CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order : This the 5th Day of December, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

Original Application No. 209 of 1996.

Shri U.K.Mishra & 44 others . . . Applicants

By Advocate Shri S.Sarma

-Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri A.K.Choudhury, Addl.C.G.S.C.

O.A.No. 11 of 1997

Meghalaya MES Civilian Employees Union, Shillong & others. . . . Applicants

By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri G.Sarma, Addl.C.G.S.C.

O.A. No. 22 of 1997.

Shri J.Rai & Ors. . . . Applicants

By Advocate Shri M.Chanda

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C & G.Sarma, Addl.C.G.S.C

O.A. No. 25 of 1997.

Shri R.B.Limbu . . . Applicant

By Advocate Shri S.Sarma.

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

O.A.No. 31 of 1997.

Shri R.S.Ray & others . . . Applicants.

By Advocate S/Shri J.L.Sarkar & M.Chanda

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri G.Sarma, Addl.C.G.S.C

O.A. No.35 of 1997.

Shri D.B.Chetri & Ors. . . . Applicants

By Advocate S/Shri J.L.Sarkar & M.Chanda

- versus -

Union of India & Ors. . . . Respondents

By Advocate Shri G.Sarma, Addl.C.G.S.C

contd..2

Original Application No. 36 of 1997.

Shri M.B.Dasgupta & Ors. . . . Applicants

By Advocate Shri J.L.Sarkar & M.Chanda.

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C

O.A. No.37 of 1997.

Shri B.K.Sinha Choudhury & 163 others . . . Applicants

By Advocate Shri S.Sarma

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri S.Ali, Sr.C.G.S.C

O.A.No. 38 of 1997.

MES Workers Union Headquarters
C.W.E and another . . . Applicants

By Advocate Shri S.Sarma

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri S.Ali, Sr.C.G.S.C

O.A. No. 59 of 1997.

Shri K.Prasad & others . . . Applicants

By Advocate S/Shri J.L.Sarkar & M.Chanda

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri S.Ali, Sr.C.G.S.C

O.A.No. 71 of 1997.

All Assam MES Employees Union . . .Applicants

By Advocate Sri A.Dasgupta

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri A.K.Choudhury, Addl.C.G.S.C

O.A. No. 72 of 1997.

Shri P.K.Dutta & Ors. . . . Applicants

By Advocate Shri A.Ahmed

- Versus -

Union of India & Ors. . . . Respondents

By Advocate Shri A.K.Choudhury, Addl.C.G.S.C

O.A.No. 208 of 1997.

Shri A.Chakraborty & others. . . .Applicant

By Advocate Shri S.Sarma

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C.

contd..3

O R D E R

BARUAH J(V.C)

All the above Original Applications involve common question of law and similar facts. The applicants had been working at the material time in different posts in the North Eastern Region of different departments under the Central Government and posted at different places. As per the Office Memorandum dated 14.12.1983 persons working in North Eastern Region were entitled to get the Special (Duty) Allowance (SDA for short). The relevant portion of the said circular is quoted below :

> "Central Government civilian employees who have all India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/-per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special(Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Pay/Deputation (Duty) Allowance will not exceed Rs.400/-p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately."

On the basis of the said circular the applicants were given SDA and they receive it. However, in certain cases of similar nature the Central Government approached the Supreme Court by filing Civil Appeal No.1572 of 1997 and other Civil Appeals. The Apex Court disposed of those cases on 17.2.1997 holding interalia that the person who belonging to North Eastern Region would not get SDA. The present applicants also though working in the various departments under the Central Government were not outsider. They belonged to this Region. As per the decision of the Apex Court they

contd...4

were not entitled to get the SDA. However, the Supreme Court in all the cases held that whatever amount was paid to the employees would not be recovered. In the present case also the applicants who received SDA belong to the North Eastern Region and therefore they are not entitled to the SDA. The Central Government, therefore, wanted to recover the same against which the present applicants have approached this Tribunal.

2. Heard Mr J.L.Sarkar, M.Chanda, S.Sarma and Mr A. Ahmed, learned counsel appearing on behalf of the applicants. Learned counsel for the applicants submit that the observation of the Apex Court giving direction to the respondents not to recover the amount which have already been paid to them is also applicable to the present case. Mr S.Ali, learned Sr.C.G.S.C, Mr G.Sarma, learned Addl.C.G.S.C and Mr A.K. Choudhury, learned Addl.C.G.S.C do not dispute this submission. Considering the submissions of the learned counsel for the parties, I am of the opinion that though the present applicants are not entitled to get SDA as held by the Apex Court, the SDA which had already been paid to the applicants shall not be recovered. Mr S.Ali however, points out that in those cases it was ordered not to recover the payment which were earlier to 17.2.1995. The present applicants were not parties to the said decision. In my view the same principle will apply to the present applicants also. Therefore, following the decision of the Apex Court as held in Civil Appeal No.1572 of 1997 arising out of SLP(C) No.14088 of 1996 the respondents are directed not to recover the SDA paid prior to the date of issue of notice in each case. Applications are disposed of accordingly.

Considering the entire facts and circumstances of the case however, I make no order as to costs.

(D.N.BARUAH)
VICE CHAIRMAN