

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

M.P-337/97 ordersheet pg-1 INDEX

Disposed date-05/01/98

~~M.P~~ C.P-13/98 ordersheet pg-1 to 2

closed date-23/11/98

O.A/T.A No... 279/96

R.A/C.P No... 13/98

E.P/M.A No... 337/97

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2. Judgment/Order dtd. 10/6/97.....Pg.....1.....to.....5..... *Disposed*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 279196

S. D. D. Bhattacharyya & Co. Applicant(s)
-Versus-

Union of Duda Co. Respondent(s)

M. A. Ahmed Advocates for Applicant

Mr. S. R. S. Choudhury Advocates for Respondent

Office Notes 8 Date Courts' Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
H.O. No. 349052
Dated 11.12.96

[Signature]
P.P. Registrar
12/12

4.12.96

Learned counsel Mr A. Ahmed for the applicants. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. Heard Mr Ahmed for admission. Perused the contents of the application and the relief sought. The application is admitted. Issue notice on the respondents by registered post. Written statement within 6 weeks.

List for written statement and further orders on 15.1.1997.

[Signature]
Member

Notice Issued to the
concerned parties vide

D. No. 4147, 4148 dt- 18.12.96

nkm

[Signature]
5/12

15.1.97

Mr. A. Ahmed for the applicants
Mr. S. Ali, Sr. C.G.S.C. seeks
6 weeks time to file written statement.

List for written statement and
further orders on 14.2.1997.

[Signature]
Member

trd

[Signature]
15/1

18-12-97

- 1/ Notice duly served on Respondant No-2
- 2/ written statement has not been filed.

[Signature]
13/2

[Signature]
17.12

13-3-97 ✓

14.2.97

On the prayer of Mr. S.Ali, Sr. C.G.S.C. appearing on behalf of the respondents 3 weeks time is granted to file written statement.

List on 14.3.1997 for written statement and further orders.

Vice-Chairman

Notice duly served on Respondant No-2 written statement has not been submitted.

trd

8-4-97

14-3-97

Two weeks further time is allowed as prayed for by Mr.S.Ali, Sr.C.G.S.C. for filing of written statement.

List on 4-11-97 for further orders.

Vice-Chairman

Vakalatnama filed by Mr. S.Ali, Sr, C.G.S.C.

trd

18/10

This matter relates to Nagaland.

Mr.S.Ali, learned Sr.C.G.S.C. submits that the matter may be heard at Kohima. Mr.A. Ahmed, learned counsel for the applicant also agrees to the proposal.

Let this case be listed for hearing at Kohima. The date of hearing will be notified later on.

Written statement has not been filed. I am not inclined to grant any further adjournment.

Vice-Chairman

Notice duly served on R. No. 2.

It is stated that the matter is not known.

11-4-97

16-4-95

Written statement filed on behalf of the Respondents, No. 1 & 2.

pg

15/11

2.9.97

Copy of the Judgment has been sent to the applicant on 1/12/97 for the Respondents vide No. 2931 to 2932.

10.6.97 (Kohima)

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, contained in separate sheets and kept in the record.

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

Member

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266/96 and series

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

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

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

.....

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 others
By Advocate Mr A. Ahmed
.....Applicants
-versus-
Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.
.....Respondents
2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 others
By Advocate Mr A. Ahmed
.....Applicants
-versus-
Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.
.....Respondents
3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 others
By Advocate Mr A. Ahmed
.....Applicants
-versus-
Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.
.....Respondents
4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 others
By Advocate Mr A. Ahmed
.....Applicants
-versus-
Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.
.....Respondents
5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 others
By Advocate Mr A. Ahmed
.....Applicants
-versus-
Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.
.....Respondents

6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 others
By Advocate Mr S. Sarma and Mr B. Mehta.

.....Applicants

-versus-

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

.....Respondents

7. Original Application No.87 of 1996

Shri C.T. Balachandran and 32 others
By Advocate Mr S. Sarma and Mr B. Mehta

.....Applicants

-versus-

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

.....Respondents

8. Original Application No.45 of 1997

Shri L. Shashidharan Nair and 9 others
By Advocate Mr S. Sarma and Mr B. Mehta

.....Applicants

-versus-

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

.....Respondents

9. Original Application No.197 of 1996

Shri P.C. George and 66 others
By Advocate Mr S. Sarma

.....Applicants

-versus-

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

.....Respondents

10. Original Application No.28 of 1996

Shri Hiralal Dey and 8 others
By Advocate Mr A.C. Sarma and Mr H. Talukdar

.....Applicants

-versus-

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

.....Respondents

AB

11. Original Application No.190 of 1996

1. National Federation of Information and Broadcasting Employees, Doordarshan Kendra, Nagaland Unit, represented by Unit Secretary - A. Beso.

2. Mr A. Beso, working as Senior Engineering Asstt. (Group C), D.D.K., Kohima. Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others Respondents

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

12. Original Application No.191 of 1996

Shri Kedolo Tep and 16 others Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others Respondents

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

13. Original Application No.55 of 1997

1. Shri Ranjan Kumar Deb, Secretary, All India R.M.S. & Mail Motor Service Employees Union and 32 others.

2. Shri Prasenjit Deb, S.A., Railway Mail Service, Dimapur Railway Station, Dimapur, Nagaland. Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others Respondents

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

14. Original Application No.192 of 1996

1. National Federation of Information and Broadcasting Employees, All India Radio, Nagaland Unit, represented by Unit Secretary - Mr K. Tep.

2. Mr Kekolo Tep, Transmission Executive, All India Radio, Kohima, Nagaland. Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others Respondents

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

AB

15, Original Application No.26 of 1997

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

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

.....

ORDER

Date of decision: 10-6-1997

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

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

06

O R D E R

BARUAH.J. (V.C.)

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

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

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

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

ps

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

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

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

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

respondents.....

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

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

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

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

applicable.....

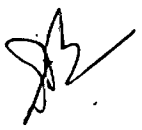
applicable to the Central Government employees of 'B' class of cities and towns for the period from 1.10.1986 or from the actual date of posting in Nagaland if the posting is subsequent to the said date, as the case may be, upto 28.2.1991 and at the rate as may be applicable from time to time from 1.3.1991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

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

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

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

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

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

in.....

in the said order.

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

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

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI: BENCH AT GUWAHATI

953
DEC 1996
Guwahati Bench
Central Administrative Tribunal

O.A. No. 279 of 1996

Sri D.D. Bhattacharjee & Ors. ... Applicants.

- Versus -

Union of India & Others ... Respondents

I N D E X

Sl. No	Description of Documents	Page No.
1.	Application	1 to 9
2.	H.R.A. as per Circular No. 11013/2/86-E-II(B) dtd 23.9.86 issued by the Govt. of India, Ministry of Finance (Deptt. of Expenditure), New Delhi, (Annexure-1)	10 to 12
3.	Judgement & order of O.A. No. 30 of 1993 dtd. 24.9.93. (Annexure - 2)	13 to 14
4.	Judgement & order in Civil Appeal No. 2705/91 passed by the Hon'ble Supreme Court (Annexure- 3).	15 to 18

Date :- 3.12.96

Filed by :
[Signature]
Advocate.

Received copy
C. Rao
Sr. C.S.C.
3/12/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI : BENCH AT GUWAHATI

Filed by
J.M. S.S. '85
(ADIL AHMED)
Advocate

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT, 1985.

O. A. NO. 279 OF 1996

1. T/70 Lab D.D. Bhattacharjee
2. T/5 Lab Budhia Patra
3. T/7 Lab Harihar Ram
4. T/10 Lab Sarvadeb
5. T/15 Lab N. Kakati
6. T/16 Lab D. Upadhya
7. T/21 Lab G. K. Misra
8. T/48 Lab Sarada
9. T/51 Lab T. Ali
10. T/54 Lab Sukul Rai
11. T/55 Lab S. C. Ram
12. T/58 Lab Bhagirathi
13. T/60 Lab L. B. Sherpa
14. T/68 Lab Dal Bahadur
15. T/69 Lab K. K. Paul
16. T/71 Lab Ram Prasad
17. T/72 Lab N. D. Sarkar
18. T/74 Lab K. K. Talukdar
19. T/76 Lab Mantu Nag
20. T/14007205 LDC P. R. Borah
21. 1469 LDC Mrs Rina Roy
22. P 3113 Dvr MT P. Rajak
23. NIP-470 Pt Mesg D. Gogoi
24. NIP-35 Pt Mesg R. Bora

Contd...2

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25. NIP-69 Pt Mesg Sompal
26. NIP-37 Pt EBR Tuni Das
27. NIP-68 Pt W/Man Rajendra Rajak
28. NIP-52 Pt Barbar Nathuni Thakur
29. NIP-45 Pt Barbar Ganga Thakur
30. NIP-36 Pt W/Man Vankataya
31. NIP-42 Pt W/Man Prayag
32. NIP-78 QP Mesg A.C. Nath.

Now all the applicants are serving in the office of the Commanding Officer, 310 station workshop EME, C/o. 99 A.P.O.

1. Details of the applicants

- i) Name of the applicant - T/70 Lab D.D. Bhattacharjee.
ii) Designation & Office - Lab, serving in the office of 310 station workshop EME, C/o. 99 A.P.O.

2. Particulars of the Respondents :

- i) Name and/or designation of the Respondents : 1. Union of India, represented by the Secretary of Defence, Govt. of India, New Delhi.
2. The Commandant, 310 station workshop, EME, C/o. 99 A.P.O.

Contd...3

Handwritten signature/initials

3. Particulars of the Order against which the application is made :

(i) The application is made for non- implementation of scheme of H. R. A. (House Rent Allowance) as per circular No. 11013/2/86-E-II(B) dated 23.9.1986 issued by the Government of India, Ministry of Finance (Department of Expenditure), New Delhi.

(ii) The application is made for non -implementation of scheme of H. R. A. (House Rent Allowances) in terms of Judgement and order passed in O. A. No 30 of 1993 by this Hon'ble Tribunal on 24.9.93.

(iii) The application is made for non- implementation of Scheme of H. R. A. (House Rent Allowances) in terms of Judgement and order passed in Civil Appeal No. 2705/91 by the Hon'ble Supreme Court.

4. Jurisdiction of the Tribunal:

The applicants further declare that the application is within the jurisdiction of the Hon'ble Tribunal.

contd .. 4

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5. Limitation :

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

6. Facts of the Case :

The facts of the case in brief are given below :

- 6.1 That your humble applicants are all Indian citizens as such they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Civilian employees belong to Group C.D. and they are serving in the Defence Department since a long time.
- 6.2 That the applicants are Grade-III and IV employees serving in different capacities as Central Govt. Defence Civilian employees in Nagaland in the Office of the Commandant, 310 Station Workshop, EME, C/o. 99 A.P.O., Nagaland. They are serving as Civilian Labour, LDC, W/Man etc.
- 6.3 That all the applicants have got a common grievances, common course of action and the nature of relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this instant application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4 (5)(a) of the Central Administrative Tribunal (procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant application redressal of their common grievances.

[Handwritten signature]

Contd...5

6.4 That under the Central Government of Various orders, Memos, Circulars, the Civilian employees serving in the Defence Department in Nagaland are eligible for certain benefits for involving risk of life alongwith Armed Forces. These Civilian employees are entitled to the benefit of H.R.A. (House Rent Allowances) as per circular No. 11013/2/86-B-II(B) dated 23.9.86 issued by the Govt. of India, Ministry of Finance (Department Expenditure), New Delhi, Annexure- 1 is the photocopy of the Circular No. 11013/2/86-B-II(B) dated 23.9.86 issued by the Govt. of India.

6.5 That these Civilian employees are entitled the benefits of H.R.A (House Rent Allowances) at the rate of 15% on the monthly salary and Addl. H.R.A. at the rate of 10% vide this Hon'ble Central Administrative Tribunal, Guwahati Bench Judgement and order dated 24.9.1993 passed in O.A. No 30 of 1993.

Annexure -2- is the photocopy of the Judgement and order dated 24.9.93 passed in O.A. No. 30 of 1993 by this Hon'ble Tribunal.

6.6 That your applicants beg to state that Nagaland State is a B-Class City. The 4 th pay Commission also recommended that Nagaland as a whole is B- Class city and H/R.A.

S. D. Datta

contd .. 6

should be paid at the rate of B- Class cities and the Hon'ble Supreme Court of India in Civil Appeal No. 2705/1991 also declared that Nagaland as B- Class city and the persons serving there are entitled to get H.R.A at the Rate of B- Class cities.

Annexure - 3- is the photocopy of the Hon'ble Supreme Courts Judgement and order in Civil Appeal No. 2705 of 1991.

6.7 That your applicants further beg to state that this Hon'ble Tribunal in O.A. No. 30 of 1993 clearly mentioned that the Central Government Civilian employees those who are posted in Nagaland are entitled to get H.R.A at the rate of B. - Class cities as applicable and also additional H.R.A at the rate 10% of their pay.

6.8. That your applicants having failed to obtain the benefits mentioned above inspite of their repeated requests both oral and in writing.

6.9. That your applicants beg to state that they having fulfilled all the terms and conditions of H.R.A. as admissible to the Central Government employees serving in Nagaland , so they are entitled to get benefit of H.R.A. at the rate of B- Class cities.

7. GROUND'S AND LEGAL PROVISION :

(i) For that the applicants being similarly placed to the applicants in O.A. No 30 of 1993 , the same benefit ought to have been extended to the applicants.

(ii) For that the applicants being civilian employees serving in Nagaland being attach with the Armed Forces are entitled to get financial benefits above mentioned under the various Scheme, various letters and various circulars etc.

contd .. 7

and also by various judgments and orders passed by this Hon'ble Tribunal and also by the Hon'ble Supreme Court of India.

iii) For that there is no justification in denying the said benefits granted to the applicants and the denial has resulted in violation of the Articles 14 & 16 of the Constitution of India and also other similarly situated employees already have been granted the said benefit.

iv) For that the applicants having fulfilled all the criteris laid down in the aforesaid Memorandum towards granting the H.R.A., the Respondents cannot deny the same to the applicants without any jurisdiction.

v) 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 paid the said benefits to the applicants.

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

vii) For that the applicants have been denied the said benefits without any principle of being heard, 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 applicants.

S. Bhatnagar

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

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances narrated above it is prayed that the Hon'ble Tribunal may be pleased to direct the Respondents particularly the Commandant, 310 station Workshop, EME , C/O 99 A.P.O. ,Dimapur, Nagaland to pay-

(i) H.R.A. as per Circular No 11013/2/86-E-II(B) issued by the Government of India, Ministry of Finance (Department of Expenditure), New Delhi , 23 rd September , 1986.

(ii) H.R.A. (House Rent Allowances) in terms of Judgement and order passed in O.A. No. 30 of 1993 by this Hon'ble Tribunal on 24.9.93.

(iii) H.R.A. (House Rent Allowances) in terms of Judgement and order passed in Civil Appeal No. 2705/91 by the Hon'ble Supreme Court.

(iv) To pay the costs of the case to the applicants.

(v) That any other relief or reliefs that may be entitled to the applicants.

9. DETAILS OF REMEDIES EXHAUSTED:

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

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contd .. 9

10. MATTERS NOT PENDING WITH ANY OTHER COURTS ETC.

The applicants further declare that the matter regarding which the application has been filed is not pending before any other court of Law or any Authority or any other Bench of the Tribunal.

11. PARTICULARS OF THE BANK DRAFT/I.P.O. IN RESPECT OF APPLICATION FEE :

1. Number of I.P.O. : B 09349052
2. Name of Issuing Post Office : B 09349052 Guwahati
3. Date of Issue of I.P.O. : ~~20/11/96~~ 11.11.96
4. P.O. at which payable : Guwahati

12. DETAILS OF INDEX :

An Index in duplicate containing the details of the documents to be relief upon is enclosed.

13. List of enclosure : As per Index.

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

I, T/70 Shri D.D. Bhattacharjee the applicant No.1 serving as Labour under 310 Station Workshop EME, C/o. 99 APO, Dimapur, Nagaland do hereby verify that the contents from 1 to 13 of the application are true to my knowledge and belief and I have not suppressed any material facts.

And I sign this Verification on this 11th day of November, 1996 at Guwahati.

D. Bhattacharjee
DECLARANT

NO. 11013/2/OC-E-11(B)

GOVERNMENT OF INDIA, MINISTRY OF
FINANCE (Department of Expenditure)

New-Delhi the 23rd September 1986.

OFFICE MEMORANDUM

Sub + Recommendations of the Fourth Pay Commission, Decisions
of the Government relating to grant of Compensatory (City)
& House Rent Allowances to Central Government Employees.

The undersigned is directed to say that, consequent upon the decisions taken by the Government on the recommendations of the Fourth Pay Commission relating to the above mentioned allowances vide this Ministry's Resolution No. 14(1)/10/86 dtd. 13th September 1986, the President is pleased to decide that in modification of this Ministry O.M. No. F.2(37)-E-II(B)/64 dated 27-11-1965 as amended from time to time for Compensatory (City) and House Rent Allowances to Central Government employees shall be admissible at the following rates.

COMPENSATORY (CITY) ALLOWANCES

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

For 14 special localities, where C.C.A. at the rates applicable to B-2 class city are being paid, fresh orders will be issued separately.

HOUSE RENT ALLOWANCE:

Type of accommodation to which entitled	Pay range in revised scales OR pay for ent- itlement.	Amount of H.R.A. payable in (Rs. p.m)		
		A, B-1, B-2 class cities	C class cities	Unclass- ified places
1	2	3	4	5
750-949	150	70	30	
950-1499	250	120	50	
1500-2799	450	220	100	
2800-5599	600	300	150	

H.R.A. at above rates shall be paid to all employees (other than those provided with Government owned/hired accommodation) without requiring them to produce rent receipts. These employees shall

Cont. to P. 2

Attested
[Signature]
[Signature]

Accounts Officer
197118
197112

Annexure-1 (cont)

However, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. H.R.A. at above rates shall also be paid to Government employees living in their own houses subject to their furnishing certificate that they are paying/contributing towards house or property tax or maintenance of the house.

3. Where H.R.A. at 15 percent of pay has been allowed under special orders, the same shall be given as admissible in A, B1-1 and B-2 class cities. In all other cases covered by special order HRA shall be admissible at the rate in C class cities. In both these cases there shall be no upper pay limit for payment of HRA.

4. The other condition at present applicable for grant of HRA in cases of housing of accommodation and other categories shall continue to be applicable.

5. Pay for the purpose of these orders, will be 'pay' as defined in F.R.9(21) (u) (1). In the case of persons who were to draw pay in the scales of pay which prevailed prior to 1.1.1966 it will include in addition to pay in the pre-revised scales, dearness pay, dearness allowance, Additional Dearness Allowance, Ad-hoc DA and Interim Relief appropriate to that pay, admissible under orders in existence on 31-12-1965.

6. These orders shall be effective from 1-10-1966. For the period from 1-1-1966 to 30-9-1966, the above allowance will be drawn at the existing rates on the national pay in the pre-revised scale.

7. These orders will apply to civilian employees of the Central Government belonging to Groups 'B', 'C' & 'D' only. The orders will also apply to the Group 'B', 'C' & 'D' civil employees paid from the Defence Service's Estimates. In regard to Armed Forces Personnel and Railway employees, separate orders will be issued by the Ministry of Defence and Department of Railways respectively.

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

9. Hindi version of the order is attached.

S/-
(B. P. Varma)

Joint Secretary to the Government of India etc. etc.

To
All Ministries and Department of the Government of India etc. as per distribution list.
Copy forwarded to C&AC and UPSC etc. (with usual number of copies) as per standard endorsement list.

Attested
[Signature]
Secretary

24

Handwritten notes:
- 21-12-18
- 18-11-18
- 17/11/18
- 18-11-18
- 17/11/18

Handwritten notes:
- 21-12-18
- 18-11-18
- 17/11/18
- 18-11-18
- 17/11/18

Amended (Print)

Government of India
Geological Survey of India
4, Chittinagar Road,
Calcutta-16.

No. 14017(1)/00-3(15W)

Dated the 26/9/88

Sub: - House Rent Allowance circular

sk no (4)

A copy of the Ministry of Finance Deptt. of expenditure O.M.No. (1) 11015/41/86-E-11(L)/87 dt. 13.11.87, received from the Ministry of Steel and Mines, Department of Mines, New Delhi under their letter No. 21/17/87-1 F dt. 1.11.87 is forwarded for information and necessary action.

Handwritten: 6/1/88
(K. 154)
Administrative Officer
for Director (Administration)

Dy.No. 51/3/88

The undersigned is directed to refer to para 1 of his Ministry, Office Memorandum of even number dated 19.2.87 regarding central Government employees belonging to Groups 'B', 'C' and 'D' and also para 1 of O.M. of even number dated 22.5.1987 regarding central Government employees belonging to group 'A' on the subject noted above and to say that consequent upon fixation of 'flat rate of licence fee for residential accommodation under Government all over the country' by Ministry of Urban Development (Directorate of Estate) O.M.No. 12035/(1)/85-P-1, 11(1) dated 7.8.1987, the President is pleased to direct that central Government employees belonging to Groups 'A', 'B', 'C' and 'D' working in various classified cities and unclassified places will be entitled to get flat rate in lieu of rent free accommodation as under:-

- (i) Amount charged as licence for Government accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estate)'s above mentioned O.M. dated 7.8.1987 and
 - (ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No. 11013/2/86-E-11(B) dated 23.9.1986 for central Government employees belonging to Groups 'B', 'C' and 'D' and para 1 of O.M.No. 11013/2/86-E-11(B) dated 19.2.87 for Central Government employees belonging to Group 'A'.
2. Other terms and conditions for admissibility of compensation in lieu of rent free accommodation indicated in this Ministry's office Memorandum dated 19.2.87 and 22.5.87 remain the same.
3. These orders shall take effect from 1.7.87.
4. So far as persons serving in the Indian Audit and Accounts Deptt. are concerned, these orders issue after consultation with controller and Auditor General of India.

Sd/- N. N. Sinha
Director

tkr/-

Handwritten signature:
Attested
Advocate

O.A. 30/93 13-

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.).

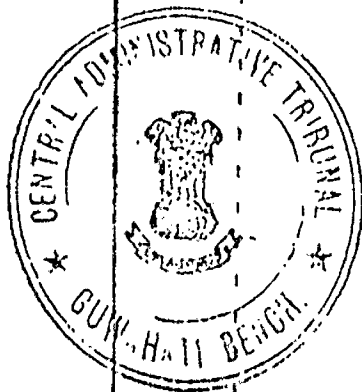
For the Petitioners ... Mr. H. Rahman,
Mr. N. Baruah.

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)/09. 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
Advocate

24.9.93

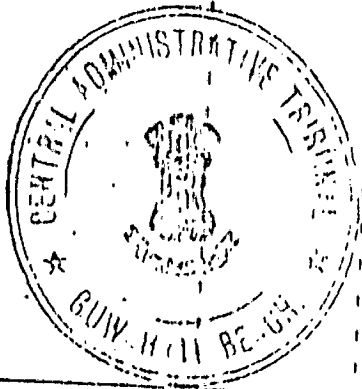
-14-

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 arrears HRA within a period of 45 (forty five) 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 (ADMIN)

Registered with A/D

Memo No. 13278

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, Maranqi, 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 Branch, Guwahati.

Attested
Sd/-
Advocate

11/30/93
DEPUTY REGISTRAR (2)

- 15 -

Annexure - 3

~~Annexure~~
~~Annexure~~

- 26 -
- 28 -

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2705 OF 1991.

Union of India & Ors. ...

Appellants

- Versus -

Shri. S.K. Ghosh & Ors. ...

Respondents

ORDER

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

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

This appeal by way of special leave is by the Union of India against the 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

Abhishek
Advocate

Contd....

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 NHFA 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.P. 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...

Approved
Adil
Adil

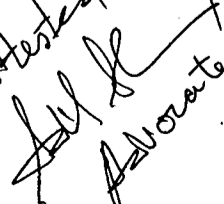
24-17-
- 38 -

It is not disputed that the Presidential order dated January 8, 1962 is still operative. No one 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.F.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.F.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 houses, 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

ow 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. We further find that according to the formula adopted after the IV CPC HRA is payable to the Central Government employees posted even in classified places. From Annexure A-7 it is clear that this allowance is at a flat rate is payable without production of rent receipt. It appears to us that the HRA is paid by the Central Government for compensating an employee on account of his residential accommodation in the place of posting is not shown to have undergone any improvement in the matter of ~~availability~~ 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/-

(Kuldip Singh) J

Sd/-

(H.N. Kaulwal) J.

New Delhi

February 10, 1991.

Attested
[Signature]
[Signature]

Central Administrative Tribunal
 517
 1 APR 1997
 Guwahati Bench IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
 গুৱাহাটী বেঞ্চ

Filed in Court
 on 4.4.97
 B. B. B.
 Court Master

Filed by:

Haerulze

(MD. SHAIKAT ALI) 4/4/97
 Sr. Central Govt. Standing Counsel
 Central Administrative Tribunal
 Guwahati Bench, Guwahati

GUWAHATI BENCH: GUWAHATI.

O. A. NO. 279/96.

D. D. BHATTACHARJEE & UTHERS

-Versus-

The Union of India & others.

- AND -

IN THE MATTER OF:

Written Statements submitted by the
 Respondents No. 1 & 2 .

(WRITTEN STATEMENTS)

The humble Respondents beg to
 submit their Written Statements
 as follows :

- 1) That, with regard to the statements made in paragraphs 1, 2, 3, 4 & 5 of the application the Respondents have no comments .
- 2) That with regard to the statements as made in paragraphs 6.1, 6.2, 6.3 of the application the Respondents have no comments.
- 3) That, with regard to the statements made in paragraphs 6.4, 6.5, 6.6 & 6.7 of the application the Respondents beg to state that, regarding payment of House Rent to the applicants, who are

Civilian Employees, the Hon'ble Tribunal in Original Application No. 124/95, 125/95 and 30/93 has granted the house rent to the Civilian Employees. The Hon'ble Supreme Court in Civil Appeal No. 2705/91 also allowed the House Rent to the Civilian Employees serving in Nagaland. So, this case being similarly situated normally they are also entitled to the House Rent with effect from 1986. This payment of House Rent is supported by Annexures- 2 & 3 of the application .

It, is, however, submitted that, the Union of India has filed an Appeal before the Supreme Court against the Judgment & Order passed by the Hon'ble Tribunal being Case Nos. 124/95 and 125/95 which are now pending .

4) That, with regard to the statements made in paragraph 6.8 of the application the Respondents have no comments.

5) That, with regard to the statements made in paragraph 6.9 of the application the Respondents beg to state that, as per the judgment of the Hon'ble Supreme Court, all the Civilian Employees are entitled to House Rent Allowance .

6) That, with regard to the statements made in paragraph 7 of the application regarding the grounds and legal provisions the Respondents beg

to submit that, they have no comments. But, it is stated here that, they will made oral submission at the time of hearing of the case as the Civilian Employees, serving in Defence Department in Nagaland are not entitled to the House Rent .

7) That, with regard to the statements made in paragraph 8 of the application regarding the relief sought for the Respondents beg to state that, they will made oral submission at the time of hearing of the case as the Civilian Employees in the Defence Department are not entitled to the House Rent.

8) That, with regard to the statements made in paragraphs 9, 10, 11, 12 & 13 of the application the Respondents have no comments.

...Verification

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

I, J.C. 750920 A Nb/ SUB M D Barla working under the Commandant, 310 Station Workshop, E/o 99 APD, as authorised do hereby solemnly declare that the statements made in paragraphs 1,2,3, 4,6 & 8 are true to my knowledge , those made in paragraph 5 are true to my information and those made in the rest are my humble submissions before this Hon'ble Tribunal .

I, sign this verification today on the 4th day of April ,1997 at Guwahati .



D e c l a r a n t .

