

GAHC010008762014



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2120/2014

GS-166128A PNR RANJIT SINGH
S/O RUDAR SINGH PRESENTLY SERVING AS PIONEER AND POSTED AT 100
RCC GREF, PROJECT SEWAK , C/O 99 APO

VERSUS

THE UNION OF INDIA and 5 ORS
REP. BY THE SECRETARY, BORDER ROADS DEVELOPMENT BOARD BRDB,
ROOM NO. 418, 'B' WING SENA BHAWAN, NEW DELHI- 110011.

2:DIRECTOR GENERAL

BORDER ROADS ORGANIZATION
SEEMA SADAK BHAWAN
RING ROAD
DELHI CANTT. NEW DELHI- 110010.

3:GREF RECORDS OFFICE ABHILEKH KARYALAYA
SAMANYA ARAKSHIT ABHIYANTA BAL DIGHI CAMP
PUNE-15.

4:SRO GREF
CARE GREF CENTRE ABHILEKH KARYALAYA SAMANYA ARAKSHIT
ABHIYANTA BAL DIGHI CAMP
PUNE-15.

5:CHIEF ENGINEER

PROJECT SEWAK
C/O 99 APO

6:OFFICER COMMANDING

100 RCC C/O 99 AP

Advocate for the Petitioner : MR.D BORAH

Advocate for the Respondent : C.G.C.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

27.03.2024

Heard Mr. D. Borah, learned counsel appearing for the petitioner. Also heard Mr. D.C. Borah, Assistant Solicitor General of India, appearing for the respondents.

2. The petitioner, by instituting the present proceedings, has assailed the action/inaction on the part of the respondent authorities in cancelling the order by which he was sent for Bhutan Compensatory Allowance (BCA) area posting. The petitioner has further prayed for release of the revised Expatriation Allowance as admissible @ Rs. 4450/- per month along with interest for the period from 15.12.1987 to 03.01.1990, i.e. the period he was posted at Sri Lanka in connection with 'Operation Pawan'.

3. At the outset, it is to be noted that the learned counsel for the petitioner, in view of the fact that the petitioner is no longer in service, has limited the present proceedings to the prayer of the petitioner for releasing the Expatriation allowance in the revised rate of Foreign Allowance as admissible @ Rs. 4450/- per month for the period he had served at Sri Lanka in connection with Operation Pawan.

4. The petitioner was deployed under the Army Command in connection with Operation Pawan at Sri Lanka during the period from 15.12.1987 to 04.03.1990, but during the said period he was only paid Expatriation Allowance @ Rs. 585/- per

month, which was subsequently revised to Rs. 630/- per month with effect from 01.08.1988. It is stated that the petitioner was never paid any Foreign Allowance during the tenure he was posted at Sri Lanka in connection with Operation Pawan. The competent authority vide notification dated 25.09.2002 proceeded to revise the Foreign Allowance for calculation of Expatriation Allowance for persons who were placed under the Army Command in connection with Operation Pawan. In terms of the said notification, Foreign Allowance @ Rs. 4450/- per month was authorised for the persons who were placed under Army Command at Sri Lanka in connection with Operation Pawan and the said revised rate of Foreign Allowance @ Rs. 4450/- per month was to be effective from 04.08.1988. It is contended that as the petitioner was drawing pay not exceeding to Rs. 1350/- per month at the relevant period and he having been placed under the Army Command at Sri Lanka in connection with Operation Pawan, he was entitled to Expatriation Allowance at the revised rate of Foreign Allowance i.e. @ Rs. 4450/- per month. It is the stand of the petitioner that till the filing of the present proceedings he was not paid the Expatriation Allowance as per the revised rate of Foreign Allowance brought into effect vide the communication dated 25.09.2002 and, accordingly, he has prayed that the said amount be released to him along with due interest to compensate him for the loss as occasioning on account of the said allowance not being released to him at the due time.

5. The respondent authorities by way of filing an affidavit have admitted that the petitioner had in fact served under the Army Command in connection with Operation Pawan at Sri Lanka with effect from 15.12.1987 to 03.01.1990 and during the said period he was paid Expatriation Allowance @ Rs. 585/- per month, which was subsequently revised to Rs. 630/- per month. It is the contention of the respondents that Expatriation Allowance, which was revised @ Rs. 4450/- per month in terms of the notification dated 25.09.2002, was not paid to the petitioner and, on noticing the said anomaly, a D.O. Part II order came to be issued on 05.06.2014 in respect of the petitioner authorising Expatriation Allowance @ Rs. 4450/- per month for the period

he had served at Sri Lanka in connection with Operation Pawan. The said D.O. Part II order is annexed as Annexure-3 to the affidavit filed by the respondents.

6. Learned counsel for the petitioner, referring to the rejoinder filed in the matter, has contended that in spite of the said stand taken by the respondents in their affidavit with regard to the publication of the D.O. Part II order on 05.06.2014, the said revised Expatriation Allowance was not released to the petitioner. It is further contended by the petitioner that the said D.O. Part II order was published only after institution of the present proceedings before this Court on 04.04.2014.

7. Having noticed the above position and the admission on the part of the respondent authorities that the petitioner had in fact served in Sri Lanka in connection with Operation Pawan with effect from 15.12.1987 till 03.01.1990, and also having taken into consideration the D.O. Part II order, which was published on 05.06.2014 in respect of the revised rate of Expatriation Allowance as brought into effect vide notification dated 25.09.2002, this Court is of the considered view that the petitioner is entitled to the following directions:

- (i) The petitioner be paid Expatriation Allowance at the revised rate of Rs. 4450/- per month, with effect from 15.12.1987 till 03.01.1990 in terms of the D.O. Part II order published on 05.06.2014. The Expatriation Allowance, which has already been paid to the petitioner for the aforesaid period at the rate as prevailing at the relevant point of time before issuance of the said notification dated 25.09.2002, shall be deducted from the amount of the Expatriation Allowance which has accrued and become due to the petitioner upon computing the Expatriation Allowance payable to him at the revised rate in terms of the notification dated 25.09.2002.
- (ii) The amount of Expatriation Allowance due to the petitioner w.e.f. 15.12.1987 to 03.01.1990 at the revised rate of Rs. 4450/- per month, after deducting the amount of Expatriation Allowance already paid to the petitioner,

be released to the petitioner along with interest @ 18% per annum with effect from the date the said revised Expatriation Allowance was due for payment to the petitioner.

(iii) The amount now becoming due to the petitioner, including the interest @ 18% per annum, as directed hereinabove, shall be released to the petitioner within a period of three months from the date of receipt of a certified copy of this order by the respondent authorities.

8. The writ petition stands disposed of with the above observations and directions.

JUDGE

Comparing Assistant