

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

CP-7 OF 1998

OA 181/95

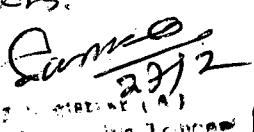
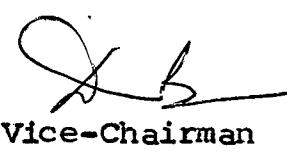
Applicant(s) Shri. C. Banerjee & Ors.
-VS-

Respondent(s) Shri A. Kumar & Ors

Advocate for Applicant(s) Mr. A. Ahmed

Advocate for Respondent(s)

Notes of the Registry	Date	Order of the Tribunal
This cp. is filed by Mr. A. Ahmed, Advocate on behalf of the applicants- praying for punishment of the contemners for non compliance of the Judgement & order dt'd- 11-1-96 passed in OA 181/95 and which was affirmed by the Hon'ble Supreme Court on 11-8-97 wide Civil Appeal No- 5442 - 5443/97 arising out of special leave petition (civil) No. 10099 - 101/97	2-3-98	Case is adjourned till 18-3-98.  Member
	1m	
	2/3	
	18.3.98	Brigadier S.K. Sharma, Chief Engineer M.E.S., Shillong Zone, Major G.V.N Rao, Administrative Officer, Head Quarters, 137 Works Engineers and Major A.K. Gupta, Garrison Engineer, 869 Engineer Works Section are present for the alleged contemners. Let this case be listed on 27.3.98 for further orders.  Member
	pg	


22/2
for Decant & Secretary (CA)
Central Admin. Tribunal, GuwahatiRecipients filed.

Vice-Chairman

22/2

(2)

C.P 7/98

Notes of the Registry

Date

Order of the Tribunal

1. 27.3.98

27.3.98

Division Bench is not avail.

List on 31.3.98 for order.

Member

pg

RS
23/3

31-3-98

Mr. S. Ali, learned Sr.C.G.S.C. submits that the payment has already been made. Mr. A. Ahmed, learned counsel for the applicants, does not agree with Mr. S. Ali. Mr. Ali also submits that if any payment is not paid which the applicants are entitled to the same will be paid to the applicants.

On hearing counsel for the parties we direct the respondents to pay the applicants the remaining amount, if any. ^{appeals and file and} otherwise we shall proceed with the Contempt Petition.

Contempt Petition is disposed of.

31-3-98

1m

31-3-98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

CONTEMPT PETITION NO. 7 OF 1998
(in O. A. No. 181/95)

179
1998

2A

IN THE MATTER OF:

A petition under Section 17 of the Central Administrative Tribunal Act, 1985 praying for punishment of the Contemners for non-implementation/compliance of the Judgment & Order dated 11-01-96 passed ~~in~~ by the Hon'ble Tribunal in O.A. No. 181/95 and which was affirmed by the Hon'ble Supreme Court on 11-08-97 vide Civil Appeal No. 5442-5443/97 arising out of Special Leave Petition (Civil) No. 10099-101/97.

- AND -

IN THE MATTER OF:

Sri Gadadhar Bania & 107 others

- Versus -

The Union of India & others.

- AND -

IN THE MATTER OF:

Sri Gadadhar Bani, Electrician,
Office of the Garrison Engineer,
869 E W S, C/o 99 APO.

! Versus -

...PETITIONER.

(Contd.)

Ques

3
Filed by
Sri Gadadhar Bania
Through
AHMED
Advocate
27.2.98

1) Sri Ajit Kumar,

Secretary Defence, Government of India,
North Block, New Delhi.

2) Col. P.B. Suri,

Commanding Works Engineer(C.W.E.),
137 Head Quarter, C/o 99 APO.

3) A. K. Gupta, Garrison Engineer,

G.E. 869 EWS, 57 Mountain Division,
C/o 99 APO.

... RESPONDENTS/CONTENENTS
RS.

The humble petition of the
above named petitioner :

MOST RESPECTFULLY SHEWETH:

1) That your petitioner and 107 others filed the O.A. No. 181/95 before the Hon'ble Tribunal praying for payment of House Rent Allowance to the Defence Civilian Employees.

2) That your petitioner begs to state that, the Hon'ble Tribunal after hearing on both parties, that is, the Union of India and the applicants was pleased to pass the judgment & order dated 11-01-96 directing the Union of India to pay the above reliefs, that is, the Special House Rent Allowance to the applicants.

It may be worth to mention here that, while granting the above relief to the applicants

(Contd.)

Chana

the Hon'ble Tribunal granted the relief only to the applicant No.1 ,Gadadhar Bania due to some technical defect of the application.

3) That your petitioner begs to state that , while granting the House & Rent Allowance the Respondents are directed to pay the above allowance from 01-10-86 to 30-01-95 . The arrear payment of the House Rent Allowance to be paid by the Respondents/Contemnors to the applicants with effect from 01-10-86 .

Annexure-1 is the photo copy of the Judgment passed in O.A. No. 181/95 dated 11-01-96.

4) That your petitioner begs to state that the Respondents/Contemnors in O.A. No. 181/95 has also filed the Special Leave Petition before the Hon'ble Supreme Court of India against the judgment and Order passed in O.A. No. 181/95 on 11-01-96 which has been numbered as Special Leave Petition No. 10099-10101 of 1997 . But in this Special Leave Petition which was filed by the Union of India the Respondents have made the parties to all the 108 (one hundred eight) applicants of the O.A. which was filed before the Hon'ble Tribunal, Guwahati Bench. The case was contested by the 108 (One Hundred Eight) applicants before the Hon'ble Supreme Court of India and the case was finally heard and disposed by the Hon'ble Supreme Court of India on 11-08- 97 . The Hon'ble Supreme Court by its judgment directed the Union of India

that the present appeals are fully covered by the Civil Appeal No. 1572/97, Union of India -Vs- B. Prasad, B.S.O. & others. From the above Supreme Court Judgment it transpires that the Hon'ble Supreme Court has granted the above allowance of Six House Rent Allowance to all the 108(One Hundred Eight) applicants of the Original Application No. 181/95 filed before the Hon'ble Tribunal Guwahati Bench as all the applicants are Defence Civilian Employees.

Annexure-2 is the photo copy of the judgment & order in Civil Appeal No. 5442- 5443/97, Union of India & others -Vs- Sri G. Bania & 107 others.

Annexure- 2(a) is the photo copy of Civil Appeal No. 1572/97, Union of India & others -Vs- B. Prasad & BSO and others .

5) That after getting the Hon'ble Supreme Court's order your petitioners requested the Respondents/Contemners to implement the Hon'ble Supreme Court's Judgment but the Respondents/Contemners have not taken any positive steps to implement the judgment of the Hon'ble Supreme Court of India. Than the petitioners sent registered Advocate Notice dated 12-01-98 to the Respondents/Contemners requesting them to implement the Judgment of the Hon'ble Supreme Court.

(Contd.)

Chowdhury

Annexure- 3 is the photo copy of the Advocate Notice dated 12-01-98 sent to the Respondents.

Annexure- 3(a) ~~photo~~ is the photocopies of receipts of the letter sent ~~the~~ to the Respondents.

6) That your petitioner begs to state that, inspite of this clear direction given by the Supreme Court of India directing the Respondents to pay the above Allowance to all the 108 (One hundred eight) applicants of the Q.A. No. 181/95 filed before the Hon'ble court the Respondents/contemnors have deliberately not complied the judgment & order with a motive behind and no steps have yet taken for paying the relief given by the Hon'ble Tribunal as well as the Hon'ble Supreme Court of India to the petitioners.

7) That your petitioner begs to state that the Respondents/Contemnors have shown complete disregard, disobedience to this Hon'ble Court's and have not cared to carry out the judgment and direction passed by the Hon'ble Supreme Court and the Hon'ble Tribunal till today. This amounts serious contempt of court and they deserve the punishment for willfull disregard and disobedience for non-implementation of the judgment & order passed by the Hon'ble Tribunal and the Apex Court.

8) That the petitioner begs to state that, unless they are held up in the Contempt case the

(Contd.)

(Dana)

8

the Contemners will not implement the judgment and order passed by this Hon'ble court and as such, it is a fit case that the Contemner should be directed to appear before this Hon'ble Tribunal to explain as to why they have not yet implemented the judgment of this Hon'ble Court as well as of the Apex Court.

9) That your petitioner submits that, the Respondents/Contemners deliberately and intentionally disobeyed and dishonoured the judgment & order of this Hon'ble Court and hence all ~~the~~ of them are liable to be punished under provision of Contempt of Court proceedings.

10) That your petitioner submits that he has filed this petition bona fide and for the ends of justice.

Under the facts and circumstances mentioned above, it is therefore, respectfully prayed that your Lordship may be pleased to admit this petition and issue/ Contempt Notice to the Respondents/Contemners to show cause as to why they should not be punished under Section 17 of the Hon'ble Tribunal Act, 1985 or pass such any other order or orders as the Hon'ble Tribunal may deem fit and proper.

(Contd.)

Chu

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

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

... Draft 7 Charge.

Abra

Ras

DRAFT CHARGE

The Applicants aggrieve for non-compliance of House Rent Allowance in terms of the Hon'ble Tribunal's Judgment & Order dated 11-01-96 passed in O.A. No. 181/95. The Contemner/Respondents have willfully and deliberately violated the judgment & order passed in O.A. No. 181/95 by not implementing the direction contained there till date. Accordingly the Respondents/Contemners liable for contempt of court proceedings and severe punishment there of as provided under the law, they may also be directed to appear personally and reply the charge of this Hon'ble Court.

... Affidavit.

Chowdhury

AFFIDAVIT

I, No. 243646, Sri Gadadhar Bani, Electrician, serving in the Office of the Garrison Engineer 869 EWS, C/o 99 APD do hereby solemnly affirm and state as follows :

1) That I am the applicant No.1 in O.A. No. 181/95 and also petitioner of the above Contempt Petition and as such, I am fully conversent with the facts and circumstances of the case and being authorised I am competent to swear this affidavit on behalf of all the applicants.

2) That the statements made in this affidavit and in paras 1, 2, 6, are true to my knowledge, those made in paras 3, 4, 5 are true to my information which are derived from the records of the case and those made in the rest of the instant petition are my humble submissions before this Hon'ble Court.

And I sign this affidavit today on this 26th day of February, 1998 at Guwahati.

Identified by

Babu
(Jalilah)

Advocate. 26.2.98

Banu
Sri. Gada Char Banu
Deponent

Solemnly affirm before me

by the deponent (Who is identified by Mr. Jalilah (Advocate))

Jalilah
(Abul AHMED)
Advocate
26.2.98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.181 of 1995

Date of decision: This the 11th day of January 1996

The Hon'ble Justice Shri M.G. Chaudhuri, Vice-Chairman
The Hon'ble Shri G.L. Sunglyne, Member (Administrative)

Shri Gadhadhar Bonia,
Electrician, MES No.243646 and 107 others,
Working in MES Leimakhong, 57 Mountain Division,
99 A.P.O.

.....Applicants

By Advocate Shri D.K. Biswas.

- versus -

1. Union of India, represented by
the Secretary to the Government of India,
Ministry of Defence,
New Delhi.
2. Commanding Works Engineer (CWE),
137 HQ C/o 99 A.P.O.
3. Assistant Garrison Engineer,
MES, Leimakhong, 57, Mountain Division,
99 A.P.O.

.....Respondents

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

ORDER

CHAUDHARI, J. V.C.

Mr D.K. Biswas for the applicant.

Mr S. Ali, Sr. C.G.S.C., for the respondents.

This application is purported to be filed on behalf of 108 Defence civilian employees by one Gadhadhar Bonia whose name alone appears in the title claiming House Rent Allowance (HRA) on the strength of the earlier judgment and order of this Tribunal in O.A.NO.48/89 dated 29.3.1994. The title mentions the name of only one person. The O.A. is also signed by him alone. The verification is also made only on behalf of the said Gadhadhar Bonia and not others. The Vakalatnama is attached to a list containing 111 names. Against those names the persons concerned appear to have signed except in respect of some of the names. Some names are also deleted. Even though the Vakalatnama may have been signed in this manner it is difficult to treat the application as filed



by all of the persons for whom the application is purported to be filed. Even otherwise the list together with the signatures does not appear to have been served on the respondents and thus they had no opportunity to verify the correctness of the particulars of the persons mentioned in the list.

2. It is also not prayed in the application that the applicants have joined together in filing the single application and should be allowed to do so. No application has been filed for leave under Rule 5(a) of the Central Administrative Tribunal (Procedure & Rules, 1987, nor any leave has been obtained. We cannot, therefore, regard the application as being properly constituted and we would not, therefore, be entitled to exercise our jurisdiction in law. Mr S. Ali, learned counsel for the respondents, also raised the objection that the application is not maintainable in this form. Procedure can be relaxed or non-compliance therewith can be condoned in the interest of justice, but that can be done only when a properly constituted application is brought before the Tribunal and only after which it will be in a position to exercise its jurisdiction for that purpose. In the present circumstances, though unfortunate as it is, the whole difficulty may have arisen because of the inadvertence on the part of the learned Advocate, that cannot be rectified having regard to the position in law. Consequently, we are constrained to confine the order only to the extent of the applicant whose name appears in the title, namely, Gadhadhar Bonia, leaving it open to the other persons who purportedly are applicants to file separate applications in accordance with law and the rules. *The order now passed will be considered to be extended after such applications have been filed.*

3. The applicant, Gadhadhar Bonia, who is a civilian Defence employee posted in Field Area under respondent No.3 has made a claim for HRA in the same manner as directed in the judgment of this Tribunal in O.A.No.50/89 dated 29.3.1994 to the applicants in that case on the ground that he is similarly entitled to be paid the same.

4. Mr S. Ali, learned counsel for the respondents, adopts the contentions urged by the respondents in O.A.No.177/95 seeking permission to do so although written statement has not been filed in the instant application. Permission accordingly granted. The question involved in this O.A. being the same as in O.A.No.177/95 we adopt the same reasons as recorded in the order separately passed on O.A.No.177/95 today and pass similar order. Hence following order is passed:

(i) The respondents are directed to pay HRA to the applicant at the rate as was applicable to him by reference to the place of his posting as prescribed under the O.M. dated 23.9.1986 with effect from 1.10.1986 or from the actual date of appointment (whichever is later) upto 28.10.1991 and at the rate as may be applicable from time to time as from 1.3.1991 (under O.M.No.2(II)93-E-2(B) dated 14.5.1993) upto date and continue to pay the same at the rates as may be prescribed thereafter till 30.10.1995 and as from 1.11.1995 onwards under the appropriate orders of the Government of India as to the rate if it is altered.

(ii) The respondents shall ascertain the rates applicable at different periods of time and calculate the arrears on that basis. The arrears shall be paid within a period of three months from the date of communication of this order to the respondents. Future payment to be regulated as per the existing rate as may have been prescribed. Any amount as may have been paid to the applicant towards HRA during the aforesaid period will be adjusted in the arrears.

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

6. This order is confined to the applicant in the name of the title, i.e. Gadhadhar Bonia, with liberty to the other persons to file separate applications if so advised as indicated earlier.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

TRUE COPY

Section Officer (Judicial)
Central Administrative Tribunal
Panjabh Bhawan, Gurugram

10/10/2006
KBC

IN THE SUPREME COURT OF INDIA

175781

ORDINARY CIVIL APPELLATE JURISDICTION.....199

INTERLOCUTORY APPLICATIONS NOS. 1 to 3
(Applications for condonation of delay in filing Special
Leave Petitions).

Certified to be true copy
K.D. Dharan ^{Sd/-}
Assistant Registrar (Judi.)
S/99

IN

No.

ok

199

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 10099 to
10101 OF 1997.

(Petitions under Article 136 of the Constitution of India
for Special Leave to Appeal from the Order dated the
11th January, 1996 of the Central Administrative Tribunal,
Guwahati Bench at Guwahati in O.A. Nos. 179, 180 and 181
of 1995 respectively).

WITH

INTERLOCUTORY APPLICATIONS NOS. 4 to 6

(Applications for stay with a prayer for an ex-parte order).

Union of India & Ors.

.. Petitioners

Versus

Shri Gadadhar Bonia & Ors.

.. Respondents

(FOR FULL CAUSE TITLE PLEASE
SEE SCHEDULE 'A' ANNEXED HEREWITH)

1ST MAY, 1997

CORAM:

HON'BLE MR. JUSTICE S.C. AGRAWAL
HON'BLE MR. JUSTICE D.F. WADHWA

For the Petitioners : Ms. Indira Sawhney, Advocate and
M/s. S. Nasim Qadri and Anil Katiyar,
Advocates.

THE APPLICATIONS FOR CONDONATION OF DELAY IN FILING
THE SPECIAL LEAVE PETITIONS ALONGWITH THE PETITIONS FOR
SPECIAL LEAVE TO APPEAL AND THE APPLICATIONS FOR STAY
above-mentioned being called on for hearing before this Court
on the 1st day of May, 1997 UPON hearing counsel for the
Petitioners herein THIS COURT while directing hearing

contd... 2/p.

1. L. L. S.
2. K. A. Dharan
3. C. C. C.

of notice to the respondents herein to show cause why delay in filing the Petitions for Special Leave to Appeal be not condoned and Special Leave be not granted to the Petitioners herein to Appeal to this Court from the Order above-mentioned DOTH ORDER that pending the hearing and final disposal by this Court of the applications for stay after notice, the operation of the Order dated 11th January, 1996 of the Central Administrative Tribunal, Guwahati Bench at Guwahati in O.A. Nos. 179, 180 and 181 of 1995 be and is hereby stayed;

AND THIS COURT DOTH FURTHER ORDER that this Order be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Jagdish Sharan Verma, Chief Justice of India at the Supreme Court, New Delhi, dated this the 1st day of May, 1997.

Sd/-
(GIAN CHAND)
DEPUTY REGISTRAR

IN THE MATTER OF

1. UNION OF INDIA
through the Secretary,
Govt. of India,
Ministry of Defence
New Delhi.
2. The Garrison Works Engineer CWE,
132 HQ, C/O 99 APPO.
3. Assistant Ordnance Engineer
Electrician H.M. NES
Belmukhong 57, Mounting
Division, 99 APPO.

✓ 272843 ... PETITIONER

1. 243646	Shrii Gopalchandra Banerji	Cloctr.
2. 243681	" S. Hora Singh	"
3. 243881	" W. Mukund Singh	"
4. 243671	" K.K. Sharma	"
5. 243710	" Adihr Chandra Roy	"
6. 265107	" K. Sen Gupta	Supt. D/R-I
7. 212037	" A.K. Pranja	Supt. E/H-I
8. 204988	" P.K. Dutta	Supt. E/H-II
9. 264669	" A.K. Das	S.A. -II
10. 289212	" A. Mani	Supt. D/R-II
11. 263080	" K.K. Dutta	"

✓ 272843

12.	260140	Dilip Kumar	35
13.	224235	"	Arfaul
14.	238098	"	H.A. Bhakrika
15.	242246	"	B. Jaiul
16.	241708	"	A. J. Bopan
17.	243461	"	A.K. Tukul Singh
18.	243553	"	P. D. A.
19.	240596	"	J. Jark
20.	249999	"	A. R. Harmony
21.	225161	"	Amir Singh
22.	243656	"	Pndam Bhadur
23.	229149	"	Jogi Pradhan
24.	243656	"	Semar Sarkar
25.	202110	Sh. Ramadhar	Chokidar
26.	220162	"	Jog Bhadur Thapa
27.	238284	"	Jogdish Das
28.	220145	"	Rama
29.	243601	"	Khuplam Nagli
30.	243602	"	Arjun Ram
31.	243610	"	Shekhar Das
32.	242926	"	Harung Seeline
33.	2418	"	Dulal Shone
34.	2418	"	Satrughan Thakur
35.	220254	"	P.N. Samund
36.	243588	"	Lal Mohan Das
37.	220270	"	Sriram Sharma
38.	243598	"	Krishna Ratri
39.	243775	"	Sam Naval Das
40.	242527	"	Vilson Mosin
41.	220227	"	Airtan proctot
42.	220226	"	Adhanya Thakur
43.	243644	"	Leiou Vniphui

44.	238378	"	Shyam Dohari	Ftr/pipe
45.	255814	"	Shivnath Iraoad	B/ (A)
46.	237281	"	probhu Deocal.	Painter
47.	230511	"	Rabidhar Dab	Carp.
48.	220311	"	P.C. Franklin	"
49.	243522	"	Agn Renra	"
50.	p-3891	"	Md. Rahim	pato
51.	238033	"	Som Bahadur Gurung	"
52.	220253	"	K. pooniyn	"
53.	220253	"	Chamdev goural	Mato
54.	243611	"	Prom Iml	"
55.	243821	"	C.H. Manglam uno Singh	"
56.	237810	"	Bororoln Hoop	"
57.	220311	"	Mohd. Rnsool	Mato
58.	238728	"	Bhoj Bhadur	"
59.	243436	"	Tnoiba	Maz.
60.	243533	"	Soiminthong	"
61.	243435	"	Thankhcom	"
62.	243599	"	Mohd. Sabir Russain	"
63.	243673	"	Kulani Singh	"
64.	243624	"	Anngsh Vaiphai	"
65.	243623	"	Hochon Chonglof	"
66.	243842	"	L.Lnbhoun	"
67.	233680	"	Hariram Chouhan	"
68.	233798	"	Atori Sina	Mason
69.	233798	"	Thangton Vaiphai	"
70.	237880	"	K.H.Chakraborty	HS-1(Elect)(Sr)
71.	237716	"	P.K.Holm Roy	Sr. Elect.
72.	243604	"	R.K. Iml	HS-II(Elect)
73.	238104	"	C.H.Malik	HS-III(Elect)
74.	238291	"	M.Sridharan	P.H.O.
75.	238226	"	Vishnu Irebhat	"

10. 230339 N.EKA -18-

77. 220353 " Inwar Bhugnt

78. 238128 " Tulsi Munia

DKP

79. 220336 " B.B.Thapni

Ftr.

80. 238011 " Sirajul Haquo

81. 243672

K.H.Sunil Singh

DCS

82. 220497

H. Anachandran

V/Mari

83. 220330

H. Narosa

V/Mari

84. 228252

Shiv Singh

V/Mari

85. 238437

K.P.C. Nait

V/Mari

86. 220251

Uchit Mahato

Mato

87. 220244

Bhuwaneshwar Raa

Mato

88. 220244

Singh Bahadur

Mato

89. 243889

N.L.Kalpibou

Mato

90. 243678

C. Lotha

Mato

91. 238358

Ran Prasad Harjpur

Mato

92. 220211

Sunil Dev

Mato

93. 243846

A.S.Ungoyen

Mato

94. 230042

A.P. Kumar

Mato

95. 230026

Motilal

Mato

96. 243434

Govind Singh

Mato

97. 243641

G. Munnuvaa

Mato

98. 243603

Udhiram Doyal

Mato

99. 243643

III Bahadur Sohier

Mato

100. 243617

Bhakata Bahadur Loosa

Mato

101. 243683

Adhik Lal Nandal

Mato

102. 243622

Shiv Kumar Rana

Mato

103. 243693

O.S. Vinod

Mato

104. 243002

K.K. Das

Mato

105. NYA

Kaimuray

Mato

106. NYA

Mayangnath

Mato

107. NYA

Salim Khan Singh

Mato

108. 243545

Jawinder Doley

Mato

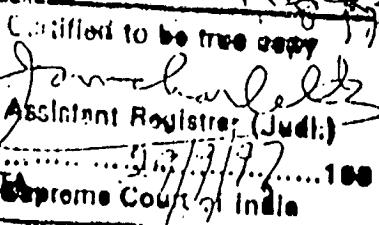
ALL THE RESPONDENT ARE:

Electrician MEG no 242615 and 107 -themselves

Working in MEG, Beliaghata, 971005, Calcutta

District. 99, A.P.O

Connecting
Respondent



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5441-5443/97
(Arising out of SLP(c) Nos. 10099-101/97)

Union of India & Ors.

.. Appellants

Versus

Shri Gadbadhar Bonia & Ors.

.. Respondents

ORDER

Presumption of service of notice is drawn in respect of respondents Nos. 26, 27, 30, 58, 62, 66, 67 and 103 since neither the envelopes containing the notices nor the A.D. cards duly served have been received back and more than 30 days have been elapsed since the issue of notice.

Delay condoned.

Special leave petitions granted.

The present appeals are fully covered by the judgment of this Court in Civil Appeal No. 1572/97 and connected matters titled Union of India & Ors. vs. B. Prasad, B.S.O. & Ors., decided on February 17, 1997.

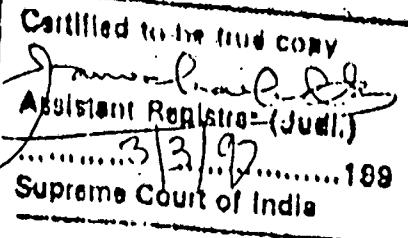
The appeals are disposed of in terms of the said judgment.
No costs.

S/L
(S.C. AGRAWAL)

S/L
(G.T. NANAVATI)

New Delhi,
August 19, 1997

8/13/97



IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997
(Arising out of SLP (C) No. 14088 of 1996)

Union of India & Ors. etc.

100181
... Appellants

Versus

B. Prasad, B.S.O. & Ors. etc.

... Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578-1579, 1580-1585/97
(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42,
15740, 25108-10 of 1996, SLP (C) No. 4336 /96 (CC-
5040/96) and SLP (C) No. 4338 /96 (CC-6660/96))

ORDER

Leave granted. We have heard learned counsel
for the parties.

These appeals by special leave arise from the
various orders passed by the Central Administrative
Tribunal, Gauhati Bench in different matters. The main
order was passed on 17.11.1995 in TRA No. 4/95 in OA
No. 49/89.

The Government of India have been issuing
orders from time to time for payment of allowances and

facilities for civilian employees of the Central Government servants working in the States and Union Territories of the North-eastern region. It is not in dispute that Special Duty Allowance was ordered by the Government @ 25% of the basic pay subject to a ceiling of Rs.400/- p.m. monthly on posting on any station in the North-eastern region. Subsequently, the Government have been issuing orders from time to time. In the proceedings dated April 17, 1995, the Government modified the payment of the Special Duty Allowance and Special Compensatory (Remote Locality) Allowance as under:

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilian employees in the newly defined Field Areas, Special Compensatory (Remote Locality) Allowance and other allowances, not concurrently admissible along with Field Service Concessions."

It is contended by Mr. P.P. Nathoora, learned senior counsel appearing for the Union of India, that the view taken by the Tribunal that they are entitled to both, is not correct and that they would be entitled

to either of the allowances. Shri P.P. Rau, learned senior counsel appearing for some of the respondents has contended that those civilian employees working in the defence service at various stations in the North-eastern region were given Special Duty Allowance with a view to attract the competent persons and the persons having been deployed, are entitled to the same and the amended concessions would be applicable to those employees who are transferred after April 17, 1975. All those who were serving earlier would be entitled to both. Shri Arun Jagtely, learned senior counsel appearing for some of the respondents has drawn our attention to the distinction between Field area and Modified Field area and submitted that in cases where civilian employees are supporting the field defence persons deployed for the border operational requirements facing the immense hostilities, they will be denied the payment of both allowances while the personnel working in the Modified Field Area, in other words, in barracks, will be entitled to double benefit of both the allowances. This creates hostile discrimination and unjust results.

Having regard to the respective contentions, we are of the view that the Government having been

extending the benefit of payment of Special Duty Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17, 1995, they are entitled to both the Special Duty Allowance as well as Field Area Special Compensatory (Remote Locality) Allowance. The same came to be modified w.e.f. that date. Therefore, irrespective of the fact whether or not they have been deployed earlier to that date, all are entitled to both the allowances only upto that date. Thereafter, all the personnel whether transferred earlier to that or transferred from on or after that date, shall be entitled to payment of only one set of Special Duty Allowance in terms of the above modified order.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border areas for support of operational requirement, they face the imminent hostilities supporting the Army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities.

in hilly areas risking their lives as envisaged in the proceedings of the Army dated January 13, 1994. But the Modified Field Area, in other words, in the defence terminology, "barracks" in that area is a lesser risking area hence they shall not be entitled to double payment. Under these circumstances, Mr. P.P. Malhotra is right in saying that the wording of the order requires modification. The Government is directed to modify the order and issue the corrigendum accordingly.

The appeals are disposed of accordingly. It is made clear that the Union of India is not entitled to recover any payments made of the period prior to April 17, 1995. No costs.

(K.RAMASHWAMY)

(G.T.NANAVATI)

NEW DELHI:
FEBRUARY 17, 1997.

Adil Ahmed B.A., LL.B
Advocate, Gauhati High Court

NOTICE

REGISTERED WITH A/D

Chamber and Residence :
Milanpur Road, Chandmari,
P.O.: Bamunimaidan,
Guwahati-781021 (Assam)
Phone : 550578

Date 12-01-98

To

Shri Ajit Kumar
Secretary of Defence,
Government of India,
New Delhi.

Re: Hon'ble Supreme Court Cases
Civil Appeal No. 5441- 5443/97
(arising out of SLP(C) No. 10099-101/97)

Union of India & others
-Versus-
Shri Gadadhar Bania & others.

Sub: Non-implementation of the Hon'ble Supreme Court's Judgment & Order dated 11-01-97 passed in the above cases for payment of S.D.A., H.R.A. & S.C.A.(RL) to the Defence Civilian Employees.

Sir,

Under the instruction of my client Shri Gadadhar Bania, Electrician serving in the Office of the Garrison Engineer, 869 EWS, C/o 99 APO under the Ministry of Defence, I give you this notice as follows :-

- 1) That my client and 107 others filed the Original Application No. 179/95, 180/95 & 181/95 before the Hon'ble Central Administrative Tribunal, Guwahati Bench praying for payment of Special Duty Allowance, House Rent Allowance, Special Compensatory Allowance (Remote Locality) to the Defence Civilian Employees.
- 2) That the Hon'ble Tribunal after hearing on both parties, that is, union of India and the applicants the Hon'ble Tribunal was pleased to passed the judgment & order dated 11-01-96 directing the Union of India to

(Contd.)

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P.O.: Bamunimaidan,
Guwahati-781021 (Assam)
Phone 550578

Date

pay the above all reliefs sought by the applicants. It may be worth to mention that while granting the above reliefs to the applicants the Hon'ble Tribunal granted the relief to only the applicant named Gadadhar Bania due to some technical defect of the application.

3) That the Union of India has also filed a Special Leave petition before the Hon'ble Supreme court of India against the judgment & order passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in the above cases. The Special Leave Petition was numbered as SLP(C) 10099 to 10101 of 1997. But in this Special Leave Petition which was filed by the Union of India made parties to all the 108 (One Hundred Eight) applicants of the Original Applications which were filed before the Hon'ble Central Administrative Tribunal, Guwahati Bench. The case was contested by the all 108 applicants before the Hon'ble Supreme Court of India and the case was finally heard and disposed by the Hon'ble Supreme court on 11-08-97. The Hon'ble Supreme Court by its judgment directed the Union of India that the present appeal are fully covered by the Civil Appeal No. 1572/97 Union of India & others -Versus- B. Prasad, BSO & others. From the above Supreme Court Judgment it transpires that the Hon'ble Supreme Court granted the above allowances, that is, S.D.A., H.R.A., & S.C.A. (RL) to the all the 108 applicants of the original applicants No. 179/95, 108/96 & 181/95 filed before the Hon'ble Central Administrative Tribunal by the Defence Civilian Employees.

It may be worth to mention here that similarly situated persons who are working in the same Department with my client are already enjoying the above allowances except my client and 107 others. This amounts a serious injustice to my clients who are working in the ^{same} place but they are deprive from their legitimate due of payment of the above allowances.

4) That inspite of this direction given by the Hon'ble Supre Court of India you have deliberately not yet (contd.)

Adil Ahmed B.A, LL.B.
Advocate, Gauhati High Court

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Phone : 550578

Date

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complied with the judgments of the Hon'ble Supreme Court of India with a motive behind and no steps have yet been taken by you for early payment of these allowances inspite of clear cut direction by the Hon'ble Supreme Court of India directing to pay the above allowances to all the 108 applicants of the Original application filed before the Hon'ble Central Administrative Tribunal .

5) That my client and other applicants have requested the Union of India through proper channel to implement the Hon'ble Supreme Court Judgment but till today you have deliberately violated, dis-obeyed and dishonoured the Hon'ble Court's Order by not paying the above allowances to my client and others and as such all the Respondents including yourself are liable for contempt of court.

I, therefore, request you to pay the allowances to my client and along with other applicants within 15 days from the date of receipt of this Notice, else I have instruction to file contempt case against you in the court for non-compliance of the Hon'ble Supreme Court's order. Compliance of the Hon'ble Court's order may kindly be intimated to the undersigned.

This is for information and immediate necessary action. This may be treated as most urgent.

Yours Faithfully,

Enclosures:

- 1) Hon'ble CAT's judgment & order in O.A. No. 179/95, 180/95 & 181/95. (ADIL AHMED), ADVOCATE, Gauhati High Court.
- 2) Hon'ble Supreme Court Judgment & order in Civil Appeal No. 5441-5443/97 arising out of SLP(C) No.10099-101/97 (Contd.)

Ali Ahmed B.A., LL.B.
Advocate, Gauhati High Court

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Date

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3)

The Hon'ble Supreme Court's Judgment

& order in Civil Appeal No. 1572/97 for your
ready reference .

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ANNEXURE-3 (a)

31

4 Date mailed Year	Month	Day	5 Time mailed Hour	Minutes	20 A Dispatch charge 20 B Office of origin
Customs Declaration					
21 Description of contents Applicable for (EMS Speed Post only)					
22	23	24 Value	25 Weight in kg.	29 Date of delivery Year	30 Time of delivery Month Day Hour Minutes
<input type="checkbox"/> GM	<input type="checkbox"/> Sample of merchandise			Addressed to	1
6 Name and address of Sender ADIL AHMED Advocate MILANPUR ROAD. P.O. BAZAR NIMADAN Guwahati					
7 <input type="checkbox"/> 9 Sender's postal code (ASSAM) 7181101211					
8 <input type="checkbox"/> 12 Name and address of Addressee Ajit Kumar Secretary of Defence North Block, Govt. of India, Signature					
9 <input type="checkbox"/> 14 Addressee's postal code New Delhi 110015					