

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 17/2005

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 17/2005

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Shri G.B. Tiwari

Respondents M. D. I. 2005

Advocates for the Applicant A. Ahmed

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

Notes of the Registry

Date

24.1.2005

The application is admitted.

is filed/C.F. No. _____

deposited value P.D.

No. 2005-47612

Dated 22/1/05

Dy. Registrar

24/1/05

Steps taken

on 2/2/05.

2/2/05

Notice & order

Sent to D/section
for issuing to

resp. Nos. 1 to 5 by
regd. A/D Post.

8/2/05 D/No = 253 to
257.
Dt = 11/2/05.

5/2. admitted

Order of the Tribunal

Heard Mr. A. Ahmed, learned
counsel for the applicant.

The application is admitted,
call for the records.

List on 25.2.2005 for orders.

K.V. Prahladan
Member (A)

mb

25.02.2005

Present : The Hon'ble Mr. K.V.
Prahladan, Member (A).

Six weeks time is given to
the respondents to file written
statement. List on 8.4.2005 for
orders.

K.V. Prahladan
Member (A)

mb

08.04.2005

Post on 13.4.2005.

K.V. Prahladan
Vice-Chairman

mb

O.A.17/2005

Notice duly
served on
resp. No - 1

13.4.2005

At the request made by learned
counsel for the applicant the case is
adjourned to 11.5.2005.

[Signature]
Vice-Chairman

bb

11.5.2005

When this application is taken up
for consideration today, Mr.A.K.Chaudhu-
ri, learned Addl.C.G.S.C. has placed
before me a communication sent by Lt.
Col. Officiating Commanding Officer
wherein it is stated that the case of
the applicant has been taken up with the
higher Hqs for release of fund under
relevant budget head to make payment to
the applicant as applicable.

In this circumstances, after hear-
ing Mr.A.Ahmed, learned counsel for the
applicant and also Mr.A.K.Chaudhuri,
learned Addl.C.G.S.C., I am of the view
that this application can be ~~dismissed~~
closed with the direction to the respon-
dents to expedite the payment of the
amount due to the applicant. I do so.
If the applicant is still aggrieved,
needless to say that he is free to take
up the matter further.

The O.A. is closed as above.

[Signature]
Vice-Chairman

bb

7-4-05

NO W/S ha seen

8.12.05

[Signature]

12-4-05

NO W/S ha seen

8.12.05

[Signature]
13/5/05

13.5.05

Copy of the order
handed over to the
Advocates for the
applicant on today

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केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

24 JAN 2005

गुवाहाटी न्यायालय
Guwahati Bench

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

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

ORIGINAL APPLICATION NO. 17 OF 2005.

BETWEEN

Shri Sashi Bhusan Tiwari & Others.
... Applicant

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS:

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

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

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

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

By: Tiwari

RELIEF SOUGHT FOR:

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

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

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

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

S B TILWARI

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

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

ORIGINAL APPLICATION NO. 17. OF 2005.

BETWEEN

1. Shri Sashi Bhushan Tiwari
P.No.6403303
Pmt/Mazdoor.
2. Shri N.R.C.Nair
P.No.6402891
Pmt/Mazdoor.
3. Shri D.B.Thapa
P.No.6402892
Pmt/Mazdoor.
4. Shri C.T.Kuttan
P.No.602893
Pmt/Mazdoor.
5. Shri P.M.Bhaskaran
P.No.6402894
Pmt/Mazdoor.
6. Shri Kunjumaon
6402895
Pmt/Mazdoor.
7. Shri D.K.Singh
P.No.6403299
Pmt/Mazdoor.

Filed by
Shri Sashi Bhushan Tiwari
Applicant
Through (Adv. H.M.S.)
Advocate

S.B. TIWARI

8. Shri N.B.Gurung
P.No.6403300
Pmt/Mazdoor.
9. Shri K.N.Thankachan
P.No.6403301
Pmt/Mazdoor.
10. Shri D.P.Sharma
P.No.6403302
Pmt/Mazdoor.
11. Shri N.Peethambaran
P.No.6403304
Pmt/Mazdoor.
12. Shri D.C.Ram
P.No.6403305
Pmt/Mazdoor.

...Applicants

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

-AND-

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

S B TAWARI

ASC (Independent)

C/o 99 APO.

4. The Officer Commanding,
508, ASC (Supply Point Suhi)
C/o 99APO.

5. The Commanding Officer,
825 ASC Battalion,
C/o 99 APO.

... Respondents

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

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

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.

S B TIWARI

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

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

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

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. The similarly situated persons who are working along with the instant Applicants are enjoying this House Rent Allowance as per this Hon'ble Tribunals order passed in O.A No.266 of 1996 and series of other cases. But the Respondents are denying the said benefit to the instant Applicants on the plea of that the instant Applicants have not approached this Hon'ble

S B TIWARI

Tribunal for a direction of payment of House Rent Allowance to them. As such finding no other alternative your Applicants have compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

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

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

4.7) That your applicants beg to state that similarly situated Defence Civilian persons who are working in Nagaland earlier have also filed O.A.No.124, 125 of 1995 for payment of House Rent Allowance before this Hon'ble Tribunal. The Hon'ble Tribunal vide its order dated 24-08-1995 allowed the Original Application by directing the Respondents to pay the House Rent Allowance to Defence Civilian Employees. The above said order was also affirmed by the Hon'ble Tribunal Court of India vide Civil Appeal No. 1572 of 1997 passed on 17-02-1997. In a recent similar case the Hon'ble Gauhati High Court vide its order dated 18-09-2002 passed in Civil Rule No.5613 of 1998 affirmed the judgment and order of the Hon'ble Tribunal regarding payment of House Rent Allowance to Defence Civilian Employees. It may be worth to mention here that the above said Defence Civilian Employees are also working with the instant Applicant. After the said the recent judgment of the Hon'ble Gauhati High Court, the instant Applicant also approach the higher Authority for payment of House Rent Allowance. But the Authority concern refused to give the said benefit to the Applicants on the plea that their names were not included in the said cases. As such finding no other alternative your Applicants are compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

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

S B T W A R

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

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

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

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

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

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

5) **GROUND FOR RELIEF WITH LEGAL PROVISION:**

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

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

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

S B DWARKI

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

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

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

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

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

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

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

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

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

S D TIWARI

6) DETAILS OF REMEDIES EXHAUSTED:

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

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

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

8) RELIEF SOUGHT FOR:

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

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

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

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

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

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. :- 209 JJ7612
 Date of Issue :- 22.1.2005
 Issued from :- Gwalhati C.P.O.
 Payable at :- Gwalhati

12) LIST OF ENCLOSURES:

As stated above.

Verification :

S D TIWARI

-VERIFICATION-

I, Shri Sashi Bhushan Tiwari, P.No.6403303, Pmt/Mazdoor 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, 4.6, 4.8 ——— are true to my knowledge, those made in Paragraphs Nos. 4.4, 4.5, 4.7 ——— are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 20th day of January 2005 at Guwahati.

S B. TIWARI

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No. 11013/2/86-E.II (3)
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. 24(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 (3)/64 dated 27.11.1965 as amended from time to time, Compensatory (City) and House Rent Allowances to Central Government

Approved
[Signature]
[Signature]

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Employees shall be admissible at the following rates:

(1) 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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Attested
[Signature]
[Signature]

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(11) HOUSE RENT ALLOWANCE:

Type of accommo- dation to which entitled	Pay range in revised scales of pay for entitlement.	Amount of H.R.A. payable (In Rs. P.m.)		
		A, B-1, B-2 Class	C Class	Un- classified placed
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.

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Atul
Shankar

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3. Where H.R. 7, at 15 per cent of pay has been allowed their special orders, the same shall be given as admissible in A, B-1 and B-2 class cities. In other cases, covered by special order, H.R. shall be admissible at the rate in C class cities. In both these cases there shall be no upper pay limit for payment of H.R.

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 R.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, 7/4-hoc D/A and Interim Relief appropriate to the pay, admissible under orders in existence on 31.12.1985.

.....5

Handwritten signatures and initials:
A. H. ...
S. ...
A. ...

.. 5 ..

BS

6. These orders shall be effective from 1.10.1986. For the period from 1.1.1986 to 30.9.1986, the above allowances will be drawn at the existing rates on the notional pay in the pre-revised scale.
7. These orders will apply to civilian employees of the Central Govt. belonging to group 'B', 'C' and 'D' only. The orders will also apply to the group 'B', 'C' & 'D' civilian employees paid from the Defence Services Estimates. In regard to Armed Forces Personnel and Railway employees, separate orders will be issued by the Ministry of Defence and Department of Railways respectively.
8. In so far as the persons serving in the Indian Audit & Accounts Deptt. are concerned this order issues after consultation with the Comptroller and Auditor General of India.
9. Hindi version of the order is attached.

Sd/-
(R.P. Verma)
Joint Secretary to the Government of India.

Attchd
Qd /
Hd /

18 - ANNEXURE-B 20

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-B

Original Application No.266/96 and series

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

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

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

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

A. Ahmed
S. Ali

6. Original Application No.91 of 1996

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

-versus-

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

7. Original Application No.87 of 1996

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

-versus-

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

8. Original Application No.45 of 1997

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

-versus-

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

9. Original Application No.197 of 1996

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

-versus-

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

10. Original Application No.28 of 1996

Shri Hiralal Dey and 8 othersApplicants
By Advocate Mr A.C. Sarma and Mr H. Talukdar

-versus-

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

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Handwritten signature and stamp at the bottom of the page.

11. Original Application No. 190 of 1996

1. National Federation of Information and Broadcasting Employees, Doordarshan Kendra, Nagaland Unit, represented by Unit Secretary - A. Beso.
 2. Mr A. Beso, working as Senior Engineering Asstt. (Group C), P.D.K., Kohima. Applicants
- By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

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

12. Original Application No. 191 of 1996

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

-versus-

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

13. Original Application No. 95 of 1997

1. Shri Ranjan Kumar Deb, Secretary, All India R.M.S. & Mail Motor Service Employees Union and 32 others.
 2. Shri Prasannjit Deb, S.A., Railway Mail Service, Dimapur Railway Station, Dimapur, Nagaland. Applicants
- By Advocate Mr N.N. Trikha

-versus-

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

14. Original Application No. 192 of 1996

1. National Federation of Information and Broadcasting Employees, All India Radio, Nagaland Unit, represented by Unit Secretary - Mr K. Tep.
 2. Mr Kekolo Tep, Transmission Executive, All India Radio, Kohima, Nagaland. Applicants
- By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

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

AB
A.H. 1
Q. 1
p. 1

15, Original Application No.26 of 1997.

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

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

ORDER

Date of decision: 10-6-1997

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

Attended
J.S. /
Advocate

ORDER

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BARUAH, J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the applications by this common order.

2. Facts for the purpose of disposal of the applications are:

The applicants are employees of the Government of India working in various departments including Defence Department. O.A.Nos.266/96, 268/96, 279/96, 18/97 and 14/97 are Defence Civilian employees under the Ministry of Defence, O.A.Nos.91/96, 87/96, 45/97, 197/96 and 28/96 are employees in the Subsidiary Intelligence Bureau Department under the Ministry of Home Affairs, in O.A.No.190/96 the members of the Applicant Association are employees under Doordarshan, Ministry of Information and Broadcasting, and at present posted at Kohima, in O.A.No.191/96 the applicants are employees of the Department of Census, Ministry of Home Affairs, in O.A.No.55/97 the applicants are employees under Railway Mail Service under the Ministry of Communication, in O.A.No.192/96 the members of the applicant Union are employees of All India Radio, and in O.A.No.26/97 the applicant is an employee under the Comptroller and Auditor General.

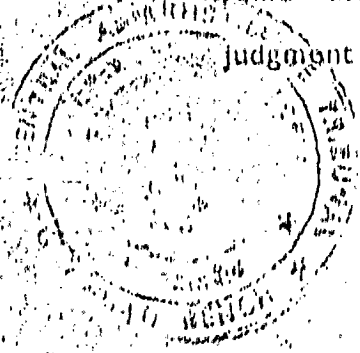
3. All the applicants are now posted in various parts of the State of Nagaland. They are, except the applicant in O.A.No.55/97, are claiming House Rent Allowance (HRA for short) at the rate applicable to the employees of 'B' class cities of the country on the basis of the Office Memorandum No.11013/786-E.II(B) dated 23.9.1986 issued by the Joint Secretary to the Government of India, Ministry of Finance (Dept. of Expenditure), New Delhi, on the ground that they have been posted in Nagaland.

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The President of India issued an order dated 8.1.1962 to the effect that the employees of P&T Department in the Naga Hills and Tuensang Area who were not provided with rent free quarters would draw HRA at the rate applicable to the employees of 'B' class cities of the country on the basis of O.M.No.2(22)-12.11(13)60 dated 2.8.1960. However, the authorities denied the same to the employees ignoring the circular of 1966. Situated thus, being aggrieved some of the employees approached this Tribunal and the Tribunal gave direction to the authorities to pay HRA to those applicants with effect from 18.5.1986. Being dissatisfied with the aforesaid order passed by this Tribunal in O.A.No.42(G) of 1989, S.K. Ghosh and others -vs- Union of India and others the respondents filed SLP and in due course the Supreme Court dismissed the said SLP (Civil Appeal No.2705 of 1991) affirming the order of this Tribunal passed in O.A.No.42(G) of 1989 with some modification. We quote the concluding portion of the judgment of the Apex Court passed in the above appeal:



"We see no infirmity in the judgment of the Tribunal under appeal. No error with the reasoning and the conclusion reached therein. We are, however, of the view that the Tribunal has not justified in granting arrears of House Rent Allowance to the respondents from May 18, 1986. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendation of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal, therefore, disposed of. No costs."

From the judgment of the Apex Court quoted above, it is now well established that the employees posted in Nagaland would be entitled to get HRA as indicated in the aforesaid judgment.

4. The said judgment relates to the employees of the Telecommunication and Postal Department. Later on, the civilian employees of the Defence Department as well as employees of the other departments of the Central Government who were not paid HRA, therefore, being aggrieved by the action of the respondents.....

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A. H. S. S.
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respondents in refusing to give the benefit of the HRA in terms of the judgment of the Apex Court quoted above, some employees approached this Tribunal by filing several original applications. All the applications were disposed of by this Tribunal by a common order dated 22.8.1995. In the said order, this Tribunal allowed the original applications and directed the respondents to pay HRA to those applicants. The Tribunal, in the aforesaid order, among others observed, as follows:

"1.(u) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class, cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same."

Thereafter the civilian employees of Defence Department also claimed HRA on the basis of the said judgment of the Apex Court and circular dated 23.9.1986 by moving various applications, namely, O.A.No.124/95 and O.A.No.125/95. This Tribunal by yet another common order dated 24.8.1995 passed in O.A.Nos.124/95 and 125/95 allowed the applications directing the respondents to pay HRA to the Defence civilian employees posted in Nagaland in the same manner as ordered on 22.8.1995 above. These orders were, however, challenged by the respondents before the Apex Court and the said appeals alongwith some other appeals were disposed of by the Apex Court in C.A.No.1502 of 1997 dealing with Special (Duty) Allowance and other allowances. However, the Apex Court did not make any reference to HRA in the order dated 17.2.1997. Therefore, it is now settled that the employees posted in Nagaland are entitled to HRA.

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

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Affidavit
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Date

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

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

In O.A.Nos.91/96, 87/96, 190/96, 191/96, 45/97, 192/96, 197/96 and 55/97, the applicants have also claimed 10% compensation in lieu of rent free accommodation. The learned counsel

for the applicants submit that this Tribunal in O.A.No. 8/91 and others have already granted such compensation. Mr. S. Ali learned Sr. C.G.S.C. and Mr. G. Sarma, learned Addl. C.G.S.C., do not dispute the same.

8. We have gone through the order dated 22.8.1995 passed in O.A.No.48/91 and others. In the said order this Tribunal, among others, passed the following order:

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

The aforesaid judgment covers the present cases also. Accordingly, we hold that the applicants are entitled to get the compensation in lieu of rent free accommodation in the manner indicated

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In the said order.

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

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

TRUE COPY

Deputy Registrar, IGP
Central Administrative Tribunal
Chennai Bench

Heard
Sd/-
Asstt

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THE COURT OF APPEALS
IN THE HIGH COURT OF
ASSAM, NAGALAND, MIZORAM,
MEGHALAYA, MANIPUR, TRIPURA,
ARUNACHAL PRADESH

IN THE COURT OF APPEALS
IN THE HIGH COURT OF
ASSAM, NAGALAND, MIZORAM,
MEGHALAYA, MANIPUR, TRIPURA,
ARUNACHAL PRADESH

IN THE COURT OF APPEALS
IN THE HIGH COURT OF
ASSAM, NAGALAND, MIZORAM,
MEGHALAYA, MANIPUR, TRIPURA,
ARUNACHAL PRADESH

IN THE COURT OF APPEALS
IN THE HIGH COURT OF
ASSAM, NAGALAND, MIZORAM,
MEGHALAYA, MANIPUR, TRIPURA,
ARUNACHAL PRADESH

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ANNEXURE - G

ANNEXURE - C

IN THE GAUHATI HIGH COURT

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

Case No.

CR

No. 56/3 of 1998

U. O. S. E. M.

Appellant
Petitioner

U. G. S. B. M.

Respondent
Opposite Party

Appellant D. S. S.

Petitioner A. L. C. S. C.

Respondent M. R. A. B. M. C.

Opposite Party

Attended
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Smt

2001/10/17/10/17

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APPROVED FOR

-APR-

TO THE MEMBER OF

Union of India,

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

2. The Commanding Officer,

ECCEOT ABC(Supply) Type-C,

o/o DD APO.

-Various-

1. Ulla Gonda

2. Han Raj

3. Gonda

4. Panchabhai

5. Panchabhai Chh

... PANCHABHAI

... contd. 3

Attested
[Signature] / [Signature]
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6. Narimull
7. Goudicha Naik
8. Kirton Gouda
9. Day Raj
10. Mangala Behara
11. Dandapani Naik
12. Bhirgu Nath.
13. Khadal Gouda
13. Fadda Naik
15. Ramchander
16. Guresh Lal Laxtha
17. Subaru Naik
18. Goma Naik
19. Rasday Chohan
20. Sarpat Ram
21. Ram Prasad
22. Panu Behara
23. West. Ram
24. Alpa Sahu
25. Nita Newet
26. Langa Naik
27. Raghu Nath
28. Gyprian
29. Devanahid
30. Bal. Kishan
31. Ram Kishan
32. Ramada Sahu
33. Acheche Lal Raj
34. Bankech Kunt

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37. Bidma Hodia
38. Gmt Kelawoti
39. Dinobondin Hodia
40. Nam Hridkshi
41. Nam Sogujh
42. Babhoshi Singh
43. Kali Sahu
44. Surinder Sahu
45. V.K. Pillai
46. Harkshit
47. Bodha Ram
48. Ramchander Goudh
49. Badynadur
50. Kengela P. edhen
51. Uday Path
52. Lal Dhar
53. Murali Prasad
54. Pitambar
55. Bahari Ram
56. Sati Ram
57. Giridhar Uralal
58. Hardev Ram
59. Ramman
60. Ram Manojan

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Jil
Pawati

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6.

01. Jay Prakash Ram
02. Ram Badan
03. Tribhubhan
04. Hoop Ram
05. Ganga Saran
06. Panu Pradhan
07. Shankar Thakur
08. Ram Prasad
09. Ram Shankar
10. R.K. Chetri
11. Inti. T. masu Jodir
12. S.K. Patel
13. Motilal
14. Moujdar
15. Ramaswar
16. Subhash Toli
17. R.P. Yadav
18. Dibakar Gouda
19. R.P. Samah
20. Hamid Mohd
21. Trilok Nath
22. R.H. Gouda
23. Om Prakash Gupta
24. Kader
25. No Jander

All services in the office of the
Government of India
1940-41, 1/2/41, 1/2/41, 1/2/41

1940-41, 1/2/41, 1/2/41, 1/2/41

Attn: E1
Advocate

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

CR 5613/98

BEFORE

THE HON'BLE THE CHIEF JUSTICE

THE HON'BLE MR JUSTICE AMITAVA ROY

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, BVSO 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

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Sitting by Officer in Advising	Serial No.	Date	Office notes, reports, orders or proceedings with signature
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Additional Central Government Standing Counsel for the petitioner. We have considered the submissions made by the learned counsel for the parties and perused the record. It appears that nothing has been said by the Apex Court about the House Rent Allowance in the case Union of India and Ors-v-B Prasad, BSC 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 26.9.97 passed by the Central Administrative Tribunal, Guwahati Bench in OA No. 86/97.			

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

For the Regy.
J. S. S. S.

— M. P. M. M. M.
— M. P. M. M. M.

For the Regy. Secy.
10th day of Sept-2012

For the
J. S. S. S.