

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Wally
25/11/18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH

✓ OA No. 87/96

MP No. (OA)
RA No. (OA)
CP No. (OA)

C. T. Balachandran & Ors. APPLICANT(S)
VERSUS

Union of India & Ors. RESPONDENT(S)

Mr. B. K. Sharma, Advocate for the applicant.
Mr. B. M. Patel
Mr. G. Sarma Addl. C.G.S.C.

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

Office Notes

87

Court's Orders

This application is in form and within time

E. F. of Rs. 50/-

deposited vide

PO/BD No. 346128

Dated 24.6.96

REGD
6/6/96

10-6-96 Mr. B. K. Sharma for the applicants. Mr. G. Sarma Addl. C.G.S.C. for the respondents.

Heard counsel for admission.

Application is admitted. Issue notice on the respondents by registered post. Written statement within 23-7-96.

List on 23-7-96 for order.

6
Member(A)

6
Member(J)

13-6-96
Notice issued to the parties
on 13.6.96.

1m

23.7.96 Learned counsel Mr B.K. Sharma for the applicant. Learned Addl. C.G.S.C. Mr. G. Sarma for the respondents. Written statement has not been submitted.

List on 19.8.96 for written statement and further orders.

6
Member

Box of stationery not submitted

nkm

8/2/96
8/8/96 (not submitted) 8/2/96

8/6/96

19.8.96

Mr. S. Sarma for the applicants.

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

Written statement has not been submitted.

List for written statement and for further orders on 18.9.96.

(i) (ii) (iii)
 19/8/96

62
Member

trd

m/
19/8

18.9.96

None present. Written statement has not been submitted.

List for written statement and further orders on 7.10.96.

62
Member

nkm

7.10.96

None present. Written statement has not been filed.

List for written statement and further orders on 13.11.96.

62
Member

nkm

m/
7/10

13.11.96

None for the applicant.

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

Written statement has not been submitted.

List for written statement and further orders on 13.12.1996.

62
Member

trd
m/
13/11

13.12.96

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

Written statement has not been submitted. Mr. Sarma seeks time to file written statement.

List for written statement and for further orders on 10.1.1997.

6a
Member

trd

20.2.97

Trd
10/1

1) Notice duly served on R-1 to 3.

2) No W/S Recd. been submitted.

3) No memo or appearance filed.

W
20/2

lm

W
10/1

21-2-97

27.2.97
No written statement has been filed.

W
27/2

lm

13-3-97

28.2.97

Adjourned to 14.3.1997.

1) Notice duly served on R. No - 1 to 3.
2) No written statement pg
has been filed.

JK
Vice-Chairman

JK
13.3

14.3.97

3.6.97
WPS
10/6/96

Written statement has been filed. Mr. G.Sarma, Addl.C.G.S.C. submits that the matter relates to Nagaland and therefore it would be convenient if the matter is taken up at Kohima. Prayer allowed. Date would be notified later.

JK
 Vice-Chairman

3.6.97
 No. WPS is read.

trd

JK
 10/6/97

10.6.97
 (Kohima)

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

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

JK
 Member

JK
 Vice-Chairman

2.9.92
Copy of the Judgment
has been issued to the
applicant along with the
Advocates of the Respon-
sible S.no. 2927 &
 2928.

JK

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.266/96 and series

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

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

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

.....

1. Original Application No.266 of 1996
Shri Ram Bachan and 14 others
By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

2. Original Application No.268 of 1996
Shri Nomal Chandra Das and 55 others
By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 others
By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 others
By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 others
By Advocate Mr A. Ahmed

....Applicants

-versus-

Union of India and others
By Advocate Mr S. Ali, Sr. C.G.S.C.

....Respondents

DR

6. Original Application No.91 of 1996

Shri Daniel Sangma and 81 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta.

-versus-

Union of India and others

.....Respondents

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

7. Original Application No.87 of 1996

Shri C.T. Balachandran and 32 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others

.....Respondents

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

8. Original Application No.45 of 1997

Shri L. Shashidharan Nair and 9 others

.....Applicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and others

.....Respondents

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

9. Original Application No.197 of 1996

Shri P.C. George and 66 others

.....Applicants

By Advocate Mr S. Sarma

-versus-

Union of India and others

.....Respondents

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

10. Original Application No.28 of 1996

Shri Hiralal Dey and 8 others

.....Applicants

By Advocate Mr A.C. Sarma and Mr H. Talukdar

-versus-

Union of India and others

.....Respondents

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

B2

11. Original Application No.190 of 1996

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

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

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

12. Original Application No.191 of 1996

Shri Kedolo Tep and 16 othersApplicants

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

13. Original Application No.55 of 1997

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

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

By Advocate Mr N.N. Trikha

-versus-

Union of India and othersRespondents

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

14. Original Application No.192 of 1996

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

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

By Advocate Mr S. Sarma and Mr B. Mehta

-versus-

Union of India and othersRespondents

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

15/ Original Application No.26 of 1997

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

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

O R D E R

Date of decision: 10-6-1997

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

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

nkm

ORDER

BARUAH.J. (V.C.)

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

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

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

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

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

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

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

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

respondents.....

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

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

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

DB

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

applicable.....

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

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

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

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

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


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

in.....

in the said order.

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

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

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUJARATI BENCH

79
6 JUN 1996

(An Application Under Section 19 of the Administrative
Tribunal Act, 1985)

Title of the case : O.A. No. 87 of 1996

Shri C. T. Balachandran & Ors. Petitioners

-vs-

Union of India & India & Ors. Respondents

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For use in Tribunal's Office:

Date of filing : 6.6.96

Registration : 87/96

Recd copy
of the
AT

REGISTER

16

(B. Middle)
Final copy in English

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUNAHATI BENCH

O.A. No. 87 of 1996

BETWEEN

<u>SL.ND.</u>	<u>NAME & DESIGNATION</u>
1.	C.K. Balachandran, UDC
2.	V.D. Charley, LDC
3.	H.T. Konyak, JIO. I/G
4.	Miss T.Y. Konyak, SA/G
5.	Zhophuta Tetsee, SA/G
6.	Krele Sani, SA/G
7.	Longkap Phom, JIO-II/G
8.	R.N. Paik, Asst.
9.	J.K. Sarkar, Asst.
10.	S.S. Rajput, SA/G
11.	George Mathew, ACIO-II/WT
12.	M. Gyan JIO-II/WT
13.	B.D. Bhattacharya, ACIO-II/WT
14.	B. Vijaykumar, JIO-I/WT
15.	M.P. Sachit, JIO. I/WT
16.	C.D. Samu, JIO. I/WT
17.	V.N. Jha, ACIO. I/WT
18.	T. Anandan? ACIO-II/WT
19.	T. Dasan, JIO-II/G
20.	H.N.P. Kurup, ACIO-II/G
21.	Partha Sengupta, LDC
22.	Hosheshe Sema, ACIO-II/G
23.	Y. John Fatten-JIO-II/G
24.	Chonthungo Lotha. ACIO-II/G
25.	P.C. Mathai, JIO-I/G
25A.	P. K. Sudarsanam SA. S.I.B. Kohima.

26. S.R. Koirang, ACIO-II/G, SIB, Imphal
27. A.K. Dutta, ACIO-III/WT SIB, Calcutta
28. Ganesh Kumar Singh, JIO-I/WT SIB, Guwahati
29. Jugal Ranjan Saikia, ACIO-I/4 SIB, Guwahati
30. P.K. Sutradhar, JIO-II/G, SIB, Siliguri
31. K.K. Mitra, UDC/SIB, Calcutta
32. L. Varte, LDC, SIB, Imphal.

.....Applicants

Applicant No. 1 to 25A are working in the Department of Subsidary Intelligence Bureau, Govt. of India posted in the State of Nagaland and applicant No. 26 to 32 are also belongs to same Deptt. but at present they have been transferred to different places and all of them are belongs to Grade-B, C & D categories.

-AND-

1. The Union of India,
represented by the Secretary,
Ministry of Home Affairs,
N.Delhi.
2. The Director, Intelligence Bureau,
Ministry of Home Affairs,
Union of India, New Delhi-1.
3. The Assistant Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Govt. of India, Kohima.

.....Respondents

C. T. Balachandran

DETAILS OF APPLICATION.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:-/

The application is made against the Implied rejection of the representation of the applicants for granting House Rent Allowances as per the rate prescribed for 'B' Class cities. The application is also made praying for a direction to release the House Rent Allowance to the applicants being Group 'D' and Group 'D' employees of Subsidiary Intelligence Bureau posted in Nagaland as is admissible to the Central Government employees posted in 'B' Class cities and also for grant of compensation in lieu of accommodation in terms of C.A. NO. 11015/4/86 - E.II (B) Dated 13.11.87.

2. JURISDICTION OF THE TRIBUNAL:-

The applicants declare that the subject matter of the orders against which they want redressal is within the jurisdiction of the Tribunal.

3. LIMITATION:

The applicants further declare that the application is within the limitation period prescribed under Sec. 21 of the Administration Tribunals Act, 1985.

4. FACTS OF THE CASE:

Q.1. That all the applicants are citizen of India and therefore they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India. The applicants are employees of Subsidiary Intelligence Bureau (hereinafter referred to as 'the' Government of India and so on).

S. Balachandran

to as 'SIB) Government of India and are posted in the State of Nagaland. They all belong to Gr. 'C' and Gr. 'D' categories. It is pertinent to mention here that some of the applicants have since been posted out of Nagaland and some have left SIB as stated in the Cause Title.

4.2 That as stated above the applicants are all Gr. B,C & D employees under the Respondents (SIB) but the applicant No.26 to 32 were initially posted in the state of Nagaland. But at present they have been transferred and posted out of Nagaland. It will be pertinent to mention here that the cause of action and relief sought for in this application to all the applicants. The applicants above named have a common interest and as such have filed this application jointly for redressal of their common grievances.

The applicants Crave Leave of this Hon'ble Tribunal to permit them to join together in a single application invoking the Rule -4 (5) (a) fo the Administrative Tribunal (Procedure) Rules 1987 to minimise the number of Litigation and to minimise the valuable time of this Hon'ble Tribunal.

4.3. Some of the
That/the applicants are were at the relevant
point of time ^{WORKING} under the Government of India, dept of S.I.B. Nagaland.

4.4. That the employees of the 'SIB' and for that matter and for that matter all Central Government employees.

C.J. Balakrishnan

posted at Nagaland are required to be provided with rent free accomodation. However, in some case if they are not given rent free Government accomodation they are entitled to House Rent Allowance as in B Class cities declared by the Government of India. Such employees are also entitled to compensation in lieu of Rent Free Accomodation.

4.5 That the cities / towns of Nagaland have been classified and as such the general order prescribing House Rent Allowance for different class of cities could not be made available applicable to the state of Nagaland. It was under these circumstances the President an order dated 8.1.1962 granting House Rent Allowance to the P & T staff posted at Nagaland. The operative portion of the said and which is relevant to the purpose of the instant application is quoted below.

" I (iii) Rent Free Accomodation on a scale approved by the Local Administration. The P & T staff of NHTA who are not provided with Rent Free Accomodation will, however draw House Rent Allowance in lieu thereof at the rate applicable in 'B' Class cities contained in Col. IV Paragraph I of the Ministry of Finance O.M. No. 2 (22) - B II (B)/60 dated 2.8.60."

The presidential Order equates the cities in the state of Nagaland for the purpose of payment of HRA to the cities which have been classified as 'B' Class. The said Presidential Order dated 8.1.62 is still operative. The applicants are not in possession of a copy of the aforesaid

order and therefore, crave the leave of the Hon'ble Tribunal to direct the respondents to produce a copy of the same.

4.6 That the applicants state that the former NHTA (Naga Hills and Tuansang Area) and the present state of Nagaland is considered as a specially difficult area for the purpose of rented accomodation. In Nagaland irrespective of the station of the entir territory, the whole state has been considered as a difficult area from the point of view of availability of rented house and therefore, the Central Government employees posted them are either given rent free accomodation or where such employees are accomodation could not be provided by the Government, the employees are entitled to MRA at the rate applicable to 'B' class cities. This situation has continued since 1962 and the difficulties still exist. The housing situation in Kohima in particular and the State of Nagaland in general has not improved and therefore, rented house at reasonable rates are not available till date.

4.7 That the applicants state that most of the Gr. 'B' and Gr. 'B' employees of SIB posted in Nagaland have been provided with Government accomodation. However, Gr. 'C' and Gr. 'D' are not provided with Government accomodation and therefore, they are required to stay in rented houses which are very scarce and as a result the Gr. 'C' and Gr. 'D' employees are facing great hardship all through.

C. T. Balachandran

faced by the applicants and the applicants were neither given Government accomodation ~~and~~ HRA although the said benefits were given to Gr. 'A' and Gr. 'B' officials.

4.9. That the 4th Pay Commission made certain recommendation regarding grant of HRA and compensatory allowance to the Central Government employees and pursuant to such recommendation the Government of India, Ministry of Finance by memo dated 23.9.86 communicated the decision of the Government of India of the Pay Commission and the rates for HRA and compensatory allowances were prescribed. It was communicated by the aforesaid decision that HRA at the rate shown shall be paid to all employees without requiring them to produce rent receipts.

A copy of the aforesaid memorandum dated 23.9.86 is annexed hereto as ANNEXURE-I

4.10. That from the aforesaid memo dated 23.9.86 it is clear that the recommendation of the 4th Pay Commission was accepted by the Govt. and accordingly, the applicants were also entitled to HRA and compensation in lieu of HRA Rent Free Accomodation. When the matter was perused by the employees of Census Operation, Ministry of Home Affairs issued an office memo dt. 9.8.67 whereby it was communicated that the grievances raised in the Departmental Council for removal of disparity in payment of HRA etc. between the employees of Ministry of Home Affairs and other Central Govt. employees posted in Kohima, was not possible to agree and therefore, a formal disagreement was recorded on this

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O.S. Balachandran

demand and consequently, the matter was referred to the Board of Arbitration for decision. The Board of Arbitration has given an Award to the effect that from 1.5.76, the employees of Directorates of Census Operations posted in Nagaland shall get the HRA and personal allowance at the same rate as that of employees of Posts & Telegraph Department. Pursuant to such an Award, the Ministry of Finance in consultation with the Department of Personal and Training decided to implement the Award.

A copy of the aforesaid memorandum dated 9.6.87 is annexed hereto as ANNEXURE-2.

4.11. That the applicants state that although the benefits as claimed in this application are given to other employees of Central Government posted in Nagaland, the applicants are being deprived of the same. The respondents have not agreed to give HRA at the rate prescribed for 'B' Class cities whereas the employees of P & T Deptt. are granted HRA at the rate prescribed for 'B' Class cities. The employees of P & T Department are also granted compensation at the rate of 10% of their basic pay in lieu of RFA.

4.12. That the applicants state that some employees of Postal Deptt. before this Hon'ble Tribunal, filed an application being O.A. No. 42(0)/89 (Shri S.K. Ghose & Ors. vs. Union of India & Ors) raising the claim for grant of HRA at the rate prescribed for 'B' Class cities and this Hon'ble Tribunal was pleased to allow the application by order dated 30.10.90. Against this judgement dated 30.10.90, the Union

C. T. Balachandran

of India preferred on appeal before this Hon'ble Supreme Court being Civil Appeal No. 2705/91 (Union of India & Ors. Vs. Shri S.K. Ghose & Ors.) The Hon'ble Supreme Court disposed of the aforesaid appeal by an order dated 18.2.93 holding that there was no infirmity in the Judgement of the Tribunal was not justified in granting HRA from May, 18, 1980 and the employees are entitled to the arrears only with from October 1, 1986 when the recommendations of the 4th Pay Commission were enforced.

A copy of the order of the Hon'ble Supreme Court dated 18.2.93 is annexed herewith and marked as ANNEXURE-3.

4.13 That the applicants state that some employees of the Geological Survey of India belonging to Gr. 'C' and 'D' and posted in Nagaland filed an application before this Hon'ble Tribunal being O.A. No. 48/91 claiming HRA at the rate applicable to 'C' Class cities i.e., @ 15% of the pay and also for payment of compensation @ 10% in lieu of HRA. The aforesaid application was allowed by this Hon'ble Tribunal by judgement and order dated 26.11.93.

A copy of the aforesaid judgement & order dated 26.11.93 passed in O.A. No. 48/91 is annexed herewith as ANNEXURE-4

4.14 That subsequent to it, the All India Postal Employees Union filed another O.A. No. 2/94 claiming the same benefits and the said application was also allowed by this Hon'ble Tribunal.

A copy of the Judgement dated 17.3.94
passed in O.A. No. 2/94 is annexed
herewith and marked as ANNEXURE-5.

4.15 That it will be pertinent to mention here that the modification of the Hon'ble Tribunal's order was done by the Hon'ble Supreme Court in view of the recommendation of the 4th Pay Commission which came into effect from 1.10.86. From 1.4.96, the basic grant of HRA was changed according to accomodation of the 4th Pay Commission. The Pay Commission in its report, inter alia, stated that where HRA at the rate of 15% has been allowed, under Special Order, the same shall be given as admissible in a B-1 and B-2 class cities. In other cases covered by special orderm the HRA shall be admissible at the rate in other class cities. The applicants crave leave of the Hon'ble Tribunal to refer to the recommendation of the 4th Pay Commission at the time of hearing, if necessary.

4.16 That the applicants state that after the Judgement of the Hon'ble Tribunal referred to above and the decision of the Hon'ble Supreme Court dated 18.2.93, all Central Government employees posted in Nagaland are entitled to HRA at the rate admissible to B-Class cities and they also entitled to compensation in liey of rent free accomodation. However, for reason best known to the respondents the applicants are deprieved of the said benefits.

4.17 That the applicants state that they urged the

matter in the light of the Hon'ble Supreme Court's decision to the respondents. The applicants pointed out that the employees of the Postal Department in Nagaland are granted HRA at the rate applicable to 'B' Class cities vide No. 4-49/87-PAP Dt. 7.3.94 issued by the Directorate General, Posts on the basis of the Judgement of the Hon'ble Tribunal Supreme Court. The applicants also pointed out that the employees of Intelligence Bureau, Ministry of Home Affairs were also granted HRA at the rate applicable to 'B' Class cities vide order No. 3/TERMS(C)/87(5)-528 dt. 26.4.89 issued by the Intelligence Bureau New Delhi. However, inspite of such position, the respondents have not acted and are sitting over the matter.

Copies of aforesaid letters dt. 7.3.94 & 26.4.89 are annexed as Annexus 6 & 7, respectively.

4.18 That the applicants have been making representations for the benefits as prayed for in this application to the respondents time and again. This will be evident from a Memo. dated 23.3.94 issued by the Assistant Director, SIB, Kohima addressed to the I.B. Headquarters New Delhi wherein on the basis of the representations filed by the applicants, the matter was referred to the Headquarters, N.Delhi requesting to consider the matter. It was stated in the aforesaid Memo that in view of the Hon'ble Supreme Court's judgement judgement and its implementation by the P & T Department to all employees, a new angle has been added to the matter and that the matter be taken up with the Ministry of Home Affairs and Ministry of Personnel to extend the benefits to the applicants. However, the respondents are sitting

C. T. Balachandran

overtime matter and nothing has happened to this effect.

A copy of the aforesaid memo dated 23.3.94 is annexed herewith as ANNEXURE-6.

4.19 That the applicants state that since the applicants are similarly circumstances with those of any other Central Government employees posted in Nagaland, the respondents ought to have extended the said benefits to the employees of the SIB. It is a well settled proposition of law that when a decision made by a Court in case of certain employees it is not necessary for other similarly circumstances employees to approach the Court and similiar effects should also be extended to them. However, the respondents by the aforesaid communication dated 10.6.94 has forced the applicants to approach this Hon'ble Tribunal.

4.20 That very recently some of the employees of SIB, Government of India posted at Nagaland approached this Hon'ble Tribunal by way of filing application being O.A. No.37/95 and on the light of the judgement and order passed by the Apex Court as well as by this Hon'ble Tribunals, this Hon'ble Tribunal was pleased to grant the relief to the applicants thereto. In presence of the judgement dated 22.8.95 passed by this Hon'ble Tribunal in O.A. 37/95 the Desk Officer (P.F.V), Ministry of Home Affairs, Government of India on 18.4.96 wrote to the Director Intelligence Bureau

(HRA) New Delhi, that convey the sanction of the President to the grant of HRA and RFA to 127 applicants in the said O.A. as per the judgement dated 22.8.95. In the said order it is made clear that the applicants there to will be entitled to HRA and other consequential benefits. The applicants stating the above facts made representation to the authority but till date they have not been served with any communications.

Copies of the communication dated 18.4.96 and one of such representations are annexed as ANNEXURE 9&10.

4.20A. That the application state they are also entitled to compensation in terms of office memo dated 13.11.87 as regard to judgement in O.A. No. 48/91.

4.21 That the applicants state that the wrong committed to the applicants is a continued wrong and therefore, the applicants is within the limits prescribed under section 21 of the Administrative Act.

4.22 That this application has been made bonafide and in the interest of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1 For that the Presidential order of 1962 being operative, the respondents cannot take away the right of receiving HRA by the applicants for their period of posting in Nagaland.

5.2 For that the applicants are entitled to compensation in lieu of rent free accomodation in terms of the Memo dated 13.11.87 referred to in the body of the

5.2 For that it is a well settled proposition of law that as some employees are found entitled to certain benefits, all similarly circumstanced employees also should be extended with the similar benefits.

5.3 For that the action of the respondents is discriminatory and violative of the rights guaranteed under Part-3 of the Constitution of India.

5.4 For that the employees serving in other Central Government Department, Corporation etc. and posted in Nagaland are given HRA as is admissible to 'B' Class cities and as such, the applicants cannot be discriminated against.

5.5 For that the applicants are entitled to compensation in lieu of rent free accommodation in terms of the Memo. dated 13.11.87 referred to in the body of the application.

6. DETAILS OF REMEDIES EXHAUSTED:-

The applicants have submitted numerous representation but the same have not been replies to. As such, there is no other alternative and efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:-

The applicants further declare that they had not previously filed any application, writ petition or suit

regarding the matter in respect of which the application has been made before any Court of law, or any other authority and/or other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT:-

Under the facts and circumstances of the case, the applicants pray that Your Lordships would be pleased to issue notice on the respondents to show cause as to why the reliefs sought ofr in this application shall not be allowed, call for the records and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

- (i) A declaration that all the applicants of the SIB posted in Nagaland are entitled to House Rent Allowances as well as compensation in lieu of Rent Free Accomodation applicable to Central Govt. employees posted in 'B' Class cities with effect from 1.10.86.
- (ii) A direction to the respondents to release House Rent Allowance at the rate of 15% and compensation in lieu of Rent Free Accomodation to all the applicants posted in Nagaland as applicable to the Central Govt. employees posted in 'B' class cities forthwith, alongwith arrears with effect from 1.10.86.
- (iii) Cost of the application
- (iv) Any other relief or reliefs to which the applicants are entitled under law and equity.

9. INTERIM ORDERS PRAYED FOR :

Pending disposal of the application, the respondents may be directed to release their current HRA at the rate admissible to the Central Govt. employees posted in 'B' Class cities.

10. The application is filed through Advocate.

11. PARTICULARS OF THE I.P.C.

(i) I.P.C. NO : 09 346128

(ii) DATE : 24.5.96

(iv) PAYABLE AT : GUWAHATI

12. LIST OF ENCLOSURES :

As stated in the Index

verification....

C.T. Mukherjee

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

I, C.K. Balachandran, son of late Shri C.K. Kunjitty, aged about 46 years, at present working in Subsidiary Intelligence Bureau, Kohima do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice. I am also duly authorised to sign this verification on behalf of the other applicants and I have not suppressed any material facts.

And I sign this verification on this the 31st day May 1996.

B
Balachandran
(C.T. BALACHANDRAN)

No. 11013/2/86-E-II(b)
GOVERNMENT OF INDIA MINISTRY OF
FINANCE (Department of Expenditure)

New Delhi the 23rd September 1986.

OFFICE MEMORANDUM

Sub : Recommendation of the Fourth Pay Commission, Decision of the Government relating to grant of Compensatory (City) & House Rent Allowance to Central Government Employees.

The undersigned is directed to say that consequent upon the decision taken by the Government on the recommendation of the Fourth Pay Commission relating to the above mentioned allowances vide this Ministry's resolution No. 14(1)/I/C/86 dtd 13th September 1986, the President is pleased to decide that in modification of this Ministry O.M. No. F.2(37)-E-II(8)/64 dated 27.11.1985 as amended from time to time for compensatory (City) and House Rent Allowances to Central Government employees shall, be admissible at the following rates :

COMPENSATORY(CITY) ALLOWANCES

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

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

II) HOUSE RENT ALLOWANCES

Type of accom- modation to which entitled les or pay for entitlement.	Pay range in revised scale	Amount of H.R.A. payable Rs.p.m.	
		A, B-1, B-2 class cities.	C class cities
	750-949	150	70
	950-1499	250	120
	1500-2799	450	220
	2800-3599	600	300

Contd...

*Amended
Approved
31-5-96*

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

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

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

5. Pay for the purpose of these orders, will be 'pay' as defined in F.R.9(2) (a)(i). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include in addition to pay in the pre-revised scales, dearness pay, dearness allowance, additional Dearness Allowance Ad-hoc DA and Interim Relief appropriate to that pay, admissible under orders in existence on 31.12.85.

6. These orders shall be effective from 1.10.1986. For the period from 1.1.1986 to 30.9.1986, the above allowance will be drawn at the existing rates on the national pay in the pre-revised scale.

7. These orders will apply to civilian employees of the Central Government belonging to Group 'B' 'C' & 'D' & R only. The orders will also apply to the Group 'B' 'C' & 'D' civil employees paid from the Defence Service's Estimates. In regard to Armed Forces Personnel and Railway Employees, separate

Contd...

Attested
by
S. C. S. S.
Advocate
31-5-94

orders will be issued by the Ministry of Defence and Department of Railway respectively.

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

9. Hindi version of the order is attached.

Sd/-

(B.P. Varma)

Joint Secretary to the Government of India.

To

All Ministries and Department of Government of India etc. as per distribution list.

Copy forwarded to C&AC and UPSC etc. (with usual number of spare copies) as per standard endorsement list.

Attached
for
AP/2025
27.5.96

No. 10/10/87-NEI
Government of India,
Ministry of Home Affairs,

New Delhi the 9th June 1987.

Subject : Implementation of Award of the Board of Arbitration regarding grant of H.R.A to the employees of Directorate of Census Operation (Ministry of Home Affairs) Nagaland at the rates applicable to the employees of P.T. Department posted at the same station.

The undersigned is directed to say that the staff side of the Departmental Council had raised a demand in the 30th Ordinary Meeting of the Departmental Council of the erstwhile Department of Personnel & Administrative Reforms held in October/November 1980, for removal of disparity in payment of House Rent Allowance, between the employees of the Ministry of Home Affairs, and other Central Government employees posted at Kohima, Nagaland. Since it was not feasible to agree to their demand, formal disagreement was recorded, on this demand and consequently, the matter was referred to the Board of Arbitration for a decision, as per J.C.M. Scheme. The Board of Arbitration has now given the following Award :

"With effect from 1st May, 1976, the employees of the Director of Census Operations, Ministry of Home Affairs, Department of Registrar General of India, posted in Nagaland shall get House Rent Allowances and personal allowance at the same rates under the same conditions and in the same manner as the employees of the Posts & Telegraph Department have been quashed."

2. The Award of the Honourable Arbitration has been considered by the Ministry of Finance in consultation with the Department of Personnel & Training and it has been decided to implement the Award.

3. The erroneous payment of H.R.A. at 15% of pay in the case of employees of Posts & Telegraphs Department was

Contd...

Attached
Ranjan
A.V.C.M
31.5.86

reduced to 7½% of pay and the remaining 7½% protected in the shape of personal allowance. However, in the case of new entrants i.e. persons posted to Nagaland from 1st April 1980 onwards the House Rent Allowance is being paid at a uniform rate of 7½% of pay only. Accordingly, the employees of the Directorate of Census Operations, Kohima, Nagaland may be allowed House rent Allowance at the rate of 7½% of pay and personal allowance at same rate (7½% of pay) with effect from 1st May 1976 and the employees of the Directorate posted at Nagaland from 1st April 1980 onwards be paid only house Rent Allowance at a uniform rate of 7½% of pay as is being done in the case of the employees of the P&T Department.

4. This issues on the basis of the office memorandum No. 11021/1/86-E.II(B) dated the 12th March, 1986, issued by the Ministry of Finance Department of Expenditure.

Sd/-

(Brijeswar Singh)
DS (NEC)

Copy to :

1. All Ministries/Departments of Government of India
2. All attached and subordinate offices of the Ministry of Home Affairs.
3. Chief Secretaries of all States.
4. Ministry of Finance Department of Expenditure (E.II-B)
New Delhi.
5. Office of the Registrar General of India, 2-A, Prithviraj Road, New Delhi with reference to their U.O. No. D-11026/7/86-Ad.iii. dt. 22.1.87 (with - 10 spare copies).

Sd/-

(Brijeswar Singh)
DS (NEC)

Attested

B. Singh
Ad. Secy
31.5.96

ANNEXURE-3.

- 25 -

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2705 OF 1991.

Union of India & Ors.

...

Appellants

- Versus -

Shri S.K. Ghosh & Ors.

...

Respondents

O R D E R

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

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

This appeal by way of special leave is by the Union of India against the judgment of the Tribunal. The cities in the State of Nagaland have not been classified and as such, the general order prescribing House Rent Allowance for different classes of cities could not be made applicable to the State of Nagaland. It was under these circumstances that the President of

*Arindab
B. S. D.
Advoc. At.
31-5-96*

Contd....

India issued an order dated January 8, 1962 granting House Rent Allowance to the P & T Staff posted in the State of Nagaland. The relevant part of the said order is as under :

"i.(iii) Rent free accommodation on a scale approved by the local administration. The P & T staff in NHTA who are not provided with rent free accommodation, will, however, draw H.R.A. in lieu thereof at the rates applicable in 'B' class cities contained in col. 4 paragraph 1 of the Ministry of Finance O.M. No. 2(22)-E. 11(B)/60 dated the 2nd August 1960."

It is clear from the order quoted above that the P & T employees posted in the State of Nagaland are entitled to rent free accommodation or in the alternative to the House Rent Allowance at the rates applicable in 'B' class cities. The Presidential Order equates the cities in the State of Nagaland for the purposes of payment of House Rent Allowance to the cities which have been classified as 'B' class.

Initially the House Rent Allowance was being paid at the rate of 7½% per cent in the State of Nagaland. It was increased to 15 per cent in the year 1973. From 1979 the House Rent Allowance was again reduced to 7½% per cent. It is not necessary for us to go into the rate of the House Rent Allowance at various stages because the question for our consideration is whether the respondents are entitled to the House Rent Allowance as provided for 'B' Class cities by the IVth Central Pay Commission recommendations which were enforced with effect from October 1, 1986.

Contd...

*Alphonse
B. D. D.
Advocate
31.5.86*

It is not disputed that the Presidential order dated January 8, 1962 is still operative. We are of the view that the State of Nagaland having been equated to 'B' Class cities by the Presidential Order the respondents are entitled to be paid the House Rent Allowance at the rates which have been prescribed for the Central Government employees posted in 'B' class cities. Consequently, the respondents are entitled to be paid House Rent Allowance at the rate which has been prescribed by the IVth Central Pay Commission recommendations for 'B' class cities.

The Tribunal allowed the application of the respondents on the following reasons :

"There is no dispute that the former N.H.T.A. (Naga Hills and Tuensang Area) and the present Nagaland was considered as a specially difficult area for rented accommodation. For the purpose of H.R.A. Government classified the cities and towns on the basis of their population and paid higher allowance in more populous cities because the rent structure is higher in such cities. Since Nagaland, was irrespective the stations of the entire territory, was considered as a difficult area from the point of view of availability of rented house, all P & T employees posted there either got rent free quarters or where such quarter could not be provided by the Government, were given house rent at the rate applicable to 'B' Class cities. This situation continued from 1962. The rate of HRA may be reduced with efflux of time. The only reason for doing so can be that the special difficulties which existed from 1962 onwards have since been ameliorated. This can conceivably happen, with the development of the area in question. The house stock may improve to such an extent that rented house at reasonable rate may be available. If that was the situation, a downward revision of HRA or even its complete discontinuance would have been justified. In this case, however, the respondents case solely rests

*Amulal
B. D. S.
Advocate
31-5-96*

Contd....P/28

- 28 -

on what is stated as Annexure A-1 which is reproduced in full in the proceeding paragraph. Since no such reason is given for the downward revision we have no other alternative but to hold that the revision effected in compliance to the document at Annexure-A1 is arbitrary and cannot be sustained. No further find that according to the formula adopted after the IV CPC HRA is payable to the Central Government employees posted even in classified places. From Annexure A-7 it is clear that this allowance is at a flat rate is payable without production of rent receipt. It appears to us that the HRA is paid by the Central Government for compensating an employee on account of his residential accommodation in the place of posting is not shown to have undergone any improvement in the matter of ~~maxxktx~~ availability and rent of hired accommodation any alteration of the rate of HRA will remain arbitrary and unjustified. In this view of the matter, we feel inclined to allow the application."

We see no infirmity in the judgment of the Tribunal under appeal. We agree with the reasoning and the conclusions reached therein. We are, however, of the view that the Tribunal has not justified in granting arrears of House Rent Allowance to the respondents from May 18, 1980. The respondents are entitled to the arrears only with effect from October 1, 1986 when the recommendations of the IVth Central Pay Commission were enforced. We direct accordingly and modify the order of the Tribunal to that extent. The appeal is therefore, disposed of. No costs.

Sd/-

(Kuldip Singh) J

Sd/-

(N.M. Kasliwal) J.

New Delhi

February 18, 1993.

*Attested
Brijesh
Advocate
21.5.93*

ANNEXURE-4

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Original Application No. 48 of 1991

Date of order : This the 26th day of November 1993.

Shri S. Haque, Vice Chairman,

Shri C.L. Sangliyana, Member (Administration)

Shri M. Lepdon, Ao and forty six (46) others.

Group 'C' and 'D' employees posted in the
Office of the Director,

Geological Survey of India

Operation Manipur - Nagaland, Dimapur

District Kohima, Nagaland

Applicants

By Advocate Shri M.N. Tirkha

- Versus -

1. Union of India, through the Secretary,
to the Government of India,
Ministry of Steel and Mines,
Department of Mines, New Delhi.
2. The Director General, Geological Survey
of India, 27, Jawaharlal Nehru Road,
Calcutta-700 013.
3. The Deputy Director General, Geological
Survey of India, North East Region,
Asha Kutir, Laitumkhrah, Shillong-793003.
4. The Director, Geological Survey of India,
Operation Manipur, Nagaland, Dimapur

... Respondents

By advocate Shri S. Ali, Sr. C.G.S.C. and
Shri A.K. Choudhury, Addl. C.G.S.C.

HAQUE J.

ORDER

The applicants numbering 47 (forty seven) are Group 'C' and 'D' employees under the Director, Geological Survey of India, Operation Manipur-Nagaland at Dimapur Nagaland. This application by them under Section 19 of the Administrative Tribunals Act, 1985 claiming House rent Allowance (HRA) at the rate applicable to 'B' class cities i.e. at the rate of 15% of their pay and also claim compensation at the rate of 18% in lieu of Rent Free Accommodation (RFA)

Amber
R.S.G.
Addl.
31-5-96

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They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

2. It is an admitted fact that the employees of the respondent Directorate are entitled to rent free accommodation in Nagaland, but they were not given free government accommodation.

3. Learned Counsel Mr. R.N. Trikha for the applicants submits that it is established vide judgment dated 31.10.1990 in C.A. No. 42(G)/89 of this Bench and duly confirmed by the Supreme Court vide order dated 18.2.1993 in Civil Appeal No. 2705/91 that Nagaland in general is 'B' class city and the Central Government employees there are entitled for benefits of 'B' class cities granted by various circulars and office memoranda. Mr. Trikha read out the relevant office memoranda. These submissions are not disputed by learned Sr.C.G.L. Mr. S. Ali, We have perused the judgments and orders referred to by Mr. Trikha, Nagaland had been recognised as 'B' class cities in general vide our judgment and order dated 31.10.1990 in C.A. No. 42(G)/89 read with the Supreme Court order dated 18.2.1993, in Civil Appeal No. 2705 of 1991. This being the established position, we hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wisely with effect from 1.10.1986 pursuant to Office Memo andum No. 11013/2/86-E.II.(B) dated New Delhi the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure-A/7).

4. After the fixation of the HRA on flat rate basis groupwisely, the Government of India further granted compensation to Group A, B and C & D employees in lieu of rent free

Attested
B. J. Dr.
Advocate
B. S. S. B.

Contd...

accommodation with effect from 1.7.1987 vide Government of India, Ministry of Finance, Department of Expenditure O.M. No. 11015/4/86-E.II(B)/87 dated 13.11.1987 which reads as follows :

"The undersigned is directed to refer to para 1 of this Ministry's Office Memorandum of even number dated 19.2.1987 regarding Central Government employees belonging to Group 'B' 'C' and 'D' and also para 1 of O.M. of even number dated 22.5.1987 regarding Central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under Central Government all over the country vide Ministry of Urban Development (Directorate of Estates)'s O.M. No. 12035/(1)/85-Pol.II (Vol.III) (i) dated 7.8.1987, the President is pleased to decide that Central Government employees belonging to Group 'A' 'B' and 'C' and 'D' working in various classified cities and unclassified places will be entitled to compensation in lieu of Rent free accommodation as under :

- (i) Amount charged as licence fee for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates)'s above mentioned O.M. dated 7.8.1987 and
- (ii) House rent allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No. 11013/2/86-E.II.(B) dated 23.9.1986 for Central Government employees belonging to Groups 'B' 'C' and 'D' and para 1 of O.M. No. 11013/2/86-E.II.(B) dated 19.3.1987, for Central Government Employees belonging to Group 'A'.

2. Other terms and conditions for admissibility of compensation in lieu of rent free accommodation indicated in this Ministry's Office Memorandum, dated 19.2.1987 and 22.5.1987, remain the same.

3. These orders shall take effect from 1.7.1987."

The compensation is fixed at 10% of the monthly emoluments calculated with reference to pay vide NOTE under para 2 of the Government of India, Ministry of Finance Office Memorandum No. 11015/4/86-E.II.(B) dated 25.5.1987. These office Memoranda had been circulated by Geological Survey of India Calcutta vide order No. 14017/(1)/88-3(HRA) dated 26.9.1988 for

*Amrit
B. S. W.
Advoc.
31.5.86*

2000-2

necessary action by all branches. Therefore, we hold that the applicants are entitled to compensation at the rate of 10% of pay in lieu of rent free accommodation with effect from 1.7.1987 in terms of O.M. No. 11015/4/36-E.II(B) dated 13.11.1987 in addition to the HRA.

5. The applicants are not entitled to 10% compensation in lieu of rent free accommodation for the month of November 1979 and they are liable to refund that amount.
6. In the result, this application is allowed. The respondents are directed to pay HRA to the applicants at the rate of 15% of their pay from 1974 and at flat rate groupwise with effect from 1.10.1986 in terms of O.M. No. 11013/2/86-E. II(B) dated 23.9.1986. The respondents are further directed to pay compensation at 10% of the monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987 besides HRA. The Respondents shall realize 10% of pay of the applicants paid in excess with salary for the month of November 1979.
7. The respondents shall implement the above directions and pay all arrears within three months (90 days) from the date of receipt of copy of the order.
8. Intimate all concerned immediately.

Plotted —
B. S. K.
Adarsh
31.5.86

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO. 2 OF 1994

Date of Order : This the 17th day of March, 1994.

Justice S. Haque Vice Chairman

Shri G.L. Sangliyine, Member (Administration)

1. All India Postal Employees Union, P(III) & A.D.A. Divisional Branch, Kohima - 797001, represented by its Divisional Secretary - Mr. V. Angami
2. All India Postal Employees Union, Postman Class IV & E.D. Kohima Branch, Nagaland, represented by its Divisional Secretary - Mr. K. Tali Ao

By Advocate Shri B.K. Sharma and Shri M.K. Choudhury ... Applicants.

- Versus -

1. The Union of India, represented by the Secretary, Ministry of Communication Department of Posts, New Delhi
2. The Director General, Posts, New Delhi-110001.
3. Chief Postmaster General, N.C. Circle, Shillong.
4. The Director of Postal Services, Nagaland Division, Kohima.

... Respondents.

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

ORDER

HAQUE J.

The applicant No. 1, the All India Postal Employees Union Postman (III) and Extra Departmental Agents, Divisional Branch, Kohima represented by its Divisional Secretary, Mr. V. Angami, and the applicant No. 2, the All India Postal Employees Union, Postman Class IV and E.D. Kohima Branch represented by its Divisional Secretary Mr. K. Tali Ao have filed this application under Section 19 of the Administrative Tribunals Act, 1985 claiming House Rent Allowance (HRA)

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at the rate of 15% of their pay as applicable to 'B' class cities and also compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of HRA. The respondents have filed written statement virtually admitting the claim of the applicants by referring to the judgment of the Supreme Court in Civil Appeal No. 2705 of 1991 affirming the judgment of C.A.T. Guwahati Bench in O.A. No. 2288/82 42(G) of 1989 with modification to give effect of arrears HRA from 1.10.1986 i.e. the date from which the recommendation of the 4th Central Pay Commission was implemented. The judgment of the Supreme Court dated 18.2.1993 arising out of the judgment dated 31.10.90 in O.A. 42(G)/89 and C.A.T. Guwahati Bench in respect of postal employees.

2. It is an admitted fact that the applicants are entitled to Rent Free Accommodation in Nagaland, but they were deprived of the said facilities.

3. Learned counsel Mr. B.K. Sharma on behalf of the applicants submits that the grievances and reliefs sought for by the applicants are covered by judgment in O.A. No. 42(G)/89 read with Supreme Court Judgment dated 18.2.93 in Civil Appeal No. 2705 of 1991 and judgment dated 26.11.93 in O.A. No. 48/91 C.A.T. Guwahati Bench. Mr. Sharma further submits that the Government of India has decided to allow the benefits of the Supreme Court Judgment in Civil Appeal No. 2705/91 to all similarly placed postal employees posted in Nagaland vide letter No. Vig-5/2/88-90 dated Shillong the 10.3.1994 addressed to the Director of Postal Services, Nagaland Division.

Contd...P/35

*Arvind
B.K. Sharma
Advocate
31.5.96*

AB

Kohima. Perused contents of the letter. It was decided in clear terms in the letter that the President of India is pleased to allow the benefits of the Supreme Court in Civil Appeal No. 2705/91 to all similarly placed postal employees posted in Nagaland. Learned Addl. S.C.S.C. Mr. G. Sarma submits with reference to the written statement which virtually admits the claim of the applicants in respect of HRA and compensation in lieu of RFA.

4. Perused our previous judgment in C.A.No.242(G)/89, read with Supreme Court judgment in Civil Appeal No.2705/91 and judgment dated 26.11.93 in C.A. No. 48/91. All observations and findings in these judgments are aptly applicable in the instant case. The grievances and reliefs sought for by the applicants/members of the both the Unions are covered by these judgments. Furthermore, the order of the President of India referred in letter No. Vigg-5/2/89-90 dated Shillong the 10.3.1994 clearly established that the applicants are entitled for the reliefs sought for. We hold that the applicants are entitled to HRA at the rate of 15% of their pay with effect from 1.10.1986 in terms of O.M. No. 11013/2/86-E.II(B) dated 23.10.1986 and also entitled to the compensation at the rate of 10% of pay in lieu of RFA with effect from 1.7.1987 in terms of O.M. No. 11015/4/86-E.II(B) dated 13.11.1987.

5. Accordingly this application is allowed. The respondents are directed to release HRA to the applicants at the rate of 15% of their pay with effect from 1.10.1986 and also to pay compensation at the rate of 10% of monthly emoluments calculated with reference to the pay of respective applicants with effect from 1.7.1987. The

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B.S.
Adv. A.
31-5-96

- 36 -

Annex. 5 contd.

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respondents are further directed to release arrears of HRA as well as compensation in lieu of ~~HRAxxxthxeffact~~ HRA within three months from the date of receipt copy of this judgment/order and shall pay current HRA and compensation from next month (April 1994).

Communicate all concerned.

Sd/- S. HATUE

Vice Chairman

Sd/- G.L. SANGLYINE

Member (Admn.)

Alfred

 Alfred
 21.8.96

...

GOVERNMENT OF INDIA,
DEPARTMENT OF POSTS
NEW DELHI - 110 001.

No. 4-40/87-PAD

Dated 7.3.94.

To

The Chief Postmaster General,
R.E. Postal Circle,
Shillong-793001.

Sub : Implementation of the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 2705/91- Union of India Vs. Shri S.K. Ghosh & Others regarding Rent Free Accommodation.

Sir,

I am directed to invite a reference to this office letter of even No. dated 11.6.1993 on the above subject vide which this office had issued instructions directing you to implement the judgment of Hon'ble Supreme Court of India in the above referred Civil Appeal order before 17.6.1993 for the limited to the applicants only. The case has been further examined in consultation with the Department of Expenditure, Ministry of Finance.

The President is now pleased to decide that the benefit of the Hon'ble Supreme Court Judgment may be allowed to all similarly placed postal employees posted in Nagaland.

You are also requested to send a report regarding existing status of rent free accommodation within 20 days of the receipt of this letter.

This issues with the concurrence of Finance Advice vide their Diary No. 827/FA/94 dated 2.3.94.

Yours faithfully,

Sd/-
(T.J. BANERJEE)
ASSTT. DIRECTOR GENERAL (P.E-II).

Copy to :

1.....

....

6. PAT Section, Sanchay Bhawan

Sd/-

Attested
B. D. D.
Advocate
31.5.94

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ANNEXURE-7

No. 3/Terms(C)/87(5)
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India

To

New Delhi the

- (i) The Pay & Accounts Officer,
Intelligence Bureau (MHA),
New Delhi.
- (ii) The Regional Pay & Accounts Officer,
Intelligence Bureau (MHA),
Shillong.

Sub : Sanction of Personal Allowance for the ministerial staff posted at Kohima (Nagaland) prior to 1.4.80.

Sir,

I am directed to convey the sanction of the Government to the grant of HRA at the rate of 7½% of pay and personal allowance at the rate of 7½% of pay w.e.f. 1.5.1976 to 31.3.1980 to 1B personnel who were posted at Kohima (Nagaland) prior to 1.4.1980. Such of the staff who were posted at Kohima (Nagaland) from 1.4.1980 or afterwards should be allowed HRA at the uniform rate of 7½% of pay only. The total expenditure involved is Rs.40,000/- (Rupees forty thousand only) and will be debited to the relevant head of account for the current financial year.

This issues with the concurrence of the Ministry of Finance (Department of Expenditure) U.O. No. 2806/8.II (B)/89 dated 20/27.3.89 and Ministry of Home Affairs No. 628/PPW/89 dated 30.3.89.

Sd/-

(B.B. Lal)
Assistant Director

COPY forwarded for information and necessary action to :

1. D.D. SIB, Kohima.
2. JD/NE Shillong
3. Budget Branch at 1B Hqrs.

Sd/-

Assistant Director.

Amrit Lal
B. B. Lal
Adm Sec
03.5.89

...

No.12/EST/GE/89-1256
Subsidiary Intelligence Bureau.
(MHA) Govt. of India.

Kohima, the 23.3.94.

MEMORANDUM

Sub- Categorisation of Nagaland as a 'B' class city
for the purpose of HRA w.e.f. 1.10.1986.

Kindly refer to the correspondence resting with
IB Hqrs. New Delhi No. 3/Sans(3)/91(3)-1807 dated
26.11.1993 on the above subject. We have received a
bunch of applications from our staff posted at Kohima
requesting for grant of HRA at par with P&T employees
posted in Nagaland.

2. Copies of the judgment of CAT, Guwahati and the
Hon'ble Supreme Court were forwarded to IB Hqrs. New Delhi
vide our Memo No. 12/EST/GE/89-572 dated 14.2.91 and No.12/EST/
GE/89-1179 dated 7.4.1993 respectively. Attention is also
invited to Ministry of Finance O.M. No. 10/10/87-N2-I dated
9.6.1987 and MHA No. 11021/1/86-E.II(B) dated 12.3.1986 regard-
ing implementation of Award of Board of Arbitration on the
subject, which is reproduced below for ready reference
please. *

"With effect from 1st May 1976, the employees of
the Director of Census Operation (MHA), Department
of Registrar General of India, posted in Nagaland
shall get House Rent Allowance and Personal
Allowance at the same rates, under the same
conditions and the same manner as the employees
of the Post & Telegraph Department have been
granted." (Copies of the above OM are enclosed
for ready reference please.

3. On the basis of the decision as in para-2 above,
IB personnel posted at Kohima (Nagaland) were also
granted HRA @ 15% (7½% as HRA and 7½% as personal pay)
at par with P&T employees and other Central Government
employees posted in Nagaland, vide IB letter No.3/Tans(3)/
87(5)-526 dated 25.4.1989 with the concurrence of M/F
(D.O.E.) U.O. No. 2806/E.II(B)⁶⁹ dated 20/27.3.89 and No.
628/FPV/89 dated 30.3.1989. (copy enclosed).

4. Vide IB Memo No. 3/Sans(3)/91(3)-1807 dated
26.11.93, it has been conveyed that the MHA (Fin.II Br.)

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Amrit
B. Sen
Advocate
31.5.96

- 42 -

Annex. 8 contd.

observed that benefit of court judgment is applicable to petitioners only. In this regard, it is stated that the Department of Post and Telegraph had implemented the judgment in respect of the petitioners only in the initial stage and later by a letter dated 7.3.94 conveyed the decision that the benefit of the Hon'ble Supreme Court judgment is allowed to all similarly placed postal employees posted in Nagaland (copy of Govt. of India Department of Posts, New Delhi letter No. 4-40/87-PAP dated 7.3.1994 is enclosed for ready reference please).

5. In view of the award of Board of Arbitration referred to in para-2 above, Hon'ble Supreme Court's judgment and its implementation by the P&T Department to all employees without any prejudice to petitioners and non-petitioners which has added new angle to the case, it is requested that the case may please be taken up with MoF/Ministry of Finance to extend the benefits to IB personnel also posted in Nagaland at par with P&T employees on priority basis and the decision conveyed to us at the earliest.

6. The applications received from the staff are retained here.

Sd/-

(R.N.R. Yadav)
Assistant Director.

To

The Assistant Director/EP
IB Hqrs, New Delhi.

Collected
R.N.R.
Advocate
37.586

No. 10/SO(C)/95(1)-PF-V
Ministry of Home Affairs
Government of India

ANNEXURE 9

New Delhi, the 18.4.96.

To

The Director,
Intelligence Bureau (MHA)
New Delhi

Sub: Payment of arrears of RFA/HRA at 'B' class
rates to 127 petitioners of OA No. 37/95 in
CAT Guwahati Bench, in pursuance of its orders
dated 22.8.95

..

Sir,

In pursuance of the judgement dated 22.8.95, passed by the Hon'ble CAT Guwahati Bench in OA No. 37/95, I am directed to convey the sanction of the President to the grant of RFA/HRA to 127 applicants only of the said OA (detailed in Annexure I) subject to the outcome of the review to be undertaken by the Department of Posts about the admissibility of RFA/HRA. The terms of RFA/HRA as per the judgement are as under:

1. (a) House Rent Allowance at the rate applicable to the Central Government employees in 'B' (B1-B2) class cities/towns for the period from 1.10.1986 or actual date of posting in Nagaland if it is subsequent thereto, as the case may be, upto 28.2.91 and at the rate as may be applicable from time to time as from 1.3.1991 onwards and continue to pay the same.
- (b) For the purpose of above direction it is clarified that the rate may be calculated on the basis of percentage or flat rate or slab rate as may be applicable from time to time during the period from 1.10.1986 upto date.
- (c) Arrears from 1.10.1986 upto date to be paid accordingly subject to the adjustment of the amount as may have been paid to the respective applicants during the aforesaid period.
- (d) Future payment to be regulated in accordance with clause (a) above.

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

contd...2/

*Ans. 1
R. (2)
Adv. Dr
31.5.96*

- 2 -

(b) Arrears to be paid from the period from 1.7.1987 (or actual date of posting in Nagaland as the case may be) upto date subject to adjustments of the amount as may have already been paid to the respective applicants during the aforesaid period.

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

2. The expenditure will be met from within the sanctioned grants of SIB Kohima under the following heads of accounts:

Major Head	:	2070
Demand No.	:	41, MHA
C.8(1)	:	Intelligence Bureau
C.8(1)(1)	:	Salaries (RFA/HRA)

3. This issues with the concurrence of Ministry of Finance (Dept. of Expenditure) vide their U.O. No. 2/13/93-E.II(B) dated 20.2.96 and IFD/MHA vide Dy. No. 432/96/Fin.II dated 20.2.96

Yours faithfully

Sd/-
(V.K. Sathi)
Desk Officer (PF.V)

Copy to:

1. Pay & Accounts Officer, IB (MHA), New Delhi
2. Regional Pay & Accounts Officer, IB(MHA), Shillong
3. The Assistant Director, SIB, Kohima
4. Ministry of Finance, Deptt. of Expenditure with reference to their O.M. referred to above
5. Fin.II, Mha
6. PF.V

*checked
F. Sathi
31.5.96*

Individual & Unofficial
Representation submitted
by all.

To

The Deputy Director/E,
IB Hqrs., New Delhi.

(Through Proper Channel)

Sir,

Kindly refer to my application dated 28-03-1994 requesting for HRA at the rate applicable to 'B' class city.

2. The Hon'ble Judge of CAT Guwahati in his judgement dated 22nd August 1995 has allowed the petitions of the employees of IS in Nagaland, Geological Survey of India, Directorate of Census, Postal & Telegraphs, etc. praying for sanction of HRA at the rate applicable to 'B' class city, and have given the verdict in their favour.

3. Sir, I have not gone to any court of law against the department on the subject. I therefore, request that I may kindly be sanctioned HRA applicable to 'B' class city with retrospective effect.

Thanking you sir,

Yours faithfully,

Kuhima
Dt.

Attached
B.S.
Avsak
21.5.86