

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A./T.A No. 29/1/2005

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

06/11/17

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 291/05
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Ani Thakro Buns
Respondent(S) U.O.I GUM

Advocate for the Applicants S. Sarma, B. Devi

Advocate for the Respondent(S) M. U. Ahmed CGSC
Rly. St. Counsel

Notes of the Registry	Date	Order of the Tribunal
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	24.11.2005	Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
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The application is in form
of M.C. No. 101-
deposited with
No. 266317018
Dated 10.11.05

Heem
Dy. Registrar

Heard Mr. S. Sarma, learned counsel
for the applicant and Mr. M.U. Ahmed,
learned counsel for the respondents.

Admit. Issue notice to the respond-
ents.

Post on 11.01.2006. Written state-
ment, if any, in the meantime.

Sivarajan
Vice-Chairman

Sivarajan
Vice-Chairman

	19.1.06.	Mr. M.U. Ahmed learned Addl. C.G.S.C. wants some more time to file written statement.
--	----------	---

Post the matter on 20.2.06.

steps not taken

Please comply
order dated 24.11.05
JS
24.11.05

Steps taken on
9/12/05.

Notice & order sent
to D/section for issuing
to resp. Nos. 1 to 4 by
regd. A/D post.

12/12/05. D/No = 1678 to
1681
Dt = 13/12/05.

Contd.....

Received Notice
To The Asst. Director, Nagaland
NSSO (FED), Kohima, Nagaland
(Bursar) R-3.
(For Director)
NSSO (FED), Guwahati-781006
15/12/05

Notice duly served
on resp. No-3.

13/12/05

Notice duly
Served on
resp. nos-1,2.

16/1/06

18-1-06

① Notice duly served
on R. No-1, 2 & 3.

② No W/s has been
biled.

my

17-2-06

No W/s has been biled.

my

13-3-06

No W/s filed so far

27-3-06

W/s filed by the
Respondent Nos. 1 to 4.

W/s has been biled.

my
27-3-06

20.02.2006

Mr. S. Sarma, learned
counsel for the applicant and Mr.
M.U. Ahmed, learned Addl. C.G.S.C.
for the respondents were present.

Counsel for the respondents
submits that he would like to have
three weeks time to file reply
statement.

Post on 15.03.2006.

Vice-Chairman

15.3.2006

Post on 28.3.2006.

Vice-Chairman

28.03.2006

Mr. S. Sarma, learned counsel
for the applicant submits that the
matter is covered by a decision of
this Tribunal and benefit of that
order can be given as well. Mr. M.U.
Ahmed, learned Addl. C.G.S.C. for
the respondents was absent due to
personal difficulties.

Post on 05.04.2006 for hearing.

Vice-Chairman

05.04.2006

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is ~~dismissed~~ disposed of. No order as to costs.


4-4-06
Wks filed by me
R.No- 1 to 4.

my



Vice-Chairman

me


24/4/06

R
24.4.06
Bri
Advocate

24.4.06
Copy of the Indst
handed over to the
Advocates for the
parties,
ab

5

THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR:
TRIPURA: MIZORAM AND ARUNACHAL PRADESH)

2
WP(C) NO. 5786 OF 2006

1. **THE UNION OF INDIA,**
REPRESENTED BY SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION,
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION, (FOD), EAST BLOCK 6, LEVEL 6 & 7.
2. **THE DY. DIRECTOR GENERAL,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION, (FOD), NEW DELHI - 66.
3. **THE ASST. DIRECTOR,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION, (FOD), DAKLANE, NAGANAZAR, NEAR SUMI
CHURCH, KOHIMA - 797001, NAGALAND.
4. **THE UNION OF INDIA,**
REPRESENTED BY SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI.

..... *Petitioners*

-Versus-

1. **SHRI AVI THAKRO, INVESTIGATOR,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION (FOD), REGIONAL OFFICE KOHIMA, NAGALAND.
2. **SRI NILIM DUTTA, INVESTIGATOR,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION (FOD), REGIONAL OFFICE KOHIMA, NAGALAND
3. **SRI DANII ALEXANDER, INVESTIGATOR,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION (FOD), REGIONAL OFFICE KOHIMA, NAGALAND
4. **SRI ELIZABETH LALLAWMKIM, INVESTIGATOR,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION (FOD), REGIONAL OFFICE KOHIMA, NAGALAND
5. **DR. K.M. SINGHK, DY. DIRECTOR,**
NATIONAL SAMPLE SURVEY ORGANISATION (NSSO),
FIELD OPERATION DIVISION (FOD), REGIONAL OFFICE KOHIMA, NAGALAND.

..... *Respondents*

✓

BEFORE
THE HON'BLE MR. JUSTICE AMITAVA ROY
THE HON'BLE MR. JUSTICE P.K. SAIKIA

For the Appellant : Mr. S Chakraborty, Central Government Counsel.

For the respondents : Mr. S Sarma, Advocate.

Date of Hearing : 10.10.2012.

Date of Judgment : 10.10.2012.

Judgment & Order (Oral)

In challenge is the judgment and order dated 05.04.2006, passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati (for short hereafter referred to as the learned Tribunal) in OA NO. 291/2005, granting the benefit of House Rent Allowance (for short also referred to as the HRA) to the respondents herein at the rate prescribed for 'B' Class cities catalogued in the relevant office memorandum issued by the Ministry of Finance, Department of Expenditure, Government of India.

02. We have heard Mr. S Chakraborty, learned Central Government Counsel for the petitioners and Mr. S Sarma, learned counsel for the respondents.

03. The respondents as applicants approached the learned Tribunal seeking, in substance, HRA at the rate sanctioned for 'B' class cities identified by the Union authorities as accorded to their counterparts in the National Sample Survey Organization, Regional Office

Kohima, Nagaland under the Ministry of Statistics and Programme Implementation. According to them, they have been working in various offices as above in the State of Nagaland and more particularly at Kohima and are, accordingly entitled to draw the HRA at the rate applicable to 'B' Class cities as per the order dated 27.10.2000, passed by the learned Tribunal in OA No. 20/1998, instituted by 14 similarly situated colleagues also posted thereat.

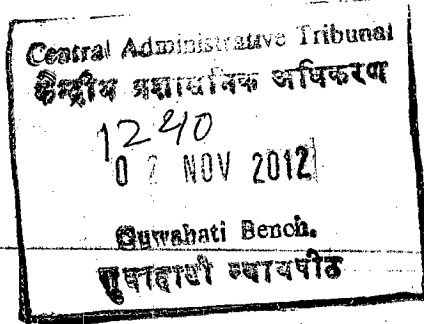
04. The petitioners herein in their written statement refuted the claim contending that Kohima in the State of Nagaland had been classified as a Class 'C' city on the basis of the population criteria in terms of the office memorandum dated 03.10.1997, issued by the Ministry of Finance, Department of Expenditure. Further, as the respondents were not parties to the OA No. 20/1998, the benefit granted therein was not extendable to them (the respondents).

05. The learned Tribunal on a consideration of the pleaded facts and the documents on record granted the reliefs prayed for to the respondents principally noticing the adjudication of the same issue in a series of proceedings by it, amongst others in OA No. 20/1998 and OA No.67/2004, disposed of on 27.10.2000 and 16.12.2004 respectively. Consequentially, it directed the petitioners herein to pay the enhanced HRA to them at the rate of 15% of the actual basic pay drawn applicable to the Central Government employees posted at 'B' Class cities and towns w.e.f. 18.11.2005 i.e. date of filing of the original application. The respondents' claim for HRA at that rate prior thereto was negated.

06. Mr. Chakraborty has urged with particular reference to the office memorandum No. 2(21)/E II (B)/2004, dated 18.11.2004 of the Government of India, Ministry of Finance, Department of Expenditure that as it apparent therefrom that Kohima has been categorized to be a Class 'C' city, the impugned judgment and order having been passed without reference thereto is *non est* and is liable to be interfered with. The learned Central Government Counsel sought to distinguish the adjudications made in OA No. 20/1998 and OA No. 67/2004 by pleading that those are bereft of any precedential worth, the same having been rendered without taking note of the relevant office memorandum categorizing the cities/towns for the purpose of granting of HRA to the serving Central Government employees.

07. Mr. Sarma, per contra has argued that as the respondents are out of the 19 employees posted at Kohima in the State of Nagaland, who had successfully agitated for their HRA at the enhanced rate sanctioned for employees of Class 'B' cities/towns, the learned Tribunal rightly did not digress from the adjudication already made and that at this distant point of time, no interference therewith is warranted. According to him, as the petitioners did not, at any point of time, challenge the adjudication made in OA No. 20/1998 and also in OA No. 67/2004, which incidentally, was subsequent to the office memorandum dated 18.11.2004, they are estopped from pleading any disqualification of the respondents against this entitlement of HRA at the enhanced rate sanctioned for employees of Class 'B' cities/towns.

08. We have duly considered the pleadings of the parties as well as the arguments advanced on the basis thereof. There is no denial of the fact that OA No. 20/1998 had been instituted by 14 of the 19 employees posted at Kohima in the State of Nagaland including the present respondents and that by the order dated 27.10.2000, they were granted, by the learned Tribunal, HRA at the rates applicable to the Central Government employees of 'B' Class cities/towns. Though, the office memorandum dated 03.10.1997 citing Kohima to be a Class 'C' city on the basis of the population criteria is also referred to by Mr. Chakraborty, it is noticeable that the learned Tribunal did, by its order dated 27.10.2000 rendered in OA No.20/1998 hold the applicants therein to be entitled to HRA at the rate accorded to the Central Government employees of 'B' Class cities/towns. Incidentally, the office memorandum dated 18.11.2004 reiterates Dimapur and Kohima in the State of Nagaland to be 'C' class cities/towns. This notwithstanding, the learned Tribunal by order dated 16.12.2004, subsequent thereto, passed in OA No. 67/2004 granted HRA at the enhanced rate for 'B' Class cities/towns at the rate of 15% of the actual basic pay drawn. The adjudications made on the issue by the learned Tribunal in the aforementioned proceedings have remained unchallenged by the Union authorities till date. Though, a faint attempt has been made by Mr. Chakraborty to impress upon us that the decision of the learned Tribunal had been without any conscious reference to the prevailing office memorandum prescribing the rates of HRA, we are not inclined, at this distant point of time, more particularly in view of the inexplicable abstinence on the part of the concerned



authorities to question it at any time earlier, to entertain the same for the present.

In the above view of the matter, in the exercise of our extra ordinary writ jurisdiction, we are disinclined to interfere. The petition, thus lacks in merit and is dismissed. Interim order(s), if any, would automatically stand vacated. No costs.

Sd/-P.K. SAIKIA
JUDGE

Sd/-AMITAVA ROY
JUDGE

Memo No. HC. XXI. 24,003 _____ 06 R.M. Dtd. 26/10/12.....

Copy forwarded for information and necessary action to: -

1. The Secretary, Govt. of India, Ministry of Statistics & Programme Implementation, National Sample Survey Organisation (NSSO), Field Operation Division (FOD), East Block 6, Level 6 & 7.
2. The Dy. Director General, National Sample Survey Organisation (NSSO), Field Operation Division (FOD), New Delhi- 66.
3. The Asstt. Director, National Sample Survey Organisation (NSSO), Field Operation Division (FOD), Daklane, Naganazar, Near Sumi Church, Kohima-797001, Nagaland.
4. The Secretary, Govt. of India, Ministry of Finance, Deptt. of Expenditure, New Delhi.
5. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Ghy.- 5, Dist.-Kamrup (M), Assam. He is requested to acknowledge the receipt of the following case records. This has a reference to his letter No. 16-3/02-JA/849, Dated 13th December, 2006.

Enclo.:- Case Records of O.A. 291/05 -----1 file.

By Order

j.d.

Asstt. Registrar (3)

Gauhati High Court, Guwahati.

26/10/12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 291 of 2005

Date of Order: This the 5th Day of April 2006.

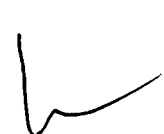
The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

1. Shri Avi Thakro, Investigator,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
2. Sri Nilim Dutta, Investigator
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
3. Sri Dani Alexander, Investigator
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
4. Sri Elizabeth Lalawmkim, Investigator,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
5. Dr. K.M. Singh, Dy. Director,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.

... Applicants.

By Advocates Mr. S. Sarma and Ms. B. Devi.

- Versus -

1. The Union of India,
Represented by Secretary to the
Govt. of India,
Ministry of Statistics and Programme Implementation,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD)
East Block 6, Level 6 & 7
R.K. Puram, New Delhi - 110 066.
 2. The Dy. Director General,
National Simple Survey Organisation (NSSO)
Field Operation Division, (FOD),
- 

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

291 OF 2005

O.A. No.

05.04.2006.

DATE OF DECISION

Sri Avi Thakro & Ors.

..... Applicant/s

Mr. S. Sarma and Ms. B. Devi

..... Advocate for the
Applicant/s.

- Versus -

Union of India & Others

..... Respondent/s

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

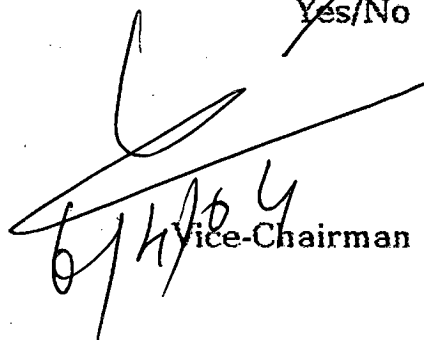
..... Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN.

THE HON'BLE

1. Whether reporters of local newspapers
may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest
Being complied at Jodhpur Bench ? Yes/No
4. Whether their Lordships wish to see the fair copy
of the Judgment ? Yes/No


Vice-Chairman (J)

17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 291 of 2005

Date of Order: This the 5th Day of April 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

1. Shri Avi Thakro, Investigator,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
2. Sri Nilim Dutta, Investigator
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
3. Sri Danti Alexander, Investigator
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
4. Sri Elizabeth Lalawmkim, Investigator,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
5. Sri Pura Pyaro, Investigator,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.
6. Dr. K.M. Singh, Dy. Director,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD),
Regional Office Kohima, Nagaland.

... Applicants.

By Advocates Mr. S. Sarma and Ms. B. Devi.

- Versus -

1. The Union of India,
Represented by Secretary to the
Govt. of India,
Ministry of Statistics and Programme Implementation,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD)
East Block 6, Level 6 & 7
R.K. Puram, New Delhi - 110 066.
 2. The Dy. Director General,
National Simple Survey Organisation (NSSO)
Field Operation Division, (FOD),
- 1

New Delhi - 66.

3. The Asstt. Director,
National Sample Survey Organisation (NSSO),
Field Operation Division, (FOD)
Daklane, Naganazar,
Near Sumi, Church,
Kohima - 797001, Nagaland.
4. The Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Finance, Deptt. of Expenditure,
New Delhi.

... Respondents.

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

.....

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The claim of the applicant is that they were working in various office at Nagaland, more particularly Kohima and they are entitled to draw House Rent Allowance (HRA in short) benefit at the rate applicable to 'C' category of employees as per order passed in O.A. No. 20/98. They have made several representations, but higher HRA was not granted to them. Aggrieved by the said inaction, they have filed this application seeking the following reliefs: -

"81. To direct the Respondents to release HRA at the rate as made applicable to the applicants in O.A. 192/96, 20/98 and 67/2004 along with arrear and 18% interest on such arrear.

8.2 To set aside and quash the decision of the competent authority in rejecting the prayer of the Applicants towards payment of due HRA as indicated in the communication dated 27.9.2005.

8.3 Cost of the application.

L

8.4 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper."

2. The respondents have filed a detailed written statement contending that applicants posted at Regional Office, Kohima in Nagaland are being paid the House Rent Allowance at the rate of 'C' class city rates as Kohima is classified as a 'C' class city on the basis of the population criteria in terms of Ministry of Finance, Department of Expenditure's O.M. dated 03.10.1997. The prayer of the applicants for the payment of HRA at the rate of 'B' class city as was allowed to some of the similarly placed employees cannot be allowed to them since the applicants were not party in O.A. No. 20/1998. Thus, the benefits flowing out of the said Judgment cannot be extended to them in general. The case of the non-petitioners was also considered in consultation with the nodal Ministry but extending the benefits of Judgment dated 27.10.2000 to them was not found a legitimate claim and therefore, the claim of the applicants cannot be acceded to. The order dated 27.10.2000 was complied with in respect of the petitioners/applicants in the said O.A. and therefore, the applicants have no legitimate right. Therefore, the applicants have no case and the application is liable to be dismissed.

3. I have heard Ms. B. Devi, learned counsel for the applicants and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents.

4. Learned counsel for the parties has taken me to the various pleadings, materials and evidences on record. Learned counsel for the applicants argued that O.A. No. 20/1998 was disposed of as far back in October 2000 and the applicants therein have been enjoying the benefits right from the date and therefore, there is no reason to deny the same benefit to the applicants also. Counsel for the respondents persuasively argued that classification of the cities have been made on the basis of the population criteria, Constituents of Urban Agglomerations as per 2001 - Census and he has also brought to my notice Swamy's Compilation of FR & SR - Part V and argued that Kohima comes under the 'C' class cities issued by the Government in 2004 on the basis of 2001 - Census and therefore, the applicants have no case and the application is liable to be dismissed.

5. I have given my due consideration to the pleadings, arguments and evidences placed on record. The Supreme Court in (1) Amrit Lal Berry Vs. Collector of Central Excise, New Delhi & Ors., (1975) 4 SCC 714 and (2) P.K. Rangachari, MES 125151 Vs. U.O.I. & Another, (1993) 24 ATC 884 declared that the benefit of one O.A. should be extended to the non petitioners as well and otherwise, it will have adverse consequence and anomaly. Admittedly, this Court considered various aspects and passed the order dated 27.10.2000 in O.A. 20/1998. The operative portion of the said order is reproduced below: -

"The matter is no longer Res integra and in conformity with the earlier decisions of this Tribunal and the decisions rendered by the Apex Court. It is, therefore, ordered that all the fourteen

applicants in this application are entitled to HRA at the rate applicable to Central Government employees at 'B' class cities and downs for the period from 1.10.1986 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.6.1991 onwards and continue to get the same till the said notification is in force."

Annexure - F is also another order passed in O.A. No. 330/2002 dated 14.02.2003, wherein also this Court granted the benefit to the employees therein. In the said case, the case of M. Lepdon AO was quoted, where the Supreme Court stated as follows: -

"2. The applicants before us contended that the respondents are not entitled to such benefits in terms of different notifications issued by the Government from time to time. The Tribunal examined the matter and held that the respondents are entitled to House Rent Allowance at the rate prescribed for 'B' class cities to the to the Central Government employees which would be payable at the rate of 15% from 1.1.1986 to 30.9.1986 and from 1.10.1986 at flat rate prescribed under O.M. dated 7.8.1987 read with another O.M. dated 13.11.1987 and the notification GSR No. 623 (E) amending the Fundamental Rule 45A with effect from 1.7.1987 as held by this Court in Civil Appeal No. 2705 of 1991, (Union of India v. S.K. Ghosh). This part of the order made by the Tribunal is not in challenge before us" (AIR 2001 SC 2826 Paragraph 2)"

In the Supreme Court the issue was as to whether the employees posted in Nagaland were entitled rent free accommodation or compensation in lieu thereof. The Supreme Court, therefore, in the above case finally held that :

"Thus, the conclusion is irresistible that there is no decision of the Government of India entitling the Central Government employees posted in Nagaland, except who are eligible for the concession of rent free accommodation or compensation in lieu

thereof under O.M. 12-11-60/ACC-I, dated 2.8.1960 and, therefore, the view taken by the Tribunal in this regard has got to be set aside." (AIR 2001 SC 2826 paragraph 9)

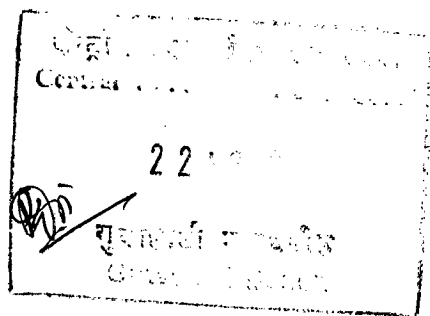
This Court declared that as per Supreme Court order, the employees, who were employed in Nagaland are entitled to HRA at the rate prescribed for 'B' class cities to the Central Government employees which would be payable at the rate of 15%. This was followed in O.A. No. 67 of 2004 dated 16.12.2004 and in all these cases, benefit was granted to the applicants therein. Since then, the respondents have not taken the matter for appropriate order and the order has become final. Once an order reached at the stage of finality, the respondents cannot come and say that benefit should not be given to other employees, who are not the applicants therein.

6. In the circumstances of facts, legal position discussed above, I am of the considered view that the applicants are also entitled for the said benefit of HRA at the rate as granted in other O.A.s. However, considering the entire facts and circumstances, I direct the respondents to pay the ^{✓ entered.} HRA from 18.11.2005, i.e. from the date of filing of the O.A. The claim of the applicants for an ante-dated benefit has no merit.

The O.A. is disposed of as above. In the circumstances, no order as to costs.



(K.V. SACHIDANANDAN)
VICE-CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 291 of 2005

BETWEEN


Avi Thakro & Ors. Applicants.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : 

Regn.No.:

File :D:\PRIVATE\AVI

Date :

20

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.....of 2005

Shri Avi Thakro & Ors. Applicants.

-VS-

Union of India & ors..... Respondents.

SYNOPSIS

The applicants in terms of various Office Memorandum issued by the competent authority are entitled to draw House Rent Allowance (HRA) at the rate applicable. However, they not been allowed to draw their due HRA and as such praying for the same they preferred number of representations to the concerned authority highlighting the fact that similarly situated employees working in the same office are drawing the HRA at the higher rate. Now the Applicants having no other alternative have come under the protective hands of this Hon'ble Court seeking redressal of their grievances.

- 1 -

*Filed by -
The Applicants -
through
Bondana Devi
Advocate
21.11.05*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

D.A.No. 291 of 2005

BETWEEN

1. Sri Avi Thakro, Investigator,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Regional Office Kohima, Nagaland.
2. Sri Nilim Dutta, Investigator,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Regional Office Kohima, Nagaland.
3. Sri Danii Alexander, Investigator,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Regional Office Kohima, Nagaland.
4. Sri Elizabeth Lallawmkim, Investigator,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Regional Office Kohima, Nagaland.
5. Sri Pura Pyaro, Investigator,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Regional Office Kohima, Nagaland.
6. Dr. K.M.Singh, Dy, Director,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Regional Office Kohima, Nagaland.

..... Applicants.

- AND -

1. The Union of India,
Represented by Secretary to the
Govt. of India,
Ministry of Statistics and Programme Implementation,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
East Block 6, Level No 6 & 7.
R.K.Puram, New Delhi - 110066.
2. The Dy. Director General,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
New Delhi - 66.

Annexure

3. The Asstt. Director,
National Sample Survey Organisation (NSSO)
Field Operation Division, (FOD).
Daklane, Nagabazar,
Near Sumi Church,
Kohima - 797001. Nagaland.
4. The Union of India,
Represented by the Secretary to the Govt. of India ,
Ministry of Finance, Deptt. of Expenditure,
New Delhi,

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is directed against the order issued under memo No B-13011/1/2002-03/KMA/822 dated 27.09.2005, by which the decision has been conveyed that applicability of the prescribed rate of house rent allowance (HRA) as has been extended to the similarly situated employees, who are covered by the judgment and order dated 27.10.2000 passed in OA no 20/98 would not be made applicable to the present applicants, as they were not the applicants in the said OA.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

Amended

4. FACTS OF THE CASE:

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicants No.1 to 5 are the Investigators, and the applicant No 5 is the Dy. Director, and they are at present serving in the Regional Office National Sample Survey Organisation (NSSO), Field Operation Division, (FOD), Kohima, Nagaland. The relief claims by the applicants and the remedy sought for herein are similar and as such they pray before this Hon'ble Court to allow them to join together in a single application invoking Rule 5 (4) (a) of the Central Administrative Tribunal (Procedure) Rule, 1987.

4.3. That the applicants in terms of various Office Memorandum issued by the competent authority are entitled to draw House Rent Allowance (HRA) at the rate applicable. However, they not been allowed to draw their due HRA and as such praying for the same they preferred number of representations to the concerned authority highlighting the fact that similarly situated employees working in the same office are drawing the HRA at the higher rate.

Copies of one of such representation dated 29.10.04 is annexed herewith and marked as ANNEXURE - A.

Annexed

4.4 That claiming similar relief some of the similarly situated employees of various Central Govt Offices located at Nagaland, like that of the present applicants had to approach the Hon'ble Tribunal by way of filing various OAs. The Hon'ble Tribunal after hearing the parties to the proceeding was please to dispose of the said OAs vide its judgment and order dated 10.6.97 directing the respondents to pay HRA to the Central Govt. Employees for the period from 1.10.86 to 28.2.91 and 1.3.91 onwards at the rate applicable to the Central Govt. Employees of B Class cities and towns.

A copy of the said judgment and order dated 10.6.97 is annexed herewith and marked as ANNEXURE - B.

4.4. That officers of the NSSO (FOD) Kohima, were not getting their due rate of HRA even after pronouncement of the aforesaid judgment and order dated 10.06.97. It was under the circumstances some of the employees of NSSO (FOD), Kohima R.O approached the Hon'ble Tribunal by way of filing OA No 20/98. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA vide its judgment and order dated 27.10.2000, directing the respondents to pay HRA to the applicants therein at the rate applicable in terms of the judgment and order dated 10.06.97 passed by the Hon'ble Tribunal. It is noteworthy to mention here that the present applicants were not the party to that OA No 20/98.

Answer

- 5 -

A copy of the said judgment and order dated 27.10.2000 is annexed herewith and marked as ANNEXURE - C.

4.5. That the respondents after receipt of the said judgment and order dated 27.10.2000 issued an Office Memorandum dated 4.5.2001 by which the decision of the Ministry to implement the said judgment has been conveyed. By the said OM dated 4.5.2001 itself the said authority issued direction to the concerned official to implement the said judgment and order dated 27.10.2000 immediately. However, the said OM contained a specific direction to implement the said judgment only in respect of the applicants of OA No 20/98, which is per-se illegal and unconstitutional and violative of equality clause.

A copy of the said O.M dated 4.5.2001 is annexed herewith and marked as ANNEXURE - D.

4.6. That the Respondents in terms of the aforesaid OM dated 4.5.2001, wherein the decision of the Ministry was conveyed, issued an office order dated 30.5.2001 implementing the judgment and order dated 27.10.2000 passed in OA No.20/98. However said office order dated 30.5.2001 has been issued only in respect of the Applicants in OA No. 20/98. The Respondents ought to have implemented the said judgment in respect of all the similarly situated employees without making any distinction.

Atharva

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- 6 -

A copy of the said office order dated 30.5.2001 is annexed herewith and marked as ANNEXURE - E.

4.7. That the Applicants beg to state that the employees of National Informatic Center posted at Kohima raising the same grievance of payment of due HRA approached the Hon'ble Tribunal by way of filing OA No. 330/2002. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA vide its judgment and order dated 14.2.2003.

A copy of the said judgment and order dated 14.2.2003 passed in OA No. 330/2002 is annexed herewith and marked as ANNEXURE - F.

4.8. That the Applicants beg to state that the employees working under the Information and Broadcasting presently posted at Kohima initially filed OA No. 192/96 before this Hon'ble Tribunal claiming due HRA. The Hon'ble Tribunal while laying down the law passed the common judgment and order dated 10.6.97 (Annexexure-B). However the said judgment and order dated 10.6.97 was made applicable only to the Applicants of the said OA No. 192/96. Situated thus the other similarly situated employees of the said organisation preferred OA No. 67/2004 before the Hon'ble Tribunal. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA vide its judgment and order dated 16.12.2004. The Hon'ble Tribunal while allowing the said OA directed the Respondents therein

to pay the enhance rate of HRA along with the arrears with a further direction to pay an interest @ 6% p.a. on the arrear.

A copy of the said judgment and order dated 16.12.2004 is annexed herewith and marked as ANNEXURE-G.

4.9. That the Applicants reiterating their earlier prayer for payment of due HRA kept on pursuing the matter before the concern authority time and again but the Respondents are bent upon not to extend the benefit of the said judgment to the present Applicants only on the ground that they were not the party to the proceeding i.e. OA No. 20/98. The Applicants highlighting their grievances preferred yet another representation dated 12.4.2005 wherein they have indicated the judgment and order dated 16.12.2004 passed in OA No. 67/2004 (NFIB Employees Union and Anr.- Vs- U.O.I. and Ors.) (Annexure-G).

A copy of one of such representations dated 12.4.2005 is annexed herewith and marked as ANNEXURE-H.

4.10. That the Respondents on receipt of the said representations preferred by the Applicants have issued communications to the Station Director AIR, Kohima to ascertain as to whether the judgment and order dated 16.12.2004 (Annexure-G) has been implemented or not. To that effect communication dated 15.6.2005 may be referred to. In reply to the said communication the Station Director AIR

Amuro

Kohima issued a communication dated 16.6.2005 indicating the fact that on obtaining approval from the Ministry of Finance, the judgment of this Hon'ble Court dated 16.12.2004 (Annexure-G) has been implemented.

Copies of the communications dated 15.6.2005 and 16.6.2005 are annexed herewith and marked as ANNEXURE-I and J.

4.11. That the Respondents thereafter in response to one of the representations filed by the Applicants issued the impugned communication dated 27.9.2005 conveying the decision of the appropriate authority rejecting the prayer made by the Applicants for payment of HRA at par with the other similarly situated employees. However the Respondents have not yet communicated the decision of the competent authority by which the prayer for payment of due HRA has been rejected.

The Applicants crave leave of this Hon'ble Court for a direction to the Respondents to place the decision of the competent authority as indicated in the impugned communication dated 27.9.2005.

A copy of the impugned communication dated 27.9.2005 is annexed herewith and marked as ANNEXURE-K.

4.12. That the applicants joined/posted the services under the Respondents subsequently but they are similarly situated like that of the Applicant in OA No. 20/98 and as such they are entitled to similar treatment as

Attn: Mr

regards payment of HRA. Although both the sets of employees are guided by same set of rules as well as service conditions, the respondents without any basis granted two different rates of HRA which is impermissible and without any basis. It is noteworthy to mention here that the benefit of the Annexure-B judgment has been made applicable to the applicants in OA 192/96 debarring the others from the said benefit without any basis.

4.13. That the applicants beg to state that the law well settled that in the event of passing of a judgment by competent court of law laying down certain law, same is required to be made applicable to all similarly situated employees without any discrimination. In the instant case the respondents without any basis formulated two sets of employees namely the applicants in OA No.20/98 and the present applicants. The applicants in OA No.20/98 are getting their due rate of HRA pursuant to the Annexure-B judgment which was passed taking into consideration the Apex Court Judgment and on the other hand the present applicants are getting lesser rate of HRA whereas both the sets of employees are working in the same office under same service conditions. The manner and method applied by the respondents is totally arbitrary and violative of article 14 and 16 of the Constitution of India and laws framed thereunder.

4.14. That the applicants beg to state that the laws laid down in the Annexure-B C and G judgments are equally applicable to the present Applicants and as such they are also entitled to equal rate of HRA as has been made

applicable to their colleagues who were the applicants in OA 20/98. The discriminations mitted out to the present applicant by the respondents is perse illegal and in violation of aforesaid judgments and as such the respondents are liable for committing contempt of Court and liable for sever punishment.

4.15. That the applicants beg to state that in Nagaland all the employees of Central Govt. are getting higher rate of HRA then the present applicants and as such the action on the part of the respondents are illegal arbitrary and violative of article 14 and 16 of the Constitution of India and laws framed thereunder.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in not allowing the applicants to draw HRA at the rate applicable to the similarly situated employees is illegal, arbitrary and same is liable to be set aside and quashed.

5.2. For that the respondents acted contrary to the settled proposition of law in discriminating the present applicant from their legitimate claim of HRA at a higher rate and as such appropriate direction need be issued to the respondents to release due HRA to the present applicants along with the arrears due thereon.

5.3. For that the law is well settled that when a principle has be laid down in the judgment by a competent

Answer

court of law, said principle is required to be made applicable to all the similarly situated employees without requiring them to approach the door of the court again and again. In the instant case benefit of the Annexure-1 judgment has been made applicable only to the applicants in OA 192/96, 20/98 and 67/2004 whereas the present applicants are yet to receive the said benefit, and as such appropriate direction need be issued to the respondents to release HRA to the present applicant at the rate applicable to the other set of employee in terms of aforesaid judgments.

5.4. For that the respondents have acted illegally in not releasing the HRA to the present applicants even after repeated representations made by them and as such the action on the part of the respondents is required to be declared unconstitutional and to set aside the same holding the respondents liable for contempt.

5.5. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedy available to them.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicants further declare that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the Respondents to release HRA at the rate as made applicable to the applicants in DA 192/96, 20/98 and 67/2004 along with arrear and 18% interest on such arrear.

8.2. To set aside and quash the decision of the competent authority in rejecting the prayer of the Applicants towards payment of due HRA as indicated in the communication dated 27.9.2005.

Atharva

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicants prays for an interim order directing the Respondents to release the due HRA to the Applicants .

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No.	: 26 G 317018
2. Date	: 18-11-05
3. Payable at	: Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Sri Avi Thakro, aged about 34 years, son of Late K.Thakro, resident of Kohima, Nagaland, do hereby solemnly affirm and verify that the statements made in paragraphs 4:2, 4:14, 4:15..... are true to my knowledge and those made in paragraphs 4:3 - 4:13..... are true to my information derived from the records and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

I am the Applicant No. 1 in the instant OA and I am authorise to swear this Verification on behalf of all the Applicants.

And I sign on this the Verification on this the 21st day of Nov. of 2005.

Ano Thakro

Signature.

To,
The Deputy Director General
NSSO (FOD)
New Delhi-66

(Through proper channel)

Sub :- Applicability of House Rent @ 15% (B- Class city) Regarding

Sir,

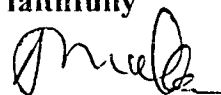
With reference to the above cited subject, I am to state that the staffs of NSSO(FOD) R.O. Kohima are getting House Rent @ 15% as per CAT, Guwahati, O.A No.20/97 dt. 27-10-2000 and also by the staffs of National Informatics Centre, Kohima by the same CAT vide-O.A.330/2002 dt.14-02-2003. Since I have joined the department after the judgment, I appeal to your authority to make me admissible for the higher rate of House Rent as admissible to other staffs of NSSO (FOD), Kohima and central employees posted in Nagaland.

For this act of kindness, I shall be ever grateful to you.

Dated:- 29-10-2004

Place:- Kohima

Yours faithfully



(AVI THAKRO)

Investigator,

NSSO(FOD), R.O, Kohima

Nagaland

Encl:

Judgment copy of CAT Guwahati

1. O.A. No.20/98 dt. 27-10-2000
2. O.A. No. 330/2002 dt.14-02-2003

Attested


Advocate.

17-

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6. Original Application No.91 of 1996

- Shri Daniel Sangma and 81 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta.

-versus-

Union of India and others

.....Respondents

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

7. Original Application No.87 of 1996

Shri C.T. Balachandran and 32 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others

.....Respondents

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

8. Original Application No.45 of 1997

Shri L. Shashidharan Nair and 9 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others

.....Respondents

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

9. Original Application No.197 of 1996

Shri P.C. George and 66 others

.....Applicants

By Advocate Mr S. Sarma

-versus-

Union of India and others

.....Respondents

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

10. Original Application No.28 of 1996

Shri Hiralal Dey and 8 others

.....Applicants

By Advocate Mr A.C. Sarma and Mr H. Talukdar

-versus-

Union of India and others

.....Respondents

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

B

Attested
By
Advocate

-16- ANNEXURE - B
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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 others

By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others

By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

2. Original Application No.268 of 1996

Shri Nomal Chandra Das and 55 others

By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others

By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

3. Original Application No.279 of 1996

Shri D.D. Bhattacharjee and 31 others

By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others

By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

4. Original Application No.18 of 1997

Shri Hari Krishan Mazumdar and 24 others

By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others

By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

5. Original Application No.14 of 1997

Shri Jatin Chandra Kalita and 19 others

By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others

By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

Attested
[Signature]
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
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

Amended
Shri Mehta

19:4:
39
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.

By Advocate Mr N.N. Trikha

....Applicants

-versus-

Union of India and others

....Respondents

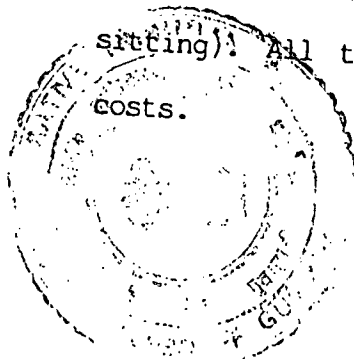
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....

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)

Attested
[Signature]
Advocate

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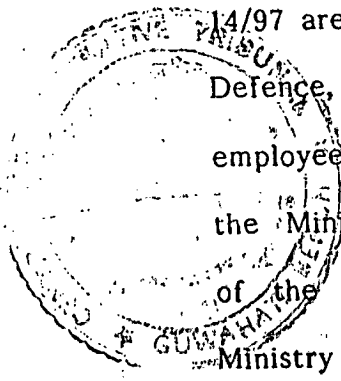
40

ORDER

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:



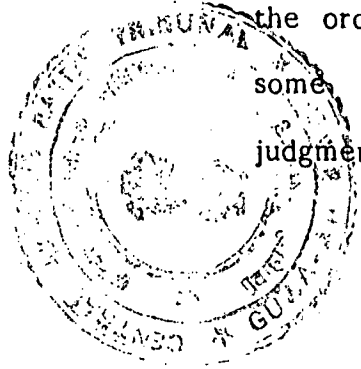
The applicants are employees of the Government of India working in various departments including Defence Department. O.A.Nos.266/96, 268/96, 279/96, 18/97 and 14/97 are Defence Civilian employees under the Ministry of Defence. O.A.Nos.91/96, 87/96, 45/97, 197/96 and 28/96 are employees in the Subsidiary 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.

J. Baruah
[Signature]
J. Baruah

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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.....

Attested
Advocate

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.....

Attested

[Signature]

Advocate

applicable to the Central Government employees of 'B' class of cities and towns for the period from 1.10.1986 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991 onwards and continue to pay the same till the said notification is in force.

6. Accordingly we direct the respondents to pay the applicants HRA as above and this must be done as early as possible, at any rate within a period of three months from the date of receipt of the order.

7. In O.A.Nos.91/96, 87/96, 190/96, 191/96, 45/97, 192/96, 197/96 and 55/97, the applicants have also claimed 10% compensation in lieu of rent free accommodation. The learned counsel for the applicants submit that this Tribunal in O.A.No.48/91 and others have already granted such compensation. Mr S. Ali learned Sr. C.G.S.C. and Mr G. Sarma, learned Addl. C.G.S.C., do not dispute the same.

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:

"2.(a) Licence fee at the rate of 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided."

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

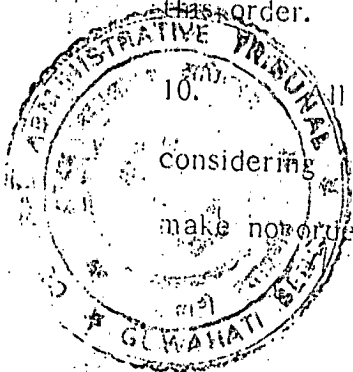
in.....

Attested

 Advocate

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.

23-Sept-72

Sd/-VICE CHAIRMAN
Sd/-MEMBER (A)

TRUE COPY
प्रतिलिपि

dt 29/8/72

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Bench

Attested
[Signature]
[Stamp]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 20 of 1998

Date of decision: This the 27th day of October 2000

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

Shri T.M. Singh and 13 others Applicants

All the applicants are working under the Assistant Director, National Sample Survey Organisation, Kohima.

By Advocate Mr A.K. Roy.

- versus -

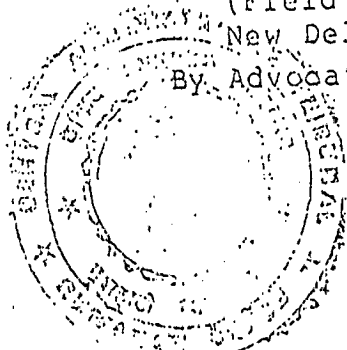
1. The Union of India, represented by the Secretary to the Government of India, Ministry of Planning and Programme Implementation, New Delhi.

2. The Director, National Sample Survey Organisation, (Field Operation Division), New Delhi.

3. The Assistant Director, National Sample Survey Organisation, (Field Operation Division), Kohima.

4. The Administrative Officer, National Sample Survey Organisation, (Field Operation Division), New Delhi.

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C. Respondents



ORDER

CHOWDHURY.J. (V.C.)

The applicants are fourteen in number. All of them are working under respondent No. 3 and posted in Kohima. The applicants have moved this Tribunal with common grievance of refusal by the respondents to pay House Rent Allowance (HRA for short) as is applicable to Central Government employees, in 'B' class cities. Since the cause of action

Attested
By
Advocate

and the relief sought for are same, leave is granted to the applicants to espouse their grievance in one single application under the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987. The matter is no longer Res intergra and in conformity with the earlier decisions of this Tribunal and the decisions rendered by the Apex Court. It is, therefore, ordered that all the fourteen applicants in this application are entitled to HRA at the rate applicable to Central Government employees of 'B' class cities and towns for the period from 1.10.1986 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991 onwards and continue to get the same till the said notification is in force.

2. The application is accordingly allowed. The respondents are directed to complete the exercise as early as possible, at any rate within a period of three months from the date of receipt of this order.

No order as to costs.

Sc/VICECHAIRMAN

TRUE COPY

अतिरिक्त

Deputy Secretary (Ad)
Central Administrative Tribunal
Gwahatli Bazar

BY FAX (SPEED) PGST

No.B-12017/3/96-(Vig.(CC))

Government of India

Ministry of Statistics & Programme Implementation

National Sample Survey Organisation

(Field Operations Division)

C Block, 3rd Floor,

Pushpa Bhawan, Madangir Road,

New Delhi-110062.

Dated 4.5.2001

OFFICE MEMORANDUM

Subject :- Implementation of judgement dated 27.10.2000 in O.A.No. 20/98 filed by Shri T.M.Singh & 13 Others.

A reference is invited to Assistant Director, Guwahati's letter No.B-12017/3/97/NCZ/2001 dated 8.1.2001 on the subject cited above, forwarding also a copy of judgement of the Hon'ble CAT, Guwahati in the above mentioned case and subsequent letters from Head of office Kohima and to say that the matter has been examined in consultation with Ministry of Statistics & Programme Implementation. The Ministry had considered the judgement in consultation with the Ministry of Finance (Department of Expenditure) and the Ministry of Finance has opined as under :-

"The proposal of Ministry of Statistics & Programme Implementation for implementation of judgement dated 27.10.2000 of CAT Guwahati Bench in O.A. No. 20/98 filed by Shri T.M.Singh and 13 others, the employees of NSSO(FOD), Nagaland Unit has been considered and this Ministry agrees to the proposal to implement the judgement in respect of petitioners only."

In view of the above, Superintendent & H.O., Kohima is advised to implement the instant judgement in respect of the applicants only on priority and report compliance to this Division immediately.

(V.K.BAJAJ)
DIRECTOR(ADMN.)

To,

The Superintendent & H.O.,
NSSO(FOD),
KOHIMA(NAGALAND)

Copy to:-

1. Director(NEZ)-NSSO(FOD)-Guwahati

Amstia
Shi
A. G. G. G.

5/10/10

- 28 -

No.B-13011/1/2000-01/KMA/ 579
 Government Of India
 Ministry of statistics & P.I.
 National Sample Survey Organisation
 (Field Operations Division)
 Regional Office

Daklane,
 Near Sumi Church,
 Kohima-797001
 Dated 30.05.2001

OFFICE ORDER

Head of Office,NSSO(FOD) Regional Office,Kohima is hereby declared to draw House Rent Allowance (HRA) at 'B' class cities and towns at the rate of 15% of Basis Pay to the Following staff(forteen in number) posted in Kohima with effective from the month of May'2001 onwards as per the Judgement of Honourable CAT,Guwahati vide O.A No 20/98 dated 27.10.2000 and as directed by Hqrs,New Delhi vide.Division No. B-12017/3/96(Vig.(cc) dated 04.05.2001

Sl.No.	Name	Designation
1.	Sri T.M.Singh,	Asstt.Superintendent
2.	Sri D.Singha	Asstt.Superintendent
3.	Sri K.B.Chetry	Investigator
4.	Sri S.K.Roy	do
5.	Sri P.Gogoi	do
6.	Sri Debashis Dey	do
7.	Sri B.C.Payeng	do
8.	Sri O.Patton	do
9.	Sri L.K.Ngathingkhui	do
10.	Smt K.K.Sangla	U.D.C.
11.	Sri Suresh.P.T	L.D.C
12.	Sri Lorho Deli	do
13.	Sri C.D.Hazarika	Driver
14.	Sri C.Sangtam	Peon

They are entitled to draw the arrears of HRA at 'B' class rate with effective from 1.10.86 or actual date of posting in this Regional Office,NSSO(FOD)KOHIMA as per the above mentioned Judgement.

(S.DAS)
 SUPERINTENDENT
 DDO/HO

To
 All Concerned Officials

Copy to:

1. Bill Clerk to prepare the arrears bill as admissible to the incumbents.
2. Pay & Accouts Officer,M/O Statistics & P.I.Kolkata alongwith Judgement & above mentioned Division.'s reference letter.
3. Director(Admn.) NSSO(FOD) ,Pushpa Bhavan.New Delhi-62. with reference to Division OM.No.B-12017/3/96(Vig.(cc) dated 04.05.2001 for his kind information
4. Director(NEZ) NSSO(FOD) Guwahati for his kind information
5. Notice Board

(S.DAS)
 SUPERINTENDENT
 DDO/HO

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI
....

ORDER SHEET

008.173

Original Application No. : 330 / 2002

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant (s) Sanjay Pandey Chetri & others

-Vs-

Respondent (s) UOI & ORS

Advocate for the Applicant (s) Mr. Adil Ahmed

Advocate for the Respondent(s) Mr. A. Deb Roy

Notes of the Registry

Date

Order of the Tribunal



14.2.2003 Present : The Hon'ble Mr. Justice D.H. Chowdhury, Vice-Chairman.

Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

Attested

[Signature]

Advocate

[Signature]

The issue raised in this application is to the entitlement of House Rent Allowance to those civilian employees working in the National Informatics Centre, Ministry of Information Technology. The matter is no longer res integra in view of the orders passed by the Tribunal as well as the Supreme Court in like matters. The issue was again raised before the Supreme Court by the Union of India against the judgment and order passed by the Tribunal dated 22.8.1995 in the case of M. Lepdon AO and the Supreme Court made the following observations :

"2. The appellants before us contended that the respondents are not entitled to such benefits in terms of different notifications issued by the Government from time to time. The Tribunal examined the matter and held that the respondents are entitled to House Rent Allowance at the rate prescribed for 'B' class cities to the Central Government employees which would be payable at the rate of 15% from 1.1.1986 to 30.9.1986 and from 1.10.1986 at flat rate prescribed under O.M. dated 7.8.1987 read with another O.M. dated 13.11.1987 and the notification GSR No.623 (E) amending the Fundamental Rule 45A with effect from 1.7.1987 as held by this Court in Civil Appeal No.2705 of 1991, (Union of India v. S.K. Ghosh). This part of the order made by the Tribunal is not in challenge before us" (AIR 2001 SC 2826 Paragraph 2)

In the Supreme Court the issue was as to whether the employees posted in Nagaland were entitled rent free accommodation or compensation in lieu thereof. The Supreme Court, therefore, in the above case finally held that :

"Thus, the conclusion is

Contd/-

Arrested
[Signature]

Contd/-
14.2.2003

irresistible that there is no decision of the Government of India entitling the Central Government employees posted in Nagaland, except who are eligible for the concession of rent free accommodation or compensation in lieu thereof under O.M. 12-11-60/ACC-I, dated 2.8.1960 and, therefore, the view taken by the Tribunal in this regard has got to be set aside." (AIR 2001 SC 2826 paragraph 9)

In view of the legal position mentioned above the applicants are also covered by the decision of the Supreme Court entitling them to HRA at the rate prescribed for 'B' class cities to the Central Government employees which would be payable at the rate of 15% from 1.1.1986 to 30.9.1986 and from 1.10.1986 at flat rate prescribed under O.M. dated 7.8.1987 and the notification GSR No. 623 (E) amending the Fundamental Rule 45A with effect from 1.7.1987. The respondents are accordingly directed to pay the House Rent Allowance at the rate of 'B' class cities from 1.10.1986 or from actual posting whichever is later.

The application is thus allowed to the extent indicated. No order as to costs.

SD/VICE CHAIRMAN

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बतिलिपि-

HRA

Section Officer (I)
C.A.T. GUWAHATI BANCH
Guwahati 781 005
12/2/2003

Amended
Di
Advocate

- 32 -

ANNEXURE - G

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 67 of 2004.

Date of Order : This the 16th Day of December, 2004.

The Hon'ble Mr Justice R.K.Batta, Vice-Chairman.

1. National Federation of Information
and Broadcasting Employees,
All India Radio, Nagaland Unit,
Represented by Secretary Mr Kadelo Tep.

2. Mr Tenjentiba,
General Announcer,
All India Radio, Kohima,
(Member of NFI and BE).

.....Applicants

By Advocate Shri S.Sarma

- Versus -

1. Union of India,
represented by Secretary to the
Government of India,
Ministry of Information and Broadcasting,
New Delhi.

2. The Director General,
All India Radio,
Ministry of Information & Broadcasting,
New Delhi

3. The Deputy Director General,
All India Radio,
Guwahati.

4. The Station Director,
All India Radio,
Nagaland.

.....Respondents

By Shri A.Deb Roy, Sr.C.G.S.C.

ORDER (ORAL)

R.K.BATTA, J. (V.C)

This application has been filed by National Federation of Information and Broadcasting Employees, All India Radio, Nagaland Unit, applicant No.1 and also by applicant No.2 Shri Tenjentiba, who is working as General Announcer in All India Radio, Kohima. The application pertains to claim for House Rent Allowance (HRA for short). The applicants contend that this Tribunal in O.A.192/96 ^{vide order} dated 10.6.97 directed the respondents to pay HRA to Central Government employees for the period from 1.10.86 to 28.2.1991 and 1.3.1991 onwards at the rate applicable to the Central Government employees of B class cities and towns. The applicants claim that the benefit of the judgment in

Attested

Advocate

O.A.192/96 is not being extended to the other similarly situated employees. The applicants further contend that although the two sets of employees are guided by same set of rules as well as service conditions, the respondents without any basis granted two different rates of HRA which is impermissible and without any basis. According to the applicants they are getting lesser rate of HRA vis-a-vis the other similarly situated employees who are granted higher rate of HRA even though both the set of employees are guided by same set of rules and service conditions. The representation filed by the applicants to the authorities did not bear any fruit. The applicants thus claim parity in payment of HRA. The applicants also contend that in Nagaland all employees of Central Government are getting higher rate of HRA than the present applicants. The applicants have prayed that respondents be directed to release HRA at the rate as applicable to the present applicants as given in O.A.192/96 along with arrears and 18% interest ^{on} ~~of~~ such arrears.

2. The respondents have mainly opposed this application on the ground that the judgment in O.A.192/96 is applicable only to the petitioners therein and since the present applicants were not party to said petition, the benefit of the judgment in O.A.192/96 cannot be extended to the present applicants.

3. Heard Shri S.Sarma, learned counsel for the applicants and also Shri A.Deb Roy, learned Sr.C.G.S.C for the respondents. The claim of the applicants ^{is} essentially to HRA as can be seen from various paragraphs of the application and reliefs sought therein. It appears that the applicants are getting HRA at a lower rate than the applicants ^{in O.A.192/96} who were granted HRA at a higher rate vide judgment dated 10.6.97 in O.A.192/96 and connected applications, even though they are working in the same department. Unless there is sufficient intelligible differentia no distinction can be made insofar as payment of HRA is concerned to the employees working in the same department who

Attested
Advocate

are governed by the same service conditions. This Tribunal relying upon the judgment of the Apex Court held that the ~~employees~~ ^{applicants} posted in Nagaland are entitled to get HRA at the rate applicable to the Central Government employees of B Class cities for the period 1.10.86 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, 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 till the notification is in force. The judgment dated 10.6.97 in O.A.192/96 was implemented by the respondents by issuing letters dated 24.4.98 and 13.5.98 which are annexed to the written statement. The stand taken by the respondents that the judgment in O.A.192/96 has to be restricted to the petitioners therein cannot be countenanced and has to be outrightly rejected. The applicants are, therefore, entitled to

HRA at the same rates which was granted to the applicants in O.A.192/96 and other connected matters. The applicants shall therefore be entitled to arrears, if any, under this orders and such arrears shall be paid within 3 months from the date of receipt copy of this order. The ^{HRA at} enhanced rate of ~~HRA~~ shall be paid within 1 month from the date of receipt copy of this order.

3. The applicants had given legal notice to the respondents regarding payment of HRA on 4.7.2001 but the respondents denied the benefit to them without any rhyme, reason or justification. In view of this, I order that the applicants shall be paid 6% ^{1.9.2001} interest on the arrears from ~~the date they are due~~ till the same are paid. The interest shall also be payable alongwith the arrears within 3 months from the date of receipt copy of this order.

The application stands disposed of in aforesaid terms. The respondents shall file compliance report after 3 months from the date of receipt copy of this order and the matter be placed on board for compliance after 4 months.

Section Officer (12/12/04)
C.A.T. GUWAHATI, BANEN
Guwahati-781005
27/12/04

Sd/VICE CHAIRMAN

Amended
Pri
Advocate

SS.

To,
The Deputy Director General
NSSO(FOD), New Delhi.

(Through proper channel)

Subject:- Applicability of House Rent @15% (B-Class City)-regarding.

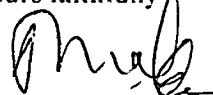
Sir,

Kindly refer to my representation dated 29/10/2004 on the subject as cited above. In this regard I am to further submit a copy of the recent judgement dated 16/12/2004 of the same CAT in respect of O.A.No.67/2004 filed by the employees of AIR, Kohima. Further I would like to request you to kindly expedite extension of the benefit of judgment of CAT Guwahati mentioned so that I may also get the same HRA @15% which my other equally placed colleagues are getting.

Encl. :- As stated.

Place :- Kohima.
Dated :- 14/04/2005.

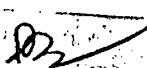
Yours faithfully



(AVI THAKRO)
Investigator.

Attested

Advocate.



No.B-13011/1/2002/KMA/ 416

Government of India
Ministry of Statistics & Programme Implementation
National Sample Survey Organisation
(Field Operations Division)

Daklane, Near Sumi Church
Kohima-797001

Phone No.2290281

Dated:-15th June.2005.

To,

The Station Director,
All India Radio,
Kohima.

Subject:-

Prayer to give in writing whether the judgement awarded by Hon'ble CAT, Guwahati Bench, Guwahati in OA 67/2004 dated 16.12.2004, has been implemented or otherwise.

Madam,

With reference to the above cited subject, I would like to request you to kindly give us in writing whether the judgement awarded by Hon'ble CAT, Guwahati Bench, Guwahati on extending House Rent @15% to the employees under your Establishment vide OA 67/2004 dated 16.12.2004 has been implemented or otherwise. This has been desired by our Department for necessary action to our employees.

Thanking you.

Yours faithfully,



(T. M. SINGH)

For, Deputy Director

Attested

Advocate

102

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
ALL INDIA RADIO :: KOHIMA

NO.KOH.7(2)/AC/2005

934

Dated : Kohima, the 16th June, 2005

To,

The Deputy Director,
NSSO (FOD), Kohima.

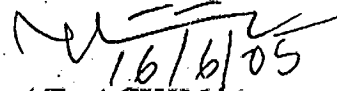
Subject :- Regarding payment of 15% HRA to applicants of Hon'ble CAT, Guwahati
Bench AO 67/2004 dated 16.12.2004.

Sir,

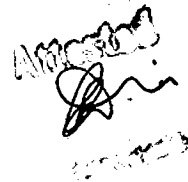
In reference to your letter No.B-13011/1/2002, this office has
implemented court verdict by obtaining approval from Ministry of Finance.

This is for your kind information.

Yours faithfully,


(T. ACHIM)

DRAWING & DISBURSING OFFICER
For :: STATION DIRECTOR





Government of India
Ministry of Statistics and Programme Implementation
National Sample Survey Organisation
(Field Operations Division)

Daklane, Nagabazar,
Near Sumi Church, Kohima-797001
E. Mail: fodkma@sancharnet.in
Tel: 0370-2290281
Dated: 27/09/2005

No. B-13011/1/2002-03/KMA/822

OFFICE MEMORANDUM


Subject:- Applicability of House Rent @15% (B-Class City) to the employees of NSRO Kohima-regarding.

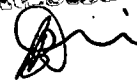
The following Investigators of NSRO Kohima who submitted their representations dated 12/04/2005 on the subject as cited above are hereby informed that their cases of applicability of house rent @15% at par with the rest of the officials have been considered at the appropriate level and it has been decided by the competent authority that the benefit of judgement dated 27/10/2000 in OA No. 20/98 has not been extended to the non-petitioners or can't be implemented in general.

1. Shri Avi Thakro
2. Shri Pura Pyaro
3. Smt Elizabeth Lallawmkim
4. Shri D. Alexander and
5. Shri Nilim Dutta.

This is for information of all the concerned officials.

Encl.:- Nil.


(Dr. K.M. Singh)
Deputy Director

Attstcd

A-10000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

27 MAR 2006
गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE MATTER OF

O.A.NO.291 of 2005

Avi Thakro & others

Applicants

Versus

Union of India & others

Respondents

AND

IN THE MATTER OF :

Written statement submitted by the Respondent

No.1 to 4

WRITTEN STATEMENT:

The humble answering respondents submit their written statements as follows:

1 (a) That I am the Director, National Sample Survey Organization (NSSO), Field Operations Division, Guwahati and respondent No. 3 in the above case. I am acquainted with the facts and circumstances of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement, the contentions and statements made in the application may be deemed to have been denied. I am competent and authorized to file the written statement on behalf of all the respondents.

(b) The application filed is unjust and unsustainable both on facts and in law.

(c) That the application is also hit by the principles of waiver, estoppel and acquiescence and liable to be dismissed.

(d) That any action taken by the Respondents was not stigmatic and same were for the sake of public interest and official procedures and it cannot be said that the decision taken by the respondents, against the applicant had suffered from the vice of illegality.

filed by

Mr. D. D. D.

Addl Secy

27/3/06

BRIEF HISTORY OF THE CASE:

It is submitted that consequent upon the decisions taken by the government on the recommendations of the Fifth Pay Commission relating to the grant of the House Rent Allowance, cities / towns classified as 'A-1', 'A', 'B-1' and 'B-2' and 'C' were allowed HRA at the following rates:-

'A-1'	30% of actual basic pay drawn
'A', 'B-1', 'B-2'	15% of actual basic pay drawn
'C'	7.5% of actual basic pay drawn
Unclassified	5% of actual basic pay drawn

The above rates of HRA were allowed w.e.f. 1.1.1996 to 31.7.1997 notionally and w.e.f. 1.8.1997 with the pay.

The above classification of the cities on the basis of the population criteria. Since the Regional Office, Kohima in Nagaland was classified under 'C' class, the govt. employees on their appointment / posting in the Kohima are being paid the house rent allowance @ 7.5 % of actual basic pay drawn by them. Therefore, the applicants who are presently working in Regional Office, Kohima are entitled to HRA @ 'C' class city rates.

That order dated 27.10.2000 passed in O.A. No. 20/98 by Hon'ble Tribunal was complied with by the respondents, extending the benefits flowing out of the said judgement to the applicants of the said OA. The applicants in the present OA (OA 291/2005) were not applicants in OA No.20/98 and so the order dated 27.10.2000 passed in the OA No.20/98 was not extended to them or in general since the aforesaid judgement has no binding. Hence HRA @ 7.5 % on the basis of classification of Kohima is righteousness.

In view of above position, the applicants have no legitimate claim for grant of HRA @ 'B' class city rates since the Kohima has been classified as 'C' class city on the basis of population criteria. Thus, the present OA merits rejection, prayed accordingly.

This History /genuine facts may be treated as a part of the written statement.

PARAWISE COMMENTS TO THE OA:

1. That with regard to the statements made in the paragraphs 1, 2 & 3, no comments being matter of record.

2. That with regard to the statements made in the paragraphs 4.1 & 4.2, no comments being matter of record.

3. That with regard to the statement made in the paragraphs 4.3, it is submitted that applicants posted in the Regional Office, Kohima are being paid the House Rent Allowance at the rate of 'C' Class city rates as Kohima is classified as a 'C' class city on the basis of the population criteria in terms of Ministry Of Finance, Department of Expenditure's OM No. 2(30)/97 dated 3.10.1997. Moreover, the prayer of the applicants for the payments of HRA at the rate of 'B' class city as was allowed to some of the similarly placed employees cannot be allowed to them since the applicants were not the party in OA 20/98, thus, the benefits flowing out of the said judgement cannot be extended to them or in general.

4. That with regard to the statement made in para 4.4, it is submitted that as stated in the brief history of the case, the benefits flowing out of any judgement neither can be extended to non-petitioner nor in general as the same has no binding.

5. That with regard to the statement made in the para 4.5, it is submitted that the case of the non-petitioners was also considered in consultation with the nodal Ministry but extending the benefits of judgement dated 27.10.2000 to them (non-petitioners) was not found a legitimate claim and therefore, the same was not acceded to.

6. In view of what has been stated in the preceding para and in the brief facts of the case, nothing more to submit with reference to the statement made in para 4.6.

7. That the averments made in para 4.7 and 4.8 are denied for want of knowledge.

8. That the averments made in para 4.9 and 4.10 are denied except that which are matter of records. The answering respondents beg to submit that the judgement and order dated 27.10.2000 in OA No.20/98 were complied with in respect of the petitioners / applicants in the said OA only and therefore, the applicants of the OA under reference have no legitimate claim for the benefits flowing out of the said judgement.

9. In view of what has been stated in the above paras and in the brief facts of the case, nothing more to add with reference to the averments made in paras 4.11, 4.12 and 4.13. However, it is submitted that the benefits allowed to the applicants by virtue of the order dated 27.10.2000 in OA No. 20/98 cannot be given in general or to those who were not necessary party in the said OA.

10. That with regard to the averment made in para 4.14, it is submitted that the applicants in the present OA were not the petitioners in OA No. 20/98 and as such they cannot be extended the benefit flowing out of order dated 27.10.2000.

11. That the averment made in para 4.15 is denied for want of knowledge.

12. That the averments made in paras 5.1 to 5.5 are denied. The grant of house rent allowance to the central government employees is regulated on the basis of classification of cities based on the population criteria. This being so, the applicants in the present OA are entitled to the HRA @ admissible to a class 'C' city. Their claim for grant of HRA @ 'B' class city allowed to the similarly placed employees on the basis of Hon'ble Tribunal order dated 27.10.2000 cannot be acceded to since the same is contrary to the rates of the HRA granted on the basis of classification of city based on population criteria. Moreover, the benefits flowing out of those judgements, cited by the applicants in the present OA, cannot be extended to the non-applicants or in general. Thus, the applicants have no legitimate claim for the grant of HRA @ given to the applicants of the said court cases. Therefore, the action of the answering respondents granting HRA @ 'C' class city cannot be alleged as illegal or arbitrary.

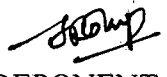
13. Need no comments so far as paras 6 and 7 are concerned.

14. In regard to averments made in paras 8.1 to 8.4 and para 9, the answering respondents beg to submit that in view of submissions made in the brief history of the case and preceding paras, the application is devoid of any merit and as such the same is liable to be dismissed with costs in favour of the respondents and no interim relief may be granted as prayed for by the applicants.

15. Need no comments so far as paras 10 to 12 are concerned.

PRAYER


In view of submissions made in the preceding paragraphs and facts & submissions made in the brief history of the case, it is humbly prayed that the instant application may kindly be dismissed being devoid of merit with costs in favour of the respondents.


 DEPONENT
 S. K. Ray
 Director
 Govt. of India
 NSSO (FOD)
 Guwahati

VERIFICATION

I, Shri S.K.Ray, Director, National Sample Survey Organisation (Field Operations Division) Ministry of Statistics & Programme Implementation, Guwahati do hereby solemnly affirm and verify that the statements made hereinabove are true to my knowledge, belief and information and nothing is being suppressed.

I, sign this verification on this the Fourteenth day of March 2006 at Guwahati.


 DEPONENT
 S. K. Ray
 Director
 Govt. of India
 NSSO (FOD)
 Guwahati