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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

W n p 31/98 order page 1 to 2 21031.3 98

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 179 OF 1995
 TRANSFER APPLN. NO. OF 1995
 CONT EMPT APPLN. NO. OF 1995 (IN NO.)
 REVIEW APPLN. NO. OF 1995 (IN NO.)
 MISC. PETITION NO. OF 1995 (IN NO.)

..... Gangadhar Boria Son APPLICANT(S)

-VS-

..... U. O. I. Son..... RESPONDENT(S)

For the Applicant(s) ... Mr. D.K. Boriswas

Mr.

Mr.

Mr.

For the Respondent(s) Mr. S. Ali, R-case

OFFICE NOTE

DATE

ORDER

This application is in
 form and within time.
 C. F. of Rs. 50/-
 deposited vide
 IPO/BD No. 316635
 dated 30-5-95

2.11.95

Applicant claims S.C.A on the strength-
 strength of earlier judgment on the point,
 O.A. admitted. Issue notice to the
 respondents. 8 weeks for written state-
 ment.

Adjourned to 11.1.96 for orders.

By Registrar (1)

Member

Vice-Chairman

Pg

13-12-95

As requested by learned advocates
 for the applicant by letter dated
 7-12-95 to be listed for hearing on
 11-1-96. Mr. S. Ali takes note of this
 directions. Inform applicants' advocate

Member

Vice-Chairman

in

Requisites are not
 received. Applicant's
 advocate asked to
 submit- in some eng
 v. no. 5187. In 6.12.95-

Order dt. 13.12-95
 issued v. no. 5278
 dt. 15/12/95

14/12 1) Service Reports are still
 awaited
 2) Wf statement has not been
 filed 20/10/11

(contd. to Page No. 2)

OA/TA/GB/PA/MB No. 179 of 19 95.

OFFICE NOTE

DATE

ORDER

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, Gadhadhar Bonia.

Vice-Chairman

Member.

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The copy of
judgment issued
to the parties &
counsel
vide R.No. 1215 to
1218 D. 7.6.76

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A.No.179 of 1995

Date of decision 11.1.1996

Shri Gadhadhar Bonia

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. Chaudhary

Judgement delivered by Hon'ble Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Appliation No.179 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 Gadhadhar Bonia,
Electrician, MES No.243646 and 107 others,
Working in MES Leimakhong, 57 Mountain Division,
99 A.P.O.

.....Applicants

By Advocate Shri D.K. Biswas.

- versus -

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

2. Commanding Works Engineer (CWE),
137 HQ C/o 99 A.P.O.

3. Assistant Garrison Engineer,
MES, Leimakhong, 57, Mountain Division,
99 A.P.O.

.....Respondents

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

.....

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.

This application is purported to be filed on behalf of 108 Defence civilian employees by one Gadhadhar Bonia whose name alone appears in the title claiming Special Compensatory (Remote Locality) Allowance (SCA(RL) for short) on the strength of the earlier judgment and order of this Tribunal in O.A.No.48/89 dated 29.3.1994. The title mentions the name of only one person. The O.A. is also signed by him alone. The verification is also made only on behalf of the said Gadhadhar Bonia and not others. The Vakalatnama is attached to a list containing 111 names. Against those names the persons concerned appear to have signed except in respect of some of the names. Some names are also

deleted. Even though the Vakalatnama may have been signed in this manner it is difficult to treat the application as filed by all of the persons for whom the application is purported to be filed. Even otherwise the list together with the signatures does not appear to have been served on the respondents and thus they had no opportunity to verify the correctness of the particulars of the persons mentioned in the list.

2. It is also not prayed in the application that the applicants have joined together in filing the single application and should be allowed to do so. No application has been filed for leave under Rule 45(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, nor any leave has been obtained. We cannot, therefore, regard the application as being properly constituted and we would not, therefore, be entitled to exercise our jurisdiction in law. Mr S. Ali, learned counsel for the respondents, also raised the objection that the application is not maintainable in this form. Procedure can be relaxed or non-compliance therewith can be condoned in the interest of justice, but that can be done only when a properly constituted application is brought before the Tribunal and only after which it will be in a position to exercise its jurisdiction for that purpose. In the present circumstances, unfortunate as it is, ^{though -} the whole difficulty may have arisen because of the inadvertence on the part of the learned Advocate that cannot be rectified having regard to the position in law. Consequently, we are constrained to confine the order only to the extent of the applicant whose name appears in the title, namely, Gadhadhar Bonia, leaving it open to the other persons who purportedly are applicants to file separate applications in accordance with law and the rules. ~~The order now passed may be considered to be extended after such applications have been filed.~~

3. The applicant, Gadhadhar Bonia, is a civilian Defence employee working under the respondent No.3, MES, 57, Mountain Division 99 APO. He claims SCA(RL) on the strength of the earlier decision of this Tribunal in O.A.No.48/89 decided on 29.3.1994. Although the respondents have not filed written statement, Mr S. Ali, Sr. C.G.S.C., sought permission

to.....

hax

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to rely upon the contentions raised by the respondents in the written statement filed in O.A.No.178/95 wherein similar claim has been made.

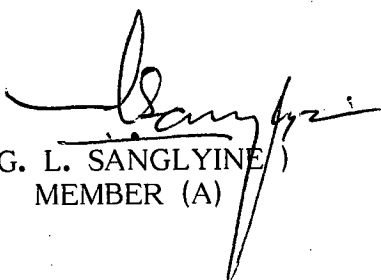
4. A group of civilian Defence employees posted in Tripura Modified Field Area have made similar claim on similar grounds in O.A. No.178/95. We have disposed of that O.A. by a separate order and while negating the contentions of the respondents have allowed the claim of the applicants in terms of order passed on that O.A. We adopt the same reasons in this O.A. and accordingly pass similar order as in that O.A. Hence following order is being passed:

i) The respondents are directed to pay to the applicant SCA(RL) from the date of actual posting of the applicant in the N.E. Region at the prescribed rate per month which is payable with effect from 1.10.1986 in terms of O.M.No.20014/10/86-E-IV dated 23.9.1986 upto ~~31.12.1995~~ 30.1.95.

ii) The respondents are directed to continue to pay the said allowance with effect from ~~31.1.1995~~ 31.1.95 in accordance with the order dated 31.1.1995 and other relevant guidelines at the prescribed rate.

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

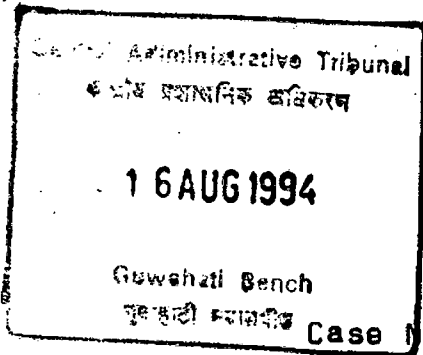
6. This order is confined to the applicant in the name of the title, i.e. Gadhadhar Bonia, with liberty to the other persons to file separate applications if so advised as indicated earlier.


(G. L. SANGLYINE)
MEMBER (A)


(M. G. CHAUDHARI)
VICE-CHAIRMAN

nk m

Advocate
Shri Gadhahar Bonia



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Case No. O.A No. 179 of 1995.

Shri Gadhahar Bonia, Electrician
MES No. 243646 and 107 others as detailed
in the list of applicants, all working in
MES Leimakhong, 57 Mountain Division -
99 APO.

.....Applicants

Versus

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

.....Respondents

Particulars of Respondents

1. Secretary to the Govt. of India,
Ministry of Defence,
Central Secretariate,
New Delhi-1
2. Commanding Works Engineer,
137 H.Q C/O 99 A.P.O
Controlling authority of the
establishment of Asstt. Garrison Engineer,
57, Moutain Division.

Filed by
D.K. BANSAL
ADVOCATE
AGARTALA.

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D.K. BANSAL
ADVOCATE
AGARTALA

3. Asstt. Garison Engineer, Leimakhong,
In-charge of the establishment in which
the applicants are posted.

Particulars of orders against
which the application is made.

The application is directed against the non-implementation of the Government of India, Ministry of Finance (Department of Expenditure) O.M. No.20014/10/86-E-IV dated 23-9-86 and denial of Special Compensatory (Remote Locality) Allowance by the Respondents even after the judgement and order of this Hon'ble Tribunal in O.A 48/89 passed on 29-3-94 and implemented by the Respondent No.1 in respect of 149 applicants similarly situated as the applicants here.

Jurisdiction of the Tribunal.

The applicants are Civilian Defence employee s posted in 'Field area' from various dates between 1984 & 94. The applicants declare that the subject matter of the application and the redressal prayed for are within the jurisdiction of this tribunal. The applicants declare that the application is within the limitation.

Facts of the case

1. All the 108 applicants are civilian employees working in various posts described in details

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Done!
Spere

in the list of names annexed to this petition, are posted in the establishment of Respondent No.3 w.e.f different dates, after 1984.

2. Special Compensatory (Remote Locality)

Allowance is admissible to all central government employees posted in the North-Eastern Region including the places where the applicants are posted. The applicability of the said Special Compensatory Allowances in the Defence Department by virtue of Ministry of Defence Office Memo No.4(19)85/D(Cive)-I dated 11-1-1984.

A copy of the said Memo dated 11-1-1984 is annexed hereto and marked as Annexure-1.

3. That consequent on the recommendation of the 4th Pay Commission, the Govt. of India decided and the President of India accorded approval to pay Special Compensatory Allowance to the employees posted in the North-Eastern states.

4. The applicants, by virtue of the memo dated 11-1-84 (Annexure-1) are entitled to the said S.C.A with effect from the date on which the individual applicants assume their duties under Respondent No.3.

5. That as many as 149 applicants posted in the establishment of GE(P)872 EWS 99 APO filed an

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[Handwritten signature]
[Handwritten signature]

application before this Hon'ble Tribunal challenging the non-implementation of this allowances and this Hon'ble Tribunal examining all the relevant records and hearing all the parties decided the case finally on 29-3-94 directing the Respondents to implement the Office Memo No.20014/9/86-E-IV dated 23-9-86 and accordingly the Respondent No.1 has already implemented the order of this Hon'ble Tribunal and has also paid all arrears w.e.f. 1-10-1986.

6. That the applicants here are similarly situated employees under the Respondent No.1, and they naturally and legitimately expected that they would not be discriminated and the Special Compensatory Allowance would be paid to all employees as on the same footing with the applicants who have been allowed the allowances consequent on the order of this Hon'ble Tribunal. But the applicants observed that the Respdtd. No.1 has been discriminating the present applicants and the said allowance (SCA) is not being paid to them though it has been given effect to in the case of 149 employees similarly situated. On such eventuality the applicants served demand notice dated 10th April, 1995 through their Counsel to each of the Respondents by Registered post.

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J. S. D. S.

A copy of the judgement of this Hon'ble Tribunal dated 29-3-94 in O.A 49/89 and the Demand Notice dated 10-4-95 are annexed to this application and marked as Annexure-2 & 3 respectively.

7. That the Government of India, Ministry of Defence letter No.8/37269/AG/PS/3(Q)/165/D(Pay/Services) dated 31-1-95 was circulated in March, 1995, under which the civilian employees under the Defence posted in the newly defined "Field areas" were made entitle to Special Compensatory (Remote Locality) allowances and other allowances as admissible to Defence civilians, w.e.f. 1st April'93.

But the 57 Mountain Division at Leimakhong has been declared a field area since 1964 and as such the petitioners here are entitled to the allowances from 1968 or such later date individual applicants has been posted in this field area.

A copy of the said Circular communicating the decision of the Defence Ministry dated 31-1-95 is annexed hereto and marked as Annexure-4.

8. That the applicants here are entitled to Special compensatory Allowance with effect from such dates on which the respective applicants joined the establishment of the Respondent No.3 after 1-10-86

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D. S. S. S.

and the denial of such allowance by the Respondent No.1 and to his discriminatory unfair and illegal.

9. That the applicants expected that the Notice demanding justice dated 10-4-95 would bring forth the result, but the Respondents appear to be silent on the claim of the applicants and as such the applicants have been compelled to file this application for an appropriate order of this Hon'ble Tribunal.

Relief Sought

The judgement and order of this Hon'ble Tribunal in O.A 49/89 having been implemented by the Respondent No.1 the applicants here are also entitled to similar relief on the basis of the judgement as aforesaid. This Hon'ble Tribunal would be kind enough to pass appropriate direction to the Respondents to allow Special Compensatory Allowances in the same manner as has been directed in the said judgement (Annexure-2).

ii. This Hon'ble Tribunal would also pass orders as to cost of this proceeding and such compensation as may be deemed fit and proper for delaying/denying the payment of the allowance which the applicants are entitled to;

Number of I.P.O

809 316635

Dr. 30.5.95

List of Enclosures

1. The application.
2. Annexure-1 (Ministry of Defence Office Memo 4(19) 85/D(Cive)-1 dated 11th Jan'94.
3. Annexure-2 (Judgement and order in O.A 49/89.
4. Annexure-3 (Notice Demanding Justice)
5. Annexure-4 (Circular of Ministry of Defence)
6. Indian Postal Order.
7. Copies of the application.
8. List of the names of the applicants.
9. Vakalatnama with 5 sheets annexed.

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

I Shri Gadhadhar Bonia ~~one~~ of the applicants

~~aged about 30 years~~ working as Electrician in the establishment of the AGE 57, Mountain Division, 99 APD resident of Leimakhong, Manipur, do hereby verify the contents of the application above, which are true to my knowledge and I have not suppressed any material facts.

Sri Gadhadhar Bonia

ANNEXURE-1

No. 4 (19) 85/D(Civ-I)

Government of India

Ministry of Defence

New Delhi the 11th Jan 1981

OFFICE MEMORANDUM

Subject:- Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region Improvements Thereof:

The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Territories and Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some times. The Government has appointed a Committee under the Chairmanship of Secretary, Department of personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees serving in this region and to suggest suitable improvement. The recommendations of the Committee have been carefully considered by the

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Government and the president is now pleased to decide as follows :-

(1) Tenure of posting/deputation:

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the central Government employees to the States Union Territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned are prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Lightage for central deputation/training abroad and special mention in confidential

Reports:-

satisfactory performance of duties for the prescribed tenure in the North East shall be given due recognition in the case of eligible officers in the matter of :-

- (a) Promotion in cadre posts
- (b) Deputation to Central Tenure posts, and
- (c) Courses of training abroad,

The general requirement of at least three years service in a cadre post between two central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

A specific entry shall be made in the CR of all employees who rendered /full tenure of service in the North Eastern Region to that effect.

✓ (iii) Special (Duty) Allowance :-

Central Government Civilian employees who have all- India transfer liability will be granted a special (Duty) Allowance at the rate of 25% of basic pay subject to a ceiling of Rs 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will

however, not be eligible for this special (Duty) Allowance, Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed, 400/- p.m. special Allowance and project Allowance like special Compensatory (Remote Locality) Allowance, Construction Allowance and project Allowance will be drawn separately.

(iv) Special Compensatory Allowance

The rate of the allowance will be 5% of basic pay subject to a maximum of Rs 50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1.7.1982 in the case of Assam.

2. Manipur

The rate of allowance will be as follows for the whole of Manipur pay upto Rs 230/- Rs 40/- p.m. pay above Rs 260/- p.m. 15% of basic pay subject to a maximum of Rs 150/- p.m.

3. Tripura

The rates of the allowance will be as follows:-

- (a) difficult areas. 25% pay subject to a minimum of Rs 50/- and a maximum of 150/- p.m.

(b) Other Areas

pay upto Rs 260/- Rs 40/- p.m.

pay above Rs 260/- Rs 15% of basic pay

subject to a maximum of
Rs 150/- p.m.

There will be no change in the existing rates
of Special Compensatory Allowances admissible in
Arunachal Pradesh, Nagaland and Mizoram and the
existing rate of Disturbance Allowance admiss-
ible in specified areas of Mizoram.

(v) Travelling Allowance on First Appointment

In relaxation of the present rules (S.R.
1051) that travelling allowance is not admissible
for journey undertaken in connection with initial
appointment in case of journeys for taking up
initial appointment to a post in the North Eastern
region, travelling allowance limited to ordinary
first class second class rail fare for road/rail
journey in excess of first 400 kms for the
Government servant himself and his family will
be admissible.

(vi) Travelling Allowance for Journey
on transfer :-

In relaxation of orders below S.R. 116
if on transfer to a station in the North-Eastern
region, the family of the Government Servant does
not accompany him, the Government servant will
be paid travelling allowances on tour for self
only for transit period to join the post and will
will be permitted to carry personal effects upto
1/3rd of his entitlement at Government
cost or have a case equivalent of carrying 1/3rd
of his entitlement or the difference in weight
of the personal effects he is actually carrying
and 1/3rd of his entitlement as the case may be
in lieu of the cost of transportation of baggage.
In case the family accompanies the Government
servant on transfer, the Government servant will
be entitled to the existing admissible travelling
allowance including the cost of transportation of
the admissible weight of personal effects accord-
ing to the grade to which the officer belongs, ir-
respective of the weight of the baggage carried.
The above provisions will also apply for the
return journey on transfer back from the North
Eastern Region.

VII) Road mileage for transportation of
personal effects on transfer

in relaxation of orders below S.R. 116 for transportation of personal effects on transfer between two different stations in the North-Eastern region. higher rate of allowance admissible for transportation in 'A' Class cities subject to the actual expenditure incurred by the Government servant will be admissible.

(viii) Joining time with-leave:-

In case of Government servants proceeding on leave from a place of posting in North Eastern region, the period of travel in excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) Leave Travel Concession:-

A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only)

Alleged
Opinion

also to travel once a year to visit the employee at at the station of posting in the North Eastern Region. In case the option is for the latter alternative, the cost of travel for the initial distance (400 /ms/160 kms) will not be borne by the officer.

Officers drawing pay of Rs 2250/- or above and their families i.e. spouse and two dependent children (upto 18 years for boys and 21 years for girls) will be allowed air travel between Imphal/Silchar/Agartala and Calcutta and vice-versa., while performing journeys mentioned in the preceding paragraph.

(x) Children Education Allowance/Hostel Subsidy:-

Where the children do not accompany the Government servant to the North Eastern Region, Children Education Allowance up to class XII will be admissible in respect of children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government

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concerned, will be given hostel subsidy without other restrictions.

2. The above orders except in sub-para (iv) will also mutatis mutandis apply to Central Government employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st November, 1983 and will remain in force for a period of three years upto 31st October, 1986.

4. All existing special allowance facilities and concession extended by any special order by this Ministry to Defence Civilian in the North Eastern region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

5. This issues with the concurrence of Ministry of Defence (Min/ AG) vide their U.O.NO. 49 PB of 1984.

(Based on Ministry of Finance Deptt of Ex O.M. No. 20014/3/83/E.IV. dt. 14th Dec 1983).

SD/-

(S. Prasad)

Under Secretary to the Government of India

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ANNEXURE 2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 48 of 1989

Date of Order: This the 29th day of March 1994

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

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

Shri D.B. Sonar and 148 others
Posted in the Establishment of
G.O. 872 WES, C/a 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
Baisietha, Guwahati,
Assam
4. Garrison Engineer (P) 872
Engineering Works Section,
99 - A.P.O.

..... Respondents

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

attest
Opine Sarma
Advocate

ORDER

S. HAQUE

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by 149 civilian employees in the establishment of the G.E. 872 WES, C/o, 99 A.P.O., Agartala complaining non-implementation of the privileges of Special Compensatory (Remote locality) Allowance on the strength of O.M.No.20014/10/86-E-IV dated 23.9.1986 of the Government of India, Ministry of Finance (Department of Expenditure) and for a direction on the respondents to implement the benefits of Special Compensatory (RL) Allowance to the applicants with effect from 1.10.1986.

2. Special Compensatory (RL) Allowance was admissible to the Central Government Employees (Civilian) in the North Eastern Region including the Tripura vide O.M.No.4(19)33/0(Civ-1) dated 11.11.1984 of the Ministry of Defence. On the basis of the recommendation of the Fourth Pay Commission, the Government of India decided and thereupon the President approved to pay Special Compensatory (RL) Allowance to the Central Government employees posted in Tripura with effect from 1.10.1986 and this order was communicated vide O.M.No.20014/9/86-E-IV dated 23.9.1986 (Annexure-2). The applicants being Civilian Central Government employees under the respondents No.1 and 4 at Agartala (Tripura) claimed the said Special Compensatory (RL) Allowance on the basis of the said O.M. dated 23.9.1986, but, they were informed that respondents No.2 and 3, namely, the Controller

General.....

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General of Defence Accounts, New Delhi and Controller of Defence Accounts, Guwahati objected to the admissibility of the Special Compensatory (RL) Allowance to the applicants. So this case by the applicants.

3. The respondent No.4, namely, the Garrison Engineer, GE(P) 872 Work Section 99 APO filed written statement virtually admitting the claim of the applicants on the basis of the O.M. dated 23.9.1986 referred to above. Paragraph 3 of the written statement is relevant. All the Central Government Employees posted in Tripura are receiving Special Compensatory (RL) Allowance including some defence establishments viz. Group Centre SS8, Department AP 57 Mtn - DOU and BSF, but the Unit GE(P) 872 EWS (applicants) was denied the said allowance. The office of the respondent No.4 regularly claimed the Special Compensatory (RL) Allowance in the pay bills of the civilian staff, but the Audit Authority (Area Accounts Officer, Shillong) did not allow the same on the plea that the civilian personnel of this unit are drawing Field Service Concession. The respondent No.4 states that the concerned O.M. dated 23.9.1986 did not debar the civilian employees from receiving Special Compensatory (RL) Allowance simultaneously with Field Service Concession, but inspite of clear provisions in the O.M., the Audit Authority regularly disallowed the same and it was not known whether the Audit Authority was disallowing the Special Compensatory (RL) Allowance under any specific or separate order from the Ministry of Finance or Ministry of Defence. The respondent No.4 further states that the life in the field area becomes harder.....

16
25/3

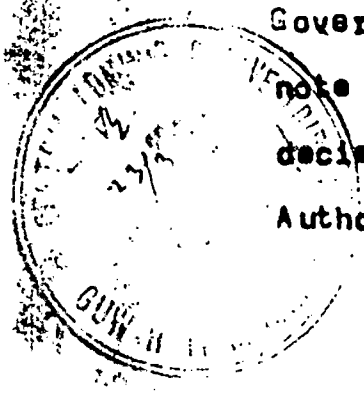
AKG
D. P. S. S. S.

2x

harder than peace stations and so Field Service Concession should be treated as additional to the normal allowances granted to the civilian employees serving in particular state or locality and in this regard he refers to the justification given by CWE - HQ 137 Works Engineer (Annexure-3 to the application). Subsequently, the respondent No.4 in his additional written statement states in paragraph 10 that for the decision of the Government of India, the respondents No.2 and 3 acted upon not to clear the bills for Special Compensatory (RL) Allowance of the applicants.

4. The respondents No.2 and 3 did not contest the case inspite of due service of notices on them. It shall have to be presumed under law that they admit the claim and entitlement of the applicants to receive Special Compensatory (RL) Allowance on the strength of O.M. dated 23.9.1986. Although the respondent No.4 in his additional written statement stated that for specific Government decision, the respondents No.3 and 4 are disallowing to clear the bills, but no such decision could be placed before us. The learned Addl. C.G.S.C. Mr G. Sarma has placed the office file showing some annotations of the Department of Expenditure, wherein there was a note suggesting that those drawing Field Service Concession may not be permitted to draw Special Compensatory (RL) Allowance. No specific order of the Government of India could be shown pursuant to the said note in the file. Such note in the file was not a decision to be followed or acted upon by the Audit Authority, namely, respondents No. 2, 3 or the Area

Accounts....



21

Accounts Officer, Shillong. No document could be produced to show that the applicants are drawing Field Service Concession. The respondent No.4 rightly stated in the written statement that the O.M. dated 23.9.1986 did not debar the civilian employees from receiving Special Compensatory (RL) Allowance simultaneously with Field Service Concession. On perusal of the concerned O.M. dated 23.9.1986 we find that there was no bar for the civilian employees to receive Special Compensatory (RL) Allowance who also draw Field Service Concession. However, there is no documentary evidence that the applicants also received or now receive Field Service Concession. Therefore, we find no justification on the part of the respondents No. 2 and 3 and their counterpart, namely, the Area Accounts Officer, Shillong to disallow the applicants from drawing the Special Compensatory (RL) Allowance on the strength of O.M. No.20014/10/86-E-IV dated 23.9.1986. We also hold that the applicants are entitled to receive Special Compensatory (RL) Allowance with effect from 1.10.1986 pursuant to O.M.No.20014/10/86-E-IV dated 23.9.1986.

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 allow the applicants to draw Special Compensatory (RL) Allowance with effect from 1.10.1986 in terms of O.M.No.20014/10/86-E-IV dated 23.9.1986. The respondents are directed to pay all

ORDER.....

23/3

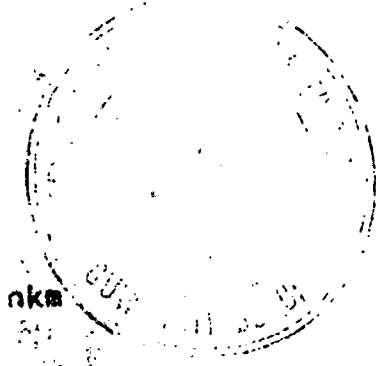
Att. Secy
Dr. P. S. Smith
Adv

arrears amount of Special Compensatory (RL) Allowance within four months from the date of receipt of copy of this judgment/order and also continue to pay Current Special Compensatory (RL) Allowance regularly from the month of May 1994 (salary payable on last day of May 1994 or 1st day of June 1994).

6. We make no order as to costs.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L.SANGHVI
MEMBER (ADJN)



TRUE COPY
प्रतिलिपि

6/5/94

Section Officer (J)
National Commission for Scheduled Castes and Scheduled Tribes
Government of India
New Delhi-110 016
G. L. Sanghvi, G. L. Sanghvi-5
New Delhi-110 016

6/5/94

DEEPAK K. BISWAS

ADVOCATE
GAUHATI HIGH COURT
Agartala Bench

23
ANNEXURE-3

Resi.: Ramnagar Road-2
AGARTALA-799002
Phone: 226586

Camp: Guwahati
C/O, Shri S. Bhattacharya
Secretary to Hon'ble
Judge, Gauhati H.C.

TO

1. Secretary to the Govt. of India
Ministry of Defence, New Delhi
2. Commanding Works Engineer (CWE)
137 - HQ.
C/O, 99-A.P.O.
3. Asst. Garrison Engineer (AGE) 1
M.E.S., Lolmakhong
57-Mountain Div.
99-A.P.O.

Sub: Notice demanding justice on implementation of
(1) House Rent Allowance, (2) Special Comp. Allowance and
(3) Special Duty Allowance with effect from 1986 and 1984 respectively.

Sire,

Under instructions of my 108 clients, whose names and particulars are given in the enclosed list, I am to draw your kind attention to the following:-

1. That my clients are all posted since long in the 57-Mountain Div. Lolmakhong, 99-APD which is a field area and also a remote and difficult place.
2. That for being posted in field area they are being given nominal field area concessions like single accommodation and ration. But under the existing rules they are entitled to House Rent allowance in the prescribed rate in compliance of the G.I. Office Memorandum No.11013/2/86-E.II(B) dated 25.9.1986 which they are being denied without any rhyme or reasons.
3. That my clients are also entitled to Special Compensator allowance in terms of O.M. No.20014/10/86-E-IV dated 23.9.1986 and Special Duty allowance under the same Office Memorandum with effect from the date of enforcing the revised Pay-scale of 1986, but such allowances are also being denied illegally.

Attn
Deepek Biswas

DEEPAK K. BISWAS

ADVOCATE
GAUHATI HIGH COURT
Agartala Bench

(Continuation - page-2)

Resd. : Kamnagar Road-2
AGARTALA-781002
Phone : 226586

4. That similarly situated employees under different establishments in the field areas of the Government of India are allowed all those allowances while my clients have been discriminated all through, and consequently they have represented on many occasions to you for removing the discriminations and enforcing the said Office Memoranda, but nothing has been done so far.

5. That the civilian employees posted under G.E.(P) 872, EWS, 99-APQ being similarly deprived filed applications before the Central Administrative Tribunal, Guwahati Bench. The Cases registered as O.A.48/89, O.A. 49/89 and O.A. 50/89 were disposed of by orders dated 29-3-1994 allowing all the 3 allowance and in pursuance of the Orders of the Hon'ble Tribunal all the 149 applicants of EWS, G.E(P)872 have been paid the arrears and are being paid the allowances month to month.

6. That my clients being similarly situated and having same rights and entitlements are entitled to the same said allowances, namely, H.R.A. S.C.A. and S.O.A. with effect from from 1986 in the same manner in which the civilian employees of G.E.(P) 872 have been given by orders of the Hon'ble Tribunal enforcing the Rule of law.

I, on behalf of my clients, would therefore call upon you to set right the illegality as said above and implement the allowances in respect of my clients in the same manner as ordered by the Hon'ble Tribunal in O.A.48/89, O.A.49/89 and O.A.50/89 within a period of one month from today. Unless you indicate your willingness to implement the said allowances in the manner said above my clients would be compelled to approach the Hon'ble Tribunal for appropriate remedy and for such forced litigations you would be responsible for the cost and consequences.

Yours faithfully

Dated:

(Deepak K. Biswas)

10 th, APRIL 1995

बीमा नहीं NOT INSURED

क्रमांक No. 2332

बीमा नहीं NOT INSURED

आपूर्ति एवं टिकटों का मूल्य Rs. 8 P.

आपूर्ति एवं टिकटों का मूल्य Rs. 8 P.

Received & Registered

13/4/95, 99/11/95

Signature of Receiving Office

क्रमांक No. 2333

बीमा नहीं NOT INSURED

आपूर्ति एवं टिकटों का मूल्य Rs. 8 P.

आपूर्ति एवं टिकटों का मूल्य Rs. 8 P.

Received & Registered

13/4/95, 99/11/95

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आपूर्ति एवं टिकटों का मूल्य Rs. 8 P.

Received & Registered

13/4/95, 99/11/95

Signature of Receiving Office

00 Mar 95

16037/R/A2

List A, B, C, E & F

ANNEXURE-4

FIELD SERVICE CONCESSIONS TO DEFENCE CIVILIANS
SERVING IN THE NEWLY DEFINED FIELD AREAS

A copy of Govt of India, Min of Def letter No B/37269/AG/PS 3 (a)/165/D (Pay/Services) dated 31 Jan 95 is fwd herewith for your info and necessary action please.

J-R / B-R
169

(D. Obhrai)
Major
DAAG
for COS

Nair/*

Copy of above quoted letter.

AS ABOVE

Sir,

1. I am directed to refer to para 13 of Govt letter No 37269/AG/PS3(a)/D(Pay/Services) dated 13.1.1994 and to convey the sanction of the President to the following Field Services Concessions to Defence Civilians in the newly defined Field Areas and Modified Field Areas as defined in the above mentioned letter :-

(i) Defence Civilian employees serving in the newly defined Field Areas will continue to be extended the concessions enumerated in Annexure 'C' to Govt letter No A/02584/AG/PS 3 (a)/97-S/D(Pay/Services) dated 25.1.1964. Defence Civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appx B to Govt letter No A/25761/AG/PS3(b)/146-S/2/D (Pay/Services) dated 2nd March 1968.

(ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians as per the existing instructions issued by this Ministry from time to time.

2. These orders will come into force wef 1st April 93.
3. This issues with the concurrence of Finance Division of this Min vide their UO No 5(1)/85-AG(14-PA) dated 9.1.1995.

Yours faithfully,

Sd/- x x x x x
(L.T. Thanga)

Under Secretary to the Govt of India

After
Approved

LIST OF NAMES

| | <u>M.E.S. NO.</u> | <u>NAME</u> | <u>DESIGNATION</u> |
|-----|-------------------|--------------------------|--------------------|
| 1. | 243646 | Shri Gadadhar Banie | Electr. |
| 2. | 243681 | " S.Mangi Singh | " |
| 3. | 243881 | " W.Mogha Singh | " |
| 4. | 243671 | " K.K.Sherma | " |
| 5. | 243710 | " Adhir Chandra Roy | " |
| 6. | 265107 | " K. Sengupta | Supdt. B/R-I |
| 7. | 212037 | " A.K.Panja | Supdt. M-I |
| 8. | 204988 | " P.K.Outta | Supdt. E/M-II |
| 9. | 264665 | " A.K.Oas | S.A.-II |
| 10. | 289212 | " K.Rajadurai | Supdt. B/R-II |
| 11. | 263080 | " P.K.Bhattacharya | U.D.C. |
| 12. | 260140 | " S.K.Basu | U.D.C. |
| 13. | 224235 | " B.C. Mal | U.D.C. |
| 14. | 238098 | " A.Hazarika | S.K.-II |
| 15. | 242246 | " B.Paul | S.K.-II |
| 16. | 242428 | " A.C.Gopo | S.K.-II |
| 17. | 243461 | " K. Yaskul Singh | U.D.C. |
| 18. | 243553 | ... " P.T.Ao | Mt. Ovr, Gr-II |
| 19. | 248556 | ... " L. Marak | Peon |
| 20. | 243555 | " A.S. Maruony | |
| 21. | 225161 | " Amar Singh | Chowkidar |
| 22. | 243656 | " Padam Bahadur | Kh/Chowkidar |
| 23. | 229149 | " Jogi Pradhan | Chowkidar |
| 24. | 243656 | " Samar Sarkar ... | Chowkidar |
| 25. | 202110 | " Ramadhar | Chowkidar |
| 26. | 220162 | " Jog Bahadur Thapa | Chowkidar |
| 27. | 238284 | " Jagadish Das | Chowkidar |
| 28. | 220145 | " Rama | Chowkidar |
| 29. | 243601 | " Khuplam Hagali | Chowkidar |
| 30. | 243602 | " Arjun Ram | Chowkidar |
| 31. | 243610 | " Sekhar Das | S/Wall- |
| 32. | 242926 | " Harung Zeelino | S/Walla |
| 33. | NYA | " Dulal Shome | Chowkidar |
| 34. | NYA | " Shatrughan Thakur | Chowkidar |
| 35. | 220254 | " P.M. Samuel | H/Smith |
| 36. | 243588 | " Lal Mohan Das | Carptr. |
| 37. | 220270 | " Srikanth Sharma | Corptr. |
| 38. | 243598 | " Kallash Patra | Max. |
| 39. | 243775 | " Ram Naval Das | Max. |
| 40. | 242527 | " Wilson Monin | Max. |

| | | | |
|-----|--------|--------------------------|-----------------|
| 41. | 220227 | Shri Ram Preet | Mason |
| 42. | 220226 | " Vdihanda Thakur | Mason |
| 43. | 243644 | " Lampou Vaiphei | Mason |
| 44. | 238378 | " Shyam Bohari | Ftr/Pipe |
| 45. | 255814 | " Shivanath Prasad | B/W. th |
| 46. | 237281 | " Manijan Mahato | Painter |
| 47. | 230511 | " Rabidhar Das | Carp. |
| 48. | 220344 | " P.C. Pradhan | Carp. |
| 49. | 243522 | " Aga Rangma | Carp. |
| 50. | P-3891 | " Md. Rahim | Mato |
| 51. | 238033 | " Som Bahadur Gurung | Mato |
| 52. | 220253 | " K. Pooniya | Mato |
| 53. | 220229 | " Chandra Gaud | H/Man |
| 54. | 243611 | " Prem Lal | Mato |
| 55. | 243821 | " C.M. Manglam Jao Singh | Mato |
| 56. | 237840 | " Sarorola Noog | Mato |
| 57. | 220311 | Md. Rasul | Mato |
| 58. | 238728 | Shri Bhoj Bahadur | Mato |
| 59. | 243436 | " Inoiba Singh | Maz |
| 60. | 243433 | " Soiminthong | Maz. |
| 61. | 243435 | " Thankhoon | Maz. |
| 62. | 243599 | Md. Sabbir Hussain | Maz. |
| 63. | 243673 | Shri I Kulamni Singh | Maz. |
| 64. | 243624 | " Anneh Vaiphei | Maz. |
| 65. | 243623 | " Hochon Chonglei | Maz. |
| 66. | 243842 | " L. Labhoum | Maz. |
| 67. | 243680 | " Hariram Chouhan | Maz. |
| 68. | 243798 | " Atovi Soma | Mason |
| 69. | NYA | " Thanggon Vaiphei | M. |
| 70. | 237080 | " K.M. Chakrabarty | HS-I(Elec)(Sr.) |
| 71. | 237716 | " P.K. Holm Roy | Sr. Elect. |
| 72. | 243604 | " R.X. Paul | HS-II(Elect) |
| 73. | 238104 | " C.M. Mallik | HS-II(Elect) |
| 74. | 238291 | " M. Sridharan | P.H.O. |
| 75. | 238326 | " Vishnu Prabhat | PHO |
| 76. | 238339 | " W. Ekka | PHO |
| 77. | 220353 | " Iswar Bhagat | PHO |
| 78. | 238128 | " Tulai Munia | DMP |
| 79. | 220336 | " B.B. Thaptai | Ftr. |
| 80. | 238011 | " Sirajul Haque | Ftr. |

| | | | |
|------|--------|----------------------|-------|
| 81. | 243672 | K.H.Sunil Singh | DCS |
| 82. | 238497 | M. Ramachandran | V/Man |
| 83. | 220338 | H.Haneefa | V/Man |
| 84. | 228252 | Shiv Singh | V/Man |
| 85. | 238437 | K.P.C. Mair | V/Man |
| 86. | 220251 | Uchit Mahato | Mato |
| 87. | 220244 | Bhuvanavar Ram | Mato |
| 88. | 220244 | Singh Bahadur | Mato |
| 89. | 243889 | M.L.Kaipibou | Mato |
| 90. | 243679 | C. Lotha | Mato |
| 91. | 238358 | Ram Prasad Harijon | Mato |
| 92. | 220211 | Sunil Dev | Mato |
| 93. | 243846 | A.S.Wingeoyan | Mato |
| 94. | 238042 | A.P. Kumar | Mato |
| 95. | 238026 | Motilal | Maz. |
| 96. | 243434 | Govind Singh | Maz. |
| 97. | 243641 | G. Munnuswami | Maz. |
| 98. | 243603 | Dodiram Dayal | Maz. |
| 99. | 243643 | Til Bahadur Sonar | Maz. |
| 100. | 243617 | Bhakata Bahadur Lama | Maz. |
| 101. | 243683 | Adhik Lal Mandal | Maz. |
| 102. | 243622 | Shiv Kumar Rane | Maz. |
| 103. | 243693 | J.S.Winnor | Maz. |
| 104. | 243082 | K.K.Das | Maz. |
| 105. | NYA | Lanutamu | Maz. |
| 106. | NYA | Mayangnoken | Maz. |
| 107. | NYA | Haiyan Kan Singh | Maz. |
| 108. | 243545 | Lakhinder Doley | Maz. |