

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. 22 OF 1995 (IN O.A NO. 217/95)
 MISC.PETITION NO. OF 1995 (IN NO.)

..... *Amren D. Indan* APPLICANT(S)

-VS-
 *G. C. Mandal & Others* RESPONDENT(S)

For the Applicant(s) ... Mr. *S. Ali, Sr. Case.*

Mr.

Mr.

Mr.

For the Respondent(s)

Mr. *A. Ahmed.*

OFFICE NOTE	DATE	ORDER
<p><i>Mr. S. Ali, Sr. Case.</i></p> <p>has filed an application on 11.12.95 Wt. 170 CAT (Procedure) Rules, 1989 with a prayer to review the order dated 18.10.95 passed in O.A 217/95 by the Honble. v.c. and Member of this Bench. The order communicated on 2.11.95 and the same received by the Respondent on 14.11.95. Hence this application is within the time.</p> <p>laid before the Bench for framing of orders.</p> <p><i>[Signature]</i> 27/12/95</p> <p>Section Officer, Central Administrative Tribunal Guwahati Bench. <i>[Signature]</i></p>	<p>2-1-96</p>	<p>Mr. S. Ali Sr. C.G.S.C. for the applicants. The questions raised have already been examined in detail in several O.As. We have adopted a certain view with which the Review Application do not seem to be agreed. That however cannot be a ground for review. The Review Application is rejected.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

2 QA/TA/CP/RA/MP No. of 19

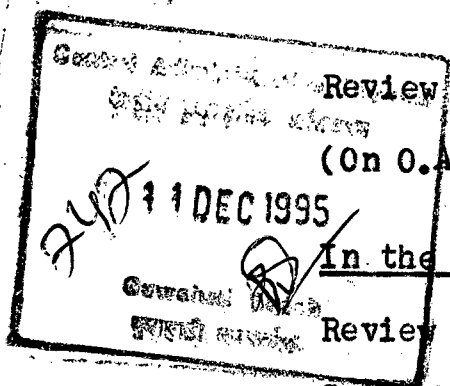
OFFICE NOTE

DATE

ORDER

3
Filed by
Shankar
for CBS
11/12/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



Review Application No: 22 of 95

(On O.A. 217/95)

In the matter of :-

Review application u/s 22(3) (f) of the
Central Administrative Tribunal Act 1985.

AND

In the matter of :-

Judgment and order dated 18 Oct 95 passed
by the Hon'ble Tribunal in O.A. 217/95

AND

In the matter of :-

1. Union of India, represented by the
Secretary, Ministry of Defence, Sena
Bhawan, New Delhi.
2. Garrison Engineer 868 Engineer Works
Section C/O 99 AFO

Respondents/Petitioners

Vs

Shri G.C. Mondal and 23 others

Opposite parties

The humble respondents/petitioners named above most
respectfully shweth :-

1. The above noted O.A No. 217/95 was filed by the
opposite parties praying various concessions and the case
was finally heard on 18 Oct 95 and the applicants/opposite
parties are allowed by the Hon'ble Tribunal to draw the amount
of following allowances :-

- (a) Special duty allowance wef 1.12.88
- (b) Field service concessions wef 1.4.93
- (c) Special Compensatory allowance (RL) wef 1.10.86
- (d) House rent allowance wef 1.10.86.

Arrears amount of the above allowances to be paid as early as practicable but not later than a period of three months from the date of receipt of copy of the judgment and order i.e. 14 Nov 95 on which date the respondent have received the copy of the judgment and shall also continue to ~~ap~~ pay the current subject allowances regularly so long the concessions is admissible.

2. That the applicants/opposite parties are allowed to draw the FSC from 01 Apr 93 and arrears amount to be paid within three months from date of receipt of copy of judgment and order. In regards to above allowance, it is submitted that the opposite parties are not eligible to draw the FSC due to the following grounds :-

G R O U N D S

3. For that there has been serious error aparent on the face of the records that Nagaland comes under field area vide Appendix 'A' to G ovt of India, Min of Defence letter No. 37269/AG/PS-3(a)/90 D (Pay/Services) dated 13 Jan 94 which has been annexed in the O.A as Annexure 3(1) which has not been properly examined by the Hon'ble Tribunal. As such the ~~the~~ impunged judgment and order is a liable to be reviewed.

4. For that the Defence civilians employees serving in the Field areas will continue to draw the field service concessions

as per Annexure -4 annexed to the Original application which has not been properly scrutinised by the Hon'ble Tribunal resulting mis carriage of justice and hence the impugned judgment is liable to be reviewed.

5. For that vide Corrigendum No, B/3726/AG/PS-3(a)/730 D(Pay/Services) dated 17 Apr 95 the Ministry of Defence has deleted the remote locality allowance to the applicants who are serving in newly defined field area which was annexed^{into O.A} as annexure-3(1) which was not properly scrutinised by the Hon'ble Tribunal and as a result there as been mis ~~carraig~~ carriage of justice and hence the impugned judgment~~s~~ is liable to be reviewed.

6. For that the Ministry of Defence vide Corrigendum No. 37269/AG/PS-3(a) 1862/D(Pay/Services) dated 12 ^{Sep} ~~Apr~~ 95 the field service concession (ECA(RL)) will be applicable to the applicant wef from 31.1.95 and not with effect from 1.4.93 as directed by the Hon'ble Tribunal. Annexure X is the photo copy of such corrigendum dated 12 ^{Sep} ~~Apr~~ 95.

7. That the respondents have now filed this petition^{tion} praying for review of the judgment and order dated 18 Oct 95 passed by the Hon'ble Tribunal in O.A 217/95.

8. That the petitioners submit that there has been error aparent on the face of the records for granting FSC to the original applicants who are serving in field area as well as in MES organisation in Nagaland and as such the impugned judgment is lieable to be reviewed.

9. That this petition is filed bonafide and in the interest of Justice.

P R A Y E R

It is, therefore prayed that this Hon'ble Tribunal would be kind enough to admit this Review Application and consider the circumstances explained above and review the the impugned judgment and order dated 18 Oct 95 passed in O.A. 217/95 in the light of above facts and grounds.

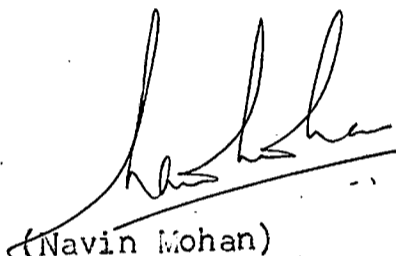
And for this act of kindness, the petitioners as in duty bound shall ever pray.

Contd.....5/-

VERIFICATION

I, Major Navin Mohan, Garrison Engineer 868
Engineer Works Section, C/O 99 APO do hereby solemnly
affirm and declare that the contents made in Paragraph I
of the Review Application are true to my knowledge and
three made from Paragraphs are derived from records
which I believe to be true and rest are humble submission
before the Hon'ble Tribunal.

I sign this verification on this Eleventh day
of December 1995 at Dimapur.


(Navin Mohan)
Major
Garrison Engineer

In the Central Administrative Tribunal

Guwahati Bench, Guwahati.

Application under Section 19 of the Central Administrative Tribunal Act 1985.

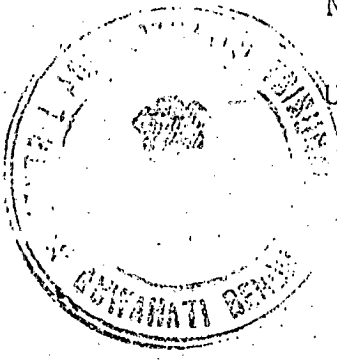
Case O.A. No. 217 of 1995

BETWEEN

- 1. 311640 Shri G.C Mondal, PEON. ✓
- 2. 260088 Shri N.K. Kar, U.D.C ✓
- 3. 216833 Shri B.C. Ghosh, Supdt, B/R Grade-I ✓
- 4. 264666 Shri Samar Chakraborty, S.A, Grade-II. ✓
- 5. 201694 Shri A.K. Bondopadhy, S.A. Grade-I.
- 6. 220150 Shri S. Jabbar, Office Chowkidar.
- 7. 220105 Shri P. Khalkhu, Chowkider.
- 8. MES 202175 Shri T.B. Bhattacharya, Supdt, B/R Grade-II.
- 9. 243485 Shri K.P.Kewat, Peon.
- 10. 234117 Shri A.K.Dutta, Supdt, B/R Grade-I.
- 11. 311608 Shri Surindra Kumar, Supdt, E/M Grade-I.
- 12. 263195 Shri S.K. Karmakar D' Man Grade-I
- 13. 208173 Shri Nilendra Roy, Supdt, B/S Grade-II.
- 14. 224065 Shri Abdul Rouf, S.K. Grade-I.
- 15. 216499 Shri Monoranjan Roy, S.K. Grade-II.
- 16. 263544 Shri R.C. Das, Asstt, Engineer E/M.
- 17. MES/201085 Shri N.K. Kundra, B/S Grade-II.
- 18. MES/210151 Shri D.R. Khattl, B/S, Grade-II. ✓
- 19. MES/268151 Shri S.K. Nag, B/S Grade-I.
- 20. MES/201185 Shri Angsu Gopak Saha AE/ B/R
- 21. MES/265840 Md. Kalam Ansari, Supdt, E/M Grade-II.
- 22. MES/242028 Shri G.C. Bora, U.D.C.
- 23. MES/238173 Shri Ramesh Ch. Baishya, BSO
- 24. MES/216447 Shri U.S. Prasad, AE

Now all are serving in the office of the G.E. 868 EWS
 - And -
 Union of India and others.

..... Applicants.:
 C/O 99 APO
 Respondents.



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.Sanglyine, 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,
UGU, EWS, C/o 99 APO.
3. The Garrison Engineer,
869 EWS, C/O 99 APO. . . . Respondents.

O.A. No.218/95

238016 Shri K.P.Pillai & 225 others.

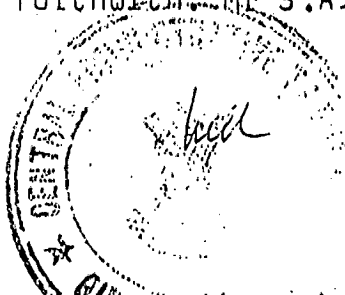
All are serving in the office of the
Garrison Engineer, 868 EWS C/O 99 APO. . . . Applicants

- Versus -

1. Union of India represented by the
Secretary Defence, Govt. of India,
New Delhi,
2. The Garrison Engineer,
UGU 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 RCHAUDHARI 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 unives notice and



appears for the respondents. Called out for final hearing.

10 O.A.No.218/95 :

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 waives notice and appears for the respondents. Called out for final hearing.

As the claims made in both the above O.As 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 O.A.No.217/95:

The 24 applicants concerned in O.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 1.10.1906;
- (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 O.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, ^{on the ground that} ~~it is~~ ^{it is a nullity -} a nullity being without jurisdiction.



Facts of O.A.No.218/95 :

The U.A.218/95 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 11.1.84 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.11013/2/86-E.11(D) dated 23.9.1986 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.8/37269/AG/PS3(a)/165/D(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...



- 4 -

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the Memorandum dated 14.12.1983 relied 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.Telecom Circle & another vs. Shri Rajendra Ch. Bhattacharjee & others dated 10.1.95.) ^{JT 1995(1) SC 440.} We have considered this aspect as well as the question of eligibility of House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Field 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 civilian employees like the applicants serving 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 265/89 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 SOA from November, 1993 we shall allow that claim with effect from 1.12.1988 as was done in the earlier cases. Similarly 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 SOA is payable from 1.12.1988.

contd. 5...



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 same 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.

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.

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

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,



contd. 7...

(h) 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 D, A-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.

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(a) 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 (ADMN)

TRUE COPY

प्रतिविलिपि

[Handwritten Signature]
30/10

Section Officer (J)

आनयन अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
राज्य शाखा
Guwahati Bench, Guwahati-6
एच.टी. य.यचीड, गुवाहाटी-6

[Handwritten Signature]
02/11/95

COPY

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18

Copy of the Ministry of Defence Corrigendum No B/37269/AG/PS-3(a)/162/D (Pay/Services) dt 12 Sep 95, regarding Field Service Concessions to Defence Civilians serving in the newly defined Field Areas.

The following amendment is made to this ministry's letter No B/37269/AG/PS-3 (a)/165/D (Pay/Services) dt 31-1-95, regarding Field Service Concessions to Defence Civilians serving in the newly defined Field Areas :-

Para 2 May be deleted and substituted as under :-

"These orders will come into force w.e.f. the date of issue of this letter namely wef 31-1-95. In other words no recovery will be made on account of concessions like free rations/free single accommodation etc, already availed of by Defence Civilians as part of Field Service Concessions from 1.4.93 to 30.1.95. Similarly, no payment on account of SDA/SCA/SCA (RL) will also be made from 1.4.93 to 30.1.95".

2. This corrigendum issues with the concurrence of the Finance Division/AD of this Ministry vide their I.D. No 1033-PA dt 11.9.95.

Sd/- x x x x
(A. T. TELANGA)

Under Secretary to the Govt of India

RESTRICTED

No. B/37259/2G/PS3(a)/730/D(Pay/Services)
Government of India
Ministry of Defence

New Delhi, the 17th April, 1995.

CORRIGENDUM

The following amendment is made to this Ministry's letter No. B/37269/2G/PS3(-)/165/D(Pay/Services) dated 31.1.1995, regarding Field Service Concessions to Defence Civilians serving in the newly defined Field Areas:-

Para 1(ii) may be deleted and substituted 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 in use by this Ministry from time to time. However, in respect of Defence Civilians employed in the newly defined Field Areas, special compensatory (Remote Locality) Allowance and other allowances are not concurrently admissible along with Field Service.

2. This corrigendum issued with the concurrence of the Finance Division/AI of this Ministry vide their L.D. No. 388/1 dated 5.4.1995.

(L.T. Tiwari)

Under Secretary to the Govt. of India
Telephone No. 3012739

To
The Chief of the Army Staff
New Delhi

Copy to:-
As per list attached.

Annexure 3(D)

(Annexure 3(A))

Annexure (1)

-34-

-312

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OFFICE OF THE C. D. J. UDAYAKI VEER, DEFENCE, GUMMATHI-171
Part. I.OO. No. 21 Dated 9.5.95.

Sub:- Field Service Concessions to Defence Civilians
serving in the newly defined Field Areas.

Govt. of India, Ministry of Defence New Delhi letter
Nos. B/37269/AG/PS3(a)/165/D/(Pay/Services) dated 31.1.95 and
B/37269/AG/PS3(a)/730/D(Pay/Services) dated 17.4.95 are
reproduced below for information and necessary action.

Please acknowledge receipt.

No. Pay/01/IX, Sr. S.O. (Pay)
Dated: 26/5/95

Distribution:-

- (a) All sub-offices as per standard list.
- (b) All section in A.O. of Defence Civilians.
- (c) Spare

(Pay) (Remote Locality) Allowance and other
not concurrently administrated with Field Service

I am directed to refer to para 13 of Govt. letter No. 37269/AG/PS3(a)/D(Pay/Services) dated 31.1.95 and to convey the sanction of the President to the following Field Service concessions to Defence Civilians in the newly defined Field Areas and Modified Field Areas as defined in the above mentioned letter:-

(i) Defence Civilian employees serving in the newly defined Field Areas will continue to be extended the concessions enumerated in Annexure 'C' to Govt. letter No. A/02584/AG/PS3(a)/97-S/D(Pay)Services) dated 25.1.1964. Defence Civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appendix 'B' to Govt. letter No. A/25751/AG/PS3(b)/146-S/2/D(Pay/Services) dated 2nd March, 1968.

(ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of special compensatory (Remote Locality) Allowance and other concessions as per instructions of Defence Civilians (Pay) dated 17.4.95.

2. These orders will come into force w.e.f. 1st April, 95.
3. This issues with the concurrence of Finance Division of this Ministry vide their UO No. 5(1)/85-AG(14-PA) dated 9.1.1995.

Sd/-
(L.T. Thangra)
Under Secretary to the Government
of India.