

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 040/00026/2016

Date of Order: This, the 30<sup>th</sup> day of July 2018

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**

**THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER**

1. P No. 6827903-N, Shri Dikanto Kachari, Working as Painter, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
2. P No. 6827445, Md. Suraj Ahmed, Working as Cook, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
3. P No. 482424, Shri S.N. Thakur, Working as Barber, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
4. P. No. 482931, Working as Messenger, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
5. P No. 481901, Smti Krishna, Working as Safaiwali, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
6. P No. 483330, Md. Musalluddin, Working as Mazdoor, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
7. P. No. 6826006, Shri G C Ghosh, Working as Chowkider, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
8. P No. 6826007, Shri DB Thapa, Working as Chowkider, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.

9. P No. 6826478, Working as Safaiwala, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
10. P No. 497737, Smti Indrawati Kumari, Working as Ward Sahayika, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
11. P No. 487730, Shri Ashok Kumar Yadav, Working as Mazdoor, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
12. P No. 6827663F, Shri Tiajungba Ao, Working as UDC, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
13. P No. 487739, Shri Deena Nath Prasad, Working as Washerman, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
14. P No. 487754, Shri Asrafi Lal Kanujia, Working as Washerman, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
15. P No. 6827442, Shri Nar Bahadur Khadka, Working as Cook, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
16. P No. 488363, Smti Panna Chakraborty, Working as Ward Sahayika, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
17. P No. 6827664K, Shri Bappan Das, Working as Chowkider, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.

18. P No. 488345, Shri Suresh Chand Tanti, Working as Messenger, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
19. P No. 6827679, Shri Yangertemjen, Working as Chowkider, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
20. P No. 488657, Smti Jongponglila, Working as Safaiwali, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
21. P No. 488777, Smti Opantila, Working as Ward Sahayika, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
22. P No. 488776, Smti Moatsungla, Working as Ward Sahayika, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
23. P No. 6827810, Shri Tara Bir Thapa, Working as Chowkidar, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
24. P No. 488748, Shri Peter Jajo, Working as Washerman, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
25. P No. 6827809, Shri Ranga Doley, Working as Safaiwala, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
26. P No. 6827808, Shri Ashok Barua, Working as Safaiwala, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
27. P No. 6827888, Shri Nchumbemo Lotha, Working as Tailor, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
28. P No. 489626, Shri Z Alemla, Working as Washerman, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.

29. P No. 15458236A, Shri Upendra Ram, Working as Chowkidar, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.
30. P No. 22090173, Shri Prity Dutta, Working as Washerman, Office of the Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.

**...Applicants**

By Advocates: Mr. A. Ahmed, Ms. P. Gogoi, Ms. P. Kalita,  
Ms. R.R. Rajkumari & Ms. D. Goswami

-Versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, South Block, New Delhi, Pin – 110011.
2. The Director General, Medical Services (Army), Integrated HQ of Ministry of Defence (Army), Adjutant General's Branch, 'L' Block, New Delhi – 110001.
3. The Commandant, 165 Military Hospital, Pin – 903165, C/O 99 APO.

**... Respondents.**

By Advocate: Mr. R. Hazarika, Addl. CGSC

**ORDER (ORAL)**

**MANJULA DAS, JUDICIAL MEMBER:**

By this O.A., applicants make a prayer for setting aside the impugned Speaking order No. B/72501/CC/397/DGMS-3 (B) dated 04.11.2015 issued by the

respondent No. 2 and a direction upon the respondents to pay the license fee at the rate of 10% compensation per month in lieu of Rent Free Accommodation as per direction of this Tribunal in similar cases which are affirmed by the Hon'ble Gauhati High Court as well as Hon'ble Supreme Court of India. Applicant also further prays for an interim order by staying the operation of impugned speaking order cum recovery letter No. B/72501/CC/397/DGMS-3(B) dated 04.11.2015.

2. Mr. Adil Ahmed, learned counsel for the applicants at the outset prays permission under Section 4(5)(a) of the CAT (Procedure) Rules, 1987 to move the present O.A. jointly as the applicants' grievances and relief sought for are common. Permission is granted.

3. The aforesaid matter is no longer res integra. On identical issue, this Tribunal has decided the matter vide common judgment and order dated **06.11.2000 in OA No. 143 of 1999 (Shri Krishna Sinha and 267 ors. Vs. Union of India and Ors.)**. Relevant portion of the order of the Tribunal is reproduced here as under:-

“3. In the light of the decision rendered by this Tribunal the Application is allowed and the respondents are directed to pay license fee at the rate of 10% of monthly pay with effect from 1.7.1987 or from the actual date of posting in Nagaland whichever is later and continue to pay the same till the

compensation is not withdrawn or modified by the Government of India or till Rent free accommodation is not provided."

4. The decision of the Tribunal was upheld by the **Hon'ble Gauhati High Court vide** order dated **21.02.2013** in **WP(C) No. 830 of 2013**. The relevant portion of the order of the Hon'ble Gauhati High Court is reproduced here as under:-

"Considering the fact that the decision of this Court, rendered by the order, dated 06.03.2012, passed, in WP(C) No. 2975/2011, as well as the subsequent order, dated 06.03.2012, passed in the Misc. Case, whereby the petitioners were allowed extension of time to comply with the directions, stand dismissed by the Supreme Court, we are clearly of the view that a fresh writ petition challenging the findings which were arrived at, and the directions, which were given, in WP(C) No. 2975/2011, would not lie.

Situated thus, we find no option, but to dismiss the writ petition.

In the result and for the reasons discussed above, the writ petition stands dismissed."

5. Against the order of the Hon'ble Gauhati High Court dated 21.02.2013, the respondents approached before the **Hon'ble Supreme Court** by filing **Special Leave to Appeal (C) ....CC No (s) 8050/2014** where the Hon'ble Apex Court vide order dated **02.07.2014** dismissed the said SLP preferred by the respondent authority on the ground of delay as well as on merit.

6. On identical issue of Defence Civilian working in the State of Nagaland has already been settled by the Hon'ble Gauhati High Court in **W.P.(C) No. 830 of 2013 (Union of India and another Vs. Shri Bahadur Sonar and Ors.)** where the Hon'ble High Court vide order dated 21.02.2013 dismissed the said **Writ Petition.**

7. Respectfully following the decisions of this Tribunal as well as Hon'ble Gauhati High Court and also Hon'ble Supreme Court, we direct the respondents to decide the present issue in accordance with aforesaid precedents after examining the case of the applicants and pay the liscense fees at the rate of 10% compensation per month in lieu of Rent Free Accommodation within a period of two months from the date of receipt of a copy of this order. '

8. Till consideration of the case of the applicants, no recovery should be made from the applicants in view of the decision of the Hon'ble Apex Court dated 18.12.2014 in **Civil Appeal No. 11527/2014 (State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer) etc. & Ors.)** which forbears recovery from the Class III & Class IV service (or Group 'C' and Group 'D' service).

9. With the above directions, O.A. stands disposed of accordingly. No order as to costs.

**(N. NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**

**PB**