

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.040/00008/2015

Date of order: This the 12<sup>th</sup> day of September, 2018

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

MES No. 209923  
Shri Konapala Gopal Rao  
Erstwhile Stenographer  
Headquarter, 137 Wks Engrs  
Pin – 914137, C/O 99 APO.

...Applicant

By Advocates: Mr. Adil Ahmed, Padumi Kalita & R.R. Rajkumari

-Versus-

1. The Union of India  
Represented by the Secretary  
To the Government of India  
Ministry of Defence  
South Block, New Delhi – 110011.
2. The Commanding  
Headquarter, 137 Works Engineer  
Pin – 914137, C/O 99 APO.

**...Respondents**

By Advocate: Mr. S.K. Ghosh, Addl. CGSC

**ORDER (ORAL)**

**MANJULA DAS, JUDICIAL MEMBER:**

This O.A. has been remanded back by the Hon'ble Gauhati High Court vide order dated 28.03.2016 in WP (C) No. 2912 of 2015 for its decision afresh after giving an opportunity of hearing

to the Union of India i.e. respondents. Matter has been taken up since 28.07.2017 by granting opportunity to the respondents to defend the case by filing their written statement and matter is finally heard on 12.09.2018. Accordingly, the respondents have filed their written statement on 05.06.2018.

2. By this O.A., applicants make a prayer for a direction upon the respondents to pay the license fee at the rate of 10% compensation per month to the applicant w.e.f. 16.06.2009 to 24.12.2011 during his service under Head Quarter, 137, Works Engineer.

3. Mr. Adil Ahmed, learned counsel appearing on behalf of the applicant submits that this Tribunal had entertained and passed various judgments and orders in the case of similarly situated employees and in view of that, learned counsel prays similar direction.

4. By referring paragraph 5 & 6 of the written statement, it was submitted by the Addl. CGSC for the respondents Mr. S.K. Ghosh that claim of the applicant is not at all sustainable in view of the various circular issued by the Government of India. Employees who are not covered by the Ministry of Urban Development's O.M. dated 02.08.1960, they are entitled to both HRA as well as any compensation in lieu of rent free accommodation. According to Mr. Ghosh, SLP filed before the Hon'ble Apex Court in the case of Sri

Krishna Sinha and 267 others Vs. Union of India and others was dismissed due to inordinate delay caused in filing the same without being heard anything on merit. Therefore, the respondent department had no choice to implement the order. Moreover, the law is well settled that the dismissal of SLP do not lay down any law.

5. Heard Mr. Adil Ahmed, learned counsel for the applicant and Mr. S.K. Ghosh, learned Addl. CGSC for the respondents.

6. 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.”

7. 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."

8. 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.

9. 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**.

10. In view of the above, 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 license 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. ‘

11. With the above directions, O.A. stands disposed of accordingly at the admission stage. No order as to costs.

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

**PB**