

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.046/00343/2014

Date of order: This the 30th day of July, 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

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

1. Shri Lowerence Marak
MES/243430, Peon (retired)
Son of Late M Sangma
ARTC, HQ 137 Works Engineers
Dimapur, Nagaland
Pin – 914137, C/O 99 APO, Pin – 797112.
2. Shri Anup Kumar Mondal
MES/205295
Son of Late R.N. Mondal
WE Office, HQ 137 Works Engineers
Dimapur, Nagaland
Pin – 914137, C/O 99 APO
Pin – 797112.
3. Shri Shyamal Kumar Ghosh
MES/225735, J.E. (QS&C)
Son of Late K.N. Ghosh
WE Office, HQ 137 Works Engineers
Dimapur, Nagaland
Pin – 914137, C/O 99 APO
Pin – 797112.
4. Shri Thiyam Ranjeeb Singh
MES/244020, J.E. (QS&C)
Son of Late Thiyam Krishna Chandra Singh
WE Office, HQ 137 Works Engineers
Dimapur, Nagaland
Pin – 914137, C/O 99 APO, Pin – 797112.
5. Shri Alok Bhowmick
MES/230121, U.D.C.
Son of Late A.K. Bhowmick
HQ 137 Works Engineers
Dimapur, Nagaland
Pin – 914137, C/O 99 APO
Pin – 797112.

6. Shri Bikash Chakravarty
MES/229177
Son of Late B.K. Chakravarty
869 G.E, E.W.S, Dimapur
Pin – 914137, C/O 99 APO, Pin – 797112.

...Applicants

By Advocates: Mr. G.J. Sarma on behalf of Mr. S. Nath

-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 Officer Commanding
HQ 137 Works Engineers
Dimapur, Nagaland
Pin – 914137, C/O 99 APO, Pin – 797112.
3. The Garrison Engineer
869 G.E, E.W.S, Dimapur
Pin – 914137, C/O 99 APO, Pin – 797112.

...Respondents

By Advocate: None

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. 2964 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 today i.e. 30.07.2018 along with identical case in O.A. No.

040/00026/2016. In O.A. No. 040/00026/2016 although Addl. CGSC for the respondents appeared but in the present case, none appeared on behalf of the respondents. However, from the perusal of records, it is noted that the respondents have filed their written statement on 05.06.2018.

2. Heard Mr. G.J. Sarma, proxy counsel on behalf of Mr. S. Nath, learned counsel for the applicants.

3. By this O.A., applicants make a prayer for a direction to the respondents to pay the license fee at the rate of 10% compensation per month in lieu of Rent Free Accommodation with arrear monetary benefits in the light of judgment and order passed by Central Administrative Tribunal, Hon'ble Gauhati High Court as well as Hon'ble Supreme Court of India.

4. Prayer for permission under Section 4(5)(a) of the CAT (Procedure) Rules, 1987 to move the present O.A. jointly because of common cause is allowed.

5. 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.”

6. 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.”

7. 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.

8. 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**.

9. 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. '

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

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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