

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

2

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 99/2005

R.A/C.P No. 20/2006

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SECTION OFFICER (Judl.)

Sule

(4)

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

ORDER SHEET

Original Application No. 99/05
Disc. Petition NO. _____
Contempt petition No. _____
Review Application No. _____
Applicants. B. Chandling Lons
Respondents. U. O. I Lons.
Advocates for the Applicant. Adil Ahmed
Advocates of the Respondents. Care. M. U. Ahmed

Notes of the Registry	Dated	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IP/BD No. <u>200/1605/05</u> Dated <u>2.5.05</u> <i>N. S. B.</i> <i>4.5.05</i> Dy. Registrar	6.5.2005	Heard Mr. A. Ahmed, learned counsel for the applicant. Mr. M. U. Ahmed, learned Addl. C.G.S.C. was present on behalf of the respondents. Issue notice to the respondents to show cause as to why this application tax shall not be admitted, returnable within four weeks. List on 3.6.2005 for admission. <i>10/6/05</i> Member
Notice & order Sent to D/section for issuing to resp. Nos. 1, 2, by regd. A/D post. <u>9/3/05</u>. D/No = 695 to 696 DT = 16/5/05. Notice duly served on resp. No - 1. <u>24/5</u>	bb 3.6.2005 mb 1.7.05	List on 1.7.2005 for admission. <i>10/7/05</i> Member (A) Counsel for the applicant not present. Mr M. U. Ahmed, learned Addl. C.G.S.C seeks for further time. List on 3.8.05 for admission. <i>2/8/05</i> Vice-Chairman

(2)

① No. Reply has been filed 2.8.05.

② Notice duly served on R.No-1, other respondent are still awaited.

Judgment delivered in open Court. Kept in separate sheets. Application is disposed of.

[Signature]
Member

[Signature]
Vice-Chairman

lm

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3.6.05

MMS
22/8/05
Add. C. & S. C.

22.8.05

Copy of the judgment has been sent to the D/Sec. for filing the line to the applicant by post. and a copy of the line handed over to the Add. C. & S. C. on 22.8.05.
sh.

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH.

O.A. No. 99 of 2005.

DATE OF DECISION: 02.08.2005

Mr. Budhan Choudhury & Ors

APPLICANT(S)

Mr. Adil Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Others

RESPONDENT(S)

Mr. M.U. Ahmed, Addl. CGSC

ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

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. 99 of 2005.

Date of order: This the 2nd day of August, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN
HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

1. Sri Budhan Choudhury,
P.No.14117377
Pmt.Mazdoor,
2. Sri V.K.Tripathi,
P.No.640738
F/Man/Grd.II
3. Sri S.K.Tripathi
P.No.6407319
FED
4. Sri Bachch Singh
P.No.6407320
FED
5. Sri Upender Singh
P.No.6407383
FED
6. Sri Jagdish Prasad
P.No.6407321
F/M,Grd-II
7. Sri Akhey Pradhan
P.No.6407322
F/M,Grd.II
8. Sri Sanyasi Sabath
P.No.NYA
Pmt./Mazdoor
9. Sri Bhagaban Naik
P.No.NYA
Pmt/Mazdoor
10. Sri Ramsamujh Chouhan
P.No.NYA
Pmt/Mazdoor
11. Sri Badal
P.No.6407367
S/Walla
12. Sri Satyanarayan
P.No. 14117446
Pmt/Mazdoor

Applicants

(All the applicants are working under the office of the
Commanding Officer, 50 Coy, ASC(Supply), Type CC/099 APO.)

By Advocate Mr. A. Ahmed

-Versus -

1. The Union of India represented by the Secretary to the Government of India, Ministry of Defence, South Block, and New Delhi-1.

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

Respondents.

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

ORDER (ORAL)

SIVARAJAN, I(V.C);

Applicants 12 in number working under the office of the Commanding Officer, 50 Coy, ASC (Supply), Type CC/Co 99 APO have filed this application seeking for direction to the Respondents to pay the arrears of House Rent Allowance as per office Memorandum dated 23.9.1986 issued by the Joint Secretary, Government of India, Ministry of Finance, New Delhi and as per similar order passed in O.A.No.266 of 96 passed by this Tribunal and also as per order passed by the Gauhati High Court in Civil Rule No. 5613 of 1998.

2. We have heard Mr. A. Ahmed learned counsel for the applicant and Mr. M. U. Ahmed learned Addl. CGSC appearing for the Respondents. Mr. A. Ahmed counsel for the applicant submits that the applicants are entitled to HRA based on office Memorandum dated 23.9.1986, since they fulfilled all the requisite conditions for House Rent Allowance. He also submits that the similarly situated persons who are working alongwith the instant applicants are getting the HRA till date and also arrears of pay as per this Tribunal's order passed in O.A.No.266 of 1996 and series of other cases. Mr. M. U. Ahmed, Addl.

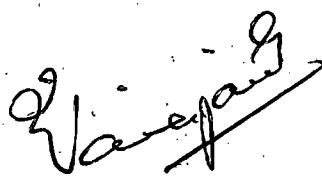


CGSC on instructions submitted that out of the 12 applicants, 4 (four) of them are provided Government free accommodation and the other 8 applicants have made their own arrangement for their residence. Since, all the relevant details for grant of HRA are not available on records, we are of the view that the question of regarding entitlement of HRA under the office Memorandum dated 23.9.1986 and the decision in O.A.No.266 of 1996, has to be considered by the concerned Respondents themselves.

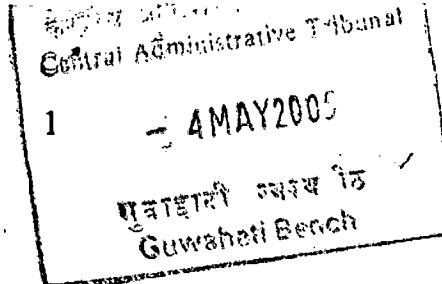
3. In the circumstances, we are of the view that this O.A. can be disposed of at the admission stage itself. Accordingly there will be a direction to the 2nd Respondents to consider the case of the applicants in the light of the office Memorandum and pass appropriate order regarding granting of HRA within a period of three months from the date of receipt of this Order. The applicant will co-operate with the Respondents and copy of the order will be furnished to the Respondents to enable them to take a decision in the matter.

Application is disposed as above at the admission stage itself. The applicant will produce the order before the 2nd Respondent for compliance.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE-CHAIRMAN

LM



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

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

ORIGINAL APPLICATION NO. 99 OF 2005.

BETWEEN

Shri Budhan Choudhry & Others

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS:

Annexure-A is the photocopy of Office Memorandum No. 11013/2/86-E. II (B); New Delhi dated 23rd September 1986.

Annexure-B is the photocopy of Judgment and Order dated 10th June 1997 pass in Original Application No.266 of 1996 and series of other cases.

Annexure-C is the photocopy of judgment and order dated 18-09-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998.

The Original Application is made for non payment of arrears of House Rent Allowance to the applicants as per Office Memo No. 11013/2/86-EII (B) Government of India, Ministry of Finance (Department of Expenditure), New Delhi dated 23rd September 1986 and also for non-implementation of similar judgment & order passed in O.A.No.226 of 1996 passed by this Hon'ble Tribunal and also as per judgment and order passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998 regarding the payment of House Rent Allowance to the similarly situated persons.


✓ C.T. & Budhan Choudhry

RELIEF SOUGHT FOR:

That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the arrears House Rent Allowance to the applicant as per Office Memorandum No.11013/2/86-E (II) (B) dated 23-09-1986 issued by the Joint Secretary, Govt. Of India, Ministry of Finance (Department of expenditure) New Delhi and also as per similar judgment & order passed in O.A.No.226 of 1996 by this Hon'ble Tribunal and also judgment and order passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998 for payment of House Rent Allowance to the similarly situated persons.

To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

At this stage the Applicants do not pray any interim order but the Hon'ble Tribunal may be pleased to pass any order or orders as deem fit and proper.



✓ C.T. of Arun Choudhury

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. OF 2005.

BETWEEN

1. Shri Budhan Choudhury
P.No.14117377
Pmt/Mazdoor.
2. Shri V.K.Tripathi
P.No.640738
F/Man/Grd-II.
3. Shri S.K.Tripathi
P.No.6407319
F ED.
4. Shri Bachch Singh
P.No.6407320
F ED.
5. Shri Upender Singh
P.No.6407383
F ED.
6. Shri Jagdish Prashad
P.No. 6407321
F/M, Grd.-II.
7. Shri Akhey Pradhan
P.No.6407322
F/M, Grd.-II.

Filed by
Shri Budhan Choudhury
Applicant/Not
through [Signature]
(Appl. #MM 20)
Attorney



✓ A.T. of Budhan Choudhury

8. Shri Sanyasi Sabath
P.No.NYA
Pmt/Mazdoor.
9. Shri Bhagaban Naik
P.No.NYA
Pmt/Mazdoor.
10. Shri Ramsamujh Chouhan
P.No.NYA
Pmt/Mazdoor.
11. Shri Badal
P.No.6407367
S/Walla.
12. Shri Satyanarayan
P.No.14117446
Pmt/Mazdoor.

...Applicants

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

-AND-

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

...Respondents



L.T. of Arjun chandray

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

The Original Application is made for non payment of arrears of House Rent Allowance to the Applicants as per Office Memo No. 11013/2/86-EII (B) Government of India, Ministry of Finance (Department of Expenditure), New Delhi dated 23rd September 1986 and also as per similar judgment & order passed in O.A.No.226 of 1996 passed by this Hon'ble Tribunal and also as per judgment and order passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998 regarding the payment of House Rent Allowance to the similarly situated persons.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

The Applicants further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicants are citizen of India and as such they are entitled to all rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicants beg to state that they are Defence Civilian Central Government Employee under the Ministry of Defence. They are Group-D employee. They are working at Nagaland with the Armed Force at the Border for support of Operational Requirements, they faced the eminent hostilities supporting the Army Personal Deployed there.



L.T. of Rudram
Chandray

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4.3) That your Applicants beg to state that as the grievances and reliefs prayed in this application are common, therefore, they pray for grant of permission under Section 4(5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

4.4) That your Applicants beg to state that the Government of India, Ministry of Finance (Department of Expenditure) vide their Office Memorandum No.11013/2/86-E. II (B), New Delhi dated 23rd September 1986 granted House Rent Allowance to the Central Government Civilians Employees.

Annexure-A is the photocopy of Office Memorandum No. 11013/2/86-E. II (B); New Delhi dated 23rd September 1986.

4.5) That your Applicants beg to state that they are entitled for House Rent Allowance as per Office Memorandum No. 11013/2/86-E. II (B), New Delhi dated 23rd September 1986. The similarly situated persons who are working along with the instant Applicants are enjoying this House Rent Allowance till date and also arrears payment as per this Hon'ble Tribunals order passed in O.A No.266 of 1996 and series of other cases. The Respondents have only paid the current payment of House Rent Allowance to the Applicants. The Applicants are entitled for House Rent Allowance from their joining at Nagaland till today. But the Respondents are denying the said benefit of arrears of House Rent Allowance to the instant Applicants on the plea, that the instant Applicants have not approached this Hon'ble Tribunal for a direction of payment of arrears of House Rent Allowance to them. As such finding no other alternative your Applicants have compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Annexure-B is the photocopy of Judgment and Order dated 10th June 1997 pass in Original Application No.266 of 1996 and series of other cases.

4.6) That your Applicants beg to state that all the Applicants are entitled to get the benefits of House Rent Allowance and they have also fulfill all the terms and conditions of House Rent Allowance as admissible to the Central Government Civilian Employees. They have



L. T. of Bishnu
Chowdhury

also been paid the current House Rent Allowance but they have been denied the arrear House Rent Allowance only on the plea that the instant Applicants have not approached the Hon'ble Tribunal for arrear payment of House Rent Allowance.

4.7) That your Applicants beg to state that similarly situated Defence Civilian persons who are working in Nagaland earlier have also filed O.A.No.124, 125 of 1995 for payment of House Rent Allowance before this Hon'ble Tribunal. The Hon'ble Tribunal vide its order dated 24-08-1995 allowed the Original Application by directing the Respondents to pay the House Rent Allowance to Defence Civilian Employees with arrears from their date of posting at Nagaland. The above said order was also affirmed by the Hon'ble Tribunal Court of India vide Civil Appeal No. 1572 of 1997 passed on 17-02-1997. In a recent similar case the Hon'ble Gauhati High Court vide its order dated 18-09-2002 passed in Civil Rule No.5613 of 1998 affirmed the judgment and order of the Hon'ble Tribunal regarding payment of House Rent Allowance to Defence Civilian Employees. It may be worth to mention here that the above said Defence Civilian Employees are also working with the instant Applicants in the same office and after the Judgment of the Hon'ble High Court the said defence civilian employees got the full benefits of the House Rent Allowance with arrears.

Annexure-C is the photocopy of judgment and order dated 18-09-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998.

4.8) That your Applicants beg to state that the action of the Respondent is Highly illegal, arbitrary, unfair and violative of the principle of natural justice as well as fundamental rights of the Applicants.

4.9) That your Applicants submit that they have got reasons to believe that the Respondents are resorting the colorable exercise of power only to deprive the Applicants from their legitimate rights.

4.10) That your Applicants submit that the action of the Respondents are mala fide, illegal and with a motive behind.



L.T. of Budhan
Chowdhury

✓

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

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

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

In view of the humble submissions made and facts and circumstances explained in the foregoing paras, the non payment of arrears House Rent Allowance to the Applicants by the Respondents is arbitrary, mala fide discriminatory and badly misconceived the following amongst other grounds:-

5.1) For that, the action of the Respondents are highly illegal, arbitrary and violative of the principle of natural justice as well as the fundamental rights of the Applicants.

5.2) For that the Applicants are entitled for payment of House Rent Allowance with arrears as per Hon'ble Tribunal's order as well as Hon'ble Apex Court's order. Hence the Respondents cannot deprive them.

5.3) For that, regarding the payment of House Rent Allowance with arrears to the Defence Civilian Employees have reached finality in the eye of law. As such the Respondents without any justification cannot deny the said benefit to the Applicants.

5.4) For that, in a recent similarly situated Defence Civilian Employees case the Hon'ble Gauhati High Court has also affirm the judgment of the House Rent Allowance passed by the Hon'ble Tribunal.


L.T. of Dardhan
Chowdhury

5.5) For that, other similarly persons are enjoying the benefit of House Rent Allowance without any interruption and as such the action of the Respondents are illegal and also without any justification.

5.6) For that, it is settled proposition of law that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the said benefits without requiring them to approach in the Court of law.

5.7) For that, the Respondents have violated the Article 14, 16 & 21 of the Fundamental rights guaranteed under the Constitution of India.

5.8) For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.9) For that, the Central Government being a model employer and as such they can not restored discriminatory attitude towards similarly situated persons.

5.10) For that, in any view of the matter the action of the matter the action of the Respondents are not sustainable in the eye of law as well as fact.

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

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the Applicants further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the

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Chavethay

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instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the arrears House Rent Allowance to the applicant as per Office Memorandum No.11013/2/86-E (II) (B) dated 23-09-1986 issued by the Joint Secretary, Govt. Of India, Ministry of Finance (Department of expenditure) New Delhi and also as per similar judgment & order passed in O.A.No.226 of 1996 by this Hon'ble Tribunal and also judgment and order passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998 for payment of House Rent Allowance to the similarly situated persons.
- 8.2) To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.
- 8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

At this stage the Applicants do not pray any interim order but the Hon'ble Tribunal may be pleased to pass any order or orders as deem fit and proper.

L.T. of Budhhu
Chandhu

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10) Application is filed through Advocate.

11) Particulars of L.P.O.:

I.P.O. No. :- 206160533

Date of Issue :- 3.5.2005

Issued from :- Guwahati G.P.O.

Payable at :- Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification...

L.T. of Dendram Choudhury

✓

-VERIFICATION-

I, Shri Budhan Choudhury, P.No.14117377, Pmt/Mazdoor, Office of the Commanding Officer, 50 Coy, ASC (Supply), Type C C/o99 APO do hereby solemnly verify that I am the Applicant No.1 of the instant application and I am authorized by the other applicants to signed this verification. That the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.6, 4.8 — are true to my knowledge, those made in Paragraphs Nos. 4.4, 4.5, 4.7 — are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 4th day of May 2005 at Guwahati.



C.T. of Budhan choudhury

ANNEXURE - A

ANNEXURE - A

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

Government of India

Ministry of Finance

(Department of Expenditure)

New Delhi, the 23rd September, 1986

OFFICE MEMORANDUM

Subject: Recommendations of the Fourth Pay Commission
- Decisions of Government relating to grant
of Compensatory (City) and House Rent
Allowances to Central Govt. Employees.

The undersigned is directed to say that consequent upon the decisions taken by the Government on the recommendations of the Fourth Pay Commission relating to the above mentioned allowances vide this Ministry's Regulation No. 14(1)/IC/86 dated 13th September, 1986, the President is pleased to decide that in modification of this Ministry's O.M. No. F.2(37)-E.II(B)/64 dated 27.11.1965 as amended from time to time, Compensatory (City) and House Rent Allowances to Central Government

Attested
1
Advocate

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B-2
Employees shall be admissible at the following rates;

(A) COMPENSATORY (CITY) ALLOWANCE;

Pay Range (Basic pay)	Amount of CCA in class of city (Rs. p.m.)		
	A	B-1	B-2
Below Rs. 950/-	30	25	20
Rs. 950 and above but below Rs. 1500/-	45	35	20
Rs. 1500 and above but below Rs. 2000/-	75	50	20
Rs. 2000/- and above	100	75	20

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

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Attested
1
Adhikari

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(11) HOUSE RENT ALLOWANCE:

Type of accommo- dation to which entitled	Pay range in revised scales of pay for entitlement.	Amount of HRA payable in (Rs. p.m.) A, B-1, B-2 & Class Un- Class officer	Officer class placed	
A	750-949	150	70	30
B	950-1499	250	120	50
C	1500-2799	450	220	100
D	2800-3509	600	300	150

2. H.R.A. at above rates shall be paid to all employees (other than those provided with government owned/hired accommodation) without requiring them to produce rent receipts. Those employees shall, however, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. H.R.A. at above rates shall also be paid to Govt. employees living in their own houses subject to their furnishing certificate that they are paying/contributing towards house or property tax or maintenance of the house.

.....4

Attested
[Signature]
[Signature]

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16-

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[Signature]

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

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

5. Pay for the purpose of travel orders, will be 'Pay' as defined in R.R. 9 (21) (a) (1). In the case of persons who continued to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include, in addition to pay in the pro-royaled scales, dearness pay, dearness allowance, additional dearness allowance, Ad-hoc D.A. and Interim Relief appropriate to the pay, admissible under orders in existence on 31.12.1985.

A. H. Steel
S. L.
A. H. Steel

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[Signature]

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

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

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

9. Hindi version of the order is attached.

[Signature]
(B.P. Verma)
Joint Secretary to the Government of India.

[Signature]
A.H. 21
Advocate

18
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI Bench

ANNEXURE - B

Original Application No.266/96 and series

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

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

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

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 others
By Advocate Mr A. AhmedApplicants

-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. AhmedApplicants

-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. AhmedApplicants

-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. AhmedApplicants

-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. AhmedApplicants

-versus-

Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.Respondents

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S. Ali
A. Ahmed

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6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 othersApplicants
By Advocate Mr B. Sarma and Mr B. Mehta,

-versus-

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

7. Original Application No.87 of 1996

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

-versus-

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

8. Original Application No.45 of 1997

Shri L. Shanmudharan Nair and 9 othersApplicants
By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

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

9. Original Application No.197 of 1996

Shri R.C. George and 66 othersApplicants
By Advocate Mr S. Sarma

-versus-

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

10. Original Application No.28 of 1996

Shri Hiratal Day and 8 othersApplicants
By Advocate Mr A.C. Sarma and Mr H. Talukdar

-versus-

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

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Attorney
Sd/-
Shri B.

11. Original Application No.190 of 1996

1. National Federation of Information and Broadcasting Employees, Boardarchan 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 others Respondents

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

12. Original Application No.191 of 1996

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

-versus-

Union of India and others Respondents

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 others Respondents

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 others Respondents

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

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15, Original Application No.26 of 1997.

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

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

ORDER

Date of decision: 10-6-1997

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

Attended
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ORDER

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DARUHAN, 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. 11013/77 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.

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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 Tuamang 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)-F.II(1960) dated 2.8.1960. However, the authorities denied the same to the employees ignoring the circular of 1966. 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.....

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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 29.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same."

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

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

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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 1.2.1991 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.

In O.A.Nos.91/96, 87/96, 100/96, 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. 8/91 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 22.9.1995 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

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In the said order,

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

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

TRUE COPY

Witness

Deputy Registrar (GP)
Central Administrative Tribunal
Chennai Bench

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By
Depute

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1. Name of the applicant 2. Date of filing of the application	3. Name of the respondent 4. Date of filing of the application	5. Name of the petitioner 6. Date of filing of the application	7. Name of the respondent 8. Date of filing of the application
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ANNEXURE - B

ANNEXURE - C

IN THE GUARANTY HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Mizoram & Arunachal Pradesh)

U O 9

U Gouda Bor

No. 56/3 of 1998

Appellant
Petitioner

Versus

Respondent
Opposite-Party

Appellant
Petitioner
D. S. S. C.

Respondent
Opposite-Party
MR. A. Bhowmik

Attested
by
D. S. S. C.

Received
by
D. S. S. C.

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APPLICANT'S NAME

NAME

TO THE GOVERNMENT OF

Union of India,

represented by the Secretary to the
Govt. of India, Ministry of Defence,
New Delhi.

The Commanding Officer,
SSCOT AEC(Supply) Type-C,

o/o DD APO.

-Various-

1. Ulla Gonda

2. Han Raj

3. Achin

4. Panchabha

5. Panchabha dtd

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6. Harimull
7. Gundloha Naik
8. Kirton Gouda
9. Dev Raj
10. Mangala Behara
11. Dandapand Naik
12. Bhirga Nath.
13. Khadai Gouda
13. Fadda Naik
15. Ramchandrar
16. Suresh Lal Laxtha
17. Subaru Naik
18. Soma Naik
19. Rasday Chohan
20. Girpat Ram
21. Ram Prasad
22. Parim Behar
23. Moti Ram
24. M. P. S. Saha
25. B. P. S. Saha
26. J. P. S. Saha
27. B. P. S. Saha
28. C. P. S. Saha
29. B. P. S. Saha
30. B. P. S. Saha
31. B. P. S. Saha
32. B. P. S. Saha
33. B. P. S. Saha
34. B. P. S. Saha

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37. Balma Halk
38. Gmt Kelawoti
39. Dinobandha Halk
40. Nam Brilani
41. Nam Samajh
42. Gobhanshi Singh
43. Kall. Sahu
44. Surinder Sahu
45. V.K. Pillal
46. Harkhilt
47. Hoshia. Hem
48. Ramchander Gouda
49. Hadyachur
50. Ramela P. edhen
51. Uday Path
52. Lal Dhor
53. Burali Prasad
54. P. L. Gouda
55. Dohari. Ram
56. Gati. Ram
57. G. L. Gouda
58. Hardev Ram
59. H. M. Gouda
60. Ram. H. Gouda

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01. Jay Prakash Ram
02. Ram Badan
03. Tribhubhan
04. Rop Ram
05. Danga Saran
06. Panu Pradhan
07. Shanker Thakur
08. Ram Prasad
09. Ram Shanker
10. N.K. Choudhary
11. Datt. T. Das Jodir
12. S.K. Patel
13. Motilal
14. Moujdar
15. Ramswar
16. Subhash Tal
17. P.P. Yadav
18. Dibakar Gonda
19. H.P. Garmah
20. Hamid Haid
21. Trilok Nath
22. R.H. Gonda
23. Ma Prakash Gupta
24. Kader
25. Balender

All entries in the office of the
General Office of the Govt. (2000-10)
Type of 2/2000 are.

... 2000-10-20

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Date

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	1	
			CR 5613/98
			BEFORE
			THE HON'BLE THE CHIEF JUSTICE
			THE HON'BLE MR JUSTICE AMITAVA ROY
	10.09.02		
			It is submitted by the learned counsel for the respondents that the petitioners are Central Government employees serving in the States of Nagaland and Manipur and similarly situated persons have been given the benefit of House Rent Allowance and Field Area Special Compensatory (Remote Locality) Allowance by the Central Administrative Tribunal. The Union of India challenged the order of the Tribunal before the Apex Court in the matter of Union of India and others-V B Prasad, BVSO and Others, reported in (2007) 4 SCC 101. The judgment of the Tribunal was challenged in the Apex Court on various grounds, including the grant of House Rent Allowance on Ground No.(D) in Special Leave Petition. The Apex Court has not accepted the contention of the Union of India and the judgment of the Tribunal for payment of the House Rent Allowance has not been reversed by the Apex Court. It is also submitted by the learned counsel for the respondent that similarly situated persons have been paid the House Rent Allowance by the Union of India after

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Comptroller or Associate	Serial No.	Date	Office notes, reports, orders or proceedings with signature

Additional Central Government Standing Counsel for the petitioner.

We have considered the submissions made by the learned counsel for the parties and perused the record. It appears that nothing has been said by the Apex Court about the House Rent Allowance in the case Union of India and Ors. v. B. P. S. and others (Supra), but at the same time the ground raised by the Union of India challenging the House Rent Allowance granted by the Central Administrative Tribunal having not yet been decided by the Supreme Court, we can safely assume that the judgment of the Tribunal on the question of payment of House Rent Allowance was accepted by the Apex Court. Apart from this, after the judgment delivered by the Apex Court similarly situated persons have been paid House Rent Allowance by the Union of India. That being the case, we do not find any reason to interfere with the order dated 26.9.97 passed by the Central Administrative Tribunal, Guwahati Bench in OA No. 86/97.

Appeal is dismissed. However, there shall be no order as to costs.

[Signature]
Secretary

[Signature]
10th day of Sept 2012

[Signature]
12/9/12