

50/100  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 159/2004

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SECTION OFFICER (JUDL.)

FORM NO. 4  
(SEE RULE 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Crg.App/ Misc.Petn/Cont.Petn/ Rev.Appl. 159/04

J.I.O.A.

Name of the Applicant(S) N. Damodar Singh Tors (20)

Name of the Respondent(S) N.O. T. Tors

Advocate for the Applicant Mr. A. Ahmed

Counsel for the Railway/ C.G.S.C. ✓

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

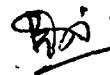
The application is in form 26.7.2004 Heard Mr.A.Ahmed, learned counsel  
is filed, C. F. for 159/04 for the applicants.  
deposited via P. A.D. No. 206 (1.2177) O.A. is admitted, call for the  
Dated 19.7.04 records, returnable by four weeks.  
16 Dy. Registrar 27.8.2004 List on 27.8.2004 for orders.

  
Member (A)

Steps taken with  
envelopes.

bb  
30.8.2004

Four weeks time is given to the  
respondents to file written statement.  
List on 5.10.2004 for orders.



Notice & order

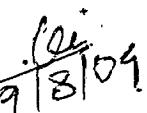
dt. 26/7/04, Sent to  
D/Section for  
issuing to resp.  
Nos 1 to 3, by regd.  
with AID post.

mb

23.11.2004

Four weeks time is given to the  
respondents to file written statement.  
List on 24.12.2004 for orders.

  
Member (A)

  
9/8/04

mb

  
Member (A)

22-11-04.

✓ S/R. Aarath.  
✓ No. W.L.S. Kar-seen.  
B7/ed.

Q

24.12.2004

Four weeks time is allowed to the respondents to file written statement. List on 1.2.2005 for further orders.

K.V.Prahladan

Member.

bb

23-12-04

No. W.L.S. Kar-seen. B7/ed.

Q

11.3.05.

Present: Hon'ble Mr. K.V. Prahladan, Member (A).

On the plea of learned counsel for the respondents four weeks time is granted to file written statement.

List on 29.4.05 for filing written statement and further orders.

K.V.Prahladan

Member (A)

lm

20.4.2005

Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Mr. Chaudhuri, learned Addl. C.G.S.C. seeks time for filing written statement. Post on 27.5.2005.

Q. Vice-Chairman

Service Completed.

31/5/0526-5-05

No. W.L.S. Kar-seen.  
B7/ed.

Q

No. W.L.S. Kar-seen.  
B7/ed.

26-6-0518.7.05W.L.S. J.C.T.S.b7

lm

24.6.2005

Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents seeks for further time. Post on 19.7.2005. Write statement, if any, in the meantime.

K.V.Prahladan

Member

Q. Vice-Chairman

Office Notes	Date	Order of the Tribunal
	19.07.2005	Mr. A. K. Chaudhuri, learned Addl. C.G.S.C submits that written statement has already been filed. Post for hearing on 5.8.2005.
20.7.05 Wks filed by the Respondent Nos. 1, 2 & 3.	5.8.05. bb	✓ Member Vice-Chairman
① Wks has been filed.	7.9.2005 1m 30 4.8.05	No Division Bench. Post the matter on 7.9.05. ✓ Member Vice-Chairman
12.9.05 Copy of the judgment has been sent to the Office for Sealing due to the application as well as to the Addl. C.G.S.C.	pg	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No costs. ✓ Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH.

O.A. No. 159 of 2004.

DATE OF DECISION: 07.09.2005

Sri N.Damodar Singh & 20 Ors.

APPLICANT(S)

Mr. A. Ahmed.

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

Union of India & 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.

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

Judgment delivered by Hon'ble Vice-Chairman.

91  
2/10/05

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 159 of 2004.

Date of Order: This the 7th day of September, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice Chairman.

- 1.N.Damodar Singh
- 2.K.Gopalkrishna Sharma
- 3.C.C.Willa Namshoom
- 4.Jyotish Roy
- 5.Tapan Kumar Gogoi
- 6.Ashok Kumar
- 7.Shiv Shankar
- 8.Bilash Kaman
- 9.Birendra Kumar
- 10.Suresh Rajkhowa
- 11.Manoj Kumar Thapa
- 12.S.Rajesh Singh
- 13.Prem Kandu Thungon
- 14.Yagru Linggi
- 15.Ms.Okrqm Shaliza
- 16.Gautam Kumar Paul
- 17.Utpal Kumar Ghosh
- 18.Ms.Opung Ering
- 19.Hage Kago
- 20.Tasso Habung
- 21.June Kadu

...Applicants.

All the above named applicants are working under the State Informatics Officer of National Informations Center, Arunachal Pradesh State Unit, Block No.23, Civil Secretariat, Itanagar, Pin-791111, and Arunachal Pradesh

By Advocate Mr.Adil Ahmed.

-Versus-

1. The union of India represented by the Secretary to the Government of India, Ministry of Information Technology, New Delhi-1.
2. The Director General, National Informatics Center(Head Quarter), CGO Complex, Block-B, Lodhi Road, New Delhi-3.

3. The State Informatics Officer,  
 National Informatics Center,  
 Arunachal Pradesh State Unit,  
 Block No.23, Civil Secretariat,  
 Itanagar, Pin-791111,  
 Arunachal Pradesh.

..Respondents

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

O R D E R (ORAL)

SIVARAJAN J. (V.C)

Applicants 21 in number all working under the second and third respondents have filed this O.A for direction to the respondents to pay House Rent Allowance at the rate of "B" Class cities from 1.10.1986 or from the actual date of posting in Arunachal Pradesh as per rate applicable from time to time. It would appear that the applicants are claiming this benefit under the office Memorandum dated 23.9.1986 (Annexure-A) and a decision of the Supreme Court in Civil Appeal No.2705 of 1991 (Annexure-B).

2. The respondents have filed written statement denying the claim made by the applicants.

3. I have heard Mr A. Ahmed, learned counsel for the applicants and Mr A.K.Chaudhuri, learned Addl.C.G.S.C appearing for the respondents. The applicants have not furnished the dates on which they have been posted at Arunachal Pradesh under the respondents. Their only case is that similarly situated persons are enjoying House Rent Allowance at the rate

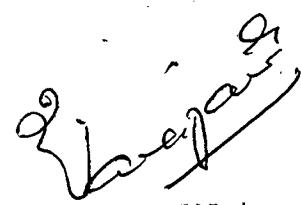
*lpt*

of "B" class cities by virtue of orders passed by the Tribunal and by Supreme Court. The applicants have not produced the Tribunal's order under which similarly situated persons are granted relief. That apart, it would appear the applicants have not preferred any such claim before the respondents at any point of time. They have straight away approached the Tribunal for the relief. Under Section 20 of the Administrative Tribunals Act 1985, a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant has availed of all the remedies available to him under the relevant service rules as to redressal of grievances. No exceptional circumstances has been brought to my notice for entertaining this application and to dispose of the same on merits. If the applicants have got a case that similarly situated persons are enjoying the benefit of House Rent Allowance at the rate applicable to "B" class cities by virtue of any decision of Tribunal, it is for the applicants to approach the administrative authorities at the first instance seeking for appropriate relief according to the circumstances. Since the applicants have not approached the authorities, I am of the view that the applicants must be directed to exhaust the administrative remedies available to them at the first instance. If the applicants file any representation in that behalf within one month from today the same will

*Gp*

be duly disposed of by the concerned respondents in accordance with law expeditiously.

With the above observations this application is disposed of. No order as to costs.

  
( G. SIVARAJAN )  
VICE CHAIRMAN

pg

Central Admin. Trib.

21.3 JUL 2004

Guwahati Bench

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

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

**ORIGINAL APPLICATION NO. 159 • OF 2004.**

**BETWEEN**

**Shri N.Damodar Singh & Others**

**...Applicant**

**-Versus-**

**The Union of India & Others**

**...Respondents**

**LIST OF DATES AND SYNOPSIS**

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

Annexure-B is the photocopy of the order of the Hon'ble Supreme Court Of India dated 18-02-93.

This original application is made for payment of House Rent Allowance to the applicant as per Office Memorandum No.11013/2/06-E.II(B) Ministry of Finance, Department of Expenditure dated 23-09-1986 and also vide Judgment of the Hon'ble Supreme Court of India in Civil Appeal No.2705 of 1991 regarding payment of House Rent Allowance at the rate of "B" Class Cities applicable to the Central Government Employees.

*Surf*

**RELIEF SOUGHT FOR:**

A direction to the Respondents to pay the House Rent Allowance at the rate of "B" Class cities from 01-10-1986 or from the actual date of posting in Arunachal Pradesh onwards as per rate applicable from time to time.

To pay the cost of the case to the applicants.

Any other relief or reliefs that may be entitled to the applicants.

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. OF 2004.

BETWEEN

SL. No.	Name	Employee Code No.	Designation
1	N.Damodar Singh	5544	Scientific Technical Assistant, Grade-B
2	K.Gopalkrishna Shrama	5543	DIA-B
3	C.Willa Namshoom	5481	DIA-B
4	Jyotish Roy	3999	SSA
5	Tapan Kumar Gogoi	4000	SSA
6	Ashok Kumar	4734	SB
7	Shiv Shanker	0562	S.O.
8	Bilash Kaman	5055	LDC
9	Birendra Kumar	3935	LDC
10	Suresh Rajkhowa	5511	Peon
11	Manoj Kumar Thapa	5054	Driver
12	S.Rajesh Singh	5632	DIA-B
13	Prem Kandu Thungon	5541	DIA-B
14	Yagru Linggi	4580	SSA
15	Ms.Okram Shaliza	5542	DIA-B
16	Gautam Kumar Paul	4605	SSA
17	Utpal Kumar Ghosh	5482	DIA-B
18	Ms Opung Ering	3996	SSA
19	Hage Kago	3891	SSA
20	Tasso Habung	3892	SSA
21	June Kadu	4548	DIO
			...Applicants

Filed by  
N.Damodar Singh Applicant No.1  
Shiv Shanker (A.M.D.)  
Advocate  
12

Shiv  
Shankar

All the above named applicants are working under the State Informatics Officer of National Informatics Center, Arunachal Pradesh State Unit, Block No.23, Civil Secretariat, Itanagar, Pin-791111, Arunachal Pradesh.

-AND-

1. The Union of India represented by the Secretary to the Government of India, Ministry of Information Technology, New Delhi-1.
2. The Director General, National Informatics Center (Head Quarter), CGO Complex, Block-B, Lodhi Road, New Delhi – 3.
3. The State Informatics Officer, National Informatics Center, Arunachal Pradesh State Unit, Block No.23, Civil Secretariat, Itanagar, Pin-791111, Arunachal Pradesh.

... Respondents

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

This application is made for payment of House Rent Allowance to the applicant as per Office Memorandum No.11013/2/06-E.II(B) Ministry of Finance, Department of Expenditure dated 23-09-1986 and also vide Judgment of the Hon'ble Supreme Court of India in Civil Appeal No.2705 of 19991 regarding payment of House Rent Allowance at the rate of "B" Class Cities applicable to the Central Government Employees.

Dawn

**2) JURISDICTION OF THE TRIBUNAL**

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

**3) LIMITATION**

The applicant 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. The applicants are all Central Government Civilian Employees. They are serving under the Ministry of Information Technology, New Delhi since a long time. Now they are posted at different places of Arunachal Pradesh.
- 4.2) That your applicants beg to state that all the applicants are serving under the Respondent No.3.
- 4.3) That your applicants beg to state that they have got common grievances, common cause of action and the nature of relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant applicants redressal to their common grievances.
- 4.4) That your applicants beg to state that the Government of India under various Memorandums, Circulars, letters, etc. the Central Government Civilian Employees are eligible for House Rent Allowance,

*Ansik*

especially vide Circular No. 11013/2/86-E-11(8) dated 23-9-86 issued by the Government of India, Ministry of Finance, Department of Expenditure, New Delhi. he photocopy of Office Order No. S&D/141 dated New Delhi 5/9 March 2004.

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

4.5) That the Central Government Civilian Employees are entitled to House Rent Allowance at the rate applicable to "B" Class Cities for entire Arunachal Pradesh. The present state of Arunachal Pradesh is considered as a specially difficult area for the purpose of Rented accommodation. In Arunachal Pradesh irrespective of the station of the entire territory, the whole state has been considered as a difficult area from the point of view of availability of rented house and therefore, the Central Govt. employees posted there are either given rent free accommodation and if they could not be provided by the Govt. rent free accommodation those employees are entitled to HRA at the rate applicable to "B" Class Cities. This situation has continued since 1962 and the difficulties still exist. The housing situation in the state of Arunachal Pradesh in general has not improved and therefore, rented house at reasonable rates are not available till date.

4.6) That your applicants beg to state that benefits claimed in this application are already given to similarly situated employees i.e. National Informatics Center of Nagaland as per earlier judgment passed by this Hon'ble Tribunal. But the Respondents are depriving the instant applicants of the same benefit. The Respondents have not agreed to give House Rent Allowance at the rate prescribed for "B" Class cities whereas the employees of National Informatics Center of Nagaland are enjoying this benefit. As such your applicants are compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

4.7) That your applicants beg to state that some employees of P & T Department filed an Original Application before this Hon'ble Tribunal which was numbered as O.A.No. 42(G)/89 (Shri S K Ghose & others-Vs-Union of India & Ors.) raising the claim for grant of House Rent Allowance at the rate prescribed for "B" Class Cities and this Hon'ble

*Ans*

Tribunal was pleased to allow the above said application by order dated 30-10-90. The Union of India preferred an appeal against the said judgment before the Hon'ble Supreme Court Of India by filing Civil Appeal No. 2705/91 (Union of India & Ors. -Vs- Shri S K Ghose & Ors.). The Hon'ble Supreme Court Of India has disposed the aforesaid appeal by an order dated 18-02-93 holding that there was no infirmity in the Judgment of the Tribunal. However, it was not justified in granting HRA from May 18, 1980 and the employees are entitled to the arrears only from October 1, 1986 when the recommendations of the 4<sup>th</sup> Pay Commission were enforced.

Annexure-B is the photocopy of the order of the Hon'ble Supreme Court Of India dated 18-02-93.

4.8) That your applicants beg to state that at present they are getting House Rent Allowance at the Rate of "C" Class Cities. But they are not getting the House Rent Allowance at the rate of "B", "B-I" and "B-II" Class Cities from 01-10-1986 or from the date of actual date of appointment or posting at Arunachal Pradesh.

4.9) That your applicants beg to state that since the applicants are similarly situated with those employees of National Informatics Center posted at Nagaland, the Respondents ought to have extended the said benefit to the applicants without approaching the Hon'ble Tribunal. It is well proposition of law that when a decision is made by the Court in case of Central Government Employees it is not necessary for similarly situated other employees to approach this Hon'ble Court and similar benefits also to be extended to them. However, the Respondents have again forced the applicants to approach this Hon'ble Tribunal.

4.10) That your applicants submit that the Respondents have discriminated the instant applicants by not extending the similar benefits to them.

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

4.12) That in view of the facts and circumstances it is fit case for interference by this Hon'ble Tribunal to protect interest of the instant applicants.

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

**5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

5.1) For that, due to the above reason narrated in details the action of the Respondents are prima-facie, illegal, mala fide, arbitrary and without jurisdiction.

5.2) For that, the applicants are being similarly placed with other similarly situated persons are enjoying the benefit of House Rent Allowance at the rate of "B" Class Cities as per order passed by the Hon'ble Tribunal as well as the Hon'ble Supreme Court of India in series of cases.

5.3) For that, the applicants are working under the same ministry of Information Technology and serving in Arunachal Pradesh are also entitled to get the similar House Rent Allowance benefits as per similarly situated employees of Nagaland.

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

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

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

*Suraj*

5.7) For that, the action of the Respondents are arbitrary, mala fide and not sustainable in law. For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.8) For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The applicants craves leave of this Hon'ble Tribunal to advance further grounds at 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 applicants 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 applicants further declares that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, 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 applicants 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 reliefs.

Dary

8.1) a direction to the Respondents to pay the House Rent Allowance at the rate of "B" Class cities from 01-10-1986 or from the actual date of posting in Arunachal Pradesh onwards as per rate applicable from time to time.

8.2) to pay the cost of the case to the applicants.

8.3) Any other relief or reliefs that may be entitled to the applicants.

9) **INTERIM ORDER PRAYED FOR:** At this stage no interim order is prayed for if the Hon'ble Tribunal deem fit and proper may pass any order or orders.

10) Application is filed through Advocate.

11) **Particulars of I.P.O.:**

I.P.O. No. : 206 112177

Date of Issue : 19-7-04

Issued from :

Payable at : H.P.O.

12) **LIST OF ENCLOSURES:**

As stated above.

Verification .....

Dwight

20

VERIFICATION

I, Shri N.Damodar Singh, Employee Code No.3344, Working as Scientific Technical Assistant, Grade-B, Office of the State Informatics Officer of National Informatics Center, Arunachal Pradesh State Unit, Block No.23, Civil Secretariat, Itanagar, Pin-791111, Arunachal Pradesh, do hereby solemnly verify that the statements made in paragraph nos. 4.1 to 4.3, 4.5, 4.6, 4.8, 4.9 - are true to my knowledge, those made in paragraph nos. 4.4, 4.7 - 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 25<sup>th</sup> day of July 2004  
at Guwahati.

*Damodar Singh*

No. 11013/2/86-E.II(B)

Government of India

Ministry of Finance

Department of Expenditure

New Delhi, the 23rd September, 1966

## 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) F.IC/86  
dated 13th September, 1966, 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 in  
amended from time to time, compensatory (city)  
and house rent allowances to Central Government

After  
J. S.  
P.M.C.

2 64

Employees shall be admissible at the following rates :-

(1) COMPENSATORY (CITY) ALLOWANCE

Pay Range (Basic pay)	Amount of CCA in class of cities (per cent.)		
	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

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

After  
Review

25/10/-

12/12/-

29

18 3 8

14) HOUSE RENT ALLOWANCE

Type of accommo- dation to which entitled	Pay range in rupees and of pay for entitlement.	Amount of H.R.A payable in (a), (b), (c), 7, B-1, B-2 & Class un- Class cities cities cities fied 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 rend/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.

1000004

After  
P.S.  
S.M.G.

14 4 22

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

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

5. Pay for the purpose of these orders, will be 'pay' as defined in P.R. 9 (21) (a) (i). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include, in addition to pay in the prevailing scales, dearness pay, dearness allowance, additional dearness allowance, DA, DAZ and interim Relief appropriate to that pay, admissible under orders in existence on 31.12.1985.

Attest  
H. S. Venkatesh

\*\*\*\*\*

— 444 —  
— 14 —  
(A)

5 5 5

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

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

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

9. Hindi version of the order is attached.

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

After  
Gd  
Avng

- 28 -

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2705 OF 1991.

Union of India & Ors.

Appellants

Shri S.M. Choudhury & Ors.

- Versus -

Respondents

ORDER

Group 'C' and 'D' employees of Telecommunications and Postal Department posted in the State of Nagaland approached the Central Administrative Tribunal seeking a direction to the Union of India to pay them the House Rent Allowance at the rates as admissible to the employees posted in 'B' class cities. The Tribunal allowed the prayer in the following terms:

"The application is allowed. The petitioners shall be entitled to House Rent Allowance applicable to Central Government employees posted in 'B' Class cities which includes the classification B-1 & B-2. The order contained in Dy. Director General's letter dated 30.10.81 (Annexure A-1) is quashed. Arrears of the allowance counting from the 18th of May 1980 shall be paid to the petitioners within a period of 120 days from the date of receipt of this order."

This appeal by way of special leave is by the Union of India against the judgment of the Tribunal. The cities in the State of Nagaland have not been classified and as such, the general order prescribing House Rent Allowance for different classes of cities could not be made applicable to the State of Nagaland. It was under these circumstances that the President of India issued

Order...

Attested  
Advocate

Amit  
J. M. A.

India issued an order dated January 8, 1962 granting House Rent Allowance to the P & T Staff posted in the State of Nagaland. The relevant part of the said order is as under :

"4. (iii) Rent free accommodation on a scale approved by the local administration. The P & T staff in NIPPA who are not provided with rent free accommodation, will, however, draw H.R.A. in lieu thereof at the rates applicable in 'B' class cities contained in col. 4 paragraph 1 of the Ministry of Finance O.M. No. 2(22)-E, 11(B)/60 dated the 2nd August 1960."

It is clear from the order quoted above that the P & T employees posted in the State of Nagaland are not entitled to rent free accommodation or in the alternative to the House Rent Allowance at the rates applicable in 'B' class cities. The Presidential Order equates the cities in the State of Nagaland for the purpose of payment of House Rent Allowance to the cities which have been classified as 'B' class.

Initially the House Rent Allowance was being paid at the rate of 7½ per cent in the State of Nagaland. It was increased to 15 per cent in the year 1973. From 1979 the House Rent Allowance was again reduced to 7½ per cent. It is not necessary for us to go into the rate of the House Rent Allowance at various stages because the question for our consideration is whether the respondents are entitled to the House Rent Allowance as provided for 'B' class cities by the IVth Central Pay Commission recommendations which were enforced with effect from October 1, 1986.

Contd...

Attested  
Advocate

A. H. T.  
A. H. T.  
A. H. T.

It is not disputed that the Presidential order dated January 8, 1962 is still operative. We are of the view that the State of Nagaland having been upgraded to 'B' class cities by the Presidential Order the respondents are entitled to be paid the House Rent Allowance at the rates which have been prescribed for the Central Government employees posted in 'B' class cities. Consequently, the respondents are entitled to be paid House Rent Allowance at the rate which has been prescribed by the IVth Central Pay Commission recommendations for 'B' class cities.

The Tribunal allowed the application of the respondents on the following grounds:

"There is no dispute that the former U.N.D.N. (Naga Hills and Tuensang Area) and the present Nagaland was considered as a specially difficult area for rented accommodation. For the purpose of H.R.A. Government classified the cities and towns on the basis of their population and paid higher allowance in more populous cities, because the rent structure is higher in such cities. Since Nagaland, was irrespective the stations of the said territory, was considered as a difficult area from the point of view of availability of rented houses, all P & T employees posted there either got rent free quarters or where such quarter could not be provided by the Government, were given house rent at the rate applicable to 'B' class cities. This situation continued from 1962. The rate of H.R.A. may be reduced with efflux of time. The only reason for doing so can be that the special difficulties which existed from 1962 onwards have since been ameliorated. This can conceivably happen with the development of the area in question. The house stock may improve to such an extent that rented house at reasonable rate may be available. If that was the situation, a downward revision of H.R.A. or even its complete discontinuance would have been justified. In this case, however, the respondents case solely rests.

Contd., P/20.

Artesed  
Advocate

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Advocate

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Now what is stated as Annexure A-1 which is reproduced in full in the preceding paragraph. Since no such reasoning is given for the downward revision we have no other alternative but to hold that the revision effected in compliance to the document at Annexure A-1 is arbitrary and cannot be sustained. No further find that according to the formula adopted after the IV CPC HRA is payable to the Central Government employees posted even in classified places. From Annexure A-7 it is clear that this allowance is at a flat rate is payable without production of rent receipt. It appears to us that the HRA is paid by the Central Government for compensating an employee on account of his residential accommodation. The place of posting is not shown to have undergone any improvement in the matter of maximum availability and rent of hired accommodation any alteration of the rate of HRA will remain arbitrary and unjustified. In this view of the matter, we feel inclined to allow the application."

We see no infirmity in the judgment of the Tribunal under a pale. We agree with the reasoning and the conclusions, reached, therein. We are, however, of the view that the Tribunal has not justified in granting arrears of House Rent Allowance to the respondents from May 18, 1980. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendations of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal is, therefore, dismissed of. No costs.

Sd/-

( Kuldip Singh ) J

Sd/-

( N.M. Kasliwal ) J.

New Delhi

February 18, 1993.

Allied

Advocate

After  
R/ Bawle

19 JUL 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

...

**ORIGINAL APPLICATION NO. 159 OF 2004**

**SHRI N. DAMODAR SINGH & OTHERS**

... APPLICANTS

**VERSUS**

**UNION OF INDIA & OTHERS**

... RESPONDENTS

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Union of India & others  
through  
Anup Kumar Choudhury  
19/7/05

Δaddl. Central Govt. Standing Committee  
C. A. T.  
Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

IN THE MATTER OF

O.A. No. 159 of 2004

SHRI N. DAMODAR SINGH & OTHERS

....APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

....RESPONDENTS

**WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS No.1, 2 & 3**

I, S. Gopalakrishnan, Director, National Informatics Centre, Department of Information Technology, Ministry of Communications and Information Technology, Government of India, having office at A-Block C.G.O. Complex, Lodhi Road, New Delhi-110003, do hereby solemnly affirm and say as follows:-

1. That I am the Director, National Informatics Centre, Department of Information Technology, Ministry of Communications & Information Technology, Government of India, having office at A-Block, C.G.O. Complex, Lodhi Road, New Delhi-110003 and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement the other contentions and statement may be deemed to have been denied. I am authorized to file the written statement on behalf of all the respondents.
2. That the respondents beg to place the Background of the case as follows:- That the twenty one employees posted at National Informatics Centre, Arunachal Pradesh State Unit, and districts of Arunachal Pradesh has filed the petition before the Hon'ble Tribunal. The details of the employees given in the Annexure-R1. The application is made for payment of House Rent Allowance (HRA) to the applicants as per the Office Memorandum No.11013/2/06-EII(B), Ministry of Finance, Department of Expenditure dated 23/09/1986 and on the basis of the Judgement of the Hon'ble Supreme Court, in Civil Appeal No. 2705 of 1991 regarding payment of House Rent

S. Gopalakrishnan

Chairman of Nehru & others - Appeals  
Strongly  
Anup Kumar Choudhury  
C. A. T.  
Guwahati  
Addl. Central Govt. Legal Service Commission  
2/9/05  
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✓ Allowance at the rate of 'B' class cities applicable to the Central Government Employees.

3. That with reference to the statements made in paragraph 2 of the application, the respondents respectfully submit that they have no comments to offer.

4. That With reference to the statements made in paragraph 3 of the application, the respondents respectfully submit that they have no comments to offer.

5. That With reference to the Para 4.1 of the Application, the Respondents respectfully submit that they have no comments to offer. However the details of their place of posting at NIC Arunachal Pradesh State Unit, Itanagar and different NIC District Centres are given in the Annexure-R1.

6. That With reference to the Para 4.2 of the Application, the Respondents respectfully submit that they have no comments to offer.

7. That With reference to the Para 4.3 of the Application, the Respondents respectfully submit that they have no comments to offer.

8. That With reference to the Para 4.4 of the Application, the Respondents respectfully state that the applicants are paid House Rent Allowance as per the HRA rates applicable for the NIC employees posted in State of Arunachal Pradesh and is as per the Government of India, Ministry of Finance prescribed rates.

9. That With reference to the Para 4.5 of the Application, the Respondents respectfully state that the employees posted at the NIC Arunachal Pradesh State Unit, Itanagar and different district centre of NIC are uniformly paid the HRA at the rate of 5% as prescribed by the Government of India, Ministry of Finance. There are no orders for payment of HRA on par with the employees posted in the 'B' class cities.

10. That With reference to the Para 4.6 of the Application, the Respondents respectfully state that the payment of HRA for the officials posted at NIC Nagaland State Unit and different district centers of Nagaland has been regulated at 15% as per the order of the Ministry of Finance. However, there are no such orders from Ministry of Finance for payment of HRA at the rate of 15% to the NIC Officials posted at NIC Arunachal Pradesh State Unit and district centers of Arunachal Pradesh.

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11. That With reference to the Para 4.7 of the Application, the Respondents respectfully state that they have no comments to offer.
12. That With reference to the Para 4.8 of the Application, the Respondents respectfully state that the officials posted at NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centre of Arunachal Pradesh are uniformly paid HRA at the rate of 5% as per the orders of Ministry of Finance.
13. That With reference to the Para 4.9 of the Application, the Respondents respectfully state that the employees posted in NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centres of Arunachal Pradesh are uniformly paid HRA at the rate of 5% as the instructions of Ministry of Finance. The employees cannot be paid HRA on par with the employees posted at NIC Nagaland State Unit and district centers as there are no orders from Ministry of Finance.
14. That With reference to the Para 4.10 of the Application, the Respondents respectfully state that they deny the allegation of the applicants that respondents discriminated the applicants by not extending the similar benefits to them.
15. That With reference to the Para 4.11 of the Application, the Respondents respectfully state that they deny that the actions are highly illegal, improper etc.
16. That With reference to the Para 4.12 of the Application, the Respondents respectfully state that they have no comments to offer.
17. That With reference to the Para 4.13 of the Application, the Respondents respectfully state that they have no comments to offer.
18. That With reference to the Para 5.1 of the Application, the Respondents respectfully state that the officials posted at NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centres of Arunachal Pradesh are uniformly paid HRA at the rate of 5% as per the orders of Ministry of Finance.
19. That With reference to the Para 5.2 of the Application, the Respondents respectfully state that the officials posted at NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centres of Arunachal Pradesh

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are uniformly paid HRA at the rate of 5% as per the instructions of Government of India, Ministry of Finance.

20. That With reference to the Para 5.3 of the Application, the Respondents respectfully state that the employees posted in NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centres of Arunachal Pradesh are uniformly paid HRA at the rate of 5% as the instructions of Ministry of Finance. The employees cannot be paid HRA on par with the employees posted at NIC Nagaland State Unit and district centers as there are no orders from Ministry of Finance.
21. That With reference to the Para 5.4 of the Application, the Respondents respectfully state that the officials posted at NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centres of Arunachal Pradesh are uniformly paid HRA at the rate of 5% as per the instructions of Ministry of Finance.
22. That With reference to the Para 5.5 of the Application, the Respondents respectfully state that the payment of HRA for the officials posted at NIC Nagaland State Unit and different district centers of Nagaland has been regulated at 15% as per the order of the Ministry of Finance. However, there are no such orders from Ministry of Finance for payment of HRA at the rate of 15% to the NIC Officials posted at NIC Arunachal Pradesh State Unit and district centers of Arunachal Pradesh.
23. That With reference to the Para 5.6 of the Application, the Respondents respectfully state that the employees posted in NIC Arunachal Pradesh State Unit, Itanagar and posted in different district centres of Arunachal Pradesh are uniformly paid HRA at the rate of 5% as per the order of Ministry of Finance. However, there are no such orders from Ministry of Finance for payment of HRA at the rate of 15% to the NIC Officials posted at NIC Arunachal Pradesh State Unit and district centers of Arunachal Pradesh.
24. That With reference to the Para 5.7 of the Application, the Respondents respectfully state that they have no comments to offer.
25. That With reference to the Para 5.8 of the Application, the Respondents respectfully state that they have no comments to offer.
26. That With reference to the Para 6 of the Application, the Respondents respectfully state that the applicants never represented for enhancing the HRA on par with other employees posted at NIC Nagaland State Unit and district centers.

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27. That With reference to the Para 7 of the Application, the Respondents respectfully state that they have no comments to offer.
28. That with reference to the statements made in paragraph 8 of the application, the respondents respectfully submit that since there are no orders of Ministry of Finance for payment of HRA at enhanced rates, the petition cannot be admitted to. Therefore, it is prayed that the Original Application may kindly be dismissed and be dismissed,. It is prayed accordingly.
29. That With reference to the statements made in paragraphs 9,10,11 and 12 of the Application, the respondents respectfully submit that there are no comments to offer.
30. That the applicants are not entitled to any relief sought for the application and the same is liable to be dismissed with costs.

#### VERIFICATION

I, S. Gopalakrishnan, presently working as Director, National Informatics Centre, Department of Information Technology, Ministry of Communications & Information Technology, Government of India, having office at A-Block, C.G.O. Complex, Lodi Road, New Delhi-110003 being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs ~~1, 3, 4, 6, 7, 11, 16, 17, 24, 25~~<sup>27, 29</sup> of the application are true to my knowledge and belief, those made in paragraphs ~~2, 5, 8-10, 12-15, 18-23, 26+28~~ being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 9<sup>th</sup> day of July 2005 at New Delhi.

S. Gopalakrishnan  
DEPONENT 9.7.05

## Details of Applicants posted at Arunachal Pradesh State Unit / District Centres

Sl.No.	Name	Employee Code	Designation	Place of Posting
1.	N. Damodar Singh	5544	Scientific Technical Assistant-B	Arunachal Pradesh State Unit, Itanagar
2.	K. Gopalkrishna Sharma	5543	Scientific Technical Assistant-B	Arunachal Pradesh State Unit, Itanagar
3.	C. Willa Namshoom	5481	Scientific Officer / Engineer - 'SB'	Arunachal Pradesh State Unit, Itanagar
4.	Jyotish Roy	3999	Scientist-C	Arunachal Pradesh State Unit, Itanagar
5.	Tapan Kumar Gogoi	4000	Scientist-C	Arunachal Pradesh State Unit, Itanagar
6.	Ashok Kumar	4734	Scientific Officer / Engineer - 'SB'	Arunachal Pradesh State Unit, Itanagar
7.	Shiv Shankar	0562	Assistant	Arunachal Pradesh State Unit, Itanagar
8.	Bilash Kaman	5055	Lower Division Clerk	Arunachal Pradesh State Unit, Itanagar
9.	Birendra Kumar	3935	Lower Division Clerk	Arunachal Pradesh State Unit, Itanagar
10.	Suresh Rajkhowa	5511	Messenger - cum-Helper	Arunachal Pradesh State Unit, Itanagar
11.	Manoj Kumar Thapa	5054	Staff Car Driver	Arunachal Pradesh State Unit, Itanagar
12.	S. Rajesh Singh	5632	Scientific Technical Assistant-B	Khonsa (Tirap)
13.	Prem Kandu Thungon	5541	Scientific Technical Assistant-B	Tawang
14.	Yagru Linggi	4580	Scientist-C	Seppa (East Kameng)
15.	Ms. Okram Shaliza	5542	Scientific Technical Assistant-B	Seppa (East Kameng)
16.	Gautam Kumar Paul	4602	Scientist-C	Daporijo (Upper Subansiri)
17.	Utpal Kumar Ghosh	5482	Scientific Officer/ Engineer - 'SB'	Along (West Siang)
18.	Ms. Opung Ering	3996	Scientist-C	Papumpare
19.	Hage Kago	3891	Scientist-C	Ziro (Lower Subansiri)
20.	Tasso Habung	3892	Scientist-C	Arunachal Pradesh State Unit, Itanagar
21.	June Kadu	4548	Scientist-B	Tezu (Lohit)

S. Gopalkrishna  
9.7.05

Approved  
Addl. C. G. S. (S)