

OA No.

MP No.

RA No.

✓ CP No. 24/96 (OA 218/95)

K. P. Patil & ors

APPLICANT(S)

VERSUS
A. K. Nambiar & ors

RESPONDENT(S)

Mr. Adil Ahmed, Advocate for the applicant.

Mr. S. D. Ghosh, Advocate for the Respondents.

Office Notes

Court's Orders

This CS is filed by Mr. A. Ahmed, Adv. for the applicants. To mark the compliance of the judgment and order dated 18-10-95 passed in OA 218/95 in the case of Hon'ble M.L.A. Chaudhury, V.C & Hon'ble Dr. G.L. Langlui, M.L.A.

Submitter is placing before the Hon'ble Cont.

24-7-96 The last extension of time was allowed by vide order dated 2-5-96 in M.P. 50/96 in O.A. No. 218/95 for further two months commencing from 11-5-96. The Contempt Petitioner(original applicants) has submitted this petition dated 12-7-96 on the ground of wilful and deliberate violation of judgment and order dated 18-10-95.

Issue notice on the alleged Contemners to show cause why contempt of Court Proceedings should not be initiated against them for violation of the aforesaid order dated 18-10-95.

Returnable on 4-9-96.

List on 4-9-96 for further order.

Depondre
23/7
Deputy Registrar (A)
Central Administrative Tribunal
Guwahati Bench

9.8.96

1m

Member

Notice issued to the respondents on 9.8.96.

By 29.8.96

Notice duly served on respond No. 3.

By Sleep cause his not known

8/3/96

(2)

✓

4.9.96 Mr A.Ahmed for the petitioners.
Mr S.Ali, Sr.C.G.S.C for the alleged
contemnners.

Mr Ali has submitted that the
applicants have been paid. He seeks
short adjournment to file show cause.

List for show cause and further
orders on 23.9.96.

69
Member

pg
M/19

20.9.96

23.9.96

Learned counsel Mr A. Ahmed for
the petitioners. Mr S. Ali, learned Sr. C.G.S.C.,
for the opposite parties. Mr A. Ahmed submits
that he may be allowed to withdraw the
Contempt Petition as payment has already
been made to the applicants. Prayer allowed.

The Contempt Petition is disposed
of on withdrawal.

69
Member

I'll comply
order dated 23.9.96.

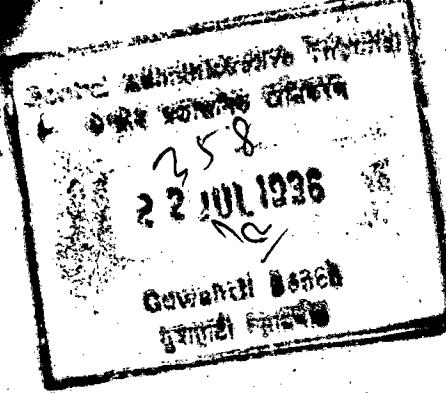
Mr 24/9

nkm
on
24/9

4.10.96

Copy of the order
issued to the L/A's
of the parties vide
D.O. 3408 & 3407 D-
9.10.96

kh
4/10



Filed by
Abdul AHMED
(Advocate)
12.7.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BRANCH:

GUWAHATI.

CONTEMPT PETITION NO. 24 OF 1996.

(in O.A. No. 218/95)

IN THE MATTER OF:

A petition under Section 17 of the Central Administrative Tribunal Act, 1985 praying for punishment of the contemners for non-compliance of the Judgment & Order dated 18-10-95 passed by the Hon'ble Tribunal in O.A. Case No. 218 /95.

- AND -

IN THE MATTER OF :

Sri. K. P. Pillai & Others

... Petitioners.

-Versus-

1) A.K. Nambiar

The ~~Under~~ Secretary, Defence,
Government of India,
New Delhi.

Received 10/7/96
Clerk's Office
11/7/96

(Contd.)

- 2 -

2) LEHAGING LHUNG DIM

C. D. A., Narangi, Guwahati.

3) Sri S. Deb Nath,

Garrison Engineer,

868 EWS, C/o 99 APO .

... Contemnors.

The humble petition of the

above-named Petitioners:

MOST RESPECTFULLY SHEWETH:

1) That, your petitioners filed the above O.A. No. 218/95 praying for payment of 1) Special duty allowances, 2) House rent allowance, 3) Special Compensatory (Remote Locality) allowance and 4) Field Service Concession of which the petitioners are legally entitled. Their application was registered and numbered as 218/95.

2) That, the Hon'ble Tribunal after hearing on both sides was pleased to pass the judgment & Order dated 18-10-95 directing the Respondents including the contemnors to pay following reliefs to the petitioners.

RELIEFS:

i) That S.D.A. of the petitioners should be paid with effect from 1-12-1988 .

(Contd.)

ii) Arrears from the date of actual posting of the petitioners in Nagaland on or after 1-12-1988 in respect of the applicant and to continue the pay of rent so long as the concession is admissible.

iii) The S.C.A.(RL) they are directed to be paid with effect from 1-10-86 from the date of actual posting in Nagaland on or after 1-10-86 and continue to pay the same so long as the concession is admissible .

iv) The arrear of the S.C.A.(RL) on the date of actual posing in Nagaland on or after 1-10-86 upto the date to paid within the period of 3(three) months from the date of communication of the order.

It was directed that Field Service Concession should be paid to the applicant with effect from 1-8-93. The same was to be paid with effect from 1-4-93 or from the date of actual appointment to such of the applicant upto date and to continue to give the same so long as admissible.

3) It was also directed that HRA is to pay the applicant at the rate as was applicable to the Central Government employees in B-I, B-II plus cities/towns for the period from 1-10-86 or from the actual date of appointment as case may be in respect of each applicant up to 28-2-91 and at the rate as admissible from time to time as from 1-3-91 upto date and to continue to pay the same at the

rate prescribe thereafter. The arrears to be paid accordingly subject to adjustment of the amount as may have already been paid to the respective applicant during aforesaid parties towards H.R.A. The future payment of HRA to be regularised accordingly.

Arrears to be paid ~~early~~ as early as practicable but not later than a period of 3(three) months from the date of communication of the order to the Respondents.

- 4) That inspite of these directions the contemnors have deliberately not complied with the order with a notice behind and no step has yet been taken for payment of the relief given by the Hon'ble Tribunal to the applicants.
- 5) That your petitioner beg to state that, the contemnors have shown complete disregard, disobedience and have not cared to carry out the judgment /direction passed by the Hon'ble Tribunal till to-day and this occasions to the contemnors amounts to serious contempt of court and they deserve the punishment for willful disobedience, disregard, non-implementation of the judgment & order passed by the Hon'ble Tribunal in O.A. No. 218/95 for which they deserve punishment.
- 6) That your petitioners beg to submit that, unless they are hold up in contempt the contemner will not implement the judgment & Order passed by the

Hon'ble Tribunal, and as such, it is a fit case that the contemners should be directed to appear before the Hon'ble Tribunal and to explain as to why they have not implemented the judgment of the Hon'ble Tribunal.

7) That, your petitioners submit that, unless the contempt proceedings are initiated against the contemners they will not care to implement the judgment passed by the Hon'ble Tribunal.

8) That, your petitioners beg to state that the contemners have not implemented the judgment & order dated 18-10-95 the applicant have been compelled to file this contempt petition before this Hon'ble Tribunal for taking action against the contemners.

Under the circumstances, it is therefore prayed that, the Hon'ble Tribunal may be pleased to issue contempt notice to the contemners to show cause as to why they should not be punished under Section 17 of the Central Administrative Tribunal Act, 1985 or pass such any other order or orders as the Hon'ble Tribunal may seem fit and proper.

(Contd.)

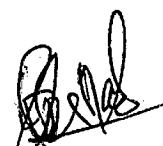
Further-it is prayed that, in view of the deliberate negligence and disobedience to carry out the Hon'ble Tribunal's order, the contemner should be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished for contempt.

And for which act of kindness your petitioner as in duty bound shall ever pray.

VERIFICATION

I, Sri ~~Adv.~~ K.P. Pillai, do hereby verify the above statements and declare that the statements are true to my knowledge, belief & information.

I, put my hand/sing this verification to-day on 12th day of July, 1996 at Guwahati.



(K.P. Pillai)

- Appdnt - next

IN THE COURT OF MAGISTRATE AT GUWAHATI

✓

A F F I D A V I T

I, Shri K.P. Pillai, Fitter H.S. II serving under the Garrison Engineer, 868 EWS C/O 99 A.P.O. Petitioner in the above case do hereby solemnly affirm as follows:-

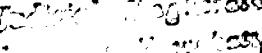
1. That I am the petitioner in the above Contempt petition as such I am well acquainted with the facts and circumstances of the case.
2. That the statement made in this Contemp petition are true to my knowledge and belief.
3. That the affidavit is made for filing Contempt petition before the Hon'ble Central Administrative Tribunal at Guwahati Bench.

Identified by
Adil Ahmed
(Advocate)
17.7.96


K. P. PILLAI
Deponent

Signed before me today 17th July 1996,
who is identified by Shri Adil Ahmed, Advocate,
Guwahati.


Magistrate.


Magistrate.

- 7 -

DRAFT CHARGE

The applicants aggrieved for non-compliance and non-payment of S.D.A., H.R.A., S.C.A.(RL) and FSC in terms of Hon'ble Tribunal's judgment & Order dated 18-10-95 passed in O.A.No. 218 of 1995. The contemner/Respondents has willfully, deliberately violated the judgment and order dated 18-10-95 passed in O.A. No. 218/95 by not implementing the direction contained therein till date. Accordingly the respondents/contemners is liable for contempt of court proceeding and ~~severe~~ severe punishment thereof as provided for under the law. They may also be directed to appear personally and reply the charge in this Hon'ble Tribunal.

—8—

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.217 of 1995

With

Original Application No.218 of 1995.

Date of Decision : This the 18th Day of October, 1995.

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

The Hon'ble Shri G.L.Senglyine, Member (Administrative)

O.A.No.217/95

311640 Shri G.C.Mondal & 23 others.
All are serving in the office of the
Garrison Engineer, 868 EWS C/o 99 APO.

Applicants

- Versus -

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

Respondents.

O.A. No.218/95

230016 Shri K.P.Pillai & 225 others.
All are serving in the office of the
Garrison Engineer, 868 EWS C/O 99 APO. . . . Applicants

- Versus -

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

Respondents

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

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

O R D E R

CHADDHAI, J. V.C.

O.A.No.217/95 :

As the question raised is covered by earlier decisions
the O.A. is admitted. Issue notice to the respondents.

Returnable forthwith. Mr.S.Ali, Sr.C.G.S.C. serves notice and

contd. 2...

Appears for the respondents. Called out for final hearing.

U.A.No.210/95

As the question raised is covered by earlier decisions the U.A. is admitted. Issue notice to the respondents. Returnable forthwith. Mr S.Ali, Sr.C.G.S.C waives notice and appears for the respondents. Called out for final hearing.

As the claims made in both the above U.A.s are identical these are disposed of by a common order. The applicants in the respective applications are granted leave to agitate their claim in the single application.

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

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

- (i) Special (Duty) Allowance (SDA),
- (ii) House Rent Allowance (HRA) at the rate of 15% on the monthly salary with effect from 1.10.1986;
- (iii) Special Compensatory (Remote Locality) Allowance with effect from 1.4.1993 and
- (iv) Field Service Concession with effect from 1.4.1993 but that these benefits are being wrongfully denied to them by the respondents. They placed reliance upon the earlier decision in U.A.48/91. It also appears that the applicants had filed Civil Suit No.265/89 praying for the aforesaid benefits and the suit was decreed. However according to the applicants the decree is not obeyed by respondents, ^{in view of which} ~~it is a nullity~~ ~~the~~ ~~plaintiff~~ being without jurisdiction.

contd. 3...



Exoto of U.A.No.210/95 :

The U.A.210/95 has been filed by 226 applicants. They are all civilian employees belonging to Group 'C' serving in the Defence Department from respective dates since 1963. They also claim the benefits of :

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

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

In support of the claim for Special (Duty) Allowance reliance is placed upon the Defence Ministry O.M. No.4(19)/83/D, Civil-I dated 21.1.84 and Defence Ministry Memorandum No.20014/3/83-IV. Reliance is placed upon the Circular issued by the Government of India, Ministry of Finance No.11013/2/80-C.11(II) dated 23.9.1980 in support of the claim of HRA at the rate of 15% applicable to 8 Class cities. The claim for Special Compensatory (Remote Locality) Allowance amount for Defence department civilian employees is based upon the letter of Ministry of Defence, Government of India No.0/37269/AG/PS3(6)/165/0(Pay)/Services dated 31.1.95 with effect from 1.4.93. Lastly, the Field Service Concessions are claimed on the basis of letter No.16729/ORG4 (civ.) (d) dated 25.4.94 issued by the Army Headquarter in pursuance of letter of Government of India dated 13.1.94.

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

contd. 4...



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The Memorandum dated 14.12.1985 referred upon by the applicants.
(See decision of the Hon'ble Supreme Court in Civil Appeal
No.834 of 1995, Chief General Manager (Telecom), N.E.Telcom
Circle & another vs. Shri Balendra Ch. Bhattacharjee & others
dated 10.1.95) We have considered this aspect as well as the
question of eligibility of House Rent Allowance, Special
Compensatory (Remote Locality) Allowance and Extra Service
Concessions in our order on O.A.124/95 with O.A.125/95 dated
24.8.95. The applicants in those cases were also Defence
civilians employees like the applicants involved under the
Garrison Engineer and who had been posted in the State of
Nagaland. After examining the relevant materials we have
held that the applicants are entitled to get all these
benefits. The applicants in the instant O.A. and the applicants
in those cases were also plaintiffs in the same Civil Suit
namely 266/89 and they are all identically placed. We are
satisfied that for the same reasons as are recorded in the
common order on the aforesaid two applications namely O.A.
124/95 and O.A.125/95, similar order may be passed in the
instant applications. Although the applicants claimed SDA
from November, 1993 we shall allow that claim with effect
from 1.12.1988 on the lines done in the earlier cases. Similarly
(i) In so far as the HRA is concerned the relief will not be
granted as prayed but as was granted in the earlier cases.
Other two reliefs will also be similarly granted as was done
in the earlier cases.

For the aforesaid reasons following order is
passed:

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

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

contd. 5...



ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SCA) with effect from the date of actual posting in Nagaland on or after 1.12.1980 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1980 upto date to be paid within three months from the date of receipt or copy of this order.

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

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

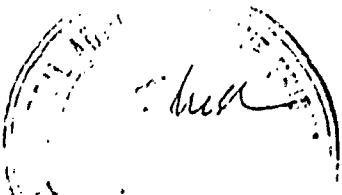
(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

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

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

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

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



contd. 6....

appointment on the date may be in respect of such appointment upto 21.2.1991 and of the rate on may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

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

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

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

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

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

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

i) It is declared that SDA is payable from 1.12.1980.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1980 as the case may be in respect of each applicant and continue to pay the same so long as the condonation is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1980 upto date to be paid within three months from the date of receipt of copy of this order.

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

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

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

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

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

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

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

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

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

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

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

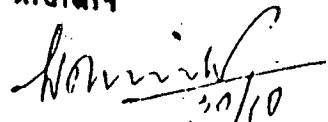
A copy of the order dated 24.8.95 passed in O.A. No. 124/95 and 125/95 shall be made part of record of this O.A.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

TRUE COPY

प्रतिलिपि



Section Officer (J)

आनंद गांधी नियमित शास्त्री

Coronation Bhawan, Tithwadi

गोव देश ४०००१०

पोस्ट ऑफिस, गोव देश



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16
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :-

CP No 24/96
OA 218/95

KP Pillai & Others - Petitioners

Vs

AK Nambiar & Others - Contemnners

— And —

In the matter of :-

Show-cause reply submitted by all the
alleged Contemnners.

Show-cause reply

The humble alleged contemnners submit their
joint show-cause replies as follows :-

1. That as per judgement and order dated 18 Oct 95
218/95 passed by the Hon'ble Tribunal in OA No 218/95 all
the dues have been paid to the applicants on 06 Aug 96
and nothing left to be paid to them. In fact, the
judgements of the Hon'ble Tribunal has been implemented
by the Respondents and the applicants are getting
their payments regularly.

2. That due to delay in getting sanction from the Govt of India, Ministry of Defence for payment of the amount directed to be paid by the Hon'ble Tribunal, there has been some delay.
3. That the delay in payment was not intentional but because of the reasons stated in para 2 above.
4. That the respondents have no intension to disobey or disregard the orders of the Hon'ble Tribunal and for such delay in full payment, the Respondents may kindly be excused.
5. That in view of the implementation of the judgements in question having fully implemented by the respondents, the contempt petition is liable to be dropped/disposed of.

Contd....3/-

VERIFICATION

I, Major S Debnath, GE 868 Engineer Works Section,
C/O 99 APO, as authorised do hereby solemnly declare
that the statements made above are true to my knowledge,
belief and information, and I sign the verification
on this 19th day of September 1996
at Dimapur.


(S Debnath)
Major
Garrison Engineer