

30/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 109/2000

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22 MAR 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Guwahati Bench  
GUWAHATI BENCH

(An Application under Section 19 of the Administrative  
Tribunals Act, 1985)

Title of the Case : O.A. No. 109/00

Dr. Priya Kr. Singh & Ors. : Applicants

-versus-

Union of India & Ors. : Respondents

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Date : 21.3.00

Field by

## Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

(An Application under Section 19 of the Administrative  
Tribunals Act, 1985)

Original Application No. 109 /2000

BETWEEN

1. Dr. Priya Kumar Singh  
Son of Shri P. Birendra  
Medical Officer (ad hoc)  
17 Assam Rifles,  
Kangla, Imphal  
C/o 99 APO
2. Dr (Mrs.) K.H. Dinibala Devi  
Medical Officer (Ad hoc)  
17 Assam Rifles,  
C/o 99 APO
3. Dr (Mrs.) Sharmila Mary Swer  
Medical Officer (Ad hoc)  
Montri Pukuri, Imphal  
12 Assam Rifles,  
Imphal  
C/o 99 APO
4. Dr. Sankar Chandra Haldar  
Medical Officer (Ad hoc)  
8 Assam Rifles,  
Ukhrul, Manipur  
C/o 99 APO

Contd...

Dr. P. Priya Kumar, Engr

5. Dr. CH. Saleo ~~Mao~~,  
Medical Officer (Ad hoc)  
21 Assam Rifles,  
Jwalamukhi, Manipur  
C/o 99 APO
  
6. Dr (Mrs.) Niang Khan Chins  
Medical Officer (Ad hoc)  
21 Assam Rifles, Manipur  
C/o 99 APO
  
7. Dr. Angam Chalak  
Medical Officer (Ad hoc)  
3 Assam Rifles  
Maram, Manipur  
C/o 99 APO

....Applicants

-AND-

1. The Union of India  
Through the Secretary to the  
Government of India, Ministry  
of Home Affairs, New Delhi.
  
2. The Secretary to the Govt. of India,  
Ministry of Finance,  
New Delhi.
  
3. The Director General, Assam Rifles,  
Shillong.
  
4. The Deputy Director General  
17 Assam Rifles, Manipur Range  
Imphal

*Dr. P. Prakash Kumar. Singh*

5. The Deputy Director General, ~~xx~~  
~~Assam Rifles~~ 12 Assam Rifles,  
Manipur Range,  
Imphal
6. The Deputy Director General  
8 Assam Rifles,  
Manipur Range,  
Imphal
7. The Deputy Director General  
21 Assam Rifles,  
Manipur Range,  
Imphal
8. The Deputy Director General  
3 Assam Rifles,  
Manipur Range,  
Imphal

..... Respondents

DETAILS OF APPLICATION

1. Particulars of the orders against which the application is made.

This application is made against the order of discontinuation of Special (Duty) Allowance (for short SDA) through various orders including the impugned order dated 17.5.1999 and also against the decision of recovery of SDA already drawn by the applicants with effect from 20.9.1994 issued under letter No. A/1-A/Pers/98 dated 18.8.1998 from the Director General, Assam Rifles, Shillong.

Dr. P. Priyo Kumar Singh

2. Jurisdiction

The applicants declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicants declare that the application is within the period of limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1 That all the applicants are citizens of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicants are working as Medical Officer (ad hoc) under the Director General of Assam Rifles, Shillong and at present they are posted under the Deputy Director Generals, Imphal range. The grievances and reliefs sought for in this application are common as such the applicants pray before the Hon'ble Tribunal for grant of permission to move this application jointly in a single application under the provision of Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That your applicants had applied for the post of Medical Officer in pursuance of an advertisement issued by the Director General, Assam Rifles, Shillong during the year 1994 for filling up few vacancies in different places in NER under the control of Director General, Assam Rifles. Thereafter the applicants were called for selection

Dr. P. Biju Kumar, Brij

on 17.10.1994 in the office of the Director General, Assam Rifles, Shillong. The applicants were directed to produce all relevant certificates in original at the time of interview. However the applicants were selected in the said interview and accordingly they were appointed as Medical Officer but the said appointments were termed as ad hoc.

4.4 That the office of the Director General, Assam Rifles, vide their letter dated 13.6.1995 it is informed to all the applicants that they were selected in the interview held in the month of October 1994 for appointment as Medical Officer on ad hoc basis in the Assam Rifles as per the terms and conditions indicated to them vide Directorate of Assam Rifles letter No. I.14015/8-78/94/Adv/MO/ME (A) dated 4.8.1994 and they were further directed to report to the Directorate of Assam Rifles on or before 14.7.1995. All the applicants accordingly reported to the Directorate and they were given appointment letters on different dates as for example, the applicant No.1 given appointment vide DGAR letter No. I.14015/6-78/94/Appt-MO-ME (A)/30 dated 13.6.95. The applicant No.2 given appointment letter No. I.14015/6-78/94/Appt-MO-ME (A)/39 dated 13.6.95, applicant No.3 given appointment letter No. I.14015/6-78/94/MO-ME (A) dated 21.7.95, applicant No.4 was given appointment letter No. I.14015/6-78/94/Appt-MO-ME (A) dated 29.8.95, applicant No.5 was given appointment letter No. I.14015/6-78/94/Appt-MO-ME (A) dated 9.4.1996, applicant No.6 was given appointment letter No. I.14015/6-78/94/MO-ME

Dr. P. Prady Kumar. Singh

(A) dated 26.7.1995 and applicant No.7 was given appointment letter No. 14015/6-78/94/Appt-MO-ME (A) ~~dated~~ in the year 1995-96 with the same terms and conditions like the other applicants in this original application.

The terms and conditions of such adhoc appointment has been specifically laid down by the Director General of Assam Rifles, in the individual appointment letter of all the applicants. However for the convenient sake the terms and conditions laid down in the appointment letters of the applicants issued issued under letter dated 13.6.95 is quoted below :

" TERMS AND CONDITIONS

- (a) The appointment is purely temporary for a period of 6(six) months from the date of joining till the vacant post is filled by regular medical officer or six months whichever is earlier.
- (b) In case the post is not filled up within the six months the adhoc appointment may be continued for a period of another six months or till the post is filled on regular basis whichever is earlier.
- (c) This is merely an offer of appointment on adhoc basis and this will not give you any benefits/claim for appointment on regular basis.

Dr. P. Parijat Kumar. Singh.

- (d) Failure to complete the period of appointment to the satisfaction of the competent authority will render the candidate liable to be discharged from service at any time without any notice and assigning any reason.
- (e) The scale of pay of the post is Rs.2200-75-2800-EB-100-4000/- per month. The initial pay of such candidates who are in Govt. Service will be fixed according to the rules and those who are not in service will be fixed at the minimum of the pay scales.
- (f) Private practice of any kind whatsoever including laboratory and consultant practice is prohibited.
- (g) Dearness and other allowances will be admissible according to orders of the Central Govt.
- (h) Non-practicing allowances as admissible at the rates prevailing under Central Government orders.
- (i) The appointment carries with it the liability to serve in any part of India or out-side.
- (k) On appointment the officer will be required to take an oath of allegiance to the constitution of India or make a solemn affirmation to that effect in the prescribed proforma.
- (l) Other terms and conditions will be regularted by the relevant rules and orders that may be in force from time to time.

Dr. P. Priyo Kumar, Singh.

(m) No request for change of posting will be entertained under any circumstances.

(n) No request for extension of joining time to the place of posting will be entertained.

(o) If the declaration given or any information furnished by the officer proves to be false and the officer is found to have wilfully suppressed any material information he/she will be liable for removal from service and such other action as Govt. may deem necessary.

(p) The PG allowance shall be admissible at the rate of Rs. 100/- and Rs. 200/- per month for possessing P.G. Diploma and P.G. Degree qualification respectively to the Medical Officers.

(q) You are liable to serve anywhere in NE Region or in India wherever Assam Rifles units may be deployed."

Thereafter the applicants started discharging their duties as Medical Officers. However, services of the applicants have been extended from time to time by the Directorate General of Assam Rifles on receipt of the approval from the Ministry concerned. It is relevant to mention here that all the applicants had been appointed after observing all required formalities such as interview, medical fitness, etc. but the appointments were termed as ad hoc to the applicants.

Copy of the appointment letters of applicant Nos. 1, 2, and 3 are enclosed and the same are marked as Annexures 1 series.

Dr. P. Parijat Kumar. Singh

4.5 That your applicants beg to state that it is categorically stated that the terms and conditions laid down in the appointment letters of the other six applicants are also same as has been stated above in this application.

4.6 That your applicants beg to state that as per term (g) of the appointment letter it is stated that dearness and other allowances would be admissible to the applicants according to the order of the Central Government. The relevant portion of para (g) is quoted below :

" (g) Dearness and other allowance will be admissible according to orders of the Central Govt."

Again the terms and conditions laid in para (j) of the said appointment letter where it is categorically stated that the appointment of the applicant carries with the liability to servie any part of India or outside. The relevant portion of para (j) is quoted below :

" (j) The appointment carries with it the liability to serve in any part of India or out-side."

Therefore it appears from above that as per the terms and conditions laid down in the appointment letters of the applicants, they are entitled to all allowances granted to the employees of Assam Rifles as well as the medical officers serving on regular basis. It is also specifically mentioned in the appointment letter that the appointment carries the liability to service in any part

Dr. P. Prij Kumar, SMIS

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of India or outside, thereby the applicants are also saddled with all India transfer liability, as per the clause (j) of the appointment letter, like other Medical officers serving in the DGAR on regular basis who had been appointed through UPSC and finally recruited by the Department of Health Services, Government of India and now posted in different places in North Eastern Region under DGAR, Shillong.

4.7 That it is stated that all the applicants are presently posted in different units of Assam Rifles, situated in the State of Manipur. The details particulars of posting of the applicants are given hereunder :

	<u>Name</u>	<u>Place of Posting</u>
1.	Dr. Priya Kumar Singh	- 17 Assam Rifles, Imphal.
2.	Dr (Mrs) K.H. Dinibala Devi	- 17 Assam Rifles, Imphal
3.	Dr (Mrs) Sharmila Mary Swer	12 Assam Rifles Imphal
4.	Dr. Sankar Ch. Haldar	- 8 Assam Rifles, Manipur
5.	Dr CH. Saleo Mao	- 21 Assam Rifles Manipur
6.	Dr. (Mrs.) Niang Khan Chins,	21 Assam Rifles, Manipur
7.	Dr. Angam Chalak	3 Assam Rifles, Manipur.

4.8 That the Government of India decided to give some incentive to the civilian employees of the Central Government civilian employees working in the States and Union Territories of North Eastern Region. The Scheme amongst

*Dr. Priya Kumar. Singh.*

Others granted Special (Duty) Allowance (for short SDA) to the employees having All India Transfer Liability. The Original Scheme was issued under Ministry of Finance, O.M. No. 20014/3/83/E.IV dated 14.12.1983. Those who are covered by the scheme dated 14.12.1983 were not paid ~~SDA~~ SDA with effect from 1.11.1983 but the said SDA was paid to the employees under the Central Government posted in the North Eastern Region in all other government departments.

4.8 That the Ministry of Home Affairs issued a letter to the Director General, Assam Rifles under No. II/11011/1/84-PP.IV dated 3.3.1986 informing that the Personnel and civilians non-combatised officers/employees are not entitled to SDA as envisaged in the O.M. dated 14.12.1983. Therefore, the applicants were not paid SDA in terms of O.M. dated 14.12.1983.

Copy of the O.M. dated 3.3.1986 and O.M. dated 14.12.1983 are annexed hereto and marked as Annexure-2 & 3 respectively.

4.9 That the Government of India, Ministry of Home Affairs was seized with the matter of improving the conditions of the services of the Assam Rifles Personnel particularly in the grant of SDA and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the States and Union Territories of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep Grant of Sikkim Compensatory Allowance. The President of India considering the peculiar conditions of service of the Assam Rifles employees accorded sanction of some allowances,

Dr. P. Parijat Kumar, QMS,

and SDA is one of such allowances sanctioned by the President. Other allowances sanctioned by the President are Special Compensatory Allowance (also called Special Compensatory (Remote Locality) Allowance and Sikkim Compensatory Allowance). These allowances to the Assam Rifles Personnel were granted by the President with effect from 7.11.1988. As regards the non-combatised civilian employees, the sanction of the President indicated as under. The employees falls in this category.

Category of Personnel entitled to allowance	Particulars of O.M.'s regulating the allowance.
i) <u>Special (Duty) Allowance</u>  Combatised personnel (including Cadre Officers) in battalions of Assam Rifles and the combatised personnel (including Cadre office) in static formations (such as offices of DG, IGI, DIGs, Range Hqrs. Training Centre etc.) and other units (Maintenance Groups, Workshops etc.) of Assam Rifles.	Item (iii) in para 1 of Ministry of Finance OM No.II.22014/3/83 E.IV dated 14.12.1983 as amended from time to time, read with their OM No.II20014/3/83 E.IV dt. 29.10.86 and their OM No.F.20014/16/3/83-E.IV dated 15.7. and Min of Fin.O.M.No.F. 20014/16/86.E.IV/E.II(B) dated 1.12.1988. This is in modification of sanction issued in MHA letter No.II.27012/31/85-PP.II dated 6.4.87.
ii) Non combatised civilian personnel (including officers) in battalions of Assam Rifles and static formations (such as offices of DG, IGP, DIG Range	Same as above. (This is modification of the sanction issued vide item(3) of MHA letter No.11011/184-PP.IV dated 3.3.86.)

Dr. P. Priyo Kumar. Singh.

Hqrs., Training Centre  
etc. and other group  
(Maintenance Groups,  
Workshops etc.) of Assam  
Rifles.

This letter dated 2.2.1989 stipulates improvement in the condition of service of Assam Rifles employees and this decision is a clear and considered decisions modifying earlier order by which ~~xxxx~~ your humble applicants were not given the said SDA. The decision to grant SDA to the ~~was~~ applicants ~~xxxxxx~~ sanctioned by the President of India and communicated to the Director General, Assam Rifles, Shillong by circular dated 2.2.1989 is a distinct decision as regards the Assam Rifles employees and as such this is a ~~pecial p~~re~~vision~~ as regards the Assam Rifles only as distinguished from other Central Govt. civilian employees. Your humble applicants beg to state that this distinction has alway been maintained and as such while SDA was paid to the other Central Government civilian employees by the O.M. dated 14.12.1983 Assam Rifles employees were not embraced by the said O.M. It is only with the sanction of the President of India as a peculiar case of the Assam Rifles that the employees of the Assam Rifles are being paid SDA under the Circular dated 2.2.1989. In this connection it is also pertinent to mention here that while the other civilian central Government employees were paid SDA with effect from 1.11.1983, your applicants have been granted SDA for Assam Rifles with effect from 7.11.1988.

Copy of the circular dated 2.2.1989 is annexed hereto and marked as Annexure-4.

Dr. P. Priyadarshini, Singh.

4.10 That the Pay & Accounts Office, Assam Rifles, Shillong was raising questions regarding payment of SDA to your applicants. They were confused for the O.M. dated 12.1.1996 issued by the Ministry of Finance by which the SDA of the other Central Government employees were regulated. A communication was made from the Director General, Assam Rifles, Shillong to the Hoint Secretary, Ministry of Home Affairs explaining the entitlement of SDA to civilian employees of Director General, Assam Rifles, Shillong under letter No. A/1-A/242/98 dated 6.6.98. This letter discussed in detail the entitlement of SDA to the civilian employees of Director General, Assam Rifles and also the matter of objection by the Pay and Accounts Officer, Assam Rifles and come to the following view.

"In view of the position explained above, this Directorate is of the opinion that the concern of the Pay & Accounts Office (Assam Firles) about the eligiblility of SDA to civilian employees of Directorate General Assam Rifles, Shillong is not premises on the logical interpretation of ~~xxx~~ extent Govt. orders cited above, which provide for a special dispensation to the non-combatised civilian personnel (including officers) in units as well as static formations including this Directorate. This Directorate therefore maintains that drawal of SDA by the civilian employees of DGAR, Shillong is in order."

Copy of the letter dated 6.6.1998 is annexed hereto and the same is marked as Annexure-5.

Dr. P. Prakash Kumar. Singh.

4.11 That the Ministry of Home Affairs under their letter dated 9.7.1998, while reply the letter dated 6.6.98 of the Respondent No.3, informed that the proposal for grant of SDA to the civilian employees of Assam Rifles had been considered in the Ministry but the same had not been agreed to in view of the orders of the Ministry of Finance dated 12.1.1996. The respondent No.3 thereafter on 21.7.93 forwarded a copy of the said letter to the Pay & Accounts Office, Assam Rifles, for information and necessary action.

A copy of the aforesaid letter dated 9.7.98 is annexed herewith as Annexure-6.

4.12 That thereafter by their letter dated 18.8.98, the Director General, Assam Rifles, Shillong had intimated the applicants that Pay and Accounts Office, Assam Rifles intimated that SDA should be discontinued from the pay of August, 1998 in respect of all the civilian employees of Director General, Assam Rifles. The Pay and Accounts Office, Assam Rifles and further stated that the SDA drawn from 20.9.94 to till date is also to be recovered.

Copy of the letter dated 18.8.98 is annexed hereto and marked as Annexure-7.

4.13 That the applicants are receiving SDA on the sanction of the President under order dated 2.2.89 with effect from 7.11.98 or from their respective date of joining, and not from 1983 like the other Central Govt. employees. It is humbly stated that there is no order

Dr. P. Priyakumar Singh.

modifying or cancelling the said order dated 2.2.1989. It is relevant to mention here that after joining their services the respondents of their own paid said SDA to the applicants as they are saddled with all India transfer liability and the ~~same~~ applicants during their service period have also posted in the State of Jammu and Kashmir in connection with their duties which is also further makes apparently clear that their services carries with all India transfer liability. The said SDA has been stopped suddenly without any notice to the applicants, with effect from August, 1999 in the case of applicant No.1, March 1999 in the case of applicant No.2, 3 and 4, May 1999 in the case of applicant No.5, and 6, March 1999 in the case of applicant No.7. It is also relevant to mention here that in the case of the applicant No.2 the respondents have already started recovery of the SDA paid to the applicant after 20.9.94 from the pay of the applicant with effect from March 1999 @ Rs. 500/- per month and in respect of other applicants the respondents have decided to make recovery of SDA paid to the applicants. The present application is covered by the Interim order passed in O.A. No. 225/99 (Subrata Kumar Dhar & Ors. Vs. U.O.I. & Ors) dt. 3.8.99 therefore the applicants pray before the Hon'ble Tribunal for a similar direction in this application.

~~xxxxxx That xxxxx Bi~~

A copy of the order dt. 3.8.99 passed in O.A. No. 225/99 is annexed hereto and marked as Annexure-8.

Dr. P. Priy Kumar, Singh.

4.14 That the Directorate General, Assam Rifles, Shillong had written another letter dated 20.9.98 to Joint Secretary (P) Ministry of Home Affairs, New Delhi clarifying the total position of the entitlement of SDA to the civilian employees of Assam Rifles. It is humbly stated that the applicants are entitled to SDA and payment of SDA to them should be continued and no recovery should be made for payment of SDA.

Copy of the letter dated 20.8.98 is annexed hereto and marked as Annexure-9.

4.15 That the applicants state that thereafter the Ministry of Home Affairs under their letter No. 22013/2/98 -PF.V dated 22.9.98 and No. 22012/10/97-PF.V dated 12.05.99 clarified that the Special Duty Allowance would not be admissible to the civilian employees of Assam Rifles and discontinuation thereof was applicable. It was also directed therein that the amount already paid to the civilian employees be recovered. After passing of the said clarifications, the respondent No.3 issued separate letters on 12.10.98 and 17.05.99 respectively informing, amongst others, the General Secretary of Assam Rifles Civilian Employees Association regarding passing of the aforesaid clarifications and it was further informed that the Directorate was in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Rifles outcome of which would be intimated separately. The applicants ~~exxwkhk~~ state that the clarification given by the Ministry vide letters dated 20.08.98 and 12.05.99 is arbitrary and the direction for recovery

Dr. P. Parijat Kumar Singh.

of the amount paid is unreasonable. Moreover, the decision of the respondent No.3 to implement the said direction/clarification, as communicated through the letter dated 12.10.98 and 17.05.99 is unjustified. Therefore, the letters dated 22.9.98 and 12.10.98 and letters dated 12.05.99 and 17.05.99 are liable to be set aside and quashed.

Copies of the aforesaid letters dated 22.09.98, 12.10.98 and letters dated 12.05.99 and 17.05.99 are annexed hereto as Annexures-1D 11, 12 & 13 respectively.

4.16 That the applicants state that the Office Memorandum dated 12.1.1996 has no bearing with the payment of Special Duty Allowance to them in as much as the same has been granted by the President of India through a separate circular dated 2.2.1989 and it has got no link with the O.M. dated 14.12.1983, 12.1.1988 or 22.7.1998 through which SDA was granted to other Central Govt. Civilian employees. Therefore the Hon'ble Tribunal may please be declared that the O.M. dt. 12.1.1996 has got no relevance with the payment of SDA to the present applicants.

A copy of order dt. 12-1-96 is enclosed  
as annexure - 14  
XXXXX The application has been made before the  
and for the same of justice.

4.17 That your applicants approaching this Hon'ble Tribunal against the arbitrary decision of recovery of SDA as well as also against the stoppage of SDA. It is

Dr. P. Pratik Kumar. Singh.

a fit case for the Hon'ble Tribunal to interfere with and protect the valuable right of the applicants directing the respondents to refund the recovered amount of SDA in respect of applicant no.2 and also to continue to pay SDA to the applicants.

4.18 That your applicants beg to state that the respondents have discriminated the applicants who are serving as Medical Officer on ad hoc basis as regard payment of SDA, it is clear from the impugned Signal sent by DGAR, wherein it is instructed that the Medical Officers on ad hoc basis are not entitled to SDA whereas as per terms and conditions laid down in their appointment letters it is categorically mentioned ~~xxxx~~ as per clause (g) that the applicants are entitled to allowances as admissible according to the orders of the central governments, as per clause (j) the applicants are saddled with all India Transfer liability. As such they are eligible for grant of SDA as per circular dated 2.2.1989. Therefore the Hon'ble Tribunal be pleased to declare that the applicants are entitled to SDA and further be pleased to direct the respondents to continue to pay SDA alongwith arrears and the same has already been discontinued arbitrarily to the applicant on different dated i.e. July, 99, February 99, April, 99 and surprisingly recovery of SDA has been started in respect of applicant no.2 at the rate of Rs. 500 per month from the pay and allowances from March, 1999 and the said recovery is still continuing and in respect of other applicants the respondents have already issued necessary orders for recovery of SDA with giving any notice to the applicants. Therefore

Dr. P. Pratikumar Singh

Hon'ble Tribunal be pleased to declare that the respondents are not entitled to make any recovery of SDA already paid to the applicants. It is stated that the Apex Court also decided in a number cases that the Union of India are not entitled to make recovery any part of SDA which is already paid to the employees.

*Copy of the impugned Signal dt - 23-2-99 and  
Signal dated 3-3-99 is enclosed as annexure-15*

4.19 That this application has been made bonafide and for the cause of justice.

5. Ground(s) for relief(s) with legal provisions.

5.1 For that the applicants are entitled to SDA by Presidential Order dated 2.2.1989 which has not been cancelled or modified.

5.2 For that the Office Memorandum dated 12.1.1996 has no application in the instant case of the applicants.

5.3 For that the Respondents themselves have paid SDA to the applicants with effect from their date of joining due to their entitlement and there has not been any change in the order of the entitlement and as such they should continue to get the SDA.

5.4 For that the ~~SDA has been stopped~~ the payment of SDA has been stopped to the applicants without giving scope of explanation by the applicants which is violative of principles of natural justice.

5.5 For that the payment of SDA received have already been spent by the applicants and there is no scope of refund of such amount.

Dr. P. Prakash Kumar, Singh

5.6 For that non-payment of SDA and recovery of SDA already drawn shall cause undue hardship to the applicant which they are being paid because of their entitlement.

5.7 For that non-payment and proposed recovery of SDA payments shall be violative of Article 14, 16 and 21 of the Constitution of India, being arbitrary.

5.8 For that the entitlement of Special Duty Allowance of the civilian employees of the Assam Rifles has no relevancy with the clarification issued by the O.M. dated 12.1.1996 and as such there is no relevancy to the order passed under letter dated 12.10.1998 as well as letter dated 22.9.98 and the same are liable to be set aside and quashed.

6. Details of remedy exhausted.

The applicants beg to state that there is no other remedy under any rule. However, applicants requested for payment of SDA and the same has been rejected by the authority concerned.

7. Matter not pending before any other Court.

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any court of law or any other authority or any Bench of the Tribunal and/or any such

Dr. P. Parijkumar, Singh

application, writ petition or suit is pending before any of them.

8. Relief(s) sought for :

Under the facts and circumstances of the case the applicants pray that Your Lordships would be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicants shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause that may be shown, be pleased to grant the following relief(s):

- 8.1 That the O.M. dated 12.1.96 be declared as not applicable in case of the present applicants.
- 8.2 The payment of SDA to the applicants should be continued and no recovery of SDA should be made from the applicants.
- 8.3 The orders in letter dated 9.7.98 (Annexure-6) and communication in order dated 18.8.98 (Annexure-7) regarding non-entitlement of SDA to the applicants be set aside and quashed.
- 8.4 The decision of the Pay and Accounts Officer, Assam Rifles, as intimated in letter dated 18.8.98 (Annexure-7) that SDA to the applicants should be discontinued from the pay of August, 1998 and that the SDA drawn from 20.9.94 shall be recovered, be set aside and quashed.
- 8.5 That the impugned orders passed under letter No. 22013/2/98-P.F.V dated 22.9.98 (Annexure -10) letter

Dr. P. Priyo Kumar. Singh

No. A/I-A/242/98 dated 12.10.98 (Annexure- 11 ) letter  
No. 22012/10/97 dated 12.05.99 (Annexure -12 ) and letter no.  
A/O-H/242/99 dated 17.05.99 (Annexure- 13 ) be set aside  
and quashed.

8.6 ~~RECOVERY OF THE APPALICATIONS~~ That the Hon'ble Tribunal  
be pleased to set aside and quashed the order of  
recovery of SDA to the applicants as well as stoppage  
of SDA issued through Signal No. A 4438 dt. 23.2.99  
and Signal No. A 5029 dated 3.3.1999 (Annexure- 15 ).

8.7 That the respondents be directed to continue to apy  
SDA to the applicants alongwith arrears with effect  
from March, 1999 in terms of circular ~~dated~~ 2.2.1989.

8.7 Costs of the application.

8.8 Any other relief/reliefs to which the applicants are  
entitled to under the facts and circumstances of the  
case and as may be deemed fit and proper by the  
Hon'ble Tribunal.

9. Interim Reliefs prayed for :

9.1. That the letter dated 9.7.98 (Annexure- 6 ) issued  
by the Ministry of Home Affairs, New Delhi and letter  
dated 18.8.98 issued by the respondent No.3 be suspended  
(Annexure- 7 ).

9.2 That the payment of SDA to the applicants be continued  
and proposed recovery of SDA drawn from 20.9.94 be  
stayed.

9.3 That the operation of the impugned letters dated 12.10.  
96 and 22.09.98 and letters dated 17.05.99 & 12.05.99  
be stayed (Annexures - 14, 10, 13, 12 ) till disposal of  
this application.

9.4 That the Hon'ble Tribunal be pleased to stay the operation of the impugned orders of recovery of SDA issued under Signal No. A 4438 dated 23.2.99 and Signal No. A 5029 dated 3.3.89 (Annexure-15) and further be pleased to direct the respondents to refund the amount already recovered of SDA of Rs. 6,500/- in respect of applicant no.2, with immediate effect.

The above interim reliefs are prayed on the grounds explained in paragraph 5 of this application.

10. ....

This application has been filed through advocate.

11. Particulars of the Postal Order.

i.	I.P.O. No.	:	OG 457067
ii.	Date of Issue	:	7-3-2000
iii.	Issued from	:	G.P.O., Guwahati.
iv.	Payable at	:	G.P.O., Guwahati.

12. Particulars of Enclosures :

As stated in the Index.

....Verification

Dr. P. Priyokumar Singh

VERIFICATION

I, Subrata Kumar Dhar, son of Shri P. Birendra, aged about 35 years, working as Medical Officer (ad hoc) in 17 Assam Rifles, Kangla, Imphal, one of the applicants in this Original Application and I have been duly authorised to be by the other applicants to sign this verification accordingly I verify and declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material facts.

I, sign this verification on this the <sup>22<sup>nd</sup></sup> 21st day of March, 2000.

Dr. P. Priyokumar Singh,

Signature

Tele No : PABX 230222/5552

## REGISTERED

Bharat Sarkar  
 Govt of India  
 Grah Mantralaya  
 Ministry of Home Affairs  
 Mahanideshalaya Assam Rifles  
 Directorate General Assam Rifles  
 Shillong-793011

I.14015/8-78/Appt-110/ME(A)

2 JUL 95

Dr (Miss) Sharmila Mary Swer

25 Assam Rifles

C/o 99 APO

APPOINTMENT OF MEDICAL OFFICER IN THE ASSAM RIFLES ON ADHOC BASIS

1. Further to this Directorate letter No. I. 14015/8-78/94/ Appt/MO/ME(A) dated 13 Jun 95.

2. The Director General of Assam Rifles is pleased to appoint Dr (Miss/Mrs) SHARMILA MARY SWER as a Medical officer on adhoc basis with effect from the forenoon of 29 June 95 in the Assam Rifles against the existing vacancy for a period of six months on the following terms and conditions :-

- The appointment is purely temporary for a period of 6(six) months from the date of joining till the vacant post is filled by regular medical officer or six months whichever is earlier.
- In case the post is not filled up within the six months, the adhoc appointment may be continued for a period of another six months or till the post is filled on regular basis whichever is earlier.
- This is merely an offer of appointment on adhoc basis and this will not give you any benefits/claim for appointment on regular basis.
- Failure to complete the period of appointment to the satisfaction of the competent authority will render the candidate liable to be discharged from service at any time without any notice and assigning any reason.
- The scale of pay of the post is Rs.2200-75-2800-ES-100-4000/- per month. The initial pay of such candidates who are in Govt service will be fixed according to the rules and those who are not in service will be fixed at the minimum of the pay scales.

JK  
 RAVI SHANKAR  
 20/6/95

-2-

(f) Private practice of any kind whatsoever including laboratory and consultant practice is prohibited.

(g) Dearness and other allowances will be admissible according to orders of the Central Govt.

(h) Non practicing allowances as admissible at the rates prevailing under Central Government orders.

(j) The appointment carries with it the liability to serve in any part of India or out-side.

(k) On appointment the officer will be required to take, an oath of allegiance to the constitution of India or make a solemn affirmation to that effect in the prescribed proforma.

(l) Other terms and conditions will be regulated by the relevant rules and orders that may be in force from the time to time.

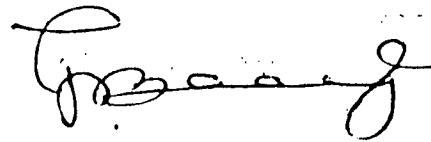
(m) No request for change of posting will be entertained under any circumstances.

(n) No request for extension of joining time to the place of posting will be entertained.

(o) If the declaration given or any information furnished by the officer proves to be false and the officer is found to have wilfully suppressed any material information he/she will be liable for removal from service and such other action as Govt may deem necessary.

(p) The PG allowance shall be admissible at the rate of Rs. 100/- and Rs. 200/- per month for possessing P.G. Diploma and P.G. Degree qualification respectively to the Medical Officers.

3. You are hereby posted to 56 APO Assam Rifles, C/O 99 APO/ Assam Rifles for duty. You will report to the Commandant Assam Rifles for duty after availing actual journey period only with effect from ...... Failure to report to your place of posting within stipulated date will entail cancellation of your appointment letter.



(G P S Bedi )  
Col

Dy Director (A)  
for Director General, Assam Rifles

Copy forwarded to :-

1. 25 Assam Rifles  
C/O 99 APO  
- One copy of medical fitness cert and three copies of attestation forms in respect of above named officer are forwarded herewith. The attestation form duly completed and signed by the officer indicated in the form at the arrangement of concerned concerned Medical Officer will be obtained and necessary police verification will be done at your end. The attestation form alongwith police verification report in original will be forwarded to this Dte for further necessary action.
2. Pay and Accounts Office(AR) - for information.  
Ministry of Home Affairs  
Manbha Villa  
Laitumkhrah  
Shillong - 3
3. MS Branch (Internal) - for information.
4. Medical Branch(Internal) - for information.
5. HQ B Range Assam Rifles - for information.  
C/O 99 APO
6. The Under Secretary to the  
Government of India  
Ministry of Health and  
Family Welfare  
(Department of Health )  
(CHS-I)  
New Delhi.  
- for information please  
with reference to their  
letter no.A.12034/2/94-  
CD-I dated 03 Jan 95.
7. Officer personal file
8. Case file.

## REGISTERED

Tele No. : PARK 230222/5552

Bhatat Sarkar  
 Govt of India  
 Grah Mahatalaya  
 Ministry of Home Affairs  
 Mahahideshalaya Assam Rifles  
 Directorate General Assam Rifles  
 Shillong 793011

T. 14015/6-78/94/Apptt-MO/ME(A)/30 / 3 July 95

✓ Dr. Preyo Karmade Singh  
 Bishnupur Bazar  
 P.O - Bishnupur - Rb  
 (Manipur)

## APPOINTMENT MEDICAL OFFICERS ON ADHOC BASIS

1. On the basis of your performance in the interview held on 20 Sep & 17.10.95 you have been selected for appointment as Medical Officer on adhoc basis in the Assam Rifles as per terms and conditions communicated to you vide this Directorate letter No. T. 14015/6-78/94/Apptt-MO/ME(A) dated 04 Aug 94.
2. You are hereby requested to report to this Directorate (A Branch) on or before 14 July 95 for further posting to unit. 3 (three) copies of attestation form are also enclosed herewith. You are requested to fill up the forms and obtain signature of the authority concerned and hand over the same to this branch while reporting to this Directorate. Please bring also 3 copies of your pass-port size photograph for your medical report.
3. This appointment letter stands cancelled in case you are under contractual obligation with state/UT/other Central Govt for service. You have, therefore, to render a certificate to this Directorate before assuming the appointment stating that you have no contracted obligation with state/UT Govt.
4. Terms and conditions, of your service as Medical Officer on adhoc basis in the Assam Rifles is attached as appendix for your information. 5. Age/qualification cert to be brought in original alongwith 3 copies of pass-port size photograph

(G P S Bedi )

Col.

By Director 'A)

for Director General Assam Rifles

## Copy to :-

Under Secretary to the - for info with reference to  
 Govt of India  
 Ministry of Health and  
 Family Welfare (CHS-I)

their letter No. A. 12034/2/  
 94-CHS-I dated 31 May 95.

## TERMS AND CONDITIONS

(a) The appointment is purely temporary for a period of 6(six) months from the date of joining till the vacant post is filled by regular medical officer or six months whichever is earlier.

(b) In case the post is not filled up within the six months the adhoc appointment may be continued for a period of another six months or till the post is filled on regular basis whichever is earlier.

(c) This is merely an offer of appointment on adhoc basis and this will not give you any benefits/claim for appointment on regular basis.

(d) Failure to complete the period of appointment to the satisfaction of the competent authority will render the candidate liable to be discharged from service at any time without any notice and assigning any reason.

(e) The scale of pay of the post is Rs. 2200-75-2800-EB-100-4000/-per month. The initial pay of such candidates who are in Govt service will be fixed according to the rules and those who are not in service will be fixed at the minimum of the pay scales.

(f) Private practice of any kind whatsoever including laboratory and consultant practice is prohibited.

(g) Dearness and other allowances will be admissible according to orders of the Central Govt.

(h) Non practicing allowances as admissible at the rates prevailing under Central Government Orders.

(j) The appointment carries with it the liability to serve in any part of India or out-side.

(k) On appointment the officer will be required to take an oath of allegiance to the constitution of India or make a solemn affirmation to that effect in the prescribed proforma.

(l) Other terms and conditions will be regulated by the relevant rules and orders that may be in force from the time to time.

(m) No request for change of posting will be entertained under any circumstances.

(n) No request for extension of joining time to the place of posting will be entertained.

-2-

(o) If the declaration given or any information furnished by the officer proves to be false and the officer is found to have wilfully suppressed any material information he/she will be liable for removal from service and such other action as Govt ~~as~~ may deem ~~make~~ necessary.

(p) The PG allowance shall be admissible at the rate of Rs. 100/- and Rs. 200/- per month for possessing P.G Diploma and P.G Degree qualification respectively to the Medical Officers.

(q) You are liable to serve anywhere in ~~NE~~ NE Region or in India wherever Assam Rifles units may be deployed.

REGISTERED

Tele No : PABX 230222/5552

Bhatat Sarkar  
Govt of India  
Grih Mantralaya  
Ministry of Home Affairs  
Mahan Deshalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong-793011

t. 14015/6-78/94/Appt-MO/ME(A)/39 13 Jun 95

✓ Dr. Kh. Dinesh, Dr.  
Wangkhei Hingomu of eka  
Imphal - 795001  
(Manipur)

APPOINTMENT MEDICAL OFFICERS ON ADHOC BASIS

1. On the basis of your performance in the interview held on 20 Sep & 17 Oct 95 you have been selected for appointment as Medical Officer on adhoc basis in the Assam Rifles as per terms and conditions communicated to you vide this Directorate letter No. t. 14013/8/18/94/Appt-MO/ME(A) dated 04 Aug 94.
2. You are hereby requested to report to this Directorate (A Branch) on or before 14 Jul 95 for further posting to unit. 3 (three) copies of attestation form are also enclosed herewith. You are requested to fill up the forms and obtain signature of the authority concerned and hand over the same to this branch while reporting to this Directorate. Please bring also 3 copies of your pass-port size photograph for your medical report.
3. This appointment letter stands cancelled in case you are under contractual obligation with state/UT/other Central Govt for service. You, therefore, to render a certificate to this Directorate before assuming the appointment stating that you have no contracted obligation with state/UT Govt.
4. Terms and conditions of your service as Medical Officer on adhoc basis in the Assam Rifles is attached as appendix for your information. 5. Age/qualification cert to be brought in original, alongwith 3 copies of passport size photograph

(G P S Bhat)

Col.  
By Director 'A'  
for Director General Assam Rifles

Copy to :-

Under Secretary to the - for info with reference to  
Govt of India their letter No. A. 12034/2/  
Ministry of Health and 94-CHS-I dated 31 May 95.  
Family Welfare (CHS-I)

K. RAVINDRAKAR  
13 Jun 95

TERMS AND CONDITIONS

(a) The appointment is purely temporary for a period of 6(six) months from the date of joining till the vacant post is filled by regular medical officer or six months whichever is earlier.

(b) In case the post is not filled up within the six months the adhoc appointment may be continued for a period of another six months or till the post is filled on regular basis whichever is earlier.

(c) This is merely an offer of appointment on adhoc basis and this will not give you any benefits/claim for appointment on regular basis.

(d) Failure to complete the period of appointment to the satisfaction of the competent authority will render the candidate liable to be discharged from service at any time without any notice and assigning any reason.

(e) The scale of pay of the post is Rs. 2200-75-2800-EB-100-4000/-per month. The initial pay of such candidates who are in Govt service will be fixed according to the rules and those who are not in service will be fixed at the minimum of the pay scales.

(f) Private practice of any kind whatsoever including laboratory and consultant practice is prohibited.

(g) Dearness and other allowances will be admissible according to orders of the Central Govt.

(h) Non practicing allowances as admissible at the rates prevailing under Central Government orders.

(j) The appointment carries with it the liability to serve in any part of India or out-side.

(k) On appointment the officer will be required to take an oath of allegiance to the constitution of India or make a solemn affirmation to that effect in the prescribes proforma.

(l) Other terms and conditions will be regulated by the relevant rules and orders that may be in force from the time to time.

(m) No request for change of posting will be entertained under any circumstances.

(n) No request for extension of joining time to the place of posting will be entertained.

*C T C*  
*DR*  
K RAO  
AMC

Mo.20014/2/83/E.IV  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi, the 14th Dec'83

OFFICE MEMORANDUM

Sub : Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region and improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for sometime. The Government had appointed a committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Control Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows : -

i) Tenure of posting/deputation  
xxxxxxxxxxxxxx

ii) Reimbursement for Central deputation/training abroad and special mention in confidential records  
xxxxxxxxxxxxxx

iii) Special (Duty) Allowance

Central Government civilian employees who have All India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any

Contd...  
37

24-35-  
-19-25-  
-26-  
22-

Annexure - 02

Annexure-A (Contd.)

station in the North Eastern Region. Such of the employees who are exempted 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 pre-injunction (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Contraction Allowance and Project Allowance will be given separately.

XXX x x xx x xx

x x x x x

x xxxxxxxxx

xxxxxxxxxx

SC/- S.L. KAMALIK  
DIRECTOR TAXES THE GOVERNMENT OF INDIA

GO.11.11/11/1/1/04-1P. IV  
GOVERNMENT OF INDIA/MINISTRY OF EXTERNAL AFFAIRS  
MINISTRY OF HOME AFFAIRS/GEN. MANTRALAYA.

-36c 25

Ammer 32

-22- New Delhi, the 3-3-86.

Tc.

Annexure - 3

The Director General,  
Assam Files.

Sub:- Allowance and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region- Improvement type of.

547

I am directed to refer to the correspondence relating with your letter No. A/IV-(C)/1-64/0 dated 22 November, 1965 on the subject noted above and to say that the matter has been examined in detail in consultation with the Ministry of Finance. The following decisions have been taken :-

1. The Personnel in this, of Assam Rifles will not be entitled to the concessions envisaged in the Ministry of Finance (Dept. of Expt.) O.M.No. 20014/3/03-E-IV, dated 11.12.1993 as they move in organised group and have back-up support.

The Assam Rifles personnel & Civilian non-commissioned Officers/employees of Assam Rifles do not have All India Transfer liability and as such, the question of grant of special (duty) allowance even in the case of civilian non-commissioned officers/employees does not arise.

✓ 3. Non-combatised civilian staff of static formations such as officers of DJ, IGP, DIGs and Range Headquarters of Assam Rifles may be allowed concessions envisaged in the Ministry of Finance O.M. dated 14.12.83 refer to above (except special (duty) allowance) subject to the condition that they move as individuals and do not have back-up support.

These Powers with the concurrence of the  
Intergovernmental Finance Division vide Circular Dy. No. 705/06-  
Fin. III, D. I. dated 21.02.1986.

Yours faithfully,

SJ/ XXX  
(P. PRELIMINARY REVIEW)  
DEPUTY SECY. TO THE GOVT. OF INDIA.

五代史

- 37 -

Copy to :-

1. Pay & Accounts Office, Assam Rifles, Shillong
2. A. S. Assam Rifles, etc., Shillong.
3. Finance Bld, Ministry of Home Affairs.
4. Ministry of Finance, Deptt. of Expenditure  
(E.IV. 2nd Oct).
5. Liaison Officer of Assam Rifles, New Delhi.
6. 15 copies.

80/ XXX

DURBY S.Y. (P. V. JAYAKAR SHAW)  
TO THE SECY OF INDIA.

No. 11011/1/84-FP.IV  
Government of India  
Ministry of Home Affairs

.....  
New Delhi, dated the 2nd Feb' 89

To

The Director General  
Assam Rifles  
Shillong-793011

Subject : Grant of special (Duty Allowance and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the States and Union Territories of north eastern region, Andaman & Nicobar Islands and Lakshadweep-Grant of Sikkim Compensatory Allowance Sanction regarding.

.....

Sir,

I am directed to convey the sanction of the President to the grant of the following allowances to the personnel in Assam Rifles with effect from 7.11.1988 :-

Category of personnel entitled to allowance

(1)

(1) Combatised personnel (including Cadre Officers) in battalions of Assam rifles and the combatised personnel (including Cadre Officers) in static formations (such as offices of DG, IGP, DIGS, Range Hqrs, Training Centre etc.) and other units (Maintenance Groups, workshops etc.) of Assam Rifles

(ii) Non combatised civilian personnel (including Officers) in battalions of Assam Rifles and in static formations (such as offices of DG, IGP, DIGS, Range Hqrs, Training Centre etc) and other units (Maintenance Groups, Workshops etc) of Assam Rifles

(2) Special Compensatory Allowance (Also called as Special Compensatory (Remote Locality) Allowance)

Category of personnel as mentioned against item 1(i).

Particulars of O.Ms regulating the allowance

(2)

Item (iii) in para 1 of Ministry of Finance O.M.No.II/20014/3/83-E.IV dt 14/12/83 as amended from time to time, read with their O.M.No/20014/3/83-E-IV/II dated 29/10/86 their O.M.No.II.20014/3/83-E.IV dated 15/7/88 and Min of Fin.O.M. No.F. 20014/16/86.E.IV/E-II(B) dated 1/12/88. (This is in modification of sanction issued in MHA letter No. II. 27012/31/85-FP.II dated 6/4/87)

Same as above - (This is in Modification of the sanction issued vide item (3) of para 1 of MHA letter No. 11011/1/84-FP.IV dated 3/3/86).

Same as indicated against item 1(i) above. Ministry of Finance O.Ms No. 20014/6/86-F.IV dated 23/9/86 and 27/4/87 (Meghalaya) No. 20014/7/ (Assam) No.20014/10/86-E.IV dated 23/9/86 and 22/4/87(Tripura)/No. 20014/2/86-E.IV dt 23/9/86 and 16/4/87(Mizoram) No. 20014/9/86-E.IV dt 23/9/86 and 22/4/87(Nagaland) and 16/4/87(Manipur) No.20014/4/86-E.IV dt 23/9/86 and 22/4/87(Arunachal Pradesh) also refer. (This is in modification of MHA letter No. 27012/31/85-FP.II dt 6/4/87).

Annexure - 4

(3) Sikkim Compensatory Allowance

Combatised as well as non-combatised personnel (including officers) in Assam Rifles posted in Sikkim.

Ministry of Finance O.M.No. 20014/8/86-E.IV dated 23/9/86 and 22/4/87.

2. With effect from 7/11/88, the Assam Rifles personnel who were in receipt of special compensatory Field Area Allowance (as in the Army) will cease to draw the same.

3. The above sanctions are not applicable to Army Officers/personnel personnel on deputation to Assam Rifles.

4. This issue with the concurrence of the Ministry of Finance vide M O D No. 5(72) E. dated 7/11/88 and F.89/AS(E)/89 dated 13/1/89 and Integrated Finance Division of this Ministry vide their Dy.No. 4744/ (H0/88 dated 7/12/88.

Yours faithfully,

Sd/- XXXX

( M.M. Sharma )

Deputy Secretary to the Government of India

No. 11011/1/84-PP.IV dated New Delhi, the 2nd Feb 89.

Copy to :-

1. The Pay & Accounts Office, Assam Rifles, Shillong.
2. The Accountant General, Assam Meghalaya, etc. Shillong.
3. Finance -III, Ministry of Home Affairs.
4. Ministry of Finance, Deptt of Expenditure (E.III Branch).
5. Ministry of Finance, Deptt, of Expenditure (E.IV Branch).
6. Liaison Officer, Assam Rifles, New Delhi.
7. 20 Spare copies.

Sd/- XXX

( M M Sharma )

Deputy Secretary to the Government of India

Ministry - 'E' - 27 - 40 -

Annexure 5

Government of India,  
Ministry of Home Affairs,  
Directorate General Assam Rifles,  
Shillong-793011-

No. 0/1-1/242/98

Dated: 6 June, 98

Shri. O. P. Orya,  
Joint Secretary (P)  
North Block,  
Ministry of Home Affairs,  
New Delhi.

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF DMR, SHILLONG.

Sir,

1. I am directed to state that Special Duty Allowance (SDA) is one of the ten concessions/facilities extended to the Central Govt. civilian employees serving in North Eastern Region with effect from 01 Nov. '88 sanctioned under Ministry of Finance OM No. 20014/3/88 E. IV dated 14.12.88 enclosed at Annexure I. Subsequently, consequent to 4th Central Pay Commission recommendations, above concessions/facilities were modified and two more concessions were given with effect from 01 Dec. '88 under Ministry of Finance OM No. 20014/13/86/E. IV/E. II(B) dated 01 Dec. 88 attached as Annexure II.

2. The Assam Rifles projected to the Ministry of Home Affairs for extension of the above concessions/facilities including SDA to the combatant and civilian employees of Assam Rifles on the analogy that all those concessions including SDA were available to the employees of other CPOs like BSF, CRPF etc similarly situated in the North eastern Region. While grant of the above concessions to the combatant employees were turned down, all these concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General Assam Rifles, Inspector General Assam Rifles (North), Range HQs. and Assam Rifles Training Centre and School with effect from 2 March '86 under Ministry of Home Affairs letter No. II.11011/1/84PP 4 dated 3 March '86 (Annexure III attached) copy endorsed, alongwith others to Pay and Accounts Office (Assam Rifles), Shillong and Ministry of Finance, Deptt. of Expenditure (E. IV). Subsequently, all these concessions except SDA were also extended in the combatant employees of Assam Rifles with effect from 01 Nov. '86 under Ministry of Home Affairs letter No. II.27012/31/85/PP. II dated 04 April '87 (Annexure-IV).

3. Consequent to change over of pay structure of Assam Rifles personnel from Army pattern to CPO, pattern from 01 Jan 86 following Fourth Central Pay Commission recommendations. SDA on the analogy of other VPOs like BSF, CRPF etc. was also extended to both combatant and civilian employees of Assam Rifles with effect from 07 Nov. 88 (with categorical mention of the civilian staff and officers of all static formations of Assam Rifles including Directorate General Assam Rifles) under Ministry of Home

Affairs letter No. 11001/1/84-PP. IV dated 02 Feb '89 (attached as Annexure-V). Para 4 of the said letter lays down that the sanction of SDA for the combatant and civilian employees of Assam Rifles was duly concurred by the concerned departments of the Ministry of Finance, viz. P. III and AS(F) Branches. Copy of above original sanctioning letter of Ministry of Home Affairs was also endorsed to Pay and Accounts Office, (Assam Rifles), Shillong and also to Ministry of Finance, Department of Expenditure, E. III and E. IV Branches.

4. The Pay & Accounts Officer (AR) has, therefore, been obligatorily passing the monthly bills of the civilian employees of Directorate General Assam Rifles, Shillong without any objection right from the time of sanction of SDA to Assam Rifles. However, in end April '98, Pay & Accounts Officer (Assam Rifles), Shillong has intimated that SDA is not entitled to the civilian employees of DGAR, Shillong citing Ministry of Finance (Department of Expenditure) OM No. 11(3) 95-E.II(B) dated 12 Jan '95.

5. The Judgement of the Apex Court regarding non-entitlement of SDA to certain category of civilian personnel is based on the general order sanctioning the ten concessions/facilities including SDA to civilian serving in the North-eastern region, vide Ministry of Finance OM No. 20014/3/83-E.IV dated 14 Dec. '83 (Annexure I) refers; and its subsequent modification. SDA was sanctioned to the combatant and civilian employees of Assam Rifles on CPO analogy and that too, from a much later date (07 Nov. '88) when the Pay pattern of Assam Rifles personnel was made on the lines of CPO pattern after Fourth Central Pay Commission recommendations. It may also be appreciated that the Ministry of Home Affairs as well as Ministry of Finance were fully aware of the general eligibility criteria for SDA vis-a-vis the conditions of appointments, posting, transfer, retention, exigency of service etc. of the civilian employees of static formations of Assam Rifles like DGAR, IGAR, Range HQs. and Training Centre. Keeping all these factors in view, a separate and exclusive sanction was accorded by the Ministry of Home Affairs for grant of SDA to the combatant and civilian employees of Assam Rifles (Annexure-V refers).

6. In view of the position explained above, this Directorate is of the opinion that the concern of the Pay & Accounts Office (Assam Rifles) about the eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong is not premised on a logical interpretation of extant Govt. orders cited above which provided for a special dispensation to the non-combatant civilian personnel (including officers) in units as well as static formations including this Directorate. This Directorate therefore, ~~noting that~~ ~~noting that~~ ~~noting that~~ drawn by the civilian employees of DGAR, Shillong is in order.

7. The above proposal/reference has been vetted by the Financial Adviser, North Eastern Council.

8. The Ministry is requested to kindly issue a clarification on the subject.

Yours faithfully,  
Sd/-

(S J R Sharma)  
Major General

Dy. Director General Assam Rifles,  
for Director General.

Encl: As above.

28 29 30 31 Annexure  
29 COPY 29 28 31 Annexure P. 6  
32  
No. IL-22013/2/98-FF.V  
Government of India  
Ministry of Home Affairs  
Dated 9-7-98

New Delhi, dated 9-7-98

To

Director General,  
Assam Rifles,  
Shillong - 793011

Subject : Entitlement of Special Duty Allowance to  
Civilian employees of DGAR Shillong.

Sir,

I am directed to refer to your letter No. A/I-A/242/98  
dt 6.6.98 on the above mentioned subject and to say that the  
proposal has been considered in the Ministry, but the same has  
not been agreed to in view of the orders of Ministry of  
Finance dated 12.1.98. (12.1.98).  
12.1.98.

Yours faithfully,

Scd/-xx  
(Nirmala Dev )  
Dusk Officer

Copy to LOAR, North Block, New Delhi.

-43-

39-A Annexure - 017

Mahanideshalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong - 793011

A/I-A/Pers/98/

48

18 Aug 98

Annexure-7

Shri P.S. Pawatkar  
General Secretary  
Vishwa Seva (Civil)  
Employees Association  
Directorate General Assam Rifles  
Shillong

47-32-

ENTITLEMENT OF SDA TO THE CIVILIAN  
GENERAL  
ASSAM RIFLES SHILLONG

Re: your letter No. 19(C)/LAW/AR/129 dated  
12 Aug 98.

2. The PAO AR has intimated that SDA should be discontinued from the Pay of Aug 98 in respect of all civilian Employees of Directorate General Assam Rifles, Shillong. The PAO AR has further stated that the SDA drawn from 20 Sep 94 to till date is also to be recovered.

3. For information please.

*RS Pawatkar*  
( P.S. Pawatkar )  
Lt Col  
AD(A)

*Alles led  
Jeevan  
Advocate*

## FORM NO. 4

(See Rule 42)

**In The Central Administrative Tribunal**

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 225799

OF 199

Applicant(s) Subrata Kumar Dhar  
and Ors

Respondent(s) Union of India and Ors

Advocate for Applicant(s) Mr. D. Sarker, M. Chaudhury

Advocate for Respondent(s) C.G.S.C.

3.8.99

The application has been submitted by 25 applicants. They have prayed for permission to file this single application under the provision of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987. Heard counsel of both sides. Permission is granted as prayed for.

Perused the application. Heard counsel for both sides. Application is admitted. Issue notice on the respondent by registered post. List on 2-9-99 for written statement and further orders.

Mr. J. L. Sarker learned counsel for the applicant prays for an interim order.

contd/-



42

-45-

O.A. 225 of 99

Notes of the Registry	Date	Order of the Tribunal
	3-8-99	<p>Issue notice to show cause as to why interim order shall not be granted as prayed for. List on 2-9-99 for orders. In the meantime the respondents are directed to keep in abeyance the operation of the order dated. 9-7-98, 18-8-98, 12-10-98, 22-9-98, 17-5-99 and 12-5-99, Annexure 6, 7, 9, 10, 11, 12. till disposal of the show cause.</p> <p>The matter will be decided by Division Bench. The counsel of both sides has no objection. List on 2-9-99 before Division Bench.</p>

sd/ MEMBER (ADM)

Certified to be true (COP)

प्रमाणित प्रतिलिपि

MAY 17 1999  
11 AM '99Parliament of India (O)  
Central Building, Supreme Tribunal

Guwahati Bench

MAY 18 1999  
11 AM '99

1-16-1016  
 Bharat Sarkar  
 Government of India  
 Shri Mantralay  
 Ministry of Home Affairs  
 Mahanidhanbhawan Annam Rifles  
 Directorate General Annam Rifles  
 Shillong - 793011

Annexure - 18

N/1-N/242/98/310

30 Aug 98

Annexure-8  
 Annexure-9

Shri O P Arya  
 Joint Secretary (P)  
 North Block  
 Ministry of Home Affairs  
 New Delhi - 110001

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
 CIVILIAN EMPLOYEES OF DGAR, SHILLONG

Sir,

1. I am directed to refer to your letter No. II.22013/2/98-PF.V dated 09-7-1998 and to state that the proposal for eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong was taken up vide this Directorate letter No. N/1-N/242/98 dated 06 Jun 1998 but not agreed to in view of Ministry of Finance order No. II(3)/95-E.II(B) dated 12 Jan 1996.

2. After careful examination of Ministry of Finance Order dated 12 Jan 1996, a doubt has arisen in regard to applicability of the said order to the civilian employees of Directorate General Assam Rifles, Shillong. The civilian employees of Directorate General Assam Rifles were granted SDA from 1988 onwards vide MHA's order No. II.11011/1/84-FP.IV, dated 01 Feb 1989, whereas employees of the Central Government serving in the States and Union Territories of NE Region were granted the said allowance from 1983 onwards. The allowance was discontinued for other employees from 20-9-1994 under the Ministry of Finance Order dated 12 Jan 1996. Since the civilian employees of Directorate General Assam Rifles, Shillong were granted SDA from 1988 onwards, the orders of the Ministry of Finance dated 12 Jan 1996 were not made operative till date.

3. Now, the Pay and Accounts Officer (Assam Rifles) has intimated this Directorate to stop payment of SDA to the civilian employees from the month of Aug 98 and also to recover the SDA drawn by them since 20-9-1994.

4. It may be seen that while ceasing SDA to the civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region with effect from 20-9-94, the Ministry of Finance has not made any reference of the MHA's order No. II.11011/1/84-FP.IV dated 01 Feb 1989 in their letter dated 12 Jan 1996. The civilian employees of this Directorate were granted SDA after 1988 with effect from 01-11-1989 and were being allowed to draw the said allowance by the PAO (AR) even after receipt of Ministry of Finance letter dated 12 Jan 1996. With the

Contd. to . . . 27

47-101-47  
89

1993-365-

PAKISTAN: decision to recover the SBK drawn by civilian employees since 20 Sep 1993, the serving and retired employees of this Directorate will be adversely affected and undergo financial loss and mental harassment. Since the MIA's Order No. 11.11011/1/84-FP, IV dated 01 Feb 1984 has not been cancelled/modified or superseded by the MIA till date and there being reference of the said order in the Ministry of Finance order dated 12 Jan 1996, orders for refund of entire amount drawn since 1994 needs to be reviewed.

5. In view of the above, you are requested to examine the MIA's order No. 11.11011/1/84-FP, IV dated 01 Feb 1984 and review the applicability of SBK to civilian employees of this Directorate.

Yours faithfully

(S. J. P. Sharma)  
Major General  
Deputy Director General  
Assam Rifles  
for Director General

800

1. LOAN

2. RAO (AR)  
Bishnukhrah  
Shillong

3. ESI Branch  
UGAR

1993-365-

You are requested to liaise with the MIA and obtain a clarification on this matter at the earliest.

It is requested that no deduction/recovery on SBK to civilian employees of this Directorate may please be made till final decision on this clarification is received from MIA.

For info please,

-618-

6  
-25-

Annexure - 10

No. 22013/2/98-PF.V  
Government of India  
Ministry of Home Affairs

New Delhi dated 22nd Sept, 1998

To

Director General  
Assam Rifles  
Shillong- 793011.

Sub: Entitlement of Special Duty Allowance to  
Civilian Employees of I.G.A.R. Shillong.

Sir,

I am directed to refer to your letter No. A/I-3/242/98/310 dated 20th Aug 1998 on the subject cited above and to say that it has already been intimated to your vide court letter dated 9.7.98 that Special Duty - Allowance is not admissible to the civilian employees of Assam Rifles in view of the orders of Ministry of Finance dated 12.1.1996. Therefore, the amount already paid to the employees is to be recovered.

Yours faithfully,

Sd/- Nirmala Dev

( Nirmala Dev )  
Deak Officer  
22/9/98.

Ref - 26

Annexure B to 11

Tele No. 705576

Mahanideshalya Assam Rifles  
Director to General Assam Rifles  
Shillong - 793 011

A/I-3/242/98

12 Oct '98.

List 'B'

List 'B'

List 'C'

List 'E'

List 'F'

IMPLEMENTATION OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF DGA, SHILLONG.

1. Reference Ministry of Finance letter No.11(3)-E-II (3) dated 12 Jan 96 ( Copy enclosed ).

2. The admissibility of Special Duty Allowance (SDA) to the civilian employees of DGA, Pg. HUs and units etc was under query based on an observation raised by F.O., Assam Rifles, Shillong. The Ministry has now clarified the admissibility under their letter No. 22013/2/98-PP.V dated 22 Sep 98 and DGP letter No.P.19(1)-E-II(A)/98 dated 29 Aug 98, copies of which are enclosed herewith for information and necessary action by all concerned.

3. This Dte, however, is in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Rifles, outcome of which will be intimated separately.

Sd/- P. S. Sawat  
Lt. Colonel  
AB(A)

Enclo : As above .

for DG Assam Rifles.

Copy to :

List 'D'

List 'E'

Com. Secy, Assam Rifles ( Civil ) Employees Association,  
Shillong - 11.

27-

No. 22012/10/97-PF.V

Government of India

Ministry of Home Affairs

To

New Delhi dated 12th May, 1999

Director General  
Assam Rifles  
Shillong - 793011

Subject: Entitlement of Special Duty Allowance to  
Civilian Employees of Assam Rifles.

Sir,

I am directed to refer to your fax message No. T.11013/27/99-Legal dated 3.5.99 on the subject cited above and to say that the orders of the Ministry No. T.11.22013/2/98-PF-V dated 9-7-98 regarding discontinuation of the Special Duty allowance is applicable for all the civilian employees of the Assam Rifles.

Yours faithfully,

sd/-xxxx  
( Nirmala Devi )  
Desk Officer

Bharat Sarkar  
Government of India  
Grih Mantralaya  
Ministry of Home Affairs  
Mahanideshalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong - 11

A/TB/242/99

17 May 99

List 'A'

List 'B'

List 'C'

List 'E'

List 'F'

23

ENTITLEMENT OF SPECIAL DUTY ALLOWANCES  
TO CIVILIAN EMPLOYEES OF ASSAM RIFLES

1. Ministry of Home Affairs Letter No. 22012/10/97-PF.V dated 12 May 99 and No. II, 22013/2/98-PF.V dated 09 Jul 98 regarding discontinuation of the Special Duty Allowances are fwd herewith for necessary action please.
2. As per Ministry's above quoted letters, civ employees of Assam Rifles are not entitled Special Duty Allowances.
3. From HQs/Units are requested to take action accordingly.
4. However, this Dte, is in touch with Ministry for restoration of the entitlement of SDA to Civilian Employees of Assam Rifles, out come of which will be intimated separately.

*copy to*

( RA Rawat )  
Lt. Col  
AD(A)  
For DC Assam Rifles

Copy to

List 'D' { for info please.  
List 'G' {

General Secretary  
Assam Rifles(Civil) Employees  
Association  
Shillong - 11

*Pls refer  
for scale*

/ COPY /

Annexure - 14

No. 11(3)/95-E.II(B)  
Government of India/  
Ministry of Finance  
Department of Expenditure

New Delhi, the 12th Jan 1996

OFFICE MEMORANDUM

Sub : Special Duty Allowance for civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region - regarding.

The undersigned is directed to refer to this Department's O.M. No. 20014/3/87-EI V dated 14.13.83 and 20.4.88 read with O.M. No. 20014/16/86.E.IV/E.II(B) dated 1.12.88 on the subject mentioned above.

2. The Government of India vide the above mentioned O.M. dt 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE Region. One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have "All India Transfer Liability".

3. It was clarified vide the above mentioned O.M. dt 20.4.87 that for the purpose of sanctioning "Special Duty Allowance" the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministries/Department against the orders of the CAT.

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil appeal no. 3251 of 1993) upheld the submission of the Government of India that Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to all India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble court also directed that whatever amount has already

24 - 21 -

2

been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

7. In view of the above judgement of the Hon'ble Supreme Court, the matter has been examined in consultation with the Ministry of law and the following decisions have been taken :

- (i) the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
- (ii) the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.94 but payments were made after this date i.e. 20.9.94) will be recovered.

8. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance.

9. In their application to employees of Indian Audit and Accounts Department, these orders issue in consultation with the controller and Auditor General of India.

10. Hindi version of this OM is enclosed.

Sd/- xx xx xx

(C. Balachandran)

Under Secy to the Govt. of India

All Ministries/Departments of Govt. of India, etc.

-52-

COPY

49

Annexure - 8

15

From : Hq B Range

DTG: 22

UNCLAS

To : 20 AR

A 5016

SDA adhoc Med offrs (.) ref your A 6825 Apr 03 (.)

firstly (.) as per DGAR sig A 4438 Feb 23 SDA is not admissible to Adhoc bsis med offrs (.) in this connection ref our sig A 5029 Mar 03 (.)

secondly (.) SDA so drawn by Dr(Mrs) Shashi Malra comma MO(Adhoc) to be recovered by fixing instalments by the controlling offr i.e Comdt 20 AR (.) confirm by rtn sig

COPY

From : B Range

DTG: 03

To : 8AR/25AR

Info : 20 AR - by originator

A 5029

SDA to CHS med offrs (.) DGAR sig A 4438 dt Feb 23 reproduced below (.) quote (.) SDA to CHS med offrs (.) firstly (.) queries being recd from various Range HQ/unit whether SDA admissible to CHS med offrs or not (.) secondly (.) as per existing orders SDA is admissible to CHS med offrs only (.) thirdly (.) SDA not rpt not admissible to Adhoc med offrs (.) however case referred to ministry for decision (.) lastly (.) this will be treated as ruling on subject (.) unquote (.) for info and necessary action

465 22 JUN 2000  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.No. 109 OF 2000

Dr. Priya Kumar Singh  
and 6 Others.

.....Applicants.

-Vs-

Union of India. and Others

.....Respondents

In the matter of :

Written Statement submitted by  
respondents No.1 to 8.

WRITTEN STATEMENT

The humble respondents submit  
their written statements as  
follows :

1. That no comment is called for against para 1 of the application being factual.
2. That the statement made in paras 2 and 3 of the application are admitted being matter of record.
3. That the statements made in para 4.1 to 4.5 of the application are admitted being matter of records.
4. That with reference to the statement made in para

....2

55  
Filed by 9/6/2000  
(A. DEB ROY)  
S. C. G. S. C.  
C.A.T. Guwahati Bench

4.6. of the application, this deponent begs to state that the employees of the Central Government serving in the States and Union Territories of North-East region were granted the Special Duty Allowance vide Govt. of India O.M. No.II.20014/3/83/E.IV dated 14.12.83. Orders of Special Duty Allowance to the employees of Assam Rifles were issued vide Ministry of Home Affairs O.M. No. 11011/1/84-FP.IV dated 2.2.89 with effect from 7.11.88. These orders were issued in pursuance of orders of Ministry of Finance dated 14.12.83.

5. That the statement made in para 4.7 to 4.13 of the application , this deponent begs to state that Government of India, Ministry of Finance vide OM No.II (3)/95-E.II(B) dated 12.1.96 on SDA while examining the judgement of the Supreme Court on the grant of SDA vide Department of Expenditure OM No.20014/3/83-E-IV dated 14.12.83 and 20.4.88 read with OM No. 20014/16/86-E.IV/E.II(B) dated 1.12.88, has decided that the amount of SDA paid to ineligible persons after 20.9.94 will be recovered and SDA will be admissible only on the basis of All India Transfer Liability Conditions as being posted in the North-East region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex court further added that the grant of this allowance only to the Officers transferred from outside the region to the North-East region would not be violative of the

provisions contained in Article - 14 of the Constitution as well as the equal pay doctrine. In pursuance of order of Ministry of Finance order dated 12.1.96, the SDA was stopped by the Pay and Accounts Office of Assam Rifles for the civilian employees of Assam Rifles. Since the employees of Assam Rifles are confined only to the North-East region, admissibility of the SDA to the civilian employees of Assam Rifles was again considered by Government and was not agreed to. Accordingly, the orders for discontinuation of SDA to civilian employees of Assam Rifles were issued vide Ministry of Home Affairs letter No. II.11013/2/98-PF.V dated 9.7.98 and 12.5.99.

6. Moreover, in the order of MHA dated 2.2.89, it was clearly mentioned that the Allowance will be regulated by Ministry of Finance O.M. No. 20014/3/83-E.IV dated 14.12.83 as amended from time to time which stipulates the condition of 'All India Transfer Liability'. The condition of 'All India Transfer Liability' was amply clarified by the Hon'ble Supreme Court in their judgement dated 20.9.94 (in Civil Appeal No. 3251 of 1993). The judgement given by the Supreme Court and the principle laid down therein is applicable to all the cases for grant of Special Duty Allowance including the personnel of Assam Rifles.

7. That the statement made in para 4.14 and 4.15 of the application are matter of records and are admitted except the statement that the applicants are similarly situated which is denied.

8. That with reference to the statement made in paragraphs 4.16 to 4.19 of the application this deponent has no comments being prayers of the petitioners.

9. That with reference to the ground in 5.1 of the application this deponent states that the order dated 2.2.89 has not been referred to specifically in the Ministry of Finance OM dated 12.1.96 .

10. That with reference to the statement made in ground 5.2 of the application it is stated that OM dated 12.1.96 is applicable to the civilian employees of Assam Rifles. (Ministry of Home Affairs letter dated 12.5.99 annexed as Annexure refers in this regard ).

11. That with reference to the statement made in ground 5.3 of the application this deponent states that the SDA was extended to the civilian employees of Assam Rifles with effect from 7.11.88 by Ministry's order . It is however denied that employees should continue to get the SDA as the Government is competent to review the matter considering the pros and cons as also the principles laid down by the Govt and uphold by the Apex Court and issue orders to affect modification in order dated 2.2.89.

12. That with reference to the statement made in ground 5.4 of the application this deponent begs to state that the condition of service of employees determined by an administrative order and there is no scope of giving any

opportunity to the affected employees to explain as claimed.

13. That no comment is called for against ground 5.5 of the application.
14. That with reference to the statement made in ground 5.6, 5.7 and 5.8 of the application this deponent begs to state that grant and withdrawal of allowance is within the discretion of Government and as such no civil right can be claimed on such allowance and as such no undue hardship is caused for such non-payment, as also can not be violative of Article 14, 16 and 21 of the Constitution of India.
15. That the statement made in para 6 and 7 of the application are self proclaimed declarations by the applicants.
16. That with reference to the statement made in para 8.1 to 8.3 of the application this deponent begs to state that the relief sought for in these paras needs review in view of what have been stated in replies to para 4.13 and 5.3 of the application.
17. That with reference to the statement made in paragraph 8.4 and 8.6 of the application this deponent has no comments being prayers of the petitioners.
18. That no reply is called for against para 9.1 to 9.3 of the application as interim relief as prayed for has

already been granted by the Hon'ble Tribunal vide order dated 24.03.2000.

19: That no reply is called for against para 10, 11 and  
12 of the application being particulars of postal orders  
and enclosures.

20. In view of the Hon'ble Supreme Court's decision in Civil Appeal No.3251 of 1993, dated 20.9.94, the issue stands settled. The civilian employees of Assam Rifles can not be exception vis-a-vis other civilian Central Govt employees. The Appex Court has upheld the contention of the Govt. of India, as such the respondents most humbly submit that the application has no merit and is liable to be dismissed.

## VERIFICATION

I, Major Sandeep Kumar working as Joint Assistant Director (Legal) do hereby solemnly verify that the statements made in the written statement are true to my knowledge, belief and information and nothing has been suppressed.

And I sign this verification on this the 9 day  
of Jun 2000.

DEPONENT