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CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN.NO. OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. 11/96 OF 1996 (IN OA NO. 125/95)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

APPLICANT(S)

VS -

RESPONDENT(S)

FOR THE APPLICANT(S)

MR.
MR.
MR.
MR.

FOR THE RESPONDENTS

MR.

OFFICE NOTE

DATE

ORDER

19.6.96

Mr A.Ahmed for the petitioner. Mr S.Ali, Sr.C.G.S.C for the alleged contemner.

Vide M.P.No.41/96 the time for implementation of the order dated 24.8.95 was extended to 18.6.96. It has now been reported by both sides that full compliance ^{made} have been to our order dated 24.8.95. In the facts and circumstances I do not consider that there is any sufficient reason for taking action in contempt. Therefore the C.P. 11/96 in O.A.125/95 is dropped.

C.P. is disposed of.

12/7/96

Order issued to the
arbitrator made D.N. 2092
2094 d. 12.7.96

pg

62
Member

hr
12/2

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

| | |
|---------------------|-------------------------------|
| ORIGINAL APPLN. NO. | OF 1995 |
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| REVIEW APPLN. NO. | OF 1995 (IN OA NO.) |
| MISC. PETN. NO. | OF 1995 (IN OA NO.) |

..... N. Limbu & Ors. APPLICANT(S)

-VS-
.... Major Navin Mohanph. O.I. RESPONDENT(S)

FOR THE APPLICANT(S) ... MR. Adil Ahmed

MR.
MR.
MR.
MR.

FOR THE RESPONDENTS ... MR. S. Ali, Dr. C. A.

| OFFICE NOTE | DATE | ORDER |
|---|---------|--|
| <p>This application is filed by Mr. A. Ahmed advocate for petitioners for Contempt of Court w/s 17 of the A.T. Act, 1985- for Ignoring and disobeying the order dated 24.8.95 passed in O.A 125/95 by this Hon'ble Tribunal. A draft charge is enclosed alongwith the petition.</p> | 26.3.96 | <p>Mr A. Ahmed for the petitioners. This Contempt Petition has been submitted by the petitioner on the ground of alleged non compliance with the order dated 24.8.95 in O.A.125/95 by the alleged contemner Major Navin Mohan, Garrison Engineer, 868 EWS, c/o 99 APO. None is present for the alleged contemner. Let a copy of this Contempt Petition be served on alleged contemner.</p> <p>List for consideration of the Contempt Petition and further orders on 22.5.96.</p> |
| <p>Laid before the Bench for favor of orders.</p> <p>pg</p> <p>22-5-96</p> | | <p>Mr. A. Ahmed for the petitioner. None for the opposite party. Service report is awaited. List on 19-6-96 for consideration of Contempt Petition and further order.</p> |
| <p>Revised by Deputy Registrar (C) Central Administrative Tribunal Guwahati Bench</p> <p>11.</p> | | <p>60 Member</p> |

Requirements are received & issued with no. 680
D. 29.3.96
b/2873196

03/04/1996

Filed by
Adv. H.P. J.

Advocate
20.3.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI

CONTEMPT PETITION NO. 41 OF 1996

In O.A. No. 125 of 1995.

In the matter of :-

An application under Section 17 of
of the Central Administrative Tribunal
Act, 1985 praying for initiation of
Contempt proceeding against the
Respondent/Contemner for non compliance
of the judgment and order dated 24.8.95
passed in O.A. No. 125/95.

-And-

In the matter of :-

Non-compliance of the Hon'ble Tribunal's
judgment and order dated 24.8.95 passed
in O.A. No. 125/95.

-And-

In the matter of :-

Shri N. Limbu and 14 others
-All are serving in the office of the
Garrison Engineer, 868 EWS C/O 99 APO

.... Petitioner:

- Versus -

1. The Secretary, Defence, Govt of India
New Delhi 110011

2. Major Navin Mohan,

Garrison Engineer

868 EWS C/O 99 APO

... Respondent

Received 6/9/1
Adv. H.P. J.
File No. 145C
20/3/96

The humble petition of the above
named petitioner -

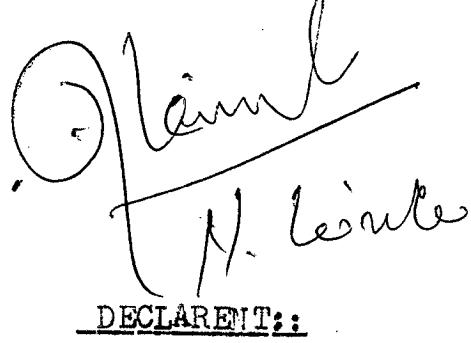
Most Respectfully Sheweth :-

1. That the petitioners filed an application before this Hon'ble Tribunal for payment of Special Duty Allowance, House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Field Service Concession for which petitioners are legally entitled. The application was registered as O.A. No. 125/95 and the Hon'ble Tribunal was pleased to pass judgment and order dated 24.8.95 in O.A. No. 125/95 in favour of the applicants after hearing the Counsel of the parties but the respondents did not implement the judgment and order dated 24.8.95 passed by the Hon'ble Tribunal in O.A. No. 125/95. Be it stated that the Hon'ble Tribunal was pleased to direct the Respondents to pay Special Duty Allowance with effect from the date of actual posting in Nagaland on or after 1.12.88 as the case may be in respect of each applicant and continue to pay the same as long as the concession is admissible. Arrears from the date of actual posting in Nagaland on or after 1.12.88 upto date to be paid within three months from the date of receipt of copy of order. The respondents are directed to pay to the applicants SCA (RL) with effect from the date of actual posting in Nagaland on or after 1.10.86 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible. Arrears from the date of ~~concession~~ actual posting in Nagaland on or after 1.10.86 upto date to be paid within

- Verification -

I Shri N. Limbu , applicant No.1 serving
peon under Garrison Engineer, 868 EWS C/O 99 APO
do hereby ~~serify~~ that the above statements are true to
my knowledge and I have not suppressed any material
facts.

And I sign this verification on this
this 20 th day of March, 1996 at Guwahati.


N. Limbu

DECLARATION:

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 Tribunals judgment and order dated 24.8.95 passed in O.A. No. 125 of 1995. The contemner/respondent has willfully and deliberately violated the judgment and order dated 24.8.95 passed in O.A. No. 125/95 by not implementing the direction contained therein till date. Accordingly the respondent/contemner is liable for contempt of court proceeding and severe punishment thereof as provided for under the Law. He may also be directed to appear personally and reply the charge in this Hon'ble Tribunal.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.124 of 1995

With

Original Application No.125 of 1995

Date of decision: This the 24th day of August 1995
(AT KONTBA)

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

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

O.A.No.124/95

Shri Uddhav Sinha and 116 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,
Government of India, New Delhi.
2. The Garrison Engineer,
868 EWS C/o 99 APO.
3. The Garrison Engineer,
369 EWS, C/o 99 APO.

.....Respondents

O.A.No.125/95

Shri N. Limbu and 14 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,
Government of India, New Delhi.
2. The Garrison Engineer,
868 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.



ORDER

CHAUDHARI.J. V.C.

Mr A. Ahmed for the applicants.

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

Both these cases involve same question and therefore are being disposed of by this common order.

Facts of O.A.No.124 of 1995:

The applicants belong to Group "C" serving in the Defence Department as civilian employees. The application is restricted to applicants at serial No. 1 to 117. These applicants are from Inside North Eastern Region and are serving in different capacities as Central Government employees in Nagaland, under GE 868 EWS 99 APO. Their grievance is that they are being denied the payment of:

- I) Special (Duty) Allowance (SDA) payable under Memo No.20014/3/83-E-IV of the Government of India, Ministry of Defence dated 14.12.1983 read with O.M.No.4(19)/83/D, Civil-I dated 11.1.1984
- II) House Rent Allowance (HRA) as per the circular No.11013/2/86-E-II(B) dated 23.9.1986 issued by the Government of India, Ministry of Finance
- III) Special Compensatory (Remote Locality) Allowance SCA(RL) under the Ministry of Defence letters No.16037/E/A2 HQ 3 Corps (A) C/o 99 APO and No.B/37269/AG/PS3(a)/165/D/(Pay)/Service dated 31.1.1995
- IV) Field Service Concession (FSC) vide letter No.16729/GG4 (civ)(d) dated 25.4.1994 of Army Headquarter, New Delhi, although they are entitled to get these concessions.

2. Although no written statement has been filed, Mr S. Ali, learned Sr. C.G.S.C., fairly states that we may decide the matter.



[Signature]

In the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

Facts of O.A.No.125 of 1995:

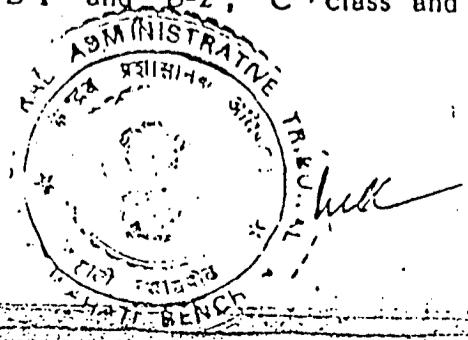
3. The applicant Nos.1 to 15 (other applicants already deleted) who belong to Group "A", "B", "C" and "D" employed in the Defence Department as civilian employees and posted in Nagaland make a grievance that the respondents are denying them the benefit of SDA, HRA, SCA(RL) and FSC although they are entitled to get these concessions.

4. The respondents have not filed any written statement. However, Mr S. Ali, learned Sr. C.G.S.C., fairly states that we may decide the matter in the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

REASONS (common to both the cases):

5. The applicants place reliance upon the O.M. dated 14.12.1983 which provides that Central Government civilian employees who have All India Transferability will be granted SDA at the rate prescribed thereunder per month on posting to any station in the North Eastern Region. Likewise, the letter of Ministry of Defence dated 31.1.1995 provides that the Defence Civilian Employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of SCA(RL) together with other allowances as may be admissible. The O.M. dated 23.9.1986 issued by the Ministry of Finance, (Department of Expenditure) provides that on the recommendation of the 4th Pay Commission it has been decided that the Central Government employees shall be entitled to HRA, on a slab basis related to their pay and separately prescribed for "A", "B-1" and "B-2", "C" class and "Unclassified" cities with effect

from.....



- 11 -

from 1.10.1986. It is further provided that HRA at the rates prescribed shall be paid to all employees (other than those provided with Government home/hired accommodation) without requiring them to produce rent receipts, but on compliance with the prescribed procedure thereunder. It also provides that where HRA at 15% has been allowed under special orders the same shall be given as admissible in "A", "B-1" and "B-2" class cities and it shall be admissible at the rates in "C" class cities in other areas. The memorandum issued by the Army Headquarter - Org 4(civil)(d) dated 25.4.1994 bearing No.16729/ GG4(CIV)(d) on the subject of FSC to civilians paid from Defence Service Estimates including civilians employed in lieu of combatants and NCsE (both posted and locally recruited) provides that it is proposed to extend the same concessions to Defence civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas and the same shall be paid at the rates prescribed under the said memorandum. It has, however, been provided that SCA such as bad climate allowance etc. shall not be in addition to these allowances.

6. The applicants have based their respective claims on these memorandums.

7. It appears that the applicants in both the cases had filed a Civil Suit in the court of DC(Judicial), Dimapur, Nagaland, being Civil Suit No.255/89 making the same claims. The civil court by judgment and decree dated 19.12.1994 has allowed the claims and directed the respondents to make the payment accordingly. The civil court relied upon the decision of this Tribunal in O.A.Nos.48, 49 and 50 of 1989 of the Central Administrative Tribunal, Guwahati Bench. The decree has not been complied with, but the applicants have now stated in the applications that they would not proceed with the execution of the decree as they have now realised that they had obtained the decree from the court which lacked inherent

Jurisdiction.....

full



jurisdiction to entertain and try the suit in view of the bar of jurisdiction arising under the provisions of the Administrative Tribunals Act and, therefore, they have approached this Tribunal for relief by these applications. Since the applicants were agitating the claim in respect of SDA and HRA in a wrong forum it is just and proper to give them the benefit of exclusion of the period of pendency of the civil suit for the purpose of holding the said claims within limitation in these applications. The relief sought in respect of the other two claims is within jurisdiction.

8. The question of entitlement for all these claims in respect of Defence civilian employees have been exhaustively examined by us in the decision in the case of S.C. Omar, Assistant Executive Engineer, -vs- Garrison Engineer and another (O.A.No.174 of 1993) reported in SLJ 1995(1) CAT (Guwahati Bench) ^{p.74.} We have held in that case

that SDA and SCA(RL) are payable to civilians with All India transfer liability posted in Nagaland even if they get Field Service Concessions. We have not accepted the plea that admissibility of Field Service Concession deprives them of these benefits. In view of this conclusion since facts are identical and as we had also referred to the earlier decisions in O.A.No.48/89 and O.A.No.49/89 dated 29.3.1994 in support, we are satisfied that the relief claimed by the applicants in the instant applications relating to SDA and SCA(RL) must be allowed.

We, therefore, declare that the applicants in the respective applications are entitled to be paid SDA with effect from 1.12.1988 or from the actual date of posting

as.....



as the case may be. We further declare that the applicants in the respective applications are entitled to be paid SCA(RL) also, with effect from 1.10.1986. For specifying these dates in respect of these two reliefs we rely upon O.M.No.20014/16/86/E-IV/E-II(B) dated 1.12.1988. This is consistent with the decision in S.C. Omar's case (Supra). It is, however, made clear that this applies only to such of the applicants who are appointed outside N.E. Region, but are posted in N.E. Region on tenure basis.

9. Consistently with the view we have taken in Omar's case on the nature of FSC and with the view taken that SDA and SCA(RL) are payable independently of FSC we hold that on the subject the applicants in the respective applications are entitled to draw the same as provided in the letter of the Government of India No.37269/AG/PS 3(a)/D(Pay & Services) dated 13.1.1994 with effect from 1.4.1993 subject to fulfilment of other conditions prescribed therein.

10. Lastly, in so far as the claim for HRA is concerned we follow our decision in O.A.No.48/91 dated 22.8.1995 and hold that under the O.M. dated 23.9.1986 the applicants are entitled to draw the HRA prescribed for B class cities with effect from 1.10.1986 at the rates prescribed from time to time since 1.10.1986 whether on percentage basis or flat rate or slab basis till 28.2.1993 and thereafter to be regulated in accordance with the O.M.No.2(2)93-E-2(B) dated 14.5.1993 with effect from 1.3.1991 and continued to be paid.

11. For the purpose of the aforesaid order it is made clear that as now held by the Hon'ble Supreme Court the benefit of SDA is admissible only to those employees who are appointed outside the North Eastern Region and are posted in the North Eastern Region. It will be open

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to the respondents to ascertain the case of each applicant for that purpose if necessary. Further it is made clear that this order has been passed on the footing that all the applicants in the two cases are posted in Nagaland.

12. For the aforesaid reasons following order is passed:

(A) O.A.No.124/95:

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

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 1.12.1988 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 1.12.1988 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,

(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 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.

(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.



(B) O.A.No.125/95:

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

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 1.12.1988 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 1.12.1988 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.

(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.....



July

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 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.

(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.



Sd/- CHAIRMAN

Sd/- MEMBER (A)

CTC

Certified to be true Copy.

મનુષાણિત પ્રતિતિષ્ઠિ

28/9/95

COURT OFFICER

Central Administrative Tribunal
મનુષાણિત અધિકારી
સાંસ્કૃતિક અનુભાવ
ગુણશાળી ગુજરાત
Gandhinagar, Gujarat
ભારત

AC B/L
FIR SHER KHAN
23/9/95