

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 24224/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Farah
09.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 224/07
2. Mise Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) S. Saha & Ors VS. Union of India & Ors

Advocate for the Applicants:- Adil Ahmed, Mr. S. Bhattacharya

Advocate for the Respondents: Adv. C. A. Ms. U. DAS

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs 10. Deposited vide IPO/DR No. 3260100215 Dated 28.8.07 By Registrar <u>Rai</u></p> <p>Petition is copied for Issue notice one received with envelope copy served.</p> <p><u>Rai</u> 28/8/07</p>	24.8.07	<p>Issue involved in this case is that the Rent Free Accommodation cannot be provided they are entitled for 10% compensation in lieu of Rent Free Accommodation. Earlier the applicants have approached this Tribunal by filing O.A. No.26 of 2005 seeking direction for payment of licence fee @ 10 % compensation in lieu of Rent Free Accommodation. This Tribunal vide order dated 06.07.2005, directed the applicants to file a comprehensive representation before the respondents. Accordingly, the applicants have filed their representation. But the Respondents No.2 vide order dated 22.02.2007 has rejected the claims of the applicants.</p>

Contd/-

O.A.224/07. 2

24.8.07.

Notice & order sent
to D/Section for
issuing to R-1,2
by regd. A/D post.

Lab D/No-859 and
30/8/07. Dt= 860
5/9/07.

I have heard Mr. A. Ahmed,
learned counsel for the applicant and
Ms. U. Das, learned Addl. C.G.S.C. for the
Respondents.

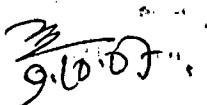
Considering the facts and
circumstances I am of the view that
notice may be issued to the respondents.

Issue notice on the
respondents. Post the matter on
10.10.07.


Vice-Chairman

lm

① Service report
awaited.

 10.10.2007

No reply has been filed in this case as yet.

Call this matter on 05.12.2007
awaiting reply from the Respondents.

Send copies of this order to the
address
Respondents in the given in the Original
Application.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

Dt. 10.10.07.

Pl. send order copies
to Respondents.

order dt. 10/10/07 sent to 05.12.2007
1/Section for issuing
to respondents 1,2.

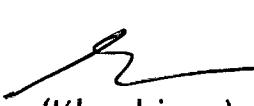
Lab D/No-1219, 1220

Dt= 13/11/07

Wts not bilal.

lm

22
4.12.07.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

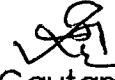
10.12.2007 Written statement is undertaken to be filed in course of the day after serving a copy on the learned counsel for the Applicant.

Call this matter on 11.01.2008 awaiting rejoinder from the Applicant.

10.12.07
WPs filed by
the Respondents. WPs
served.

R.D.

/bb/


(Gautam Ray)
Member (A)


(M.R. Mohanty)
Vice-Chairman

11.01.2008

Ms.U. Das, learned Addl Standing Counsel appearing for the Respondents has entered appearance in this case by filing appearance memo. She has already filed written statement.

Subject to the legal pleas to be examined at the final hearing, the case is admitted. Call this matter on 15.2.2007.

Rejoinder not
filed.

10.1.08.

lm


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

15.02.2008

Rejoinder has not yet been filed in this case.
Call this matter on 14.03.2008 awaiting rejoinder from the Applicant.

13.3.08
No rejoinder filed.
by

pg


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

PTO

14.03.2008

None appears for the Applicant
nor the Applicant is present. No
rejoinder has yet been filed in this
case.

Call this matter on 23.04.2008
for hearing.

Rejoinder not
filed.

22.4.08

nkm


(M.R. Mohanty)
Vice-Chairman

23.04.08

Heard counsel for the parties.
Hearing concluded.

For the reasons recorded separately
the Original Application is disposed of.

25.4.08
Copy of the Judgment
furnished to the parties
for record and
given to the parties
alongwith the copy
to the L/bdn for
the parties.

25.4.08
The original judgment
in O.A. No. 223/07

pg


(M.R. Mohanty)
Vice-Chairman

25.4.08

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.223 & 224 of 2007.

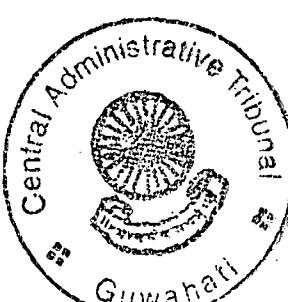
Date of Order : This the 23rd Day of April, 2008.

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

1.	6403303	Permanent Mazdoor	Shri Sachi Bhushan Tiwari
2.	6402891	·do·	Shri N.R.C. Nair
3.	6402892	·do·	Shri D.B.Thapa
4.	602893	·do·	Shri C.T.Kuttan
5.	6402894	·do·	Shri P.M.Bhaskaran
6.	6402895	·do·	Shri Kunjumaon
7.	6403299	·do·	Shri D.K. Singh
8.	6403300	·do·	Shri N.B.Gurung
9.	6403301	·do·	Shri K.N.Thankachan
10.	6403302	·do·	Shri D.P.Sharma
11.	6403304	·do·	Shri N. Peethambaran
12.	6403305	·do·	Shri D.C. Ram

.....Applicants in O.A.No.223/2007.

All the applicants are working under the Office of the Commanding Officer, 50 Coy, ASC (Supply), Type-C, PIN-905050 C/o 99 APO.



1. Shri Surender Sahu 14117389
2. Shri Padma Labha 14117329
3. Shri Ulla Gouda 14117333
4. Shri Bidyadhar Gouda 14117358
5. Shri Linga Naik 14117342
6. Shri Dayanidhi 14117335
7. Shri Banchanidhi 14117337
8. Shri Barunda Sahu 14117350
9. Shri Gundicha Naik 14117352
10. Shri Bodha Ram 14117353
11. Shri Devraj 14117354
12. Smt. Kalawati
13. Shri Udayanath 14117387
14. Shri Mangalu Pradhan 14117392
15. Shri Sombariya 14117367
16. Shri Balkaran 14117366
17. Shri Kyprian 14117374
18. Shri V.K. Pillai 14117375
19. Shri Bipra Rawat 14117363
20. Shri Bipra Sahu 14117364
21. Shri Dandapani Naik 14117365
22. Shri Raghunath 14117356
23. Shri Laldhar 14117383
24. Shri Kirtan Gouda 14117355
25. Shri Ramchandar Passi 14117373
26. Shri Rambriksh 14117393
27. Shri Pitambar 14117391

28.	14117362	-do-	Shri SOMA NAIK
29.	14117444	-do-	Shri DINABANDHU NAIK
30.	14117360	-do-	Shri SATIRAM
31.	14117438	-do-	Shri HARIDEV RAM
32.	14117450	-do-	Shri ENKAT RAO
33.	14117453	-do-	Shri SURESHLAL BAITHA
34.	14117443	-do-	Shri SIRPAT RAM
35.	14117442	-do-	Shri DAHARI RAM
36.	14117449	-do-	Shri RAMPRASAD
37.	14117490	-do-	Shri PANNU BEHARA
38.	14117439	-do-	Shri SUBASH SINGH
39.	14117385	-do-	Shri ACHELAL RAI
40.	14117491	-do-	Shri GIRDHARI MANDAL
41.	14117445	-do-	Shri RAMCHANDAR GOUDA
42.	14117357	-do-	Shri MANGLU BEHARA
43.	14117447	-do-	Shri RAMSAMUJH
44.	14117451	-do-	Shri MURARI PRASAD
45.	NYA	-do-	Shri RAMNARAYAN
46.		-do-	Shri SONTOSH KUMAR
47.		-do-	Shri RAMANAND
48.		-do-	Shri JAYPRAKASH RAM
49.		-do-	Shri BHAGABAN NAIK
50.		-do-	Shri SANYASI SABATH
51.		-do-	Shri RAMSAMUJH CHOCHAN
52.	14117336	-do-	Shri HARKHIT
53.	14117368	T/Smith	Shri ROOPA RAM
54.	14117376	-do-	Shri TRIBHUWAN
55.	14117512	Welder	Shri IMTITEMSU JAMIR
56.	14117448	Carpenter	Shri PANNU PRADHAN
57.	2001	Barber	Shri SHANKAR THKUR
58.	14117370	Washermen	Shri RAMPRASAD
59.	14117372	Cook	Shri RAMSHANKAR
60.	14117452	Cook	Shri R.K.CHETRI
61.	6407367	Safaiwala	Shri BADAL
62.	6424710	LHF (OG)	Shri FOUDAR
63.	6424591	LHF (SG)	Shri S K PAUL



64.	6404139	LHF (OG)	Shri RAMESWAR
65.	6407319	FED	Shri S K TRIPATHI
66.	6407320	FED	Shri BACHCHA SINGH
67.	6407383	FED	Shri UPENDER SINGH
68.	6404140	F/MAN	Shri SUBASH TELI
69.	6404141	-do-	Shri PALAKDHARI YADAV
70.	6404142	-do-	Shri DIBAKAR GOUDA
71.	6404143	-do-	Shri R P SHARMA
72.	6405693	-do-	Shri HAMID MOHD
73.	6405694	-do-	Shri TRILOKNATH
74.	6405695	-do-	Shri B.N.GOUDA
75.	6406719	-do-	Shri OMPRAKASH GUPTA
76.	6406720	-do-	Shri KEDAR
77.	6406721	-do-	Shri RAJENDER
78.	6407321	-do-	Shri JAGDISH PRASAD
79.	6407322	-do-	Shri AKEHEY PRADHAN
80.	6407384	-do-	Shri V.K.TRIPATHI
81.	14117446	Mazdoor	Shri SATYANARAYAN
		-do-	Shri Gada Naik

All the named above are working in Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, PIN 905050 C/o 99 APO.

Smti Ameren Sia, Wife of Late Surpryam (Ex Mazdoor)

Smti Joshoda Naik, Wife of Late Barunda Naik (Ex Mazdoor)

Smti Sabitri Devi, Wife of Late Ram Badan (Ex Mazdoor)

Smti Munni Devi, Wife of Late Ganga Saran (Ex Mazdoor)

Shri Rameshra Moli, Son of Late Hari Moli.



84.

85.

86.

87.

Serial No. 83 to 87 are Legal heir of Ex. Mazdoors, who had worked under the Office of the Commanding Officer, 50 Coy ASC (Supply) Type C, PIN 905050, C/o 99 APO.

.....Applicants in O.A. 224/2007

By Advocate Mr Adil Ahmed

•Versus•

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

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

ORDER (ORAL)

MANORANJAN MOHANTY (V.C)

The logo of the Central Administrative Tribunal, Guwahati, is a circular emblem. It features a central sun-like symbol with rays, surrounded by a border containing the text "Central Administrative Tribunal" at the top and "Guwahati" at the bottom. There are small decorative elements at the bottom of the border.

Claiming financial benefits in lieu of "free furnished quarters", the Applicants approached this Tribunal in earlier O.A.No.205/2004 and O.A.26/2005. The O.A.No.205/2004 was disposed of on 16.6.2005 and O.A.26/2005 was disposed of on 06.07.2005.

While disposing of the aforesaid two cases, this Tribunal in categorical terms disclosed that it would not be possible for this Tribunal to resolve disputed factual matters; "because the Applicants had not produced any material, other than the bald averment made in the application, to show that they had preferred any claim for grant of licence fee @ 10% in lieu of rent free accommodation before the authorities at any earlier point of time." This Tribunal also considered "the claim to be highly belated." This Tribunal, however, issued a direction to the Respondents to consider the claim of the Applicants for

grant of licence fee @ 10% in lieu of rent free accommodation and to take a decision. While disposing of the aforesaid 2 matters, the Applicants were asked to make individual representation containing the factual details for grant of licence fee @ 10% in lieu of rent free accommodation for the period for which the claim is made.

There are, however, no materials placed on record of the present cases, to show that the Applicants ever submitted any representation after disposal of the aforesaid two Original Applications, giving factual details to the Respondents. Mr A.Ahmed, learned counsel appearing for the Applicants of both the cases, is not in a position to state as to whether the Applicants placed materials before the Respondents to substantiate that they were really entitle to rent free accommodations etc.



The Respondents having disposed of the grievance (as raised in these O.As/the previous two litigations) by an order dated 22.02.2007; the Applicants have approached this Tribunal with the present (two) Original Applications filed under Section 19 of the Administrative Tribunals Act, 1985. By the impugned order dated 22.02.2007, the Respondents have turned down the prayer of the Applicants for rent free accommodation etc.

2. By filing written statement, the Respondents have disclosed that compensation amount are paid in lieu of providing rent free accommodation on the strength of Government of India Office Memorandum dated 02.08.1960 and that the said Office Memorandum requires two pre-conditions to be fulfilled. First, the nature of duty of an employee should be such as to require his living on the or near the

premises. Secondaly, duties should also be such as to deserve grant of higher scale of pay or special pay. It has been stated by the Applicants that unless both these conditions are met, an employee would not be eligible for a rent free accommodation or compensation in lieu thereof. The Respondents have also disclosed, in the written statement, to the following effect :-

"This unit is having sufficient number of free Govt. single accommodations wherein some of the applicants are living along with separate cook house as well as they are also provided with free rations, clothing etc. Besides these, the applicants are also being granted 7.5% of HRA. However, some of the applicants have willingly opted for residing with their families by constructing temporary bamboo hut in the defence acquired land of this unit's premises. Further the applicant's trades are Permanent Mazdoor, Washerman, Barber, Carpenter, Welder, Tinsmith, Cook, Safaiwala and fire Crew whose nature of works do not deserve any higher scale of pay or special pay as their duty involves a defined work to be done in a particular day. They are required to lift only five tones of load per day as per authorized moundage and work on 08 hrs out of 24 hrs which does not necessitate the requirement of 10% compensation in lieu of Rent Free Accommodation."



3. Heard Mr A. Ahmed, learned counsel appearing for the Applicants and Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents organization and perused the materials placed on record.

4. This Tribunal asked the Respondents organization to consider the factual matrix involved in the case to find out as to whether the Applicants should get compensation in lieu of getting rent free accommodation.

5. In the impugned order dated 22.02.2007, without discussing the factual matrix involved in the case, the Respondents

straight way looked to Government of India Office Memorandum dated 02.08.1960 and came to the conclusion that the Applicants are not entitled to the said benefit; because they were not entitled to rent free accommodation.

6. The factual aspects (about which a disclosure has been made in the written statement) that some of the Applicants have been provided with rent free (single) accommodation with cooking and free ration facilities; that they are being paid 7.5% of HRA and that some of them have been permitted to live (with their families) in the temporarily erected structures (erected by them/Applicants within the premises of the Respondents) were apparently not taken into consideration, while issuing the final order dated 22.02.2007. At least the impugned order do not show that some of them have been provided with rent free single accommodation and some of them have been permitted to erect temporary structure within the premises of the Respondents (to live with their families without any payment to the Government) itself goes to indicate that the ground reality requires that the Applicants are, perhaps, entitled to have rent free accommodations. This aspect of the matter apparently has not been considered by the Respondents department, while issuing the order dated 22.02.2007. If they (Applicants) are really entitled to rent free accommodation in terms of Government of India Office Memorandum dated 02.08.1960; then some of them, who are not provided with rent free accommodations; are certainly entitled to compensation in lieu thereof. Entire aspect of the matter certainly requires full reconsideration.



7. In the above premises, without entering into a roving enquiry and without entering into the merits of the matter, this case is disposed of by remitting the matter back to the Respondents to re-consider the entire matter by keeping in mind the factual matrix involved in the case. The Respondents, while reconsidering the matter, now remitted back to them, should re-examine the ground realities to find out as to whether the Applicants of both these cases are/were entitled to rent free accommodations and, if so, then such of them, who were/are not provided with rent free accommodation, should be granted compensation in terms of the Government of India Office Memorandum dated 02.08.1960. With the above observations and directions, both the Original Applications are hereby disposed of. Applicants are free to place materials in their support (before the Respondents) within 30 days from now.

Sd/-
Manoranjan Mohanty
Vice-Chairman

Date of Application :

Date on which copy is ready : ... 25/4/08

Date on which copy is delivered :

Certified to be true copy

Guwahati 25/4/08
Section Officer (JdI)
C. A. T. Guwahati Bench

Guwahati-5.

25/4/08

1/1
/pg/

OA (See 2+ 82 sets) Central Administrative Tribunal Today 2/10/02
envelope day Mr. S. Bhattacharjee, Advocate
To be posted 23/10/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

23/10/07

O. A. NO. 224 / 2007

Shri Surender Sahu & Others.

...Applicants.

- Versus -
The Union of India & Others

...Respondents.

SYNOPSIS

The Applicant Nos. 1 to 82 are all Central Civilian Employees serving under the Ministry of Defence in the state of Nagaland since a long time in the Group- D category. The Applicant Nos. 83 to 87 are the legal heirs of the Ex. Mazdoors, who had worked under the Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, PIN 905050, C/o 99 APO. The Defence Civilian Employees posted in Nagaland are required to be provided with Rent Free Accommodation as the former Nagaland Hills and Tuansang area and the present state of Nagaland, irrespective of any station has been considered as a difficult area from the point of view of Rented Accommodation. In case the Rent Free Accommodation cannot be provided they are entitled for 10% compensation in lieu of Rent Free Accommodation. Earlier some employees of Geological Survey of India belonging to Group C&D posted in Nagaland filed an Application before this Hon'ble Tribunal vide O.A. No. 48/91 claiming House Rent Allowances at the rate applicable to the "B" (B1, B2) Class cities, 15% to their pay and also claimed compensation @ 10% in lieu of Rent Free Accommodation. The aforesaid application was allowed by this Hon'ble Tribunal vide its Judgment & Order dated 26-11-93. Moreover, the similarly situated Defence Civilian Employees serving in Nagaland filed an O.A. No. 226/96 and other series of cases before this Hon'ble Tribunal for payment of House Rent Allowances and 10% compensation in lieu of Rent Free Accommodation. This

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Hon'ble Tribunal vide its Order dated 10th June 1997, directed the Respondents of the aforesaid case to pay the 10% compensation in lieu of Rent Free Accommodation. Furthermore the Defence Civilian Employees of Canteen Stores Department posted in Dimapur who are working in the adjacent campus with the instant Applicants are enjoying the benefit of House Rent Allowances and 10% compensation in lieu of Rent Free Accommodation, without any interruption, by virtue of the aforesaid Judgment & Order. It may be stated that the nature of works of the employees of both the Departments are same and similar, yet they have failed to get the benefit in spite of their verbal and written requests before the Respondents. Being aggrieved by this inaction on the part of the Respondents the Applicants were compelled to approach this Hon'ble Tribunal by filing O.A. No. 205 of 2004 seeking direction for payment of licence fee @ 10% compensation in lieu of Rent Free Accommodation. The Hon'ble Tribunal vide its Order dated 16-06-2005, directed the Applicants to file a Comprehensive Representation before the Respondents and the Respondents were directed to pass a reasoned Order within a period of three months from the receipt of such Representation keeping in mind of the observation made by this Hon'ble Tribunal. Accordingly as per the direction of this Hon'ble Tribunal the Applicants filed Comprehensive Representations before the Respondents. But the Office of the Respondent No. 2 vide their Speaking Order No. 45/ST-12 (Civ) dated 22-02-2007, very mechanically and without applying proper mind rejected the claims of the Applicants. The Respondents while doing so had not considered the other similar Judgments passed by this Hon'ble Tribunal in case of the similarly situated persons, which have already been affirmed by the Hon'ble High Court and also had not went into the depth of the cases of the Applicants.

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Hence this Original Application is made for a direction to set aside the impugned Speaking Order vide letter No. 47/ST-12 (Civ) dated 22.02.2007 issued by the Office of the Respondent No. 2 and for also for a direction upon the Respondents to pay the licence fee @ 10% in lieu of Rent Free Accommodation to the Applicants.

Filed by

Smita Bhattacharjee
Advocate

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 224 OF 2007.

Shri Surender Sahu & Others.

...Applicants

- Versus -

The Union of India & Others

...Respondents

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Date: 20 - 08 - 2007.

Filed By:

Smita Bhattacharjee
Advocate

FILED BY

Shri Surender Sahu
... Applicant No. 1.
Through. Smita Bhattacharjee
(Advocate)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. _____ OF 2007.

BETWEEN

SL NO.	PERSONAL NO.	RANK	NAME
01.	14117389	Parmanent Mazdoor	Shri SURENDER SAHU
02.	14117329	-do-	Shri PADMA LABHA
03.	14117333	-do-	Shri ULLA GOUDA
04.	14117358	-do-	Shri BIDYADHAR GOUDA
05.	14117342	-do-	Shri LINGA NAIK
06.	14117335	-do-	Shri DAYANIDHI
07.	14117337	-do-	Shri BANCHANIDHI
08.	14117350	-do-	Shri BARUNDA SAHU
09.	14117352	-do-	Shri GUNDICHA NAIK
10.	14117353	-do-	Shri BODHA RAM
11.	14117354	-do-	Shri DEVRAJ
12.		-do-	SMT. KALAWATI
13.	14117387	-do-	Shri UDAYANATH
14.	14117392	-do-	Shri MANGALU PRADHAN
15.	14117367	-do-	Shri SOMBARIYA
16.	14117366	-do-	Shri BALKARAN
17.	14117374	-do-	Shri CYPRIAN
18.	14117375	-do-	Shri V.K.PILLAI
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24.	14117355	-do-	Shri KIRTAN GOUDA
25.	14117373	-do-	Shri RAMCHANDAR PASSI
26.	14117393	-do-	Shri RAMBRIKSH
27.	14117391	-do-	Shri PITAMBAR

Surender Sahu

28.	14117362	-do-	Shri SOMA NAIK
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34.	14117443	-do-	Shri SIRPAT RAM
35.	14117442	-do-	Shri DAHARI RAM
36.	14117449	-do-	Shri RAMPRASAD
37.	14117490	-do-	Shri PANNU BEHARA
38.	14117439	-do-	Shri SUBASH SINGH
39.	14117385	-do-	Shri ACHELAL RAI
40.	14117491	-do-	Shri GIRDHARI MANDAL
41.	14117445	-do-	Shri RAMCHANDAR GOUDA
42.	14117357	-do-	Shri MANGLU BEHARA
43.	14117447	-do-	Shri RAMSAMUJH
44.	14117451	-do-	Shri MURARI PRASAD
45.	NYA	-do-	Shri RAMNARAYAN
46.	-do-	-do-	Shri SONTOSH KUMAR
47.	-do-	-do-	Shri RAMANAND
48.	-do-	-do-	Shri JAYPRAKASH RAM
49.	-do-	-do-	Shri BHAGABAN NAIK
50.	-do-	-do-	Shri SANYASI SABATH
51.	-do-	-do-	Shri RAMSAMUJH CHOVHAN
52.	14117336	-do-	Shri HARKHIT
53.	14117368	T/Smith	Shri ROOPA RAM
54.	14117376	-do-	Shri TRIBHUWAN
55.	14117512	Welder	Shri IMTITEMSU JAMIR
56.	14117448	Carpenter	Shri PANNU PRADHAN
57.	2001	Barber	Shri SHANKAR THKUR
58.	14117370	Washermen	Shri RAMPRASAD
59.	14117372	Cook	Shri RAMSHANKAR
60.	14117452	Cook	Shri R.K.CHETRI
61.	6407367	Safaiwala	Shri BADAL
62.	6424710	LHF (OG)	Shri FOUDAR
63.	6424591	LHF (SG)	Shri S K PAUL

Supervisor Sahai

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64.	6404139	LHF (OG)	Shri RAMESWAR
65.	6407319	FED	Shri S K TRIPATHI
66.	6407320	FED	Shri BACHCHA SINGH
67.	6407383	FED	Shri UPENDER SINGH
68.	6404140	F/MAN	Shri SUBASH TELI
69.	6404141	-do-	Shri PALAKDHARI YADAV
70.	6404142	-do-	Shri DIBAKAR GOUDA
71.	6404143	-do-	Shri R P SHARMA
72.	6405693	-do-	Shri HAMID MOHD
73.	6405694	-do-	Shri TRILOKNATH
74.	6405695	-do-	Shri B.N.GOUDA
75.	6406719	-do-	Shri OMPRAKASH GUPTA
76.	6406720	-do-	Shri KEDAR
77.	6406721	-do-	Shri RAJENDER
78.	6407321	-do-	Shri JAGDISH PRASAD
79.	6407322	-do-	Shri AKEHEY PRADHAN
80.	6407384	-do-	Shri V.K.TRIPATHI
81.	14117446	Mazdoor	Shri SATYANARAYAN
82.		-do-	Shri Gada Naik

All the named above are working in Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, PIN 905050 C/o 99 APO.

83. Smti Ameren Sia, Wife of Late Surpryam (Ex Mazdoor)

84. Smti Joshoda Naik, Wife of Late Barunda Naik (Ex Mazdoor)

85. Smti Sabitri Devi, Wife of Late Ram Badan (Ex Mazdoor)

86. Smti Munni Devi, Wife of Late Ganga Saran (Ex Mazdoor)

87. Shri Rameshra Moli, Son of Late Hari Moli.

Surender Sahu

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...Applicants.

Serial No.83 to 87 are Legal heir of Ex. Mazdoors, who had worked under the Office of the Commanding Officer, 50 Coy ASC (Supply) Type-C, PIN 905050, C/o 99 APO.

-VERSUS-

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

DETAILS OF THE APPLICATION

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

This Original Application is made against the impugned Speaking Order No.45/ST-12 (Civ) dated 22.02.2007 issued by the Office of the Respondent No.2 whereby the Respondents had rejected the Representations of the Applicants for payment of Compensation @ 10% in lieu of rent free accommodation.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

Surinder Sahi

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

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicants are citizen of India and as such, they are entitled to all rights and privileges guaranteed under the Constitution of India and the laws framed thereunder from time to time. The Applicant Nos. 1 to 82 are all Central Government Defence Civilian Employees and belongs to Group-D category employees. They are working under the Office of the Respondent No. 2 in the state of Nagaland since a long time. The Applicant Nos. 83 to 87 are the legal heirs of the Ex. Mazdoors, who had also worked in the state of Nagaland under the Office of the Respondent No.2 as Group-D category employees.

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

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4.3) That the Defence Civilian Employees posted in Nagaland required to be provided with Rent Free accommodation. If the same is not provided then they are entitled for 10 % compensation in lieu of Rent Free Accommodation.

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

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

Photocopy of Judgment and Order dated 26-11-1993 passed by the Hon'ble Tribunal in O.A.No.48/91 is annexed hereunto and marked as **ANNEXURE-A**.

Surinder Salaria

4.6) That your Applicants beg to state that the similarly situated Defence Civilian employees serving in Nagaland filed an O.A. No.266/96 and other series of cases before the Hon'ble Tribunal for payment of House Rent Allowance and 10% compensation in lieu of Rent Free Accommodation. This Hon'ble Tribunal vide its Order dated 10th June 1997 passed in O.A.No.266/96 and series of cases, directed the Respondents to pay House Rent Allowance to the aforesaid Applicants and also to pay the 10 % compensation in lieu of Rent Free Accommodation.

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

4.7) That your Applicants beg to state that the similarly situated Defence Civilian Employees of Canteen Stores Department posted in Dimapur are getting the House Rent Allowance and also @10% compensation in lieu of Rent Free Accommodation by virtue of the aforementioned judgment and order. It may be stated that the function and nature of works of employees of Canteen Stores Department are almost similar and same to the Army Supply Core ASC (Supply) under where the instant Applicants are working. The Canteen Stores Department Employees are working in Dimapur Nagaland in the adjacent campus with the instant Applicants of this Original Application.

4.8) That your Applicants beg to state that the Defence Civilian Employees of Canteen Stores Department, Dimapur, State of Nagaland are enjoying the benefit of 10% compensation in lieu of Rent Free

Surinder Singh

Accommodation without any interruption. However, the instant Applicants have failed to obtain the benefit of licence fee @ 10% in lieu of Rent Free Accommodation from the Respondents in spite of their verbal and written request before the Respondents. Being aggrieved by this the Applicants filed an Original Application No.205 of 2004 before this Hon'ble Tribunal for seeking a direction for payment of license fee @ 10% compensation in lieu of rent free accommodation. The Hon'ble Tribunal vide its Order dated 16.06.2005 passed in O.A.No.205 of 2004 directed the Applicants to file a comprehensive Representation before the Respondents and the Respondents were directed to pass a reasoned order within a period of three months from the receipt of such Representation keeping in mind of the observation made by this Hon'ble Tribunal. Accordingly as per direction of this Hon'ble Tribunal Applicants filed the Representation before the Concerned Authority. The Office of the Respondent No.2 vide their Speaking Order No.45/ST-12 (Civ) dated 22.02.2007 rejected the claim of the Applicants in a mechanical manner.

Photocopies of the Judgment and Order dated 16th June 2005 in O.A.No.205 of 2004 passed by the Hon'ble Tribunal and the Speaking Order No.45/ST-12(Civ) dated 22.02.2007 by which the Respondents have rejected the claim of the Applicants are annexed hereunto and marked as **ANNEXURES-C & D** respectively.

4.9) That your Applicants beg to state that the Respondents without applying their proper mind

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issued the Impugned Rejection Order dated 22.02.2007. The Respondents had not gone through the other similar judgments passed by this Hon'ble Tribunal in case of the similarly situated persons, which has already been affirmed by the Hon'ble High Court. Moreover, the Canteen Store Department under Ministry of Defence, Government of India, who are doing the almost similar nature of job and situated adjacent to the Applicants' Office campus are enjoying the benefit of payment of compensation @ 10% in lieu of Rent Free Accommodation. However, the Instant Respondents particularly Respondent No.2 without going through the depth of the Applicants' case passed the Speaking Order dated 22.02.2007. As such, the Rejection Order is bad in law and also not sustainable in the eye of law. Hence, finding no other alternative the Applicants are compelled to approach this Tribunal again for seeking justice in this matter.

4.10) That your Applicants beg to state that they are working in the Field Area and being attached with the Armed Forced Personnel who are deployed in the Field Areas for operational requirement facing the immense hostilities and also facing risk of life along with the Armed Forces. They have to work round the clock whenever emergency arises. As such the Respondents cannot reject the genuine claim of the Applicants for 10% compensation in lieu of rent-free accommodation. This Hon'ble Tribunal may be pleased to set aside and quashed the Impugned Speaking Order vide 45/ST-12 (Civ) dated 22.02.2007 issued by the Office of the Respondent No.2.

4.11) That the Applicants beg to state that they have fulfilled all the terms and conditions for

Sevinder Sahu

getting licence fee compensation @ 10% in lieu of Rent Free Accommodation for being posted Nagaland. As such, they are entitled to get benefit.

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, the action of the Respondents are illegal, arbitrary, mala fide, whimsical and also without jurisdiction. Hence the Impugned Speaking Order issued by the Office of the Respondent No.2 vide No.45/ST-12 (Civ) dated 22.02.2007 is liable to be set aside and quashed.

5.2) For that, other similarly situated persons are enjoying the benefit of 10 % compensation in lieu of rent free accommodation without any interruption as per direction of this Hon'ble Tribunal in O.A.No.48/91 and O.A.No.266/96 and other series of cases. As such, the Respondents cannot deny the same benefit to the instant Applicants. Hence the Impugned Speaking Order issued by the Office of the Respondent No.2 vide No.45/ST-12 (Civ) dated 22.02.2007 is liable to be set aside and quashed.

5.3) 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 then to approach in the court of law. Hence the Impugned Speaking Order issued by the Office of the Respondent No.2 vide No.45/ST-12 (Civ) dated 22.02.2007 is liable to be set aside and quashed.

Swarsender Sarker

5.4) For that, the Respondents being a model employer cannot deny the same benefit to the similarly situated persons and the denial of the same is not sustainable in the eye of law. Hence the Impugned Speaking Order issued by the Office of the Respondent No.2 vide No.45/ST-12 (Civ) dated 22.02.2007 is liable to be set aside and quashed.

5.5) For that, the Applicants being Central Government Employees serving in Nagaland and being attached with the Armed Forces are entitled to get financial benefits mentioned above. Hence the Impugned Speaking Order issued by the Office of the Respondent No.2 vide No.45/ST-12 (Civ) dated 22.02.2007 is liable to be set aside and quashed.

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

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

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

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

6) DETAILS OF REMEDIES EXHAUSTED:

Swarnadeep Sarker

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

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

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

8) RELIEF SOUGHT FOR:

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

- 8.1) To set aside and quashed the impugned Speaking Order vide letter No.45/ST-12 (Civ) dated 22.02.2007 issued by the Office of the Respondent No.2.
- 8.2) To direct the Respondents to pay license fee @ 10% of monthly pay with effect from 1-7-87 or from the actual date of posting in Nagaland if it is subsequent thereto as

Swander Sahu

the case may be up to date and continue to pay the same until compensation is not withdrawn or modified by the Government of India or till Rent Free Accommodation is not provided.

8.3) To pass any other appropriate relief or reliefs as deemed fit and proper by this Hon'ble Tribunal.

8.4) To pay the cost of the case to the Applicants.

9) INTERIM ORDER PRAYED FOR:

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

10) Application is filed through Advocate.

11) Particulars of I.P.O. :

I.P.O. No. : 326040215

Date of Issue : 2-8-2007

Issued from : Guwahati G.P.O.

Payable at : Guwahati.

12) LIST OF ENCLOSURES:

As stated above.

Verification

Surinder Singh

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

I, Shri Surender Sahu, P.No.14117389, Permanent Mazdoor, Office of the Commanding Officer, 50 Coy, ASC (Supply), Type-C, C/o 99 A.P.O. Applicant No.1 of this Original Application and I am authorised to sign this Verification on behalf of other Applicants and I do hereby solemnly verify that the statements made in paragraph nos. 4.1, to 4.4, 4.7, 4.9 to 4.12 are true to my knowledge, those made in paragraph nos. 4.5, 4.6 and 4.8 are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 17th
day of August 2007 at Guwahati.

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D E C L A R A N T

-15- 8/2/93

CENTRAL ADMINISTRATIVE TRIBUNAL : JURIDICI BENCH

Original Application No. 48 of 1991

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

Shri B. Harpu, Vice-Chairman

Shri G.L. Senglyine, Member (Administrative)

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

By Advocate Shri M.N. Trikha

- Versus -

1. Union of India, through the Secretary to the Government of India, Ministry of Steel and Mines, Department of Mines, New Delhi
2. The Director General, Geological Survey of India, 27, Jawaharlal Nehru Road, Calcutta: 700 013
3. The Deputy Director General, Geological Survey of India, North East Region, Asha Kutia, Laitumkhrah, Shillong-793013
4. The Director, Geological Survey of India, Operation Manipur-Nagaland, Dimapur. Respondents

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

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ADVOCATE

MANIPUR

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The applicants numbering 47 (forty-seven) are Group 'B' and 101 employees under the Director, Geological Survey of India, Operation Manipur-Nagaland, at Dimapur, Nagaland. This application by them under Section 19 of the Administrative Tribunals Act 1985 claiming House Rent Allowance (HRA) at the rate applicable to 'B' class cities, i.e. at the rate of 15% of their pay and also claim compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

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

3. Learned counsel Mr N.N. Trikha for the applicants submits that it was established vide judgment dated 31.10.1991 in C.A. No.42(G)/89 of this Bench and duly confirmed by the Supreme Court vide order dated 10.2.1993 in Civil Appeal No.2705/91 that Nagaland in general is 'B' class city and the Central Government employees there are entitled for benefits of 'B' class cities granted by various circulars and office memoranda.

Mr Trikha read out the relevant Office Memoranda. These submissions are not disputed by learned Sr. C.G.S.C. Mr S. Ali. We have perused the judgments and orders referred to by Mr Trikha. No land had been recognised

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ADVOCATE

as 'unclassified' citizens in general view our judgment and order dated 31.10.1990 in S.R. No.42(G)/89 read with the Supreme Court order dated 18.2.1993 in Civil Appeal No.4705 of 1991. This being the established position, we hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wisely with effect from 1.10.1986 pursuant to Office Memorandum No.11013/2/86-E-11(B) dated New Delhi the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure A/7).

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

"The undersigned is directed to refer to para 1 of this Ministry's Office Memorandum of even number, dated 19.2.1987, regarding Central Government employees belonging to Groups 'B', 'C' and 'D' and also para 1 of O.M. of even number, dated 22.5.1987, regarding Central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under Central Government all over the country vide Ministry of Urban Development (Directorate of Estates)'s O.M. No.12035/(1)/95-Pol.11(Vol.III) (1), dated 7.8.1987, the President is pleased to decide that Central Government employees belonging to Groups 'A', 'B', 'C' and 'D' working in various classified cities and unclassified places will be entitled to compensation in lieu of Rent-free Accommodation as under -

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

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(ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No.11013/2/86-E.II(B), dated 23.9.1986, for Central Government employees belonging to Groups 'B', 'C' and 'D' and para 1 of O.M.No.11013/2/86-E.II(B), dated 19.3.1987, for Central Government employees belonging to Group 'A'

2. Other terms and conditions for admissibility of compensation in lieu of rent-free accommodation indicated in this Ministry's Office Memorandum, dated 19.2.1987 and 27.5.1987, remain the same.

3. These orders shall take effect from 1.7.1987.

The compensation is fixed at 10% of the monthly emoluments calculated with reference to pay vide NOIC under para 2 of the Government of India, Ministry of Finance Office Memorandum No.11015/4/86-E.II(B)/87 dated 25.5.1987. These Office memoranda had been circulated by Geological Survey of India, Calcutta vide order No.14017(1)/83-3(HRA) dated 26.9.1988 for necessary action by all branches. Therefore, we hold that the applicants are entitled to compensation at the rate of 10% of pay in lieu of rent free accommodation with effect from 1.7.1987 in terms of O.M.No.11015/4/86-E.II(B) dated 13.11.1997 in addition of the HRA.

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

6. In the result, this application is allowed. The respondents are directed to pay HRA to the applicants at the rate of 10% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of O.M.11013/2/86-E.II(B) dated 23.9.1986. The respondents are further directed to pay compensation at 10% of the

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

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

8. Intimate all concerned immediately.

5a/- S. H. Joo
VICE CHAIRMAN
5d/- G. L. Ganguly
MEMBER (ADMIN)

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ADVOCATE

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ANNEXURE-13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266/96 and series

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

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

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

1. Original Application No.266 of 1996

Shri Ram Bachan and 14 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

2. Original Application No.268 of 1996

Shri Nomai Chandra Das and 55 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

3. Original Application No.279 of 1996

Shri D.D. Bhattacharjee and 31 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

4. Original Application No.18 of 1997

Shri Hari Krishan Mazumdar and 24 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

5. Original Application No.14 of 1997

Shri Jatin Chandra Kalita and 19 others

....Applicants

By Advocate Mr A. Ahmed

-versus-

Union of India and others

....Respondents

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

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6. Original Application No.91 of 1996

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

-versus-

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

7. Original Application No.87 of 1996

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

-versus-

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

8. Original Application No.45 of 1997

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

-versus-

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

9. Original Application No.197 of 1996

Shri P.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 B. Talukdar

-versus-

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

ATTESTED
N. Ghosh
ADVOCATE

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11. Original Application No.190 of 1996

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

-versus-

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

12. Original Application No.191 of 1996

Shri Kedolo Tep and 16 othersApplicants
By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

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

13. Original Application No.55 of 1997

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

-versus-

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

14. Original Application No.192 of 1996

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

-versus-

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

ATTESTED

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ADVOCATE

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)

ATTESTED
A. Shatto
ADVOCATE

BARUAH, J. (V.C.)

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

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

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

3. All the applicants are now posted in various parts of the State of Nagaland. They are, except the applicant in O.A.No.55/97, are claiming House Rent Allowance (HRA for short) at the rate applicable to the employees of 'B' class cities of the country on the basis of the Office Memorandum No.11013/2/86-E.II(B) dated 23.9.1986 issued by the Joint Secretary to the Government of India, Ministry of Finance (Dept. of Expenditure), New Delhi, on the ground that they have been posted in Nagaland.

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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)-E.II(B)60 dated 2.8.1960. However, the authorities denied the same to the employees ignoring the circular of 1986. Situated thus, being aggrieved some of the employees approached this Tribunal and the Tribunal gave direction to the authorities to pay HRA to those applicants with effect from 18.5.1986. Being dissatisfied with the aforesaid order passed by this Tribunal in O.A.No.42(G).

of 1989, S.K. Ghosh and others vs. Union of India and others the respondents filed SLP and in due course the Supreme Court dismissed the said SLP (Civil Appeal No.2705 of 1991) affirming the order of this Tribunal passed in O.A.No.42(G) of 1989 with some modification. We quote the concluding portion of the judgment of the Apex Court passed in the above appeal:

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

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

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

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

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

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

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

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

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

7. In O.A.Nos.91/96, 87/96, 190/96, 191/96, 45/97, 192/96, 197/96, and 55/97, the applicants have also claimed 10% compensation in lieu of rent free accommodation. The learned counsel for the applicants submit that this Tribunal in O.A.No.48/91 and others have already granted such compensation. Mr. S. Ali learned Sr. C.G.S.C. and Mr. G. Sarma, learned Addl. C.G.S.C. do not dispute the same.

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

"2.(u) 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

W.M.B.

Deputy Registrar (C)
Central Administrative Tribunal
Gurukul Bhambhani

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

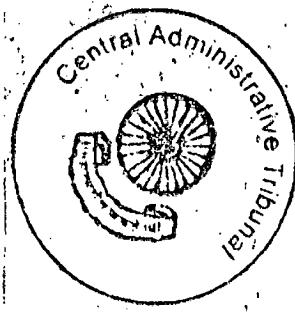
Original Application No. 205 of 2004.

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

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

1. Shri Surendra Sahu
2. Shri Padma Labha
3. Shri Ulia Gouda
4. Shri Bidyadhar Gouda
5. Shri Linga Naik
6. Shri Dayanidhi
7. Shri Banchanidhi
8. Shri Barunda Sahu
9. Shri Gundicha Naik
10. Shri Bodha Ram
11. Shri Devraj
12. Smt. Kalawati
13. Shri Udayanath
14. Shri Mangalu Pradhan
15. Shri Sombariya
16. Shri Balkaran
17. Shri Cyprian
18. Shri J.K. Pilai
19. Shri Bipra Rawat
20. Shri Bipra Sahu
21. Shri Dandapani Naik
22. Shri Ragunath
23. Shri Laldhar
24. Shri Kirtan Gouda
25. Shri Ramchandar Passi
26. Shri Rambriksh
27. Shri Pitambar
28. Shri Soma Naik
29. Shri Dinabandhu Naik
30. Shri Satiram
31. Shri Haridev Ram
32. Shri Enkat Rao

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33. Shri Sureshlal Baitha
34. Shri Sirpat Ram
35. Shri Dahari Ram
36. Shri Ramprashad
37. Shri Pannu Behara
38. Shri Subash Singh
39. Shri Achelal Rai
40. Shri Girdhari Mandal
41. Shri Ramchandar Gouda
42. Shri Manglu Behara
43. Shri Ramsamujh
44. Shri Murari Prasad
45. Shri Ramnarayan
46. Shri Sontosh Kumar
47. Shri Ramanand
48. Shri Jayprakash Ram
49. Shri Bhagaban Naik
50. Shri Sanyasi Sabath
51. Shri Ramsamujh Chovhan
52. Shri Harkhit

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

53. Shri Roopa Ram, T/Smith
54. Shri Trirbhuwan, T/Smith
55. Shri Imtitemsu Jamir, Welder
56. Shri Pannu Pradhan, Carpenter
57. Shri Shankar Thakur, Barber
58. Shri Ramprasad, Washerman
59. Shri Ramshankar, Cook
60. Shri R. K. Chetri, Cook
61. Shri Badal, Safaiwala
62. Shri Foujdar, LHF (OG)
63. Shri S. K. Paul, LHF (SG)
64. Shri Rameswar, LFF (OG)
65. Shri S.K.Tripathi, FED
66. Shri Bachcha Singh, FED
67. Shri Upender Singh, FED



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68. Shri Subhash Teli, F/man
69. Shri Palakdhari Yadav, F/man
70. Shri Dibakar Gouda, F/man
71. Shri R. P. Sharma, F/man
72. Shri Hamid Mohd, F/man
73. Shri Triloknath, F/man
74. Shri B. N. Gouda, F/man
75. Shri Omprakash Gupta, F/man
76. Shri Kedar, F/man
77. Shri Rajender, F/man
78. Shri Jagdish Prasad, F/man
79. Shri Akhehey Pradhan, F/man
80. Shri V. K. Tripathi, F/man
81. Shri Satyanarayan, Mazdoor
82. Shri Shri Gada Naik, Mazdoor

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

83. Smti Ameren Sia
Wife of Late Surpryam (Ex Mazdoor)
84. Smti Joshoda Naik
Wife of Late Barunda Naik (Ex Mazdoor)
85. Smti Sabitri Devi
Wife of Late Ram Badan (Ex Mazdoor)
86. Smti Munni Devi
Wife of Late Ganga Saran (Ex Mazdoor)
87. Shri Rameshra Moli
Son of Late Hari Moli.

...Applicants.

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

By Advocate Mr. A. Ahmed.

- Versus -

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

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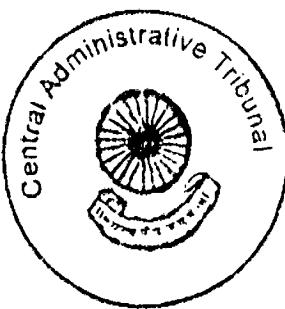
2. The Commanding Officer, 50 Coy, ASC (Supply)
Type-C, C/o 99 APO. ... Respondents.

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

ORDER

SIVARAJAN, J.(V.C.) :

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



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filed O.A. No.266/1996 and other series of cases before this Tribunal and those cases were also allowed by judgment dated 10.6.1997 (Annexure-B) and the respondents were directed to pay HRA at prescribed rate and also to pay 10% compensation in lieu of rent free accommodation. It is further stated that similarly situated civilian employees of Canteen Stores Department posted at Dimapur are getting HRA and also @ 10% compensation in lieu of rent free accommodation. According to the applicants, the function and nature of works of employees of Canteen Stores Department are almost similar to the employees of Armed Supply Core, ASC (Supply) where the instant applicants are working. It is the grievance of the applicants that though the defence civilian employees of Canteen Stores Department, Dimapur, State of Nagaland are enjoying the benefits of 10% compensation in lieu of rent free accommodation the applicants have failed to obtain the benefits of licence fee @ 10% in lieu of rent free accommodation from the respondents. It is the case of the applicants that they have verbally and by written request moved the respondents for payment of 10% compensation in lieu of rent free accommodation but till date they have not been paid the same which compelled them to file this application.

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

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

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



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

4. Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents based on the averments in the written statement submits that rent free accommodation was very much available to the employees and that they were enjoying such facilities. Standing counsel also submits that the applicants have never raised a complaint regarding non-availability of rent free accommodation nor made any request for grant of licence fee to them in lieu of rent free accommodation. Standing counsel further pointed out that though the applicants were not being paid licence fee in lieu of rent free accommodation since the very inception no claim for licence fee was preferred by them based on the orders of this Tribunal in O.A. Nos. 48/1991 and 266/1996 which were rendered on 26.11.1993 and 10.6.1997 respectively which would show that the applicants are not similarly situated persons.

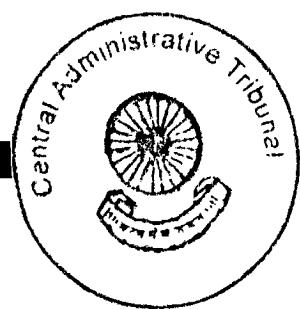
5. The applicants claim that they are employed in the remote part of Nagaland which has been considered as a difficult area from the point of view of availability of rented house and therefore Central Govt. employees are given rent free accommodation. According to them, they are not provided with rent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

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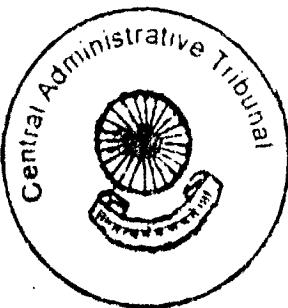
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accommodation by the respondents and consequently they are entitled to get compensation @ 10% in lieu of rent free accommodation in addition to HRA. It is their case that in spite of the orders of this Tribunal in O.A. Nos. 48/1991 and 266/1996 rendered as early as on 26.11.1993 and 10.6.1997 regarding grant of licence fee @ 10% in lieu of rent free accommodation to similarly situated persons working in the other departments the respondents had not extended the same benefits to the instant applicants who are similarly situated. According to them, respondents ought to have extended the same benefits to the applicants even without their asking and without driving them to approach this Tribunal for getting the same reliefs. It is their case that they are similarly situated persons who must be granted licence fee @ 10% so long as they are not provided with rent free accommodation.



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

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

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whether the applicants have been provided with rent free accommodation, for, licence fee is granted in lieu of rent free accommodation. The applicants contend that they have not been provided with rent free accommodation while the respondents contend that they were. It would not be possible for this Tribunal to resolve such dispute on factual matters. True, this Tribunal in the orders in O.A. Nos. 48/1991 and 266/1996 had directed payment of licence fee @ 10% to the applicants therein. Whether the factual situation in the case of the instant applicants are the same as the applicants in those cases is yet to be ascertained. A Division Bench of this Tribunal had occasion to consider the case of grant of HRA to some of the employees working under the Garrison Engineer, 868, Engineering Workshop, C/o 99 APO in the judgment dated 8.6.2005 in O.A.123/2004. That was a case in which the applicants therein had approached this Tribunal, obtained reliefs and the same was affirmed by the Hon'ble Supreme Court. Therefore directions were issued to the respondents to pay HRA to the applicants as directed by the Tribunal in the O.A.s filed by them. The said directions cannot be issued in this case for the reason that the instant applicants did not obtain any such orders from this Tribunal earlier and the orders relied on by them are orders passed in the case of persons employed in other departments. Here it must be noted that the applicants had not produced any materials other than the bald averment made in the application to show that they had preferred any claim for grant of licence fee @ 10% in lieu of rent free accommodation before the authorities at any earlier point of time. The applicants are claiming licence fee in lieu of rent free accommodation for prior periods



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

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

Date of Application : 24.2.06

sd/VICE CHAIRMAN

Date on which copy is ready : 24.2.06

Date on which copy is delivered : 24.2.06

Certified to be true copy

Section Office (S. III)
C. A. T. C. (Shanti Bench)
Guwahati
16/2/2006

ATTESTED
Bhattacharya
ADVOCATE

No 45/ST-12 (Civ)

50 Coy ASC (Sup) Type 'C'

PIN 905050

C/O 99 APO

The 22 Feb 2007

To,

Shri Surender Sahu
50 Coy ASC (Sup) Type 'C'
C/O 99 APO

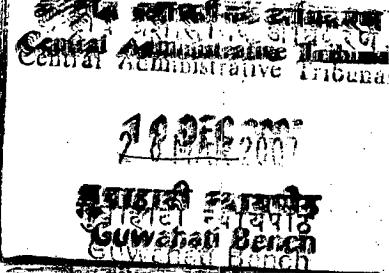
IMPLEMENTATION OF CAT GUWAHATI ORDER DATED 16 JUN 2005 IN
OA NO 205/2004 FILED BY SHRI SURENDER SAHU & 85 OTHERS

1. Further to the information conveyed to you on the subject.
2. This Speaking Order is being issued in compliance of CAT Guwahati order dated 16 Jun 2005 in OA No 205/2004
3. Order dated 16 Jun 2005 of Hon'ble Tribunal Guwahati has been examined in consultation with MOD, MOD/Fin, CGDA, Min of Urban Development and Min of Fin.
4. You alongwith 85 others had filed OA No 205/2004 in CAT Guwahati for payment of compensation @ 10% in lieu of Rent Free Accommodation. In the above context, it is informed that the subject of compensation in lieu of Rent Free Accommodation is guided by GOI OM No 12-11/60-ACC-I dated 02 Aug 1960. The compensation is to be granted based on the criterion of the obligatory stay of the incumbent at the office premises. The OM referred ibid stipulates that for the efficient discharge of duties it is necessary that an employee should live on or near the premises where he works, it would be desirable that he should be provided with a Government residence. But the residence should be rent free or rent recovered at reduced rates only if the nature of his duties or conditions under which they have to perform are such that a higher scale of pay or special pay, etc, would be granted but for the concession of rent free accommodation or recovery of rent at reduced rates.
5. Thus for grant of compensation in lieu of Rent Free Accommodation two conditions are to be met. First, the nature of an employee should be such as to require his living on the or near the premises. Secondly, duties should also be such as to deserve grant of higher scale of pay or special pay. Unless both these conditions are met an employee would not be eligible for rent free accommodation or compensation in its lieu.
6. Since nature of your duties as laid down vide your charter of duties is not such so as to necessitate your living on the premises of 50 Coy ASC (Sup) or near to it nor does it deserve a higher pay scale or special pay in compensation of which Rent Free Accommodation is to be provided there is no legally sustainable basis to extend the facility to you. As regards analogy with other Departments of GOI as brought out by you in the application submitted before the Tribunal it is stated that working conditions, nature of duties and organisational responsibilities being different, situation obtaining in other Departments cannot be made applicable mutatis mutandis in ASC.
7. In view of forgoing, you are hereby informed that your claim for compensation in lieu of Rent Free Accommodation has been examined by all concerned and after due consideration of ground realities in ASC and in other departments, it is a considered view of this department that you are not entitled for compensation as prayed for. Therefore, it is regretted that your request cannot be acceded to.

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S. Bhattacharya
ADVOCATE

(R. I. Mullick)
Lt Col
Commanding Officer



File in Court on..... 19/12/07
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA NO. 224/2007

Shri Surendra Sahu and others

...Applicants

-Versus-

Union of India & others

.... Respondents

-AND-

IN THE MATTER OF

Written Statement submitted by the Respondent No. 1 to
WRITTEN STATEMENT:

The humble answering respondents submitted their written statement as follows:

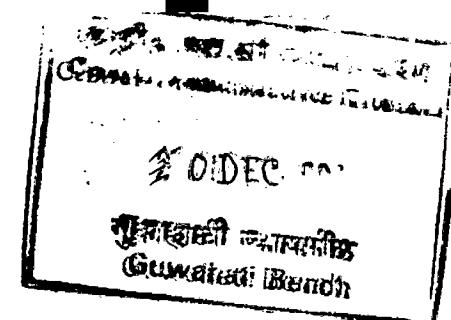
1(a) That I am..... Lt. Col. R. I. Mulliek.....

Commanding Officer, 50 Cos., A.S.C. (Sup)
PIN - 905051, C/o 77.A.8 and respondent No. 2..... in the above case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable as to both facts and in law.

लॉ कनल Lt Col
कमान अधिकारी
Commanding Officer
50 रोड ए एस रो (पूर्व) प्रकार 'सी'
77 एस एस एस (पूर्व) ट्रॉप 'सी'





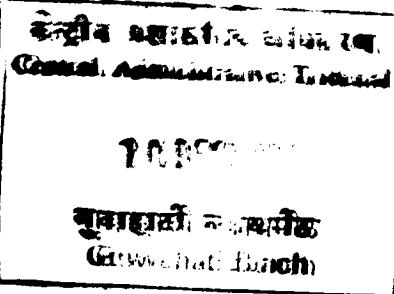
(c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.

(d) That the application is also hit by the principles of waiver estoppels and *acquiescence and liable to be dismissed*.

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

2) That with regard to the statement made in paragraphs 1 to 3 of the OA, the respondents while denying the statement made therein beg to submit that the averment made by the applicant on the speaking order dated 22 Feb 2007 passed by the respondents is totally baseless and liable to be rejected and dismissed. The respondents clarified that the payment of compensation *in lieu of Rent Free Accommodation is guided by GOI OM No. 12-11/60-ACC-I dated 02 Aug 1960 and the same be granted based on the criterion of the obligatory stay of the incumbent at the premises. The grant of compensation in lieu of Rent Free Accommodation is based on two conditions, which are to be met. First, the nature of duty of an employee should be such as to require his living on the or near the premises. Secondly, duties should also be such as to deserve grant of higher scale of pay or special pay unless both these conditions are met an employee would not be eligible for rent free accommodation or compensation in its lieu. Thus the speaking order dated 22 February 2007 was issued to the applicants in response of Hon'ble CAT, Guwahati Bench order dated 16 Jun 2005 in OA*

ल० कर्नल/ Lt Col
कमान अधिकारी
Commanding Officer
सेना अधिकारी ए एस सी (पूर्ण) नं
50 Coy ASC (Sup) T



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No. 205/2004 as the applicants do not meet the above mentioned two criterion for grant of compensation in lieu of Rent Free Accommodation.

3) That with regard to the statement made in paragraphs 4.1 and 4.2 of the OA, the answering respondents beg to submit that the applicants who are defence civilian employees are facilitated with all administrative and welfare measures which are involved with their pay and allowances too, as per existing orders of Govt. of India, Ministry of Defence. Therefore, the application is liable to be rejected and dismissed accordingly.

4) That with regard to the statement made in paragraphs 4.3 and 4.4 of the OA, the answering respondents beg to submit that the grant of compensation in lieu of Rent Free Accommodation is governed by two conditions which are required to be met. First, the nature of duty of an employee should be such as to require his living ~~on~~ the or near the premises. Secondly, duties should also be such as to deserve grant of higher scale of pay or special pay unless both these conditions are met an employee would not be eligible for Rent Free Accommodation ^{or} compensation in its lieu. Since the applicants do not meet the above mentioned two criterions for grant of compensation in lieu of Rent Free Accommodation. Moreover, this unit is having sufficient number of free Govt. single accommodations wherein some of the applicants are living along with separate cook house as well as they are also provided with free rations, clothing etc. Besides these, the applicants are also being granted 7.5 % of HRA. However, some of the applicants have willingly opted for residing with their families by constructing temporary bamboo hut in the defence acquired land of this unit's premises. Further the applicant's trades are Permanent Mazdoor, Washerman, Barber, Carpenter, Welder, Tinsmith, Cook, Safaiwala and Fire Crew whose nature of works do not deserve any higher scale of pay or special pay as their duty

लॉ कलंस/ Lt Col
जितेंद्र कुमारी

Officer
प्राप्ति विभाग (प्राप्ति विभाग) प्राप्ति विभाग
प्राप्ति विभाग
प्राप्ति विभाग

involves a defined work to be done in a particular day. They are required to lift only five tones of load per day as per authorized moundage and work only 08 hrs out of 24 hrs which does not necessitate the requirement of 10% compensation in lieu of Rent Free Accommodation is wholly baseless which is liable to be rejected and dismissed.

5) That with regard to the statement made in paragraphs 4.5 and 4.6 of the OA, the answering respondents beg to submit that on perusal of the case in respect of employees of Geological Survey of India, it reveals that the 10% compensation in lieu of Rent Free Accommodation is being granted to them by the Hon'ble CAT was based on the only ^{that} _↑ their employees were not provided free government accommodations as well as their nature of works are also seems to be not similar to the applicants of this case too. Thus the application filed by the applicants is totally different to the case of Geological Survey of India. Hence the application is liable to be rejected and dismissed.

6) That with regard to the statement made in paragraph 4.7 of the OA, the answering respondents do not admit anything contrary to the records of the case.

7) That with regard to the statement made in paragraph 4.8 and 4.9 of the OA, the answering respondents while reiterating and reaffirming the statements made above beg to submit that the applicants are not entitled for Rent Free Accommodation. Therefore the application of the applicants for payment of compensation @ 10% in lieu of Rent Free Accommodation should be rejected.


लॉ. कनले/ Lt Col
कमान अधिकारी
Commanding Officer
50 कोटी एसी (पूर्व) "गार 'सी"
50 Coy ASC (Pur) T/2 'G'

8) That with regard to the statement made in paragraphs 4.10, 4.11 and 4.12 of the OA, the answering respondents beg to submit that the respondents have clarified that 50 Coy ASC (Sup) Type 'C' is deployed in counter insurgency area wherein defence personnel are not allowed to reside with family in outliving compensation in lieu of quarter keeping in view of the security hazard. As far as these applicants concerned, most of them are residing with their families by constructing temporary bamboo hut in the defence-acquired land of this unit's premises. Since most of the applicants are living with their family in the defence acquired land of this unit's premises and also being granted 7.5% HRA, therefore the question of grant of 10% compensation in lieu of rent free accommodation in addition to 7.5 % HRA does not arise.

9) That with regard to the statement made in paragraph 5. 1 of the OA, the respondents beg to submit that the opinion of the applicants is that the action of the respondents are illegal, arbitrary, malafide, whimsical and stating impugned speaking order is totally illegal as there is no any provision for granting the compensation in lieu of rent free accommodation if the employee does not meet the two criterions mentioned above. Thus the applicant's application is liable to be rejected and dismissed.

10) That with regard to the statements made in paragraphs 5.2 to 5.6 of the OA, the respondents while reiterating and reaffirming the statements made above beg to submit that the applicants are trying to prove the similarity with the employees of CSD Canteen, Dimapur for granting of compensation of rent free accommodation is a completely lie planning statement as there must be different ~~Y~~ the nature of works between them and the employee of CSD Canteen, Dimapur also must be residing outside their office premises in rented houses. The respondents never denied for

लॉ कन्सल/ Lt. Col
दायान दत्तिकान्त
Deputy Executive Officer
50 Coy ASC (Sup) Type 'C'
गुवाहाटी न्यायपाल (पूर्णी) पकार 'सी'

any welfare and administrative supports as well as forfeited pay and allowances which are they entitled. The defence civilian employee of this unit are being facilitate with Govt. free accommodations and some of the employees are opted to live with their families by constructing temporary bamboo hut in the defence acquired land of this unit's premises. Moreover all the employees are being granted 7.5% HRA. The question of granting of 10% compensation in lieu of rent free accommodation is not being granted by the respondents since the employees do not meet the two conditions as guided by GOI OM No. 12-11/60-ACC-I dated 02 Aug 1960 i.e. first, the nature of the employment should be such as to require his living on the or near the premises. Secondly, duties should also be such as to deserve grant of higher scale of pay or special pay unless both these conditions are met an employee would not be eligible for rent free accommodation or compensation in is lieu.

11) That with regard to the statements made in paragraphs 5.7 and 5.8 of the OA, the respondents while reiterating and reaffirming the statements made above beg to submit that the applicants do not fulfill the criterions as guided by GOI OM No. 12-11/60-ACC-I dated 02 Aug 1960 i.e. first, the nature of ^{the} employment should be such as to require his living on the or near the premises. Secondly, duties should also be such as to deserve grant of higher scale of pay or special pay unless both these conditions are met an employee would not be eligible for rent free accommodation ~~to~~ compensation in its lieu. Moreover, this unit is having sufficient number of free Govt. accommodations wherein some of the applicants are living along with separate cook house as well as they are also provided with free rations, clothing etc. Besides these, the applicants are also being granted 7.5 % of HRA. However, some of the applicants are willingly opted for residing with their families by constructing temporary bamboo hut in the

ल० कनेल/ Col

दा० अधिकारी

Dealing Officer

50 अधीकारी ए एस सी (पूर्वी) प्रकार 'सी'
50 Coy ASC (Sup) Type 'C'

कानूनी वकालत वादिकारण
Counsel & Advocate Tribunal

११-१२८८८

मुख्यालयी न्यायालय
Chief Justice Bench

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defence-acquired land of this unit's premises. Further the applicants trades are
now
Permanent Mazdoor, Washman, Barber, Carpenter, welder, Tismith,
Cook, Safaiwala and Fire Crew whose nature of works do not deserve any
higher scale of pay or special pay. Thus the averments made by the
applicant ~~are~~ (totally out of rules and regulations and the same is liable to be
rejected and dismissed.

12) That with regard to the statement made in paragraphs 6 to 9 of the OA, the answering respondents beg to rely and refer upon the statements made above and further submit that since the applicants do not fulfill the conditions laid down in the Govt. of India's OM dated 02 Aug 1960 hence they are not eligible for payment of licence fee @ 10% compensation in lieu of Rent Free Accommodation. The applicants are not entitled to any relief as sought for in the OA hence liable to be dismissed with cost.


लॉ कॉल/ Lt Col
दमां अधिकारी
Commanding Officer
50 कम्पनी ए एस सी (पूर्णी) पाकार ज्ञानी
50 Coy A&C (Sup) Type ८

10 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I..... Lt. Col. R. I. Mullick....., aged
about 46 years at present working as
.....Commanding.....Officer, 50 Coy. Asc (Sup)
Type 'C', who is one of the respondents and taking steps in this case, being
duly authorized and competent to sign this verification for all respondents,
do hereby solemnly affirm and state that the statement made in paragraph

1 to 5, 7, 8, 10 are true

to my knowledge and belief. those made in paragraph

9 being matter of records, are

true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 13th day of Dec 2007

DEPONENT

सॉ. मुल्लिक Lt Col
कमान्डिंग ऑफिसर
Commanding Officer
50 कम्पनी ए एस सी (पूर्ती) प्रकार 'सी'
50 Coy ASC (Sup) Type 'C'



Notice

Date - 05/12/07

From,
Usha Das
Addl Cus e

To, Mr. A. Ahmed
Miss S. Bhattacharya
Advocates

Sub: OA No. 224/07 filed by Sri S. Sahu
8023-VB - V.O.I 8023.

Sir/Madam,

Please find herewith a copy of WS being filed today. Kindly acknowledge the receipt thereof.

Thanking You

Received copy

Usha Das
Advocate
Date 5/12/2007

Sincerely Yours

Usha Das
Addl Cus e