

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GJWAHATI BRANCH.

ORDER SHEET

8/06

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(s)

Suklur Naik & Ors.

Respondent(s)

U.O.I 2001

Advocate for the Applicants

Adil Ahmed

Advocate for the Respondent(s)

Mr. Md. Ali Ahmed CGSC

Pl. St. Counsel

Notes of the Registry Date

Order of the Tribunal

16.01.2006 Present : Hon'ble Mr. Justice G. Sivaranjan, Vice-Chairman.

Heard Mr. A. Ahmed, learned counsel for the applicants and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents.

Mr. A. Ahmed, counsel for the applicants submits that the issue is covered by the judgment and order passed by this Tribunal in C.A. No. 205/2004 dated 16.6.2005.

Issue notice to the respondents to show cause as to why this application shall not be admitted.

Post on 28.2.2006.

G. Sivaranjan
Vice-Chairman

ms

Notice & order sent
to D/section for
issuing to resp.

Nos. 1, 2 by regd.
A/D post. D/No 130, 131
C/No. 24/11/06. DTG 27/11/06.

Contd....

14.2.2006 Post on 27.2.2006.

26-2-06

(1) Service report
awarded.

(2) No. W.L.S has been
billed.

Vice-Chairman

mb

27.2.06 At the request of Mr. M.U.Ahmed
learned Addl.C.G.S.C. 1 month time is
granted to file written statement.

Post on 10.4.06.

28-4-06

No. W.L.S has been
billed.

Vice-Chairman

lm

1.5.2006

Mr. A.Ahmed, learned counsel for
the applicant submits that this case is
covered by the order (Annexure-C) passed
in O.A.205/2004 wherein the Tribunal has
directed the respondents to consider the
representation of the applicant therein
and dispose of the matter.

Mr. M.U.Ahmed, learned Addl.C.G.S.C
was represented and prayed was made that
this case may be taken up on 5.5.2006.

Post on 5.5.2006.

Vice-Chairman

bb

8.5.06

Judgment delivered in open Court
Court. Kept in separate sheets. applica-
tion is disposed of. No costs.

Vice-Chairman

lm

11/5/06
Addl.C.G.S.C

11.5.06

Copy of the Judgt
handed over to the
L/Advocates for the
parties.

3

CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH.

O.A. No. 8 of 2006.

DATE OF DECISION: 05.05.2006

Sri Sukrur Naik and
Shail Kumari

APPLICANT(S)

Mr. A.Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

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

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

Judgment delivered by Hon'ble Vice-Chairman.

8/5/2006

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No.8 of 2006.

Date of order: This the 5th Day of May, 2006.

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

1. Sukrur Naik,
P.No.14117339
Ex. Permanent Mazdoor,
Office of the Commanding Officer
50 Coy ASC (Supply) Type-C,
C/O.99 APO.

2. Shail Kumari
Wife of Late Bhirgunath
Ex.P.No.14117358
Permanent Mazdoor
Office of the Commanding Officer
50 Coy ASC (Supply), Type -C,
C/O. 99APO.

Applicants.

By Advocate Mr.A.Ahmed

-Vs-

1. The Union of India represented by the
Secretary to the Government of India,
Ministry of Defence 101 South Block,
New Delhi-1.

2. The commanding Officer, 50 Coy, ASC
(Supply) Type-C, C/O.99 APO.

Respondents.

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

ORDER (ORAL)

SACHIDANANDAN,V.C:

The application has been filed by the applicant for non-payment of Licence Fee@ 10% Compensation in lieu of Rent Free Accommodation to the applicants by the Respondents as per orders passed in O.A.No.48 of 91, O.A.No.266/96 and O.A.No.205 of 2004. The applicants have contended that they are also similarly situated employees and so they are entitled to payment of the Licence Fee

compensation. But the Respondents have not paid the Licence Free in lieu of Rent free accommodation. Being aggrieved the applicants have filed this O.A. seeking for the following reliefs:-

"8.1) The Respondents may be directed by this Hon'ble Tribunal to pay license fee @ 10% of monthly pay with effect from 1.7.87 or from the actual date of posting in Nagaland if it is subsequent thereto as the case may be up to date and continue to pay the same until compensation is not withdrawn or modified by the Government of India or till Rent Free Accommodation is not provided.

8.2) Direct the Respondents to pay the 0% in lieu of Rent Free Accommodation in terms of Hon'ble Tribunal's Judgment and Order in O.A.No.48/91 and O.A.No.266/96 and O.A.No.205 of 2004 other similar cases decided by this Hon'ble Tribunal.

8.3) to pay the cost of the case to the Applicants.

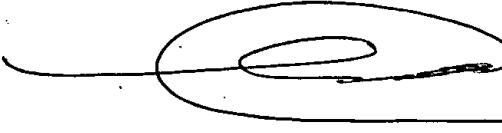
8.4) any other relief or reliefs that may be entitled to the Applicants."

2. I have heard Mr.A.Ahmed learned counsel for the applicant and Mr.M.U.Ahmed learned Addl.C.G.S.C. appearing for the Respondents. When the matter came up for hearing the learned counsel for the applicants has submitted that if the Court directs applicants to file representation the respondents may consider the case of the applicants with reference to the judgments passed in O.A.No.48 of 91, O.A.No.266/96 and O.A. No.205 of 2004 which have been annexed in this O.A. and to dispose of the same on merit and communicate the same to the applicants. I am of the opinion that if such direction is given it will suffice the interest of justice.

3. Accordingly, I direct the applicant to file a fresh representation before the 2nd respondents within three weeks and in case such representation is received within the time frame the 2nd respondent or any other authority shall consider the representation

and pass appropriate order and communicate the same to the applicants within three weeks from the date of receipt of the representation.

The O.A. is accordingly disposed of at the admission stage itself. There will be no order as to costs.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

LM

X

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

Original Application No. 8/06

1. a) Name of the Applicant: - S. Naik
b) Respondents: - Union of India & Ors.
c) No. of Applicant(S): -
2. Is the application in the proper form: - Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title: - Yes / No.
4. Has the application been duly signed and verified: - Yes / No.
5. Have the copies duly signed: - Yes / No.
6. Have sufficient number of copies of the application been filed: Yes / No.
7. Whether all the annexure ~~parties are impleaded~~ :- Yes / No.
8. Whether English translation of documents in the Language: - Yes / No.
9. Has the application is in time: - Yes / No.
10. Has the Vokatlatnama / Memo of appearance / Authorisation is filed: Yes / No.
11. Is the application by IPO / BD / for Rs. 50/- 26/6 156788
12. Has the application is maintainable: Yes / No.
13. Has the Impugned order original duly attested been filed: Yes / No.
14. Has the legible copies of the annexurea duly attested filed: Yes / No.
15. Has the Index of the documents been filed all available: - Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed: - Yes / No.
17. Has the declaration as required by item 17 of the form: Yes / No.
18. Whether the relief sought for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for: - Yes / No.
20. Is case of Condonation of delay is filed is it Supported: - Yes / No.
21. Whether this Case can be heard by Single Bench / Division Bench.
22. Any other pointd :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order

SECTION OFFICER(J)

DEPUTY REGISTRAR

WV

देशी न्याय फॉर आर्ट्स
Central Administrative Tribunal
Guwahati Bench, Guwahati
-9
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 8 OF 2006.

BETWEEN

Sukrur Naik & another

...Applicants

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS

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

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

Annexure-C is the photocopy of Judgment and Order dated 16th June 2005 passed in O.A. No.205 of 2004.

This Original Application is made for Non-payment of Licence Fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants by the Respondents and with a prayer before the Hon'ble Tribunal for a direction to the Respondents for payment of Licence fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants as per judgment and orders passed in O.A. No. 48/91, O.A.266/96 and O.A.No.205 of 2004.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. OF 2006.

BETWEEN

Suknur Naik & another

...Applicants

-Versus-

The Union of India & Others

...Respondents

INDEX

<u>SL. NO.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
1.	Original Application	- 1-8
2.	Verification	9
3.	Annexure-A	10 - 14
4.	Annexure-B	15 - 23
5.	Annexure-C	24 - 33

Filed by


(ADIL AHMED)

ADVOCATE

1

filed by 10
Sukrur Naik
Applicant
(Adv. A. H. M. E. S.)
Shail
Naik
Adv. A. H. M. E. S.)
Date
10/01/2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. OF 2006.

BETWEEN

1. Sukrur Naik
P.No.14117339
Ex. Permanent Mazdoor
Office of the Commanding Officer
50 Coy ASC (Supply) Type-C,
C/o 99 APO.

2. Shail Kumari
Wife of Late Bhirgunath
Ex. P. No.14117358
Permanent Mazdoor
Office of the Commanding Officer
50 Coy ASC (Supply) Type-C,
C/o 99 APO.

... Applicants.

-VERSUS-

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

... Respondents



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

This Original Application is made for Non-payment of Licence Fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants by the Respondents and with a prayer before the Hon'ble Tribunal for a direction to the Respondents for payment of Licence fee @ 10% Compensation in lieu of Rent Free Accommodation to the Applicants as per judgment and orders passed in O.A. No. 205 of 2004 dated 16th June 2005.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

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

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicants are citizen of India and as such, they are entitled to all rights and privileges guaranteed under the Constitution of India. The Applicant No.1 was a Permanent Mazdoor under office of the Respondent No.2 and retired from his service on 01.07.2002. He was a Central Government Civilian Employees. He had served under the Ministry of Defence in Nagaland for a long time. He was a Group-D employee. The Applicant No.2 is the wife of Late Bhirgunath, who was a Permanent Mazdoor under the Office of the Respondent No.2 and he expired on 03.08.2005. He was a Central Government Civilian Employees. He had served under the Ministry of Defence in Nagaland for a long time. He was a Group-D employee. The

✓

Applicant No.2 i.e. Smti Shail Kumari is the only legal heir of Late Bhirgunath.

4.2) That your Applicants beg to state that they have got common grievances, common cause of action and the nature of relief prayed for is also same and similar and hence having regard to the facts and the circumstances they intended to prefer this application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant application redressal to their common grievances.

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

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

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

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

4.6) That your Applicants beg to state that the similarly situated Defence Civilian employees serving in Nagaland filed an O.A. No.266/96 and other series of cases before the Hon'ble Tribunal for compensation at the rate of 10% in lieu of Rent Free Accommodation. The Hon'ble Tribunal vide their Judgment dated 10-6-97 allowed the series of Original Applications and directed the Respondents to pay the House Rent Allowance at prescribed rate and also to pay 10% compensation in lieu of Rent Free Accommodation. Moreover, similarly situated Defence Civilian Employees serving under the instant Respondent No.2 filed an Original Application No.205 of 2004 before this Hon'ble Tribunal for compensation at the rate of 10% in lieu of Rent Free Accommodation. The Hon'ble Tribunal vide its Order dated 16th June 2005 directed the Respondents to consider the claim of the Applicants including the legal heirs of the deceased employee for grant of Licence Fee @ 10% in lieu of Rent Free Accommodation and to take decision in this matter.

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

ANNEXURE-C is the photocopy of Judgment and Order dated 16th June 2005 passed in O.A. No.205 of 2004.

4.7) That your Applicants beg to state that the similarly situated Defence Civilian Employees of Canteen Stores Department posted in Dimapur are getting the House Rent Allowance and also @10% compensation in lieu of Rent Free Accommodation. It may be stated that the function and nature of works of employees of Canteen Stores Department are almost similar and same to the Army Supply Core ASC (Supply) under where the instant Applicant No.1 had served and the Applicant No.2 's late husband served.



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

4.9) That your Applicants beg to state that since the Applicants were similarly situated with those other Defence Civilian Employees and also with the Central Government Employees posted in Nagaland. The Respondents ought to have extended the said benefit to its employees serving under the Commandant, 50 Coy, ASC (Supply) Type-C, when a decision was made by the Hon'ble Tribunal in similar cases. However, the Respondents have again forced the Applicants to approach this Hon'ble Tribunal.

4.10) That the Applicants beg to state that they have fulfilled all the terms and conditions for getting licence fee compensation @ 10% in lieu of Rent Free Accommodation for being posted Nagaland. As such, they are entitled to get benefit.

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, the Applicants are being similarly places with the Applicants of Original Applications No. 48/91, 266/96 and 205 of 2004 and other series of cases. As such, the same benefits ought to have to extend to the present Applicants.

5.2) For that, the Applicants were being Central Government Employees serving in Nagaland and being attached with the Armed Forces are entitled to get financial benefits mentioned above.

5.3) For that, there is no justification in denying the said benefits to the Applicants and denial has resulted in violation of Articles 14, 16 & 21 of the Constitution of India.

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

5.5) For that, it is settled preposition of law that when the same principle is laid down it should be applicable to all other similarly situated persons and should grant the same benefit without requiring them to approach the Hon'ble Court of Law.

5.6) For that, the Applicants have been denied the said benefit without any principle being heard. There is a violation of principle of natural justice in the denial of the said benefits to the Applicants and proper relief are required to be granted to the Applicants.

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

6) DETAILS OF REMEDIES EXHAUSTED:

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

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

That the Applicants further declares that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, Writ Petition or suit is pending before any of them.

8) RELIEF SOUGHT FOR:

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

- 8.1) The Respondents may be directed by this Hon'ble Tribunal to pay licence fee @ 10% of monthly pay with effect from 1-7-87 or from the actual date of posting in Nagaland if it is subsequent thereto as the case may be up to date and continue to pay the same until compensation is not withdrawn or modified by the Government of India or till Rent Free Accommodation is not provided.
- 8.2) Direct the Respondents to pay the 10% in lieu of Rent Free Accommodation in terms of Hon'ble Tribunal's Judgment and Order in O.A.No.48/91 and O.A.No. 266/96 and O.A.No.205 of 2004 other similar cases decided by this Hon'ble Tribunal.
- 8.3) to pay the cost of the case to the Applicants.
- 8.4) any other relief or reliefs that may be entitled to the Applicants.

9) INTERIM ORDER PRAYED FOR:

At this stage no interim order is prayed for if the Hon'ble Tribunal deem fit and proper may pass any order or orders.

- 10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. : 206 - 156788
Date of Issue : 08 - 01 - 66
Issued from : GPO
Payable at : Gwalior.

12) LIST OF ENCLOSURES:

As stated above.

Verification

VERIFICATION

I, Sukrur Naik, P.No.14117339, Ex. Permanent Mazdoor, Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, C/o 99 APO Applicant No.1 of this Original Application and I am authorised to sign this Verification on behalf of other Applicants and I do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.4,
are true to my knowledge, those made in paragraph nos. 4.5, 4.6, 4.7, & 4.10 — 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 9th day of January 2006.

R.T. of Sukrur Naik

10
~~SECRET~~
~~SECRET~~

19

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL ; SUJAHATI BENCH

Original Application No. 48 of 1991

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

Shri B. Haque, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

Shri M. Lepon Nof and forty six(46) others,
Group 'C' & 'D' employees posted in the
Office of the Director,
Geological Survey of India,
Operation Manipur-Nagaland, Dimapur,
District Kohima, Nagaland Applicants
By Advocate Shri M.N. Trikha

- Versus -

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

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

Attest
J.L. Haque

ORDER

HANUW.D.

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

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

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

Affd
J.S. Amrit

as 'B' class cities in general view our judgment and order dated 31.10.1990 in O.H.No.42(G)/89 read with the Supreme Court order dated 18.2.1993 in Civil Appeal No.2705 of 1991. This being the established position, we hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wise with effect from 1.10.1986 pursuant to Office Memorandum No.11013/2/96-E-11(B) dated New Delhi the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure A/7).

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

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

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

*Ahmed
Jah
Sarita*

13
3
29

(ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No.11013/2/86-E.II(B), dated 23.9.1986, for Central Government employees belonging to Groups 'B', 'C' and 'D' and para 1 of O.M.No.11013/2/86-E.II(B), dated 19.3.1937, for Central Government employees belonging to Group 'A'

2. Other terms and conditions for admissibility of compensation in lieu of rent-free accommodation indicated in this Ministry's Office Memorandum, dated 19.2.1987 and 22.5.1987, remain the same.

3. These orders shall take effect from 1.7.1987.

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

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

6. In the result, this application is allowed. The respondents are directed to pay HRA to the applicants at the rate of 15% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of No.11013/2/86-E.II(B) dated 23.9.1986. The respondents are directed to pay compensation at 10% of the monthly....

J.V.

Abul
Jil
Santosh

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

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

Sd/- S. H. Jue
VICE CHAIRMAN

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

nkm

Abdul
Jit
Sarkar

15

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

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

2. Original Application No.268 of 1996

Shri Nomal Chandra Das and 55 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

3. Original Application No.279 of 1996

Shri D.D. Bhattacharjee and 31 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

4. Original Application No.18 of 1997

Shri Hari Krishan Mazumdar and 24 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

5. Original Application No.14 of 1997

Shri Jatin Chandra Kalita and 19 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

DS

Ahmed
J. P. Bent

6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 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.

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. Shashidharan 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 Hiralal Dey 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.

B

Attn
J. S. Datta

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, NagalandApplicants

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, NagalandApplicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

AK
B
A
B
C
D
E
F
G
H
I
J
K
L
M
N
O
P
Q
R
S
T
U
V
W
X
Y
Z

18 : 4 : 21
15. Original Application No.26 of 1997

Shri Jagdamba Malli,
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)

After
G.J. sent

19

~~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 (Dept. of Expenditure), New Delhi, on the ground that they have been posted in Nagaland.

*Abenil
JL
sent*

20

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.....

*Afford
Jt
Date*

25
63
30

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.....

A. A. S.
H. S. S.

22

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.....

Abdul
Jaffar
Binte

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

affidavit

17/5/77

Deputy Registrar (OP)
Central Administrative Tribunal,
Guwahati Bench

A. H. S.
St. 1
Surf

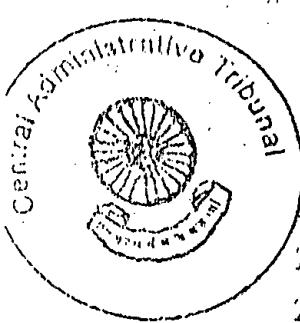
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 205 of 2004.

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

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

1. Shri Surendra Salu
2. Shri Padma Lubin
3. Shri Ulu Gouda
4. Shri Bidyadhar Gouda
5. Shri Linga Naik
6. Shri Daynandhi
7. Shri Danchandhi
8. Shri Barindra Salu
9. Shri Gondicha Naik
10. Shri Bodla Rani
11. Shri Devraj
12. Smt. Kalwati
13. Shri Udayanath
14. Shri Manglu Pradhan
15. Shri Sombariyan
16. Shri Balkarai
17. Shri Cyprin
18. Shri V.K. Pilai
19. Shri Bipin Rawat
20. Shri Bipra Salu
21. Shri Dahidponi Naik
22. Shri Ragunath
23. Shri Uddhav
24. Shri Kirton Gouda
25. Shri Rambhadr Poshi
26. Shri Ramlikesh
27. Shri Pitambae
28. Shri Soma Naik
29. Shri Dambodhu Naik
30. Shri Sudiram
31. Shri Haritoy Rani
32. Shri Eknat Rao



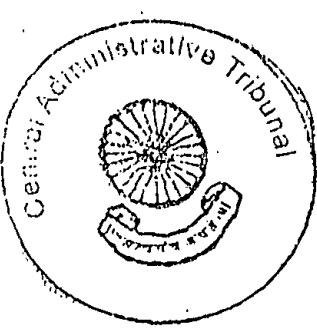
25

34

33. Shri Suresh Lal Baitha
34. Shri Sirpot Ram
35. Shri Dahuri Ram
36. Shri Ramprashad
37. Shri Panu Behara
38. Shri Subash Singh
39. Shri Achelal Lal
40. Shri Girdharai Mandal
41. Shri Ramchandar Gouda
42. Shri Manglu Behara
43. Shri Ramchandu
44. Shri Murari Prasad
45. Shri Ramnarayan
46. Shri Sontosh Kumar
47. Shri Ramchand
48. Shri Jayprakash Ram
49. Shri Bhagaban Naik
50. Shri Sanyasi Sobath
51. Shri Ramchandu Chovhan
52. Shri Markhit

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

53. Shri Roop Ram, T/Smith
54. Shri Trirpuwan, T/Smith
55. Shri Imtensu Jamir, Welder
56. Shri Panu Pradhan, Carpenter
57. Shri Shankar Thakur, Barber
58. Shri Ramprasad, Washerman
59. Shri Ramshankar, Cook
60. Shri R. K. Chetri, Cook
61. Shri Badal, Safalwala
62. Shri Fouzdar, LHF (OG)
63. Shri S. K. Paul, LHF (SG)
64. Shri Rameswar, LHF (OG)
65. Shri S. K. Tripathi, FED
66. Shri Bachhan Singh, FED
67. Shri Upender Singh, FED



Atta
34

66. Shri Bishnu Prasad, F/man
 69. Shri Palokdharji Yadav, F/man
 70. Shri Dibakar Gouda, F/man
 71. Shri R. P. Sharma, F/man
 72. Shri Homid Mohd, F/man
 73. Shri Triloknath, F/man
 74. Shri B. N. Gouda, F/man
 75. Shri Omprakash Gupta, F/man
 76. Shri Kedir, F/man
 77. Shri Rajender, F/man
 78. Shri Jagdish Prasad, F/man
 79. Shri Akhilesh Pradhan, F/man
 80. Shri V. K. Tripathi, F/man
 81. Shri Suryanarayanan, Mazdoor
 82. Shri Shri Gada Naik, Mazdoor

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

83. Smti Ameren Sin
 Wife of Late Surpreyam (Ex Mazdoor)
 84. Smti Joahoda Naik
 Wife of Late Durmunda Naik (Ex Mazdoor)
 85. Smti Sabitri Devi
 Wife of Late Rpm Badon (Ex Mazdoor)
 86. Smti Mukuni Devi
 Wife of Late Gonga Saran (Ex Mazdoor)

Shri Romikshna Moli
 Son of Late Hori Moli.

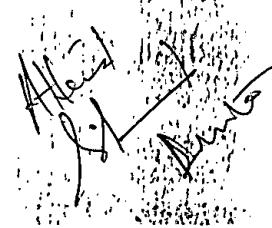
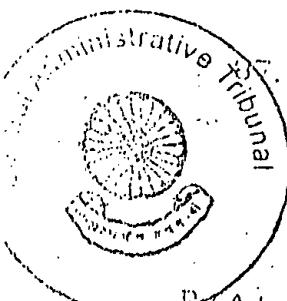
...Applicants.

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

By Advocate Mr. A. Ahmed.

Versus -

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



275
- 88 -

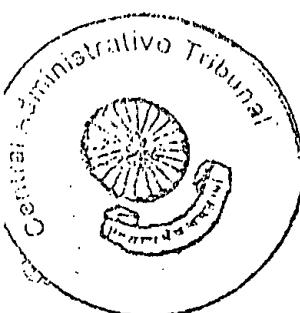
36

2. The Commanding Officer, 50 Coy, ASC (Supply) Type-C, C/o 99 APO. Respondents.
By Mr. A. K. Chaudhuri, Addl. C.G.S.C.

ORDER

SIVARAJAN, L.V.C.:

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

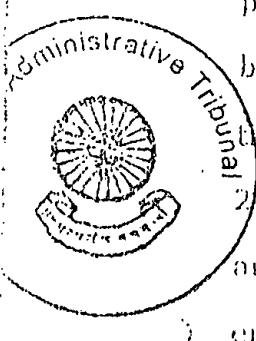


filed O.A. No.206/1996 and other series of cases before this Tribunal and those cases were also allowed by judgment dated 10.6.1997 (Annexure B) and the respondents were directed to pay HRA at prescribed rate and also to pay 10% compensation in lieu of rent free accommodation. It is further stated that similarly situated civilian employees of Canteen Stores Department posted at Dimapur are getting HRA and also @ 10% compensation in lieu of rent free accommodation. According to the applicants, the function and nature of work of employees of Canteen Stores Department are almost similar to the employees of Armed Supply Core, ASC (Supply) where the instant applicants are working. It is the grievance of the applicants that though the defence civilian employees of Canteen Stores Department, Dimapur, State of Nagaland are enjoying the benefits of 10% compensation in lieu of rent free accommodation, the applicants have failed to obtain the benefits of HRA @ 10% in lieu of rent free accommodation from the respondents. It is the case of the applicants that they have verbally and by written request moved the respondents for payment of 10% compensation in lieu of rent free accommodation but till date they have not been paid the same which compelled them to file this application.

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

Opv

A. H. S.

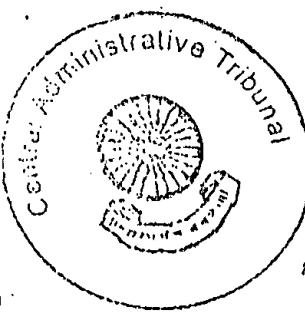


29

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

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

10/1



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

4. Mr. A. K. Choudhuri, learned Addl. C.G.S.C. for the respondents based on the averments in the written statement, submits that rent free accommodation was very much available to the employees and that they were enjoying such facilities. Standing counsel also submits that the applicants have never raised a complaint regarding non-availability of rent free accommodation nor made any request for grant of licence fee to them in lieu of rent free accommodation. Standing counsel further pointed out that though the applicants were not being paid licence fee in lieu of rent free accommodation since the very inception no claim for licence fee was preferred by them based on the orders of this Tribunal in O.A. Nos. 49/1991 and 266/1996 which were rendered on 26.11.1993 and 10.6.1997 respectively which would show that the applicants are not similarly situated persons.

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

90/

A. K. Choudhuri

accommodation by the respondents and consequently they are entitled to 'pet. compensation' @ 10% in lieu of rent free accommodation in addition to HRA. It is their contention upto of the orders of this Tribunal in O.A. Nos. 48/1991 and 266/1993 rendered as early as on 26.11.1993 and 10.6.1997 regarding grant of licensee fee @ 10% in lieu of rent free accommodation to similarly situated persons working in the other departments the respondents had not extended the same benefits to the instant applicants, who are similarly situated. According to them, respondents ought to have extended the same benefits to the applicants even without their asking and without driving them to approach this Tribunal for getting the same reliefs. It is their case that they are similarly situated persons who must be granted licensee fee @ 10% so long as they are not provided with rent free accommodation.

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

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

D.M.

A.H.

whether the applicants have been provided with rent free accommodation, for licence fee is granted in lieu of rent free accommodation. The applicants contend that they have not been provided with rent free accommodation while the respondents contend that they were. It would not be possible for this Tribunal to resolve such dispute on factual matters. True, this Tribunal in the orders in O.A. Nos. 48/1991 and 266/1996 had directed payment of licence fee @ 10% to the applicants therein. Whether the factual situation in the case of the instant applicants are the same as the applicants in those cases is yet to be ascertained. A Division Bench of this Tribunal had occasion to consider the case of grant of HRA to some of the employees working under the Garrison Engineers Unit, Engineering Workshop, C/o 09 APO in the judgment dated 3.6.2005 in O.A.123/2004. That was a case in which the applicants therein had approached this Tribunal, obtained reliefs and the same was affirmed by the Hon'ble Supreme Court. Therefore directions were issued to the respondents to pay HRA to the applicants as directed by the Tribunal in the O.A.s filed by them. The said directions cannot be issued in this case for the reason that the instant applicants did not obtain any such orders from this Tribunal earlier and the orders relied on by them are orders passed in the case of persons employed in other departments. Here it must be noted that the applicants had not produced any materials other than the bald averment made in the application to show that they had preferred any claim for grant of licence fee @ 10% in lieu of rent free accommodation before the authority at any earlier point of time. The applicants are claiming licence fee in lieu of rent free accommodation for prior period.

(114/2)

Alka
Sukh

33

10

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

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

Certified to be true Copy
Anup Singh

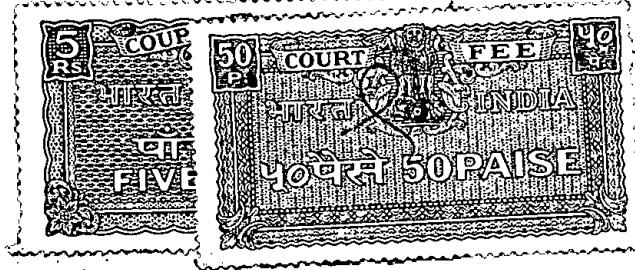
50

Vice-Chairman

N. Singh
16-6-05
Section Officer
C.A.T. GUWALIAR
Guwahati 781003

*Abul
G. F. S.*

DISTRICT:



R.T. of Sukumar Naik
43

L.T. of Shrikumar
43

-VAKALAT NAMA-

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

OA NO.

OF

2006

APPLICANTS

Sukumar Naik & another

PETITIONER

-Versus-

The Union of India & others

Respondent &
Opposite party

Know all men by these presents that above named.....Sukumar Naik.....
do hereby nominate, constitute and appoint Shri.....Adil Ahmed.....
Advocate and such of the under mentioned Advocates as shall accept this
Vakalatnama to be my/our true and lawful Advocates to appeal and act for me/us
in the matter noted above and in connection therewith and for that purpose to do
all acts whatsoever in that connection including depositing of drawing money,
filing in or taking out deeds of composition, etc. for me/us and on my/our behalf
and I /We agree to ratify and confirm all acts so done by the Advocates as
mine/ours to all intents and purpose. In case of non-payment of the stipulated fee
in full, no Advocate will be bound to appear and on my/our behalf.

In witness whereof I/We hereunto set my/our hand this the 9th day January
2006.

ADVOCATES

A.R.Barooah	J.M.Choudhry	A.S.Bhattacharjee
N.M.Lahiri	G.K.Joshi	Adil Ahmed
A.K.Chaudhuri	R.P.Sharma	P.Sarma
S.A.Laskar	M.H.Choudhry	Sanjoy Mudoi
Sukumar Sarma	S.Jain	A.J.Atiq

Received from the executants and accepted.

Advocate. (Adv. Atiq)

Notice

Date 9-1-06

From: Mr. A. Shinde, Advocate

To: CGSC CAT/6XY-5

Sir
Please find herewith a copy of the
above mentioned OA. This is ^{for} your
information and necessary action.

Please acknowledge receipt

Yours faithfully

Mr. A. Shinde

Advocate

Dear WPF
Mohan Darse
Addl. Cuse
CAT/6XY-5
For Sol(S)
9/1/06

MEMORANDUM OF APPEARANCE

Date : 18/11/06

To,

The Registrar
Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

O.A. No. 08 of 2006

Sukur Naik 202

----- Applicant

- Vs -

Union of India & Others

----- Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 122 in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.

18/11/06

(Motin Ud-Din Ahmed)
Addl. C.G.S.C.