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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 138/2006

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E.P/M.A No.

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SECTION OFFICER (Judl.)

Shahita
23.10.17

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 138/06
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Panesh Hajanika & am

Respondants U. O. I. Jams

Advocate for the Applicant(S) Adil. Ahmed.; Mrs. S. Bhattacharyee

Advocate for the Respondant(S) Case

Notes of the Registry	Date	Order of the Tribunal
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Application is in form
is filed/C. F. for Rs. 50/-
d paid vide IPO/BD
No. 264/323959
Dated 7-6-06

Meets
Dy. Registrar

Steps taken

Pl. copy order dated
9-6-06.

NS
13-6-06.

9.6.2006 Present: The Hon'ble Shri K.V. Sachidanandan
Vice-Chairman

There are 7 applicants who are defence civilian central government employees under the Ministry of Defence and working under the respondents in the state of Nagaland. The claim of the applicants are for grant of House Rent Allowance (HRA in short) and they contended that they are identically and similarly placed to the applicants in O.A.123/2004 wherein this Tribunal vide judgment and order dated 8.6.2005 directed the respondents to pay HRA to the applicants. The operative portion of the said judgment is quoted below:-

"6. We have considered the rival submissions. The very question was considered by this Tribunal with reference to the aforesaid contention raised by the respondents in O.A. Nos. 217/1995 and 218/1995 wherein it was held that the applicants are entitled to payment of HRA. This decision has been impliedly upheld in B. Prasad & Other's case (supra). Further the Hon'ble High Court had considered a

Contd.P/2

Contd
9.6.2006

similar situation with reference to the decision of the Supreme Court an took the view that the Tribunal was justified in directing payment of HRA in the said case. In the circumstances, we are of the view that the respondents were not justified in discontinuing the payment of HRA to the applicants in the instant case. Accordingly we direct the respondents to pay HRA to the applicants as directed by this Tribunal in O.A. Nos. 217/1995 and 218/1995 and affirmed by the Supreme Court in B. Prasad & Other's case (supra)."

When the matter came up for admission Mr.A.Ahmed, learned counsel appearing for the applicants submits that the matter has already been settled by the Hon'ble Supreme Court in SLP filed in Civil Appeal No.1572 of 1997. Mr.M.U.Ahmed, learned Addl. C.G.S.C. represented the respondents. He prays for time for getting instruction and for ascertaining whether the applicants are identically placed employees to the applicants in other O.A.s mentioned in the petition. Let it be done.

Considering the issue involved I direct to issue notice to the respondent Nos. 2, 3 & 4. Post the matter 11.7.2006.

Vice-Chairman

Notice & order
Sent to D/section
for issuing to
resp. nos-2,3 & 4
Jy. regd. A/D post.

bb

11.07.2006

Learned counsel for the respondents requested further time to file reply statement.

Post on 28.08.2006.

Vice-Chairman

Received
File No.
For Mr. M.V. Ahmed
Addl. Chse
15/6/06

20/6/06. D/No-630, 631,
632.
Dt= 21/6/06.

10-7-2006

Notice issued on mb
21.6.06.
Service report awaited.

25-8-06 bn
No reply filed. bn

- 3 -
O.A. 138/2006

28.08.2006 . Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

When the matter came up, on behalf
of Mr M.U. Ahmed, learned Counsel for
the Respondents submitted that he would
like to have some time to file reply
statement. Let it be done.

Post on 18.09.2006.

19.9.06
W/s filed by
the Respondt. Nos. 1 to 4.


Vice-Chairman

/mb/

18.9.2006 Mr.M.U.Ahmed, learned Addl.C.G.S.
C. has filed reply statement. On going
through the issues involved in this
case the O.A. is admitted.

Applicant is at liberty to file
rejoinder, if any. post the matter on
27.10.2006.


Vice-Chairman

bb

27.10.06 Post the matter on 28.11.06

Liberty is given to the applicant to
file rejoinder.


Vice-Chairman

la

20.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.


After hearing some time Mr A.
Ahmed, learned Counsel for the
Applicants wanted to produce some
judgments. Let it be done. Post on
30.11.2006.


Vice-Chairman

/mb/

26-10-06
① W/s filed
② NO rejoinder filed

No Rejoinder has
been filed.


17.11.06.

30.11.2006

post on 4.12.2006.

Vice-Chairman

bb

4.12.2006

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

Hearing concluded. Reserved for orders.

bb

Vice-Chairman

19.12.2006

Judgment pronounced in open Court, typed in separate sheets.

The O.A. is allowed in terms of the order. No costs.

Vice-Chairman

bb

22.1.07

Copy of the
order has been
sent to the office
for perusal
to the applicant
as well as to the
Addl.C.G.S.C for
the response.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.138 of 2006

DATE OF DECISION :17.12.2006

Sri Poresk Hazarika & 7 Others

..... Applicant/s

Mr.A.Ahmed

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

- Versus -

U.O.I & Others

..... Respondent/s

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

..... Advocate for the
Respondents

CORAM

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

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

20/12/2006
Vice Chairman

2

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 138 of 2006.

Date of Order: This, the 19th Day of December 2006.

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

1. Sri Poresh Hazarika
MES No.243992
Mazdoor.
2. Shri T.N.Hazarika
MES No.228302
Elec H/S-II.
3. Shri Krishna Boro
MES No.244034
Mazdoor.
4. Smt. Tai Amrut Gharde
MES No.244008
Mazdoor.
5. Smt. Manju Rani Dhar
MES No. 243968
Mazdoor.
6. Shri R.N.Borah
MES No.243048
Mazdoor.
7. Shri Santosh P. Patil
MES No.244038
Mazdoor.

..... Applicants.

By Advocates Mr.A.Ahmed & Ms.S.Bhattacharjee.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
- ✓

Ministry of Defence, South Block
New Delhi – 110 001.

2. The Controller of Defence
Accounts, Udayan Vihar
Narengi, Guwahati – 781 171.
3. The Area Accounts Officer
Office of the Joint Controller of
Defence Accounts, Ministry of Defence
Bivar Road, Shillong
P.O: Shillong, Meghalaya.
3. The Garrison Engineer
868, Engineering Workshop
C/o 99 APO.

..... Respondents.

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

ORDER

SACHIDANANDAN, K.V., (V.C.):

The Applicants, seven in number, are working under the office of the Garrison Engineer, 868 EWS C/O 99 APO. The Applicants pleaded in the O.A. that Government of India, Ministry of Finance vide Memorandum dated 23.9.1986 (Annexure-A) granted House Rent Allowance (HRA in short) to the central government civilian employees, but the Respondents have not implemented the said scheme of HRA to the present Applicants. The Applicants alongwith other similarly situated persons filed O.A.126/2004 before this Tribunal and vide order dated 24.6.2005 (Annexure-C)

✓

Applicants were directed to file individual representations and on filing of such representations the Respondents were directed to consider the same in the light of various judgments and pass appropriate orders in accordance with law within a specified time frame. Pursuant to the aforesaid directions, the Applicants filed individual representations, which were rejected vide impugned order dated 29.3.2006 (Annexure-D). But some of the Applicants in O.A.126/2004 have been granted HRA by the Respondents. According to the Applicants, there is discrimination in granting HRA to some of the Applicants. The Respondents had rejected the claim of the Applicants on the ground that they are staying with family in defence land by constructing temporary hut and are also provided with water and electricity at Govt. rate and as such they are not entitled to payment of HRA. The Applicants claimed that similarly situated defence civilian persons posted in Nagaland and Manipur had approached this Hon'ble Tribunal by way of O.A. Nos. 217/1995 and 218/1995 for payment of HRA in terms of the 23.9.1986 circular. This Tribunal vide order dated 18.10.1995 granted the benefits to such employees. The Review Applications filed by the Respondents against the said order were also dismissed by this Tribunal. The Respondents have filed a Civil Appeal No.1572/1997 before the Hon'ble Supreme Court against the judgment and order

dated 18.10.1995 passed in O.A. Nos.217/2005 & 218/2005 and the Hon'ble Supreme Court had disposed of the aforesaid Civil Appeal affirming the orders of this Tribunal. The Hon'ble Gauhati High Court also in an identical matter in Civil Rule No.5613 of 1998 affirmed the judgment of this Tribunal. Hence, being aggrieved by the rejection of the Respondents to pay HRA the Applicants have filed this O.A. seeking the following main reliefs:-

"8.1 That the Hon'ble Tribunal may be pleased to set aside and quashed the impugned Speaking order No. 1014/PH/138/E1 dated 29.03.06 and may be pleased to direct the Respondents to pay the House Rent Allowance to the applicants as per earlier orders passed by this Tribunal to the instant applicants and also as per order passed by the Hon'ble Gauhati High Court as well as Hon'ble Supreme Court of India."

2. The Respondents have filed a detailed reply statement contending that the O.A. is hit by the principles of waiver, estoppel and acquiescence and liable to be dismissed. The Applicants are not eligible to draw HRA as per Government of India, Ministry of Finance letter dated 23.9.1986 since the Applicants are staying with family in temporary huts on defence land and are provided with electric and water supply connection and also enjoying other field service concession other than free clothing as admissible vide Appendix 'C' to the Government of India, Ministry of Defence letter

dated 25.1.1964. Pursuant to the directions of the Hon'ble Tribunal the case of the Applicants for HRA was considered and rejected vide Annexure—R1 speaking order dated 29.3.2006. As per sub-para (ii) of the Govt. of India, Ministry of Finance O.M. dated 23.9.1986 HRA shall be paid to all employees (other than those provided with Government owned/hired accommodation) on producing certificate that they are incurring some expenditure on rent/contributing towards rent. HRA 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. But the present Applicants are neither contributing towards rent nor paying/contributing towards house or property tax. As that unit is deployed in field area and the Applicants being defence civilian employees all concessions and facilities other than free clothing as admissible vide Appendix 'C' to the Govt. of India, Ministry of Defence letter dated 25.1.1964 have been extended to them from the date of their reporting the unit. Appendix 'C' to aforesaid letter spells out provision for free rented/bash accommodation and connected services to the extent possible and the employees as per the above clause have to stay as single and collectively in barracks/basha/tentage. But the present Applicants are staying with their families in defence premises on defence land



provided with connected services i.e. water and electricity and also enjoying other field service concessions applicable to them. The Applicants are not eligible for payment of HRA as per the policy of the Govt.

3. I have heard Mr.A.Ahmed, learned counsel for the Applicants and Mr.M.U.Ahmed, learned Addl.C.G.S.C. for the Respondents. Counsel for both the parties have taken my attention to various pleadings, evidences and materials placed on record. Mr.A.Ahmed would argue that some of the Applicants in O.A. No.126/2004 were granted HRA and others have been deprived of the said benefits, which is per se discriminatory. Hon'ble Supreme Court has already held that mere fact of granting water and electricity will not debar the Applicants for entitlement of HRA. Therefore, the contention of the Respondents that the Applicants are not entitled for the HRA will not hold good and hence there may be a declaration that the Applicants are entitled for payment of HRA by setting aside the impugned order dated 29.03.2006. Mr.M.U.Ahmed, on the other hand, persuasively argued that as per the Govt. policy the employees have to stay as single and collectively in barracks/basha/tentage but the instant Applicants are staying with their families in defence premises on defence land provided with connected service i.e. water and electricity and also enjoying other field service concessions

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applicable to them, and therefore, they are not entitled to the benefits.

4. I have given due considerations to the arguments, pleadings advanced by the learned counsel for the parties. The crux point to be considered is as to whether the Applicants are entitled to HRA as provided under O.M. dated 23.9.1986. For better elicitation the relevant portion of the said O.M. is quoted herein below:-

"No.11013/2/86-E.II(B)
Government of India
Ministry of Finance
(Department of Expenditure)

New Delhi, the 23rd September, 1986

OFFICE MEMORANDUM

Sub: Recommendation of the Fourth pay commission Decisions of Government relating to grant of Compensatory (City) and House Rent Allowance 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 Resolution No.14(i)/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 Allowance to Central Government Employees shall be admissible at the following rates:-

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

7. These orders will apply to civilian employees of the Central Govt. belonging to Group 'B', 'C' and '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."

It is pertinent to note that some of the identically placed persons to the present Applicants had filed O.A. 126/2004 wherein a direction was given to the Respondents to consider the individual representations that were directed to be filed by the Applicants in the light of the various judgments including the order dated 8.6.2005 in O.A. 123/2004 and to pass appropriate orders in accordance with law. In purported compliance of the said order Respondents had passed a speaking order on 29.3.2006 (Annexure-D) rejecting the claim of the Applicants. While considering similar issues in O.A. Nos.

217/1995 & 218/1995 this Bench of the Tribunal vide judgment and order dated 18.10.1995 had elaborately discussed the matter and while granting the benefits to the Applicants had observed as under:-

"The Hon'ble Supreme Court has now held that employees having all India transfer liability who were appointed outside North East Region but have been posted in the said Region are entitled to the benefit of payment of SDA under the Memorandum dated 14.12.1983 relied upon by the applicants. (See decision of the Hon'ble Supreme Court in Civil Appeal No.834 of 1995, Chief General Manager (Telecom), N.E.Telecom Circle & another vs. Shri Rajendra Ch. Bhattacharjee & others dated 18.1.95.) JT 1995(1) SC 440. We have considered this aspect as well as the question of eligibility of House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Field Service Concessions in our order on O.A.124/95 with O.A.125/95 dated 24.8.95. The applicants in those cases were also Defence civilian employees like the applicants serving under the Garrison Engineer and who had been posted in the State of Nagaland. After examining the relevant materials we have held that the applicants are entitled to get all the benefits."

The Respondents had filed Review Applications Nos.22/1995 and 23/1995 for reviewing the aforesaid order, which were also dismissed. The matter was taken before the Hon'ble Supreme Court in Civil Appeal No.1572/1997 and vide judgment and order dated 17.2.1997 the Hon'ble Supreme Court had held as under:-

"Having regard to the respective contentions, we are of the view that the Government having been extending the benefit of payment of Special Duty

Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17, 1995, they are entitled to both the Special Duty Allowance as well as No costs. (Page-46-48)

Further, in an identical issue raised by the Union of India in Civil Rule No.5613/1998 the Hon'ble Gauhati High Court had dismissed the said Appeal affirming the orders of this Tribunal in O.A.186/1997 granting HRA to the Applicants therein. The order dated 18.9.2002 passed in the said Appeal is reproduced herein below:-

" 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 Areas 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 (1997) 4 SCC 189. The judgment of the Tribunal was challenged on various grounds, including the grant of House Rent Allowance as 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 the judgment of the Apex Court. Heard Mrs N Sharma, learned Additional Central Government Standing Counsel for the petitioner.



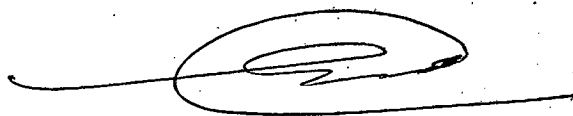
We have considered the submissions made by the learned counsel for the parties and perused the record. It appears that nothing has been said by the Apex Court about the House Rent Allowance in the case of Union of India and Ors -v-B Prasad, BSO and Others (Supra), but at the same time the ground raised by the Union of India challenging the House Rent Allowance granted by the Central Administrative Tribunal having not set at naught 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 26.9.1997 passed by the Central Administrative Tribunal, Guwahati Bench in OA No.186/97.

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

5. Considering the dictum laid down by the Apex Court and taking into consideration the fact that similarly situated persons have been paid HRA by the Union of India, I am of the view that there is no reason to denying the benefits to the present Applicants as well. The contention of the Respondents that "*The applicants are staying with family in temporary huts on defence land and provided with electric and water supply connection and also enjoying other field service concession other than free clothing as admissible*" is no ground to deny the benefits to the present Applicants. Therefore, I am of the considered view that the impugned order dated 29.3.2006 will not stand in its legs and to be quashed and set aside. Accordingly, the said order dated

29.3.2006 (Annexure-D) is set aside and quashed. The Respondents are directed to grant the HRA to the Applicants as per schedule annexed to O.M. dated 23.9.1986 and as per rules and rates applicable, as the case may be, but the benefit will be granted to the Applicants from three years prior to filing of this O.A. i.e. from 8.6.2003.

The Original Application is allowed to the extent indicated above. In the circumstances, there is no order as to costs.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An Application Under Section 19 of The Administrative Tribunal
Act 1985)

ORIGINAL APPLICATION NO. 138 OF 2006.

Shri Poresh Ch. Hazarika & Ors.

...Applicants

- Versus -

The Union of India & Others

...Respondents

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10	G	Annexure-H is the photocopy of judgment and order dated 17 th February 1997 passed in Civil Appeal No.1572 of 1997 by the Hon'ble Supreme Court of India.	44-49
11	H	Annexure-I is the photocopy of Judgment and order dated 18-9-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998.	50-56

Date:

Filed By:

Smita Bhattacharjee
Advocate.

Advocate

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

(An Application Under Section 19 of The Administrative Tribunal
Act 1985)

ORIGINAL APPLICATION NO. 138 OF 2006.

Shri Poresh Ch. Hazarika & Ors.

...Applicants

- Versus -

The Union of India & Others

...Respondents

LIST OF DATES / SYNOPSIS

- | | |
|------------|--|
| 23.09.1986 | Office Memorandum regarding payment of House Rent Allowance to the Central Government employee. |
| 18.10.1995 | Judgment and Order passed in O.A.No.217/95 and 218/95 by this Hon'ble Tribunal for payment of House Rent Allowance to the Defence Civilian employees posted at Nagaland and Manipur. |
| 17.02.1997 | Judgment and Order passed in Civil Appeal No.1572/97 by the Hon'ble Supreme Court of India. |
| 18.09.2002 | Judgment and Order passed in Civil Rule No.5613/98 by the Hon'ble Gauhati High Court. |
| 08.06.2005 | Judgment and Order passed in O.A.No.123/2004 by this Hon'ble Tribunal for payment of House Rent Allowance. |
| 24.06.2005 | Judgment and Order passed in O.A.No.126 of 2004 by this Hon'ble Tribunal for payment of House Rent Allowance to the instant applicants. |
| 29.03.2006 | Impugned Rejection Order of payment of House Rent Allowance to the applicants by the Respondents. |

Hence this Original Application filed by the applicants for seeking justice in this matter.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

FILED BY

Shri Poresh Hazarika

Applicant No. 1.

Through - Smita Bhattacharjee
Advocate. 2.

ORIGINAL APPLICATION NO. 138 OF 2006.

BETWEEN

1. Shri Poresh Hazarika
MES No.243992
Mazdoor
2. Shri T.N.Hazarika
MES No.228302
Elect H/S-II
3. Shri Krishna Boro
MES No.244034
Mazdoor
4. Smt Tai Amrut Gharde
MES No.244008
Mazdoor
5. Smt Manju Rani Dhar
MES No.243968
Mazdoor
6. Shri R.N.Borah
MES No.243048
Mazdoor
7. Shri Santosh P. Patil
MES No.244038
Mazdoor

... Applicants

All the applicants are working under the
office of the Garrison Engineer 868 EWS
C/o 99APO.

-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 Controller of Defence



Accounts, Udhyan Vihar,
Narengi, Guwahati-781171.

3. The Area Accounts Officer,
Office of the Joint Controller of
Defence Accounts,
Ministry of Defence, Bivar Road,
Shillong, P.O.- Shillong, Meghalaya.

4. The Garrison Engineer,
868, Engineering Workshop,
C/o 99 APO.

... Respondents

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

This application is made against the speaking order
No.1014/24/PH/138/EI dated 29.03.2006 issued by the
Respondent No.4 by which Applicant's claim of House Rent
Allowance was rejected.

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.

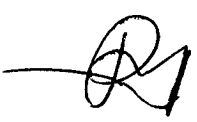
4.2) That your applicants beg to state that they are Defence Civilian Central Government Employee under the Ministry of Defence. Presently applicants are working in the state of Nagaland.

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. But in spite of the said Office Memorandum the Respondents have not implemented the above said scheme of House Rent Allowance to the applicants. Being aggrieved by this the instant applicants along with other similarly situated persons filed an Original Application No.126 of 2004 before this Hon'ble Tribunal. The said Original Application No.126 of 2004 was finally heard on 24th June 2005 by this Hon'ble Tribunal and was pleased to direct the Respondent No.5 & 6 of the aforesaid Original Application to consider the matter and to take a decision. The Applicants of the said Original Application were also directed to file individual representation with facts and figure showing their entitlement.




The respondent was also directed to consider the same in the light of various judgments including the order dated 08.06.2005 in Original Application No.123 of 2004 and passed appropriate orders in accordance with law within a period of three months thereafter. For kind perusal of this Hon'ble Tribunal the Judgment and Order dated 8th June 2005 passed in O.A.No.123 of 2004 by this Hon'ble Tribunal is also annexed herewith.

Annexure - B is the photocopy of the Judgment & Order dated 8th June 2005 passed in O.A.No.123 of 2004 by this Hon'ble Tribunal.

Annexure - C is the photocopy of Judgment & Order dated 24th June 2005 passed in Original Application No.126 of 2004.

4.6) That your applicants beg to state that after receiving the judgment & order dated 24th June 2005 passed in O.A.No.126 of 2004 they filed their individual representation before the Respondent No.5 & 6 for taking decisions in this matter. There after the Respondents have also filed various Misc. Petition in O.A.No.126 of 2004 before this Hon'ble Tribunal for extension of time for implementation of Judgment & Order dated 24.06.2005 passed in O.A.No.126 of 2004. Accordingly extension of time was granted to the Respondents by this Hon'ble Tribunal in the number of Misc. Petitions filed by the Respondents. Lastly the Respondent No.4 vide his Speaking Order No.1014/24/PH/138/E1 dated 29.03.06 rejected the claim of the House Rent Allowance to the instant applicant of this Original Application. It is to be stated that some of the applicants of Original Application No.126 of 2004 has been granted the House Rent Allowance by the Respondents. The name of such applicants who had received the House Rent Allowance from the Respondents in reference to O.A.No.126 of 2004 are Shri Sudhir Chandra Das, MES No.243702, Electrician (SK), Shri Libongpong Sangtam, MES No.244035, Mazdoor, Shri Nikhilesh Dey, MES No.244037, Mazdoor & Shri Vikuto Kappo, MES No.264773, Mazdoor.



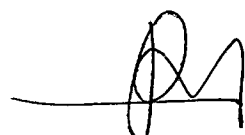
Annexure - D is the photocopy of Speaking Order No.1014/24/PH/138/E1 dated 29.03.06 issued by this Hon'ble Tribunal.

4.7) That your applicants beg to state that the Respondent No.4 has passed a very cryptic and mechanical Speaking Order dated 29.03.06 by which the claim of House Rent Allowance of the instant applicants were rejected. The Respondent No.4 has stated in their Speaking Order that they have received the representation of the applicant after the due date. Hence it is liable to be rejected on this ground itself. But surprisingly the same Respondent No.4 has granted the House Rent Allowance to some of the applicants of O.A.No.126 of 2004, who has also filed representations along with the instant applicants. The Respondents have also stated in their rejection letter that the instant applicants are staying at Government Land and they have joined their service after Hon'ble CAT's order in O.A.No.124/95,125/95, 217/95 and 218/95, hence their case cannot be considered as similarly situated persons. Further Respondents have also stated that the instant applicants have been provided with water & electricity at Government rate, as such they are not eligible for House Rent Allowance. It is to be stated the Respondents have been misleading this Hon'ble Tribunal by taking several extension of times with the plea that they will implement the Judgment & Order dated 24th June 2005 passed in O.A.No.126 of 2004.

4.8) That your applicants beg to state that similarly situated Defence Civilian persons who are posted in the state of Nagaland and Manipur had earlier approached this Hon'ble Tribunal by filing Original Applications No. 217 of 1995 and 218 of 1995 for payment of House Rent Allowance in terms of Office Memorandum No. 11013/2/86-E. II (B), New Delhi dated 23rd September 1986. The Respondents had filed written statement in the above said case stating that those applicants were provided with free Defence land and they have constructed temporary hut in the said land. Apart from this also they were provided with free water and electricity connection to their said huts. As such aforesaid applicants were not entitled for payment of House Rent

Allowance as per Office Memorandum No. 11013/2/86-E. II (B), New Delhi dated 23rd September 1986. But this Hon'ble Tribunal rejected the contention of the Respondents and the Hon'ble Tribunal vide its judgment and order dated 18th October 1995 directed the Respondents to pay the House Rent Allowance to the applicants as was applicable to the Central Government Employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant up to 28-2-1991 and at the rate as may be applicable from time to time as from 1.3.1991 up to date and to continue to pay the same at the rate prescribed hereafter. Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applications during the aforesaid period towards House Rent Allowance. Future payment to be regulated in accordance with clause (a) above. Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the Respondents. The Respondents filed Review Applications No.22 of 1995 and 23 of 1995 before this Hon'ble Tribunal against the judgment and order passed by the Hon'ble Tribunal in O.A.No.217 of 1995 and 218 of 1995. The said Review Applications were dismissed by the Hon'ble Tribunal vide its order dated 2-1-1996. The Respondent No.1, the Ministry of Defence vide its order dated 3rd July 1996 sanctioned the payment of House Rent Allowance to the applicants of the O.A.No.217/95 and O.A.No.218/95. Accordingly the payment of House Rent Allowance was paid to the aforesaid applicants. Again the Respondents filed a Civil Appeal No. 1572 of 1997 before the Hon'ble Supreme Court of India against the judgment and order passed by this Hon'ble Tribunal in O.A.217/95 and 218/95 and also against the Review Applications No.22/95 and 23/95 respectively. The Grounds taken by the Respondents in the Hon'ble Supreme Court of India is given below for kind perusal of this Hon'ble Tribunal.

“Because the Hon'ble Tribunal failed to appreciate it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation can not go together.”



But the Hon'ble Supreme Court Of India vide its order dated 17th February 1997 passed in Civil Appeal No.1572 of 1997 affirm the judgment of the Hon'ble Tribunal regarding the payment of House Rent Allowance to the Defence Civilian Employee of the Nagaland. In a recent similarly situated Defence Civilian Employees case regarding payment of House Rent Allowance the Hon'ble Gauhati High Court vide its judgment dated 18-9-2002 passed in Civil Rule 5613 of 1998 affirm the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Annexure-E is the photocopy of Judgment and Order dated 18th October 1995 passed in O.A.No.217/95 and 218/95 by the Hon'ble Tribunal.

Annexure-F is the photocopy of Relevant Extract Portion of Special Leave Petition filed by the Respondents in Civil Appeal No.1572 of 1997 against the judgment and order passed in O.A.No.217/95 and O.A.No.218/95.

Annexure-G is the photocopy of judgment and order dated 17th February 1997 passed in Civil Appeal No.1572 of 1997 by the Hon'ble Supreme Court of India.

Annexure-H is the photocopy of Judgment and order dated 18-9-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No.5613 of 1998.

4.9) That your applicants beg to state that the matter relates to payment of House Rent Allowance to the Defence Civilian employees who are working in Nagaland and Manipur has attained finality in the eye of law. The Hon'ble Supreme Court in earlier cases rejected the all grounds taken by the Respondents including the instant ground that applicants are provided with Government land etc. Therefore, the rejection of House Rent Allowance to the instant applicants is not sustainable in the eye of law as well as fact of the instant case. Hence the rejection order is liable to be set aside and quashed by this Hon'ble Tribunal.

4.9) That your applicants beg to state that the matter relates to payment of House Rent Allowance to the Defence Civilian employees who are working in Nagaland and Manipal has sustained finally in the eye of law. The Hon'ble Supreme Court in earlier cases rejected the all grounds taken by the Respondents including the instant ground that applicants are provided with Government land etc. Therefore, the rejection of House Rent Allowance to the instant applicants is not sustainable in the eye of law as well as fact of the instant case. Hence the rejection order is liable to be set aside and quashed by this Hon'ble Tribunal.

Annexure-H is the photocopy of judgment and order dated 18-9-2002 passed by the Hon'ble Gauhati High Court in Civil Rule No 2613 of 1998.

Annexure-G is the photocopy of judgment and order dated 17 February 1997 passed in Civil Appeal No 1272 of 1997 by the Hon'ble Supreme Court of India.

Annexure-F is the photocopy of Relevant Extract portion of Special Leave Petition filed by the Respondents in Civil Appeal No 1272 of 1997 against the judgment and order passed in O.A.No 21792 and O.A.No 21892.

Annexure-E is the photocopy of judgment and order dated 18 October 1992 passed in O.A.No 21792 and 21892 by the Hon'ble Tribunal.

Gimshani Branch Government
 judgment of the Hon'ble Central Administrative Tribunal dated 18-9-2002 passed in Civil Rule No 2613 of 1998 affirm the Allowance the Hon'ble Gauhati High Court vide its judgment in Civil Appeal No 1272 of 1997 passed in Civil Appeal No 1272 of 1997 dated 17 February 1997 passed in Civil Appeal No 1272 of 1997 affirm the judgment of the Hon'ble Tribunal regarding the payment of House Rent Allowance to the Defence Civilian employees of the Nagaland in a recent similarly situated Defence Civilian Employees case regarding payment of House Rent Allowance the Hon'ble Gauhati High Court vide its judgment dated 18-9-2002 passed in Civil Appeal No 21792 and 21892 by the Hon'ble Tribunal.

4.10) That your applicants beg to state that the action of the Respondent is illegal, arbitrary, whimsical, mala-fide, unfair and violative of the principle of natural justice as well as fundamental rights of the applicants.

4.11) That your applicants beg to state that in the above circumstances finding no other alternative the applicants are approaching the Hon'ble Tribunal for protection of their rights and interest through this Original Application.

4.12) That your applicants submit that they have got reasons to believe that the Respondents are resorting the colorable exercise of power.

4.13) 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.

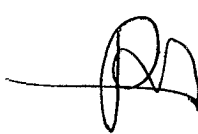
4.14) That this application is filed bona fide and for the interest of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

In view of the facts and circumstances explained in the foregoing paras, the rejection of House Rent Allowance to the applicants are arbitrary, mala fide, discriminatory and badly misconceived on the following amongst other grounds: -

5.1) For that, the action of the Respondents are illegal, arbitrary and violative of the principle of natural justice as well as the fundamental rights of the applicants. Hence the rejection letter dated 29.03.2006 is liable to be set aside and quashed.

5.2) For that, the grants of House Rent Allowance to the Defence Civilian employees working in Nagaland are attained finality in the eye of law. As such the Respondents cannot deny the said benefit. Hence the rejection letter dated 29.03.2006 is liable to be set aside and quashed.



5.3) For that, similarly situated Defence Civilian Employees case, who are presently working in the state of Nagaland the Hon'ble Gauhati High Court has affirmed the judgment of the House Rent Allowance passed by the Hon'ble Tribunal. Hence the rejection letter dated 29.03.2006 is liable to be set aside and quashed.

5.4) For that, other similarly persons are enjoying the benefit of House Rent Allowance without any interruption. Hence the rejection letter dated 29.03.2006 is liable to be set aside and quashed.

5.5) 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.

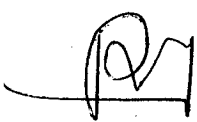
5.6) For that, the order of rejection of House Rent Allowance to the applicants are total violation and disobedience of the Hon'ble Apex Court judgment in this matter.

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, 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 applicant 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 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 declare 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 of 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 relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to set aside and quashed the impugned Speaking order No.1014/24/PH/138/E1 dated 29.03.06 and may be pleased to direct the Respondents to pay the House Rent Allowance to the applicants as per earlier orders passed by this Hon'ble Tribunal to the instant applicants and also as per order passed by the Hon'ble Gauhati High Court as well as Hon'ble Supreme Court of India.

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 no interim order is required. The Hon'ble Tribunal if think fit may be pleased to pass any appropriate order or orders as deem fit and proper.

10) Application is filed through Advocate.

11) Particulars of L.P.O.:

L.P.O. No. 26 G 323959

Date of Issue 17-4-2006

Issued from Guwahati G.P.O.

Payable at Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification

Shri Porush Hosarika

V E R I F I C A T I O N

I, Shri Poresh Hazarika, MES No.243992, Mazdoor, Office of the Garrison Engineer, 868 EWS, C/o 99APO do hereby solemnly verify that I am the applicant No.1 of the instant application and I am authorized by the other applicants to signed this verification. That the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.7, 4.9 to 4.11 _____ are true to my knowledge, those made in Paragraphs Nos. 4.4, 4.5, 4.6, 4.8 _____ 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 6th day of June
2006 at Guwahati.

Shri Poresh Hazarika

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

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 Resolution 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 Allowance to Central Government

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ATTESTED

Smita Bhattacharyee

ADVOCATE

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Employees shall be admissible at the following rates;

(i) COMPENSATORY (CITY) ALLOWANCE;

pay range (Basic pay)	Amount of CCA in class of cities (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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(ii) House RENT ALLOWANCES:

Type of accommodation 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, C class	UN Class cities	Class Cities
A	750-949	150	70	30
B	950-1499	250	120	50
C	1500-2799	450	220	100
D	2800-3599	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. These 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.

ATTESTED

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ADVOCATE

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3. Where H.R.A. at 15 per cent of pay has been allowed their special order, the same shall be given as admissible in A, B 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 sharing of accommodation and other categories shall continue to be applicable.

5. Pay for the purpose of these orders, will be pay as defined in F.R. 9(21) (a) (i). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include, in addition to pay in the pre-revised scales, dearness pay, dearness allowance, Additional Dearness Allowance, Ad-hoc Tax and Interim Relief appropriate to that pay, admissible under orders in existence on 31.12.1985.

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ATTESTED

Smita Bhattacharjee

ADVOCATE

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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 national 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 so far as the persons service 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.

sd/-

(B.P.Verma)

Joint Secretary to the Government
of India.

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ATTESTED

Smita Bhattachajee
ADVOCATE

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 123 of 2004.

ANNEXURE-- B

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

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

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

1. Shri Ganesh Chandra Mandal
MES No.311640
Dustory.

2. Shri N. Limbu
MES No.237947
Dustory.

3. Shri Kanu Debnath
MES No.243725
Peon.

4. Shri S. Jabbar
MES No.220150
Chowkidar (Mate OTP).

5. Shri Sanat Kumar Mandal
MES No.243724
CMD Grade I.

6. Shri Iswari Prasad Joshi
MES No.228925
CMD Grade II.

Shri Nitai Das
MES No.243989
Chowkidar.

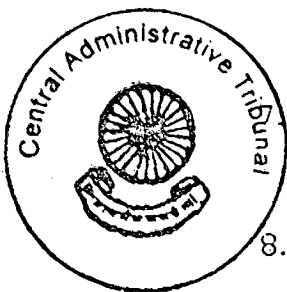
8. Shri Benu Debnath
MES No.244003
Chowkidar.

9. Shri Subhakar Choudhury
MES No.243797
Chowkidar.

10. Shri G. N. Rao
MES No.243793
Chowkidar.

11. Shri Rashid Hazan
MES No.220055
Chowkidar.

12. Shri G. N. Rao
MES No.243793



ATTESTED

Smita Bhattacharjee

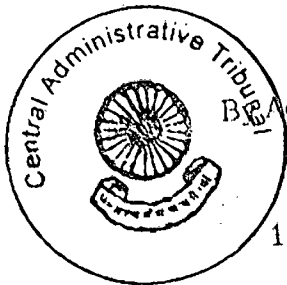
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Safaiwala.

13. Shri Dinesh Rai
MES No.243935
Safaiwala.
14. Shri Devandar Kumar
MES No.
Chowkidar.
15. Shri Babulal Balmiki
MES No.243501
Safaiwala.
16. Shri Chathu Prasad Gupta
MES No.243995
Safaiwala.
17. Shri Chandan Raj
MES No.243964
Safaiwala.
18. Shri Anil Kumar
MES No.243947
Chowkidar.
19. Shri Ratan Kr. Pradhan
MES No.243996
Safaiwala.

Applicants.

All the applicants named above are working under the office
of the Garrison Engineer 868 EWS C/o 99 APO.



By Advocate Mr. Adil Ahmed.

Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence
South Block
New Delhi-1.
2. The Administrative Officer
Station Head Quarter
P.O: Dimapur, Nagaland.
3. The Controller of Defence Accounts
Udyan Vihar, Narengi
Guwahati - 781 171.
4. The Area Accounts Officer
Office of the Joint Controller
of Defence Accounts

ATTESTED

Smita Bhattacharjee
ADVOCATE

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Ministry of Defence, Vivar Road
Shillong, P.O: Shillong
Meghalaya.

5. The Garrison Engineer
868, Engineering Workshop
C/o 99 APO.

.. Respondents.

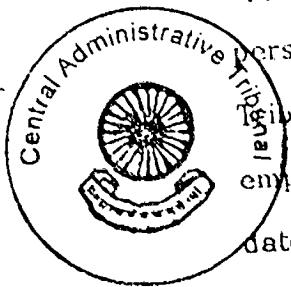
By Mr. A. K. Chaudhuri, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN, I.(V.C.):

The applicants 19 in number have filed this Original Application seeking for direction to the respondents to continue the payment of House Rent Allowance (HRA in short) to the applicants as per earlier order passed by this Tribunal in O.A. Nos. 217/1995 and 218/1995 which have been affirmed by the Hon'ble Supreme Court.

2. The applicants are Defence Civilian Central Government employees under the Ministry of Defence and are working under respondent no.5 in various capacities in the State of Nagaland. The applicants along with a large number of other similarly situated persons had filed O.A. Nos. 217/1995 and 218/1995 before this Tribunal for grant of various reliefs due to the Defence Civilian employees working in the N. E. Region. The Tribunal by its order dated 18.10.1995 (Annexure-B) allowed the said O.A.s. Union of India, being aggrieved by the said order, took up the matter before the Hon'ble Supreme Court by way of appeal. The appeal which was later numbered as Civil Appeal No.1572/1997 and connected cases and the said appeals were disposed of by a common judgment dated 17.2.1997 (Union of India and Others vs. B. Prasad and Others, (1997) 4 SCC 189)).



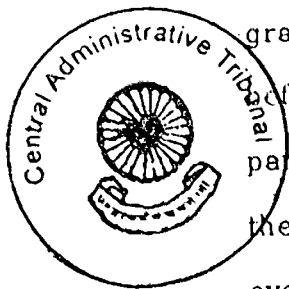
ATTESTED

Smita Bhattacharjee
ADVOCATE

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3. The Tribunal in the common order dated 18.10.1995 in O.A. Nos. 217/1995 and 218/1995 inter alia allowed the claim for grant of HRA. Though the Union of India had filed SLP before the Hon'ble Supreme Court and also contended that grant of HRA to employees who were provided with free accommodation was against the basic concept of payment of HRA, the Supreme Court did not deal with the said question in the judgment. Respondents were paying HRA to the applicant even after the Supreme Court's decision till 2003 but the same was discontinued at the end of 2003. It is in the above circumstances the applicants have filed this O.A. seeking for the reliefs mentioned above.

4. We have heard Mr. A. Ahmed, learned counsel for the applicants and Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. for the respondents. Mr. Ahmed submits that this Tribunal in the order dated 18.10.1995 (Annexure-B) had allowed the claim of the applicants for grant of HRA; though the Union of India has challenged the said order before the Hon'ble Supreme Court by way of SLP by raising a particular ground - "The Tribunal failed to appreciate that it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation cannot go together", the Supreme Court did not consider the said challenge. Counsel submits that in view of the above it must be deemed that Supreme Court has considered and rejected the aforesaid contention raised by the Union of India. Counsel also submits that the Hon'ble Gauhati High Court in C.R. No.5613 of 1998 (Annexure-E) had considered a similar claim with reference to the decision of the Supreme Court in B. Prasad & Others case and held that the decision of the Tribunal in



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ATTESTED

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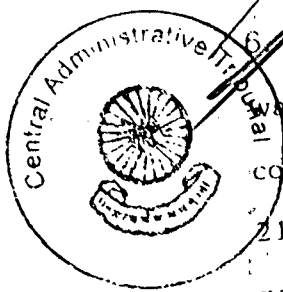
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O.A.186/1997 directing payment of HRA does not call for any interference. Counsel in the above circumstances submits that the respondents are not justified in discontinuing the payment of HRA to the applicants.

5. Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. appearing for the respondents on the other hand, with reference to their written statement particularly Paragraph 7, submitted that the applicants in this case have been allowed defence land in defence premises, provided with water and electric connection from the defence sources and nothing is their own and that as per Annexure 'C' of Government of India, Ministry of Defence letter No.A/02584/AG/PS-3(a)/97/S/D(Pay/Services) dated 25.1.1964 Civilian employees working under defence services in N. E. Region are entitled for free tented/bash accommodation and connected services where they will stay single or collectively. It is further stated that the applicants are staying with families in defence premises provided with water and electric connection in addition to other field service concessions. Standing counsel accordingly submitted that the applicants are not entitled to payment of HRA.



We have considered the rival submissions. The very question was considered by this Tribunal with reference to the aforesaid contention raised by the respondents in O.A. Nos 217/1995 and 218/1995 wherein it was held that the applicants are entitled to payment of HRA. This decision has been impliedly affirmed in *Shri. S. & Other's case (supra)*. Further the Hon'ble High Court had considered a similar situation with reference to the decision of the Supreme Court and took the view that the Tribunal was justified in directing payment of HRA in the said case. In the circumstances, we

ATTESTED

Smita Bhattacharjee
ADVOCATE

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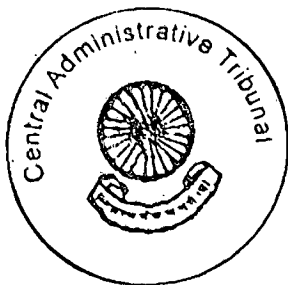
6

are of the view that the respondents were not justified in discontinuing the payment of HRA to the applicants in the instant case. Accordingly we direct the respondents to pay HRA to the applicants as directed by this Tribunal in O.A. Nos.217/1995 and 218/1995 and affirmed by the Supreme Court in B. Prasad & Other's case (supra).

The Original Application is disposed of as above.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



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प्रतिलिपि

15.1.05
Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

15/1/05

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Smita Bhattacharjee
ADVOCATE

- 24+

ANNEXURE-- C ⁴⁴

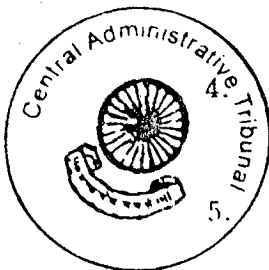
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 126 of 2004

Date of Order: This the 24th day of June 2005.

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

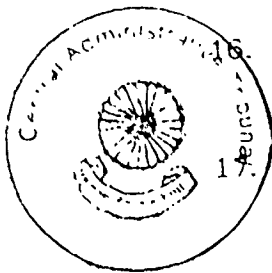
1. Shri Poresh Hazarika
MES No.243992
Mazdoor.
2. Shri T.N. Hazarika
MES No.228302
Elect H/S-II.
3. Shri Sudhir Chandra Das
MES No.243702
Elect (sk).
4. Shri Krishna Boro
MES No.244034
Mazdoor.
5. Shri Libongpong Sangtam
MES No. 244035
Mazdoor.
6. Shri Nikhilesh Dey
MES No. 244037
Mazdoor.
7. Sri Ozemchuba
MES No. 244040
Mazdoor.
8. Sri Thsatongcham
MES No. 244041
Mazdoor.
9. Smt. Tai Amrut Gharde
MES No. 244008
Mazdoor.
10. Smt Manju Rani Dhar
MES No. 243968
Mazdoor.
11. Shri Bendang Sangba
MES No. 244033
Mazdoor.



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12. Shri R.N. Borah
MES No. 243048.
Mazdoor.
13. Shri Lanu Tensu
MES No. 243950
Mazdoor.
14. Shri Ratul Kr Mech
MES No. 244031
Mazdoor.
15. Shri Santosh P. Patil
MES No. 244038
Mazdoor.
16. Shri Vikuto Kappo
MES No. 264773
Mazdoor.
17. Shri Nihar Ranjan Dasgupta
MES No. 234966
Supdt. E/M 1
18. Shri Partha Pratim Deb
MES No. 263335
SA 2.
19. Shri Sankar Prasad Dey
MES No. 228270
Supdt. B/R 1.



... Applicants.

The applicant Nos. 1 to 16 are working under the office of the Garrison Engineer 868 EWS C/o 99 APO and applicant No. 17 has served under Garrison Engineer 869 EWS C/o 99 APO and 137 HQ Works Engineer C/o 99 APO. The applicant Nos. 18 and 19 served under the Garrison Engineer 869 EWS 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, South Block, New Delhi - 1.
2. The Head Quarter, 137 Works Engineer, C/o 99 APO.
3. The Controller of Defence Accounts, Udayan Vihar, Narengi, Guwahati - 781 171.

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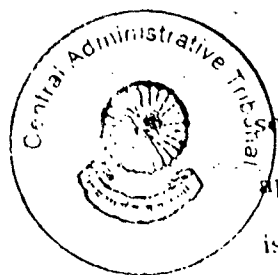
4. The Area Accounts Officer,
Office of the Joint Controller of Defence Accounts,
Ministry of Defence,
Vivar Road, Shillong,
P.O.- Shillong, Meghalaya.
5. The Garrison Engineer,
868, Engineering Workshop,
C/o - 99 APO.
6. The Garrison Engineer,
869, Engineering Workshop,
C/o - 99 APO.

... Respondents.

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

ORDER (ORAL)

SIVARAJAN. I. (V.C.)



The applicants, 19 in numbers have filed this O.A. seeking for direction to the respondents to pay the HRA to the applicants as per O.M. No. 11013/2/86-E.II (B) dated 23.09.1986 issued by the Joint Secretary, Government of India, Ministry of Finance, Department of Expenditure, New Delhi and also as per similar Judgment and Order passed in O.A. No. 226 of 1996 by this 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 (HRA for short) to the similarly situated persons.

2. I have heard Mr. A.K. Chaudhuri, learned counsel for the applicants and Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. appearing for the respondents. I have also heard the learned Tribunal and on occasion to consider a similar situation recently in O.A.No.123 of 2004 and by Judgment and Order dated 8.6.2005 observed thus:

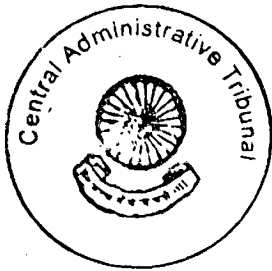
"We have considered the rival submissions. The very question was considered by this Tribunal with reference to the aforesaid contention raised by the respondents in O.A.Nos 217/1995 and 218/1995 wherein it was held that the applicants are entitled to payment of HRA. This decision has been impliedly upheld in B. Prasad & Others."

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Smita Bhattacharjee

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case (supra). Further the Hon'ble High Court had considered a similar situation with reference to the decision of the Supreme Court and took the view that the Tribunal was justified in directing payment of HRA in the said case. In the circumstances, we are of the view that the respondents were not justified in discontinuing the payment of HRA to the applicants in the instant case. Accordingly we direct the respondents to pay HRA to the applicants as directed by this Tribunal in O.A.Nos.217/1995 and 218/1995 and affirmed by the Supreme Court in B. Prasad & Others' case (supra)."



3. In the instant case though the applicants in para 4.5 states that they are entitled to HRA under various Government orders and the various decisions of the Court, there are no relevant factual details of each and every applicant in this case so as to decide the matter on merits. In the circumstances, this O.A. can be disposed of by directing the respondent Nos.5 and 6 to consider the matter and to take a decision. The applicants are directed to file individual representations with facts and figures showing their entitlement before the respondent Nos.5 and 6, as the case may be, within a period of one month from today. If the applicants file such representations the respondent Nos.5 and 6, as the case may be, will consider the same in the light of the various judgments including the order dated 8.6.2005 in O.A.No.123 of 2004 and pass appropriate orders in accordance with law within a period of three months thereafter.

4. The O.A. is disposed of as above. The applicants will produce this order before the respondent Nos.5 and 6, as the case may be, before the respondent Nos.5 and 6.

sd/VICE CHAIRMAN

TRUE COPY
बतिलिख

N. S. S. S.
13.7.05

अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी - 8
GUWAHATI - 8
8/7/05

ATTESTED

Smita Bhattacharjee
ADVOCATE

1014/24/PH/ 138 /EI

29 Mar 06

ANNEXURE-- D

MES-243992 Shri Poresh Hazarika, Maz.
MES-228302 Shri TN Hazarika
MES-244034 Shri Krishna Rao
MES-243968 Smt Manju Rani Dhar
MES-244008 Smt Tai Anrut Gharde
MES-243048 Shri RN Borah
MES-244038 Shri Santosh Patil

SPEAKING ORDER

HON'BLE CAT GUWAHATI BENCH ORDER DATED 24 JUNE 2005
IN OA NO 126/04 FILED BY SHRI PORESH HAZARIKA, MAZ AND
OTHERS REGARDING HRA

1. Reference your representation dated NIL received by this office on
25 Oct 2005.

2. You have filed an OA No. 126/04 at Hon'ble CAT Guwahati for payment of
House Rent Allowances (HRA) by respondent authority. Hon'ble CAT has pursued
the view of both parties and passed an order dated 24 Jun 2005 that :-

" In the instant case though the applicants in para 4.5 states that they are
entitled to HRA under various decisions of the Court, there are no relevant factual
details of each and every applicant in this case so as to decide the matter on merits.
In the circumstances, this OA can be disposed of by directing the respondent Nos 5
and 6 to consider the matter and to take a decision. The applicants are directed to file
individual representations with facts and figures showing their entitlement before the
respondent Nos 5 and 6, as the case may be, within a period of one month from
today. If the applicants file such representations the respondent Nos 5 and 6 as the
case may be consider the same in the light of the various judgments including the
order dated 08 Jun 2005, in OA No. 123 of 2004 and pass appropriate orders in
accordance with law within a period of three months thereafter."

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ADVOCATE

3. As per direction of Hon'ble CAT your representation with facts and figures showing your entitlement should have reached this office on or before 24 July 2005. But your undated representation have been received by this office on 25 Oct 2005, long after the due date. Your above representation is liable to be rejected on this ground itself.

4. Hon'ble GAT Guwahati has ordered that applicants may submit a representation with facts and figures showing their entitlement, but facts i.e. date of joining etc brought forward in your representations are either incorrect or incomplete. Your representation is liable to be rejected on this ground.

5. In your ibid representation you have brought out that your case is similarly situated as the applicants of OA No 124/1995, 125/1995, 217/1995 and 218/1995 and order of Hon'ble CAT on above OA should be applicable to you also. For your information it is brought out that above OAs were filed by applicants for SDA, SCA, FSC and HRA, who are not staying in Govt land except two persons namely Sh GC Mondal and Sh S Jabber who are staying in Govt Land and applicant of present OA No. 123/2004. You have joined service much after Hon'ble CAT order on above OAs. Your case not be considered similarly situated like the applicants filed above mentioned OAs. Your representation for claiming HRA on this ground has no merit to be considered.

6. In your ibid representation you have claimed HRA as per Govt of India, Min of Finance (Department of Expenditure) vide their office memorandum No 11013/2/86-E II(B), New Delhi dated 23 Sep 1986. As per sub para (ii) of above

.....3/-

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memorandum HRA shall not be paid to Govt employees those who are provided with Govt owned/hired accommodation. In your case you are staying in Defence Land by constructing temp hut with your family. Moreover you are availing water and electric supply and other civil services from Defence Services. On this ground your claim for HRA submitted in ibid representation is not admissible

7. Certain Govt Employees were allowed to construct own huts on Defence Land way back in 1965, when no Scheme for HRA (House Rent Allowances) to Defence Civilian Employee was existing. Since 1986, Govt of India has introduced HRA and modified the provisions of Govt of India, Min of Def letter No A/05284/AG/PS-3/97/S/D(Pay/Services) dated 25 Jan 1964. At present any Defence Civilian Employee can avail HRA and stay in their own accommodation where the Govt is providing no services. In this case, though Govt accommodation has not been provided, you are availing the facility of being provided in terms of water and electricity at Govt Rate, which is being recovered as license fee through pay bill. As such, you are not eligible for HRA.

8. Your representation Nil dated has been perused by this Department considering all rule position in vogue and respective Hon'ble CAT/Court order. Undersigned has found no merits in your representation and rejected your claim of HRA.

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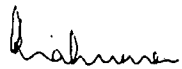
Smita Bhattachajee

ADVOCATE

1/-

9. By issue of this order Hon'ble CAT order dated 24 Jun 2005 on OA No. 126/2004 filed by you in CAT Guwahati has been complied with..

10. Please acknowledge receipt of this order.


(SH Rahuman)
Lt Col
Garrison Engineer

Copy to :-

HQ Chief Engineer
Eastern Comand
Fort William
Kolkata

HQ Chief Engineer
Shillong Zone
Shillong

HQ 137 Works Engrs
C/O 99 APO

for info please.

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Smita Bhattacharjee
ADVOCATE

Rept
Delayed

In the Central Administrative Tribunal

Guwahati Bench, Guwahati.

Application under Section 19 of the Central
Administrative Tribunal Act, 1985.Case O.A. No. 217 of 1995

BETWEEN

1. 311640 Shri G.C. Mondal, Peon. ✓
2. 260088 Shri N.K. Kar, U.D.C
3. 216833 Shri B.C. Ghosh, Supdt, B/R Grade-I
4. 264666 Shri Samar Chakraborty, S.A, Grade-II.
5. 201694 Shri A.K. Bondopadhyaya, S.A. Grade-I.
6. 220150 Shri S. Jabbar, Office Chowkidar. ✓
7. 220105 Shri P. Khalkhu, Chowkider.
8. MES 202175 Shri T.B. Bhattacharya, Supdt, B/R Grade-II.
9. 243485 Shri K.P. Kewat, Peon.
10. 234117 Shri A.K. Dutta, Supdt, B/R Grade-I. ✓
11. 311608 Shri Surindra Kumar, Supdt, E/M Grade-I.
12. 263195 Shri S.K. Karmakar D¹ Man Grade-I.
13. 208173 Shri Nilendra Roy, Supdt, B/S Grade-II.
14. 224065 Shri Abdul Rouf, S.K. Grade-I.
15. 216499 Shri Monoranjan Roy, S.K. Grade-II.
16. 263544 Shri R.C. Das, Asstt, Engineer E/M.
17. MES/201085 Shri N.K. Kundra, B/S Grade-II.
18. MES/210151 Shri D.R. Khati, B/S, Grade-II.
19. MES/268151 Shri S.K. Nag, B/S Grade-I.
20. MES/201185 Shri Angsu Copak Saha AE/ B/R
21. MES/265840 Md. Kaium Ansari, Supdt, E/M Grade-II. ✓
22. MES/242028 Shri G.C. Bora, U.D.C.
23. MES/238173 Shri Ramesh Ch. Baishya, BSO
24. MES/216447 Shri U.S. Prasad, AE ✓

Now all are serving in the office of the G.E. 868 EWS

- And -

C/O 99 APO

in the office of the Government of India and others.

..... Applicants..

..... Respondents.



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Smita Bhattacharjee

ADVOCATE

Corresponding Application No. 18 of 1995.

Date of Decision : This the 10th Day of October, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri B.C. Samlyine, Member (Administrative)

O.A. No. 217/95 ✓

311640 Shri G.E. Mondal & 23 others.

All are serving in the office of the Garrison Engineer, 853 EWS C/o 99 APO. . . . Applicants

- versus -

1. Union of India represented by the Secretary, Defence, Govt. of India, New Delhi.
2. The Garrison Engineer, 853 EWS, C/o 99 APO.
3. The Garrison Engineer, 853 EWS, C/o 99 APO.

. . . Respondents.

O.A. No. 218/95

238016 Shri K.P. Pillai & 225 others.

All are serving in the office of the Garrison Engineer, 858 EWS C/O 99 APO. . . . Applicants

- versus -

1. Union of India represented by the Secretary Defence, Govt. of India, New Delhi,
2. The Garrison Engineer, 868 EWS, C/O 99 APO.
3. The Garrison Engineer, 862 EWS, C/O 99 APO.

. . . Respondents

For the applicants in both the cases : By Advocate Shri A. Ahmed.

For the respondents in both the cases : By Advocate Shri S. Ali, Sr. C.G.S.C.

ORDER

MAJISTRI J. V.C.

O.A. No. 217/95 :

As the question raised is covered by earlier decisions the O.A. is admitted. Issue notice to the respondents. Returnable forthwith. Mr S. Ali, Sr. C.G.S.C. waives notice and

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Contd. 2...



As the question raised is covered by earlier decision of the O.A. is admitted. Issue notice to the respondents. Returnable forthwith. Mr S.Ali, Sr.C.G.S.C unives notice and orders for the respondents. Called out for final hearing.

As the claim made in both the above C.As are identical there are disposed of by a common order. The applicants in the respective applications are granted leave to agitate their claim in the single application.

Facts of O.A.No.217/95:

The 24 applicants concerned in O.A.217/95 are civilian employees belonging to Group A, B, C and D and are serving in the Defence Department from respective dates since 1963 onwards. They have stated that they are from outside the North East Region but have been posted as civilian employees in Nagaland in the office of Garrison Engineer, 868 EWS C/O 99 A.P.O. Their grievance is that they are eligible to be paid :

- (i) Special (Duty) Allowance (SDA),
- (ii) House Rent Allowance (HRA) at the rate of 15% on the monthly salary with effect from 1.10.1986;
- (iii) Special Compensatory (Remote Locality) Allowance with effect from 1.4.1993 and
- (iv) Field Service Concession with effect from 1.4.1993

but that these benefits are being wrongfully denied to them by the respondents. They placed reliance upon the earlier decision in O.A.48/91. It also appears that the applicants had filed Civil Suit No.265/89 praying for the aforesaid benefits and the suit was decreed. However according to the applicants the decree is not obeyed by respondents. It is a nullity being without jurisdiction.

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Facts of O.A.No.218/95 :

The O.A.218/95 has been filed by 226 applicants. They are all civilian employees belonging to Group 'C' serving in the Defence Department from respective dates since 1963. They also claim the benefits of :

- (i) Special (Duty) Allowance,
- (ii) House Rent Allowance,
- (iii) Special Compensatory(Remote Locality) Allowance and
- (iv) Field Service Concession in the same manner

and on the same grounds as claimed by the applicants in the other O.A.

In support of the claim for Special(Duty) Allowance reliance is placed upon the Defence Ministry O.M. No.4(19)/03/D,Civil-I dated 11.1.84 and Defence Ministry Memorandum No.20014/3/03-IV. Reliance is placed upon the Circular issued by the Government of India, Ministry of Finance No.11013/2/86-E.II(D) dated 23.9.1986 in support of the claim of HRA at the rate of 15% applicable to B Class cities. The claim for Special Compensatory(Remote Locality) Allowance meant for Defence department civilian employees is based upon the letter of Minister of Defence, Government of India No.B/37269/AG/PS3(a)/165/D(Pay)/Services dated 31.1.95 with effect from 1.4.93. Lastly, the Field Service Concessions are claimed on the basis of letter No.16729/ORG4 (civ.) (d) dated 25.4.94 issued by the Army Headquarter in pursuance of letter of Government of India dated 13.1.94.

The Hon'ble Supreme Court has now held that employees having all India transfer liability who were appointed outside North East Region but have been posted in the said Region are entitled to the benefit of payment of SDA under



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contd. 4...

The Memorandum dated 14.12.1983 relied upon by the applicant (See decision of the Hon'ble Supreme Court in Civil Appeal No. 834 of 1995, Chief General Manager (Telecom), N.E. Tel Circle & another vs. Shri Rajendra Ch. Bhattacharjee & others dated 18.1.95) ^{3T 1445 (1) SC 440.} We have considered this aspect as well as the question of eligibility of House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Field Service Concessions in our order on O.A.124/95 with O.A.125/95 dated 24.8.95. The applicants in those cases were also Defence civilian employees like the applicants serving under the Garrison Engineer and who had been posted in the State of Nagaland. After examining the relevant materials we have held that the applicants are entitled to get all these benefits. The applicants in the instant O.As and the applicant in those cases were also plaintiffs in the same Civil Suit ~~namely, 283/90~~ and they are all identically placed. We are satisfied that for the same reasons as are recorded in the common order on the aforesaid two applications namely O.A. 124/95 and O.A.125/95, Similar order may be passed in the instant applications. Although the applicants claimed SOA from November, 1993 we shall allow that claim with effect from 1.12.1988 as was done in the earlier cases. Similarly in so far as the HRA is concerned the relief will not be granted as prayed but as was granted in the earlier cases. Other two reliefs will also be similarly granted as was done in the earlier cases.

For the aforesaid reasons following order is passed :

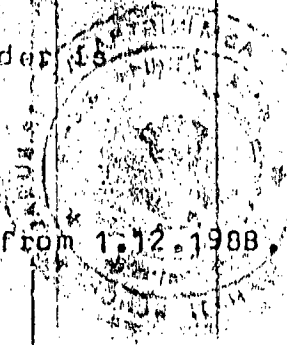
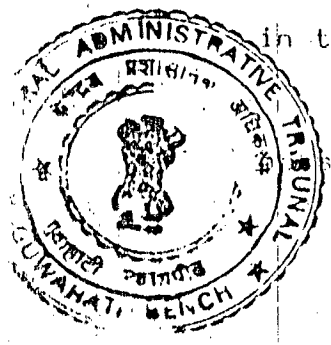
(A) O.A.No.217/95:

- i) It is declared that SOA is payable from 1.12.1988.

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Smita Bhattacharjee
ADVOCATE

contd. 5...



ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of



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Smita Bhattacharya

ADVOCATE

appointment as the case may be in respect of each upto 28.2.1991 and at the rate as may be applicable time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

A copy of the order dated 24.8.95 passed in O.A.No. 124/95 and 125/95 shall be made part of record of this O.A.

(B) O.A.No. 218/95:

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,



ATTESTED

Smita Bhattacharjee
ADVOCATE

- 34 -

(b) The respondents are directed to pay to the applicants SDA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below :

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.



ATTESTED

Smita Bhattacharya
ADVOCATE

207-208

(p) Amounts to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

A copy of the order dated 24.8.95 passed in O.A. No.124/95 and 125/95 shall be made part of record of this O.A.

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



Certified to be true Copy
प्रमाणित प्रतिलिपि

[Signature]
Section Officer (J)
आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-6
गुवाहाटी बेंच, गुवाहाटी-6

ATTESTED

Smita Bhattacharjee
ADVOCATE

~~28-27~~

43/45

~~ANNEXURE - C~~

43-45

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA NEW DELHI.

THE HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED:

Most Respectfully Soweth:

1. THAT the petitioners are filling this petition for grant of Special Leave to Appeal against the common judgement and order dated 18.10.1995 and 2.1.1996 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No. 217/95 and 218/95 and Review Application No. 22 and 23/95 respectively.
2. That the impugned judgment has been passed by the Hon'ble Tribunal in O.A.No. 148/95 by following its earlier decisions in O.A.No. 124/95 and O.A.No. 125/95 decided on 24.8.1995. It is submitted that the petitioners have already challenged the order dated 24.8.1995 in O.A. Nos.

.....43/45

ATTESTED

Smita Bhattacharjee
ADVOCATE

- v) That feeling aggrieved from the common judgment and order dated 18.10.1995 in O.A. Nos. 217/95 and 218/95 and orders dated 2.1.96 in R.A. 22/95 and 23/95 passed by the Guwahati Bench of the Tribunal, the petitioners are filing the present petition for special leave to Appeal before this Hon'ble Court on the following amongst other:-

G R O U N D S

- A. BECAUSE the impugned judgments are contrary to the provisions of law, O.M.S. and material on record and the same are liable to be set aside by this Hon'ble Court.
- B. BECAUSE the impugned judgments are contrary to the Chandigarh Bench of the Tribunal dated 4.4.1989 in O.A. 672/JK/1987.

ATTESTED

Smita Bhattachayee
ADVOCATE

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F. BECAUSE the Hon'ble Tribunal erred in following its earlier decision in 124 and 125/95, against which order, the special leave petition of the petitioners is pending disposal before this Hon'ble court.

G. BECAUSE the Hon'ble Tribunal erred in granting SDA, SCA (RL) in addition to FSC and HRA when the Respondents have been provided free accommodation, which is against the policy of the Govt. and other wise unsustainable.

(8) H.

BECAUSE the Hon'ble Tribunal failed to appreciate that it is against the basic concept of payment of HRA that any employee is paid HRA even when he is provided with free accommodation. The payment of HRA and free accommodation cannot go together.

I. BECAUSE the Hon'ble Tribunal erred in directing that inspite of the field

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ATTESTED

Smita Bhattacharjee
ADVOCATE

Certified to be true copy

Assistant Registrar (Judl.)

.....3/3/97.....199

Supreme Court of India

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997
(Arising out of SLP (C) No.14088 of 1996)

Union of India & Ors. etc.

... Appellants

Versus

B. Prasad, B.S.O. & Ors. etc.

... Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578-1579, 1580-1585/37
(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42,
15740, 25108-10 of 1996, SLP (C) No. 4336/96 (CC-
5040/96) and SLP (C) No. 4338/96 (CC-6860/96))

ORDER

Leave granted. We have heard learned counsel

for the parties.

These appeals by special leave arise from the various orders passed by the Central Administrative Tribunal, Gauhati Bench in different matters. The main order was passed on 17.11.1995 in RA No.4/95 in OA No.49/89.

The Government of India have been issuing orders from time to time for payment of allowances and

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Smita Bhattacharjee

ADVOCATE

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facilities for civilian employees of the Central Government servants working in the States and Union Territories of the North-eastern region. It is not in dispute that Special Duty Allowance was ordered by the Government @ 25% of the basic pay subject to a ceiling of Rs.400/- per month on posting on any station in the North-eastern region. Subsequently, the Government have been issuing orders from time to time. In the proceedings dated April 17, 1995, the Government modified the payment of the Special Duty Allowance and Special Compensatory (Remote Locality) Allowance as under:

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilian employees in the newly defined Field Areas, Special Compensatory (Remote Locality) Allowance and other allowances not concurrently admissible along with Field Service Concessions."

It is contended by Mr. P.P. Nathotra, learned senior counsel appearing for the Union of India, that the view taken by the Tribunal that they are entitled to both, is not correct and that they would be entitled

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ADVOCATE

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to either of the allowances. Shri P.P. Rao, learned senior counsel appearing for some of the respondents has contended that those civilian employees working in the defence service at various stations in the North-eastern region were given Special Duty Allowance with a view to attract the competent persons and the persons having been deployed, are entitled to the same and the amended concessions would be applicable to those employees who are transferred after April 17, 1975. All those who were serving earlier would be entitled to both. Shri Arun Jaitely, learned senior counsel appearing for some of the respondents has drawn our attention to the distinction between Field area and Modified Field area and submitted that in cases where civilian employees are supporting the field defence persons deployed for the border operational requirements facing the immense hostilities, they will be denied the payment of both allowances while the personnel working in the Modified Field Area, in other words, in barracks, will be entitled to double benefit of both the allowance. This creates hostile discrimination and unjust results.

Having regard to the respective contentions, we are of the view that the Government having been

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Smita Bhattacharjee
ADVOCATE

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- 33 - 33 -

extending the benefit of payment of Special Duty Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17, 1995, they are entitled to both the Special Duty Allowance as well as Field Area Special Compensatory (Remote Locality) Allowance. The same came to be modified w.e.f. that date. Therefore, irrespective of the fact whether or not they have been deployed earlier to that date, all are entitled to both the allowances only upto that date. Thereafter, all the personnel whether transferred earlier to that or transferred from on or after that date, shall be entitled to payment of only one set of Special Duty Allowance in terms of the above modified order.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities

4

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Smita Bhattacharyee
ADVOCATE

The appeals are disposed of accordingly. It is made clear that the Union of India is not entitled to recover any payments made of the period prior to April 17, 1995. No costs.

(K. RAHASWAMY)

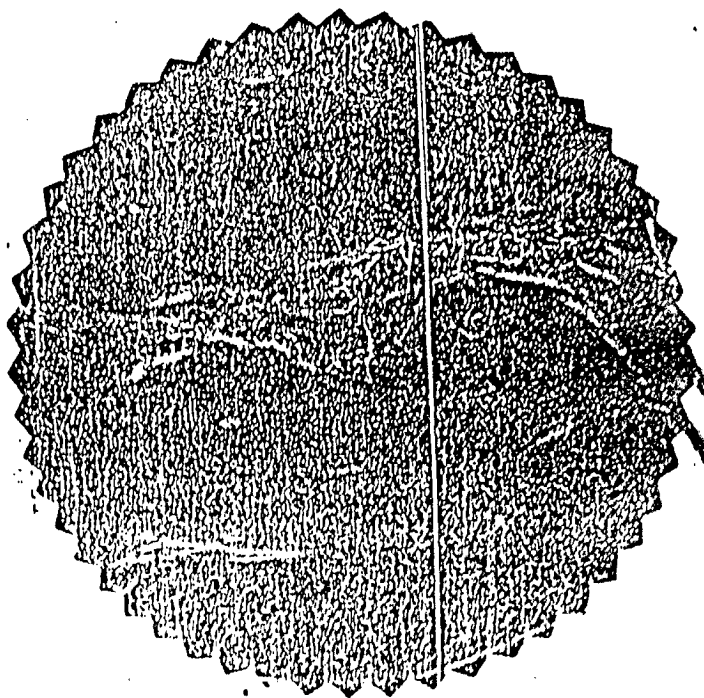
(G. T. NANAVATI)

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Smita Bhattachajee
ADVOCATE

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Supreme Court of India	

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11/3/97

ATTESTED
Smita Bhattacharjee
ADVOCATE

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ANNEXURE-- H

IN THE GAHATI HIGH COURT

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

Original from CR

No. 56/3 of 1998

U. O. 9 E. n r

Appellant
Petitioner

Versus

U. Goura Bora

Respondent
Opposite-Party

Appellant D. Sanyal
Petitioner A. L. G. R. S. C.

Respondent MR. A. Bhattacharya
Opposite-Party

ATTESTED

Smita Bhattacharjee
ADVOCATE

APPLICANT

-And-

IN FAVOR OF :

1. Union of India,

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

2. The Commanding Officer,

BCCOT ASC(Supply) Type-C,

c/o 93 APO.

... Petitioner

-Versus-

1. Ulla Gonda

2. Ham Raj

3. Anil

4. Prakash

5. Panchabandhi

... contd.. 3

ATTESTED

Smita Bhattacharjee

ADVOCATE

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3.

6. Harimull
7. Gundicha Naik
8. Kirton Gouda
9. Day Raj
10. Mangala Behara
11. Dandapard Naik
12. Bhirgu Nath
13. Khadal Gouda
13. Fadda Naik
16. Ramchandrar
16. Suresh Lal Laxtha
17. Subaru Naik
18. Goma Naik
19. Ragday Chohan
20. Sirpat Ram
21. Ram Prasad
22. Parun Behara
23. West Ram
24. Rupa Saha
25. Rupa Bhowt
26. Langa Naik
27. Raghu Rath
28. Cyprian
29. Deyanidhi
30. Bal Kishan
31. Ram Kishan
32. Ramunda Gaba

ATTESTED

Smita Bhattacharya
ADVOCATE

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4.

37. Bhimu Nalik
38. Smt Kelawati
39. Dinobandhu Nalik
40. Ram Prakash
41. Ram Samujh
42. Subhash Singh
43. Kall Sahu
44. Surinder Sahu
45. V.K. Pillai
46. Harkshit
47. Bodha Ram
48. Ramchander Gouda
49. Bodycher
50. Manola Pradhan
51. Uday Path
52. Lal Dher
53. Mural Prasad
54. Pitambar
55. Bahad Ram
56. Satl Ram
57. Girardh Prasad
58. Hordav Ram
59. Ramayan
60. Ram Narayan

ATTESTED

Smita Bhattacharjee
ADVOCATE

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61. Jay Prakash Ram
62. Ram Badan
63. Tribhubhan
64. Hoop Ram
65. Ganga Saran
66. Panu Pradhan
67. Shankar Thakur
68. Ram Prasad
69. Ram Shankar
70. R.K. Chetri
71. Imbi. Tamsu Jandir
72. S.K. Paul
73. Motilal
74. Moujdar
75. Ramoswar
76. Subhash Teli
77. P.P. Yadav
78. Dibakar Gouda
79. R.P. Sarmah
80. Hamid Mohd
81. Trilok Nath
82. R.H. Gouda
83. Om Prakash Gupta
84. Kader
85. Rajender

All entries in the office of the

Controlling Officer to GOVT. (C.G.O.)

ATTESTED

Smita Bhattacharjee

ADVOCATE

Initiated by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	1	

4

CR 5613/98

BEFORE

THE HON'BLE THE CHIEF JUSTICE
 THE HON'BLE MR JUSTICE AMITAVA ROY

18.09.02

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 Areas 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, BVS and Others, reported in (1997) 4 SCC 189. The judgment of the Tribunal was challenged in the Apex Court on various grounds, including the grant of House Rent Allowance as 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 the judgment of the Apex Court. Heard Mrs N Sharma, learned

ATTESTED

Smrita Bhattacharjee

ADVOCATE

Smita Bhattacharjee
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF
গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

O.A. No : 138/2006

Shri Paresh Hazarika & Ors.

..... Applicants

-Versus-

Union of India & Others.

..... Respondents

-AND-

IN THE MATTER OF :

Written statement submitted by the Respondents No 1 to 4.

WRITTEN STATEMENT

The humble answering respondents

Submit thier written statements as

Follows :

1. (a) That I am Lt Col SH Rahuman, Garrison Engineer 868 Engineer Works Section, C/O 99 APO and Respondents No. 4 in the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement, the contentions and statements made in the application may be deemed to have been denied. I am competent and authorized to file the satatement on behalf of all the respondents.
- (b) The application is filed unjust and unsustainable both on facts and in law.
- (c) That the application is bad for non joinder of necessary parties and misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

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Moln Ud-Din Ahmed, M.A.B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench.
18/9/16

4e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

2. BRIEF FACTS OF THE CASE OF THE APPLICANT/PETITIONER

which may be treated as the integral part of this written statement.

- (i) MES-243992 Shri Poresh Hazarika, Mazdoor and 6 others are serving with GE 868 Engrs Works Section are not eligible to draw HRA as per Govt. Of India, Ministry of Finance (Department of Expenditure) letter No 11013/2/86-E.II(B) dated 23.09.1986. The applicants are staying with family in temporary huts on defence land and provided with electric and water supply connection and also enjoying other field service concession other than free clothing as admissible vide appendix 'C' to Govt of India, Ministry of Defence letter No A/02584/AG/PS-3(a)/97/S/D(Pay/Services) dated 25.01.1964 from the date of their reporting to this unit. The applicants had filed O.A. No 126/2004 and the judgement for the same has been delivered on 24th June 2005. As per directions of the Hon'ble CAT Guwahati case for HRA was considered by the department and rejected based on the grounds mentioned in the speaking order No 1014/24/PH/138/E1 dated 29th Mar 2006. (Copy enclosed as Annexure R-1)
- (ii) As per sub para (ii) of Govt. of India, Ministry of Finance Office Memorandum No 11013/2/86-E.II(B) dated 23.09.1986 HRA shall be paid to all employees (other than those provided with Government owned/hired accommodation) on producing certificate that they are incurring some expenditure on rent/contributing towards rent. HRA 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. But the instant applicants of the OA are neither contributing towards rent nor paying/contributing towards house or property tax. In view of the above facts, they are not entitled for House Rent Allowance. The applicants had filed OA No 126/2004 and the judgement for the same has been delivered on 24.06.05. As per direction of the Hon'ble CAT Guwahati case for HRA was considered by the department and rejected based on grounds mentioned in the speaking order No 1014/24/138/E1 dated 29.03.2006 (Photo copy of Judgement dated 24.06.05 is attached as per Annexure R-2).

(iii) As this unit is deployed in field area and the applicants being Defence Civilian employees all concessions and facilities other than free clothing as admissible vide appendix 'C' to Govt. of India, Ministry of Defence letter No A/02584/AG/PS-3(a)/97/SD(Pay)/Services dated 25.01.1964 have been extended to them from the date of their reporting to this unit.

(iv) As per appendix 'C' to the Govt. of India, Ministry of Defence letter No A/02584/AG/PS-3(A)/S(Pay/Services) dated 25.01.1964 spells out provision for free rented/basha accommodation and connected services to the extent possible and the employees as per the above clause have to stay as single and collectively in barracks/basha/tentage. But the instant applicants of the OA are staying with families in defence premises on defence land provided with connected services i.e. water and electricity and also enjoying other field service concessions applicable to them.

(v) According to sub para (ii) of Govt. of India, Ministry of Finance Office Memorandum No 11013/2/86-E.II (B) dated 23.09.1986 HRA shall be paid to all employees (other than those provided with Government owned/hired accommodation) on producing certificate that they are incurring some expenditure on rent/contributing towards rent. HRA 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. The applicants had filed O.A. 126/2004 and the judgement for the same has been delivered on 24.06.05 as per directions of the Hon'ble CAT Guwahati, case for the HRA was considered by the department and rejected based on the grounds mentioned in the speaking order No 1014/24/HP /138/E1 dated 29.03.2006 (Photo copy of the speaking order is attached as per Annexure R-1).

(vi) This unit is deployed in field area and the instant applicants being Defence civilian employees, all concessions and facilities other than free clothing as admissible vide appendix 'C' to Govt. of India, Ministry of Defence letter No A/02584/AG/PS-3(a)/S/D(Pay/Services) dated 25.01.1964 have been extended to them from the date of their reporting to this unit.

(vii) As per appendix 'C' to Govt. of India, Ministry of Defence letter No A/02584/AG/PS-3(a)/97/S/D (Pay/Services) dated 25.01.1964 spells out provision for free rented/basha accommodation and connected services to the extent possible and the employees as per the above clause have to stay as single and collectively in barracks/basha/tentage.

3. That with regard to the statements made in paragraphs 1 to 4.6 of the application, the answering respondents beg to submit that as per sub-para (ii) of Govt. of India, Ministry of Finance office memorandum No 11013/2/86-E(B) dated 23.09.1986 HRA shall be paid to all employees (other than those provided with Government owned/hired accommodation) on producing certificate that they are incurring some expenditure on rent/contributing towards rent. HRA 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 maintenance of the house. But the instant

applicants of the OA are neither contributing towards rent nor paying/ contributing towards house or property tax. Rather they are staying with family on Govt. land and availing services like water & electricity. Hence the applicants are not eligible for House Rent Allowance. In this connection the applicants had filed O.A. No 126/2004 and the judgement for the same has been delivered on 24.06.2005 as per directions of the Hon'ble CAT Guwahati, case for HRA was considered by the department and rejected based on the grounds mentioned in the speaking order issued by the department vide letter No 1014/24/PH/138/E1 dated 29.03.2006 (Photo copy of speaking order attached as per annexure R-1). The individuals mentioned in para 4.6 of the O.A have been granted HRA because they are fulfilling all the terms and conditions required vide Govt. of India, Ministry of Finance (Department of Expenditure) letter No 11.013/2/86-E.II(B) dated 23.09.1986 as already explained in para 1 above. But the instant applicants are availing all the facilities in a field area and are staying on Govt. land and are being provided in terms of water and electricity at Govt. rate. As such the applicants are not eligible for HRA. Hence the contention that all the applicants of earlier OA 126/04 are similarly placed is not agreed to.

4. That with regard to the statement made in para 2,3,4.1,4.3,4.4. the answering respondents does not admit anything except those are based on record and as such the applicants are put to strict proof thereof.

5. That with regard to the statements made in paragraphs 4.7 of the application, the answering respondents beg to submit that the department had issued speaking order as per directions of the Judgement and order dated 24.06.05 on the OA No 126/2004 and department has also taken extension of time to implement the CAT order hence there is no misleading the Hon'ble Tribunal by the department as stated by the applicant. The ruling of the

Tribunal was to consider the case of the applicants and accordingly the applications were considered and eligible persons have been paid HRA.

6. That with regard to the statements made in paragraphs 4.8 of the application, the answering respondents beg to submit that persons who fulfill the guidelines/policy and /or ingredients are being paid HRA as stated above.

7. That with regard to the statements made in paragraphs 4.9 to 4.14 of the application, the answering respondents beg to submit that the case of the applicants for payment of HRA has been considered by the department and all eligible persons are being paid HRA as per policy.

8. That with regard to the statements made in paragraphs 5.1 to 5.2 of the application, the answering respondents beg to submit that there is no violation of Govt. order on the part of the department. As per directions of the Hon'ble CAT Guwahati, case for HRA was considered by the department and rejected based on the grounds mentioned in the speaking order No 014/24/PH /138/E1 dated 29.03.2006.

9. That with regard to the statements made in paragraphs 5.3, 5.4 and 5.5 of the application, the answering respondents beg to submit that all applicants of OA No 126/04 are not similarly placed. Hence the contention is not agreed to.

10. That with regard to the statements made in paragraphs 5.6 to 5.9 of the application, the answering respondents beg to submit that there is no violation and disobedience of the Hon'ble CAT order as stated by the applicants. As per directions of the Hon'ble CAT Guwahati on OA No. 126/04 case for HRA was considered by the department and rejected based on the grounds mentioned in the speaking order No 1014/24/PH/138/E1 dated 29.03.2006 as these applicants of 138/06 are staying in defence land are being provided with electricity and water at Govt. rates.

11. That with regard to the statements made in paragraphs 6 to 12 of the application, the answering respondents being to submit that they have no comments as regards to procedural aspects of the application but the applicants are not entitled any relief as sought for as stated and discussed hereinabove.

12. That the respondents beg to submit that the application is devoid of merit and as such same is liable to dismissed.

13. That this written statement is mde bonafide and for ends of justice & equity.

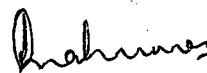
Under the above circumstances, Your Lordships
would be pleased to dismiss the application filed by the
applicant for the ends of justice.

(8)

VERIFICATIONS

I, Lt Col SH Rahuman, Garrison Engineer 868 Engineer Works Section, C/O 99 APO being duly authorized and competent to sign this verification, do hereby solemnly affirm and verify that the statements made hereinabove are true to my knowledge, belief and information derived from the records/facts etc, and submission before the Hon'ble Tribunal and I have not suppressed any material facts.

Any I sign this verification on this 18th day of Sept 2006 at Cuvahit.



(SH Rahuman)
Lt Col
Garrison Engineer

- 28 -

(9)

Garrison Engineer
868 Engr Wks Sec
C/O 99 APO

Annexure R-1

86

29 Mar 06

ANNEXURE - I

MES-243992 Shri Poresi Hazarika, Maz.
MES-228302 Shri TN Hazarika
MES-244034 Shri Krishna Rao
MES-243968 Smt Manju Rani Dhar
MES-244008 Smt Tai Amrut Gharde
MES-243048 Shri RN Borah
MES-244038 Shri Santosh Patil

SPEAKING ORDER

HON'BLE CAT GUWAHATI BENCH ORDER DATED 24 JUNE 2005
IN OA NO 126/04 FILED BY SHRI PORESII HAZARIKA, MAZ AND
OTHERS REGARDING HRA

1. Reference your representation dated NIL received by this office on
25 Oct 2005

2. You have filed an OA No. 126/04 at Hon'ble CAT Guwahati for payment of
House Rent Allowances (HRA) by respondent authority. Hon'ble CAT has pursued
the view of both parties and passed an order dated 24 Jun 2005 that :-

"In the instant case though the applicants in para 4.5 states that they are
entitled to HRA under various decisions of the Court, there are no relevant factual
details of each and every applicant in this case so as to decide the matter on merits.
In the circumstances, this OA can be disposed of by directing the respondent Nos 5
and 6 to consider the matter and to take a decision. The applicants are directed to file
individual representations with facts and figures showing their entitlement before the
respondent Nos 5 and 6, as the case may be, within a period of one month from
today. If the applicants file such representations the respondent Nos 5 and 6 as the
case may be consider the same in the light of the various judgments including the
order dated 03 Jun 2005, in OA No. 123 of 2004 and pass appropriate orders in
accordance with law within a period of three months thereafter."

As per direction of Hon'ble CAT your representation with facts and figures showing your entitlement should have reached this office on or before 24 July 2005. But your undated representation have been received by this office on 25 Oct 2005, long after the due date. Your above representation is liable to be rejected on this ground itself.

4. Hon'ble GAT Guwahati has ordered that applicants may submit a representation with facts and figures showing their entitlement, but facts i.e. date of joining etc brought forward in your representation are either incorrect or incomplete. Your representation is liable to be rejected on this ground.

5. In your ibid representation you have brought out that your case is similarly situated as the applicants of OA No 124/1995, 125/1995, 217/1995 and 218/1995 and order of Hon'ble CAT on above OA should be applicable to you also. For your information it is brought out that above OAs were filed by applicants for SDA, SCA, FSC and HRA, who are not staying in Govt land except two persons namely Sh GC Mondal and Sh S Jabber who are staying in Govt Land and applicant of present OA No. 123/2004. You have joined service much after Hon'ble CAT order on above OAs. Your case not be considered similarly situated like the applicants filed above mentioned OAs. Your representation for claiming HRA on this ground has no merit to be considered.

6. In your ibid representation you have claimed HRA as per Govt of India, Min of Finance (Department of Expenditure) vide their office memorandum No 11013/2/86-E II(B), New Delhi datyed 23 Sep 1986. As per sub para (ii) of above

Memorandum HRA shall not be paid to Govt employees those who are provided with Govt owned/hired accommodation. In your case you are staying in Defence land and by constructing temp hut with your family. Moreover you are availing water and electric supply and other civil services from Defence Services. On this ground your claim for HRA submitted in ibid representation is not admissible.

7. Certain Govt Employees were allowed to construct own huts on Defence Land way back in 1965, when no Scheme for HRA (House Rent Allowances) to Defence Civilian Employee was existing. Since 1986, Govt of India has introduced HRA and modified the provisions of Govt of India, Min of Def letter No A/05284/AG/PS-3/97/S/D(Pay/Services) dated 25 Jan 1964. At present any Defence Civilian Employee can avail HRA and stay in their own accommodation where the Govt is providing no services. In this case, though Govt accommodation has not been provided, you are availing the facility of being provided in terms of water and electricity at Govt Rate, which is being recovered as license fee through pay bill. As such, you are not eligible for HRA.

8. Your representation Nil dated has been perused by this Department considering all rule position in vogue and respective Hon'ble CAT/Court order. Undersigned has found no merits in your representation and rejected your claim of HRA.

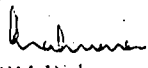
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By issue of this order Hon'ble CAT order dated 24 Jun 2005 on OA No. 126/2004 filed by you in CAT Guwahati has been complied with.

10. Please acknowledge receipt of this order.


(SH Rahuman)
Lt Col
Garrison Engineer

Copy to :-

HQ Chief Engineer
Eastern Command
Fort William
Kolkata

HQ Chief Engineer
Shillong Zone
Shillong

HQ 137 Works Engrs
C/O 99 APO

for info please.

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Annexure P-2

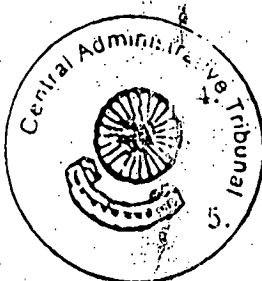
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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 126 of 2004

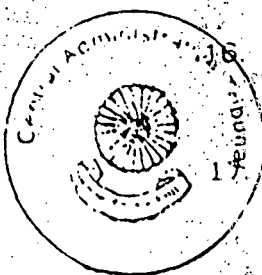
Date of Order: This the 24th day of June 2005.

The Hon'ble Justice Shri G. Sivaraman, Vice-Chairman



1. Shri Poresk Hazarika
MES No. 243992
Mazdoor.
2. Shri T.N. Hazarika
MES No. 228302
Elect I/S-II.
3. Shri Sudhir Chandra Das
MES No. 243702
Elect (sk).
4. Shri Krishna Boro
MES No. 244034
Mazdoor.
5. Shri Libongpong Sangtam
MES No. 244035
Mazdoor.
6. Shri Nikhilesh Dey
MES No. 244037
Mazdoor.
7. Sri Ozemchuba
MES No. 244040
Mazdoor.
8. Sri Thsatongcham
MES No. 244041
Mazdoor.
9. Smt. Tui Amrut Chande
MES No. 244008
Mazdoor.
10. Smt Manju Rani Dhar
MES No. 243968
Mazdoor.
11. Shri Bendang Sangha
MES No. 244033
Mazdoor.

- 25-
12. Shri R.N. Borah
MES No. 243048.
Mazdoor.
 13. Shri Lanu Tensu
MES No. 243950
Mazdoor.
 14. Shri Ratul Kr Mech
MES No. 244031
Mazdoor.
 15. Shri Santosh P. Patil
MES No. 244038
Mazdoor.
 16. Shri Vikuto Kappo
MES No. 264773
Mazdoor.
 17. Shri Nihar Ranjan Dasgupta
MES No. 234966
Supdt. E/M 1
 18. Shri Partha Pratim Deb
MES No. 263335
SA 2.
 19. Shri Sankar Prasad Roy
MES No. 228270
Supdt. B/R 1.



... Applicants.

The applicant Nos. 1 to 16 are working under the office of the Garrison Engineer 868 EWS C/o 99 APO and applicant No. 17 has served under Garrison Engineer 869 EWS C/o 99 APO and 137 HQ Works Engineer C/o 99 APO. The applicant Nos. 18 and 19 served under the Garrison Engineer 869 EWS 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, South Block, New Delhi - 1.
2. The Head Quarter, 137 Works Engineer, C/o 99 APO.
3. The Controller of Defence Accounts, Udayan Vihar, Narengi, Guwahati - 781 171.

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4. The Aren Accounts Officer,
Office of the Joint Controller of Defence Accounts,
Ministry of Defence,
Vivar Road, Shillong,
P.O.- Shillong, Meghalaya.

5. The Garrison Engineer,
868, Engineering Workshop,
C/o - 99 APO.

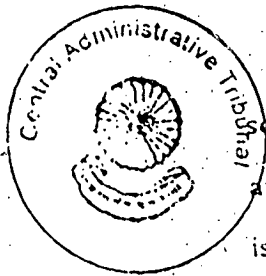
6. The Garrison Engineer,
869, Engineering Workshop,
C/o - 99 APO.

... Respondents.

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

ORDER (ORAL)

SIVARAJAN. L. (V.C.)



The applicants, 19 in numbers have filed this O.A. seeking for direction to the respondents to pay the HRA to the applicants as per C.M. No. 11013/2/86-E.II (B) dated 23.09.1986 issued by the Joint Secretary, Government of India, Ministry of Finance, Department of Expenditure, New Delhi and also as per similar Judgment and Order passed in O.A. No. 226 of 1996 by this 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 (HRA for short) to the similarly situated persons.

2. I have heard Mr. A. Prasad, learned counsel for the applicants and Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. appearing for the respondents. This Tribunal had occasion to consider a similar situation recently in O.A.No.123 of 2004 and by Judgment and Order dated 8.6.2005 observed thus:

"We have considered the rival submissions. The very question was considered by this Tribunal with reference to the aforesaid contention raised by the respondents in O.A.Nos 217/1995 and 218/1995 wherein it was held that the applicants are entitled to payment of HRA. This decision has been impliedly upheld in B. Prasad & Others'

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case (supra). Further the Hon'ble High Court had considered a similar situation with reference to the decision of the Supreme Court and took the view that the Tribunal was justified in directing payment of HRA in the said case. In the circumstances, we are of the view that the respondents were not justified in discontinuing the payment of HRA to the applicants in the instant case. Accordingly we direct the respondents to pay HRA to the applicants as directed by this Tribunal in O.A.Nos.217/1995 and 218/1995 and affirmed by the Supreme Court in B. Prasad & Others' case (supra)."

3. In the instant case though the applicants in para 4.5 states that they are entitled to HRA under various Government orders and the various decisions of the Court, there are no relevant factual details of each and every applicant in this case so as to decide the matter on merits. In the circumstances, this O.A. can be disposed of by directing the respondent Nos.5 and 6 to consider the matter and to take a decision. The applicants are directed to file individual representations with facts and figures showing their entitlement before the respondent Nos.5 and 6, as the case may be, within a period of one month from today. If the applicants file such representations the respondent Nos.5 and 6, as the case may be, will consider the same in the light of the various judgments including the order dated 8.6.2005 in O.A.No.123 of 2004 and pass appropriate orders in accordance with law within a period of three months thereafter.

4. The O.A. is disposed of as above. The applicants will produce this and their representations, as directed before the respondent Nos.5 and 6.

50/VICE CHAIRMAN



TRUE COPY
प्रतिलिपि

N. S. S. S.
13.7.05

अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी - 8
GUWAHATI - 8
8/7/05