

**RESERVED**  
**(COURT-2)**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**ORIGINAL APPLICATION No. 1077 of 2022**

Tuesday, this the 19<sup>th</sup> day of December, 2023

**“Hon’ble Mr. Justice Anil Kumar, Member (J)”**  
**“Hon’ble Lt Gen Anil Puri, Member (A)”**

IC-67307X Lt Col Aakash Arora, S/o Sh. Dilip Kumar Arora, R/o 501 FSEG,  
Dehradun, Uttrakhand.

..... Applicant

Ld. Counsel for the: **Shri Styra Saharawat**, Advocate.  
Applicant

Versus

1. Union of India  
Trough its Secretary  
Ministry of Defence (Army)  
South Block, DHQ, New Delhi-110011.
2. Chief of the Army Staff  
Integrated HQ of MoD (Army),  
Kashir House, Raaji Marg,  
New Delhi-110011.
3. Controller of Defence Accounts,  
Ulan Batar Road, Palam,  
Delhi Cantt-110010.

.....Respondents

Ld. Counsel for the : **Shri Amit Jaiswal**, Advocate  
Respondents. Central Govt. Standing Counsel

**ORDER**

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-

*“(a) Direct the respondents 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, for the period of Apr 2012-Nov 2014*

*(b) Direct the respondents to release the Special Compensatory (Counter Insurgency) Allowance for the period of Apr 2012-Nov*

*2014 to the applicant at 12% interest with effect from the date it became payable;*

*(c) Pass any other order as this Hon’ble Tribunal may deem fit in the facts and circumstances of the case.”*

2. The applicant is an officer of Indian Army and was posted to 80 RCC (25 BRTF) Border Roads Task Force (BRTF), Under Project Sewak as OC, RCC with its Headquarter at Thanloan, District Churachandpur, Manipur w.e.f. Apr 2012 to Nov 2014 vide Part II Order No. 120/2014 dated 28.11.2014, Thanloan District, an establishment of the Border Roads Organisation (BRO) have been in the highly volatile insurgency affected region of the State of Manipur with effect from 01.06.2012 to 15.11.2014 and he was posted out from the said location on 16.11.2014. Applicant was not granted Special Compensatory Counter Insurgency Allowance while posted with BRO. Applicant submitted an application dated 06.08.2013 for grant of SCCIA but the same was rejected vide order dated 07.03.2014. It is in this perspective that this O.A. has been

filed.

3. The Government of India in the year 1994 introduced the concept of risk related allowances for defence personnel depending upon the areas of deployment/posting. Accordingly, allowances such as Special Compensatory (Counter Insurgency) Allowances were introduced for defence personnel posted in counter insurgency areas and Field/Modified Field Compensatory Areas vide Ministry of Defence policy letter No. 37269/CI/AG/PS3(a)/1 21/D(Pay/Services) dated 14.01.1994. The applicant states that the Counter Insurgency allowance was suddenly discontinued with effect from 2007 on the basis of an objection raised by the Controller and Auditor General (CAG) and the same was duly communicated to all the projects in Border Roads Organisation wherein it was made clear that the Special Compensatory Counter Insurgency Allowance (SCCIA) was not admissible to personnel who are posted to BRO. The applicant also states that even Field Area Allowance was also not paid to him which is in contravention of the Government orders which states that all personnel posted in particular notified areas shall be entitled to Field Area Allowance in terms of Government of India, Ministry of Defence letter No 37269/AT/PS3(a)/90/D(Pay/Services) dated 13.01.1994. The applicant is not being paid either of the two allowances on the ground that the Controller and Auditor General in its report of the year 2007 had raised an objection that the military officers posted with BRO were not actually engaged in Counter Insurgency Operations and were not entitled to get benefit under the respondents' policies since civilian (GREF) personnel were also not getting the same and the BRO has no role in Counter Insurgency and is only engaged in planning the execution of border

road works.

4. The applicant states that the issue in hand was raised by some colleagues/seniors of the applicant by way of filing an Original Application before the AFT. Regional, Bench Chandigarh vide OA No. 133 of 2011 titled **Brigadier A.K. Bhutani & Ors. vs. Union of India & Ors** and the Regional, Bench, Chandigarh was pleased to allow the said application vide order dated 19.04.2011 wherein the Tribunal had directed the respondents therein to release the Special Compensatory (Counter-Insurgency) Allowance to the applicants till the time they remained posted in designated areas where the said risk-related allowance was being released to personnel posted in other Army units, establishments and formations, with 12% interest per annum. It further directed the respondents to refund the recovery made, if any, of the said allowance to the applicants. The Tribunal further held that the only thing that was expected out of the Respondents was to base their actions on the touch-stone of judiciousness and fairness while determining such issues which can have far-reaching consequences on the morale of the troops operating in difficult conditions and that the approach should not be highly legalistic or ultra-technical but in tune with the practical realities and in consonance with the actual spirit behind the policy, the primary aim of which was to boost the morale and motivation level of the men and women in uniform who ensure our internal and external security in trying and difficult conditions day in and night out.

5. The issue of non-grant of SCCIA has been pursued by the Army authorities from 2008 to 2011 but the matter has not been resolved. Hence, aggrieved by the actions of the respondents, the applicant has filed the

instant OA. Hence, in the interest of justice, it is considered appropriate to take up the present OA for consideration, in terms of Section 21(1) of the AFT, Act 2007.

6. The coordinate Regional Bench, Chandigarh, of this Tribunal on 19.04.2011 in the case of **Brig AK Bhutani & Ors vs. UOI & Ors.** in OA 133/2011 has decided the issue after deliberating into various aspects of the matter and therefore, in our considered view the issue stands decided in the aforesaid order and we see no reason to take a different view. In para 51, 52 & 53 of the order dated 19.04.2011, the coordinate Bench in the case of **Brig AK Bhutani & Ors. vs. UOI & Ors** has held as under:-

**“51 Keeping in view the facts and circumstances of the case, the application is therefore allowed. Impugned DO letter (Annexure A-11) is quashed and the Respondents are directed to release the Special Compensatory (Counter – Insurgency) Allowance to the applicant till the time they remain posted in designated area where the said risk-related allowance is being released to personnel posted in other army units establishments and formations, with 10% interest per annum. The respondents are also directed to refund the recovery made, if any of the said allowance to the applicants at the same rate of interest.**

**52. Necessary calculations may be undertaken and effectuated within a period of four months from the date of receipt of a certified copy of This order, failing which interest @12% per annum shall be paid until the final payment is made.**

**53. Before we part, we except the Respondents to base their actions on the touch-stone of judiciousness ad fairness while determining such issues which can have far-reaching consequences on the morale of the troops operating in difficult conditions. The approach should not be highly legalistic or ultra-technical but in tune with the practical realities and in consonance with the actual spirit behind the policy, the primary aim of which was to boost the morale and motivation level of the men and women in uniform who ensure our internal and external security in trying and difficult conditions day in and night out.”**

7. Furthermore, reliance may be placed upon the verdict dated 16.01.2012 of the Hon'ble Supreme Court in the case of **Union of India Ors. vs A.K. Bhutani Ors,** in Civil Appeal D. No 37898/2011 wherein it was held as under:-

**“There is a delay of 124 days in filing the appeal. The explanation offered for the delay is not satisfactory. We also do not find any infirmity in the order of the Tribunal. The appeal is, accordingly, dismissed both as barred by limitation and on merits.”**

8. In view of the above, this OA is disposed off directing respondents to grant SCCIA to the applicant for the period from 01.06.2012 to 15.11.2014, while he was posted in RCC (GREF).

9. No order as to costs.

10. Pending miscellaneous applications, if any, shall stand disposed off.

**(Lt Gen Anil Puri)**  
**Member (A)**

Dated : 19<sup>th</sup> December 2023

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**(Justice Anil Kumar)**  
**Member (J)**