

0/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

25

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No.....

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SECTION OFFICER (Judl.)



FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. _____
2. Misc Petition No. _____
3. Contempt Petition No. 7/06 in O.A 205/04
4. Review Application No. _____

Applicant(S) S. Sahu & Ors

Respondents S. Datta (u. O. I) & Ors

Advocate for the Applicant(S) Adil Ahmed

Advocate for the Respondent(S) Mr. M. U. Ahmed, Addl. C.S. Sec.

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

This Contempt petition 2.3.2006
has been filed by the
counsel for the Applicant
and praying for
punishment of the
contemners/respondents
for non-compliance 31.3.2006
of Judgement and order
passed by the Hon'ble
Tribunal in O.A 205/04
on 16.6.2005.

Laid before the
Hon'ble Court for further
orders.

Secy. Officer

Mr. A. Ahmed, learned counsel for
the applicants is present.

Issue notice to the respondents.
Post on 31.3.2006.

Vice-Chairman

Despite the fact that notice has
duly been served on the respondents, no
reply has been filed so far. Mr. M. U. Ahmed
learned Addl. C.G.S.C. persuasively argued
that he may be given a last chance to
file to file reply. Let it be done.

Post on 5.5.2006 granting the
alleged contemners last chance to file
reply.

Vice-Chairman

C.P. 7/06

- 2 -

5.5.06

This M.D. has been filed by the applicant praying for and praying for punishment of the contemnors/respondents for non-compliance of the judgment and order passed by the Hon'ble Tribunal in O.A.No.205/04 passed in 16.6.05. The counsel for the respondents are directed to file the written statement.

Post the matter on 9.6.06.

Vice-Chairman

Please comply with
dated 2.3.06.

NS
2.3.06

Notice & order sent
to D/section Bar
issuing to resp. in
nos. 1, 2 by regd.
A/D post.

9.6.2006

Neither any affidavit nor any statement has been filed by the alleged contemnors even after 3 adjournments. They are at liberty to file the same within two weeks from today. However, the case is posted before the next Division Bench.

Vice-Chairman

Notice duly served
on resp. no-2.

20/3/06. (A/D card at bill-“c”).

bb

30-3-06

No Reply has been
filed.

Service awaited in
respect of Respondent No. 1.

4-5-06

No appearance as well
as no reply filed.

h

8-8-06

No Reply has been
filed.

09.08.2006 Present: Hon'ble Sri K.V.
Sachidanandan, Vice-Chairman.
Hon'ble Sri Gautam Ray,
Administrative Member.

Mr M.U. Ahmed, learned Addl. C.G.S.
C. for the respondents submitted that he
has filed an affidavit contending that
there is no willful disobedience on the
part of the respondents. They are also
wanting to implement the order of this
Tribunal, but there is some procedure delay.
Therefore, learned counsel for the respond-
ents sought for time.

Considering the submission made by
the learned counsel for the respondents one
month time is granted to comply with the
order. It is made clear that if it is not
complied contempt proceeding will be
initiated against the alleged contemnners.

Post on 11.09.2006.

2
14/8/06

order dt. 9/8/06
issuing to resp.
nos. 1, 2 by post.
25/8/06.

Affidavit filed by
The R.No-2.

11.9.06

27.10.06
NO Addl. reply filed.

[Signature]
Member

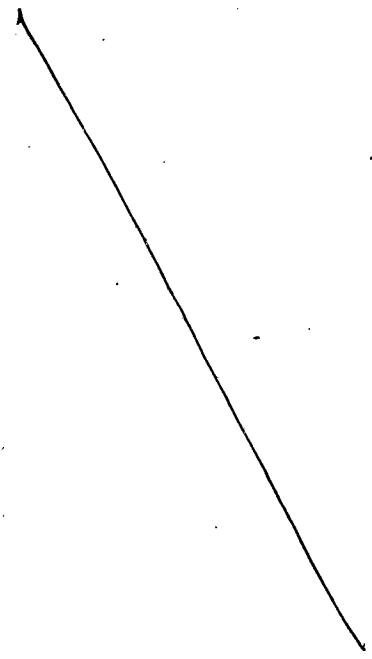
[Signature]
Vice-Chairman

mb
11.9.06

Learned counsel for the Respondents
wanted to file additional reply. Let it be
done. Post the matter on 30.10.06.

lm

[Signature]
Vice-Chairman



30.10.2006 Present: Hon'ble Sri K.V. Sachidananda
Vice-Chairman.

Post on 01.12.2006. Mr M.U. Ahmed,
learned Counsel for the Respondents submitted
that they are not denying the claim of the
Applicants but they have required some more
time to comply with the order. As a last chance
time is granted. It is made clear that if the
Respondents do not comply with the order, the
contempt notice will follow.

Vice-Chairman

/mb/

01.12.06. When the matter came up for
hearing the learned counsel for the
Respondents has submitted that there is no
willful violation on the part of the
respondents to comply with the order of this
Tribunal. Due to the paucity of fund the
respondents could not comply with the
order. However, six weeks time is granted
finally to comply with the order of this
Tribunal. It is made clear that the
opportunity is given to the respondents
finally and as a last chance to come up with
fruitful result of the order of this Tribunal.
Otherwise the Contempt proceedings will
follow.

Post the matter on 18/1.06.

Vice-Chairman

Im

Order dt. 30/10/06
Sent to D/Section
for issuing to
resp. nos. 1, 2 by
regd. A/D post.

(On) 10/11/06 D/No-1123, 1124
Dt- 15/11/06-

NO Addl. reply has
been filed

30.11.06

4/12/06

Order dt. 1/12/06 issuing
to learned advocates for
both the parties.

(On) 4/12/06

Attestavit filed by

R No - 2.

17.1.07

CP. 7/06

5-

a
u

18.1.2007

Claiming HRA the Applicants had approached this Tribunal in C.A. No.205/2004. The order was passed on 16.06.2005. This Contempt petition initially came up for consideration on 2.3.2006 and on various dates adjournments had been granted to the Respondents/Contemners and finally came up on 01.12.2006. On all these occasions Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the Respondents/ Contemners was submitting that there is no willful disobedience on the part of the Respondents/Contemners and they want to implement the order and it is only procedural delay. On 09.08.2006, this Court made it clear that if the order is not complied with, contempt proceeding will be initiated against them. Thereafter also, three more adjournments were sought and granted to them and the same pleadings have been taken by the learned counsel for the Respondents. They have also submitted an affidavit reiterating the same submissions.

R

Bund

For M. U. Ahmed
(Addl C.G.S.C.)

24/1/07

On going through the proceedings, it appears that the Respondents had not complied with the orders of this Tribunal despite many chances granted to them. Therefore, on the strength taken by the Respondents in their affidavit and the pleadings taken thereto this Court directs to issue contempt notice to Respondent/ Contemner No. 1 i.e. Shri

Contd..P/2

CP. 7/06

Contd.
18.01.2007

Shekhar Dutt, Secretary to the Govt. of India, Ministry of Defence, 101 South Block, New Delhi - 110 001 and Respondent/Contemner No. 2 i.e. Lt. Col. R. I. Mullick, Commanding Officer, 50 Coy ASC (Supply), Type 'C' C/o 99 APO to show cause as to why contempt proceedings shall not be initiated against them, returnable by the next date of hearing. Post the matter on 02.03.2007.

Mr. M. U. Ahmed requested that personal appearance of both the Respondents/Contemnners may be dispensed with. But Court directs that the second Respondent/Contemner shall appear before the court on 02.03.2007 in person. Personal appearance of the 1st Respondent/Contemner is dispensed with for the time being.


Vice-Chairman

/bb/ (

2.3.2007


Let this C.P. be posted along with the connected matters. In the meantime contemnners/respondents are at liberty to filed compliance order and also the vouchers whatever that they wanted to produce.


Member (A)

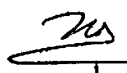

Vice-Chairman

/bb/


Order dt. 18/01/07 sent to D/Section for issuing to R-1 and 2 by regd. A/D post.


31/1/07.

Affidavit filed by
R. No - 2.


1.3.07.

Affidavit has been
filed


12-3-07.

C.P. 7/2006 1

5

13.3.07.

This Tribunal vide order dated 16.6.2005 passed an order in O.A. 205 of 2004 directing the respondents to consider the individual representations to be filed by these petitioners within a specified time. When the C.P. came up for consideration Mr.M.U.Ahmed learned Addl. C. G. S. C. has produced a copy of speaking order dated 22.2.2007 in compliance with the order passed in this O.A. 26 of 2005 contending that the applicants are not entitled to get the relief as prayed for in the O.A. Accordingly, he submits that the C.P. does not stand in its legs.

C.P. is dismissed accordingly. Liberty is given to the applicant to file fresh application in the original side if he is still aggrieved.



Member



Vice-Chairman

15.3.07

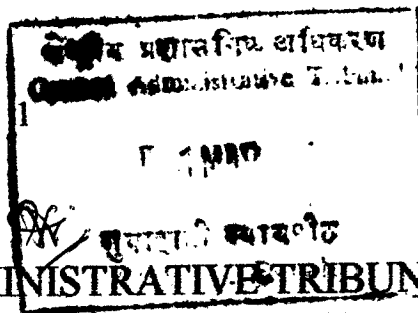
A - Compliance
report has been
submitted.



20.3.07

Copy of the
order handed
over to the L/As.
for the park
at

lm



Filed by
Shri Surendra Sahu
Applicant No. 1
Through
CAIR
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

CONTEMPT PETITION NO. 7 OF 2006

IN

O. A. NO. 205 of 2004

IN THE MATTER OF:

A Petition under Section 17 of the
Administrative Tribunals Act, 1985
praying for punishment of the
Contemners / Respondents for non-
compliance of Judgment and Order
passed by the Hon'ble Tribunal in O. A.
No. 205 of 2004 on 16.06.2005.

- AND -

IN THE MATTER OF:

Shri Surendra Sahu & Ors.

... Applicants.

- VERSUS -

The Union of India & Others.

... Respondents.

- AND -

IN THE MATTER OF:

Shri Surendra Sahu
P. No. 14117389
Permanent Mazdoor,
Office of the Commanding Officer,
50 Coy. ASC (Supply), Type 'C'
C/o - 99 APO.

... Petitioner

- VERSUS -

S. Sahu

1. Shri Shekhar Dutt,
Secretary to the Government of
India, Ministry of Defence, 101
South Block,
New Delhi-110001.
2. Lt. Col. R. I. Mullick,
Commanding Officer,
50 Coy ASC (Supply), Type 'C'
C/o 99 APO.

... Respondents/
Contemners

The humble Petition of the above named
Petitioner :

MOST RESPECTFULLY SHEWETH:

- 1) That your humble Petitioner along with 86 others had filed the Original Application No. 205 of 2004 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for non payment of Licence Fee @ 10 % compensation in lieu of Rent free accommodation to the applicants by the respondents.
- 2) That this Hon'ble Tribunal on 16.06.2004 heard the matter finally and the above said Original Application No. 26 of 2005 was disposed of the original application by directing the respondents to consider the claim of the applicants including the legal heirs of the deceased employees for grant of licence fee @ 10% in lieu of rent free accommodation and to take a decision in the matter. The Hon'ble Tribunal also stated that since all the require details are not in the O.A, the Hon'ble Tribunal also directed the applicants to make individual representations containing the factual details for grant of licence fee @ 10% in lieu of rent free accommodation for the period for which the claim is made within a period of six week from the date of receipt of the order. The respondents were also directed that if the applicants made individual representation containing all the requisite details for grant of licence fee, the same will be duly considered and orders passed as directed in the order,

S. Sahu

keeping in mind the observations made in the order and in accordance with law within a period of three months from the date of receipt of such representations. The Hon'ble Tribunal further stated that the reasoned orders would have to be passed thereon and directed the respondents to communicate the same to the applicants without delay. Accordingly, the petitioner and other applicants in O.A. No. 205 of 2004 filed representations before the respondents for compliance. But till today the Respondents/Contemnors did not implement the said Judgment and Order dated 16.06.2005 passed in O.A. No. 205 of 2004 by the Hon'ble Tribunal. As such, your Petitioner is compelled to file this Contempt Petition before this Hon'ble Tribunal to initiate contempt proceedings under the Contempt of Court Act against the alleged Contemnors/ Respondents.

Annexure-A is the photocopy of Judgment and Order dated 16.06.2005 passed by this Hon'ble Tribunal in O.A. No. 205 of 2004.

3) That your Petitioner begs to state that the Respondents/Contemnors have shown disrespect, disregard and disobedience to this Hon'ble Tribunal. The Respondents/Contemnors deliberately with a motive behind have not complied the Hon'ble Tribunal's Judgment and Order dated 16.06.2005 passed in O.A. No. 205 of 2004. As such, the Respondents/Contemnors deserve punishment from this Hon'ble Tribunal. It is a fit case where the Respondents/Contemnors may be directed to appear before this Hon'ble Tribunal to explain as to why they have shown disrespect to this Hon'ble Tribunal.

4) That this Petition is filed bonafide to secure the ends of justice.

In the premises, it is, most humbly and respectfully prayed that

S. Sachu

Your Lordships may be pleased to admit this petition and issue contempt notice to the Respondents/Contemnors to show cause as to why they should not be punished under Section 17 of the Administrative Tribunals Act, 1985 or to pass such appropriate order or orders as this Hon'ble Tribunal may deem fit and proper.

Further, it is also prayed that in view of the deliberate disrespect and disobedience to this Hon'ble Tribunal's order dated 16.06.2005 passed in O. A. No. 205 of 2004 Respondents/Contemnors may be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished under the Contempt of Court Act.

And for this act of kindness your Petitioner as in duty bound shall ever pray.

... Draft Charge

5

5x

DRAFT CHARGE

The Petitioner aggrieved for non compliance of Judgment and Order dated 16.06.2005 passed by this Hon'ble Tribunal in O.A No. 205 of 2004. The Contemnors/Respondents have willfully and deliberately violated the Judgment and Order dated 16.06.2005 passed by this Hon'ble Tribunal. Accordingly, the Respondents/Contemnors are liable for Contempt of Court proceedings and severe punishment thereof as provided to appear in person and reply to the charges leveled against them before this Hon'ble Tribunal.

AFFIDAVIT

I, Shri Surendra Sahu, P. No. 14117389, Permanent Mazdoor, Office of the Commanding Officer, 50 Coy. ASC (Supply), Type 'C', C/o 99 APO by profession Service, by religion Hindu, do hereby solemnly affirm and state as follows:

1. That I am one of the Applicants in O. A. No. 205 of 2004 and also petitioner in the instant petition and as such, I am fully acquainted with the facts and circumstances of the case.
2. That the statements made in paragraphs 1, 3 — of the Contempt Petition are true to my knowledge, those made in paragraphs 2 — of the petition being matters of records are true to my information, which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I put my hand hereunto this affidavit on this 26th day of February 2006 at Guwahati.

Surendra Sahu

Identified by

Advocate

(Adil Ahmed)

Solemnly affirmed before me by the Deponent who is identified by Mr. Adil Ahmed, Advocate.

Sukumar Saama
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

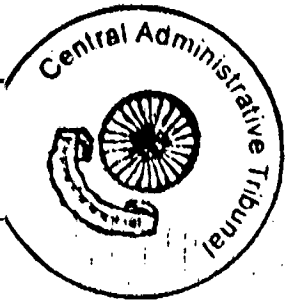
Original Application No. 205 of 2004.

Date of Order: This, the 16 th Day of June, 2005.

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

1. Shri Surendra Sahu
2. Shri Padma Labha
3. Shri Ulla Gouda
4. Shri Bidyadhar Gouda
5. Shri Linga Naik
6. Shri Dayanidhi
7. Shri Banchanidhi
8. Shri Barunda Sahu
9. Shri Gundicha Naik
10. Shri Bodha Ram
11. Shri Devraj
12. Smt. Kalawati
13. Shri Udayanath
14. Shri Mangalu Pradhan
15. Shri Sombariya
16. Shri Balkaran
17. Shri Cyprian
18. Shri V.K. Pilai
19. Shri Bipra Rawat
20. Shri Bipra Sahu
21. Shri Dandapani Naik
22. Shri Ragunath
23. Shri Laldhar
24. Shri Kirtan Gouda
25. Shri Ramchandar Passi
26. Shri Rambriksh
27. Shri Pitambar
28. Shri Soma Naik
29. Shri Dinabandhu Naik
30. Shri Satiram
31. Shri Haridev Ram
32. Shri Enkat Rao

16/6/05

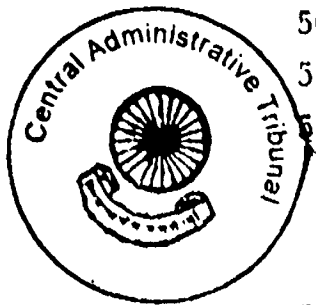


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33. Shri Sureshlal Baitha
34. Shri Sirpat Ram
35. Shri Dahari Rath
36. Shri Ramprashad
37. Shri Pannu Behara
38. Shri Subash Singh
39. Shri Achelal Rai
40. Shri Girdhari Mandal
41. Shri Ramchandrar Gouda
42. Shri Manglu Behara
43. Shri Ramsamujh
44. Shri Murari Prasad
45. Shri Ramnarayan
46. Shri Sontosh Kumar
47. Shri Ramanand
48. Shri Jayprakash Ram
49. Shri Bhagaban Naik
50. Shri Sanyasi Sabath
51. Shri Ramsamujh Chovhan
52. Shri Harkhit

Applicant nos. 1 to 52 are all Permanent Mazdoor working under the Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, C/o 99 APO.

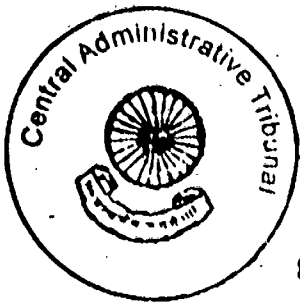
53. Shri Roopa Ram, T/Smith
54. Shri Trirbhuwan, T/Smith
55. Shri Imtitemsu Jamir, Welder
56. Shri Pannu Pradhan, Carpenter
57. Shri Shankar Thakur, Barber
58. Shri Ramprasad, Washerman
59. Shri Ramshankar, Cook
60. Shri R. K. Chetri, Cook
61. Shri Badal, Safaiwala
62. Shri Foujdar, LHF (OG)
63. Shri S. K. Paul, LHF (SG)
64. Shri Rameswar, LHF (OG)
65. Shri S.K.Tripathi, FED
66. Shri Bachcha Singh, FED
67. Shri Upender Singh, FED



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68. Shri Subhash Teli, F/man
69. Shri Palakdhari Yadav, F/man
70. Shri Dibakar Gouda, F/man
71. Shri R. P. Sharma, F/man
72. Shri Hamid Mohd, F/man
73. Shri Triloknath, F/man
74. Shri B. N. Gouda, F/man
75. Shri Omprakash Gupta, F/man
76. Shri Kedar, F/man
77. Shri Rajender, F/man
78. Shri Jagdish Prasad, F/man
79. Shri Akhehey Pradhan, F/man
80. Shri V. K. Tripathi, F/man
81. Shri Satyanarayan, Mazdoor
82. Shri Shri Gada Naik, Mazdoor

Applicant nos. 53 to 82 are working under the Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, C/o 99 APO.



83. Smti Ameren Sia
Wife of Late Surpyam (Ex Mazdoor)
84. Smti Joshoda Naik
Wife of Late Barunda Naik (Ex Mazdoor)
85. Smti Sabitri Devi
Wife of Late Ram Badan (Ex Mazdoor)
86. Smti Munni Devi
Wife of Late Ganga Saran (Ex Mazdoor)
87. Shri Rameshra Moli
Son of Late Hari Moli.

...Applicants.

Applicant nos. 83 to 87 are Legal heir of Ex. Late Mazdoors, who have worked under the Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, C/o 99 APO.

By Advocate Mr. A. Ahmed.

- Versus -

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Defence
101 South Block
New Delhi - 1.

A. Ahmed
1
Dated

2. The Commanding Officer, 50 Coy, ASC (Supply)
Type-C, C/o 99 APO. ... Respondents.

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

ORDER

SIVARAJAN, I.(V.C.) :

The applicants 87 in number have filed this O.A. seeking for a direction to the respondents to pay licence fee @ 10% of monthly pay w.e.f. 1.7.1987 or from the date of posting in Nagaland if it is subsequent thereto as the case may be upto date and continue to pay the same until compensation is not withdrawn or modified by the Government of India or till rent free accommodation is not provided in terms of the judgment and orders in O.A. Nos. 48/1991 and 266/1996 and other similar cases decided by this Tribunal. It has to be noted that applicant nos: 83 to 87 are the legal heirs of deceased employees who worked under the Office of the Commanding Officer, 50 Coy ASP (Supply) Type-C, C/o 99 APO. The applicants have stated that the different civilian employees and all Central Govt. employees posted in Nagaland are required to be provided with rent free accommodation and that they are also entitled to compensation in lieu of rent free accommodation. It is stated that some of the employees of Geological Survey of India belonging to Group 'C' and 'D' posted in Nagaland have filed O.A. No.48/1991 claiming House Rent Allowance (HRA in short) @ applicable to the "B" (B1, B2) Class cities, 15% to their pay and also claimed compensation @ 10% in lieu of rent free accommodation and the same was allowed as per order dated 26.11.1993 (Annexure-A). It is further stated that similarly situated defence civilian employees serving in Nagaland



gsh

Atk

1/1/95

63
filed O.A. No.266/1996 and other series of cases before this Tribunal and those cases were also allowed by judgment dated 10.6.1997 (Annexure-B) and the respondents were directed to pay HRA at prescribed rate and also to pay 10% compensation in lieu of rent free accommodation. It is further stated that similarly situated civilian employees of Canteen Stores Department posted at Dimapur are getting HRA and also @ 10% compensation in lieu of rent free accommodation. According to the applicants, the function and nature of works of employees of Canteen Stores Department are almost similar to the employees of Armed Supply Core, ASC (Supply) where the instant applicants are working. It is the grievance of the applicants that though the defence civilian employees of Canteen Stores Department, Dimapur, State of Nagaland are enjoying the benefits of 10% compensation in lieu of rent free accommodation, the applicants have failed to obtain the benefits of licence fee @ 10% in lieu of rent free accommodation from the respondents. It is the case of the applicants that they have verbally and by written request moved the respondents for payment of 10% compensation in lieu of rent free accommodation but till date they have not been paid the same which compelled them to file this application.



2. A written statement is filed on behalf of respondent nos. 1 and 2. In paragraph 3 of the written statement it is stated that the entitlement of admissibility of compensation in lieu of rent free accommodation and its rate can be given by Area Accounts Office, Shillong which is the competent authority for calculation of pay and allowance; in addition rent free accommodation is available in the unit and 25 number of civilian employees are availing the

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facility; this unit has never denied any of its civilian employees the provision of rent free accommodation within unit premises; it is highlighted that it is a matter of convenience that 38 nos. of civilian employees have preferred to stay with family on their own arrangement by construction of thatched/temporary accommodation on the defence land closely hugging the parameter fencing of this unit. It is further stated that none of the applicants are staying in rented accommodation; in addition, none of the applicants have ever reported any difficulty being faced by them with regard to hiring of accommodation or the high rates of rent in Dimapur. It is also stated that the case of the applicants cannot be equated with the employees of Geological Survey of India and that applicants cannot be treated as similarly situated since rent free accommodation including cooking facilities and other amenities are provided in the unit. Regarding applicant nos. 83 to 87 it is stated that they have already been discharged from service/died and therefore this unit is not in a position to comment whether they are staying in rent free Govt. accommodation or rented accommodation in Dimapur.



3. We have heard Mr. Adil Ahmed, learned counsel for the applicants and Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Mr. Ahmed appearing on behalf of the applicants submits that this Tribunal had granted reliefs by way of direction to the respondents to grant licence fee to similarly situated persons employed in the Geological Survey of India in O.A. No.48/1991 and it also directed grant of licence fee in the case of employees of the Government of India working in the various departments including Defence, Doordarshan, Census, Railway Mail Service, All India

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Radio etc. posted in various parts of State of Nagaland in O.A. No.266/1996 and connected cases. Counsel also pointed out that the respondents themselves had granted SDA to the employees working in the Canteen Stores Department, Dimapur in the State of Nagaland. Counsel submits that the applicants are similarly situated persons who are also entitled to grant of licence fee @ 10% in lieu of rent free accommodation from the respondents. Counsel further submits that in spite of several requests it has not been extended to them.

4. Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents based on the averments in the written statement submits that rent free accommodation was very much available to the employees and that they were enjoying such facilities. Standing counsel also submits that the applicants have never raised a complaint regarding non-availability of rent free accommodation nor made any request for grant of licence fee to them in lieu of rent free accommodation. Standing counsel further pointed out that though the applicants were not being paid licence fee in lieu of rent free accommodation since the very inception no claim for licence fee was preferred by them based on the orders of this Tribunal in O.A. Nos. 48/1991 and 266/1996 which were rendered on 26.11.1993 and 10.6.1997 respectively which would show that the applicants are not similarly situated persons.

5. The applicants claim that they are employed in the remote part of Nagaland which has been considered as a difficult area from the point of view of availability of rented house and therefore Central Govt. employees are given rent free accommodation. According to them, they are not provided with rent free



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266/1996 and connected cases
15

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accommodation by the respondents and consequently they are entitled to get compensation @ 10% in lieu of rent free accommodation in addition to HRA. It is their case that in spite of the orders of this Tribunal in O.A. Nos. 48/1991 and 266/1996 rendered as early as on 26.11.1993 and 10.6.1997 regarding grant of licence fee @ 10% in lieu of rent free accommodation to similarly situated persons working in the other departments the respondents had not extended the same benefits to the instant applicants who are similarly situated. According to them, respondents ought to have extended the same benefits to the applicants even without their asking and without driving them to approach this Tribunal for getting the same reliefs. It is their case that they are similarly situated persons who must be granted licence fee @ 10% so long as they are not provided with rent free accommodation.



6. The respondents, on the other hand, contend that the applicants have been provided with rent free accommodation and even otherwise they never raised the complaint before the authority regarding difficulty in hiring rented accommodation and they could have asked for licence fee in lieu of rent free accommodation. It is also the case of the respondents that the circumstances in regard to Geological Survey of India and other departments considered by this Tribunal in the aforementioned O.A.s are totally different and therefore there is no question of extending the benefits as directed in the said two orders to the applicants.

7. According to me, the question of granting licence fee can be decided only on ascertaining all the factual situation namely

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whether the applicants have been provided with rent free accommodation, for, licence fee is granted in lieu of rent free accommodation. The applicants contend that they have not been provided with rent free accommodation while the respondents contend that they were. It would not be possible for this Tribunal to resolve such dispute on factual matters. True, this Tribunal in the orders in O.A. Nos. 48/1991 and 266/1996 had directed payment of licence fee @ 10% to the applicants therein. Whether the factual situation in the case of the instant applicants are the same as the applicants in those cases is yet to be ascertained. A Division Bench of this Tribunal had occasion to consider the case of grant of HRA to some of the employees working under the Garrison Engineer, 868, Engineering Workshop, C/o 99 APO in the judgment dated 8.6.2005 in O.A.123/2004. That was a case in which the applicants therein had approached this Tribunal, obtained reliefs and the same was affirmed by the Hon'ble Supreme Court. Therefore directions were issued to the respondents to pay HRA to the applicants as directed by the Tribunal in the O.A.s filed by them. The said directions cannot be issued in this case for the reason that the instant applicants did not obtain any such orders from this Tribunal earlier and the orders relied on by them are orders passed in the case of persons employed in other departments. Here it must be noted that the applicants had not produced any materials other than the bald averment made in the application to show that they had preferred any claim for grant of licence fee @ 10% in lieu of rent free accommodation before the authorities at any earlier point of time. The applicants are claiming licence fee in lieu of rent free accommodation for prior periods



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since they are being posted at Nagaland. Though the request is highly belated I am of the view that the respondents must be directed to consider the claim of the applicants for grant of licence fee @ 10% in lieu of rent free accommodation. In the circumstances, there will be a direction to the respondents to consider the claim of the applicants including the legal heirs of the deceased employees for grant of licence fee @ 10% in lieu of rent free accommodation and to take a decision in the matter. Since all the required details of the applicants are not there in this O.A. there will be a direction to the applicants to make individual representation containing the factual details for grant of licence fee @ 10% in lieu of rent free accommodation for the period for which the claim is made within a period of six weeks from today. If the applicants make individual representation containing all the requisite details for grant of licence fee the same will be duly considered and orders passed as directed hereinabove keeping in mind the observations made above and in accordance with law within a period of three months from the date of receipt of such a representation. Needless to say, reasoned orders have to be passed thereon and communicated to the applicants without delay.

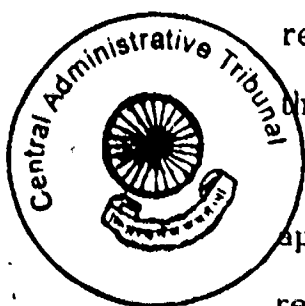
The Original Application is disposed of as above. The applicants will produce this order along with the individual representations before the concerned respondents for compliance.

Date of Application : 24.2.06
 Date on which copy is ready : 24.2.06
 Date on which copy is delivered : 24.2.06
 Certified to be true copy

SD/VICE CHAIRMAN

Section Officer (Jd)
 C. A. T. C. Shati Bench
 Guwahati
 24/2/06

Attchd
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26 JUL 2006

गुवाहाटी न्यायापीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition Not 7/2006
In O.A. No. 205/04

IN THE MATTER OF:

Sri Surendra Sahu & Ors.

.... Petitioner

- Versus -

Shri R. I. Mullick

Lt. Col.,

Commanding Officer

...Alleged Contemner/
Respondent No.2.

IN THE MATTER OF:

An affidavit for and on behalf of the

Respondent No. 2.

I, Sri R. I. Mullick, Lt. Col. Commanding Officer do hereby
solemnly affirm and state as follows :-

1. That I am the Respondent No. 2 in the instant Contempt
Petition and have gone through the aforesaid Contempt Petition filed by
the petitioner and have understood the contents thereof and I am well
acquainted with the facts and circumstances of the case based on
records.

2. The Respondent No.1 has not willfully flouted any order
passed by this Hon'ble Tribunal.

3. At the outset I submit that I have the Highest regard for this
Hon'ble Tribunal and there is no question of any willful disobedience of
any Order passed by the Hon'ble Tribunal. However, I tender unqualified
and unconditional apology for any delay or lapse in the compliance of the
Order dated 16.6.2005 in O.A.No.205/04 pronounced by this Tribunal.

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Lt. Col. Mullick
Commanding Officer
50 Coy ASC (Sup) Typ.
M. U. (Hmd), Assam

4. That there is no any willful or deliberate and reckless disobedience of the aforesaid order by the respondents and due to the compelling circumstances, the respondent could not implement the order in time, which can be termed as honest and innocent mistake without any mala fide and/or hidden vested interest and such type curable mistake may not be termed as willful disobedience of the aforesaid order.

5. That the submission made in the following paragraphs amply clarify that the that the respondents have shown due regard to the orders of this Hon'ble Tribunal and as such, there is no question of showing any contempt to the orders of this Hon'ble Tribunal.

6. That the respondent No.2 begs to state that the delay in the implementation of Hon'ble Central Administrative Tribunal, Guwahati Bench order is of administrative nature and not the willful delay.

7. It is pertinent to mention here that the answering respondent has made every efforts and approached the concerned authority to expedite the case on priority and accordingly the Army Headquarter has taken the matter and the same is under process with the Ministry of Defence. Further, the respondents have not denied the claim of the applicants to constitute any contempt and due to some accounts, procedural and administrative constraints some time will be required in order to make due payment.

8. That it is stated that Respondent No.2 has the highest respect for the orders of Hon'ble Central Administrative Tribunal, Guwahati Bench. The respondent therefore prays that in the circumstances of the case mentioned above, the Hon'ble Central Administrative Tribunal, Guwahati Bench may be pleased to exempt the respondent from the contempt proceedings.

AFFIDAVIT

I, Sri R. I. Mullick, Lt. Col. Commanding Officer son of
(Late) Ahmedul Hoque Mullick aged about 45 years do hereby solemnly affirm
and state as follows :-

That I am the Respondent No. 2 in the above case and I am
fully acquainted with the facts and circumstances of the case.

That, the statements made in para 1 to 8 of the
affidavit are true to my knowledge, belief and information based on the
record and nothing has been suppressed thereof.

And I sing this affidavit/report on this 26th day of
July/2006 at Guwahati.

Identified by

ADVOCATE

ক. স. ই. / Lt. Col.

কমান্ডিং অফিসার

Commanding Officer

50 কম্পানী এ এস সি (পূর্ব) ব্যাটালিয়ন

50 Coy ASG (Sup) Type

Solemnly affirm and declare before

me by the deponent who is identified by

N. V. Sharma Advocate at Guwahati on

this 26th day of July/2006 at

Guwahati.