certified on the body of the claim that his wife is not a Central Govt. employee vide

Filed by

1/3/02
(A. DED 2002)
S. C. G. S. C.

C. A. T., Guwahati Bench

para 3(i). From 2 (Para - 25) of reimbursement of Tuition Fee dated 24 Feb 1999 (Attached as Annexure -II) He also suppressed the fact all along the years from this office that his wife Smt. Shilpi Das was allotted with a Govt. Qtr at Narangi on 12 August 1989.

As per the existing orders vide G.I.MHA O.M. No.F.3/12(5)/64-Ests(B) dt.12/10/65,, it is the responsibility of a Govt employee to furnish information about his close relations and their occupation as well as subsequent changes in the data at the end of each year but the applicant Shri B.K.Das not only intentionally suppressed the information all along the years from this office about his wife's employment/allotment of Govt. Qtr to her at Narangi but also misguided this office submitting wrong certificate, while claiming tuition fee for his child, that his wife is not a Central Govt. Employee.

3. That with regard to para - 4.4 ,of OA, the respondents beg to state that as the applicant Shri B.K.Das (CSBO) had never furnished the information to this office that his wife is a Central Govt.employee and she has been allotted with a Govt. Qtr at Narangi this office was paying H.R.A. to him all along the years. This office came to know about his wife's employment aswell as allotment of Govt. Qtr to her at Narangi only when LAO(A) Narangi observed payment of H.R.A to the applicant Shri B.K.Das (CSBO) during their audit objection for the period 4/2001 to 5/2001 vide item No.6(a) of LAO (A) letter No-LA/1/0E/BH/4/01 to 6/01 dated 05/11/2001 (attached as Annexure -III)

Immediately this office intimated about this audit objection to the applicant Shri B.K.Das also in order to confirm that his wife, Smt. Shilpi Das is really a Govt. employee in occupation of Govt.Qtr at Narangi as observed by the LAO (A) Narangi. This office asked him to furnished the information about and the date occupation of Govt.Qtr by his wife Smt. Shilpi Das (the name and address of the office where she is employed) (ref. this office Letter No-465/2/CIV Est/Coy dated 24 Nov 2001 with copy to all concerned including Station Headquarters, Narangi (attached as Annexure - IV). The applicant Shri B.K.Das (CSBO) accordingly confirmed to this office that his ~~wife~~ wife Smt. Shilpi Das is employed as CSBO under Station Headquarters, Narangi and she has been allotted with a Govt.Qtr vide his letter dated 5/12/2001 along with a copy of allotment letter of Govt.Qtr to his wife vide Station Headquarters, Narangi Govt. Qtr Allotment letter No- 6552/4/q3 dt.11/8/89 (attached as Annexure-v and respectively). The +Station Headquarters Narangi has also confirmed that Smt Shilpi Das (CSBO) was allotted with a Govt. Qtr at Narangi and also instructed this office to make recoveries of unauthorised payment of HRA to the applicant vide their letter No- 6552/4/q3 dtd 30/11/2001 (attached as Annexure -VII)

4. That with regard to para - 4.5 of OA, the respondents beg to state that the LAO(O) Narangi vide item No- 6(a) of their letter No-LA/I/0E/BH/4/01 to 6/01 dtd 05/11/2001 (attached as Annexure-III) and Station Headquarters, Narangi vide their letter No 6552/4/q3 dated 30/11/2001 (attached as Annexure-VI)

instructed this office to make recovery of irregular payment of H.R.A. to the applicant during the period 12/9/89 to 31/10/2001 with arrears. Accordingly this office instructed the applicant Shri B.K.Das vide this officer letter No-465/2/Civ Est/Coy dated 12/12/01 to deposit the amount of HRA(for which he was not entitled) to the tune of Rs. 55,670/- (Rupees fifty thousand six hundred seventy only) already drawn by him during the period from 12/8/89 to 31/10/01 by 31/12/01 failing which recovery @Rs. 1500/- p.m. would be made from his regular pay bill which is normally followed whenever this type of ~~xx~~ financial adjustment through recovery is called for to minimise the financial burden on the Govt employee.

5. That with regard to para - 4.6 of OA, the Respondents beg to state that the claim of applicant Shri B.K.Das (CSBO) that he had disclosed to this office about allotment of Govt. Qtr to his wife is absolutely false as he had never disclosed this fact to this office. As regulars. mentioning of the address on leave application forms, it is required only for the information of this office that the applicant would be ~~xx~~ available at the address mentioned by the applicant on the leave application form during his ~~x~~ leave period which necessarily may not be his home address or present address where he is staying ~~byt~~ may be of any place of his choice where he would like to spend his period of leave ~~.....~~ applied for.

However, mentioning the Qtr No and address on the leave application forms by the applicant Shri B.K. Das (CSBO) does not prove that the said Qtr has been ~~xxx~~ allotted to his wife. As the applicant Shri B.K. Das (CSBO) had suppressed the facts from this office that his wife is a Central Govt. employee and she was been allotted with a Govt. Qtr at Narangi, this office was paying HRA to him all along the years. Only after instructions from LAO(A) Narangi and Station Headquarters, Narangi to make recoveries of unauthorized payment of HRA with arrears from the applicant, this office intimated audit objection to the applicant Shri B.K. Das and for confirmation asked him to furnish the information regarding his wife's employment and whether Govt. Qtr was allotted to her. Once the applicant confirmed that his wife is a Govt. employee, and has been allotted with a Govt. Qtr at Narangi. This Office instructed him to deposit the amount of ~~xxx~~ unauthorised payment of HRA of Rs.55760/- already paid to him by 31/12/01, failing which recovery @ Rs. 1500/- p.m. would be made from his regular pay bill which is normally followed whenever this type of financial adjustment through recover is called for to minimise the financial burden on the Govt. employee. He was given sufficient time to deposit the amount hence the question of violation of the principles of ~~Narangi~~ natural Justice does not arrise in this case.

6. That with regard to para - 4.7 of OA, the respondents beg to state that the claim of the applicant that he is a technical person is false. As per the service condition he is not a technical person. The

financial rules and other procedures relating to civilian employees are read out from ~~is~~ time to time in the quarterly/monthly + Civilian Welfare Sammelans. As the applicant had never intimated this office intentionally that his wife is a Central Govt. employee and she has been allotted with a Govt. Qtr. at Narangi this office was paying HRA to him in the wrong ~~impression~~ impression that his wife was neither a Govt. employee or in occupation of Govt. Qtr. Hence, the applicant is wholly responsible for the lapses. There is clear cut rule that a Govt servant whose spouse is allotted accommodation at the same station by Central Govt. will not be eligible for HRA irrespective of whether or not the non allotted employee is ~~now~~ resides in that accommodation. In spite of this the applicant continued to draw HRA by suppressing the fact to this office that his wife has been allotted with a Govt. Qtr at Narangi. Hence, his plea that recovery of overpayment at a belated stage is not applicable in this case and the applicant is wholly responsible for the lapse.

7. That with regard to para - 4.8 of OA, the Respondents beg to state that this office has instructed the applicant Shri B.K.Das vide this office letter No 465/2/Civ Est/Coye dated 12/12/01 to deposit the amount of HRA (for which he was not entitled) to the tune of Rs. 55670/- (Rupees fifty five thousand six hundred seventy only) already drawn by him during the period from 12/8/89 to 31/10/01 by 31/12/01 failing which recovery @ Rs. 1500/- p.m. would be made from his regular pay bill which is normally followed whenever this type financial adjustment contd.... P/7

through recovery is called for to minimise the financial burden on the Govt. employee. In case, the applicant Shri B.K.Das (CSBO) being a Central Govt. employee, had any grievances, he should have been applied through normal official channel for redressal of his grievances rather than approaching directly to the Hon'ble Court Law without intimating this office which is in violation of existing orders in this regard.

8. That with regard to para - 4.9. of OA, the respondents beg to state that the applicant has not followed the normal official channel for redressal of his grievances in violation of the existing orders in this regard.

9. That with regard to para - 5.1 of OA., the Respondents beg to state that he was ~~sufficient time~~ given sufficient time is more than 15 days for depositing the amount. However, he should have availed all the remedies available to him as per relevant service rules for redressal of his grievances before approaching to the Hon'ble Court of Law.

10. That with regard to para - 5.2 of OA, the respondents beg to state that without availing all the remedies available to him as per the relevant service rules, claiming violation of the principles of Natural Justice is illigical.

11. That with regard to para - 5.3 of OA, the respondents beg to state that Drawing of HRA by suppressing information about wife's employed and

and allotment of Qtr is totally attributable to the applicant.

12. That with regard to para - 5.4 of OA, the respondents beg to state that not applicable in this case as the mistake is totally attributable to the applicant.

13. That with regard to para - 5.5 of OA, the by suppressing the information about wife's employed and allotment of Qtr at Narangi, the applicant kept this office under the wrong impression that he is entitled to get this allowance, hence the HRA was paid during the period. Even though both the applicant and his wife are Govt.employee, if the applicant is unable to deposit the whole amount in one instalment then he was intimated that recovery @Rs. 1500/- would be made from his monthly salary. This will minimise the financial burden on the employee and not put him under undue distress.

14. That with regard to para - 5.6 of OA, the respondents beg to state that the applicant continued to receive HRA because the applicant suppressed the information to this office that his wife is employed and has been allotted with a Govt. Qtr at Narangi which was observed by the LAO(A) Narangi during their audit objection for the period from 12/9/99 to 31/10/2001.

15. That with regard to para - 5.8 of OA, the respondents beg to state that the claim is totally false as the applicant had never intimated this office that his wife is Govt employee and has been allotted with a Govt. qtr.

16. That with ~~in~~ regard to para - 6 of OA, the respondents beg to state that the statement of the ~~apply~~ applicant that he has not other alternative without ~~xxx~~ availing remedies available to him for redressal of his grievence through normal official channel is, totally false.

17. That with regard to para - 7 of OA, the respondents beg to ~~state that~~ offer no comments.

18. That with regard to para - 8 of OA, the respondents beg to state that as the applicant even after being a Central Govt. employee, has not followed the correct procedure for remedy of his grievence through normal official channel as required and has approached the Hon'ble Court of law without intimating this office in contrayention of the existing rules, his case may please be quashed and necessary instruction may please be issued to him to apply through normal official channel for redressal of his grievence or he should be asked to refund the amount of HRA which he has already drawn by suppressing information about his wife's employed and allotment of Govt. qtr.

19. That with regard to para - 8.1 of OA, the respondents beg to state that the applicant should be

asked to adhere to the instruction issued by this office letter No-465/Civ Est/Coy dated 12/12/01 or represent through normal official channel for redressal of his grievances.

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

I, Shri Lt Col S N BHADURI
being authorised do hereby verify and declare
that the statement made in whis written statement are
true to best of ~~of~~ my knowledge, information and
Believe and I have not suppressed any material facts.

And I sign this verifiatiion on this 10th
day of January 2002.


Declarant.
(S N BHADURI)
Lt Col
Officer Asst Register