

GAHC010065132023



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

Case No. : WP(C)/2828/2023

ASI/GD T V CHANDRA MOHAN AND 71 ORS
S/O- K. KUNHIRAMAN NAMBIAR,
FORCE NO. 913092898,
ADDRESS OF COMMUNICATION OF THE PETITIONER-
C/O- OFFICE OF DIRECTORATE GENERAL,
CENTRAL RESERVE POLICE FORCE,
CGO COMPLEX, LODHI ROAD, NEW DELHI- 110003.

2: CT/DRIVER VIJAY SINGH
S/O. BASTIRAM
FORCE NO 075080533

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CENTRAL RESERVE POLICE FORCE

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NEW DELHI- 110003.

3: CT/GD BALJIT SINGH
S/O. SAROOPLAL
FORCE NO 125160777

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4: CT /GD BALDEV SINGH SANGMA
S/O. MEKAR SINGH SANGMA
FORCE NO 115139956. 87 BN
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CENTRAL RESERVE POLICE FORCE

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5: CT/GD JAMAL SARKAR
S/O. KARIM BOKHSH SARKAR
FORCE NO 075101111
25 BN
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CENTRAL RESERVE POLICE FORCE

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6: CT/GD PANKAJ KUMAR YADAV
FORCE NO 110930082
S/O. HRIDYA NARAYAN YADAV. 60 BN
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CENTRAL RESERVE POLICE FORCE

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7: CT /GD TONGCHINHAO SIMTE
FORCE NO 115151107
S/O. MINTHANG SMITE.
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8: CT/GD B D NGAMHRING ANAL
FORCE NO 115150823 S/O. B D NGAMCHO ANAL
60 BN JHARKHAND
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9: SI/GD HAIDAR ALI
S/O. ABDUL BAREK
FORCE NO 8507923353
53 BN
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10: CT/GD ANUJPRATAP SINGH
FORCE NO 065026145
S/O. CHANDRA VIJAY SINGH

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11: HC/GD NITESH KUMAR THAKUR
S/O. MAHESH PRASAD THAKUR
FORCE NO 041645175
71 BN
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12: CT/GD SUSANTA BISWAS
FORCE NO 145043482 S/O. KAMAL BISWAS. 175 BN
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13: CT/GD NABAKANTA DAS
FORCE NO 090250097
S/O. AMULYA DAS
175 BN
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14: INSPECTOR /GD DESHVIR SINGH
FORCE NO 830737233
S/O. OMKAR SINGH.16 BN BENARAS
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15: CT/GD YOGENDER KUMAR
FORCE NO. 085340144

S/O SUBE SINGH

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16: HC/GD DEVA KAMAL CHOUDHURY
FORCE NO. 041606045

S/O- JATINDRA MOHAN CHOUDHURY
222 CHATISHGARH

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17: CT/ GD MANISH KUMAR SINGH
S/O ANIL KUMAR SINGH

FORCE NO. 105175139

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18: CT/DVR BHUPENDAR KUMAR
FORCE NO. 125233098

S/O- NARESH KUMAR
GC GANDHINAGAR

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19: ASI/GD KAMAL SINGH
FORCE NO. 941176755

S/O- GOURI SHANKAR

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20: ASI/GD SUDAM KUMAR DALAI
FORCE NO. 951620925

S/O- BACHHA DALAI

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21: HC/GD BASIR AHMED
FORCE NO. 991390506

S/O- LUKMAN AHMED

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22: ASI/GD SUSANTA DAS
FORCE NO. 941241465

S/O LT. SAMIRAN CHANDRA DAS

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23: CT/GD AMARNATH HARNE
FORCE NO. 115323023

S/O- DIGAMBER HARNE

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24: CT/COOK VINOD KUMAR
FORCE NO. 145161403

S/O- RAMESH CHAND

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25: CT/GD DIPAK KUMAR PATRA
FORCE NO. 125311008

S/O- HAREKRUSHNA PATRA

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26: HC/GD SRINAVASA MURTY C N
FORCE NO. 025050517

S/O- NARAYANAPPA

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27: CD/GD KAMAL KUMAR BORO
FORCE NO. 060067842

S/O- DHANIRAM BORO

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28: GT/CD VIJAY YADAV
FORCE NO. 110729996

S/O- CHHATR DHARI YADAV

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29: CT/GD RAJESH PATHANIA
FORCE NO. - 165160137

S/O- ASHOK KUMAR

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CENTRAL RESERVE POLICE FORCE

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30: HC/GD PREM CHANDRA
FORCE NO.- 041673739

S/O- CHHANGUR RAM

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31: CT/GD SHYAMAL BARUI
FORCE NO. 075102812

S/O- KIRAN CH BARUI

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32: CT/GD APURBA BARMAN
FORCE NO- 091640039

S/O- NARAYAN BARMAN

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33: CT/KS SANJAY KUMAR
FORCE NO. 045110603

S/O- DEWAN CHAND

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34: HC/GD PRADIP KUMAR BHOKTA
FORCE NO. 041719428

S/O- LT. KANAI CH. BHOKTA

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35: CT/GD AMRIT PAUL SINGH
FORCE NO. 135234391

S/O- PRTITPAL SINGH
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36: HC/GD JITENDRA SINGH
FORCE NO. 015221497

S/O- GOPI SINGH

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37: CT/GD S K SABURUDDIN
FORCE NO. 145043259

S/O- S K SUKUR ALI

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38: CT/KS RANJIT KUMAR BHARTI
FORCE NO. 045262252

S/O- SUDARSHAN RAM

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39: CT/GD PARMANANDA MAILWADI
FORCE NO. 115053035

S/O- NITYANAND MALWADI

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40: CT/GD SANDEEP DAS
FORCE NO. 091640048

S/O- SUNADR MONI DAS

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41: ASI/GD BISHESHEAR SINGH
FORCE NO. 950340132

S/O- ARINDAM YADAV

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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42: CT/GD GURPREET SINGH
FORCE NO. 135233955

S/O- SUKDEV SINGH

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43: SI/GD SUNIL KUMAR SINGH
FORCE NO. 851141212

S/O- CHANDRESHWAR SINGH

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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44: HC/GD MUKHYA SINGH
FORCE NO. 991440976

S/O- HAZARA SINGH

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45: CT/GD PEDDIGANI SIVA
FORCE NO - 095142408

S/O- P RAMANNA

ADDRESS OF COMMUNICATION OF THE PETITIONER-
C/O- OFFICE OF DIRECTORATE GENERAL

CENTRAL RESERVE POLICE FORCE

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46: CT/GD SOMNATH MUKHAERJEE
FORCE NO. 135313102

BISWANATH MUKHAERJEE

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47: ASI/GD DHIRENDRA KUMAR CHAUHAN
FORCE NO. 911000176

S/O- RAJDEO CHAUHAN

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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48: HC GD HAREESH CHANDRA
FORCE NO. 035261975

S/O- MADAN RAM

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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49: CT/SK LAXMI NARAYAN
FORCE NO. 910010035

S/O- HARI CHANDER

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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50: CT/GD SARVESH KUMAR
FORCE NO. 065021973

S/O- SHIV BABU

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51: WC/GD SUNNY KUMAR
FORCE NO. 145161564

S/O- DURGA DAS PGD
NEW DELHI

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52: CT/GD ROHIT KUMAR SINGH
FORCE NO. 085198823

S/O. ASHOK KUMAR SINGH

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53: CT/GD MOHIT KUMAR
FORCE NO. 125232341

S/O- SUMER SINGH

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54: CT/GD KULAJIT KALITA
FORCE NO. 060069266

S/O- SUREN KALITA

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55: HC/GD ROOPLAL
FORCE NO. 971441504

S/O- DHARAM CHAND

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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56: HC/GD SATPUTE B R
FORCE NO. 015250612

S/O- RATAN SATPUTE

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57: HC/GD SANDEEP KUMAR SINGH
FORCE NO. 041722588

S/O- PRADUMNNA SINGH

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58: HC/GD SANJAY KUMAR SINGH
FORCE NO. 041645825

S/O- UPENDRA KR MANDAL

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59: HC/GD BALIRAM TIWARI
FORCE NO. 035141997

S/O- HARI BADAN SINGH

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60: CT/DVR BHajan Lal
FORCE NO. 115010452

S/O PRABHU DAYAL YADAV

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61: CT DVR SAILEMSO KD
FORCE NO. 115151455

S/O- LUNGMI KD

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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62: HC/GD RAM NAYAK YADAV
FORCE NO. 041743657

S/O- YADUVANSHI YADAV

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63: HC/GD SANTOSH BABU KARDAM
FORCE NO. 035000468

S/O- SIYA RAM

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64: CT/DVR SANDEEP KUMAR
FORCE NO. 095041951

S/O- KRISHAN KUMAR

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65: CT/BUG GURPREET SINGH
FORCE NO. 075160091

S/O- GURMIT SINGH

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66: CT/GD MANDEEP KUMAR
FORCE NO. 135233884

S/O- BISHAN DAS

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67: HC/DVR MANJIT SINGH
FORCE NO. 991441313

S/O- HARDEV SINGH

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CENTRAL RESERVE POLICE FORCE

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68: CT/GD PRADEEP SINGH
FORCE NO. 135234203

S/O- SARBJIT SINGH

ADDRESS OF COMMUNICATION OF THE PETITIONER-
C/O- OFFICE OF DIRECTORATE GENERAL

CENTRAL RESERVE POLICE FORCE

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NEW DELHI- 110003.

69: SI/MT KANAI LAL BERA
FORCE NO. 881312012

S/O- LATE SRISH CHANDRA BERA

ADDRESS OF COMMUNICATION OF THE PETITIONER-
C/O- OFFICE OF DIRECTORATE GENERAL

CENTRAL RESERVE POLICE FORCE

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NEW DELHI- 110003.

70: CT/CPTR JITENDRA KUMAR SHARMA
S/O- VIKRAMA SHARMA

FORCE NO. 081330065

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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CENTRAL RESERVE POLICE FORCE

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71: CT/GD JIAUL AHMED
S/O LT JAMIR ALI

FORCE NO. 04170509

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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CENTRAL RESERVE POLICE FORCE

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72: CT/GD MUNNA LAL YADAV
S/O- DOODH NATH YADAV

FORCE NO. 060720069

ADDRESS OF COMMUNICATION OF THE PETITIONER-
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NEW DELHI- 110003

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS,
NEW DELHI- 110001.

2:THE DIRECTOR GENERAL

CENTRAL RESERVE POLICE FORCE
CGO COMPLEX
LODHI ROAD
NEW DELHI 110003.

3:THE INSPECTOR GENERAL OF POLICE
NORTH EASTERN SECTOR CENTRAL RESERVE POLICE FORCE
SHILLONG
MEGHALAYA PIN - 793001.

4:THE DEPUTY INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE
DAYAPUR
SILCHAR
ASSAM. PIN - 788030.

5:THE COMMANDANT 175 BATTALION
CENTRAL RESERVE POLICE FORCE
RANI
AZARA
ASSAM PIN - 781017.

6:THE COMMANDANT 131 BATTALION
C/O.CENTRAL RESERVE POLICE FORCE
CGO COMPLEX
LODHI ROAD
NEW DELHI 110003.

7:THE COMMANDANT 229 BATTALION
GHATI
DISTRICT BIJAPUR
CHHATTISHGARH
PIN - 494444

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

JUDGMENT

Date : 22.05.2024

Heard Mr. R. Mazumder, learned counsel for the petitioner. Also heard Mr. R.K.D. Choudhury, learned Deputy SGI along with Mr. A.K. Dutta, learned

counsel for the petitioner.

2. The challenge made in this writ petition is the impugned communication dated 17.02.2023 issued by the Deputy Inspector General, Group Centre, Central Reserve Police Force (CRPF), Dayapur, Silchar addressed to the Commandant 175 Battalion of CRPF, whereby it is directed to take necessary arrangement to recover the Risk and Hardship Allowance ("R & H allowance", in short), which have been paid to the petitioners w.e.f. February, 2019 to January, 2023.

3. The petitioners are serving in various capacities in the CRPF. The petitioners while posted in 175 Battalion of CRPF at Kamrup district, Assam had availed the benefit of R & H allowance w.e.f. February, 2019 to January, 2023.

4. On 31.07.2017, the Ministry of Home Affairs, Govt. of India issued an Office Memorandum wherein, it is decided to pay R & H allowance as per newly introduced rates to the personnel of Central Armed Police Force (CAPF) as per the recommendation of 7th Central Pay Commission. Clause-9 of the Office Memorandum provides that CAPF have to choose one option out of 2 allowances i.e. R & H allowance (as and where applicable) plus Ration Money Allowance or Detachment Allowance plus Special Duty Allowance as and when applicable or through Location Allowances (as and where applicable).

5. The Ministry of Home Affairs, Govt. of India issued another Office Memorandum on 22.02.2019, wherein it has classified the Field Areas for grant of R & H allowance to CAPF and Assam Rifles. In the notification, the location of 175 Battalion of CRPF is not incorporated. Thereafter, another communication was issued by the Ministry of Home Affairs, Govt. of India to the Director General of Central Armed Police Force for inclusion of area for grant of R & H allowance and further upgradation of existing R & H allowance other than the J

& K and LWE area. In the said communication, the present location of 175 Battalion, CRPF, has been included, wherein, recommended for CI OPS in modified field areas. Pursuant thereto, the respondent authority granted R & H allowance to all the personnel, who have been deployed in 175 Battalion in CRPF till January, 2023 or the date till they served in 175 Battalion along with monthly salary w.e.f. February, 2019. The respondent authority has granted Rs.7469/- per-month as R & H allowance along with monthly salary.

6. The Deputy Inspector General, Group Centre, CRPF, Dayapur, Silchar issued a signal to the Commandant 175 Battalion of CRPF whereby, it is directed to take necessary arrangement to recover R & H allowance, which has been granted to them w.e.f. February, 2019 to January, 2023. It is reflected that the location of 175 Battalion has not been included under the entitlement of R & H allowance. Hence, this petition.

7. Mr. R. Mazumder, learned counsel for the petitioner submits that as per the Office Memorandum dated 31.07.2017, the personnel have to choose one option out of two allowance i.e. R & H allowance (as and where applicable) plus Ration Money allowance or Detachment Allowance plus Special Rate Allowance (as and when applicable) or through Location Allowance (as and where applicable). He submits that the respondent authority without affording any opportunity to choose the option had in their own provided the benefit of R & H allowances. He submits that some of the petitioners after completion of normal tenure of service for three years in 175 Battalion, CRPF transferred to other Battalion. Now the respondent authority without any reason in making an attempt to recover the amount which has been credited in their account under the Head of R & H allowance. He submits that no fault can be attributed to the petitioners, therefore, the impugned action of the respondent authority to initiate the

process of recovery from the monthly salary or to be from the retirement benefit is not sustainable in the eyes of law and is liable to be interfered by this Court by setting aside the same.

8. Mr. R. Mazumder, learned counsel further submits that the recovery process has been initiated without any specific order of the Directorate of CRPF. He submits that the petitioners are serving as on date in various units, which is under the control of Commandant, Group centre, CRPF, Dayapur, Silchar. The respondents have initiated to recover the R & H allowance from the monthly salary of the petitioners, which are paid to them when they were serving in 175 Battalion in CRPF, which has been located in Rani in the district of Kamrup, Assam. He submits that the petitioners, if at all, are not entitled for R & H allowance are liable to be refunded, in such a situation, they would be entitled for Detachment Allowance plus Special Duty Allowance or Tough Location Allowance. Therefore, he submits that direction may be given to the respondent authority to adjust the amount derived from the said allowance w.e.f February, 2019 to January, 2023 and the petitioners are ready to pay the excess amount if any, which has been credited in their account under the head of R & H allowance. He submits that the authority without affording any opportunity to choose option, granted the R & H allowance to the petitioners, therefore, the impugned action of initiating the process of recovery the amount paid under the Head of R & H allowance is not sustainable.

9. Mr. R.K.D. Choudhury, learned DSGI submits that as per Office Memorandum dated 22.02.2019 the District Kamrup, Assam i.e. the area deployed under 175 Battalion does not come under the entitlement of R & H allowance. A clear direction was issued by the DIG, CRPF New Delhi vide signal dated 08.03.2019 that the petitioners continued drawing R & H allowance w.e.f

February, 2019 to January, 2023 which is required to be recovered from them as they are not at all entitled to draw the same and the drawing of R & H allowance to the personnel of 175 Battalion, CRPF has been stopped w.e.f. February, 2023. He submits that a consolidated proposal of such units which were earlier drawing R & H allowance but not included in the list of classified field areas as per Office Memorandum dated 22.02.2019 issued by the Ministry of Home Affairs, Govt. of India, has already been provided to the Ministry for classification on their admissibility of R & H allowance which earlier includes the area of 175 Battalion CRPF. He submits that since it is clear that the petitioners are not entitled to draw R & H allowance as per Office Memorandum dated 22.02.2019, the recovery of the wrong payment of R & H allowance required to be made from the petitioners.

10. Mr. R.K.D. Choudhury, DSGI submits that in identical matters being WP(C) 4378 and 4379 of 2021, this Court had sought the status of the proposal which is pending before the authority on consideration of R & H allowance. In its turn, the Ministry of Home Affairs vide communication dated 22.05.2023 has intimated that the matter is presently under consideration with the sub-committee and a decision is deemed fit will be taken in the matter. In any case, as per Office Memorandum dated 22.02.2019 since 175 Battalion at Kamrup district, Assam were not included, the petitioners are not entitled for R & H allowance.

11. Having submitted above, Mr. R.K.D. Choudhury, learned DSGI by placing the Office Memorandum dated 02.03.2016 submits that in view of the Office Memorandum which has been issued pursuant to the judgment in the case of ***State of Punjab & Ors –vs- Rafiqu Masih (White Washer)*** reported in **(2015) 4 SCC 334** submits that so far as the recovery of wrongful/excess

payment made to the government servant is concerned, the Hon'ble Supreme Court has held that the monthly benefit which were given to an employee in excess of their entitlement due to unintentional mistake committed by the concerned competent authority in determining the amount payable to them and the employees were not guilty of furnishing such incorrect information which had led to the concerned competent authority to commit the mistake of making the higher payment to the employees provides as under:-

“7.Having examined a number of judgments rendered by this Court, we are of the view, that orders passed by the employer seeking recovery of monetary benefits wrongly extended to employees, can only be interfered with, in cases where such recovery would result in a hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recover. In other words, interference would be called for, only in such cases where, it would be iniquitous to recover the payment made. In order to ascertain the parameters of the above consideration, and the test to be applied, reference needs to be made to situations when this Court exempted employees from such recovery, even in exercise of its jurisdiction under Article 142 of the Constitution of India. Repeated exercise of such power, "for doing complete justice in any cause" would establish that the recovery being effected was iniquitous, and therefore, arbitrary. And accordingly, the interference at the hands of this Court.

10. In view of the afore-stated constitutional mandate, equity and good conscience, in the matter of livelihood of the people of this country, has to be the basis of all governmental actions. An action of the State, ordering a recovery from an employee, would be in order, so long as it is not rendered iniquitous to the extent, that the action of recovery would be more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer, to recover the amount. Or in other words, till such time as the recovery would have a harsh and arbitrary effect on the employee, it would be permissible in law. Orders passed in given situations repeatedly, even in exercise of the power vested in this Court under Article 142 of the Constitution of India, will disclose the parameters of the realm of an action of recovery (of an excess amount paid to an employee) which would breach the obligations of the State, to citizens of this country, and render the action arbitrary, and therefore, violative of the mandate contained in Article 14 of the Constitution of India.”

12. It is also provided which is quoted herein below:-

“4. The Hon’ble Supreme Court while observing that it is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement has summarized the following few situations, wherein recoveries by the employer would be impermissible in law:-

- (i) Recovery from employees belonging to Class-II and Class-IV service (or Group ‘C’ and Group ‘D’ service).*
- ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
- iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
- v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer’s right to recover.*

5. The matter has, consequently, been examined in consultation with the Department of Expenditure and the Department of Legal Affairs. The Ministries/Departments are advised to deal with the issue of wrongful/excess payments made to Government servants in accordance with above decision of the Hon’ble Supreme Court in CA NO.11527 of 2014 (arising out of SLP (C) No.116 of 2012) in State of Punjab and others etc vs Rafiq Masih (White Washer) etc. However, wherever in waiver of recovery in the above-mentioned situations is considered, the same may be allowed with the express approval of Department of Expenditure in terms of this Department’s OM No.18/2011-Estt (Pay-I) dated 6th February, 2014.”

13. In view of the above Office Memorandum, Mr. R.K.D. Choudhury, learned DSGI submits that this Court may determine the issue raised by the petitioner in accordance thereof.

14. I have considered the submissions made by the learned counsel for the parties and also the materials available on record.

15. It is noticed that the petitioners, who were posted in the 175 Battalion CRPF at Kamrup district, were granted R & H allowance w.e.f. February, 2019 to January, 2023 on the basis of the O.M dated 31.07.2017 issued by the Ministry of Home Affairs, Govt. of India.

16. The O.M dated 22.02.2019 issued by the Ministry of Home Affairs, Govt. of India, wherein, classified the field areas for grant of R & H allowance to the Central Armed Police Force and Assam Rifles, the location of 175 Battalion of CRPF was not included. However, on 25.07.2019, the Ministry of Home Affairs, Govt. of India had communicated to the Director General of Central Armed Police Force for inclusion of new area for grant of R & H allowance other than the J & K and LWE area. In the said communication, the present location of 175 Battalion, CRPF was reflected and recommended for CI OPS in modified filed areas. It appears that the respondent authority granted the R & H allowance to all the personnel who have been deployed in 175 Battalion of CRPF till January, 2023 and or the date till they served 175th Battalion along with monthly salary w.e.f. February, 2019 by granting Rs.7469/- per-month as R & H allowance along with the monthly salary.

17. The impugned communication dated 17.02.2023 has been issued by the Deputy Inspector General, Group Centre, CRPF, Dayapur, Silchar to the Commandant 175 Battalion, CRPF whereby it is directed to take necessary arrangement to recover the R & H allowance which has been paid to the petitioners from February, 2019 to January, 2023 on the ground that the location of 175 Battalion is not included under the entitlement of R & H

allowances.

18. On careful consideration of the facts and circumstance and the materials available on record, I find that the R & H allowance granted to the petitioners is sought to be recovered from the petitioners on the ground that the petitioners were granted R & H allowance wrongly, which is not due to the fault of the petitioners. There is no fault on the part of the petitioners as they have not made any mis-representation and has accepted the grant of R & H allowance along with the monthly salary while they were serving at Kamrup district, Assam in the 175 Battalion, CRPF. Even if any mistake or error has been done it has been done on the part of the respondent authorities as the respondent authorities ought to have decided as to whether the 175 Battalion CRPF at Kamrup, Assam was included before granting R & H allowance. Therefore, in my considered view the communication dated 17.02.2023 for recovery of excess/wrong R & H allowance from the petitioners without there being any mis-representation or fraud on the part of the petitioners is not sustainable.

19. In the case of Rafiq Masih (supra) the Hon'ble Supreme Court has held that the order passed by the employer seeking recovery of monthly benefits wrongly extended to the employees can only be interfered in cases where such recovery would result in hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recovery. In other words, interference would be called for, only in such cases, where, it would be iniquitous to recover the payment made and where the Court arrives at the conclusion that recovery from the employee would be iniquitous or harsh or arbitrary, to such an extent as would far weigh the equitable balance of the employers right to recovery.

20. In the present case as noted above, the wrong/excess drawl was not

made because of any fraud or misrepresentation at the behest of the petitioners, it would be harsh or arbitrary to recover as the recovery sought to be made is not on the fault of the petitioners.

21. In view of the what has been discussed above, I am of the considered view that the impugned communication dated 17.02.2023 issued by the Deputy Inspector General, CRPF, Silchar, Assam for initiating recovery of the excess/wrong payment of R & H allowance from the petitioners deserves to be interfered with.

22. Accordingly, the impugned communication dated 17.02.2023 issued by the Deputy Inspector General, CRPF, Silchar, Assam is hereby set aside and quashed.

23. In the result, the writ petition stands allowed and disposed of. However, no order as to costs.

JUDGE

Comparing Assistant