

01/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Shahid
30.6.98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 1971/96

P. C. George & Ors. vs. Applicant(s)

Union of India & Ors. Respondent(s)

Mr. B. L. Somma, Mr. Chaudhury Advocates for the applicant(s)
Mr. S. Sarma,

Mr. A. K. Choudhury, Advocate Advocates for the Respondent(s)

Office Notes	Date	Courts' Orders
This application is in form and within time C. P. R. Rs. 50/- Opposed IPO No 346595 Dated 26.7.96	24.9.96	Learned counsel Mr. S. Sarma for the applicants. Learned Addl. C.G.S.C. Mr. A.K. Choudhury for the respondents. Issue notice before admission returnable within 6 weeks.
<i>Mr. Sarma Dy. Registrar 10/9/96</i>		List for consideration of admission on 11.11.96.
✓ Service copy not submitted	nkm 11.11.96	Member
Inform to the Counsel of the applicant	None for the applicants. Learned Addl. C.G.S.C. Mr. A.K. Choudhury for the respondents. Steps have not been taken by the applicants. The applicants are directed to take steps immediately. Inform counsel of the applicants.	11.11.96
<i>11/11/96</i>	List for consideration of admission on 26.11.1996.	
<u>15.11.96</u>		Member
<u>Notice issued to the concerned parties vide D. No. 3772 to 3774 Dt. 18.11.96</u>	trd 11/11	

Now: Service reports are still
available.

22/11

2
O.A. No. 197 of 1996

26.11.96 Mr. S.Sarma for the applicants.

Mr. A.K.Choudhury, Addl. C.G.S.C. for the respondents.

Service report awaited. List for show cause and consideration of admission on 30.12.1996.

13.12.96

Notice duly served
on Respondent No. 3.

60
Member

trd

W
26/11

By

Shri C. M. D. S. S. S.

EW

26/11

30.12.96

Learned counsel Mr. S. Sarma for the applicant. Learned Addl. C.G.S.C. Mr. A.K. Choudhury for the respondents submits that he may be allowed six weeks time for filing show cause. However, such long period cannot be granted.

List for show cause and consideration of admission on 28.1.1997.

5-2-97
Notice issued to the
Respondent No-1,2,3
vide order dated -

29-1-97. D.No-415 to 417
29-1-97

nkm

60
Member

Learned counsel Mr. B.K. Sharma for the applicants. Learned Sr.C.G.S.C. Mr. S. Ali submits that he is now appearing for the respondents.

The applicants have prayed for permission to allow them to join in this single application by invoking the provision under Rule 4(5)(a) of the CAT (Procedure) Rules 1987. Permission as prayed for is granted as conditions are fulfilled.

No show cause has been submitted despite opportunity given. In the circumstances the respondents are no longer allowed time for submission of show cause. Perused the contents of the application and heard counsel for Admission. Application is admitted. Issue notice on the respondents.

List for written statement and further order on 12-3-97.

lm
W/20/11

60
Member

O.A. 197/96

(2)

3

12.3.97 Mr S.Sarma for the applicant. None for the respondents. Written statement has not been submitted.

List for written statement and further orders on 16.4.1997.

6
Member

pg
Fm
13/3

13-3-97

W/S filed on 13/3

Respect. Nos. 1, 2, & 3.

16.4.97 None present. Written statement has been submitted.

List on 23.4.97 for fixing a date of hearing.

6
Member

pg
Fm
13/4

23.4.97

None present. Written statement has been submitted.

List for hearing on 28.5.97.

6
Member

pg
Fm
24/4

28.5.97

Mr S.Sarma for the applicant.

The case is ready for hearing. In fact listed for hearing but wrongly shown in the cause list as for order. One of the reliefs sought in this application is for allowing 10% compensation in lieu of rent free accommodation in terms of O.M.No.11/15/4/06-E.II(B) dated 13.11.97. Mr Ali submits that sufficient time may be given as he requires to seek instruction as to the position of SLP in O.A.No.48/91 in which same issue was involved.

List for hearing on 2.7.97.

6
Member

pg

Fm
24/5

Please comply the
order 28.5.97.

24/5

3.6.97

Copy of order SLP
has not arrived
5/11-20-97.

24/5

10.6.97
(Kohima)

Heard the learned counsel
for the parties. Hearing conclud-
ed. Judgment delivered in open
court contained in separate
sheets and kept in the record.

The application is
disposed of. No order as to
costs.


Member


Vice-Chairman

nkm

2.9.97
copy of the Judgment
has been issued to the
applicant alongside the
L/Advocate of the Respondents
vibee & NO 2921 on 29.2.97

ph

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266/96 and series

Date of decision: This the 10th day of June 1997
(AT KOHIMA)

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sangliyine, Administrative Member

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 othersApplicants
By Advocate Mr A. Ahmed
-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta.

-versus-

Union of India and others

.....Respondents

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

7. Original Application No.87 of 1996

Shri C.T. Balachandran and 32 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others

.....Respondents

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

8. Original Application No.45 of 1997

Shri L. Shashidharan Nair and 9 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others

.....Respondents

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

9. Original Application No.197 of 1996

Shri P.C. George and 66 others

.....Applicants

By Advocate Mr S. Sarma

-versus-

Union of India and others

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

10. Original Application No.28 of 1996

Shri Hiralal Dey and 8 others

.....Applicants

By Advocate Mr A.C. Sarma and Mr H. Talukdar

-versus-

Union of India and others

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

B2

11. Original Application No.190 of 1996

1. National Federation of Information and Broadcasting Employees, Doordarshan Kendra, Nagaland Unit, represented by Unit Secretary - A. Beso.
2. Mr A. Beso, working as Senior Engineering Asstt. (Group C), D.D.K., Kohima.Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

12. Original Application No.191 of 1996

Shri Kedolo Tep and 16 othersApplicants
By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents
By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

13. Original Application No.55 of 1997

1. Shri Ranjan Kumar Deb, Secretary, All India R.M.S. & Mail Motor Service Employees Union and 32 others.
2. Shri Prasenjit Deb, S.A., Railway Mail Service, Dimapur Railway Station, Dimapur, Nagaland.Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and othersRespondents
By Advocate Mr G. Sarma, Addl. C.G.S.C.

14. Original Application No.192 of 1996

1. National Federation of Information and Broadcasting Employees, All India Radio, Nagaland Unit, represented by Unit Secretary - Mr K. Tep.
2. Mr Kekolo Tep, Transmission Executive, All India Radio, Kohima, Nagaland.Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

15, Original Application No.26 of 1997

Shri Jagdamba Malli,
General Secretary, Civil Audit & Accounts
Association, and 308 other employees of
the Office of the Accountant General,
Kohima, Nagaland.

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

O R D E R

Date of decision: 10-6-1997

Judgment delivered in open court at Kohima (circuit
sitting). All the applications are disposed of. No order as to
costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

nkm

ORDER

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the applications by this common order.

2. Facts for the purpose of disposal of the applications are:

The applicants are employees of the Government of India working in various departments including Defence Department. O.A.Nos.266/96, 268/96, 279/96, 18/97 and 14/97 are Defence Civilian employees under the Ministry of Defence, O.A.Nos.91/96, 87/96, 45/97, 197/96 and 28/96 are employees in the Subsidiary Intelligence Bureau Department under the Ministry of Home Affairs, in O.A.No.190/96 the members of the applicant Association are employees under Doordarshan, Ministry of Information and Broadcasting, and at present posted at Kohima, in O.A.No.191/96 the applicants are employees of the Department of Census, Ministry of Home Affairs, in O.A. No.55/97 the applicants are employees under Railway Mail Service under the Ministry of Communication, in O.A.No.192/96 the members of the applicant Union are employees of All India Radio, and in O.A.No.26/97 the applicant is an employee under the Comptroller and Auditor General.

3. All the applicants are now posted in various parts of the State of Nagaland. They are, except the applicant in O.A.No.55/97, are claiming House Rent Allowance (HRA for short) at the rate applicable to the employees of 'B' class cities of the country on the basis of the Office Memorandum No.11013/2/86-E.II(B) dated 23.9.1986 issued by the Joint Secretary to the Government of India, Ministry of Finance (Dept. of Expenditure), New Delhi, on the ground that they have been posted in Nagaland.

The President of India issued an order dated 8.1.1962 to the effect that the employees of P&T Department in the Naga Hills and Tuensang Area who were not provided with rent free quarters would draw HRA at the rate applicable to the employees of 'B' class cities of the country on the basis of O.M.No.2(22)-E.II(B)60 dated 2.8.1960. However, the authorities denied the same, to the employees ignoring the circular of 1986. Situated thus, being aggrieved some of the employees approached this Tribunal and the Tribunal gave direction to the authorities to pay HRA to those applicants with effect from 18.5.1986. Being dissatisfied with the aforesaid order passed by this Tribunal in O.A.No.42(G) of 1989, S.K. Ghosh and others -vs- Union of India and others the respondents filed SLP and in due course the Supreme Court dismissed the said SLP (Civil Appeal No.2705 of 1991) affirming the order of this Tribunal passed in O.A.No.42(G) of 1989 with some modification. We quote the concluding portion of the judgment of the Apex Court passed in the above appeal:

"We see no infirmity in the judgment of the Tribunal under appeal. No error with the reasoning and the conclusion reached therein. We are, however, of the view that the Tribunal has not justified in granting arrears of House Rent Allowance to the respondents from May 18, 1986. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendation of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal, therefore, disposed of. No costs."

From the judgment of the Apex Court quoted above, it is now well established that the employees posted in Nagaland would be entitled to get HRA as indicated in the aforesaid judgment.

4. The said judgment relates to the employees of the Telecommunication and Postal Department. Later on, the civilian employees of the Defence Department as well as employees of the other departments of the Central Government who were not paid HRA, therefore, being aggrieved by the action of the

respondents.....

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 respondents in refusing to give the benefit of the HRA in terms of the judgment of the Apex Court quoted above, some employees approached this Tribunal by filing several original applications. All the applications were disposed of by this Tribunal by a common order dated 22.8.1995. In the said order this Tribunal allowed the original applications and directed the respondents to pay HRA to those applicants. The Tribunal, in the aforesaid order, among others observed as follows:

"1.(a) House rent allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same."

Thereafter the civilian employees of Defence Department also claimed HRA on the basis of the said judgment of the Apex Court and circular dated 23.9.1986 by moving various applications, namely, O.A.No.124/95 and O.A.No.125/95. This Tribunal by yet another common order dated 24.8.1995 passed in O.A.Nos.124/95 and 125/95 allowed the applications directing the respondents to pay HRA to the Defence civilian employees posted in Nagaland in the same manner as ordered on 22.8.1995 above. These orders were, however, challenged by the respondents before the Apex Court and the said appeals alongwith some other appeals were disposed of by the Apex Court in C.A.No.1592 of 1997 dealing with Special (Duty) Allowance and other allowances. However, the Apex Court did not make any reference to HRA in the order dated 17.2.1997. Therefore, it is now settled that the employees posted in Nagaland are entitled to HRA.

5. In view of the above and in the line of the Apex Court judgment and this Tribunal's order dated 22.8.1995 passed in O.A.Nos.48/91 and others we hold that all the applicants in the above original applications are entitled to HRA at the rate applicable.....

3
applicable to the Central Government employees of 'B' class of cities and towns for the period from 1.10.1986 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991 onwards and continue to pay the same till the said notification is in force.

6. Accordingly we direct the respondents to pay the applicants HRA as above and this must be done as early as possible, at any rate within a period of three months from the date of receipt of the order.

7. In O.A.Nos.91/96, 87/96, 190/96, 191/96, 45/97, 192/96, 197/96 and 55/97, the applicants have also claimed 10% compensation in lieu of rent free accommodation. The learned counsel for the applicants submit that this Tribunal in O.A.No.48/91 and others have already granted such compensation. Mr S. Ali learned Sr. C.G.S.C. and Mr G. Sarma, learned Addl. C.G.S.C., do not dispute the same.

8. We have gone through the order dated 22.8.1995 passed in O.A.No.48/91 and others. In the said order this Tribunal, among others, passed the following order:

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


The aforesaid judgment covers the present cases also. Accordingly, we hold that the applicants are entitled to get the compensation in lieu of rent free accommodation in the manner indicated

in.....

in the said order.

9. Accordingly we direct the respondents to pay to the applicants 10% compensation in lieu of rent free accommodation as above. This must be done as early as possible, at any rate, within a period of three months from the date of receipt of this order.

10. All the applications are accordingly disposed of. However, considering the entire facts and circumstances of the case we make no order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

10 SEP 1996 An application Under Section 19 of the Administrative Tribunals
Act, 1985)

Central Administrative Tribunals
Guwahati Bench
Title of the case: O.A.No. 197 of 1996

Shri P.C. George & othersPetitioners
- vs -
Union of India & othersRespondents

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13. 10/9/96 39 For use in Tribunal's Office:

Date of filing: 10.9.96

Registration: O.A. 197/96

D. Samu
10/9/96
REGISTRAR

Reed copy
P.K. Choudhury
10/9/96
10/9/96

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A.No. of 1996

BETWEEN

<u>SL.NO.</u>	<u>NAME AND DESIGNATION</u>	<u>PLACE OF POSTING</u>	<u>GRADE</u>
1.	P.C. George, JIO-I/ST	Kohima	III
2.	V.K. Chawla, DCIO	Phek	II
3.	S. Srinivasan, PA.	Madras	II
4.	D.D. Ganguly, ACIO-I	Mon	III
5.	S.R. Das, ACIO-II	-do-	-do-
6.	S.C.M. Tiwari, ACIO-II	-do-	-do-
7.	S. Chatterjee, ACIO-II	-do-	-do-
8.	B.N. Singh, ACIO-II	-do-	-do-
9.	I.K. Jha, JIO-I	-do-	-do-
10.	R.K. Verma, JIO-I/WT	-do-	-do-
11.	T.K. Pal, JIO-II	-do-	-do-
12.	Wancho Konyak, JIO-I	-do-	-do-
13.	M.N. Malhotra, ACIO-II/WT	Delhi	-do-
14.	Harnesh Kumar Sharma, JIO-I/WT	-do-	-do-
15.	Dev Raj, JIO-I/WT	Delhi	-do-
16.	R.S. Tanwar, ACIO-II/WT	-do-	-do-
17.	R.C. Sharma, ACIO-II/WT	-do-	-do-
18.	Virendra Singh, ACIO-I/WT	-do-	-do-
19.	Ratnesh Kumar Jain, ACIO-II/WT	-do-	-do-
20.	B.L. Kane, ACIO-I/WT	-do-	-do-
21.	Tulsi Das, ACIO-II/WT	-do-	-do-
22.	V.K. Tejan, ACIO-II	-do-	-do-
23.	Vibalie Nakhro, JIO-II	Kohima	-do-
24.	Parthasarathi Sarkar, JIO-I/WT	-do-	-do-
25.	Gopal Haldar, JIO-I/WT	-do-	-do-
26.	Kochamo Lotha, JIO-II	Bandari	-do-
27.	Teshimeen Ao, JIO-I	Changtongiya	-do-
28.	L.P. Singh, ACIO-II	Wokha	-do-
29.	Jamidar Das, Canteen Boy	Kohima	IV
30.	Navin Chandra, ACIO-I/WT	Lucknow	III
31.	A. Mishra, ACIO-II/WT	Kohima	-do-
32.	R.S. Palanivel, ACIO-II/WT	Madras	-do-
33.	Ashok Kumar, JIO-II/MT	Kohima	-do-

Contd/-.....

Final list for appearance
through Special Leave
Petition

27-9-96.

<u>SL.NO.</u>	<u>NAME AND DESIGNATION</u>	<u>PLACE OF POSTING</u>	<u>GRADE</u>
34.	S.J. Ravindra Nath, ACIO-II/WT	Kohima	-do-
35.	K.N.L. Pillai, JIO-I/WT	Kohima	-do-
36.	G.H. Assumi, JIO-II	Zonoboto	III
37.	K.C. Koundal, JIO-II	Chandi Garh	III
38.	S.B. Gupta, JIO-I/WT	-do-	-do-
39.	B.S. Sahay, JIO-I/WT	-do-	-do-
40.	R.M. Mazumdar, ACIO-I/WT	Kohima	-do-
41.	Thangeo Khamngon, JIO-I	-do-	-do-
42.	D.N. Prasad, JIO-II	Chazuba	-do-
43.	Mehar Singh, ACIO-I/WT	Delhi	-do-
44.	S.N. Singh, ACIO-II/WT	Patna	-do-
45.	D. Patric, ACIO-II/WT	Kohima	-do-
46.	K.K. Singh, JIO-II/WT	Patna	-do-
47.	Ashok Kumar Bhattacharya, JIO-I	Calcutta	-do-
48.	Kesham Sharma, LDC	-do-	-do-
49.	Gautam Kanti Paul ACIO-II	-do-	-do-
50.	Pramesh Chand Chakraborty, ACIO-II	-do-	-do-
51.	G.M. Bagechi, ACIO-I	Kohima	-do-
52.	Praves Chandra Das, JIO-II/WT	Kohima	-do--
53.	R.C. Dutta, JIO-II	Dimapur	-do-
54.	M.S. Bhamoria, JIO-II	Kohima	-do-
55.	Suresh Pillai,/G	Mon	-do-
56.	Bimal Jha, JIO-II	Patna	-do-
57.	Sudir Kumar Jha, ACIO-II	Patna	-do-
58.	P.N.N. Mallan, P.A.	Bombay	II
59.	Subah Chander, JIO-II/MT	Kohima	-do-
60.	Asha Jhon, LDC	Bombay	III
61.	Ashok Kumar Singh, JIO-II	Patna	-do-
62.	Robert Singh, U.D.C.	Trivendrum	-do-
63.	Limboy Kipgen, ACIO-II	Imphal	-do-
64.	Devendra Singh, SA/G	Kohima	-do-
65.	B.C. Barthakur, ACIO-II/WT	Kohima	-do-
66.	R.S. Chouhan, JIO-II	Unnou	-do-
67.	C.M.P. Singh, JIO-II/WT	Kohima	-do-

The applicants are working in the Department of Subsidiary Intelligence Bureau, Government of India posted in the State of Nagaland and some of the applicants belong to the same Department but at

contd/-.....

present they have been transferred to different places and all of them belongs to Grade-B,C & D categories.

-AND-

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

.....Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

The application is made against the Implied rejection of the representation of the applicants for granting House Rent Allowances as per the rate prescribed for 'B' Class cities. The application is also made praying for a direction to release the House Rent Allowance to the applicants being Group 'C' and Group 'D' employees of subsidiary Intelligence Bureau posted in Nagaland as is admissible to the Central Government employees posted in 'B' Class cities and also for grant of compensation in lieu of accommodation in terms of O.M.No.11/15/4/06

E.II (B) Dated 13.11.1987.

2. JURISDICTION OF THE TRIBUNAL:-

The applicants declare that the subject matter of the orders against which they want redressel is within the jurisdiction of the Tribunal.

3. LIMITATION:-

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals, Act, 1985.

2

4. FACTS OF THE CASE:

4.1 That all the applicants are citizens of India and therefore they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India. The applicants are employees of Subsidiary Intelligence Bureau (hereinafter referred to as 'SIB') Government of India and are posted in the State of Nagaland. They all belong to Gr.'C' and Gr.'D' categories. It is pertinent to mention here that some of the applicants have since been posted out of Nagaland and some have left SIB as stated in the Cause Title.

4.2 That as stated above the applicants are all Gr.B, C & D employees under the Respondents (SIB) but some of the applicants were initially posted in the State of Nagaland. But at present they have been transferred and posted out of Nagaland. It will be pertinent to mention here that the cause of action and relief sought for in this application to all the applicants. The applicants above named have a common interest and as such have filed this application jointly for redress of their common grievances.

The applicants Crave Leave of this Hon'ble Tribunal to permit them to join together in a single application invoking Rule-4 (5)(a) of the Administrative Tribunal (Procedure) Rules 1987 to minimise the number of Litigation and to minimise the valuable time of this Hon'ble Tribunal.

4.3 That some of the applicants were at the relevant point of time under the Government of India, Department of SIB, Kohima.

4.4 That the employees of the 'SIB' and for that matter all Central Government employees posted at Nagaland are required to be provided with rent free accommodation. However, in some case if they are not given rent free Government accommodation they are entitled to House Rent Allowance as in B Class cities declared by the Government of India. Such employees are also entitled to compensation in lieu of Rent Free Accommodation.

4.5 That the cities/towns of Nagaland have been classified and as such the general order prescribing House Rent Allowance for different class of cities could not be made applicable to the State of Nagaland. It was under these circumstances the President by an order dated 8.1.1962 granted House Rent Allowance to the P & T staff posted at Nagaland. The operative portion of the said order and which is relevant to the purpose of the instant application is quoted below.

"I(iii) Rent Free Accommodation on a scale approved by the Local Administration. The P & T staff of NHTA who are not provided with Rent Free Accommodation will, however draw House Rent Allowance in lieu thereof at the rate applicable in 'B' Class cities contained in Col.IV Paragraph I of the Ministry of Finance O.M. No.2 (22) - B II (B)/60 dated 2.8.60."

The presidential order equates the cities in the state of Nagaland for the purpose of payment of HRA to the cities which have been classified as 'B' Class. The said Presidential Order dated 8.1.62 is still operative. The applicants are not in possession of a copy of the aforesaid order and therefore, crave the leave of the Hon'ble Tribunal to direct the respondents to produce a copy of the same.

4.6 That the applicants state that the former NHTA (Naga Hills and Tuensang Area) and the present state of Nagaland is considered as a specially difficult area for the purpose of rented accommodation. In Nagaland irrespective of the station of the entire territory, the whole state has been considered as a difficult area from the point of view of availability of rented house and therefore, the Central Government employees posted there are either given rent free accommodation or where such employees are accommodation could not be provided by the Government, the employees are entitled to HRA at the rate applicable to 'B' class cities. This situation has continued since 1962 and the difficulties still exist. The housing situation in Kohima in particular and the State of

contd/-.....



Nagaland in general has not improved and therefore, rented house at reasonable rates are not available till date.

4.7 That the applicants state that most of the Gr.'A' and Gr.'B' employees of SIB posted in Nagaland have been provided with Government accommodation. However, Gr.'C' and Gr.'D' are not provided with Government accommodation and therefore, they are required to stay in rented houses which are very scarce and as a result the Gr.'C' and Gr.'D' employees are facing great hardship all through.

4.8 That inspite of great hardship faced by the applicants and the applicants were neither given Government accommodation nor HRA although the said benefits were given to Gr.'A' and Gr.'B' officials.

4.9 That the 4th Pay Commission made certain recommendation regarding grant of HRA and compensatory allowance to the Central Government employees and persuant to such recommendation the Government of India. Ministry of Finance by memo dated 23.9.86 communicated the decision of the Government of India of the Pay Commission and the rates for HRA and compensatory allowances were prescribed. It was communicated by the aforesaid decision that HRA at the rate shown shall be paid to all employees without requiring them to produce rent receipts.

A copy of the aforesaid memorandum dated 23.9.86 is annexed hereto as ANNEXURE-I.

4.10 That from the aforesaid memo dated 23.9.86 it is clear that the recommendation of the 4th Pay Commission was accepted by the Govt. and accordingly, the applicants were also entitled to HRA and compensation in lieu of Rent Free Accommodation. When the matter was perused by the employees of the Census Operation, Ministry of Home Affairs issued an office memo dt. 9.8.67 whereby it was communicated that the grievances raised in the Departmental Council for removal of disparity in payment of HRA etc. between the employees of Ministry of Home Affairs and other Central Govt. employees posted in Kohima,

was not possible to agree and therefore, a formal disagreement was recorded on this demand and consequently, the matter was referred to the Board of Arbitration for decision. The Board of Arbitration has given an Award to the effect that from 1.5.76, the employees of Directorates of Census Operations posted in Nagaland shall get the HRA and personal allowance at the same rate as that of employees of Posts & Telegraph Department. Pursuant to such an Award, the Ministry of Finance in consultation with the Department of Personnel and Training decided to implement the Award.

A copy of the aforesaid memorandum dated 9.6.87 is annexed hereto as ANNEXURE-2.

4.11 That the applicants state that although the benefits as claimed in this application are given to other employees of Central Government posted in Nagaland, the applicants are being deprived of the same. The respondents have not agreed to give HRA at the rate prescribed for 'B' Class cities whereas the employees of P & T Deptt. are granted HRA at the rate prescribed for 'B' Class cities. The employees of P & T Department are also granted compensation at the rate of 10% of ~~xxf~~ their basic pay in lieu of RFA.

4.12 That the applicants state that some employees of Postal Deptt. before this Hon'ble Tribunal, filed an application being O.A.No.42(G)/89 (Shri S.K. Ghose & Ors. Vs. Union of India & Ors) raising the claim for grant of HRA at the rate prescribed for 'B' Class cities and this Hon'ble Tribunal was pleased to allow the application by order dated 30.10.90. Against this judgment dated 30.10.90, the Union of India preferred an appeal before the Hon'ble Supreme Court being Civil Appeal No.2705/91 (Union of India & Ors. Vs. Shri S.K. Ghose & Ors.). The Hon'ble Supreme Court disposed of the aforesaid appeal by an order dated 18.2.93 holding that there was no infirmity in the Judgement of the Tribunal. However, the Hon'ble Supreme Court held that the Tribunal was not justified in granting HRA from May 18, 1980 and the employees are entitled to the

contd/-.....

arrears only with effect from October 1986 when the recommendations of the 4th Pay Commission were enforced.

A copy of the order of the Hon'ble Supreme Court dated 18.2.93 is annexed herewith and marked as ANNEXURE-3.

4.13 That the applicants state that some employees of the Geological Survey of India belonging to Gr.'C' and 'D' and posted in Nagaland filed an application before this Hon'ble Tribunal being O.A.No.48/91 claiming HRA at the rate applicable to 'C' Class cities i.e., at the rate of 15% of the pay and also for payment of compensation at the rate of 10% in lieu of HRA. The aforesaid application was allowed by this Hon'ble Tribunal by judgement and order dated 26.11.93.

A copy of the aforesaid judgement & order dated 26.11.93 passed in O.A.No.48/91 is annexed herewith as ANNEXURE-4.

4.14 That subsequent to it, the All India Postal Employees Union filed another O.A.No.2/94 claiming the same benefits and the said application was also allowed by this Hon'ble Tribunal.

A copy of the judgement dated 17.3.94 passed in O.A.No.2/94 is annexed herewith and marked as ANNEXURE-5.

4.15 That is will be pertinent to mention here that the modification of the Hon'ble Tribunal's order was done by the Hon'ble Supreme Court in view of the recommendation of the 4th Pay Commission which came into effect from 1.10.86. From 1.4.96, the basic grant of HRA was changed according to accommodation of the 4th Pay Commission. The Pay Commission in its report, inter alia, stated that where HRA at the rate of 15% has been allowed, under Special order, the same shall be given as admissible in a B-1 and B-2 class cities. In other cases covered by special order the HRA shall be admissible at the rate in other class cities. The applicants crave leave of the Hon'ble Tribunal to refer to the recommendation of the 4th Pay Commission at the time of hearing, if necessary.

4.16 That the applicants state that after the Judgement of the Hon'ble Tribunal referred to above and the decision of the Hon'ble Supreme Court dated 18.2.93, all Central Government employees posted in Nagaland are entitled to HRA at the rate admissible to B-Class cities and they are also entitled to compensation in lieu of rent free accommodation. However, for reason best known to the respondents the applicants are deprived of the said benefits.

4.17 That the applicants state that they urged the matter in the light of the Hon'ble Supreme Court's decision to the respondents. The applicants pointed out that the employees of the Postal Department in Nagaland are granted HRA at the rate applicable to 'B' Class cities vide No.4-40/87-PAP Dt. 7.3.94 issued by the Directorate General. Posts on the basis of the Judgement of the Hon'ble Tribunal Supreme Court. The applicants also pointed out that the employees of Intelligence Bureau, Ministry of Home Affairs were also granted HRA at the rate applicable to 'B' Class cities vide order No.3/TERMS(C)/87(S)-528 dt. 26.4.89 issued by the Intelligence Bureau New Delhi. However, inspite of such position, the respondents have not acted and are sitting over the matter.

Copies of letter dated 7.3.94 & 26.4.89 are annexed as ANNEXURE-6&7, respectively.

4.18 That the applicants have been making representations for the benefits as prayed for in this application to the respondents time and again. This will be evident from a Memo dated 23.3.94 issued by the Assistant Director, SIB, Kohima addressed to the I.B. Headquarters New Delhi wherein on the basis of the representations filed by the applicants, the matter was referred to the Headquarters, N. Delhi requesting to consider the matter. It was stated in the aforesaid Memo that in view of the Hon'ble Supreme Court's judgement and its implementation by the P & T Department to all employees, a new angle has been added to the matter and that the matter be taken up with the Ministry of Home Affairs and

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Ministry of Personnel to extend the benefits to the applicants. However, the respondents are sitting over the matter and nothing has happened to this effect.

A copy of the aforesaid memo dated 23.3.94 is annexed herewith as ANNEXURE-8.

4.19 That the applicants state that since the applicants are similarly circumstanced with those of any other Central Government employees posted in Nagaland, the respondents ought to have extended the said benefits to the employees of the SIB. It is a well settled proposition of law that when a decision made by a Court in case of certain employees, it is not necessary for other similarly circumstanced employees to approach the Court and similar effects should also be extended to them. However, the respondents by the aforesaid communication dated 10.6.94 has forced the applicants to approach this Hon'ble Tribunal.

4.20 That very recently some of the employees of SIB, Government of India posted at Nagaland approached this Hon'ble Tribunal by way of filing application being O.A.No.37/95 and on the light of the judgement and order passed by the Apex Court as well as by this Hon'ble Tribunal, this Hon'ble Tribunal was pleased to grant the relief to the applicants thereto. In pursuance of the judgement dated 22.8.95 passed by this Hon'ble Tribunal in O.A.37/95 the Desk Officer (P.F.V), Ministry of Home Affairs, Government of India on 18.4.96 wrote to the Director Intelligence Bureau (MHS) New Delhi, that convey the sanction of the President to the grant of HRA and RFA to 127 applicants in the said O.A. as per the judgement dated 22.8.95. In the said order it is made clear that the applicants there to will be entitled to HRA and other consequential benefits. The applicants stating the above facts made representation to the authority but till date they have not been served with any communications.

Copies of the communication dated 18.4.96 and one of such representations dated 1.11.95 are annexed as ANNEXURE-9 & 10.

contd/-.....



4.20A That the application state they are also entitled to compensation in terms of office memo dated 13.11.87 as regard to judgement in O.A. No.48/91.

4.21 That the applicants state that the wrong committed to the applicants is a continued wrong and therefore, the application is within the limits prescribed under section 21 of the Administrative Act.

4.22 That this application has been made bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION

5.1 For that the Presidential order of 1962 being operative, the respondents cannot take away the right of receiving HRA by the applicants for their period of posting in Nagaland.

5.2 For that the applicants are entitled to compensation in lieu of rent free accommodation in terms of the Memo dated 13.11.87 referred to in the body of the application.

5.3 For that it is well settled proposition of law that if some employees are found entitled to certain benefits, all similarly circumstanced employees also should be extended with similar benefits.

5.4 For that the action of the respondents is discriminatory and violative of the rights guaranteed under Part-3 of the Constitution of India.

5.5 For that the employees serving in other Central Government Department, Corporation etc. and posted in Nagaland are given HRA as is admissible to 'B' Class cities and as such, the applicants cannot be discriminated against.



5.6 For that the applicants are entitled to compensation in lieu of rent free accommodation in terms of the Memo. dated 13.11.87 referred to in the body of the application.

6. DETAILS OF THE REMEDIES EXHAUSTED

The applicants have submitted numerous representations but the same have not been replied to. As such, there is no other alternative and efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:-

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any Court of Law, or any other authority and/or other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT:-

Under the facts and circumstances of the case, the applicants pray that Your Lordships would be pleased to issue notice on the respondents to show cause as to why the reliefs sought for in this application shall not be allowed, call for the records and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs:

i) A declaration that all the applicants of the SIB posted in Nagaland are entitled to House Rent Allowances as well as compensation in lieu of Rent Free Accommodation applicable to Central Government employees posted in 'B' Class cities with effect from 1.10.96.

ii) A direction to the respondents to release House Rent Allowance at the rate of 15% and compensation in lieu of Rent Free Accommodation to all the applicants posted in Nagaland as applicable to the Central Government employees posted in 'B' class cities forthwith, alongwith arrears

with effect from 1.10.86.

- iii) Cost of the application.
- iv) Any other relief or reliefs to which the applicants are entitled under law and equity.

9. INTERIM ORDERS PRAYED FOR:-

Pending disposal of the application, the respondents may be directed to release their current HRA at the rate admissible to the Central Government employees posted in 'B' Class cities.

10. The application is filed through Advocate.

11. PARTICULARS OF THE I.P.C

- i) I.P.C. No. : 8 09 346595
- ii) DATE : 26-7-96
- iii) PAYABLE AT : GUWAHATI

12. LIST OF ENCLOSURES:-

As stated in the index.

Verification.....



VERIFICATION

I, Sri P.C. George, at present working as JIO-I/WT, Grade III in Subsidiary Intelligence Bureau, Kohima, aged about 45 years, do hereby verify and state that the statements made in paragraphs 1 to and 12 to are true to my knowledge and those made in paragraph are true to my legal advice. I am also duly authorised to sign this verification on behalf of the other applicants and I have not suppressed any material facts.

And I sign this verification on this the 9/2 day of
Sept 1996.

P.C.

P.C. George -

No. 11013/2/86-E-II(b)
GOVERNMENT OF INDIA MINISTRY OF FINANCE
(Department of Expenditure)

New Delhi the 23rd September 1986

OFFICE MEMORANDUM

Sub : Recommendation of the Fourth Pay Commission, Decision of the Government relating to grant of Compensatory (City) - & House Rent Allowance to Central Government Employee.

The undersigned is directed to say that consequent upon the decision taken by the Government on the recommendation of the Fourth Pay Commission relating to the above mentioned allowances vide this Ministry's resolution No. 14(1)/IC/86 dtd 13th September, 1986, the President is pleased to decide that in modification of this Ministry O.M. No. F.2(37)-E-II(B)/64 dated 27.11.1985 as amended from time to time for compensatory (City) and House Rent Allowances to Central Government employees shall, be admissible at the following rates.

COMPENSATORY (CITY) ALLOWANCES

Pay Range (Basic Pay)	Amount of C.C.A. in class of cities		
	A	B-1	B-2
Below Rs.950	30	25	20
Rs. 950 and above but below Rs. 1500	45	35	20
Rs. 1500 and above but below Rs. 2000	75	50	20
Rs. 2000 and above	100	75	20

Note : For all 14 Special localities, where C.C.A., at the rates applicable to B-2 Class city are being paid, fresh orders will be issued separately.

III) HOUSE RENT ALLOWANCES

Type of accom- modation to which entitled	Pay range in revised sca- les or pay for entitlement	Amount of H.R.A. payable Rs.p.m		
		A,B-1,B-2 class cities	C class cities	Unclassified places
750-949	150	70	30	
950-1499	250	120	50	
1500-2799	450	220	100	
2800-3599	600	300	150	

Contd.

Approved.
Advocate.

2. H.R.A. at above rates shall be paid to all employees (other than those provided with Government owned/hired accommodation) without requiring them to produce rent receipt. These employees shall however, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent, H.R.A. at above rates shall also be paid to Government employees living in their own houses subject to their furnishing certificate that they are paying/contributing towards house of property tax or maintenance of the house.
3. Where H.R.A. at 15 percent of pay has been allowed under special orders, the same shall be given an admissible in A, B-1, and B-2 class cities. In other cases covered by special order, HRA shall be admissible at the rate in C class cities. In both these cases there shall be no upper limit for payment of HRA.
4. The other condition at present applicable for grant of HRA in cases of hearing of accommodation and other category shall continue to be applicable.
5. Pay for the purpose of these orders, will be 'pay' as defined in F.R. 9(21) (a)(i). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include in addition to pay in the pre-revised scales, dearness pay, dearness allowance, additional Dearness Allowance Ad-hoc DA and Interim Relief appropriate to that pay, admissible under orders in existence on 31.12.1985.
6. These orders shall be effective from 1.10.1986 from the period from 1.1.1986 to 30.9.1986, the above allowance will be drawn at the existing rates on the notional pay in the pre-revised scale.
7. These orders will apply to civilian employees of the Central Government belonging to Group 'B' 'C' & 'D' civil employees paid from the Defence Service's Estimates. In regard to Armed Forces Personnel and Railway Employees,

*Ambedkar
Advocate.*

Annexure-1 (Contd.)

separate orders will be issued by the Ministry of Defence and Department of Railway respectively.

8. In so far as the persons serving in the Indian Audit And Accounts Department are concerned this order issues after consultation with the Comptroller and Auditor General of India.

9. Hindi version of the order is attached.

Sd/-

(B.P.Varma)

Joint Secretary to the Government of India.

To

All Ministries and Department of Government of India etc. as per distribution list.

Copy forwarded to C&AG and UPSC etc. (with usual number of spare copies) as per standard endorsement list.

Antesed.
Anvesad.

Annexure-2

No. 10/10/87-NEI
Government of India
Ministry of Home Affairs

New Delhi the 9th June 1987

Subject : Implementation of Award of the Board of Arbitration regarding grant of HRA to the employees of Directorate of Census Operation (Ministry of Home Affairs) Nagaland at the rates applicable to the employees of P&T Department posted at the same station.

The undersigned is directed to say that the staff side of the Departmental Council had raised a demand in the 30th Ordinary Meeting of the Departmental Council of the erstwhile Department of Personnel & Administrative Reforms held in October/November 1980, for removal of disparity in payment of House Rent Allowance, between the employees of the Ministry of Home Affairs, and other Central Government employees posted at Kohima, Nagaland, since it was not feasible to agree to their demand formal disagreement was recorded, on this demand and consequently, the matter was referred to the Board of Arbitration for a decision, as per J.C.M. Scheme. The Board of Arbitration has now given the following Award :

"With effect from 1st May, 1976, the employees of the Director of Census Operations, Ministry of Home Affairs, Department of Registrar General of India, posted in Nagaland shall get House Rent Allowances and personal allowance at the same rates under the same conditions and in the same manner as the employees of the Posts & Telegraph Department have been quashed."

2. The Award of the Honourable Arbitration has been considered by the Ministry of Finance in consultation with the Department of Personnel & Training and it has been decided to implement the Award.

3. The erroneous payment of H.R.A. at 15% of pay in the case of employees of Posts & Telegraphs Department was reduced to 7½% of pay and the remaining 7½% protected in

*Attest. ed.
Advocate.*

Contd....

the shape of personal allowance. However, in the case of new entrants i.e. persons posted to Nagaland from 1st April 1980 onwards the House Rent Allowance is being paid at a uniform rate of 7½% of pay only. Accordingly, the employees of the Directorate of Census Operations, Kohima, Nagaland may be allowed House Rent Allowance at the rate of 7½% of pay and personal allowance at same rate (7½% of pay) with effect from 1st May 1976 and the employees of the Directorate posted at Nagaland from 1st April 1980 onwards be paid only house Rent Allowance at a uniform rate of 7½% of pay as is being done in the case of the employees of the P & T Department.

4. This issues on the basis of the Office Memorandum No. 11021/1/86-E.II(B) dated the 12th March, 1986, issued by the Ministry of Finance Department of Expenditure.

SD/-

(Brijeswar Singh)

DS (NEC)

Copy to :

1. All Ministries/Departments of Government of India.
2. All attached and subordinate offices of the Ministry of Home Affairs.
3. Chief Secretaries of all States.
4. Ministry of Finance Department of Expenditure (E-II-B) New Delhi.
5. Office of the Registrar General of India, 2-A Prithviraj Road, New Delhi with reference to their U.O. No. D-11026/7/86-Ad.iii. dt. 22.1.87 (with -10 spare copies).

Sd/-

Brijeswar Singh

DS (NEC)

Attest.ed.
Advocate.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2705 of 1991

Union of India & Ors. - Appellants

-versus-

Shri S.K.Ghosh & Ors. - Respondents

ORDER

Group 'C' and 'D' employees of Telecommunications and Postal Department posted in the State of Nagaland approached the Central Administrative Tribunal Guwahati seeking a direction to the Union of India to pay them the House Rent Allowance at the rate as admissible to the employees posted in 'B' class cities. The Tribunal allowed the prayer in the following terms;

"The application is allowed. The petitioners shall be entitled to House Rent Allowance applicable to Central Government employees posted in 'B' class cities which includes the classification B-1 & B-2. The order contained in Dy. Director General's letter dated 30.10.81 (Annexure-A-1) is quashed. Arrears of the allowance counting from the 18th of May 1980 shall be paid to the petitioners within a period of 120 days from the date of receipt of this order".

This appeal by way of special leave is by the Union of India against the judgement of the Tribunal. The cities in the State of Nagaland have not been classified and as such, the general order prescribing House Rent Allowance for different classes of cities could not be made applicable to the State of Nagaland. It was under these circumstances that the President of India issued an order

Contd....

Aited.
Advocate.

~~Concurred~~ Rx

dated January 8, 1962 granting House Rent Allowance to the P & T Staff posted in the State of Nagaland. The relevant part of the said order is as under :

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

It is clear from the order quoted above that the P & T employees posted in the State of Nagaland are entitled to rent free accommodation or in the alternative to the House Rent Allowance at the rates applicable in 'B' class cities. The Presidential Order equates the cities in the State of Nagaland for the purposes of payment of House Rent Allowance to the cities which have been classified as 'B' class.

Initially the House Rent Allowance was being paid at the rate of 7½% in the State of Nagaland. It was increased to 15 percent in the year 1973. From 1979 the House Rent Allowance was again reduced to 7½% percent. It is not necessary for us to go into the rate of the House Rent Allowance at various stages because the question for our consideration is whether the respondents are entitled to the House Rent Allowance as provided for 'B' Class cities by the IVth Central Pay Commission recommendations which were enforced with effect from October, 1, 1986.

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Attested.
Advocate.

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Annexure-3 (Contd.)

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

The Tribunal allowed the application of the respondents on the following reasons :

"There is no dispute that the former N.H.T.A (Noga Hills and Tuensang Area) and the present Nagaland was considered as a specially difficult area for rented accommodation. For the purpose of H.R.A. Government classified the cities and towns on the basis of their population and paid higher allowance in more populous cities because the rent structure is higher in such cities. Since Nagaland, irrespective the stations of the entire territory, was considered as a difficult area from the point of view of availability of rented house, all P & T employees or where such quarter could not be provided by the Government, were given house rent at the rate applicable to 'B' class cities. This situation continued from 1962. The rate of HRA may be reduced with efflux of time. The only reason for doing so can be that the special difficulties which existed from 1962 onwards have since been ameliorated. This can conceivably happen. with the development of the area in question. The House stock may improve to such an extent that rented house at reasonable rate may be available. If that was the situation, a downward revision of HRA or even its complete discontinuance would have been justified. In this case, however, the respondents case solely rests on what is stated as Annexure-A-1 which is reproduced in full in the proceeding paragraph. Since no such reason is given for the downward revision we have no other alternative but to hold that the revision effected in compliance to the document at Annexure A-1 is arbitrary and cannot

*Attest. Ed.
Advocate.*

Contd...

Annexure-3 (Contd.)

sustained. No further find that according to the formula adopted after the IV CPC HRA is payable to the Central Government employees posted even in classified places. From Annexure A-7 it is clear that this allowance is at a flat rate is payable without production of rent receipt. It appears to us that the HRA is paid by the Central Government for compensating an employee on account of his residential accommodation in the place of posting is not shown to have undergone any improvement in the matter of availability and rent of hired accommodation any alteration of the rate of HRA will remain arbitrary and unjustified. In this view of the matter, we feel inclined to allow the application."

We see no infirmity in the judgement of the Tribunal under appeal. We agree with the reasoning and the conclusions reached therein. We are, however, of the view that the Tribunal has not justified in granting arrears of House Rent Allowances to the respondents from May 18, 1980. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendations of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal is therefore, disposed of. No. costs.

Sd/- Kuldip Singh J.

New Delhi

Sd/- N.M. Kasliwal J.

February 18, 1993.

Attested.
Advocate.

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Annexure-4

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

Original Application No. 48 of 1991

Date of Order : This the 26th day of November, 1993.

Shri S.Haque, Vice-Chairman

Shri G.L.Sanglyine, Member(Administration)

Shri M. Lepdon, AO and forth six (46) Others
Group C and D employees posted in the
office of the Director,
Geological Survey of India
Operation Manipur-Nagaland, Dimapur
District Kohima, Nagaland Applicants

By Advocate Shri M.N. Tirkha

-versus-

1. Union of India, through the Secretary,
to the Government of India,
Ministry of Steel & Mines,
New Delhi
2. The Director General, Geological Survey
of India, 27 J.L. Jawaharlal Nehru Road,
Calcutta-700 013.
3. The Deputy Director General, Geological
Survey of India, North Eastern Region,
Asha Kutir, Laitumkhrah, Shillong-793003.

..... Respondents.

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

....

ORDER

HAQUE J.

The applicants numbering 47 (forty seven) are
Group 'C' and 'D' employees under the Director,
Geological Survey of India, Operation Manipur-Nagaland
at Dimapur Nagaland. This application by them under
Section 19 of the Administrative Tribunals Act, 1985
claiming House rent Allowance (HRA) at the rate
applicable to 'B' class cities i.e. at the rate of 15%
of their pay and also claim compensation at the rate of

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Advocate.

Annexure-4 (Contd.)

18% in lieu of Rent Free Accommodation (FRA). They claim that Nagaland falls within 'B' class cities for purpose of HRA and compensation in lieu of FRA.

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

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

4. After the fixation of the HRA on flat rate basis groupwisely, the Government of India further granted compensation to Group A B C & D employees in lieu of rent

Attest.


Advocate.

free accommodation with effect from 1.7.1987 vide Government of India, Ministry of Finance, Department of Expenditure O.M. No. 11015/4/86-E.II(B)/87 dated 13.11.1987 which reads as follows :

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

- i. Amount charged as licence fee for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates) above mentioned O.M. dated 7.8.1987 and
- ii. House rent allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No. 11013/2/86-E.II (B) dated 23.9.1986 for Central Government employees belonging to Groups 'B' 'C' and 'D' and para 1 of O.M. No. 11013/2/86-E.II(B) dated 19.3.1987, for Central Government Employees belonging to Group 'A'.

2. Other terms and conditions for admissibility of compensation in lieu of rent free accommodation indicated in the Ministry's Office Memorandum, dated 19.2.1987 and 22.5.1987, remain the same.

3. These orders shall take effect from 1.7.1987.

The compensation is fixed at 10% of the monthly emoluments calculated with reference to pay vide NOTE under para 2 of the Government of India, Ministry of Finance Office Memorandum No. 11015/4/86-E.II (B) dated 25.5.1987. These office Memorand had been circulated by Geological Survey of India Calcutta vide order No. 14017/(1)/88-3(HRA) dated 1988 for necessary action by all branches. Therefore, we

Attest. ed.
Advocate.

42

Annexure-4 (Contd.)

hold that the applicants are entitled to compensation at the rate of 10% of pay in lieu of rent free accommodation with effect from 1.7.1987 in terms of O.M. No. 11015/4/36-E.II(B) dated 13.11.1987 in addition to the HRA.

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

6. In the result, this application is allowed. The respondents are directed to pay HRA to the applicants at the rate of 15% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of O.M. No. 11013/2/86-E. II(B) dated 23.9.86. The respondents are further directed to pay compensation at 10% of the monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987 besides HRA. The Respondents shall realise 10% of pay of the applicants paid in excess with salary for the month of November 1979.

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

8. Intimate all concerned immediately.

Attested.
/
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

ORIGINAL APPLICATION NO. 2 of 1994

Date of Order : This the 17th day of March, 1994.

Justice S. Haque Vice-Chairman.

Shri G.L.Sanglyine, Member (Administration)

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

..... Applicants
By Advocate Shri B.K.Sharma and Shri M.K.Choudhury

-versus-

1. The Union of India, represented by the Secretary, Ministry of Communication Department of Posts, New Delhi.
2. The Director General, Posts, New Delhi-110001.
3. Chief Postmaster General, N.E.Circle, Shillong.
4. The Director of Postal Services, Nagaland Division, Kohima.

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

ORDER

HAQUE J.

The applicant No. 1, the All India Postal Employees Union Postman (III) and Extra Departmental Agents, Divisional Branch, Kohima represented by its Divisional Secretary, Mr. V. Angami and the applicant No. 2, the All India Postal Employees Union, Postman Class IV and E.D. Kohima Branch represented by its Divisional Secretary Mr. K.Tali Ao have filed this application under Section 19 of the Administrative Tribunals ACT, 1985 claiming House Rent

Ans. ed.
Advocate.

44

Annexure-5 (Contd.)

Allowance(HRA) at the rate of 15% of their pay as applicable to 'B' class cities and also compensation at the rate of 10% in lieu of REnt Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of HRA. The respondents have filed written sttement virutally admitting the claim of the applicants by referring to the judgement of the Supreme Court in Civil Appeal No.2705 of 1991 affirming the judgement of C.A.T. Guwahati Bench in O.A. No. 42(G) of 1989 with modification to give effect to arrears HRA from 1.10.1986 i.e. the dat from which the recommendation of the 4th Central Pay Commission was implemented. The judgement of the Supreme Court dated 18.2.1993 arising out of the judgement dated 31.10.90 in O.A. 42(G)/89 C.A.T. Guwahati Bench in respect of postal employees.

2. It is an admitted fact that the applicants are entitled to Rent Free Accommodation in Nagaland, but they were deprived of the said facilities.

3. Learned counsel Mr. B.K.Sharma on behalf of the applicants submits that the grievances and reliefs sought for by the applicants are covered by judgement in O.A. No. 42(G)/89 read with Supreme Court Judgement dated 18.2.93 in Civil Appeal No. 2705 of 1991 and judgment dated 26.11.93 in O.A. No. 48/91 C.A.T. Guwahati Bench. Mr. Sharma further submits that the Government of India has decided to allow the benefits of the Supreme Court Judgement in Civil Appeal No. 2705/91 to all similarly placed postal employees posted in Nagaland vide letter No. Vig-5/2/88-90 dated Shillong the 10.3.1994 addressed to the Director of Postal Services, Nagaland Division, Kohima. Perused the contents of the letter. It was decided in clear terms in the letter that the

Ans.ed.

/

Advocate.

Annexure-5(Contd.)

President of India is pleased to allow the benefits of the Supreme Court in Civil Appeal No. 2705/91 to all similarly placed postal employees posted in Nagaland. Learned Addl.C.G.S.C. Mr. G.Sarma subits with reference to the written statement which virtually admits the claim of the applicants in respect of HRA and compensation in lieu of RFA.

4. Perused our previous judgements in O.A. No. 42(G)/89 read with Supreme Court judgement in Civil Appeal No. 270/91 and judgement dated 26.11.93 in O.A. No. 48/91. All observations and findings in these judgements are aptly applicable in the instant cse. The grieances and reliefs sought for by the applicants/members of both the Unions are covered by these judgements. Furthermore, the order of the President of India referred in letter No. Vig-5/2/89-90 dated SHillong the 10.3.1994 clearly established tht the applicants are entitled or the reliefs sought for. We hold that the applicants are entitled to HRA at the rate of 15% of their pay with effect from 1.10.1986 in terms of O.M. No. 11013/2/86- E.II(B) dated 2.10.1986 and also entitled to the compensation at the rte of 10% of pay in lieu of RFA with effect from 1.7.1987 in terms of O.M. No. 11015/4/86- E.II(B) dated 13.11.1987.

5. Accordingly this application is allowed. The respondents are directed to release HRA to the applicants at the rate of 15% of their pay with effect from 1.10.1986 and also to pay compensation at the rate of 10% of monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987. The

Attest.


Advocate.

respondents are further directed to release arrears of HRA as well as compensation in lieu of RFA within three months from the date of receipt copy of this judgment/order and shall pay current HRA and compensation from next month (April 1994).

Communicate all concerned.

Sd/- S.HAQUE

Vice-Chairman

Sd/- G.L.SANGLYINE
Member (ADmn.)

Attested.
/z
Advocate.

Annexure-6

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
NEW DELHI-110001

No. 4-0/87-PAP

Dated 7.3.94.

The Chief Postmaster General,
N.E. Postal Circle,
Shillong-793001.

Sub : Implementation of the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 2705/91 - Union of India Vs. Shri S.K.Ghosh & Others regarding Rent Free Accommodation.

Sir,

I am directed to invite a reference to this office letter of even No. dated 11.6.93 on the above subject vide which this office had issued instructions directing you to implement the judgement of the Hon'ble Supreme Court of India in the above referred Civil Appeal Order before 17.6.1993 limited to the applicants only. The case has been further examined in consultation with the Department of Expenditure Ministry of Finance.

The President is now pleased to decide that the benefit of the Hon'ble Supreme Court Judgement may be allowed to all similarly placed postal employees posted in Nagaland.

You are also requested to send a report regarding existing status of rent free accommodation within 20 days of the receipt of this letter.

This issues with the concurrence of Finance Advice vide their Diary No. 827/FA/94 dated 2.3.94.

Yours faithfully,

SD/-

(T.J.BANERJEE)

ASSTT. DIRECTOR GENERAL (PE-II)

Copy to :

1

.....

8. PAT SEction, Sanchar Bhavan.

SD/-

Attest.
/r
Advocate.

No.3/Terms(C)/87(5)
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India

New Delhi the 26.4.89

To

- (i) The Pay & Accounts Officer,
Intelligence Bureau (MHA),
New Delhi.
- (ii) The Regional Pay & Accounts Officer,
Intelligence Bureau (MHA),
Shillong.

Sub: Sanction of Personal Allowance for the ministerial staff posted at Kohima (Nagaland) prior to 1.4.80.

Sir,

I am directed to convey the sanction of the Government to the grant of HRA at the rate of $7\frac{1}{2}$ % of pay and personal allowance at the rate of $7\frac{1}{2}$ % of pay w.e.f. 1.5.1976 to 31.3.1980 to IB personnel who were posted at Kohima (Nagaland) prior to 1.4.1980. Such of the staff who were posted at Kohima (Nagaland) from 1.4.1980 or afterwards should be allowed HRA at the uniform rate of $7\frac{1}{2}$ % of pay only. The total expenditure involved is, Rs.40,000/- (Rupees forty thousand only) and will be debited to the relevant head of account for the current financial year.

This issues with the concurrence of the Ministry of Finance (Department of Expenditure) U.O.No.2806/E.II(B)/89 dated 20/27.3.89 and Ministry of Home Affairs No.628/PPV/89 dated 30.3.89.

Sd/-

(B. S. Lal)
Assistant Director

Copy forwarded for information and necessary action to:

1. D.D. SIB, Kohima.
2. JD/NE Shillong
3. Budget Branch at IB Hqrs.

Sd/-

Assistant Director

Attest. ed.
r
Advocate.

No.12/EST/GE/89-1256
Subsidiary Intelligence Bureau,
(MHA) Govt. of India.

Kohima, the 23.3.94.

MEMORANDUM

Sub: Categorisation of Nagaland as a 'B' class city for the purpose of HRA w.e.f. 1.10.1986.

Kindly refer to the correspondence resting with IB Hqrs. New Delhi No.3/Sanc(C)91(3)-1807 dated 26.11.1993 on the above subject. We have received a bunch of applications from our staff posted at Kohima requesting for grant of HRA at par with P&T employees posted in Nagaland.

2. Copies of the judgment of CAT, Guwahati and the Hon'ble Supreme Court were forwarded to IB Hqrs New Delhi vide our Memo No.12/EST/GE/89-572 dated 14.2.91 and No.12/EST/GE/89-1179 dated 7.4.1993 respectively. Attention is also invited to Ministry of Finance O.M.No.10/10/87-NE-I dated 9.6.1987 and MHA No.11021/1/86-E.II(B) dated 12.3.1986 regarding implementation of Award of Board of Arbitration on the subject which is reproduced below for ready reference please :

"With effect from 1st May 1976, the employees of the Director of Census Operation (MHA), Department of Registrar General of India, posted in Nagaland shall get House Rent Allowance and Personal Allowance at the same rates, under the same conditions and the same manner as the employees of the Post & Telegraph Department have been granted." (Copies of the above OM are enclosed for ready reference please.

3. On the basis of the decision as in para-2 above, IB personnel posted at Kohima (Nagaland) were also granted HRA at the rate of 15% ($7\frac{1}{2}\%$ as HRA and $7\frac{1}{2}\%$ as personal pay) at par with P&T employees and other Central Government employees posted in Nagaland, vide IB letter No.3/Terms(C)/87(5)-528 dated 25.4.1989 with the concurrence of M/F (D.O.E.) U.O.No.2806/E.II(B)89 dated 20/27.3.89 and No.628/FPV/89 dated 30.3.1989. (Copy enclosed).

4. Vide IB Memo No.3/Sanc(C)/91(3)-1807 dated 26.11.93, it has been conveyed that the MHA (Fin.II Br.) observed that benefit of court

contd/-.....

Attest.
r

Advocate.

judgment is applicable to petitioners only. In this regard, it is stated that the Department of Post and Telegraph had implemented the judgment in respect of the petitioners only in the initial stage and later by a letter dated 7.3.94 conveyed the decision that the benefit of the Hon'ble Supreme Court judgment is allowed to all similarly placed postal employees posted in Nagaland (Copy of Govt. of India Department of Posts, New Delhi letter No.4-40/87-PAP dated 7.3.1994 is enclosed for ready reference please.

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

6. The applications received from the staff are retained here.

Sd/-
(A.K.R. Yadav)
Assistant Director

To

The Assistant Director/EP
IB Hqrs. New Delhi.

Attes.ed.
Advocate.

No.10/SO(C)/95(1)-PF-V
Ministry of Home Affairs
Government of India

New Delhi, the 18.4.96

To

The Director
Intelligence Bureau (MHA)
New Delhi.

Sub: Payment of arrears of RFA/HRA at 'B' class rates to 127 petitioners of OA No. 37/95 in CAT Guwahati Bench, in pursuance of its orders dated 22.8.95.

=====

Sir,

In pursuance of the judgement dated 22.8.96, passed by the Hon'ble CAT Guwahati Bench in OA No.37/95, I am directed to convey the sanction of the President to the grant of RFA/HRA to 127 applicants only of the said OA (detailed in Annexure-I) subject to the outcome of the review to be undertaken by the Department of Posts about the admissibility of RFA/HRA. The terms of RFA/HRA as per the judgement are as under:

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

- 2.(a) Licence fee at the rate of 10% monthly pay (subject to where it was prescribed at the lesser rate depending upon the extent of basic pay) with effect from 1.7.1987 or actual date of

contd/-.....

*Aites.ed.
S
Advocate.*

posting in Nagaland if it is subsequent thereto as the case may be upto date and continue to pay the same until the concession is not withdrawn or modified by the Government of India or till rent free accommodation is not provided.

(b) Arrears to be paid from the period from 1.7.1987 (or actual date of posting in Nagaland as the case may be) upto date subject to adjustments of the amount as may have already been paid to the respective applicants during the aforesaid period.

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

2. The expenditure will be met from within the sanctioned grants of SIB Kohima under the following heads of accounts:

Major Head	:	2070
Demand No.	:	41, MHA
C.8(1)	:	Intelligence Bureau
C.8(1)(1)	:	Salaries (RFA/HRA)

3. This issues with the concurrence of Ministry of Finance (Dept. Expenditure) vide their U.O.No.2/13/93-E.II(B) dated 20.2.96 and IFD/MHA vide Dy.No.432/96/Fin.II dated 20.2.96.

Yours faithfully

Sd/-
(V.K. Sathi)
Dest Officer (PF.V)

Copy to:

1. PAY & Accounts Officer, IB (MHA), New Delhi
2. Regional Pay & Accounts Officer, IB(MHA), Shillong
3. The Assistant Director, SIB, Kohima
4. Ministry of Finance, Deptt. of Expenditure with reference to their O.M. referred to above
5. Fin. II, MHA
6. PF.V.

Attested.
R
Advocate.

To

The Deputy Director/E,
IB Hqrs., New Delhi.

(Through Proper Channel)

Sir,

Kindly refer to my application dated 28-03-1994 requesting for HRA at the rate applicable to 'B' class city.

2. The Hon'ble Judge of CAT Guwahati in his judgment dated 22nd August 1995 has allowed the petitions of the employees of IB in Nagaland, Geological Survey of India, Directorate of Census, Postal & Telegraphs, etc. praying for sanction of HRA at the rate applicable to 'B' class city, and have given the verdict in their favour.

3. Sir, I have not gone to any court of law against the department on the subject. I therefore, request that I may kindly be sanctioned HRA applicable to 'B' class city with retrospective effect.

Thanking you sir,

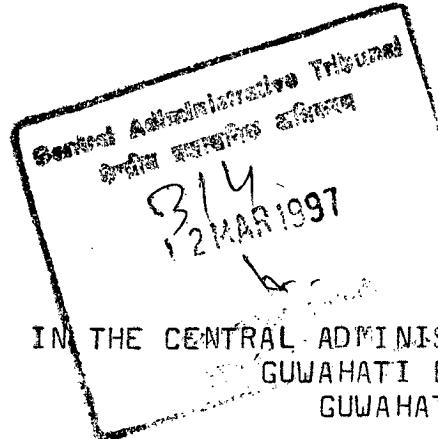
Yours faithfully,

()

Kohima

Dt.

Attested.
/s/
Advocate.



(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

Filed by:-
P. K. Choudhury
Addl. Central Govt.
Standing Counsel.
12.3.97

In the matter of :-

O.A. No. 197 of 1996

P.C. George & others ... Applicant
-Vs-

Union of India & others

... Respondents

Written statement for and on behalf of the
Respondents No. 1, 2 and 3.

I, S. Sen Gupta Asstt. Director,
Subsidiary Intelligence Bureau, Ministry of Home
Affairs, Government of India, Guwahati, do hereby
solemnly affirm and say as follows :-

- 1) That I am the Assistant Director, Subsidiary Intelligence Bureau, Ministry of Home Affairs, Government of India, Guwahati and am acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements made in the application may be deemed to have been denied.
- 2) That the respondents have no comments to the statements made in paragraph 1, 2 & 3 of the application.
- 3) That with reference to paragraph 4.1 of the application the respondents have no comments to offer except that all the applicants do not belong to Group 'C' and 'D' as stated in OA. The P.A. and ACIO-I are group 'B' (non gazetted) employees.
- 4) That the respondents have no comments to the statements made in paragraph 4.2 and 4.3 of the application.

R
Ranu
12/3/97

5) That with reference to paragraph 4.4 of the application the respondents beg to state that no city/town in Nagaland has been classified on the basis of population for the purpose of grant of HRA/CCA as 'B' class city. Except for Kohima and Dimapur, the entire State of Nagaland is unclassified for the purpose of HRA. Even Kohima and Dimapur have been classified only as 'C' class for the purpose of HRA on the basis of 1991 census vide M.O.F. O.M. No.2(2)/93-E.II(B) dated 14-5-93. As such the question of payment of HRA to the Central Govt. employees and those of IB at the rates applicable to a 'B' class city in lieu of rent free accommodation does not arise.

Under the existing policy. Cities/towns are classified for the purpose of grant of HRA/CCA on the basis of their population as reflected in a decennial census. Since, no place in Nagaland qualifies for classification as 'B' class city, Central Govt. employees posted in the State are not entitled to HRA at 'B' class city rates in lieu of rent-free accommodation.

6) That with reference to paragraph 4.5 of the application the respondents beg to state that the presidential order dtd. 5-1-62 was meant to staff only and not for all Central Govt. employees posted in Nagaland as stated in the petition. Moreover, as per the recommendations made by the 4th Pay Commission, the payment of HRA to the employees posted in Nagaland is admissible at the rate stated vide Ministry of Finance O.M. No.2(2)/93-E.II(B), dtd.14-5-93 in which Kohima and Dimapur have been declared as 'C' class cities.

7) That with reference to paragraph 4.6 of the application the respondents beg to state that at the time Nagaland Hill Tuensung Area (NHTA) was carved out from Assam, the employees of NHTA administration were allowed the concession of rent-free accommodation or HRA in lieu thereof as an incentive to attract suitable persons from outside for serving in this difficult tribal area. The benefit was subsequently, extended to other Central Govt. employees also.

8) That the respondents deny the statements made in paragraph 4.7 of the application and state that out of actual strength of 31 group B officers, only ten officers have been allotted Govt. accommodation at Kohima. No doubt, all the six

group 'A' Officers have been allotted Govt. accommodation since they are occupying type IV, V and VI accommodation which cannot be allotted to group C and D employees. Out of 157 group C & D officers posted at Kohima as many as 54 officers have been allotted Govt. accommodation of type I, II and III which would speak about the allotment of accommodation.

9) That the respondents beg to state that the statements made in paragraph 4.8 are totally baseless and denied. As a matter of fact, all group C and D employees who are not allotted any Govt. accommodation are being paid HRA plus, Licence Fee. as is admissible to IB employees at Kohima O 'C' class city.

10 That with reference to paragraph 4.9 of the application the respondents beg to state that before the recommendation of the Third Central Pay Commission were implemented, the Central Govt. employees posted in Nagaland were getting HRA at the rates which corresponded to the then B-2 class city rates i.e. 7-1/2% of pay. The rate of HRA payable in B-2 class cities was improved by the third Pay Commission from 7-1/2% to 15% of pay subject to a maximum of Rs.400/-P.M. This applied to the cities classified as such in accordance with the population criterion and not to places where HRA in lieu of rent-free accommodation was admissible under special orders, as in the case of Nagaland. However, certain Central Govt. Offices in Nagaland erroneously started paying HRA to their employees @ 15% of pay. When this came to the notice of the Government, it was decided in March, 1980 that the rate of HRA in Lieu of rent-free accommodation in Nagaland should be paid at the rate of 7-1/2% of pay. However, to avoid financial hardship to employees who were already drawing HRA @ 15% of pay, HRA was restricted to 7-1/2% of pay and the balance 7-1/2% was treated as personal allowance with the stipulation that future recruits would get HRA @ 7-1/2% of pay only.

It may be added that in case of postal employees there are specific orders regarding facility of R.F.A. or HRA in lieu thereof. Similarly IB, employees posted not only in Nagaland but also all over the country are entitled to the benefit of RFA or HRA in lieu thereof on conference basis. The consolidated order conferring the benefit of the executive staff was issued by M.H.A. vide their order No.2/1/76-PP V dated 31-12-76 to be read with 8/Terms(C)/61(1)PP V dtd. 5-9-85, Further this benefit of

RFA/HRA was extended to all other cadres of IB by the Govt. vide MHA letter No.27013/7/86-PFV(III) dtd.13-5-86 and elaborated vide letter No.16/Terms(C)/89(3)FP V dated 28-9-94.

Whereas the P & T employees, in the matter of a grant of HRA, are covered by the provisions of DGP&I O.M.No.41-17-P&T Dated 8-1-62, the employees of Intelligence Bureau throughout India (including employees posted in Nagaland) are governed by the provisions of orders of MHA No.2/1/76-FP.V dtd.31-12-76 to be read with No.8/Terms(C)/81-FP Dated 5-9-84, as amended from time to time vide MHA's letter No.27013/7/86-FP.V(VIII) dated 13-5-86 and elaborated by No.16/Terms(C)/89(3)-FPV,dtd.28-9-94. Thus the case of employees of IB should be decided with reference to the provisions of these orders and not with reference to the provisions of O.M. of 1962 issued by DGP&T. It will be apparent from the provisions of these two separate sets of orders that only the P & T employees posted in Nagaland are entitled to HRA as applicable in B class cities in lieu of rent-free accommodation. There is no such condition in case of employees of IB. Further the employees of IB, posted anywhere in India, are governed by the same set of rules and any deviated decision taken in respect of employees of IB posted in Nagaland will have wide repercussions as the same benefit cannot be denied to the employees of IB posted outside Nagaland.

11) That with reference to the statements made in paragraph 4.10 of the application the respondents deny that the employees were not given benefits as per the recommendations of 4th pay Commission. Moreover, attention is invited to the fact that employees of IB were given the benefits of HRA on the lines of judgement given in the case of employees of Directorate of Census operations w.e.f. 1-5-76 to 31-3-80 as admissible to the employees of P&T Deptt. also vide IB order No.3/Terms(C)/87(5), dtd.25-4-89.

The employees of Intelligence Bureau posted in Nagaland are entitled to the facility of rent free accommodation and if the accommodation is not provided to them, they are entitled to HRA in lieu thereof at the rate of 7-1/2% of pay upto the implementation of the 4th Pay Commission Report. After the 4th Pay Commission, HRA is being paid to Central Govt. employees on slab basis with reference to pay of the employees. Therefore, the employees of Intelligence Bureau posted in Nagaland are entitled to HRA at 'C' class city rates.

12) That with reference to paragraph 4.11 of the application the respondents beg to state that as the Hon'ble Supreme Court judgement dtd. 18-2-1993 was applicable to the similarly placed postal employees only and not to other Central Govt. employees posted in Nagaland, the Govt. did not agree to extend these concessions to IB employees.

13) That the respondents beg to state that the statements made in paragraph 4.12, 4.13, 4.14 and 4.15 are matters of record.

14) That with reference to paragraph 4.16 of the application the respondents beg to state that the position stated is not correct. As per the Supreme Court judgement only postal employees were entitled to the benefit of HRA at the rate admissible to 'B' class cities and attention is again invited to MOF OM No.2(2)/93-E II(B) dtd. 14-5-93 in which Kohima and Dimapur were declared as 'C' class cities for the purpose of grant of HRA for all Central Govt. employees.

15) That with reference to paragraph 4.17 of the application the respondents beg to state that vide IB letter No.3/Terms(C)/87(5), dtd. 25-4-89, HRA @ 7-1/2% and personal allowance @ 7-1/2% were granted to IB employees posted on Nagaland from 1-5-76 to 31-3-80 only. But, since this date was applicable upto the period ending 31-3-80, the personal allowance was withdrawn w.e.f. 1-4-80 as per the decision made in regard to P&T employees.

16) That with reference to paragraph 4.18 of the application the respondents beg to state that the representation was considered at the appropriate level, but as the Supreme Court judgement dtd. 18-2-93 was applicable to the similarly placed postal employees only and not other Central Govt. employees posted in Nagaland, the Govt. did not agree to extend these concession to IB employees.

17) That with reference to statements made in paragraph 4.19 of the application the respondents beg reiterate the statements made in paragraph 12 of this written statements.

18) That with reference to paragraph 4.20 of the application the respondents beg to state that the contents of the para are correct but the Hon'ble Tribunal in its judgement dtd. 22-8-95 has allowed benefits to the applicants only.

House rent allowance at the rate applicable to central Govt. employees in 'C' (B1-B-2) class cities/towns for the period from 1-10-86 or actual date of posting in Nagaland if it is subsequent there to as the case may be up to 28-2-91 and at the rate as may be applicable from time to time as from 1-3-91 onwards and continue to pay the same and the licence fee at the rate 10% of monthly pay (subject to where it was prescribed at a lesser rate depending upon the extent of basic pay) with effect from 1-7-1987 or actual date of posting in Nagaland if it is subsequent there to as the case may be upto date and continue to pay the same until the concession is not withdrawn or modified by the Govt. of India or till rent free accommodation is not provided.

- 19) That the respondents have no comments to the statements made in paragraph 4.20(A), 4.21, 4.22, 5.1, 5.2, 5.3, 5.4, 5.5 6 and 7 of the application.
- 20) That with reference to paragraph 8 of the application the respondents submit that the applicants are not entitled for any relief and the OA may be dismissed.
- 21) That with reference to paragraph 9 of the application the respondents submit that the prayer for interim relief may be rejected as the applicants are not entitled for any relief.
- 22) That the respondents have no comments to the statements made in paragraph 10 & 11 of the application.
- 23) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, *S. Sen Gupta* Assistant Director,
Subsidiary Intelligence Bureau, Ministry of Home Affairs, Govt.
of India, Guwahati, do hereby declare that the statements made
in this written statement are true to my knowledge arrived from
the records of the case.

I sign this Verification of this the eleventh th day of March
1997 at *Guwahati*.

S. Sen Gupta
DEPOVENT
Subsidiary Intelligence Bureau
MHA, Govt. of India,
Guwahati