

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

P. 12 OF 199 8
OA 268/96Applicant(s) Nominal chandna Das & ors
VS -Respondent(s) Union of India & ors
Shri Agit Kumar & ors.

Advocate for Applicant(s) Mr. A. Ahmed

Advocate for Respondent(s)

Notes of the Registry	Date	Order of the Tribunal
<p>This ap. is filed by Mr. A. Ahmed Advocate on behalf of the Applicant, praying for punishment of the contemners for non-compliance of judgment & order Dated 10-5-97 passed in OA 268/96</p> <p>25/5/98 27/5</p> <p>25/5/98 27/5</p> <p>25/5/98 27/5</p> <p>25/5/98 27/5</p>	<p>26.5.98 (1)</p> <p>pg</p> <p>29.5.98 (2)</p> <p>pg</p>	<p>Let the alleged contemner No.3-Sri S.R.Paul, Regional Manager(East), Centene Stores Department, Narengi, Guwahati appear before this Tribunal on 29.5.98. List on 29.5.98 for further orders.</p> <p>6 Member</p> <p>Mr S.Ali, learned counsel for the alleged contemner prays for two weeks time because the contemner is out of station. Prayer allowed. List on 15.6.98 for further orders.</p> <p>6 Member</p>
<p>25/5/98 Section Officer (A) Guwahati</p> <p>25/5/98 27/5</p>		<p>25/5/98 27/5</p> <p>25/5/98 27/5</p>

(2)

V

Notes of the Registry	Date	Order of the Tribunal
	15.6.98 (3)	Adjourned due to reference Case to be listed on 18.6.98 by order
Requisite 4 copies have been filed.	18-6-98 (4)	Heard Mr. S. Ali, learned Sr.C.G.S.C. By our previous order dated 26-5-98 we directed the Regional Manager, Canteen Stores Department, Mr. S. R. Paul to appear before this Tribunal. Mr. S. R. Paul is present before this Tribunal. Today Mr. S. Ali Sr.C.G.S.C. submits that steps have already been taken for payment. But require sometime. Accordingly, Mr. S. Ali prays for 3 weeks time. Prayer is allowed.
<u>27.5.98</u> Copy of order dtd. 26.5.98 issued to the respondents No. 3.		Contempt Petition 1st Petition is closed.
<u>26.6.98</u> Copies of the order have been sent to the D/sec. for serving the same to the parties thru Regd. a/c A.P.O.	lm 27/6	Member Vice-Chairman
Entered v/c d. Not 1791 to 1795 D. 29.6.98		

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH:GUWAHATI .

Central Administrative Tribunal
Office of the Secretary
22 MAY 1998

435

22 MAY 1998

Central Admin
Court Room

CONTEMPT PETITION NO. 12 OF 1995.

in O.A. No. 268 of 1996

IN THE MATTER OF:

A Petition under Section 17 of the
Central Administrative Tribunal Act,
1985 praying for punishment of the
Contemner for non-compliance of
judgment & order dated 10th June ,
1997, passed by this Hon'ble Tribunal .

- AND -

IN THE MATTER OF:

Shri Nomal Chandra Das & 55 others

- Versus -

Union of India & others.

- AND -

IN THE MATTER OF:

3190 Nomal Chandra Das , Peon,
Office of the Area Manager,
Canteen Store Department,
C.S.D. Depot Army Supply Depot Road,
P.O. - Dimapur, Nagaland.

... PETITIONER.

(Contd.)

3
F. D. J.
22.5.98

- Versus -

1) Shri Ajit Kumar

Secretary of Defence,

Government of India,

New Delhi .

2) Major ^{General} Jagdish Chander , AVSM, VSM ,
General Manager,
Canteen Store Department,
Adelphi 119, M.K. Road,
Mumbai - 400 020 .

3) Sri S.R. Paul

Regional Manager (East)

Canteen Store Department,

P.O.- Satgaon, Narangi,

Guwahati - .

4) Sri J N Kar

Area Manager, Canteen Store Department,

Area Depot, Army Supply Depot Road,

P.O.- Dimapur, Nagaland .

... Respondents/
Contemners.

The humble petition of the
above named petitioner : -

MOST RESPECTFULLY SHEWETH:

1) *Normalcy* That your applicant and 55 others have
filed the Original Application No. 268/96 before this Hon'ble High & Tribunal praying for payment of
Additional House Rent Allowance / Ten Percent , i.e.,

(Contd.)

lincence fee of Rs. 10% of monthly pay with effect from 1-7-87 or from the actual date of posting in Nagaland. Your applicant are entitled to get Rs 10% compensation in lieu of rent free accommodation, for which the petitioner & 55 others are legally entitled.

2) That the Hon'ble Tribunal after hearing on both sides was pleased to pass the judgment & order dated 10- 6-97 directing the Respondents/contemnors to pay the Additional House Rent Allowance Rs. 10% (Rupees Ten Percent) to the applicants of the Original Application No. 268 of 1996 as early as possible at any rate within a period of 3 (three) months from the date of receipt of the order.

Annexure- 1 is the photocopy of the Hon'ble Central Administrative Tribunal's Judgment in O.A. No. 268 of 1996.

3) That your petition begs to state that the Respondents/Contemnors received the copy of the judgment and order of the above case from the Hon'ble Tribunal registry and also by the hands of the applicants. But till today the respondents/contemnors have not taken any steps for implementation of the Judgment & Order dated 10-6 -97 passed by this Hon'ble Tribunal and hence petitioner has compelled to file this contempt petition before this contempt petition before this Hon'ble Tribunal seeking justice .

4) That your petitioner begs to state that *Normal service* inspite of a clear direction given by this Hon'ble Tribunal the respondents/Contemnors have deliberately not complied with the judgment and order with a motive behind no steps has yet been taken for payment of the allowance given by this Tribunal .

(Contd.)

5) That your petitioner begs to state that the Respondents/Contemners have shown complete disregard, disobedience to this Hon'ble Tribunal's judgment and order passed in the above case and they have not cared to carry out the judgment/order passed by the Hon'ble Tribunal and this amount to serious contempt of court and as such they deserve the punishment for disobedience/disregard shown to this Hon'ble Tribunal by not implementing the judgment of this Hon'ble Tribunal in O.A. No. 268 of 1996 .

6) That your petitioner submits that unless the Respondents/Contemners are held up in Case of contempt of court, the Contemper will not implement the judgment & order passed by this Hon'ble Tribunal and as such it is a fit case that the Contemners/Respondents should be directed to appear before the Hon'ble Tribunal to explain as to why they have not yet implement the judgment of this Hon'ble Tribunal .

7) That your petitioner submits that all the respondents/contemners deliberately and intentionally disobeyed and dishonoured the judgment and order passed by this Hon'ble Tribunal and hence all of them are liable to be punished under the provision of contempt of court proceedings.

8) That your petitioner submits that he has filed this petition bona fide and for the ends of justice .

Normal ch. 80

Under the facts and circumstances mentioned above, it is, therefore, respectfully prayed that your Lordship's may be pleased to admit this petition and issue Contempt Notice

(Contd.)

to the Respondents/Contemners to show cause as to why they should not be punished under Section 17 of the Central Administrative Act, 1985 , or pass such any other order or orders as the Hon'ble Tribunal may deem fit and proper .

Further, it is also prayed that in view of the deliberate negligence and disobedience to carry out the Hon'ble Tribunal's order the contemner should be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished for Contempt of court.

And for this act of kindness your petitioner as in duty bound shall ever pray .

Normal end

6

- DRAFT CHARGE -

The applicants aggrieved for non-compliance and non-payment of Additional House Rent Allowance of Rs. 10% (Rupees Ten Percent) in terms of Hon'ble Tribunal judgment and order dated 10-6-97 passed in O.A. No. 268 of 1996. The Contemners/Respondents have wilfully, deliberately violated the judgment and order passed in O.A. No. 268 of 1996 by not implementing the direction contained therein till date. ~~and~~ Accordingly, the Respondents/Contemners are liable for contempt of court proceeding and severe punishment thereof as provided for under the law. They may also be directed to appear in person and reply the charge of this Hon'ble Tribunal.

... Affidavit .

Normal et al

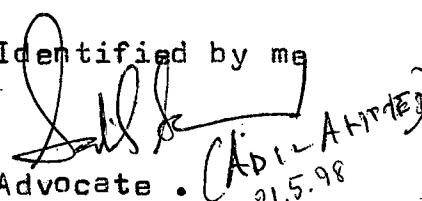
AFFIDAVIT

I, 3190 Nomal Chandra Das, Peon, serving under the Office of the Area Manager, Canteen Store Department, C.S.D. Depot, Army Supply Depot Road, P.O. Dimapur, Nagaland do hereby solemnly affirm and declare as follows :

1) That I am the applicant No.1 in the O.A. No. 268 of 1996 and also petitioner of the above Contempt petition and as such, I am fully conversant with the facts and circumstances of the case also being authorised I am competent to swear this affidavit on behalf of all the applicants of the O.A. No. 268 of 1996 .

2) That the statements made in this petition in paragraphs 1, 2, 4 to 6 are true to my knowledge, those made in paragraphs 2 are being matters of record are true to my information derived therefrom which I believe to be true and rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this ~~xx~~
21st day of May, 1998 at Guwahati.

Identified by me

Advocate. (Adil Ahmed)
21.5.98

Nomal Chandra
Nomal Chandra
Deponent

Solemnly affirmed before me by the
Deponent who is identified by Mr.
Adil Ahmed, Advocate.

Siddhartha Sen
Siddhartha Sen
Advocate
21.5.98

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 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
2. Original Application No.268 of 1996
Shri Nirmal Chandra Das and 55 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
3. Original Application No.279 of 1996
Shri D.D. Bhattacharjee and 31 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
4. Original Application No.18 of 1997
Shri Hari Krishan Mazumdar and 24 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.
5. Original Application No.14 of 1997
Shri Jatin Chandra Kalita and 19 othersApplicants
By Advocate Mr A. Ahmed

-versus-
Union of India and othersRespondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

802

6. Original Application No.91 of 1996

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

.....Applicants

-versus-

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

.....Respondents

7. Original Application No.87 of 1996

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

.....Applicants

-versus-

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

.....Respondents

8. Original Application No.45 of 1997

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

.....Applicants

-versus-

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

.....Respondents

9. Original Application No.197 of 1996

Shri P.C. George and 65 others
By Advocate Mr S. Sarma

.....Applicants

-versus-

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

.....Respondent

10. Original Application No.28 of 1996

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

.....Applicants

-versus-

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

.....Responder

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 Prajenjit 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 A.K. Choudhury, Addl. C.G.S.C.

15. Original Application No. 26 of 1997.

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

....Applicants

By Advocate Mr N.N. Trikha

-versus-

Union of India and others

....Respondents

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

.....
ORDER

Date of decision: 10-6-1997

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

BARUAI (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.H(3) 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.

— 13 —

The President of India issued an order dated 8.1.1962 to the effect that the employees of P&T Department in the Nagaland 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, ~~dated 18.5.1986~~, 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 Defense Department as well as employees of the other departments of the Central Government who were not paid HRA, therefore, being aggrieved by the action of the

respondents.....

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

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

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

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

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

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

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

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

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

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

in.....

in the said order.

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

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

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

Certified to be true Copy
प्रमाणित अन्तिलिपि

Copy by
Central Administrative Tribunal
General Secretary