

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 233/2000

R.A/C.P No.

E.P/M.A No.


1. Orders Sheet. O.A-233/2000 Pg. 1 to 2
2. Judgment/Order dtd. 25/09/2000 Pg. N.C. separate to order Dismissed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 233/2000 Pg. 1 to 27
5. E.P/M.P. N/L Pg. to
6. R.A/C.P. N/L Pg. to
7. W.S. N/L Pg. to
8. Rejoinder. Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

GUWAHATI BENCH : GUWAHATI

APPLICATION NO. 233/2000 OF 199

Advocate for Applicant(s) Mr. M. Chandra.
Mrs. N. D. Goowami
Advocate for Respondent(s) Mr. G. V. Chavrabarty.
C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
<p> <i>Deposited vide</i> <i>PO RD No 592243</i> <i>Dated 12.2.2000</i>  <i>File Required</i> <i>Filed</i> <i>File returned and sent to D Section for Immig</i> <i>in Refordant No 1 to 4 vide</i> <i>No 1863 to 1865</i> </p>	<p> 13.7.00 </p>	<p> Present : The Hon'ble Mr S.Biswas, Administrative Member. </p> <p> Heard Mr M.Chanda, learned counsel for the applicant and Mr B.S.Basumatary, learned Addl.C.G.S.C for the respondents. </p> <p> Application is admitted. Issue notice to the respondents. </p> <p> List on 16.8.2000 for written state- ment and further order. </p> <p> Mr Chanda prays for an interim order. The operation of impugned letters dated 28.6.2000 and 7.7.2000, Annexures 6 and 7 shall be kept in abeyance and no recovery shall be made until further orders. </p> <p style="text-align: right;"> <i>S. Biswas</i> Member (A) </p>

S. Bins
Member (A)

Enrolled on 18/7/00
Enrolled out Supplied
by the applicant. ps

pg

pg 28
16. 8-6

There is no Barb. Ad. and 1 -
12-9+00. B701_n

V

(2)

O.A. No. 233/2000

Notes of the Registry

Date

Order of the Tribunal

9/8/00

Notice of order returned of
Respondent No 2, due to
incomplete address.

12.9.00

no bench. To be list on
25.9.00

25.9.00

Present : Hon'ble Mr. Justice D.N.Chowdhury,
Vice-Chairman.

Heard Mr. M. Chanda, learned counsel for
the applicant and Mr. B.S.Basumatary, learned
Addl. C.G.S.C. for the respondents.

It has been stated by the counsel for the
parties that the applicant has already
provided Special (Duty) Allowance in terms of
the Office Memorandum by the Respondents and
accordingly the application has become
infructuous. Accordingly the application is
dismissed as infructuous.

Vice-Chairman

Flag 'A' is received
from the Dept. of the
applicant - revoking the
recovery order of SDA.

placed before the Hon'ble
Court for its orders.

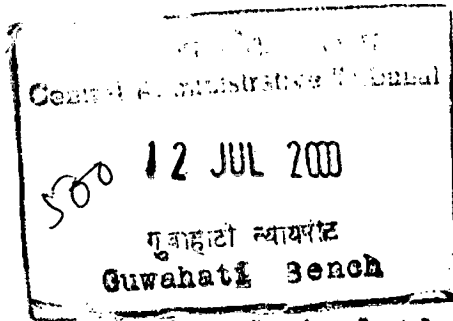
15.9.00

26.8.2000

trd

Copy of the order
has been sent to
the D/Sec for filing
the same to the L/A's
for the parties.

H.S.



In the Central Administrative Tribunal

Guwahati Bench at Guwahati.

Filed by
Applicant through
Advocate B. M. Chakraborty
ON 12-7-2000

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

Title of the Case : O.A. No. 233/2000/2000

Shri Bichitra Ram Medhi : Applicant

-Vs-

Union of India and others : Respondents.

I N D E X

<u>Sl. No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page No.</u>
1.	-	Application	1-109
2.	-	Verification	10
3.	1	Copy of the appointment letter dt. 26.7.89	11-14
4.	2	Copy of the office order No. 91/22	15
5.	3, 4 & 5	Copies of the Office Memorandum dt. 14.12.83, 1.12.88 & 22.7.98.	16-21.
6.	6 & 7	Copies of the letter dt. 28.6.2000 and 7.7.2000.	22-23
7.	8	Copy of the office memorandum dated 12.1.96.	24-25
8.	9	Copy of the Hon'ble Tribunal in O.A.	26-27

Filed by

Advocate.

Bichitra Ram Medhi

In the Central Administrative Tribunal

Guwahati Bench at Guwahati.

Original Application No. 233/2000

BETWEEN

1. Shri Bichitra Ram Medhi

Son of Late Hriday Ram Medhi

Office of the Director,

Electronics test and development Centre,

Ganesh Guri Charali, G.S. Road,

Guwahati- 781 006.

- Versus-

1. Union of India,

Through Secretary Government

of India, Ministry of Information-

Technology , 6, CGO Complex,

Lodi Road, New Delhi - 110003.

2. Director General

STQC Directorate,

New Delhi - 110049

3. Director,

Electronics Test and Development Centre

Ganesh Guri Charali,

G.S. Road,

Guwahati - 781 006

Bichitra Ram Medhi

4. Section Officer
Government of India
Ministry of Information and Technology,
STQC, 6 CGO Complex,
New Delhi - 110003.

Details of Application

1. Particulars of order against which this application is made.

This application is made against the impugned letter dated 28.06.2000 and 7.7.2000 where by the payment of SDA is sought to be stopped and recovered and also praying for a direction upon the respondents to continue to pay SDA to the applicant interms of Office Memorandum dated 14.12.83, ^{1, 12.} 12.1.88 and 22.7.98 and also on the basis of clarification issued under letter dated 20.4.87, 12.1.96 by the Government of India, Ministry of Finance.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant ~~is~~ further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

Contd...3/-

Bichitra Ram Medhi

4. Facts of the Case.

4.1 That the applicant is a Citizen of India and as such he is entitled to all the rights ~~and~~ privileges and protection as guaranteed by the Constitution of India.

4.2. That your applicant obtained Bachelor of Engineering Degree in the year 1988 from a recognised Govt Institution, in pursuance to an advertisement for the /Scientist post of /Engineer SC issued by the Govt. of India Deptt. of Electronics the applicant applied

for from the said post and finally selected for the aforesaid post in the year 1988. The recruitment of the said post is being made on All India basis. The applicant is found suitable and appointed in the post of Scientist - Engineer SC in the month of August 1989. Initially he was posted ^{at} of Calcutta in the office of the Electronic Regional Test Laboratory (East -Calcutta). It is relevant to mention here that the offer of appointment was issued vide letter No. 2(9)89-PA dated 26.7.89, in the said offer of appointment letter in clause (h) it is categorically mentioned that the applicant carries with it the liability to serve anywhere ⁱⁿ or India or abroad as such the applicant is saddled with all India Transfer Liability . He accepted the said offer of appointment letter and joined at Calcutta in the month of August 1989. The applicant belongs to Group of 'A' category of Central Govt. Service.

Copy of the offer of appointment letter dated 26.7.89 is enclosed as Annexure -1.

Bichitra Ram Medhi

4.3. That your applicant subsequently promoted to the post of Scientist 'C'. It is relevant to mention here that the applicant was transferred and posted to the office of the Director, Electronic Test and Development Centre at Guwahati on public interest vide office order No. 91/12 under letter No. ERTL(E)/Admn./PF/M.22/8178(11) dated 22.1.91. The applicant accordingly carried out the order and joined at Guwahati in the month of February 1991.

A copy of the office order No. 91/12 is annexed as Annexure - 2.

4.4. That it is stated that the Govt. of India, Department of Expenditure issued office Memorandum bearing letter No. 20014/3/83/E.IV dated 14.12.83 whereby certain allowances and facilities were granted to the Civilian Employees of the Central Government serving in the State and Union Territory of N.E. Region Special Duty Allowance (in short SDA) was granted by the said memorandum at the rate of 25% of basic pay subject to a ceiling of Rs.400/- per month on posting any station in N.E.R. The applicant after his posting at Guwahati the respondents found him eligible and started paying SDA since his posting at Guwahati as the applicant is saddled with All India Transfer Liability. The order of granting SDA were revised from time to time by issuing O.M. dated 1.12.88 and 22.7.98.

Copies of the O.M. dated 14.12.83, 1.12.88 and 22.7.98 are enclosed as Annexures- 3, 4 and 5

Bichin Ram Medhi

-5-

4.5. Most surprisingly the Section Officer Govt. of India Ministry of Technology, New Delhi issued the impugned letter dated 28.6.2000 ~~directing~~ directing the Director ETDC, Guwahati to make recovery of the amount of SDA paid to the applicant interms of para (ii) of para 7 of the O.M. dated 12.1.96 issued by the Ministry of Finance, Govt. of India, subsequently another impugned letter bearing No. ETDC(GUW)/0600/Vol.II/2000 dated 07.07.2000 issued to the applicant by the ^{Administrative Officer} Accounts -

(We) Accounts Officer quoting the reference of letter dated 28.6.2000 and 5.7.2000 stating that the applicant is not entitled to payment of SDA and the amount already drawn by him with effect from 20-09-98 to till date is calculated as Rs. 63189/- the same will be recovered from his salary at the rate of Rs.1000/- per month commencing from August 2000. The impugned orders dated 28.6.2000 and 7.7.2000 have been issued in total violation of Principles of Natural Justice as because no notice or show cause issued to the applicant before stoppage and recovery of SDA as such the said letter dated 28.6.2000 and 7.7.2000 are liable to be set aside and quashed.

Copy of the letter dated 28.6.2000 and 7.7.2000 are ~~of~~ annexed as annexures- 6 and 7 respectively.

4.5. That your applicant begs to state that a mere reading of the office memorandum dated 12.1.96 makes it abundantly clear that the applicant is eligible interms of the conditions laid down in para 3 of the O.M. dated

Bichitra Ram Medhi

dated 12.1.96 for grant of SDA. The recruitment Zone promotion Zone and the Cadre in which the applicant is serving is being as all India basis, moreover he was posted at Guwahati from outside the N.E. Region in public interest. Therefore, the sub-para 2 of the paragraph 6.7 is not applicable in the instant case of the applicant, therefore the Hon'ble Tribunal be pleased to declare that the O.M. dated 12.1.96 is not applicable in the instant case of the applicant.

Copy of the O.M. dated 12.1.96 is annexed
as Annexure - 8.

4.6. That in the facts and circumstances stated above Hon'ble Tribunal be pleased to set aside and quashed the impugned order 28.6.2000 and 7.7.2000 and further be pleased to declare that the applicant is entitle to payment of SDA. In a similar case of SDA, in O.A. No. 368/99 This Hon'ble Tribunal was pleased to stay the operation of the impugned orders.

Copy of the order of Hon'ble Tribunal in
O.A. 368/99 is enclosed as Annexure - 9.

4.7. This application is made bonafide and for the ends of justice.

5. Grounds for relief with legal provisions.

5.1 For that applicant is saddled with the All India Transfer Liability interms of 1.12.83, 1.12.88 and 22.7.98 as such he is entitle to payment of SDA.

Bichitra Ram Medhi

- 5.2. For that the applicant is eligible for grant of SDA in terms of classification govern by the Govt. of India, Department of Expenditure, Ministry of Finance, New Delhi in paragraph 3 of the said O.M.
- 5.3. For that the impugned order of stoppage and recovery dated 28.6.2000 and 7.7.2000 has been issued in total violation of Principles of Natural justice.
- 5.4. For that the impugned order led to Civil consequences as such the same are liable to be set aside and quashed.

6. Details of remedies exhausted.

The applicant states that he has no other alternative or other efficacious remedy than to file this application before this Hon'ble Tribunal for protection of his valuable right.

7. Matters not previously filed or pending before any other Court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application writ petition or suit is pending before any of them.

Bichitra Ram Medhi

8. Reliefs sought for :

8.1. That the Hon'ble Tribunal be pleased to set-
aside and Quash the impugned ~~letter dated 28.6.00~~
impugned letter dated 28.6.2000 (Annexure - 6)
and letter impugned letter dated 7.7.2000
(Annexure - 7).

8.2. That the Hon'ble Tribunal be pleased to declare
that the applicant is entitled to payment of
SDA intems of O.M. dated 14.12.83, 12.1.88,
22.7.88 and also intems of clarification issued
under O.M. dated 12.1.96.

8.3. That the respondent, be directed to continue
to pay SDA to the applicant intems of O.M.
dated 14.12.83, 12.1.88 and 22.7.98.

8.4. To pass any other order or orders as deem fit
and proper.

8.5. Cost of the case.

9. Interim order prayed for :

During the pendency of the case the applicant
prays for the following reliefs.

9.1 That the Hon'ble Tribunal be pleased to stay
the operations of impugned letter dated 28.6.2000
(Annexure - 6) and letter dated 7.7.2000
(Annexure - 7).

Bichitra Sam Medhi

10.

This application has been filed through advocate.

11. Particulars of I.P.O.

- i. I.P.O. No. : 26 597303
- ii. Date of Issue: 12-7-2008
- iii. Issued from : G.P.O. Guwahati.
- iv. Payable at : G.P.O. Guwahati.

12. List of enclosures.

As stated in the Index.

Verification.....10

Bichitra Ram Medhi

V E R I F I C A T I O N

I, Shri Bichitra Ram Medhi, son of late
H.R. Medhi, Scientist 'C' office of the Director ETDC,
Guwahati applicant in the above case do here by verify
and declare that the statements made in paragraph
1 to 12 are true to my knowledge and I have not suppressed
any material fact.

I sign this verification today on 12th day of
July'2000 at Guwahati.

Bichitra Ram Medhi
Signature.

No. 2(9)89-PA

Government of India/Bharat Sarkar
 Department of Electronics/Electroniki Vibhag
 STQC Directorate/STQC Mahanideshalaya
 C-91, South Extension Part II
 New Delhi - 110 049

Dated the 26th July '89

To,
 Sh. Bichitra Ram Medhi
 Vill. Digheli
 Post Office Bardigheli
 Dist. Nalbari-781335 (Assam)

E. R. T. L (EAST)	
CALCUTTA	
No.	2083
Date	31/7/89
Signature	Shushar

OFFER OF APPOINTMENT

Dear Sir/Madam,

I am directed to inform you that on the basis of interview you had with the Selection Committee on 7th, 8th and 9th Sep 88 at New Delhi, it has been decided to offer you appointment as Scientist/Engineer " SC " Grade in the scale of pay of Rs. 2200-4000, on the terms and conditions set out hereunder:-

(a) Your initial pay in the above pay scale will be Rs. 2200/- and you will in addition be eligible to draw the usual allowances admissible under the rules and orders in force from time to time. The initial pay and the grade offered is based on an evaluation of your qualifications, experience, performance in interview, etc. and no claim for higher pay or higher grade or premature promotion will be entertained. In case, however, you are already in Government Service, your pay shall be fixed in accordance with the normal rules.

(b) You will be on probation for a period of one year from the date of your appointment, which may be extended at the discretion of the Competent Authority. During the period of probation, your services will be liable to be terminated without notice or without assigning any reason therefore, if your performance is found to be not satisfactory or if the Government is satisfied that you were ineligible for recruitment to the post in the first instance itself. You will be entitled to draw annual increments only after satisfactory completion of the period of probation. You will not be eligible to draw increments for any extended period of probation.

(c) After the successful completion of the period of probation, you will be treated as a regular temporary Government Servant and your services are liable to be terminated at any time by one month's notice given by either sides, namely, the employee or the appointing authority, without assigning any

12

reason thereof. The appointing authority, however, reserves the right for terminating your services forthwith or before the expiry of the stipulated period of notice by making payment to you of a sum equivalent to the pay and allowances for the period of notice or unexpired portion thereof.

(d) Your appointment is subject to your being found medically fit for appointment to the post. In case this offer is acceptable to you, you should contact **Director Health Services Govt of Assam, Cowhatl** for your medical examination immediately.

A copy of letter, arranging for your medical examination by a Competent Medical Board, is enclosed. You should obtain a provisional certificate of medical fitness from the Board, which you shall be required to produce before joining your duty in this Department.

(e) You will not be entitled to draw any travelling allowance for joining the appointment unless you are holding substantively a permanent appointment under the Central Government or a State Government or are employed under the Central Government in a temporary capacity and hold a declaration of Quasi-Permanency under the provisions of Central Civil Services (Temporary Service) Rules, 1949/1965.

(f) In accordance with the orders in force in regard to the recruitment to service under the Government of India, no person who has entered into or contracted a marriage with a person having a spouse living or who having a spouse living, has entered into or contracted marriage with any person, is eligible for an appointment under the Government of India, provided that the Government may, if they are satisfied, that there are special reasons for doing so, exempt any person from the operation of this rule. This offer of appointment is, therefore, conditional upon your satisfying the declaration in ANNEXURE to this letter, alongwith with your acceptance letter. If, however, you have more than one spouse living and desire to be exempted from operation of the above mentioned rule for any special reason(s), you should make a representation in this behalf immediately. This offer in that case should be treated as cancelled and a further communication will be sent to you in due course, if upon consideration of your representation, it is decided to offer you the appointment.

(g) You will also be required to take an oath of allegiance to the Constitution of India (or make a solemn affirmation to that effect) and also an oath of secrecy in the prescribed form on your appointment.

(h) The appointment carries with it the liability to serve anywhere in India or abroad.

(i) You will be required to join contributory Provident Fund (CPF) during the period of probation and, on completion of probation, you will be required to opt either to retain CPF benefits or to switch over to General Provident Fund (GPF) and pensionary benefits. Such option will have to be exercised within a period of three months of completion of probation. In case, however, you are already contributing to GPF, you will continue to subscribe to GPF only.

(j) Your appointment will be further subject to your producing the following documents:-

(1) Documentary evidence regarding date of birth, nationality, educational qualifications, previous experience, etc. (Original Certificates and certified true copies of such documents).

(2) In case you claim to be (i) a member of Scheduled Caste or Scheduled Tribe, (ii) an Ex-servicemen, or (iii) a handicapped person; documentary evidence in support thereof.

(3) A certificate regarding your release from your present employer after resigning from the present job (in case you are employed now in service other than Government service). The Department of Electronics do not permit their employees to hold a lien in service with any semi-Government/Public/Private Organisation.

(4) Communication in writing whether you have applied for any appointment or a scholarship/fellowship elsewhere or appeared for a competitive examination for admission to a service and if so, your undertaking to withdraw all such applications immediately, copies of such correspondence being endorsed to this Department for record.

(5) An undertaking that you will not apply for any post or scholarship/fellowship elsewhere without the prior permission obtained in writing from the competent authority.

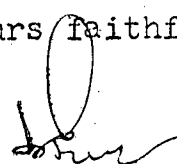
(k) You should intimate whether you are already under obligation to serve a Central Government Department/Organisation/State Government/Public Authority. If so, you should produce a 'NO OBJECTION' certificate from the authorities concerned to your accepting this offer of appointment.

(L) You shall be governed by the terms and conditions of service, under the relevant rules and orders in force in the Department of Electronics from time to time.

2. If this offer of appointment is acceptable to you on the aforesaid terms and conditions, you are requested to communicate your acceptance in writing on or before 21.8.89 (in the enclosed form). If you accept this offer of appointment, you should report for duty at ERTL (East) Calcutta immediately and in any case not later than 4.9.89 before 11.00 a.m. on any working day, after satisfying the conditions mentioned in para. (d) above.

- 14
- 4
3. If you fail to convey your acceptance of this offer or after acceptance if you fail to report for duty by the date mentioned above, this offer will be automatically treated as cancelled, and you will not therefore be considered for appointment on the result of the above interview.

Yours faithfully,


(L. N. MEHTA)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

TELE:

6462637

Encl: 1. Letter of Acceptance
2. Declaration regarding Marital status
3. Copy of letter addressed to Competent Medical Authority.

Copy: For Personal File alongwith application to

✓ DD(Admn.) ERTL (East) P-I Tarapolla Road, Calcutta.

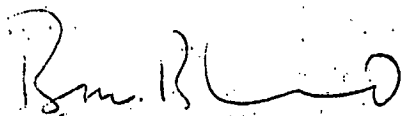
E.T.D.C.
Gauhati.
Dy. Dir. 28/1/91

GOVT. OF INDIA
DEPARTMENT OF ELECTRONICS
ELECTRONICS REGIONAL TEST LABORATORY (EAST)
DN BLOCK, SECTOR-V, SALT LAKE CITY
CALCUTTA-700091

OFFICE ORDER NO. 91/12

Consequent upon his transfer to ETDC, Gauhati, vide STQC, DOE No. 10(4)/90-PA dt. 20.12.90, Sri B.R. Medhi, Scientist/Engr 'SC' of this Laboratory is relieved of his duties from the post of Scientist/Engr 'SC' in this Lab. w.e.f. 31.1.91 (A/N) and is directed to report for duties to Director, ETDC, Gauhati accordingly.

TA/DA/other entitlements and joining time as per rules are admissible to him.


(B.M. Bhattacharyya)
Dy. Director (Admn.)

No. ERTL(E)/Admn./PF/M.22/8178(11)

Dt. 22.1.91

Copy for information to :

1. Director General, STQC Dte., New Delhi-110049.
2. Director, ETDC, Gauhati.
3. Pay & Accts. Officer, DOE, New Delhi-110003.
4. Sh. B.R. Medhi, Scientist/Engr 'SC' - He is requested to submit 'no dues certificate' from all concerned.
5. Accounts Section(Local) - to issue L.P.C.
6. Admn. (Est) - to forward S.B. duly completed.
7. Personal file of Sh. B.R. Medhi, Scientist/Engr 'SC'
8. Computer Section.
9. Office Order file
10. Caretaker-cum-Security Supervisor.
11. Head Tech. Wing
12. Spares.

No. 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 - 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 facilities admissible to the various categories of Civilian Central 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.

x x x x x x x x x x x x

ii) Weightage for Central deputation/training abroad and special mention in Confidential Records.

x x x x x x x x x x x x

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% 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 exempted from payment of Income Tax will, however, not be

Contd...

- 27 -

Annexure-3 (Contd)

~~Annexure-7 (Contd.)~~

eligible for this Sepcial (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and the deputation 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, Construction Allowance and Project Allowance will be drawn separately.

x x x x x x x

x x x x x x x

x x x x x x x

x x x x x x x

88// - S.B. MAHALIK

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

18-47-

Annexure - 4

-30-

~~Annexure - 8~~

-28-

Annexure-2 (Extract)

F.No. 20014/16/86/E.IV/E.II (D)
Govt. of India, Ministry of Finance,
Department of Expenditure

New Delhi the 1 Dec 1988

OFFICE MEMORANDUM

Subject : Improvements and facilities for Civilian Employees of the Central Govt. serving in the States of North Eastern Region, Andaman Nicobar and Lakshadweep

The undersigned is directed to refer to this Ministry's O.M. No. 20014/3/83-E.IV dated 14th December, 1983 and 30th March, 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Government employees posted in North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Government Accordingly the President is now pleased to decide as follows :

- i) x x x x x x x
- ii) x x x x x x x
- iii) Special Duty Allowance.

The Central Govt. Civilian Employees who have All India Transfer Liability will be granted Special (Duty) Allowance at the rate of 12% of basic pay subject to ceiling of Rs.1000/- per month on posting to any station in the North Eastern Region. 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 allowance will not exceed Rs. 1000/- p.m. Special allowance like special compensatory (Remote locality) allowance, Construction Allowance and Project Allowance will be drawn separately.

The Central Govt. civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant of special (Duty) Allowance under this para and are exempted from payment of Income-Tax under the Income-Tax Act will also draw Special (Duty) Allowance.

x x x x x x
xxxxxxxxxxxx

Sd/- Illegible

Forwarded for information
and necessary action.

F. No. 11(2)/97-E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

(H. VENKATARAMAN)
SR. ADMINISTRATIVE OFFICER
(AUDIT RULES)

New Delhi, Dated July 22, 1998.

OFFICE MEMORANDUM

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands — Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid.* were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86/E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows :

(i) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(ii) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(iii) Special [Duty] Allowance

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special [Duty] Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

(iv) Special Compensatory Allowances

Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Remote Locality Allowance, Bad Climate Allowance, Tribal Area Allowance, Composite Hill Compensatory Allowance, etc., which are location-specific, have either been separately issued or are under issue based on the Government decisions on the recommendations of the Fifth Central Pay Commission relating to these allowances. These orders shall apply to the eligible Central Government employees posted in the specified localities in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands, depending on the area(s) of their posting and subject to the observance of the terms and conditions specified therein. Such of those employees who are entitled to the Special [Duty] Allowance or the Island [Special Duty] Allowance shall also be entitled, in addition, to the Special Compensatory Allowance(s) as admissible to them in terms of these separate orders.

Central Government employees entitled to Special Compensatory Allowances, separate orders in respect of which are yet to be issued, will continue to draw such allowances at the existing rates with reference to the 'notional' pay which they would have drawn in the applicable pre-revised scales of pay but for the introduction of the corresponding revised scales till the revised orders are issued on the basis of the recommendations of the Fifth Central Pay Commission and the Government decisions thereon.

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(vi) Travelling Allowance for Journeys on Transfer; Road Mileage for Transportation of Personal Effects on Transfer; Joining Time with Leave

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable.

(vii) Leave Travel Concession

In terms of the existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, the following options are available to a government servant who leaves his family behind at the old headquarters or another selected place of residence, and who has not availed of transfer travelling allowance for the family :

(a) the government servant can avail of the leave travel concession for journey to the Home Town once in a block period of two years under the normal Leave Travel Concession Rules;

OR

(b) in lieu thereof, the government servant can avail of the facility for himself/herself to travel once a year from the station of posting to the Home Town or the place where the family is residing and for the family [restricted only to the spouse and two dependent children of age up to 18 years in respect of sons and up to 24 years in respect of daughters] also to travel once a year to visit the government servant at the station of posting.

These special provisions shall continue to be applicable.

In addition, Central Government employees and their families posted in these territories shall be entitled to avail of the Leave Travel Concession, in emergencies, on two additional occasions during their entire service career. This shall be termed as "Emergency Passage Concession" and is intended to enable the Central Government employees and/or their families (spouse and two dependent children) to travel either to the home town or the station of posting in an emergency. This shall be over and above the normal entitlements of the employees in terms of the O.M. dated December 14, 1983, and the two additional passages under the Emergency Passage Concession shall be availed of by the entitled mode and class of travel as admissible under the normal Leave Travel Concession Rules.

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependent children [up to 18 years in respect of sons and up to 24 years in respect of daughters] will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Lilabari/Silchar in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Madras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

(vii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rules of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt. (Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees In Occupation of Hired Private Accommodation

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting

As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependants of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

6. Hindi version will follow.

Accounted by
Bhawan (G)
19/8/97

N. Sunder Rajan

(N.SUNDER RAJAN)

Joint Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and Administrator, Lakshadweep.

22 Annexure - 6

SPEED POST

(3)



भारत सरकार
सूचना प्रौद्योगिकी मंत्रालय
मानकीकरण परीक्षण तथा गुणवत्ता प्रमाणन निदेशालय
इलेक्ट्रॉनिक्स निकेतन
6, सीजीओ कॉम्प्लेक्स, नई दिल्ली-110003

तार : गुणवत्ता
Gram : GUNVATTA
Tele. : +91 (11) 4364757
+91 (11) 4364767
Fax : +91 (11) 4363083

GOVERNMENT OF INDIA
MINISTRY OF INFORMATION TECHNOLOGY
STANDARDISATION, TESTING & QUALITY CERTIFICATION DIRECTORATE

E-mail : Stqchq@Xm.doe.ernet.in
ELECTRONICS NIKETAN

6, CGO COMPLEX, NEW DELHI-110003

8(1)/2000-PA.

28.06.2000

संख्या/No.

दिनांक/Dated.....

To

✓ The Director,
ETDC, Guwahati.

Sub : Notice for Starred Question Dy. No.005378 dated 18.04.2000 for Special Duty Allowance (SDA).

Sir,

I am directed to refer to your letter No. ETDC(GUW)/0600/2000 dated 23.05.2000 on the subject cited above and to forward herewith a copy of each D.O. No. 11(28)/97-E.II(B) dated ~~12.01.96~~ and O.M. No.11(3)/95-E.II(B) dated 12.01.96 of Ministry of Finance regarding Special Duty Allowance to Civilian Employees.

2. The amount paid to Shri B.R. Medhi, Scientist 'B' may be recovered as per the instructions contained in sub para (ii) of para 7 of the above O.M. dated 12.01.96 and send the information regarding details of amount and installments in which amount is to be recovered.

This issues with the approval of Competent Authority.

Adesfal
Adi.

Yours faithfully,

(R. SORENG)
Section Officer

23

Annex - 7



भारत सरकार इलेक्ट्रॉनिकी विभाग
GOVERNMENT OF INDIA DEPARTMENT OF ELECTRONICS
 मानकीकरण, परीक्षण एवं गुणवत्ता प्रमाणीकरण निर्देशालय
 Standardisation Testing and Quality Certification Directorate
 इलेक्ट्रॉनिकी परीक्षण तथा विकास केन्द्र
ELECTRONICS TEST & DEVELOPMENT CENTRE
 गणेशगुरी चारआली, दिसपुर, जी. एस. रोड, गुवाहाटी - ७८१ ००६
 Ganeshguri Chariali, Dispur, G. S. Road, Guwahati - 781 006

Tel : (0361) 221502
 540539
 Fax : (0361) 540539

क्रमांक Ref. No. ETDC(GUW)/0600/Vol.II/2000

दिनांक Date.....07-07-2000

To
 Shri B.R. Medhi
 Scientist 'C'
 Electronics Test & Development Centre
 Ganeshguri Chariali
 Guwahati: 781 006

Sub: Notice for starred question Dy.No.0053 dt. 18-04-2000 for Special Duty Allowance.

Sir,

As directed by the Competent Authority vide STQC HQR's letter No. 8(I)/2000-PA Dt. 28-06-2000 & No. 8(I)/2000-PA dt. 05-07-2000 on the above mentioned subject, you are not entitled to payment of Special Duty Allowance. The special duty allowance drawn by you from 20-09-94 to till date is calculated as Rs.63,189/- (Rupees sixty three thousand one hundred & eighty nine) only, the same will be recovered from you salary @Rs.1,000/- P.M. commencing from August, 2000. This is for your kind information.

Yours faithfully

(A.DUTTA)

Admn-Cum-Accounts Officer

Copy to:

1. The Director General, STQC Directorate, Ministry of Information Technology, New Delhi [Kind attn.: Jt. Director (Admn.)] with refer to STQC HQR letters mentioned above, for kind information & necessary action.

Handwritten signature and stamp

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 OM No. 20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No. 20014/16/86-E.IV/E.II(B) dt. 1.12.88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM 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 OM dt. 20.4.1987 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/Departments 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 submissions 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 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 issued in consultation with the Comptroller and Auditor General of India.

10. Hindi version of this OM is enclosed.

(C. Balachandran)

Under Secy to the Govt of India

All Ministries/Departments of the Govt. of India, etc.
Copy (with spare copies) to C&AG, UPSC etc. as per standard endorsement list.

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI


ORDER SHEET
APPLICATION NO. 368/99 OF 199

Applicant(s) Sri Saitenaba Kc. Sharma.

Respondent(s) Union of India road nos.

Advocate for Applicant(s) Mr. J. L. Sarkar. Mr. M. Chandra.
Mrs. N. D. Goochani, Mr. G. N. Chandra
bary.

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

Notes of the Registry	Date	Order of the Tribunal
	17.11.99	<p>Present : Hon'ble Mr Justice D.N.Baruah, Vice-Chairman and Hon'ble Mr G.L.Sanglyine, Administrative Member.</p> <p>Heard Mr J.L.Sarkar, learned counsel for the applicants and Mr B.S.Basumatary, learned Addl.C.G.S.C for the respondents.</p> <p>Eleven applicants have filed this application jointly with a prayer to allow them to join in this single appli- cation under the provisions of Rule 4(5) (a) of the Central Administrative Tri- bunal (Procedure) Rules 1987.</p> <p>perused the application. Application is admitted. Issue notice on the respon- dents by registered post. Written state- ment within four weeks.</p> <p>List on 20.12.99 for written state- ment and further orders.</p> <p>Mr Sarkar prays for an interim order.</p>

contd..

Notes of the Registry	Date	Order of the Tribunal
17.11.99 CO/70	17.11.99	<p>Mr. Basumatary submits that he has no instruction. Issue notice on the respondents to show cause as to why the interim order as prayed for shall not be granted.</p> <p>List on 20.12.99 for filing reply to the show cause and further orders. In the meantime the operation of Office Memorandum No.A-46011/3/94-O.M.(Vol.III) dated 1.11.1999 (Annexure-8) and No.1 (76)ACCTTS/ASM/99 dated 5.11.1999 (Annexure-9) shall be kept in abeyance until further orders.</p>

SD/- VICE-CHAIRMAN

SD/- MEMBER (A)

Certified to be true Cop.
प्रमाणित प्रतिलिपिDeputy Registrar (A)
Central Administrative Tribunal
Gurgaon Branch
18/11/99