

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 177/95
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

[Signature]
6.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 177 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

.....*Meinal Kant Das*..... APPLICANT(S)

-vs-

.....*H.O.I. & sons*..... RESPONDENT(S)

For the Applicant(s)

... Mr. *D.K. Boruah*

Mr.

Mr.

Mr.

For the Respondent(s)

Mr.

S. Ali, Sr. C.G.

OFFICE NOTE

DATE

ORDER

15-9-95

Received by post. Agartala matter.
 Mr.S.Ali, Sr.C.G.S.C for the respondents.
 Applicants seek benefit of order in O.A.
 50/89 in respect of SDA. Issue notice to
 the respondents to show cause as to why
 the application be not admitted. Returna-
 ble on 16-10-95. Inform applicant's
 advocate.

This application is in
 form and within time.

C. F. of Rs. 50/-

deposited vide

IPO/BD No. *526673*

Dated *29.6.95*

By Registrar (1)

PR

Vice-Chairman

Member

1m

17.10.95

The applicants are from Agartala.
 Advocate not present. The question relates
 to HRA. Application admitted. Issue notice
 to the respondents. 8 weeks for written
 statement.

Adjourned to 13.12.1995. Mr S.Ali,Sr.
 C.G.S.C appears for respondents.

Member

Vice-Chairman

order 8.12.10-95

order 2.12.95

order 1.12.95

order 2.12.95

(contd.to Page No.2)

OA/TA/CP/RA/MP No. 77 of 1995

OFFICE NOTE

DATE

ORDER

13-12-95

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

As per request of the applicants' advocate vide his letter to be listed for hearing on 11-1-96. Inform advocate of applicants

Member

Vice-Chairman

lm

11.1.96

Mr D.K. Biswas for the applicant.

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

Arguments concluded. Judgment delivered. The application is allowed. No order as to costs.

This order is confined in this O.A. only to applicant, Mrinal Kanti Das.

Vice-Chairman

Member

nkm

Order of 13-12-95

issued from Am. 176/95

14/12

Notice served

to all Respondents

14/12

w/statute by Smt

at 10/11

6/6

The judgment issued to the parties along with the parties counsel vide D.No. 1257 to 1259 dt. 10.6.96

14/6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A.No.177 of 1995

Date of decision 11.1.1996

Shri Mrinal Kanti Das

PETITIONER(S)

Shri D.K. Biswas

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether the Judgement is to be circulated to the other Benches?

M. S. Chaudhary
Judgement delivered by Hon'ble Vice-Chairman

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.177 of 1995

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

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

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

Shri Mrinal Kanti Das,
FGM, MES No.242727 and 65 others.
Office of the Garrison Engineer(P),
872, Engineering Works Section,
99 A.P.O.

.....Applicants

By Advocate Shri D.K. Biswas.

- versus -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Defence,
New Delhi.

2. The Garrison Engineer(P),
872, Engineering Works Section,
99 A.P.O.

.....Respondents

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

.....

O R D E R

CHAUDHARI J. V.C.

Mr D.K. Biswas for the applicant.

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

Although this application is purported to be filed by 66 Civilian Defence employees posted in the Field Area under respondent No.2 from various dates claiming House Rent Allowance (HRA) on the strength of the earlier decision of this Tribunal in O.A.No.50/89 dated 29.3.1994, the application can proceed only to the extent of the applicant whose name appears in the title, i.e. Mrinal Kanti Das and the other 65 persons cannot be granted relief on this application. That is because although it is stated in the title as Mrinal Kanti Das and 65 others the application is signed only by Mrinal Kanti Das purportedly on behalf of the remaining persons also. The Vakalatnama has also been signed

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only by Mrinal Kanti Das for self and other 64. A list of the names of the 66 persons who are supposed to be the applicants is annexed to the O.A., but it is a type-written list and there are no signatures of the persons who appear in the list. It is not stated in the application that the 66 persons have justification for joining in a single application. Neither any application has been filed under Rule 5(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, to join together and file a single application nor such leave has been obtained from this Tribunal. In the absence of the signatures of the remaining 65 persons on the O.A. or on the Vakalatnama and in the absence of any letter of authority signed by them in favour of Mrinal Kanti Das to file the application on their behalf the O.A. cannot be considered in law as a legally constituted application on behalf of the remaining 65 persons and we cannot, therefore, exercise our jurisdiction in law. It appears ✓ that this aspect ^{was} lost sight of the learned counsel for the applicants inadvertently, but since the irregularity goes to the root of jurisdiction and competency of the application we regret that we have to confine this order only to applicant, Mrinal Kanti Das and leave the remaining 65 applicants to file a proper application in accordance with law and the rules in which case the question of extending the benefit of this judgment to them will be open to be considered.

2. The applicant, Mrinal Kanti Das, is a civilian Defence employee posted in the Field Area under respondent No.2. His grievance is that he is not being paid HRA which the respondents ought to have granted in view of the judgment and order of this Tribunal in O.A.No.50/89 dated 29.3.1994.

3. The respondents interalia contend that the applicant is not entitled to claim HRA for the period prior to 31.1.1995 since the particular location where the applicant is posted has been declared as Modified Field with effect from 1.4.1993, and that only those employees who are not occupying Government Accommodation are entitled to the allowance. The respondents, however, ^{concede} ~~consider~~ that HRA will be paid from 31.1.1995. That concession is made on the basis that the State

of.....

mlc

of Tripura has been declared as Modified Field Area. It is contended that as prior thereto the applicant was enjoying Field Concession upto October 1995 he is not entitled to get the HRA in addition thereto. This question has been considered by us in our order on O.A.No.124/95 with O.A.No.125/95 dated 24.8.1995 pertaining to employees from the State of Nagaland. We followed our earlier decision rendered in O.A.No.48/91 dated 22.8.1995 and held that under the O.M. dated 23.9.1986 issued by the Ministry of Finance (Department of Expenditure), Ministry of Finance, Government of India, prescribing the rates of HRA payable to Central Government employees with effect from and after 1.1.1986, the applicants in that case were entitled to HRA. We had not accepted the contention of the respondents in that case that by reason of Field Service Concession being given the employees were not entitled to claim HRA. We see no reason to take a different view in the instant case. Hence following order is passed:

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

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

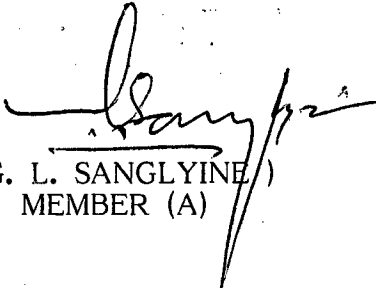
Any.....




Any amount has may have been paid to the applicant towards HRA during the aforesaid period will be adjusted in the arrears.

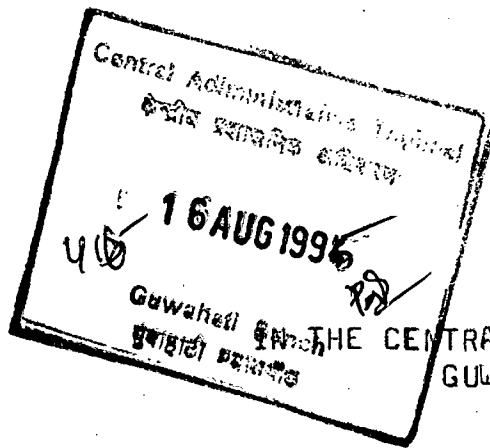
4. The original application is allowed in terms of the aforesaid order. No order as to costs.

5. This order is confined in this O.A. only to applicant, Mrinal Kanti Das.


(G. L. SANGLYINE)
MEMBER (A)


(M. G. CHAUDHARI)
VICE-CHAIRMAN

nkM



THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Case No. O.A 177 of 1995.

House Rent Allowance

Shri Mrinal Kanti Das

FGM, MES No. 242727 and 65 others.

Office of the Garrison Engineer(P)

872, Engineering Works Section

99 A.P.O

.....Applicants

Versus

1. Union of India

Represented by the

Secretary to the Government

Ministry of Defence,

New Delhi.

2. Garrison Engineer(P)

872, Engineering Works Section

99 A.P.O

.....Respondents

Particulars of Respondents

1. Secretary to the
Government of India
Ministry of Defence,
Controlling Ministry of the
R-2 and its establishment.

2. Garrison Engineer
872 EWSm under the control of
the Ministry of Defence and
Head of the Office and establishment
in which the applicants are posted.

Received copy.

See-
Sr. CGSC
6/9/95

Contd....Page-2

Mrinal Kanti Das
(FOR 66 APPLICANTS
IN THE LIST ENCLOSED)

Particulars of Orders against which
the application is made.

Mineral Rights Dept
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The application is directed against the nonimplementation of Government of India, Ministry of Finance(Department of Expenditure) O.M. No.20014/10/86-E-IV dated 23-9-86 and denial of House Rent Allowance by the Respondents even after the judgement and order of this Hon'ble Tribunal in O.A.50/89 and implemented by the Respondent No.1 in respect of 149 applicants similarly situated in the same station, in the month of March, 1995.

Jurisdiction of the Tribunal

The applicants are Civilian Defence employees posted in the field area under Respondent No.2 from various dates indicated in the list of applicants annexed to this application. The subject matter of the application and the redressal prayed for are within the jurisdiction of this tribunal . The applicants declared that the application is within the limitation.

Mineral Ranti Dong

Facts of the case

All the applicants here are Civilian employees working in various posts described in detail in the list of names annexed to this petition, are all posted in the establishment of Respondent No.2 from different dates indicated in the list of names.

The petitioners being posted in field area are includes rent free single accommodation in Barrack, but no provision for accommodation of the family. As a result the petitioners have to arrange houses to accommodate the family in the same station or in the station of last posting. In either case the field concession by way of rent free single accommodation does not relieve the petitioners of the burden of paying house rent for accommodating their families.

The 4th Pay Commission recommended house rent allowance irrespective of any other ~~station~~ consideration in different range according to the classification of place of posting. On the basis of the recommendation of the Pay Commission House Rent allowance was sanctioned by the Government of India, Ministry of Finance(Department of Expenditure) Office Memo No. 11013/2/86-E.II(B) dated 25-9-86.

Mineral Ranti Dora

Facts of the case

All the applicants here are Civilian employees working in various posts described in detail in the list of names annexed to this petition, are all posted in the establishment of Respondent No.2 from different dates indicated in the list of names.

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The 4th Pay Commission recommended house rent allowance irrespective of any other ~~station~~ consideration in different range according to the classification of place of posting. On the basis of the recommendation of the Pay Commission House Rent allowance was sanctioned by the Government of India, Ministry of Defence(Department of Expenditure) Office Memo No. 11013/2/86-E.II(B) dated 25-9-86.

Mineral Kant: DND

A copy of the relevant portion of the recommendation by the pay commission is annexed hereto and marked as Annexure-1.

That all the petitioners here though in field area are entitled to House Rent Allowance in terms of the above Office Memo dated 25-9-86 in the rate prescribed by the Pay Commission even for unclassified areas and there is no order or office memo disentitling the petitioners of their legitimate and lawful claim of House Rent Allowance as paid to other Civilian employees under the central government. And as such no order or office memo is under challenge except the unlawful and arbitrary denial of the House Rent Allowance to the petitioner even after such House Rents allowance are being allowed to other similarly situated employees under Respondent No.2 w.e.f. March'95.

That as many as 149 applicants posted in the establishment of the Respondent No.2 filed application before this Hon'ble tribunal challenging the non implementation of House Rent Allowance and this Hon'ble Tribunal after having examined all the relevant records and after hearing all the parties decided the case (O.A 50/89) finally on 29-3-94 directing the Respondents to pay all arrears of House Rent Allowance within four

Mina/Kanti-Dop

months, and to continue to pay the house rent regularly thereafter. The Union of India in compliance with the said order of this Hon'ble Tribunal has paid all arrears to the 149 applicants of this establishment under Respondent No.2 in the month of March'95 and has been paying the admissible House rent allowance every month thereafter.

That the petitioners here before this Hon'ble Tribunal are similarly situated as the petitioners in O.A. 50/89 and under the same department and as such the petitioners can not be discriminated with regard to allowance which is a part of their service conditions

A copy of the judgement of this Hon'ble Tribunal passed in O.A 50/89 ~~is annexed~~ is annexed hereto and ~~marked~~ as Annexure-2.

That the petitioners here legitimately expected that the Respondents being government would act fairly and without discrimination among the similarly situated government servant, and would allow the house rent allowance in the same manner as has been allowed to the other employees covered by the order in ~~88A~~ O.A.50/89. But the petitioner's pain-fully observed that the Respondent No.1 has been silent on the legitimate demand of the petitioners

14
Mairal Kanchi Das

and has been perpetrating discrimination by disallowing the house rent allowance even after allowing the same to the other similarly situated employees. On such eventuality the applicants served a Demand Notice dated 24th April '95 through their counsel to both the Respds. by Registered Post..

A copy of the said notice dated 24-4-95 is annexed here and marked as Annexure-3.

That the applicants are entitled to House Rent allowance in the same rate as are admissible to the civilian employees of the central government in the same area and such allowance is admissible to the applicants in terms of government of India Office Memo No.11013/2/86-E.II(B) dated 25-9-86 w.e.f. such date as and when the individual applicant joined his place of posting under Respondent No.2.

That the applicants expected that the Notice demanding justice would bring forth the result and the discrimination would be removed, but the Respondent appear to be silent on the legitimate claim of the applicants and as such applicants have been compelled to file this application for a specific direction to the Respondents to implement the house rent allowance in the same manner as has been implemented in the case of petitioners in D.A.50/89.

Page-7

5
Mineral Kanti Dura

Relief sought

The judgement and order of this Hon'ble Tribunal in O.A 50/89 having been implemented by the Respondent No.1 and 2 the applicants here, being similarly situated are also entitled to similar relief on basis of the judgement as aforesaid. This Hon'ble Tribunal would be kind enough to pass appropriate direction to the Respondents to allow House Rent Allowance in the same manner as has been directed in the said judgement (Annexure-2) under which the present petitioners seek relief.

This Hon'ble Tribunal would also pass orders as to cost of this proceedings and such compensation as may be ~~xxxx~~ deemed fit and proper for delaying/denying the payment of house rent allowance to the applicants here are entitled.

Particular of the Indian Postal Order.

NO: 06 : 526673 Dt. 29.6.95

List of Enclosures

Next Page -

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16
Mrinal Kanti Das

1. The application (in Original)
2. Application - 2 spare copies.
3. Annexure-1.
4. Annexure-2 (Judgement and order in O.A 50/89)
5. Annexure-3 (Demand Notice)
6. Indian Postal Order.
7. List of names of the applicants (66 Nos)
8. Vokatnama (~~4 sheets~~)
- 9.

V E R I F I C A T I O N

I Shri Mrinal Kanti Das S/O

FMG, MES No.242727 in the establishment of Garrison
Engineer(P) 872, EWS, 99 APQ, resident of Agartala
Town do hereby verify the contents of the application
which are true to my knowledge and in which I have not
suppressed any material facts.

FOR 66 APPLICANTS
SHOWN IN THE ENCLOSED LIST.

Mrinal Kanti Das

- 5 -

SI Recommendations of the Fourth
No. Pay Commission

Decisions of Govt.

- (iv) The groupings of employees and the amount of HRA in different classes of cities may be as follows: Accepted (Applicable to Group 'B' 'C' & 'D' only)

Type of accommodation to which entitled	Pay range in proposed scales for entitlement		Amount of House Rent Allowance payable in	
	Rs.	A, B.1 & B-2 Class cities.	C Class cities	Unclassified places
A	750-949	150	70	30
B	950-1499	250	120	50
C	1500-2799	450	220	100
D	2800-3599	600	300	150

(Chapter 14, Paragraph 14.27)

- (v) HRA at the above rates may be paid to all employees (other than those provided Government owned/hired accommodation) without requiring them to produce rent receipts. They should, however, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. HRA at the above rates may also be paid to Government employees living in their own houses subject to their furnishing a certificate that they are paying/contributing towards house or property tax or maintenance of the house. Accepted

(Chapter 14, Paragraph 14.27)

- (vi) The other conditions at present applicable for the grant of HRA in cases where a Government employee shares Government accommodation allotted rent free to another Government employee or resides in Government Accommodation allotted to his/her parents, son, Daughter, wife or husband, shall continue to be applicable. Accepted

(Chapter 14 paragraph 14.27)

- (vii) There are also restrictions in some cases on the limit of pay upto which HRA is given. In all places where HRA is presently admissible at 15 percent of pay, the same may be paid at the rates mentioned at (iv) above for A, B-1 and B-2 class cities. In other cases covered by special orders, HRA may be paid at the rate mentioned at (iv) above for C class cities. In both these cases there should be no upper pay limit for payment of HRA. Accepted

(Chapter 14, Paragraph 14.28)

Contd....P/6

D. K. BISWAS
ADVOCATE,
High Court Bar, Agartala

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.50 of 1989

Date of decision: This the 29th day of March 1994.

Hon'ble Justice Shri S. Haque, Vice-Chairman

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

Shri D.B. Sonar and 132 others
Working in the Establishment of
the G.E. 872 WES C/O 99 - A.P.O.

..... Applicants

By Advocate Shri D.K. Biswas

-versus-

1. The Union of India, represented by
the Secretary to the Government of
India, Ministry of Defence,
New Delhi
2. The Controller General of Defence
Accounts, New Delhi
3. The Controller of Defence Accounts
Basistha, Guwahati
4. The Garrison Engineer(P) 872 EWS
99 - A.P.O.

..... Respondents

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

...

Handwritten signature
Handwritten signature
D. K. BISWAS
ADVOCATE.
High Court Bar, Agartala
23/6/94

ORDER

11
19 S. HAQUE

133 Civilian Central Government employees in the Establishment of the GE 872 WES, C/O 99 A.P.O., Agartala have filed this application under Section 19 of the Administrative Tribunals Act, 1985, complaining non-implementation of the Office Memorandum No.11013/2/86/E.II(B) dated 25.9.1986 of the Ministry of Finance (Department of Expenditure), Government of India.

2. The applicants are serving under the Respondent No.4, Garrison Engineer(P), 872 EWS, in a 'field area' as against 'peace area'. Civilian Central Government servants while posted in peace area are given usual House Rent Allowance (HRA), but while in a field area free single accommodation is provided without consideration of requirement for house for the family and no HRA is allowed. Those employees who immediately served in a peace station get HRA for the family at the rate admissible for that town/city. So, the applicants complain of discrimination. It is claimed that as per the accepted recommendation of the Fourth Pay Commission, the applicants posted at Agartala (field area) are entitled to the HRA at scheduled rate under the O.M. dated 25.9.1986. It was also stated that the HRA under O.M. dated 25.9.1986 was made admissible even in the unclassified peace stations. The applicants further state that the Commander, Works Engineer, by his recommendation dated 26.6.1987 from the field made a fair proposal for payment of HRA to all Government servants irrespective of any classification pursuant to

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Government policy or decision empowering Audit authorities to disallow HRA to the applicants. The HRA was made admissible to all Civilian Central Government servants even in the unclassified places as sanctioned vide O.M. dated 25.9.1986 on the basis of the Fourth Pay Commission recommendation. Perused the recommendation of the Pay Commission contained in Annexure-A. This fact was stated in the application and the same had not been denied, and the respondent No.4 has admitted that the applicants are entitled to the HRA as per the order under O.M. dated 25.9.1986 on the recommendation of the Fourth Pay Commission. But during the course of hearing of the case, the Addl. C.G.S.C. pointed out the passage (office notes) in the file of the Department of Expenditure where it was suggested that those drawing field service concession may not be permitted to draw Special Compensatory (Remote Locality) Allowance. Such annotation in the file was not a Government decision and the subject-matter in that annotation had no relevance with the claim of HRA. No explanation was given as to why the HRA for family to those employees of the Unit 872 WES are allowed who immediately served in a peace station prior to posting/transfer to this Unit. No satisfactory explanation was also given as to why the Government servants in the Unit are allowed to draw HRA. All these have proved that there is discrimination toward the applicants in the matter of granting benefit of HRA. The submission of Mr Dilip Biswas, counsel for the applicants, are acceptable. We find no justification as to why the respondents No. 2 and 3 or the Area Accounts Officer, Shillong disallowed to clear the bills for HRA of the applicants submitted by

the.....

25/9/74

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the Government of India O.M. dated 25.9.1986. It was also stated that there are 14 (fourteen) employees posted in the establishment of Respondent No.4 who are getting HRA at their old station rate. So, the complain against the respondents for denial of HRA to the applicants.

3. The Respondent No.4 by his written statement (paragraph 3) admitted that the demand of HRA of the employees of his unit is justified subject to admittance by the Audit Authority and that in this regard efforts had been made through recommendation of the Commander, Works Engineer, HQ 137 (R.K. Sharma) dated 26.6.1987. Perused this recommendation (Annexure B to the application). It was stated in paragraph 9/10 of the written statement that as per Government Order O.M. dated 25.9.1986, the HRA for the applicants are being regularly included in their pay bills, but the audit authority disallowed the same for want of decision/classification from the concerned Ministry. Respondents No.4 clearly stated that the Department never denied payment of HRA. In the additional written statement in paragraph 10/11 it was stated that the audit authorities have disallowed HRA as per Government policies and as soon as decision of the Government of India is received they would allow the HRA.

4. The respondents No.1, 2 and 3 (Union of India and Audit authorities) did not contest the case inspite of clear service of notice on them. Under such circumstances it shall be presumed that they admit the claim of the applicants. Neither the respondent No.4 nor the other respondents (No.1, 2 and 3) could produce any

Government.....

25/12/84

13 14

the Respondent No.4. The applicants are entitled to HRA under Government O.M. dated 25.9.1986 on the recommendation of the Fourth Pay Commission. The respondents have illegally denied the HRA to the applicants and also caused discrimination to them.

5. In the result, this application under Section 19 of the Administrative Tribunals Act, 1985 is allowed. All the respondents including the Area Accounts Officer, Shillong are directed to pay the House Rent Allowance to the applicants pursuant to the Government of India Office Memorandum No.11013/2/86-E.II(B) dated 25.9.1986 and the recommendation of the Fourth Pay Commission. The Respondents are directed to pay all arrear of HRA within four months from the date of receipt copy of the judgment/order and shall also continue to pay current HRA regularly with salary from the month of June 1994 (payable on the last day of June or 1st day of July 1994).

6. We make no order as to costs.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L.SANGLYINE
MEMBER (AJMN)

nkm

TRUE COPY
JUN 1994

16/9/94
Section Officer (J)
18/9/94

DEEPAK K. BISWASADVOCATE
GAUHATI HIGH COURT
Agartala BenchResi. : Ramnagar Road-2
AGARTALA-799002
Phone : 226586

AGARTALA - 24-4-95

15 H

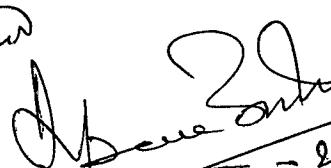
To
The Secretary to the
Government of India,
Ministry of Defence,
Central Secretariate,
New Delhi.Garrison Engineer(P)
872 Engineering Works Sec.
99 A.P.O.Subject: Notice demanding justice on implementation of:-
i. Special Compensatory Allowance ii. House
Rent Allowance and iii. Special Duty Allowance
- in respect of the applicants consequent on the
decision of the Hon'ble Central Administrative
Tribunal, Guwahati Bench passed on 29-3-94 in
O.A 48/89, O.A 49/89, and O.A 50/89.

Sir,

Under instructions of my clients numbering 63 who are named in the annexed list I am to state as follows:-

1. That all my clients are posted in the establishment of the Garrison Engineer(P), 872 EWS 99 A.P.O with effect from various dates indicated in the list against each name. It was reasonably expected by my clients that the illegal and unjust denial of the three allowances viz. SCA, SDA and HRA, if set aside by judicial order of the Hon'ble Central Administrative Tribunal and thereafter such decision is implemented by the government none would be discriminated. But ultimately it is found that the benefit of the orders passed by the Ld. Tribunal have been extended only to the applicants who were about 150 numbers working in the same establishment as the present applicants are.

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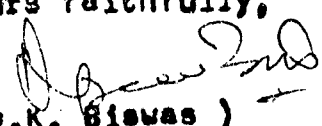
attested

D. K. BISWAS
 ADVOCATE.
 High Court Bar, Agartala.
 22/6/95

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2. That being a similarly situated under the identical service conditions the present applicants are also entitled to the reliefs allowed by the government consequent on the judgement and orders dated 29-3-94 passed by the Ld. C.A. Tribunal.

In the above circumstances my clients being disappointed on being discriminated sought legal advice and accordingly on their instructions I address this notice calling upon you to implement the benefits of the orders as stated above and the decision of the government in respect of the present applicants and allow all the three allowances with effect from such date after 1986, as indicated in the list against each name. Unless the said benefit is allowed to my clients within a period of 30 days my clients would left with/Other alternative but to approach the appropriate legal forum for an appropriate remedy and at such event my clients would be presumed to have been forced to litigation and accordingly you would be responsible for the consequences for such litigation.

Expecting a reply within 30(thirty) days.

Yours faithfully,

(D.K. Biswas)
Advocate

16-7-94 वीमा नहीं NOT INSURED	
Amount of Stamps affixed एक रजिस्ट्रार	Rs. 7/-
Received a Registered	✓
पानेवाले का नाम Addressed to	Secretary, Ministry of Labour & Industrial Relations, Government of India, New Delhi-110002
पानेवाले अधिकारी के हस्ताक्षर Signature of Receiving Officer	
2641	
तारीख मोहर Date Stamp	
27-4-94	
वीमा नहीं NOT INSURED	
Amount of Stamps affixed एक रजिस्ट्रार	Rs. 7/-
Received a Registered	✓
पानेवाले का नाम Addressed to	Secretary, Ministry of Labour & Industrial Relations, Government of India, New Delhi-110002
पानेवाले अधिकारी के हस्ताक्षर Signature of Receiving Officer	
2642	
तारीख मोहर Date Stamp	
27-4-94	

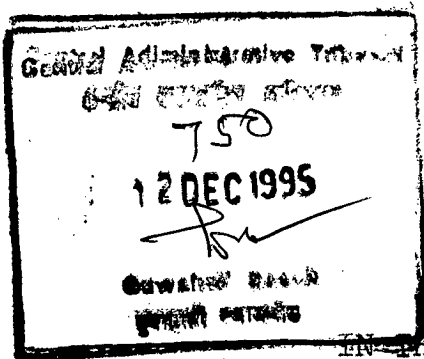
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LIST OF APPLICANTS
(Office of the G.E.(P)872,Engg.Works Sec)

Sl.	M.E.S.No.	NAME	DESIGNATION	POSTED SINCE
1.	242727	Shri Mrinal Kanti Das	FGM	17-2-1994
2.	243682	" Sudip Sutradhar	"	4-2-1991
3.	220317	" KPGK Nair	"	20-4-1992
4.	228341	" Sirajuddin Barbhuiya	"	July 1992
5.	237946	" Ashok Kr. Dey	"	May 1992
6.	243368	" Mohan Bhuiya	"(SK)	1988
7.	108945	" N. Nateshan	"	Sept 1994
8.	234055	" M.C.Chakravarty	P/Fitter HS-II	2-5-1990
9.	228324	" Bomkesh Dutta	P/Fitter SK	10-6-1992
10.	228860	" Alimuddin	"	July 1993
11.	203528	" Supratish Sarkar	V/Man	25-10-1994
12.	238373	" Dhanaï Yadav	"	14-12-1994
13.	237926	" Bikram Yadav	MATE	15-4-1992
14.	233843	" V.Margabandhu	"	Mat 1991
15.	243445	" Kush Bahadur Sonar	"	3-6-1992
16.	243464	" Hari Prasad Pradhan	"	22-9-1994
17.	243825	" Sankar Purkayastha	"	13-4-1992
18.	T/1306	" Benu Tanti	Mazdur	June 1993
19.	245915	" Pradip Kalita	Chowk.	July 1994
20.	243385	" Ram Chandra	Carpenter	April 1992
21.	228237	" Satyendra Suklabadya	Mason	Sept 1993
22.	228353	" Suresh Ch. Rai	"	6-9-1993
23.	238433	" Ramkrishna Harijan	Mate	June 1992
24.	243634	" Ramkant Harijan	Mazdur	11-2-1992
25.	243786	" Ashok Kr. Balmiki	S/Walla	26-11-1992
26.	220304	" Prabhu Dayal	Carpenter	14-9-1994
27.	228901	" Surendra Ch. Suklabadya	"	July 1992
28.	243875	" Nanda Kishore Thakur	Mazdur	Nov. 1991
29.	14117066	" Purnan	Mate	Aug 1983
30.	201685	" M.C. Das	A.E.B/R	1-12-1990

31.	450430	Shri S.K.Gangopadhyaya	A.E.B/R	Dec-1990
32.	265108	" Arjun Kr. Roy	Supdt.B/R-I	Dec-1990
33.	450179	" Sukhbir Prasad Jain	BSO	1-3-1994
34.	224044	" Nitish Ranjan Kar	A.E.B/R	4-2-1994
35.	288168	" Dilip Kumar Saha	S.A -I	Feb.1992
36.	206835	" Swapan Choudhuri	Supdt.B/R-I	6-12-1991
37.	242597	" Pradyumna Kr. Dutta	"	23-1-1995
38.	220006	" Sujit Kr. Banerjee	Supvr,B/S-II	11-8-1993
39.	232981	" Bhabananda Das	S.A.-II	29-7-1992
40.	243572	" Prabal Jyoti Deb	Supvr.B/S-II	9-6-1993
41.	264692	" Rattan Deb	D/Man - II	Feb.1993
42.	267001	" Sibendra Nath Chaki	Supdt.B/R-II	27-12-1993
43.	211010	" A.K.Nandi	S.K-I	1-10-1993
44.	242844	" George Mathai	S.K-II	28-12-1994
45.	232222	" B.K.Deb	U.D.C.	14-5-1993
46.	243372	" T.K.Bhattacharjee	L.D.C.	30-6-1992
47.	273706	" D.K. Singha	"	31-12-1989
48.	232126	" Suran Chandra Bora	F/Printer	Dec. 1990
49.	238286	" A.G.Guha	B/R,Gr-II	25-5-1991
50.	265005	" Kanulal Sukladas	Office Supdt.	2-12-1999
51.	237601	" N.D.Pow	" "	5-7-1989
52.	225399	Dharanidhar Das	L.D.C.	25-6-1992
53.	201358	" Radhaballav Deb Nath	Supdt.E/M-I	7-7-1989
54.	216097	" A.K. Mitra	S.K.-I	7-8-1990
55.	228327	" Rasik Chandra Paul	Elec.H.S.-I	9-5-1994
56.	228863	" Ajoy Dutta	" "	10-9-1993
57.	228775	" H.M. Naug	Elec.H.S.-II	13-7-1992
58.	228773	" M.R.Choudhuri	Elec.S.K.	Bune 1992
59.	243449	" Dipak Ranjan Das	"	7-2-1994
60.	228345	" Nripendra Ch. Paul	"	1-7-1992
61.	228625	" Chaturgan Hazam	"	10-4-1991
62.	430125	" S.M.S. Naqvi	A.E.,B/R	25-2-1994
63.	243450	" <u>Jamaluddin Barbhuya</u>	<u>Elec(SK)</u>	JUNE-1992
64.	265055	" <u>P.C.Sukladas</u>	<u>E.G.M.</u>	11-2-1989
65.	243713	" <u>C. Mami</u>	<u>1992</u>	1-9-1988
66.	237933	" Ram Bilash Yadav	<u>Man Mate</u>	-

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Filed by:

Chauhan
(MD. SHAUKAT ALI) 27/12/95
Sr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

19

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI:

In the matter of :-

O.A. No. 177/95

Shri Mrinal Kanti Das and ors.

-Vs-

Union of India and another.

-And-

In the matter of :-

Written statements submitted by the
Respondents No. 1 & 2.

WRITTEN STATEMENTS :

The humble Respondents submit their
written statements as follows :-

1. That with regard to statements made in this O.A. regarding particulars of Orders against which the application is made and jurisdiction of the Tribunal, the Respondents beg to state that they have no comments on them.

2. That with regard to statements made in paragraph 1 of the application, the Respondents beg to state that all the applicants are not presently working in this units. Out of 65 applicants, 51 are in the

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strength of this unit and 14 others have been posted out to different formations.

3. That with regard to statements made in paragraph 2 of the application, the Respondents beg to state that in field area there is no provision for keeping family. Single accommodation as per status and rank has been provided to the civilian employees. Those applicants kept their family in old duty station they are being paid old duty HRA as per existing orders. In other cases Department has no any provision for providing family accommodation or HRA.

4. That with regard to statements made in paragraphs 3 and 4 of the application, the Respondents beg to state that the 4th Pay Commission recommendation issued by Ministry of Finance (Deptt. of Expenditure) Memo.No. 11013/2/86-E II (B) dt. 25.9.86 is not applicable to the Departments under Ministry of Defence so long it is not circulated by the Defence Ministry. As such HRA is not admissible to the employees of this unit. However, HRA is now admissible w.e.f. 31.1.95 as per Ministry of Defence letter No. B/37269/AG/PS-3(a)/1862/D (Pay)/Services dt. 12 Sept'95 as this unit has been declared as modified field. The same is under scrutiny and will be paid in due course.

.p/3..

5. That with regard to statements made in paragraphs 5 and 6 of the application, the Respondents beg to state that the 149 applicants of O.A. No.50/89 has been paid provisionally as per judgment dt. 29.3.94 to avoid the contempt of the court after obtaining undertaking that if the judgment on SLP submitted to Hon'ble Supreme Court goes in favour of the Department, the applicants have to pay back the amount of HRA. Later on the Hon'ble Supreme Court on the hearing of SLP on 10 th Feb'95 directed the Department to file Review Petition to the Hon'ble CAT at Guwahati. Accordingly the Review Petition was filed to CAT Guwahati Bench on 2nd March,95. The hearing of the Review Petition was held on 16 and 17th Nov'95. The judgment is awaited. Moreover, the benefits or otherwise of case No. O.A. 50/89 is not applicable to the applicants of this petition.

6. That~~ix~~ with regard to statements made in paragraph 7 of the application, the Respondents beg to state that the applicants are not entitled the HRA as per the applicants of O.A. No. 50/89. However, HRA may be paid in terms of Ministry of Defence letter No. B/ 37269/AG/PS-3(a)/1862/D (Pay)/Services dt. 12th Sept'95 w.e.f. 31.1.95 since this location has been declared as modified field w.e.f. 1.4.93, who are not occupying Govt. accomodation.

7. That with regard to statements made in paragraph 8 of the application, the Respondents beg to state that the applicants are not entitled HRA from the

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date of their posting to this station. The same will be paid w.e.f. 31.1.95 in view of paragraph 7 above.

8. That with regard to statements made in paragraph 9 of the application, the Respondents beg to state that the demand of the applicants is not based on the Govt. orders, as such the department cannot fulfill their demand and the same will be paid w.e.f. 31.1.95 and not from the date of posting to this station. Since they have no relation to the O.A. No. 50/89, the HRA cannot be paid in same manner.

9. That with regard to statements made in paragraph 10 of the application, regarding Reliefs sought for, the Respondents beg to state that since the applicants have no relation with the O.A. No. 50/89 the HRA cannot be paid in same manner, the present applicants were not the applicants in O.A. No. 50/89 and as such they cannot demand the same relief granted in O.A. No. 50/89. They are also not entitled the cost of the case.

10. That the Respondents beg to state that the State Tripura has been declared as modified field area, so the applicants is entitled HRA w.e.f. 31.1.95. However, they have been enjoying field concession upto 30th October, 95. So, the HRA can be paid to the applicants w.e.f. 1.11.95 provided that the Hon'ble Tribunal directs the Respondents to pay the same to the applicants.

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11. That the Respondents submit that they are not entitled the Reliefs sought for as prayed for.

- Verification -

I, Capt. P.T. Peethamber, AGE, 872 EWS, C/o 99 APO as authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

And I sign this verification on this 12th November, 95 at Guwahati.



DECLARENT:

Capt. P.T. Peethamber
AGE Elm.