

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 271/2005

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

ORDER SHEET

Original Application No. 271/2005

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Sri L. L. Hmar

Respondents U.O.I. 2005

Advocates for the Applicant MR. N. K. Das

Advocates of the Respondents C.G.S.C.

Notes of the Registry Date

Order of the Tribunal

8.11.05.

Judgment delivered in open Court.
Kept in separate sheets. Application
is disposed of. No costs.

27/11/05
Vice-Chairman

This application is in form
is filed/C. F. for Rs. 50/-
deposited vide I.P.C./BD
No. 26G 318759
Dated 31.10.05

*Normal
1/ed. Regd 27/11/05*

1m

NO steps.

10.11.05

Copy of the Judgment
has been sent to the
Sect. for saving
the same to the applicant
as well as to the Addl.
C.G.S.C. for the Respn.

SS

V. 11/11/05

Adv. C.G.S.C.

CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH.

O.A. No. 271 of 2005

DATE OF DECISION: 08.11.2005.

Shri Lalsiemlein Hmar & Ors.

APPLICANT(S)

Mr.N.K.Das

**ADVOCATE FOR THE
APPLICANT(S)**

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr M.U.Ahmed, Addl.C.G.S.C.

**ADVOCATE FOR THE
RESPONDENT(S)**

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

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

Judgment delivered by Hon'ble Vice-Chairman

G. Sivarajan

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.271 of 2005.

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

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

1. Shri Lalsiemlein Hmar SFA(H).
2. Shri Jatin Barthakur, UDC
3. Shri Pabitra Kumar Sarkar, SFA(H).Applicants

(All are employees of Area Organiser, SSB, Bomdila, Dirang, Arunachal Pradesh.

By Advocate Mr.N.K.Das.

-Versus-

1. Union of India represented by the Secretary, Ministry of Home Affairs, New Delhi.
2. Director General of Security, SSB, East Block VRK Puram, New Delhi 110066.
3. Inspector General of Frontier Head Quarter, SSB, Zoo Road, Uday Path, Guwahati-24.
4. Area Organiser, SSB, Bomdila, Sirang, Arunachal Pradesh, Respondents.

By Advocate Mr.M.U.Ahmed, Addl.CGSC.

ORDER(ORAL)

SIVARAJAN,J.(V.C.):

Applicants, three in number, are employees of Area Organiser, SSB, Bomdila, Dirang, Arunachal Pradesh. They are aggrieved by the discontinuance of ration money allowance beyond 31.10.03 and the steps taken for recovery of excess payment made for the period beyond 31.10.03. The group of employees in the office of the Area Organiser, SSB, Bomdila had approached this Tribunal against said order by filing O.A.No.15 of 2005 and the said O.A. was disposed of by order dated 4.7.05 (Annexure-2). The Tribunal had upheld the discontinuance of the ration money allowance beyond 31.10.03.

Spw

However, the recovery of the excess payment made beyond 31.10.03 was restrained. The said decision was followed by the Division Bench of this Tribunal in O.A.No.192 of 2005.

2. Since the issue involved in this case is identical, I am of the view that this application can be disposed of at the admission stage itself. In the circumstances, while upholding the order dated 01.2.05 (Annexure -1) in regard to discontinuance/stoppance of the ration money to the applicants, I restrain the respondents from recovering any amount from the applicants towards excess payments of ration money paid. However, if any amount is recovered from the applicants prior to this order, the same need not be refunded to them.

The Original Application is disposed of as above at the admission stage itself. In the circumstances, there will be no order as to costs.



(G.SIVARAJAN)
VICE-CHAIRMAN

LM

31 OCT 2005

गुवाहाटी बैचनी
Guwahati Bench

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Advocate
31/10/2005

O.A. No. 271 /2005.

Shri Lalsiem Lein Hmar Applicant.

- Vs -

The Union of India and others ... Respondents.

Synopsis of the Application

<u>Sl. No.</u>	<u>Particulars</u>	<u>Para</u>	<u>Page</u>
1.	The applicants were entitled to Ration Money Since 8-11-94 the same stopped from 31-10-03 without prior notice.	4 II	2
2.	This Hon'ble Tribunal directed the Respondent not to make recovery of ration money already paid to them beyond 31-10-2003 in case No.OA 15/2005 and OA 205/05.	¶ 4(iii)	4
3.	The Respondent No.4 started recovery of Ration Money Allowance paid beyond 31-10-2003.	5(i)	4
4.	The Applicant came to know the order of stoppage of Ration Money Allowance on 1-2-05.	5(ii)	4

31/10
Advocate.

1578
प्राप्ति दिनांक
१०.१०.२००५

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
(GUWAHATI BENCH)

Advocate
File No. 10
31/10/2005

O.A. No. 2005.

1. Shri Lalsiemlein Hmar

SFA(H).

2. Shri Jatin Barthakur

UDC.

3. Shri Pabitra Kumar Sarkar

SFA (H).

All are employees of

Area Organiser, SSB,

Bomdila, Dirang, Arunachal Pradesh.

.... Applicant.

- Versus -

1. Union of India represented by

the Secretary, Ministry of Home

Affairs, New Delhi.

2. Director General of Security,

SSB, East Block VRK Puram, New Delhi.

110066.

3. Inspector General of Frontier

Head Quarter SSB, Zoo Road,

Uday Path, Guwahati-24.

4. Area Organiser, SSB, Bomdila,

Sirang, Arunachal Pradesh.

.... Respondent.

Details of Applications:

1. Particulars of the Order/Memorandum against which Application is made.

Memorandum No. 960.67 dated 1-2-05 issued under the signature of staff officer, (ADMN) office of the Inspector General Frontier Headquarters, SSB Zoo Road, Guwahati.

Jurisdiction of the Tribunal :

2. The Applicants declare that the subject matter of the order against which they want redressal is within the Jurisdiction of the Tribunal, Guwahati Bench.

Limitation :

3. The applicants declare that the application is within the Limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

Facts of the Case :

4.(i) That the applicants are the employees of the SSB and at present working in the office of the Area Organiser, SSB, Bomdila, Arunachal Pradesh in various posts.

4.(ii) That the applicants were entitled to ration money allowance since 8-11-94 having All India Transfer liabilities and they had been enjoying the said allowance till March/2005 but the Respondent No.3 vide his memorandum

No.960.67 dated 1-2-05 had stopped Ration Money Allowance beyond ~~21x10x2003~~ 31-10-2003, and ordered recovery of excess payment said allowance paid beyond 31-10-2003 without any prior notice which was made is not on account of misrepresentation on the part of the applicants.

Xerox copy of the said Memorandum is annexed herewith as Annexure- I.

4.(iii) That this Hon'ble Tribunal was pleased to pass as order vide case No.)A 15/2005 dated 4-7-2005 in case of some staff of office of the Area Organiser SSB Bomdila under the control of Respondent No.1, 2 and 3 restraining the Respondents from recovering any amount from the applicants towards excess payments of ration money paid.

Xerox copies of said orders are annexed as Annexure- II.

4.(iv) That an receipt of above impugned memorandum the Respondent No.4 has started recovery by instalment every month till the month of September, 2005 from each of the applicants.

4.(v) That under the facts and circumstances stated above the Applicants are to make this application before this Hon'ble Tribunal.

Grounds for relief with legal provisions:

5.(i) For that the applicants are not given any notice that the Ration Money Allowance was stopped beyond 31-10-2003.

5.(ii) For that the applicants came to know that stoppage of Ration Money Allowance on the issue of above impugned Memorandum and there would have not been deduction in their pay bill had the Respondent No.4 not paid ration money Allowance beyond 31-10-2003.

5.(iii) For that the excess payment made is not on account of any misrepresentation on the part of the applicants.

5.(iv) For that the applicants are low paid employees and there will be much financial hardship if deduction from their pay bills is made.

5.(v) For that this Hon'ble Tribunal has already passed an order dated 4-7-2005 in OA 15/2005 restraining the Respondents from recovery the Ration Money Allowance already paid to 40 staff ~~by~~ of Respondent No.4 but the present Applicants could not be made party to the said case as they ~~were~~ were outside the office place of office due to field duty.

5.(vi) For that in view of the matter, this is a fit case to issue a direction not to recover the Ration Money Allowance already paid to the applicants.

6. That the matter being urgent one the applicants have not sought for any remedy in the department or in any court.

Matters not previously filed or pending with :

7. The applicants declare that they had not previously filed any application or petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or other Bench of the Tribunal nor any such application and petition or suit is pending before any of them.

Relief sought for :

8. To direct the Respondents not to recover the amount as excess payment of Ration Money Allowance already paid from the monthly salary bills from October, 2005.

9. To issue an interim order staying the operation of the impugned memorandum pending final disposal of this application.

10. The applicants are being filed through their counsel and hence no notice to the applicants is required to be sent.

11. Particulars of IFO No. 26G 318759
dated 31-10-2005 of Rs.50.00

List of encloser :

12. (i) Memorandum No. 960.67 dated 1-2-05 Annexure- I.
12. (ii) Order dated 4-7-2005 passed in Case No. OA 15/2005
Annexure- II.

VERIFICATION

I, Shri Lalsiem Lein Hmar, one of the
applicants do hereby solemnly affirm and declare
that the statements made at paras 1 to 7 of the
above application are true to the best of my
knowledge and belief and rests are believed to be
true on legal advice and that I have not suppressed
any matters and facts Verified at Guwahati on this
2nd day of November, 2005.

Lalsiem Lein Hmar
Signature.

Annexure I

IMMEDIATE/ACTIONABLE

No. 766/67
Government of India,
Ministry of Home Affairs,
Office of the Inspector General,
Frontier Headquarter, SSB
Zoo Road, Uday Path,
Guwahati - 24

Dated, the 11th Jan 2005

MEMORANDUM

SUBJECT : MONTHLY EXPENDITURE STATEMENT FOR THE MONTH OF DECEMBER'2004

Please refer to your Memo No.XI/3/Vol-III/03/17-18 dated 03/01/2005 on the subject cited above.

2. On scrutiny of the Monthly Expenditure Statement, it has been observed that ration money is being paid to the civilian employees till date against the orders issued vide our signal No.U/1902 dated 02/12/2004.

3. In our signal ibid it has been clearly mentioned that all concessions including Ration Money be stopped forthwith and over payment made towards Ration Money beyond 31/10/2003 be recovered immediately as desired by the Force Hqr., New Delhi.

4. It is also not understood as to how ration money is being booked under Code Head-23 "Cost of Ration" when no fund allotted to the particular head. Position may please be clarified.

5. Area Organiser, Bongaigaon is again requested to stop making payment of Ration Money to the Civilian Staff from January'2005 onwards and a statement showing the Ration Money paid to the staff and mode of recovery may please be made available to this office within 31/01/2005. In this connection, our Memo No. 5636 13 dt 10.12.04 may please be referred to.

6. He is also requested to review the funds position so allotted to him time to time and surrender funds, if any may be made immediately. While reviewing the funds position, 10% cut and only 33% of total allotment could be spent in between January'2005 and March'2005 may please be kept in mind.

STAFF OFFICER(ADMN).
FTR.HQR.,SSB, GUWAHATI

Certified to be true copy
Area Organiser
31/10
The Area Organiser,
SSB, Bongaigaon.

Copy to:-

1. The Dy. Inspector General, SHQ, SSB, Bongaigaon. For similar action
2. The Area Organiser, SSB, Falakata/Rahgia/Bhairabkunda/ please.
Kokrajhar/Bomdila.

STAFF OFFICER(ADMN)
FTR HQR.,SSB, GUWAHATI

Copy to:-

P.S. to IG. - for favour of kind perusal :
IG. BL

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 15 of 2005.

Date of Order: This, the 4th Day of July, 2005.

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

1. Shri Bol Bahadur Sonar, Peon
S/o Sh. Til Bahadur Sonar
O/o the Area Organiser
SSB, Bomdila (Arunachal Pradesh).
2. Shri Pradip Gogoi, Chow
S/o Sh. Atul Gogoi
O/o the Area Organiser
SSB, Bomdila (A.P.).
3. Shri Ram Bahadur Sonar, Chow
S/o. Lt. Mon Bahadur Sonar
O/o the Area Organiser
SSB, Bomdila (A.P.).
4. Shri Khandu, Peon
S/o Lt. Dorjee
O/o the Area Organiser
SSB, Bomdila (A.P.).
5. Shri Gombu Miji, Peon
Lt. Sacho Miji
O/o the Area Organiser
SSB, Bomdila (A.P.).
6. Shri Rajen Saikia, Peon
S/o Sh. Tarun Saikia
O/o C.O. Balemu under
A.O. SSB, Bomdila (A.P.).
7. Shri Himandoz Chetry, Peon
S/o Sh Sher Bdr. Chetry
C/o A.O. SSB, Bomdila, (A.P.).
8. Shri Koj Tajo, Peon
S/o Sh Koj Lampong
O/o C.O. Lumla under
A.O. SSB, Bomdila, (A.P.).
9. Shri Ajit Bdr. Rai, Peon
S/o Lt. Dhan Bir Rai
O/o SAO Kalaktang under
A.O. SSB, Bomdila, (A.P.).
10. Shri Khandu Sinjoni, Peon
S/o Lt. Prem Norbu Sinjoni
O/o SAO Kalaktang under
A.O. SSB, Bomdila, (A.P.).





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11. Shri Akan Mazumdar, Peon
S/o Hada Ram Mazumdar
O/o SAO Jang under
A.O. SSB, Bomdila, (A.P.).
12. Shri Chigia Tsering G.L.
S/o Lt. Tsering Wangdi
O/o C.O. Lumla under
A.O. SSB, Bomdila, (A.P.).
13. Shri T. Wangham, C.L.
S/o Tongam
O/o C.O. Kalaktang under
A.O. SSB, Bomdila, (A.P.).
14. Shri Taku Kamser, C.L.
S/o Lt. Tasar Kamser
O/o C.O. Balemu under
A.O. SSB, Bomdila, (A.P.).
15. Shri R.S.Sharma, Driver
S/o Lt. Mahabir Sharma
O/o A.O. SSB, Bomdila, (A.P.).
16. Shri Gopi Singh, Driver
S/o Naba Chandra Singh
O/o A.O. SSB, Bomdila, (A.P.).
17. Shri V.K.Chadha, Asstt.
S/o Lt. Sohan Lal Chadha
O/o A.O. SSB, Bomdila, (A.P.).
18. Shri H.G.Goswami, UDC
S/o Lt. Kishan Goswami
O/o A.O. SSB, Bomdila, (A.P.).
19. Shri T.K.Das, UDC
S/o Lt. T.M.Das
O/o SAO Kalaktang under
A.O. SSB, Bomdila, (A.P.).
20. Shri V. Negi, LDC
S/o Sh Nandan Singh
O/o A.O. SSB, Bomdila, (A.P.).
21. Shri L.C.Paul, Steno
S/o Lt. Dhiren Chandra Paul
O/o A.O. SSB, Bomdila, (A.P.).
22. Shri M.M.Joshi, DFO(M)
S/o Lt. Sh. Pitamber Joshi
O/o A.O. SSB, Bomdila, (A.P.).
23. Shri A.R.Sarkar, AFO (M)
S/o Surendra Chandra Sarkar

O/o SAO Jang under
A.O. SSB, Bomdila, (A.P.).

24. Shri G.S.Basak, AFO (M)
S/o Lt. Radhikalal Basak
O/o SAO Kalaktang under
A.O. SSB, Bomdila, (A.P.).
25. Shri B.K.Dewan, SFA (M)
S/o Sh Nirmal Ch. Dewan
O/o Morshing under
A.O. SSB, Bomdila, (A.P.).
26. Shri Sumit Poddar, SFA (M)
S/o Lt. Sachindra Nath Poddar
O/o C.O. Jang under
A.O. SSB, Bomdila, (A.P.).
27. Shri B.K.Baidya, SFA (M)
S/o Sh Shanti Ranjan Baidya
O/o C.O. Balemu under
A.O. SSB, Bomdila, (A.P.).
28. Shri Subrata Biswas, SFA (M)
S/o Sh Subash Ch Biswas
O/o C.O. Mukto under
A.O. SSB, Bomdila, (A.P.).
29. Shri Subodh Sinha, SFA (M)
S/o Lt. Sudhansu Sinha
O/o C.O. Jang, under
A.O. SSB, Bomdila, (A.P.).
30. Shri B. K. Roy, SFA (M)
O/o C.O. Mukto under
A.O. SSB, Bomdila, (A.P.).
31. Shri A. K. Seal, AFO (T)
S/o Lt. Sudarsan Seal
A.O. SSB, Bomdila, (A.P.).
32. Shri Norbu Tsering FA (T)
S/o Lt. Randhu Marphu
O/o A.O. SSB, Bomdila, (A.P.).
33. Shri Pravin Chhetri, SFA (V)
S/o Sh Suromodhen Cheetri
O/o C.O. Morshing under
A.O. SSB, Bomdila, (A.P.).
34. Shri A.K.Sherpa, SFA (V)
S/o Lt. P.D. Lama
O/o C.O. Jang under
A.O. Bomdila, (A.P.).
35. Shri P.K.Borah, SFA (V)



S/o Lt. Ratneswar Borah
O/o SAO Jang under
A.O. Bomdila, (A.P.).

36. Shri Mast Ram Thakur, SFA (V)
S/o Sh Hira Ram
O/o SAO Jang under
A.O. Bomdila, (A.P.).
37. Shri M.C. Barman, SFA (V)
S/o Sh Sadhu Ram Barman
O/o C.O. Kalaktang under
A.O. Bomdila, (A.P.).
38. Shri M.R. Biswas, DFO (T)
S/o Lt. S. M. Biswas
O/o A.O. SSB, Bomdila, (A.P.).
39. Shri J. Wangchuk, AFO (T)
S/o Lt. Yeshi
O/o SAO, SSB
Tawang.
40. Sh. K. Tonsingh, SFA (M)
S/o Sh Suanzasut
O/o. SAO, SSB, Kalaktang.

.... Applicants.

By Advocates S/Shri A.K. Roy, S.C. Biswas & Limawapang.

- Versus -

1. Union of India
Represented by the Secretary
Home Affairs, South Block
New Delhi.
2. Director General, SSB
Block-V (East)
R.K. Puram, New Delhi - 110 066.
3. Inspector General, SSB
Frontier Guwahati
Sundar Singh Bhavan
Uday Path S.P.O.
Zoo Road, Guwahati.
4. Area Organiser, SSB
Bomdila, P.O: Bomdila
Dist: W/Kameng (A.P.).

... Respondents.

By Mr. M. U. Ahmed, Addl.C.G.S.C.

.....



ORDER (ORAL)

SIVARAJAN, J.(V.C.) :

The applicants forty in number are all Group 'C' and 'D' employees working in Sashastra Seema Bal (S.S.B. in short) under the Ministry of Home Affairs, Government of India. The applicants are working at Bomdila in Arunachal Pradesh which is categorised as 'B' station under the Government order dated 18.12.1987 (Annexure-A). By virtue of this order dated 18.12.1987 the applicants are entitled to hardship allowance in the form of ration money. The applicants were being paid ration money. This was, however, stopped by orders dated 24.8.2004 and 17.12.2004 (Annexures C & D). The overpayments made for the period after 31.10.2003 were also directed to be recovered from January, 2005. The applicants have impugned the said two orders in this O.A.

2. The respondents have filed a written statement. In that written statement it is stated that the hardship allowance is available only for a period of three years and therefore excess payments made has to be recovered as directed in Annexures C and D orders.

3. Mr. A. K. Roy, learned counsel for the applicants submits that the excess payments made is not on account of any misrepresentation on the part of the applicants and that it was only due to the lapses on the part of the respondents. Counsel submits that in the above circumstances the respondents are not justified in recovering the overpayments. Counsel has also relied on the decisions of the Supreme Court and the Tribunal in support.

4. Mr. M. U. Ahmed, learned Addl. C. G. S. C. for the respondents, based on the averments made in the written statement, submits that the FHQ issued order dated 1.11.2000 categorising

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various stations as Category B and C stations including Bomdila for various concessions w.e.f. 1.11.2000 but the same was only operative for a specific period of three years upto 31.10.2003 as per FHQ order dated 12.12.2000. Standing counsel further submits that the ration money was paid to the applicants beyond 31.10.2003 by mistake and therefore the respondents are perfectly justified in recovering the excess payments from the applicants.

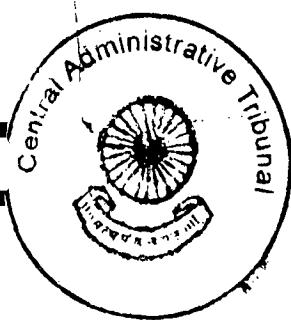
5. I have considered the rival submissions. There is no doubt that the applicants are entitled to hardship allowance in the form of ration money. The respondents were also paying ration money to the applicants till the date of the impugned orders (Annexures C & D). Now the stand of the respondents is that the applicants are entitled to ration money only for a period of three years i.e. upto 31.10.2003 and therefore the excess payments made beyond 31.10.2003 has to be recovered. It is not disputed that there is no misrepresentation on the part of the applicants resulting in excess payment of ration money. It is only due to the negligence/lapses on the part of the respondents that ration money happened to be paid beyond 31.10.2003. In these circumstances, I am of the view that the respondents are not justified in seeking to recover the excess payments made to the applicants. This view of mine is supported by the decision of the CAT Jaipur Bench in Nathi Lal vs. Union of India & Others, 1997(1)(CAT) 383 which decision is based on the decisions of the Supreme Court in Sahib Ram vs. State of Haryana and Others, 1995 SCC (L&S) 248 and in State of Orissa and Others vs. Adwait Charan Mohanty and Others, 1995 SCC (L&S) 522. In the circumstances, while upholding the orders at Annexures C and D in regard to discontinuance/stoppance of the ration money to the applicants, I restrain the respondents from

9/2

recovering any amount from the applicants towards excess payments of ration money paid. However, if any amount is recovered from the applicants prior to this order, the same need not be refunded to them.

The Original Application is disposed of as above. In the circumstances, there will be no order as to costs.

Sd/ VICE CHAIRMAN



Certified to be true Copy
सत्यापित प्रतिलिपि

W. S. S.
4.8.05
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal

गुवाहाटी-५
GUWAHATI-5.

16/10/05

Certified to be true copy


Advocate
31/10/2005