

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 178/2005

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SECTION OFFICER (Judl.)

Shah
03.11.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 178/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(S): A. Ram

Respondant(S): U.O.I. Jam

Advocate for the Applicant(S): M. Chanda, G.N. Chatterjee, S. Nath

Advocate for the Respondant(S): Case

Notes of the Registry

Date

Order of the Tribunal

This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPC/BP
No. 133/819
Dated 13.6.05

30.6.2005

present: The Hon'ble Mr. Justice G.
Sivarajan, Vice-Chairman.

Heard Mr. M. Chanda, learned counsel
for the applicant and Ms. U. Das, learned
Addl. C.G.S.C. for the respondents.

Admit. Issue notice to the respon-
dents. Respondents to file written
statement within four weeks, post on
1.8.2005.

Recovery of the amount is stayed.

Dy. Registrar

[Signature]

Steps taken

[Signature]

Page 22 & 24 not legible

bb

1.8.05.

Written statement has not been
filed. Post the matter on 30.8.05 for
filing of written statement.

In the meantime, the interim order
shall continue.

[Signature]
Member

[Signature]
Vice-Chairman

[Signature]
Vice-Chairman

lm

Notice & order sent
to D/section for
issuing to resp.
Nos. 1 to 6 by regd.
A/D post.

8/7/05. D/NO = 1115/40
1120

Received DT = 12/7/05. Received
Copy for the U.O.I. Das
Respondents. 4/8/05
4/8/05

✓
Notice duly
served on
resp. No. 4.

30.8.05.

Heard learned counsel for the
parties. Judgment delivered in open Court.
Kept in separate sheets. Application is
disposed of. No costs.


Vice-Chairman

lm

① No. written statement
has been filed.

3m
29.7.05

No Wfs have been
filed.

3m
29.8.05

7.9.05

Copy of the order
has been sent to
the office for issuing
the fine to the applicant
as well as to the
R.C.G. for the resp.

by

Received
Usha Das
addl chse.
12/9/05

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH.

O.A. No. 178 of 2005.

DATE OF DECISION: 30-08-2005.

Shri Ayodhya Ram & Ors.

APPLICANT(S)

Mr M.Chanda , Mr.G.N.Chakraborty,
Mr.S.Nath

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr.G.Baishya, Sr.C.G.S.C

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJA- VICE-CHAIRMAN

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

Judgment delivered by Hon'ble Vice-Chairman

G. Sivaraja

5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.178 of 2005

DATE OF ORDER: This 30th Day of August, 2005.

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

1. Shri Ayodhya Ram
S/o Late Munshi Ram
Senior Auditor. O/O- The Accounts Officer
47B.R.T.F.(Border Road Task Force)C/o-99 APO.
2. Shri D.K.Rabha
Senior Auditor,
A/C No.8306209
A/O(P) Sewak.
C/o-99 APO
3. Shri M. kumbhar
S/o Shri Hemraj Khumber
Auditor,
A/C No.8338464
A.O.(P) Sewak
C/o-99 APO
4. Shrii S.N. Purkayastha
S/o Late Sudhindra Kr. Nandy Purkayastha
Senior Auditor,
A/C.No.8319869
A.O.(P)Setuk
C/O-99 APO
5. Shri Purandar Doley,
S/O. Late Bapu Doley,
Senior Auditor,
A/C No.8331689
AO, 25 BRTF
C/O-99 APO
6. Sri Shamim Aluned
S/o.Mustafa Ahmed
Senior Auditor,
A/C No.831756.
Ao 25 BRTF
C/O99 APO
7. Shri A.Daniel
S/o H.Adani
Senior Auditor,
Account No.8334166
AO,25 BRTF
C/O-99 APO
8. Shri Saumitra Paul
S/o Shri Paresh Ch. Paul
Auditor,
A/C No. 8334132
AO,25 BRTF
C/O 99APO

9. Shri ChiraNJIB Ghosh
S/o.Shri Jiban Ghosh,
Auditor,
A/C No.8338460
Ao.25 BRTF
C/o 99APO
10. Shri Santosh Kumar
S/o.Ramesh Choudhury,
Clerk
A/C No.8338460
AO,265 BRTF
C/O.99 APO
11. Shri Bijan Shankar Das
S/O.Shri Debendra Chandra Das,
Senior Auditor,

A/C No.8319959
AO(P) Pushpak
C/o.99 APO.
12. Shri Subhasish Singha
S/o.Shri Birendra Singha
Auditor
A/C No.8334129
AO(P) Pushpak
C/o. 99 APO
13. Shri Mainak Biswas
S/o. Shri Ajit Kumar Biswas,
Auditor,
AO(P)Pushpak
C/O-99 APO
14. Shri Lochan Chandra Hazarika
S/o Late Dibakar Hazarika,
Senior Auduitor,
A/C No.8313592
A/O.14BRTF
C/o. 99 APIO
15. Shri Shankar Sarkar
S/o. Shri Mohan Bashi Sarkar,
Senior Auditor
A/C No.8323713
OEBW(GREF)
C/O 99 APO
16. Shri Rupak Ranjan Modak,
S/o.Shri Ritu Ranjan Modak
Senior Auditor,
A/C No. 8334146
A.O.EBW(GREF)
C/O-99APO
17. Shri S.M.Dada
S/o.Late S.M.Basha
Senior Auditor,
A/C No.8318644
AO,755 BRTF
C/O-99 APO

18. Shri Pradip Singha
S/O.Amar Singha
Senior Auditor
A/C No.8335359
AO 44 BRTF
C/O 99 APO .
19. Shri Santanu Dey,
S/o. Late Jugal Kishore Dey
Auditor,
A/C No.8338448.
AO 44 BRTF
C/o.99 APO
20. Shri Ranjit Kr.Rai,
S/o Ram Swaroop Rai,
Clerk
A/C No.8333259.
AO 44 BRTF
C/O.99 APO
21. Shri Asim Sarkar
S/o. Shri Anil Sarkar,
Auditor,
AO,44 BRTF
C/O-99 APO
22. Shri Karunamoy Paul
S/o Late MurARI Ch. Paul
ACDA
AO(P)Udayak
C/o-99 APO.
23. Shri Nilotpai Chanda,
S/o Late P.N.Chanda,
Asstt. Accounts Officer
A/C No.8319904
AO(P), Udayak
C/O. 99 APO
24. Shri Pranab Paul
S/o.Shri Birendra Paul, Audidtor
Auditor,
A/C No.8338449
AO(P)Udayak
C/o.99 APO

By Advocate Mr.M.Chanda, Mr.G.N.Chakraborty,
Mr.S.Nath.

- Versus-

1. The Union of aindia,
Represented by Secretary to the
Government of India,
Ministry of Defence(Finance Division)
South Block, New Delhi-110001.
2. Secretary,
Govt. of India Ministry of Finance.
Department of Expenditure,
New Delhi-110001.
3. Controller General of Defence Accounts
West Block-V

4. R.K.Puram,
New Delhi-66
Controller of Defence Accounts (BR).
Seema Sakak Bhawan.
Ring Road,
Delhi Cantt.-10
5. The Director General,
Border Roads,
Kashmir House,
New Delhi-110011.
6. Joint Controller of Defence Accounts (BR)
7. Udayan Vihar, Narangi
Guwahati-781171 RespoOndents.

By Advocate Mis. ~~U. Das~~ ^{U. Das}, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAIAAN, J(V.C):

The applicants 24 in number have filed this O.A. seeking for to quash a communication No.AN/11/575/HRA/Vol.VIII dated 10.805 (Annexure - 7) and also for declaration that the applicants are entitled to payment of duty station House rent allowance at the specified rate in addition to free single accommodation in terms of Government order dated 16.5.96. In the letter dated 10.8.2004 it is stated that clarification was issued on 31.1.03 that though the applicants are living in single accommodation is not entitled to duty station HRA and that said view point has been agreed to by CGDA office vide No.AN/XIV/14004/III/OD HRA dated 12.1.2004. It is further stated that in view of the above the action of the Joint CDA (BR)Guwahati in admitting the duty Station HRA in respect of individuals posted from Static to Static Station and occupying single accommodation is not in order. He was directed to stop the payment of duty Station HRA in respect of the cases stated above ^{and by} effect the recovery of the past period.

Jnt

2. I have heard Mr. M. Chanda learned counsel for the applicant and ~~Mr. G. Das, Addl. learned Sr. C.G.S.C~~ appearing for the respondents. ~~Mr. G. Das, Addl. CGSC~~ has placed before the Bench a communication dated 29.8.2005 received from the Joint. CDA (BR) in which it is stated that :

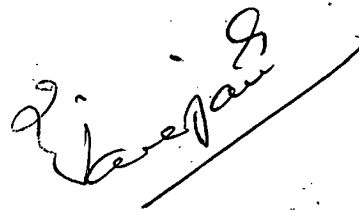
"It has been decided to grant relief to the applicants as prayed for in the ibid O.A. for payment of local HRA.

Action towards releasing the payment of local HRA to the petitioners as per their entitlement is at hand.

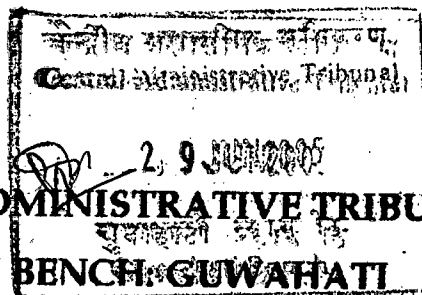
Accordingly, it is requested that the position may kindly be brought to the notice of the Hon'ble CAT Guwahati for disposal of the ibid O.A."

3. In the light of the above the applicants cannot have any grievance. Only direction required is to comply with the above at the earliest I do so.

The O.A. is disposed of as above.



(G.SIVARAJAN)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 178 /2005

Shri Ahdyodhya Ram & Ors.

-Vs-

Union of India and Others,

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 12.07.1993- Govt. of India, Ministry of Surface Transport laid down certain conditions and procedure for grant of House Rent Allowance (for short HRA) to the members of the General Reserve Engineering Force (GREF). (Annexure-2)
- 30.03.1994- Govt. of India, Ministry of Defence (Finance Division) verified that all the Defence Accounts Department employees working in the main office of CDA (BR) at Pune, Guwahati, Jammu and Chandigarh may be paid duty station HRA subject to the condition that they are not provided with any family accommodation by the Government.
- 16.05.1996- ✓ Controller General of Defence Accounts extended benefit of duty station HRA to the applicants who are attached to the GREF in consultation with the Ministry of Finance, Department of Expenditure. (Annexure-1 series)
- 15.05.1998- Controller General of Defence Accounts (BR), New Delhi issued a consolidated Govt. order like Ration money, HRA, Dress Maintenance Allowance etc. It is also indicated that the duty station HRA to the DAD employees (applicants) attached to the GREF should be regulated under CGDA letter dated 16.05.96. (Annexure-4)
- 04.12.1995- ✓ HQ, BRTF Baghmara, issued the letter dated 04.12.95 from where it is evident that the DAD employees (applicants) attached with GREF are also entitled to the grant of duty station HRA. (Annexure-3)
- 10.08.2004- ✓ Office of the Controller of Defence Accounts (BR), New Delhi issued the impugned order, whereby it is directed to stop duty

station HRA in respect of the employees occupying single accommodation while posted from one static station to another static station. It is also directed to make recovery for the past period. (Annexure-7)

01.06.2005- It is evident from the brief notes dated 01.06.05 that the duty station HRA to the applicants i.e. DAD employees attached with GREF are regulated vide order dated 30.03.94, dated 10.05.94 and also by the letter dated 16.05.96 issued by the Ministry of Defence as well as by the CGDA. (Annexure-6)

Hence this application before this Hon'ble Tribunal.

PRAYERS

Relief (s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. AN/II/578/HRA/Vol-VIII dated 10.08.2004 (Annexure-7).
2. That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to payment of duty station HRA at the specified rate in addition to free single accommodation in terms of government order dated 16.05.1996.
3. That the Hon'ble Tribunal be pleased to declare that the respondents are not entitled to make any recovery of HRA in terms of the impugned order dated 10.08.2004.
4. Costs of the application.
5. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to stay the operation of the impugned order bearing letter No. AN/II/578/HRA/Vol-VIII dated 10.08.2004 (Annexure-7) till disposal of this original application.

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

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A.No. 178 /2005

Shri Ayodhya Ram and Ors. : Applicant.

-Versus-

Union of India and Ors. : Respondents.

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Filed By:

Date:-

Advocate.

Ayodhya Ram

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. _____/2005

BETWEEN:

1. Shri Ayodhya Ram
S/o- Late Munshi Ram
Senior Auditor,
O/o- The Accounts Officer,
47 B.R.T.F (Border Road Task Force)
C/o- 99 APO.
2. Shri D.K. Rabha,
S/o- Late Padma Ram Rabha,
Senior Auditor,
A/C No. 8306209
A.O (P) Sewak.
C/o- 99 APO.
3. Shri M. Kumbhar,
S/o- Shri Hemraj Khumbar,
Auditor,
A/C No. 8338464.
A.O (P) Sewak.
C/o- 99 APO.
4. Shri S.N. Purkayastha,
S/o- Late Sudhindra Kr. Nandy Purkayastha.
Senior Auditor,
A/C No. 8319869
A.O (P) Setuk.
C/O- 99 APO.
5. Shri Purandar Doley,
S/o- Late Bapu Doley,
Senior Auditor,
A/C No. 8331689.
AO, 25 BRTF.
C/o- 99 APO.
6. Shri Shamim Ahmed,

1
Filed by me applicant
through
Subroto Nath
Advocate
29.06.05

Ayodhya Ram

- S/o- Mustafa Ahmed,
Senior Auditor,
A/C No. 831756.
AO, 25 BRTF.
C/o- 99 APO.
7. Shri A. Daniel
S/o- H. Adani,
Senior Auditor,
A/C No. 8334166.
AO, 25 BRTF.
C/o- 99 APO.
8. Shri Saumitra Paul,
S/o- Shri Paresh Ch. Paul,
Auditor,
A/C No. 8334132.
AO, 25 BRTF.
C/o- 99 APO.
9. Shri Chiranjib Ghosh,
S/o- Shri Jiban Ghosh,
Auditor,
A/C No. 8338460.
AO, 25 BRTF.
C/o- 99 APO.
10. Shri Santosh Kumar,
S/o- Ramesh Choudhury,
Clerk
A/C No. 8338460.
AO, 25 BRTF.
C/o- 99 APO.
11. Shri Bijan Shankar Das,
S/o- Shri Debendra chandra Das,
Senior Auditor,
A/C No. 8319959.
AO (P) Pushpak.
C/o- 99 APO.
12. Shri Subhasish Singha,
S/o- Shri Birendra Singha,
Auditor,
A/C No. 8334129.
AO (P) Pushpak.

- C/o- 99 APO.
13. Shri Mainak Biswas,
S/o- Shri Ajit Kumar Biswas,
Auditor,
AO (P) Pushpak.
C/o- 99 APO.
14. Shri Lochan Chandra Hazarika,
S/o- Late Dibakar Hazarika,
Senior Auditor,
A/C No. 8313592.
AO, 14 BKTF.
C/o- 99 APO.
15. Shri Shankar Sarkar,
S/o- Shri Mohan Bashi Sarkar,
Senior Auditor,
A/C No. 8323713.
AO, EBW (GREF)
C/o- 99 APO.
16. Shri Rupak Ranjan Modak,
S/o- Shri Ritu Ranjan Modak,
Senior Auditor,
A/C No. 8334146.
AO, EBW (GREF)
C/o- 99 APO.
17. Shri S.M. Dada
S/o- Late S.M. Basha,
Senior Auditor,
A/C No. 8318644.
AO, 755 BRTF
C/o- 99 APO.
18. Shri Pradip Singha,
S/o- Amar Singha,
Senior Auditor,
A/C No. 8335359
AO 44 BRTF
C/O- 99 APO.
19. Shri Santanu Dey,
S/o- Late Jugal Kishore Dey,

Auditor,
A/C No. 8338448
AO 44 BRTF.
C/O 99 APO.

20. Shri Ranjit Kr. Rai,
S/o- Ram Swaroop Rai,
Clerk,
A/C No. 8333259.
AO, 44 BRTF
C/o- 99 APO.
21. Shri Asim ^{Sarkar} ~~Singh~~,
S/o- Shri Anil Sarkar,
Auditor,
AO, 44 BRTF
C/o- 99 APO.
22. Shri Karunamoy Paul,
S/o- Late Murari Ch. Paul,
ACDA,
AO (P) Udayak
C/o- 99 APO.
23. Shri Nilotpal Chanda,
S/o- Late P.N. Chanda,
Asstt. Accounts Officer,
A/C No. 8319904.
AO (P), Udayak.
C/o- 99 APO.
24. Shri Pranab Paul
S/o- Shri Birendra Paul,
Auditor,
A/C No. 8338449.
AO (P) Udayak.
C/o- 99 APO.

Applicants.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Defence (Finance Division),
South Block, New Delhi- 110001.

Atyodhya Ram

2. The Secretary,
Govt. of India,
Ministry of Finance,
Department of Expenditure,
New Delhi- 110 001.
3. Controller General of Defence Accounts,
West Block- V,
R.K. Puram,
New Delhi- 66.
4. Controller of Defence Accounts (BR),
Seema Sadak Bhawan,
Ring Road,
Delhi Cantt. - 10.
5. The Director General,
Border Roads,
Kashmir House,
New Delhi- 110 011.
6. Joint Controller of Defence Accounts (BR),
Udayan Vihar, Narengi,
Guwahati- 781 171.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned order bearing letter No. AN/II/578/HRA/Vol-VIII dated 10.08.2004 (Annexure-7), whereby House Rent Allowance (for short HRA) is sought to be discontinued in a most arbitrary and unfair manner in violation of principle of natural justice and also in violation of relevant rules holding the field and also praying for a direction upon the respondents to continue to pay duty station HRA to the applicants in terms of the relevant rules with all consequential benefits.

Udayashya Ram

2. **Jurisdiction of the Tribunal:**

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. **Limitation:**

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. **Facts of the case:**

- 4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. All the applicants are civilian Central Govt. employees working in the cadre of 'A', 'B' and 'C' under the Controller General of Defence Accounts, Govt. of India, Ministry of Defence (Finance).

All the applicants are working under the administrative control of Controller General of Defence Accounts, Border Roads, New Delhi as well as under the administrative control of Joint Controller of Defence Accounts (BR), Narangi.

All the applicants are posted in Static station in different places in static formation for performing their duties such as Audit, Accounts and Financial advice for and on behalf of Defence Accounts Department for Border Road Task Force in General Reserve Engineering Force personnel.

- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.

W. J. Joshi Ram

- 4.3 That it is stated that vide order bearing No. AN/XIV/14004/111/Vol. VII dated 16.05.1996 benefit of duty station HRA was extended to the Defence Accounts department Employees i.e. to the applicants by the Controller General of Defence Accounts, who are attached to the General Reserve Engineering Force in consultation with the Ministry of Finance, Department of Expenditure, Govt. of India, New Delhi. This is further verified by the Govt. of India, Ministry of Defence (Finance Division) vide letter dated 30.03.1994 that all the Defence Accounts Department employees working in the main office of CDA (BR) and JCDA (BR) at Pune, Patna, Guwahati, Jammu and Chandigarh may be paid duty station HRA subject to the condition that they are not provided with any family accommodation by the Government. Accordingly, all the applicants were enjoying the duty Station HRA at the relevant rate all along in terms of the CGDA's order dated 16.05.1996 on their attachment and posting with GREF personnel in the field formation under the Govt. of India.

Copy of the order dated 16.05.96 along with clarificatory order dated 30.03.04 are enclosed herewith for perusal of the Hon'ble Tribunal and marked as Annexure- 1 (Series).

- 4.4 That it is stated that the Govt. of India, Ministry of Surface Transport vide its letter bearing No. F.81 (1)/87-Estt. dated 12.07.1993, laid down the conditions and procedure for grant of House Rent Allowance to the members of the GREF (General Reserve Engineering Force), wherein under Clause (iii) it is stated as follows:-

"(iii) Other GREF personnel will get HRA as per the terms and conditions applicable to other civilian employees of Central Government."

This is the one of the basic condition for grant of HRA to the GREF personnel and as per Govt. order dated 16.05.96 the said benefit of the

Laxodhya Ram

duty station HRA was extended to the DAD employees attached to the GREF keeping parity with their counterparts.

A copy of the letter dated 12.07.1993 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-2.

- 4.5 That the office of Controller of Defence Accounts (BR), New Delhi, vide its order bearing letter No. AT/BR/Genl (Vol. I) dated 15th May, 1998 issued an consolidated Govt. order like Ration money, HRA, Dress Maintenance Allowance etc. In the said order it is also indicated that the duty station HRA to the DAD employees attached to the GREF should be regulated under CGDA letter dated 16.05.96. It is further relevant to mention here that it would be evident from the letter dated 04.12.95 issued by the HQ, 46 BRTF Baghmara quoting the reference of letter dated 30.03.1994 attached to CGDA wherein Rule regulating grant of HRA to the DAD employees attached to GREF has been quoted wherein it is evident that the DAD employee attached with GREF are also entitled to the grant of Duty Station HRA at par with GREF personnel. In the said order the Govt. letter dated 30.08.93 also referred therein, therefore, it is clear that DAD employees attached with GREF are also entitled to HRA in the similar terms and conditions like those GREF personnel.

Copy of the letter dated 04.12.95 as well as letter dated 15.05.98 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-3 and 4 respectively.

- 4.6 That the Secretary, Border Road Development Board and Joint Secretary to the Govt. of India in their order extended the Ration and accommodation to the members of the Force in the form of concession, it is declared that the members of Force will, while on duty be entitled to Free Ration and Free accommodation of simple type together with lighting and domestic water supply the same also extended to the DAD employees i.e. to the applicant at par with the members of the Force when the applicants are attached to GREF and working in the Field

Chandhya Ram

formation and static formation, more particularly in terms of the Govt. of India, Ministry of Defence (Finance Division) letter dated 30.03.94 as well as CGDA's letter dated 16.05.96.

It is further stated that the free single accommodation is normally provided to the DAD personnel when they are attached to GREF in the field formation, it is a temporary shed prepared in the work site for the convenience of the GREF personnel, where the DAD employees are also accommodated in a single room while working in the work site. It is ought to be mentioned here that in most of the cases in a single accommodation 2/3 personnel also share the accommodation. It is categorically submitted that it is not a "Govt. accommodation" provided by the Govt. for bonafide use of the Govt. employees and his depended family members. The said free single accommodation also cannot be termed as Govt. quarter for family accommodation. The said free single accommodation can be termed as "thatched house" constructed with empty bitumen drums and the said free single accommodation and ration allowance has been extended by the Govt. of India, Ministry of Defence (Finance Division) to the DAD employees at par with GREF personnel after consultation and approval with the Govt. of India, Department of Expenditure, Ministry of Finance.

All the applicants are enjoying the said 'concession' at par with GREF personnel while they are attached to GREF.

A copy of the extract of Section 6 (other concession of Border Road Regulation) is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-5.

- 4.7 That it is stated that it would be evident from the brief notes regarding payment of duty station HRA discussed on 01.06.05. In the said note it would be evident that till date the payment of duty station HRA to the applicants i.e. DAD employees attached with GREF are regulated vide order dated 30.03.94, 10.05.94 and also by the letter dated 16.05.96 issued by the Ministry of Defence, as well as by the CGDA. Therefore, it is clear

Atyodhya Ram

that the DAD employees are entitled to duty station HRA at the relevant rule at par with their counter part i.e. GREF personnel and the DAD employees are also entitled to Free single accommodation with domestic lighting and water supply in addition to the duty station HRA at par with GREF personnel.

A copy of the extract of brief notes dated 01.06.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6.

4.8 That your applicants while enjoying the duty station HRA in addition to the free single accommodation at par with their counterpart i.e. GREF personnel, while the applicants attached to GREF. The free single accommodation is infact is a "Concession" given to the employees who are posted in the Field formation, therefore the said "Concession" cannot be treated as Govt. accommodation for the Govt. employees and for the dependant family members, the Govt. accommodation is something different. It is pertinent to mention here that HRA is admissible with reference to the place of duty irrespective of place of residence. However, the HRA is not admissible to those employees who are provided with Govt. license free Govt. residences have been elaborately explained in S.R. 318 to S.R. 325 in F.R.S.R (15th Edition). In this connection it may be stated that Rules have been framed under F.R. 45-A. But the free single accommodation provided to the DAD employees under "Concession" cannot be treated or termed as Govt. accommodation as specified in detail under S.R. 318 to S.R. 325 or under any other Rules/orders of the Govt. of India.

4.9 That most surprisingly the office of the CDA (BR), Delhi has issued the impugned order bearing No. AN/TI/578/HRA/Vol.-VIII dated 10th Aug/ 2004, whereby it is directed to stop the duty station HRA in respect of the employees occupying single accommodation while posted from one static station to another static station. It is also stated in the impugned order that the individual living in single accommodation due to their choice,

Laxmiprasanna Ram

therefore, rent, water and electricity is liable to be recovered based on the rent/fees issued by the A.O. Offices. It is also alleged that in such circumstances it has been clarified vide letter dated 31.03.2003 quoting the reference of Shri M.M. Haque that the duty station HRA is not available in the event of employees living in single accommodation. It is further stated that Controller General of Defence Accounts has also agreed with the above findings and it is further directed that in view of the above decision admissibility of the duty station HRA to the DAD employees is not in order and further directed to stop the payment of duty station HRA in respect of the cases stated above and also directed to make recovery for the past period.

It is stated that the above decision of the office of the CDA (BR) which is alleged to have been approved by the CGDA is contrary to the order dated 16.05.96 which was issued after approval of the Ministry of Finance, Govt. of India and said impugned order is also contrary to the clarification issued on 15th May 1998 by the office of the Controller of Defence Accounts (BR), New Delhi and the same is also contrary to the clarification given on 01.06.2005. Moreover, the concept of free single accommodation has been appeared in the Border Road Regulations, Para-171 under Section- 6 under the heading "Concession", the plain meaning of the word "Concession" as per Black's Law Dictionary is as follows:-

"A grant, ordinarily applied to the grant of specific privileges by a government; e.g., French and Spanish grants in Louisiana. A voluntary grant, or a yielding to a claim or demand (e.g., when each side in a labor dispute reduces its demands to effect a settlement). A rebate or abatement (e.g., reduced rent for first year as inducement to lease property)."

Therefore, it is quite clear that the free single accommodation which was initially provided to the GREF personnel following the Border Roads regulations, subsequently the said benefit was extended to the DAD employees with the approval of Ministry of Finance, Department of

Chandharam

Expenditure, the said "concession" of free single accommodation is in fact is a privilege in the form of grant extended by the Govt. of India to the GREF personnel as well as to the DAD employees attached to GREF, therefore, the said privilege/grant or rebate cannot be denied on the ground that these DAD employees are simultaneously enjoying duty station HRA, this decision of the respondents communicated through impugned letter dated 10.08.2004 is highly arbitrary, unfair and opposed to the public policy. The aforesaid privilege were granted to the DAD employees by the Govt. of India in consultation with the Ministry of Finance and as such the Controller General of Defence Accounts or Assistant Controller of Defence Accounts has no authority to interfere with a conscious decision of the Govt. of India rather in the instant case the respondents, more particularly, the CGDA as well as the ACDA has exceeded its jurisdiction by interfering with the Govt. of India's decision which was communicated way back on 16.05.1996 that too after approval of the Govt. of India, Ministry of Finance. The whole concept of the Asstt. Controller of Defence Accounts is wrong so far "free single accommodation" is concerned rather he has proceeded with a wrong notion and as such the impugned order dated 10th August' 2004 is unfair, illegal, arbitrary and the same is liable to be set aside and quashed.

A copy of the impugned order dated 10.08.2004 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7.

- 4.10 That it is stated that all the GREF personnel even today enjoying the benefit of free single accommodation in addition to the duty station HRA and no order of discontinuation of duty station HRA has been issued in respect of GREF personnel but step has been taken at the initiative of the Controller of Defence Accounts (BR) as such the applicants are meted out with hostile discrimination which leads to civil consequences even without prior notice. It is a settled position of law that when a benefit is extended to certain employees for a long passage of time the same cannot

Agadhy Ram

be discontinued without serving any prior notice as such on that score alone the impugned order dated 10.08.2004 is liable to be set aside and quashed on the short ground that the same has been issued without providing any opportunity. Moreover, ACDA has no authority to interfere with the order dated 16.05.1996 when the order was issued by the Border Roads Board under the Ministry of Defence (Finance Division) on the basis of their letter dated 30.03.1994 with the specific approval of the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi which is evident from the letter dated 16.05.1996. Therefore it appears the impugned order has been issued following a narrow, routine Audit objection under a misconception of the word "concession", which means privilege, grant and rebate and "free single accommodation" provided by the Govt. of India to the DAD employees when attached with GREF and on that score alone the impugned order dated 10.08.2004 is liable to be set aside and quashed.

- 4.11 That it is stated that duty station HRA was granted to the members of the GREF vide Govt. of India, Ministry of Surface Transport, Border Road Development Board letter No. F. 81 (1) 187-Estt. dated 12.07.1993, which was further clarified vide CDA (BR), New Delhi letter No. P/406/P&A/DGBR dated 10.05.1994 and the said facility was further extended to DAD employees attached with GREF personnel vide CGDA letter No. AN/XIV/14004/III/Vol. VII dated 16.05.1996. But surprisingly now an attempt is made by the ACDA (BR) to discontinue as well as make recovery of duty station HRA from the employees of DAD who are similarly circumstanced like the other members of the GREF whereas GREF personnel are still receiving the duty station HRA in addition to free single accommodation and the action of the respondents are highly unfair and arbitrary and it attracts Article 14 of the Constitution of India and on that score alone the impugned order dated 10.08.04 is liable to be set aside and quashed.

Laxmika Ram

4.12 That in the similar facts and circumstances the Hon'ble Patna Bench of CAT in the case of P.N Prasad and Ors. i.e. O.A. No. 88/92 and this learned Tribunal in O.A. No. 42/95 has dealt with similar situation on the question of admissibility of duty station HRA wherein it is held by the learned Tribunal that when Government did not provide any accommodation to its employees the HRA cannot be discontinued. It is ought to be mentioned here that free single accommodation is to be provided in terms of Rule 171 of Border Roads Regulation which cannot be treated as Govt. accommodation and on that score alone HRA cannot be discontinued to the applicants.

Copy of the judgment dated 09.08.93 as well as judgment and order dated 06.09.95 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8 and 9 respectively.

4.13 That your applicants beg to state that although the impugned order issued on 10.08.2004 but the same was not effected so far in view of the fact that the local Authority has taken up the matter with the higher Authority for reconsideration of the same and also for obtaining certain clarifications as learnt by the applicants from reliable source. However, all of a sudden without issuing any prior notice and also without providing any opportunity to the applicants the respondents have started effecting the impugned order from the current month and further decided to discontinue the payment of the duty station HRA to the applicants from the month of June' 2005. Therefore, the applicants in such compelling circumstances approaching before this Hon'ble Tribunal against the final impugned order of discontinuation and recovery of duty station HRA to the applicants since they have no alternative remedy. Therefore, the Hon'ble Tribunal be pleased to pass necessary orders setting aside the impugned order dated 10.08.2004 and also be pleased to pass further

Laxmipati Ram

necessary order directing the respondents to continue and pay the duty station HRA so long the applicants are attached with the GREF.

4.14 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the impugned order dated 10.08.2004 has been passed by the Asstt. Controller of Defence Accounts (BR) without having any jurisdiction under law more so in the view of the fact that the benefit of free single accommodation has been provided to the DAD employees by the Govt. of India with the approval of Govt. of India, Ministry of Finance, department of Expenditure. Hence ACDA (BR) has acceded it's jurisdiction while passing the impugned order dated 10.08.2004.
- 5.2 For that, the impugned order has been issued by the ACDA (BR) without providing any prior opportunity to the applicants as required under the rule and as such the decision of the CDA (BR) in passing the impugned order has violated the principle of natural justice and on that score alone the impugned order dated 10.08.2004 is liable to be set aside and quashed. The applicants relied upon the judgment and order of the Hon'ble Supreme Court 1994 (6) SCC 154 (Bhagwan Shukla -Vs- U.O. I & Ors.).
- 5.3 For that, the ACDA (BR) has proceeded with the wrong notion regarding "free single accommodation" provided under Rule 171 of the Border Road Regulation under the head "Concession" which was subsequently extended to the DAD employees while attached to GREF at par with their counterparts in the field formation as such decision of discontinuation of duty station HRA to the applicants is opposed to the public policy.
- 5.4 For that, the free single accommodation is not an accommodation provided as per rule of HRA by the Govt. of India to the DAD employees attached with GREF rather it is a privilege/grant/rebate extended by the Govt. of India to the applicants while they are attached to the GREF.

Atyodhya Ram

- 5.5 For that, free single accommodation cannot be termed as Govt. accommodation as per entitlement of the applicants and for their dependent family members, the very name of free single accommodation that too in the worksite constructed by the empty bitumen drums like temporary sheds is not a Govt. accommodation.
- 5.6 For that, the entitlement of availing "free single accommodation" have been declared by the Govt. of India with the approval of the Ministry of Finance vide letter dated 16.05.1996 which was subsequently confirmed by the letter dated 15.05.1998 on 01.06.2005 and the order dated 16.05.1996 is still in force as such Controller of Defence Accounts (BR) has no authority to pass the impugned order dated 10.08.2004, discounting the payment of duty station HRA as well as for order of recovery so long the order dated 16.05.96 remain in force.
- 5.7 For that, in view of the Govt. order dated 16.05.1996 the benefit of privileges/grant or incentive which was extended to the members of GREF vide letter dated 30.03.1994 the applicants being similarly circumstanced employees have been rightly extended the benefit of free single accommodation while they are attached to GREF in similar terms and conditions laid down in letter dated 30.03.94.
- 5.8 For that free single accommodation extended to the DAD employees following the Govt. order dated 16.05.96 the said accommodation cannot be equated with the Government accommodation as per entitlement of the applicants.
- 5.9 For that the Controller of Defence Accounts has totally failed to understand the implication of the word "free single accommodation" as referred in Rule 171 of Border Roads Regulations and as such the whole conception of CDA (BR) is wrong and opposed to the public policy.
- 5.10 For that Government accommodation used to be provided to facilitate the Government servants and their dependent family members to live in a hygienic condition with certain basic amenities like water, electricity and accommodation as per entitlement of the government employees.

Ayodhya Ram

therefore, the HRA cannot be denied to the applicants in the absence of allotment of such government accommodation.

- 5.11 For that members of the GREF/Force personnel are still enjoying the duty station HRA in addition to the benefit of free single accommodation, therefore, the applicants deserves similar treatment since they are similarly circumstanced and denial of the benefit of the duty station HRA resulted in civil consequences which is not sustainable in the eye of law.
- 5.12 For that free single accommodation are used to be provided to the DAD employees in the worksite of the field formation which are normally constructed with the empty bitumen drums for convenience of the members of the GREF as well as the DAD employees in the worksite.
- 5.13 For that for the purpose of denial of the duty station HRA to the applicants, they must be provided with government accommodation with all the facilities as specified in S.R. 318 to S.R. 325 but the free single accommodation cannot be treated as government accommodation as per entitlement of the DAD employees for denial of HRA.
- 5.14 For that the impugned order dated 10.08.2004 has been issued without any prior notice to the applicants and the same is sought to be effected from the current month i.e. June' 2005 without providing any opportunity to the applicants as required under the law.
- 5.15 For that the judgment and order dated 09.08.1993 and 06.09.1995 this Hon'ble Tribunal dealt with similar situation and finally held that similarly situated are entitled to House Rent Allowance.

6. Details of remedies exhausted.

That the applicants declare that they have no scope to submit representations since the impugned order of discontinuation of HRA and order of recovery have been implemented upon the applicants all of a sudden.

7. Matters not previously filed or pending with any other Court.

Atyodhya Ram

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. AN/II/578/HRA/Vol-VIII dated 10.08.2004 (Annexure-7).
- 8.2 That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to payment of duty station HRA at the specified rate in addition to free single accommodation in terms of government order dated 16.05.1996.
- 8.3 That the Hon'ble Tribunal be pleased to declare that the respondents are not entitled to make any recovery of HRA in terms of the impugned order dated 10.08.2004.
- 8.4 Costs of the application.
- 8.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

W. J. G. Ram

During pendency of the application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to stay the operation of impugned order bearing letter No. AN/II/578/HRA/Vol-VIII dated 10.08.2004 (Annexure-7) till disposal of this original application.

10.

11. Particulars of the I.P.O

- i) I.P.O No. : 209 133819 .
ii) Date of issue : 13.6.05
iii) Issued from : G.P.O. Guwahati
iv) Payable at : GPO, Guwahati

12. List of enclosures:

As given in the index.

Atyodhya Ram

VERIFICATION

I, Shri Ayodhya Ram, S/o- Late Munshi Ram, aged about 53 years, working as Senior Auditor in the office of Accounts Officer, 47 B.R.T.F (Border Road Task Force), C/o- 99 APO, applicant No. 1 in the instant application duly authorized by the others to verify the statements made in this application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 28th day of June, 2005.

Ayodhya Ram

Annexure-1 (Series)

Confidential

No. AN/XIV/14004/III/Vol-VII

O/O The CGDA

West Block-V, R.K. Puram,

New Delhi-66.

Dtd. 16/5/96

To,

1. The Chief CDA (P) Allahabad
2. The CDA (BR) Kashmir House, Rajaji Marg, New Delhi.
3. The CDA, Guwahati.
4. The CDA (WC) Chandigarh.
5. The CDA Patna
6. The CDA (NC) Jammu
7. The CDA (SC) Pune.

Subject: - Clarification for grant of HRA to DAD employees attached to GREF.

Reference:- In continuation of this HQrs circular No. AN/XIV/14004/III/Vol-VI Dt: 7/4/94 circulating Government of India, Ministry of Defence (Finance Division) letter No. AN/XIV/14004/III/Vol-IV (PC) dt: 30/3/94.

The matter regarding applicability of the clarification issued by the BRDB for regulating House Rent Allowance to their employees vide Annexure 'A' to CDA (BR) New Delhi letter No. P/406/P&A/DGBR dt: 10/5/94 (Copy enclosed) our DAD Employees attached with GREF under Government of India, Min. of Defence (Finance Division) letter No. AN/XIV/14004/III/Vol-IV (PC) dt: 30/3/94 for regulating HRA at their has been examined by the Min. of Finance, Department of Expenditure and they have agreed to for application of those clarifications to DAD employees too attached with GREF.

Necessary action for regulating the HRA cases may please be taken accordingly.

Please acknowledge receipt.

Sd/- Illegible
(R.C. SHARMA)
Sr. A.C

Copy to: -

1. AN/IV Section
2. AT/AN
3. AT/
4. Subject file
5. Moday list
6. Library

Sd/- Illegible
(S.D. SHARMA)
A.A.O (AN)

*certified to be
true copy*

*Advocate
29.6.05*

Annexure to CDA (BR) letter No. AN/11/30/1/10004/111/Vol-IV/PC Dt. 30.3.94
7-6-94 clarifying the 3 points in Govt. of India, Min of Def (Fin Div) J. No. IV/14004/111/Vol-IV/PC Dt. 30.3.94

Static

Point No. (i) Static to non static

The HRA of last duty station of retention of accommodation at old duty station will be admissible only to DAD Personnel who are transferred in the Organization of CDA (BR) Main Office of CDA (BR) & JCDAs (BR), subject to the condition that they keep their family in the last duty station & do not claim any DA for the move of their family. However only local duty station HRA will be admissible if the person takes his family and not provided with any family accommodation. In case the individual sends his family to the station other than the last duty station, he will get unclassified City HRA.

30-3-94

Point No. (ii) Non static to non static

HRA of the unclassified station only will be admissible when the person is transferred from one BR office to another BR offices, in case he moves his family from last duty station. In case he does not move his family, he will continue to get the HRA as at 1 above or retention of accommodation, as the case may be.

30-3-94

Point No. (iii) other DAD Personnel

All the DAD staff working in the Main Office of CDA (BR) at Pune, Patna, Guwahati, Jammu & Chandigarh may be paid the HRA of the duty station, subject to the condition that they are not provided with any family accommodation by the Govt.

1-9-88

Sr. Accounts Officer (BR)

Static TADA

CHY. HRA

Static to Static

NA. HRA

Effectd
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Revised

- 23 -

Annexure - 2

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No.F.81(1)/87-Estt.
Government of India
Ministry of Surface Transport
Border Roads Development Board
'B' Wing, 4th Floor, Sans Bhawan
New Delhi-11 00 11, dated July 12, 1993.

To

The Director General Border Roads (25 copies),
Kashmir House,
New Delhi - 11 00 11.

Subject:- Grant of House Rent Allowance to the Members of the
General Reserve Engineer Force.

Sir,

I am directed to say that the question of grant of House Rent Allowance (HRA) to GREF civil employees of Border Roads Organisation has been under consideration. The President has been pleased to grant HRA to all the civilian officers and personnel of Border Roads Organisation as per the following conditions/procedures:-

- (i) Those GREF personnel who are transferred from static to non-static stations would be allowed either retention of Govt. accommodation at their last duty station or, alternatively, HRA applicable to their last duty station.
- (ii) Those who are transferred from one non-static to another non-static station will get HRA at the unclassified city rates.
- (iii) Other GREF personnel will get HRA as per the terms and conditions applicable to other civilian employees of Central Government.

2. The orders with reference to para 1(iii) above will have retrospective effect from 1.9.1988. The orders with reference to para 1 (i) and (ii) above will take effect from the date of issue of these orders.

3. This issues with the concurrence of Ministry of Defence (Finance/BR) vide their U.O. No.BRS/1366.S/93 dt. 9.7.93.

Yours faithfully,

I. Topho
(I. Topho)

Under Secretary to the Government of India

*Certified to be
true copy*

*Advocate -
29.6.05*

Contd....2/-

-24-
Extract of Govt of India, Min of Defence (Fin Divn) No. AN/XIV/14004/III/Vol. IV(PC) dated 30-Mar-1994 South Block New Delhi, addressed to CGDA West Block-V, RK Puram New Delhi.

Annexure-3

Sub: GRANT OF HOUSE RENT ALLOWANCE TO THE DAD EMPLOYEES
ATTACHED TO GREF

Sir,

I am directed to refer to your UO No AN/XIV/14004/III/Vol-IV (PC) dated 30-3-93 and to convey the sanction of the President for the grant of HRA to DAD Employees attached to GREF as per the following condition/procedure:-

- (i) Those DAD employees who are transferred from static to Non-Static stations would be allowed either retention of Government accommodation at their last duty station or, alternatively, HRA applicable to their last duty station.
- (ii) Those who are transferred from one non-static to another non-static station will get HRA at the unclassified city rates.
- (iii) Other DAD personnel will get HRA as per the terms and conditions applicable to other civilian employees of Central Government.

2. The order with reference to para 1 (iii) above will have retrospective effect from 1.9.89. The order with reference to para (i) and (ii) above will take effect from the date of issue of the order.

3. This is done with the concurrence of IFA (DAD)

Your faithfully,
sd/-XXXX

(RAJINDER MOHANI)

Asst. Financial Adviser (Coord/E-tt)

1223/PC/14004/III
10 46 AM
104 RCC, 100 RCC
533 75TC, 1070 75Wap

HQR- 46 B R T P
Baghmara
04 Dec 95

1. Following letters received in this office are forwarded herewith for your information :-

- (a) Copy of Office of the CDA (BR) Kashmir House New Delhi Part II/O.O. No. 04 dt 14 Nov 95.
- (b) Copy of Office of CGDA RK Puram New Delhi No. AN/XIV/14004/III/Vol-VII dt 20 Oct 95.
- (c) Copy of Office of Def (Fin Divn) No. AN/XIV/14004/III/Vol-IV (PC) dated 30-Mar-94.

Copy to :-
(Ann Secy)

sd/-
(SS Ponia)
CO I
Adm Officer
for Commander

Certified to be
true copy

Advocate
29.6.05

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No.AT/BR/Genl(Vol-I)
Office of The C D A (BR)
Kashmir House, Rajaji Marg
New Delhi - 110 011

Dated: 15th May 98

123

All DCsDA/ACsDA/
SAOs/AOs/AAOs/Projects/TFs.....

Sub: Consolidation of Govt. Orders on the subjects like Ration Money,
HRA, Mess Maintenance Allowance etc.

The orders/decisions/clarifications on the following subjects with
doubts are enclosed for information and guidance of all concerned. The cases
if any may be dealt with as per decisions/clarifications contained therein.

- | Sl No | Subject |
|-------|---|
| 1. | Grant of Ration Money - GREF Personnel |
| 2. | Grant of Ration Money DAD Personnel |
| 3. | House Rent Allowance GREF Officers/Personnel |
| 4. | House Rent Allowance DAD Staff attached with GREF |
| 5. | Entitlement of Ration items to GREF & DAD |
| 6. | Mess Maintenance Allowance |
| 7. | Fee Payable to standing Govt. Counsel in lower Court and High Courts |
| 8. | Advance payment on account of purchase of steel. |
| 9. | Issue of clothing articles to GREF Personnel. |
| 10. | Control of Employment on Casual Labour. |
| 11. | Revenue |
| | (i) Hire charges of furniture & (ii) Rent recoveries on account of accommodation provided on temporary duty |

(Rajesh Singh)
Asstt C D A (BR)

Certified to be
true copy

Advocate
29.6.05

HOUSE RENT ALLOWANCE TO DAD EMPLOYEES ATTACHED TO GREF

Subject and point of doubts	Orders/Decisions/Clarifications	Authority
1	2	3
Grant of HRA to DAD employees attached to GREF	HRA to DAD employees attached to GREF has been sanctioned as per following conditions/procedures:-	GOI Min of Defence (Fin Div) letter No AN/XIV/14004/II/Vol-IV (PC) dated 30-3-94
	(i) Those DAD employees who are transferred from Static to Non-static stations would be allowed either retention of Govt accommodation at their last duty station or alternatively HRA applicable to their last duty station. (ii) Those who are transferred from one Non-static station to another Non-static station will get HRA at the unclassified city rates. (iii) Other DAD personnel will get HRA as per the terms and conditions applicable to other civilian employees of Central Govt. The orders with reference to para (iii) will have retrospective effect from 1-9-88. The orders with reference to para 1 and (ii) above will take effect from the date of issue of these orders i.e. 30-3-94	
Clarification on HRA to DAD employees, attached with GREF.	Clarification issued by BRJJB for regulating HRA to GREF employees Circulate vide Annexure 'A' to CDA (BR) New Delhi No P-406P&A/DGBR dated 10.5.94 are also applicable to DAD employees too attached with GREF.	CGDA letter No AN/XIV/14004/II/Vol-VII dated 16-5-96.

SECTION 6 - OTHER CONCESSIONS ✓

Rations and accommodation

171. Members of the Force, will, while on duty, be entitled to Free Ration and ~~Free Single accommodation~~ of simple type together with lighting and domestic water supply as mentioned in succeeding sub-paras. The scale of rations shall be as laid down in Annexure 10. The substitute provided for in the scale shall be issued only when the standard items or any other fresh substitutes are not available and shall be made at the discretion of the DGBR or the officers authorised by him.

Rm. Money
Free Single
Accommodation

Free rations as laid down in Annexure 10 or Ration Money at the rates as prescribed by the Govt from time to time are authorised to all GREF personnel and officers upto the level of Additional Director General Border Roads serving Static/Non static units/formations. Ration Money is entitled to GREF personnel and Officers upto the level of Additional Director General Border Roads who are entitled to free rations, during their leave period and other contingencies specified as under:-

(a) Leave

- (i) 30 days Earned leave.
- (ii) 20 days Half pay leave (10 days full pay leave).
- (iii) 12 days Casual leave.
- Total : 52 days.

Other
Contingencies

(b) Other contingencies

(i) When it is not possible or economical convenient for Govt to supply free rations.

(ii) When owing to sickness or other disability the individual is unable to consume his normal rations and no ration items are drawn for him.

(iii) When it is possible to supply free rations but the distance between the individual's place of residence and unit ration stand is more than 3.2 Kms by road and the individual prefers to draw ration money.

(iv) When travelling on duty,

(v) Will not be entitled to draw ration money during EOJ. (When pay and allowances are not admissible).

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The members of the force while serving in non-static units be entitled to free single accommodation of simple type together with lighting and domestic water supply. The concessions of non-static units are however also admissible to the members employed in the following formations:—

- (a) Headquarters Office of the Chief Engineer Projects Dantak, Pushpak and Swastik.
- (b) Dantak Base Depot Phuntsholing.

Free permanent single accommodation together with lighting and domestic water supply will also be provided to supervisory and other personnel at all static units. Till permanent accommodation is constructed, they will be provided with temporary hutted type accommodation.

When the GREF personnel are posted to a station where they are not entitled to free accommodation, they will occupy any accommodation if made available and pay rent under the normal rules.

172. Blank.

172-A. When members of the General Reserve Engineer Force are handed over to the Military Authorities for custody or imprisonment on a charge under the Army Act, they will be provided normal facilities including diet, medical treatment etc. to the same extent admissible under the Rules to the corresponding categories of Army personnel. If they are detained in GREF custody, the facilities of diet, medical treatment etc. will be at the scales applicable to GREF personnel. These facilities will be provided whether or not such members of GREF are otherwise entitled to the concessions of free rations, medical treatment etc. The expenditure incurred on this account will be borne by the Border Roads Organisation and will be debited to the Projects on which the individuals were employed.

173. Members of Force shall also be entitled to fuel for warming and drying purposes at the scale and conditions applicable on the army side. The Chief Engineer/Commander Raising Centre may authorise, within the scales laid down types of fuel on the recommendations of local boards. Winter Allowance will be admissible to GREF personnel on the revised pay scale of Rs. 196-3-232, while serving at Srinagar and Simla at the same scale and under similar conditions as for Defence Civilians. They will not be entitled to free issue of fuel for warming and drying purposes.

BRIEF NOTES ON DUTY STATION HRA REGARDING STAFF OF AO 758 BRTE
Discuss with CDA (BR) on tour (01.06.2005)

As per norms of BRO free single accommodation of single type together with lighting and domestic water supply	Entitlement vide para 171 BR Regulation and Govt. of India Ministry of Finance OM No. 11021/2/87/E2(B) of 17.4.1989 wef 1.10.88. CDA (BR) letter 10/11/96
Free pt. single accommodation up to supervisory and others	(Para 171 BR Regulation page 34 & 35.)
Govt. of India, Min. of finance OM 11021/2/87/E2(B) of 17.4.1989 all central Govt. employee including GREF Personnel are authorized rent free unfurnished accommodation or C Class City rate in lieu of rent free unfurnished accommodation irrespective of the fact that Gangtok has been included in the list of Static Station by the DGBR.	Reproduced vide CDA (BR) letter No. Pay/406/P&A/DGBR/VI dated 10.10.1996 copy enclosed.
CDA (BR) No. AN/11/578/HRA/Vol-VIII of 10.08.2004, Para (III) of your letter No. P/406/P & A/DGBR of 10.5.94 that duty station HRA can be paid where individual are not provided with family accommodation by the Government.	In this connection please refer to CGDA letter No. AN/XIV/14004/III/Vol-VII of 16.5.96 under which it is intimated that the matter regarding applicability of the clarification issued by BRDB for regulating HRA to employees vide annexure A to CDA(BR) letter No. P/406/P&A/DGBR of 10.5.94 copy attached. Our DAD employees attached with GREF under Govt. of India, Min of Defence (Finance division) letter No. AN/XIV/14004/III/Vol-IV (PC) of 30.3.94 for regulating HRA at their/our has been examined by the Min. of finance department of expenditure and they have agreed to for application of this clarification to DAD employees too attached with the GREF. Necessary action for regulating HRA cases may please be taken accordingly.
With reference to letter No. P/406/P&A/DGBR of 10.5.1994, CDA (BR) New Delhi vide their letter No. AN/11/11/578/HRA/Vol-VIII of 10.8.2004 addressed to JCDA (BR) Guwahati, Patna and this office. On the basis of which JCDA (BR) Patna stopped HRA on the plea that nevertheless it is also nowhere clarified/mentioned that cases wherein the single accommodation has been provided or individuals are living in the single accommodation due to their own choice HRA duty station is to be paid, rather in such cases rent, water and electricity is to be recovered based on rent bill issued to AO office.	As per Govt. of India Min of finance OM No. 11021/2/87/E2(B) of 17.4.1989 all central Govt. employee including GREF Personnel are entitled HRA at C class city in lieu of rent free accommodation irrespective of the fact that Gangtok has been included in the list of static station by the DGBR. (CDA letter bearing No. P/406/P&A/DGBR/VI of 10.5.94 has been intimated to this office. Copy enclosed.) Under the CDA (BR) letter No. P/406/P&A/DGBR/VI of 24.2.1997 GREF personnel under para 171 BR Regulation are entitled to free permanent accommodation with lighting and supply (bb) HRA of local duty station in lieu of permanent single accommodation.
As per para 02 of CDA (BR) letter No. AN/11/578/HRA/Vol-VIII dated 10.8.2004 admitting the duty station HRA in respect of individual posted from static station and occupying single accommodation is not to order.	Contradictory to BR Regulation New Delhi letter No. P/406/P&A/DGBR/VI of 24.2.1997

Enclosed
Amount

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②

OK

G. G. D. H.
Agreed
Wale letter
ND 16/5/96

Certified to be true copy
for
Advocate
29.6.05

Legd
No AN/II/578/HRA/Vol-VIII
Office of the CDA (BR)
Seema Sadak Bhawan
Ring Road,
Delhi Cantt - 10
Dated : 10 Aug 2004.

To

The Jt CDA (BR)
Guwahati

Sub :- Admissibility of local duty station HRA on transfer from Static to Static Station

Ref :- i) Your No BR/III/02/HRA/Vol-IV dt 27 Apr 2004.
ii) Your No BR/Pay/47TF dt 21 Jun 2004.

The matter regarding admissibility of duty Station HRA on transfer from Static to Static Station has been examined and the following comments are offered :-

i) It is stated in Para (iii) of this office letter No F/406/P&A/DGBR dt F/B 10 May 94 that duty station HRA can be paid where individuals are not provided with family accommodation by the Government but nevertheless it is also nowhere clarified/mentioned that the cases wherein the single accommodation has been provided or individuals are living in single accommodation due to their own choice, HRA of duty station is to be paid rather in such cases, rent, water & electricity is to be recovered based on the rent bills issued by AO Offices. In this context we have already clarified in the case of Shri MM HAQUE, AO vide this office letter of even No dt 31 Jan 2003 that though he is living in single accommodation but no duty Station HRA is admissible. Our view point has also been agreed to by CGDA Office vide no AN/XIV/14004/III/OD HRA dt 12 Jan 2004.

In view of the above, your action in admitting the duty Station HRA in respect of individuals posted from Static to Static Station and occupying single accommodation is not in order. You are, therefore, requested to stop the payment of duty station HRA in respect of the cases stated above and effect the recovery of the past period. Please confirm compliance.

Certified to be
true copy.

Advocate
29.6.05

C D ...

(Devraj)
ACDA.

Copy to :-

CDA
Patna
his No BR/I/AN/Pay/ACDA (P) Swastik dt
May 2004.

AO 758 BRTF
his Fax AO/SWA/16-P&A/XII dt 18 Jun 2004.

ANNEXURE - 8IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH : PATNARegistration No. OA-88 of 1992

(Date of order 9.8.93)

P.N.Prasad & Others ----- Applicants

-versus-

Union of India & Others ----- Respondents

Coram : Hon'ble Mr. Justice B.P.Sinha, V.C. (S.M)

Advocate for the applicants ----- Mr. Gautam Bose

Advocate for the respondents ----- Mr. Lalit Kishore

O R D E RHon'ble Mr. Justice B.P.Sinha, V.C.

There are fifteen applicants in this case who are all employees of Customs and Central Excise Department of Government of India. All of them are now posted at Bokaro Steel City. On requests made by them through proper channel, these applicants were allotted residential accommodation by the Steel Authority of India at Bokaro. These applicants started paying the rent individually in respect of such accommodation directly to the Bokaro Steel Authority of India Ltd. Rule 229 of the Central Excise Rules, 1944 makes some provisions regarding accommodation in factories and Warehouses which are as follows :

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Advocate - *[Signature]*
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"Rule 229 Provision of accommodation in factory of Warehouse-(1) every person manufacturing or storing goods on which excise duty is to be levied shall provide and maintain to the satisfaction of the Collector, for the use of the officers in attendance at the factory or warehouse premises; and every manufacture of exciseable goods shall, where so required by the Collector, provide suitably lodging conveniently situated to the factory premises at a rent not exceeding ten percent of the pay of each officer so accommodated".

It appears that in purported exercise of the rules 229 quoted above, all these applicants were allotted accommodation by the Steel Authority of India. It also appears that on 6.12.1991, the Under Secretary, Government of India, Ministry of Finance wrote to the Collector of Central Excise, Patna, directing him to stop the house rent allowance to such employees who had been allotted accommodation by any Government agency on concessional rent. That order dated 6th December, 1991 is contained in Annexure A/4. On receipt of the order dated 6th December, 1991, the Assistant Collector, Central Excise, Bokaro stopped vide Annexure A/5, the payment of house rent allowance to these applicants and started deducting from their salaries the house rent allowance from January, 1991. The applicants have come to this Tribunal with a prayer to quash these two orders contained in Annexure A/4 and Annexure A/5.

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- 3 -

2. Mr. Gautam Bose, appearing on behalf of the applicants has submitted that the Government has not provided any official accommodation to these applicants and therefore, under the rules, the applicants are entitled to house rent allowance. His submission is that the accommodation given by the Steel Authority of India Ltd., in terms of rule 229 cannot be said to be official accommodation and there is no rule which authorises that in cases where an accommodation is provided by the Government agency, the house rent allowance shall be stopped.

In this connection; Mr. Bose relied upon a decision of this Tribunal in OA-397 of 1987 decided on 22.8.89. In that case also the accommodation had been provided to the applicant by the Steel Authority of India Ltd. at Bokaro and certain deductions were being made on the ground that he had got house rent allowance although he had been given accommodation by the Steel Authority of India. It was held that such an accommodation cannot be said to be Government accommodation and that any attempt to equate such accommodation with a Government accommodation cannot be accepted. He also relied on another decision of this Tribunal in OA-321 of 1989 - Mahabir Singh Vs. Union of India, decided on 10.8.1990. In this case an accommodation seems to have been provided by TELCO, Jamshedpur and attempts had been made to deduct the house rent allowance from his salary. A similar view was taken in this case also and it was held that any accommodation provided by the TATAs could not be equated with any Government accommodation.

Approved
Adv.

- 4 -

3. Learned Addl. Standing Counsel has placed his reliance on rule 229 quoted above and has submitted that under the provisions of rule 229 itself, the Government is entitled to stop payment of house rent allowance in such cases. It is not possible to accept this argument. ~~xxxxxx~~ Rule 229 only provides that where there is no Government accommodation, the factory or the warehouse where the officers of the Central Excise Department are posted the person owning factory or warehouse should provide accommodation to them on a rent which will not exceed 10% of the pay in such a case. This does not provide that in case the rent is less than 10% then the house rent allowance will not be paid to such an employee. In fact, realising this situation, in the written statement filed on behalf of the respondents, they themselves stated in paragraph 8 that rule 229 of the Central Excise Rules do not apply in the present case.

4. After hearing the learned counsels appearing for the parties and going through the various documents placed before me, I find and hold that there is nothing in the rules to permit the authorities to stop payment of house rent allowance in cases where accommodation have been provided not by the Government but by any other Government agency like the Steel Authority of India etc. Although it has been stated in Annexure-4 that under the existing rules, the Government officials who are allotted accommodation by Government agencies on scheduled rent are not eligible for payment of house rent allowance, any such rule has not been shown to me by learned counsel appearing for respondents except rule 229 quoted above. I have already held that in such cases rule 229 does not authorise that house rent allowance

Attested
Counsel
sd/-

- 5 -

will be stopped. In the facts and circumstances, therefore, this application has to be allowed and the orders passed in Annexure A/4 and A/5 are quashed. The respondents belonging to the Central Excise Department, are therefore directed not to deduct the house rent Allowance from the salaries of the applicants and if any deduction has already been made such amount must be paid back to them.

5. There shall be no order as to costs.

Sd/- B.P. Sinha
Vice-Chairman

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for
Advocate
29.6.05

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.42 of 1995.

Date of Order : This the 6th Day of September, 1995.

Justice Shri M.G.Chaudhari, Vice-Chairman.

Shri G.L.Sanglyine, Member (Administrative).

1. Sri Jiten Krishna Paul, Superintendent.
2. Sri Nandeswar Basumatary, Inspector.
3. Sri Bidhu Bhushan Karmakar, Inspector.
4. Sri M. Paswan, Sepoy.
5. Sri Jatin Choudhury, Sepoy.
6. Sri Subinoy Bhowmick, Superintendent.
7. Sri Dulal Kr. Das, Inspector.
8. Subhamoy Chakraborty, Inspector.
9. Sri Probodh Kr. Bhattacharjee, Inspector.
10. Sri Sudip Deb, Inspector.
11. Sri Swapan Kr, Seal, Sepoy. . . . Applicants.

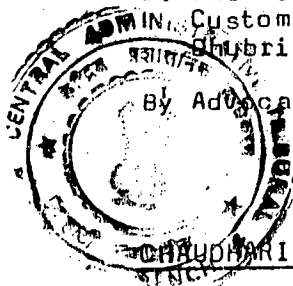
All the applicants are working under Customs & Central Excise, Shillong posted at BRPL-I & BRPL-II Ranges, BRPL Complex, Dhaligaon, Dist. Bongaigaon.

By Advocate Sri M.Chanda.

- Versus -

1. Union of India, through the Secretary to the Govt. of India, Customs and Central Excise, Department of Revenue, Ministry of Finance, New Delhi.
2. The Collector, Customs & Central Excise, Shillong,
3. The Assistant Collector, Customs & Central Excise Deptt., Dibrui (Assam). . . . Respondents.

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

ORDER

Although the relief sought is in respect of House Rent Allowances since the question of interpretation of Rule 229 has been raised the matter is placed before the Division Bench.

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for:

Advocate

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2. The applicants are employees of Customs and Central Excise. Department, Government of India. They are posted at BRPL-I and II Ranges located at Bongaigaon Refinery and Petrochemicals Limited (BRPL Complex), Dhaligaon in the district of Bongaigaon under the control of Assistant Collector, Customs and Central Excise, Dhubri. Thus the applicants are working under the aforesaid agencies. Admittedly the applicants have been provided residential accommodation by the said agency at the place where they are posted.

3. According to the applicants they were being paid House Rent Allowance at the rate prescribed by the Central Government for unclassified cities till May 1992 but the payment has been stopped thereafter by the respondents. Relying upon letter No.F.No.A-27014710/91-AD.II A dated 10.2.92 issued by the Government of India, Department of Revenue, Ministry of Finance. The said action of the respondents is challenged in the O.A. The applicants pray that the said letter may be quashed and the respondents may be directed to pay to them HRA as before together with the arrears thereof. Although no written statement has been filed by the respondents Mr S. Ali, the learned Sr.C.G.S.C appearing for the respondents submitted that having regard to the provisions of Rule 229 of the Central Excise Rules 1944 the applicants not being entitled to the payment of House Rent Allowance the action of the respondents is fully justified and legal and therefore the application is liable to be dismissed.


4. Identical question felt for consideration before the Patna Bench of the Central Administrative Tribunal in O.A.88/92 decided on 9.8.93. A copy of that order is at Annexure-D. In that case also the applicants were employees of such Customs and Central Excise Department. They ^{were} are posted

contd. 3....

free

at Bokaro Steel Plant. They were allotted residential accommodation by the said authority. The applicants started paying the rent individually for such accommodation directly to the Bokaro Steel Authority. However, in purported exercise of powers under Rule 229 the respondents stopped payment of HRA to the said employees on the ground that they had been allotted accommodation by a Government agency at concessional rent. That action was challenged. It was contended on behalf of the applicants that it could not be said that the Government had provided official accommodation to the applicants and thus they were entitled to get House Rent Allowance. On behalf of the Government of India (Customs and Central Excise department) it was contended that the Government was entitled to stop payment of House Rent Allowance to the applicants under the provisions of Rule 229 of the Central Excise Rules. The contention of the respondents however, was rejected by the Patna Bench. It was held as follows :

"There is nothing in the rules to permit the authorities to stop payment of house rent allowance in cases where accommodation have been provided not by the Government but by any other Government agency like the Steel Authority of India etc. Although it has been stated that under the existing rules, the Government officials who are allotted accommodation by Government agencies on scheduled rent are not eligible for payment of house rent allowance, any such rule has not been shown except Rule 229 quoted above in such cases rule 229 does not authorise that house rent allowance will be stopped."



Order impugned in this case dated 7.5.92 Annexure-C clearly shows that the orders have been issued acting on the provisions of rule 229 aforesaid. No other rule has been mentioned and therefore it will have to be presumed that the respondents have acted solely on the basis of rule 229. We are in respectful agreement with the interpretation of the said rules placed by the Patna Bench and therefore the impugned order cannot be sustained. In our opinion the position of the

agency under which the applicants are posted is similar to that of Bokaro Steel Authority concerned in the case before the Patna Bench. Although the applicants have sought that the letter of Government of India dated 10.2.92 may be quashed we do not think that we are called upon to do so as that was only the basis and what ^{needs to be} ~~can~~ be set aside ^{is} the action of the respondents and not that letter. Since the applicants were not given any notice nor informed ~~of~~ the basis on which the payment of HRA was stopped the applicants have filed this O.A. from Annexure-A which was a representation filed by some of the applicants on 2.7.92 to the Administrative Officer of Customs and Central Excise at Dhubri it is gathered that the amount paid towards house rent allowance in the month of June 1992 was deducted from the pay of June 1992. Similarly from representation of one of the applicants at Annexure-B dated 30.11.93 it appears that the payment of HRA was stopped. In that representation it has been stated that it was presumed that it was stopped on the basis of the letter of the Government of India dated 10.2.92. Reference was also made to the decision of the Patna Bench. In paragraph 6.8 of the O.A. particulars have been given about the arrears which imply that the payment of house rent allowance in respect of applicants 2, 3, 4 and 5 was stopped from June 1992. It was stopped from August 1992 in respect of applicant No.1, from November 1992 in respect of applicant No.6 and from December 1992 in respect of applicants No.8 and 9. The payment was stopped in respect of applicant No.7 from January 1993, in respect of applicant No.11 from April 1994 and in respect of applicant No.10 from May 1994. The representations of the applicants were not applied. It is therefore apparent that the payment of HRA was stopped in view of rule 229 of the Central Excise rules.

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5. The applicants claim for payment of HRA at the rate payable to the Central Government employees prescribed for unclassified cities. In our view they ^{are} will be entitled ^{to} only to get the allowance, ~~equivalent to the concessional rent in which the accommodation is made available to them by the Agency under which they are working upto the limit of 10% per month. That will be in conformity with the rule 239 of the Central Excise Rules.~~

6. In the result following order is passed :

a) It is declared that the applicants are entitled to be paid house rent allowance at the rate prescribed for Central Government employees in unclassified cities/towns.

b) The respondents are directed to pay the arrear amount calculating on the aforesaid basis from the month from which the payment of house rent allowance was stopped to each of the applicants respectively within a period of two months from the date of receipt ^{of} copy of this order.

c) The respondents are directed to continue to pay the house rent allowance in terms of clause (a) above.

O.A. is allowed in terms of the aforesaid order. No order as to costs.

Sd/- Vice-Chairman
Sd/- Member(A)



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प्रमाणित प्रतिलिपि

[Signature]
7/7/98

Section Officer (A)
मानसम अतिरिक्त (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अतिरिक्त
New Market, Guwahati
असम न्यायिक प्रशासकीय

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Advocate
29.6.05