

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

V

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 290/96
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

hahits
31.1.18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 290/96

.. Sr. N.K. Saha, President - Applicant(s)
-Versus- DR. Employees Union,

Union of India. Respondent(s)

Mr. S.C. Biswas, A. Bhattacharjee Advocates for Applicant(s)

Mr. A.K. Choudhury, A.C.S. Advocates for Respondent(s)

Office Notes Date Courts' Orders

The application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPO/BD No. 349776
Dated 18.12.96

Dy. Registrar 18/12/96

24.12.96

Notice Issued to the
Concerned vide order
Dt. 20.12.96, to the
Respondant No-1,2,3,4,
D. No. 4584-5487 Dt-30.12.96

Box
24/12

30.1.97

Written Statement
has not been
filed.

30/1/97

20.12.96

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

Heard Mr Bhattacharjee for
admission and 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 31.1.1997.

Heard counsel of both sides on the
interim relief prayer. It is directed that
the operation of the order No.P/II/789/R&D
dated 31.10.1996, Annexure-II, and order
No.P/II/789/R&D/Gen dated 18.11.1996,
Annexure-III, be kept in abeyance by the
respondents till disposal of this
application.

Member

nkm

(2)

O.A. No.290 of 1996

13-2-97

1/ Service report was still awaited.


2/ written statement has not been filed.

24
13.2

31.1.97

There is no representation on behalf of the parties. However for the ends of justice two weeks time to file written statement is granted.

List on 14.2.1997 for written statement and further orders.


Vice-Chairman


trd

14.2.97

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

List on 28.2.1997 for written statement and further orders.


Member


Vice-Chairman

13-3-97

1/ Service report was still awaited.

2/ written statement has not been filed.


24
13.3

trd

24
13.3

28.2.97

Adjourned to 14.3.1997.


Vice-Chairman

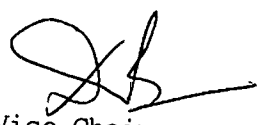
pg

24
13.3

14.3.97

Written statement has been filed. Two weeks time is granted to file rejoinder by the applicant if so advised.

List on 4.4.97 for hearing.


Vice-Chairman

18-3-97

N/S filed on 14.3.97

Resps.

Memorandum of appearance filed

trd

24
13.3

3/11
OA 290/96

2-4-97

Rejoinder filed on
b/h of applicant.

4.4.97

On the prayer of Mr K.Bhattacharjee
learned counsel for the applicant
the case is adjourned to 25.4.1997.
Mr A.K.Choudhury, Addl.C.G.S.C has no
objection.


Vice-Chairman


W/ statement of Rejoinder
has been filed.

pg

2/11

25-4-97

There is no representation. Case
is adjourned till 2-5-97.


Vice-Chairman

1.5.97
Case is ready
for hearing.

lm

28/4

2-5-97

Heard Mr.M.Chanda learned counsel
for appearing on behalf of the applicant
and Mr.A.K.Choudhury, Addl.C.G.S.C. for
the respondents.

Judgment delivered in open court.
Kept in separate sheets. Application
is disposed of. No order as to costs.

Vice-Chairman

lm

30.6.97

Copy of Judgment
has been sent to
The D/Sec. for issuing
the same to the
parties through Regd.
with A/P.

2/11

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 290/1996
T.A. NO.

DATE OF DECISION 2-5-1997.

Shri Narendra Kumar Saha

(PETITIONER(S))

Mr.S.C.Biswas and Mr.K.Bhattacharjee

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr.A.K.Choudhury. Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

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

THE HON'BLE

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

Judgment delivered by Hon'ble VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No.290 of 1996.

Date of Order: This the 2nd May of 1997.

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

1. Narendra Kr.Saha.
President
Defence Research Laboratory Employees
Union, Regd.No.1144, Tezpur
is representing all the members of Union
working under Director, Defence Research
Laboratory, Tezpur. Applicant.

By Advocate Mr.S.C.Biswas, Mr.K.Bhattacharjee.
-Vs-

1. Union of India,
represented by the Secretary
to the Govt. of India, Ministry of Defence,
New Delhi.
2. Scientific Adviser,
(Ministry of Defence)
Director General, Research and
Development Organisation, R & D,
New Delhi.
3. Director,
D.R.L, Tezpur
4. Accounts Officer,
Office of Dy.C.D.A.(P&D)
Metcafe House,
Delhi-54. Respondents.

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

ORDER.

BARUAH J(V.C.)

1. This Original Application has been filed by
Sri Narendra Kumar Saha on behalf of the members of
Defence research Laboratory Employees Union. He is
the president of the said Union. The Union is Registered
under Trade Union Act. As President Sri N.K.Saha
representing all the members of the Union has filed

contd/-

12

α
this application seeking directions to the respondents to pay to the members of the Union, the House Rent Allowance, for short(HRA) with effect from 1-8-82 in accordance with the office Memorandum dated 3-11-86 issued by the Central Government by setting aside the annexures II and III order dated 31-10-96.

The facts are :-

2. All the members of applicant Union are employees in the Defence Research Laboratory at Salmara, Tezpur. On 3-11-86, Ministry of Finance (Department of Expenditure) issued Annexure I, office Memorandum No.11021/1/83-E.II describing Tezpur as 'C' class city and employees are entitled to the HRA as applicable to the Central Government employees w.e.f. 1-8-82. Pursuant to the said Annexure- 1 office Memorandum, on 19-9-86 the respondents started paying the H.R.A from that date even though all the members of the applicant Union were entitled to get the allowance w.e.f. 1-8-82. However, later on, on 31-10-96 respondents revised the order, pursuant to the revised order regarding payment of the H.R.A. had been discontinued. Besides the respondents had also taken steps for recovery of the HRA already paid to the members of the Union during the period from 1-1-86 to 31-8-95.
3. Being aggrieved by and dissatisfied with the revised the order for payment of the HRA members of the applicant Union have challenged the same in this present application. According to the members of the applicant Union the order of Revision unjust, unreasonable and arbitrary, Annexure II & III orders do not indicate that the recovery was not to be made. The members of the applicant Union submitted representation to the 2nd respondent contending inter alia that the Tezpur is a 'C' class city as declared. Therefore, they are entitled to the House Rent Allowance as per Annexure I Office Memorandum

contd/-

dated 3-11-86. On 18-11-96 the respondents issued another order(Annexure III) directing for recovery of the House Rent Allowance for the period of 1-1-86 to 31-10-95. Representation filed before the authority had not been disposed of. Situated thus the present application has been filed.

4. This Tribunal also granted interim stay to maintain status quo, restraining the respondents from any recovery of the HRA already paid.

In the written statement the respondents have stated thus :

"In the absence of requisite" dependency certificate" from the Competent Authority/ Govt. sanction, the grant of HRA at 'C' class city rates to the employees of DRL, Solmara, Tezpur is considered not in order."

It has also been stated that in the absence of the relevant Government sanctioned and grant of HRA as applicable to 'C' class cities the payment HRA was stopped and the irregular payment was sought to be recovered. The members of the applicant have also filed a rejoinder.

5. I have heard both sides. Mr.M.Chanda learned counsel appearing on behalf of the applicant submits before me that the members of the applicant Union are entitled to get the House Rent Allowance w.e.f. 1-8-82. Mr.M.Chanda submits that denial of House Rent Allowance w.e.f. 1-8-82 and proposed recovery was unreasonable. On the other hand Mr.A.K.Choudhury, Addl.C.G.S.C. submits that due to absence of dependency certificates of the payment of HRA to the members of the Union was irregular. To counter this Mr.Chanda submits that it is the responsibility of the authorities to obtain the dependency certificates from the Deputy Collector and the authority was wrong in insisting on the certificate from the members of the applicant Union

contd/-

Annexure I office memorandum issued by the Ministry of Finance, Department of Expenditure dated 3-11-86 refers to House Rent Allowance. As per said notification, Defence Civilian Employees whose place of duty is in the proximity of 8 K.M. of the qualified cities, the employees are entitled to House Rent Allowance at the prescribed rate. Mr. Chanda also draws our attention of the notification regarding the House Rent Allowance from the C.P.R.O. The relevant portion of the notification are quoted below from C.P.R.O.:-

"(ii) Defence civilians whose place of duty is in the proximity of a qualified city, and who of necessity, have to reside within the city, may be granted the compensatory(city) and house rent allowances admissible in that city. The orders in such cases may be issued by the Ministry of Defence themselves provided they are satisfied that :-

(1) The distance between the place of duty and the periphery of the municipal limits of the qualified city does not exceed 8 Kilometres; and
(2) the staff concerned have to reside within the qualified city out of necessity, i.e. for want of accommodation nearer their place of duty. Defence civilians working in aerodromes, meteorological mervatories, wireless stations and other, Defence establishments within a distance of 8 Kilometres from the periphery of the municipal limits of a qualified city will be allowed house rent and compensatory (city) allowance at the rates admissible in that city even though they may not be residing within those municipal limits. Provided that -

(1) there is no other suburban municipality notified area, or cantonment within the 8 Kilometres limit, and

(2) It is certified by the Collector/Deputy Commissioner having jurisdiction over the area that the place is generally dependant for its essential supplies, eg food, gains, milk, vegetables, fuel etc. on the qualified city.

Such a certificate will remain valid for a period of three years after which a fresh


contd/-

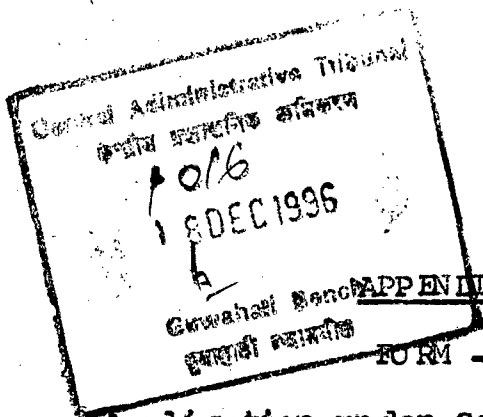
certificate will be required."

Mere reading of the same, it appears that when the department is satisfied that the employees are residing within 8 Kilometres from 'C' class city and are dependent on the city for day to day work they are entitled to the House Rent Allowance. These facts are not disputed by Mr. A.K. Choudhury, learned Addl. C.G.S.C. The fact that the members of the applicant Union are leaving within the area of 8 K.M. and they are dependent on the city are admitted. After filing of this application, the authority had procured dependency certificates Annexure 6, 7 & 8 series to the rejoinder. Mr. A.K. Choudhury, learned Addl. C.G.S.C. confirms the same.

In view of the above I am of the opinion that pursuant to the office Memorandum dated 3-11-86 Annexure I, to the application, the members of the applicant Union are entitled to House Rent Allowance. Accordingly, I allow the petition, directing the respondents not to make recovery the amount of House Rent Allowance already been paid and also to pay the House Rent Allowances w.e.f. 1-8-82 which have not been paid up till now and to continue to pay in future.

With the above observations the case is disposed of.
No order as to costs.


(D.N. BARUAH)
VICE-CHAIRMAN



Filed by:-
H. B. Bhattacharya
Advocate
18.12.96

Central Administrative Tribunal
FORM - I.

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

OA No. 290/96

Title of Case : Sri Narendra Kr. Saha.

..... Applicants.

-Versus-

Union of India & ors.

..... Respondents.

I N D E X.

Sl. No.	Description of documents relied upon.	Page.
1.	Application.	1 - 8.
2.	Annexure - I - Order dated 3.11.86.	9.
3.	Annexure - II - Letter dt. 31.10.86.	10
4.	Annexure - III - Letter dt. 18.11.96.	11
5.	Annexure - IV - Belmestale dt. 5.11.96.	12-13
6.	Annexure - V - Certificate dt. 28.6.96.	14.
7.	WJ -	15-17
8.	Rejoinder	18-23

Narendra Kr Saha
Signature of Applicant.

For use in Tribunal's
Office -

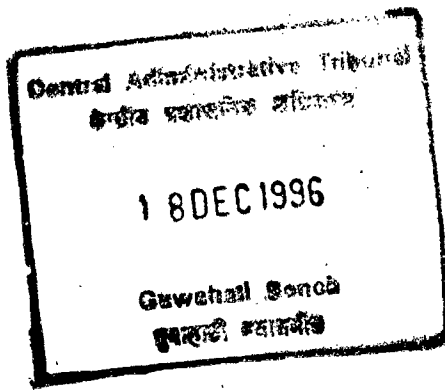
Date of Filing -

President,
D. R. L. Employees Union
Tezpur (Solmara)

Signature
for Registrar.

undertake to
give the copy
to E.G. SC Sec
A. H. Choudhary

18.12.96



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

CA 290/96

Narendra Kr. Saha,

President,

Defence Research Laboratory Employees'

Union, Regd. No. 1144, Tezpur,

is representing all the members of union,

working under Director, Defence Research

Laboratory, Tezpur.

..... Applicant.

-Versus-

1. Union of India,

represented by the Secretary
to the Govt. of India, Ministry
of Defence, New Delhi.

2. Scientific Adviser,

(Ministry of Defence)

Director General, Research and
Development Organisation, R & D,
New Delhi.

✓ 3. Director,

D. R. L., Tezpur.

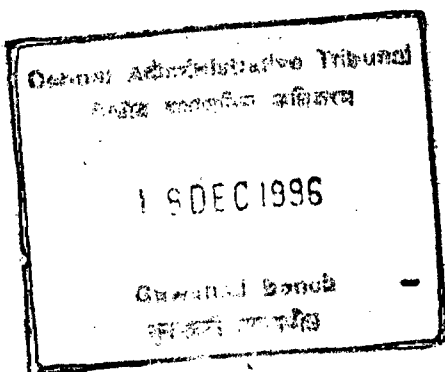
4.

Narendra Kr. Saha.

President,

D. R. L. Employees Union
Tezpur (Solmara)

Location - ?
2.1.9.95 - ?



4. Accounts Officer,
Office of Dy. C. D. A. (R & D),
Metcafe House,
Delhi - 54.

..... Respondents.

Details of Applicant:-

1. Particulars of orders against which the
application is made :-

- a) O.M. No. 11021/1/83-E II dated 3.11.1986
issued by Director.
- b) D.O. No. P/II/789/R & D/GEN dated 31.10.96, 18.11.96
issued by - Accounts Officer, Office of
Dy. C. D. A. (R & D), Delhi.

2. 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.

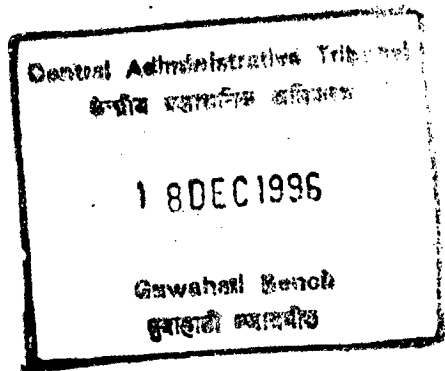
3. Limitation :-

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

4. Facts.....

Narendra kr Saha.

President,
D. R. L. Employees Union
Tezpur (Solmara)



4. Facts of the case.

1. That the applicant is a President of Defence Research Laboratory Employees Union, Tezpur, which is registered under Indian T.U. Act XVI of 1926 having registered No. as 1144, who is representing all the employees, who are members of this Union under Director of D.R.L. Tezpur, on being aggrieved by the order dated 31.10.96 issued by A.O. of the C.D.A. (R & D) New Delhi and having a common cause and interest in it, the applicant is authorised to file this application on behalf of its members, and leave may be granted for filing single application under section 4(5) of the CAT (Procedure) Rules 1987.
2. That the Central Government vide its O.M. No. 11016/5/82-E-II/(B) dated 7.2.83 had included Tezpur town under the list of 'C' Class cities and directed to pay House Rent Allowance all the Central Government employees posted therein. The order shall take effect from 1.8.82 so far as the city of Tezpur is concerned.

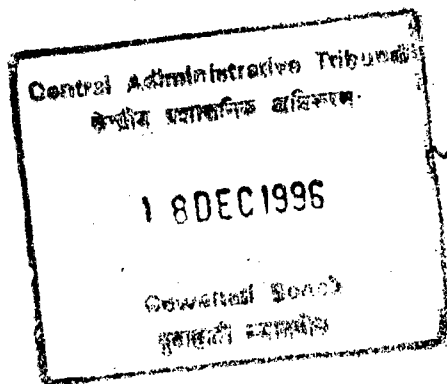
(A copy of order dated 3.11.86 is annexed hereto and marked as Annexure -I).

3. That after the issue of order, the Respondent started paying the House Rent Allowance w.e.f. 19.9.86

instead of

Narendra Kr Saha

President,
D. R. L. Employees Union
Tezpur (Sohma)



- 4 -

instead of 1.8.82. On being lodged protest the authority assured the applicant that the matter would be taken into.

4. That thereafter the Applicant was enjoying the facilities of H. R. A. as per the Circular with other Central Government Employees. But suddenly ~~applicant~~ applicant office received D.O. letter dated 31.10.96^{18.11.96} from the Accounts Officer of C. D. A. (R & D) New Delhi, with direction to start recovery of the H. R. A. amount from 1.1.86 to 31.8.95.

(A copy of letter dated 31.10.86^{18.11.96} ~~is~~ annexed hereto and marked as Annexure - II, III)

5. That the applicant state that being aggrieved with such order the applicant started agitation with authorities at different level, and sent a representation dated 5.11.96 to the ~~Respondent~~ Respondent to consider their employees' cases.

(A copy of letter dated 5.11.96 is enclosed hereto and marked as Annexure - IV).

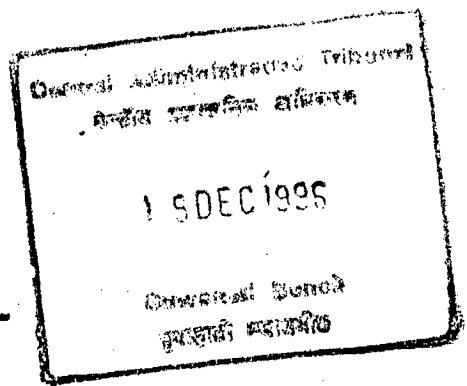
6. That the applicant states that while the employees were getting the H. R. A. at rate of 'C'

Class.....

Narendra Kr Sala

President,

D. R. L. Employees Union
Tezpur (Scho. a)



- 5 -

Class cities, the Respondents issued a direction that irregular payment of H.R.A. w.e.f. 1.1.86 to 31.8.95 be deducted from the salaries of the employees, in spite of Standing O.M. dated 3.11.86.

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

(A certificate dated 28.6.96 is annexed hereto and marked as Annexure - IV).

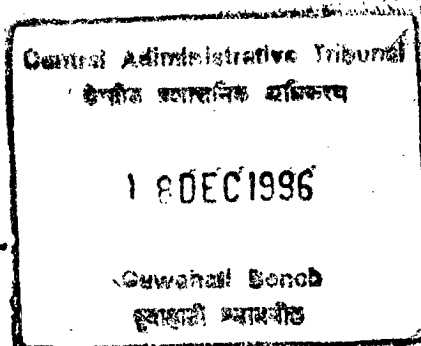
5. Grounds for relief with legal provision.

i) For that applicant is entitled to House Rent Allowance as per the office Memorandum dated 3.11.86 inasmuch as the said Memorandum have been applicable to all Civilian Central Govt. employees posted at Tezpur and cannot be discriminated against.

ii) For that the departmental authority have initially by making payment in accordance with office memo. dated 3.11.86, thereafter by making

orders.....

Narendra Kr Saha
President,
D. R. L. Employees Union •
Tezpur (Solimara)



- 6 -

orders stopping such payment and directed for recovery of amounts already paid that too without seeking any clarification is gross violation of the applicant's right which is guaranteed under the Constitution of India.

iii) For that notwithstanding payment of H. R. A. to Kendriya Vidyalaya No. I as per O.M. dated 3.11.86 the applicant is also entitled to such allowances effective from 1.8.82, but the same was given effect from 1986 which deprived the applicant from his legitimate right.

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

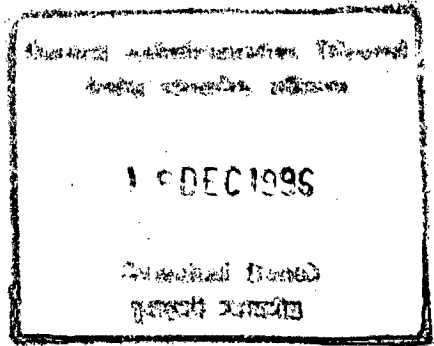
6. Details of Remedies exhausted.

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

7.....

Narendra Kr Saha
President,

D. R. L. Employees Union
Tezpur (Solmara)



7. Matters not previously filed or pending with

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

8. Relief sought.

- i) The respondents may be ordered/directed to pay to the applicant H.R.A. w.e.f. 1.8.82 in accordance with O.M. dated 3.11.86 of the Central Government and be further pleased to set aside and quashed the order dated 31.10.96^{18.11.96} (Annexure - II⁽¹¹⁾)

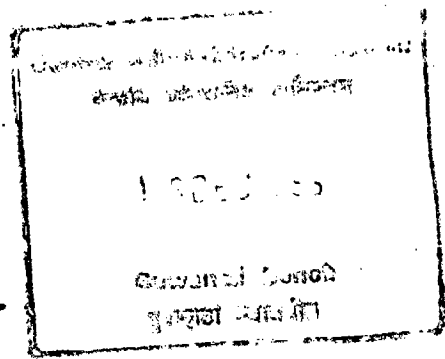
9. Interim order if any prayed for :

The respondents may be directed not to give effect of letter dated 31.10.96^{18.11.96} issued by Accounts Officer of the Dy. C.D.A. (R & D), New Delhi, till the disposal of this application.

10. In the event of application being sent by Registered Post. etc. - Not applicable.

11.....

Narendra Mr Saha,
President,
D. R. L. Employees Union
Tezpur (Solmara)



11. Particulars of Postal Order of P.O. No B.09349774
filed in respect of Application fee
and date 18.12.96 issued by G.P.O. of Rs. 50/-
payable at Guwahati is
annexed hereto.

12. List of enclosures : - Annexures. 1 to 5

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

I, Sri Narendra Kr. Saha, aged about 43 years,
s/o. Late H. Saha, is President of Defence Research
Laboratory Employees' Union, is authorised to
represent all the employees working under Defence
Research Laboratory, Tezpur, do hereby verify that
the contents of paras 1, 4, 6, 7 & 9 of the application
are true to my knowledge, and para 2, 3, 5 are believed
to be true on legal advice and that I have not
suppressed any material fact.

Narendra Kr Saha
18/12/96

President,
D. R. L. Employees Union
Tezpur (Solimara)

9 -

Copy of Ministry of Finance (Department of Expenditure) O.M. No. 11021/1/82-E.II dated 3.11.1983. Annexure - 1

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

.....

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

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

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

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

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

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

6. Hindi Version of this office Memorandum is attached.

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

1.1.86 — 31.8.95

allotted
1/2

10

20

ANNEXURE II

N.R.Nag
A.O.

D.O. No.P /II/789/R&D/
O/O the Dy.C.D.A.(R&D)
Metcalfe House, Delhi-54.

Dated-31-10-96.

Dear Sir,

I am enclosing herewith a list of employees to whom overpayment of H.R.A. during 1-1-86 to 31-8-95 was made. The amount worked out for recovery has been given against each in the list. I would request you to get the list verified and propose for reconciliation if any. I would also request to start recovery the amount from Regular Pay Bill 11/96. Even otherwise this office is, going to effect recoveries from the Pay Bills of 11/96.

It is for your kind information. and necessary action.

With kind regards.

all
11/10/96

REGISTERED.

FOR PERSONAL ATTENTION TO SHRI T.K.DAS Sei 'D'

From: Dy.O.D.A.(R & D)
Metealfe House
Delhi-54.

To: The Director,
D.R.L.
Tezpur(Assam)

No.P/II/789/R&D/Gen.

Dated.18-11-96.

Sub: Overpayment of H.R.A-Recovery of

.....

Ref: Your No.1008/FIN Dated.8-11-96.

Your request for deferment of recovery of H.R.A. from the Regular Pay Bill of 11/96 has been acceded to as a Special case. You are requested to forward the recovery list prepared by you latest by 15th December/1996 effecting recovery action in the Regular Pay Bill of 12/96 itself failing which recovery from the Regular Pay Bill of 12/96 will be started by this office as per our recovery list already sent to you.

ACCOUNTS OFFICER

*allu
18/11/96*

Amended - 12

12-
D. R. L. EMPLOYEES' UNION TEZPUR

Registered Under Indian T.U. Act, XVI of 1926

Regd. No—1144

Affiliated with A. I. D. E. F. No.-309

Head Office—DEFENCE RESEARCH LABORATORY

SOLMARA

P. O. Dekargaon, Pin—784501

Dist-Sonitpur

President :- N.K. SAHA

Vice President :- I. RAHMAN

Treasurer :- P.K. Das

General Secretary :- K. Choudhury

Asstt. Secretary :- H.K. Bora

Organise Secretary :- J.R. Saikia & S.K. Sarmah

Treasurer :- G.K. Nathani

Station DRLE/TE2/CO3/II

Date 5.11.96.

Ref No.

To

The Scientific Adviser,
Ministry of Defence,
Director General,
Research & Development Organisation,
R & D. Organisation,
New Delhi - 11.

Ref:- D.O. Letter No. P/II/789/R & D/Gen
O/O. the Dy. C. D. A. (R&D),
Metcalf House, Delhi-54, dt. 31.10.96.

Sir,

We have the honour to submit the following few lines
on behalf of the Employees of Tezpur Defence Research
Laboratory as under :

1. That vide O.M. No. 11021/1/83-E II dt. 3.11.86
issued by the Director of Ministry of Finance the H.R.A.
for Tezpur based Central Civil Employees were sanctioned
and accordingly the employees of the Defence Research
Labouratory, Tezpur are getting the same till today.
2. That however as per above referred letter there is
an order to recovery of H.R.A. of our Unit with effect

from

cc
11/11/96

D. R. L. EMPLOYEES' UNION TEZPUR

Registered Under Indian T.U. Act. XVI of 1926

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Organise Secretary :- J R Saikia & S.K. Sarmah

Treasurer :- G.K. Narjari

Station.....

Date.....

Ref No.....

- 2 -

from 1.1.86 to 31.8.95 as H.R.A. was paid as classified city 'C' Class city as Tezpur though from September '95 the H.R.A. has been paying, treating the Tezpur city as unclassified one.

3. That undoubtedly Tezpur is a classified city and our office is situated within the periphery of Tezpur as per the certificate issued by the Deputy Commissioner, Sonitpur, as such there cannot be any such reason to deprive the working class from getting their due H.R.A. as prescribed under the policy of the Govt. of India.

I therefore on behalf of all the employees of the D.R.L. Tezpur, most humbly appeal you most humbly appeal you consider our case of recovery most sympathetically and for the act of your kindness all the employees shall be ever grateful to you.

With regards,

Yours faithfully,

Copy to :-

1. Accounts Officer,
C/O. The Dy. C. D. A. (R&D)
Metcafe House, New Delhi-
54, for information &
necessary action.
2. Director, D.R.L., Tezpur,
for information & necessary action.

Sri N.K.Saha,
President, Defence Research
Laboratory Employees Union,
Tezpur.

President
D.R.L. Employees Union
Tezpur (Solmara)

*all over
Tezpur*

C E R T I F I C A T E

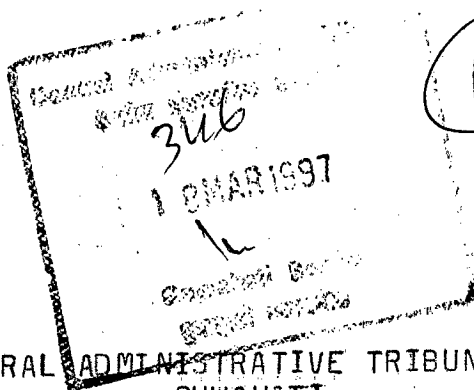
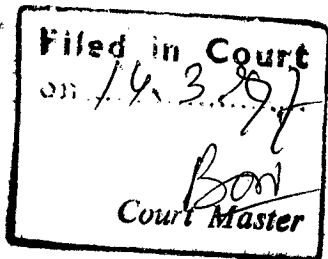
It is certified that as per Govt of India, Ministry of Finance (Department of Expenditure) OM No 11021/1/83- Estt-II (B) dated 3rd Nov. 86 the staff of K.V. No. 1 Tezpur (Solmara) is getting HRA 'C' Class city wof 1.8.82.

26/8/96
Principal,

Kendriya Vidyalaya No-1
TEZPUR

For hand
from Circulation file
26/8/96

advised
1/12/96



(15)

Filed by:-
A.H. Choudhary
Addl. Central Govt.
Standing Counsel
14/3/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

In the matter of :-

O.A. No.290 of 1996

Shri Narinder Kumar Saha & ors

..... Applicants

-Versus-

Union of India & others

..... Respondents

Written statement for and on behalf of the
Respondents No.1,2,3, and 4.

I, Dr. M.P. Chacharkar, Director, Defence Research
Laboratory, Tezpur, do hereby solemnly affirm and
say as follows :-

- 1) That I am the Director, Defence Research Laboratory, Tezpur, and am acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements made in the application may be deemed to have been denied. I am authorised to file this written statement on behalf of the Respondents No. 1 to 4.
- 2) That the Respondents have no comments to the statements made in paragraph 1 to 4.1 of the application.
- 3) That with reference to paragraph 4.2 of the application, the Respondents beg to state that the averment of the petitioner that the Central Govt. vide its OM No.11016/5/82-E/II (B) dated 7-2-83 had included, Tezpur under the list of 'C' class cities although is correct. But in the absence of requisite "dependency certificate" from the Competent Authority/Govt. sanction, the grant of HRA at 'C' class city rates to the employees of DRL, Solmara, Tezpur is considered not in order.

received the copy
14/3/97

Contd...2-

- 4) That the Respondents have no comments to the statement made in paragraph 4.3 of the application.
- 5) That with reference to paragraph 4.4 of the application the Respondents beg to state that in the absence of relevant Govt. sanction, the grant of HRA at 'C' class city rates was stopped w.e.f. 1-9-95 with the direction to recover the irregular payment of HRA from the employees of DRL Solmara, Tezpur with effect from 1-1-86 to 31-8-95 as per the instructions issued by the Ministry of Defence vide their ID Nos. 1380/95/D(Civ-I), dated 2-6-95, 1-8-95 & 2-8-95.
- 6) That the Respondents have no comments to the statement made in paragraph 4.5 of the application.
- 7) That with reference to paragraph 4.6 of the application the Respondents beg to state that the Tezpur City was added to the list of 'C' class cities reflected in ~~OM No. 11016/5/82-E-II(B)~~ Annexure II of Ministry of Finance OM No. 11016/5/82-E-II(B), dated 7-2-83 vide Ministry of Finance (Department of Expenditure) OM No. 11021/1/83-E-II, dated 3-11-86, but in the absence of requisite "dependency certificate" regarding inclusion of Solmara in Tezpur city by Co-mpetent Authority/issue of Govt. sanction, the payment of HRA at 'C' class city rates with effect from 1-1-86 to the employees of DRL Solmara, Tezpur considered irregular.
- 8) That the Respondents have no comments to the statement made in paragraph 4.7 of the application.
- 9) That with reference to paragraph 5(i) of the application the Respondents beg to state that the averment is denied as in the absence of relevant Govt. sanction for the inclusion of SOLMARA in the Tezpur City for the admissibility of HRA at 'C' class city rates, the grant of HRA at 'C' class city rates to the employees of DRL SOLMARA, (Tezpur) cannot be admitted.
- 10) That with reference to paragraph 5(ii) of the application the Respondents beg to state that the irregular payment of HRA at 'C' class city rates to the employees

of DRL, Solmara, Tezpur was stopped as per the specific directions from the Ministry of Defence (Civ.I) vide their ID Nos.1380/85/D (CIV.I) dated 2-6-95, 1-8-95 and 2-8-95. The above action of stopping payment of HRA at 'C' class city rates has been taken with reference to Rule 186 Financial Regulations Part-I, Vol.-I, owing to the absence of relevant Govt. orders.

11) That the Respondents have no comments to the statement made in paragraph 5(iii) of the application.

12) That with reference to paragraph 5(iv) of the application the Respondents beg to state that in the absence of relevant Govt. sanction the HRA at 'C' class city rates to DRL, Solmara Tezpur employees could not be admitted. Here it may be pointed out that Ministry of Finance (Deptt. of Expenditure) is the appropriate authority for issue of Govt. sanction regarding admissibility of HRA.

13) That the Respondents have no comments to the statement made in paragraph 6, 7 & 8 of the application.

14) That with reference to paragraph 9 of the application the Respondents beg to state the recovery of irregular payment of HRA at 'C' class city rates to the employees of DRL, Solmara Tezpur with effect from 01-1-86 to 31-8-95 has been kept in abeyance as per interim order of Tribunal Guwahati dated 20-12-96 against O.A. No.290/96 filed by Shri N.K. Saha.

15) That the Respondents have no comments to the statement made in paragraph 10, 11 and 12 of the application.

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

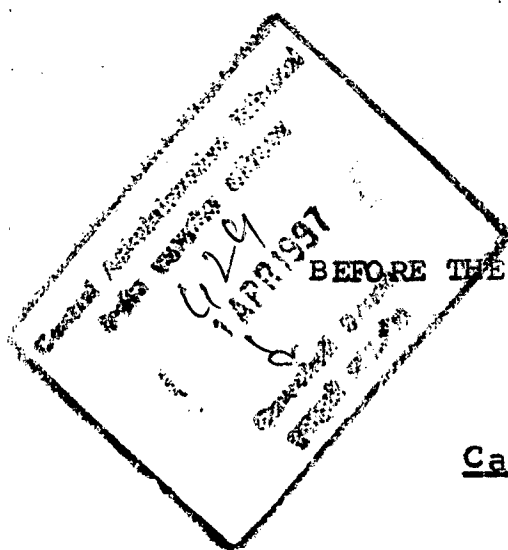
V E R I F I C A T I O N

I, Dr. M.P. Chacharkar, Director, Defence Research Laboratory, Tezpur, do hereby declare that the statements made in this written statement are true to my knowledge arrived from the records of the case.

I sign this Verification of this the 24th day of February 1997 at Tezpur

DEPONENT

24/2/97



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, AT GUWAHATI.

Case No. O.A. 290/96.

Sri N.N. Saha.

..... Applicant.

-Versus-

Union of India & ors.

..... Respondents.

Rejoinder to the written statement
filed on behalf of Respondent.

Most Respectfully Sheweth :-

1. That with regard to the statements made in paragraphs 3 and 7 of the written statement the applicant reiterates the statement made in paragraph 4. 2 and 4.6 of the application and states that it is ^{the} duty of Respondents to ascertain whether the applicants resides as a dependent within the distance of 8 Km. from the periphery of the municipal limit of the qualified city as per direction letter dated 3.1.89 issued by Dy. C. & A. which the Respondent failed to do so, for which the applicant ~~has~~ cannot suffer the loss after receiving the H. R. A.

(A copy of letter dated 3.1.89 is annexed hereto and marked as Annexure - 6).

2.....

Received copy
A.K. Choudhury
Adl. Cg 5C
2/4/97

18
28
Filed by:
H. Bhattacharya
Advocate
2/4/97

2. That with regard to the statement made in paragraph 5 of the written statement the applicant states that the applicant from time to time had obtained the dependency certificate from authority and submitted the same to the Respondents which the Respondents did not consider, though it is duty of Respondents to obtain the said certificate as per direction. Moreover the Respondent No. 3 issued a certificate stating that the said office is located in Salmarah since June, 1970, and is within the 8 Km. from the periphery of municipal limit.

(Copies of certificate dated 29.9.95 issued by D.C., Sonitpur, and certificate dated 31.3.97 issued by Director are enclosed herewith and marked as Annexure - 7 and 8).

3. That with regard to the statement made in paragraphs 9, 10 and 12 of the written statement, the applicant reiterates the statements made in paragraphs 5(i), 5(ii), 5(iv) of the application and states that it is duty of Respondent No. 3 to provide the authority with the dependency certificate, which the Respondent No. 3 failed to do so. In the interest of applicant the applicant had also provided the said dependency certificate to the Respondent No. 3, and after providing such certificate the Respondents cannot deprive the applicant from receiving their HRA allowance.

Verification

- VERIFICATION -

I, Sri Narendra Kr. Saha, aged about 43 years, s/o. Late H. Saha, is President of Defence Research Laboratory Employees' Union, is authorised to represent all the employees working under Defence Laboratory, Tezpur, do hereby verify that the context of paragraphs 1, 2, 3 of the rejoinder are true to my knowledge.

I sign this Verification on this 2nd day of April 1997 at Guwahati.

Narendra Kr Saha

DEPONENT.

**President,
D. R. L. Employees Union
Tezpur (Sohmara)**



J. LHUNGDIM, IDAS,
DY. CDA

D.O. No. PM/11/F/301/1119
AHEA ACCOUNTS OFFICE
ZORAM VILLA
SHILLONG-793001

DATED 3rd JAN '89

Dear Sirs,

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

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

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

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

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

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

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

With warm regards

YOURS

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

Yours sincerely,
J. V. Choudhary

all file
2/4/89

classified

CERTIFICATE

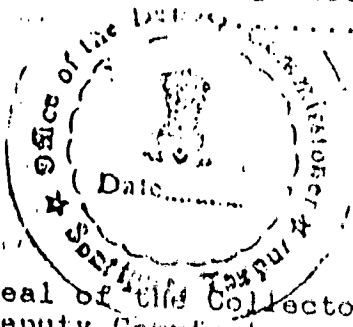
(The Certificate should be in respect of only place. If there are more than one place in respect of which the proposal relates, appropriate certificates in respect of each of such places should be given).

It is hereby certified that -

1. * SOLMARAH is a **Village/Fanchayat/non municipal area;
- 2.. * SOLMARAH is not a municipality or notified area or cantonment;
3. * SOLMARAH is within a distance of 8 kilometers from the periphery of the municipal limits of +TEZPUR CITY.
04. (a) Excepting +TEZPUR CITY, there is no other municipality, notified area or cantonment within a distance of 8 kms from +SOLMARAH and it is generally dependant for its essential supplies e.g. foodgrains, milk, vegetables, fuel etc., on +TEZPUR CITY.

Or

\$(b) Although there ismunicipality/ notified area/cantonment within a distance of 8 kms fromthe latter is generally dependant for its essential supplies. e.g. foodgrains, milk, vegetables, fuel, etc. on+.....



Seal of the Collector/
Deputy Commissioner.

Signature of the Collector/Deputy
Commissioner having jurisdiction
over the place.

Date :

-
- *Name of the place in respect of which the proposal relates.
- **The civiv status of the place, i.e. village, panchayat, Non-municipal area, etc. should be indicated.
- +name of the qualified town/city.
- #Delete whichever clause is not applicable.

all
24/9/97

सभी पत्रादि निर्देशक के पते भेजे जाने चाहिए, किसी अफसर के नाम से नहीं।

All correspondence to be addressed to the Director and not to any Officer by name.

Phone:— MII 6361

Civ 20534 & 20508

GRAM: TBZLAB, TLX—02303-203

1020/FIN

संज्ञा No.....

रक्षा मंत्रालय

Ministry of Defence

अनुसन्धान तथा विकास संगठन

Research & Development Organisation

रक्षा अनुसन्धान प्रयोगशाला

DEFENCE RESEARCH LABORATORY

पत्र बैग संख्या 2 Post Bag No. 2

तेजपुर (असम) —784001

TEZPUR (Assam) —784001

MARCH 1997

C E R T I F I C A T E

Defence Research Laboratory, Tezpur is located in Solmarah, District-Sonitpur from 01 June 1970.

Solmarah is within a distance of 8 kilometers from the periphery of the municipal limits of TEZPUR CITY.

Excepting, TEZPUR CITY, there is no other municipality, notified area or cantonment within a distance of 8 Kms from SOLMARAH and it is dependent for its essential supplies e.g. foodgrains, milk, vegetables, fuel etc. on TEZPUR CITY.



M. P. Chacharkar
31/3/97

(DR. M.P. CHACHARKAR)
DIRECTOR

all done
2/4/97