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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date-06/10/99
MP-142/98 ordersheet pg-1 to 2
Disposed date-14/7/99

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OH No. 207/96

Sri Loken Ch. Das, Applicant(s)

VS-

Union of India & ors. Respondent(s)

Sr. S.C. Biswan K. Bhattacharjee, Advocates for the applicant(s)
P. Biswan, N. Bhattacharjee

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

Office Notes Date Courts' Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide

JPO/BD No 444/75

Dated 18.9.96

[Signature]
Dy. Registrar
19/9/96
19/9

25.9.96

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

None for the applicant.

List on 27.9.96 for consi-
deration of admission.

[Signature]
Member

pg

25/9

27.9.96

Learned counsel Mr K. Bhattacharjee
for the applicant. Learned Addl. C.G.S.C.
Mr A.K. Choudhuri for the respondents.
Heard Mr Bhattacharjee for admission
and perused the contents of the application
and the reliefs sought. The application
is admitted. Written statement within
6 weeks. Issue notice to respondents by Regd.
Post.

List for written statement
and further orders on 11.11.96.

Mr Bhatacharjee prays for interim
order which Mr A.K. Choudhuri opposes.
After hearing the counsel for the parties
it is ordered that the operation of the
order No.1350/2005/EIC(3) dated 16.11.1995
shall be kept in abeyance by the respondent
till disposal fo this application if the
same has not already been given effect
to as on today.

[Signature]
3/10/96

11.10.96

Notice issued to the
Respondents vide No. 3395 Dt.
9.10.96.

[Signature]
D. Service Reports are sent away.
D. of Patent - has not been to W.

11.11.96

None for the applicant.

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

Written statement has not been submitted.

List for written statement and further orders on 10.12.1996.

14.11.76
Notice duly served
on Respond No. 41, 2.6.

trd
11/11

10.12.96

None is present.

Written statement has not been submitted.

List for written statement and further orders on 3.1.1997.

w/ statement has not been
b/w

w/ statement has not been
b/w

trd

3.1.97

None for the applicant. Learned Addl. C.G.S.C. Mr A.K. Choudhuri for the respondents. Written statement has been submitted on behalf of the respondent Nos.1 to 6. Copy of the same may be served on the counsel for the applicant. The case is ready for hearing.

List for hearing on 27.1.97.

Member

Member

6.1.96
Memo of appearance filed
by Mr. A.K. Choudhury, A.C.S.C. nkm

27.1.97

Mr. K.Bhattacharjee for the applicant is ready for hearing. However learned Addl. C.G.S.C. Mr. A.K.Choudhury has submitted leave note upto 7.2.1997. Therefore hearing of the O.A. is adjourned to 12.2.1997.

Member

W/S filed on behalf of
R. no. 1 — 6.

22-1-97

1/ Notice duly served
on R-No-1,2,4 & 6
2/ w/ statement filed
on behalf of R.No-
1 & 6 - 16 to 24. trd
W.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 207 of 1996.
T.A. NO.

DATE OF DECISION 12-3-1997.

Shri Loken Chandra Das, Secretary,
All Assam M.E.S. Employees' Union.

(PETITIONER(S))

Shri K. Bhattacharjee

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

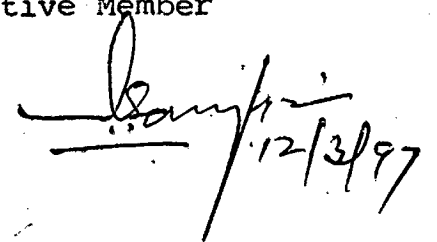
Shri S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER
THE HON'BLE

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

Judgment delivered by Hon'ble Administrative Member


12/3/97

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 207 of 1996.

Date of Order : This the 12th Day of March, 1997.

Shri G.L.Sanglyine, Administrative Member.

Shri Loken Chandra Das,
Secretary,
All Assam M.E.S. Employees' Union,
Registration No. 1400,
Tezpur Branch representing all the
members of the Union working under
Tezpur Goraimari Air Force Unit
and Tezpur Solmara Unit, under
G.E., Tezpur Unit.

. . . Applicants.

By Advocate Shri K.Bhattacharjee.

- Versus -

1. Union of India,
represented by the Secretary to
the Govt. of India, Ministry of Defence
(Engineer-in-Chief's Branch
Army Head Quarters), New Delhi.
2. The Chief Engineer,
Eastern Command, H.Q. Calcutta.
3. Garrison Engineer, Tezpur
4. Garrison Engineer,
Airforce, Tezpur.
5. Commander Works Engineer
Tezpur-784001, Assam
6. Office of C.D.A.,
Narengi, Guwahati.

. . . Respondents

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

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

The applicants are civilian employees under the Military Engineering Service and posted under Garrison Engineer, Airforce, Tezpur and Garrison Engineer, Solmara. Tezpur was included in the list of 'C' class cities with effect from 1.8.1982 vide Ministry of Finance (Department of Expenditure), Office Memorandum No.11021/1/83-E.II dated 3.11.1986. The applicants were paid House Rent Allowance

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12.3.97

at the rate applicable to 'C' class city with effect from May, 1987 to July, 1988. The Commander Works Engineer, Tezpur issued a letter No. 1350/2005/EIC(3) dated 16.11.1995 for recovery of the alleged irregular payment of House Rent Allowance paid to the applicants for the period with effect from May, 1987 to July, 1988. It is the case of the applicants that they are entitled to House Rent Allowance at the rate applicable to Tezpur town and therefore this order is liable to be set aside and quashed. Moreover, on the strength of the office Memorandum dated 3.11.1986 aforesaid they contend that they are entitled to receive House Rent Allowance at the rate applicable to Tezpur town with effect from 1.8.1982 and the respondents may be directed accordingly. The applicants also submit that the denial of House Rent Allowance to them at the rate applicable to 'C' class city is unsustainable in view of the fact that the Ministry of Defence vide order No. 02986/HRA/SOLMARA/EIC(3)518/D(Civ-I) dated 16.3.1994 had allowed House Rent Allowance at the rate applicable to Tezpur town to those defence civilian employees under Garrison Engineer and Commander Works Engineer having their place of duty in Solmara. The respondents admit the contents of the aforesaid letter dated 3.11.1986 by which Tezpur is added to the list of 'C' class cities with effect from 1.8.1982. They also submit that there are Government orders to the effect that House Rent Allowance is allowed within 8 Km radius of the Municipal Periphery of the city of Tezpur. They further admit that Solmara is located within a distance of 8 Kms radius from Tezpur. They however, contend that House Rent Allowance at the rate applicable to 'C' class city, namely Tezpur,

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12-3-97
contd... 3


cannot be allowed unless dependency certificate is issued by the civil district authority or Deputy Commissioner concerned. The respondents further submitted that for the later period with effect from 1.4.1993 House Rent Allowance at the rate applicable to 'C' class city was paid as the dependency certificate was issued by the Deputy Commissioner, Sonitpur in respect of Solmara with reference to Tezpur.

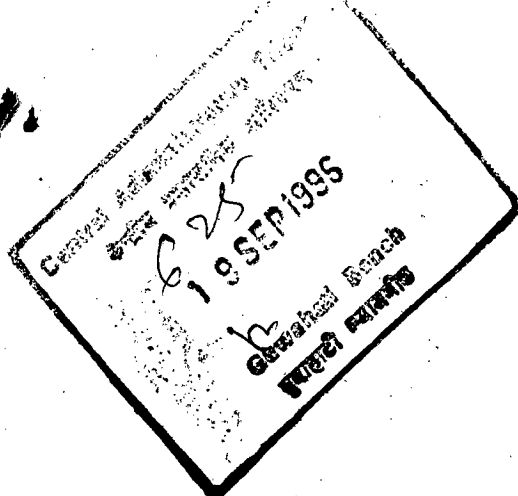
2. I have heard Shri K.Bhattacharjee, learned counsel for the applicants and Shri S.Ali, learned Sr.C.G.S.C for the respondents. This application was submitted on 19.9.1996. The prayer of the applicants that the respondents may be directed to pay them House Rent Allowance at 'C' class city rate applicable to Tezpur town with effect from 1.8.1982 on the strength of the aforesaid Office Memorandum dated 3.11.1986 cannot be entertained for scrutiny and decision by this Tribunal at this belated stage. Even for the period from August, 1988 to March, 1993 also the claim has become belated and therefore cannot be entertained. The contention in this application is entertained only with reference to the period covered by the impugned Order No.1350/2005/EIC(3) dated 16.11.1995. While the respondents had granted House Rent Allowance to the applicants at the rate applicable to Tezpur for the period with effect from 1st April, 1993 the difficulty before the respondents to grant the House Rent Allowance at the rate applicable to Tezpur to the applicants for the period from May, 1987 to July, 1988 or to regularise the payments of House Rent Allowance already made for this period is because of the absence of the dependency certificate from the competent civil authority. The responsibility to obtain the requisite

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12.3.97

certificate is on the respondents. The competent authority of the respondents ought to have taken steps in time to obtain the certificate from the competent civil authority concerned in order to enable them to pay House Rent Allowance to the applicants in a regular manner. The employees, namely, the applicants cannot be made to suffer for no fault of their own. In the circumstances the impugned order dated 16.11.1995 is set aside and the respondents are directed to consider afresh on merit the admissibility of House Rent Allowance at the rate applicable to Tezpur for the period from May, 1987 to July, 1988 to the applicants and the recovery thereof in accordance with the relevant rules and office Memoranda and facts of the case. If non-availability of the dependency certificate is an obstacle for them, then the respondents must obtain the dependency certificate from the competent civil district authority concerned and even if there is any time limitation against it, the respondents are directed to consider relaxation of the same. Further, the respondents are directed to issue a final order with regards to the payment of House Rent Allowance for the period from May, 1987 to July, 1988 pursuant to the above exercise within six months from today.

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


12/3/97
(G.L. SANGLI YINE)
ADMINISTRATIVE MEMBER



Filed by
K. Bhattacharya

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BRANCH,
AT GAUHATI.

Original Application No. 207/96

Sri Loken Chandra Das,
Secretary,
All Assam MES Employees' Union,
Tezpur Branch.

..... Applicant.

-Versus-

Union of India & other.

..... Respondents.

It is respectfully submitted for the applicant -

1. That the applicant is a Secretary of All Assam M. E. S. employees Union of Tezpur Branch, which is registered under I. T. U. Act XVI of 1926 with Regd. No. 1400 is representing all the members of said union for seeking relief of H. R. A. as admissible to civilian

Central.....

Lokenchandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

Central Govt. employees in terms of O.M. dated 3.11.86 of the Ministry of Finance (Department of Expenditure) Govt. of India.

2. That from facts of the case it would be clear that the members have a common cause and interest in it and as such the single application deserves to be entertained as provided by Rule 4(I) of the procedure.

In these premises it is prayed that the Hon'ble Tribunal may be pleased to permit filing of single application by the Secretary of All Assam M. E. S. Employees Union, Tezpur Branch for ends of justice.

Laxen Chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

6/2/96
APPENDIX - A.

Form - I.

Application Under Section 19 of the Administrative
Tribunal Act, 1985.

CA 207/96

Title of case : Sri Loken Chandra Das.

..... Applicant.

-Versus-

Union of India & Ors.

..... Respondents.

I N D E X.

<u>Sl.No.</u>	<u>Description of documents relied upon.</u>	<u>Page No.</u>
1.	Application	
2.	Annexure I. OM. No. 1104/1/83-II dated 3.11.86.	
3.	Annexure- II : Letter dt. 3.1.89.	
4.	Annexure-III.: O.M. dt. 16.3.94.	
5.	Axxuxure- IV : Letter dt. 16.11.95.	
6.	Annexure - V : Copy of certificate dated 26.8.96.	
7.	W/S —————	15 - 24

For use in Tribunal's
Office.

Date of filing.

Signature
for Registrar.

Signature of Applicant.

- Loken chandra Das

Secretary;
All Assam M E S Employees' Union
Tezpur Branch

Recd copy.
Rd Chandra Das
Addl C & SC
18/9/96

Filed by:
J. Bhattacharya

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH.

1. Loken Chandra Das,
Secretary,
All Assam M. E. S. Employees' Union,
Registration No. 1400,
Tezpur Branch, is
representing all the members
of the Union working under
Tezpur Goraimari Air Force Unit
and Tezpur Salmara Unit, under
G. E., Tezpur ~~Air Force~~ Unit.

..... Applicant.

-Versus-

1. Union of India,
represented by the Secretary to
the Govt. of India, Ministry of Defence
(Engineer-in-Chief's Branch,
Army Head Quarters), New Delhi.

2.....

Loken Chandra Das
Secretary;
All Assam M E S Employees' Union
Tezpur Branch

2. The Chief Engineer,
Eastern Command, H.O. Calcutta.
3. Garrison Engineer, Tezpur,
~~G/O. 99 A.P.O.~~
4. Garrison Engineer, Airforce, Tezpur,
~~G/O. 99 A.P.O.~~
5. Commander Works Engineer,
Tezpur - 784001, Assam.
6. Office of C. D. A.,
Narengi, Gauhati - 781.

..... Respondents.

1) Details of Applicant.

1. Particulars of orders against which the application is made :-
 - a) O.M. No. 11021/1/83-EII dated 3.11.1986 issued by Director.
 - b) Letter No. 1350/2005/RIC(3) dated 16.11.95, issued by Col. Commander Works Engineer, Tezpur for recovery of H. R. A. allowance w.e.f. 5/87 to 7/88.

Loken Chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

2) Jurisdiction of the Tribunal.

The applicant declare that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3) Limitation.

The application further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1983.

4) Facts of the case.

1. That the applicant is a Secretary of All Assam M. E. S. Employees' Union, Tezpur Branch, which is registered under Indian T. U. Act XVI of 1926 having registered No. as 1400, who is representing all the employees, who are members of this Union under Garrison Engineer, Airforce, Tezpur, and Garrison Engineer, Dalmara . Tezpur, on being aggrieved by the order dated 16.11.95 issued by Commander Works Engineer, Tezpur and having common cause and interest in it, the applicant is authorised to file this application on behalf of its Members.

2.....

Logan chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

2. That the Central Government vide its O.M. No.11016/5/82/III/(B) dated 7.2.83 had included Tezput town under the list of 'C' Class cities and directed to pay House rent Allowance to all the Central Government employees posted therein. The order shall take effect from 1.8.82 so far as the city of Tezpur is concerned.

(A copy of order dated 3.11.86 is annexed hereto and marked as Annexure - I).

3. That after the issue of order, the Respondent started paying the House rent allowances w.e.f. 1996 instead of 1.8.82. On being lodged protest the authority assured the applicant that the matter would be looked into.

4. That thereafter the applicant was enjoying the facilities of H.R.A. as per the circular with other Central Government employees. But suddenly the said facilities were stopped by Respondent from 8/88 without any reason and employees were paid H.R.A. for unclassified city vide letter dt. 3.1.89.

(A copy of letter dated 3.1.89 is annexed hereto and marked as Annexure - II).

5.....

Laxen chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

5. That the applicant stated that ~~he~~ being aggrieved with such order the applicant started agitation with authorities at different level, and ultimately the authorities conceded the demand of the applicant and issued order vide letter No. 0 2986/HRA/SOLMARA/ELC/3/518/D (DW-1), dated 16.3.94, wherein it stated that Salmara is within the classified town of Tezpur, and are entitled to H.R.A. at the same rate as is appropriate to those posted within the classified town of Tezpur.

(A copy of letter dated 16.3.94 is annexed hereto and marked as Annexure - III).

6. That the applicant states that while the employees were getting the H.R.A. at rate of 'C' Class cities, the Respondents issued a direction that irregular payment of H.R.A. ~~was~~ w.e.f. 5/87 to 7/88 be deducted from the salaries of the employees, in spite of Standing O.M. dated 3.11.86.

(A copy of order dated 16.11.95 is annexed hereto and marked as Annexure - IV).

7.....

Loken Chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

7. That the applicant begs to submit that in spite of Standing O.M. dated 3.11.86, the Respondent ~~did~~ gave effect to said O.M. from 1986 instead of 1.8.82 whereas the other Central Government employees serving in the same area was getting H.R.A. as per O.M. dated 3.11.86 from 1.8.82.

(A copy of certificate dated 26.8.96 is annexed hereto and marked as Annexure - V).

5) Grounds for relief with legal provision.

I) For that applicant is entitled to House rent allowance as per the office memorandum dated 3.11.86 ~~xx~~ inasmuch as the said memorandum have been applicable to all civilian Central Govt. employees posted at Tezpur and cannot be discriminated against.

II) For that the departmental authority have initially by making payment in accordance with office memo. dated 3.11.86, thereafter by making orders stopping such payment and directing for recovery of ~~xx~~ amounts already paid that to without seeking any clarification is gross

violation.....

Logew chandra Dora
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

violation of the applicants right which is guaranteed under the Constitution of India.

III) For that notwithstanding payment of H. R. A. to Kendriya Vidyalaya not as per OM. dt. 3.11.86, the applicant is also entitled to such allowances effective from 1.8.82, but the same was given effect from 1986, which deprived the applicant from his legitimate right.

IV) For that the applicant being posted at Salmara and Salonibari which are within the Tezpur is entitled to H. R. A. as per O.M. dated 3.11.86, any deviation from this Standing Circular is gross violation of Article 14 ~~and~~ 16 and 21 of the Constitution of India.

6) Details of Remedies exhausted.

The applicant declares that he have awaited of all remedies available to him under the relevant service rule etc. as ~~will~~ would be recalled from paragraph 4 above.

7) Matters not previously filed or pending with any other Court.

The applicant further declares that they have not previously filed any applications, writ petition, or suit regarding the matter in respect of which this application has been made.

8)

Loke Chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

8) Relief sought.

- i) The respondents may be ordered/directed to pay to the applicant H.R.A. w.e.f. 1.8.82, in accordance with O.M. dated 3.11.86 of the Central Government and be further pleased to set aside and quash the order dated 16.11.95 (Annexure - IV).

9) Interim order if any prayed for.

The respondents may be directed not to give effect of letter dated 16.11.95, issued by Commander Works Engineer till the disposal of this application.

- 10) In the event of application being sent by registered post etc:

Not applicable.

- 11) Particulars of Postal Orders as P.O. NO. B 11444175 filed in respect of application fee and date 18.9.96 - issued by G.P.O. of Rs. 50/- payable at - Gauhati is annexed herewith.

12)

Loken Chandra Das
Secretary,
All Assam M E S Employees' Union
Tezpur Branch

12) List of Enclosures : Annexures. 1 & v

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

I, Sri Loken Chandra Das, aged about 42 years,
son of Kasheswar Das, is Secretary of All Assam M. E. S.
Employees' Union, ^{Tezpur Branch} is authorised to represent all the
employees working under G. E., Tezpur, and G. E. Airforce,
Tezpur, as an employee under Garaimari ^{3F} ~~xxx~~ Air Force Unit,
do hereby verify that the contents of para 14 to 67 & 9
of the application are true to my knowledge, and para
2, 3, 5 are belief to be true on legal advice and that
I have not suppressed any material fact.

Loken Chandra Das
Secretary, 18/9/96
All Assam M E S Employees' Union
Tezpur Branch

(Subject : Grant of Compensatory (City) and House Rent allowances classification/re-classification of cities/towns on the basis of 1981 Census figures- cases of cities of Assam States for classification.

.....

The undersigned is directed to say that the question of classification of cities/towns in the State of Assam, where no decennial census could be taken in 1981 due to disturbed conditions and therefore, no classification of cities of the state could be done on that basis for payment of H R A/C C A to central Govt employees has been under consideration of the Govt. for some time past. The president is now pleased to decide, in consultation with the staff side of the National Council (Joint Consultative Machinery) that the following cities/towns of Assam State shall be added to the list of 'C' Class cities in the Annexure II to this Ministry's O.M. No. 11016/5/82-E.II/(B) Dated 7.2.1983 for the purpose of payment of HRA to Central Govt. employees :-

1. Gauhati 2. Dibrugarh 3. Silchar 4. Newgaon
5. Tinsukia 6. Tezpur

2. Grant of HRA under these orders shall be subject to the terms and conditions laid down in this Ministry's O.M. NO. F.2(37)/E. II/ (B)/6^A dated 27.11.1965, as amended/modified from time to time.

3. These orders shall take effect from 1/8/82 in so far as the city of Tezpur is concerned. As regards other cities Viz. Gauhati, Dibrugarh, Silchar, Newgaon and Tinsukia, these orders shall take effect from the date of issue.

4. With the issue of these orders, the special orders for HRA issued in this Ministry's O.M. No. F.2(5^A)/E. II(B)/7^A dated 5/8/197^A, in so far as the cities- Guwahati, Dibrugarh, Silchar, Newgaon & Tinsukia are concerned shall no longer be in force.

5. In so far as the persons serving in the Indian Audit and Accounts Deptt. are concerned these orders issued after consultation with the controller and Auditor General of India.

6. Hindi Version of this office Memorandum is attached.

Sd/- x x x
(A N Sanha)
Director

attache
Hindi -

— 12 —
Annexure-2
18
J. IHUNGDI, IDAS,
DY. CDA

D. O. No. PIN/11/F/301/11
AREA ACCOUNTS OFFICE
ZORAM VILLA
SHILLONG-793001

DATED 3rd JAN '89

Dear Sir,
You are aware that a lot of correspondence has been exchanged between various units located at or near Tezpur and this office regarding the admissibility of H.R.A. at 'C' Class city rates.

This office asked for a clear certificate from D.C. Tezpur regarding the location of such units within the Municipal area of Tezpur Town.

However we received more than one certificate each varying from one other in same respect. As a result we could not admit the arrear claims. We have, however, been paying the current HRA pending clarification from the CDA, Gauhati to whom the case was referred.

In this connection I would like to request you to obtain a certificate from the D.C. as required under sub-para (iii) below Note 3 of para 3 under Govt. of India Min of Fin OM NO. 2 (37)E/II B/64 dated 27.11.65 circulated under Min. of Def. OM NO. 4(1)66/D (civ-1) dated 4.3.66 (CPRO 91/66) ~~may please be obtained~~ and forwarded to this office. A specimen of the certificate is enclosed with this D.O.

All units under your administrative jurisdiction may obtain such certificate about their location and forward the same alongwith their claims to enable this office to admit the claims correctly.

I would also like to request you to advise the Head of the units under your control to endorse a certificate on the bill that the terms and condition laid down in Govt. of India Min. of Fin OM NO. 2 (37)E/II B/64 dated 27.11.65 reproduced in Min. of Def letter NO. 4(1)66/D (civ-1) dated 4.3.66 (CPRO 91/66) have been fulfilled while claiming the HRA for 'C' class city at Tezpur as sanctioned vide Govt. of India, Min of Def OM NO. 20014/8/86 E/IV dated 23.9.86. The GE should also endorse a certificate under sub-para (ii) below NO 2 of para 3 of Govt. of India letter dt. 4.3.66 ibid while submitting the bills to this office. A specimen copy of the certificate is enclosed for ready reference.

In the meantime we are admitting HRA at Tezpur for the units located at Salinara and Salonibari i.e. CWE Tezpur GE, Tezpur and GE (AF) Tezpur.

With warm regards
YOURS

all done
18
SHRI Y. K. UPPAL, SE,
OFFICE OF THE C.W.E.
TEZPUR

-13-

No.02986/HRA/SOLMARA/EIC(3)518/D(Civ-I)
Government of India
Ministry of Defence
New Delhi, the 16th March 1994.

To

The Chief of the Army Staff.

Subject:- GRANT OF HOUSE RENT ALLOWANCE TO MES CIVILIAN
EMPLOYEES SERVING UNDER GE/CWE TEZPUR LOCATED
IN SOLMARA.

Sir,

The undersigned is directed to say that the Office of GE and CWE Tezpur is located in SOLMARA and fulfils the conditions prescribed in para 3(b)(iii) of this Ministry's Memorandum dated 4.3.66 as amended from time to time. President is accordingly pleased to decide that the Defence Civilian Employees having their place of duty in SOLMARA are eligible to draw house rent allowance at the same rate as is appropriate to those posted within the classified town of Tezpur.

2. These orders take effect from 01 April 1993 and will be valid upto (a) 31.3.96 or (b) till the conditions prescribed in para (b) (iii) of OM dated 4.3.66 referred to above continue to be fulfilled in respect of Tezpur or (c) until issue of any further orders in this matter by the Ministry of Finance (Deptt. of Expenditure) which ever is earlier.

3. This issues with the concurrence of Ministry of Defence (Finance) vide their u.o.Pc-13011/23/PB/206/94 dated 15.3.1994 and in consultation with Ministry of Finance, Deptt. of Expenditure vide their U.O. No.2(17)/EII(B), dt. 8.3.1994.

Yours faithfully,

C.A. Subramanian
(C.A. Subramanian)

Under Secretary to the Government of India

Copy to:-

The CGDA, CDA Basistha, Guwahati -(signed in ink)
Min. of Def./Fin.(AG), Air Hqrs/PP&R-2 - 10 copies
AG/Org 4(Civ)(d) - 10 copies
E-in-C's Br./EIC(3) - 10 copies
DFA(AG) with 3 spare copies.

allied
1/3

-14-
Annexure-4v
// COPY //

Tele Mily : 6213

PRIORITY
Commander Works Engineer
Post Box No 31
Tezpur - 784001 (Assam)

1350/ 2005 /EIC(3)

16 Nov 95

GE Tezpur

IRREGULAR PAYMENT OF HRA TO MES CIVILIAN
EMPLOYEES UNDER GE TEZPUR FOR THE PERIOD
FROM MAY 87 TO JUL 88

1. Reference this office following letters :-

- 1) 1350/1922/EIC (3) dated 19.7.93
- 2) 1350/1930/EIC (3) dated 11.9.93
- 3) 1350/1968/EIC (3) dated 25.7.95
- 4) 1350/2004/EIC (3) dated 26.10.95

and AAO GE Tezpur letter No A/GE/121/P&A dt 20.9.95
and A/GE/121/P&A dt 14.10.95.

2. Despite repeated requests and assurance of innumerable reminders, no action has so far been taken to recover the irregular payment of HRA wef 5/87 to 7/88 as per details of payment made as mentioned in your letter No 1612/Policy/1851/EIC dated 07 Sep 93.

3. You are directed to submit the completion report latest by 25th Nov 95.

4. Please acknowledged.

Sd/- x x x x x

(D J Theore)

Cel

Commander Works Engineer

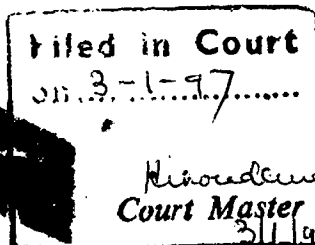
attested
[Signature]

C E R T I F I C A T E

It is certified that as per Govt of India, Ministry of Finance (Department of Expenditure) OM No 11021/1/83- Estt-II (B) dated 3rd Nov. 86, the staff of K.V. No. 1 Tezpur (Selmara) is getting HRA 'C' Class city wef 1.8.82.

Verified
from Circular file
26/8/96

[Signature]
26/8/96
Principal,
Vendriya Vidyalaya No-1
TEZPUR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH
GUWAHATI

Filed by
A K Chandra Das
Addl. Central Govt.
Standing Counsel
3.1.97

In the matter of :-

O.A. No.207 of 1996

Loken Chandra Das

-Vs-

Union of India & ors.

Written statement for and on behalf of Respondents
No.1 to 6.

Most Respectfully sheweth -

1) That with reference to the paragraph 4(1) of the application I beg to state that the applicant is the Secretary of All Assam MES Civilian Employees Union Tezpur Branch, which is registered under Trade Union Act and affiliated to AIDE, Regd. No.130 as per records, but activities are limited. The facility for paying HRA was stopped as per E-in-C's Branch letter No. 02986/HRA/Solmara/EIC(3) dated 26th June/95 (copy enclosed) stating that case for regularisation of irregular payment made to MES employees of GE AF Salonibari/CWE Solmara at Tezpur from May/87 to July/88 was taken up with Ministry of Defence, but Ministry have not agreed to condon the irregularity and directed to recover the irregular payment. Hence CWE Tezpur issued the order of recovery based on ibid order.

2) That with reference to the paragraph 4(2)&(3) of the application I beg to state that as per Govt. of India, Ministry of Finance (Deptt. of Expdr.) New Delhi No.110021/1/85 dated 3rd Nov/86, Tezpur is added as city to the list of 'C' w.e.f. 1-8-82. It implies that Municipal area of Tezpur is declared for city for HRA purpose. Moreover, Govt. order further added that HRA is also allowed within 8 KM radius of the Municipal periphery of the city of Tezpur. The office of the GE Tezpur and CWE Tezpur are located at Solmara within a distance of 8 KM radius. The distance can be ascertained only by the district authority of Tezpur. However, on receipt of Govt. order HRA for the

Contd.p/2-

Received
7/1/97

effected employees was admitted by audit w.e.f. May, 1987 onwards through monthly regular salary by GE Tezpur/CWE Tezpur. The facility for paying HRA for effected employees was stopped as per E-in-C's Branch New Delhi letter No.02986/HRA/Solmara/E1C(3) dtd.26th June/1995 (copy enclosed) stating that case for regularisation of irregular payment made to MES employees of GE Airforce /CWE Solmara at Tezpur from May, 1987 to July, 1988 was taken up with Ministry of Defence but Ministry have not agreed to condon the irregularity and directed to recover the irregular payment.

3) That with reference to the paragraph 4(4) of the application I beg to state that as per the Govt. Circular i.e. Govt. of India, Ministry of Finance (Deptt. of Expdr.) New Delhi letter No.110021/1/85 dated 3rd Nov, 1986, the facilities for HRA were claiming through regular monthly salary w.e.f. May, 1987. Moreover Area Account Shillong under his DO letter No.FM/II/F/301/III dated 3rd June, 1989 advised this office to obtain a clear certificate from D.C. Tezpur regarding the location of units within the Municipal area and assured to admitting the HRA units located at Solmara and Solanibari i.e. CWE Tezpur, GR Tezpur and GE AF Tezpur.

4) That with reference to the paragraph 4(5) of the application I beg to state that as per audit authority's requirement, the case was projected to Deputy Commissioner, Sonitpur vide GE Tezpur letter No.1350/1766/E1C(3) dated 30th June, 1990 for issue of dependance certificate. The dependency certificate issued by the Deputy Commissioner, Sonitpur alongwith statement of case was submitted to Govt. through CEEC Calcutta x vide CE Shillong letter No.70402/12/639/E1C(3) dated 4th Sept/90 Accordingly Govt. of India, Ministry of Defence under letter No. 02986/HRA/Solmara/E1C(3)/518/D(Civ-I) dated 16th March, 1994 (Copy enclosed) accorded permission to draw HRA for a period of 3 years with effect from 1st April/93 to March/96.

5) That with reference to the paragraph 4(6) of the application I beg to state that as per Govt. of India, Ministry of Finance (Deptt. of Expdr.) letter No.110021/1/815, dated 3rd Nov/86 Tezpur is added as city to the list of 'C' wef 1-8-1982 and further it added that HRA is allowed within 8 KM radius of Municipal periphery. CWE/GE Tezpur is located at Solmara, the city area jurisdiction and its periphery can decide only by the Civil District Authority and not by the said Govt. circular.

18

It is again reitreated that on receipt of Govt. of India, Ministry of Finance (Deptt. of Expdr.) No.110021/1/85, dtd. 3rd Nov, 1986, HRA for effected employees were claiming w.e.f. May, 1987 in regular pay bills. Accordingly the audit authority AAO GE Tezpur/AAO Shillong were admitted the claims as per Govt. order No. ibid, No Govt. sanction of the periods as paid w.e.f. May, 1987 to 7/88 have to accorded and treated as irregular payment as per E-in-C's Branch letter No.62926/HRA/Solmara/E1C(3), dtd.26th Jun/95

6) That with reference to the paragraph 4(7) of the application I beg to state that AHQ E-in-C's Branch vide letter No.02986/HRA/Solmara/E1C(3) dtd.17th June/92 (copy enclosed) asked to ascertain whether Ministry of Finance was consulted before grant of payment of HRA to Kendriya Vidyalaya, Solmara Tezpur and Defence Research Laboratory, Solmara Tezpur. GE Tezpur vide his letter No.1613/4573/E1P dtd.27th July, 1992 (copy enclosed) addressed to Kendriya Vidyalaya Solmara Tezpur and CWE Tezpur under letter No.1350/1879/E1C(3) dtd.19th Oct/92 (copy enclosed) addressed to Defence Research Laboratory Solmara Tezpur requested whether Ministry of Finance was consulted before authorising the payment of HRA, but inspite of personal liaison no response has been received from the both unit/organisation but IN THE CAT notice, the Principal KV No 1 Tezpur was rendered a certificate dated 26-6-96 (Photo copy) stating that as per Govt. of India, Ministry of Finance (Deptt. of Expdr.) New Delhi 110021/1/85, dtd.3rd Nov/86, the staff of KV No. I are getting HRA 'c' class City w.e.f.1-8-82.

7) That with reference to paragraph 5 (1) of the application I beg to state that contention is not agreed to KV Solmara is an Autonomous body run by KV Sanghathan. For payment of HRA w.e.f. August, 1982 for the employees of Defence Research Laboratory Solmara Tezpur, the case was referred to both the units (Refer para 1(4)(7) above), whether Ministry of Finance was consulted for granting of HRA w.e.f. August/82 but no reply inspite of personal liaison. Hence no further comments to offer for the discrimination

8) That with reference to paragraph 5 (II) of the application I beg to state that contention of the CAT notice is not agreed to. On receipt of the Govt. of India, Ministry of Finance (Deptt. of Expdr.) No.110021/1/85, dtd.3rd Nov/86, the monthly payment of HRA was climbing w.e.f. May, 1987 and admitting by the audit authority based on the Govt. of India, Ministry of Finance (Deptt.

Expdr.) No even dated 2nd Nov/86 and case for sanction was being progressed to Ministry of Defence, but Ministry of Defence has not accorded ex-post facto sanction and treated the payment as irregular as intimate vide E-in-C's Branch letter No.02986/HRA/Solmara/EIC(3) dtd.26th June/95. Hence no further Comments to offer.

9) That with reference to paragraph 5(III) of the application I beg to state that contention of CAT notice is not agreed. Kendriya Vidyalaya is an autonomous body run by Kendriya Vidhyalaya Sanghathan. Hence no further comments to offer.


10) That with reference to paragraph 5(IV) of the application I beg to state that contention is not agreed to. The deviation from the standing circular is depending on the certificate issued from time to time by District Civil Authority. Hence no comments to offer for violation of Articles of constitution of INDIA.

11) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

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

Col. D.J. Thosre, Commander Works Engineers, Tezpur, 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 30 th day of December, 1996. at Tezpur.


-DEPONENT- C.L.
(D J Thosre)
Col
Commander Works Engineers

(C O P Y)

CONFIDENTIAL

Tele : 3011309

Registered

Army Headquarters
Engineer-in-Chief's Quarters
Kashmir House
DHO PO New Delhi-110001

07264/HRA/Solmara/ELC(3)

Chief Engineer
Eastern Command
Calcutta - 21

IRREGULAR PAYMENT OF HRA MADE TO MFG EMP
OF TEZPUR FROM MAY 87 TO JUL , 88

1. A case for regularisation of irregular payment made to MFG employees of GE (AF)/CWE Solmara at Tezpur from May 87 to Jul 88 was taken up with Min of Def, but Min have not agreed to condone the irregularity. Min of Def has further directed as follows:-

(a) Initiate action to recover the irregular payment made so far in the above organisations from May 87 to Jul 88.

(b) Fix responsibility on the officer concerned in commission of above irregularities and suitable action be also initiated against defaulter.

2. In view of above, you are requested to take action to recover the irregular payment made and also order an enquiry to pin points the responsibility.

3. Please acknowledge receipt and submit findings of the enquiry alongwith your recommendation within 4 months of the receipt of this letter.

Sd/-x x x x x x x x
(RS Kanwar)
SE
Offg Dir ELC
for E-in-C

Attended
AK Choudhary
Addl. Central Govt.
Standing Council

CONFIDENTIAL

6

(21) Annexure B

Amended 1.11.94

HS.02986/HRA/SOLMARA/FIC(3)518/D(Civ-1)
Government of India
Ministry of Defence
New Delhi, the 16th March 1994.

To

The Chief of the Army Staff.

Subject:- GRANT OF HOUSE RENT ALLOWANCE TO MES CIVILIAN
EMPLOYEES SERVING UNDER GE/CVE TEZPUR LOCATED
IN SOLMARA.

Sir,

The undersigned is directed to say that the Office of GE and CVE Tezpur is located in SOLMARA and fulfils the conditions prescribed in para 3(b)(iii) of this Ministry's Memorandum dated 4.3.66 as amended from time to time. President is accordingly pleased to decide that the Defence Civilian Employees having their place of duty in SOLMARA are eligible to draw house rent allowance at the same rate as is appropriate to those posted within the classified town of Tezpur.

2. These orders take effect from 01 April 1993 and will be valid upto (a) 31.3.96 or (b) till the conditions prescribed in para (b) (iii) of OM dated 4.3.66 referred to above continue to be fulfilled in respect of Tezpur or (c) until issue of any further orders in this matter by the Ministry of Finance (Deptt. of Expenditure) whichever is earlier.

3. This issues with the concurrence of Ministry of Defence (Finance) vide their U.O.No.13011/23/PB/206/94 dated 15.3.1994 and in consultation with Ministry of Finance, Deptt. of Expenditure vide their U.O. No.2(17)/EI(B), dt. 8.3.1994.

Yours faithfully,

C.A. Subramanian
(C.A. Subramanian)

Under Secretary to the Government of India

Copy to:-

The CGDA, CDA Basistha, Guwahati -(signed in ink)
Min. of Def./Fin.(AG), Air HQrs/PP&R-2 - 10 copies
AG/Org 4(Civ)(d) - 10 copies
E-in-C's Br./FIC(3) - 10 copies
DFA(AG) with 3 spare copies.

Attended
AK Chandra
22.03.94
22.03.94

7

22

Annexure C

Copy of E-in-C's Br letter No 02986/HRA/Solmara/EIC(3) dt
17 Jun 92 addsd to Hq CEEC Calcutta.

GRANT OF HRA TO MES CIVILIAN EMPLOYEES UNDER
GE TEZPUR(SOLMARA)

Reference your letter No 131706/2/1330/Engrs/EIC(3) dt
19 May 92.

2 It is noted from the above letter that the information was
called for vide this Hq letter No 02986/HRA/Solmara/EIC(3) dated
05 Sep 91 whereas the reply has been furnished under your above letter
after a lapse of 9 months. Please submit delay report indicating the
reasons for delay.

3 In addition to above, please forward the copy of orders issued
for grant of HRA in respect of Kendriya Vidyalaya and DRLT. If possible
it may also be ascertained whether Min of Fin was consulted before
Kendriya Vidyalaya was authorised payment of HRA at 'C' class city
rates.

4 Please ensure that your reply/documents are sent by 10 Jul 92
positively. The enclosures are returned herewith for re-submission
alongwith above informations.

Sd/x x (BH Kelgar)
SAO
502/EIC

Attended
Hq C
Addl. Central Govt.
Engrs & Commal.

Serially: 6553

Garrison Engineer Bazar
201 Lokargach
D-1 Bunit, LF (Assam)

1613/ 4513 /E17

Jul '92

D H L T TEZPUR
KONDHIYA KIDYALAYA
No. 1 TEZPUR

GRANT OF LRA TO MES CIVILIAN EMPLOYEES
UNDER CE TEZPUR (SOLMARA)

1. A copy of E-in-C's Br. Army HQ, New Delhi Letter No. 22906/LRA/Solmara/B4C(3) dt 17.6.92 is forwarded herewith. In this connection your kind attention is invited to refer E-in-C's letter no cited above.
2. May a copy of Orders issued for grant of LRA in respect of your formation please be forwarded to this office as required by E-in-C's Br. The basis regarding grant of LRA to MES Civilian Employees are under correspondence with E-in-C's Branch for consideration.
3. In addition to above, please also confirm whether Min of Fin was consulted before Kondhiya Kidyalaya was authorised payment of LRA at 'C' Class City rate.
4. An early action in this regard is requested.

(A K SAHA)
JE (P.S.)

For GARRISON ENGINEER

Encls :- As above.

Copy to :-

1) CE SZ Shillong-11

11) CME Tezpur

With reference to above
and CE SZ Letter No. 74002/11
22906/LRA/B4C(3) dt 17.6.92.
Policy report and other information will be submitted to you on receipt of information from DHE & Kondhiya Kidyalaya.

Collected
H. K. Chatterjee
20.7.92

134
29/7

9 24
Annexure E
15-10
: Mily 6587

Commander Nirman Engineer
Commander Works Engineer
Post Box No 31
P.O. Tezpur (Assam)

1350/ 1379 /EIC(3)

19 Oct '66

The Director
Defence Research
Laboratory, Tezpur
(Solanara)

GRANT OF HRA TO NES CIVILIAN EMPLOYEES.
UNDER GE TEZPUR (SOLANARA)

Dear Sir, .

1. It is learnt through some reliable sources that the employees of your Department are getting the HRA for 'C' Class city rates whereas the employees of this Department are not getting the same, hence the Union have threatened to go on Dharna if the same is not given to them.

2. You are therefore requested to give us a copy of the letter in which your staff have been granted the HRA at 'C' class city rates. I am hereby directing Shri J. Sanyal, Adm officer of this establishment to collect the same from your Headquarters.

3. Your kind co-operation in the matter is solicited.

Thanking you,

Yours faithfully,

(Sd/-) (Sd/-)
SE (30)
Commander Works Engineer

Attended
P.H. Chandra
Date
To
From
19/10

Plenary
20.10