

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 257/96

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SECTION OFFICER (Judl.)

kalib  
31.1.18

GA No. 257196

G. C. Mandal & Ors. . . . . Applicant(s)  
-Versus-

Union. D. India. & Ors. . . . . Respondent(s)

Mr. A. Ahmed . . . . . Advocates for Applicant(s)

Mr. S. Ali. N. Chell. . . . . Advocates for Respondent

Office Notes 8 Date Courts' Orders

This application is in  
form and within time  
C. F. of Rs. 50/-  
deposited vide  
IPO No 311 494  
Dated 30.10.96

*[Signature]*  
Dy. Registrar.  
11/11/96

12.11.96

Learned counsel Mr A. Ahme  
for the applicants. Mr S. Ali, learne  
Sr. C.G.S.C. for the respondents.

List for consideration of admission  
on 18.11.96.

*[Signature]*  
Member

nkm

*[Signature]*

12/11

18.11.96

Mr. A. Ahmed for the applicants.  
None for the respondents.

List for consideration of  
admission on 17.12.1996 as requested by  
Mr. Ahmed.

*[Signature]*  
Member

trd

*[Signature]*

18/11

30-4-97

Learned Sr.C.G.S.C. Mr.S.Ali

is present for the respondents.  
Learned counsel Mr.A.Ahmed for th  
applicant submits that he may be  
allowed to withdraw the applicati  
Prayer is allowed. Application is  
dismissed on withdrawal. No order  
as to costs.

*[Signature]*  
Member

lm

9.5.97

Copy of the Lr. has been sent  
to the direction for issuing  
in force to the L/Advocate  
of the parties.

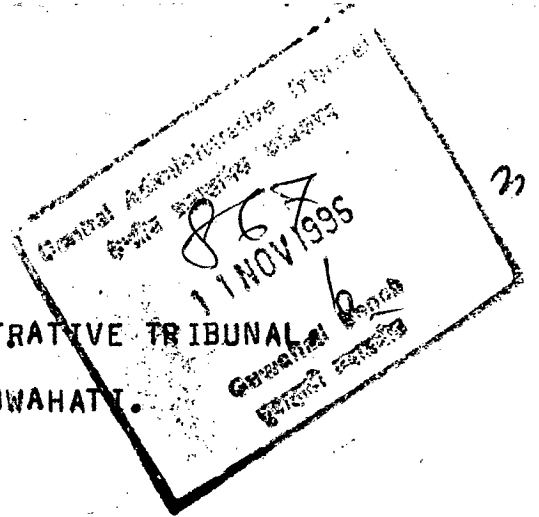
*[Signature]*

Issued vide D.No. 1677 on  
16.7.8 of 12.5.97.

*[Signature]*

*[Signature]*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.



O.A. NO. 257 OF 1996.

Sri G.C. Mandal & Ors. ... Applicant

-Versus-

Union of India & Ors. ... Respondents.

I N D E X

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For use in Tribunal's Office:

Date of filing : 11-11-96

Registration No. 257/96

*[Signature]*  
REGISTRAR 11/11/96

Received  
C-166  
S.C. 55C  
8/11/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :  
GUWAHATI BENCH:GUWAHATI.

Filed by  
Adv. R. S. (Adv. AITTED)  
Advocate 11.11.96

O. A. 257 OF 1996.

(An application under Section 19 of the Central Administrative Tribunal Act, 1985.

O. A. No. OF 1996.

BETWEEN

- |                                      |              |
|--------------------------------------|--------------|
| 1. 311640 Sri G.C. Mandal            | Peon         |
| 2. 243458 Sri P.P. Choudhury         | L.D.C.       |
| 3. 220333 Sri Mohan Saikia           | L.D.C.       |
| 4. 232243 Sri M.L. Dey               | Duftry       |
| 5. 237947 Sri N. Limbu               | Peon         |
| 6. 243486 Sri A. Pham                | Peon         |
| 7. 243725 Sri Kanu Debnath           | Peon         |
| 8. 220112 Sri Rajendra Prasad        | Chawkidar    |
| 9. 243495 Sri Kankak Bou.            | S/Wala       |
| 10. 243686 Sri Hari Zealing          | S/wala       |
| 11. 243771 Sri R.S. Prem             | S/wala       |
| 12. 243662 Smt. Sumitra Doom         | S/Wala       |
| 13. MES/210151 Debi Ram Khati        | B/S Grade II |
| 14. 243485 Sri K.P. Kewat            | Peon         |
| 15. 220150 Sri S. Jabbar Office      | Chowkidar    |
| 16. 220105 Sri P. Khalkhu            | "            |
| 17. 220073 Sri Babulal Doom          | S/wala       |
| 18. 243661 Sri Shivrath Doom         | S/Wala       |
| 19. 243500 Sri Ramdin Balmiki        | "            |
| 20. 220049 Sri Banishilal Keiri      | "            |
| 21. 220154 Sri Mauji Rajbar          | Chowkidar    |
| 22. 221488 Sri Damari Ram            | "            |
| 23. 220122 Sri Kul Bahadur           | "            |
| 243520<br>23(A) MES/shri K. Abraham, |              |

(Contd.)

Q. 257

243797

23(B) MES/Shri Subhakar Chowdhury. Chowkidar

243494

23(C) MES/Shri Ramesh doom. S/wala

24.	220198	Sri Khem Bahadur	Chowkidar
25.	263650	Sri C. Sukumar	V/man
26.	220153	Sri Ramananda Koiri	Chowkidar
27.	220158	Sri Baljit Rajbhar	"
28.	243793	Sri G.N. Rao	Safaiwala
29.	243578	Sri Biren Singh	M/Reader
30.	220055	Sri Rashid Hazan	Chowkidar
31.	220195	Sri American Prasad	"
32.	228925	Sri I.P. & Joshi	MTD
33.	243742	Sri Sonat Kumar Mondal	Elect (SK)
34.	<u>238353</u>	Sri A.R.S. Rana	M.T.D. (II)
35.	<u>220074</u>	Sri Chowthi Bhagat	Chowkidar
36.	<u>220104</u>	Sri Giridhar Yadav	Chowkidar
37.	220116	Sri Mahabir Das	Chowkidar
38.	<u>220109</u>	Sri Ram Girish Hurijan	Chowkidar
39.	<u>220056</u>	Sri Paduman Singh	Chowkidar
40	<u>220102</u>	Sri Besh Bahadur	Chowkidar

... Applicants.

Now all are serving in the office of the G.E. 868  
EWS ,C/o 99 APO.

AND

Union of India & others.

... Respondents.

1. DETAILS OF THE APPLICANTS:

- i) Name of the applicant- 311640 G.C. Mandal  
and <sup>42</sup>39 others.
- ii) Designation & Office - Peon  
in which employed Office of the G.E. 868  
EWS ,C/o 99 APO.

(Contd.)

*Chowkidar*

2. PARTICULARS OF THE RESPONDENTS:

1) Name and/or Designation: 1. Union of India  
of the Respondents. Represented by the  
the Secretary Defence,  
Govt. of India, New  
Delhi.

2.x

2) The Garrison Engineer  
868 EWS C/o 99 APD

3) Area Accounts Officer  
Ministry of Defence,  
Shillong.

4) A. A. O.  
G.E. 868 EWS  
C/o 99 APD.

5) C.D.A.  
Narengi, Guwahati-7.

3. PARTICULARS OF THE ORDER  
AGAINST WHICH APPLICATION  
IS MADE :

i) The application is made against the order Pay/1/  
CAT-Case ,Shillong dated 18-9-96 issued by the  
A.A. O. , Shillong.

4. JURISDICTION OF THE TRIBUNAL:

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

5. LIMITATION:

The applicant further declares that the appli-  
cation is within the limitation prescribed in Section  
21 of the Administrative Tribunal Act.

(Contd.)

6. FACTS OF THE CASE:

The facts of the case are given below :

6.1 That your humble applicants are citizens of India by birth and as such they are all entitled to get rights and privileges guaranteed by the Constitution of India. All the applicants belong to Group B, C & D and they are serving in different capacities as Defence Civilian employees in Nagaland since a long time. They are serving as Civilian Peon, LDC, Chowkidar, Safaiwala etc.

6.2 That all the applicants got common grievances, common <sup>cause</sup> ~~course~~ of action and the nature of relief prayed for each is also same and similar and hence, having regards to the facts and circumstances they intend to ~~appear~~ <sup>prepare</sup> this instant application jointly and accordingly they crave leave of the Hon'ble Tribunal under the Rule 4(5)(a) of the Hon'ble Tribunal (Procedure) Rules 1987. They also crave to the Hon'ble Tribunal and pray that they may be allowed to file a joint application and pursue the instant application for redressal of their common grievances.

6.3 That your applicants filed the O.A. No. 124/95, 125/95, 217/95 and 218/95 by this Hon'ble Tribunal praying for payment of S.D.A., H.R.A., S.C.(R.L) and F.S.C. of which the applicants are legally entitled.

6.4 That the Hon'ble Tribunal after hearing on both sides was pleased to pass a Judgment & Order dated 24th August, 1995 and 18th October, 1995 allowing the above-mentioned O.A. directing the Respon-

*Glennel*

Respondents to pay following relief to the applicant:- i) S.D.A., ii) H.R.A., iii) S.C. (R.L) & iv) F.S.C. .

6.5 That it may be worth to mention here that, while granting H.R.A. the Hon'ble Tribunal directed the Respondents to follow the decision of this Hon'ble Tribunal in O.A. No. 48/91 dated 22-8-95 and held that under O.M. dtd. 23-9-86 the applicants are entitled to draw H.R.A. at the rate of prescribed B Class City with effect from 1-10-86 whether on percentage basis or on flat rate or slab basis till 28-2-93 and thereafter ,to be regularised in accordance with O.M. No. 2 (2)93 -E-2(B) dated 14-5-93 with effect from 1-3-91 and continued to be paid .

Annexure- 1 is the Photo copy of the Judgment & Order in O.A. Nos. 124/95 and 125/95 passed by this Hon'ble Tribunal.

Annexure- 2 is the photocopy of the Judgment & order in O.A. No. 217/95 and 218/95 passed by this Hon'ble Tribunal.

- 6.6 That the Respondents after receiving the judgment & order of this Hon'ble Tribunal paid House Rent allowance at the rate of B Class City to the applicants as the Nagaland State has be declared as B Class city by the 4th Central Pay Commission recommending with effect from October, 1996.

(Contd.)



6.7 That, inspite of clear cut decision by the 4th Central Pay Commission and this Hon'ble Tribunal the Respondents No.3 , A.A.O. ,Ministry of Defence, Shillong, directed the Respondent Nos. 2 & 4 to recover over payment of H.R.A. from the applicants in CAT Case No. O.A. 124/95 , 125/95, 217/95 and 218/95 and in these cases the applicants are paid H.R.A. at the rate of B Class City.

Annexure-3 is the Photocopy of A.A.O's, Shillong's letter to the G.E. 868 EWS C/o 99 APD for recovery of over payment of HRA.

6.8 That your applicants beg to state that, Nagaland State is a B Class City . The 4th Pay Commission also recommended that Nagaland as a whole is a B Class City and the House rent should be paid at the rate of B Class Cities and the Hon'ble Tribunal Supreme Court of India in Civil Appeal No. 2705/91 also declared that Nagaland as B Class City and persons serving there are entitle to get HRA and the Rate of B Class Cities.

Annexure- 4 is the photocopy of the Hon'ble Supreme Court's Judgment & Order in Civil Appeal No. 2705/91 .

6.9 That your applicants further beg to state that this Hon'ble Tribunal in O.A. No. 30/93 clearly mentioned that the Central Government Civilian Employees those who are posted in Nagaland are entitled

(Contd.)

to get HRA at the rate of B Class City, as applicable.

Annexure- 5 is the photocopy of the Judgment & order dated 24-9-93 passed in O.A. No. 30/93 .

6.10 That your applicants beg to state that they fulfill all the terms and conditions of HRA as admissible to the Central Govt. Employees serving in Nagaland . So, they are entitle to get benefit of HRA at the rate of B Class Cities.

6x11

7. GROUND AND LEGAL PROVISION:

i) For that the applicants being Civilian employees serving in Nagaland being attach with the Armed Force are entitled to get financial benefits above mentioned under the various schemes, various letters and various circulars , etc. and also by various judgment s and Orders passed by this Hon'ble Z Tribunal and also by the Hon'ble Supreme Court of India.

ii) For that there is no justification in denying the ~~stay order~~ said benefits granted to the applicants and the denial has resulted in violation of the Articles 14 & 16 of the Consitution of India. As ~~many~~ other similarly situated employee have been granted the said benefit.

(Contd.)

*Chander*

iii) For that the applicants having fulfilled all the criteria laid down in the aforesaid Memorandum towards granting the H.R.A. the Respondents can not deny the same to the applicants without any jurisdiction.

iv) For that it has already been conclusively held by this Hon'ble Tribunal in other cases that the applicants are entitled to the said benefits and thus the Respondents ought to have the said benefit to approach in the court of law.

v) For that it is settled proposition of law that when the same principle have been laid down in given cases, all other personnel who are similarly situated should be granted the said benefits without requiring them to approach in the court of law.

✓vi) For that, the applicants have been denied the said benefits without any reasonable excuse and without any offending any principle of being hard. There is a violation of the principle of natural justice in denial of the benefits to the applicants, and accordingly proper reliefs are required to be granted to the applicant.

vii) For that the action of the Respondents are illegal, arbitrary and not sustainable in law.

viii) For that, at any rate, the impugned order at Annexure- 3 is liable to be quashed .

8. RELIEFS SOUGHT FOR:

i) Under the facts and circumstances narrated above, it is prayed that the Hon'ble Tribunal may be pleased to direct the Respondents particularly the Respondent No.3, that is, A.A. O., Ministry of Defence, Shillong to not to recover the H.R.A. payments given to the applicants vide CAT Case No.O.A.-124/95,125/95,317/95 & 218/95 of ~~Guwahati~~ Guwahati Bench. and to pay the H.R.A. to the applicants at the rate of B-Class Cities.

9) INTERIM ORDER PRAYED FOR :

That the applicant beg to state that till disposal of this petition the Respondents may be directed to not to recover the H.R.A. amount which was paid by the Respondents.

10) DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have availed of all the remedies available to them under Service Rules etc.

11) MATTERS NOT PENDING WITH ANY OTHER COURTS ETC:

That the applicants further declare that the matter regarding which application has been filed is not pending before any other court of law and any authority to any other Bench of the Tribunal.

12) PARTICULARS OF THE BANK DRAFT/I.P.O.

IN APPLICATION FEE:

i) No. of I.P.O : 09 311494

iii) Name of Issuing Post Office: Guwahati

iii) Date of issue of I.P.O.: 30.10.96

iv) P.O. at which payable: Guwahati

13)

DETAILS OF INDEX:

An index in duplicate containing the details of the documents is enclosed.

LIST OF ENCLOSURE : As per Index.

... Verification.

*Enclosed*

VERIFICATION

I, Sri G.C. Mandal, Ticket No. 311640 ,Peon  
the Applicant No. 1 , serving in the Office of the  
G.E. 868 E.W.S., C/o 99 A.P.O. do hereby verify  
that the statements contained from ~~para~~ paragraphs  
1 to 13 of the application are true to my  
knowledge, belief and Information & I have not  
suppressed any material facts and I have been  
authorised to verify this application ~~on~~ on behalf  
of the other applicants.

And I sign this verification today on 11th  
day of October, 1996 at Guwahati .

*G. C. Mandal*  
(G. C. Mandal)  
Declarant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.124 of 1995

With

Original Application No.125 of 1995

Date of decision: This the 24th day of August 1995  
( AT ROHAMA )

The Hon'ble Justice Shri M.G. Chaudhary, Vice-Chief Justice

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

O.A.No.124/95

Shri Kishore Singh and 116 others

All are serving in the Office of the Garrison Engineer,  
866 EWS C/o 99 APO.

.....Applicants

- versus -

1. Union of India represented by  
The Secretary, Defence,  
Government of India, New Delhi.

2. The Garrison Engineer,  
866 EWS C/o 99 APO.

3. The Garrison Engineer,  
869 EWS, C/o 99 APO.

.....Respondents

O.A.No.125/95

Shri N. Limbu and 14 others

All are serving in the Office of the Garrison Engineer,  
868 EWS C/o 99 APO.

.....Applicants

- versus -

1. Union of India represented by  
The Secretary, Defence,  
Government of India, New Delhi.

2. The Garrison Engineer,  
868 EWS, C/o 99 APO.

.....Respondents

For the applicants in both the cases : By Advocate Shri A. Ahmed

For the respondents in both the cases : By Advocate Shri S. Ali, Sr. C.G.S.C.



Attested  
Shri S. Ali  
Advocate

ORDER

CHAUDHARI, J. V.C.

Mr A. Ahmed for the applicants.

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

Both these cases involve same question and therefore are being disposed of by this common order.

Facts of O.A.No.124 of 1995:

The applicants belong to Group "C" serving in the Defence Department as civilian employees. The application is restricted to applicants at serial No. 1 to 117. These applicants are from inside North Eastern Region and are serving in different capacities as Central Government employees in Nagaland under GE 868 EWS 99 APO. Their grievance is that they are being denied the payment of:

- I) Special (Duty) Allowance (SDA) payable under Memo No.20014/3/83-E-IV of the Government of India, Ministry of Defence dated 14.12.1983 read with O.M.No.4(19)/83/D, Civil-I dated 11.1.1984
- II) House Rent Allowance (HRA) as per the circular No.11013/2/86-E-II(B) dated 23.9.1986 Issued by the Government of India, Ministry of Finance
- III) Special Compensatory (Remote Locality) Allowance SCA(RL) under the Ministry of Defence letters No.16037/E/A2 HQ 3 Corps (A) C/o 99 APO and No.D/37269/AG/PS3(u)/165/D/(Pay)/Service dated 31.1.1995
- IV) Field Service Concession (FSC) vide letter No.16729/GG4 (civ)(d) dated 25.4.1994 of Army Headquarter, New Delhi, although they are entitled to get these concessions.

2. Although no written statement has been filed, Mr S. Ali, Sr. C.G.S.C., fairly states that we may decide the matter.



*[Handwritten signature]*



In the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

Facts of O.A.No.125 of 1995:

3. The applicant Nos.1 to 15 (other applicants already deleted) who belong to Group "A", "B", "C" and "D" employed in the Defence Department as civilian employees and posted in Nagaland make a grievance that the respondents are denying them the benefit of SDA, HRA, SCA(RL) and FSC although they are entitled to get these concessions.

4. The respondents have not filed any written statement. However, Mr S. All, learned Sr. C.G.S.C., fairly states that we may decide the matter in the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

REASONS (common to both the cases) :

5. The applicants place reliance upon the O.M. dated 14.12.1983 which provides that Central Government civilian employees who have All India Transfer liability will be granted SDA at the rate prescribed thereunder per month on posting to any station in the North Eastern Region. Likewise, the letter of Ministry of Defence dated 31.1.1995 provides that the Defence Civilian Employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of SCA(RL) together with other allowances as may be admissible. The O.M. dated 23.9.1986 issued by the Ministry of Finance, (Department of Expenditure) provides that on the recommendation of the 4th Pay Commission it has been decided that the Central Government employees shall be entitled to HRA, on a slab basis related to their pay and separately prescribed for "A", "B-1" and "B-2", "C" class and "Unclassified" cities with effect

from.....



*Arrested*  
*Adhocate*

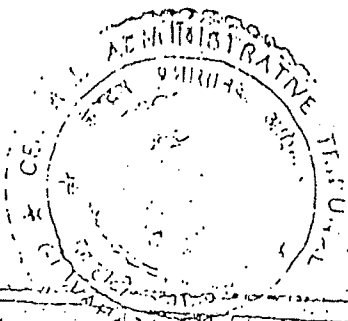
- 17 -

from 1.10.1986. It is further provided that HRA at the rates prescribed shall be paid to all employees (other than those provided with Government home/hired accommodation) without requiring them to produce rent receipts, but on compliance with the prescribed procedure thereunder. It also provides that where HRA at 15% has been allowed under special orders the same shall be given as admissible in "A", "B-1" and "B-2" class cities and it shall be admissible at the rates in "C" class cities in other areas. The memorandum issued by the Army Headquarter - Org 4(civ)(d) dated 25.4.1994 bearing No.16729/GG4(Civ)(d) on the subject of FSC to civilians paid from Defence Service Estimates including civilians employed in lieu of combatants and NCSE (both posted and locally recruited) provides that it is proposed to extend the same concessions to Defence civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas and the same shall be paid at the rates prescribed under the said memorandum. It has, however, been provided that SCA such as bad climate allowance etc. shall not be in addition to these allowances.

6. The applicants have based their respective claims on these memorandums.

7. It appears that the applicants in both the cases had filed a Civil Suit in the court of DC(Judicial), Dimapur, Nagaland, being Civil Suit No.255/89 making the same claims. The civil court by judgment and decree dated 19.12.1994 has allowed the claims and directed the respondents to make the payment accordingly. The civil court relied upon the decision of this Tribunal in O.A.Nos.48, 49 and 50 of 1989 of the Central Administrative Tribunal, Guwahati Bench. The decree has not been complied with, but the applicants have now stated in the applications that they would not proceed with the execution of the decree as they have now realised that they had obtained the decree from the court which lacked inherent jurisdiction.....

*Full*



*Attested  
[Signature]  
[Signature]*

jurisdiction to entertain and try the suit in view of the bar of jurisdiction arising under the provisions of the Administrative Tribunals Act and, therefore, they have approached this Tribunal for relief by these applications. Since the applicants were agitating the claim in respect of SDA and HRA in a wrong forum it is just and proper to give them the benefit of exclusion of the period of pendency of the civil suit for the purpose of holding the said claims within limitation in these applications. The relief sought in respect of the other two claims is within jurisdiction.

8. The question of entitlement for all these claims in respect of Defence civilian employees have<sup>been</sup> exhaustively examined by us in the decision in the case of S.C. Omar, Assistant Executive Engineer, -vs- Garrison Engineer and another (O.A.No.174 of 1993) reported in SLJ 1995(1) CAT (Guwahati Bench) <sup>p.74</sup>. We have held in that case that SDA and SCA(RL) are payable to civilians with All India transfer liability posted in Nagaland even if they get Field Service Concessions. We have not accepted the plea that admissibility of Field Service Concession deprives them of these benefits. In view of this conclusion since facts are identical and as we had also referred to the earlier decisions in O.A.No.48/89 and O.A.No.49/89 dated 29.3.1994 in support, we are satisfied that the relief claimed by the applicants in the instant applications relating to SDA and SCA(RL) must be allowed. We, therefore, declare that the applicants in the respective applications are entitled to be paid SDA with effect from 1.12.1988 or from the actual date of posting

as.....



Attested  
Advocate

-19-

as the case may be. We further declare that the applicants in the respective applications are entitled to be paid SCA(RL) also, with effect from 1.10.1986. For specifying these dates in respect of these two reliefs we rely upon O.M.No.20014/16/86/E-IV/E-II(B) dated 1.12.1988. This is consistent with the decision in S.C. Omar's case (Supra). It is, however, made clear that this applies only to such of the applicants who are appointed outside N.E. Region, but are posted in N.E. Region on tenure basis.

9. Consistently with the view we have taken in Omar's case on the nature of FSC and with the view taken that SDA and SCA(RL) are payable independently of FSC we hold that on the subject the applicants in the respective applications are entitled to draw the same as provided in the letter of the Government of India No.37269/AG/PS 3(a)/D(Pay & Services) dated 13.1.1994 with effect from 1.4.1993 subject to fulfilment of other conditions prescribed therein.

10. Lastly, in so far as the claim for HRA is concerned we follow our decision in O.A.No.48/91 dated 22.8.1995 and hold that under the O.M. dated 23.9.1986 the applicants are entitled to draw the HRA prescribed for B class cities with effect from 1.10.1986 at the rates prescribed from time to time since 1.10.1986 whether on percentage basis or flat rate or slab basis till 28.2.1993 and thereafter to be regulated in accordance with the O.M.No.2(2)93-E-2(B) dated 14.5.1993 with effect from 1.3.1991 and continued to be paid.

11. For the purpose of the aforesaid order it is made clear that as now held by the Hon'ble Supreme Court the benefit of SDA is admissible only to those employees who are appointed outside the North Eastern Region and are posted in the North Eastern Region. It will be open



lull

to the respondents to ascertain the case of each applicant for that purpose if necessary. Further it is made clear that this order has been passed on the footing that all the applicants in the two cases are posted in Nagaland.

12. For the aforesaid reasons following order is passed:

(A) O.A.No.124/95:

i) It is declared that SDA is payable from 1.12.1988.

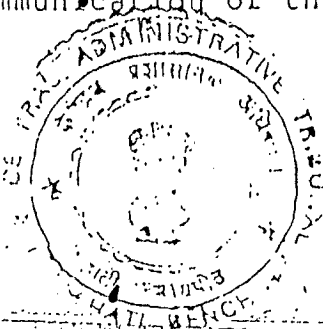
ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.



*huc*

*Attested  
Advocate*

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below.

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

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

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

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



*Alister*  
*[Signature]*  
*Advocate*

(B) O.A.No.125/95:

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986.

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date

and.....



*Attested*  
*[Signature]*  
*Achorate*

-23-

and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

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

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

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



Sd/- CHAIRMAN  
Sd/- MEMBER (A)

C.T.C.

Certified to be true copy

प्रमाणित प्रतिलिपि

COUNT OFFICER

Central Administrative Tribunal  
Government of India

AC B/P

23/9/95



-24-  
Annexure - 2

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.217 of 1995

With

Original Application No.218 of 1995.

Date of Decision : This the 18th Day of October, 1995.

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

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

O.A.No.217/95

391640 Shri G.C. Mondal & 23 others.

All are serving in the office of the  
Garrison Engineer, 868 EWS C/o 99 APO.

... Applicants

- Versus -

1. Union of India represented by  
the Secretary, Defence,  
Govt. of India, New Delhi.

2. The Garrison Engineer,  
868, EWS, C/o 99 APO.

3. The Garrison Engineer,  
869 EWS, C/O 99 APO.

... Respondents.

O.A. No.218/95

238016 Shri K.P. Pillai & 225 others.

All are serving in the office of the  
Garrison Engineer, 868 EWS C/O 99 APO.

... Applicants

- Versus -

1. Union of India represented by the  
Secretary Defence, Govt. of India,  
New Delhi,

2. The Garrison Engineer,  
868 EWS, C/O 99 APO.

3. The Garrison Engineer,  
869 EWS, C/O 99 APO.

... Respondents

For the applicants in both the cases : By Advocate Shri A.  
Ahmed.

For the respondents in both the cases : By Advocate Shri S.  
Ali, Sr.C.G.S.C.

O R D E R

CHAUDHARI J. V.C.

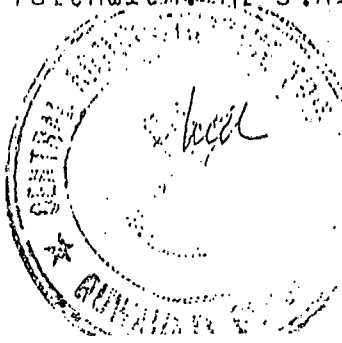
O.A.No.217/95 :

As the question raised is covered by earlier decisions  
the O.A. is admitted. Issue notice to the respondents.

Returnable forthwith. Mr S. Ali, Sr.C.G.S.C. waives notice and

contd. 2...

Attested  
Sd/-  
Advocate



appears for the respondents. Called out for final hearing.

O.A.No.210/95 :

As the question raised is covered by earlier decisions the O.A. is admitted. Issue notice to the respondents.

Returnable forthwith. Mr S.All,Sr.C.G.S.C waives notice and appears for the respondents. Called out for final hearing.

As the claim made in both the above O.As are identical these are disposed of by a common order. The applicants in the respective applications are granted leave to agitate their claim in the single application.

Facts of O.A.No.217/95:

The 24 applicants concerned in O.A.217/95 are civilian employees belonging to Group A, B, C and D and are serving in the Defence Department from respective dates since 1963 onwards. They have stated that they are from outside the North East Region but have been posted as civilian employees in Nagaland in the office of Garrison Engineer, GAD EWS C/O 99 A.P.O. Their grievance is that they are eligible to be paid :

- (i) Special (Duty) Allowance (SDA),
- (ii) House Rent Allowance (HRA) at the rate of 15% on the monthly salary with effect from 1.10.1986;
- (iii) Special Compensatory (Remote Locality) Allowance with effect from 1.4.1993 and
- (iv) Field Service Concession with effect from 1.4.1993

but that these benefits are being wrongfully denied to them by the respondents. They placed reliance upon the earlier decision in O.A.48/91. It also appears that the applicants

had filed Civil Suit No.205/89 praying for the aforesaid

benefits and the suit was decreed. However according to the

applicants the decree is not obeyed by respondents, <sup>on the ground that</sup> it is ~~it is~~ a nullity - a nullity being without jurisdiction.

Attested  
Sd/-  
Advocate



contd. 3....

Facts of O.A.No.218/95 :

The O.A.218/95 has been filed by 226 applicants. They are all civilian employees belonging to Group 'C' serving in the Defence Department from respective dates since 1963. They also claim the benefits of :

- (i) Special (Duty) Allowance,
  - (ii) House Rent Allowance,
  - (iii) Special Compensatory(Remote Locality) Allowance and
  - (iv) Field Service Concession in the same manner
- and on the same grounds as claimed by the applicants in the other O.A.

In support of the claim for Special(Duty) Allowance reliance is placed upon the Defence Ministry O.M. No.4(19)/03/0, Civil-1 dated 11.1.84 and Defence Ministry Memorandum No.20014/3/83-IV. Reliance is placed upon the Circular issued by the Government of India, Ministry of Finance No.11013/2/86-E.11(1) dated 23.9.1986 in support of the claim of HRA at the rate of 15% applicable to B Class cities. The claim for Special Compensatory(Remote Locality) Allowance made for Defence department civilian employees is based upon the letter of Ministry of Defence, Government of India No.B/37269/AG/PS3(a)/165/D(Pay)/Services dated 31.1.95 with effect from 1.4.93. Lastly, the Field Service Concessions are claimed on the basis of letter No.16729/ORG4 (civ.) (d) dated 25.4.94 issued by the Army Headquarter in pursuance of letter of Government of India dated 13.1.94.

The Hon'ble Supreme Court has now held that employees having all India transfer liability who were appointed outside North East Region but have been posted in the said Region are entitled to the benefit of payment of SDA under

contd. 4...

Attested  
Sd/-  
Advocate



The Memorandum dated 14.12.1983 relied upon by the applicant (See decision of the Hon'ble Supreme Court in Civil Appeal No.834 of 1995, Chief General Manager (Telecom), N.E. Telecom Circle & another vs. Shri Rajendra Ch. Bhattacharjee & others dated 10.1.95.) We have considered this aspect as well as the question of eligibility of House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Field Service Concessions in our order on O.A.124/95 with O.A.125/95 dated 24.8.95. The applicants in those cases were also Defence civilian employees like the applicants serving under the Garrison Engineer and who had been posted in the State of Nagaland. After examining the relevant materials we have held that the applicants are entitled to get all those benefits. The applicants in the instant O.As and the applicant in those cases were also plaintiffs in the same Civil Suit namely 265/93 and they are all identically placed. We are satisfied that for the same reasons as are recorded in the common order on the aforesaid two applications namely O.A. 124/95 and O.A.125/95, similar order may be passed in the instant applications. Although the applicants claimed SOA from November, 1993 we shall allow that claim with effect from 1.12.1988 as was done in the earlier cases. Similarly in so far as the HRA is concerned the relief will not be granted as prayed but as was granted in the earlier cases. Other two reliefs will also be similarly granted as was done in the earlier cases.

For the aforesaid reasons following order is passed:-

(A) O.A.No.217/95 ✓

i) It is declared that SOA is payable from 1.12.1988.

contd. 5...



Attested  
Advocate

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986, as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

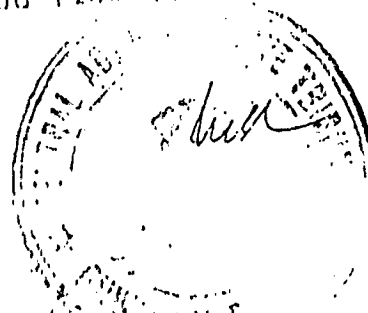
iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of

Attested  
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Achoate



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appointment as the same may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

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

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

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

A copy of the order dated 24.8.95 passed in O.A.No.124/95 and 125/95 shall be made part of record of this O.A.

(B) O.A.No. 218/95:

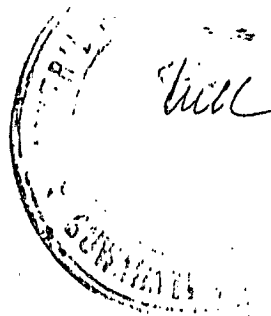
i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants' Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

Attested  
J. L. S.  
Secretary



contd. 7...

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below :

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in D, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

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

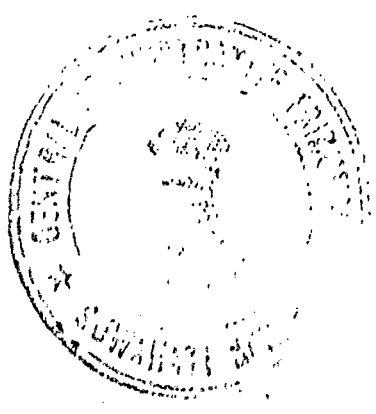
Attested  
Sd/-  
Advocate

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(u) Amount to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

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

A copy of the order dated 24.8.95 passed in O.A. No.124/95 and 125/95 shall be made part of record of this O.A.



Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

TRUE COPY

प्रतिनिधि

*Handwritten signature*  
30/10

Section Officer (J)

मानव संसाधन विभाग (न्यायिक शाखा)  
Central Board of Secondary Education, New Delhi

General Branch G-11-5

प्लॉट नं. 4, म.प.सी.डी., नूतन रास्ता-5

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30/10

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Advocate



1006/45/11/26/9

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Annexure - 3

भारतीय फाउण्डेशन - 2011 (बडा)  
I. A. F. 2-2011 (Large)

संज्ञा  
Memorandum

From AAO सेवा में GE 868 EWS  
To Shelling C/O 99 APO.

सं. Pay/1/CAT-CASE Shelling तारीख 18.9.96.  
No. Station Date

Subject: Over payment of LRA CAT  
Case NO OA 124/95; OA 128/95  
OA 217/95 and OA 218/95  
Guwahati Bench.

Ref: Sy Pay bill bearing vt no  
00/cv/1040 dt 29/6/96; 02/cv/38  
dt 26/6/96; 04/cv/113 dt 22/6/96;  
03/cv/130 dt 29/6/96; 03/cv/130  
dt 18/3/96; 00/cv/182 dt 28/2/96;  
00/cv/180 dt 28/2/96; 00/cv/180  
dt 28/2/96; 00/cv/181 dt 28/2/96;  
04/cv/319 dt 3/2/96; 02/cv/266  
dt 28/1/96; 03/cv/131 dt 18/3/96

It is seen from the Guwahati  
Bench CAT Case Judgement in respect  
of the above Case Nos. That House  
Rent allowance was due for payment  
at the rates stipulated therein from  
10/86 to 28/91, at class B1, B2 rate  
and w.e.f 1/3/91 @ as per  
Classification of Town House Rent  
allowances vide Sy Pay bills referred  
above were claimed @ class  
B2 rate right from 10/86 to 12/95

Attested  
by  
Advocate

AD  
AF  
OT  
TH

E/Pay

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E/Pay to take mg  
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-33-

3. and the same were also admitted by this office inadvertently. The House Rent therefore paid from 1/3/91 onwards upto 12/95 and in some cases upto 3/96 have been treated as overpayment. A copy of the list prepared is attached for your information please. The overpaid HRA will be recovered from Pay Bill of 9/96 onwards. This is for your information please.

The name of the individuals viz Shri A R S Rana, Shri C Sukumar, Shri Ramin, Shri Deb<sup>kom</sup> Khali respectively does not occur in the establishment pay bill of 8/96. Please intimate the pay bill of 8/96 where abouts of the individuals so that recovery will be made from them.

Enclosed: 2 copies of list.

Copy to

(1) AAO GE 868 EWS  
C/O 99A PO — for information and similar action please.

Do  
R.

(2) CPA Narang  
Gurgaon - 71 — for information in the matter please.

got  
Do  
R.

Attested  
Sd/-  
Advocate

Case NO OA NO 125/95 - 34-

6

<u>Name</u>	<u>Period of overpayment</u>	<u>Am't overpayment</u>
1) Shri P.P. Choudhury	1/3/91-31/8/96	Rs 8580/-
2) Shri Mohan Saiti	do	Rs 8580/-
3) Shri M.L. Dey	do	Rs 8580/-
4) Shri N. Lumbi	do	Rs 8580/-
5) Shri A Phom	do	Rs 5280/-
6) Shri Kanu Debnant	do	Rs 5280/-

Case OA NO 124/95

1) Shri Ray Prasad	1/3/91-31/8/96	Rs 8780/-
2) Shri Kireet Ball	do	Rs 5280/-
3) Shri Havi Zedug	1/8/92-8/96	Rs 3760/-
4) Shri R S Prem	1/3/91-8/96	Rs 5280/-
5) Sumilra Doon	6/94-8/96	Rs 2160/-

Case OA 217/95

1) Shri G.C. Mandal	1/3/91-12/95	Rs 7490/-
2) Shri Debi Ram Khuli	do	Rs 13340/-
3) Shri K.P. Kewat	do	Rs 4560/-
4) Shri S. Jabbat	do	Rs 7540/-
5) Shri P. Khokhu	do	Rs 7540/-

Case OA 218/95

1) Shri Babulal Doon	1/3/91-12/95 - Rs 7540/-
	and 8/96 - Rs 1320/-
2) Shri Shiv-nak Doon	6/94-11/95 - Rs 1280/-
3) Shri Ramden Balnaki	1/3/91-12/95 - Rs 4480/-
4) Shri Bansital Kori	do - Rs 7280/-

Attested  
12/9/96  
Advocate

Name	Period of payment	Amount of payment
5) Shri Naugi Rajbhos	1/3/91-10/95	Rs 7280/-
6) Shri Damodar Ram	do	Rs 7280/-
7) Shri Kul Bahadur	do	Rs 7280/-
8) Shri Khembahadur	do	Rs 7280/-
9) Shri C. Sukumar	1/3/91-7/95	Rs 3770/-
10) Shri Ramaswami	1/3/91-10/95	Rs 7280/-
11) Shri Baljit Rajbhos	do	Rs 7280/-
12) Shri G. N. Rao	do	Rs 5980/-
13) Shri Biosen Singh	3/91-10/95	Rs 7280/-
14) Shri Rasheed Nazam	do	Rs 5580/-
15) Shri American Board	9/94-10/95	Rs 1820/-
16) Shri S. P. Joshi	8/91-10/95	Rs 6890/-
17) Shri Sanat Kumar Mondal	3/91-12/95	Rs 7540/-
18) Shri A.R.S. Rana	8/91-7/95	Rs 6240/-
19) Shri Chouti Shastri	3/91-10/95	Rs 7540/-
20) Shri Girdi Choudhary	do	Rs 7540/-
21) Shri Mahabir Das	do	Rs 7540/-
22) Shri Gyanga Bahadur	do	Rs 7540/-
23) Shri Ram Gopal Hazari	do	Rs 7540/-
24) Shri Paduman Singh	do	Rs 7540/-
25) Shri Besh Bahadur	do	Rs 7540/-
26) Shri Nandk Yadav	3/91 to 12/95	Rs 7,540/-
27) Shri K. Abraham	do	Rs 4,640/-
28) Shri Subhakar Choudhary	do	Rs 4,640/-
29) Shri Ram. D. Datta	do	Rs 4,640/-

Accepted  
 [Signature]  
 Secretary

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2705 OF 1991.

Union of India & Ors.

...

Appellants

- Versus -

Shri S.R. 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 judgment 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

Contd....

Attested  
[Signature]  
Advocate

India issued an order 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 NIRA 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.E. No. 2(22)-E. 11(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 purpose 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% per cent in the State of Nagaland. It was increased to 15 per cent in the year 1973. From 1979 the House Rent Allowance was again reduced to 7½% per cent. 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 14th Central Pay Commission recommendations which were enforced with effect from October 1, 1986.

Contd...

Attested  
Sd/-  
Achara

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 H.M.P.A. (Naga Hills and Tuensang Area) and the present Nagaland was considered as a specially difficult area for rented accommodation. For the purpose of H.M.P.A. Government classified the cities and towns on the basis of their population and paid higher allowance in more popular cities because the rent structure is higher in such cities. Since Nagaland, was 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 posted there either got rent free quarters 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 houses at reasonable rate may be available. If that was the situation, a downward revision of HRA or even its complete discontinuance could have been justified. In this case, however, the respondents case solely rests

Contd....P/28

Attested  
Advocate

on what is stated in Annexure A-1 which is reproduced in full in the preceding 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-A1 is arbitrary and cannot be 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 the 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 ~~any~~ 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 judgment 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 Allowance to the respondents from May 10, 1989. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendations of the IV th Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal is therefore, dismissed. No costs.

Sd/-

( Kuldeep Singh ) J

Sd/-

( H.N. Kaulwal ) J.

New Delhi

February 10, 1991.

*Attested  
by  
Schwartz.*



O.A. 30/93 - 40 -

Annexure - 5

Sri N.C. Das & Ors.

... Petitioners

-VS-

Union of India & Ors.

... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,  
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Petitioners ...

Mr. H. Rahman,  
Mr. M. Baruah.

For the Respondents ...

Mr. S. Ali, Sr. CGSC.

24.9.93

Learned counsel for the parties are present. The case has become ready for hearing. Learned counsel Mr H. Rahman for the applicants submits that the reliefs sought for by the applicants are covered by the judgment in O.A. No.42(G)/89, G.C.No.144/88, G.C.No.154 - 156/88 and Civil Appeal No.2705/91 of the Supreme Court upholding the judgment in O.A.No.42(G)/89. Also heard learned Sr. C.G.S.C. Mr S. Ali.

All the sixtythree(63) applicants of this case are employees of Canteen Stores Department under the Ministry of Defence, Government of India, posted at Dimapur, Nagaland. They are claiming House Rent Allowance (HRA) at the rate of 15% for the period from January 1974 to December 1979, and additional HRA at the rate of 10% of their pay and at rates subsequently revised from time to time. The claim of these applicants are similar to the claim made by the applicants of the cases referred to above where reliefs for HRA had been granted. The applicants being similarly situated and posted in Nagaland are entitled HRA applicable to Central Government



Attested  
Sd/-  
Advocate

24.9.93

41-

Employees posted in 'B' Class Cities. The findings of the above referred judgments are squarely applicable to the instant case. The applicants are entitled to similar reliefs for the period they worked at Dimapur, Nagaland.

This application is allowed. The respondents are directed to pay HRA to the applicants with effect from January 1974 at the rates as per circulars/orders from time to time. The respondents are directed to implement the directions of this order in respect of the arrear HRA within a period of 45(fortyfive) days from the date of receipt of copy of this order.

No order as to costs.

Inform all concerned with copy of this order for implementation.



Sd/- S. Haque  
VICE CHAIRMAN

Sd/- G.L. Sanglying  
MEMBER (ADMN)

Registered with A/D

Memo No. : 3178

Date : 11/10/93

Copy for information & necessary action to :

- (1) Shri N.C. Das, S/o. Late S. Das, President, Canteen and Stores Deptt. Employees Union, Dimapur Branch, Nagaland. (AND 62 OTHERS).
- (2) The Secretary, Ministry of Defence, Govt. of India, New Delhi.
- (3) The General Manager, Canteen & Stores Department (Adalphi), 119 M.K. Road, Bombay.
- (4) The Deputy General Manager, Personnel, Canteen & Stores Department (Adalphi), 119 M.K. Road, Bombay.
- (5) The Regional Manager, Canteen & Stores Department, Naranqi, Guwahati, P.O. Satgaon, Assam.
- (6) The Manager, Canteen & Stores Department, Dimapur, Nagaland.
- (7) Mr. N. Baruah, Advocate, Gauhati High Court, Guwahati.
- (8) Mr. S. Ali, Sr.C.G.S.C., C.A.T., Guwahati Bench, Guwahati.

Attested  
Advocate

30/9/93  
DEPUTY REGISTRAR (J)