



2026:DHC:6101



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 1st April, 2026
Pronounced on: 30th July, 2026

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W.P(C) 7192/2006

1. KULDEEP SINGH & ORS.

S/o Late Sardar Singh

104-B/B-U & V

Shalimar Bagh, Delhi, presently working as
Executive Engineer with Tala Hydro Electric
Project Authority, Thimpu, Bhutan on deputation
From of Ministry of Power, Government of India,
New Delhi.

.....Petitioners

Through: Ms. Aditi Anup, Advocate

versus

UNION OF INDIA THROUGH

The Secretary,
Ministry of External Affairs,
Government of India,
New Delhi, North Block

.....Respondent

Through: Mr. Bhagwan Swamp Shukla, CGSC
with Mr. Dashmesh Tripathi,
Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Writ Petition has been preferred under Article 226 of the Constitution of India *seeking issuance of a writ of mandamus and/or any other appropriate order or directions for grant of Bhutan Compensatory Allowance to the Petitioners, at par with the Foreign Allowance payable to*

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the employees and staff of the Ministry of External Affairs posted in Bhutan, with effect from 01.01.1998, along with consequential financial benefits.

2. The ***facts in brief*** are that the Government of India and the Royal Government of Bhutan entered into an Agreement dated 05.03.1996 for implementation of the Tala Hydro Electric Project in Bhutan. Article 14(3) of the said Agreement provided that the Government of India shall permit the Tala Hydro Electric Project Authority *to select and appoint deputationist officers, staff and workers directly from the concerned departments of the Government of India, State Governments, State Electricity Boards and Public Sector Undertakings in India, after inviting Applications through the respective departments.* It was further agreed that the funds required for implementation of the said Project, would be provided by the Government of India.

3. Pursuant to the aforesaid Agreement, the Petitioners who were permanent employees of various departments of the Central Government, State Governments and Public Sector Undertakings, including the Ministry of Power, Ministry of Water Resources, Ministry of Finance, Government of India, Himachal Pradesh State Electricity Board, Nathpa Jhakri Power Corporation Limited, Karnataka Power Corporation Limited, Central Water Commission, West Bengal State Electricity Board, Rajasthan State Electricity Board and National Hydroelectric Power Corporation, were deputed to the Tala Hydro Electric Project Authority, Thimphu, Bhutan, between the years 1997 and 2005.

4. The Appointment Letters issued to the Petitioners by the Tala Hydro Electric Project Authority, specifically provided that the services of the



Petitioners during their period of deputation in Bhutan, would be *governed by the terms and conditions applicable to officers of the Central/State Governments of India on deputation with the Royal Government of Bhutan, as contained in the Ministry of External Affairs Letter No. EIV/551/77/77 dated 08.11.1977, as amended from time to time.*

5. The Ministry of External Affairs, Government of India, *vide* the aforesaid letter dated 08.11.1977, prescribed the terms and conditions of service, including payment of compensatory allowance, for officers and staff of the Central and State Governments deputed to Bhutan. In terms thereof, the Petitioners were ***granted Bhutan Compensatory Allowance***, during their deputation.

6. It is the case of the Petitioners that the rate of Bhutan Compensatory Allowance and the Foreign Allowance payable to the officers and staff of the Embassy of India in Bhutan remained at par and were revised from time to time up to December, 1997. *However, vide Notification dated 19.02.1998, the Ministry of External Affairs revised the Foreign Allowance payable to the officers and staff of the Embassy of India, Thimphu, Bhutan, whereas no corresponding revision was made in respect of the Bhutan Compensatory Allowance payable to the Petitioners.*

7. The Petitioners contended that thereafter, the *Foreign Allowance* payable to India-based Officers and members of staff of the Embassy of India in Bhutan, was revised periodically by the Ministry of External Affairs through various Orders dated 16.09.1998, 09.07.1999, 27.07.2000, 13.08.2001, 21.02.2002, 12.06.2002, 20.05.2003, 28.07.2004 and 17.03.2005. However, such revisions were not extended to the Petitioners,



who continued to receive Bhutan Compensatory Allowance, at the existing rates.

8. It was contended that both, the employees of the Embassy of India in Bhutan and the Petitioners, being deputationist from various Departments of the Central Government, State Governments and Public Sector Undertakings, were governed by the terms and conditions prescribed by the Ministry of External Affairs, Government of India, in relation to their service in Bhutan. According to the Petitioners, denial of corresponding revision in Bhutan Compensatory Allowance, (BCA) despite revision of Foreign Allowance payable to Embassy staff, was contrary to the terms of their deputation and discriminatory in nature.

9. The Petitioners made representations before the concerned authorities seeking revision of BCA at par with Foreign Allowance payable to the Embassy staff. Subsequently, *vide* Order no. EIV/235/5/95 dated 29.12.2000, the Ministry of External Affairs ***granted an ad hoc increase of 25% in the existing Bhutan Compensatory Allowance*** payable to officers of the Central and State Governments of India, during their service on deputation to Bhutan or with the Royal Government of Bhutan, with effect from 01.01.2001. The said increase was granted pending a final decision regarding payment of Foreign Allowance/Bhutan Compensatory Allowance to such deputationist at par, with the employees and staff of the Embassy of India in Bhutan.

10. Thereafter, ***vide Order dated 27.07.2005, a further ad hoc increase of 11% was granted in the existing Bhutan Compensatory Allowance payable to officers on deputation, with effect from 01.04.2005.***



11. Aggrieved by the continued denial of revision of Bhutan Compensatory Allowance at par with the Foreign Allowance payable to the Embassy staff in Bhutan, the deputationist submitted Representations dated 19.08.2005 and 26.02.2006 before the concerned authorities. The Petitioners asserted that non-revision of Bhutan Compensatory Allowance in line with the revisions granted to the Embassy staffs, was violative of the terms of their appointment and amounted to discrimination under Article 14 of the Constitution of India.

12. The Petitioners placed reliance upon the decision of this Court in W.P.(C) No.17184/2004 titled Captain Gurdev Singh & Ors. v. Union of India, wherein parity in payment of compensatory allowance with the personnel of the Ministry of External Affairs, was granted. On the basis of the said decision, the Petitioners again requested the Respondent authorities to extend similar benefits to them.

13. The Ministry of External Affairs, *vide* Office Memorandum dated 24.03.2006, directed the Petitioners to approach the Tala Hydro Electric Project Authority, being the employer authority. Accordingly, the Petitioners *vide* Letter dated 25.03.2006 submitted their representation before the THPA. However, THPA informed the Petitioners *vide* communication dated 07.04.2006 that it was only implementing the directions issued by the Ministry of External Affairs, Government of India, and that the issue regarding revision of Bhutan Compensatory Allowance, was required to be decided by the Respondent Ministry.

14. The Petitioners have accordingly, sought issuance of Mandamus or an appropriate order or *direction directing the Respondents to revise and grant Bhutan Compensatory Allowance to the Petitioners at par with the Foreign*



Allowance payable to the employees and staff of the Embassy of India in Bhutan with effect from 01.01.1998, along with all consequential benefits including arrears and retrospective financial benefits.

15. The **Respondent in his Counter-Affidavit**, has stated that the Petitioners are deputationist from various Central and State Government departments of India and were posted in Bhutan, in accordance with the terms and conditions of their appointments, as contained in the Letter No. EIV/551/77/77 dated 08.11.1977, as amended from time to time, including the subsequent amendment *vide* Letter No. EIV/551/9/2001 dated 21.11.2001, of Ministry of External Affairs.

16. The Respondent asserted that the Petitioners, having accepted the terms and conditions governing their deputation before proceeding to Bhutan, are governed by the rules and instructions issued by the Ministry of External Affairs from time to time with respect to Bhutan Compensatory Allowance. According to the Respondents, the terms and conditions accepted by the Petitioners at the time of their deputation, do not provide for *payment of Bhutan Compensatory Allowance at par with the Foreign Allowance payable to the employees of the Embassy of India in Bhutan.*

17. The Respondent has further contended that the Bhutan Compensatory Allowance payable to deputationist has been revised from time to time, in accordance with the Orders issued by the Ministry of External Affairs. It is stated that subsequent to the year 1997, the said allowance was revised on two occasions, firstly *vide* order dated 29.12.2000 bearing No. EIV/235/5/95, whereby an increase of 25% was granted, and thereafter *vide* order dated 27.07.2005, whereby a further increase of 11% was granted. Accordingly, the Petitioners have been paid Bhutan Compensatory



Allowance (BCA) in accordance with the applicable terms and conditions governing their deputation.

18. The Respondent has contended that the employees and staff posted at the Embassy of India in Bhutan constitute a distinct category and are governed by the Ministry of External Affairs, Indian Foreign Service (Pay, Leave and Compensatory Allowances) Rules (IFS (PLCA) Rules). The terms and conditions applicable to such personnel, are entirely different from those governing deputationists posted in Bhutan. Furthermore, the nature of duties, functions and responsibilities performed by the Embassy staffs are distinct from those performed by the Petitioners, who were deputed for specific project-related assignments connected with the Tala Hydro Electric Project.

19. It is further stated that merely because both the categories of employees are posted in Bhutan, the petitioners cannot claim parity with the Foreign Allowance payable to the Embassy staffs. According to the Respondents, the Petitioners are neither employees of the Embassy of India nor governed by the Foreign Service Rules applicable to Embassy personnel and cannot claim entitlement to Foreign Allowance. *The Petitioners, having accepted the terms and conditions of deputation, are entitled only to Bhutan Compensatory Allowance, as applicable to them.* They cannot subsequently seek alteration or modification thereof by claiming parity with a different category of employees governed by a separate set of rules.

20. In response to the reliance placed by the Petitioners on the judgment Captain Gurdev Singh & Ors. (Supra), the Respondents have contended that the said proceedings are pending adjudication and therefore, the Petitioners cannot claim any benefit on the basis thereof.



21. The Respondent has relied upon the judgment of the Guwahati High Court in Shri Bishnu Pada Chakraborty & Ors. v. Union of India, W.P.(C) No.3748/2001, wherein the claim for payment of Bhutan Compensatory Allowance at par with Foreign Allowance, was considered. It was held therein that an employee who had accepted the terms and conditions of deputation and was receiving BCA in accordance with such terms, could not subsequently claim parity with Foreign Allowance payable to personnel rendering service under Foreign Service conditions.

22. Accordingly, the respondent has contended that no case of discrimination or violation of Article 14 of the Constitution of India is made out, as the Petitioners and the employees of the Embassy of India in Bhutan are governed by different Rules, perform different functions and are placed in distinct service conditions. ***The Respondent has henceforth, opposed the relief sought by the Petitioners and prayed for dismissal of the present Writ petition.***

23. The ***Petitioners, in their Rejoinder Affidavit***, have controverted the averments made by the Respondent in the Counter-Affidavit and submitted that the stand taken by the Respondent, is misconceived.

24. The Petitioners in their rejoinder affidavit further controverted the stand of the Respondent that the terms and conditions governing Embassy personnel and deputationists, are distinct. The Petitioners have submitted that both categories of personnel were governed by the same terms and conditions up to the year 1997 and, therefore, denial of subsequent revisions in Bhutan Compensatory Allowance (BCA) was discriminatory and violative of Article 14 of the Constitution of India.



25. ***Written Submissions were filed on behalf of the Petitioners; wherein similar contentions were reiterated.***

26. The Petitioners in their written submissions, submitted that the claim raised in the present petition is not one seeking parity between two distinct classes of employees, *but is founded upon the principle of equal application of the same governing framework.*

27. Furthermore, it was asserted that Respondent has failed to demonstrate any reasonable basis or intelligible differentia for treating the Petitioners differently from the Embassy personnel, despite both categories being governed by the Ministry of External Affairs and performing services in Bhutan. Mere difference in nomenclature of the allowance, cannot justify unequal treatment when the entitlement flows from the same governing instructions.

28. It is contended that once the Petitioners and the employees of the Embassy of India in Bhutan are governed by the same policy framework issued by the Ministry of External Affairs; selective extension of subsequent revisions in allowance to only one category, while denying the same to the other, is arbitrary and violative of Article 14 of the Constitution of India.

29. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in Union of India v. Munshi Ram, 2022 SCC OnLine SC 1493, wherein it has been held that similarly situated employees under the same employer, cannot be subjected to differential treatment in the matter of service benefits and that financial implications cannot be a ground to deny legitimate parity.

30. It is further submitted that the Petitioners *had a legitimate expectation* that the revisions in allowance would continue to be extended in the same



manner as applicable to similarly placed personnel, particularly when such parity existed till December, 1997. Reliance has been placed upon the judgment of the Hon'ble High Court of Rajasthan in Dr. Mukesh Sharma v. State of Rajasthan, Civil Writ Petition No.10718/2015, to contend that denial of benefits to similarly situated employees, without any rational basis, amounts to discriminatory treatment.

31. Petitioners further contended that the *grant of ad hoc increases of 25% and 11% respectively, did not resolve the underlying disparity*, as such increases were neither equivalent to the revisions granted in Foreign Allowance nor based upon any final determination by the competent authority. It is, therefore, claimed that the Respondent failed to discharge its obligation of taking a final decision despite repeated representations, resulting in continued denial of the benefit claimed by the Petitioners.

32. ***No Written Submissions were filed on behalf of the Respondents.***
Submissions heard and record perused.

33. The factual background is that the ***Government of India and the Royal Government of Bhutan entered into an Agreement dated 05.03.1996*** for the implementation of the Tala Hydro Electric Project in Bhutan. In this Letter of Agreement dated 05.03.1996, it was clearly mentioned that ***the Authority would frame its own Rules of Business.***

34. The Agreement provided for the deputation of employees of the Central and State Governments, Electricity Boards, and Public Sector Undertakings, etc. for the implementation of the project. The Plaintiff *vide* Letter dated 09.10.2002, was posted on deputation, to Bhutan. This letter provided that the services of Er. Kuldeep Singh would be governed by the *“Terms and Conditions for Officers of Central/State Government of India on*



deputation with the Royal Government of Bhutan”, contained in the Ministry of External Affairs Letter No. EIV/551/77/77 dated 08.11.1977, as amended from time to time.

35. The Petitioners were, therefore, in error in equating itself with the foreign officers, when their terms of appointment and allowance was governed by different circulars as is evident from the circulars to which the reference has been made by the Petitioner himself. The Embassy personnel and officials were entitled to **Foreign Allowance**, whereas the Petitioners and others similarly situated deputationists were entitled to **Bhutan Compensatory Allowance**, in terms of the Agreement dated 05.03.1996; there was no parity between these two categories of the deputationists and therefore, the Petitioner fell in error in claiming parity with the foreign officers.

36. The Circular dated 08.11.1977 specifically prescribed the *salary and various allowances payable to such officers, including children’s allowance, special outfit allowance, travelling allowance, transfer grant, and other allowances, including the Bhutan Compensatory Allowance (BCA)*, which was defined therein. Thereafter, in the coming years, no enhancement was made to the Bhutan Compensatory Allowance, while on the other hand, *for the foreign service officers*, there were different Circulars issued on 16.09.1998, 09.07.1999, 27.07.2000 13.08.2001, 21.02.2002, 12.06.2002, 20.05.2003, 28.07.2004 and 17.03.2005, the *Foreign Allowance of the India-based officers and members of staff of the Embassy of India (E/I, Thimpu & Liaison Officers of EOI, Bhutan)*, were revised.

37. Significantly, all these Circulars increased and enhanced the Foreign Allowance payable to the concerned officers. *However, such enhancement*



was not made applicable to officers posted on deputation to various projects in Bhutan. As has been submitted by the Respondent, these Circulars pertained to *Foreign Allowances*. There is nothing on record to show that the Petitioner and similarly placed officers who were posted on deputation in Bhutan were entitled to the *Foreign Allowance*, which was applicable to a category of foreign officers.

38. This is very evident that the Petitioners, as per the terms of their appointment, were entitled to ***Bhutan Compensatory Allowance***, which was governed by the Circular dated 08.11.1977. The various Circulars to which reference has been made by the Petitioners, pertained to ***Foreign Allowances***, applicable to a category of foreign officers. Therefore, these are two different Services entitled to salary and perks according to their Appointment and Department Rules, and cannot claim parity.

39. It is not in dispute that the Bhutan Compensatory Allowance was not enhanced by the Government for which the Petitioner and others similarly situated officers, submitted Representations dated 19.08.2005, 26.02.2006 and 15.03.2006, seeking enhancement of their *Bhutan Compensatory allowance*. The Government had earlier enhanced the *Bhutan Compensatory Allowance vide Letter dated 29.12.2000 to 25% on an 'ad hoc' basis*. Thereafter, on 27.07.2005, **another 'ad hoc' increase of 11%** was granted to different categories of deputationists.

40. In the case of Captain Gurdev Singh and Another v. Union of India, the High Court had granted parity and allowed the same allowances as granted to foreign officers, to the people similarly placed as the Petitioners. However, this judgment was challenged by Union of India before the Apex Court, wherein the Apex Court in Union of India v. Captain Gurdev Singh



and Another (2019) 14 SCC 289 noted that while it cannot be disputed that the purpose of both allowances is fundamentally the same, i.e., to meet the higher costs of living abroad, *but at the same time, the requirements that have to be meted out in the two, are somewhat different.*

41. The Apex Court further observed that IMTRAT personnel get benefits to a large extent, compared to MEA personnel, in terms of getting food and other purchases at a cheaper cost due to the provisions of facilities such as mess, canteen, etc. Moreover, people belonging to different categories of service, have different service conditions and facilities available to them. The **Difficulty Allowances** are also given, depending upon the nature of the job. Even if there may have been similar allowances being granted to the different categories of the officers, but it does not imply that it is a service condition that they would be getting the perks and allowances at par with the Foreign Officers.

42. ***No such Circular has been produced by the Petitioners to support or establish that they were entitled to the same perks and allowances, as Embassy personnel.*** It may not be out of place to mention here that the Petitioners were entitled to ***Bhutan Compensatory Allowance***, while the foreign officers were entitled to Foreign Allowances, under their Service Rules. . These two cannot be equated as one, considering that the Petitioner and the foreign officers belong to two different categories of service and are governed by different circulars. Consequently, the Petitioners are not entitled to the allowances as claimed by them.

43. In view of the aforesaid legal position, the reliance placed by the Petitioners on Capt. Gurdev Singh (*supra*), is misplaced, as it has been set



aside. Once the said judgment has been set aside by the Apex Court, no enforceable right can be claimed on the basis thereof.

44. The reliance placed by the Petitioners upon Munshi Ram (*supra*), also does not advance their case. In the said judgment, the Supreme Court reiterated *that similarly situated employees cannot be discriminated against in the matter of service benefits*. However, the said principle applies only where the employees are similarly situated and belong to the same class. *In the present case, the Petitioners and Embassy personnel belong to distinct categories governed by different service conditions. Therefore, the said judgment has no application to the facts of the present case.*

45. Similarly, **the plea of legitimate expectation** raised by the Petitioners, cannot be accepted. *Legitimate expectation* has to be legitimate, in consonance with the Service/Deputation Rules, specifically accepted by the Petitioners. Misplaced expectation based on erroneous assumption of two services being entitled to same perks, cannot override the terms of appointment. The Petitioners were entitled only to benefit of *Bhutan Compensatory allowance*, as was admissible under the terms and conditions of their deputation. The mere fact that for a long time, the two Allowances, were incidentally similar, does not confer a *vested right to claim parity* in all future revisions.

46. In the present case, there is a demonstrable and reasonable basis for distinction between the **Foreign Allowance** payable to Embassy personnel and **Bhutan Compensatory Allowance** payable to deputationists. The distinction is founded upon the difference in service framework, nature of appointment and governing Rules. Therefore, the act of respondent in enhancing Foreign Allowance from time to time, while there being no



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similar enhancement in *Bhutan Compensatory allowance*, cannot be claimed to suffer from arbitrariness or violative of Article 14 of the Constitution of India.

47. Accordingly, it is held that the *Petitioners have failed to establish any legal right to claim Bhutan Compensatory Allowance at par with Foreign Allowance* payable to Embassy personnel.

48. The Writ petition, therefore, does not warrant any directions, under Article 226 of the Constitution of India; **it is accordingly, dismissed.**

49. Pending Application(s), if any, are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 30, 2026
RS/R/VA