

b

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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alteration of the ad interim order

22/7/2015
SECTION OFFICER (JUDL.)

22/7/2015

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 70 / 2009

2. Misc Petition No

3. Contempt Petition No

4. Review Application No

Applicant(S) Soumen Roy Chowdhury,

Respondant(S) Union [70] 128,

Advocate for the Applicant(S): Mr. A. Chamuah,
Ms. N. Begum,

Ms. K. Borpujari

Ms. Aomtam,

Advocate for the Respondant(S): 6

Notes of the Registrar	Date	Order of the Tribunal
<p>this application is in form 21.04.2009 is filed/C.F. for Rs. 50/- deposited with P.B.D. No. 344169, 351033, Dated: 999092 29-10-2008 Dy. Registrar Steps taken along with Envelops. 21.4.09</p>	21.04.2009	<p>Heard: Mr. Ashim Chomuah, learned counsel appearing for the Applicant and Ms. Usha Das, learned Addl. Standing Counsel for the Government of India (on whom a copy of this O.A. has already been served) and perused the materials placed on records.</p> <p>2. It has been alleged that, without giving any notice to the Applicant, the amount that has already been paid to the Applicant (as HRA) is being recovered. Since no opportunity was given to the Applicant to have his say in the matter, before effecting recovery, the counsel for the Applicant has made out a case of gross violation of principle of natural justice. It is also the case of the Applicant that his subsequent representation dated 27.10.2008 has not yet been answered from the end of the Respondents.</p>

N

O.A. 70/09

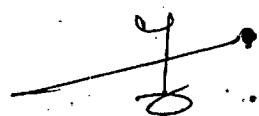
- 2 -

Contd:-

21.04.2009 3. The Applicant having made out prima facie case, This case is admitted. Notices be issue to the Respondents requiring them to file their counter/written statement by 10th June, 2009. At the same time, no recovery (on the count House Rent Allowances already paid) should be affected from the salary of the Applicant, until further orders, by the Respondents.

4. While passing the aforesaid ad-interim order, liberty is hereby granted to the Respondents, to put up their objection, if any, to the interim prayers made in this O.A. and to present ad-interim order.

5. Send copies of this order to the Applicant and also to the Respondents (along with notices) and free copies of this order be also supplied to the counsel appearing for both the parties.


(M.R. Mohanty)
Vice-Chairman

Recd
lsham
Add chsc
24/4/09.

Copies of notices along with order dated 21/4/2009 send to D/Sec. for issuing to respondents by regd. A/D post. lm

Free copies of this order handed over to applicant and counsel for parties.

Ceas
24/4/09. D/No-2037 to
D/- 2040
M.No. 2080 & 2081
M- 5-5-2009

Notice copies duly served on R- 4

NO W/S filed.

10.06.2009 Ms. Aoinitom Barooah, Advocate for the Applicant is present. Ms. U. Das, learned Addl. Standing counsel representing the Respondents undertakes ^{to file} the written statement in course of the day. She has already served a copy of the said written statement on the Advocate for the Applicant.

Ms. U. Das, learned Addl. Standing counsel representing the Respondents has filed a Misc. Petition No. 58/2009 seeking vacation/modification/alteration of the ad-interim order dated 21.04.2009 passed in O.A. No. 70/2009.

Contd...

O.A.70/2009

Contd.
10.06.2009

A copy of the said Misc. petition No.58/2009 ^{has already been served} on Mrs.K.Borpajari, Advocate for the Applicant, on 02.06.2009.

On behalf of the Applicant Ms. Aoinitom Barooah, Advocate has prayed to grant the Applicant some time to file rejoinder and to file objection to the M.P.(No.58/2009) for vacation of stay.

Heard. Call this matter on 25.06.2009 awaiting rejoinder to the written statement and objection to the M.P.(No.58/2009) for vacation of stay, from the Applicant.

Petition for vacation of stay shall be taken up for consideration on the next date/25.06.2009.

Free copies of this order be handed over to the learned counsel appearing for both the parties.


(M.R.Mohanty)
Vice-Chairman

/bb/

Free copies of
order dated 10/6/09
send to D/Sec.
for issuing to
2/counsel appearing
for both the parties.

D/No-3222 +
3223

~~Cop~~
15/6/09. Dt= 16.6.09

22.6.09
W/S filed by
the Respondents No.
1 to 4.

22/6/09

W/S filed.

24.6.09

on rejoinder filed.
24.6.09

O.A.70/2009

25.06.2009

In this case a Written Statement dated 24.05.2009/dated 10.06.2009 has already been filed (on 22.06.2009) on behalf of the Respondent Nos. 1 to 4 through Addl. C.G.S.C. Mrs. Usha Das. A copy of the said Written Statement having been served on the Advocate for the Applicant on 02.06.2009, time till today was granted to the Applicant to file Rejoinder.

Respondents also filed a petition (M.P.No.58/09) seeking vacation/modification /alteration of the ad-interim order dated 21.04.2009 through learned Addl.S.C. for Central Government. On receipt of a copy of the said petition, time was taken on behalf of the Applicant to file objection thereto by today.

Call on 02.07.2009 for consideration of the M.P. No.58/2009.

(M.R. Mohanty)
Vice-Chairman

Call this matter on 04.08.2009 for orders.

(M.R. Mohanty)
Vice-Chairman

Rejoinder filed by
The applicant
against the W/S
filed by The respondents

29.6.09

A reply/W/S filed
by The applicant
against the instant
MP-58/2009 filed by 02.07.2009
The respondents

29.6.09

/bb/

W/S and Rejoinder
filed by the parties.

3.08.09

3.8.09

Reply to the Rejoinder
has been filed by the
Respondents through
U. Das, Addl. C.S.C. 8/8/09

O.A.70/2009

04.08.2009

Mr.A.Chomuah, learned counsel for the Applicant is present. Ms.U.Das, learned Addl. Standing counsel representing the Respondents is present.

Call this matter on 10.08.2009 for hearing as agreed to by the counsel for both the parties.

The case is ready for hearing.

7.08.09.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

10.08.2009


Heard Mr A. Chamuah, learned Counsel for the Applicant and Ms U. Das, learned Addl. Standing Counsel for the Union of India, and perused the materials placed on record.

20/8/09

Copy of Judgment and order dtd 10/08/09 send to the D/section for issuing to the Applicant & Respects, Nos 1 to 4. and free copies counsel for both side by Regd post.

nkcm

For the reasons recorded separately, the stands disposed of.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

D/No 9705 to ^{Dem} 20/8/09
9709
dtd 24/8/09

7x

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.70 of 2009

DATE OF DECISION: 10.08.2009

Sri Soumen Roy Chowdhury

.....APPLICANT(S)

Mr A. Chamuah

ADVOCATES FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

Mr Ms U. Das, Addl. C.G.S.C.

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Mr. M.R. Mohanty, Vice-Chairman

The Hon'ble Shri M.K. Chaturvedi, Administrative Member

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

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

P/

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.70 of 2009

Date of Order: This the 10th day of August 2009.

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri M.K. Chaturvedi, Administrative Member

Shri Soumen Roy Chowdhury,
S/o Late Sibesh Roy Chowdhury,
Resident of 395/75 RBC Road,
Rajbondigah, P.O.- Garifa (Naihati),
District- 24 Pargana (N),
West Bangal.

..... Applicant

By Advocate Mr A. Chamuah.

- versus -

1. The Union of India, represented by the
Commissioner and Secretary,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi-110001.
2. The Director
Intelligence Bureau,
North Block, New Delhi-1.
3. The Deputy Director
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Shillong, Meghalaya,
Kench's Trace, Laban, Shillong-793004.
4. The Assistant Directorate
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Shillong, Meghalaya,
Kench's Trace, Laban,
Shillong-793004

..... Respondents

By Advocate Ms U. Das, Addl. C.G.S.C.

.....

d/

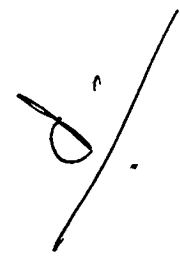
O.A.No.70/2009
ORDER (ORAL)
10.08.2009

M.K. CHATURVEDI, ADMINISTRATIVE MEMBER

By this O.A. No.70/2009 the Applicant makes a prayer that the principles of natural justice were violated, inasmuch as reasonable opportunity of being heard was not being given before passing the order dated 23.10.2008 for recovery of an amount of Rs.1,06,447/-.

2. We have heard Mr A. Chamuah, learned Counsel for the Applicant, Ms U. Das, learned Addl. Standing Counsel for the Union of India, and we have also meticulously examined the materials placed before us.

3. It transpires from the perusal of the records that arrears were recovered from the Applicant due to the audit objection. Mr A. Chamuah, learned Counsel for the Applicant, submitted that the basis for recovery of the said amount was not provided to the Applicant. The impugned order is based purely on presumption and surmises. It was alleged that the family of the Applicant was residing at Naihati (West Bengal) and his wife was visiting him occasionally at Shillong. His wife continued to stay at Naihati to look after the properties there. All these facts could have been explained, had proper opportunity of being heard been provided to the Applicant.




4. Ms U. Das, learned Addl. Standing Counsel for the Union of India, submitted that the recovery was initiated after the collection of materials and evidences against the Applicant. The landlord of the house in his certificate had clearly stated that the Applicant was living at Shillong alongwith with his family members.

5. In our opinion, all these factual aspects need to be examined. This was not done. Proper notices were not issued indicating the charges leveled against the Applicant. As such, the dictum of audi alteram partem was not followed in the true spirit. This, in our opinion, is a curable infirmity. We, therefore, direct the Respondents to provide all the necessary documents and papers which are being used in the departmental proceedings. Reasonable opportunity of being heard be provided to the Applicant and justice be done.

6. We, therefore, remit this matter to the Respondents with direction to provide fresh opportunity to the Applicant to represent his case pertaining to double House Rent drawn by him and as to why the same should not be recovered from him and, if necessary, to grant him a personal hearing in the matter.

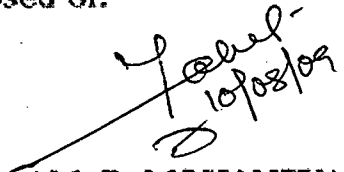
7. While giving opportunity to the Applicant to have his say in the matter, the Respondents should supply him the audit report (copies of which are placed as Annexure-2 to the Written Statement) and a copy of the enquiry report referred to in paragraph 2 at page 17 of the Written Statement; so that the Applicant will have the full picture that has been projected against him before making his representation.



8. Until these opportunities are given and a fresh order is passed after giving full opportunity to the Applicant, recovery of double House Rent Allowance should not be effected.

9. Accordingly, the O.A. stands disposed of.


(M. K. CHATURVEDI)
ADMINISTRATIVE MEMBER


(M. R. MOHANTY)
VICE-CHAIRMAN

nk m

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 70/2009

SHRI S. R. CHOWDHURY

.....APPLICANTS

-VERSUS-

UNION OF INIDA & OTHERS

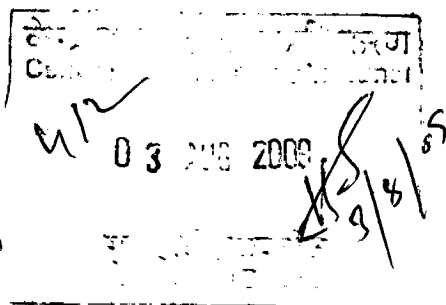
.....RESPONDENTS

IN THE MATTER OF:

Reply to the rejoinder filed by the applicant

- 1) That the respondent have received a copy of the rejoinder filed by the applicant through their Counsel and have gone through the same. Save and except the statements which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1, 2, and 3 of the rejoinder the respondents beg to offer no comment.
- 3) That with regard to the statement made in paragraph 4 of the rejoinder the respondents would like to refute the contention of the Applicant that the Memo dated 27.9. 2007 is not a regular triennial verification of the IB employees. Triennial verification in IB was never used for determining the admissibility of Addl. HRA to the Govt. employees. The Applicant has unnecessarily dragged unrelated matters to the case probably out of ignorance or with the motive to somehow add authenticity to the claims which is found to be incorrect. Moreover, Annexure 6 to 9 annexed to the Written Statement of the Respondent are the rules/regulations governing grant of Addl. HRA to Govt. servants posted in North-Eastern Region (NER) and other selected places for keeping their dependant family members at the last place of their posting in rented or owned house. It may be added for purpose of clarity on the modus-operandi of some of the unscrupulous Govt. servants that on their transfer to NER from outside the region, some of them initially keep their dependent family members at the last place of posting to facilitate sanction of Addl. HRA and later, clandestinely took their family members with them to their place of posting and continued to draw Addl. HRA falsely.

Filed by
the Respondents through
Alsha Das, B
Addl Cmsc
03/8/09



Received
Action Channel
Advocate
31/7/09

Subsidiary Intelligence Bureau,
(MHA), Govt. of India

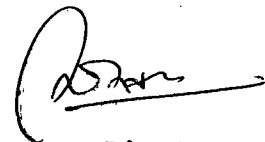
03 AUG 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

2

That apart, some of these Govt. servants, when caught in the act, dragged the Govt. to the Court of Law and demand natural justice on a platter. The present OA is no exception. Meanwhile, contrary to the allegations of the Applicant, the Respondent has stated in Para-07 of the Written Statement of the Respondent that the reply submitted by the Applicant vides his letter dated 12.10.2007 (Annexure-5 of the Written Statement of the Respondent) in response to the Memo dated 27.9. 2007 and application dated 27.10. 2008 (Annexure-12 of the Written Statement of the Respondent) was found to be incorrect.

- 4) That with regard to the statement made in paragraph 5 of the rejoinder the Respondents beg to submit that the Applicant drew inference from a single paragraph and arrived at a conclusion advantage to him without taking into consideration other relevant paragraph. The Respondent intentionally did not mention family members of the Applicant in Para-5 of Written Statement of the Respondent since it was mentioned in detail at Para-7 of the Written Statement of the Respondent. That the Applicant is aware of the instructions in the office Order dated 5.12. 2001 (Annexure-01 to the Written Statement of the Respondent) wherein he was directed to intimate change whenever it occurs to office which he failed to comply resulting in recovery of the entire amount of Addl. HRA already drawn. Therefore, he has no right to challenge the action of the Respondent since he himself failed to comply with the written instructions of the Respondent office.
- 5) That with regard to the statement made in paragraph 6 of the rejoinder the respondents beg to submit that the Applicant challenged the veracity of the two certificates (Annex-13 & 14 of Written Statement of the Respondent) in which Mr./Mrs. P.S. Kharsyntiew, r/o Laban, Shillong-793004 certified that the Applicant had stayed in their house at Laban, Shillong from May 2002 to July 2002 @Rs.1100/- pm and from Sept.2004 to May 2005 @ Rs.1300/-pm with his family members. Similarly, Smt. E. Nongkhlaw, Madan Laban, Shillong certified that the Applicant along with his son and wife stayed in her house as tenant @ Rs.1700/-pm from June 2005 till date. In spite of the argument put forth challenging the veracity of the two certificates, the Applicant failed to prove where he stayed with his family members during the aforementioned period. The Applicant is still living in the house of Smt. E. Nongkhlaw in Madan Laban, Shillong even today.



Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

03 AUG 2009

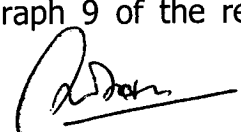
मु. प्र. नि. ब. प्र. नि. ब.

That the Respondent beg to submit that the 2 certificates are obtained from the House owners of the Applicant in Shillong and not from people in whose house he was not living as tenant.

That the Respondent also would like to submit that 19 documentary evidences including two certificates issued by the house owners of the Applicant are annexed with the Written Statement of the Respondents to prove that the Applicant has continued to draw Addl. HRA on false ground.


That the Respondents beg to submit that in desperation, the Applicant invoked astrology & customs to explain away the apparent error in the OA for which even people of his own community might not be familiar with.

- 6) That with regard to the statement made in paragraph 7 of the rejoinder the respondents beg to submit that statement is his (the Applicant) presumption. As stated in Para-8 of the Written Statement of the Respondents, there is no proof to justify this claim. The Respondents neither showed nor concealed satisfaction at that stage and the Applicant continues to draw Addl. HRA as review of Addl. HRA cases involved a number of officers/staff of the office and it took sometime to come to the conclusion. Had the Respondent authority satisfied with the reply filed by the Applicant vide letter dated 12.10. 2007, there will not be legal tussle in the court of Law.
- 7) That with regard to the statement made in paragraph 8 of the rejoinder the respondents beg to submit that the Respondents beg to submit that the Applicant has not been able to established with credible documentary evidence that he along with his family members had not stayed in the house of Mr./Mrs. P.S. Kharsyntiew, r/o Laban, Shillong-793004 at Laban, Shillong from May 2002 to July 2002 & from Sept.2004 to May 2005 and in the house of Smt. E. Nongkhlaw, Madan Laban, Shillong from June 2005 till date. To the applicant, it was too short a period to collect evidences for substantiating his case after issue of alleged impugned Order dated 23.10. 2008 though the requisite evidences should have been with him since 2001 but a long gap to initiate recovery of inadmissible Addl. HRA. Had the continued drawal of Addl. HRA been genuine, there will not be any need for legal tag-of-war in the Tribunal. He is free to produce credible documentary evidences which he failed to do, so far.
- 8) That with regard to the statement made in paragraph 9 of the rejoinder the respondents beg to offer no comment.


Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

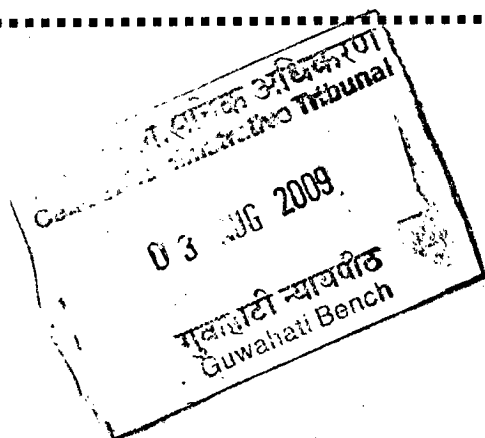
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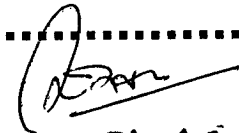
- 9) That with regard to the statement made in paragraph 10 of the rejoinder the respondents beg to submit that the question of dishonesty arose only because the Applicant chose to rely on unsubstantiated argument. He got Leave Travel Concession (LTC) for his wife from Kolkata to Shillong and back to Kolkata sanctioned as if she was actually staying in Kolkata whereas it has been proved that she stayed with the Applicant (her husband) in Shillong as indicated in Para-06 above and in Para-7 of the Written Statement of the Respondent. The Applicant is not revealing the truth and therefore, his dishonesty is there for all to see.
- 10) That with regard to the statement made in paragraph 11 of the rejoinder the respondents beg to submit that it is not necessary to strive about words because "a couple of days" and "4-5 months" do not convey same meaning.
- 11) That with regard to the statement made in paragraph 12 of the rejoinder the respondents beg to submit that the Respondents stand by the statement in Para-16 of the Written Statement of the Respondent that Applicant has been given reasonable opportunity of being heard. The Applicant is free to prove his claims with credible documentary evidences at any time whether before or after the alleged impugned Order so that further necessary action, if any, could be considered.
- 12) That with regard to the statement made in paragraph 12 of the rejoinder the respondents beg to submit that the Respondents would like to submit that the case of the Applicant as to whether continued drawal of Addl. HRA by the Applicant is correct or not is to be examined in its entirety and not only on a certain Memo or order.
- 13) That with regard to the statement made in paragraph 13 of the rejoinder the respondents beg to submit that the Applicant declared in Para-8 & 9 of the OA No.70/2009 that **'there is no remedy under any rule and this Hon'ble Tribunal is the only remedy'** after Charge Memo. No.26/Admn/2008 (8)-475-4830 dated 18.12.2008 (Annexure-18 of the Written Statement of the Respondent) was issued to him for starting departmental enquiry. He chose to approach the Tribunal at his own volition fully aware of the departmental enquiry which is in progress. The Applicant now chose to state that **'he is not misleading this Hon'ble Tribunal in any manner neither he has concealed anything from this court'** which is surprising considering the expertise with which he was able to draw conclusion from insufficient premises in Para-


 Assistant Director
 Subsidiary Intelligence Branch,
 (VHA), Govt. of India,
 SH-1

6 of the Rejoinder. The Applicant is not only misleading the Tribunal but also making contradictory statement as is evident from this Para alone.

- 14)** That with regard to the statement made in paragraph 15 of the rejoinder the respondents beg to submit that the action of the Respondent authority is base on facts and is therefore, just and fair.
- 15)** That with regard to the statement made in paragraph 16 of the rejoinder the respondents beg to submit that the Applicant being a responsible Govt. servant ought to have given correct statement in order to claim justice.
- 16)** That with regard to the statement made in paragraph 17 of the rejoinder the respondents beg to reiterate and reaffirm the statement made in paragraph 5 above.
- 17)** That with regard to the statement made in paragraphs 18 and 19 of the rejoinder the respondents beg to submit that it is true the Apex Court has delivered a number of judgments in the past setting aside wrongful recovery from the Govt. servants and set a precedent not to recover overpaid amount from salary/pensions etc. after a long period of time. The guiding principle in the judgments pertained to cases where the Govt. servant has not play any manipulative role/misstatement of facts in the error in fixation of pay/pension calculation etc. and the concerned Govt. authority erred independently of the Govt. servant in which case recovery of overpaid amount after a long period of time is not permissible. The present OA (70/2009) is totally different and did not qualify for the precedent set by the Apex Court. Therefore, the OA deserved to be dismissed with cost.

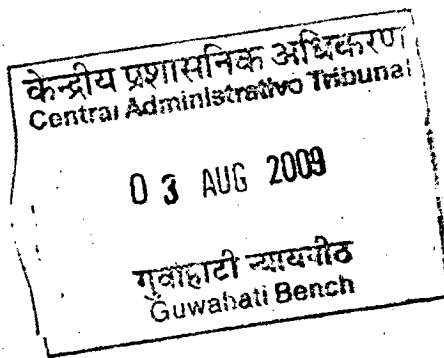


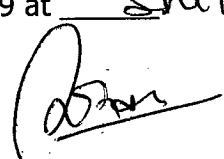

Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

VERIFICATION

I, Shri Surinder Mohan aged about 55 years at present working as Assistant Director, SIB (MHA) Govt. of India Shillong, 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 No. 1 to 17 are true to my knowledge and belief, those made in paragraph No. being matter of records, are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification this 29th day of July 2009 at Shillong




Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
M.P. No. 58 of 2009
In OA NO. 70/2009
Shri S.R.Chudhury

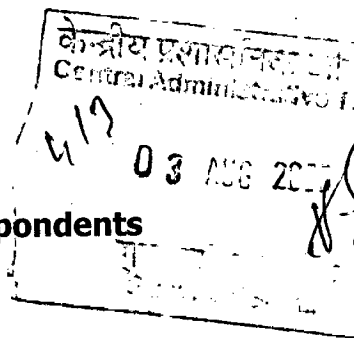
.....Applicant

-versus-

Union Of India & others

.....Respondents

IN THE MATTER OF:

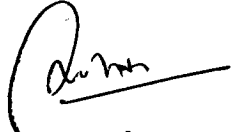


Reply to the Reply/Written Statement filed by the applicant in the M.P.

- 1) That the respondents have received a copy of the Reply/Written Statement filed by the applicant through their Counsel and have gone through the same. Save and except the statements which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 2 the Reply/Written Statement filed by the Applicant the Respondents would like to refute the contention of the Applicant in Para-04 of the Rejoinder that the Memo dated 27.9. 2007 is not a regular triennial verification of the IB employees. Triennial verification in IB was never used for determining the admissibility of Addl. HRA to the Govt. employees. The Applicant has unnecessarily dragged unrelated matters to the case probably out of ignorance or with the motive to somehow add authenticity to the claims which is found to be incorrect. Meanwhile, contrary to the allegations of the Applicant, the Respondent has stated in Para-07 of the Written Statement of the Respondent that the reply submitted by the Applicant vides his letter dated 12.10.2007 (Annexure-5 of the Written Statement of the Respondent) in response to the Memo dated 27.9. 2007 and application dated 27.10. 2008 (Annexure-12 of the Written Statement of the Respondent) was found to be incorrect.

It is true that the Internal Audit Part (IAP), MHA directed the Respondent office and the same was complied by the Respondent office since the Applicant has already given unsatisfactory reply vide his application dated 12.10. 2007. The Applicant himself admitted that he was served Memo dated 27.9.2007 and that he had replied vide his application dated 12.10. 2007. Therefore, the allegation that he was not given opportunity of being heard prior to issue of the Order is not correct and is baseless.

Received
Shri Chandra
Advocate
31/7/09


Assistant Secretary
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

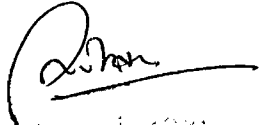
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3) That with regard to the statement made in paragraph 3 of the Reply/Written Statement filed by the Applicant the Respondents beg to submit that the Applicant may not have furnished wrong information at the time of applying for grant of Addl. HRA for keeping his family at the last place of posting (Kolkata) and Addl. HRA was sanctioned to him accordingly vide Order dated 5.12. 2001. It may be added for purpose of clarity on the modus-operandi of some of the unscrupulous Govt. servants that on their transfer to NER from outside the region, some of them initially keep their dependent family members at the last place of posting to facilitate sanction of Addl. HRA and later, clandestinely took their family members with them to their place of posting and continue to draw Addl. HRA falsely. That apart, some of these Govt. servants, when caught in the act, dragged the Govt. to the Court of Law and demand justice on a platter. The present OA is no exception.

That the Respondent beg to submit that it is true the Apex Court has delivered a number of judgments in the past setting aside wrongful recovery from the Govt. servants and set a precedent not to recover overpaid amount from salary/pensions etc. after a long period of time. The guiding principle in the judgments pertained to cases where the Govt. servant has not play any manipulative role/misstatement of facts in the error in fixation of pay/pension calculation etc. and the concerned Govt. authority erred independently of the Govt. servant in which case recovery of overpaid amount after a long period of time is not permissible. The present OA (70/2009) is totally different and did not qualify for the precedent set by the Apex Court. Therefore, the ad-interim relief deserved to be vacated/modified.

It is not a notion but fact which the Applicant failed to refute with credible evidence. As stated in Para-6 of the Misc. Petition of the Respondent, the Applicant has not come before the Tribunal with clean hand and hence, he is not entitled to any relief as claimed in the OA.

4) That with regard to the statement made in paragraph 4 of the Reply/Written Statement filed by the Applicant Respondents beg to submit that as per the Ad-Interim Order of the Hon'ble Tribunal, recovery of inadmissible Addl. HRA already drawn by the Applicant has been stopped from the Month of May 2009. Therefore, it is humbly prayed that under the aforementioned circumstances, the Hon'ble Tribunal may please vacate/modify/alter/recall the ad-interim order dated 21.4. 2009 passed in OA No.70/2009 as deem fit.


Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
B-1, Connaught Place,
New Delhi - 110028

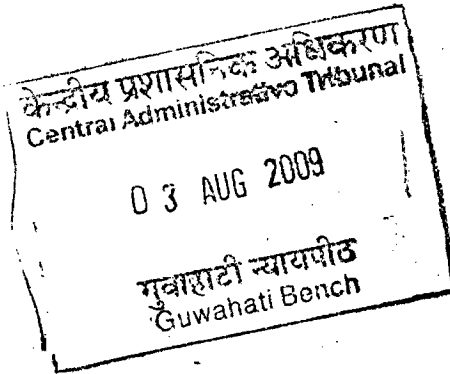
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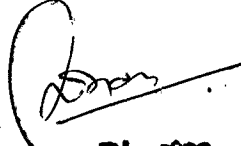
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VERIFICATION

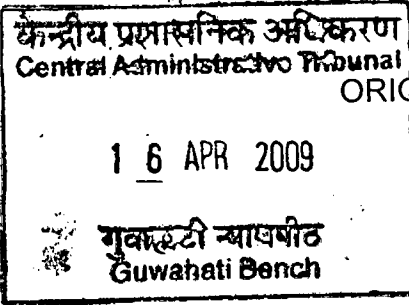
I, Shri Surinder Mohan aged about 55 years at present working as Assistant Director, SIB (MHA) Govt. of India Shillong, who is one of the respondents and taking steps in this case, being duly authorized and competent to sign this verification for all respondents, do hereby solemnly affirm and state that the statement made in paragraph No. 1 to 4 are true to my knowledge and belief, those made in paragraph No. being matter of records, are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification this 29th day of July 2009 at Shillong -




Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH



ORIGINAL APPLICATION No. 70 2009

Sri Soumen Roy Chowdhury

Applicant

Versus

The Union of India & Ors

Respondents

SYNOPSIS

The applicant is an employee in the Subsidiary Intelligence Bureau (SIB) and presently posted in Shillong, Meghalya. The applicant before posted in Shillong was working at his home town i.e. at Naihati, West Bengal. But his family i.e. his mother, wife and the son were living at Naihati since 2001. The applicant is eligible for additional HRA as per the provision contained in the Office Memorandums i) vide M.O.F. O. M. No. 11016/1/E-11 (B)/84 dated 29.03.84, ii) Vide M.O.F. O.M. No. 11014/1/84-E11 (B) dated 08.03.88 and iii) O.M. No. 2(38)/2001-E.II(B) dated 24/09/2003 and he applied for the same. His application for additional HRA was considered and granted vide order dated 05/12/2001 and since then the applicant is withdrawing the Additional HRA. In the Year 2006 the applicant had brought his son to Shillong from Naihati, WB for his Schooling. However, his wife stayed at his previous place of posting i.e. at Naihati, WB since it is very much necessary to stay one person at his ancestral house to look after his ancestral property. But it is also admitted that the wife of the applicant used to visit Shillong once in a year, basically during summer season, by taking calendar year LTC from the department of the applicant. It is also pertinent to mention herein date the son of the applicant used to stay most of the time at Naihati, WB with his mother. That apart, the old age mother of the applicant was at Naihati, WB until her death i.e. upto 2004.

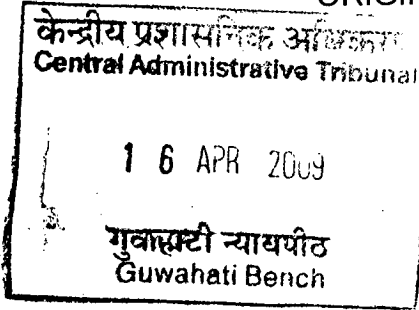
But surprisingly, on 23/10/2008 the Respondent No.4, referring to the advice of the internal audit party, issued a letter/memo [Annexure 4 (series)] to the applicant along with some other staff curtailing the additional HRA granted to the applicant and ordered for recovery of the same @ Rs.5740/- per month from his monthly salary. The applicant has never given a reasonable opportunity of being heard and the decision to curtail the additional HRA is unilateral and out and out illegal. The applicant filed representation before the appropriate authority which had been neither considered nor disposed of by the Respondents Authority. Being aggrieved, the applicant prefers to file this OA before this Hon'ble Tribunal.

Filed By
Ashim Chamuah
Ashim Chamuah
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH

ORIGINAL APPLICATION No. 70 2009



Sri Soumen Roy Chowdhury

Applicant

Versus

The Union of India & Ors

Respondents

LIST OF DATES

<u>Sl. No.</u>	<u>DATES</u>	<u>PARTICULARS</u>
01.	05.11.2001	Applicant transferred from Naihati, WB to Shillong
02.	05.12.2001	Applicant was allowed to draw Additional HRA (Annexure-1, Page <u>13</u>).
03.	19.06.2002	Applicant was transferred to Dawki from Shillong.
04.	17.08.2004	Applicant transferred from Dawki to Shillong.
05.	27.09.2007	Memorandum to all concern seeking details of family members staying at previous place of posting, (Annexure-2, Page <u>14</u>).
06.	12.10.2007	Applicant submits details (Annexure-3, Page <u>15</u>).
07.	23.10.2008	Impugned letter/memo curtailing the additional HRA and also ordered for recovery of Rs. 1,14,797/- (Annexure-4, Page <u>16</u>).
08.	27.10.2008	Applicant filed representation seeking reasons for such impugned order praying to give an opportunity of being heard. (Annexure-5, Page <u>18</u>).
09.	06.11.2008	Show Cause letter to the applicant to initiate Departmental Proceedings against the applicant. (Annexure-8, Page <u>29</u>).
10.	18.12.2008	Reply to the Show Cause letter filed by the applicant. (Annexure-9, Page <u>30</u>).
11.	18.12.2008	Memorandum dated 18.12.2008 departmental proceeding initiated along with Articles of Charge. (Annexure-10 Series, Page <u>32</u>).

Filed By
Ashim Chamuah
Ashim Chamuah
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH

ORIGINAL APPLICATION No. 70 2009

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Sri Soumen Roy Chowdhury

Applicant

Versus

The Union of India & Ors

Respondents

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Filed by

Ashim Chamuah
Advocate

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH

ORIGINAL APPLICATION No. 70 2009

Soumen Roy Chowdhury

Filed By Me

Applicant through

Sim Channuel

Advocate

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Sri Soumen Roy Chowdhury

Son of Late Sibesh Roy Chowdhury

Resident of 395/75 RBC Road

Rajbondigah, PO Garifa (Naihati),

District 24 Pargana (N), West Bengal,

India

Presently posted at

SIB, Shillong

Kench's Trace

Laban, Shillong, Meghalaya

_____ Applicant

Versus

1. The Union of India

Represented by the Commissioner

& Secretary, Ministry of Home

Affairs, Government of India, NORTH BLOCK,
New Delhi, India. PIN - 110001

2. The Director

Intelligence Bureau

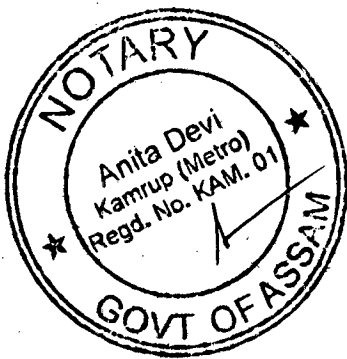
North Block, New Delhi-1

3. The Deputy Director

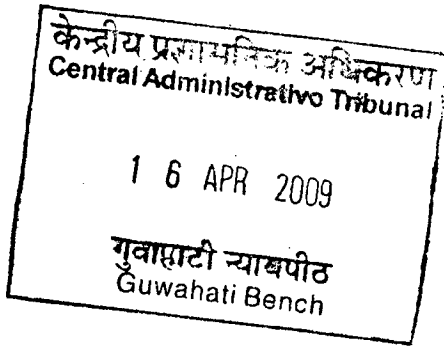
Subsidiary Intelligence Bureau

(Ministry of Home Affairs, Govt. of

India), Shillong, Meghalaya, Kench's Trace
Laban, Shillong.
PIN 793004



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Soumen Roy Chowdhury



4. The Assistant Director/E

Subsidiary Intelligence Bureau
(Ministry of Home Affairs, Govt. of
India), Shillong, Meghalaya, KENCH'S TRACE,
LABAN
PIN 793004 ✓

_____ Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE

This application has been preferred against an impugned order vide No. E-7/2008 (1)-4250 dated 23/10/2008 passed by the Assistant Director/E, Subsidiary Intelligence Bureau, Shillong (herein after referred to as SIB) cancelling the order of Additional House Rent Allowance (HRA) of the applicant with immediate effect alleging that no family members of the applicant is staying in his previous place of posting either in rented accommodation or in own house and hence the applicant is not entitled to additional HRA. But strangely, the respondent authority neither issued any notice to show cause why his additional HRA should not be curtailed nor he was given any opportunity of being heard. The applicant did not get a chance to represent his case before the authority before passing the impugned order curtailing the additional HRA of the applicant; however, he filed several representations before the appropriate authority for reconsideration of the said impugned order.

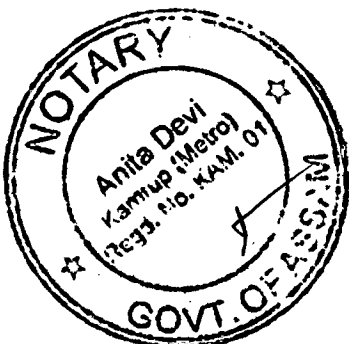
2. JURISDICTION OF THE TRIBUNAL

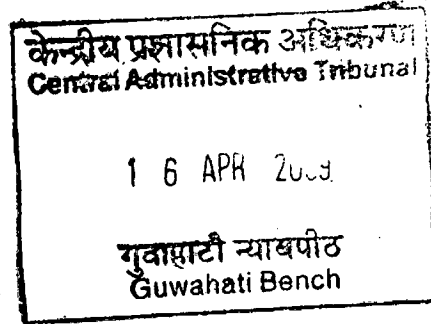
The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The Applicant declares that the application is within the limitation prescribed under section of the Administrative Tribunal Act 1985.

Continued to Page-3.





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Soumen Roy Chowdhury

4. FACTS OF THE CASE

4(A) That the applicant is working as a JIO-I/WT under the SIB and posted at Shillong. The applicant was transferred from West Bengal to Shillong vide transfer order dated 05.11.2001. Thereafter he had been transferred to Dawki on 19th June 2002. Then he had been called back to Shillong again on 17th August 2004 and since then the applicant is working in Shillong. It is very much pertinent to mention herein that the applicant never claimed TA for his family in any of the aforementioned transfer cases.

4(B) That since the son, wife and mother of the applicant was there in West Bengal i.e. at 395/75 RBC Road, Rajbondigah, PO Garifa (Naihati), District 24 Pargana (N), West Bengal the applicant on his first transfer from West Bengal to Shillong in the year 2001 did not claim TA for his family. Then the applicant applied for the additional HRA since he is eligible for additional HRA as per provisions contained in the Office Memorandum vide M.O.F. O. M. No. 11016/1/E-11 (B)/84 dated 29.03.84 and Vide M.O.F. O.M. No. 11014/1/84-E11 (B) dated 08.03.88. The authority after making enquiry had passed necessary order granting additional HRA to the applicant vide Memo No. E-7/2001 (1)-5006-6172 dated 5/12/2001 giving effect from 05.11.2001.

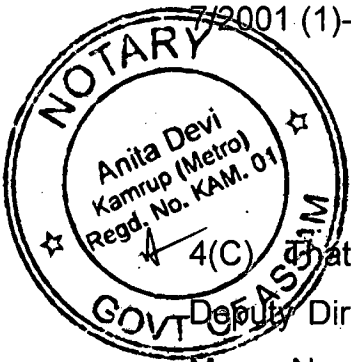
A copy of the said sanction letter vide Memo No. E-7/2001 (1)-5006-6172 dated 5/12/2001 is Annexed herewith and marked as Annexure 1.

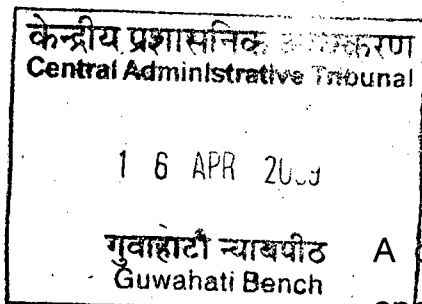
4(C) That the Drawing and Disbursing Officer under the instruction of the Deputy Director, SIB, Shillong issued a Memorandum to all concerned vide Memo No. 32/Accts-07(4)-906-4167 dated 27/09/07 to review of sanctions of Additional HRA granted to officers and staff members and all beneficiaries were directed to furnish details of family members staying in the previous place of posting for which Additional HRA is still paid.

A copy of the Memo dated 27/09/07 is annexed hereto and marked as Annexure-2.

4(D) That the applicant on receipt of the aforesaid memorandum filed his representation on 12/10/2007 with all relevant details as regard his family staying at Naihati, West Bengal. The Applicant stated that his wife stayed at Naihati, WB in his ancestral house, however, she use to visit Shillong time to time.

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Somen Roy Chowdhury

A copy of the said reply dated 12/10/2007 is annexed hereto and marked as Annexure-3.

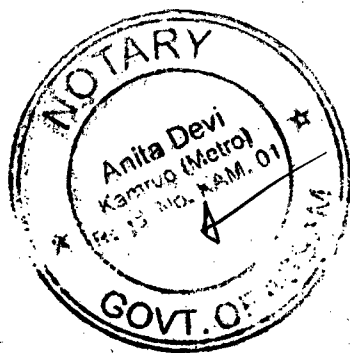
4(E) That the Respondents authority after receiving the said letter dated 12/10/2007 (Annexure-3 above) showed their satisfaction and the applicant was allowed to draw his additional HRA without any snag.

4(F) That the internal audit party of Ministry of Home Affairs (MHA) while doing their internal audit in SIB Shillong between 12-05-2008 to 16-05-2008 vide their Letter No. C-35012/CA/IWA/MHA/Tech/IR-34/08-09/259-60 dated 25-06-2008 observed that the applicant is not entitled to additional HRA and upon having such advice the Assistant Director/E, SIB Shillong issued the impugned letter to the applicant along with some other staff curtailing the additional HRA granting to him/them Vide No. E-7/2008 (1)-4250 dated 23/10/2008 and ordered recovery of the additional HRA, which had already been drawn.

A copy of the said impugned letter dated 23/10/2008 is annexed hereto and marked as Annexure 4 (Series).

4(G) That after receiving the aforesaid impugned letter/memo [Annexure 4 (Series) above] the applicant immediately filed a representation vide letter dated 27/10/2008 seeking reasons as to why his additional HRA has been cancelled without asking for any explanation from him and without any basis and prayed before them to stay the said impugned order. The authority did not deem it appropriate to explain the basis of such unilateral decision. After much persuasion by the applicant before the authority not to curtail his additional HRA the authority remained indifferent and curtailed the additional HRA and also started recovery of the additional HRA which the applicant has already drawn since 2001, which is out and out illegal, malafide, arbitrary and perverse to the established principles of service law.

A copy of the letter dated 27/10/2008 is annexed hereto and marked as Annexure 5.



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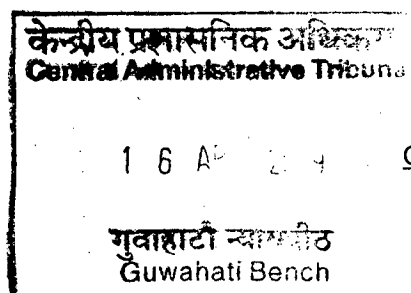
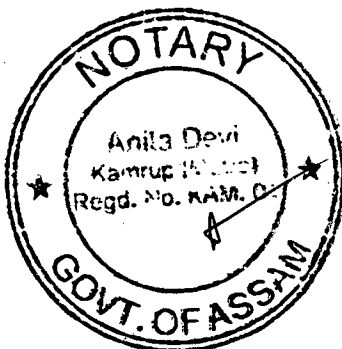
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Somen Roy Chowdhury

4 (H) That according to the calculation of the Respondents Authority the applicant has already withdrawn a sum of **Rs. 1,14,797/-** (Rupees one Lac Fourteen Thousand Seven Hundred ninety Seven) only as additional HRA since 05/11/2001 for which he was not entitled to and hence the authority, by the impugned order dated 23/10/2008, has started recovery of the said sum from the month of November 2008 @ **Rs. 5,740/-** (Rupees Five Thousand Seven Hundred Forty) per month from the monthly salary of the applicant, however, as per the annexure of the impugned order dated 23/10/08 [Annexure 4 (Series) above] the authority showed the inadmissible amount as **Rs. 1,06,447/-**, which had been subsequently changed to **Rs. 1,14,797/-** by another memorandum Vide No. 32/Accts-2007(13)-840-4380 dated 07/11/08 for the reason best known to them, proposing to deduct the aforesaid amount of **Rs. 1,14,797/-** in 20 instalments @ **Rs. 5,740/-** for 19 months and **Rs. 5,737/-** for 1 month but the said change in total amount has not been explained in the memorandum dated 07/11/08.

Photocopies of the Salary Slip for the Month of November 2008 and March 2009 are annexed hereto and Marked as Annexure 6 (series) and Memo dated 07/11/08 is annexed hereto and marked as Annexure 6A.

4(I) That the applicant has his ancestral property in West Bengal i.e. at 395/75 RBC Road, Rajbondigah, PO Garifa (Naihati), District 24 Pargana (N), West Bengal and that needs guardian to look after. So the wife of the applicant along with their only son and old age mother of the applicant used to stay at West Bengal since 2001. But it is also an admitted fact that the wife and the son of the applicant used to visit Shillong once in a year taking calendar year LTC from the Department.

4(J) That it is very much obvious that the family members of the applicant shall visit the present place of posting of the applicant i.e. Shillong and shall stay with the applicant for couple of days. And such occasional visit of the son and the wife of the applicant for couple of days basically during summer season, can not, in any manner, be construed as permanent staying in Shillong with the applicant.



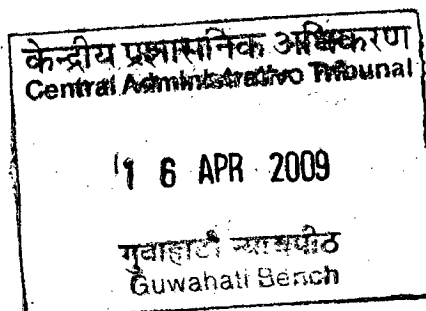
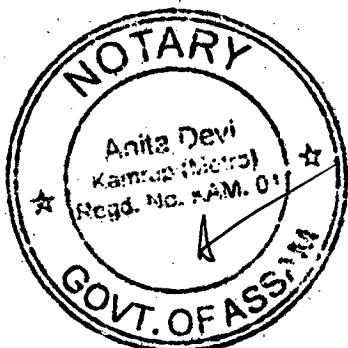
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4(K) That the applicant has enough proof in his hand that his wife is staying in his previous place of posting at Naihati, WB since 2001. But in the year 2006 the son of the applicant has been brought to Shillong for giving admission in Kendriya Vidyalaya, Shillong for his schooling but the wife of the applicant is still staying at the previous place of posting. The applicant would like to adduce some of the Medical Practitioner's prescriptions and one certificate from the Councillor of the Naihati Municipality which are sufficient to show that the wife of the applicant has been staying at Naihati, WB.

Copies of the Medical Practitioner's Prescriptions along with Certificate of Permanent residency are annexed herewith and marked as Annexure 7 (Series).

4 (L) That it is very much important to give details about the visit of the applicant's wife and his son. The son of the applicant was brought to Shillong in the month of April 2006 to give admission in the Kendriya Vidyalaya, Shillong. Thereafter, in the month of May'06 he had been sent to Naihati, WB on account of summer vacation and he came back on June 2006 and stayed with the applicant up to September 2006 and again went back to Naihati, WB in the month of October 2006 on account of Durga Puja. After the reopening of Durga Puja vacation the son of the applicant used to stay at Shillong up to December 2006 and then went back to Naihati, WB on account of Winter Vacation, since there is no system of examination for the students of Preparatory, Class I & II so the son of the applicant need not to stay in Shillong after winter vacation and in this way the son of the applicant resides in Shillong and Naihati, WB.

It is pertinent to mention herein that before the year 2006 the son of the Applicant was continuously staying with his mother at Naihati, WB and used to visit Shillong taking Calendar year LTC from the department of the applicant. That apart, the old age mother of the applicant was also continuously staying at Naihati, WB upto 2004 and she died in the said year.



Continued to Page-7.

4(M) That the Respondents Authority did not deem it necessary to dispose of the representation filed by the applicant vide dated 27/10/08 (Annexure-5 above) and on the contrary the applicant was served with a Memorandum vide No. 26/Admin/2008(8)-441-4258 dated 06/11/08 directing him to show cause as to why Departmental action should not be taken against him for preferring false Additional HRA. The applicant filed his reply on 18/12/2008 in the morning at about 10.30 am but surprisingly he was served with another Memorandum in the evening at about 4 pm Vide No. 26/Admin/2008(8)-475-4830 dated 18/12/2008 informing the applicant about a departmental proceeding initiated against him.

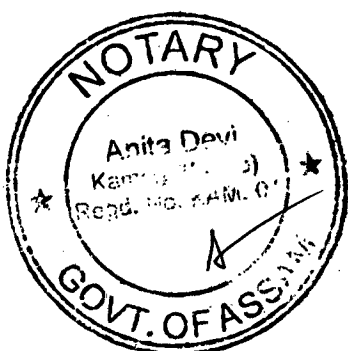
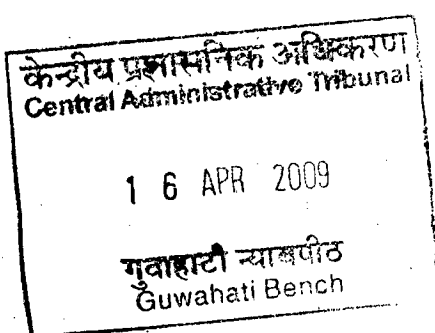
Copies of the Memorandum dated 06/11/08, reply dated 18/12/2008 and Memorandum Dated 18/12/2008 are annexed hereto and marked as Annexure 8, 9 & 10 (series) respectively.

4(N) That the applicant did not get a chance or opportunity to establish his case before the authority that his wife and his son are staying at Naihati, WB in as much as the authority did not give the applicant an opportunity of being heard and hence such unilateral decision is not only illegal, malafide but also contrary to the established principles of service jurisprudence and out and out violation of the Principles of Natural Justice.

4(O) That the applicant filed an application before this Hon'ble Tribunal being O.A. No.57/2009 but the said application was withdrawn on 31/03/09 due to some inadvertent reasons, however, liberty was granted by the Hon'ble Tribunal to file afresh.

A copy of the withdrawal order vide order dated 31/03/09 is annexed hereto and marked as Annexure-11

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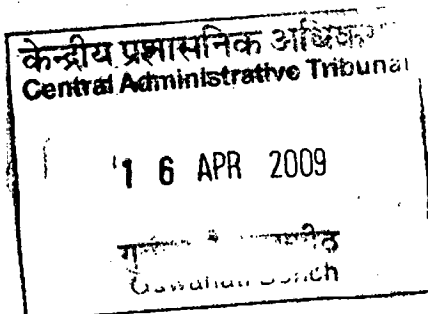
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Somen Roy Chowdhury

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS

5(a) That the authority has violated the Principles of Natural Justice by not giving a reasonable opportunity of being heard to the applicant to represent his case so such unilateral decision of the authority to curtail the additional HRA is not only illegal, malafide but also contrary to administrative fair play, hence the impugned letter dated 23/10/2008 is liable to be set aside and/or quashed and the subsequent departmental inquiry cant not stand a judicial scrutiny and hence liable to be stopped and/or abandoned.

5(b) That it is also an admitted fact that in the year 2006 the son of the applicant has been taken to Shillong for his schooling and the wife of the applicant used to come to Shillong for occasional staying, however, the wife of the applicant used to stay permanently at Naihati, WB to look after the ancestral property of the applicant. So the occasional staying of the wife of the applicant can not, in any manner, be construed as permanent staying in Shillong with the applicant. That apart, the son of the applicant has been taken to Shillong in the year 2006 only until then they were at Naihati, WB. So for the sake of argument, if it is assumed, but not admitted, that the applicant is not entitled to his additional HRA since his son is with him and the wife used to stay with him occasionally then also the order for recovery of entire additional HRA since 2001 is illegal and disproportionate and can not stand a judicial scrutiny, that apart, the old age mother of the applicant was also staying at Naihati, WB upto 2004 i.e. until her death, hence the impugned order dated 23/10/2008 is liable to be set aside.

5(c) That the authority flouting all norms of the administrative fair play and principles of natural justice without giving an opportunity to prove that whether the wife of the applicant is with the applicant or at Naihati WB, the authority issued the impugned letter dated 23/10/2008 [Annexure 4 (Series)] curtailing the additional HRA is illegal, arbitrary, perverse and contrary to the administrative fair play and hence liable to be set aside along with its subsequent action.



Continued to Page-9

5(d) That the applicant is entitled to his additional HRA as per the provision contained in the Office Memorandums i) vide M.O.F. O. M. No. 11016/1/E-11 (B)/84 dated 29.03.84, ii) Vide M.O.F. O.M. No. 11014/1/84-E11 (B) dated 08.03.88 and iii) O.M. No. 2(38)/2001-E.II(B) dated 24/09/2003.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant stated that there is no remedy under any rule and this Hon'ble Tribunal is the only remedy.

7. MATTER NOT PENDING BEFORE ANY COURT OF LAW

The applicant declares that there is no case pending before any other court of law or Tribunal pertaining to the same subject matter between the same parties.

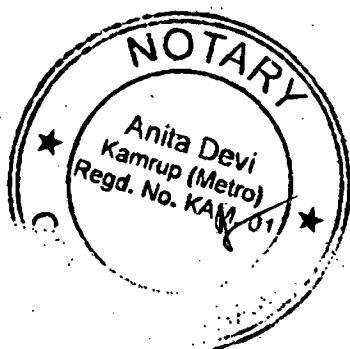
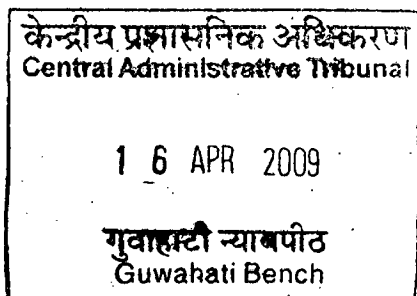
8. RELIEF SOUGHT FOR

In the above facts and circumstances of the case the applicant prays for the following relief (s):-

8(i) The Order dated 23/10/2008 along with the order of recovery of additional HRA by the applicant for **Rs. 1,14,797/-** in all total 20 instalments @ Rs. 5,740/- for 19 months and Rs.5,737/- for 1 month (Annexure-4 Series, Page 16) be quashed and/or set aside.

8(ii) The respondent be directed to allow the applicant to draw the additional HRA as drawing before passing the impugned order.

8(iii) The respondent authority be directed to refund the amount already recovered from the Salary of the applicant since November 2008 upto date.



Continued to Page-10.

9. INTERIM RELIEF

In the above facts and circumstances the applicant prays for an interim order staying the operation of the order dated 23/10/2008 (Annexure-4 series) and pending disposal of this application the Respondents Authority be directed to stop recovery of Rs. 1,14,797/- in all total 20 instalments @ Rs. 5,740/- for 19 months and Rs.5,737/- for 1 month.

10. That this application is filed through Lawyer.

11. PARTICULARS OF POSTAL ORDER

IPO No. — 69E-999092, 351033, 344169

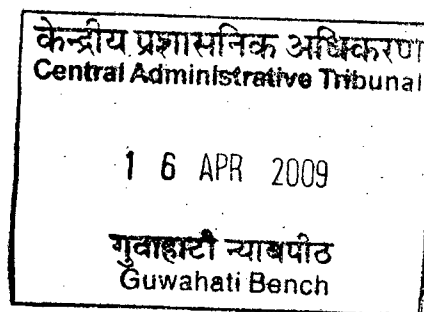
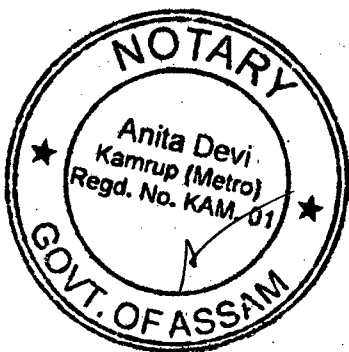
Date of Issue: 16.4.09

Issuing Post office: GPO Guwahati

Issued in favour of : Central Administrative Tribunal, Gauhati Bench.

Value: Rs.50/- (Fifty) only

12. List of Enclosures as per index



37
Soumen Roy Chowdhury

VERIFICATION

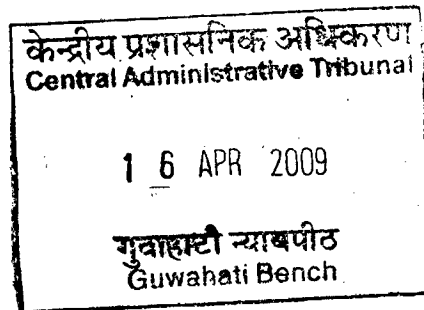
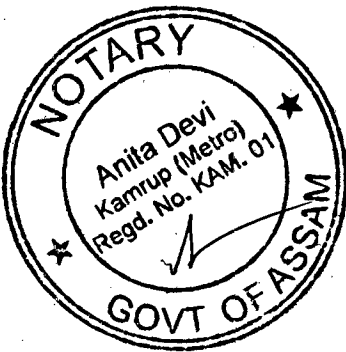
I, **Sri Soumen Roy Chowdhury**, aged about 43 years, Son of Late Sibesh Roy Chowdhury, resident of 395/75 RBC Road Rajbondigah, PO Garifa (Naihati), District 24 Pargana (N), West Bengal, India, do hereby solemnly affirm and verify that the statements made in the aforesaid paragraphs are true to the best of my knowledge, belief and information and I have not concealed anything material therefrom.

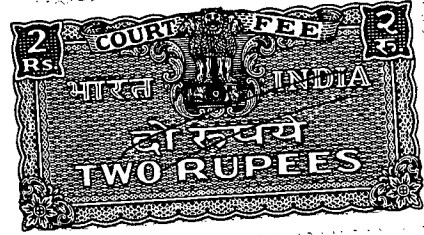
And I put my hand unto this verification on this 16 day of April 2009 in Guwahati, Assam.

Identified by

Advocate/ Advocate's Clerk

Soumen Roy Chowdhury
Signature/Deponent





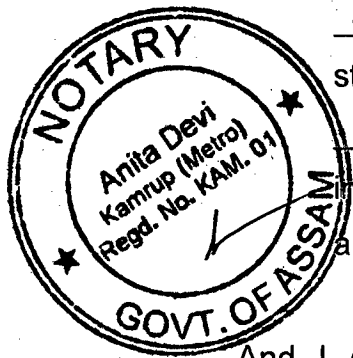
16/04/09

AFFIDAVIT

Soumen Roy Chowdhury

I, **Sri Soumen Roy Chowdhury**, aged about 43 years, Son of Late
Sibesh Roy Chowdhury, resident of 395/75 RBC Road Rajbondigah, PO Garifa
(Naihati), District 24 Pargana (N), West Bengal, India, do hereby solemnly affirm and
declare as follows:

1. That I am the applicant in the instant case as such I am well acquainted with the facts and circumstances of the case and I am authorised to swear this affidavit.
2. That the statements made in this affidavit and its accompanying petition's statements made in the paragraphs 1 2 3 4(A) to 4(E) 4(F) pt 4 (G) 4 H pt 4 (I) 4(J) 4(K) 4(L) 4(M) 4(N) 4(O) 5(a) to 5 (d) are true to the best of my knowledge and belief and the statement made in the paragraphs 4 (F) pt 4 (H) pt are information derived from the record which I believe to be true and rest are my humble submission before this Hon'ble Tribunal

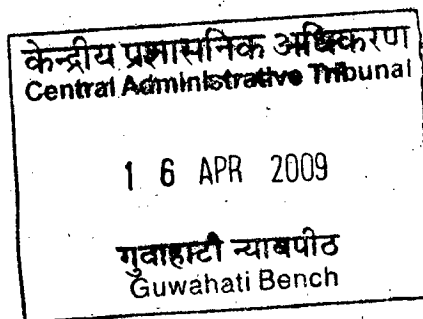


And I sign this affidavit on this 16th day of April 2009 at Guwahati.

Identified by

Mannil Das
16.4.09

Advocate's Clerk



Soumen Roy Chowdhury
Deponent

SOLEMNLY AFFIRMED AND DECLARED BEFORE
DEPONENT WHO IS IDENTIFIED

Anita Devi
(A. Devi)
NOTARY
KAMRUP (Metro) GUWAHATI

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Annexure 1

-13-36

Ref : (1) M.O.F. OM No.11016/1/E-11(B)/84 dated 29.03.84.
(2) M.O.F. OM No.11014/1/84-E11(B) dated 08.03.88.

In accordance with provisions contained in the M.O.F. OM. cited above the following officials of SIB, Shillong, are sanctioned Additional HRA at the rate of/with effect from the date indicated against each :-

Sl.No.	Name & Designation	Previous place of posting	Amount of Addl.HRS Sanctioned	Date from which sanctioned
--------	--------------------	---------------------------	-------------------------------	----------------------------

S/Shri

- | | | | | |
|----|----------------------------|--------------|-----------------------|------------|
| 1. | S.Roy Choudhury, JIO-II/WT | - Calcutta - | Rs.1113/-
LF-120/- | 5.11.2001. |
| 2. | B.K.Datta, JIO-I/WT | - Calcutta - | Rs.1620/-
LF-120/- | 5.11.2001. |
| 3. | P.Ghosh, AGIO-II/WT | - Calcutta - | Rs.1808/-
LF-181/- | 5.11.2001. |

The Additional HRA to the above mentioned officials have been sanctioned for retaining accommodation at the previous place of posting at the places mentioned against them, for bonafied use of the members of their families.

Sd/-

Joint Director.

No. E-7/2001(1) - 5086 - 6172
Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong.

Dated, the 05 DEC 2001

Copy to :

1. The Section Officer/A, SIB, Shillong (2 copies).

2. Shri ~~Person concerned.~~ SIB ~~Shillong.~~
He is informed that the Addl. HRA is granted on the conditions among other admissibility conditions that the hired private accommodation or owned house at the last place of posting is put to bonafide use of the members of the family. He should, therefore intimated any change of position, whenever it occurs to office.

3. P.F. of Shri _____

Certified by true copy

Advocate

Section Officer/E

Annexure - 2

No. 32/Accts-07(4)

Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong.

27 SEP 2007

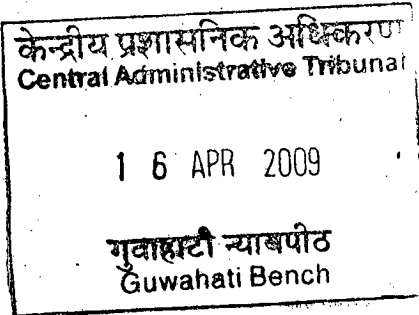
Dated, the

Memorandum

As desired by Deputy Director, SIB, Shillong, a review of sanctions of Addl. HRA to officers and staff members is to be undertaken. You are, therefore, asked to furnish details of family members staying in the previous station of your posting for which AHRA is still being drawn in your favour. While indicating the details of family members their income, if any, through salary/business/land/pension may be indicated. On receipt of details, as desired by Deputy Director, SIB, Shillong enquiries will be conducted to verify the fact.

↑
Sumit Sen,
Drawing & Disbursing Officer

✓ To,
Shri/Smti S.R. Choudhury, J10-I/57
(through AD/DCIO/SE/Tech.)



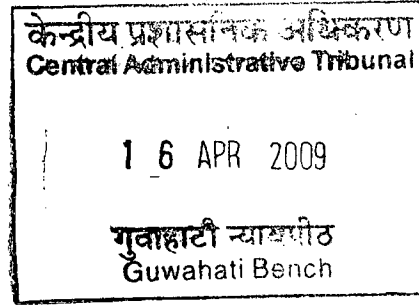
Certified by true copy

Advocate

Annexure - 3

- 15 -
38

To
The Drawing & Disbursing Officer,
SIB, Shillong.



(Through Proper Channel)

Sub : Furnishing details for drawing addl. HRA.

Ref : SIB Shillong Memo No.32/Accts-07(4)-906-4167 Dtd. 27-09-2007

Sir,

With reference to your above cited memo Dtd Sept 27,07 regarding review of Addl. HRA.

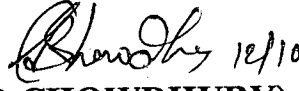
It is submitted that my family live in the following address :-
395/76 R.B.C Road, Rajbondigarh, PO- Garifa, (Naihati) Dist- 24 Pgs(N) (W.B) .Though my wife resides there, she visits Shillong time to time and stays with me about 4-5 months. She is a house wife and fully dependent upon me . During my leave also I reside there. All my belongings /furniture etc. are also housed there.


I have neither drawn any transfer facility in respect of my family members, nor claimed block year LTC for my family members. I usually avail of calendar year LTC.

This is for favour of your kind information and necessary action please.

Thanking You Sir.

Date : 12-10-2007
TP Section.

Yours faithfully,

(S.R.CHOWDHURY)
JIO-I/WT
SIB, Shillong.

Certified by true copy

Advocate

No.E-7/2008(1)- 4250
Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong-793004

Dated the 23 OCT 2008

To,

The Pay & Accounts Officer,
Intelligence Bureau,
Government of India,
New Delhi

The Regional Pay & Accounts Officer
Intelligence Bureau,
Govt. of India,
Shillong

I am directed to convey sanction of the Competent Authority cancelling sanction Orders (as indicated against their names) sanctioning Addl. HRA to the following officers/staff of SIB Shillong with immediate effect:

Sl. No.	Name & Designation	Order No. & Date
1.	Shri Deepak Jha, ACIO-I/G	No.E-7/98(1)-1652-2360 dated 29.4. 1998
2.	Shri Subrata Das, ACIO-I/G	No.E-7/02(1)-2294-2916 dated 3.7. 2003
3.	Shri Prabhat Kumar, Assistant (now SO)	No.E-7/02(1)-376-414 dated 28.1. 2003
4.	Shri S.R. Choudhury, JIO-I/WT	No.E-7/01(1)-5006-6172 dated 5.12. 2001
5.	Shri Aloke Chattopadhyay, UDC	No.E-7/06(1)-1319-1408 dated 29.3. 2006

2. The Internal Audit Party of MHA which inspected the office of the Deputy Director, SIB Shillong from 12.5. 2008 to 16.5. 2008 observed at Para-4 of their letter No.C-35012/ CA/ IWA/ MHA/Tech/IR-34/08-09/259-60 dated 25.6. 2008 that five of the officers/staff of SIB Shillong as indicated above are not eligible to draw Addl. HRA as per Rules and Procedure to concerned matters and advised the office to stop payment of addl. HRA to them and take necessary steps to effect recovery of the inadmissible amount of Addl. HRA drawn by the officials as per annexure enclosed.

Assistant Director/E

Copy to:-

1. The Assistant Director/Cash-III, IB Hqrs., New Delhi with a request to effect recovery as per annexure enclosed in r/o Shri Prabhat Kumar, Section Officer, (Sl. No.3 above) presently posted at IB Hqrs., New Delhi under intimation to us.
2. The Section Officer/Accounts, SIB Shillong. Recovery as per annexure enclosed in r/o Sl. No.1,2,4 & 5. Compliance of audit para may be sent to SO/Admn., SIB Shillong.
3. Shri Prabhat Kumar, Section Officer/MP, IB Hqrs., New Delhi through AD/MP, IB Hqrs., New Delhi.
4. Shri Deepak Jha, ACIO-I/G, SIB Shillong.
5. Shri Subrata Das, ACIO-I/G, Nongpoh unit.
6. Shri S.R. Choudhury, JIO-I/WT, SIB Shillong through DCIO/T, SIB Shillong.
7. Shri Aloke Chattopadhyay, UDC, SIB Shillong through DCIO/NGO.
8. PF of the persons concerned.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Certified by true copy
Advocate

Signature
23 x 07
Assistant Director/E

Sl. No.	Name & Designation S/Shri	Period	Amount drawn	No. of months
1.	Deepak Jha, ACIO-I/G	4/98 to 9/04 10/04 to 8/05 9/05 to 3/08	@ 973/- @ 851/- @ 1277/-	78 mnts 11 mnts 31 mnts
2.	Prabhat Kumar, SO	16.1.03 to 31.1.03 2/03 to 9/04 10/04 to 9/05 10/05 to 3/08	@ 1216/- -do- @ 1035/- @ 1553/-	16 dys 20 mnts 12 mnts 30 mnts
3.	Alok Chattopadhyay, UDC	13.3.06 to 31.3.06 4/06 to 3/08	@ 2295/- -do-	19 days 24 mnts
4.	S.R. Choudhury, JIO-II/WT	5.11.01 to 30.11.01 12/01 to 9/04 10/04 to 9/05 10/05 to 3/08	@ 1233/- -do- @ 1113/- @ 1670/-	26 days 34 mnts 12 mnts 30 mnts
5.	Subrata Das, ACIO-I/G	Arr. AHRA. w.e.f. 26.5.03 to 30.6.03. 7/03 to 9/04 10/04 to 9/05 10/05 to 1/08	@ 2371/- @ 2190/- @ 3285/-	1 mth 6 days 15 mths 12 mths 28 mths

Certified by true copy

Advocate

केन्द्रीय प्र
Central Adi

11

गुवा
Gu

To
The Assistant Director /E
SIB, Shillong , (MHA)

(Through proper channel)

Sub : Request for reconsideration of recovery of Addl. HRA claim.

Sir,

With due respect I am to state that vide SIB Shillong memo No. E.7/2008(1)-4250 dated 23/10/2008 it has been intimated that I am ineligible to draw Addl. HRA w.e.f 5.11.2001 .


In this connection , I would like to mention that I joined SIB Shillong on transfer from SIB Kolkata on 5.11.2001. My wife was staying at my previous place of posting , i.e 394/75 RBC road , Rajbondigarh, PO- Garifa dist 24 pgs(N) WB. for which I claimed my Addl. HRA .After proper necessary enquiry my additional HRA was sanctioned by competent authority vide SIB Shillong order NO. E.7/01(1)-5006-6172 dated 5.12.2001 .

Therefore it is requested that kindly convey me the ground on which the audit party has decided about my inadmissibility of drawing addl. HRA. And same may please be communicated at the earliest so that I could represent my case to the higher formations.

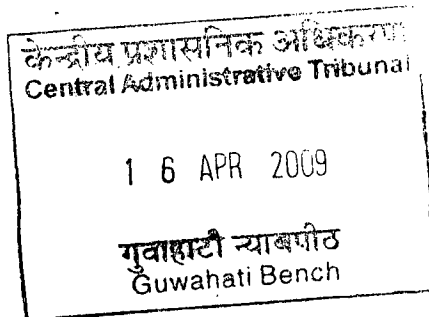
I further request that any deduction to this effect may kindly be withheld till my representation are logically concluded by the senior formations.

Thanking you sir,


Yours faithfully.


S.R.CHOWDHURY 27/10
JIO-I/WT

Dated : 27.10.2008



Certified by true copy


Advocate

-19-

Annexure-6 Serise 1

SUBSIDIARY INTELLIGENCE BUREAU
SHILLONGकेन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

PAY SLIP FOR :- NOVEMBER 2008

NAME : S.R. CHOUDHARY, JTO-I

FIS NO. : 107546

1-6 APR 2009

RANK : JTO-I/WT
UNIT :
BRANCH : CONTROL ROOM
SCALE : E200-20200 (GP-2800)
GPF AC NO. : ND-1B-21196

BILL NO :
PAYMENT : BANK
SBI POLICE BAZAR
BANK A/C NO: 10851455495

गुवाहाटी न्यायाधीश
Guwahati Bench

ENTITLEMENTS DEDUCTIONS

BASIC PAY : 9020
GRADE PAY : 2800
MEDAL ALLOW : 0
PERSONAL PAY : 0
DEPUTATION PAY : 0
DEARNESS ALLOW : 1891
SPL. DUTY ALLOW : 0
HILL COM. ALLOW : 480
HRA ALLOWANCE : 2364
CONV. ALLOWANCE : 0
RATON MONEY : 761
ADD. HRA ALLOW : 0
TRANSPORT ALLOW : 928
CHEQU. ALLOW : 0

GPF SUB : 5000
INCOME TAX : 0
SURCHARGE : 0
H-R RECOV. : 0
C.G.E.G.I.S : 20
RECO. O.P : 5787
OTHER DEUC : 0
LF : 0
CGMS : 0
HREF : 60
RC : 0
MISC1 : 0
MISC2 : 0
MISC3 : 0

WARRANTY ALLOW : 0
BAGGAGE ALLOW : 0
HACU ALLOW : 0

ADVANCE : 0
UNPAID : 0

ADVANCE : 0
UNPAID : 0

ADVANCE : 0
UNPAID : 0

ADVANCE : 0
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UNPAID : 0

ADVANCE : 0
UNPAID : 0

ADVANCE : 0
UNPAID : 0

ADVANCE TOTAL : 1000

GROSS PAY : 21639

TOTAL DEDUCTIONS : 11835

NET PAY : 9803

N.B.:- FOR ANY DISCREPANCY KINDLY CONTACT ACCOUNTS BRANCH

ACCOUNTS BRANCH, SIB, SHILLONG

Certified by true copy
Advocate

1-6 April 2008

गुवाहाटी न्यायपीठ
Guwahati Bench



SUBSIDIARY INTELLIGENCE BUREAU

(MHA), Government of India, Shillong
Pay Slip for MARCH 2008

Certified by true copy

Advocate

NAME S R CHOUHURY

UNIT CONTROL ROOM

CPFN NO-19-21195

PISNO 107546 BANK NO

PAY BAND PD - SP01 20200

PAN

BANK AC No 10881456495

ENTITLEMENTS

Basic Pay	2020.00
Special Pay	0.00
Personal Pay	0.00
Grade Pay	2600.00
Dearness Allowance	1891.00
House Rent Allowance	2384.00
Deputation Allowance	0.00
HRA in lieu of Licence Fee	144.00
Additional HRA	0.00
Specil. Compensatory All.	0.00
Conveyance Allowance	0.00
Kit Maintenance All.	0.00
Washing Allowance	0.00
Cycle Allowance	0.00
Ration Money	861.00
Interim Relief	0.00
Transport Allowance	0.00
Medal Allowance	0.00
Mini Compensatory All.	485.00
Hardship Area All.	0.00
Uniform Allowance	0.00
Sp Security Allowance	1773.00
Island Special All.	0.00
Hardship Area All.	0.00
Other Allowance 1	0.00
Other Allowance 2	0.00
Sp. Charge Allowance	0.00

Receipts 21739.00

DEDUCTIONS

General Provident Fund	6000.00
Special P.F.	0.00
Family Benefit Fund	0.00
Benefit Fund	0.00
CGHS	0.00
GIS-CGEIS	30.00
Income Tax	0.00
Cess	0.00
Licence Fee	0.00
Recovery of Salary	5740.00
Recovery of CA	0.00
Recovery of TPA	0.00
NIC	0.00
I.B.R.F.	0.00
DA IN GPF	0.00
I.B. Relief Fund	60.00
Recreation Club	8.00
Thrift Society	0.00
Electricity	0.00
Other Deductions 1	0.00
Other Deductions 2	0.00
Other Deductions 3	0.00

Deductions 11839.00

ADVANCE DETAILS

Description	Principal Amt.	Current / Total	Installment Amount	Balance
-------------	----------------	-----------------	--------------------	---------

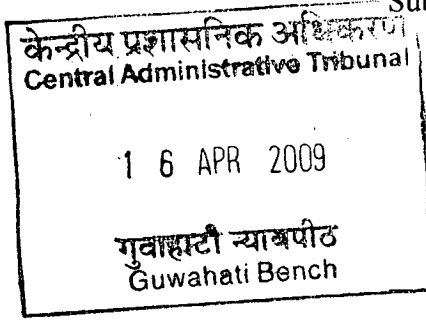
Gross Salary 21739.88

Total Deductions 11839.00

Net Salary 8899.88

(Rupees Nine Thousand Nine Hundred and)

Any Discrepancy / Correction may please be reported to Accounts Branch.



No.32/Accts-2007(13) - 840 - 4308
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

Dated, the

7 NOV 2008

MEMORANDUM

Please refer to SIB, Shillong order no.E-7/2008(1)-4250 dated 23.10.2008 regarding cancellation of sanction orders towards Addl. HRA in respect of officers/staff.

2. As desired by DD, the following amount mentioned against their name is to be deducted in 20 instalments w.e.f. Nov,2008 .

Name & Designation	Total recoverable	Inst. amount
1. Subrata Das, DCIO	156665	7835x17 + 7820x3
2. Deepak Jha, ACIO(IG)	124842	6245x18 + 6216x2
3. Alok Chattapadhyay, UDC	67,962	3398 x19 + 3400
4. S.R.Choudhury, JIO(I)WT	114797	5740x19 + 5737

This is for your necessary information please.

[Signature]
Section Officer/A

To

1. Shri Subrata Das, DCIO, SIB, Shillong
2. Shri Deepak Jha, ACIO(IG), SIB, Shillong
3. Shri Alok Chattapadhyay, UDC, SIB, Shillong
4. Shri S.R.Choudhury, JIO(I)WT, SIB, Shillong.

Certified by true copy

[Signature]
Advocate

Annexure - 7 Series

125-00

Rx

Mrs. Lampa Ray Choudhury

BF

Adm

25/11/05

Go Lymph Node
Sneezing
Scurf at

- " Cap Vizylac 1000PC
- " Bricanex ACP 1000-100
- " Aciloc AD 1000AC
- " Uniceptin 600mg 1000
- " Lorof (500) 1000PC

X 5 days

70up

Ref- 100/70

Chs Jaleps ⊕
Mandi ⊕

Sh
R/-

(Check up after 5 days)

© : 2580-2040

DURGA MEDICINE CORNER

448, R. B. C. ROAD, GARIFA, LALDIGHI, 24 PARGANAS (N)

(Near Garifa Boys School)

(Avoid Self Medication, Please Consult Doctor)

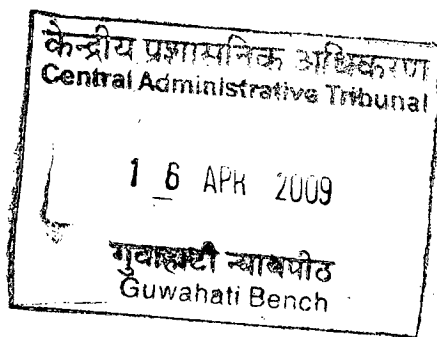
केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Certified by true copy

Advocate



Rx

Lampa R. Choudhury

R. Choudhury

11/7/07

7249

~~Tezine~~ „ Tezine 1m hb

①

10045 - 50

„ Azid (500) hb

②

10045 - 30

Ophim Nasaldrop

Sh

(RT)

☎ : 2580-2040

DURGA MEDICINE CORNER

448, R. B. C. ROAD, GARIFA, LALDIGHI, 24 PARGANAS (N)

(Near Garifa Boy's School)

(Avoid Self Medication, Please Consult Doctor)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 20

गुवाहाटी न्यायपीठ
Guwahati Bench

Certified by true copy

Advocate

Goutam Kr. Bose
B.A.M.S. (Cal.) M.A.I.G.P.A.

NAIHATI DRUG HOUSE
R.B.C. Road, Laldighi
Morning 9-30 to 12-30 p.m.
Evening 5-30 p.m. to 8 p.m.
Except Thursday Full
Friday & Saturday Morning.

RESIDENCE :
21/1/1, Sodgope Para Road,
Bhatpara, North 24 Parganas.
Bus Stopage : Kamala Store
☎ : 2581-3591
Visiting Hours :
Morning - 7 a.m. to 8 a.m.
Evening - 4 to 5 p.m.
(Except Sunday)

Not Available From 31/10/05 To 5/11/05

Date 19/10/05 at 12-35 P.M.

For Mrs. Pampa Roy Chowdhury, 28 Vm. #F

Adv.

Avoid spicy food.

99/99 NAF Powder

2 tp in the empty
stomach in the morning &
evening x 15 days



Tab Alcarex

2 tp in the morning
& evening after taking food.
x 15 days

99/99 Himcoacid Gel

2 tp after
lunch & dinner x 15 days

* Cap Ural

1 Cap Ural x 10 days

* Sp Merryton

99/99/99 2 tp Ural x 3 consecutive
(starting from 5th day of
menstruation)

♦ IN CASE OF EMERGENCY HOSPITALISATION SOS. ♦

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Certified by true copy

Advocate

Dr. Goutam Kr. Bose
B.A.M.S. (Cal), M-A.I.G.P.A

NAIHATI DRUG HOUSE

R.B.C. Road, Laldighi
Morning : 9.30 to 12.30 p.m.
Evening : 5.30 to 8 p.m.

Except Thursday Full
& Saturday Morning

Residence :
21/1/1, Sodgope Para Road,
Bhatpara, North 24 Pgs.
Bus Stopage : Kamala Store
Phone : 2581-3591

Visiting Hours :
Morning : 7 a.m. to 8 a.m.
Evening : 4 p.m. to 5 p.m.
(Except Thursday & Saturday)

Not Available From to

Date 8/06/08 6-10 P.M

For Pampa Roy Choudhury, 30 yrs, #F

for severe pain in
both knee joints since 2 to 3 yrs.
Painfull movement in knee joint
General weakness since 3 months.

Ref: 8-72/
B.P. - 110/60 mm Hg
A.G. 50 00 40 W

Tongue - coated
Spleen - enlarged
epigastric & para
umbilical region
tender
Heart - normal
Auscultation - normal

Adv: Complete bed rest

- o/k Tab Pandys
2 tabs B.P.C. x 3 mtc
- Tab Rheumayage Cold
2 tabs B.P.C. x 15 dy
- o/o then 1 tab B.P.C. x 2 1/2 mtc
- 19/99 Manoll
2 tabs B.P.C. x 3 mtc
- 19/99 Himcodol
10 ml B.P.C. x 3 mtc
- Rumasy? oil
to be applied gently
before hot compress x 3 mtc

केन्द्रीय प्रशासनिक अधिकारी
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Guwahati Bench

8/06/08

IN CASE OF EMERGENCY HOSPITALISATION SOS

Certified by true copy
Advocate

Dr. Goutam Kr. Bose
B.A.M.S. (Cal), M-A.I.G.P.A.

NAIHATI DRUG HOUSE
R.B.C. Road, Laldighi
Morning : 9.30 to 12.30 p.m.
Evening : 5.30 to 8 p.m.
**Except Thursday Full
& Saturday Morning**

Residence :
21/1/1, Sodgope Para Road,
Bhatpara, North 24 Pgs.
Bus Stopage : Kamala Store
Phone : 2581-3591
Visiting Hours :
Morning : 7 a.m. to 8 a.m.
Evening : 4 p.m. to 5 p.m.
(Except Thursday & Saturday)

Not Available From to Date 10/11/06 at 7-30 P.M.

Op: Pain in the back
knee joints since 6 months.
Gravels in joints movement
in morning for 3-4 times since 14.
General weakness.

Op: P- 12/11
B.P- 110/70 mm Hg
J 0 00 70-20

A ⊕
Tongue - cracked
Turb - i - se
Pore unhooked
epiglotric
50 mm

Ant - hy - mtn
A? Orkes Arthritis
in both knees
Anesthesis.

For Pampa Roy Choudhury, 25 yr. MF

Adv: Complete bed rest.
- Exam of X Ray on both knees ^{AP} let view.
- Exam of blood for Uric Acid & Sugar (P.P.)
- Tab Bhuvaneshwar Rese
o/p 2 tabs B.P. x 1 mte
o/p - Tab N-Lexmibiles Rese | 1 tab x
+ 20 mte
o/p Tab Katagagankush | B.P. x
15 days
- Tab Maha Yograj Guggulu
o/p 2 tabs B.P. x 1 mte
- Boimmanar churna
+ 1 tab B.P. x 1 mte
- Ketari Taile
to be applied
locally before hot compress
x 1 mte
10/11/06

IN CASE OF EMERGENCY HOSPITALISATION SOS

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Guwahati Bench

Certified by true copy
Advocate

Dr. Goutam Kr. Bose
B.A.M.S. (Cal), M-A.I.G.P.A

NAIHATI DRUG HOUSE

R.B.C. Road, Laldighi
Morning : 9.30 to 12.30 p.m.
Evening : 5.30 to 8 p.m.

Except Thursday Full
& Saturday Morning

Residence :
21/1/1, Sodgope Para Road,
Bhatpara, North 24 Pgs.
Bus Stopage : Kamala Store
Phone : 2581-3591

Visiting Hours :
Morning : 7 a.m. to 8 a.m.
Evening : 4 p.m. to 5 p.m.
(Except Thursday & Saturday)

Not Available From to

Date 15/01/09 Sat
8-05 PM

cf: severe pain in the
both knee joints including
weight since 3 hrs. +
general weakness.

For Pampa Roy Chowdhury, 30 km. + 1/2

Adv:

Cap Bacilune
1 cap 2x 2 mts

Teb Rhumexose
2 tab 2x 2 mts

10 drops Sive Drop
10 drops 5 drops honey
in empty stomach 2 mts

Avipittakan ch
1 x 2 mts

Rumasyt oil
to be applied locally
2 mts

Consult & Physiotherapist
for Active exercise.

15/01/09

cf: 8-12/-
B.I. - 120/80 - 80/40
A 0 3 0 0 70 90
Tongue - coated
cf: Tongue in the
same position
cf: 1/2 mts
cf: 1/2 mts
cf: 1/2 mts

IN CASE OF EMERGENCY HOSPITALISATION SOS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
16 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Certified by true copy
Advocate

Dr. Parimal Kanti Biswas
Councillor

Naihati Municipality.

RESIDENCE

390/20, R. B. C. Road, Rajbandigarh,
P.O. - Garifa, Dist. - North 24 Parganas.
Phone : 2580-1502

Ref. No.

Date... 20.1.09

TO WHOM IT MAY CONCERN

This is to certify that Shri / Smt. / ~~Kamari~~..... Lampa..... Roy Chowdhury
Son / Daughter / Wife of Shri..... Soumen..... Roy Chowdhury Residing at
..... Rajbandigarh.....
P.O..... Garifa..... P.S. Naihati, Dist. North 24 Parganas is personally known to
me for the last 10 ten..... year / years.

~~No~~ She is the permanent resident of the above noted address.

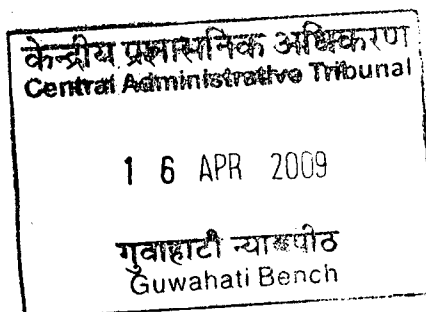
~~The monthly income of the family to which he / She belongs does not exceed Rs.....~~
(Rupees 0..... only).

~~No~~ / ~~She deserves all sorts of medical assistance from any Govt. Hospital.~~
~~I recommend him / her treatment in any hospital under Govt. of West Bengal at free of~~
~~all charges.~~

~~No~~ / ~~She belongs to the Scheduled Caste / Scheduled Tribe / O.B.C. community and~~
~~his / her sub-caste is.....~~

So far as I know ~~he~~ She bears a good moral character.

I wish ~~him~~ her every success in life. ~~I wish him / her early cure.~~



Biswas
20.01.09
Councillor
Naihati Municipality

Certified by true copy
[Signature]
Advocate

Annexure-8

-29-

52

Confidential

No.26/Admn/2008(8)- 441-4258
Subsidiary Intelligence Bureau
(MHA) Govt. of India
Shillong.

Dated : 6.11.08 = 6 NOV 2008

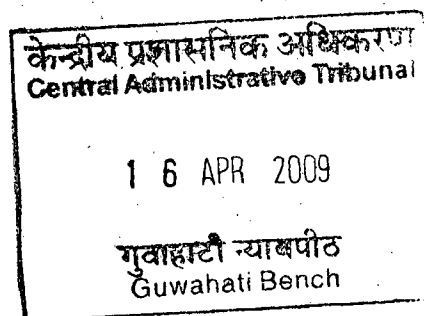
Memorandum

Please refer to our order issued under file No. E-7/2008(1)-4250 dated 23.10.2008 regarding cancellation of sanction orders for sanctioning of Addl. HRA .

2. Shri S.R.Choudhury, JIO-I/WT is directed to submit written explanation immediately why departmental action should not be initiated against him under CCS(CCA) Rules,1965 for preferring false Addl.HRA claim.

21/11/08
Assistant Director/E.

To
Shri S.R.Choudhury, JIO-I/WT
SIB, Shillong



Certified by true copy

[Signature]
Advocate

To

The Assistant Director/E
SIB, Shillong (MHA)
Govt. of India.

Annexure-9 - 30 - 5

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

- Ref. : 1. Memo No.e-7/2008(1)-4250 dated 23.10.2008
2. Memo NO.26/admn/2008(8)-441-4258 dated 6/11/2008
3. Memo No.32/Accts-2007(13)-840-4308 dated 7.11.2008

1328

18/11/08

Sir,

With reference to SIB Shillong's memorandum dated 23.10.2008 and 06.11.2008 regarding granting additional HRA to me, I would like to draw your kind attention to the following few lines.

I am extremely shocked to received the memo dated 23.10.2008 whereby my sanction order for Addl HRA has been cancelled. In the said memo, it has been indicated that "the internal audit party of MHA which inspected the office of SIB, Shillong that five of the officers/staff of SIB, Shillong are not eligible to draw addl. HRA as per rules and procedure to concerned matters and advised the office to stop payment of Addl. HRA to them to effect recovery of the inadmissible amount of Addl HRA drawn by the officials"

Before coming to such an extreme decision neither I was given the opportunity for personal hearing nor been communicated the ground on the basis of which recovery of drawn addl. HRA was proposed and conveyed by audit vide their letter dated 25/06/2008 referred to in your memo dated 23/10/2008. As such I deny that I am not eligible for the Addl HRA. Further the concerned authority ought to have given me a hearing before canceling my sanction order for grant of Addl. HRA.

Under the aforesaid circumstances, I requested to your goodself vide my letter dated 27.10.2008 to reconsider the recovery of Addl. HRA and prayed to withheld the deduction till the consideration of my representation. But to my utter surprise, a memorandum dated 06.11.2008 was served to me directing to submit a written explanation immediately why departmental action should not be initiated against me under CCS(CCA) Rules, 1965 for preferring false addl. HRA claim. Further another memorandum dated 07.11.2008 was served to me by the Section Officer/A, wherein it is mentioned that an amount of Rs.1,14,767/- will be deducted from my salary.

That sir, may I submit that I joined the IB on 1992. Thereafter, I was transferred from SIB Kolkata to Shillong on 5.11.2001. At the time of reliving, I did not claim transfer T.A advance in respect of my family and after joining the SIB Shillong I claimed my transfer T.A for self only because I left my family and my mother at my previous home address i.e at 395/75 RBC Raod Rajbondigah, P.O Garifa.(Naihati), Dist - 24 Pargana (N)(WB) and aforesaid accommodation is bonafidely used for the members of my family. For the aforesaid reason I claimed Addl. HRA as admissible to the employees transferred to N.E Region. After making the necessary enquiry, the Department sanctioned my Addl. HRA vide its order dated 05.12.2001. On 19-06-2002 I was posted at out post Dawki and there also I stayed alone at the office cum residence for which I was paying a house rent of Rs. 250/- per month to office. My claim that I

Certified by true copy

Advocate

have stayed alone at Dawki can also be verified through (1) Shri M.Chakraborty, (2) P/Minze, (3) A.K.Thapliyal, there then I/c's of the post and my other office colleagues of Dawki. On September, 2004 I was transferred back to Shillong and I continued to stay alone and keeping my family at home. In the year April 2006 I brought my son who was then aged about 6 years from my home town to Shillong and admitted him to the Kendriya Vidyalaya as there was no Central School in my home town. Since the year 2006 my wife used to visit Shillong and stayed with us (myself & son) for 4 or 5 months every year. I may also submit before your honour that an interim review over the earlier sanctions of Addl. HRA was undertaken by the office whereby vide SIB Shillong's memo NO. 32/Accts-2007(4)-906-4167 dtd 27/09/2007 some clarification was sought from me. While forwarding my written submission, I explicitly mentioned the fact that my wife used to visit me at Shillong and stays with me for 4-5 months in a year. As my wife is not permanently staying at Shillong, my claim for Addl. HRA is genuine.

That sir, I have claimed the benefit of Addl HRA because it is admissible to the employees who on transfer keep their families in the previous station in own/hired accommodation after vacating Govt. accommodation due to their transfer to North East Region. As I have been transferred to Shillong from Kolkata and subsequently to Dawki and again back to Shillong and as my family stayed in my home town at Naihati (W.B) I claimed Addl HRA which was duly sanctioned vide dated 06.12.2001 w.e.f. 05.11.2001. It is only in the year 2006, I called my son at Shillong for admission at Kendriya Vidyalaya. Since 2006 my son is staying with me regularly whereas my wife continued to stay at my home town to look after our house and visits Shillong every year for staying with our son for 4 to 5 months. It may be not out of place to mention herein that I occasionally took leave to visit my home town every year. To this fact your good self may make an inquiry to know the true fact and to ascertain genuineness of my claim.

That Sir, payment already made is sought to be recovered by the department, thereby causing me adverse monetary consequences is not tenable without putting on notice and without any explanation called for. It has caused prejudice to me on account of not affording the opportunity to make representation. I drew the allowances on the basis of financial sanction accorded to me by the competent Authority, therefore I should not be penalized for no fault on my part.

That sir, I am serving in the Department of subsidiary Intelligence Bureau since 1992 and serving at North East as JIO-II/WT w.e.f. 05-11-2001 with all sincerity and devotion to the duties entrusted to me from time to time. In the above circumstances it is most humbly prayed to your good self to kindly consider my case sympathetically and stay recovery of the Addl. HRA drawn by me and after considering the above facts it is further prayed that departmental action should not be initiated against me for alleged false Addl HRA claim. Therefore, kindly allow to my admissibility of addl. HRA. as usual and recovery may be stopped forthwith.

Thanking you.

Yours faithfully

(S R Chowdhury) 18/12/08
JIO-I/WT

forwarded please.

Pyman
18/12/08

sd/E

Certified by true copy

[Signature]
Advocate

16	
16	
16	

- 28 - - 32 - Annexure-10

केन्द्रीय प्रशासनिक परिषद्
Central Administrative No. 26/Admn/2008(8)- 475-4830
Subsidiary Intelligence Bureau
(MHA) Govt. of India
16 APR 2008 Shillong.

गुवाहाटी बेंच
Guwahati Bench Memorandum

Dated the, 18 DEC 2008

Shri S.R.Chowdhury, JIO-I/WT, SIB,Shillong is hereby informed that it is proposed to initiate disciplinary proceeding against him under Rule 14 of the CCS(CCA) Rules,1965.The substance of the imputation of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statements of article of charge (Annexure-1). A statement of the imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which the articles of charge are proposed to be sustained are also enclosed (Annexures-III).

2. Shri S.R.Chowdhury, JIO-I/WT is directed to submit within 10 (ten) days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3 He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri S.R.Chowdhury, JIO-I/WT is further informed that if he does not submit his written statement of defence on or before the date specified in para-2 above, or does not appear in person before the Inquiring Authorities or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the inquiry against him ex parte.

5. Attention of Shri/S.R.Chowdhury, JIO-I/WT is invited to Rule 20 of the CCS(Conduct) Rule, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri S.R.Chowdhury, JIO-I/WT is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of CCS(Conduct) Rules, 1964.

17 12 08
Assistant Director/E
&
Disciplinary Authority

To
Shri S.R.Chowdhury, JIO-I/WT
SIB, Shillong.

Encl : As stated.

Copy to : 1. The Assistant Director/E, IB Hqrs. New Delhi.
2. PF of individual.

Assistant Director/E

Identified By Me

Ashim Chamuah
Advocate, Gauhati High Court

Certified to be true copy

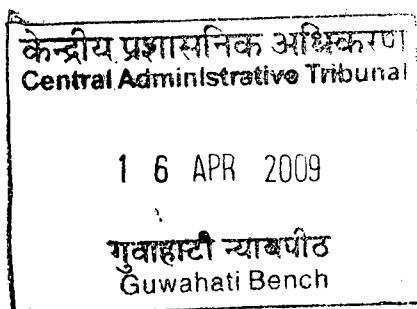
17 12 08
Ashim Chamuah
Advocate, Gauhati High Court

ANNEXURE - 1

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI
S.R.CHOWDHURY, JIO-I/WT, SIB,SHILLONG

ARTICLE - 1

Shri S.R.Chawdhury, JIO-I/WT posted at SIB,Shillong draws Additional House Rent Allowance which is found to be false. The action on the part of Shri S.R.Chawdhury is in violation of Rule 3(1) (i) & (iii) of CCS(Conduct) Rules 1964.



Certified by true copy

 Advocate

**STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI
S.R.CHOWDHURY, JIO-I/WT, SIB, SHILLONG.**

ARTICLE- 1

Shri S.R.Chowdhury, JIO-I/WT, SIB, Shillong has submitted an application (9.11.2001) for sanction of Additional House Rent Allowance for keeping his dependent family members at the last place of posting i.e. 395/76 R.B.C Road, Rajbondigarh, P.O. Garifa (Naihati) Dist. 24 Pgs(N), West Bengal which was sanctioned vide Order issued from file No. E-7/2001(1)-5006-6172 dated 5.12.2001 and he was drawing the Addl. HRA since then. While reviewing, all Addl. HRA cases, Shri S.R.Chowdhury, JIO-I/WT was issued a Memo vide No. 32/Accts-07(4)-906-4167 dated 27.9.2007 with the directions to furnish details of family members residing at the previous place of posting and their income, if any, through salary/business/land/pensions. In response, he had submitted (12.10.2007) that though his wife resides there, she visits Shillong time to time and stays with him about 4-5 months. She is a house wife and fully dependent upon him. During his leave also he reside there. All his belongings/ furniture etc are also housed there. He claimed to have neither drawn any transfer facility nor claimed block year LTC for his family members but usually availed of calendar year LTC. However, it came to notice that his family members are residing at Shillong with him. His son namely Soham Roy Chowdhury is studying at Kendriya Vidyalaya Upper Shillong and he has requested bus service vide his application (4.4.2006). He did not report to office change of position as instructed vide SI No. 2 of Order issued from file No. E-7/2001(1)-5006-6172 dated 5.12.2001. Nevertheless, he continues to draw Addl. HRA which is found not admissible.

2. The Internal Audit Party of MHA who inspected the office of the Deputy Director, SIB, Shillong from 12.5.2008 to 16.5.2008 vide their letter No. C-35012/CA/IWA/MHA/Tech/IR-34/08-09/259-60 dated 25.6.2008, observed that some officers/staff of SIB, Shillong including Shri S.R.Chowdhury are not eligible to draw Addl. HRA as per rules and procedure to concerned matters and advised the office to stop payment of Addl. HRA to them and take necessary steps to effect recovery of the inadmissible amount of Addl. HRA drawn by the officials. In addition, the departmental action may be initiated against them for false claiming of Addl. HRA. In this connection, sanction of Addl. HRA have been cancelled vide No. E-7/2008(1)-4250 dated 23.10.2008 and Shri S.R.Chowdhury was directed vide No. 26/Admn/2008(8)-441-4258 dated 6.11.2008 to submit written explanation immediately why departmental action should not be initiated against him but no response.

3. Every government servant is expected to maintain integrity to duty at all times and do nothing, which is unbecoming of a government servant. The aforesaid conduct of Shri S.R.Chowdhury, JIO-I/WT is in violation of Rule 3(1)(i) & (iii) of CCS(Conduct) Rules.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

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Advocate

ANNEXURE - III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI S.R.CHOWDHURY, JIO-I/WT, SIB, SHILLONG.

1. Application dated 9.11.2001 submitted by Shri S.R.Chowdhury, JIO-I/WT
2. Order No. E-7/2001(1)-5006-6172 dated 5.12.2001
3. Letter No. C-35012/CA/IWA/MHA/Tech/IR-34/08-09/259-60 dated 25.6.2008
4. Letter No. E-7/2008(1)-4250 dated 23.10.2008
5. Memo No. 26/Admn./2008(8)-441-4258 dated 6.11.2008
6. Application dated 4.4.2006 submitted by Shri S.R.Chowdhury, JIO-I/WT
7. Memo No. 32/Accts-07(4)-906-4167 dated 27.9.2007
8. Application dated 12.10.2007 submitted by Shri Chattopadhyay, UDC

Certified by true copy

Advocate

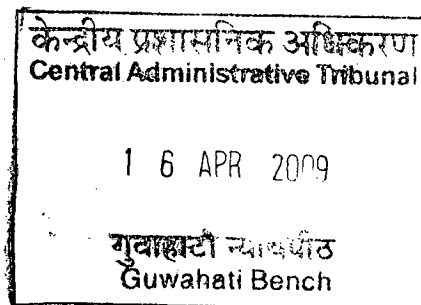
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

FORM NO. 4
[see Rule II (b)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDERSHEET



1. Original Application No. 57 / 2009
2. Miscellaneous Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(S) Spri Soumen Roy Chowdhury

-VS-

Respondant(S) U. C. I. WPS.

Advocate for the applicant(S) Mr. A. Chamuah, Mr. K. Barpuzari,
Mr. R. Guarah & Mr. P. Das.

Advocate for the respondent(S) C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------



31.03.2009

Heard Mr A. Chamuah, learned counsel appearing for the Applicant. ~~in~~ present. Mr M. U. Ahmed, learned Addl. Standing counsel appearing for the Union of India, who has received a copy of this Original Application, ^{to present.} In course of hearing, Mr Chamuah, learned counsel for the Applicant, has filed a memorandum seeking permission to withdraw this case with liberty to file afresh O.A.

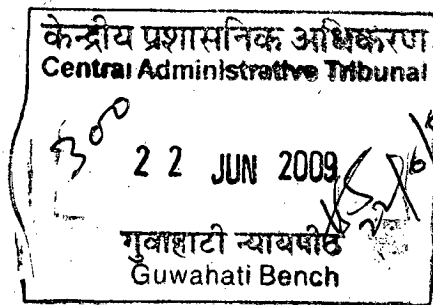
Prayer to withdraw this O.A is allowed; with grant of liberty to the Applicant to file a fresh O.A.

This O.A stands disposed of; being withdrawn.

Send copies of this order to the Applicant and to all the Respondents (along with copies of the present O.A) and free copies of this order be also supplied to the counsel appearing for both the parties. (vice chairman)

Certified by true copy
Advocate

TRUE CO.
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-5



1
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA NO. 70/2009

Shri S. R. Choudhury

...Applicant

-Versus-

Union of India & others

.... Respondents

-AND-

IN THE MATTER OF

Written Statement submitted by the Respondent No. 1
to 4

WRITTEN STATEMENT:

The humble answering respondents submitted their
written statement as follows:

1(a) That I
am..... Shri Swinder Mohan, Assistant.....

Director, MHA, SIB Shillong - 793004.....

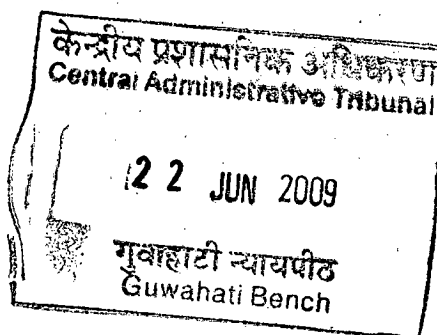
.....and respondent

No.....04.....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.

Received
on 2/6/09
Mrs. Randa Borge
2/6/09

22.06.09
Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

Filed by
the Respondent's through
Alsha Das
Head Clerk
10/6/09
52

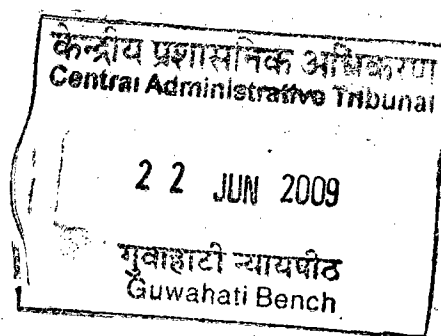


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- (b) The application is filed unjust and unsustainable as to both facts and in law.
- (c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver 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 paragraph 1 of the OA, the respondents submit that it is a fact that sanction of Additional House Rent Allowance (HRA) vide Order issued from No, E-7/2001(1) dated 5.12.2001 (Annexure-1) to the applicant for keeping his family members comprising mother, wife and son as per rules was cancelled by the competent authority on the directions of the Ministry of Home Affairs, Audit (No. VI) vide their Letter No. C-35012/CA/IWA MHA/Tech/IR-34/08-09/259-60 dated 25.6.2008 (Annexure-2) on the ground that the Applicant is not eligible to draw Additional HRA as per rules and procedures to concerned matters and conveyed vide order issued fro File No. E-7/2008(1)-4250 dated 23.10.2008 (Annxure-3). The Audit party also directed to stop payment of Additional HRA and take necessary steps to effect recovery of the inadmissible amount of Additional HRA from the applicant. The action of the Respondent is in compliance with the audit Para (No.4). The applicant is free to come clean on the matter any time, especially when he was directed to furnish

Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong



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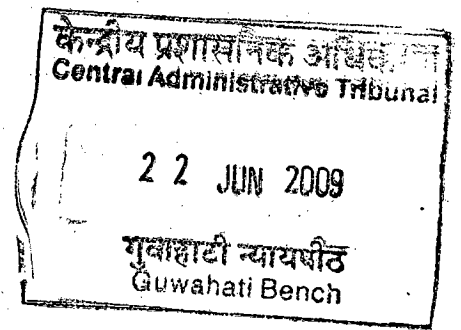
details vide DDO, SIB Shillong Memo No. 32/Acctts-07 (4)-906-4167 dated 27.9.2007 (Anxxure-4). In response to the said Memo of DDO, SIB Shillong, the applicant stated in his reply dated 12.10.2007 (Annxure-5) that his family members lived in House No. 395/75, RCB Road, Rajbondigarh, PO- Garfa (Naihiti), Dist-24 Pgs (N), (WB). He also stated that though his wife resides there, she visit Shillong time to time and stays with him for about 4-5 months. During leave, he also resides there and all his belongings/furniture's etc are also housed there.

Copies of the order dated 5.12.2001, letter dated 25.6.2008, order dated 23.10.2008, Memo dated 27.9.2007 and applicant's reply dated 12.10.2007 are annexed herewith and marked as Annexure- 1, 2, 3, 4, and 5 respectively.

Office Memorandum No. 11016/1/E-II (B)/84 dated 29.3.1984 issued by the Government of India, Ministry of Finance, Department of Expenditure regarding allowance and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region, Office Memorandum No. 11/2/97-EII (B) dated 27.7.1998, Office Memorandum No. 2(34)/E. II (B)/99 dated 12.8.1999 and Intelligence Bureau Head quarters, New Delhi Memo No. 24/Terms(C)2002(2)-887 dated 4.11.2003 are annexed herewith and marked as Annexure- 6, 7, 8 and 9 respectively.

- 3) That with regard to the statement made in paragraph 2 and 3 of the OA, the respondents beg to offer no comment.
- 4) That with regard to the statement made in paragraph 4(A) of the OA the respondents beg to state that the applicant joined SIB Shillong on

22. 01. 08
Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong



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05.11.2001 on transfer from SIB Kolkatta and was later, posted to Dowki outpost (under SIB Shillong) where he remained w.e.f. 2.8.2002-3.9.2004 (SIB Shillong OO NO. 595 dated 20.9.2004 issued from file No. E-33/2001(32)-4689 dated 21.9.2004 (Annexure-10) refers.

A copy of the order dated 21.9.2004 is annexed herewith and marked as Annexure-10.

5) That with regard to the statement made in paragraph 4(B) of the OA, the respondents beg to state that the applicant in his application dated 9.11.2001 (Annexure-11) mentioned the name of his mother (Amt. Depa Rpy Choudhury) his wife (Smt. Pampa Roy Choudhury) and his son (Shri Soumadip Roy Choudhury) as his family members who are staying at the last place of posting (Kolkata) for whom he was sanctioned Additional HRA @ Rs. 1113/-+ Rs. 120 (LF) without conducting enquiry vide Order issued from No. E-7/2001(1)-5006-6172 dated 5.12.2001 with the instructions to intimate any change of position, whenever its occur to office.

A copy of the application dated 9.11.2001 is annexed herewith and marked as Annexure-11.

6) That with regard to the statement made in paragraph 4(C) of the OA, respondents beg to offer no comment.

7) That with regard to the statement made paragraph 4(D) of the OA, the respondents beg to state that the statement submitted by the applicant vide his application dated 12.10.2007 and dated 27.10.2008 is found to be incorrect. He did not inform office about subsequent change

Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

22 JUN 2009

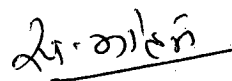
गुवाहाटी न्यायपीठ
Guwahati Bench

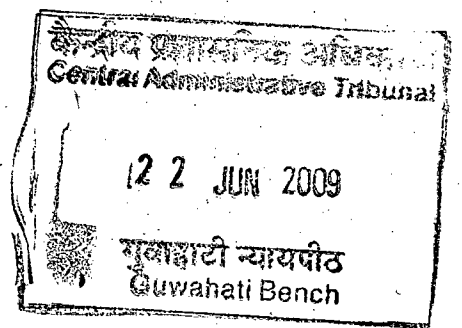
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in the position, as indicated at Para-4 (B) above, but continues to draw Additional HRA in spite of the fact that his family members including wife stayed with his in Shillong. The house owner (Landlady) of the applicant namely Mr./Mrs. P. S. Kharsynthuew, Laban, Shilling-793004 certified that Shri S. R. Coudhury was residing in their house at Madan Ladan, Shillong from May 2002-July 2002 on a monthly rent of Rs. 1100/- pm and again w.e.f September 2004 to May 2005 at a monthly rent of Rs. 1300/- pm with his family members. Similarly, Smt. E. Nongkhlaw, Madn Laban, Shillong-04 certified that the applicant and his family members (a son and his wife) are residing in her house at Madan Laban, Shillong-4 as tenet w.e.f. June 2005 at a monthly rent of Rs. 1700/- till date. Therefore, circumstantial/documentary evidence indicated that family embers of the applicant (a son and his wife) are residing with him in Shillong since 2002 and he is not disclosing it to the office in order to facilitate his continued drawal of Additional HRA illegally which is unbecoming if a Govt. servant.

Copies of the application dated 27.10.2008, certificate of the house owner Mr/Mrs P.S. Kharsynthuew and certificate of Landay Smti. E. Nongkhlaw are annexed herewith and marked as Annexure- 12,13 and 14 respectively.

8) That with regard to the statement made in paragraph 4 (E) of the OA, the respondents beg to state that there is no proof to justify this his claim. The respondents neither showed nor concealed satisfaction at this stage and the applicant continues to draw Additional HRA. HRA as review of Additional HRA cases involved a number of officers/staffs of the office and it took sometime to come to the conclusion. The


Assistant Director
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Shillong



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assumption that the respondents are satisfied with his statement is incorrect.

9) That with regard to the statement made in paragraph 4(F) of the OA, the respondents beg to offer no comment.

10) That with regard to the statement made in paragraph 4(G) of the OA, the respondents beg to state that the applicant is aware of the position and circumstances leading to the cancellation of the sanction Order. He is free to approach the competent authority for remedy along with documentary evidence(s), if any, to prove that his family members are indeed residing at the last place of posting. Application dated 27.10.2008 (Annexure-12) filed by the Applicant in his claim on the line of previous such application dated 12.10.2007 (Annexure-5), which was not substantiated, and therefore, do not merit further action. Hence, there is nothing malafide, illegal, arbitrary nor perverse in the action of the Respondents.

11) That with regard to the statement made in paragraph 4 (H) of the OA, the respondents beg to state that the total amount of Rs. 1,06,447/- was calculated by the MHA, Audit Party No. VI (which is surprisingly not made party to the case) as in March 2008 (during their audit inspection) where as Rs. 1,14,797/- is the amount already drawn Additional HRA calculated by the Respondents up to the issue of cancellation Order on 23.10.2008(Annexure-3).

21.06.09

Assistant Director
Subsidiary Intelligence Bureau.
(MHA), Govt. of India,
Shillong

22 JUN 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

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12) That with regard to the statement made in paragraph 4 (I) of the OA, the respondents beg to submit that the wife of the applicant availed Calendar year LTC from Kolkata and Shillong and back six times since 2004 (he has not availed Calendar year LTC from 2001-03) as applied for by the Applicant which is now found to be inadmissible since the wife stayed with the applicant at Shillong as indicated above at Para-04 (D). The applicant is not revealing the fact honestly.

13) That with regard to the statement made in paragraph 4 (J) of the OA, the respondents beg to submit that the applicant has stated in his application dated 12.10.2007 (Annexure-5) that his wife used to stay with him for about 4-5 months whereas in this OA (No. 70/2009). His family members used to stay with him for a couple of days. These claims are contradictory.

14) That with regard to the statement made in paragraph 4(K) of the OA, the respondents beg to reiterate and reaffirm the statement made in paragraph 7 above and further submit that the documentary proofs submitted by the applicant (Annexure-15- a,b,c,d,e,f, & g) could very well be obtained at any time since their permanent address is in Kolkata but it may not be correct to rely entirely on these documents alone as proof of actual staying/residency. Weightage of such proof may be contrasted with the proofs submitted by the respondents at Annexure (13 and 14).

Copies of the documentary proof submitted by the applicant are annexed herewith and marked as Annexure- 15 (a, b, c, d, e, f, and g).

21/06/09
Assistant Director
Subsidiary Intelligence Bureau
(MHA), Govt. of India,
Shillong

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

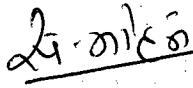
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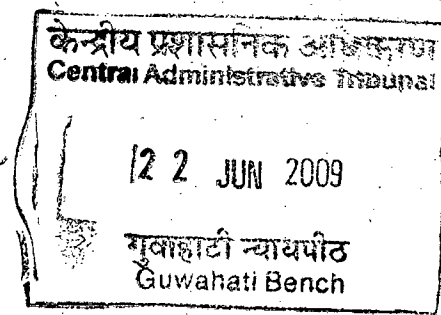
It is also a fact that the applicant informed the office vide his application dated 04.04.2006 (Annexure-16) about admission of son Soham Roy Choudhury which is different from the name of his son i.e. Soumadip Roy Choudhury in his application dated 9.11.2001 (Annexure-10) in Central School at Shillong and requested for office school bus service in 2006. It is, however, not understood how the applicant managed his daily official duties and his domestic obligations with a minor child of the tender age of 6 years in the house (Shillong) without the help of his wife who is claimed to have been permanently at Kolkata. The whole case is conceived through lies and deceit and discontinuation of Additional HRA in this case is justified and correct.

A copy of the application dated 4.4.2006 is annexed herewith and marked as Annexure-16.

15) That with regard to the statement made in paragraph 4 (L) of the OA, the respondents beg to submit that the applicant has stated in his application dated 12.10.2007 (Annexure-5) that his wife used to stay with him for about 4-5 months whereas in this OA (No. 70/2009). His family members used to stay with him for a couple of days. These claims are contradictory.

16) That with regard to the statement made in paragraph 4(M) of the OA, the respondents beg to submit that as per the contention of the applicant at para-04 (E), the application dated 27.10.2008 (Annexure-12) is deemed disposed whereas he rake it up again in this Para for motives best known to him. Moreover, the respondent acted in compliance of the MHA Audit party's directions (Annexure-2) and the applicant was given opportunity vide Memo No. 26/Admn/2008(8)-441-4258 dated 6.11.2008 (Annexure-17) directing him to submit written explanation


Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,



immediately as to why departmental action should not be initiated against him under CCS (CCA) Rules, 1965 for preferring false Additional HRA claim. The applicant should have submit his explanation along with all the proofs at his disposal to the satisfaction id the Disciplinary Authority and the case settled at that stage. However, the applicant failed to submit his explanation in time as directed till he was issued charge-sheet vide Memo No.26/Admn/2008(8)-475-4830 dated 18.12.2008 (Annxure-18) which was signed by the Disciplinary authority late in the evening on 17.12.2008 but could not be issued on the same day. It is not a surprising move but the natural consequence of the applicant's delaying tactics. Even then, he has not enclosed any documentary evidence with his application dated 18.12.2008 (Annexure-18) to prove his case. A departmental enquiry under Rule 14 of CCS (CCA) Rules, 1965 has been initiated against the applicant vide Memo dated 18.12.2008 (Annxure-18) to find out the truth which is in the final stage.

Copies of the Memorandum dated 6.11.2008 and Memorandum dated 18.12.2008 are annexed herewith and marked as Annxure-17 and 18 respectively.

17) That with regard to the statement made in paragraph 4 (N) of the OA, the respondents beg to state that the applicant was not given any opportunity to present his case before the appropriate authority. In Para-01 and Para-04 (G) of the application, the applicant stated that he filed several representations before the appropriate authority and after much persuasion by the applicant's whereas in Para-04 (N), he alleged that he did not get a chance or opportunity to establish his case before the authority. The door is open and all officers/staff of this office are

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Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

free to bring their grievances for remedy by substantiating their claims with documentary evidences. Moreover, the applicant has the opportunity to present his case in the prescribed Forum and prove his claims during the departmental enquiry as indicated at Para-04 (M) above. Departmental enquiry in itself should not be construed as punishment or guilt. It is the prescribed Forum to establish the truth. Since he has not exhausted the remedy in the department, the application may not be entertained at this stage.

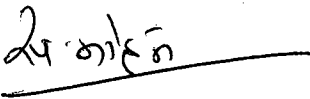
18) That with regard to the statement made in paragraph 4(O) of the OA, the respondents beg to offer no comment.

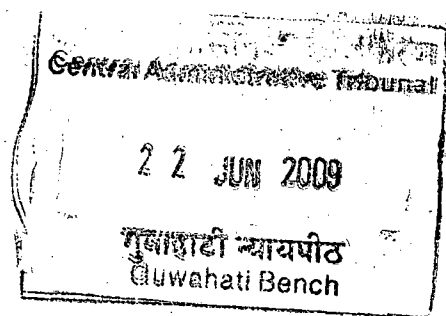
19) That with regard to the statement made in paragraph 5(a) of the OA, the respondents beg to reiterate and reaffirm the statement made in paragraphs 15 and 16 herein above.

20) That with regard to the statement made in paragraph 5(b) of the OA, the respondents beg to rely and refer upon the statement made in paragraph 13 above.

It is submitted also that the onus is on the applicant to intimate change, if any, to the respondents as directed vide order issued from file No. E-7/2001 (1)-5006-6172 dated 5.12.2001 (Annexure-1), which he failed to comply, and the resultant recovery of the entire amount of Additional HRA already drawn by him.

21) That with regard to the statement made in paragraph 5(c) of the OA, the respondents beg to state that the allegation of the applicant that without giving any notice to the applicant, the amount that has already been paid to the applicant is being recovered is not correct. While serving the Memorandum dated 27.9.2007 (Annexure-4),

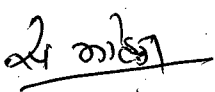

Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong

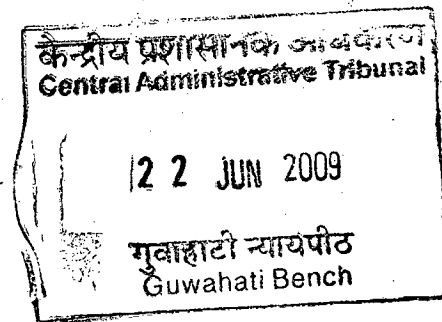


opportunity was granted to the applicant to furnish detailed of which Additional HRA is still being drawn. It is stated that the applicant knew that he has submitted false information and is being drawing Additional HRA. The applicant continues to draw Additional HRA on false declaration. Hence, he cannot claim natural justice of giving opportunity before recovering the amount already paid. The applicant, being a Govt. Employee, ought not to have given false statement before the authorities for Additional HRA and as such, no prior additional notice for recovery was necessary.

22) That with regard to the statement made in paragraph 5(d) of the OA, the respondents beg to rely and refer upon the statement made in paragraphs 2 and 16 above. Moreover, the applicant neither informs about the change that occurred subsequently nor discontinue Additional HRA honestly but stubbornly insisted that his wife is residing at Kolkata, which has sufficiently been refuted with documentary evidences at Para- 7 above.

23) That with regard to the statement made in paragraph 6 of the OA, the respondents deny the contentions made therein and beg to state that the applicant is misleading the Hon'ble CAT. Departmental enquiry under Rule 14 of CCS (CCA) Rules, 1965 has been initiated vide Memo No. 26/Admn/2008(8)-475-4830 dated 18.12.2008 (Annexure-18) to find out the truth and is presently in the final stage. The applicant filed representation dated 18.12.2008 before the authority representing his case to allow him to draw Additional HRA as usual and for stoppage of recovery. The applicant who is the Charge Office (CO) has the right to appeal to the Appellant Authority, if he is not satisfied with the outcome on conclusion of the enquiry and ultimately to the Head of the Department of 'revision' if he is still not satisfied. Without exhausting


Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong



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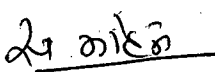
the remedy readily available in the department, the applicant approached the Hon'ble CAT and opined that 'there is no remedy under any rule and this Hon'ble Tribunal is the only remedy' which is far from the truth. Therefore, his case may be dismissed.

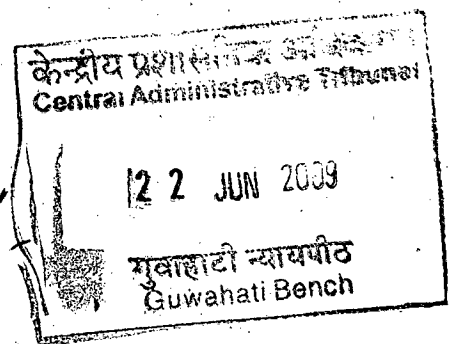
A copy of the representation dated 18.12.2008 is annexed herewith and marked as Annexure- 19.

24) That with regard to the statement made in paragraph 7 of the OA, the respondent beg to offer no comment.

25) That with regard to the statement made in paragraphs 8 and 9 of the OA, the respondents while denying the contentions made therein beg to the applicant is misleading the Hon'ble CAT. Departmental enquiry under Rule 14 of CCS (CCA) Rules, 1965 has been initiated vide Memo No. 26/Admn/2008(8)-475-4830 dated 18.12.2008 (Annexure-17) to find out the truth and is presently in the final stage. The applicant who is the Charge Office (CO) has the right to appeal to the Appellant Authority, if he is not satisfied with the outcome on conclusion of the enquiry and ultimately to the Head of the Department of 'revision' if he is still not satisfied. Without exhausting the remedy readily available in the department, the applicant approached the Hon'ble CAT and opined that 'there is no remedy under any rule and this Hon'ble Tribunal is the only remedy' which is far from the truth. Therefore, his case may be dismissed.

Moreover, the applicant will get all dues in lump-sum at any time in case the departmental enquiry concluding in his favour but it will be difficult to recover the overdrawn amount in case the enquiry concluded against on these grounds hence the Hon'ble Tribunal may be pleased to dismissed the OA with cost.


Assistant Director
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong



VERIFICATION

I Shri Surinder Mohan , aged

about 55 years at present working as

Assistant Director, SIB, (MHA), Shillong

....., 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

No. 1 to 25 are true

to my knowledge and belief, those made in paragraph

No. 1 to 25 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 29-----th day of May 2009 at 6 PM

DEPONENT

29 कोहन

Assistant Director
Subsidiary Intelligence Bureau
(MHA), Govt. of India,
Shillong

22 JUN 2009

गुवाहाटी बेंच
Guwahati Bench

Ref : (1) M.O.F. OM No. 11016/1/E-11(B)/84 dated 29.03.84.
(2) M.O.F. OM No. 11014/1/84-E11(B) dated 08.03.88.

In accordance with provisions contained in the M.O.F. OM. cited above the following officials of SIB, Shillong, are sanctioned Additional HRA at the rate of with effect from the date indicated against each :

Sl.No.	Name & Designation	Previous place of posting	Amount of Addl. HRS Sanctioned	Date from which sanctioned
--------	--------------------	---------------------------	--------------------------------	----------------------------

S/ASST

- | | | | | |
|----|----------------------------|----------|------------------------|------------|
| 1. | S. Roy Chowdhury J10-II/WT | Calcutta | Rs. 1113/-
LF-120/- | 5.11.2001. |
| 2. | S. A. Datta J10-I/WT | Calcutta | Rs. 1020/-
LF-120/- | 5.11.2001. |
| 3. | P. Chatterjee J10-II/WT | Calcutta | Rs. 1000/-
LF-101/- | 5.11.2001. |

The Additional HRA to the above mentioned officials have been sanctioned for retaining accommodation at the previous place of posting at the places mentioned against them, for bonafied use of the members of their families.

Sd/-

Joint Director.

No. E-7/2001(1) - 5006 - 6172
Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong.

Dated, the 05 DEC 2001

Copy to :

- The Section Officer/A, SIB, Shillong (2 copies).
- Shri ~~XXXXX~~ SIB ~~Shillong~~.
He is informed that the Addl. HRA is granted on the conditions among other admissibility conditions that the hired private accommodation or owned house at the last place of posting is put to bonafide use of the members of the family. He should, therefore intimated any change of position, whenever it occurs to office.
- P.F. of Shri ~~XXXXX~~

Smo
Section Officer/E

Attended
Wan
Addl chs

97/c

01/11/01

1232/Admn
20.8.08
Annex-02

15-
ORIGINAL

लेखा नियन्त्रक का कार्यालय
Office of the Controller of Accounts

दूरभाष: 23388119
Phone: 23388154
Fax: 23387881

आन्तरिक लेखा परीक्षा (खण्ड) गृह मन्त्रालय

INTERNAL AUDIT WING, MINISTRY OF HOME AFFAIRS

2/10, जामनगर हाउस, मानसिंह रोड
2/10, Jam Nagar House, Man Singh Road
नई दिल्ली-110011 New Delhi-110011

No. C-35012/CA/IWA/MHA/Tech/IR- 34/08-09/259-60

Dated: 25/6/08

To
✓ O/o the Dy Director SIB
MHA, P.O. Laban,
Shillong-793004
Meghalaya.

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Sub: Inspection report on accounts of the Dy Dir SIB, Shillong
for the period from 1-4-07 to 31-3-08

सि,

Enclosed please find the internal Audit report (in duplicate) on the subject cited above.

Which was conducted during the period from 12-5-08 to 16-5-08.

It is requested that one copy of the report may be retained in your office and another copy may be returned with compliance within one month of its receipt.

Please acknowledge receipt.

Note:- Para No 4 and 11 are an important
nature may be given Top Priority

Yours faithfully,

Encl: as above.

Asstt Accounts Officer

Copy to:

1. Head Quarter The Director, IB (HB) 35 SP Maney.
Dhanda Kuan, New Delh.
2. Pay & Accounts Office, _____
3. Office Copy

Asstt. Accounts Officer

Discussed with RD on 19.8.08.
It decided that action may be initiated
on receipt of direction from IB M.

12/8/08

Asstt. Accounts Officer

20/8/08

Asstt. Accounts Officer

17/8

Attested
Add CMA

SUMMARY OF AUDIT

Records and Accounts of the Deputy Director, SIB, Shillong for the year 2007-08 test checked by the Internal Audit party- VI, MHA, Shillong based w.e.f. 12-05-2008 to 16-05-2008. During the course of Audit, it has been revealed that procedural lapse, administrative lapse and inaction on the part of department have been committed. During Audit 12 Nos. Audit quarries have been issued on the spot and where necessary recoveries have been intimated and suggestions pointed out. Records of all sections/branches have been test checked and inspection of various stores has been conducted. All old Para's of previous report have been settled on the basis of reply submitted by the department and verification of records. Current report contains total 11 Para's.

Few Para's of the report, which are serious nature mentioned below, which needs to departmental action immediately to set right them in the best interest of the department/ office.

Para No.4 Drawl of Addl. HRA by ^{furnishing} finishing false information to Rs. 5,28,388/- During audit it has been noticed that the review /enquiry report conducted by the department, revealed 5 cases were found irregular, un-authorized and fake claimed Addl. HRA. The department has granted Addl. HRA and as per Rules and provision on concerned subject matter may be settled.

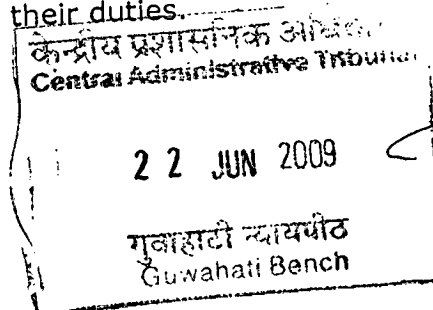
Para No.7 Non-effecting of transfer /posting orders after lapse of more than 1 year and 2 months transfer and posting order has not been materialized.

Para No. 11 Penalty imposed against suspension of Sh. Tarkeshwar Prasad, JIO-II/MT, SIB, irregular, The penalty imposed against the official without following procedure. These above Para's may please be sent to Head of the office for comments and necessary action please.

Opinion: - Records and accounts of the Deputy Director, SIB, and Shillong have been maintained in excellent manner and full satisfaction of the Audit. During the period of audit, all Officers and staff members have been extended full Co-Operation Audit party to discharge their duties.

Dated: 16 May 2008

Place : SIB, Shillong



Accounts Officer
MHA Internal Audit
Party No VI

VIGILANCE105/16/086:26 PM

Attchd
hadan
Addl chsc

22 JUN 2009

गुवाहाटी न्यायाधीश
Guwahati Bench1
Para No.4

2

Drawal of Addl. HRA by furnishing false information

On the basis of a written complaint against some officials alleging drawal of Addl. HRA by furnishing false information, a local enquiry/review on drawal of addl. HRA was ordered by the DD, SIB, Shillong.

The review/enquiry report revealed that out of 46 cases of drawal of addl. HRA cases were found irregular, un-authorized and fake claimed Addl. HRA. 5 cases were found irregular, un-authorized and fake claimed Addl. HRA and the review committee had also decided to place these 5 cases to MHA audit for scrutiny and comments.

On going through the relevant records available it has been observed that addl. HRA drawn by the officials (whose names are enclosed in a detailed statement of recovery of addl. HRA drawn) are not eligible to draw addl. HRA as per Rules and procedure to concerned matter. Therefore, the office is advised to stop payment of addl. HRA and take necessary steps to effect the recovery of inadmissible amount of addl. HRA drawn by the officials as per annexure enclosed for Rs.5,28,388.00 under intimation to Audit.

In addition to that disciplinary action may also please be initiated against these officials as per Rules and provisions on the concerned matter for giving false information deliberately and over drawal of experience. Intelligence Bureau/SIB being a sensitive and reputed department, be a member of good force as acted upon never expect these officials, which leads defame the department position. Hence the para be submitted to the Head of the department for comments and necessary action please & finding out of the disciplinary action taken against above officials may also please be intimate to Audit.

of addl HRA resubmit govt. suffered sufficient loss of expenditure.

3

4

Attended
Maha Deo
Addl CM Sec

122 JUN 2009

गुवाहाटी बेंच
Guwahati Bench

Sl. No.	Name & Designation S/Shri	Period	Amount drawn	No. of months	Amount to be recovered	
1.	Deepak Jha, ACIO-I/G	4/98 to 9/04 10/04 to 8/05 9/05 to 3/08	@ 973/- @ 851/- @ 1277/-	78 mnts 11 mnts 31 mnts	973x78 mts=75,894 851x11 mths=9361 1277x31 mths=39,587/-	1,24,842/-
2.	Prabhat Kumar, SO	16.1.03 to 31.1.03 2/03 to 9/04 10/04 to 9/05 10/05 to 3/08	@ 1216/- -do- @ 1035/- @ 1553/-	16 dys 20 mnts 12 mnts 30 mnts	1216 x 16 dys = 627/- 31 1216x20 mts =24,320/- 1035x12 mnts=12,420/- 1553x30 mnts=46,590/-	83,957/-
3.	Alok Chattopadhyay, UDC	13.3.06 to 31.3.06 4/06 to 3/08	@ 2295/- -do-	19 days 24 mnts	2295x19 days= 1407/- 31 2295x24 mnts=55,080/-	56,487/-
4.	S.R. Choudhury, JIO-II/WT	5.11.01 to 30.11.01 12/01 to 9/04 10/04 to 9/05 10/05 to 3/08	@ 1233/- -do- @ 1113/- @ 1670/-	26 days 34 mnts 12 mnts 30 mnts	1233x26 dys =1069/- 30 1233x34 mnts=41,922/- 1113x12 mths=13,356/- 1670x30 mths=50,100/-	1,06,447/-
5.	Subrata Das, ACIO-I/G	Arr. AHRA. w.e.f. 26.5.03 to 30.6.03. 7/03 to 9/04 10/04 to 9/05 10/05 to 1/08	@ 2371/- @ 2190/- @ 3285/-	1 mth 6 days 15 mths 12 mths 28 mths	=2830/- 2371x15 mnt =35,565/- 2190x12 mths=26,280/- 3285x28 mths=91,980/-	1,56,655/-

Grand Total = 5,28,388/-

Attended
has
Add Case

19- **Annex-03**
No.E-7/2008(1)- 4250
Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong-793004

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

Dated the

गुवाहाटी न्यायपीठ
Guwahati Bench

To,

The Pay & Accounts Officer,
Intelligence Bureau,
Government of India,
New Delhi

The Regional Pay & Accounts Officer
Intelligence Bureau,
Govt. of India,
Shillong

I am directed to convey sanction of the Competent Authority cancelling sanction Orders (as indicated against their names) sanctioning Addl. HRA to the following officers/staff of SIB Shillong with immediate effect:

Sl. No. **Name & Designation**

Order No. & Date

- | | | |
|----|--|---|
| 1. | Shri Deepak Jha, ACIO-I/G | No.E-7/98(1)-1652-2360 dated 29.4. 1998 |
| 2. | Shri Subrata Das, ACIO-I/G | No.E-7/02(1)-2294-2916 dated 3.7. 2003 |
| 3. | Shri Prabhat Kumar, Assistant (now SO) | No.E-7/02(1)-376-414 dated 28.1. 2003 |
| 4. | Shri S.R. Choudhury, JIO-I/WT | No.E-7/01(1)-5006-6172 dated 5.12. 2001 |
| 5. | Shri Aloke Chattopadhyay, UDC | No.E-7/06(1)-1319-1408 dated 29.3. 2006 |

2. The Internal Audit Party of MHA which inspected the office of the Deputy Director, SIB Shillong from 12.5. 2008 to 16.5. 2008 observed at Para-4 of their letter No.C-35012/ CA/ IWA/ MHA/Tech/IR-34/08-09/259-60 dated 25.6. 2008 that five of the officers/staff of SIB Shillong as indicated above are not eligible to draw Addl. HRA as per Rules and Procedure to concerned matters and advised the office to stop payment of addl. HRA to them and take necessary steps to effect recovery of the inadmissible amount of Addl. HRA drawn by the officials as per annexure enclosed.

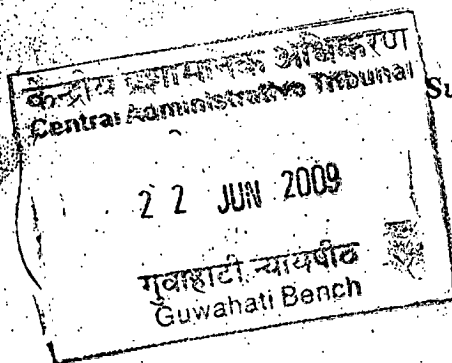
Assistant Director/E

Copy to:-

1. The Assistant Director/Cash-III, IB Hqrs., New Delhi with a request to effect recovery as per annexure enclosed in r/o Shri Prabhat Kumar, Section Officer, (Sl. No.3 above) presently posted at IB Hqrs., New Delhi under intimation to us.
2. The Section Officer/Accounts, SIB Shillong. Recovery as per annexure enclosed in r/o Sl. No.1,2,4 & 5. Compliance of audit para may be sent to SO/Admn., SIB Shillong.
3. Shri Prabhat Kumar, Section Officer/MP, IB Hqrs., New Delhi through AD/MP, IB Hqrs., New Delhi.
4. Shri Deepak Jha, ACIO-I/G, SIB Shillong.
5. Shri Subrata Das, ACIO-I/G, Nongpoh unit.
6. Shri S.R. Choudhury, JIO-I/WT, SIB Shillong through DCIO/T, SIB Shillong.
7. Shri Aloke Chattopadhyay, UDC, SIB Shillong through DCIO/NGO.
8. PF of the persons concerned.

Attested
Addl Chse

Assistant Director/E



No. 32/Accts-07(4) - 906-4167
Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong.

Memorandum

As desired by Deputy Director, SIB, Shillong, a review of sanctions of Addl. HRA to officers and staff members is to be undertaken. You are, therefore, asked to furnish details of family members staying in the previous station of your posting for which AHRA is still being drawn in your favour. While indicating the details of family members their income, if any, through salary/business/land/pension may be indicated. On receipt of details, as desired by Deputy Director, SIB, Shillong enquiries will be conducted to verify the fact.

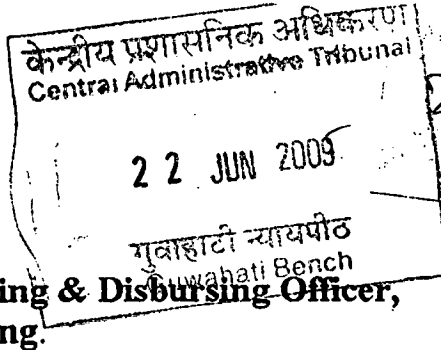
[Signature]
Drawing & Disbursing Officer

TO,
Shri/Smt. S.R. Choudhury, J10-21. wt
(through AD/DCIO/SG/Tech).

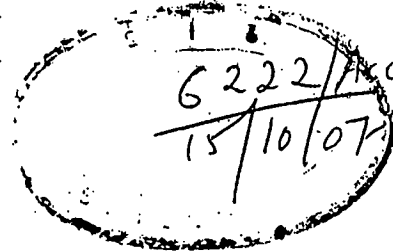
9/C

*Attended
nday
Add chsc*

787
10/07



Annex-05



31
87

To
The Drawing & Disbursing Officer,
SIB, Shillong.

(Through Proper Channel)

Sub : Furnishing details for drawing addl. HRA.

Ref : SIB Shillong Memo No.32/Acctts-07(4)-906-4167 Dtd. 27-09-2007

Sir,

With reference to your above cited memo Dtd Sept 27,07 regarding review of Addl. HRA.

It is submitted that my family live in the following address :-
395/76 R.B.C Road, Rajbondigarh, PO- Garifa, (Naihati) Dist- 24 Pgs(N) (W.B) .Though my wife resides there, she visits Shillong time to time and stays with me about 4-5 months. She is a house wife and fully dependent upon me . During my leave also I reside there. All my belongings /furniture etc. are also housed there.

Syno. 737
Dtd. 12/10/07

I have neither drawn any transfer facility in respect of my family members, nor claimed block year LTC for my family members. I usually avail of calendar year LTC.

This is for favour of your kind information and necessary action please.

Thanking You Sir.

DCIO/Tech
SO/Accts
Date : 12-10-2007
TP Section.

Yours faithfully,

S.R. Chowdhury
(S.R. CHOWDHURY)
JIO-I/WT
SIB, Shillong.

Forwarded for n/a please.

for
15/11

Rece
12/10/07 I/c CR

Noted
Addl CTS e

No. 11016/1/E.II
Government of India
Ministry of Finance
(Department of Expenditure)

Annex-06
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

22 JUN 2009

New Delhi the 29.6.83

गुवाहाटी न्यायाधीश
Guwahati Bench

Office Memorandum

Sub: Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region- improvements thereof

....
The undersigned is directed to refer to para 5 of this Ministry's OM No. 20014/3/83-E.IV dated the 14th Dec. 83 on the subject noted above and to state that the question of payment of House Rent Allowance to Central Government, Civilian employees who are posted in the States of Assam, Meghalaya, Manipur, Nagaland, and Tripura and the Union Territories of Arunachal Pradesh, Mizoram and Andaman & Nicobar Islands has been considered and the President is pleased to decide as follows:

a) Central Government employees who were in occupation of hired private accommodation at the last station of posting before transfer to any of the States/Union Territories mentioned above may be allowed to draw House Rent Allowance admissible to them at that station.

b) Such Central Government Civilian employees may also be allowed to draw in addition to (a) above. House Rent allowance at the rates admissible at the new place of posting in the aforesaid States/Union Territories in case they live in hired private accommodation. The benefits mentioned in (a) and (b) above will also be admissible to Central Government employees who get transferred from one station of a State/Union Territory of the North-Eastern Region to another State/Union Territory of the North-Eastern Region mentioned above.

2 These orders will take effect from 1st Nov. 83 and will remain in force for a period of three years upto 31st Oct 86.

3 In so far as the persons serving in the Indian audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India, Hindi version will follow.

(A.N. Sd/-
Director

4 To All Ministries/Departments of the Govt of India etc.etc.
Copy to C&AG, UPSC etc.

Attended
Adm
Add CUSE

23-
Annex-7
84
Extract from Swamy's FR/SR
Part - V, CHRA, AND CCA.

SWAMY'S - H.R.A. AND C.C.A.

(110)
Not applicable to officials posted to PSUs, ABs and GCs, etc. — The orders are applicable only in case the officials are posted to Central Government offices, offices of the Union Territories and these orders will not be applicable in cases where officers are posted to Public Sector Undertakings, Government Companies, Autonomous Bodies, etc.

[G.I., Min. of U.D. (Dir. of Estates) O.M. No. 12035 (24)/77-Pol. II, dated the 26th March, 1987.]

Applicable to CG employees deputed to State Governments. — It is clarified that the orders issued from time to time for retention of accommodation/allotment of alternative accommodation in the case of Central Government officers posted to States/Union Territories and extended by the order of 26-3-1984 are also applicable in cases where Central Government employees are sent on deputation to State Governments.

[G.I., M.U.D., O.M. No. 12035 (24)/77-Pol. II, dated the 2nd July, 1987.]

3

G.I., M.F., O.M. No. 11016/1/E. II (B)/84, dated 29-3-1984 and
O.M. No. 11/2/97-E. II (B), dated 22-7-1998

Subject:—Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region—Improvements thereof

The undersigned is directed to refer to Para. 5 of this Ministry's O.M. No. 20014/3/83-E. IV, dated the 14th December, 1983, on the subject noted above, and to state that the question of payment of House Rent Allowance to Central Government civilian employees who are posted in the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh, Mizoram and Andaman and Nicobar Islands has been considered and the President is pleased to decide as follows:—

- (a) Central Government employees who were in occupation of hired private accommodation at the last station of posting before transfer to any of the States/Union Territories mentioned above may be allowed to draw House Rent Allowance admissible to them at that station.
- (b) Such Central Government civilian employees may also be allowed to draw, in addition to (a) above, House Rent Allowance at the rates admissible at the new place of posting in the aforesaid States/Union Territories in case they live in hired private accommodation.
- (c) The benefits mentioned in (a) and (b) above will also be admissible to Central Government employees who get transferred from one station of a State/Union Territory of the North-Eastern Region to another State/Union Territory of the North-Eastern Region mentioned above.

Annexure-7
Attn: Usha Das,

Pl. fax to - 0361-2459081

Attested

Usha

Add chsc

20/5

Vc fax

24-
CONCESSIONS TO EMPLOYEES POSTED TO N-E REGION

111

Applicable to Lakshadweep and Sikkim also.—The orders contained in the above OM will also *mutatis mutandis* apply to the Central Government employees posted in Lakshadweep and Sikkim.

[G.I., M.F., O.M. No. 11 (2)/97-E. II (B), dated the 22nd July, 1998.] ✓

Clarification

Point raised.—Whether benefit of HRA would be admissible under Para. 1 (c) of the above-mentioned OM to those civilian Central Government employees in the North-Eastern Region, who have not been posted from outside N-E Region but have been transferred within North-Eastern Region and keep their families at the last duty station.

Clarification.—The benefit of HRA under Para. 1 (c) of this Ministry's OM, dated 29th March 1984, is admissible only to those Central Government civilian employees who are transferred from *outside* North-Eastern Region and who continue to keep their families outside N-E Region at the last duty station. These Central Government employees, on subsequent transfer to another State/Union Territory, within the North-Eastern Region, would continue to be entitled to this benefit, provided their families continue to stay in the same place outside the North-Eastern Region.

Those employees who have not been posted to the North-Eastern Region from *outside* the North-Eastern Region will not be entitled to this benefit.

[G.I., M.F., O.M. No. 2 (6)/94-E. II (B), dated the 17th November, 1994.]

4

D.G., P & T., ND, No. 42-66/80-NB, dated 30-7-1984

Subject:—Retention of P & T Quarters at the previous station of posting by officers transferred to North-Eastern Region

Attention is invited to this office letter of even number, dated 7-1-1981, on the subject cited above allowing officers transferred to North-Eastern Region to retain P & T pool accommodation at their old stations of postings on payment of normal licence fee.

2. The matter has been reviewed in the light of instructions contained in the Ministry of Works and Housing (Directorate of Estates), New Delhi, Letter No. 12035 (4)/77-Pol. II, dated 15-2-1984 and the P & T Board has modified the earlier orders as indicated below—

- (a) Officers retaining P & T pool accommodation will be required to pay licence fee in the light of instructions contained in the Ministry of Works and Housing (Directorate of Estates), New Delhi, Letter referred to above at 1½ times the standard licence fee as defined under FR 45-A or 15% of the emoluments drawn by them as defined under FR 45-C on the date of their transfer, whichever is less, for a period beyond the permissible period for retention of the residence under SR 317 B-11 (2).

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 JUN 2009

मुख्यालय
Guwahati Bench

Approved
Attested
Libas
Add chlc

25 Annex-03
केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी बेंच
Guwahati Bench

No. 2(34)/E.II(B)/99
Government of India
Ministry of Finance
Department of Expenditure

.....
New Delhi, the 12th Aug. 1999

OFFICE MEMORANDUM

Subject:- HRA for civilian employees of the Central Govt. serving in the State and Union Territories of North Eastern Region including Andaman & Nicobar Island and Lakshadweep Island.

The undersigned is directed to invite a reference to this Ministry's O.M. and clarificatory O.M. No. 11016/1/E.II (B)/84 Dt. 29.3.84 dated 28.5.1986 respectively and O.M. No. 11(2)/97, dated 22.7.98 on the subject noted above and to say that consequent upon the revision of the rates of House Rent Allowance w.e.f. 1.8.97 pursuant to decision taken on the recommendations of Fifth Pay Commission, it has been decided that civilian employees of the Central Government transferred and posted in the Union Territories and States of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep from a date prior to 1.8.97 and whose families have stayed back at the last station of posting for which they are getting HRA at the rate applicable for the last station of posting may be allowed revised rates of HRA as applicable at the last place of posting with effect from 1.8.97. However, HRA amount may be calculated based on the pay drawn by the officer at the time of transfer in the said region.

2. This will not be applicable to such employees who were transferred out of the N.E. Region, Andaman & Nicobar Islands and Lakshadweep before 1.8.97.

3. The other condition for drawal of the allowance shall remain the same.

4. In so far as the persons serving in the India Audit & Account Department are concerned these orders issue after consultation with the Comptroller & Auditor General of India.

5. Hindi version of this O.M. is enclosed.

Sd/-

(H.P. Singh)

Under Secretary to the Govt. of India

To All Ministries/Departments of the Government of India as per standard distribution list.

Copy (with usual number of spare copies) to CAG
in accordance with standard endorsement list.

Attended
H.P. Singh
Addl. Secy

Annex-09

No.24/Terms (C)/2002(2)-887
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12-2 JUN 2009

New Delhi, the

गुवाहाटी न्यायपीठ
Guwahati Bench

MEMORANDUM 04 NOV 2003

Please refer to your Memo No.ESO/H-2-3996 dated 20.08.2003 regarding grant of Addl. HRA to the Central Government servants on their transfer to NE region.

2. The clarification on the subject issued by the Finance Cell vide IB Hqrs. Memo No.2/Fin/91(1)-171 dated 07.02.1992 is not in consonance with MoF OM No.11014/1/84-E.II(B) dated 08.03.88. In terms of MoF OM dated 08.03.88, **"HRA with reference to last place of posting is admissible if hired private accommodation or owned house at the last station of posting is put to bona-fide use of the members of the family"**. Therefore, retaining of accommodation at the last place of posting for the sole purpose of keeping household articles cannot be construed as *bona-fide* use of the members of family.

3. It is, therefore, requested that payment of Addl.HRA to Shri P.L.S. Sharma, DCIO may please be regulated in terms of provisions contained in MoF OM dated 03.08.88 and IB Hqrs. Memo No.24/Terms(C)/98(2)-1569 dated 20.10.2000.

4. Further, in view of the position explained in para-2 above, the Finance Cell Memo No.2/Fin/91(1)-171 dated 07.02.1992 may please be treated as **'withdrawn'**.

5. This issues with the approval of Joint Director(Estt).

sd/-

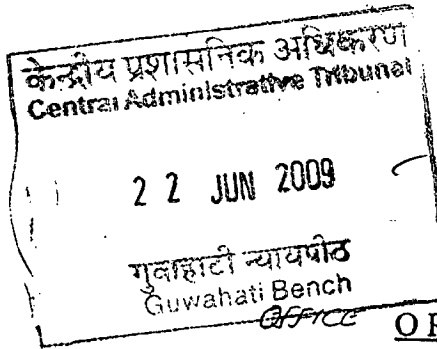
(K.D. Prabhakar)
Assistant Director

The Assistant Director/E
SIB Kohima.

Copy to:

1. All outstation offices. *Shelling*
2. Sr.AO at IB Hqrs.
3. ADs/SOs: E, G, Budget, CII, CIII, CIV, CV, CVI, Cash-I, Cash-II, Cash-III, Finance Cell at IB Hqrs.
4. Vigilance Cell at IB Hqrs. w.r.t. their Memo No.1/Vig/01(17)-326-27 dated 19.02.2003.

Assistant Director



27-

Annex-10

93

ORDER NO. 595 DATED 26/9/04

- Ref:- (i) SIB, Shillong order issued under endorsement No.E-33/2004(10)-3151-4135 dated 18.08.04
- (ii) Dawki O/P Memo No. 1/DKI/Est/2004-243-46 dated 03.09.04.

Consequent upon his transfer from Dawki O/P to Shillong Hqrs., Shri S.R.Choudhury, JIO-II/WT was relieved from Dawki O/P w.e.f. 03.09.04 and reported for duty at SIB, Shillong Hqrs. on 14.09.04/FN.

He was on joining time w.e.f. 04.09.04 to 13.09.04.

Sd/-
Assistant Director/Admn

No.E-33/2001(32)-4689
Subsidiary Intelligence Bureau
(MHA), Govt. of India
Shillong.

Dated, the 21 SEP 2004

Copy to:-

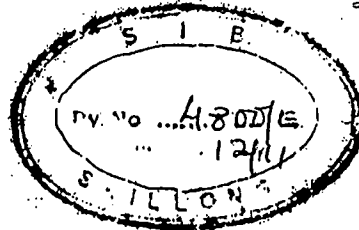
1. The Assistant Director/P, SIB, Shillong.
2. The DCIO/Tech., SIB, Shillong.
3. The Section Officer/A, SIB, Shillong.
4. Shri S.R.Choudhury, JIO-II/WT, SIB, Shillong.
5. The Office Order Book.
6. The 'R' Branch, SIB, Shillong.
7. Shri A.C. James, Asstt., SIB, Shillong.

[Signature]
Assistant Director/Admn

8/

17/9

[Handwritten notes]
Add chsc



Annex-II

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

FORM OF APPLICATION FOR CLAIMING ADDITIONAL HRA

1. Name & Designation of the claimant: **SOUMEN ROY CHOWDHURY**
JIO-II/WT
2. Basic pay at the time of transfer: **RS. 3710/-**
3. Present place of posting with date: **SIB Shillong, S.11.2001** ✓
4. Previous place of posting: **SIB Calcutta** ✓
5. Amount of HRA & LF drawn p.m. at the previous place of posting: **HRA - 1113/-** ✓
LF - 120/- ✓
6. Details of family members with relationship & age:
 1. Smt Difa Roy Chowdhury - Mother - 58
 2. Smt Pampha Roy Chowdhury - Wife - 27
 3. Sri Soumadip Roy Chowdhury - Son - 1 Yrs
7. Type of accommodation retained at the previous place of posting i.e. rented house/own house/Govt. Quarter: **Rented house**
8. Complete address of the residential accommodation retained by the claimant at the previous place of posting with the details of family members residing there: **Rajbhandi Gath**
PO. Gorifa
dist. 24 Pgs (W)
WB- Pin- 743166
9. Whether the accommodation in the previous place of posting is put to bonafide use of the members of the family or not: **Yes**

I certify that the information furnished above is correct.

Date 9.11.2001
Place SIB Shillong

Soumen Roy Chowdhury 9.11.2001
Signature of the applicant.
(**SOUMEN ROY CHOWDHURY**)
JIO-II/WT
Pis- 107546

SRKPD
9/11

Attested
Addl Clk

29-
Annex-12

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी ब्याच
Guwahati Bench

To

The Assistant Director /E
SIB, Shillong, (MHA)

(Through proper channel)

Sub : Request for reconsideration of recovery of Addl. HRA claim.

Sir,

With due respect I am to state that vide SIB Shillong memo No. E.7/2008(1)-4250 dated 23/10/2008 it has been intimated that I am ineligible to draw Addl. HRA w.e.f 5.11.2001 .

In this connection , I would like to mention that I joined SIB Shillong on transfer from SIB Kolkata on 5.11.2001. My wife was staying at my previous place of posting , i.e 394/75 RBC road , Rajbondigarh, PO- Garifa dist 24 pgs(N) WB. for which I claimed my Addl. HRA .After proper necessary enquiry my additional HRA was sanctioned by competent authority vide SIB Shillong order NO. E.7/01(1)-5006-6172 dated 5.12.2001 .

Therefore it is requested that kindly convey me the ground on which the audit party has decided about my inadmissibility of drawing addl. HRA. And same may please be communicated at the earliest so that I could represent my case to the higher formations.

I further request that any deduction to this effect may kindly be withheld till my representation are logically concluded by the senior formations.

Thanking you sir,

Yours faithfully.

S.R. Chowdhury 27/10/08
S.R. CHOWDHURY
JIO-I/WT

Dated : 27.10.2008

Def 107
Forwarded please

Rhythm
27/10/08

Attested
Addl chse

1051
27/10/08

Self

27/10

SA

30-

Annex-13

केन्द्रीय प्रशासनिक न्यायाधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

TO WHOM IT MAY CONCERN

This is to certify and confirm that
Sri. G. Roy Choudhury, an employee of SIB
Shillong was residing in our house at
Maden Laban, Shillong-4 w.e.f. May '02
to July '02 on monthly rent of Rs. 1100/-
p.m. and again w.e.f. Sept '04 to
May '05 with his family @ Rs. 1300/- p.m.

Dt. 15/6/09.

P. S. Kharsyntiew
(P. S. Kharsyntiew)
House - Owner
Maden Laban, Shg-4

MR. P. S. KHARSYNTIEW
& MRS. E. MYRTHONG
Laban, Shillong-793004

Attended
to
18/3/05
Section Officer
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Shillong.

Attended
to
Add Chsc

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

TO WHOM IT MAY CONCERN

31- Annex-14 07

This is to certify that Shri S.R. Choudhury
an employee of S.B. Shillong and his family
members (son and his wife) are residing in
my house at Madanlaban in Shillong & asterant
w.e.f. June 2005 till date on monthly Rent
of Rs. 1700/- p.m.

15/5/09

Enc.
(E. Nongkhlan)
House owner

Madanlaban Shillong &

Noted
k
15/5/09
Section Officer
Subsidiary Intelligence Bureau,
(MIA), Govt. of India,
Shillong.

Attested
HOD
Add chsc

Rx

Mrs. Lampa Ray Choudhury

Adv

BF

Annexure-7 Series

25/11/05

Go Loph Jasta
Sreejip
Suttharat

22 JUN 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

" Cap Vizylae 1000C

" Bricane A Cap 1000-100

" Atiloc AD 1000AC

" Unicortin 600mg 1000

" Loxof (500) 1000C

x 5 days

70up

Bl 100/70

Chs 100/70

Manchi

Shl

R/-

(Check up after 5 days)

© : 2580-2040

DURGA MEDICINE CORNER

448, R. B. C. ROAD, GARIFA, LALDIGHI, 24 PARGANAS (N)
(Near Garifa Boys School)

(Avoid Self Medication, Please Consult Doctor)

Attested
nam
Add chsc

Rx

Lampa R. Chandley

Refdr

11/7/07

केन्द्रीय प्रशासनिक
Central Administrative

12 2 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

7mg

~~Amox~~ " Tezine 1m hb

①

1000mg - 50

" Azid (100) hb

②

1000mg - 30

Ophir Nasaldrop

Sh

(RT)

☎ : 2580-2040

DURGA MEDICINE CORNER

448, R. B. C. ROAD, GARIFA, LALDIGHI, 24 PARGANAS (N)
(Near Garifa Boy's School)

(Avoid Self Medication, Please Consult Doctor)

Attested
nson
Ball chsc

Kr. Bose
A.M.S. (Cal.) M.A.I.G.P.A.

NAIHATI DRUG HOUSE
R.B.C. Road, Laldighi
Morning 9-30 to 12-30 p.m.
Evening 5-30 p.m. to 8 p.m.
Except Thursday Full
Friday & Saturday Morning.

Annex-15 (C)
RESIDENCE :
21/1/1, Sodgope Para Road,
Bhatpara, North 24 Parganas.
Bus Stopage : Kamala Store
P: 2581-3591
Visiting Hours :
Morning - 7 a.m. to 8 a.m.
Evening - 4 to 5 p.m.
(Except Sunday)

Not Available From 31/10/05 To 5/11/05

Date 19/10/05 at 12-35 PM

For Mrs. Pampa Roy Choudhury, 28 Km. H/F

pc - Hyperacidity - irregular
bowel movement - mucus for
2-3 times since 1 yr. scanty
pain full menstruation, burning
menstruation also before 5 days
menstruation.

af: 8-72/1
A.P. - 11/80 - 84
A.G. J.G. 06 mg 40

Tongue - coated
pfa: - tend i - se
pale whitish
e H. lumb. - epigastric
Aet - by - 50 mg
H. ki - 100 mg
Aet - 100 mg

Adv: Avoid spicy food.

99/99 NAF Powder
2 tp in the empty
stomach in the morning &
evening x 15 days

Tab Alcarex
2 ts in the morning
& evening after taking food.
x 15 days

99/99 Himcoacid Gel
2 tp after
lunch & dinner x 15 days

* Cap Ural
1 cap 3 times x 10 days

99/99/99 * Sp Merryton
2 tp 3 times x 30 days
(starting from 5th day of
menstruation)

IN CASE OF EMERGENCY HOSPITALISATION SOS.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Attested
hasan
Addch se

Attached
as
add chs c

m Kx. Base
A.M.S. (Cal), M-A.I.G.P.A.

NAIHATI DRUG HOUSE

R.B.C. Road, Laldighi
Morning : 9.30 to 12.30 p.m.
Evening : 5.30 to 8 p.m.

Except Thursday Full
& Saturday Morning

-36- **Amex-15(e)**
Residence :

21/1/1, Sodgope Para Road,
Bhatpara, North 24 Pgs.
Bus Stopage : Kamala Store
Phone : 2581-3591

Visiting Hours :
Morning : 7 a.m. to 8 a.m.
Evening : 4 p.m. to 5 p.m.
(Except Thursday & Saturday)

Not Available Fromto

Date 10/11/06 at 7-30 P.M.

For Pampa Roy Choudhury, 28th. HFF

Adv: Complete bed rest.

- Exam of X Ray for both knee joint & let view.
- Exam of blood for Uric Acid & Sugar (P.A.)

00/00 Tab Bhuvaneshwar Rese
2 tabs B.P. x 1 mte

00/00 - Tab N-Lexmibiles Rese 1 tab x 2
+ 20 mte
00/00 Tab Katagagankush B.P. x 15 days

00/00 Tab Maha Yograj Guggulu
2 tabs B.P. x 1 mte

119 Boimmanar churna
1 tab B.P. x 1 mte

Katari Teila
to be applied
locally before hot compress x 1 mte

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 2 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

IN CASE OF EMERGENCY HOSPITALISATION SOS

Attested
Add Chsc

Op: Pain in the both
knee joints since 6 months.
Gravely low movement
in morning for 3-4 times since 14.
Remained weak.

Op: P- 72/ -
B.P. - 110/70 - 80/50
5 0 00 70 20

A ⊕ Tongue - cracked
Tongue - i - de
Op: same initial nry
& epistemic nry
Sp. nry

Ant - by - nry
A? Osteo Arthritis
in both knee joints
= Anesthetize.

Atam Kr. Bose
B.A.M.S. (Cal), M-A.I.G.P.A

NAIHATI DRUG HOUSE

R.B.C. Road, Laldighi
Morning : 9.30 to 12.30 p.m.
Evening : 5.30 to 8 p.m.

Except Thursday Full
& Saturday Morning

Residence :

21/1/1, Sodgope Para Road,
Bhatpara, North 24 Pgs.
Bus Stopage : Kamala Store
Phone : 2581-3591

Visiting Hours :

Morning : 7 a.m. to 8 a.m.
Evening : 4 p.m. to 5 p.m.
(Except Thursday & Saturday)

Not Available From to

Date 15/01/09 at 8:05 PM

For Pampa Roy Choudhury, 30 km. + 1/2

Adm:

Cap Bacilune

o/o/o

1 cap once a 2 mte

- Tab Rhumexogel

o/o/r

2 tab once a 2 mte

10 drops: Siva Drop

10 drops 5 drops honey

in empty stomach x 6 mte

- Anipittakar ch

9/19

1 x 2 mte

- Rumasyol oil

to be applied locally

x 2 mte

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
Active exercise

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

15/01/09

IN CASE OF EMERGENCY HOSPITALISATION SOS

Attested
Add Chs c

Parimal Kanti Biswas
Councillor
Naihati Municipality.

-38- Annex-15(g)

RESIDENCE

390/20, R. B. C. Road, Rajbandigarh,
P.O. - Garifa, Dist. - North 24 Parganas.
Phone : 2580-1502

Ref. No.....

Date...20.1.09

TO WHOM IT MAY CONCERN

This is to certify that Shri / Smt. / ~~Kamari~~..... Lampa Roy Chowdhury
Son / Daughter / Wife of Shri..... Soumen Roy Chowdhury Residing at
..... Rajbandigarh.....
P.O..... Garifa..... P.S. Naihati, Dist. North 24 Parganas is personally known to
me for the last 15 year / years.

~~No~~ She is the permanent resident of the above noted address.

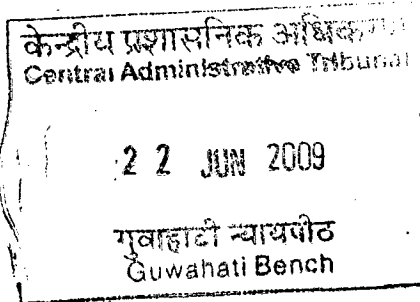
~~The~~ monthly income of the family to which he / She belongs does not exceed Rs.....
(Rupees only).

~~No~~ / She deserves all sorts of medical assistance from any Govt. Hospital.
I recommend him / her treatment in any hospital under Govt. of West Bengal at free of
all charges.

~~No~~ / She belongs to the Scheduled Caste / Scheduled Tribe / O.B.C. community and
his / her sub-caste is.....

So far as I know ~~he~~ She bears a good moral character.

I wish ~~her~~ her every success in life. ~~I wish him~~ her early cure.



Biswas

20.01.09

Councillor
Naihati Municipality

Attended
had
Add CWC

39

Annex-16

SA-1542
dt, 15-4-06

105

①

299
8/4/06

331
5/4/06

To,
The Deputy Director
SIB, Shillong

(Through Proper Channel)

Sub:- Request for availing School Bus.

Respected Sir,

With humble submission I lay down the following few lines for your kind consideration and congenial action please.

That Sir, my son Master Soham Roy Chowdhury has been admitted in Class-I in Kendriya Vidyalaya (EAC) Upper Shillong on 03.04.2006, I like to send him to the School by our Office bus regularly.

Therefore, it is fervently requested that my son Soham Roy Chowdhury may kindly be allowed to avail the Office School bus please.

IDD/Tech
DD

केन्द्रीय प्रशासन
Central Administrative Tribunal
122 JUN 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Thanking you, Sir,

Yours faithfully,

S. Roy Chowdhury 4/4/06
(S.ROY CHOWDHURY)
JIO-II/WT

TP. section
SIB, Shillong.
Dated : 04/04/2006

Forwarded for n/a Please.

Rohan I/c CR
4/4/06

His request may kindly be considered sympathetically

Attested
Addl CSE

gfb.
04/04/06

40 - **Annex-17**

Confidential

No.26/Admn/2008(8)- 441 -4258
Subsidiary Intelligence Bureau
(MHA) Govt. of India
Shillong.

Dated : 6.11.08

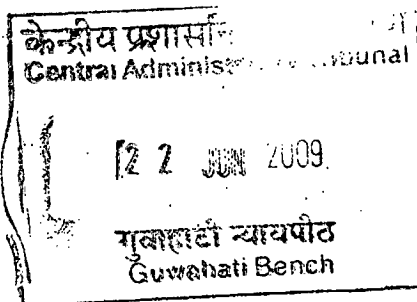
6 NOV 2008

Memorandum

Please refer to our order issued under file No. E-7/2008(1)-4250 dated 23.10.2008 regarding cancellation of sanction orders for sanctioning of Addl. HRA .

2. Shri S.R.Choudhury, JIO-I/WT is directed to submit written explanation immediately why departmental action should not be initiated against him under CCS(CCA) Rules,1965 for preferring false Addl.HRA claim.

To
Shri S.R.Choudhury, JIO-I/WT
SIB, Shillong



2. मिलन
12/11/08
Assistant Director/E.

Attested
hda
Addl CHC

Dated the, 18 DEC 2008

Memorandum

Shri S.R.Chowdhury, JIO-I/WT, SIB,Shillong is hereby informed that it is proposed to initiate disciplinary proceeding against him under Rule 14 of the CCS(CCA) Rules,1965.The substance of the imputation of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statements of article of charge (Annexure-1). A statement of the imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which the articles of charge are proposed to be sustained are also enclosed (Annexures-III).

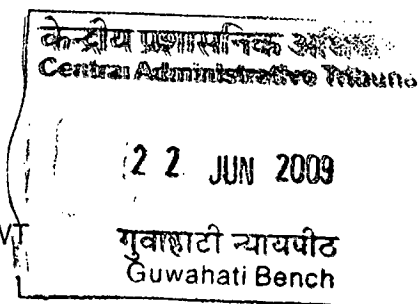
2. Shri S.R.Chowdhury, JIO-I/WT is directed to submit within 10 (ten) days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3 He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri S.R.Chowdhury, JIO-I/WT is further informed that if he does not submit his written statement of defence on or before the date specified in para-2 above, or does not appear in person before the Inquiring Authorities or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the inquiry against him exparte.

5. Attention of Shri S.R.Chowdhury, JIO-I/WT is invited to Rule 20 of the CCS(Conduct) Rule, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri S.R.Chowdhury, JIO-I/WT is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of CCS(Conduct) Rules, 1964.

To
Shri S.R.Chowdhury, JIO-I/WT
SIB,Shillong.



Assistant Director/E
&
Disciplinary Authority

Encl : As stated.

Copy to : 1. The Assistant Director/E, IB Hqrs. New Delhi.
2. PF of individual.

21/12/08
Assistant Director/E

Attested
Addl CHSC

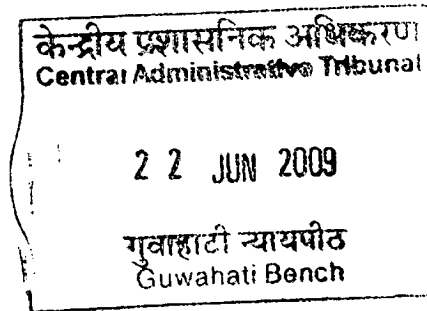
18/12/08
MR

42- 108
ANNEXURE - 1

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI
S.R.CHOWDHURY, JIO-I/WT, SIB,SHILLONG

ARTICLE - 1

Shri S.R.Chawdhury, JIO-I/WT posted at SIB,Shillong draws Additional House Rent Allowance which is found to be false. The action on the part of Shri S.R.Chawdhury is in violation of Rule 3(1) (i) & (iii) of CCS(Conduct) Rules 1964.



Attested
for
Addl chsc

43 - 109

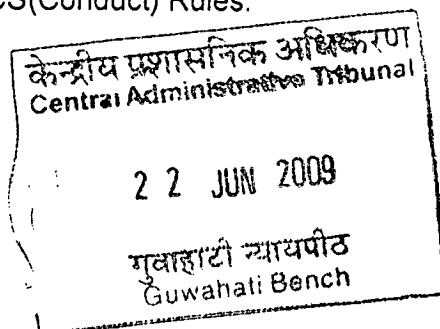
**STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI
S.R.CHOWDHURY, JIO-I/WT, SIB, SHILLONG.**

ARTICLE- 1

Shri S.R.Chowdhury, JIO-I/WT, SIB,Shillong has submitted an application (9.11.2001) for sanction of Additional House Rent Allowance for keeping his dependent family members at the last place of posting i.e. 395/76 R.B.C Road, Rajbondigarh, P.O. Garifa (Naihati) Dist. 24 Pgs(N), West Bengal which was sanctioned vide Order issued from file No. E-7/2001(1)-5006-6172 dated 5.12.2001 and he was drawing the Addl. HRA since then. While reviewing, all Addl. HRA cases, Shri S.R.Chawdhury, JIO-I/WT was issued a Memo vide No. 32/Accts-07(4)-906-4167 dated 27.9.2007 with the directions to furnish details of family members residing at the previous place of posting and their income, if any, through salary/business/land/pensions. In response, he had submitted (12.10.2007) that though his wife resides there, she visits Shillong time to time and stays with him about 4-5 months. She is a house wife and fully dependent upon him. During his leave also he reside there. All his belongings/ furniture etc are also housed there. He claimed to have neither drawn any transfer facility nor claimed block year LTC for his family members but usually availed of calendar year LTC. However, it came to notice that his family members are residing at Shillong with him. His son namely Soham Roy Chowdhury is studying at Kendriya Vidyalaya Upper Shillong and he has requested bus service vide his application (4.4.2006). He did not report to office change of position as instructed vide SI No. 2 of Order issued from file No. E-7/2001(1)-5006-6172 dated 5.12.2001. Nevertheless, he continues to draw Addl. HRA which is found not admissible.

2. The Internal Audit Party of MHA who inspected the office of the Deputy Director, SIB,Shillong from 12.5.2008 to 16.5.2008 vide their letter No. C-35012/CA/IWA/MHA/Tech/IR-34/08-09/259-60 dated 25.6.2008,observed that some officers/staff of SIB,Shillong including Shri S.R.Chowdhury are not eligible to draw Addl. HRA as per rules and procedure to concerned matters and advised the office to stop payment of Addl. HRA to them and take necessary steps to effect recovery of the inadmissible amount of Addl. HRA drawn by the officials. In addition, the departmental action may be initiated against them for false claiming of Addl. HRA. In this connection, sanction of Addl. HRA have been cancelled vide No. E-7/2008(1)-4250 dated 23.10.2008 and Shri S.R.Chowdhury was directed vide No. 26/Admn/2008(8)-441-4258 dated 6.11.2008 to submit written explanation immediately why departmental action should not be initiated against him but no response.

3. Every government servant is expected to maintain integrity to duty at all times and do nothing, which is unbecoming of a government servant. The aforesaid conduct of Shri S.R.Chowdhury, JIO-I/WT is in violation of Rule 3(1)(i) & (iii) of CCS(Conduct) Rules.



Attested
Addl CHSC

केन्द्रीय प्रशासनिक अपीलकरण
Central Administrative Tribunal

122 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE - III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI S.R.CHOWDHURY, JIO-I/WT, SIB, SHILLONG.

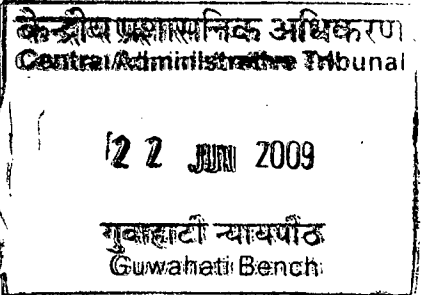
1. Application dated 9.11.2001 submitted by Shri S.R.Chowdhury, JIO-I/WT
2. Order No. E-7/2001(1)-5006-6172 dated 5.12.2001
3. Letter No. C-35012/CA/IWA/MHA/Tech/IR-34/08-09/259-60 dated 25.6.2008
4. Letter No. E-7/2008(1)-4250 dated 23.10.2008
5. Memo No. 26/Admn./2008(8)-441-4258 dated 6.11.2008
6. Application dated 4.4.2006 submitted by Shri S.R.Chowdhury, JIO-I/WT
7. Memo No. 32/Accts-07(4)-906-4167 dated 27.9.2007
8. Application dated 12.10.2007 submitted by Shri Chattopadhyay, UDC

Attested
Addl CISC

45 -

PARTICULARS OF SHRI S.R.CHOWDHURY, JIO-I/WT, SIB SHILLONG

1. NAME : Shri S.R.Chowdhury, JIO-I/WT
2. PIS NO. : 107546
3. RANK : JIO-I/WT
4. PARENTAGE : Shri Shibesh Roy Chowdhury,
5. DATE OF BIRTH : 5.1.1965
6. DATE OF JOINING
IB. : 19.10.1992
7. DIRECT/
DEPUTATIONINST : Direct.



Attested
hds
Addl Chsc

46-

The Assistant Director/E
SIB, Shillong (MHA)
Govt. of India.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

22 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

- Ref. : 1. Memo No.e-7/2008(1)-4250 dated 23.10.2008
2. Memo NO.26/admn/2008(8)-441-4258 dated 6/11/2008
3. Memo No.32/Accts-2007(13)-840-4308 dated 7.11.2008

Sir,

With reference to SIB Shillong's memorandum dated 23.10.2008 and 06.11.2008 regarding granting additional HRA to me, I would like to draw your kind attention to the following few lines.

I am extremely shocked to received the memo dated 23.10.2008 whereby my sanction order for Addl HRA has been cancelled. In the said memo, it has been indicated that "the internal audit party of MHA which inspected the office of SIB, Shillong that five of the officers/staff of SIB, Shillong are not eligible to draw addl. HRA as per rules and procedure to concerned matters and advised the office to stop payment of Addl. HRA to them to effect recovery of the inadmissible amount of Addl HRA drawn by the officials "

Before coming to such an extreme decision neither I was given the opportunity for personal hearing nor been communicated the ground on the basis of which recovery of drawn addl. HRA was proposed and conveyed by audit vide their letter dated 25/06/2008 referred to in your memo dated 23/10/2008. As such I deny that I am not eligible for the Addl HRA. Further the concerned authority ought to have given me a hearing before canceling my sanction order for grant of Addl. HRA.

Under the aforesaid circumstances, I requested to your goodself vide my letter dated 27.10.2008 to reconsider the recovery of Addl. HRA and prayed to withheld the deduction till the consideration of my representation. But to my utter surprise, a memorandum dated 06.11.2008 was served to me directing to submit a written explanation immediately why departmental action should not be initiated against me under CCS(CCA) Rules, 1965 for preferring false addl. HRA claim. Further another memorandum dated 07.11.2008 was served to me by the Section Officer/A, wherein it is mentioned that an amount of Rs.1,14,767/- will be deducted from my salary.

That sir, may I submit that I joined the IB on 1992. Thereafter, I was transferred from SIB Kolkata to Shillong on 5.11.2001. At the time of reliving, I did not claim transfer T.A advance in respect of my family and after joining the SIB Shillong I claimed my transfer T.A for self only because I left my family and my mother at my previous home address i.e at 395/75 RBC Raod Rajbondigah, P.O Garifa, (Naihati), Dist - 24 Pargana (N)(WB) and aforesaid accommodation is bonafidely used for the members of my family. For the aforesaid reason I claimed Addl. HRA as admissible to the employees transferred to N.E Region. After making the necessary enquiry, the Department sanctioned my Addl. HRA vide its order dated 05.12.2001. On 19-06-2002 I was posted at out post Dawki and there also I stayed alone at the office cum residence for which I was paying a house rent of Rs. 250/- per month to office. My claim that I

Attested
Addl CHS

47- 113

stayed alone at Dawki can also be verified through (1) Shri M.Chakraborty, (2) Anze, (3) A.K.Thapliyal, there then I/c's of the post and my other office colleges of Dawki. On September, 2004 I was transferred back to Shillong and I continued to stay alone and keeping my family at home. In the year April 2006 I brought my son who was then aged about 6 years from my home town to Shillong and admitted him to the Kendriya Vidyalaya as there was no Central School in my home town. Since the year 2006 my wife used to visit Shillong and stayed with us (myself & son) for 4 or 5 months every year. I may also submit before your honour that an interim review over the earlier sanctions of Addl. HRA was undertaken by the office whereby vide SIB Shillong's memo NO. 32/Accts-2007(4)-906-4167 dtd 27/09/2007 some clarification was sought from me. While forwarding my written submission, I explicitly mentioned the fact that my wife used to visit me at Shillong and stays with me for 4-5 months in a year. As my wife is not permanently staying at Shillong, my claim for Addl. HRA is genuine.

22 JUN 2009

গুৱাহাটী ন্যায্যীক
Guwahati Bench

That sir, I have claimed the benefit of Addl HRA because it is admissible to the employees who on transfer keep their families in the previous station in own/hired accommodation after vacating Govt. accommodation due to their transfer to North East Region. As I have been transferred to Shillong from Kolkata and subsequently to Dawki and again back to Shillong and as my family stayed in my home town at Naihati (W.B) I claimed Addl HRA which was duly sanctioned vide dated 06.12.2001 w.e.f. 05.11.2001. It is only in the year 2006, I called my son at Shillong for admission at Kendriya Vidyalaya. Since 2006 my son is staying with me regularly whereas my wife continued to stay at my home town to look after our house and visits Shillong every year for staying with our son for 4 to 5 months. It may be not out of place to mention herein that I occasionally took leave to visit my home town every year. To this fact your good self may make an inquiry to know the true fact and to ascertain genuineness of my claim.

That Sir, payment already made is sought to be recovered by the department, thereby causing me adverse monetary consequences is not tenable without putting on notice and without any explanation called for. It has caused prejudice to me on account of not affording the opportunity to make representation. I drew the allowances on the basis of financial sanction accorded to me by the competent Authority, therefore I should not be penalized for no fault on my part.

That sir, I am serving in the Department of subsidiary Intelligence Bureau since 1992 and serving at North East as JIO-II/WT w.e.f. 05-11-2001 with all sincerity and devotion to the duties entrusted to me from time to time. In the above circumstances it is most humbly prayed to your good self to kindly consider my case sympathetically and stay recovery of the Addl. HRA drawn by me and after considering the above facts it is further prayed that departmental action should not be initiated against me for alleged false Addl HRA claim. Therefore, kindly allow to my admissibility of addl. HRA. as usual and recovery may be stopped forthwith.

Thanking you.

Yours faithfully

(S R Chowdhury) 18/12/08
JIO-I/WT

forwarded please.

Pyman
18/12/08

Attested
HRA

Addl CSE

50/5

- 1 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION No.70 of 2009

Sri Soumen Roy Chowdhury

Applicant

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

319

12 9 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Versus

The Union of India & Ors

Respondents

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Filed by

Mrs. Kanita Barpuzari
Ashim Chamuah
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION No.70 of 2009

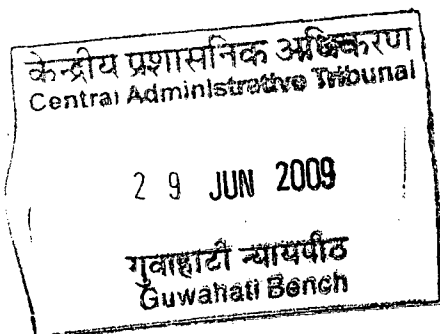
Sri Soumen Roy Chowdhury

_____ Applicant

Vs.

The Union of India & Ors

_____ Respondents



IN THE MATTER OF:

A rejoinder filed by the Applicant in
reply to the Written Statement
submitted by the Respondent No.4 on
behalf of all the respondents

The Applicant most respectfully begs
to state and submit as under:

1. That the copy of the Written Statement submitted by the Respondent No.4 on behalf of all the Respondents has been served on me and I have gone through the Written Statement filed by them and having understood the contents thereof I have filed this rejoinder in reply to the said Written Statement.
2. That, save and except, the statements in the paragraphs of the Written Statement filed by the Respondents No.4 on behalf of all the Respondents, which are specifically admitted by this applicant herein, rest are deemed to be denied and are hereby denied.
3. That the statements made in the paragraph 1 (b) to 1 (e) of the Written Statement the applicant begs to state and submit that the OA is not unjust and unsustainable in law and very much correct and true as to the fact and law. The applicant further begs to state that all requisite parties are already made party to this proceedings and the applicant undertakes to join any other necessary party if so ordered by the Hon'ble Tribunal. The applicant also begs to state and submit

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Filed by the Applicant-
Through:
Mrs. Santa Barpujari
Advocate

29 JUN 2009

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that the *Doctrine of Waiver, Estoppels and Acquiescence* has ~~no~~ applicability in the instant case since the applicant has neither waived or agreed to waive the right of redressal his grievance legally nor he expressed his agreement to the impugned action taken against him as such the said doctrine has nothing to do in the instant proceedings. On the contrary, the impugned actions of the Respondents are hit by the doctrine of *Malice in Law and Malice in Fact*. And non service of notice upon the applicant is *prima facie* against the Principles of Natural Justice as such the impugned action is *void-ab-initio*.

4. That in the paragraph 2 of the Written Statement the Respondents have admitted that the notice was served on 27/09/2007 (Annexure-2 of the O. A.) and they also admitted that the applicant had submitted his reply vide his letter dated 12/10/2007 (Annexure-3 of the O. A.) to the said notice furnishing the details of the staying of his family. The applicant further begs to state that the said notice dated 27/09/07 was a regular triennial verification of the IB employees issued to verify the admissibility of the Additional HRA and after furnishing of the said reply the Respondents sat silent for more than 1 year and the applicant was allowed to draw the Additional HRA without any objection whatsoever and as such the presumption of satisfaction of the Respondents to the said reply (i.e. letter dated 12/10/2007) is valid and reasonable. The Annexure 6 to 9 annexed to the Written Statement by the Respondents are eloquently speaking in favour of the applicant that he is entitled to the Additional HRA as per the Govt. Rules. That apart, the Respondents have never stated anywhere in the impugned order or in the report of the Internal Audit Party (IAP) or in the Written Statement that the impugned order has been issued owing to the unsatisfactory reply submitted by the applicant on 12/10/07 in response to the notice issued to him on 27/09/07 (*ibid*). Hence, the contention made by the Respondents that the notice had been served on the applicant before the impugned order is passed is unfounded as such the same is liable to be set aside and/or quashed.

5. That in the paragraph 4 of the Written Statement, the Respondents have admitted that the applicant was posted in Dawki Out Post w.e.f. 02/08/02 to 03/09/04 but the Respondents have very tactfully avoided from disclosing whether the family members of the applicant were there in Dawki with him or not. The applicant reiterates that his all family members were, at that time, in Naihati, West Bengal and they are still in that address as stated in the O.A. The silence of the Respondents at this point has been eloquently speaking that they have not only erred in Law but also in fact. It is still not rebutted that the family members of

Contd. To Page-4

the applicant were in West Bengal while he was working in Dawki. At this point, 2009 it is presumed (but not admitted) that up to 03/09/04 the family members of the applicant were in WB but thereafter they are at Shillong with the applicant, then also the order of recovery of the Additional HRA from November 2001 (i.e. from the date of avail) is disproportionate, unjustified and illegal.

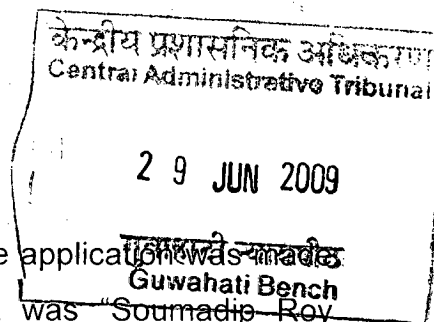
6. That in the paragraph 7 and 14 of the Written Statement, the Respondents have submitted 2 Certificates issued by the Landlord/House Owner where the applicant stayed on rent for a specific period. Firstly, in the above 2 paragraphs the Respondents have stated that the impugned order was issued upon the facts and circumstantial evidence. If it is a correct statement then it would be shocking to see for any person with ordinary prudence (not to speak of those persons belong to the *Intelligence Bureau*) that the documentary evidence upon which the impugned action was taken is of a later date i.e. the certificate of the house owner is of 15/05/09 (i.e. Annexure 13 and 14 of the Written Statement) whereas the decision of the impugned action was taken in the month of May 2008 and executed on 23/10/2008. On the other hand, the Respondents has also emphasised that the weightage should be given on the said 2 certificates not on the medical prescription given by a local Doctor and a certificate issued by the Councillor of the Local Municipal Board of Naihati, WB submitted by the applicant in support of his claim. The applicant has challenged the veracity of the said 2 certificates issued by the Land owner which had been obtained without any witness. The applicant prayed before this Hon'ble Tribunal to put the Respondents into strictest proof as far as the said 2 certificates are concerned.

It is now crystal clear that the impugned action was taken upon the applicant without any base and with a *malafide* intention but when the applicant approached the Hon'ble Tribunal then the Respondents, having no way left, somehow obtained 2 certificates to show that there is some basis of their action. Now this is upto this Hon'ble Tribunal which one will be treated as true and correct.

The applicant further begs to state that the Respondents have nothing more to show at their hands except those 2 certificates which are not admissible in law as such the contention made by the Respondents are liable to be rejected and the impugned action of the Respondents are liable to be set aside and/or quashed.

Further more, in the paragraph 14 of the Written Statement in the last part the Respondents have stated that the name of his son has differed from the school records and the application filed for the Additional HRA in the year 2001, it

Contd. To Page-5



is admitted that the name of my 1 year old child while the application was made vide application dated 09/11/2001 for Additional HRA was "Soumadip Roy Chowdhury" which was later on changed to "Soham Roy Chowdhury". The applicant begs to state that actually at that time the name of my son was not kept properly i.e. following astrological customs but later on that has been changed to "Soham Roy Chowdhury".

7. That in the paragraph 8 of the Written Statement, the Respondents have stated that they have neither showed nor concealed their satisfaction as to the reply (dated 12/10/2007) filed by the applicant in response to the notice/memo served on 27/09/2007 (Annexure-2 of the O. A.) but the applicant was allowed to draw the Additional HRA without any objection or clog. If any contrary thing was found about the applicant then he should not be allowed to draw the Additional HRA any further and he should have been informed that his reply was not satisfactory, if at all, but the respondent authority sat silent and their **"Still Tongue Depicts their Approval"** to the applicant. The well known maxim says **"Qui Tacet, Consentire, videtur"** (**Silence is the indication of consent. He, who silent, consents.**) Hence, the presumption of the applicant is very much correct that the Respondents Authority is satisfied with the reply filed by the applicant.

8. That in the paragraph 10 of the Written Statement, the Respondents have stated that the applicant has not substantiated his representation/letter dated 12/10/2007 and 27/10/2008. In this regard the applicant begs to state that the way he filed his reply on 12/10/2007, if, was not acceptable or satisfactory then that must be informed to him and reasoned order must be passed disposing his reply/representation but that was not done. Secondly, the letter dated 27/10/2008 has been filed in a hurry as because the impugned order was to the utter surprise of the applicant and that apart, the medical prescriptions and other certificate pertaining to his wife were in Naihati WB which needs time to reach him in Shillong. That is why the applicant has repeatedly stating before this Hon'ble Tribunal that the Respondents have not given him the reasonable opportunity of being heard before issuing the impugned order as such the impugned order is liable to be set aside.

9. That in the paragraph 11 of the Written Statement the applicant does not wish to offer any comment.

10. That in the paragraph 12 of the Written Statement the Respondents have stated that the applicant has not stated the fact honestly. The applicant does not

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Guwahati Bench

understand where from the question of dishonesty has arisen. The wife of the applicant stays at Naihati, WB and for whom the applicant has availed the opportunity of Calendar year L.T.C. The Respondents have found it dishonest since they are in a pre-conceived notion that the wife of the applicant stays at Shillong not at Naihati, WB.

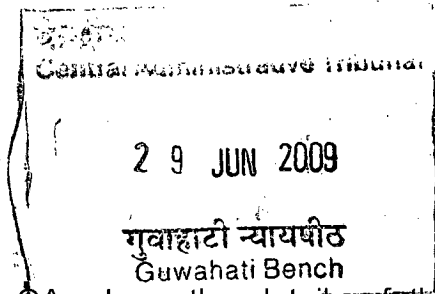
11. That in the paragraph 13 of the Written Statement the Respondents has stated that the applicant has passed a contradictory statement as regard the numbers of days stayed in Shillong by the wife of the applicant. The phraseology used by the applicant in OA was "**couple of days**"; the applicant respectfully submits that one informal meaning, according to *the Concise Oxford Dictionary (10th Edition, Page 327, Indian Edition)*, of the said phraseology is "an indefinite small number". So to the statement is not contradictory.

12. That in the paragraph 16 of the Written Statement the Respondents has stated that the applicant was given reasonable opportunity of being heard. The said statement is an incorrect statement since the Memo Dated 06/11/08 was issued after the impugned action was taken. So the impugned actions of the Respondents are hit by the doctrine of *Malice in fact and Malice in Law* and against the Principles of Natural Justice, hence, can't sustain a judicial scrutiny.

13. That in paragraph 17 of the Written Statement the Respondents have stated that on the one hand the applicant has stated in his application [Paragraph 1 and 4 (G)] that he had filed several representations which were not considered and on the other hand in Paragraph 4 (N) the applicant has stated that he has not been given reasonable opportunity of being heard. The applicant has not understood what contradiction they have found in the statements made in the aforesaid paragraphs of the OA. The Respondents, probably, have not gone through the application properly. The applicant submitted his representation after the impugned action was taken and the impugned memo was issued to him. That does not constitute notice and reasonable opportunity of being heard.

14. That the statements made in the paragraphs 19, 20, 21, 22, 23 and 25 of the Written Statement the applicant has already replied in the forgoing paragraphs of this rejoinder. However, in paragraph 23 and 25, the Respondents have stated that the applicant is misleading this Hon'ble Tribunal. The applicant begs to state that he is not misleading this Hon'ble Tribunal in any manner neither he has concealed anything from this Court. The applicant would like to refer

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to the Annexure 10 (Series, page 32) of the OA where the details of the Departmental Proceedings have been annexed. Moreover, the applicant approached the tribunal *inter alia* for stopping of the recovery from his salary with immediate effect.

15. That the applicant most respectfully submits that the entire action of the Respondents including the issuance of the impugned order/memo was without any basis as such arbitrary, unjust and *malafide*, hence can't sustain a judicial scrutiny.

16. That the applicant most respectfully submits that the impugned memo is *prima facie* violative of the Principles of Natural Justice as such liable to be set aside and/or quashed.

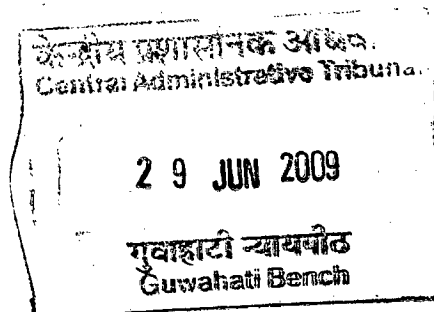
17. That the applicant most respectfully submits that since the impugned action of the Respondents are without any basis but collected some documentary evidence in a subsequent date to support their impugned action is not admissible in law as such liable to be rejected at its threshold.

18. That the applicant most respectfully submits that it is against the established principles of the service jurisprudence that recovery of any allowance and/or service benefit, may be given wrongfully, after a long gap is illegal and against the principles of natural justice as such the impugned action of the Respondents are liable to be set aside and/or quashed.

19. That the applicant most respectfully submits and prayed before this Hon'ble Tribunal that in aforesaid circumstances the OA deserves to be allowed with cost.

VERIFICATION contd.

Contd. To Page-8



VERIFICATION

I, **Sri Soumen Roy Chowdhury**, aged about 43 years, Son of Late Sibesh Roy Chowdhury, resident of 395/75 RBC Road Rajbondigah, PO Garifa (Naihati), District 24 Pargana (N), West Bengal, India, do hereby solemnly affirm and verify that the statements made in the paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, are true to the best of my knowledge, belief and the Statements made in the paragraphs 6 & 7 of the rejoinder are the information derived from the records which I believe to be true and correct and I have not concealed/suppressed anything material facts.

And I put my hand unto this verification on this 29th day of June 2009 in Guwahati, Assam.

Identified by

Proinder An.

Advocate/ Advocate's Clerk

Soumen Roy Chowdhury
Signature/Deponent

FROM : MRS. KANTA BORPUZARI
Advocate, GMC.

To

Miss Usha Das
Advocate

B.A. No. 70/09

গণপ্রজাতন্ত্রী বাংলাদেশ
Central Administrative Tribunal

S. R. Chondhury

Applicant.

Please find

29 JUN 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

vs

Sons.

Respondents.

enclosed herewith a copy of the
Rejoinder filed by the applicant.

Please acknowledge Receipt.

Yours faithfully

Kanta Borpuzari
Advocate

Received Copy

M. S. Das
for wife Das
29/6/09

Advocate

Date.