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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

Rep- 05/2006 ordersheet - 1 to -

Disposed - dtd - 24/02/06

MP-05/06 petition copy - 1 to 12

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O.A./T.A No. 123/2004.....

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E.P/M.A No. 141/05.....

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SECTION OFFICER (Judl.)

FORM No.4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org. App. / Misc Petn / Cont. Petn / Rev. Appl. 123/2004

Name of the Applicant(s) In O.A. Sri Ganesh Ch. Mandal in ops.

Name of the Respondent(s) Union of India in ops.

Advocate for the Applicant Mr. A. Ahmed.

Counsel for the Railway/CGSC. Mr. A. K. Choudhury Addl. C.G.S.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

21.5.2004

Heard Mr. A. Ahmed, learned counsel for the applicants. Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. appeared on behalf of the respondents.

Admit. Issue notice on the respondents returnable by four weeks.

List on 25.6.2004 for order.

No recovery of House Rent Allowance shall be made from the applicants till the returnable date.

Dy. Registrar

Member (A)

bb
20.7.04.

Present: Hon'ble Mr. K. V. Sachidanandan
Judicial Member
Hon'ble Mr. K. V. Prahladan, Administra-
tive Member.

When the matter came up for hearing the learned counsel for the Respondents prays for time to file written state-
ment. Four weeks time is allowed for filing of counter affidavit. Liberty is given to the applicant to file rejoinder if any, within two weeks.

Post the matter before the Division Bench. Interim order shall continue.

Member (A)

Member (J)

Steps taken.
Notice & order sent to D/Section for issuing to respondent nos. 1 to 3 and respondent nos 4, 5 sent to by Speed post on applicant Cont.

Speed post receipt at file "e".

04 123/04

Memo No = 867 to
871 dt. 24/5/04.

~~Case~~
21/5/04.

D/Memo No =
1000-1003
dt. 10/6/04.

20.7-04

Adjoined, List on
next division Bench.

3-11-04

By order.

15/12. Awaiting.

7 NO W/S has been 8/12/04

4.1104

Mr A. Ahmed, learned counsel for the
applicants is present. None for the
respondents.

Learned counsel for the applicants
states that the matter can be disposed of
in the light of the judgment of this
Tribunal in O.A.217/95, wherein it was
held that the House Rent Allowance is
admissible and the respondents were
directed to pay H.R.A to the applicants,
wherein the present applicants were also
one of the ^{applicant} party. The judgment passed by
the Tribunal was assailed in the Apex
Court but the Apex Court did not interfere.
Subsequently similar matter came up before
the Gauhati High Court, wherein also the
High Court did not interfere on the
question of payment of H.R.A. The applicant
in this application is seeking continuation
of payment of H.R.A. In view of the above
we are giving another opportunity to the
respondents to put in appearance on the
next hearing and if no appearance is put
on the next hearing on behalf of the
respondents there shall be no alternative
but to pass appropriate orders in accor-
dance with law, even though no written
statement has been filed so far for which
sufficient time has already been granted.

Stand over to 3.12.2004.

K. P. Bala
Member

R.
Vice-Chairman

Order dt. 4.11.04 re
issuing to learned
advocate for the
both the parties.

~~Case~~
8/11/04.

2-12-04

15/12. Awaiting.
7 NO W/S has been 8/12/04

Notes of the Registry	Date	Order of the Tribunal
	3.12.04.	<p>The learned counsel for the Respondents states that written statement shall be filed within four weeks, without fail with advance copy to the learned counsel for the applicant. The applicant may in case so desires, file rejoinder within two weeks therefrom with advance copy the learned counsel for the Respondents.</p> <p>Stand over to 3rd February⁰⁵ for hearing.</p> <p><i>K. P. S. Member</i> Member</p> <p><i>R. Vice-Chairman</i> Vice-Chairman</p>
	15.02.2005	<p>List on 17.2.2005 for hearing.</p> <p><i>K. P. S. Member (A)</i> Member (A)</p> <p><i>M. J. Member (J)</i> Member (J)</p>
	17.2.2005	<p>None appears for the parties. Reply has not been filed. Adjourned to 21.3.05.</p> <p><i>K. P. S. Member (A)</i> Member (A)</p> <p><i>M. J. Member (J)</i> Member (J)</p>
	21.3.05.	<p>Present: Hon'ble Mr. Justice G. Sivaraman Vice-Chairman. Hon'ble Mr. K. V. Prahladan, Administrative Member.</p> <p>At the request of Mr. A. K. Choudhury, learned Addl. C.G.S.C prays for four weeks time to file written statement. Four weeks time is allowed for filing written statement. List on 26.4.05. No further adjournment will be granted.</p> <p><i>K. P. S. Member</i> Member</p> <p><i>G. J. Vice-Chairman</i> Vice-Chairman</p>

Case is ready for hearing.

25-4-05

No writs have been
filed.

13-5-05

No written statement has
been filed so far.

lm

O.A.123/2004

16.5.2005

At the request made by Mr.A.Ahmed, learned counsel for the applicant the case is adjourned to 8.6.2005.

Member

Vice-Chairman

bb

6.6.05

Report
submitted by the
Applicant.

8.6.2005,

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

The O.A. is disposed of in terms of the order.

W. J. ...
Member

J. ...
Vice-Chairman

bb

Case is to be heard.

16/6/05

Copy of the
Judgment has been
sent to the D/Sec
for issue of the
order to the applicant
by post.

R. ...
17/6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 123 of 2004.

DATE OF DECISION: 08.06.2005.

Shri Ganesh Chandra Mandal & Ors.

APPLICANT(S)

Mr. A. Ahmed.

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr. A.K.Chaudhuri, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgments?
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.



x

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 123 of 2004.

Date of Order: This, the 8th Day of June, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Shri Ganesh Chandra Mandal
MES No.311640
Duftory.
2. Shri N. Limbu
MES No.237947
Duftory.
3. Shri Kanu Debnath
MES No.243725
Peon.
4. Shri S. Jabbar
MES No.220150
Chowkidar (Mate OTP).
5. Shri Sanat Kumar Mandal
MES No.243724
CMD Grade I.
6. Shri Iswari Prasad Joshi
MES No.228925
CMD Grade II.
7. Shri Nitai Das
MES No.243989
Chowkidar.
8. Shri Benu Debnath
MES No.244003
Chowkidar.
9. Shri Subhakar Choudhury
MES No.243797
Chowkidar.
10. Shri Suren Sing Tisu
MES No.243999
Chowkidar.
11. Shri Rashid Hazan
MES No.220055
Chowkidar.
12. Shri G. N. Rao
MES No.243793

Safaiwala.

13. Shri Dinesh Rai
MES No.243935
Safaiwala.
14. Shri Devandar Kumar
MES No.
Chowkidar.
15. Shri Babulal Balmiki
MES No.243501
Safaiwala.
16. Shri Chathu Prasad Gupta
MES No.243995
Safaiwala.
17. Shri Chandan Raj
MES No.243964
Safaiwala.
18. Shri Anil Kumar
MES No.243947
Chowkidar.
19. Shri Ratan Kr. Pradhan
MES No.243996
Safaiwala.

Applicants.

All the applicants named above are working under the office of the Garrison Engineer 868 EWS C/o 99 APO.

By Advocate Mr. Adil Ahmed.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence
South Block
New Delhi-1.
2. The Administrative Commandant
Station Head Quarter
P.O: Dimapur, Nagaland.
3. The Controller of Defence Accounts
Udyan Vihar, Narengi
Guwahati - 781 171.
4. The Area Accounts Officer
Office of the Joint Controller
of Defence Accounts

Ministry of Defence, Vivar Road
Shillong, P.O: Shillong
Meghalaya.

5. The Garrison Engineer
868, Engineering Workshop
C/o 99 APO.

.. Respondents.

By Mr. A. K. Chaudhuri, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J.(V.C.):

The applicants 19 in number have filed this Original Application seeking for direction to the respondents to continue the payment of House Rent Allowance (HRA in short) to the applicants as per earlier order passed by this Tribunal in O.A. Nos. 217/1995 and 218/1995 which have been affirmed by the Hon'ble Supreme Court.

2. The applicants are Defence Civilian Central Government employees under the Ministry of Defence and are working under respondent no.5 in various capacities in the State of Nagaland. The applicants along with a large number of other similarly situated persons had filed O.A. Nos. 217/1995 and 218/1995 before this Tribunal for grant of various reliefs due to the Defence Civilian employees working in the N. E. Region. The Tribunal by its order dated 18.10.1995 (Annexure-B) allowed the said O.A.s. Union of India, being aggrieved by the said order, took up the matter before the Hon'ble Supreme Court by way of Special Leave Petition which was later numbered as Civil Appeal No.1572/1997 and connected cases and the said appeals were disposed of by a common judgment dated 17.2.1997 (Union of India and Others vs. B. Prasad and Others, (1997) 4 SCC 189)).



3. The Tribunal in the common order dated 18.10.1995 in O.A. Nos. 217/1995 and 218/1995 inter alia allowed the claim for grant of HRA. Though the Union of India had filed SLP before the Hon'ble Supreme Court and also contended that grant of HRA to employees who were provided with free accommodation was against the basic concept of payment of HRA, the Supreme Court did not deal with the said question in the judgment. Respondents were paying HRA to the applicant even after the Supreme Court's decision till 2003 but the same was discontinued at the end of 2003. It is in the above circumstances the applicants have filed this O.A. seeking for the reliefs mentioned above.

4. We have heard Mr. A. Ahmed, learned counsel for the applicants and Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. for the respondents. Mr. Ahmed submits that this Tribunal in the order dated 18.10.1995 (Annexure-B) had allowed the claim of the applicants for grant of HRA; though the Union of India has challenged the said order before the Hon'ble Supreme Court by way of SLP by raising a particular ground - "The Tribunal failed to appreciate that it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation cannot go together", the Supreme Court did not consider the said challenge. Counsel submits that in view of the above it must be deemed that Supreme Court has considered and rejected the aforesaid contention raised by the Union of India. Counsel also submits that the Hon'ble Gauhati High Court in C.R. No.5613 of 1998 (Annexure-E) had considered a similar claim with reference to the decision of the Supreme Court in B. Prasad & Others case and held that the decision of the Tribunal in

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O.A.186/1997 directing payment of HRA does not call for any interference. Counsel in the above circumstances submits that the respondents are not justified in discontinuing the payment of HRA to the applicants.


5. Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. appearing for the respondents on the other hand, with reference to their written statement particularly Paragraph 7, submitted that the applicants in this case have been allowed defence land in defence premises, provided with water and electric connection from the defence sources and nothing is their own and that as per Annexure 'C' of Government of India, Ministry of Defence letter No.A/02584/AG/PS-3(a)/97/S/D(Pay/Services) dated 25.1.1964 Civilian employees working under defence services in N. E. Region are entitled for free tented/bash accommodation and connected services where they will stay single or collectively. It is further stated that the applicants are staying with families in defence premises provided with water and electric connection in addition to other field service concessions. Standing counsel accordingly submitted that the applicants are not entitled to payment of HRA.


6. We have considered the rival submissions. The very question was considered by this Tribunal with reference to the aforesaid contention raised by the respondents in O.A. Nos. 217/1995 and 218/1995 wherein it was held that the applicants are entitled to payment of HRA. This decision has been impliedly upheld in B. Prasad & Other's case (supra). Further the Hon'ble High Court had considered a similar situation with reference to the decision of the Supreme Court and took the view that the Tribunal was justified in directing payment of HRA in the said case. In the circumstances, we

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are of the view that the respondents were not justified in discontinuing the payment of HRA to the applicants in the instant case. Accordingly we direct the respondents to pay HRA to the applicants as directed by this Tribunal in O.A. Nos.217/1995 and 218/1995 and affirmed by the Supreme Court in B. Prasad & Other's case (supra).

The Original Application is disposed of as above.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE CHAIRMAN

BB

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

**(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)
ORIGINAL APPLICATION NO. 123 OF 2004.**

BETWEEN

Shri Ganesh Chandra Mandal & Others

... Applicants

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A is the photocopy of Office Memorandum No. 11013/2/86-E. II (B); New Delhi dated 23rd September 1986.

Annexure-B is the photocopy of Judgment and Order dated 18th October 1995 passed in O.A.No.217/95 and 218/95 by the Hon'ble Tribunal.

Annexure-C is the photocopy of Relevant Extract Portion of Special Leave Petition filed by the Respondents in Civil Appeal No.1572 of 1997 against the judgment and order passed in O.A.No.217/95 and O.A.No.218/95.

Annexure-D is the photocopy of sanctioned order of payment of House Rent Allowance dated 3rd July 1996.

Annexure-E is the photocopy of judgment and order dated 17th February 1997 passed in Civil Appeal No.1572 of 1997 by the Hon'ble Supreme Court of India.

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G. Mandal

Annexure-F is the photocopy of Judgment and order dated 18-9-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998.

Annexure-G is the photocopy of order dated 28th April 2000.

Annexure-H is the Type copy of Letter No.1006/3/276/E1 (pay) dated 13th March 2004.

This Original Application is made for illegal and arbitrary stoppage and recovery of House Rent Allowance from the applicants. The applicants had earlier also approach this Hon'ble Tribunal by filing O.A.No.217/95 and 218/95 for non-payment of House Rent Allowance by the instant Respondents. The Hon'ble Tribunal vide its judgment and order dated 18th October 1995 passed in the above said Original Applications directed the Respondents to pay the House Rent Allowance to the applicants. The Respondents filed Review Applications No.22 of 1995 and 23 of 1995 before this Hon'ble Tribunal against the judgment and order passed by the Hon'ble Tribunal in O.A.No.217 of 1995 and 218 of 1995. The said Review Applications were dismissed by the Hon'ble Tribunal vide its order dated 2-1-1996. The Respondent No.1, the Ministry of Defence vide its order dated 3rd July 1996 sanctioned the payment of House Rent Allowance to the applicants of the O.A.No.217/95 and O.A.No.218/95. Accordingly the payment of House Rent Allowance was paid to the instant applicants. Again the Respondents filed a Civil Appeal No. 1572 of 1997 before the Hon'ble Supreme Court of India against the judgment and order passed by this Hon'ble Tribunal in O.A.217/95 and 218/95 and also against the Review Applications No.22/95 and 23/95 respectively. But the Hon'ble Supreme Court Of India vide its order dated 17th February 1997 passed in Civil Appeal No.1572 of 1997 affirm the judgment of the Hon'ble Tribunal regarding the payment of House Rent Allowance to the Defence Civilian Employee of the Nagaland. In a recent similarly situated Defence Civilian Employees case regarding payment of House Rent Allowance the Hon'ble Gauhati High Court vide its judgment dated 18-9-2002 passed in Civil Rule 5613 of 1998 affirm the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati. Now the

Chandra

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Respondents particularly Respondent No.2, 3 & 4 illegally and arbitrarily stopped and recovered the House Rent Allowance from the said applicants which is total violation of judgment and order passed by the Hon'ble Tribunal, Hon'ble Gauhati High Court and also Hon'ble Supreme Court of India regarding payment of House Rent Allowance to the Defence Civilian of Nagaland. Hence the applicants named above filed this Original Application for illegal and arbitrary stoppage and recovery of House Rent Allowance and also praying before this Hon'ble Tribunal for continuation of House Rent Allowance as per earlier judgment and order which attained finality in the eye of law.

Chondal

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.
(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)
ORIGINAL APPLICATION NO. 123 OF 2004.**

Filed by
Shri Ganesh Chandra Mandal
through [Signature]
(Adv. AHMED)
Advocate
Application No. 123
16

BETWEEN

1. Shri Ganesh Chandra Mandal
MES No.311640
Duftory
2. Shri N.Limbu
MES No.237947
Duftory
3. Shri Kanu Debnath
MES No.243725
Peon
4. Shri S.Jabbar
MES No.220150
Chowkidar(Mate OTP)
5. Shri Sanat Kumar Mandal
MES No.243724
CMD Grade I
6. Shri Iswari Prasad Joshi
MES No.228925
CMD Grade II
7. Shri Nitai Das
MES No.243989
Chowkidar
8. Shri Benu Debnath
MES No.244003
Chowkidar
9. Shri Subhakar Choudhury
MES No.243797
Chowkidar
10. Shri Suren Sing Tisu
MES No.243999
Chowkidar

Ghondal

11. Shri Rashid Hazam,
MES No. 220055
Chowkidar
12. Shri G.N.Rao
MES No.243793
Safaiwala
13. Shri Dinesh Rai
MES No.243935
Safaiwala
14. Shri Devandar Kumar
MES No.
Chowkidar
15. Shri Babulal Balmiki
MES No.243501
Safaiwala
16. Shri Chathu Prasad Gupta
MES No.243995
Safaiwala
17. Shri Chandan Raj.
MES No.243964
Safaiwala
18. Shri Anil Kumar
MES No.243947
Chowkidar
19. Shri Ratan Kr. Pradhan
MES No.243996
Safaiwala

... Applicants

All the applicants named above are working
under the office of the Garrison Engineer 868
EWS C/o 99APO.

-AND-

Ghondal

1. The Union of India represented by the Secretary to the Government of India, Ministry of Defence, South Block, and New Delhi-1.
2. The Administrative Commandant, Station Head Quarter, P.O.-Dimapur, Nagaland
3. The Controller of Defence Accounts, Udhyan Vihar, Narengi, Guwahati-781171.
4. The Area Accounts Officer, Office of the Joint Controller of Defence Accounts, Ministry of Defence, Vivar Road, Shillong, P.O.- Shillong, Meghalaya.
5. The Garrison Engineer, 86th, Engineering Workshop, C/o 99 APO

... Respondents

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

The Application is made for the illegal and arbitrary stoppage and recovery of House Rent Allowance from the above named applicants by the Respondents and also seeking a direction from this Hon'ble Tribunal to the Respondents for continuation of House Rent Allowance to the applicants as per judgment and order passed by this Hon'ble Tribunal in O.A.No.217/95 and O.A.No.218/95 which has been affirm by the Hon'ble Supreme Court of India in Civil appeal No.1572/97 dated 17th February 1997.

Chondel

2) JURISDICTION OF THE TRIBUNAL

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

3) LIMITATION

The applicants further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

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

4.2) That your applicants beg to state that they belong to Group-C & D category employee. They are Defence Civilian Central Government Employee under the Ministry of Defence and working under the Respondent No.5 in various capacities. They are serving in state of Nagaland.

4.3) That your applicants beg to state that as the grievances and reliefs prayed in this application are common, therefore, they pray for grant of permission under Section 4(5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

4.4) That your applicants beg to state that the Government of India, Ministry of Finance (Department of Expenditure) vide their Office Memorandum No.11013/2/86-E. II (B), New Delhi dated 23rd September 1986 granted House Rent Allowance to the Central Government Civilians Employees.

Chondal

Annexure-A is the photocopy of Office Memorandum No. 11013/2/86-E. II (B); New Delhi dated 23rd September 1986.

4.5) That your applicants beg to state that the instant applicants has earlier approach this Hon'ble Tribunal by filing Original Applications No. 217 of 1995 and 218 of 1995 for non payment of House Rent Allowance to them as per Office Memorandum No. 11013/2/86-E. II (B), New Delhi dated 23rd September 1986. The Respondents filed written statement in the above said case stating that the applicants are provided free Defence land and they have constructed temporary hut in the said land and also they have provided free water and electricity connection to the said huts. As such the applicants are not entitled for payment of House Rent Allowance as per Office Memorandum No. 11013/2/86-E. II (B), New Delhi dated 23rd September 1986. But this Hon'ble Tribunal rejected the contention of the Respondents and the Hon'ble Tribunal vide its judgment and order dated 18th October 1995 directed the Respondents to pay the House Rent Allowance to the applicants 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 a the case may be in respect of ach applied up to 28-2-1991 and at the rate as may be applicable from time to time a from 1.3.1991 up to date and to continue to pay the same at the rate prescribed hereafter. Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applications during the aforesaid period towards House Rent Allowance. Future payment to be regulated in accordance with clause (a) above. 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 Respondents filed Review Applications No.22 of 1995 and 23 of 1995 before this Hon'ble Tribunal against the judgment and order passed by the Hon'ble Tribunal in O.A.No.217 of 1995 and 218 of 1995. The said Review Applications were dismissed by the Hon'ble Tribunal vide its order dated 2-1-1996. The Respondent No.1, the Ministry of Defence vide its order dated 3rd July 1996 sanctioned the payment of House Rent Allowance to the applicants of the O.A.No.217/95 and O.A.No.218/95. Accordingly the payment of House Rent Allowance was paid to the instant applicants. Again the

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Respondents filed a Civil Appeal No. 1572 of 1997 before the Hon'ble Supreme Court of India against the judgment and order passed by this Hon'ble Tribunal in O.A.217/95 and 218/95 and also against the Review Applications No.22/95 and 23/95 respectively. The Grounds taken by the Respondents in the Hon'ble Supreme Court of India is given below for kind perusal of this Hon'ble Tribunal.

"Because the Hon'ble Tribunal failed to appreciate it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with freed accommodation. The payment of HRA and free accommodation can not go together."

But the Hon'ble Supreme Court Of India vide its order dated 17th February 1997 passed in Civil Appeal No.1572 of 1997 affirm the judgment of the Hon'ble Tribunal regarding the payment of House Rent Allowance to the Defence Civilian Employee of the Nagaland. In a recent similarly situated Defence Civilian Employees case regarding payment of House Rent Allowance the Hon'ble Gauhati High Court vide its judgment dated 18-9-2002 passed in Civil Rule 5613 of 1998 affirm the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Annexure-B is the photocopy of Judgment and Order dated 18th October 1995 passed in O.A.No.217/95 and 218/95 by the Hon'ble Tribunal.

Annexure-C is the photocopy of Relevant Extract Portion of Special Leave Petition filed by the Respondents in Civil Appeal No.1572 of 1997 against the judgment and order passed in O.A.No.217/95 and O.A.No.218/95.

Annexure-D is the photocopy of sanctioned order of payment of House Rent Allowance dated 3rd July 1996.

Annexure-E is the photocopy of judgment and order dated 17th February 1997 passed in Civil Appeal No.1572 of 1997 by the Hon'ble Supreme Court of India.

Chondal

Annexure-F is the photocopy of Judgment and order dated 18-9-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998.

4.6) That your applicants beg to state that the House Rent Allowance have been granted to the instant applicants by the Respondents after their said cases are affirmed by the Highest Court of Law i.e. Hon'ble Supreme Court of India. Hence it is not disputed the matter attained finality in the eye of law. But the Respondent No.2 i.e. the Administrative Commandant, Station Head Quarter, Dimapur, Nagaland vide its order dated 28th April 2000 illegally & arbitrarily without any sanction imposed Rent and Allied charges to the applicants who are staying in various bosties of Defence land allotted by Station Head Quarter. The Rent and Allied Charges are as follows: -

- a) Rs.10/- per month as ground rent from each allottee for the plot of 400 Sqft (max) allotted by this HQ.
- b) Rs.55/- per month for electricity charges two light points recoverable from each allotted. The expense of connecting wire from main pole to the house will be borne by the individuals concerned.
- c) Rs.30/- per month recoverable from each allottee for water.

Annexure-G is the photocopy of order dated 28th April 2000.

4.7) That your applicants beg to state that the above said order dated 28th April 2000 at annexure-G is total violation of order passed by the Hon'ble Tribunal as well as Hon'ble Supreme Court of India. The said order has been passed without any sanction form Higher authority i.e. Ministry of Defence who has sanctioned the House Rent Allowance to the Applicant vide its order dated 3rd July 1996 at annexure-D of this instant Original Application.

Original

23

4.8) That your applicants beg to state that most surprisingly now the Respondents particularly the Respondent No.3 & 4 have stopped the payment of House Rent Allowance and recovered the House Rent Allowance from the instant applicants from their monthly pay bill i.e. from month of ^{December} ~~February~~ 2003. The Respondent No.5 vide its letter No. 1006/3/276/E1 (pay) dated 13th March 2004 requested the Respondent No.3 and 4 to regulate the payment of House Rent Allowance to the applicant as per Hon'ble Courts order. In this letter the Respondent No.5 has clearly mentioned that the applicants are entitled for House Rent Allowance as such they should pay earliest to avoid any legal complicity on the subject at later stage. But in spite of such letter the Respondent No.3 and 4 has not taken any steps for regulate the payment of House Rent Allowance to the instant applicants. From above it is very clear the Respondents particularly Respondent No.2, 3 and 4 are over riding on the judgment of this Hon'ble Tribunal as well as Hon'ble Supreme Court of India. 82

Annexure-H is the Type copy of Letter No.1006/3/276/E1 (pay) dated 13th March 2004.

4.9) That your applicants beg to state that the action of the Respondent is Highly illegal, arbitrary, unfair and violative of the principle of natural justice as well as fundamental rights of the applicants.

4.10) That your applicants beg to state that in the above circumstances finding no other alternative the applicants are approaching the Hon'ble Tribunal for protection of their rights and interest through this Original Application and the Hon'ble Tribunal may be pleased to pass an interim order to stay the stoppage and recovery of House Rent Allowance from the instant applicants.

4.11) That your applicants submit that they have got reasons to believe that the Respondents are resorting the colorable exercise of power.

Quondal

4.12) That your applicants submit that the action of the Respondents are mala fide, illegal and with a motive behind.

4.13) That your applicants submit that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India.

4.14) That in view of the facts and circumstances it is a fit Case for interference by Hon'ble Tribunal to protect the interest of the applicants.

4.15) That this application is filed bona fide and for the interest of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

In view of the humble submissions made and facts and circumstances explained in the foregoing paras, the stoppage and recovery of House Rent Allowance is arbitrary, mala fide, discriminatory and badly misconceived on the following amongst other grounds: -

5.1) For that, the action of the Respondents are highly illegal, arbitrary and violative of the principle of natural justice as well as the fundamental rights of the applicants

5.2) For that the applicants are getting the House Rent Allowance as per Hon'ble Tribunal's order as well as Hon'ble Apex Court's order. Hence the Respondents cannot deprive them. As such the stoppage and recovery of House Rent Allowance from the applicants is liable to be set aside and quashed.

5.3) For that, the payment of House Rent Allowance to the applicants has reached finality in the eye of law. As such the Respondents without any justification cannot deny the said benefit to the applicants.

5.4) For that, the House Rent Allowance was not obtained by the applicants by any fraudulent means but the Respondents after accepting

Chondal

the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati and also accepting the Hon'ble Supreme Court of India's judgment, they have paid the House Rent Allowance and as such the stoppage and recovery of House Rent Allowance by the Respondents is liable to be set aside and quashed.

5.5) For that, in a recent similarly situated Defence Civilian Employees case the Hon'ble Gauhati High Court has also affirm the judgment of the House Rent Allowance passed by the Hon'ble Tribunal and as such the stoppage and recovery of House Rent Allowance by the Respondents is liable to be set aside and quashed.

5.6) For that, other similarly persons are enjoying the benefit of House Rent Allowance without any interruption and as such the stoppage and recovery of House Rent Allowance by the Respondents is liable to be set aside and quashed.

5.7) For that, it is settled proposition of law that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the said benefits without requiring them to approach in the Court of law.

5.8) For that, the order of stoppage and recovery of HRA is total violation and disobedience of the Hon'ble Apex Court judgment in this matter.

5.9) For that, the Respondents have violated the Article 14, 16 & 21 of the Fundamental rights guaranteed under the Constitution of India.

5.10) For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.11) For that, in any view of the matter the action of the matter the action of the Respondents are not sustainable in the eye of law as well as fact.

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The applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

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

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to continue the payment of House Rent Allowance to the applicant as per earlier order passed by this Hon'ble Tribunal to the instant applicants in

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O.A.No.217/95 and 218/95 which has been affirmed by the Hon'ble Supreme Court of India.

8.2) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

The Hon'ble Tribunal may be pleased to stay the stoppage and recovery of House Rent Allowance from the applicants by the Respondents.

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. JJG 379000

Date of Issue 18.5.2004

Issued from Guwahati G.P.O.

Payable at Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification

Chondal

VERIFICATION

I, Shri Ganesh Chandra Mandal, MES No.311640, Duftory, Office of the Garrison Engineer, 868 EWS, C/o 99APO do hereby solemnly verify that I am the applicant No.1 of the instant application and I am authorized by the other applicants to signed this verification. That the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.7, 4.9, 4.10 —

_____ are true to my knowledge, those made in paragraph nos. 4.4, 4.5, 4.6, 4.8, _____ are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 11th day of May 2004 at Guwahati.

Ganesh

13-
-91-

ANNEXURE-A

81

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

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 Government
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 Allowance to Central Government

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Employees shall be admissible at the following rates;

(i) 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 admissible to B class city are being paid in orders lib issued separately.

- 15 -
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(11) House RENT ALLOWANCES:

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, C class UN	Class cities	Class
		Cities	Places	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.

Attested
[Signature]
Advocate

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3. Where H.R.A. at 15 per cent of pay has been allowed their special order, 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). 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 Tax and Interim Relief appropriate to that pay, admissible under orders in existence on 31.12.1985.

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Attested
[Signature]
Advocate

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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 national 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 service 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.

.....86

Attended
File
Advocate

In the Central Administrative Tribunal
Guwahati Bench, Guwahati.

Application under Section 19 of the Central
Administrative Tribunal Act, 1985.

Case O.A. No. 217 of 1995

BETWEEN

1. 311640 Shri G.C Mondal, PEON. ✓
2. 260088 Shri N.K. Kar, U.D.C
3. 216833 Shri B.C. Ghosh, Supdt, B/R Grade-I
- ✓ 4. 264666 Shri Samar Chakraborty, S.A, Grade-II.
- ✓ 5. 201694 Shri A.K. Bondopadhyay, S.A. Grade-I.
- ✓ 6. 220150 Shri S. Jabbar, Office Chowkidar. ✓
- ✓ 7. 220105 Shri P. Khalkhu, Chowkider.
- ✓ 8. MES 202175 Shri T.B. Bhattacharya, Supdt, B/R Grade-II.
- ✓ 9. 243485 Shri K.P.Kewat, Peon.
- ✓ 10. 234117 Shri A.K.Dutta, Supdt, B/R Grade-I. ✓
- ✓ 11. 311608 Shri Surindra Kumar, Supdt, E/M Grade-I.
- ✓ 12. 263195 Shri S.K. Karmakar D' Man Grade-I.
- ✓ 13. 208173 Shri Nilendra Roy, Supdt, B/S Grade-II.
- ✓ 14. 224065 Shri Abdul Rouf, S.K. Grade-I.
- ✓ 15. 216499 Shri Monoranjan Roy, S.K. Grade-II.
- ✓ 16. 263544 Shri R.C. Das, Asstt, Engineer E/M.
- ✓ 17. MES/201085 Shri N.K. Kundra, B/S Grade-II.
- ✓ 18. MES/210151 Shri D.R. Khati, B/S, Grade-II.
- ✓ 19. MES/268151 Shri S.K. Nag, B/S Grade-I.
- ✓ 20. MES/201185 Shri Angsu Gopal Saha AE/ B/R
- ✓ 21. MES/265840 Md. Kaium Ansari, Supdt, E/M Grade-II.
- ✓ 22. MES/242028 Shri G.C. Bora, U.D.C.
- ✓ 23. MES/238173 Shri Ramesh Ch. Baishya, BSO
- ✓ 24. MES/216447 Shri U.S. Prasad, AE ✓

Now all are serving in the office of the G.E. E68 EWS
- And- C/O 99 APO
of India and others. Applicants.
..... Respondents.



Attested
[Signature]

Original Application No.217 of 1995

With

Original Application No.218 of 1995.

Date of Decision : This the 18th Day of October, 1995.

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

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

O.A.No.217/95 ✓

311640 Shri G.C.Mondal & 23 others.

All are serving in the office of the
Garrison Engineer, 855 EWS C/o 99 APO.

Applicants

- Versus -

1. Union of India represented by
the Secretary, Defence,
Govt. of India, New Delhi.
2. The Garrison Engineer,
855 EWS, C/o 99 APO.
3. The Garrison Engineer,
853 EWS, C/O 99 APO.

Respondents.

O.A. No.218/95

238016 Shri K.P.Pillai & 225 others.

All are serving in the office of the
Garrison Engineer, 858 EWS C/O 99 APO.

Applicants

- Versus -

1. Union of India represented by the
Secretary Defence, Govt. 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

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.

O R D E R

CHAUDHARI J. V.C.

O.A.No.217/95 :

As the question raised is covered by earlier decisions
the O.A. is admitted. Issue notice to the respondents.

Returnable forthwith. Mr S.Ali, Sr.C.G.S.C waives notice and



Attested
S. Ali

contd. 2...

... for the respondents. Called out for final hearing.
O.A.No.218/95 :

As the question raised is covered by earlier decisions the O.A. is admitted. Issue notice to the respondents. Returnable forthwith. Mr S.Ali, Sr.C.G.S.C waives notice and appears for the respondents. Called out for final hearing.

As the claim made in both the above C.As are identical these are disposed of by a common order. The applicants in the respective applications are granted leave to agitate their claim in the single application.

Facts of O.A.No.217/95:

The 24 applicants concerned in O.A.217/95 are civilian employees belonging to Group A, B, C and D and are serving in the Defence Department from respective dates since 1963 onwards. They have stated that they are from outside the North East Region but have been posted as civilian employees in Nagaland in the office of Garrison Engineer, 868 EWS C/O 99 A.P.O. Their grievance is that they are eligible to be paid :

- (i) Special (Duty) Allowance (SDA),
- (ii) House Rent Allowance (HRA) at the rate of 15% on the monthly salary with effect from 1.10.1986;
- (iii) Special Compensatory (Remote Locality) Allowance with effect from 1.4.1993 and
- (iv) Field Service Concession with effect from 1.4.1993

but that these benefits are being wrongfully denied to them by the respondents. They placed reliance upon the earlier decision in O.A.48/91. It also appears that the applicants had filed Civil Suit No.265/89 praying for the aforesaid benefits and the suit was decreed. However according to the applicants the decree is not obeyed by respondents, ^{on the ground} it is nullity - a nullity being without jurisdiction.



Attested
Advocate

Facts of O.A.No.218/95 :

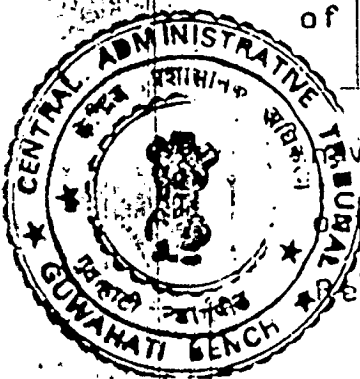
The O.A.218/95 has been filed by 225 applicants. They are all civilian employees belonging to Group 'C' serving in the Defence Department from respective dates since 1963. They also claim the benefits of :

- (i) Special (Duty) Allowance,
- (ii) House Rent Allowance,
- (iii) Special Compensatory(Remote Locality) Allowance and
- (iv) Field Service Concession in the same manner

and on the same grounds as claimed by the applicants in the other O.A.

In support of the claim for Special(Duty) Allowance reliance is placed upon the Defence Ministry O.M. No.4(19)/83/O,Civil-I dated 11.1.84 and Defence Ministry Memorandum No.20014/3/83-IV. Reliance is placed upon the Circular issued by the Government of India, Ministry of Finance No.11013/2/86-E.II(8) dated 23.9.1986 in support of the claim of HRA at the rate of 15% applicable to B Class cities. The claim for Special Compensatory(Remote Locality) Allowance meant for Defence department civilian employees is based upon the letter of Ministry of Defence, Government of India No.8/37269/AG/PS3(a)/165/D(Pay)/Services dated 31.1.95 with effect from 1.4.93. Lastly, the Field Service Concessions are claimed on the basis of letter No.16729/ORG48(CIV.) (d) dated 25.4.94 issued by the Army Headquarter in pursuance of letter of Government of India dated 13.1.94.

The Hon'ble Supreme Court has now held that employees having all India transfer liability who were appointed outside North East Region but have been posted in the said Region are entitled to the benefit of payment of SDA under



contd.

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[Signature]
[Signature]

the Memorandum dated 14.12.1983 relied upon by the applicant (See decision of the Hon'ble Supreme Court in Civil Appeal No.834 of 1995, Chief General Manager (Telecom), N.E.Telecom Circle & another vs. Shri Rajendra Ch. Bhattacharjee & others dated 16.1.95) ^{ST 1995 (1) SC 440.} We have considered this aspect as well as the question of eligibility of House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Field Service Concessions in our order on O.A.124/95 with O.A.125/95 dated 24.8.95. The applicants in those cases were also Defence civilian employees like the applicants serving under the Garrison Engineer and who had been posted in the State of Nagaland. After examining the relevant materials we have held that the applicants are entitled to get all these benefits. The applicants in the instant O.As and the applicant in those cases were also plaintiff in the same Civil Suit namely 253/95 and they are all identically placed. We are satisfied that for the same reasons as are recorded in the common order on the aforesaid two applications namely O.A. 124/95 and O.A.125/95, Similar order may be passed in the instant applications. Although the applicants claimed SOA from November, 1993 we shall allow that claim with effect from 1.12.1988 as was done in the earlier cases. Similarly in so far as the HRA is concerned the relief will not be granted as prayed but as was granted in the earlier cases. Other two reliefs will also be similarly granted as was done in the earlier cases.

For the aforesaid reasons following order is passed :

(A) O.A.No.217/95:

- i) It is declared that SOA is payable from 1.12.1988

contd. 5...



Attested
Signature

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.

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



Attested
/ Advocate

a. payment 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.

A copy of the order dated 24.8.95 passed in O.A.No. 124/95 and 125/95 shall be made part of record of this O.A.



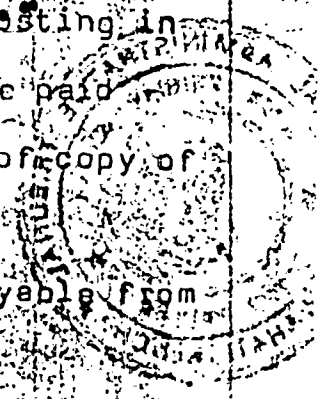
(8) O.A.No. 218/95:

- 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.

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J.P.
Admitted



(b) The respondents are directed to pay to the applicants SLA(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.

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 8, 8-1, 8-2 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.



Attested
J.L. Adm. t.

(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.

A copy of the order dated 24.8.95 passed in O.A. No.124/95 and 125/95 shall be made part of record of this O.A.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)



Certified to be true Copy
प्रमाणित प्रतिलिपि

[Handwritten signature]

Section Officer (J)

अनुमान अधिकारी (न्यायिक शाखा)

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

Guwahati Bench, Guwahati-5

गुवाहाटी न्यायालय, गुवाहाटी-5

Attested
[Signature]
Advocate

43-45

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA NEW DELHI.

THE HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED:

Most Respectfully Soweth:

1. THAT the petitioners are filling this petition for grant of Special Leave to Appeal against the common judgement and order dated 13.10.1995 and 2.1.1996 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No. 217/95 and 218/95 and Review Application No. 22 and 23/95 respectively.
2. That the impugned judgment has been passed by the Hon'ble Tribunal in O.A.No. 148/95 by following its earlier decisions in O.A.No. 124/95 and O.A.No. 125/95 decided on 24.8.1995. It is submitted that the petitioners have already challenged the order dated 24.8.1995 in O.A. Nos.

.....43/45

Attested
J.L. / Admoral

- v) That feeling aggrieved from the common judgment and order dated 18.10.1995 in O.A. Nos. 217/95 and 218/95 and orders dated 2.1.96 in R.A. 22/95 and 23/95 passed by the Guwahati Bench of the Tribunal, the petitioners are filing the present petition for special leave to Appeal before this Hon'ble Court on the following amongst other:-

G R O U N D S

- A. BECAUSE the impugned judgments are contrary to the provisions of law, O.M.S. and material on record and the same are liable to be set aside by this Hon'ble Court.
- B. BECAUSE the impugned judgments are contrary to the Chandigarh Bench of the Tribunal dated 4.4.1989 in O.A. 672/JK/1987.

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- F. BECAUSE the Hon'ble Tribunal erred in following its earlier decision in 124 and 125/95, against which order, the special leave petition of the petitioners is pending disposal before this Hon'ble court.
- G. BECAUSE the Hon'ble Tribunal erred in granting SDA, SCA)RL) in addition to FSC and HRA when the Respondents have been provided free accommodation, which is against the policy of the Govt. and other wise unsustainable.
- H. BECAUSE the Hon'ble Tribunal failed to appreciate that it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation cannot go together.
- I. BECAUSE the Hon'ble Tribunal erred in directing that inspite of the field

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Attested
J.S. Advant

ANNEXURE - D

Annexure - 4 46

ANNEXURE - D

No. FC-90237/5009&5010/TIC LEGAL/CI/
565/IC/1 (CI-IT)

Government of India
Ministry of Defence

New Delhi, the 3rd July, 1986

To
The Chief of the Army Staff,

Subject:-- Implementation of CAT Judgement of Guwahati Bench in O.A. No. 217 and 218/95 filed by Shri G.C. Mondal and Others and Shri K.P. Pillai and others respectively vs. GOI and others

Sir,

I am directed to refer to the judgement dated 18th October 1995 delivered by CAT Guwahati Bench in O.A. No. 217/95 and 218/95 filed by Shri G.C. Mondal and others, and Shri K.P. Pillai and others and to convey the sanction of the President for implementation of the directions contained in the above cited judgement whereby the only applicants in the above said original applications are entitled for the following :-

- (a) Special duty allowance (TA) with effect from the date of actual posting in Nagaland or after 01 Dec 1986 as the case may be in respect of only those who were appointed originally outside the North East Region and subsequently posted to North East Region.
- (b) Special Compensatory allowance (SCA) with effect from the actual date of posting in Nagaland or after 01 October 1986 as the case may be.
- (c) Field Service Concession with effect from 01 April 1991 or from the date of actual appointment as the case may be or from existing orders.
- (d) House Rent Allowance at the rate as applicable to Central Government employees in the place of the petitioner's posting for the period from 01.10.1986 or from the actual date of appointment 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 upto date and continue to pay the same at the rate prescribed hereafter.

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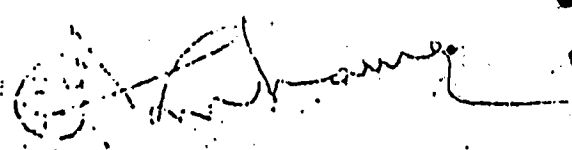
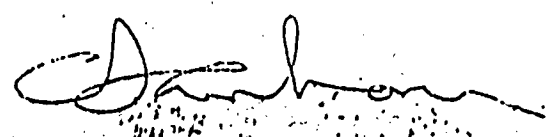
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2. The payment to the applicants will however be subject to review and recovery based on the outcome of SLP filed by the Govt against the judgement in question and other SLPs involving similar issues pending in the Supreme Court.

3. The applicants in the aforesaid OA will be entitled for arrears of above allowance and the expenditure incurred thereon would be accounted for under "charged expenditure" for which sanction will be issued separately after due verification by audit.

4. This issues with the concurrence of Ministry of Defence (Finance) vide their P.O. No 1146/1-I/96 dt. 2.7.96.

Yours faithfully,

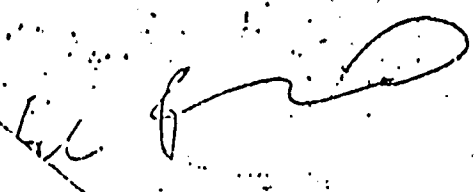


(C. Subramanian)
(Officer Secretary to the Govt of India)

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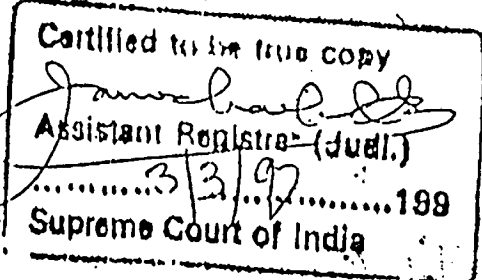
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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997
(Arising out of SLP (C) No. 14068 of 1996)

Union of India & Ors. etc.

... Appellants

Versus

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

... Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 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

Attested
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Advocate

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 dispute that 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 senior 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

Attended
J.L. / Adv. T.

- 34 -

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 Jaitley, 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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J.S.
Sd/-

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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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 risk 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.

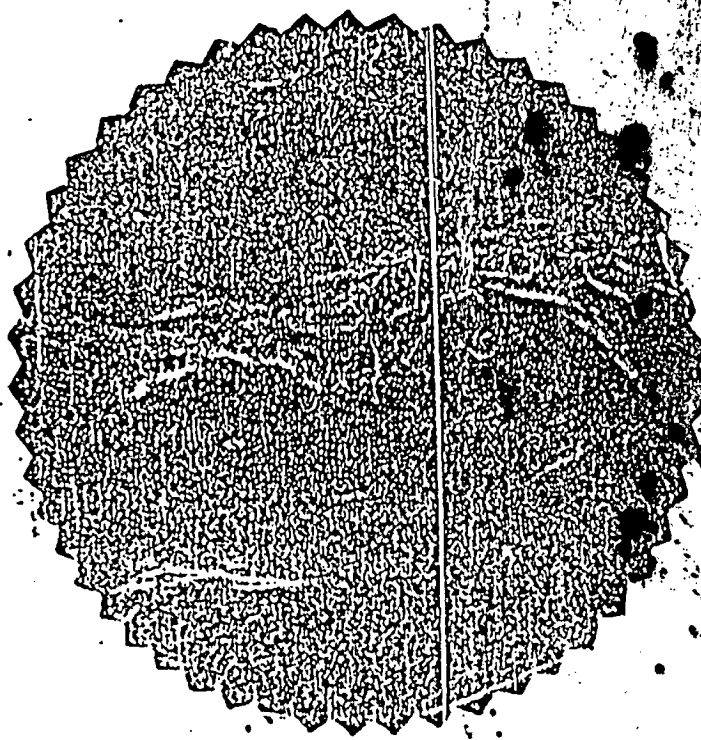
(K. RAMASWAMY)

(G. T. NANAVATI)

NEW DELHI
FEBRUARY 17, 1997

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URGENT FEE RS. 5/-



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SEALED IN MY PRESENCE

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Signature

<p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p>	<p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p>	<p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p>	<p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p> <p>১৯৮৮ সালের ১১ মার্চ</p>
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ANNEXURE - E

IN THE GAUHATI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

Present from CR
to file

No. 56/3 of 19 98

U. O. 9 Enr

Appellant
Petitioner

U. Gouda, Enr

Versus

Respondent
Opposite-Party

Appellant D. Sar
Petitioner Adil C.R.S.C

Respondent MR. A. Bhattacharya
Opposite-Party

At the
Admitted

— 22 — 39 —
— Ad —

55

APPLICATION NO. —

— Ad —

To the Hon. Member of :

1. Union of India,

Represented by the Secretary to the
Govt. of India, Ministry of Defence,
New Delhi.

2. The Commanding Officer,

ECCEOT ASC(Supply) Type-C,

c/o 99 APO.

... Petitioners

— Versus —

1. Ulla Gonda

2. Ham Raj

3. Ardh

4. Padmalbha

5. Panchachandhi

... contd.. 3

Att. 121
Advocate

~~22~~ - 40 -
~~12~~ -

56

3.

6. Narimull
7. Gundicha Naik
8. Kirton Gouda
9. Day Raj
10. Mangala Behara
11. Dandapari Naik
12. Bhirgu Nath.
13. Khadal Gouda
13. Padda Naik
15. Ramchandrar
16. Suresh Lal Laratha
17. Subaru Naik
18. Goma Naik
19. Rasdev Chohan
20. Sirpat Ram
21. Ram Prasad
22. Panini Behara
23. Moti Ram
24. Mipra Salm
25. Mipra Rowet
26. Lina Naik
27. Raju Nath
28. Cypran
29. Deyan Chel
30. Bal Kishan
31. Ram Kishan
32. Ramoda Suba

Atk Lel
Sd / Advanta

- 25 -

- 41 -

4.

37. Bhimu Nalk
38. Smt Kelawoti
39. Dinobandhu Nalk
40. Ram Prakash
41. Ram Sarojh
42. Subhash Singh
43. Kall Sahu
44. Surinder Sahu
45. V.K. Pillal
46. Harkshit
47. Bodha Ram
48. Ramchander Gouda
49. Badayachar
50. Mangulu Pradhan
51. Uday Path
52. Lal Dhar
53. Murali Prasad
54. Pitambar
55. Bahadur Ram
56. Sati Ram
57. Giridhar Verma
58. Hardev Ram
59. Rameshwar
60. Ram Narayan

Attested
 [Signature]
 [Signature]

~~26~~
~~by~~
5. - 42 -

58

61. Jay Prakash Ram
62. Ram Badan
63. Tribhubhan
64. Hoop Ram
65. Ganga Saran
66. Panru Pradhan
67. Shankar Thakur
68. Ram Prasad
69. Ram Shankar
70. R.K. Chatri
71. Imtl Tamsu Jandir
72. S.K. Paul
73. Motilal
74. Moujdar
75. Ramoswar
76. Subhash Tall
77. P.P. Yadav
78. Dibakar Gouda
79. H.P. Samah
80. Hamid Mohd
81. Trilok Nath
82. R.N. Gouda
83. Om Prakash Gupta
84. Kader
85. Rajender

Attested
J.L. /
Advent

All served in the office of the
Corresponding Officer, GOVT. M.C.C. (G.O.)

-27- 43 -
-057-

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	
			<p>CR 5613/98</p> <p>BEFORE</p> <p>THE HON'BLE THE CHIEF JUSTICE THE HON'BLE MR JUSTICE AMITAVA ROY</p> <p>18.09.02</p> <p>It is submitted by the learned counsel for the respondents that the petitioners are Central Government employees serving in the States of Nagaland and Manipur and similarly situated persons have been given the benefit of House Rent Allowance and Field Areas Special Compensatory (Remote Locality) Allowance by the Central Administrative Tribunal. The Union of India challenged the order of the Tribunal before the Apex Court in the matter of Union of India and others-V B Prasad, BVSO and Others, reported in (1997) 4 SCC 189. The judgment of the Tribunal was challenged in the Apex Court on various grounds, including the grant of House Rent Allowance as Ground No.(D) in Special Leave Petition. The Apex Court has not accepted the contention of the Union of India and the judgment of the Tribunal for payment of the House Rent Allowance has not been reversed by the Apex Court. It is also submitted by the learned counsel for the respondent that similarly situated persons have been paid the House Rent Allowance by the Union of India after the judgment of the Apex Court. Heard Mrs N Sharma, learned</p>

Attested
Jil - 1
Bharate

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46-
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Sought by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	

Additional Central Government : Standing Counsel for the petitioner.

We have considered the submissions made by the learned counsel for the parties and perused the record. It appears that nothing has been said by the Apex Court about the House Rent Allowance in the case Union of India and Ors-v-B Prasad, BSO and others(Supra), but at the same time the ground raised by the Union of India challenging the House Rent Allowance granted by the Central Administrative Tribunal having not set at naught by the Supreme Court, we can safely assume that the judgment of the Tribunal on the question of payment of House Rent Allowance was accepted by the Apex Court. Apart from this, after the judgment delivered by the Apex Court similarly situated persons have been paid House Rent Allowance by the Union of India. That being the case, we do not find any reason to interfere with the order dated 26.9.97 passed by the Central Administrative Tribunal, Guwahati Bench in OA No. 86/97.

Appeal is dismissed. However there shall be no order as to costs.

Signature of
J. P. Narayan
J. P. Narayan

Attended
J. P. Narayan

Justice K. S. Kumar
20th Aug 2002

Order No : R/3343/V

Station Headquarters
Dimapur (Nagaland)

SR 068 1033
C/O 99 APO

11/11/2000

STATION HEADQUARTERS DIMAPUR (NAGALAND) STATION ORDER BY

STATION COMMANDER RANGAPAHAR MILITARY STATION

2/1277/A

16/11/2000

FRIDAY

28 APR 2000

FIXATION OF THE RENT AND ALLIED CHARGES FOR LAND,
WATER AND ELECTRICITY OF DEF CIVILIANS LIVING IN
VARIOUS BASTIES ON DEF LAND AT RANGAPAHAR MIL STN

1. Rent and allied charges in respect of those civilians staying in various basties on def land allotted by Sqn HQ at Rangapahar military station will be as under :-

- (a) Rs. 10/- per month as ground rent from each allotted for the plot of 400 Sqft (max) allotted by this HQ.
- (b) Rs. 55/- per month for electricity charges restricted to two light points recoverable from each allotted. The expense of connecting wire from main pole to the house will be borne by the individuals concerned.
- (c) Rs. 2x 30/- per month recoverable from each allotted for water.

2. The above is applicable from the date from which connection has been provided. GE/AGE (E/M) will give the date of connection to BSO latest by 15 May 2000.

Order No : R/3343/V

Station Headquarters
Dimapur (Nagaland)

28 Apr 2000

11/11/2000

All concerned

11/11/2000

2/1277/A

11/11/2000

SR 068 1033

(TK Abraham)

Lt Col

Offg Adm Comdt

Attn
11/11/2000

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ANNEXURE - H

Garrison Engineer
868 Engr Works Sec
C/o 99 APO

1006/3/276/E1 (Pay)

13 Mar 2004

AAO Vivar Road
Shillong

GRANT OF HRA CIV EMPLOYEES

1. Ref this office letter No.1000/2/231/E1P dt 24-10-2003 and CDA Guwahati letter No. Pay/6/HRA/CCA/V dt 26 Feb 2004 and subsequent correspondence on the subject.
2. It is brought to your notice that HRA is applicable to CIV Employees posted to Nagaland on the basis of Govt of India Memorandum No.11013/86 B (8) dated 23 Sep 86. Some of the pers who were left over, moved to court (OA No.124/99) with a request to grant the HRA allows to them. The Hon'ble CAT Ghy has also issued the judgment dated 18th Sep 2000 in favour of applicants to make payment to indl concerned on the existing Govt. of India letter as quoted above (Photocopy of Court Order is att for your ready ref). In order to implement the Hon'ble CAT Ghy Judgment, sanction of Govt of India was obtained and accordingly HRA has been paid to all the effected indls.
3. It is further clarified that this indls are neither residing in Govt acon nor any kind of acon allotted by the Dept, They are living in baboos hut/mud houses prepared by themselves in defence land only. They have been provided elect and water supply for which rent & allied charges @ Rs.95/-(Elect Rs.60.00) & Water Rs.20.00 & Land Rs.15.00) is being recovered from their pay bill regularly as fixed by Stn.HQ, Dimapur vide their letter No.R/3343/Q dated 28/4/2000 (Copy att).
4. The deduction of HRA on the plea that they are paying rent and staying in Govt acon is not justifiable and these anomalies is clarified in para 3 above.
5. HRA in r/o all the indls of this office is being claimed through regular pay bill since they are serving in the station and also admitted by your office regularly

*Attested
[Signature]
Advocate*

except the few Cases for whom the HRA has been deducted by your office which causes discontentments amongst the CIV employees of this division.

6. A fresh supplementary pay bill for the left over period is again submitted for your audit and issue of payment auth of the earliest to avoid any legal complicity on the subject at later stage.
7. It is also brought to your notice that if the CIV employees who debarred from heir legitimate entitlement in spite of Govt of India letter and Hon'ble Court judgment dated 11th Sep 2000 as stated in para 2 above, this will create unnecessary harassment to the staff and also invite legal complicity as the staff is going knock the door of justice, for which your dept is fully responsible.
8. You are also requested to issue suitable instructions to AAO, GE 868 EWS to admit the HRA claims in r/o industrial staff as per existing orders on the subject act the earliest.

Sd/- Illegible

(Sukmal Boro)

BSO

For Garrison Engineer

Copy to:-

CDA

Udayan Vihar-
Guwahati

1. Ref your letter No.Pay/6/HRA/CCA/V
Dated 26 Feb 2004.

2. Inspite of the Instr issued by your office no action has so far taken AAO, Shilong. This office compelled to brought to the notice of CGDA, New Delhi for their further action.

HQ 137 Works
Engrs C/o 99 APO-

Please take up case higher auth at your HQ level to sort out the issue.

AAO CE 868 EWS
C/o 99 APO-

For necessary action please.

Attested
[Signature]
[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI

Original Application No 123/2004

Shri GC Mondal & Others

.....Applicants

-Versus-

Union of India & Ors

.....Respondents

IN THE MATTER OF

Written Statement on behalf of the

Respondents.

I, Capt. Manish Jain, Officiating Garrison Engineer, 868 Engineer Work Section, C/O 99 APO, do hereby solemnly affirm and state as follows :-

1. That I am the Officiating Garrison Engineer, 868 Engineer Works Section, C/O 99 APO and I am dully acquainted and well conversant with the facts and circumstances of the case. I have gone through a copy of the application and understood the contents thereof. Save and except whatever is specifically admitted in this written statement and the other contentions and statements may be deeded to have been denied by the Respondents. I am authorized to file this written statement on behalf of all the respondents No 1 to 5.
2. That with regard to statements made in paragraph 1 of the Original Application, the Respondents state that during 1995 OA No 217/95 was filed by Shri GC Mondal and 23 others and OA No 218/95 by Shri KP Pillai and 225 others in CAT Guwahati for implementation of scheme of SDA, SCA (Remote Locality), HRA and FSC allowances since its declarations in addition to other Field Service concession/facilities admissible to them as per various orders issued by Government of India, Ministry of Defence Hon'ble Chairman of Central Administrative Tribunal, Guwahati bench had delivered Judgment in favour of applicants of both the OAs without issuing notice to respondent after heard finally in presence of Sr C.G.S.C. as the both cases were covered by the earlier decisions passed in O.A. Nos. 124/1995 and 125/1995. Further it is stated that Hon'ble Supreme Court of India in judgement and order dated 17th February 1997 against Civil Appeal No 1572 of 1997 has mentioned that Civilians employees working in the defence service at various station in the North-Eastern Region are entitled for SDA (Special Duty Allowance) as well as Field Area Special Compensatory (Remove Locality) allowance prior to 1995 and not to recovered the allowances paid to them prior to 1995. The Hon'ble Supreme Court has not passed any order about payment of HRA to civilian employs working in defence services in Field Area/Modified Field Area in North Eastern Region.

14
Union of India & Ors
Shri GC Mondal & Others
16/5/05
Adml. Central Govt. Standing Council
Guwahati

(Signature)
Capt. Manish Jain

16/5/05

3. That with regard to the statements made in paragraphs 2 and 3 of the Original Application, the Respondents have no comments to offer.
4. That with regard to the statements made in paragraphs 4.1 and 5.2 of the Original Application, the Respondents have no comments to offer since the facts stated in these paragraphs are correct.
5. That with regard to the statements made in paragraph 4.3 of the Original Application, the Respondents have no comments to offer.
6. That with regard to the statements made in paragraph 4.4 of the Original Application the Respondents state that as per Para (ii) of Para 1 of Government of India, Ministry of Finance office Memorandum No 11013/2/86-E.II(B) dated 23rd September, 1986 HRA shall be paid to all Government employees (other than those provided with Government owned/hired accommodation) without producing rent receipt. However, a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. HRA shall also be paid to Government employees living in their own houses subject to their furnishing certificate that they are paying /contributing towards house or property tax or maintenance of house. Amongst 24 applicants of OA No 217/95 03 Nos and out of 226 applicants of OA No 218/95 04 Nos applicants have been disallowed HRA as these applicants are staying with families in defence premises provided with water and electricity from defence sources. Rest all applicants in above OA are still continued to get HRA as admissible.
7. That with regard to the statements made in paragraph 4.5 of the Original Application, the Respondents state that the Judgment and Order passed by the Hon'ble Central Administrative Tribunal, Guwahati on 18th October, 1995 against O.A. No. 217/1995 and 218/1995 was based on earlier Judgment delivered by Hon'ble Central Administrative Tribunal, Guwahati bench in O.A. No 124/1995 and 125/1995 respectively in which Hon'ble vice Chairman of Central Administrative Tribunal, Guwahati Bench was not allowed the department to file the written statement since the said cases had been treated at par with cases of O.A. No. 48/1989, O.A. No. 49/1989 and O.A. No. 174/1993 and also some other few cases in which Government had allowed the applicants to draw the various allowances. The Hon'ble Tribunal had further added that relief sought by the applicant in their respective petitioners have already been allowed by the Government in various memorandums. These cases were filed for releasing of allowances of SDA, SCA (Remote Locality), FSC and HRA in addition to field service concession as admissible vide appendix 'C' to Government of India, Ministry of Defence letter No A/05284/AG/PS-3/97/S/D/(Pay/Services) dated

Forish J. J.
Sanjiv Bhatnagar

25th January 1964. Further Hon'ble Supreme Court of India in Judgment dated 17th February, 1997 disposing the SLPs involving similar issues (including SLP No 1572/97) had passed an order that Civilians employees working under defence services at various station in the North Eastern Region are entitled for SDA (Special Duty Allowance) as well as Field Special Compensatory (Remove Locality) allowance prior to 1995 and not to recovered the allowances paid to them prior to 1995. The Hon'ble Supreme Court has not passed any order about payment of HRA to civilian employees working under defence services in Field Area/Modified Field Area in North Eastern Region alongwith other field service concessions as admissible vide appendix 'C' to Government of India, Ministry of Defence letter No. A/05284/AG/PS-3/97/S/D/(Pay/Services) dated 25th January, 1964. As per sub Para (ii) of Government of India, Ministry of Finance Office Memorandum No. 11013/2/86-E.II(B) dated 23rd September, 1986 HRA shall be paid to all Government employees (other than those provided with Government owned/hired accommodation) without producing rent receipt. However, a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. HRA shall also be paid to Government employees living in their own houses subject to their furnishing certificate that they are paying /contributing towards house or property tax or maintenance of house which is owned by them. But in this case applicants have been allotted defence land in defence premises, provided with water and electric connection from the defence sources and nothing is their own. As per Annexure 'C' of Government of India, Ministry of Defence letter No A/02584/AG/PS-3(a)/97-S/D(Pay/Services) dated 25th January, 1964, Civilian employees working under defence services in North Eastern Region are entitled for free tented/bash accommodation and connected services where they will stay single or collectively. But in this case, applicants are staying with families in defence premises provided with elect and water connection in addition to other field service concessions.

8. That with regard to the statements made in paragraph 4.6 of the Original Application, the Respondents stated that Hon'ble Supreme Court of India in Judgment and Order dated 17th February, 1997 against Civil Appeal No 1572 of 1997 has only passed an order that Civilians employees working under defence service at various station in the North Eastern Region are entitled for SDA as well as Field Area Special Compensatory (Remove Locality) allowance prior to 1995 and also not to recovered the allowances paid to them. The Hon'ble Supreme Court has not passed any Order about payment of HRA to civilian employees working under defence services in Field Area/Modified Field Area in North Eastern Region. The defence civilian employees located at Rangapahar were permitted to stay in defence land by constructing temp hut under their own arrangement provided with light and water supply connection and

(Enish Jain)

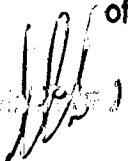
Garrison Engineer

nothing were charged from them. As time passed by the number of occupants increased and proportionally load on water and electricity consumption increased thereby causing high expenditure to the state. Therefore in order to reduce government expenditure, it was decided to levy a token rent on land, water and electricity by publishing Station order No 16/2000 dated 28th April, 2000 based on recommendation of Station Board of Officers and approval of Station Commander to effect billing the occupants. As per sub Para (b) of Annexure 'C' to MOD letter No. 02584/AG/PS-3(a)/97-S/D(Pay/Services) dated 25th January, 1964 spells out provision for free rented/ basha accommodation and connected services to the extent possible. This Government provision was made when there was no provision of HRA for these field Area station. Since 1986 HRA is admissible vide Government of India letter dated 23th September, 1986 and Government servants who are staying outside are being allowed HRA as per existing rules. The Government (Station Headquarters) has permitted the employees to construct temporary huts with light and water supply connection free of cost prior to April 2000. The employees as per the above clause have to stay as single and collectively in barracks/basha/tentage. But in this case, they are staying with families and enjoying other filed Service concession. Hence recovery of license fee justified.

:


9. That with regard to the statements made in paragraph 4.7 of the Original Application the Respondents submitted that the contents of the applicant are totally incorrect. Station Headquarters is the competent authority to allot the accommodation/land and fix the rent and allied charges to all defence civ/Mil pers staying in his jurisdictions. The Hon'ble CAT Guwahati Bench passed the order on 18th September, 1995 and the same was affirmed by the Hon'ble Supreme Court of India on 17th February, 1997 against SLP No 1572/95 whereas the rent and allied charges effecting the billing to applicants from April 2000 because the applicants are staying with family and consumption of electricity and water increased proportionally thereby causing high expenditure to the state. To reduce the expenditure, Station order No. 16/2000 dated 28th April 2000 was published on recommendation of Station Board of Officers and Approval of Station Commander. Prior to April 2000 nothing were charged from applicants.

11. That with regard to the statements made in paragraph 4.8 of the Original Application, the Respondent stated that the allegation levied against the Respondent No. 3 and 4 are not agreed to, since the HRA has been disallowed based on the Government of India, Ministry of Defence letter No. 11013/2/86-E.II (B) dated 23th September 1986 as these applicants are not entitled for the same. As per sub Para (ii) of Government of India, Ministry of Finance office Memorandum No. 11013/2/86-II(B)



dated 23rd September, 1986 HRA shall not be paid to Government employees those who provided with Government owned/hired accommodation. In this case applicants are staying on defence land by constructing temp hut in defence premises provided with water and electric connection with their families. They are also enjoying other facilities applicable to defence civilian employees in North Eastern Region vide Government of India, Ministry of Defence letter No. A/02584/AG/PS-3(a)/97-S/D(Pay/Services) dated 25th January, 1964.

12. That with regard to the statements made in paragraph 4.9 of the Original Application the Respondents deny the same since the same is not correct. The respondents have taken action as per existing orders/instructions on the subject.
13. That with regard to the statements made in paragraph 4.10 of the Original Application, the Respondents have no comments to offer.
14. That with regard to the statements made in paragraphs 4.11, 4.12, 4.13, 4.14 and 4.15 of the Original Application, the Respondents deny the same since the statements is incorrect.
15. That with regard to the statements made in paragraphs 5 to 5.1 of the Original Application the Respondents state that the contentions of the applicants are totally baseless.
16. That with regard to the statements made in paragraphs 5.2 the respondents beg to reiterate the statement made in paragraph 12 of the instant written statement.
17. That with regard to the statements made in paragraphs 5.3 to 5.4 of the Original Application the Respondents deny the same since the same is incorrect.
18. That with regard to the statements made in paragraphs 6 to 9 and 10 and 12 of the Original Application the Respondents have no comments to offer.
19. That in the facts and ground stated above the applicants are not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.


For and on behalf of
Respondent

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

I, Capt Manish Jain, Presently serving as Officiating Garrison Engineer, 868 Engineer Work Section, C/O 99 APO being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraph 1 ~~to 18~~ of the written statement are true to the best of my knowledge and belief, those made in paragraphs 2-18 being matter of record are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 12th day of May 2005

(Manish Jain)
Capt
Officiating Garrison Engineer
DEPONENT

Central Administrative Tribunal
6 JUN 2004
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

O. A. No. 123 of 2004

Shri Ganesh Chandra Mandal & Ors.

... Applicants

- Versus -

The Union of India & Others

... Respondents

- AND -

IN THE MATTER OF :

Rejoinder Submitted by the Applicants in the above said
Original Application against the written statement filed by
the Respondents.

The humble Applicants submit this Rejoinder as follows:

1. That with regard to statements made in paragraph 1 of the Written Statement filed by the Respondents of the above said Original Application, the Applicant have no comments and beyond records, nothing is admitted.
2. That with regard to statement made in Paragraphs 2 of the Written Statement filed by the Respondents of the above said Original Application, the Applicant begs to state that the some of the statements are not true and also misleading to this Hon'ble Tribunal. The Applicant begs to state that it is a fact that the present applicant G. C. Mandal & Ors. filed the O.A. No. 217 of 1995 before this Tribunal for payment and also implementation of the scheme for Special Duty Allowance, Special Compensatory Allowance (Remote locality), House Rent Allowance and Field Service Concession Allowance. The Hon'ble Vice-Chairman and Hon'ble Member (Admn.) of the Hon'ble Central Administrative Tribunal, Guwahati Bench on 18.10.1995 delivered the Judgment in favour of the present applicant. It is not true that the Judgment was delivered by the Hon'ble Chairman of the Central Administrative

Filed by
Shri Ganesh Chandra Mandal
Applicant no 1
Through
Abil Ahmed
Advocate

Tribunal. It is also not true that the Judgment was delivered by the Hon'ble Tribunal without issuing notice to the Respondents. On the face of the said Judgment of O. A. No. 217/1995, it was seen that the Hon'ble Tribunal was pleased to issue notice to the Respondents. Returnable forthwith. The then Sr. Central Government Standing Counsel Mr. S. Ali waives notice and appears for the Respondents call out for final hearing of the case. The Respondents have also filed a Review Applications i.e. R. A. Nos. 22/1995 and 23/1995 against the Judgment and Order of this Hon'ble Tribunal. The said Review Applications was dismissed on 2.1.1996 by this Hon'ble Tribunal. Thereafter, the Respondents filed a Civil Appeal No. 1572/1997 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India vide its Judgment and Order dated 17.02.1997 in Civil Appeal No. 1572 of 1997 has stated that Civilian Employee working in the defence service in various station in the North Eastern Region are entitled for Special Duty Allowance as well as Special Compensatory (Remote Locality) Allowance upto 1995 and also not to be recovered Special Compensatory (Remote Locality) Allowance paid to the applicants prior to 1995. The Hon'ble Supreme Court of India did not pass any order regarding payment of House Rent Allowance and Field Service Concession Allowance to the Civilian Employees working in Defence Service in field area and modified field area in North Eastern Region. Hence, the Hon'ble Supreme Court of India affirmed the Judgment of House Rent Allowance, which is the subject matter of this Original Application.

3. That with regard to statements made in paragraphs 3 to 19 of the written statement filed by the Respondents are not true and also misleading to this Hon'ble Tribunal. It has already been stated in the above paragraph that the then Central Government Standing Counsel has waived notice and appeared for the Respondents as question raised was covered by earlier decision of Original Application regarding payment of House Rent Allowance and the same has Reviewed before this Hon'ble Tribunal by the Respondents in R. A. Nos. 22/1995 and 23/1995. The said Review was dismissed by this Hon'ble Tribunal on 02.01.1996. After that the Respondents have challenged the Judgment and Order dated 18.10.2005 in O.A. No. 217/1995 and 218/1995 before the Hon'ble Supreme Court of India by filing Civil Appeal No.1572 of 1997. The instant Respondent Nos. 1 and 5 in their Civil Appeal No. 1572 of

1997 has raised grounds before the Hon'ble Supreme Court of India for not granting them the opportunity to file their counter in this Hon'ble Tribunal in O.A. 217/1995 and 218/1995 and also the question of payment of House Rent Allowance to the Defence Civilian Employees as they have provided free temporary accommodation i.e., huts. In their Ground No. E of the Civil Appeal No.1572 of 1997 the Respondents have stated that "The Hon'ble Tribunal erred in not granting opportunity to file their counter affidavit to the O.A. of the Respondents." In their Ground No. H of the Civil Appeal No.1572 of 1997 the Respondents have stated that "The Hon'ble Tribunal failed to appreciate that it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation cannot go together." But the Hon'ble Supreme Court of India affirmed the Judgment of this Hon'ble Tribunal regarding payment of House Rent Allowance to the Defence Civilian Employee after hearing the grounds and arguments adopted by the Respondents in Civil Appeal No. 1572/1997. Hence, the Respondents now cannot take the same plea before this Hon'ble Tribunal for non-payment of House Rent to the instant applicants in O.A. No. 123/2004 as the matter has finally heard and allowed by the Supreme Court of India. The payment of House Rent Allowance to the Defence Civilian Employees including the instant applicants of O.A.123 of 2004 becomes finality in the eye of law. Hence, the illegal, mala fide and arbitrary decision of the Respondents regarding the stoppage and recovery of House Rent Allowance from the instant applicants is liable to be set aside and quashed by this Hon'ble Tribunal.

Annexure - X is the photocopy of relevant and extract portion of the Special Leave Petition in Civil Appeal No. 1572/1997 against the O.A.Nos.217/1995 and 218/1995 and also R.A. Nos. 22/1995 and 23/1995.

From the above, the Written Statement submitted by the Respondents are wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of Respondents to refute the contentions, averments, questions of law and grounds made by the Applicants in the Original Application No.123/2004 filed by the Applicants deserve to be allowed by this Hon'ble Tribunal.

VERIFICATION

I, Shri Ganesh Chandra Mandal, MES No. 311640, Duftory Office of the Garrison Engineer, 868 EWS C/o 99 APO do hereby solemnly verify that I am the applicant No. 1 of the instant Original Application No. 123/2004 and I am also authorized by the other applicants to sign this verification. The statements made in paragraph nos. 1, 2 _____ are true to my knowledge, those made in paragraph nos. 3 _____ are being matters of records are true to my information derived there from which I believe to be true and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 4th day of June, 2005 at Guwahati.

G. Mandal

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. OF 1997.

Civil Appeal No 1572 of 1997

IN THE MATTER OF:

1. Union of India, represented by
the Secretary Defence,
Government of India,
New Delhi.

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

3. The Garrison Engineer,
869, E.W.S.,
C/O A.P.O.

... Petitioners

V E R S U S

- | | | |
|----|--------|---------------------------------------|
| 1. | 311640 | Shri G.C.Mondal, Peon. |
| 2. | 260088 | Shri N.K.Kar, L.D.C. |
| 3. | 216833 | Shri B.C.Ghosh, Supt. R/R Grade-I |
| 5. | 264666 | Shri Samar Chakraborty, S.A. Grade-II |

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PETITION UNDER ARTICLE 136 OF THE
CONSTITUTION OF INDIA FOR GRANT OF
SPECIAL LEAVE TO APPEAL AGAINST THE
COMMON JUDGEMENT AND ORDER DATED
18.10.1995 and 2.1.1996 PASSED BY THE
CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH: GUWAHATI IN O.A. NO.
217 AND 218/1995 AND R.A. NO. 22 AND
23/95 RESPECTIVELY.

Contd. . . .

Attd
JL /
Adm to

- v) That feeling aggrieved from the common judgement and order dated 18.10.1995 in O.A. Nos. 217/95 and 218/95 and orders dated 2.1.96 in R.A. 22/95 and 23/95 passed by the Guwahati Bench of the Tribunal, the petitioners are filing the present petition for special leave to Appeal before this Hon'ble Court on the following amongst other :-

GROUND S

- A. BECAUSE the impugned judgements are contrary to the provisions of law, O.M.s and material on record and the same are liable to be set aside by this Hon'ble Court.
- B. BECAUSE the impugned judgements are contrary to the Chandigarh Bench of the Tribunal dated 4.4.1989 in O.A. 672/JK/1987.

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Attended
Jil / Advocate

BECAUSE the Hon'ble Tribunal completely overlooked the decision in the case of UOI vs. S. Vijay Kumar reported in JT 1994 (6) SC 443, wherein it was observe

~~that O.M. dated 19.10.86 and 20.4.87~~
clearly show that allowance in question was meant to attract persons outside the N.E. Region to work in the Region because of inaccessibility and difficult terrain.

D. BECAUSE the Hon'ble Tribunal erred in allowing the O.A. of the Respondents and further erred in giving the directions as contained in the last para of the judgement. The Hon'ble Tribunal ought to have allowed the Review Applications and dismissed the O.As filed by the Respondents.

E. BECAUSE the Hon'ble Tribunal erred in not granting opportunity to file their counter affidavit to the O.A. of the Respondents.

Attest
[Signature]
[Signature]

- F. BECAUSE the Hon'ble Tribunal erred in following its earlier decision in 124 and 125/95, against which order, the special leave petition of the petitioners is pending disposal before this Hon'ble Court.
- G. BECAUSE the Hon'ble Tribunal erred in granting SDA, SCA (RL) in addition to FSC and HRA when the Respondents have been provided free accommodation, which is against the policy of the Govt. and otherwise unsustainable.
- H. BECAUSE the Hon'ble Tribunal failed to appreciate that it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation cannot go together.
- I. BECAUSE the Hon'ble Tribunal erred in directing that in spite of the field

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Attested
J.S. /
Aswate

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service concession, the SDA will continue to be drawn separately.

J. BECAUSE the Hon'ble Tribunal failed to appreciate that O.M. dated 17.4.1995 clearly provides that special compensatory (Remote Locality) Allowance cannot be drawn concurrently alongwith Field service concession. The Hon'ble Tribunal erred in giving direction to the Govt. on policy matters.

K. BECAUSE the employees, who are locally recruited and posted in the offices situated in the NE Region, shall not be eligible for SDA as already decided by this Hon'ble Court, as reported RBI vs. RBI Staff Association 1991 (4) SCC 32 and UOI vs. Mazdoor Union arising out of SLP Nos. 21234-35/94. The impugned judgement is in conflict with the law laid down by this Hon'ble Court.

5. THAT the Petitioners crave leave of this Hon'ble Court to add, amend or alter the above grounds of appeal.

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At the 21
Admitted