

THE ARMED FORCES TRIBUNAL

REGIONAL BENCH, GUWAHATI

OA-24/2015

Lt/Col R.L.Manoj & 6 others

Applicants

**By legal practitioners for
Applicant**

Mr Deepam Borah

- Versus -

UOI and Others

Respondents

**By legal practitioner for
Respondents**

Brig (Retd) N.Deka, CGSC

P R E S E N T

**HON'BLE MR.JUSTICE B.P.KATAKEY, MEMBER (J)
HON'BLE AIR MARSHAL D.C.KUMARIA, MEMBER (A)**

02.03.2016

Heard Mr. D.Borah, learned counsel for the applicants. Also heard Brig(Retd) N.Deka, learned CGSC assisted by Col Anand, appearing for the respondents .

[2] The applicants have filed the present OA praying for a direction to the respondent authorities to pay Special Compensatory (Counter Insurgency) Allowance while they were posted to Border Roads Organization (BRO), which has been refused to them vide communication dated 25.2.2011.

[3] The learned counsel appearing for the applicants has submitted that the issue relating to the payment of Special Compensatory(Counter Insurgency) Allowance is no longer *res integra*, as the said issue has

been decided by the Chandigarh Bench of Armed Forces Tribunal by order dated 19.04.2011 passed in O.A 144/2011 in the case of Brig.A K Bhutani and Ors Vrs. Union of India and Ors, which has been upheld by the Hon'ble Supreme Court vide order dated 16.01.2012 passed in Civil Appeal No.37898/2011 (Union of India & Ors Vrs. Brig.A.K.Bhutani & Ors), whereby and whereunder the Hon'ble Supreme Court while refusing to condone the delay in filing the said appeal, has also dismissed the appeal on merit. The learned Counsel, therefore, submits that in view of communications dated 30.01.2014 and 29.01.2015 identifying the formations/units falling in counter Insurgency Operation area, which includes apart from others, Head Quarters Chief Engineer (Project) Udayak, directions may be issued to the respondents to pay Special Compensatory (Counter Insurgency) Allowance.

[4] Learned Counsel appearing for the respondents has submitted that the issue relating to payment of Special Compensatory (Counter Insurgency) Allowance has already been decided in the case of Brig.A.K.Bhutani & Ors (supra) by the Chandigarh Bench of this Tribunal, which has also been affirmed by the Hon'ble Supreme Court, based on which various other orders were passed in various other OAs by different Benches of this Tribunal granting the said relief.

[5] Having regard to the aforesaid submissions as well as the order passed by the Chandigarh Bench of this Tribunal in the case of Brig. A.K.Bhutani & Ors. Vs. Union of India & Ors, which has been upheld by the Hon'ble Supreme Court vide order dated 16.01.2012, we dispose of the OA with a direction to the respondent No.1 to pay Special Compensatory (Counter Insurgency)

Allowance to the applicants. Necessary calculation relating to the amount payable shall be made and the amount found to be payable shall be paid within 4 (four) months from the date of receipt of copy of this order, failing which the said amount will carry interest @ 12 % per annum until final payment is made.

[6] The amount, if any, earlier paid and recovered from the applicants, shall also be refunded to them.

The OA is accordingly allowed as indicated above. No costs.

MEMBER (A)

MEMBER (J)

mc