

RD570050807 IN.

**COURT-CASE  
MOST URGENT**

F. NO. 4-23/2000-PAP  
GOVERNMENT OF INDIA  
MINISTRY OF COMMUNICATION & IT  
DEPARTMENT OF POSTS  
(ESTABLISHMENT DIVISION)/P.A.P. SECTION  
DAK BHAWAN, SANSAD MARG, NEW DELHI - 110 001  
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DATED, THE 01<sup>st</sup> MARCH, 2016.

To  
The Chief Post Master General,  
N.E. Postal Circle,  
Shillong -793001

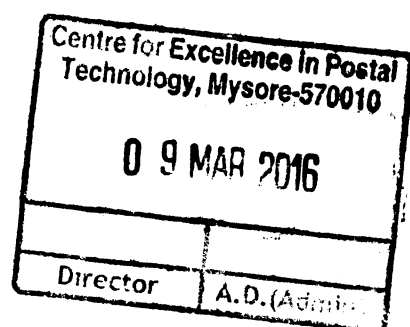
**O R D E R**

Subject: Grant of HRA at a higher rate ('B' category) to the Central Government Servants posted at Aizawl (Mizoram)-Court Case regarding.

Central Government Employees Federation of Mizoram, General Head Quarters, Aizawl, Mizoram made a representation to the Hon'ble Prime Minister of India claiming House Rent Allowance at 'B' Class City rates and Compensation in lieu of Rent Free Accommodation at the rate of 10% to the Central Government Employees posted in Mizoram State based on the judgement passed by Supreme Court of India in Civil Appeal No. 2715/91 - Union of India & Ors V/s Shri S.K. Ghosh & Others and Department of Posts Order No. 8-40/87-PAP dated 7.3.1994 & No. 4-52/98-PAP dated 27.02.1999. On rejection of their claim, the Central Government Employees posted in the State of Mizoram approached the Central Administrative Tribunal, Guwahati under O.A. No. 381/2000. The Hon'ble CAT, in para - 5 of its order dated 12.04.2002 pronounced as under:-

**"In view of the position enumerated above, I am of the view that the applicants are entitled to House Rent Allowance at the rate prescribed for B class cities to the Central Government employees which should be payable to the applicants at the rate of 15% from 1. 1. 1986 to 30. 9. 1986 and from 1. 10. 86 to 30.9.86.and from 1.10.1986 at flat rate prescribed under O.M. dated 7. 8. 1987 read with another O.M. dated 13.11.1987 and the Notification GSR No.623 (E) amending the Fundamental Rule 45 A with effect from 1.7.1987.**

As regards the claim for compensation in lieu of Rent Free Accommodation the respondents are to act in conformity with the Office Memorandum No, 12-11/60-ACC-I dated 2.8.1960, O. M. dated 23.2.1986 and 22.5.1987 and also to O.M. dated 13.11.1987. The respondents shall examine the each case on merits and thereafter shall pass necessary order in individual cases. Rent free unfurnished accommodation is admissible to Central Government employees having all India transfer liability only those who are posted in Mizoram or HRA at the rate prescribed from time to time. Compensation and admissible HRA shall be granted to those persons who are entitled to rent free accommodation and could not be provided accommodation and the above benefit shall be granted only to the Central Government employees having all India Transfer liability and posted in Mizoram vide letter No.11015/1/E/(B)/76 dated 31.7.1977. The respondents shall examine the individual cases and thereafter pass necessary orders in those cases, others will not be eligible for the same. The application is allowed in part, No costs."



2. The Department filed WP No.2955/2003 in the Hon'ble High Court of Guwahati against the orders of the CAT dated 12-04-2002. The Hon'ble High Court in its judgment dated 25.4.2003, "disposed of the appeal with the observations that the directions given by the Learned Tribunal in the last part of the Judgment quoted above shall be complied with by the Central Government after taking due consideration of the observations recorded within a period of 6 months. The High Court observed that the case of each and every Central Government employee posted in the State of Mizoram will have to be taken separately and appropriate orders shall be passed thereon after such consideration in terms of OM dated 23-09-86, 19-03-87 and 13-11-87. The Hon'ble High Court, however, observed that the employees posted in Aizawl Headquarters of the State of Mizoram being a 'C' Class city may not be entitled to HRA as prescribed for 'B' Class cities".

3. Aggrieved by the order of the Hon'ble High Court of Guwahati, the Central Government Employees filed a Civil Appeal No.646/2005 in the Supreme Court of India. The Supreme Court stayed the operation of the Judgment order dated 25-04-2003 of the High Court of Guwahati in WP No.2955/2003. **The Hon'ble Supreme Court of India has dismissed the civil appeal and passed the orders dated 17.07.2013 as under:-**

**"We have thoughtfully considered the submissions of the learned counsel. In our view, the direction given by the Tribunal, which has been confirmed by the High Court, merely ordains consideration of the cases of each employee for grant of City Compensatory Allowance in accordance with O.M. dated 02.08.1960, O.M. dated 23.02.1986 and 22.5.1987 as also O.M. dated 13.11.1987 and nothing more. Therefore, the impugned order as also the one passed by the Tribunal do not call for interference by this Court under Article 136 of the Constitution.**

**With the above observation, the appeal is dismissed.**


**However, it is made clear that if the Government of India has issued fresh instructions after 13.11.1987 then the cases of the respondents shall be considered in accordance with the latest instructions."**

4. Consequent upon obtaining the concurrence of Integrated Finance Wing of this Department, the matter was referred to Ministry of Finance, Department of Expenditure for decision.

5. Ministry of Finance, Department of Expenditure has considered the matter and accorded their approval in view of the decision taken by the Department of Posts to not to file any Review Petition in the matter and as the Ministry of Law & Justice has advised Department of Posts to take administrative decision for implementation of the said order of Hon'ble Tribunal, implementation of the Order dated 12.04.2002 passed by the Hon'ble CAT, Guwahati Bench in O.A. No. 381/2000 for grant of House Rent Allowance at 'B/Y' class cities rates, as admissible from time to time, is agreed to.

6. Since, the Department of Posts had represented the Union of India on behalf of all the respondents Ministries/Departments/ Offices, the approval accorded by the Department of Expenditure, Ministry of Finance is therefore conveyed to all the Respondent Ministries/Departments/Offices for issuing appropriate instructions for compliance of orders dated 12.04.2002 of Hon'ble CAT, Guwahati Bench in respect of the employees working under their administrative control who were/are Applicants in the said OA No. 381/2000.

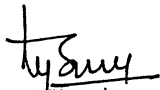
7. This has the approval of the Competent Authority.

  
(K.V. Vijayakumar)  
Assistant Director General (Estt.)

Copy for information and necessary action to:-

1. Postmaster General, North East Circle, Aizawl, (Mizoram).
2. Director Postal Services (Headquarters), N.E. Circle, Shillong – 793001.
3. Central Administrative Tribunal, Guwahati Bench, Bench, Guwahati w.r.t. their Order dated 12.04.2002 in O.A.No. 381/2000..
4. Registrar Office, Hon'ble High Court of Guwahati w.r.t. their judgement dated 25.4.2003 in WP(C) No. 2955/2003 and Contempt Petition No. 584/2014
5. Registrar Office, Hon'ble Supreme Court, New Delhi w.r.t. their judgment dated 17.7.2013 in Civil Appeal No. 646/2005.
6. Ministry of Finance, Department of Expenditure w.r.t. their I.D. No. 2(47)/2000-E-II(B) dated 10.02.2016.
7. The Director of Accounts Postal, Shillong.
8. Director of P&T Audit, Shillong.
9. Senior Superintendent of Post Offices Shillong.
10. The Finance Advice Section, Department of Post, Dak Bhawan, New Delhi.
11. Budget Section, DOP, w.r.t. their ID. No.
12. President, Central Govt. Employees Federation of Mizoram Headquarters, Aizawl – 796001.
13. All India Postal Employees Union Group 'C', P-IV & Postmen, Mizoram Divisional Branch Headquarters : HQRS, Mizoram, Shillong - 796001
- 14-33 All the Respondent Ministries/Departments/Offices in OA No. 381/2002 viz. (i) All India Radio in respect of Sl. No. 288 to 393, (ii) Customs and Central Excise Department in respect of Sl. No. 394 to 457, (iii) Doordarshan Kendra in r/o S. No. 458 to 582, (iv) Census Department in r/o Sl. No. 538 to 610, (v) Field Publicity Office in r/o Sl. No. 611 to 626, (vi) Sports Authority of India in r/o Sl. No. 627 to 640, (vii) National Informatics Centre in r/o Sl. No. 641 to 651, (viii) Telecom Department in r/o Sl. No. 652 to 664, (ix) Telegraph Department in r/o Sl. No. 665 to 670, (x) Department of Audio Video Publicity in r/o Sl. No. 671 to 673, (xi) Khadi and Village Industries Department in r/o Sl. No. 674 to 676, (xii) Nehru Yuvak Kendra in r/o Sl. No. 677 to 680, (xiii) Central Integrated Paste Management in r/o Sl. No. 681 to 684, (xiv) Sub-Regional Employment Office in r/o Sl. No. 685 to 687 and (xv) Press Information Bureau and all the applicants posted in the State of Mizoram in r/o Sl. No. 688 to 697.
- 33.40 The Guard file/sanction file/office copy.

✓ 44. DEPTTL WEB SITE Through : CEPT MYSORE

  
(K.V. Vijayakumar)  
Assistant Director General (Estt.)