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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 105/95.....

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SECTION OFFICER (Judl.)

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105/95

R. App 1:

..... W-0-1 70ms RESPONDENT'S

..Mr. T. K. DWIVEDI.....FOR THE APPLICANTS

Mr. G. Savona, Adm. CASL. FOR THE RESPONDENTS

Requisits are in
 hand vol. 254548
 19.6.55
 75/6
 Notice sent on
 R. on 23 & 4
 19/7.

②

O.A. 105/95

17

1) Notice served on
Respol's no. 2, 3 & 4.

2) U/state must be
sum b'ed.

29/7

3.8.9

HIGH

O.A.No.105/95

with

Q.A.No.48/91 O.A.No.2/94, O.A.No.11/95 & O.A.No.37/95

OFFICE NOTE


DATE


COURT'S ORDER

23.8.95

Today Mr Jai Prakash Yadav,

(Kohima) Store Keeper, Technical, Geological
Survey of India, Dimapur, has
appeared on behalf of the applicants
in the above applications before us
at our residence as there is no
sitting of the Tribunal owing to
today being declared to be a
holiday. He is apprised that the
order has already been passed yester-
day and copy of the order will be
sent to the applicants in due course
from Guwahati.


Vice-Chairman


Member

nkm

O.A.No.105/95

OFFICE NOTE	DATE	COURT'S ORDER
	22.8.95 (Kohima)	Mr G. Sarma, learned Addl. C.G.S.C., for the respondents.
<u>26.11.95</u> ① Copy of Judg. Order dtd. 22.8.95 issued to all concerned (alongwith CA 48/91) vide D/NO. 5020 .. Dtd. 22.11.95.		Vide common judgment and order separately declared the O.A. is allowed in terms of the order. No order as to costs.
② Also the same issued to the Journals vide alongwith CA. 48/91.	nkm	<i>bull</i> Vice-Chairman <i>bo</i> Member

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OFFICE NOTE

DATE

COURT'S ORDER

Original Application No. 48 of 1991 (Nagaland)

with

Original Application No. 2 of 1994 (Nagaland)

with

Original Application No. 11 of 1995 (Nagaland)

with

Original Application No. 37 of 1995

with

Original Application No. 105 of 1995

Date of decision : This the 22nd day of August, 1995. at Kohima.

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

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

Original Application No. 48/91 (Nagaland).

Shri M. Lepdon Ao & 46 Others
belonging to C & D Group of employees posted
in the office of the Director, Geological Survey of India,
Operation Manipur-Nagaland, Dimapur, District, Kohima,
Nagaland

... Applicants

By Advocate Mr. N.N. Trikha

- Versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Steel and Mines, Department of Mines, New Delhi.
2. The Director General,
Geological Survey of India,
27, Jawaharlal Nehru Road,
Calcutta-700 016
3. The Deputy Director General,
Geological Survey of India
North Eastern Region,
Asha Kutir,
Laitumkhrah,
Shillong-793003
4. The Director,
Geological Survey of India,
Operation Manipur-Nagaland,
Dimapur.

.... Respondents

By Advocates Mr. S. Ali, Sr. C.G.S.C. and A.K. Choudhury, Addl. C.G.S.C.

9
O.A. No. 2/94 (Nagaland).

1. All India Postal Employees Union
P(III) & A.D.A., Divisional Branch
Kohima - 797001, represented by its
Divisional Secretary - Mr. V. Angami.
2. All India Postal Employees Union
Postman Class IV & E.O.,
Kohima Branch, Nagaland,
represented by its Divisional Secretary - Mr. K. Tali Ao.

..... Applicants

By Advocates Mr. B.K.Sharma with M/s M.K.Choudhury, and S.Sarma.

-Versus-

1. The Union of India,
represented by the Secretary,
Ministry of Communication,
Department of Posts,
New Delhi.
2. The Director General, Posts,
New Delhi-110 001
3. Chief Postmaster General,
N.E.Circle,
Shillong
4. The Director of Postal Services,
Nagaland Division
Kohima

..... Respondents

By Advocate Mr. G.K.Sarma, Addl. C.G.S.C.

O. A. No. 11/95 (Nagaland).

Nagaland Census Employees' Association
represented by its President Mr. L. Angami
Directorate of Census Operations,
Nagaland,
Kohima

..... Applicant

By Advocates Mr. B.K.Sharma with M/s M.K.Choudhury and Mr. S.Sarma.

-Versus-

1. The Union of India
represented by the Secretary
Ministry of Home Affairs,
New Delhi-1
2. The Registrar General of India,
2/A, Mansingh Road,
New Delhi-110001.
3. The Director of Census Operations,
Nagaland,
Kohima

..... Respondents

By Advocate Mr. G. Sarma, Addl. C.G.S.C.

O.A. No. 37/95

Shri N. Aier,
Assistant and 126 Others

..... Applicants

By Advocates Mr. B.K. Sharma with M/s M.K. Choudhury and S. Sarma

-Versus-

1. The Union of India,
represented by the Secretary
Ministry of Home Affairs
New Delhi-1.
2. The Director,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Kohima
3. The Assistant Director
Subsidiary Intelligence Bureau
Ministry of Home Affairs,
Government of India
Kohima

..... Respondents

By Advocate Mr. G. Sarma, Addl. C.G.S.C.

O.A. No. 105/95

Shri P.H. Dabu and 17 Others

..... Applicants

By Advocate Mr. T.K. Dutta.

-Versus-

- ✓ 1. Union of India,
represented by the Secretary to the Govt. of India,
Ministry of Steel and Mines,
Department of Mines,
New Delhi.
- x 2. The Director General,
Geological Survey of India,
27, J.L. Nehru Road,
Calcutta-700 013
- x 3. The Deputy Director General,
Geological Survey of India
North Eastern Region
Asha Kutir, Laitumkhrah,
Shillong-793003
- ✓ 4. The Director,
Geological Survey of India
Operation Manipur-Nagaland,
Dimapur

..... Respondents

By Advocate Mr. G. Sarma, Addl. C.G.S.C.

Judgement

CHAUDHARI J. (V.C.).

All these applications relate to similar claim made by Group ^{B,} C and D employees of the different departments of Govt. of India (concerned in the respective applications) posted in Nagaland and common questions of law arise for determination hence for the sake of a comprehensive consideration of material issues involved and convenience these are being disposed of by this common Judgement.

2. The case of the applicants is that Central Government B, C & D Group employees posted in Nagaland they are eligible for free furnished accommodation but none has been provided to them and therefore they are entitled to be paid compensation in lieu of the rent free accommodation (consisting of licence fee and House Rent Allowance) but since that is being denied to them and their various representations have not yielded any positive result, they have approached the Tribunal for redressal. They pray that they be held entitled to get the licence fee and house rent allowance retrospectively from due dates.

3. Facts in D.A. 48/91

(a) This application has been filed by 47 Group C and D employees of Geological Survey of India (Ministry of Steel and Mines, Govt of India) who are posted in Nagaland. Their claim is mainly based on following Memoranda & Orders :

1. O.M. No. 2(22)-E-II(B)/60 dated 2.8.60 read with letter No. 41/17/61 dated 8.1.62 from the D.G. P & T Annexure A.4.
2. O.M. No. 11013/2/86-E-II(B) dated 23.9.86 issued by Ministry of Finance, Govt. of India consistently with the recommendations of the 4th Central Pay Commission and Order No. 11015/41/86-E-II(B)/87 dated 13.11.87 and
3. Earlier decisions of Central Administrative Tribunal, Gauhati Bench with the decision of Hon'ble Supreme Court.

(b) The respondents have filed a common written statement and resist the application. They have raised the bar of limitation on the ground that the cause of action had arisen in 1986 and that

could not be agitated in 1991 and contend on merits inter alia that there have been no instructions from the Ministry of Finance that Central Government Employees posted at Dimapur are entitled to rent free accommodation. They however state that O.M. dated 19.2.87 provides that where rent free accommodation is not available the Group A, B, C & D are entitled to House Rent Allowance plus licence fee in lieu of rent free accommodation. Thus the gravamen of the defence is that since the applicants are not persons eligible to get the benefit at Dimapur they do admit that in lieu of rent free accommodation where it is not provided House Rent Allowance plus licence fee would be payable in lieu thereof.

(c) Arguments of Mr. Trikha and Mr. Ali have been heard.

4. Facts in O.A. 2 of 1994.

(a) All India Postal Employees Union Postmen (III) and Extra Departmental Agents and the All India Postal Employees Union Postmen Class (IV) and Extra Departmental Kohima Branch are espousing the cause of Group C and Group D employees of Postal Department posted throughout Nagaland Division, ~~in this application.~~ Their grievance is the same, namely, that they are entitled to rent free accommodation or compensation in lieu thereof with House Rent Allowance @ applicable to B Class Cities but the respondents are denying to extend that benefit to them and have not responded to their representations. Additionally their grievance is that although between January 1974 and December 1979 they were paid House Rent Allowance @ 15% of pay plus Additional House Rent Allowance @ 10% of their pay that has been illegally reduced to 7.5% from 1.5.1980. They rely on self-same material as relied upon by the applicants in the companion cases and

their contentions are also the same. They pray similarly for a declaration that all the employees of Postal Department posted in Nagaland are entitled to House Rent Allowance applicable to Central Government Employees posted in 'B' Class Cities with effect from 1.10.1986 and for a direction to the respondents to release the same accordingly with effect from 1.10.1986.

(b) The respondents have filed a common written statement and the contentions raised are similar as in companion cases. They deny the claim. They inter alia contend that the staff of P & T Department is not eligible to the benefit claimed.

(c) Arguments of Mr. B.K.Sharma and Mr. G.Sarma, Addl.C.G.S.C. have been heard.

5. Facts in O.A. 11/95.

This application has been filed by the Nagaland Census Employees' Association for and on behalf of Group C & D employees of Census Operation, posted in Nagaland. Their contentions are similar to these made by the applicants in O.A. 48/91. They rely on certain additional material as they have approached the Tribunal in 1995 whereas the other O.A. was filed in 1991. These applicants state that by virtue of the Presidential Order issued on 8.1.62 the cities in the State of Nagaland are equated to cities which have been classified as 'B' Class cities for the purpose of payment of House Rent Allowance and it is still operative and entitles the applicant employees the benefit of House Rent Allowance. They further state that the State of Nagaland is considered to be a difficult area for the purpose of rented accommodation. The employees posted in the State are therefore entitled to rent free accommodation or House Rent Allowance in lieu thereof applicable to 'B' Class cities. The applicants

also point out, that in view of the Arbitration Award which held that employees of the Directorate of Census Operations posted in Nagaland are entitled to get House Rent Allowance and personal allowance at the same rate as that of employees of Post & Telegraph Department from 1.5.1976 and although pursuant thereto respondents have been paying the House Rent Allowance that is being paid at the rate meant for 'C' Class cities they have denied payment at the rate meant for 'B' Class Cities to which they are entitled. They also make a grievance that a differential treatment is being given to them in denying that benefit whereas Central Government employees in other departments have been given that benefit. They contend that all Central Government Employees posted in Nagaland are entitled to House Rent Allowance at the rate admissible to B-Class cities and they are also entitled to compensation in lieu of rent free accommodation. The applicants state that they have filed representations to the respondents but have received no response hence they have approached the Tribunal for relief. They pray for a declaration to the effect that all Group 'C' and 'D' employees of the Directorate of Census Operation posted in Nagaland are entitled to House Rent Allowance as well as compensation in lieu of Rent Free Accommodation applicable to the Central Government Employees posted in B Class cities with effect from 1.10.1986 and for a direction to the respondents to release to them House Rent Allowance @ 15% and compensation in lieu of rent free accommodation with effect from 1.10.1986.

(b) The respondents by a common written statement resist the application. Their contentions interalia are as follows :

1. There is no provision for providing rent free accommodation to employees of Directorate of Census Operations, Nagaland.

- ii. From Government accommodation the employees/occupants are supposed to pay licence fee hence it cannot be termed as rent free accommodation.
- iii. House Rent Allowance is being paid according to pay slab of the individual employees as per rules and there is no special order issued for payment at higher rate.
- iv. The applicants cannot compare themselves with other departments where higher House Rent Allowance may have been paid looking to the nature of duties and responsibilities under different working conditions. Likewise essential services cannot be equated with non-essential services. Thus applicants are not similarly circumstanced employees.

(c) The thrust of the defence therefore is to say that applicants are not eligible for rent free accommodation and it is not disputed that on being found to be eligible to the same they would be entitled to the prescribed compensation in lieu of the rent free accommodation.

(d) Arguments of Mr. B.K.Sharma and Mr. G.Sharma, Addl. C.G.S.C. have been heard.

6. Facts in O.A. 37/95

(a) The 127 applicants are employees of Subsidiary Intelligence Bureau posted in the State of Nagaland. Applicants at serial Nos. 1, 2, 4, 13, 18, 33, 56, 62, 70, 76, 79, 80, 105 and 124 are Group 'B' (non-gazetted) employees and others are Group 'C' & 'D' employees. They pray for a declaration to the effect that they are entitled to House Rent Allowance and compensation in lieu of Rent Free Accommodation at the rate applicable to Central Government Employees posted in 'B' Class cities with effect from 1.10.1986 and for a direction to the respondents to release the House Rent Allowance

to them accordingly @ 15% and compensation in lieu of rent free accommodation with effect from 1.10.1986. They contend that cities in Nagaland are declared 'B' Class Cities and they are entitled to be given rent free accommodation or compensation in lieu thereof. They rely on the Presidential Order dated 8.1.62, the O.M. dated 23.9.86, the recommendation of 4th Pay Commission, the Arbitration Award relating to employees in Directorate of Census Operations who are similarly placed, the judgement in O.A. 42/89 alongwith the Supreme Court decision therein and the circumstance of the benefit extended to employees in other departments of Central Government and also point out that their representations have not yet been replied. Their submissions are the same as in the other O.A.s.

(b) The respondents have filed their written Statement. They oppose the application. It is contended that Kohima & Dimapur in Nagaland are the only cities which are classified as 'C' Class Cities and rest of the Nagaland is unclassified and therefore the claim of applicants for House Rent Allowance at the rate payable to Central Government Employees in 'B' Class Cities is untenable. Other contentions are on the same lines as in companion O.A.s.

(c) Arguments of Mr. B.K.Sharma and Mr. G.Sarma, Addl. C.G.S.C. have been heard.

7. Facts in O.A. 105/95.

(a) This application has been filed on behalf of 47 Group C and D employees working under the Director, Geological Survey of India, Operation Manipur-Nagaland at Dimapur. They were not parties to O.A. ^{48 of 91} 42-~~(8)~~/89 although similarly placed with those applicants and their grievance is that they are not being given benefit of

the order in that O.A. on the ground that they were not parties and that they are entitled to get House Rent Allowance applicable to 'B' Class Cities @ 15% and also compensation @ 10% in lieu of Rent free accommodation. They claim to be entitled to such accommodation. Their representations have not brought them relief hence they have approached the Tribunal. They have raised contentions similar to these as have been raised by the applicants in the other companion O.A.s. They pray for an order for payment of House Rent Allowance at B-2 Class City rate with effect from 1.10.86 to the staff in Group C and D by extending the benefit of judgement and order in the earlier O.A. They also rely on the (pre-review) decision in O.A. 48/91.

(b) Although respondents could not file written statement so far we have permitted Mr. G.Sarma, the learned Addl. C.G.S.C. to make his submissions on instructions as may have been received and the learned counsel adopts the contentions urged by the respondents in their written statement in answer to O. A. 48/91.

(c) Arguments of Mr. B.K.Sharma and Mr. G.Sarma, Addl. C.G.S.C. have been heard.

Points

8. The points that arise in all these applications for consideration in common are as follows :

- i. Whether the applicants in the respective O.A.s are eligible to the concession of Rent free accommodation ?
- ii. What are the components of the compensation payable in lieu of the rent free accommodation where it is not made available and what quantum ?
- iii. Whether the licence fee as one of the components of compensation is payable @ 10% of pay ?

- iv. Whether HRA (as component of the compensation) is payable @ 15% of pay ?
- v. Whether HRA otherwise is payable @ 15 % ?
- vi. From what date above payments are applicable ?
- vii. Whether applicants are being given differential treatment vis-a-vis other Central Government Departments ?
- viii. What relief, if any ?

9. Since all the applications raise same points we shall deal with the entire material relied upon in all these cases together and also deal with submissions of learned counsel appearing for respective applicants and the respondents in the respective applications together. Our answers to above points are as indicated in the concluding part of this order for the reasons that follow.

10. Reasons :

It will be convenient to take a note of relevant Memoranda, Orders and Circulars issued by the Govt. of India from time to time in regard to providing rent free accommodation or compensation in lieu thereof in the first instance and then to take a note of the decisions cited before proceeding to examine the claim of the respective applicants.

11. Mr. S.Ali the learned Sr. C.G.S.C. representing Union of India in all these cases has strongly relied upon an old O.M. G.I. M.H. & W. with O.M. No. 12-11/60 Acc I, dated 2nd August, 1960 and contends that it is still in operation and holds the field. It was not brought to the notice of the Tribunal either in O.A. 42/91 or O.A. 2/94 or O.A. 48/91. It was produced in review application No. 12/94 in O.A. No. 48/91 for the first time (wrongly mentioning as 12-11/63 Acc I though copy annexed shows it as 12-11/60). Now after so many proceedings the respondents cannot describe it as a new

discovery of evidence. That is laying premium on the lapse of the Departments concerned or laches on their part. However, as it goes to the root of the matter according to Mr. Ali and as several employees of various departments are concerned and a vexed question is involved we have permitted to refer to it.

12. That O.M. restricts the concession of rent free accommodation only to a limited class of employees who are required to reside in the campus or in the vicinity of places of work where their presence on duty is essential and does not confer that benefit generally on all the employees, ~~posted in Nagaland (or N.E. Region).~~

It is submitted by Mr. Ali that the O.M. dated 23.9.86 and the clarificatory letter dated 13.11.87 on which all the applicants have based their claim are to be read and understood as applicable to only those employees who fall within the ambit of criteria prescribed by the aforesaid O.M. (12-11/60 Acc-I dated 2.8.60) and since none of the applicants have stated that they fulfil the criteria of that O.M. they are not eligible to get rent free accommodation or compensation in lieu thereof. He submits that their claim all along has been based on a wrong assumption and as they are not at all eligible for the concession of rent free accommodation the entire edifice of their claim must fall down and as the earlier decisions were based upon erroneous hypothesis these cannot confer a right upon the applicants to get the benefit as they were never eligible for the same. These arguments have also been adopted by Mr. G. Sarma the learned Addl. C.G.S.C. Thus question of eligibility has been raised.

13. The Office Memorandum No. 11013/2/86-E-11(8) dated 23.9.86. was issued consequent upon the recommendations of the Fourth Pay Commission containing the decision of the Govt. of India relating

20 to grant of compensatory (City) and House Rent Allowance to Central Government Employees. It recites that the President of India was pleased to decide in modification of the Ministry's (Ministry of Finance, Department of Expenditure) O.M. No. F 2(37)-E-II (B) 64 dated 27.11.65 as amended from time to time for the Compensatory (City) and House Rent Allowances to Central Government Employees to be admissible at rates mentioned therein.

14. Under the above O.M. (dated 23.9.86) a slab-wise rate of House Rent Allowance was prescribed in place of percentage basis and (in so far as material here) it was provided that the House Rent Allowance at these rates shall be paid to all employees (other than those provided with Govt. owned/hired accommodation) without requiring them to produce rent receipts etc. It further provided that where House Rent Allowance at 15 percent of pay has been allowed under special orders, the same shall be given as admissible in A, B-1 and B-2 Class Cities.

It further provided that these orders will apply to civilian employees of the Central Government belonging to Groups B, C & D only and shall be effective from 1.10.86.

15. It is necessary to understand the true impact of this O.M. It clearly deals only with the quantum of House Rent Allowance payable from 1.10.86 to all Central Government employees in A, B-1 and B-2 Class cities and does not refer to compensation payable in lieu of rent free accommodation where such accommodation is required to be provided. It does not make any reference to eligibility for getting that concession. Rather the words "Other than those provided with Govt. owner/hired accommodation" make it inapplicable to that category of employees who are eligible for rent free accommodation. The claim of the applicants founded on the basis of this Memorandum appears to be misconceived to the extent House Rent Allowance is

claimed as a component of compensation in lieu of rent free accommodation. With this nature of the O.M. there is obviously no reference in it to the O.M. dated 2.8.60 (12-11/60 Acc I).

The respondents however have not chosen to produce the Resolution No. 14(1)/IC/86 dated 13.9.86 or O.M. No. F 2937)-E-II(B)/64 dated 27.11.65 to enlighten us whether these refer to O.M. dated 2.8.60. We cannot therefore assume that these refer to the aforesaid O.M. dated 2.8.60.

16. The claim of the applicants has to be clearly understood. It is for compensation in lieu of rent free accommodation on the hypothesis that they are entitled to it. It is the O.M. (12-11/60) dated 2.8.60 which provides for the compensation consisting of 2 components namely :

1. Licence fee @ 10% and
2. House Rent Allowance (at prescribed rate).-

subject however to the eligibility criteria prescribed therein. As far as House Rent Allowance is concerned the concept has to be understood in two different ways. One, as House Rent Allowance payable to all Central Govt. Employees except those who are eligible for rent free accommodation and two, as one of the components of compensation payable in lieu of rent free accommodation where such accommodation is not made available. It will however be rational to say that the rate of House Rent Allowance payable as part of compensation should also be the same as prescribed for all civilian employees from time to time such as under the O.M. dated 23.9.86. The applicants however have confused between the rate of House Rent Allowance as payable and eligibility to get compensation of which House Rent Allowance is one of the components. As a result of this confusion they have laid much emphasis on the payment of House Rent Allowance and its rate and have

22 not clearly shown as to under what specific rule or O.M. or decision of the Government all of them can claim the compensation in lieu of rent free accommodation.

17. The applicants rely upon O.M. No. 2(22)-E-II(B) 60 dated 2.8.60 issued by the President of India in respect of P & T staff and O.M. 41-17-61 dated 8.1.62 as the basis to contend that they are entitled to rent free accommodation as it is provided as a concession to the employees posted in Nagaland which is regarded a difficult area.

O.M. 2(22)-E-II(B) 60 dated 2.8.60 containing the order of the President of India applicable to P & T staff working in NEFA and NHTA - on the subject of revision of allowances, same provided in Clause (1) (iii) as follows :

"Rent free accommodation on a scale approved by the local administration, the P & T staff in NHTA, who are not provided with rent free accommodation, will however draw HRA in lieu thereof at the rates applicable in 'B' class cities contained in Col. 4 of paragraph I of the Ministry of Finance O.M. No. 2(22)-E-II(B)/60 dated 2.8.60".

The O.M. 41-17/61 dated 8.1.62 continued the HRA at rates of B Class cities. It is contended by the respondents in O.A. 2/94 that these concessions were sanctioned to the staff of P & T Department posted in NEFA and NHTA only.

18. As stated earlier the respondents rely upon G.I. M.H & W O.M. No. 12-11/60-Acc-I also dated 2.8.60. It stated that the position as regards the criteria laid down in O.M.s dated 26.11.49 and August 1950 for grant of rent free accommodation has been reviewed in the light of observations made by 2nd Pay Commission and it has been decided that ^{where} ~~where~~ for the efficient discharge of duties it is necessary that an employee should live in or near the premises where he works it would be desirable that he should be provided with a Govt. residence which should be rent free or rent recovered at

reduced rates only if the nature of his duties or conditions under which they have to be performed are such that a higher scale of pay or special pay etc. would be granted but for the concession of rent free accommodation or recovery of rent at reduced rates. This O.M. was produced in Review Application 12/94 but in the body of the Review Application only a truncated portion was mentioned which gives a misleading impression.

19. Now although this O.M. (12-11/60-Acc-1) was issued on the same day on which O.M. 2(22)EII-8-60 was issued it is apparent on a plain reading of these two that these related to different subjects and did not cover the same field. Whereas the earlier one refers to cases where the concession of rent free accommodation is given to those for whom it is obligatory to stay at the office premises the latter conferred that benefit on all employees of P & T Department posted in Nagaland. The 1st O.M. however by itself does not conclusively show that such concession was not available to other employees also. That it could be so can be seen from the latter O.M. that was issued in respect of P & T staff in NHTA. Much ^{water} was however has flown since 1962.

20. The quest has therefore to be still continued to locate the right of the applicants to get this concession.

21. Notification No. 11015/4/86-E-II(8) dated 19.2.87 revised the earlier Memoranda on the basis of 4th Pay Commissions' recommendations accepted by the Govt. on the subject of grant of compensation in lieu of rent free accommodation to Central Govt. employees belonging to Groups 'B' 'C' and 'D' as were applicable from 1.10.86 and the President was pleased to decide that these employees working in various classified and unclassified cities will be entitled to compensation in lieu of rent free accommodation with effect from 1.1.86 as under :

24

- (i) Amount charged as licence fee for Government accommodation from employees similarly placed but not entitled to rent free quarters; and
- (ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of the orders, dated 23.9.1986.

22. The note below clause 2 provided that for the purpose of these orders the amount charged as licence fee for Government accommodation will be taken as 10% of the monthly emoluments (7½% in the case of employees drawing pay below Rs. 470) calculated with reference to 'Pay' in the pre-revised scales that they are drawing they would have drawn but for their option, if any for the revised scales of pay.

Under Clause 3 'Pay' for the purpose of House Rent Allowance component of compensation was to be 'Pay' as defined in FR 9(21)(a)(i).

23. The above mentioned orders however have to be read subject to Clause 6 which stated :

" These orders will apply only to the incumbents of posts which have been specifically made eligible for the concession of rent free accommodation under Government orders issued with reference to para 2 of Ministry of Works and Housing and Supply's O.M. No. 12/11/60/ACC-I dated the 2nd August, 1960".

24. The note thus restricts the concession only to those employees for whom

for the efficient discharge of duties it is necessary to live on or near the premises where they work, and should be provided with a Govt. residence rent free.

The respondents therefore deny the claim of the applicants.

25

25. The above O.M. was followed by Ministry of Finance O.M. No. 11015/4/86-E-11(B) dated 13.11.87 relating to 'compensation in lieu of rent free accommodation' effective from 1.7.1987. It stated that the President was pleased to decide that Central Govt. Employees belonging to Group A,B,C and D working in various classified cities/unclassified places will be entitled to compensation in lieu of rent free accommodation as under :

- (i) Amount charged as licence fee for Government accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates)'s O.M. dated 7.8.87, and
- (ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified city in terms of para 1 of O.M.s dated 23.9.86 and 19.3.87.

By the aforesaid O.M. dated 7.8.87 flat rate of licence fee was introduced on the recommendation of 4th Pay Commission for residential accommodation all over the country. By Fundamental (Amendment) Rules 1987 the Fundamental Rule 45A was correspondingly amended.

26. What is however crucial is that Clause 2 of the O.M. dated 13.11.87 provided as follows :

"Other terms and conditions for admissibility of compensation in lieu of rent-free accommodation indicated in the Ministry's O.M. dated 19.2.87 and 22.5.87 remain the same".

It therefore means that by virtue of Clause 6 of the O.M. dated 19.2.87 which applied to B,C & D Group employees the concession is confined to only those employees who are eligible to rent free Government accommodation under O.M. 12/11/60/ACC-1 dated 2.8.60. The Government of India thus did not depart from the criteria as was laid down way

back in 1960 and in the absence of any relief sought to compel the Government to extend the benefit of the recommendation to all the employees in B, C & D Group posted in Nagaland the criteria so prescribed could be applicable for determining the eligibility for earning the compensation in lieu of the rent free accommodation. That would mean that all the ^{B,} C & D Group employees would not automatically be entitled to get it but only those falling in the limited class for whom the concession was meant would be eligible to claim it.

28. It must however be held that where independently of these O.N.s the concession of rent free accommodation is made available to all the employees then this restriction would not be valid being inconsistent with that provision. However no such provision has been brought to our notice. At the same time it is important to note that the respondents have admitted at some places that such concession is being given to all the employees. That has complicated the issue which by itself requires involved process to know exactly as to what is the true position. In this context we may refer to the written statement filed by the respondents (Subsidiary Intelligence Bureau - Ministry of Home Affairs) in O.A. 37/95. It is stated thus :

" at the time of Nagaland Hill Tuensang Area (NHTA) was carved out from Assam, the employees of NHTA administration were allowed the concession of rent free accommodation or HRA in lieu thereof as an incentive to attract suitable persons from outside for serving in this difficult tribal area. The benefit was subsequently, extended to other Central Govt. employees also".

Para 8 : ".....Out of 157 group C and D officers posted at Kohima as many as 54 officers have been allotted Govt. accommodation of type-I, II, and III which would speak about the allotment of accommodation".

Para 9 : " As a matter of fact, all group C and D employees who are not allotted any Govt. accommodation are being paid HRA plus Licence Fee as is admissible to I B employees at Kohima @ 'C' class only"

(Underlined by us)

✓ 29. These statements indicate that the compensation (composed of licence fee plus HRA) is being paid which means the criteria of the O.M. dated 2.8.60 is not treated as applicable (to SIB under Home Ministry). At the same time it is contended in the written statement filed in O.A. 48/91 (Geological Survey of India, Ministry of Steel and Mines) that there are no instructions from the Ministry of Finance that ~~Contract Govt.~~ Employees posted at Dimapur are entitled to rent free accommodation. In written statement in O.A. 11/95 (Directorate of Census Operations - Ministry of Home Affairs) it is stated that there is no provision for providing rent free accommodation to employees of Directorate of Census Operations, Nagaland, Kohima. (This stand and stand in O.A. 37/95 of the Home Ministry do not appear consistent and it leads to the inference that different departments are understanding the position differently and the situation is wholly confused). In O.A. 2/94 (the Department of Posts, Ministry of Communications) it is negatively stated that the allowances and concessions were sanctioned to the staff of P & T Department posted in NEFA and NHTA only implying thereby that other employees were not entitled to get the same.

30. Much emphasis has been laid by the applicants on the fact that all cities in Nagaland are 'B' class cities and HRA has to be paid at the rate payable for B class cities. Here also confusion

persists between entitlement for compensation in lieu of rent free accommodation (Composed of licence fee plus HRA)* and the rate of HRA payable otherwise than as the component of compensation and under general conditions of employment.

31. The position in this respect would be as follows :

- i. Where Govt. accommodation free of charge or rent is provided
- ii. Where such accommodation is provided on payment of licence fee by the employee to the Govt
- iii. Where compensation is paid in lieu of rent free accommodation by the Govt to the employee where such accommodation is not ~~make~~ available and
- iv. Where no Govt. accommodation is allottable incidental to service in which case HRA is paid by Govt. to the employee at rates prescribed from time to time and regulated by the relevant F.R.

32. The applicants have linked their claim to the cities in Nagaland being considered B class cities. Ministry of Finance O.M. No. 2(2)/93-E II (B) dated 14.5.93 refers to Ministry of Finance O.M. No. 11016/5/82-E II (B) dated 7.2. 83 as amended from time to time as containing the list of cities/towns classified as 'A', B-1, 'B-2' and 'C' class for the purpose of grant of HRA/CCA to Central Govt. employees. By the aforesaid O.M. (dated 14.5.93) a re-classification was introduced on the basis of 1991 Census. The new classification became effective from 1.3.91. It shows that only Kohima and Dimapur in Nagaland have been classified as class ^{'C'} towns. Hence according to the respondents (in O.A. 37/95 - SIB) other places in Nagaland are unclassified. The position prior thereto was governed by earlier orders of the Govt. of India.

33. The applicants in (O.A. 11/95) rely upon O.M. No. 11015/4/86-E-II(B) dated 13.11.87. The applicants in O.A. 2/94 (Postal Department) rely upon Memo No. 41-17-61 dated 8.1.62. That provided that HRA in lieu of rent free accommodation will be payable at the rate payable to 'B' class cities contained in O.M. 2(22)-E-II (B)/60 dated 2.8.60. The applicants in O.A. 48/91 (Geological Survey of India) also rely upon the aforesaid O.M. 2(22)-E-II(B)/60 dated 2.8.60. Besides they also rely upon O.M. 11013/2/86 dated 23.9.86 (already referred to). They state that from 1.11.79 to 30.11.79 they were allowed HRA @ 25% but it was wholly withdrawn between 1.8.76 to 31.10.79. Later between 1.12.79 to 6.1.81 HRA was allowed at 7½% between 7.1.81 and 31.12.85 and from 1.1.86 they were paid at the rate applicable to 'C' class cities. According to them it should be admissible as for 'B' class cities.

34. The contentions based upon the various O.M.s noted above show that the applicants are confusing between HRA payable as component of compensation in lieu of rent free accommodation and HRA otherwise payable. As seen earlier the O.M.s dated 23.9.86 read with O.M. 12-11/60 dated 2.8.60 are relating to compensation and any grievance about the rate of HRA as part thereof can be made only by those who fulfill the criteria for eligibility to get the HRA. The applicants however have not produced any O.M. declaring all towns including Kohima and Dimapur as 'B' class cities even after the 4th Pay Commissions' report as from 1.1.1986 or after 1991 Census.

35. The applicants seek to draw support from the below mentioned decisions :

1. (S.K.Ghosh & Ors Vs. Union of India & Ors.)
O.A. 4245/89 dated 31.10.90 CAT Guwahati Bench :
It related to Post & Telecommunication Department.
The Bench referred to the provision for payment of HRA in lieu of rent free accommodation based on

order dated 8.1.62 and noticing that the reduction in payment from 15% to 7½% observed that :

"Since Nagaland was considered as a difficult area from the point of view of availability of rented house, all P & T employees posted there either got rent free quarters or, where such quarter could not be provided by the Government, were given house rent at the rate applicable to 'B' class cities".

36. It was therefore held that the applicants (therein) were entitled to HRA applicable to Central Govt. employees posted in 'B' class cities which includes classifications B-1 and B-2. This part of the decision has been confirmed by the Hon'ble Supreme Court as discussed below. It is not therefore open to us to express any opinion differently.

(2) The decision in O.A. 48/91 decided on 26.11.93.

The view taken at that stage was based on the decision in O.A. 42/89 (supra) and relating to compensation. The decision mainly dealt with varying rates at which HRA was paid over the years but does not notice the distinction between payment of HRA generally and as part of compensation in lieu of rent free accommodation. The decision however could be read in the context of the Supreme Court decision arising out of O.A. 42/G/89 (supra).

37. We may now turn to the judgment of the Hon'ble Supreme Court in Union of India V/S S.K.Ghosh & Orc.(Civil Appeal 2705 of 1991) decided on 18.2.93 (which was the appeal filed against the

order of the Tribunal in O.A. No. 42/89). The decision ²¹ does not help the respondents but concludes the issue in favour of the applicants. It is submitted by the respondents in R.A. 25/94 (Postal Department) generally that the "Hon'ble Supreme Court did not mention in its' judgement about compensatory allowance and as such claim for that portion i.e. compensation @ 10% of monthly emoluments with effect from 1.7.1987 in lieu of rent free accommodation" is not tenable at all.

38. We have endeavoured in the course of above discussion to highlight the difference between payment of compensation in lieu of rent free accommodation which contains HRA as ^{one} ~~are~~ of its components and rate of HRA payable otherwise than as part of the compensation. The judgement of the Hon'ble Supreme Court does not refer to the O.M. No. 12-11/60-ACC-I dated 2.8.60 and apparently it was not brought to the notice of Their Lordships. That O.M. which is now pressed into service leads to creating two different situations. Whatever that might be the decision is binding as to the rate of HRA. The material observations are as follows :

"The cities in the State of Nagaland have not been classified and as such the general order prescribing House Rent Allowance for different classes of cities could not be made applicable to the State of Nagaland. It was under these circumstances that the President of India issued an order dated January 8, 1962 granting House Rent Allowance to the P & T staff posted in the State of Nagaland".

39. After quoting Clause 1(iii) of the order which refers to O.M. 2(22)-E-II/8/60 dated 2nd August 1960 their Lordships proceeded to observe thus :

"It is clear from the order quoted above that the P & T employees posted in the State of Nagaland are entitled to rent free accommodation or in the

alternative to the House Rent Allowance at the rates applicable in 'B' class cities. The Presidential Order equates the cities in the State of Nagaland for the purposes of payment of House Rent Allowance to the cities which have been classified as 'B' class".

And further;

" the question for our consideration is whether the respondents are entitled to the House Rent Allowance as provided for 'B' class cities by the IVth Central Pay Commission recommendations which were conferred with effect from October 1, 1986.

It is not disputed that the Presidential Order dated January 8, 1962 is still operative. We are of the view that the State of Nagaland having been equated to 'B' class cities by the Presidential Order the respondents are entitled to be paid the House Rent Allowance at the rates which have been prescribed for the Central Government employees posted in 'B' class cities. Consequently, the respondents are entitled to be paid the House Rent Allowance at the rate which has been prescribed by the IVth Central Pay Commission recommendations for 'B' class cities".

(Emphasis supplied)

40. With the above pronouncement of the Hon'ble Supreme Court it is not open to the respondents to contend that the cities in Nagaland are not declared 'B' class cities or that Kohima and Dimapur are only 'C' class cities or to contend that therefore the applicants are not eligible to claim HRA at the rate prescribed for 'B' class cities.

41. In our view, with respect, the ratio of the decision of the Supreme Court cannot be read as relating to P & T employees only. The observations underlined in the passages quoted above from the judgement clearly show that the view expressed that the cities in the State of Nagaland for the purposes of payment of House Rent Allowance have been equated to the cities which have been classified as 'B' class

cities would apply to all Central Government employees posted in the State of Nagaland irrespective of the department to which they belong. Indeed construing it differently would lead to employees in departments other than the P & T Department being differently treated from employees of P & T Department. Such a situation cannot be contemplated. In view of Articles 14 & 16 of the Constitution. It is useful in this context to refer to Annexure-8 in O.A. 37/95 (SIB) which is a copy of Memorandum from the Assistant Director, SIB Kohima to Assistant Director/EP, IB Hqrs., New Delhi dated 23.3.94 in which in the context of the judgement of the Supreme Court and the Arbitration Award (amongst various orders) a opinion has been expressed as follows :

"In view of the Award of Board of Arbitration referred to in para-2 above, Hon'ble Supreme Court's judgement and its implementation by the P & T Department to all ~~employees~~ without any prejudice to petitioners and non-petitioners which has added new angle to the case, it is requested that the case may please be taken up with MHA/Ministry of Finance to extend the benefits to IB personnel also posted in Nagaland at par with P & T employees on priority basis"

42. Although the opinion is not binding on the Govt. of India it appears to us to be based on correct approach and sound. The respondents in the same O.A. have produced a copy of O.M. No. 2(2)93-E-II(8) dated 14.5.93 (also referred earlier) issued by the Ministry of Finance (Department of Expenditure), Government of India laying down the Re-classification of cities/towns on the basis of 1991 Census for the purposes of grant of House Rent Allowance (and CCA) to Central Government Employees. List II annexed thereto classifies only two cities in the State of Nagaland namely Kohima and Dimapur and these are classified as 'C' class cities. Rest of the

cities and towns would thus fall in unclassified category. However, this classification prescribed for State of Nataland being contrary to the judgement of the Hon'ble Supreme Court (supra) it cannot prevail and the O.M. has to be looked upon as ineffective during the period prior to the date of its issue since in our opinion the decision of the Supreme Court would be applicable only to those Govt. orders^{as} were[^] operating when that O.A. (42/G/89) was filed and till these order were changed by the Govt. of India.

43. Thus we hold that the applicants though have not claimed that they fulfil the eligibility criteria under O.M. No. 12-11/60 dated 2.8.60 still they are entitled to get House Rent Allowance at the rate prescribed for 'B' class cities to the Central Government employees. It will be payable at the rate of 15% from 1.1.1986 to 30.9.86 and from 1.10.1986 at flat rate prescribed under O.M. dated 7.8.87 (read with O.M. dated 13.11.87 supra) read with Notification CSR No. 623 (E) amending the Fundamental Rule 45A with effect from 1.7.1987.

44. We now turn to the topic of compensation.

45. On the question of payment of compensation in lieu of rent free accommodation also in our view, with respect, the judgement of the Hon'ble Supreme Court (supra) must be held binding and therefore despite our view expressed in the foregoing discussion that the O.M. 12-11/60 dated 2.8.60 is not superseded and ordinarily the compensation would be payable only to those who fall within the eligibility criteria thereunder; that cannot be adopted or applied for the following reasons :

46. In order to understand the ratio of the Supreme Court decision, since it was rendered on appeal against the decision of this Tribunal which is confirmed except the modification as regards arrears to be paid, it will be necessary to note

the nature of claim made in that O.A. and the finding of this Tribunal.

47. The case of the applicants (in O.A. 42/89) on the point as stated in the application was as follows :

Para 4(a) "That while the plaintiffs are posted in the State of Nagaland, they are entitled to Rent-free accommodation under the orders of the Ministry of Finance, Union of India, New Delhi".

Para 4(b) That where the Government servants, entitled to rent free accommodation not provided house/quarter by the Government, the rate of House Rent Allowance to such employees was being regulated vide Director General, Post & Telegraph letter No. 41-17/61 P & A dated 8.1.62. Such category of staff while posted in Nagaland were entitled to get House Rent Allowance at the rate applicable to employees posted in 'B' class cities".

Para 4(c) That when such employees were thus allowed and drawing the House Rent Allowance at par with employees posted to 'B' class cities some orders contradictory to each other were issued by various respondents on various dates

Para 4(d) The Govt. of Nagaland vide their Office Memorandum No. FIN/ROP/45/75 dated 16.8.75 has allowed their employees belonging to the category in which the applicants fall, House Rent Allowance at the rate ..
..... which rate is higher admissible to the employees of even the 'B' class cities
the other Central offices located in Nagaland are also allowing the increased rate of House Rent Allowance when employees of such departments are posted in Nagaland.

86. Para 5 (a) The Government of India and the other Respondents have themselves agreed in the past that the employees placed in this category (i.e. entitled to free accommodation and not provided with accommodation in Nagaland) shall be given the House Rent Allowance at par with 'B' class cities.

With these main averments they sought the following relief :

"All the employees when posted in Nagaland, who are entitled to rent-free accommodation and the same is not provided for by the Government be allowed to draw the House Rent Allowance as is admissible to the employees posted in 'B' class cities as categorised in the Government of India letter No. 11013/2/86-E.11(B) dated 23.9.86".

(Emphasis supplied)

The same was claimed with effect from May 1980 onwards.

48. It would appear from the above nature of their pleadings that the claim for House Rent Allowance at the rate of 'B' class cities was made on the assumption that all the employees posted in Nagaland were entitled to rent free accommodation or compensation in lieu thereof and their grievance was as regards the rate of House Rent Allowance as one of the components of compensation in lieu of rent free accommodation. If the G.I.M.H & W D.M. No. 12-11/60-ACC-I dated 2.8.60 is kept in view then clearly the whole basis of the claim was wrong. The O.A. was filed by 107 P & T employees but it was not stated in the application that all or any of them fulfilled the eligibility criteria prescribed thereunder. Even so the respondents (in that case) did not deny categorically that all the employees posted in Nagaland were not eligible for rent free accommodation or

compensation in lieu thereof when the tenor of the application was to aver that all Central Government employees posted in Nagaland were eligible for the same. Worse still the respondents neither produced nor relied upon the above mentioned O.A. (12-11/60) dated 2.8.60.

49. It would be interesting to note the material statements made in the written statement (in that case) by the respondents which are set out below :

Para 2 "respondents beg to state that as per the D.G. P & T letter No. 41-17/61 P & A dated 8.1.62 the P & T staff posted in NHTA (now renamed as Nagaland) are entitled to rent free accommodation."

Para 3 ".....the payment of HRA to P & T staff in lieu of rent free accommodation was regulated upto April, 1980 as per above letter dated 8.1.62".

Para 4 " The Govt. of India vide orders have revised the rate of HRA admissible in lieu of rent free accommodation with effect from May, 1980.

para 12 "the respondents beg to state that the P & T staff posted in Nagaland are being paid the HRA in lieu of rent free accommodation correctly at the rate fixed by the Govt. of India".

(Underlines supplied)

The anxiety of the respondents was thus to justify the rate of HRA that was being paid and which was disputed by the applicants and in that process they did not dispute rather - accepted the position that all the applicants (P & T staff) posted in Nagaland were entitled to get rent free accommodation and their

defence related only to the rate of HRA as one of the components of compensation in lieu of rent free accommodation.

50. With ^{the} above nature of the case the then learned Members of this Bench observed in the order dated 31.10.90 as follows :

Para 1 " Briefly stated the facts of the case are that Telecom and Postal employees posted anywhere in Nagaland were provided with rent free accommodation. If they were not given Government accommodation, they were entitled to House Rent Allowance as in 'B' class cities".

Para 3 " On behalf of the Central Government a written statement was filed, followed, on our orders, by a clarificatory statement. In this none of the facts mentioned by the petitioners and summarised in the above paragraph were disputed.....".

Para 4 ".....
Since Nagaland, irrespective (of) the stations of the entire territory, ~~was~~ considered as a difficult area from the point of view of availability of rented house, all P & T employees posted there either got rent free quarters or, where such quarter could not be provided by the Government, were given house rent at the rate applicable to 'B' class cities".
"It appears to us that the HRA is paid by the Central Government for compensating an employee on account of his residential accommodation in the place of posting".

(Emphasis supplied)

With the above conclusions it was held that the applicants were entitled to House Rent Allowance applicable to Central Government employees posted in 'B' class cities which included the classifications B1 & B2 (from 18.5.1980).

51. It is true that the decision related only to P & T employees and the core of controversy decided was as regards the rate of HRA that was payable. However the impact of the decision is to hold

that all the employees of P & T Department posted in Nagaland were entitled to get rent free accommodation or compensation in lieu thereof. The ^{O.M.} ~~O.M.~~ 12-11/60 dated 2.8.60 obviously was not invoked to deny that benefit to them. Apparently there was no coordination between the concerned Ministries of the Govt. of India in formulating the defence in that case and that resulted in the aforesaid O.M. not having been relied upon which could ^{restrict} ~~resist~~ the eligibility criteria.

SIA. We have seriously considered the aspect whether since that decision related only to P & T employees and although it became applicable to all employees of that Department notwithstanding the O.M. (12-11/60) dated 2.8.60 whether a different view should be taken in the light of the said O.M. (12-11/60 2.8.60) in the instant applications which relate to different departments of the Govt. of India other than P & T Department except O.A. 2/94 which is filed by Postal Employees who ~~are fully~~ covered by the decision in O.A. 42/89 (supra). Consistently with the view we have indicated on the applicability of O.M. 12-11/60 dated 2.8.60 it would have been open to us to take a different view than taken in O.A. 42/89 in respect of departments other than P & T. We are not however persuaded to do so for two reasons. Firstly, it having been held that the concession of rent free accommodation or compensation in lieu thereof was available all the employees posted in Nagaland which position was not controverted by the Government of India even in respect of P & T employees, we think that that principle should be applied to employees of other Departments concerned in the instant applications also in order to avoid resultant discriminatory treatment to employees of other Departments being ^{meted} ~~meted~~ out. Secondly, we are of the opinion that the judgement of the Hon'ble

50 Supreme Court touching the above aspect does not leave it open to us to take a different view.

52. We therefore now turn to the judgement of the Supreme Court (dated 18.2.93) once again. The opening passage reads :

"Group 'C' and 'D' employees of Telecommunications and Postal Department posted in the State of Nagaland approached the Central Administrative Tribunal Guwahati seeking a direction to the Union of India to pay them the House Rent Allowance at the rates as admissible to the employees posted in 'B' class cities"

Proceeding further Their Lordships' referred to the order of the President of India dated January 8, 1962 and set out the portion 1.(iii) (already quoted above by us) reading as follows :

"1. (iii) Rent free accommodation on a scale approved by the local administration. The P & T staff in NHTA who are not provided with rent free accommodation will, however draw HRA in lieu thereof at the rates applicable in 'B' class cities contained in Col. 4 Paragraph 1 of the Ministry of Finance O.M. No. 1(22)-EII(B)/60 dated the 2nd August, 1960".

and proceeded to observe that :

" It is clear from the order quoted above that the P & T employees posted in the State of Nagaland are entitled to rent free accommodation or in the alternative to the House Rent Allowance at the rates applicable in 'B' class cities"

Lastly, Their Lordships observed :

" We see no infirmity in the judgement of the Tribunal under appeal. We agree with the reasoning and the conclusions reached therein"

53. The respondents (Govt. of India) did not urge before the Supreme Court that the words 'who are not provided with rent free accommodation' occurring in the order of the President dated 2.8.60,

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meant only those employees who were within the eligibility criteria prescribed in G.I. M.H and W, O.M. No. 12-11/60 ACC-I dated 2nd August, 1960 as is sought to be contended in the instant O.A.s. As stated earlier it follows from the judgement that all the employees of the P & T Department posted in Nagaland irrespective of being covered by O.M. 12-11/60 dated 2.8.60 or not were held to be entitled to rent free accommodation or the compensation in lieu thereof. On a parity of reasoning and with no rational criteria to differentiate employees of departments other than of P & T employees being discernible we are of the view that the benefit of the judgement should be available to the applicants in the instant applications who are posted in Nagaland without applying the criteria in the O.M. dated 12-11/60 dated 2.8.60. We hold that the respondents are estopped from taking up a stand in the instant cases relying upon the said O.M. inconsistently with what was held by the Supreme Court in the aforesaid judgement. The respondents must take the consequences of the failure to draw the attention of the Tribunal or the Hon'ble Supreme Court to the O.M. 12-11/60 dated 2.8.60 in the proceedings in O.A. 42(G)/89. We further hold that the said O.M. though not revoked or withdrawn so far by the Govt. of India has ceased to have any efficacy or applicability in the instant cases being inconsistent with the judgements of the Supreme Court and Central Administrative Tribunal in O.A. 42 (G)/89 and it is not open to the respondents in the instant cases to invoke ^{and} apply the same in order to deny the concession of rent free accommodation or compensation in lieu thereof to the respective applicants posted in State of Nagaland. We further hold that the latest O.M. issued by Ministry of Finance (Expenditure) O.M. No. 2(25)/92/E-II-B dated 16.5.1994 (discussed below) also does not alter the above position as it does not contain fresh orders but is based on the very O.M. 12-11/60 dated 2.8.60 which can no longer

be applicable to the applicants as held in the preceding discussion. We read the judgement of the Hon'ble Supreme Court, with respect, as conclusive on both the points namely entitlement of rent free accommodation or compensation in lieu thereof as well as rate of House Rent Allowance to be payable as for 'B' class cities.

54. The position that would emerge in the light of above discussion would be as follows :

- (i) The O.M. 12-11/60-ACC-I dated 2.8.60 is still operative.
- (ii) By reason of the aforesaid OM which governs the OMs dated 23.9.86 and 13.11.87 the concession of compensation in lieu of rent free accommodation would be available only to those employees who fulfil the criteria of eligibility prescribed under the OM aforesaid dated 2.8.60.
- (iii) There has been no decision of the Govt. of India entitling the Central Government Employees posted in Nagaland (except who are eligible for the concession of rent free accommodation or compensation in lieu thereof under O.M. 12-11/60 ACC-I dated 2.8.60) to get the concession of rent free accommodation or compensation in lieu thereof.

However, even with the above conclusions at (i) to (iii) the relief of compensation cannot be refused to the respective applicants in view of the decision of the Hon'ble Supreme Court.

- (iv) The compensation mentioned above consists of licence fee plus House Rent Allowance.
- (v) The House Rent Allowance even for the purposes of compensation has to be paid as prescribed for 'B' class cities with effect from 1.10.1986 when the recommendations of the IVth Central Pay Commission were enforced.
- (vi) House Rent Allowance where payable to the applicants apart from as a component of compensation in lieu of rent free accommodation will also be payable at the rate payable for 'B' class cities to Central Government employees.

'B' cities include cities classified as B1 and B2

55. In O.A. 48/91 claim is made for payment of House Rent Allowance @ 15% of pay per month from 1974 to 30.6.87 and House Rent Allowance compensation @ 25% from 1.7.87 onwards. In view of conclusions recorded above relief will be granted only to the extent indicated below in the final order. *consistently with the original order.*

56. In O. A. 2/94 the principal claim is made for a declaration that employees of Postal Department posted in Nagaland are entitled to House Rent Allowance applicable to the Central Government Employees in 'B' class cities with effect from 1.10.1986. It is also prayed that relief may be granted in respect of compensation in terms of O.M. dated 13.11.87.

Both these reliefs will be granted to the extent indicated below in the final order consistently with the payments as may have already been made under original order dated 17.3.94.

57. In O.A. 11/95 two fold relief is prayed for. Firstly a declaration is sought to the effect that all Group 'C' & 'D' employees of the Directorate of Census Operations posted in Nagaland are entitled to House Rent Allowance as well as compensation in lieu of rent free accommodation applicable to Central Govt. Employees posted in 'B' class cities with effect from 1.10.1986. These prayers will be granted to the extent indicated below in the final order.

Secondly a direction is sought to the respondents to release the arrears with effect from 1.10.1986 towards the two reliefs claimed in the declaration. This also will be only granted as indicated below.

58. In O. 37/95 also a declaration is sought coupled with direction to pay the arrears from 1.10.1986 towards House Rent Allowance @ 15% and compensation in lieu of rent free accommodation at the rates applicable to Central Government Employees posted in

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'B' class cities. Here also relief will be granted as indicated below. from 1.10.1986 and 1.7.1987 respectively.

In O.A. 105/95 applicants pray for House Rent Allowance at the rate payable to E-2 class cities and compensation on the lines in O.A. 48/91.

59. A note of a recent Ministry of Finance (Expenditure) O.M. No. F 17(2)-E-II (A)/94 containing copy of O.M. No. 2(25)/92/E-II (B) dated 16.5.1994 issued by the same Ministry is necessary to be taken. That is issued on the subject of grant of compensation in lieu of rent free accommodation.

(It is published at item 44 in journal section of 1995 (1) SLJ P.55). It provides as follows :

" 2. The matter has been considered and the President is pleased to decide that the Central Government employees who are entitled to the facility of rent free accommodation in accordance with the Ministry of Urban Development O.M. No. 12-II/6/ACC-I dt. 2.8.60 and who have not been provided with such accommodation, will be entitled to compensation in lieu of rent free accommodation as under :

- (i) The lowest amount charged as licence fee for the entitled type of accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates) above mentioned O.M. dt. 26.7.93 and
- (ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No. 111013/2/86-E.II(B) dt. 23.9.83 for Central Govt. employees belonging to Group 'B' 'C' & 'D' and para 1 of O.M. No. 11013/2/86-E.II(B) dt. 19.3.87 for Central Government employees belonging to Group 'A'.

3. These orders take effect from 1.7.93, the date from which the last rate of licence fee was revised.

4. All other conditions, laid down in this Ministry's O.M. No. 11015/4/86-E.II (B) dt. 19.2.87, 22.5.87 and 4.5.88 shall continue to be applicable, while regulating grant of compensation in lieu of rent free accommodation under these orders".

60. This notification continues the provisions contained in O.M. No. 12-11/60-ACCI dt. 2.8.60 (considered above). It means that these employees who are eligible to get the compensation in lieu of rent free accommodation under that O.M. will be governed by the formula now laid down with effect from 1.7.93. As already indicated above it is of no help to the respondents to deny the claim of the applicants so long as it is based on the O.M. dated 2.8.60. However it would be open to the Govt. of India to issue fresh orders without correlating it to the aforesaid O.M. and laying down a formula independently thereof as may be considered necessary.

61. We have referred in the course of above discussion to the material produced by the parties in all the applications together as well as to the record of O.A. 42(G)/89 which we called for, and we have done so bearing in mind the requirement of service jurisprudence and in order to avoid the possibility of conflicting decisions on the same points being rendered if each case were to be separately decided strictly on the basis of material produced by the parties in each case. That could be the correct way in a technical sense but would have frustrated the cause of justice as the questions arising in all the applications are almost identical touching service matter. We have not specifically referred to other material or the award referred to in the respective applications as that was not necessary to decide the questions in issue and would have unnecessarily burdened the judgement. However we have perused the said material.

62. The above discussion also leads to the conclusion that the applicants who belong to different departments of Govt. are being discriminated vis-a-vis employees of Posts & Telecommunications Department in whose case the judgement of the Tribunal in O.A. 42/89 has been implemented.

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63. Lastly effective dates for payment have to be indicated. Although some of the applicants have laid a claim for the period prior to 1.1.1986 that cannot be granted. We would follow the date indicated in the judgement of the Supreme Court (Supra) namely 1.10.1986. In that case although Tribunal granted the claim from 18 May 1980 Their Lordships have modified that direction in following terms :

"We are, however, of the view that the Tribunal was not justified in granting arrears of House Rent Allowance to the respondents from May 18, 1980. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendations of the Central Pay Commission were enforced".

We therefore adopt the date 1.10.1986 as the basic date for granting relief to the applicants even though the claim may have been made for a period since prior thereto.

This will be subject to concerned employees being in service on that day. For employees posted subsequently the date of posting will be taken into account.

64. However, we are not in a position to specify as to for how long the said benefit would continue. It would depend upon the policy decisions taken by the Government of India from time to time in the exigencies of the situation. To the extent that from 1.10.1986 till the dates of the filing of the respective applications the applicants would be entitled to get the relief there does not arise any difficulty. ^{But as} As noted earlier, from 1.3.1991 the cities and towns have been re-classified under O.M. dated 14.5.1993 on the basis of 1991 Census. Although the classification prevailing under O.M. dated 7.2.1983 as amended from time to time lastly by OM dated 5.7.90 would be subject to the decision of the Supreme Court which was rendered on 18.2.1993 the same cannot be said about the reclassification introduced by OM No. 2(2)/93-E-II(B) dated 14.5.1993. It will be for the respondents

to examine the impact thereof in the light of the discussion in this order and regulate the payment accordingly for the period as from and subsequent to 1.3.1991 until further change has been introduced. We make it clear that as the said O.M. dated 14.5.1993 is not the subject matter of these applications we do not express any opinion about its applicability or otherwise or extent thereof as to the payment of compensation ^{and} of HRA and if any of the applicants would feel aggrieved with any action taken by the respondents on its basis they will be at liberty to pursue their remedies in accordance with the law.

65. We are not impressed by the objection of limitation raised by the respondents in O.A. 48/91 and reject the same.

66. In conclusion we answer the points formulated as follows :

Point i	:	Yes
Point ii	:	Licence fee plus House Rent Allowance - <i>Quantum as below</i>
Point iii	:	Yes (10%)
Point iv	:	Yes - at the rate applicable to Central Government Employees in 'B' Class Cities. (including B1 or B2) upto 1.3.1991 and thereafter as indicated in the order below :
Point v	:	Yes - as above
Point vi	:	As indicated in final order below
Point vii	:	Yes ^{vis-a-vis} vis-a-vis P & T Department
Point viii	:	As per final order below.

67. In the result following order is passed in respect of each O.A. separately.

will

O R D E RO.A. 48/91

It is declared that the applicants are entitled to draw compensation in lieu of rent free accommodation. The respondents do pay the same to the applicants as directed below :

1. (a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto 28.2.91 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same.

(b) For the purpose of above direction it is clarified that the rate may be calculated on the basis of percentage, or flat rate or slab rate as may be applicable from time to time during the period from 1.10.1986 upto date but it shall not be less than 15% of monthly pay for the period between 1.10.1986 and 14.2.1995.

(c) Arrears from 1.10.1986 upto 14.2.1995^{be} paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants for the aforesaid period in compliance with the original order dated 26.11.1993 (set aside on review on 14.2.95)

(d) No recovery shall be made of any amounts paid in compliance with the order dated 26.11.93 upto 14.2.95.

(e) Future payment from 15.2.1995 to be regulated in accordance with clause (a) above.

- (f) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of the copy of this order by the respondents.

2. (a) Licence fee @ 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of posting in Nagaland if it is subsequent thereto as the case may be, upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided.
- (b) Arrears to be paid for the period from 1.7.1987 (or actual date of posting in Nagaland if it is subsequent thereto as the case may be) upto 14.2.1995 payable under the original order dated 26.11.93 (set aside on review on 14.2.95) subject to adjustment of amount as may have already been paid for this period in compliance with the original order dated 26.11.93 upto 14.2.95.
- (c) No recovery shall be made of any amounts paid in compliance with the order dated 26.11.93.
- (d) Future payment to continue from 15.2.95 subject to clause (a) above.
- (e) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of the copy of this order by the respondents.
- O.A. allowed in terms of above order. No order as to

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O.A. 2/94

It is declared that the applicants are entitled to draw compensation in lieu of rent free accommodation. The respondents do pay the same to the applicants as directed below :

1. (a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.86 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 onwards, and continue to pay the same.
- (b) For the purpose of above direction it is clarified that the rate shall be adopted as 15% of monthly pay under the original order dated 17.3.1994 with effect from 1.10.1986 till 21.8.1995 (when the said order was set aside) and as from 22.8.1995 the rate as may be applicable whether on percentage basis or slab basis under the existing Government Memoranda.
- (c) Arrears from 1.10.1986 upto 21.8.1995 to be paid as indicated in clause (b) above subject to the adjustment of the amount as may have already been paid for this period in compliance with the original order dated 17.3.94 upto 21.8.95.
- (d) No recovery shall be made of any amounts paid in compliance with the order dated 17.3.1994.
- (e) Future payment from 22.8.1991 to be regulated in accordance with clause (a) above.

(f) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of this order by the respondents.

2 (a) Licence fee @ 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 (or actual date of posting in Nagaland if it is subsequent thereto as the case may be) upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided.

(b) Arrears to be paid @ 10% of monthly pay for the period from 1.7.1987 (or actual date of posting in Nagaland if it is subsequent thereto as the case may be) upto 21.8.1995 payable under the original order dated 17.3.1994 (set aside on 21.8.1995) subject to adjustment of amount as may have already been paid for this period in compliance with the original order dated 17.3.94 upto 21.8.95.

(c) No recovery shall be made of any amounts paid in compliance with the order dated 17.3.1994.

(d) Future payment from 22.8.1995 to be made under this order.

(e) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of this order.

O. A. allowed in terms of above order. No order as to

costs.

S2 D.A. 11/95

It is declared that the applicants are entitled to draw compensation in lieu of rent free accommodation. The respondents do pay the same to the applicants as directed below :

1. (a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same.
- (b) For the purpose of above direction it is clarified that the rate may be calculated on the basis of percentage or flat rate or slab rate as may be applicable from time to time during the period from 1.10.1986 upto date.
- (c) Arrears from 1.10.1986 upto date 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.
- (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 3 months from the date of receipt of the copy of this order by the respondents.
- 2 (a) Licence fee @ 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of posting in Nagaland if it is subsequent thereto as the

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case may be, upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided.

- (b) Arrears to be paid for the period from 1.7.1987 (or actual date of posting in Nagaland if it is subsequent thereto as the case may be) upto date.
- (c) Future payment to be regulated in accordance with clause (a) above.
- (d) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of the copy of this order by the respondents.

O.A. allowed in terms of above order. No order as to costs.

O.A. 37/95

It is declared that the applicants are entitled to draw compensation in lieu of rent free accommodation. The respondents do pay the same to the applicants as directed below :

1. (a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto 28.2.91 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same.

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- (b) For the purpose of above direction it is clarified that the rate may be calculated on the basis of percentage or flat rate or slab rate as may be applicable from time to time during the period from 1.10.1986 upto date.
 - (c) Arrears from 1.10.1986 upto date 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.
 - (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 3 months from the date of receipt of the copy of this order by the respondents.
2. (a) Licence fee @ 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of posting in Nagaland if it is subsequent thereto as the case may be, upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided.
- (b) Arrears to be paid for the period from 1.7.1987 (or actual date of posting in Nagaland if it is subsequent thereto as the case may be) upto date.
 - (c) Future payment to continue from 23.8.95 to be regulated in accordance with clause (a) above.

- (d) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of the copy of this order by the respondents.

O.A. allowed in terms of above order. No order as to costs.

O.A. 105/95

It is declared that the applicants are entitled to draw compensation in lieu of rent free accommodation. The respondents do pay the same to the applicants as directed below :

- 1 (a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto 28.2.91 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same.
- (b) For the purpose of above direction it is clarified that the rate may be calculated on the basis of percentage or flat rate or slab rate as may be applicable from time to time during the period from 1.10.1986 upto date.
- (c) Arrears from 1.10.1986 upto date to be paid accordingly subject to the adjustment of the amount as may have been paid to the respective applicants during the aforesaid period.
- (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 3 months from the date of receipt of the copy of this order by the respondents.

2. (a) Licence fee @ 1% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of posting in Nagaland if it is subsequent thereto as the case may be, upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided.

(b) Arrears to be paid for the period from 1.7.1987 (or actual date of posting in Nagaland if it is subsequent thereto as the case may be) upto date.

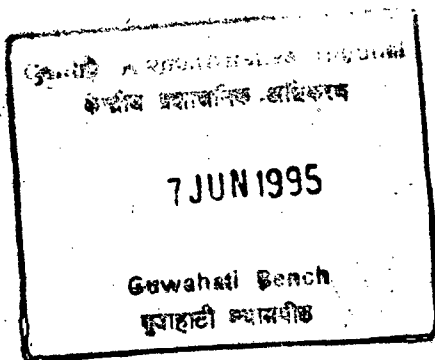
(c) Future payments to be regulated in accordance with clause (a) above.

(d) Arrears to be paid as early as practicable but not later than a period of 3 months from the date of receipt of the copy of this order by the respondents.

O.A. allowed in terms of above order. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunal Act, 1955)

Title of the case O.A. No. 105 1995

Filed by T.K. Dutta, Advocate 20/5/95

Officers and Staff working in
the Office of the Director,
Geological Survey of India,
Operation Manipur Nagaland,
Circular Road, Dimapur

... Applicant

- Versus -

Union of India, represented by
the Secretary to the Government of
India, Ministry of Steel and
Mines, Department of Mines, New-
Delhi.

.... Respondents

I N D E X

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For use in Tribunal office

Date of filing :

Registration No. :

Recd Copy
G. Samadhi
6/6/95

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. _____ 1995

B E T W E E N

1. Shri P.H. Babu
2. Shri Ajit Kumar
3. Shri S.V.G. Krishna Rao
4. Shri R.K. Roy.
5. Shri G. Pratap Reddy,
6. Shri Ananda Murty
7. Shri T.L. Shitiri
8. Shri S.A.D. Kudari
9. Shri D.C. Saha
10. Shri Chandra Madhav
11. Shri S.K. Bohra
12. Shri N. Kutumba Rao
13. Shri Rongsenungden
14. Shri L. Hemkhojang
15. Sri Akhila Sena
16. Sri C. Murabeedharan
17. Sri Venkata Swamy
18. Shri S. Rama Krishna Setty.

.... Applicants

And -

1. Union of India, represented by the
Secretary to the Govt. of India,
Ministry of Steel and Mines, Department
of Mines, New-Delhi.

contd. 3

2. The Director General ,Geological Survey, of India, 27-Jawaharlal Nehru Road, Calcutta- 700 013.
3. The Deputy Director General,Geological Survey of India,North East Region,Asha Kutir ,Laitumkhrah,Shillong - 793003
4. The Director, Geological Survey of India operation Manipur Nagaland ,Dimapur

... Respondents

1. Particulars of the Applicant :

i) Name of the Applicants :

1. Shri P.H.Babu
2. Shri Ajit Kumar
3. Shri S.V.G. Krishna Rao
4. Shri R.K.Roy
5. Shri G.Pratap Reddy
6. Shri Ananda Murty
7. Shri T.L.Shitiri
8. SAD Kudari
9. Shri D.C.Saha
10. Shri Chandra Madhav
11. Shri S.K.Bohra
12. Shri N.Kutumba Rao
13. Shri Rongsenungden
14. Shri L.Hemchojang
15. Shri Akheli Sema
16. Shri C.Murabedharan
17. Shri Venkatasamy
18. Shri S.Ramakrishna Setty

- iii) Designation and office in : Officers and Staff
which employed. working in the office
of the Director of
Geological Survey of
India, Dimapur.
- iv) Office address : Office of the Director,
Geological Survey of India,
operation Manipur, Nagaland,
Circular Road, Dimapur.

2. Particulars of the Respondents :

1) Name or designation of the Respondents :-

1. Union of India, Represented by the
Secretary to the Government of India
Ministry of Steel and Mines, Department of
Mines, New Delhi.
2. The Director General , Geological Survey of
India, 27 - Jawaharlal Nehru Road, Calcutta-
700 013.
3. The Deputy Director General , Geological
Survey of India, North East Region, Asha
Kutir, Laitumkhrah, Shillong - 793003.
4. The Director, Geological Survey of India
Operation Manipur, Nagaland and Dimapur

ii) Office address
of the Respondents - - do -

iii) Address for
service of notice - do -

Details of Application

3. Particulars of the Order

against which application is made.

1) Order No./Judgement No. Claiming same benefits as the
benefits granted vide Order
and Judgement in the Original
Application No.48 of 1991
by your Hon'ble Court.

ii) Date : 26 . 11 . 1993 .

iii) Passed by : CAT Guwahati

iv) Subject in brief : claiming House rent applicable 'B' class cities i.e. 15% of the pay and also claiming compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA)

4. Jurisdiction of the Tribunal.

The applicants in this application herein after state that the subject matter for which redressal is sought is ~~not~~ within the jurisdiction of the Central Administrative Tribunal, Guwahati.

5. Limitation

: The applicants further state that the application is within the limitation prescribed in Section 21 of the Central Administrative Tribunal Act, 1985.

Statement

I, Shri P.H. Babu son of P.P. Rao, aged about 45 years, a resident of Dimapur, do hereby sign this application on behalf of the applicants above named with a view to avoid multiplicity of litigation because if every affected person files an application the process will be inconvenience and the Litigation cost will be high while the subject matter of the case is the same for all the affected persons which may kindly be considered by your Honourable Court as a special case.

Facts of the case :

Your humble applicants in this application most respectfully submit that as per the Judgement of your Hon'ble Court in the original Application No. 48/91 Shri M.L. Ao and ors. versus Union of India and ors. they are the officers and the staff working in the same office of the Director of Geological survey of India, at Dimapur also entitled to avail and or enjoy the benefit of B-2 class city House Rent allowance because it was admitted in your aforesaid Judgement that Nagaland itself in general is a B-2 Class city but your humble applicants in this application are denied the said benefit of the Judgement of your Hon'ble court simply on the ground that at the time of the filing the aforesaid original application they were not the party to the aforesaid case although they have been working in the same office/ Department at Dimapur alongwith the counterparts of the applicants in the aforesaid original application.

Therefore your humble applicants in this application are contesting their rights before your hon'ble Court basing mainly on the judgment passed by your Hon'ble Court in the aforesaid original application.

A relevant portion of the aforesaid judgement of your Hon'ble Court is reproduced below for the convenience of ready reference :-

1. The applicants numbering 47 (forty seven) are Group 'C' and 'D' employees under the Director, Geological survey of India, operation Manipur Nagaland at Bimapur, Nagaland. This application by them under Section 19 of the Administrative Tribunal Act, 1985 claiming House rent allowance (HRA) At the rate applicable to 'B' class cities, i.e. at the rate of 15% of their pay and also claim compensation at the rate of 10% in lieu of rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

2, It is an admitted fact that the employees of the respondent Directorate are entitled to rent free accommodation in Nagaland, but they were not given free Government accommodation.

3. Learned Counsel Mr. N.N. Trikha for the applicants submits that it was established vide Judgment ~~xx~~ dated 31.10.1990 in O.A No. 42 (G)/89

of this Bench and duly confirmed by the Supreme Court vide order dated 18.2.1993 in civil Appeal No. 2705/91 ~~that~~ that Nagaland in General is 'B' class city and the Central Government Employees there are entitled for the benefits of 'B' class cities granted by various circulars and office memorandum. MR. Trikha read out the relevant office memoranda. These submissions are not disputed by learned Sr. C.G.S.C. Mr. S.Ali. We have perused the judgements and orders referred to by Mr. Trikha. Nagaland had been recognised as 'B' class cities in general vide our Judgement and order dated 31.10.1990 in O.A No. 42 G)/89 read with the Supreme Court order dated 18.2.1993 in Civil Appeal No.2705 of 1991. This being the established position, we ~~ha~~ hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September, 1986 and thereafter, on flat rate basis group wise with effect from 1.10.1986 ~~pursuant~~ pursuant to office Memorandum No. 11013/2/86 -E-11(B) dated New Delhi in 23rd September, 1986 issued by the Ministry of Finance, Government of India (Annexure A/7)"

4. That your humble applicants in this Application most respectfully submit that further your Hon'ble Court was pleased to allow the aforesaid original application and granted the relief accordingly. The respondents were directed to pay HRA at the rate of 15% of their pay from 1974 and at flat rate group wise with effect from 1.10.1986 in terms of O.M.No. 11013/2/86-E- II (B) dated 23.9.1986. The respondents were further directed to pay compensation at 10% of the

monthly emoluments calculated with reference to the pay of the respective applicants with effect from 1.7.1987 besides HRA. The respondents shall realise 10% of pay of the Applicants paid in excess with salary for the month of November, 1979.

A copy of the aforesaid Judgment of your Hon'ble Court as referred to is enclosed. This may kindly be seen at Annexure- I.

5. That your humble applicants in this application most respectfully submit that they are claiming for these benefits as the benefits of the above judgement conferred and/or pronounced by your Hon'ble Court equally alongwith the Counter parts of the applicants in the aforesaid original Application as referred to above.

6. That your humble applicants in this application most respectfully submit that similar case was also filed by the officers and staff of the Tele communication Department office working at Dimapur in the Supreme Court. In pursuance of the order passed by Hon'ble Supreme Court dated 18.2.93, the Director General of Geological survey of India, Calcutta, vide Message No. 10/22/91-M.11 of 1st July, 94 approved the payment of HRA at B2 class city rate from 1.10.86 onward for its employees posted and working at Dimapur in the State of Nagaland.

A copy of this Tele printed Message as referred to is enclosed. This may kindly be seen at Annexure. II.

7. That your humble applicants in this application most respectfully submit that in pursuance of the above decisions the Deputy Director General, Geological Survey of India, Asha Kutir Laitumkhrah, Post Box No. 11, Shillong -793003 vide his letter No. 11/CAT/LAW/NER/91 dated 20.08.94 had advised the Director, Geological Survey of India at Dimapur Circular Road, Nagaland to make payment of HRA at B-2 class city rate for its officers and staff.

A copy of the said letter as referred to is enclosed, This may kindly be seen at Annexure - III.

8. That your humble applicants in this application most respectfully submit that despite the direction given by the Deputy Director General, Geological Survey of India, Shillong for payment of Arrear HRA at B-2 class city rate for its employees stationed and working at Dimapur, no action has yet been taken by the concerned authority in favour of your applicants of this application on the ground that they were not the party of the aforesaid original application when submitted in which relief was granted as prayed for by your Hon'ble Court.

9. That your humble applicants in this application most respectfully submit that the Director, the Geological Survey of India, Dimapur had addressed a letter and/or representation to the Director General, Geological Survey

of India, 4 Chowranghee Lane, Calcutta- 16 to the effect that consequent to the judgment of CAT, Guwahati Bench in M.L. Ao and Ors versus Government of India and Ors case No. OA- 48/91 dated 26.11.93 whereby HRA has been sanctioned at B-2 Class city rate to the Applicants in the aforesaid original Application in the aforesaid case. It was requested that the same benefit may also be extended to other officers and staffs working in the same Geological Survey of India's office at Dimapur.

A copy of the said letter/representation as referred to is enclosed. This may kindly be seen at Annexure -IV.

10. That your humble applicants in this application most respectfully submit that the officers and the staffs Group 'C' and 'D' of the Geological survey of India stationed at Dimapur are being paid HRA at B-2 class city rate with effect from 1.10.1986 onwards except your applicants in this Application as they were not the party at the time of filing the original application before your Hon'ble Court as stated above.

A copy of certificate to this effect issued by the Drawing and Disbursing officer of the Geological Survey of India, Dimapur, as referred to is enclosed. This may kindly be seen at Annexure-V.

11. That your humble applicants in this application most respectfully submit that till today the authority concerned has not taken any step for the redressal of the grievances of your applicants for which your humble applicants in this Application are compelled to file and/or contest for their rights for HRA at B-2 class city rate and also for compensation at the rate of 10% in lieu of Rent Free Accommodation (RTA) in your hon'ble Court for justice mainly on the basis of the Judgement of your hon'ble Court in the original aforesaid application No.48 of 1991.

Reliefs sought for :

Your humble applicants in this Application humbly pray before your Hon'ble Court for the following relief :-

- i) That your humble applicants in this application are humbly praying for the same benefits as the benefits and/or relief of the order and judgement passed by your Hon'ble court in the aforesaid case granting B-2 Class city rate of H.R.A and also compensation to the aforesaid original ~~application~~ applicants as prayed for.
- ii) That your humble applicants in this application are entitled to avail the same benefits as the benefits accorded and or conferred in the aforesaid order and Judgement passed by your Hon'ble Court and to issue direction to this effect accordingly.

iii) That your humble applicants in this application state that the officers and staff of group C and Group-D of the Geological survey of India stationed at Dimapur are being paid HRA at B 2 class city rate with effect from 1.10.1986 onwards basing on the order and judgement in the original application of your hon'ble Court and the same relief may kindly be granted to your applicants in this application also.

13. Interim order and/or relief if prayed for :

(i) That your humble applicants in this application state that the applicants in the original application in the aforesaid case have already availed themselves of the benefit of the aforesaid order and judgement of your Hon'ble Court barring your humble applicants in this application.

ii) That in view of these facts and circumstances it is humbly prayed that pending final disposal of the case your honour may be pleased to issue interim order and /or direction for payment of HRA and compensation as prayed for as an interim relief.

14. That details of the remedies exhausted :-
That your humble applicants in this application most respectfully state that they have availed of all the remedies available to them in the spirit and criteria of the aforesaid Judgment of your Hon'ble Court .They have no other equally efficacious alternative remedy and the remedy sought for in this application is just and adequate.

- 14 -

15. That your humble applicants have demanded justice and the same has been denied to your Humble applicants.

16. That this Application is filed before your Hon'ble Court bonafide and in the interest of justice.

17. That matters not pending with any other courts- your humble applicants in this application further declare that the matter regarding which this application has been made is not pending before any court of Law or any other authority or any other Bench of the Tribunal.

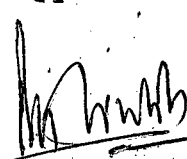
18. Particulars of Bank Draft/ Postal ~~address~~ Order in respect of the Application Fee.

- i) The Indian Postal Order No. 884593
- ii) Name of Issuing Post office : Guwahati.
- iii) Date of issue of Postal order. 9-5-95.

contd. 15

VERIFICATION

I. Shri P H Babu son of P P Rao
aged about 45 years resident of Dimapur district
of Kohima do hereby verify that the statements
made in the above paragraphs are true to my
knowledge and that I have not suppressed any
facts.


(P H BABU)
GSI, OP: M&N, DIMAPUR

12-5-95

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

Original Application No. 48 of 1991

Date of order : This the 26th day of November 1993.

Shri S. Haque, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

Shri M. Lepdon Ao and fortysix(46) others,
Group 'C' & 'D' employees posted in the
Office of the Director,
Geological Survey of India,
Operation Manipur-Nagaland, Dimapur,
District Kohima, Nagaland Applicants

By Advocate Shri M.N. Trikha

- Versus-

1. Union of India, through the Secretary
to the Government of India,
Ministry of Steel and Mines,
Department of Mines, New Delhi
2. The Director General, Geological Survey
of India, 27, Jawaharlal Nehru Road,
Calcutta: 700 013
3. The Deputy Director General, Geological
Survey of India, North East Region,
Asha Kutir, Laitumkhrach, Shillong-793003
4. The Director, Geological Survey of India,
Operation Manipur-Nagaland, Dimapur. Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C. and
Shri A.K. Choudhury, Addl. C.G.S.C.

.....



14
26/11

- 18 -

ORDER

72
HAQUE.J.

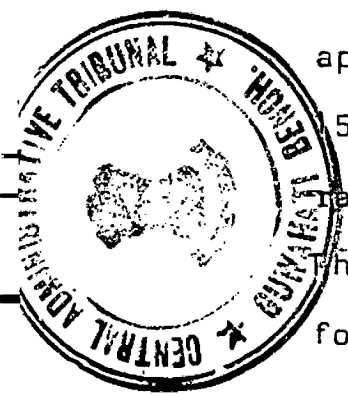
The applicants numbering 47(fortyseven) are Group 'C' and 'D' employees under the Director, Geological Survey of India, Operation Manipur-Nagaland, at Dimapur, Nagaland. This application by them under Section 19 of the Administrative Tribunals Act 1985 claiming House Rent Allowance (HRA) at the rate applicable to 'B' class cities, i.e. at the rate of 5% of their pay and also claim compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

2. It is an admitted fact that the employees of the respondent Directorate are entitled to rent free accommodation in Nagaland, but they were not given free government accommodation.

3. Learned counsel Mr N.N. Trikha for the applicants submits that it was established vide judgment dated 31.10.1990 in O.A.No.42(G)/89 of this Bench and duly confirmed by the Supreme Court vide order dated 18.2.1993 in Civil Appeal No.2705/91 that Nagaland in general is 'B' class city and the Central Government employees there are entitled for benefits of 'B' class cities granted by various circulars and office memoranda.

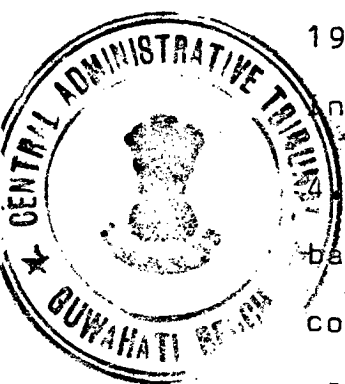
Mr Trikha read out the relevant Office Memoranda. These submissions are not disputed by learned Sr. C.G.S.C.

Mr S. Ali. We have perused the judgments and orders referred to by Mr Trikha. Nagaland had been recognised



✓
26/11

as 'B' class cities in general vide our judgment and order dated 31.10.1990 in O.A.No.42(G)/89 read with the Supreme Court order dated 18.2.1993 in Civil Appeal No.2705 of 1991. This being the established position, we hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wisely with effect from 1.10.1986 pursuant to Office Memorandum No.11013/2/86-E-11(B) dated New Delhi the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure A/7).



After the fixation of the HRA on flat rate basis groupwisely, the Government of India further granted compensation to Group A, B, C and D employees in lieu of rent free accommodation with effect from 1.7.1987 vide Government of India, Ministry of Finance, Department of Expenditure O.M. No.11015/4/86-E.II(B)/87 dated 13.11.1987 which reads as follows:-

" The undersigned is directed to refer to para 1 of this Ministry's Office Memorandum of even number, dated 19.2.1987, regarding Central Government employees belonging to Groups 'B', 'C' and 'D' and also para 1 of O.M. of even number, dated 22.5.1987, regarding Central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under Central Government all over the country vide Ministry of Urban Development (Directorate of Estates)'s O.M.No.12035/(1)/85-Pol.II(Vol.III) (i), dated 7.8.1987, the President is pleased to decide that Central Government employees belonging to Groups 'A', 'B', 'C' and 'D' working in various classified cities and unclassified placed will be entitled to compensation in lieu of Rent-free Accommodation as under -

- (i) Amount charged as licence fee for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates)'s above mentioned O.M. dated 7.8.1987; and

(ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No.11013/2/86-E.II(B), dated 23.9.1986, for Central Government employees belonging to Groups 'B', 'C' and 'D' and para 1 of O.M.No.11013/2/86-E.II(B), dated 19.3.1987, for Central Government employees belonging to Group 'A'



2. Other terms and conditions for admissibility of compensation in lieu of rent-free accommodation indicated in this Ministry's Office Memorandum, dated 19.2.1987 and 22.5.1987, remain the same.
3. These orders shall take effect from 1.7.1987.

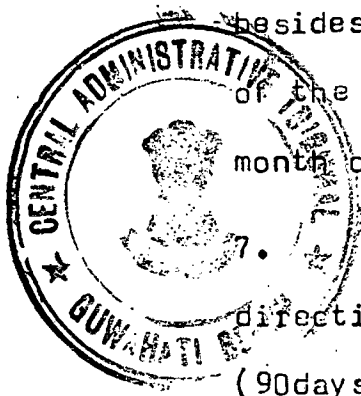
The compensation is fixed at 10% of the monthly emoluments calculated with reference to pay vide NOTE under para 2 of the Government of India, Ministry of Finance Office Memorandum No.11015/4/86-E.II(B)/87 dated 25.5.1987. These Office Memoranda had been circulated by Geological Survey of India, Calcutta vide order No.14017(1)/89-3(HRA) dated 26.9.1988 for necessary action by all branches. Therefore, we hold that the applicants are entitled to compensation at the rate of 10% of pay in lieu of rent free accommodation with effect from 1.7.1987 in terms of O.M.No.11015/4/86-E.II(B) dated 13.11.1987 in addition of the HRA.

5. The applicants were not entitled to 10% compensation in lieu of rent free accommodation for the month of November 1979 and they are liable to refund that amount.

6. In the result, this application is allowed. The respondents are directed to pay HRA to the applicants at the rate of 15% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of O.M.No.11013/2/86-E.II(B) dated 23.9.1986. The respondents are further directed to pay compensation at 10% of the monthly.....

45

monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987 besides HRA. The respondents shall realise 10% of pay of the applicants paid in excess with salary for the month of November 1979.



7. The respondents shall implement the above directions and pay all arrears within three months (90 days) from the date of receipt of copy of the order.

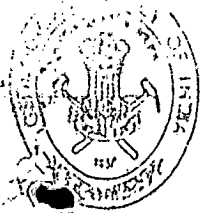
8. Intimate all concerned immediately.

Sd/- S. Hoque.
Vice chairman
Sd/- G. L. Sanghvi
Member (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

[Handwritten signature]
8/9/95

Section Officer (C)
मान्यता अधिकारी (क)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अदालत
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायाधीश, गुवाहाटी-8



GOVERNMENT OF INDIA
Geological Survey of India
27, Jawaharlal Nehru Road
Calcutta - 700 016.

-21-

Annex - II

FACSIMILE TRANSMISSION

Ref. No.: 3/1(105)/Law-89/91 Date of Transmission: 26.8.94 Pages transmitted: 1

From: P K RANGANATHAN
DIRECTOR(P)
GSI
CALCUTTA.

To:
THE DY.DIRECTOR GENERAL
NER
SHILLONG

T E X T

SUB: PAYMENT OF HRA ARREARS TO THE STAFF OF GSI,
DIMAPUR CONSEQUENT TO OA NO 48/91 AT CAT,
GUWAHATI(SRI M.L.AO VS UOI)

REF: FAX MESSAGE NO. 11/CAT/LAW/NER/94 OF DATE

MIN. OF MINES LETTER NO 10/22/91-M.II OF 1ST JULY 94 IMPLIES APPROVAL FOR PAYMENT OF HRA AT B-2 RATES FROM 1.10.86 FOR EMPLOYEES POSTED IN DIMAPUR, AS IN CASE OF DEPTT. OF TELECOMMUNICATION EMPLOYEES BASED ON THE ORDER OF SUPREME COURT OF 18.2.93 STOP ACCORDINGLY YOU ARE REQUESTED TO MAKE PAYMENT OF HRA AND ARREARS THEREOF STOP PENDING FOR MAL GOVT. ORDERS ON THIS ISSUE THE PAYMENT MAY BE MADE ON PROVISIONAL BASIS SUBJECT TO REGULARISATION INCLUDING RECOVERY IF NECESSARY STOP SUITABLE UNDERTAKING FROM EMPLOYEES BE TAKEN AT THE TIME OF DISBURSEMENT

KINDLY NOTE THAT NEITHER HRA B-2 RATES COULD BE GIVEN W.E.F. 1974 NOR ADDITIONAL 10% OF PAY FROM 1987 AS CLARIFIED BY THE MINISTRY STOP

AS REGARDS PARA-5 AUTHORIZATION IS HEREBY GIVEN TO MAKE SUBMISSION TO HON'BLE CAT IN A SUITABLE MANNER ON THE ISSUE AT THE TIME OF NEXT HEARING ON 12.9.94 IN REGARD TO PARA -3C OF YOUR FAX STOP SINCE PARA-3A&B ARE CLEARLY NOT COVERED EITHER GOVT. ORDERS OR THE SUPREME COURT DIRECTIONS ALL EFFORTS BE TAKEN TO ENSURE HON'BLE CATS. ORDERS FOR REVIEW STOP

Copy forwarded by post to: SRI M.K. PAL, DIR(ADMN), CHQ, CALCUTTA ALONGWITH A COPY OF FAX MESSAGE OF NER UNDER REFERENCE WITH A REQUEST TO RELEASE THE ADDITIONAL REQUIREMENTS OF 5.45 LAKS TO NER FOR PAYMENT OF HRA INCLUDING ARREARS IN ACCORDANCE WITH THE DIRECTION OF CAT AS APPROVED BY THE MOM STOP

(P. K. RANGANATHAN)

Tel. No. 29-6976(11)
29-6997(P.O.)
22-6941(P.O.)

From: GEO SURVEY
CALCUTTA

Fax No. 91-33-296956 (Int.)
033-296956 (Domestic)
29-6956 (Local)

Accepted
(T. K. DUTTA)
Advocate

- 22 -
- 13 - 23 -
- 20 -

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ANNEXURE-III
भारत सरकार
GOVERNMENT OF INDIA



3472
No. /11/CAT/LAW/NER/91
देव/From:
उप प्रधानमंत्री
भारतीय भूवैज्ञानिक सर्वेक्षण
'आशा कुतिर', लाइतुम्ब्राह
पोस्ट बॉक्स नं. 11
शिल्लोंग - 793003
Deputy Director General
Geological Survey of India
'Asha Kutir', Laitumkhrah
Post Box No. 11
Shillong 793003

दिनांक/Date: 30/08/1994
तल: डिप्टी, शिल्लोंग
Telegram: GEOSURVEY SHILLONG
टेलीक्स/Telex: 237209 GSRV
दूरभाष/Telephone: 223963 (पी.बी.एम्/ PBX)
226285 (कार्यालय/Office)
230120 (आवास/Residence)

भेजें/To
The Director,
Geological Survey of India,
Circular Road,
DIMAPUR - 797 112.
Nagaland.

Sub : Payment of HRA arrears to the Staff of GSI, Dimapur consequent to OA No : 48/91 at CAT, Guwahati (Sri M.L. Ao vs UOI).

S i r,

In accordance with Fax message no : 3/1(705)/law-89/91, Dt : 26/08/94 (copy enclosed), you are advised to make the payment of HRA and arrears thereof at "B-2" city rates, as applicable w.e.f. 01/10/1986 in terms of Government of India OM No. 11013/2/86-E II(B), Dt : 23/09/1986. The payment may be made, subject to realisation of 10% of pay of the employees paid in excess alongwith the salary for the month of November, 1979 in accordance with the para 6 of the CAT, Guwahati Judgment dated : 26/11/93 in OA No. 48/91.

It may kindly be noted, that payment as ordered above is being made on provisional basis pending formal Government orders on this issue and is subject to regularisation including recovery, if necessary.

Regarding the other operating parts of the judgment, you are informed that the Government has gone on appeal/review regarding them.

Yours faithfully,

(K. KRISHNANUNNI)
DEPUTY DIRECTOR GENERAL.
Date : 20/08/1994

Encl : As stated above.

NO : /11/CAT/LAW/NER/91

Copy to :

1. The Director General (Attn : Sri P.K. Ranganathan), GSI, 27, J.L.N. road, Calcutta.
2. The Controlling Officer, GSI, NER, Shillong with a request to allocate Rs. 5.45 lakhs to Director, GSI, Dimapur for effecting payment as above.

(K. KRISHNANUNNI)
DEPUTY DIRECTOR GENERAL.

Attested
(T.K. Dutta)
Advocate

No. 114/GSI/Opn/Pay. Allowances.

Dt. 16.7.93

From :

To

The Director,
Geological Survey of India,
Operation Manipur Nagaland,
Circular Road,
Dimapur.

The Director General,
Geological Survey of India,
4, Chowringhee Lane,
Calcutta - 16.

(Through the Dy. Director General, NER, GSI)

Sub:- Payment of B₂ City Rate HRA to other Officers
and Staff of Geological Survey of India, Dimapur

Sir,

Consequent to the judgement of the CAT, Guwahati Bench, in L. Ro and others versus Govt. of India case No. OA-48/91 Dt. 26.11.93, HRA has been sanctioned by the Department at B₂ Class City Rates to the petitioners in the aforesaid case. It is requested that the same benefit may please be extended to all other officers and staff working in the GSI Office at Dimapur. This is in accordance with the judgement of the CAT in the case of M Vasu Versus Union of India and another, 1993 (2) SLT (CAT) 44 (Ernakulam) date of judgement 15.01.1993, in which the administrative authority before whom the representation is made has a duty to decide whether other persons are similarly situated like the applicants in the earlier judgement and if so to grant the same relief to others without driving them to a Court/Tribunal. If the judgement is declaratory in nature, the respondents (authority) have an obligation to grant the benefits of judgement to all the persons similarly situated in the department without driving them to a Court for getting relief. This eliminates an anomalous situation wherein some officials are getting HRA at a rate different from others in the same office.

An early action for granting the same to other officials will be received with much appreciation by the officers and staff.

Encls:- a) Copy of the Case-Lau
section, Swampy News
Oct., 1993.

b) Copy of sanction of
HRA at B₂ City rate
by the Department.

Yours faithfully,

Ajit Kumar
(Ajit Kumar)
Director,
GSI, DMN, Dimapur.

7 copy

*Accepted
(T.K. Dutta)
Advocate.*

-22--25-19-

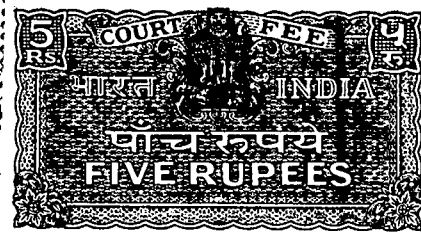
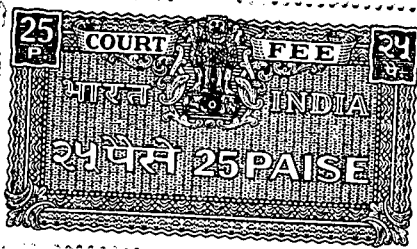
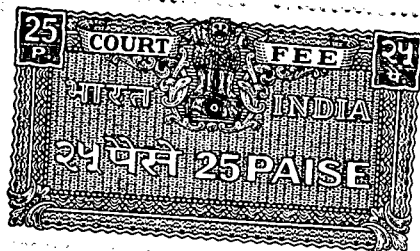
Annexure- V

TO WHOM IT MAY CONCERN

It is certified that ~~all~~ the group 'C' & group 'D' staff of Geological Survey of India stationed at Dimapur are being paid HRA at B² class city rate w.e.f. 1.10.1986.

Living
(R K ROY)

Drawing & Disbursing Officer,
Geological Survey of India
BGO, OAN, Dimapur
per Director



VAKALAT NAMA

Know all men by these present that the above-named do hereby nominate, constitute and appoint Shri Tridip Kr. Dutta, Advocate and as shall accept this Vakalatnama to be our true and lawful Advocate to appear and act for us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition, etc. for us and on our behalf and we agree to ratify and confirm all acts so done by the said Advocate as ours to all intents and purposes. In case of non-payment of the stipulated fee in full, - no advocate will be bound to appear or act on our behalf.

In witness whereof we hereunto set our hand this the day of January, 1995 .

P H BABU

AJIT KUMAR

S V G KRISHNA RAO

R K ROY

G PRATAP REDDY

ANANDAMURTY S

T L SHITIRI

S A D KUDARI

D C SAHA

CHANDRA MADHAV

S K BOHRA

N. KUTUMBA RAO

RONGSEN LUNGBEN - Rongsen.

L. HEMKHOJANG - Hemi

AKHELI SEMA - Akheli

Received from
the Executants, Satisfied
and accepted

T. K. DUTTA
Advocate
12/5/95