IN THE ARMED FORCES TRIBUNAL

REGIONAL BENCH, GUWAHATI

OA-26-2017

IC 48922A Col Col Ajoy Kumar
S/O Shree (Late) CD Dwivedi
HQ CE(P) Udayak (GREF)
C/O., 99 APO Pin 931715,

.... Applicant

By legal practitioners for
Applicant.
Mr. Deepam Borah

- VS-

1. Union of India through the Secretary
Ministry of Defence
New Delhi-110011.

2. The Chief of the Army Staff
through Adjutant General
Integrated HQ of MOD (Army)
Kashmir House, Raaji Marg
New Delhi-110 011.

3. Controller General of Defence Accounts (CGDA)
CGDA Office, Ulan Batar Road,
Palam New Delhi-110 010.

.... Respondents

By legal practitioners for
Respondents.
Mr.N.Baruah CGSC

PRESENT
HON`BLE MR. JUSTICE B.P.KATAKEY,MEMBER(J)
HON`BLE VICE ADMIRAL MP MURALIDHARAN, MEMBER (A)

Date of Hearing   :   07.06.2017.

Date of Order   :   07.06.2017.

O R D E R

(Justice B.P.Katakey,)

Heard Mr. Deepam Borah, learned counsel appearing for the applicant. Also heard Mr.N.Baruah, learned CGSC, appearing for the respondents.

[2]   The applicant has filed the present OA praying for a direction to the respondent authorities to pay Special Compensatory (Counter Insurgency) Allowance while he was posted to Border Roads Organization (BRO), which has been refused to him vide communication dated 25.2.1011.

[3]   The learned counsel appearing for the applicant has submitted that the issue relating to the payment of Special Compensatory (Counter Insurgency) Allowance is no longer *res intera*, as the said issue has already been decided by the Chandigarh Bench of this Tribunal by order dated 19.04.2011 passed in OA 144/2011 in the case of Brig. A.K.Bhutani and Ors Vs. 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 Vs. 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, Headquarters 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 have submitted that though 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 others OAs by different Benches of this Tribunal granting the said relief, in the instant OA it is to be verified as

to whether the applicant was posted in the counter insurgency operation area and if so, the period of such posting , so as to get the said allowance.

[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 (supra), which has been upheld by the Hon'ble Supreme Court vide order dated 16.01.2012, we dispose of the OAs with a direction to the respondent No.1,to pay Special Compensatory (Counter Insurgency) Allowance to the applicant subject to verification as to whether the applicant was posted in the Counter Insurgency Operation Area, if so, the period thereof. 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, subject to the aforementioned verification.

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

[7]   The OA is accordingly allowed to the extent indicated above. No costs.

        MEMBER (A)   **MEMBER (J**

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