

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::GUWAHATI-5.

O.A.No. 182 of 1997

10.7.1998
DATE OF DECISION.....

!! All Assam M.E.S. Employees Union, (PETITIONER(S))
Jorhat Branch

Mr A. Dasgupta, Mr S. Chakraborty and
Mr A. Biswas

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)
Mr A.K. Choudhury, Addl. C.G.S.C.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.182 of 1997

Date of decision: This the 10th day of July 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

All Assam M.E.S. Employees Union,
Jorhat Branch, a Union Registered under the
Trade Union Act, 1926 having its
Registered Office at Jorhat.Applicant
By Advocates Mr A. Dasgupta,
S. Chakraborty & Mr A. Biswas.

- versus -

1. The Union of India, through the
Secretary, Government of India,
Ministry of Defence,
New Delhi.
2. The Area Accounts Officer,
Defence Department, Shillong.
3. The Commandant Works Engineer (Air Force),
Jorhat.
4. The Garrison Engineer (Air Force),
Jorhat.
5. The Garrison Engineer,
Jorhat.
6. The Assistant Garrison Engineer,
584 Engineer Sub Park,
Jorhat.Respondents

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

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O R D E R

BARUAH.J. (V.C.)

In this application the applicant Union has prayed for direction to the respondents not to recover the amount of Special (Duty) Allowance (SDA for short) which have already been paid to them.

2. Facts for the purpose of disposal of this application are:

The members of the Union are civilian employees of Military Engineering Works posted in different parts of the



State of Assam. As per Government of India, Ministry of Finance, Department of Expenditure Office Memorandum dated 14.12.1983, Central Government civilian employees working in the North Eastern Region were entitled to get SDA. The relevant portion of the said office memorandum 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 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 office memorandum the present applicants were given SDA and they received 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 persons who belonged to the North Eastern Region would not get SDA. The present applicants also though working under the Central Government are not outsiders. They belong to this Region. As per the decision of the Apex Court they are not entitled to get the SDA. However, the Supreme Court in all the cases held that whatever amount was paid to the employees should 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 get SDA. The respondents, therefore, wanted to recover the same against which the present

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applicants have approached this Tribunal.

3. Heard Mr A. Dasgupta, learned counsel for the applicants and Mr A.K. Choudhury, learned Addl. C.G.S.C. Mr Dasgupta submits that the observation of the Apex Court giving direction to the respondents not to recover the amount of SDA which has already been paid is also applicable to the present applicants. Mr Choudhury do not dispute this submission.

4. On hearing 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 amount of SDA which had already been paid to them shall not be recovered. Mr Choudhury, however, points out that in those cases it was ordered not to recover the payment which were made 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 to the applicants.

5. The application is accordingly disposed of. No order as to costs.



(D. N. BARUAH)
VICE-CHAIRMAN