

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

W.M.P. 85/98 under Pg. 1 to 2 Dtd. 6.4.98

INDEX

2) W.M.P. 140/98 under Pg. 1 dtd. 6.4.98

T 6.6.98

3) W.M.P. 339/97 under Pg. 1 Dtd. 5.6.98

O.A/T.A No. 281/96

R.A/C.P No. 15/98

E.P/M.A No. 85/140/98 a 339/97

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2. Judgment/Order dtd. 10.6.97.....	Pg. 1.....	D 2 Excluded 23.11.98
3. Judgment & Order dtd.....	281, 284, 13, a 20/97	to 2 Allow commands
4. O.A.....	281/96	Pg. 1.....to 28.....
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W.M.P. 85/98 Pg. 1 to 3

2) W.M.P. 140/98 Pg. 1 to 3

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SECTION OFFICER (Judl.)

Farhiz
31/10/98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 281 & 96

... vs. S. D. Battacharjee & Ors. Applicant(s)
-versus-

Union of India & Ors. Respondent(s)

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

... Mrs. S. Ali & Ors. Advocates for Respondent(s)

Office Notes Date Courts' Orders

This application is in
form and within time
C. R. of Rs. 50/-
deposited vide
IPO/CD No 346992
Dated ... 12/12/96

U.S. Registrar
31/12

4.12.96

Learned counsel Mr. A. Ahmed
for the applicant. 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 reliefs
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.

6
Member

Notice issued to the
concerned parties

vide D. No - 4145, 4146

dt - 18.12.96

nkm

mv

5/12

15.1.97 Mr. A. Ahmed for the applicants.

Mr. S. Ali, Sr. C.G.S.C. for the
respondents seeks 4 weeks time to file
written statement.

List for written statement and
further orders on 14.2.1997.

6
Member

10-1-97
w/s has not been
submitted.

10/11

13-2-97

1) Service report are still
awaited.
2) w/s statement has not
been filed.

trd

mv

15/1

13-3-97

14.2.97

1) Notice duly served
on R. No. 2 A.D in
O.A - 279/96.

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

2/1
13-3

trd

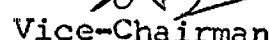
8-4-97

14-3-97

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

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

List on 4-11-97 for further orders.



Vice-Chairman

2/1
8-4



11-4-97

1) Notice duly served
on R. No. 2, the A/D
Kept in 279/96

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

2/1

16-4-97

2) W/Statement has not been
filed -

pg


2.9.97

Copy of the Judgement
has been issued to
the applicant and to the
Advocates of the
Respondents. W.C.C.
Date 2944 to 2945.

10.6.97


Member

Heard both counsel of the parties.

Hearing concluded. Judgement delivered in the open court. The application is allowed. No order as to costs. Order is kept in separate sheets.



Vice-Chairman

trd

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI 25

O.A.Nos. 281/96, 13/97, 264/96 & 20/97.

Date of decision 10.6.1997

D.D.Bhattacherjee & Ors. (Series)

PETITIONER(S)

Mr. A. Ahmed.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. S. Ali, learned Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.

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

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GWUAHATI BENCH

Original Application No. 281 of 1996 (Series).

Date of decision : This the 10th day of June, 1997.

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

Hon'ble Shri G.L.Sanglyine, Administrative Member.

O.A. No. 281 of 1996

D.D.Bhattacharjee & 31 Ors.

Applicants.

By Advocate Mr. A.Ahmed.

-versus-

Union of India & Ors.

Respondents.

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

O.A. No. 13 of 1997.

Sri Jatin Chandra Kalita & 19 Ors.

Applicants.

By Adovocate Mr. A.Ahmed.

-versus-

Union of India & Ors.

Respondents.

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

O.A.NO. 264 of 1996.

Ram Bachan & 14 Ors.

Applicants.

By Avocate Mr. A.Ahmed.

-versus-

Union of India & Ors.

Respondents.

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

O.A. No. 20 of 1997.

Shri Hari Krishan Mazumdar & 24 Ors.

Applicants.

By Advocate Mr. A.Ahmed.

-versus-

Union of India & Ors.

Respondents.

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

Contd...

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 above applications by a common order.

2. In these applications the applicants have prayed for direction to the respondents to pay Special Compensatory Allowance (Remote Locality). The facts are :

All the applicants of the above applications are working as civilian employees under Defence Department at Dimapur, Nagaland.

3. We have heard Mr. A.Ahmed, learned counsel appearing on behalf of the applicants and Mr. S.Ali, learned Sr.C.G.S.C.

4. Mr. Ahmed submits that question has already been decided by the Apex Court in Civil Appeal No. 1572/97 (Union of India & Ors. Vs. B.Prasad, B.S.O. & Ors.) dated 17.2.1997. The Apex Court in the said case observed thus :

"Having regard to the respective contentions, we are of the view that the Government having been extending the benefit of payment of Special Duty Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17,1995, they are entitled to both the Special Duty Allowance as well as Field Area Special Compensatory (Remote Locality) Allowance. The same came to be modified w.e.f. that date. Therefore, irrespective of the fact whether or not they have been deployed earlier to that date, all are entitled to both the allowances only upto that date. Thereafter, all the personnel whether transferred earlier to that or transferred from on or after that date, shall be entitled to payment of only one set of Special Duty Allowance in terms of the above modified order."

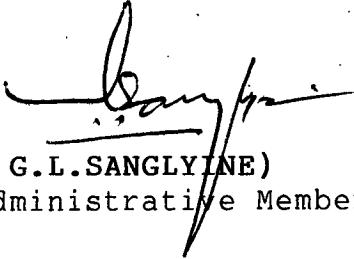
....Mr. Ahmed

5. Mr. Ahmed submits tht the point involved in the cases is squarely covered by the aforesaid decision of the Apex Court. Mr. Ali, learned Sr.C.G.S.C. also confirms the same.

6. In view of the above, we hold that the applicants are entitled to payment of Special Compensatory (Remote Locality) Allowance. Accordingly we direct the respondents to pay Special Compensatory (Remote Locality) Allowance to the applicants in terms of the decision of the Apex Court in Civil Appeal No. 1572/97 Supra.

7. The Applications are accordingly allowed.

8. Considering the facts and circumstances of the cases, however we make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

trd

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI : BENCH AT GUWAHATI

O. A. NO. 281 OF 1996

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

- Versus -

Union of India & Ors. ..Respondents.

I N D E X

Sl.No.	Description of documents	Page No.
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2.	Special Compensatory (Remote Locality) Allowances as per Letter No.16037/E/A 2 HQ 3 Corps (a) C/o. 99 AP0 issued by the Under Secretary, Defence, Govt. of India (Annexure-1)	9
3.	Special Compensatory (Remote Locality) Allowances as per Govt. of India, Ministry of Defence, New Delhi letter No.SB/37269/ AG/PS 3(a)/165/D/(Pay)/Services dated 3.1.95 (Annexure-2)	10
4.	Judgement & Order of O.A. No. 124 and 125/95 dtd. 24.8.95 (Annexure-2(a)).	11 to 20
5.		

Date : 3.12.96

Filed by :



Advocate.

Received 6/PT
C. K. Sr. CSC
3/12/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI : BENCH AT GUWAHATI

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

O. A. NO. 281 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. Upadhyay
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. Sheppa
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

S. D. Bhattacharjee

Filed 9 by
JUL 8 []
(Abu Ahmed)
Advocate

25. NIP-69 Pt Mesg Sonpal
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



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

- i) The application is made for non-implementation of Scheme of Special Compensatory (Remote Locality) Allowances to Defence Department Civilian employees as per letter No. 16037/R/A2 MQ 3 Corps (A) C/o 99 A P O issued by the under Secretary (Defence) to the Govt, of India, Ministry of Defence, New Delhi Letter No. R/37269/AG/PS 3(a)/165/B (Pay)/Services) dated 31.1.95.
- ii) The application is made for non-implementation of Scheme of ~~MRX~~ Special Compensatory (Remote Locality) Allowances in terms of Judgement and Order passed in O.A.No. 124/95 and 125/95 by this Hon'ble Tribunal on 24.8.95.

4. Jurisdiction of the Tribunal :

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

5. Limitation :

That the applicants further declare that the ~~jurisdiction~~ 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 India 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.

 Contd...4

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, ^{1/1} common ^{Course} 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.

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 Special Compensatory (Remote Locality) Allowances to Defence Department Civilian Employees as per letter No.16037/E/A 2 HQ 3 Corps (a) C/o. 99 AP0 issued by the Under Secretary (Defence) to the Govt. of India.

Annexure-1 - is the photocopy of the Letter No. 16037/E/A 2 HQ 3 Corps (a) C/o. 99 A P 0 issued by the Govt. of India.

6.5. That as per Govt. of India, Ministry of Defence, New Delhi Letter No. SB/37269/AG/PS 3(a)/165/D/(Pay)/Services dated 3.1.95 the Defence Civilian employyes are entitled the



Contd...5

benefit of Special Compensatory (Remote Locality) Allowances with effect from 1.4.93.

Annexure-2 - is the photocopy of the letter No. SB/37269/ AG/PS 3(a)/165/D/(Pay)/Services dated 3.1.95.

6.6. That these Civilian employees are entitled of the above benefit vide O.A. No. 124 and 125 of 1995/Judgement and Order dtd. 24.8.95 passed by this Hon'ble Tribunal as they are also similarly situated and as such they are entitled to the above benefit.

Annexure-2(a) - is the photocopy of the Judgement and Order dtd. 24.8.95 passed in O.A.No. 124 and 125 of 1995 by this Hon'ble Tribunal.

6.7. That your applicant having failed to obtain the benefit mentioned above inspite of their repeated requests both oral and writing.

6.8. That your applicants beg to state that they having fulfilled all the terms and conditions of Special Compensatory (Remote Locality) Allowances as admissible to the Defence Civilian Employee Serving in Nagaland, so they are entitle to get benefit of Special Compensatory (Remote Locality) Allowances.

7. GROUND AND LEGAL PROVISION :

- i) For that the applicants being similarly placed to the applicants in O.A.No. 124 and 125/95, so 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



Contd...6

entitled to get financial benefits above mentioned under the various Schemes, various letters and various circulars etc. and also by various Judgement and Orders passed by this Hon'ble Tribunal.

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 criteries laid down in the aforesaid Memorandum towards granting the Special Compensatory (Remote Locality) Allowances, 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.

D. N. Chaturvedi

Contd...7

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) Special Compensatory (Remote Locality) Allowances as per letter No.16037/R/A2 HQ 3 Corps (A) C/o. 99 AP0 issued by the ~~Maxthke~~ Under Secretary, Defence, New Delhi, Govt. of India, and Ministry of Defence, New Delhi Letter No. R/37269/AG/PS 3(a)/165/B (Pay)/Services dated 31.1.95.
- ii) Special Compensatory (Remote Locality) Allowances in terms of Judgement and Order passed in O.A.No.124 and 125 of 1995 by this Hon'ble Tribunal on 24.8.95.
- iii) To pay the costs of the case to the applicants.
- iv) 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.

10. MATTERS NOT PENDING WITH ANY OTHER COURTS ETC.

The applicants furthee 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.

Contd...8

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

1. Number of I.P.O. : 809 396992
2. Name of Issuing Post Office : Guwahati
3. Date of Issue of I.P.O. : 12.11.96
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.

VERIFICATION

I, T/70 Shri D.D. Bhattacharjee the applicant No.1 serving as Labour under 310 Station Workshop EMS, C/o. 99 AP0, 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 13th day of Nov, 1996 at Guwahati.


DECLARANT

Annexure - I

HQ 3 Corps (A)
C/0 99 AFC

06 Mar 95

FIELD SERVICE CONCESSIONS TO DEFENCE CIVILIANS
SLVING IN THE NEWLY DEFINED FIELD AREAS

A copy of Govt of India, Min of Def letter No B/37269/AG/PS 3/165/D (Pay/Services) dated 31 Jan 95 is fwd herewith for your info and necessary action, please.

Deependra
(D. Obhrai)
Major
DAAG
for COS

Copy of above quoted letter.

AS ABOVE

Sir,
I am directed to refer to para 13 of Govt letter No 37269/AG/PS 3/165/D (Pay/Services) dated 13.1.1994 and to convey the sanction of the President to the following Field Services Concessions to Defence Civilians in the newly defined Field Areas and Modified Field Areas as defined in the above mentioned letter :-

(i) Defence Civilian employees serving in the newly defined Field Areas will continue to be extended the concessions enumerated in Annexure 'C' to Govt letter No A/22534/AG/PS 3/97-3/D (Pay/Services) dated 25.1.1964. Defence Civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in APPX B to Govt letter No A/25761/AG/PS 3(b)/146-S/2/D (Pay/Services), dated 2nd March 1968.

(ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of Special Compensation Allowance and other allowances as admissible under the Civilian Allowances as per the existing instructions issued by this Ministry from time to time.

These orders will come into force wef 1st April 95.

This is issued with the concurrence of Finance Division of this Service, their UO No 5(1)/85-AG(14-PA), dated 9.1.1995.

Yours faithfully,
Sd/- x x x x x
(L.T. Triuanga)
Under Secretary to the Govt of India

Attested
Anil

OFFICE OF THE C.D.I. UDAYAN VIBHAR, PUNJAB, GURU NAGAR-171
Part. I.OO. No. 21 Dated 9.5.95.

Sub:- Field Service Concessions to Defence Civilians serving in the newly defined Field Areas.

----- + -----
Govt. of India, Ministry of Defence New Delhi letter No. B/37269/AG/PS3(a)/165/D/(Pay)/Services) dated 31.1.95 and B/37269/AG/PS3(a)/730/D(Pay/Services) dated 17.4.95 are reproduced below for information and necessary action.

Please acknowledge receipt.

No. Pay/01/IX
Dated: 20/5/95

Sr. A.O. (Pay)

Distribution:-

- a) All sub-offices ... as per standard List.
- b) All section in M.O.
- c) Spare

✓
Sr. A.O. (Pay)

I am directed to refer to para 13 of Govt. letter No. 37269/AG/PS3(a)/D(Pay/Services) dated 13.1.1994 and to convey the sanction of the President to the following Field Service concessions to Defence Civilians in the newly defined Field Areas and Modified Field Areas as defined in the above mentioned letter:-

(i) Defence Civilian employees serving in the newly defined Field Areas will continue to be extended the concessions enumerated in Annexure 'C' to Govt. letter No. A/02584/AG/PS3(a)/97-S/D(Pay)Services) dated 25.1.1964. Defence Civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appendix 'B' to Govt. letter No. A/25761/AG/PS3(b)/146-S/2/D(Pay/Services) dated 2nd March, 1968.

(ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of special compensatory (Remote locality) Allowance and other allowances as admissible to Defence Civilians as per the existing instructions issued by this Ministry from time to time.

2. These orders will come into force w.e.f. 1st April, 93.
3. This issues with the concurrence of Finance Division of this Ministry vide their UO R.O.5(1)/85-AG(14-PA) dated 9.1.1995.

Sd/-
(L.T. Tluanga)
Under Secretary to the Government
of India.

Attested
A. T. Tluanga
Under Secretary to the Government
of India.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALIJI BENCH

11-

Original Application No.124 of 1995

With

Original Application No.125 of 1995

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

The Hon'ble Justice Shri M.G. Chaudhury, Vice-Chancellor

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

O.A.No.124/85

Shri Ujjwal Singh and 116 others

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

versus -

1. The Union of India represented by

The Secretary, Defence,

Government of India, New Delhi.

2. The Garrison Engineer,

868 EWS C/o 99 APO.

3. The Garrison Engineer,

869 EWS C/o 99 APO.

.....Applicants

.....Respondents

O.A.No.125/85

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. The 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.



[Signature]

Attested
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(v)/165/D/(Pay)/Service dated 31.1.1995

IV) Field Service Concession (FSC) vide letter No.16729/GG4 (clv)(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.



JKC

- (A) -

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. Ali, 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 Transferability 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.....



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(civl)(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 10.12.1994 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 "compiled" 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.....

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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 been 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) p.74. 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 1.12.1968 or from the actual date of posting

Attested
Jill S.
Advocate

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NAGALAND
GUWAHATI BENCH

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-11(B) dated 1.12.1986. 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.

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Bell &
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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

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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 LDA 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.



*Aftered
S. J. S.
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.



*Arrears
Settled
M. Venkatesh*

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

i) It is declared that SDA is payable from 1.12.1986.

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 1.12.1986 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 1.12.1986 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



Attested
S. S. Advocate

and.....

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)

CTC

Certified to be true Copy
मान्यता प्राप्ति

COURT OFFICER

Central Administrative Tribunal
Central Secretariat, New Delhi
Government of India
Delhi-110001

23/3/95
AC B/JL
9th Smti Major R.P.

Central Administrative Tribunal
Guwahati Bench

5/15
1 APR 1997

Guwahati Bench
Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH:GUWAHATI.

BIN
Court Seal

O. A. NO. 281 OF 1996.

Filed by:

Chankalal, 4/4/92
(M.D. SHAUKAT ALI),
Sr. Standing Counsel
Central Govt
Central Administrative Tribunal
Guwahati Bench, Guwahati

Sri D. D. Bhattacharjee & others

-Versus-

The Union of India & others.

- AND -

IN THE MATTER OF:

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

(W R I T T E N S T A T E M E N T S)

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 & 4 of the application the Respondents have no comments.
- 2) That, with regard to the the statements made in paragraphs 6.1, 6.2, 6.3 6.4 and 6.5 of the application the Respondents have no comments.

(Contd.)

3) That, with regard to the statements made in paragraph 6.6 of the application the Respondents have no comments the same being matters of record.

4) That, with regard to the the statements made in paragraphs 6.7 of the application the Respondents beg to state that, as the applicants being Civilian Employees in Defence Department are not entitled to Special Compensatory Allowance (SCA) . So, they have not been paid the same .

5) That, with regard to the statements made in paragraph 8 of the application the Respondents beg to state that, though the applicant s have fulfilled the terms and conditions of Special Compensation Allowance (RLA), they are not admissible and hence they are not paid .

6) That, with regard to the statements made in paragraph 7 ~~as~~^{as} regarding the grounds and Legal Provisions the Respondents beg to State that , the Applicants are not entitled to the Special Compensatory Allowance (Remote Locality Allowance) as the applicants of are Civilian Employees of Defence Department who are serving in Nagaland.

(Contd.)

7) That, with regard to the statements made in paragraph 8 of the application regarding the reliefs sought for the Respondents beg to state that, the applicants are not entitled to Special Compensatory Allowance (R.L.A.) as they are Civilian Employees serving in the Defence Department in Nagaland and as such the application is liable to be dismissed .

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

... Verification .

VERIFICATION

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

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



Declarant.