

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

31/12/17

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. O.A. 26/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: S.B. Ziwani & ors

Respondents M.O. I. & ors

Advocates for the Applicant A. Ahmed

Advocates of the Respondents C. Cr. S. C. A. K. Chandley

Notes of the Registry Date _____ Order of the Tribunal _____

28.01.2005

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

Heard Mr. A. Ahmed, learned counsel for the applicants.

The O.A. is admitted, call for the records, returnable within four weeks.

List on 4.3.2005 for orders.

K.V. Prahladan
Member

bb

04.03.2005

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

Heard Mr. A. Ahmed, learned counsel for the applicant and also Ms. U. Das, learned counsel for respondents.

On the prayer of learned counsel for the respondents, list on 8.4.2005 for filing written statement.

K.V. Prahladan
Member (A)

mb

This application is in form is filed/C.F. for Rs. 50/- deposited vide IP/BD

No. IP.O. 2001/17908

Dated 27/01/05

N. Imb
1/c Dy. Registrar
28/01

Notice & order sent to D/Section for issuing to resp. Nos. 1 & 2 by regd. A/D post.

23/2/05 D/No. 284 to 285 dt. 25/2/05

Notice duly served on resp. No-1.

24/3

24-05
No. N/S for Geeta. Bited.

08.04.2005

Mr. A.K. Chaudhuri, learned counsel for the respondents seeks time for filing written statement. Post on 11.05.2005.

10-5-05

No W/S has been filed.

Ag

[Signature]

Vice-Chairman

mb

11.5.2005

Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. seeks for some more time for filing written statement. post on 8.6.2005.

14-6-05

No W/S has been filed.

Ag

[Signature]

Vice-Chairman

bb

4.7.05

W/S filed by the respondent nos. 1 & 2.

8.6.05

Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. submits that written statement is sent for vetting. List on 6.7.05.

[Signature]

[Signature]

Vice-Chairman

pg

6.7.2005

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of.

① W/S filed by the respondents.

30
5.7.05

[Signature]
13/7/05
Addl. C.G.S.C.

mb

[Signature]

Vice-Chairman

15.7.05

Copy of the judgment has been sent to the office for filing the same to the applicant by post.

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R/A.No. 26/2005

DATE OF DECISION 6.7.2005.

S.B. Tiwari & Ors......APPLICANT(S)

Mr. Adil 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.

THE HON'BLE MR.

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.

ms
V. Sivarajan

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 26/2005.

Date of Order : This the 6th day of July, 2005.

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

1. Shri Sashi Bhusan Tiwari
P. No. 6403303
Pmt/Mazdoor.
2. Shri N.R.C. Nair
P. No. 6402891
Pmt/Mazdoor
3. Shri D.B. Thapa
P. No. 6402892
Pmt/Mazdoor
4. Shri C.T. Kuttan
P. No. 602893
Pmt/Mazdoor.
5. Shri P.M. Bhaskaran
P. No. 6402894
Pmt/Mazdoor.
6. Sri Kunjumaon
6402895
Pmt/Mazdoor.
7. Shri D.K. Singh
P. No. 6403299
Pmt/Mazdoor.
8. Sri N.B. Gurung
P. No. 6403300
Pmt/Mazdoor.
9. Shri K.N. Thankachan
P. No. 6403301
Pmt/Mazdoor.
10. Shri D.P. Sharma
P. No. 6403302
Pmt/Mazdoor.
11. Shri N. Peethambaran
P. No. 6403304
Pmt/Mazdoor.

12. Sri D.C. Ram
P. No. 6403305
Pmt/Mazdoor.

... Applicants

All the applicants are working under the Office of the Commanding Officer, 50 Coy, ASC (Supply), Type C 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, 101 South Block,
New Delhi - 1.
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 (ORAL)

SIVARAJAN. J. (V.C.)


The matter relates to grant of Licence Fee. According to the applicants, 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 accommodation by the respondents and consequently they are entitled to get compensation @ 10% in lieu of rent free accommodation in addition to HRA.

2. Heard Mr. A. Ahmed, learned counsel for the applicants and Mr. A.K. Chaudhuri, learned Addl. Central Government Standing Counsel for the respondents and also considered the averments in the application and in the written statement.

[Signature]

3. An identical question arose for consideration in O.A. No. 205/2004 where the respondents in that application were same as in this application. This Tribunal by order dated 16.06.2005 disposed of the said application. The relevant portion of the said order reads thus:

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

In the light of the above, this O.A. is also disposed of with similar directions.

4. A copy of the order dated 16.06.2005 passed in O.A. No. 205/2004 will also be appended to this order.

The O.A. is disposed of as above. The applicant will produce this order alongwith individual representation before the concerned respondents for compliance.


(G. SIVARAJAN)
VICE CHAIRMAN

/mb/

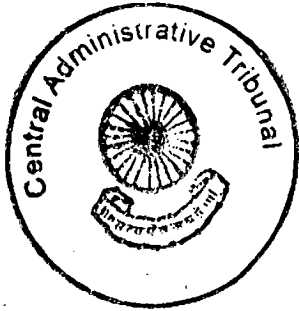
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 205 of 2004.

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

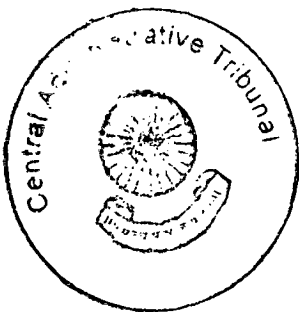
THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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 Ramchandrar 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



33. Shri Sureshlal Baitha
34. Shri Sirpat Ram
35. Shri Dahari Ram
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

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 Surpryam (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.

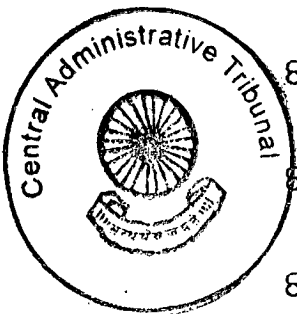
...Applicants.

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.



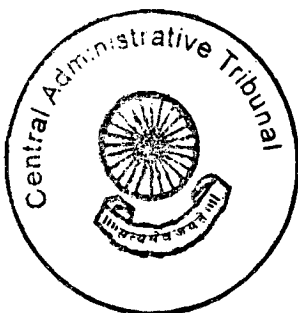
2. The Commanding Officer, 50 Coy, ASC (Supply)
Type-C, C/o 99 APO. ... Respondents.

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

ORDER

SIVARAJAN, J.(V.C.) :

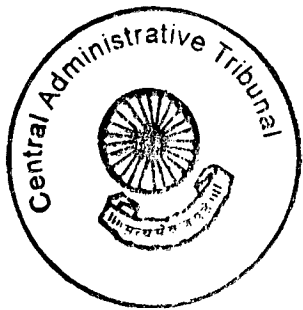
The applicants 87 in number have filed this O.A. seeking for a direction to the respondents to pay licence fee @ 10% of monthly pay w.e.f. 1.7.1987 or from the date of posting in Nagaland if it is subsequent thereto as the case may be upto date and continue to pay the same until compensation is not withdrawn 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



[Handwritten signature]

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



[Handwritten signature]

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.



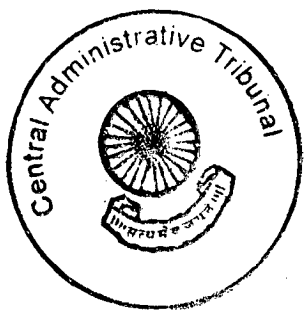
3. We have heard Mr. Adil Ahmed, learned counsel for the applicants and Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Mr. Ahmed appearing on behalf of the applicants submits that this Tribunal had granted reliefs by way of direction to the respondents to grant licence fee to similarly 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

[Handwritten signature]

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



9/11/97

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.

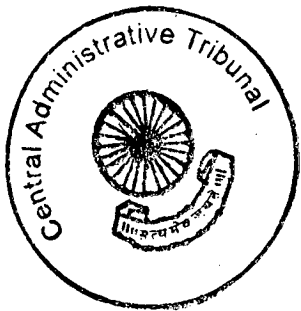
6. The respondents, on the other hand, contend that the applicants have been provided with rent free accommodation and even otherwise they never raised the complaint before the authority regarding difficulty in hiring rented accommodation and they could have asked for licence fee in lieu of rent free 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



[Handwritten signature]

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



[Handwritten signature]

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.

TRUE COPY

प्रतिलिपि

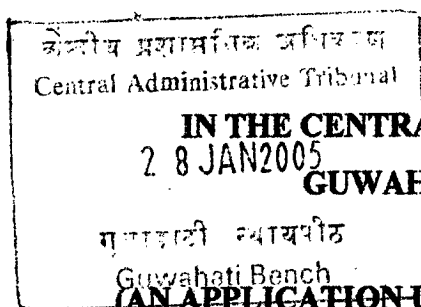
sd/VICE CHAIRMAN

Section Officer (J)

C.A.T. GUWAHATI BRANCH

Guwahati-781005

6.7.13
16/9/16



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
28 JAN 2005
GUWAHATI BENCH, GUWAHATI.

गुवाहाटी न्यायपीठ
Guwahati Bench

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

ORIGINAL APPLICATION NO.

OF 2005.

BETWEEN

Shri Sashi Bhusan Tiwari & Others

...Applicants

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS:

Annexure-A is the photocopy of Judgment and Order dated 26-11-1993 passed by the Hon'ble Tribunal in O.A.No.48/91.

Annexure-B is the photocopy of Judgment and Order dated 10-06-97 passed by the Hon'ble Tribunal in O.A.No.266/96 and other series of cases.

This Original Application is made for Non-payment of Licence Fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants by the Respondents and with a prayer before the Hon'ble Tribunal for a direction to the Respondents for payment of Licence fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants as per judgment and orders passed in O.A. No. 48/91, O.A.266/96 and others in similarly situated persons by this Hon'ble Tribunal.

RELIEF SOUGHT FOR:

A direction to the Respondents to pay licence fee @ 10% of monthly pay with effect from 1-7-87 or from the actual date of posting in

S B TIWARI

Nagaland if it is subsequent thereto as the case may be up to 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.

Direct the Respondents to pay the 10% in lieu of Rent Free Accommodation in terms of Hon'ble Tribunal's Judgment and Order in O.A.No.48/91 and O.A.No. 266/96 and other similar cases decided by this Hon'ble Tribunal.

To pay the cost of the case to the Applicants.

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

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

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

ORIGINAL APPLICATION NO. OF 2005.

BETWEEN

1. Shri Sashi Bhushan Tiwari
 P.No.6403303
 Pmt/Mazdoor.
2. Shri N.R.C.Nair
 P.No.6402891
 Pmt/Mazdoor.
3. Shri D.B.Thapa
 P.No.6402892
 Pmt/Mazdoor.
4. Shri C.T.Kuttan
 P.No.602893
 Pmt/Mazdoor.
5. Shri P.M.Bhaskaran
 P.No.6402894
 Pmt/Mazdoor.
6. Shri Kunjumaon
 6402895
 Pmt/Mazdoor.
7. Shri D.K.Singh
 P.No.6403299
 Pmt/Mazdoor.

S D TIWARI

8. Shri N.B.Gurung
P.No.6403300
Pmt/Mazdoor.
9. Shri K.N.Thankachan
P.No.6403301
Pmt/Mazdoor.
10. Shri D.P.Sharma
P.No.6403302
Pmt/Mazdoor.
11. Shri N.Peethambaran
P.No.6403304
Pmt/Mazdoor.
12. Shri D.C.Ram
P.No.6403305
Pmt/Mazdoor.

...Applicants

All the Applicants are working under the
Office of the Commanding Officer, 50
Coy, ASC (Supply), Type C C/o99 APO.

-AND-

1. The Union of India represented by the
Secretary to the Government of India,
Ministry of Defence 101 South Block,
New Delhi-1.
2. The Commanding Officer, 50 Coy, ASC
(Supply) Type-C, C/o 99 APO.

SOB TIWARI

23
Tribunal
SP

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

This Original Application is made for Non-payment of Licence Fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants by the Respondents and with a prayer before the Hon'ble Tribunal for a direction to the Respondents for payment of Licence fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants as per judgment and orders passed in O.A. No. 48/91, O.A.266/96 and others in similarly situated persons by this Hon'ble Tribunal.

2) JURISDICTION OF THE TRIBUNAL:

The Applicants declares 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. The Applicants are all Central Government Civilian Employees. They are serving under the Ministry of Defence in Nagaland since a long time. They belong to Group-D category.

4.2) 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 the circumstances they intended 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 application redressal to their common grievances.

4.3) That the Defence Civilian Employees and also all Central Government Employees posted in Nagaland required to be provided with Rent Free accommodation. Such employees are also entitled to compensation in lieu of Rent Free Accommodation.

4.4) That your Applicants beg to state that former Nagaland Hills and Tuansang area and the present State of Nagaland is considered as Specially difficult area for the purpose of Rented Accommodation. In Nagaland irrespective of station of the entire territory the whole state has been considered as a difficult area from the point of view of availability of the Rented House and therefore the Central Government employees are given Rent Free Accommodation. The housing situation in the State of Nagaland in general is not improved and therefore rented house at reasonable rates are not available till date.

4.5) That your Applicants beg to state that some employees of Geological Survey of India belonging to Group C & D posted in Nagaland filed an Application before the Hon'ble Tribunal vide O.A.No. 48/91 claiming House Rent Allowance at the rate applicable to the "B"(B1, B2) Class cities, 15% to their pay and also claimed compensation at the rate of 10% in lieu of Rent Free Accommodation. The aforesaid application was allowed by this Hon'ble Tribunal vide its Judgment & Order dated 26-11-93.

Annexure-A is the photocopy of Judgment and Order dated 26-11-1993 passed by the Hon'ble Tribunal in O.A.No.48/91.

4.6) That your Applicants beg to state that the similarly situated Defence Civilian employees including Canteen Stores Department, Dimapur, Nagaland filed an Original Application No.266/96 and other series of cases before the Hon'ble Tribunal, Guwahati Bench, Guwahati. This Hon'ble Tribunal vide its Judgment dated 10-6-97 allowed the series of Original Applications and directed the Respondents to pay the

S B TIWARI

House Rent Allowance at prescribed rate and also to pay 10% compensation in lieu of Rent Free Accommodation.

Annexure-B is the photocopy of Judgment and Order dated 10-06-97 passed by the Hon'ble Tribunal in O.A.No.266/96 and other series of cases.

4.7) That your Applicants beg to state that the similarly situated Defence Civilian Employees of Canteen Stores Department posted in Dimapur are getting the House Rent Allowance and also @10% compensation in lieu of Rent Free Accommodation. It may be stated that the function and nature of works of employees of Canteen Stores Department are almost similar and same to the Army Supply Core ASC (Supply) under where the instant Applicants are working.

4.8) That your Applicants beg to state that the Defence Civilian Employees of Canteen Stores Department, Dimapur, State of Nagaland are enjoying the benefit of 10% compensation in lieu of Rent Free Accommodation. But the instant Applicants have failed to obtain the benefit of licence fee @ 10% in lieu of Rent Free Accommodation from the Respondents. The Applicants verbally and by written requested the Respondents for payment of 10% compensation in lieu of Rent Free Accommodation. Till date the Respondents have not paid 10% compensation in lieu of Rent Free Accommodation. Hence they compelled to file this Original Application before this Hon'ble Tribunal seeking justice.

4.9) That your Applicants beg to state that since the Applicants are similarly situated persons like Canteen Stores Department posted in Dimapur, Nagaland. As such the Respondents ought to have extended the said benefit to its employees serving under the Commandant, 50 Coy, ASC (Supply) Type-C, when a decision is made by the Hon'ble Tribunal in similar cases. However, the Respondents have again forced the Applicants to approach this Hon'ble Tribunal.

4.10) That the Applicants beg to state that they have fulfilled all the terms and conditions for getting licence fee compensation @ 10% in lieu

SP Tiwari

of Rent Free Accommodation for being posted Nagaland. As such, they are entitled to get benefit.

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, the Applicants are being similarly placed with the Applicants of Original Applications No. 48/91, 266/96 and other series of cases. As such, the same benefits ought to have to extend to the present Applicants.

5.2) For that, the Applicants being a Defence Civilian Central Government Employees posted in Dimapur, Nagaland are entitled to get the Financial Benefits mentioned above.

5.3) For that, there is no justification in denying the said benefits to the Applicants as the similarly situated persons are enjoying this Benefits. Hence denial the said Benefits is violation of Articles 14, 16 & 21 of the Constitution of India.

5.4) For that, the Applicants have fulfilled all criteria for granting payment of 10% licence fee in lieu of Rent Free Accommodation and as such the Respondents are liable to pay the Applicants the above said licence free compensation.

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 Respondents have violated the principle of natural justice.

5.7) For that, in any view of the matter the action of the Respondents is illegal, arbitrary and not sustainable in the eye of law.

SB TIWARI

The Applicants craves leave of this Hon'ble Tribunal advance further grounds at the time of the 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.

8.1) a direction to the Respondents to pay licence fee @ 10% of monthly pay with effect from 1-7-87 or from the actual date of posting in Nagaland if it is subsequent thereto as the case may be up to 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.

S B Tiwari

- 8.2) direct the Respondents to pay the 10% in lieu of Rent Free Accommodation in terms of Hon'ble Tribunal's Judgment and Order in O.A.No.48/91 and O.A.No. 266/96 and other similar cases decided by this Hon'ble Tribunal.
- 8.3) to pay the cost of the case to the Applicants.
- 8.4) 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. : 209 J17908
Date of Issue : 27.1.2005.
Issued from : Guwahati G.P.O.
Payable at : Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification

S B TIWARI

-VERIFICATION-

I, Shri Sashi Bhushan Tiwari, P.No.6403303, Pmt/Mazdoor 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 sign this verification. That the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.4, 4.7, 4.8, 4.9, 4.10 are true to my knowledge, those made in Paragraphs Nos. 4.5, 4.6 _____ 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 28th day of January 2005 at Guwahati.

S B TIWARI

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ANNEXURE 3 A

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

Original Application No. 48 of 1991

Date of order : This the 26th day of November 1993.

Shri S. Haque, Vice-Chairman

Shri S.L. Sanglyine, Member (Administrative)

Shri M. Lepdon Ao and Fortysix(46) others,
Group 'C' & 'D' employees posted in the
Office of the Director,
Geological Survey of India,
Operation Manipur-Nagaland, Dimapur,
District Kohima, Nagaland

.... Applicants

By Advocate Shri M.N. Trikha

- Versus -

1. Union of India, through the Secretary
to the Government of India,
Ministry of Steel and Mines,
Department of Mines, New Delhi
2. The Director General, Geological Survey
of India, 27, Jawaharlal Nehru Road,
Calcutta: 700 013
3. The Deputy Director General, Geological
Survey of India, North East Region,
Asha Kutir, Laitumkhrah, Shillong-793 003
4. The Director, Geological Survey of India,
Operation Manipur-Nagaland, Dimapur. Respondents

By Advocate Shri S. Ali, Sr. C.S.S.C. and
Shri A.K. Choudhury, Addl. C.S.S.C.

.....

Attended
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for

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- 13 -

ORDER

H.A. No. 42(G)/89

The applicants numbering 47 (fortyseven) are Group 'C' and 'D' employees under the Director, Geological Survey of India, Operation Manipur-Nagaland, at Dimapur, Nagaland. This application by them under Section 19 of the Administrative Tribunal Act 1985 claimin, House Rent Allowance (HRA) at the rate applicable to 'B' class cities, i.e. at the rate of 15% of their pay and also claim compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

2. It is an admitted fact that the employees of the respondent Directorate are entitled to rent free accommodation in Nagaland, but they were not given free government accommodation.

3. Learned counsel Mr N.N. Trikha for the applicants submits that it was established vide judgment dated 31.10.1990 in A.H.No.42(G)/89 of this Bench and duly confirmed by the Supreme Court vide order dated 18.2.1993 in Civil Appeal No.2705/91 that Nagaland in general is 'B' class city and the Central Government employees there are entitled for benefits of 'B' class cities granted by various circulars and office memoranda. Mr Trikha read out the relevant Office Memoranda. These submissions are not disputed by learned Sr. C.G.S.C. Mr S. Ali. We have perused the judgments and orders referred to by Mr Trikha. Nagaland had been recognised

A. H. No. 42(G)/89
Sd/-
A. H. No. 42(G)/89

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as 'B' class cities in general vide our judgment and order dated 31.10.1990 in J.A.No.42(G)/89 read with the Supreme Court order dated 18.2.1993 in Civil Appeal No.2705 of 1991. This being the established position, we hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wisely with effect from 1.10.1986 pursuant to Office Memorandum No.11013/2/86-E-11(B) dated New Delhi the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure A/7).

4. After the fixation of the HRA on flat rate basis groupwisely the Government of India further granted compensation to Group A, B, C and D employees in lieu of rent free accommodation with effect from 1.7.1987 vide Government of India, Ministry of Finance, Department of Expenditure O.M. No.11015/4/86-E.11(B)/87 dated 13.11.1987 which reads as follows:-

" The undersigned is directed to refer to para 1 of this Ministry's Office Memorandum of even number, dated 19.2.1987, regarding Central Government employees belonging to Groups 'B', 'C' and 'D' and also para 1 of O.M. of even number, dated 22.5.1987, regarding Central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under Central Government all over the country vide Ministry of Urban Development (Directorate of Estates)'s O.M.No.12035/(1)/85-Pol.II(Vol.III) (i), dated 7.8.1987, the President is pleased to decide that Central Government employees belonging to groups 'A', 'B', 'C' and 'D' working in various classified cities and unclassified places will be entitled to compensation in lieu of Rent-free Accommodation as under -

- (i) Amount charged as licence fee for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates)'s above mentioned O.M. dated 7.8.1987; and

Attended
[Signature]
[Signature]

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(ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No.11013/2/86-E.II(B), dated 23.9.1986, for Central Government employees belonging to Groups 'B', 'C' and 'D' and para 1 of O.M.No.11013/2/86-E.II(B), dated 19.3.1987, for Central Government employees belonging to Group 'A'

2. Other terms and conditions for admissibility of compensation in lieu of rent-free accommodation indicated in this Ministry's Office Memorandum, dated 19.2.1987 and 22.5.1987, remain the same.
3. These orders shall take effect from 1.7.1987.

The compensation is fixed at 10% of the monthly emoluments calculated with reference to pay vide NOTE under para 2 of the Government of India, Ministry of Finance Office Memorandum No.11015/4/86-E.II(B)/87 dated 25.5.1987. These Office Memoranda had been circulated by Geological Survey of India, Calcutta vide order No.14017(1)/83-3(HRA) dated 26.9.1988 for necessary action by all branches. Therefore, we hold that the applicants are entitled to compensation at the rate of 10% of pay in lieu of rent free accommodation with effect from 1.7.1987 in terms of O.M.No.11015/4/86-E.II(B) dated 13.11.1987 in addition of the HRA.

5. The applicants were not entitled to 10% compensation in lieu of rent free accommodation for the month of November 1979 and they are liable to refund that amount.

6. In the result, this application is allowed.

The respondents are directed to pay HRA to the applicants at the rate of 15% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of

No.11013/2/86-E.II(B) dated 23.9.1986. The respondents are further directed to pay compensation at 10% of the monthly.....

Attended
Sd/-
Advocate

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monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987 besides HRA. The respondents shall realise 10% of pay of the applicants paid in excess with salary for the month of November 1979.

7. The respondents shall implement the above directions and pay all arrears within three months (90 days) from the date of receipt of copy of the order.

8. Intimate all concerned immediately.

Sd/- S. Haque
VICE CHAIRMAN

Sd/- G.L. Sanglyina
MEMBER (ADMIN)

nkmm

Attended
Advocate

17
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-B

Original Application No.266/96 and series

Date of decision: This the 10th day of June 1997
(AT KOHIMA)

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

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6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 others
By Advocate Mr S. Sarma and Mr B. Mehta.

.....Applicants

-versus-

Union of India and others ,
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....Respondents

7. Original Application No.87 of 1996

Shri C.T. Balachandran and 32 others
By Advocate Mr S. Sarma and Mr B. Mehta

.....Applicants

-versus-

Union of India and others
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....Respondents

8. Original Application No.45 of 1997

Shri L. Shashidharan Nair and 9 others
By Advocate Mr S. Sarma and Mr B. Mehta

.....Applicants

-versus-

Union of India and others
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....Respondents

9. Original Application No.197 of 1996

Shri P.C. George and 66 others
By Advocate Mr S. Sarma

.....Applicants

-versus-

Union of India and others
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....Respondents

10. Original Application No.28 of 1996

Shri Hirallal Dey and 8 others
By Advocate Mr A.C. Sarma and Mr H. Talukdar

.....Applicants

-versus-

Union of India and others
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....Respondents

B

Admitted
By
Advocate

11. Original Application No.190 of 1996

1. National Federation of Information and Broadcasting Employees, Doordarshan Kendra, Nagaland Unit, represented by Unit Secretary - A. Beso.
 2. Mr A. Beso, working as Senior Engineering Asstt. (Group C), D.D.K., Kohima.
-Applicants
- By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

12. Original Application No.191 of 1996

- Shri Kedolo Tep and 16 othersApplicants
- By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

13. Original Application No.55 of 1997

1. Shri Ranjan Kumar Deb, Secretary, All India R.M.S. & Mail Motor Service Employees Union and 32 others.
 2. Shri Prasenjit Deb, S.A., Railway Mail Service, Dimapur Railway Station, Dimapur, Nagaland.
-Applicants
- By Advocate Mr N.N. Trikha

-versus-

Union of India and othersRespondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

14. Original Application No.192 of 1996

1. National Federation of Information and Broadcasting Employees, All India Radio, Nagaland Unit, represented by Unit Secretary - Mr K. Tep.
 2. Mr Kekolo Tep, Transmission Executive, All India Radio, Kohima, Nagaland.
-Applicants
- By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

AB

Att. to
S. Ali
Advocate

15, Original Application No.26 of 1997

Shri Jagdamba Mall,
General Secretary, Civil Audit & Accounts
Association, and 308 other employees of
the Office of the Accountant General,
Kohima, Nagaland.

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....

ORDER

Date of decision: 10-6-1997

Judgment delivered in open court at Kohima (circuit
sitting). All the applications are disposed of. No order as to
costs.

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

Attended
Sd/-
Advocate

21 -
12 -
ORDER 521 -

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the applications by this common order.

2. Facts for the purpose of disposal of the applications are:

The applicants are employees of the Government of India working in various departments including Defence Department. O.A.Nos.266/96, 268/96, 279/96, 18/97 and 14/97 are Defence Civilian employees under the Ministry of Defence, O.A.Nos.91/96, 87/96, 45/97, 197/96 and 28/96 are employees in the Subsidiary Intelligence Bureau Department under the Ministry of Home Affairs, in O.A.No.190/96 the members of the applicant Association are employees under Doordarshan, Ministry of Information and Broadcasting, and at present posted at Kohima, in O.A.No.191/96 the applicants are employees of the Department of Census, Ministry of Home Affairs, in O.A.No.55/97 the applicants are employees under Railway Mail Service under the Ministry of Communication, in O.A.No.192/96 the members of the applicant Union are employees of All India Radio, and in O.A.No.26/97 the applicant is an employee under the Comptroller and Auditor General.

3. All the applicants are now posted in various parts of the State of Nagaland. They are, except the applicant in O.A.No.55/97, are claiming House Rent Allowance (HRA for short) at the rate applicable to the employees of 'B' class cities of the country on the basis of the Office Memorandum No.11013/2/86-E.II(B) dated 23.9.1986 issued by the Joint Secretary to the Government of India, Ministry of Finance (Deptt. of Expenditure), New Delhi, on the ground that they have been posted in Nagaland.

A. H. J.
J. J. J.
J. J. J.

The President of India issued an order dated 8.1.1962 to the effect that the employees of P&T Department in the Naga Hills and Tuensang Area who were not provided with rent free quarters would draw HRA at the rate applicable to the employees of 'B' class cities of the country on the basis of O.M.No.2(22)-E.II(B)60 dated 2.8.1960. However, the authorities denied the same to the employees ignoring the circular of 1986. Situated thus, being aggrieved some of the employees approached this Tribunal and the Tribunal gave direction to the authorities to pay HRA to those applicants with effect from 18.5.1986. Being dissatisfied with the aforesaid order passed by this Tribunal in O.A.No.42(G) of 1989, S.K. Ghosh and others -vs- Union of India and others the respondents filed SLP and in due course the Supreme Court dismissed the said SLP (Civil Appeal No.2705 of 1991) affirming the order of this Tribunal passed in O.A.No.42(G) of 1989 with some modification. We quote the concluding portion of the judgment of the Apex Court passed in the above appeal:

"We see no infirmity in the judgment of the Tribunal under appeal. No error with the reasoning and the conclusion 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, 1986. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendation of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal, therefore, disposed of. No costs."

From the judgment of the Apex Court quoted above, it is now well established that the employees posted in Nagaland would be entitled to get HRA as indicated in the aforesaid judgment.

4. The said judgment relates to the employees of the Telecommunication and Postal Department. Later on, the civilian employees of the Defence Department as well as employees of the other departments of the Central Government who were not paid HRA, therefore, being aggrieved by the action of the respondents.....

[Handwritten signature]

[Handwritten signature]
Amen
S. S.

respondents in refusing to give the benefit of the HRA in terms of the judgment of the Apex Court quoted above, some employees approached this Tribunal by filing several original applications. All the applications were disposed of by this Tribunal by a common order dated 22.8.1995. In the said order, this Tribunal allowed the original applications and directed the respondents to pay HRA to those applicants. The Tribunal, in the aforesaid order, among others observed as follows:

"1.(a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, 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 onwards and continue to pay the same."

Thereafter the civilian employees of Defence Department also claimed HRA on the basis of the said judgment of the Apex Court and circular dated 23.9.1986 by moving various applications, namely, O.A.No.124/95 and O.A.No.125/95. This Tribunal by yet another common order dated 24.8.1995 passed in O.A.Nos.124/95 and 125/95 allowed the applications directing the respondents to pay HRA to the Defence civilian employees posted in Nagaland in the same manner as ordered on 22.8.1995 above. These orders were, however, challenged by the respondents before the Apex Court and the said appeals alongwith some other appeals were disposed of by the Apex Court in C.A.No.1592 of 1997 dealing with Special (Duty) Allowance and other allowances. However, the Apex Court did not make any reference to HRA in the order dated 17.2.1997. Therefore, it is now settled that the employees posted in Nagaland are entitled to HRA.

5. In view of the above and in the line of the Apex Court judgment and this Tribunal's order dated 22.8.1995 passed in O.A.Nos.48/91 and others we hold that all the applicants in the above original applications are entitled to HRA at the rate applicable.....

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8. We have gone through the order dated 22.8.1995 passed in O.A.No.48/91 and others. In the said order this Tribunal, among others, passed the following order:



The aforesaid judgment covers the present cases also. Accordingly, we hold that the applicants are entitled to get the compensation in lieu of rent free accommodation in the manner indicated

Advent

in the said order.

9. Accordingly we direct the respondents to pay to the applicants 10% compensation in lieu of rent free accommodation as above. This must be done as early as possible, at any rate, within a period of three months from the date of receipt of this order.

10. All the applications are accordingly disposed of. However, considering the entire facts and circumstances of the case we make no order as to costs.

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

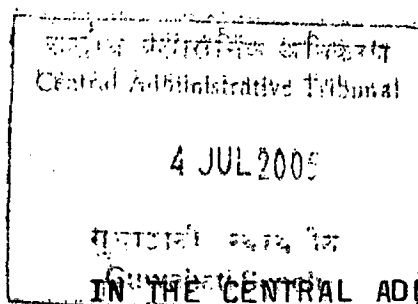
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11/7/97

Deputy Registrar (OP)
Central Administrative Tribunal
Guwahati Bench

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SL NO	PERSONAL NUMBER	CATEGORY (RANK)	NAME	FATHERS NAME	SIGNATURE
01	6403308	PM/Madho	SR. SUNDAR	SR. SUNDAR	R. SUNDAR
02	6402891	-do-	N.R.C. NAIR	Late. R.N. PILLAI	<i>[Signature]</i>
03	6402892	-do-	D.B. THAPPA	Late:- DIL BAHUR THAPA	D.B. Thappa
04	6402893	-do.	C.T. KUTTAN	Late:- TIRUVAN	<i>[Signature]</i>
05	6402894	-do-	P.M. BHASKARAN	Late MAMLAN	P.M. Bhaskar
06	6402895	-do-	KUNJUMOAN	Late THOMAS	<i>[Signature]</i>
07	6403299	-do-	D.K. SINGH	Late BASUDEV SINGH	<i>[Signature]</i>
08	6403300	-do-	N.B. GURUNG	Late JOT BHADUR GURUNG	<i>[Signature]</i> No: 6403300 N. Gurung
09	6403301	-do-	K.N. THANKACHAN	Late NARAYANAN	<i>[Signature]</i>
10	6403302	-do-	D.P. SHARMA	Late KHEMANAND UPADHYA	<i>[Signature]</i>
11	6403304	-do-	N. PRETHAMBARAN	Late:- NARAYANAN	No: 6403304 N. Prethamba
12	6403305	-do-	D.C. RAM	Late:- JAGDISH RAM	<i>[Signature]</i>



GUWAHATI BENCH::GUWAHATI

In the matter of :-

O.A. No.26 of 2005

Shri S. B. Tiwari & Others

...Applicant

-Versus-

Union of India & Ors.

.. Respondent

WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENT NOS.1 & 2.

I, Lt. Col. Harprit Singh, Officiating Commanding Officer, 50 Coy ASC (Sup) Type 'C', C/O 99 APO, do hereby solemnly affirm and say as follows :-

1. That I am the Officiating Commanding Officer, 50 Coy ASC (Sup) Type 'C', C/O 99 APO, 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 this written statement the other contentions and statement may be deemed to have been denied. I am authorised to file the written statement on behalf of all the respondents.
2. (i) That the respondents beg to state 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 allowances. In addition rent free accommodation is available in the unit and 06 number of civilian employees are availing of this facility. This unit has never denied any of its civilian employees the provision of rent free Govt. accommodation within unit premises. However, it is highlighted that it is a matter of

convenience that 06 no of civilian employees have preferred to stay with family under their own arrangement by construction of thatched/temporary accommodation on the defence land closely hugging the parameter fencing of this unit.

(ii) That the respondents beg to state that as per the facts ascertainable on ground, 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.

(iif) That the respondents beg to state that this is an Army unit located in the heart of civil populated area in Dimapur city. As already stated above in abundance of rent free Govt. accommodation is available with the unit. Drawing of parallels with employees of Geological Survey of India is out of context and misleading. The officer man relationship in Armed forces including extent of welfare activities including providing of rent free Govt. accommodation is no way comparable to the employees of other Govt. institution/organisation. The facts as stated in respect of the applicant may therefore be viewed independently of all the other quoted instances as spelt out 4.5 to 4.8 In addition it is spelt out that the contention of the applicants being similarly situated is totally false and misleading since there is an availability of rent free govt. accommodation including cooking facilities and other amenities which are provided by this unit and which may not either exist or even if they exist have not been provided by other similarly situated unit/institutions as quoted by the petitioners.

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(iv) That the respondents beg to state that the question of denial of justice does not arise since none of the applicants have ever been deprived of the opportunity to stay in rent free govt. accommodation in the unit and avail the facility of free ration being cooked in unit run cook house including all other amenities. The list of amenities provided to all civilian employees of this unit in addition to rent free accommodation are as listed out below :-

(a) CSD facility

(b) Medical facility

(c) Visit to various regimental institutions of common interest and uses like mandir, ration stand, recreation room, Barber Shop, Washerman shop, STD facilities and above all their personnel safety and security as they are staying in an Army unit duly guarded at all times.

(v) That the respondents beg to state that further 06 No. of applicant belonging to various trades are staying at present in thatched/semi permanent accommodation constructed by them under their own arrangement on portion of Defence land adjoining the parameter fencing of this unit and allegedly also rent free since it has been constructed by the applicants themselves under their own arrangement, details of persons is att. at Appx 'B'.

(vi) That the respondents beg to state that further the applicants are requested to produce proof that they are staying in rented accommodation duly quoting the following details :-

a) House No. and locality

b) Name of owner of the house

c) Postal address of the rented house

d) Cash receipt of rent paid since 1987 onwards as applicable.

(3)

(vii) That the respondents beg to state that the action on the part of the applicants in filing OA 26/2005 in CAT Guwahati appeared to be an incorrect action since the applicants have not even once approached the administrative staff of 50 Coy ASC (Sup) Type 'C' regarding the admissibility of licence fee @10% in lieu of rent free accommodation.

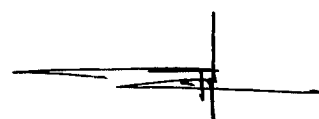
3. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, Lt. Col. Harprit Singh, Officiating Commanding Officer, 50 Coy ASC (Sup) Type 'C'; C/O 99 APO being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraph / of the application are true to my knowledge and belief, those made in paragraphs 2(i)-2(vii) 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 24th day of June 05

DEPONENT



श्री० कर्नल/Lt Col

कमान अविकारी

Commanding Officer

श्री० कम्पनी ए एस सी (सुप्री) प्रकार जी

50 Coy ASC (Sup) Type 'C'

APPLICANTS STAYING IN BLOG NO T-89

S1.No.	Rank	Name
1.	Pt Mazdoor	N R C NAIR
2.	-do-	D B THAPA
3.	-do-	C T KUTTAN
4.	-do-	KUNJUMOAN
5.	-do-	N PEETHAMBARAN
6.	-do-	D C RAM

APPX 'B'

NOMINAL ROLL OF CIVS EMPLOYEES (APPLICANTS)WHO MADE SEMI PERMT ACCOMMODATIONS WITH THERE OWN ARRANGEMENT IN GOVT LAND

S1.No.	Rank	Name
1.	Pt Mazdoor	S B TIWARI
2.	-do-	P M BHASKARAN
3.	-do-	D K SINGH
4.	-do-	N B GURUNG
5.	-do-	K N THANKACHAN
6.	-do-	D P SHARMA

Attended
M. Chundhri
Addl. Central Govt. Standing Council
G. F. T.
GURUGRAM