

0/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

C.P-7/98 ordered sheet Pg-1 to 2, INDEX

Closed Date 31/3/98

O.A/T.A No. 181/95.....

R.A/C.P No. 7/98.....

E.P/M.A No. 33/98.....

M.P-33/98 ordered Pg 1 to 2

Disposed Date 31/3/98

1. Orders Sheet O.A-181/95 Pg.....1 to 2.....

2. Judgment/Order dtd. 11/01/96 Pg.....1 to 3..... allowed

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... 181/95..... Pg.....1 to 19.....

5. E.P/M.P..... 33/98..... Pg.....1 to 3.....

6. R.A/C.P..... 7/98..... Pg.....1 to 29.....

7. W.S..... N.I.L..... Pg.....1 to.....

8. Rejoinder..... N.I.L..... Pg.....1 to.....

9. Reply..... N.I.L..... Pg.....1 to.....

10. Any other Papers..... N.I.L..... Pg.....1 to.....

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 181 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 Bora, APPLICANT(S)

-vs-

..... U.O.I. &ans.. RESPONDENT(S)

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

Mr.

Mr.

Mr.

For the Respondent(s) Mr. S. Ali, Sr. CA&C.

OFFICE NOTE	DATE	ORDER
This application is in form and within time. C. F. of Rs. 50/- deposited vide IPO/BD No 3166/26 Dated 30-5-95	2.11.95	Applicant claims S.Q.A on the strength of earlier judgment on the point. O.A. admitted. Issue notice to the respondents. 8 weeks for written statement.
<i>R.P. 21/10 By. Registrar</i>		Adjourned to 11.1.96 for orders.
		<i>6</i> Member
order asking to submit the documents to the applicants Adv. issued from the F.no. of 179/95.	13-12-95	As requested by learned advocate 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 advocate of applicant.
<i>6/12</i>		<i>6</i> Member
order d. 13.12.95 issued from F no 179/95.	1m	<i>6</i> Vice-Chairman
<i>6/12</i> w/ statement - has not been filed - 08/11		

(contd. to Page No. 2)

OA/RX/XOPX/RX/XMD No. 181 of 1995

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 to the applicant in the name of the title, i.e. Gadhedar Bonia, with liberty to the other persons to file separate applications if so advised.

6/6
 The copy of judgment
 issued to the parties
 along with the parties
 concerned vide J.No.
 1221 to 1224 of 7.6.96

6/6
 6/6

nkm

hsl
Vice-Chairman*6/6*
Member

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI-5

O.A.No.181 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 *yes* to see the Judgement?
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.G. Chaudhuri
Judgement delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.181 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 House Rent Allowance (HRA) 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

[Signature]

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, who is a civilian Defence employee posted in Field Area under respondent No.3 has made a claim for HRA in the same manner as directed in the judgment of this Tribunal in O.A.No.50/89 dated 29.3.1994 to the applicants in that case on the ground that he is similarly entitled to be paid the same.

hsl

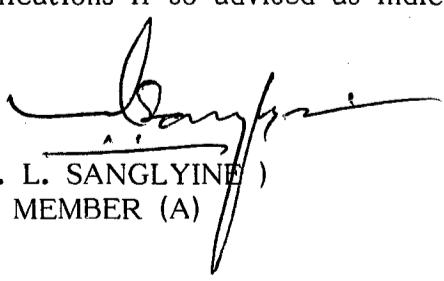
4. Mr. S. Ali, learned counsel for the respondents, adopts the contentions urged by the respondents in O.A.No.177/95 seeking permission to do so although written statement has not been filed in the instant application. Permission accordingly granted. The question involved in this O.A. being the same as in O.A.No.177/95 we adopt the same reasons as recorded in the order separately passed on O.A.No.177/95 today and pass similar order. 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 ~~as to the rate if it is altered~~.

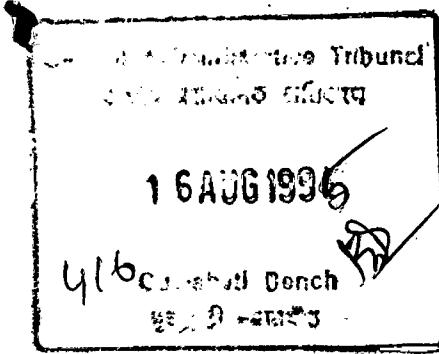
ii) The respondents shall ascertain the rates applicable at different periods of time and calculate the arrears on that basis. The ~~arrears~~ shall be paid within a period of three months from the date of communication of this order to the respondents. Future payment to be regulated as per the existing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

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



O.A. 181/95

HOUSE RENT ALLOWANCE

1. Original application -- 1
2. Spare copies for Court -- 2
3. Spare copy for Standing Counsel -- 1

Total 4 copies.

Filed on June 1995

At Guwahati

Received

.....

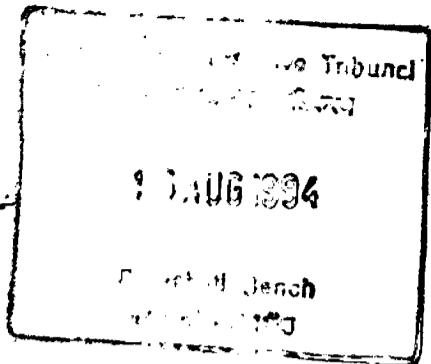
OPT

Received
Jal. Sr. C.S.C
6/9/95

H.R.A.

Filed by
D.K. BISWAS
ADVOCATE - AGARTALA

Open Court
Handwritten



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Case No. O.A No. 181 of 1995.

Shri Gadhadhar 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, Mountain Division.

3. Asstt. Garrison 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 House Rent
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 employees
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 109 applicants are civilian
employees working in various posts described in

details 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. The petitioners being posted in field area are entitled to field concession which includes rent free single accommodation in Barrack, but no provision is made for accommodation of the family. As a result the petitioners have to arrange house 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 relieves the petitioner of the barden of paying house rent for the accommodation of the family.

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

A copy of the relevant portion of the recommendation made by the 4th Pay Commission is annexed hereto and marked as Annexure-1.

4. That all the petitioner here though posted in field area are entitled to House Rent Allowance in terms of the above Office Memo No.11013/2/86E.ii (B) 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 petitioner's of their legitimate and lawful claim of house rent payable to other civilians under the Central Government. As such no order or office memo is under challanged except the unlawful and arbitrary denial of House Rent Allowance to the petitioner.

5. That as many as 149 applicants posted in the establishment of GE(P)872 EWS, 99 APO filed application before this Hon'ble Tribunal challanging 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 months, and to continue paying the House Rent regularly thereafter. The Union of India in compliance with the said order of this Hon'ble Tribunal has paid

arears to all the 149 applicants in O.A 50/89, and has been paying the admissible House Rent Allowance every month along with monthly salary.

6. That the present petitioners 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 allowances 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 hereto and marked as Annexure-2.

7. 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 petitioners in O.A 50/89. But the petitioners painfully observed that the Respondent-1 has been silent on the legitimate demand of the petitioners and has been perpetrating discrimination by disallowing the House Rent Allowance even after allowing to same to the others 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.

A copy of the said notice dated 10-4-95 is annexed hereto and marked as Annexure-3.

8. That the applicants are entitled to House Rent Allowance in the same date as are admissible to the civilian employees of the central government in the same area and such allowances is admissible to the applicant in terms of government of India Office Memo No.11013/2/86-E.ii(B) dated 25-9-86 with effect from such date as and when individual applicants joined his place of posting.

9. That the applicants expected that the Notice demanding justice would bringforth the result and the discrimination would be removed, but the Respondents appeared to be silent on the legitimate claim of the applicants and as such the applicants have been compelled to file this application for specific direction to the Respondents to implement the House Rent Allowance in terms of the Office Memo dated 25-9-86 as aforesaid and in similar manner as has been paid to the petitioners in O.A.50/89.

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 House Rent Allowance 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
No. 809 316636 Dt. 30.5.95

List of Enclosures

1. The application.
2. Annexure-1 (Recommendation of the 4th Pay Commission)
3. Annexure-2 (Judgement and order in O.A50/89)

3. Annexure- 3 (Notice Demanding Justice)

4. Indian Postal Order.

7. Copies of the application.

8. List of the names of the applicants.

9. Vakalatname with 5 sheets annexed.

VERIFICATION

I Shri Gadhadhar Bonia ~~one of the applicants~~
aged about ~~years~~ working as Electrician in the
establishment of the AGE 57, Mountain Division, 99 A.P.O
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 - A

- 5 -

SI Recommendations of the Fourth Decisions of Govt.
No. Pay Commission

(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 A, B.1 & B-2	Amount of House Rent Allowance payable in C Class cities	Amount of House Rent Allowance payable in Unclassified places
	Rs. Glass cities.	cities	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/hire-d accommodation) without requiring them to produce rent receipts. Accepted

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.

(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

(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)

H.R.N.

ANNEXURE 2

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 EWS 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.

*After 5000
Amar Singh
A.P.O.*

LIST OF NAMES

<u>M.E.S. NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>
1. 243646	Shri Gedadhar Banerjee	Electr.
2. 243681	" S. Mangi Singh	"
3. 243881	" W. Megha Singh	"
4. 243671	" K.K. Sharma	"
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. Dutta	Supdt. E/M-II
9. 264665	" A.K. Das	S.A.-II
10. 289212	" K. Rajadurai	Supdt. B/R-II
11. 263080	" P.K. Bhattacharyya	U.O.C.
12. 260140	" S.K. Basu	U.O.I.
13. 224235	" B.C. Mal	U.O.C.
14. 238098	" A. Hazarika	S.K.-II
15. 242246	" B. Paul	S.K.-II
16. 242428	" A.C. Gopd	S.K.-II
17. 243461	" K. Yashpal Singh	L.D.C.
18. 243553	" P.T. Ao	Mt.Dvr,Gr-II
19. 248556	" L. Marak	Peon
20. 243555	" A. S. Mercury	
21. 225161	" Amar Singh	Chowkidar
22. 243656	" Padam Bahadur	Kh/Chowkidar
23. 229149	" Jogi Pradhan	Chowkidar
24. 243656	" Samar Sarker	Chowkidar
25. 202110	" Ramachar	Chowkidar
26. 220162	" Jog Bahadur Thapa	Chowkidar
27. 238284	" Jagadish Das	Chowkidar
28. 220145	" Rama	Chowkidar
29. 243601	" Khuplam Hagedi	Chowkidar
30. 243602	" Arjun Ram	Chowkidar
31. 243610	" Sarker Das	S/Wall
32. 242926	" Herung Zooline	S/Wall
33. NYA	" Dulal Shome	Chowkidar
34. NYA	" Shatrughan Thakur	Chowkidar
35. 220254	" P.M. Samual	B/Smil.
36. 243586	" Lal Mohan Das	Capti.
37. 220270	" Sriman Sharma	Capti.
38. 243598	" Kailash Patre	Moz.
39. 243776	" Hem Naval Das	Moz.
40. 242527	" Wilson Romin	Moz.

H.R.N.

ANNEXURE 2

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 EWS 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.

*After 5000
Amar Singh
A.P.O.*

ORDER

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

: 2 :

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.....

25/3/87

Government policy or decision empowering Audit Authori-
ties 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. E.G.S.C. pointed out the passage
(office notes) in the file of the Department of Expendi-
ture 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 explana-
tion 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....

22

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 (ADMN)

*affectionately
Asuncion*

TRUE COPY

affectionately

for 16/5/94
Section Officer (J)

for 16/5/94
Section Officer (J)

for 16/5/94
Section Officer (J)

for 16/5/94

DEEPAK K. BISWAS

ADVOCATE
GAUHATI HIGH COURT
Agartala Bench

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

Cmpt: Guwahati
C/O, Shri S. Bhattacharya
charjoo
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. Attt. Garrison Engineer (AGE) 1
M.E.S., Leimakhong
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

Sirs,

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 :-

*After
Opne Date*

1. That my clients are all posted since long in the 57-Mountain Div. Leimakhong, 99-APO 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 reason.
3. That my clients are also entitled to Special Compensation 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.

DEEPAK K. BISWAS

ADVOCATE
GAUHATI HIGH COURT
Agartala Bench

(Continuation - page-2)

Res. : Lumnaqar Road-2
AGAR ALA-7 702
Phone : 226566

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-APO 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 Lt. 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.D.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 directed 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:

(Deepti . Biswas)

10 th, APRIL 1995

दीमा नहीं NOT INSURED

मात्रा वाले टिकटो का मूल्य	रु. 0/- P.
Amount of Stamps affixed	
Received & Registered.....	
पारेयाले कराया	
Received to	
13/4/95, 9/9/95	
Signature of Receiving Officer	

मात्रा वाले टिकटो का मूल्य	रु. 0/- P.
Amount of Stamps affixed	
Received & Registered.....	
पारेयाले कराया	
Received to	
13/4/95, 9/9/95	
Signature of Receiving Officer	

क्रमांक No.	दीमा नहीं NOT INSURED	क्रमांक No.
2332	मात्रा वाले टिकटो का मूल्य	रु. 0/- P.
Amount of Stamps affixed		Rs. 0/- P.
Received & Registered.....		Received & Registered.....
पारेयाले कराया		पारेयाले कराया
Date Stamp		Date Stamp
13/4/95, 9/9/95		13/4/95, 9/9/95
Signature of Receiving Officer		Signature of Receiving Officer

क्रमांक No.	दीमा नहीं NOT INSURED	क्रमांक No.
2334	मात्रा वाले टिकटो का मूल्य	रु. 0/- P.
Amount of Stamps affixed		Rs. 0/- P.
Received & Registered.....		Received & Registered.....
पारेयाले कराया		पारेयाले कराया
Date Stamp		Date Stamp
13/4/95, 9/9/95		13/4/95, 9/9/95
Signature of Receiving Officer		Signature of Receiving Officer

क्रमांक No.	दीमा नहीं NOT INSURED	क्रमांक No.
2333	मात्रा वाले टिकटो का मूल्य	रु. 0/- P.
Amount of Stamps affixed		Rs. 0/- P.
Received & Registered.....		Received & Registered.....
पारेयाले कराया		पारेयाले कराया
Date Stamp		Date Stamp
13/4/95, 9/9/95		13/4/95, 9/9/95
Signature of Receiving Officer		Signature of Receiving Officer

LIST OF NAMES

<u>M.E.S. NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>
1. 243646	Shri Gedadhar Banerjee	Electr.
2. 243681	" S. Mangi Singh	"
3. 243881	" W. Megha Singh	"
4. 243671	" K.K. Sharma	"
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. Dutta	Supdt. E/M-II
9. 264665	" A.K. Das	S.A.-II
10. 289212	" K. Rajadurai	Supdt. B/R-II
11. 263080	" P.K. Bhattacharyya	U.O.C.
12. 260140	" S.K. Basu	U.O.I.
13. 224235	" B.C. Mal	U.O.C.
14. 238098	" A. Hazarika	S.K.-II
15. 242246	" B. Paul	S.K.-II
16. 242428	" A.C. Gopd	S.K.-II
17. 243461	" K. Yashpal Singh	L.D.C.
18. 243553	" P.T. Ao	Mt.Dvr,Gr-II
19. 248556	" L. Marak	Peon
20. 243555	" A. S. Mercury	
21. 225161	" Amar Singh	Chowkidar
22. 243656	" Padam Bahadur	Kh/Chowkidar
23. 229149	" Jogi Pradhan	Chowkidar
24. 243656	" Samar Sarker	Chowkidar
25. 202110	" Ramachar	Chowkidar
26. 220162	" Jog Bahadur Thapa	Chowkidar
27. 238284	" Jagadish Das	Chowkidar
28. 220145	" Rama	Chowkidar
29. 243601	" Khuplam Hagedi	Chowkidar
30. 243602	" Arjun Ram	Chowkidar
31. 243610	" Sarker Das	S/Wall
32. 242926	" Herung Zooline	S/Wall
33. NYA	" Dulal Shome	Chowkidar
34. NYA	" Shatrughan Thakur	Chowkidar
35. 220254	" P.M. Samual	B/Smil.
36. 243586	" Lal Mohan Das	Capti.
37. 220270	" Sriman Sharma	Capti.
38. 243598	" Kailash Patre	Moz.
39. 243776	" Hem Naval Das	Moz.
40. 242527	" Wilson Romin	Moz.

41.	220227	Shri Ram Preet	Mason
42.	220226	"	Vdihanda Thakur	Mason
43.	243644	"	Lampou Vaiphai	Mason
44.	238378	"	Shyam Bohari	Str/Pipe
45.	255814	"	Shivnath Prasad	B./. Lh
46.	237281	"	Manijan Mahato	Painter
47.	230511	"	Rabidhar Das	Carp.
48.	220344	"	P.C.Pradhan	Carp.
49.	243522	"	Aga Rengma	Carp.
50.	P-3891	"	nd. Rahim	Fu
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	"	Thoiba Singh	Maz
60.	243433	"	Soliminthong	Maz.
61.	243435	"	Thankhom	Maz.
62.	243599	Md.	Sabbir Hussain	Maz.
63.	243673		Shri I Kulmani Singh	Maz.
64.	243624	"	Anoch Vaiphai	Maz.
65.	243623	"	Hochjon Chonglai	Maz.
66.	243842	"	L. Labhoun	Maz.
67.	243680	"	Hariram Chouhan	Maz.
68.	243798	"	Atovi Soma	Mason
69.	NYA	"	Thanggon Vaiphai	Fu
70.	237080	"	K.M.Chakrabarty	HS-I(Elect)(Sr.)
71.	237716	"	P.K. Holm Roy	Sr. Elect.
72.	243604	"	R.K.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	"	H. Ekka	PHO
77.	220353	"	Iswar Bhagat	PHO
78.	238128	"	Tulsi Munia	OMP
79.	220336	"	B.B. Thaptsai	Str.
80.	230011	"	Sirajul Haque	Str.

81.	243672	K.H.Sunil Singh	DES
82.	238497	N. Rameshchandran	V/Man
83.	220338	H.Haneef	V/Man
84.	228252	Shiv Singh	V/Man
85.	238437	K.P.C. Mair	V/Man
86.	220251	Uchit Mahato	Mato
87.	220244	Bhuwaneswar Ray	Mato
88.	220244	Singh Bahadur	Mato
89.	243889	M.L.Kaipibou	Mato
90.	243679	C. Lotha	Mato
91.	238358	Ram Prasad Harijan	Mato
92.	220211	Sunil Dev	Mato
93.	243846	A.S.Wingeoyan	M
94.	238042	A.P. Kumar	Mato
95.	238026	Motilal	Maz.
96.	243434	Govind Singh	Maz.
97.	243641	G. Munuswami	Maz.
98.	243603	Oodirem Dayal	M
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.	243882	K.K.Das	Maz.
105.	NYA	Lanutamou	Maz.
106.	NYA	Mayangnokon	Maz.
107.	NYA	Heiyem Kam Singh	Maz
108.	243545	Lakhindar Ooley	MHD.