

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Gohil
29/1/98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

DA No.

122/96

MF No.

(DA

)

RA No.

(DA

)

EP No.

(DA

)

Dr. Nand Kishore Thakur & 66 co. APPLICANT(S)
VERSUS

Union of India & co.

RESPONDENT(S)

Mr. D.C. Basu, Advocate for the applicant.

Mr. G. Sarma, Addl. C.G.S.C. Advocate for the Respondents.
CGS

Office Notes

Court's Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPO/BD No 315/37
Dated ... 26.9.96

11-7-96

None is present for the applicants who are from Tripura. Name
xxxxxxxx Mr. G. Sarma Addl. C.G.S.C. is present for the respondents.

List for consideration of
Admission on 22-7-96.

DR Register

60
Member

Received by post.
Verification not written
but signed by the applicant.

22-7-96

None for the applicants.

Addl. C.G.S.C. Mr. G. Sarma for the respondents.

List for consideration of
Admission on 30-8-96. Inform the
counsel of the applicants.

Submitted

60
Member

10/7- 10/7-96
12.7.96

lm

12.7.96

Copy of order add.
11.7.96 issued to
the applicant Advocate
at Agartala.

None present.

List for consideration of admission on
15.11.96.

Member

BW

O.A. 122/96

30.8.96

None for the applicant. Mr G.Sarma
Addl.C.G.S.C for the respondents.

List for consideration of admission
on 11.10.1996.

Inform applicant No.1 Sri Nanda
Kishore Thakur about the date fixed for
consideration of admission.

Inform applicant
No.1.

30/8/96.

60
Member

pg
M
30/8

Notice issued to the
concerned parties vide
D.No. 3940 to 3942.

Dt. 3.12.96.

23.2.97
Notice duly served
on Repdt. No. 2, 3.

11.10.96

None present.

List for consideration of admission on 15.11.96.

trd

60
Member

15.11.96

The applicants and their advocate
are from Agartala. No one is present. Learned
Addl. C.G.S.C. Mr G. Sarma for the respondents
is present.

Adjourned for admission before Circuit
Bench at Agartala in the next sitting at Agartala.

60
Member

nkm

M
15/11

4.6.97

This matter relates to Tripura. None is
present for the applicant. Mr S.Sarma mentions
on behalf of Mr D.K.Biswas, counsel for the
applicant, that O.A.No.42/96, 43/96 & 44/96
are similar in nature with this O.A. and the
same have been listed for hearing on 6.6.97.
The present O.A. may also be listed for ad-
mission before Division Bench on 6.6.97. Mr G.
Sarma has no objection.

Let this case be listed for admission
on 6.6.97 before Division Bench.

60
Member

pg

876

O.A.No. 122/96

3

6-6-97

Heard Mr.D.K.Biswas learned counsel appearing on behalf of the applicant and Mr.G.Sarma, Addl.C.G.S.C for the respondents.

Mr.G.Sarma receives notice. No faxmail

faxmail

Application is admitted. Mr.G. Sarma receives notice. No formal notice need be sent.

Let this case be listed for order on 4th July, 97 for filing of written statement. Copy of the written statement be sent by registered post to ~~Mr.~~ D.K.Biswas counsel for the applicant. After the case is ready for hearing it would be ~~heard~~ at Agartala, Tripura. The applicant counsel is also from Tripura.

Copy of this order be furnished to the counsel for the respondents.


Vice-Chairman

6
Member

lm

12/6

4.7.97

The respondents have not filed written statement. Mr. G.Sarma, learned Addl. C.G.S.C. prays for further extension of time. Two weeks time is allowed for filing of written statement.

List on 22.7.97 for written statement and further orders.

6
Member


Vice-Chairman

trd

11/7

22.7.97

There is no representation.
List on 5.8.97.

By order.

5.8.97

Mr. G. Sarma, learned Addl. C.G.S.C. prays for further extension of time for filing of written statement. Several adjournments have already been granted. I am not inclined to grant any further adjournment. As the matter relates to Tripura, let it be listed for hearing at Agartala. Date will be notified later.

22-9-97

an application imp.
No- 268/97 filed
by Mr. G. Sharma,
Addl. C.G.S.C with
a prayer for
accept. w/s filed ^{trd}
by The respondents.

By Order

3.2.98

The learned counsel for the parties are not present. List it on 9.2.98.

no written statement
has been filed.

AS
21/2/98

Member


Vice-Chairman

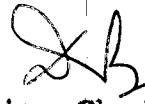
nkm

gS
A/2

It is submitted by the learned counsel that the case is ready for hearing.

List on 19.5.98 for hearing.


Member


Vice-Chairman

Flag 'A' is received from Mr. 9.2.98
SK Biswas, counsel of applicants
from Agartala wherein prayed
to hear the case at
Guwahati instead of Agartala.

As the Statute has already
been filed and accepted vide
order d. 3.10.97 passed in
No 268/97. Hence the case is
ready for hearing.

place before it Hon'ble 10/2
Court d. 10.5.98

Part heard. List it for further
hearing tomorrow, 20.5.98.

19.5.98

12.2.98

Copy of order addl. 9.2.98
issued to the applicant
at counsel at Agartala.

Member

For office copy kept
in OA. 12/2/98


Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
20.5.98 <i>06.78 Copies of the Judgment have been sent to D/Sec on issuing the same to parties through Regd. M/s A.P.</i>	20.5.98	<p>All the applicants have joined in this single application and a prayer has been made by them to allow them to proceed with the case by a single application as per the provisions contained in Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.</p> <p>Heard Mr D.K. Biswas, learned counsel for the applicants and Mr G. Sarma, learned Addl. C.G.S.C. On hearing the learned counsel for the parties we allow all the applicants to proceed with the case by a single application.</p> <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.</p> <p><i>60</i> Member</p> <p>nkm</p>



Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

D.A. NO. 122 of 1996
T.A. NO.

DATE OF DECISION 20.5.1998

Shri Nanda Kishore Thakur and
66 others

(PETITIONER(S))

Mr D.K. Biswas

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

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

ADVOCATE FOR THE
RESPONDENT (S)

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

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

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



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.122 of 1996

Date of decision: This the 21st day of May 1998

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

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

Shri Nanda Kishore Thakur and

66 others

.....Applicants

By Advocate Mr D.K. Biswas.

-versus-

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

2. The Garrison Engineer(P),
872 - Engg. Works,
C/o 99 - A.P.O.,
Tripura.

.....Respondents

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

.....

O R D E R

BARUAH.J. (V.C.)

The applicants have approached this Tribunal seeking direction to the respondents to pay to them House Rent Allowance (HRA for short) with effect from 1.1.1986.

2. The case of the applicants is that sixtyeight persons filed an application before this Tribunal seeking direction for payment of HRA with effect from 1.1.1986. The said original application was registered and numbered as O.A.No.177 of 1995. Written statement was also filed by the respondents in that case. However, at the time of hearing of the case it was found that the application suffered from certain procedural defects, inasmuch as all

B2

the applicants did not sign the application. Therefore, the Tribunal, after hearing the learned counsel for the parties and on perusal of the written statement and the records produced by the respondents, allowed the application so far as applicant No.1 was concerned. The Tribunal, however, granted leave to the other applicants to file fresh application for similar reliefs. Pursuant to that the present application has been filed. Though the applicant in original application No.177/95 claimed HRA with effect from 1.10.1986, this Tribunal granted the said allowance with effect from 31.1.1995. After considering the claims and counter claims, this Tribunal in para 3(i) of the judgment passed in Original Application No.177/95, observed as follows:

"i) The respondents are directed to pay HRA to the applicant at the rate as was applicable to him by reference to the place of his posting as prescribed under the O.M. dated 23.9.1986 with effect from 1.10.1986 or from the actual date of appointment (whichever is later) upto 28.10.1991 and at the rate as may be applicable from time to time as from 1.3.1991 (under O.M.No.2 (II)93-E-2(B) dated 14.5.1993) upto date and continue to pay the same at the rates as may be prescribed thereafter till 30.10.1995 and as from 1.11.1995 onwards under the appropriate orders of the Government of India."

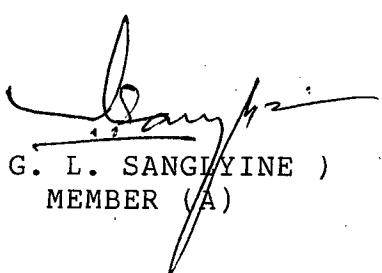
On a question put by this Tribunal as to whether there has been any change in this regard after the order passed by this Tribunal on 11.1.1996, Mr G. Sarma submits that there has been no change. There is no dispute that the facts of the present case are similar to the facts of the earlier O.A.177/95. Accordingly we direct the respondents to pay HRA to the applicants at the rate as was applicable to them by reference to the place of their posting as prescribed under the Office Memorandum dated 23.9.1986 with effect from 1.10.1986 or from the actual date of appointment,

whichever.....



whichever is later, upto 28.10.1991 and at the rate as may be applicable from time to time from 1.3.1991 (under O.M.No.2 (II)93-E-2(B) dated 14.5.1993) upto date and continue to pay the same at the rates as may be prescribed thereafter till 30.10.1995 and as from 1.11.1995 onwards under the appropriate orders of the Government of India. The arrear HRA as per this order shall be paid within one month from today. We also make it clear that future payment to be regulated as per the existing rate as may have been prescribed and any amount as may have been paid to the applicants towards HRA during the aforesaid period will be adjusted in the arrears.

3. With the above observations the application is allowed. However, considering the facts and circumstances of the case we make no order as to costs.


(G. L. SANGHATINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

nkm

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997
(Arising out of SLP (C) No. 14088 of 1996)

166083

Union of India & Ors. etc.

... Appellants

Versus

B. Prasad, B.S.O. & Ors. etc.

... Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578-1579, 1580-1585/97
[Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42,
15740, 25108-10 of 1996, SLP (C) No. 4396 /96 (CC-
5040/96) and SLP (C) No. 4398 /96 (CC-6660/96)]

O R D E R

Leave granted. We have heard learned counsel

for the parties.

These appeals by special leave arise from the various orders passed by the Central Administrative Tribunal, Gauhati Bench in different matters. The main order was passed on 17.11.1995 in RA No. 4/95 in OA No. 49/89.

The Government of India have been issuing orders from time to time for payment of allowances and

facilities for civilian employees of the Central Government servants working in the States and Union Territories of the North-eastern region. It is not in dispute that Special Duty Allowance was ordered by the Government @ 25% of the basic pay subject to a ceiling of Rs.400/- per month on posting on any station in the North-eastern region. Subsequently, the Government have been issuing orders from time to time. In the proceedings dated April 17, 1995, the Government modified the payment of the Special Duty Allowance and Special Compensatory (Remote Locality) Allowance as under:

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilian employees in the newly defined Field Areas, Special Compensatory (Remote Locality) Allowance and other allowances not concurrently admissible along with Field Service Concessions."

It is contended by Mr. P.P. Malhotra, learned senior counsel appearing for the Union of India, that the view taken by the Tribunal that they are entitled to both, is not correct and that they would be entitled

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to either of the allowances. Shri P.P. Rao, learned senior counsel appearing for some of the respondents has contended that those civilian employees working in the defence service at various stations in the North-eastern region were given Special Duty Allowance with a view to attract the competent persons and the persons having been deployed, are entitled to the same and the amended concessions would be applicable to those employees who are transferred after April 17, 1975. All those who were serving earlier would be entitled to both. Shri Arun Jaitley, learned senior counsel appearing for some of the respondents has drawn our attention to the distinction between Field area and Modified Field area and submitted that in cases where civilian employees are supporting the field defence persons deployed for the border operational requirements facing the immense hostilities, they will be denied the payment of both allowances while the personnel working in the Modified Field Area, in other words, in barracks, will be entitled to double benefit of both the allowance. This creates hostile discrimination and unjust results.

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.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities

in hilly areas risking their lives as envisaged in the proceedings of the Army dated January 13, 1994. ✓ But the Modified Field Area, in other words, in the defence terminology, "barracks" in that area is a lesser risking area; hence they shall not be entitled to double payment. Under these circumstances, Mr. P.P. Malhotra is right in saying that the wording of the order requires modification. The Government is directed to modify the order and issue the corrigendum accordingly.

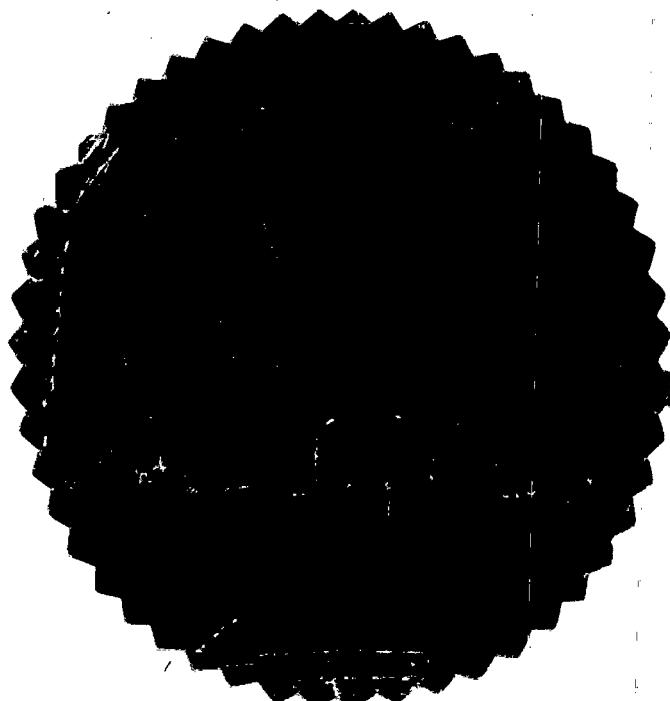
The appeals are disposed of accordingly. It is made clear that the Union of India is not entitled to recover any payments made of the period prior to April 17, 1995. No costs.

Sd/L
....., J.
(K. RAMASWAMY)

Sd/L
....., J.
(G.T. NANAVATI)

NEW DELHI;
FEBRUARY 17, 1997.

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Supreme Court of India

5
5/3/97

SEALED IN MY PRESENCE

5/3/97

Central Administrative Tribunals
केन्द्रीय विधायिक बोर्ड

583 30 APR 1996

Guwahati Bench
গুৱাহাটী বৰাবৰী

6
30/4/96
14

326
10 JUL 1996

THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::

O. A. 122 of 1996

Shri Nand Kishore Thakur & 66 others Applicants
VERSUS
Union of India & Others Respondents.

on House Rent Allowance.

(Connected with O.A. 177/95)

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	Pages
1. Application	
2. Vakalatnama	2 pages
3. I.P.O.	1 page

Filed by : Deopak K. Biswas
Advocate
Guwahati High Court
Agartala Bench
AGARTALA.

Recd Copy
Copy Sent to Addl. C.G. S.C. (Mr. G. Sharma)
by Regd. Post.
6/5/96

Copy Sent to Addl. C.G. S.C. (Mr. G. Sharma)
by Regd. Post.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

NO : O.A. of 1996 (House Rent Allowance .)

1. Shri Nanda Kishore Thakur, Maz. *(Signature)*
2. " Rambilash Yadav Mate. *Rambilash Yadav*
3. " George Mathai, Sk -II *George Mathai*
4. " Surendra Ch. Suklabadya, Carp. *Surendra Ch. Suklabadya*
5. " Prabhu Dayal, " *Prabhu Dayal*
6. " Prabal Jyoti Deb, Supvr. B/S-II *Prabal Jyoti Deb*
7. " Bhabananda Das, S.A. II *Bhabananda Das*
8. " S.P. Kabiraj, SA -I *S.P. Kabiraj*
9. " Ratan Deb, D/Man-II *Ratan Deb*
10. " Suden Chandra Bora, F/Printer *Suden Chandra Bora*
11. " Puran, Mate. *Puran*
12. " D.K. Singha, L.D.C. *D.K. Singha*
13. " M.C. Chakrabarty, P/Fitter, H.S-II *M.C. Chakrabarty*
14. " Subhas Chandra Deb *Subhas Chandra Deb*
15. " Ram Chandra, Carpenter. *Ram Chandra*
16. " Satyendra Suklabadya, Mason *Satyendra Suklabadya*
17. " Rama Krishna Horizon, Mate. *Rama Krishna Horizon*
18. " Ashok Kumar Balmiki, S/Walla. *Ashok Kumar Balmiki*
19. " Bikram Yadav, Mate. *Bikram Yadav*
20. " Ajay Dutta, Elect.H.S.-I *Ajay Dutta*
21. " Mohan Bhuyan, FGM (SK) *Mohan Bhuyan*
22. " R.Nateshan, " *R.Nateshan*
23. " K.P.G.K.Nair, " *K.P.G.K.Nair*
24. " Hariprasad Pradhan, Mate. *Hariprasad Pradhan*
25. " Khush Bahadur Sonar, " *Khush Bahadur Sonar*
26. " Ashok Kumar Dey, FGM (SK) *Ashok Kumar Dey*
27. " Rashik Ch. Paul, Elec. SK. *Rashik Ch. Paul*

(Signature)

28. Shri Sankar Purkayastha, Mate.

29. " M.R. Choudhury, Elec. SK. Alley

30. " H.M. Nag, Elec. H.S.-II H.M. Nag

31. " Pradip Kalita, Chowk. P. Kalita

32. " P.C. Sukla Das, FGM P.C. Sukla Das

33. " Ramakanta Harizen, Maz. Ramakanta

34. " Sudip Sutradhar, FGM Sudip

35. " Arjun Kr. Roy, Supdt. B/R-I Arjun Roy

36. " B.C. Roy B.C. Roy

37. " V. Margabandhu, Mate. V. Margabandhu

38. " Pradyumna Kr. Dutta, Supdt. B/R-I. Pradyumna Dutta

39. " C. Mani, FGM. C. Mani

40. " Chaturghan Hazam, Elec. SK. Chaturghan Hazam

41. " Dhanai Yadav, V/Man. Dhanai Yadav

42. " Benu Tanti, Mazdur. Benu Tanti

43. " Jamal Uddin, Elec. SK. Malik

44. " Alim Uddin, P/Fitter-SK. Alim Uddin

45. " Siraj Uddin, FGM. Siraj Uddin

46. " Sibendra Nath Chaki, Supdt. B.R-II. Sibendra Nath Chaki

47. " Dharanidhar Das, L.D.C. Dharanidhar Das

48. " Suresh Chandra Roy, Mason. Suresh Chandra Roy

49. " Dipak Ranjan Das, Elec. SK. Dipak Ranjan Das

50. " S.M.S. Naqvi, A.E., B.R. S.M.S. Naqvi

51. " Nitish Ranjan Kar, A.E., B.R. Nitish Ranjan Kar

52. " Nripendra Chandra Paul, Elec. SK. Nripendra Chandra Paul

53. " T.K. Bhattacharjee, L.D.C. T.K. Bhattacharjee

54. " A.K. Nandy, SK-II A.K. Nandy

55. " Sujit Kumar Banerjee, Supvr. B.R-II Sujit Kumar Banerjee

56. " S.P. Jain, P.S.O. S.P. Jain

57. " Dilip Kumar Saha, S.A-II Dilip Kumar Saha

58 Shri Swapan Choudhuri, Supdt. B/R-I *S. Choudhury*
59 " Radhabaldev Deb Nath, Supdt. E/M-I. *A. B. Mitter*
60 " A.K. Mitra, S.K-I *A. K. Mitra*
61 " M.C. Das, A.E., B/R. *M. C. Das*
62 " Kanulal Sukladas, Office Supdt. *Kanulal*
63 " S.K. Gangapadhyaya, A.E. B/R. *S. Gangapadhyaya*
64 " N.D. Das, Office Supdt. *N. D. Das*
65 " A.C. Guha, B/R, Gr-II *A. C. Guha*
66 " Supratish Sarker, V-Man *Supratish Sarker*
67 " B.K. Dutta *B. K. Dutta*

All posted/ served in the office of the
Garrison Engineer (P), 872- EWS, C/O, 99 - A.P.O.

..... P E T I T I O N E R S.

--- VERSUS ---

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

2. Garrison Engineer(P)
872 - Engg. Works
C/O. 99 - A.P.O.
(Tripura)

... R E S P O N D E N T S

**PARTICULARS OF ORDERS AGAINST WHICH
THE APPLICATION IS MADE**

The application is directed against the non-implementation of the Government of India ,Min. of Finance ,Department of Expenditure O.M. number 20014/10/86-E-IV dated 23-9-86 and denial of HOUSE RENT ALLOWANCE by the respondents even after the Judgment and order of this Hon'ble Tribunal in O.A. 50/89 passed on 29-3-94 , and implemented by Respondents No.1 in respect of 149 applicants similarly situated as the applicants here.

JURISDICTION OF THIS TRIBUNAL

All the applicants here are civilian Defence employees posted in the same Field area, now declared 'Modified Field Area' , from various dates between 1984 1984 and 1994. The applicants declare that the subject matter of the application and the redressal prayed for are within the jurisdiction of this Hon'ble Tribunal . The applicants declare that the application is within the prescribed limitation.

FACTS OF THE CASE

All the applicants here joined Shri Mrinal Kanti Das in a joint application before this Hon'ble Tribunal which was registered as O.A.177/95 The O.A. was admitted and finally heard on 11-01-1996 . At the time of hearing some procedural infirmity was discovered for which relief was allowed to the first named applicant only. As such this application is being filed by removing the defects with leave of the Hon'ble Tribunal . It is also mentioned that of these applicants filed on 18-3-96 (O.A.45/96) not being in proper form was withdrawn with leave of the Tribunal to file afresh.

2. That all the applicants here are the Civilian employees working in various posts described in details against each applicant. They are all posted in the establishment of the Respondent-2 with effect from different dates after 1984.

3. That the HOUSE RENT ALLOWANCE is admissible to all Central Govt. employees by virtue of Ministry of Defence O.M. No.4(19)85/D(Civ-1) dated 11-01-1984.

4. That the Fourth Pay Commission recommended HOUSE RENT ALLOWANCE irrespective of any other consideration in different range according to the classification of the place. On the basis of the recommendation of the Pay Commission H.R.A. was sanctioned by the Govt. of India Min.of Finance (Dept. of Expdtr)O.M. No.11013/2/1986-E.II(B) dated 25-9-86. All the applicants here, though posted in Field area, are entitled to H.R.A. in terms of the aforesaid Office Memo. dated 25-9-86. The applicants here thus challenge only the unlawful and arbitrary denial of the allowance.

5. As many as 149 applicants posted in the Establishment of the Respondent-2, i.e, G.E.(P) 892 EWS at Agartala (Tripura) filed application before this Hon'ble Tribunal challenging the denial /non-implementation of the HOUSE RENT ALLOWANCE. This Hon'ble Tribunal after hearing the parties passed the final verdict on 29-3-94 in O.A. 50/89 directing the Respondents to pay all arrears accrued to each individual applicant with reference to the date of posting and the rate admissible. The said order of the Hon'ble Tribunal was confirmed in Review application No. 5/1995, and as such the Order of the Hon'ble Tribunal has already been implemented in respect of all the 149 employees who are similarly situated as these applicants.

6. The applicants expected that the admissibility of the H.R.A. having been decided by the appropriate Judicial Tribunal , it would be applied uniformly in respect of all similarly situated . But it was not done , as a result of which Demand Notice was served on the Respondents on behalf of 68 employees including the present applicants , by registered post on 10-04-1995 (Which was annexed to the O.A. 177/95. No response having come forth the applicants filed the said Joint application with Shri Mrinal Kanti Das , on which Order was passed on 11-01-1996.

7. That the orders of the Hon'ble Tribunal passed in O.A. 178/95 (Mrinal Kanti Das VS. U.O.I.) would be applicable in the case of the applicants here , all being similarly situated and having common cause and identical relief prayed for.

RELIEF SOUGHT

(1) The judgment and Order of this Hon'ble Tribunal in O.A. 50/89 (D.B.Sonar & Ors VS. U.O.I.) and O.A. 177/95 (Shri Mrinal Kanti Das & Ors VS. U.O.I.) to be made applicable in the case of the present applicants.

(2) The Hon'ble Tribunal would also be kind enough to pass Orders as to cost of the Proceedings for having unnecessarily compelled the applicants to approach The Hon'ble Tribunal after the pronouncement of entitlement of the House Rent allowance .

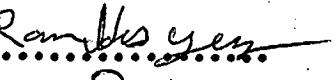
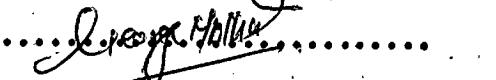
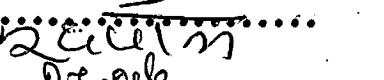
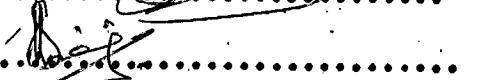
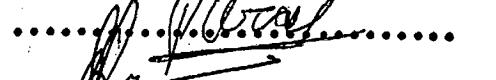
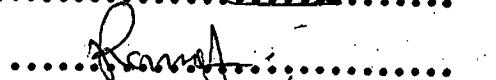
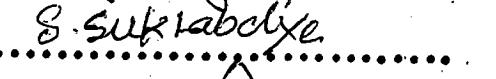
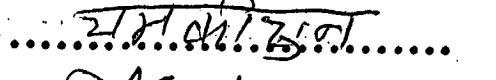
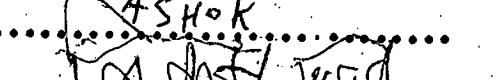
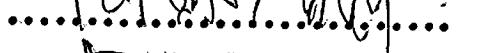
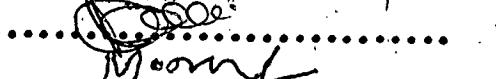
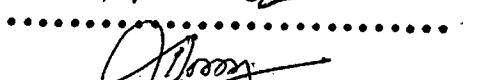
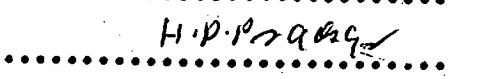
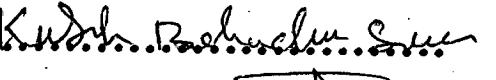
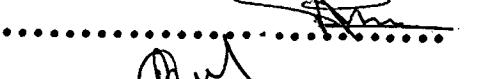
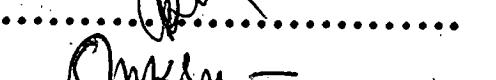
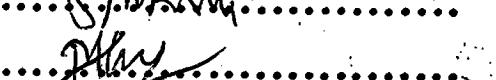
LEAVE FOR FILING THIS JOINT APPLICATION UNDER
RULE 4(5)(a) OF THE CENTRAL ADM. TRIBUNAL RULES 1987.

All the applicants belong to the same establishment of the Respondents and all of them have identical and common cause of action . They are low paid and cannot afford to file separate applications . As such leave is prayed for allowing them to join together in one application.

DOCUMENTS ANNEXED

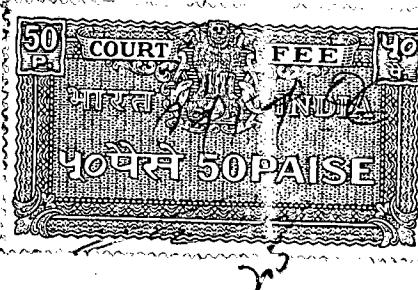
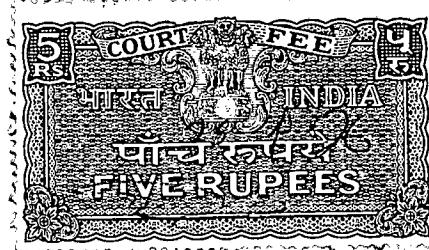
Certified Copy of order in OA 177/95 to be annexed as and when delivered by C.A.T.
PARTICULARS OF I.P.O. DEPOSITED : IPO NO: 09/ B/5137 Dt. 26.4.96.

VERIFICATION

Shri Nanda Kishore Thakur 
 " Rambilash Yadav 
 " George Mathai 
 " Surendra Ch. Suklabadya 
 " Prabhu Dayal 
 " Prabal Jyoti Deb 
 " Bhabananda Das 
 " S.P. Kabiraj 
 " Ratam Deb 
 " Suren Chandra Bora 
 " Puran 
 " D.K. Singha 
 " M.C. Chakrabarty 
 " Subhas Ch. Deb 
 " Ram Chandra 
 " Satyandra Suklabadya 
 " Ramkrishna Harizan 
 " Ashok Kr. Balmiki 
 " Bikram Yadav 
 " Ajay Dutta 
 " Mohan Bhuyan 
 " R. Natesan 
 " KPGK Nair 
 " Hariprasad Pradhan 
 " Khush Bahadur Soner 
 " Ashok Kumar Dey 
 " Rashik Ch. Paul 
 " Sankar Purkayastha 
 " M.R. Choudhuri
 " H.M. Naq
 " Pradip Kalita

Contd.

Shri P.C. Sukla das *P.C. Sukla das*
" Ramakanta Harizan *Ramakanta Harizan*
" Sudip Sutradhar *Sudip Sutradhar*
" Arjun Kumar Roy *Arjun Kumar Roy*
" B.C. Roy *B.C. Roy*
" V. Margabandhu *V. Margabandhu*
" Pradyumna Kr. Dutta *Pradyumna Kr. Dutta*
" C. Mani *C. Mani*
" Chaturghan Hazam *Chaturghan Hazam*
" Dhanai Yadav *Dhanai Yadav*
" Benu Tanti *Benu Tanti*
" Jamal Uddin *Mal Uddin*
" Alim Uddin *Alim Uddin*
" Siraj Uddin *Siraj Uddin*
" Sibendra Nath Chaki *Sibendra Nath Chaki*
" Dharani dhar Das *Dharani dhar Das*
" Suresh Ch. Roy *Suresh Ch. Roy*
" Dipak Ranjan Das *Dipak Ranjan Das*
✓ " S.M.S. Naqvi *S.M.S. Naqvi*
" Nitish Ranjan Kar *Nitish Ranjan Kar*
" Nripendra Ch. Paul *Nripendra Ch. Paul*
" T.K. Bhattacharjee *T.K. Bhattacharjee*
" A.K. Nandi *A.K. Nandi*
" Sujit Kr. Banerjee *Sujit Kr. Banerjee*
" S.P. Jain *S.P. Jain*
" Dilip Kr. Baha *Dilip Kr. Baha*
" Swapan Choudhuri *Swapan Choudhuri*
" Radha Ballav Deb Nath *Radha Ballav Deb Nath*
" A.K. Mitra *A.K. Mitra*
" M.C. Das *M.C. Das*
" Kanulal Sukla das *Kanulal Sukla das*
" S.K. Gangapadhyaya *S.K. Gangapadhyaya*
" N.D. Pow *N.D. Pow*
" A.C. Guha *A.C. Guha*
" Supratish Sarker *Supratish Sarker*
" B.K. Dutta *B.K. Dutta*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

CASE NO 1996

VAKALAT-NAMA

Sri Nanda Kishore Thakur & Ors. Applicants

-- VERSUS --

Union of India & Another Respondents

We the following signatories, applicants in the above application do hereby appoint and retain the Advocate noted below to act and appear for us in the above Case. We agree to ratify all acts done by the aforesaid advocate in pursuance of this authority.

Dated, Agartala April 1996.

SIGNATURES OF APPLICANTS

- 1) S. Nanda Kishore Thakur
- 2) M. H. M. Ali
- 3) Asit Kumar Chakraborty
- 4) Chiranjit Chakraborty
- 5) Partha Chakraborty
- 6) Partha Chakraborty
- 7) Partha Chakraborty
- 8) Partha Chakraborty
- 9) Partha Chakraborty
- 10) Partha Chakraborty

- 11) Monish
- 12) Monish
- 13) C. Mani
P. K. Kalita
- 14) Partha Chakraborty
- 15) Partha Chakraborty
- 16) Partha Chakraborty
- 17) Partha Chakraborty
- 18) Partha Chakraborty
- 19) Partha Chakraborty

Deepak K. Biswas, Advocate

Accepted by me

Deepak Biswas
D. K. BISWAS
ADVOCATE

26

VAKALAT NAMA

(Continuing Sheet Number - 2)

SIGNATURES OF THE APPLICANTS

20) Rajiv

21) Malay

22) Sur

23) Baw

24) Da

25) ant

26) Sonu

27) Chakrabarty

28) Selby

29)

30) P.C. Sultaan

31) Shonab

32) EG

33) 2005

34) H.M. Noor

35) Georgina

36) Qas

37) Ab

38) Prashant

39) Ramdas

40) JP

41) B.K. Dutt

42) Dhingra

43) H. Prakash

44) S. Chaudhary

45) 28733

46) A.R. Mitra

47) Ramay

48) Sonu

49) S. Subhabdia

50)

51) Abdullah

52) Niraj

53) 27210712501

54) Ronald

55) ASHOK

56) SAW

57) Kulh Bichadu Suri

58) Mhas

59) Mhas

60) AC Gunha

61) Ab

62) Dhoni Yadav

63) Sur

64) J.J. Soeb.

DEEPAK K. BISUAS, ADVOCATE

65) laksh

66) Sandu

67)

H.R.K.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.177 of 1995

Date of decision: This the 11th day of January 1996

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

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

Shri Mrinal Kanti Das,
FGM, MES No.242727 and 65 others.
Office of the Garrison Engineer(P),
872, Engineering Works Section,
99 A.P.O.Applicants

By Advocate Shri D.K. Biswas.

- versus -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Defence,
New Delhi.
2. The Garrison Engineer(P),
872, Engineering Works Section,
99 A.P.O.Respondents

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

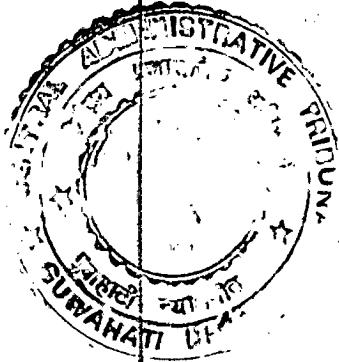
.....
O R D E R

CHAUDHARI J. V.C.

Mr D.K. Biswas for the applicant.

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

Although this application is purported to be filed by 66 Civilian Defence employees posted in the Field Area under respondent No.2 from various dates claiming House Rent Allowance (HRA) on the strength of the earlier decision of this Tribunal in O.A.No.50/89 dated 29.3.1994, the application can proceed only to the extent of the applicant whose name appears in the title, i.e. Mrinal Kanti Das and the other 65 persons cannot be granted relief on this application. That is because although it is stated in the title as Mrinal Kanti Das and 65 others the application is signed only by Mrinal Kanti Das purportedly on behalf of the remaining persons also. The Vakalatnama has also been signed



only by Mrinal Kanti Das for self and other 64. A list of the names of the 66 persons who are supposed to be the applicants is annexed to the O.A., but it is a type-written list and there are no signatures of the persons who appear in the list. It is not stated in the application that the 66 persons have justification for joining in a single application. Neither any application has been filed under Rule 5(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, to join together and file a single application nor such leave has been obtained from this Tribunal. In the absence of the signatures of the remaining 65 persons on the O.A. or on the Vakalatnama and in the absence of any letter of authority signed by them in favour of Mrinal Kanti Das to file the application on their behalf the O.A. cannot be considered in law as a legally constituted application on behalf of the remaining 65 persons and we cannot, therefore, exercise our jurisdiction in law. It appears that this aspect ^{was} lost sight of the learned counsel for the applicants inadvertently, but since the irregularity goes to the root of jurisdiction and competency of the application we regret that we have to confine this order only to applicant, Mrinal Kanti Das and leave the remaining 65 applicants to file a proper application in accordance with law and the rules in which case the question of extending the benefit of this judgment to them will be open to be considered.

2. The applicant, Mrinal Kanti Das, is a civilian Defence employee posted in the Field Area under respondent No.2. His grievance is that he is not being paid HRA which the respondents ought to have granted in view of the judgment and order of this Tribunal in O.A.No.50/89 dated 29.3.1994.

3. The respondents interalia contend that the applicant is not entitled to claim HRA for the period prior to 31.1.1995 since the particular location where the applicant is posted has been declared as Modified Field with effect from 1.4.1993, and that only those employees who are not occupying Government Accommodation are entitled to the allowance. The respondents, however, ^{concede} consider that HRA will be paid from 31.1.1995. That concession is made on the basis that the State

of.....
[Signature]

29

of Tripura has been declared as Modified Field Area. It is contended that as prior thereto the applicant was enjoying Field Concession upto October 1995 he is not entitled to get the HRA in addition thereto. This question has been considered by us in our order on O.A.No.124/95 with O.A.No.125/95 dated 24.8.1995 pertaining to employees from the State of Nagaland. We followed our earlier decision rendered in O.A.No.48/91 dated 22.8.1995 and held that under the O.M. dated 23.9.1986 issued by the Ministry of Finance (Department of Expenditure), Ministry of Finance, Government of India, prescribing the rates of HRA payable to Central Government employees with effect from and after 1.1.1986, the applicants in that case were entitled to HRA. We had not accepted the contention of the respondents in that case that by reason of Field Service Concession being given the employees were not entitled to claim HRA. We see no reason to take a different view in the instant case. Hence following order is passed:

- i) The respondents are directed to pay HRA to the applicant at the rate as was applicable to him by reference to the place of his posting as prescribed under the O.M. dated 23.9.1986 with effect from 1.10.1986 or from the actual date of appointment (whichever is later) upto 28.10.1991 and at the rate as may be applicable from time to time as from 1.3.1991 (under O.M.No.2 (II)93-E-2(B) dated 14.5.1993) upto date and continue to pay the same at the rates as may be prescribed thereafter till 30.10.1995 and as from 1.11.1995 onwards under the appropriate orders of the Government of India.
- ii) The respondents shall ascertain the rates applicable at different periods of time and calculate the arrears on that basis. The arrears shall be paid within a period of three months from the date of communication of this order to the respondents. Future payment to be regulated as per the existing rate as may have been prescribed.

 Any.....

Any amount has may have been paid to the applicant towards HRA during the aforesaid period will be adjusted in the arrears.

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

5. This order is confined in this O.A. only to applicant, Mrinal Kanti Das.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



TRUE COPY

6/6/96
Section officer (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati

✓ 6/6/96

Memo No 1260

dt. 10/6/96

To
Mr. D.K. Biswas, Advocate,
Guwahati High Court,
Agartala Bench,
Tripura.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

H.R.A.

Original Application No.177 of 1995

Date of decision: This the 11th day of January 1996

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

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

Shri Mrinal Kanti Das,
FGM, MES No.242727 and 65 others.
Office of the Garrison Engineer(P),
872, Engineering Works Section,
99 A.P.O.

.....Applicants

By Advocate Shri D.K. Biswas.

- versus -

1. Union of India, represented by the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. The Garrison Engineer(P), 872, Engineering Works Section, 99 A.P.O.

.....Respondents

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

O R D E R

CHAUDHARI, J.P. V.C.

Mr D.K. Biswas for the applicant.

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

Although this application is purported to be filed by 66 Civilian Defence employees posted in the Field Area under respondent No.2 from various dates claiming House Rent Allowance (HRA) on the strength of the earlier decision of this Tribunal in O.A.No.50/89 dated 29.3.1994, the application can proceed only to the extent of the applicant whose name appears in the title, i.e. Mrinal Kanti Das and the other 65 persons cannot be granted relief on this application. That is because although it is stated in the title as Mrinal Kanti Das and 65 others the application is signed only by Mrinal Kanti Das purportedly on behalf of the remaining persons also. The Vakalatnama has also been signed

attested
Deepak Biswas
DEEPAK BISWAS
Advocate.

only by Mrinal Kanti Das for self and other 64. A list of the names of the 66 persons who are supposed to be the applicants is annexed to the O.A., but it is a ~~hand~~-written list and there are no signatures of the persons who appear in the list. It is not stated in the application that the 66 persons have justification for joining in a single application. Neither any application has been filed under Rule 5(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, to join together and file a single application nor such leave has been obtained from this Tribunal. In the absence of the signatures of the remaining 65 persons on the O.A. or on the Vakalatnama and in the absence of any letter of authority signed by them in favour of Mrinal Kanti Das to file the application on their behalf the O.A. cannot be considered in law as a legally constituted application on behalf of the remaining 65 persons and we cannot, therefore, exercise our jurisdiction in law. It appears that this aspect ~~was~~ lost sight of the learned counsel for the applicants inadvertently, but since the irregularity goes to the root of jurisdiction and competency of the application we regret that we have to confine this order only to applicant, Mrinal Kanti Das and leave the remaining 65 applicants to file a proper application in accordance with law and the rules in which case the question of extending the benefit of this Judgment to them will be open to be considered.

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3. The respondents interalia contend that the applicant is not entitled to claim HRA for the period prior to 31.1.1995 since the particular location where the applicant is posted has been declared as Modified Field with effect from 1.4.1993, and that only those employees who are not occupying Government Accommodation are entitled to the allowance. The respondents, however, ~~concede~~ consider that HRA will be paid from 31.1.1995. That concession is made on the basis that the State

of

Any amount has may have been paid to the applicant towards HRA during the aforesaid period will be adjusted in the arrears.

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

5. This order is confined in this O.A. only to applicant, Mrinal Kanti Das.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



TRUE COPY

6/6196
Section officer (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati

6/6196

Memo No 1260

81. 10/10/96

To
Mr. D.K. Biswas, Advocate,
Guwahati High Court,
Agartala Bench.
Tripura.

of Tripura has been declared as Modified Field Area. It is contended that as prior thereto the applicant was enjoying Field Concession upto October 1995 he is not entitled to get the HRA in addition thereto. This question has been considered by us in our order on O.A.No.124/95 with O.A.No.125/95 dated 24.8.1995 pertaining to employees from the State of Nagaland. We followed our earlier decision rendered in O.A.No.46/95 dated 22.8.1995 and held that under the O.M. dated 23.9.1986 issued by the Ministry of Finance (Department of Expenditure), Ministry of Finance, Government of India, prescribing the rates of HRA payable to Central Government employees with effect from and after 1.1.1986, the applicants in that case were entitled to HRA. We had not accepted the contention of the respondents in that case that by reason of Field Service Concession being given the employees were not entitled to claim HRA. We see no reason to take a different view in the instant case. Hence following order is passed:

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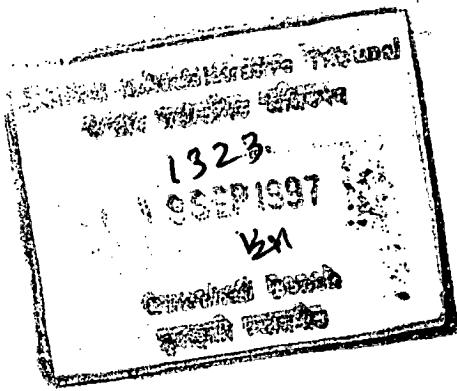
W.W. Any.....

12

File No. 1323
Central Govt.
National Central Govt.
Standing Counsel
Central Administrative Tribunal
Guwahati Bench
19/9/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH



HOUSE RENT ALLOWANCE

In the matter of :

O.A.No.122 of 1996

Shri N.K.Thakur & 66 others.

....Applicants.

- Versus -

Union of India and others.

....Respondents.

- And -

In the matter of :

Written Statement on behalf of
the respondents.

I, Major B.Mandal, Garrison Engineer, 872

Engr Wks Sec, C/o 99 APO do hereby solemnly affirm
and declare as follows :-

1. That a copy of application alongwith the
order as communicated by the Addl.CGSC have been
received by the respondents and myself being authorised
to represent the respondents, I do hereby file the
written statement as follows and say categorically

that.....

Copy will be served upon
the advocate of the applicant
when he is available
Afterwards
Addl CGSC
19/9/97

-2-

that save and except what is admitted in this written statement, rest may be treated as total denial by all the Respondents.

2. That with regard to the contents made in paragraphs 1 and 2, the respondents begs to state that Supreme Court's judgement dated 17.2.97 has gone in favour of 64 applicants out of 67 applicants of this present application. Bills for payment for 64 applicants of this application have already been prepared and forwarded to Army Headquarters (E-in-C's Branch) through Departmental channel. In this connection, a copy of the Hon'ble Supreme Court's judgement dated 17th Feb '97 and list of applicants in O.A.No.177/95 are enclosed herewith and marked as Annexure R.1. Rest three applicants i.e. Shri S.P.Kabiraj, SA I is working with this unit and Shri Subhash Chandra Deb and Shri B.C.Roy have already been posted out to other formations.

3. That with regard to the contents made in paragraph 3, the respondents begs to state that in field area there is no provision for keeping family. Single accommodation as per status and rank has been provided to the civilian employees. Those applicants who kept their family in old duty station, are being paid old duty HRA as per existing orders. In other

cases.....

-3-

cases Department has no provision for providing family accommodation or House Rent Allowance.

4. That with regard to the contents made in paragraph 4, the respondents begs to state that the Fourth Pay Commission's recommendation issued by the Ministry of Finance (Department of Expenditure) Memo No.11013/2/86-E II(B) dated 24-9-86 is not applicable to the Department under Ministry of Defence so long it is not circulated by the Defence Ministry. As such, House Rent Allowance is not admissible to the employees of this unit. However House Rent Allowance is now admissible with effect from 31 Jan '95 as per Ministry of Defence letter No.B/37269/AG/PS-3 (a)/1862/D(Pay/Services) dated 12 Sept '95 as this unit has been declared as modified field. The same is under scrutiny and will be paid in due course.

5. That with regard to the contents made in paragraph 5, the respondents begs to state that the 149 applicants of O.A.No.50/89 have been paid provisionally as per judgement dated 29-3-94 to avoid contempt of the Court after obtaining undertaking that if the judgement on SLP submitted before the Hon'ble Supreme Court goes in favour of the Department, the applicants have to pay back the amount of HRA. Later on the Hon'ble Supreme Court on the hearing of SLP on 10th Feb '95 directed to the Department to file Review Peition before this Hon'ble Tribunal.

Contd.....

-4-

Accordingly, the Review Petition was filed to before this Hon'ble Tribunal on 2.3.1995. The hearing of Review Petition was held on 16th and 17th November '95. Moreover, the benefit or otherwise of case No.50/89 is not applicable to the applicants of this present application.

6. That with regard to the contents made in paragraph 6, the respondents begs to state that the applicants are not entitled for the House Rent Allowance as per the applicants of O.A. 50/89. However, the HRA may be paid in terms of Ministry of Defence letter No.B/37269/AG/PS-3(a)/1862/D(Pat/Service) dated 12 Sept '95 w.e.f. 31 January '95 since this location has been declared as modified field with effect from 1-4-93 who are not occupying govt. accommodation.

7. That with regard to the contents made in paragraph 7, the respondents begs to state that the applicants are not entitled for House Rent Allowance from the date of their posting to this station. The same will be paid with effect from 31-1-95 in view of the letter from Ministry of Defence as stated in para 6 above. A copy of the letter is annexed herewith and marked as Annexure R.2.

8. That this present application is ill-conceived of law and misconceived of facts.

Contd.....

9. That there being no any cause of action, the present application may kindly be dismissed.

10. That in view of the facts stated above, the question of awarding cost does not arise at all.

11. That this written statement is filed bonafide and in the interest of justice.

VERIFICATION

I, Major B. Mondal, son of ~~late~~ ¹ Ma²Indra Nath Mondal, aged 33 years, presently working as Garrison Engineer, 872 Engr Wkd Sec, C/o 99 APO do hereby solemnly affirm and verify that the statements made in paragraph 1 of this written statement are true to my knowledge and those made from paragraph 2 to 7 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal.

AND I sign this Verification on this 08th day of Sep , 1997 at 1430 hrs .

B. Mondal
B. MONDAL,
Mai
Deponent
GARRISON ENGINEER

LIST OF APPLICANTS

(Office of the G.E. (P)872, Engr. Wks Section)

Sl.	MES NO.	Name	Designation	Posted Since
01.	242727	Shri Mrinal Kanti Das	FGM	17/2/94
02.	243682	Shri Sudip Sutradhar	"	04/2/91
03.	220317	" KPK Nair	"	20/4/92
04.	228341	" Sirajuddin Barbhuiya	"	July '92
05.	237946	" Ashok Kr. Dey	"	May 92
06.	243368	" Mohan Bhuiya	"(SK)	1988
07.	108945	" N Natesham	"	Sep' 1994
08.	234055	" M.C. Chakraborty	P/Ftr HS-II	2/5/90
09.	228324	" Bomkesh Dutta	P/Ftr SK	10/6/92
10.	228860	" Alimuddin	"	July' 1993
11.	203528	" Supratish Sarkar	V/Man	25/10/94
12.	238373	" Dhanai Yadav	"	14/12/94
13.	237926	" Bikaram Yadav	Mate	15/4/92
14.	233843	" V Margabandhu	*	Mar' 91
15.	243445	" Kush Bhadur Sonar	"	03/6/92
16.	243464	" HariParasad Pradhan	"	22/9/94
17.	243825	" Sankar Purkayastha	"	13/4/92
18.	T/1306	" Benu Tanti	Mazdoor	Jun' 1993
19.	245915	" Padip Kalita	Chow	Jul' 1994
20.	243386	" Ramchandar	Carpenter	Apr' 92
21.	228237	" Satendra Suklabadya	Mason	Sep' 93
22.	228353	" Suresh Ch, Rai	*	06/9/93
23.	238433	" Ramakrishna Harijan	Mate	Jun' 92
24.	243634	" Ramakant Harijan	Maz	11/02/92
25.	243786	" Ashok ^{kr} Balmick	S/Wala	26/11/92
26.	220304	" Pabhudyal	Carpenter	14/9/94
27.	228901	" Surender Ch. Suklabadhy, "	"	July' 1992
28.	243875	" Nanda Kishor Thakur	Maz	Nov' 91
29.	14117066	" Puran	Mate	Aug' 83
30.	201685	" M C Das	A E B/R	01/12/90
31.	450430	" S K Gangopadhyaya,	AE B/R	Dec' 90
32.	265108	" Arjun Kr. Rai	Supdt B/R-I	Dec' 90
33.	450179	" Sukhbir Jain	BSO	01/03/94
34.	224044	" Nitish Rajjan Kar	AE B/R	04/02/94
35.	288168	" Dilip Kumar Saha	SA-I	Feb' 92

1	2	3	4	5
36.	206835	Shri Swapna Choudhuri	Updt B/R-I	6/12/91
37.	242597	" Pradyumna D. Dutta	" "	25/1/95
38.	220006	" Sujit Kr. Banerjee	Suptr BS-I	11/8/93
39.	232981	" Shababnanda Das	SA -II	29/4/92
40.	243572	" Prabal Joyoti Deb	Upvr B/R -II	9/6/93
41.	254692	" Rattan Deb	B/Man -II	Feb'93
42.	267001	" Sibendra Nath Chanki	Updt B/R-II	27/12/93
43.	211010	" A K Nandi	SA -II	1/10/93
44.	242844	" George Mathai	SK-II	29/12/92
45.	232222	" D K Deb	UDC	14/5/93
46.	243372	" T K Bhattacharjee	LDC	30/6/92
47.	275705	" B K Singha	LDC	31/12/89
48.	232126	" Suren Chandra Bora	F/Printer	June'90
49.	238265	" AG Gupta	B/R Gde-II	25/5/91
50.	265005	" Kanulal Suklades	Office Suptd	2/12/79
51.	237601	" N D Pan	" "	05/7/89
52.	225399	" Dhiren Dhar Das	LDC	25/6/92
53.	201358	" Radhaballav B. Math,	Supdt E/R-I	07/7/89
54.	216097	" A K Mitra	SK-I	07/8/90
55.	228327	" Raik Chandra Paul	Mec HS -I	9/5/94
56.	228863	" Ajay Dutta	"	10/9/93
57.	228775	" H R Naing	Mec HS-II	13/7/92
58.	288773	" H R Choudhary	Elect SK	Jun'92
59.	243449	" Lipok Ranjan Das	"	07/2/94
60.	228345	" Nripendra Ch Paul	"	01/7/92
61.	228625	" Cheturgun Hazra	"	22/2 10/4/91
62.	430125	" S H S Nagvi	AE B/R	25/2/94
63.	243450	" Jamiliddin Barbhuya	Elect SK	
64.	265055	" P C Suklades,	PGM	
65.	243213	" C Mani	"	
66.	237933	" Remakrishana	Mate.	

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Certified to be true copy
Assistant Registrar

5-3-1997

Supreme Court of India

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO. 1572 OF 1997
(Arising out of SLP (C) No. 14088 of 1996)

Union of India & Ors. etc.

... Appellants

Versus

B. Prasad, B.S.C. & Ors. etc.

... Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578, 1579, 1580-1585/97
(Arising out of SLP (C) Nos. 17236-59, 14104, 15141-42,
15740, 25108-10 of 1996, SLP (C) No. 4396 /96 (CC-
5040796) and SLP (C) No. 4398 /96 (CC-5860/96))

ORDER

Leave granted. We have heard learned counsel
for the parties.These appeals by special leave arise from the
various orders passed by the Central Administrative
Tribunal, Gauhati Bench in different matters. The main
order, it was passed on 17.11.1995 in RA No. 4/95 in OA
No. 49/89.The Government of India have been issuing
orders from time to time for payment of allowances and

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facilities for civilian employees of the Central Government servants working in the States and Union Territories of the North-eastern region. It is not in dispute that Special Duty Allowance was ordered by the Government @ 25% of the basic pay subject to a ceiling of Rs.400/- per month on posting on any station in the North-eastern region. Subsequently, the Government have been issuing orders from time to time. In the proceedings dated April 17, 1995, the Government modified the payment of the Special Duty Allowance and Special Compensatory (Remote Locality) Allowance as under:

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances admissible to Defence Civilian, as hitherto, under existing instructions issued by this Ministry from time to time. However, in the case of Defence Civilian employees in the newly defined Field Areas, Special Compensatory (Remote Locality) allowance and other allowances not concurrently admissible along with Field Service Concessions."

It is contended by Mr. P.P. Mallikaray, learned senior counsel appearing for the Union of India, that the view taken by the Tribunal that they are entitled to both, is not correct and that they would be entitled

to either of the allowances. Shri P.P. Rao, learned senior counsel appearing for some of the respondents has contended that those civilian employees working in the defence service at various stations in the North-eastern region were given Special Duty Allowance with a view to attract the competent persons and the persons having been deployed, are entitled to the same and the extended concessions would be applicable to those employees who are transferred after April 17, 1975. All those who were serving earlier would be entitled to both. Shri Arun Jaitley, learned senior counsel appearing for some of the respondents has drawn our attention to the distinction between Field area and Modified Field area and submitted that in cases where civilian employees are supporting the field defence persons deployed for the border, operational requirements facing the immense hostilities, they will be denied the payment of both allowances while the personnel working in the Modified Field Area, in other words, in barracks, will be entitled to double benefit of both the allowance. This creates a hostile discrimination and unjust results.

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.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities.

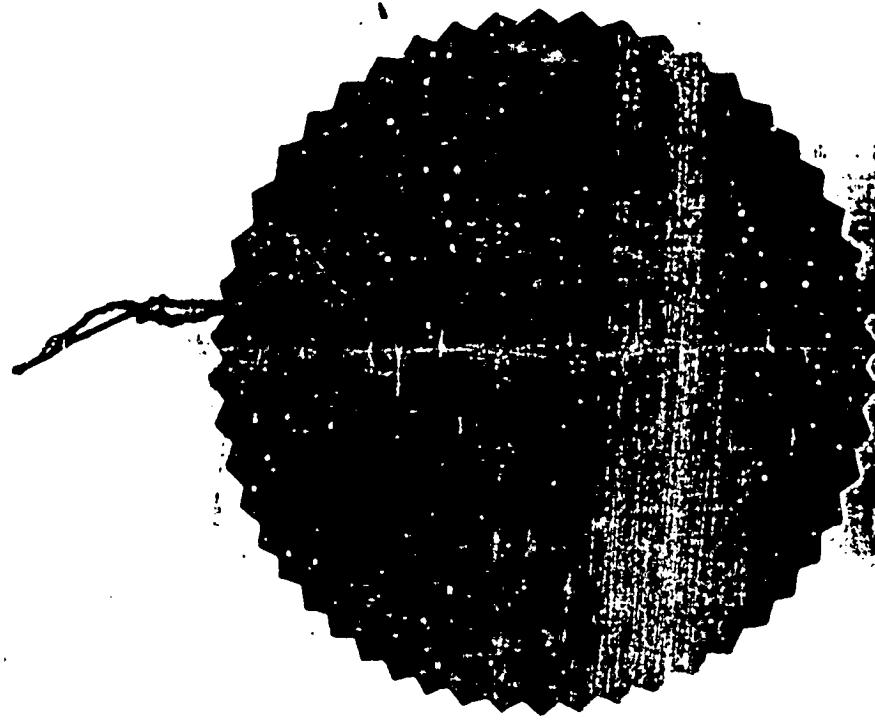
in hilly areas risking their lives as envisaged in the proceedings of the Army dated January 13, 1994. But the Modified Field Area, in other words, in the defence terminology, "barracks" in that area is a lesser risking area; hence they shall not be entitled to double payment. Under these circumstances, Mr. P.P. Malhotra is right in saying that the wording of the order requires modification. The Government is directed to modify the order and issue the corrigendum accordingly.

The appeals are disposed of accordingly. It is made clear that the Union of India is not entitled to recover any payments made of the period prior to April 1, 1995. No costs.

SM
....., J.
(K.RAKASWAMY)

SLN
....., J.
(G.T.NANAVATTI)

NEW DRAFT:
FRIDAY 17, 1997.



COLLED IN MY PASSAGE

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573/8)

See Recommendations of the Fourth Decision of Govt
No Pay Commission

(iv) The groupings of employees and the amount of HRA in different classes of cities may be as follows :

Accepted (Applicable to Group 'B', 'C' and 'D' only)

Type of recommendation to which entitled	Pay range in proposed scales A1, B1 & B2 Rs Class cities	Amount of House Rent Allowance payable in		
		C Class cities	Unclassified places	
A	750-949	150	70	30
B	950-1499	250	120	50
C	1500-2799	450	220	100
D	2800-3599	600	300	150

(Chapter 14, Paragraph 14.27)

(v) HRA at the above rates may be paid to all employees (other than those provided with Government owned/hired accommodation) without requiring them to produce rent receipts. They should, however, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. HRA at the above rates may also be paid to Government employees living/in their own houses subject to their furnishing a certificate that they are paying/contributing towards house or property tax or maintenance of the house.

(Chapter 14, paragraphs 14,27)

(vi) The other conditions at present applicable for the grant of HRA in cases where a Government employee shares Government accommodation allotted rent free upto to another Government employee or resides in Government Accommodation allotted to his/her parents, son, daughter, wife or husband shall continue to be applicable.

(Chapter 14 paragraph 14.27)

(vii) There are also restrictions in some cases on the limit of pay upto which HRA is given. In all places where HRA is presently admissible at 15 percent of pay, the same may be paid at the rates mentioned at (iv) above for A, B-1 and B-2 class cities. In other cases covered by special orders, HRA may be paid at the rate mentioned at (iv) above for C class cities. In both these cases there should be upper pay limit for payment of HRA.

(Chapter 14 paragraph 14,28)

Contdp/6)