

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

10

(DESTRUCTION OF RECORD RULES, 1990)

M.P-39/08 ordersheet pg-1 to 5 **INDEX**

desposet date-05/02/2009

Judgment Copy pg-1 to 3

O.A/T.A No. 116/2000

R.A/C.P No.

E.P/M.A No. 39/08

1. Orders Sheet. OA-116/2000 Pg. 1 to 3
2. Judgment/Order dtd. 20/12/2000 Pg. 1 to 2 *all over*
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 116/2000 Pg. 1 to 38
5. E.P/M.P. 39/08 Pg. 1 to 28
6. R.A/C.P. Nil Pg. to
7. W.S. Nil 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. Amendement Reply by Respondents.
15. Amendement Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 110/2000 OF 199

Applicant(s) *Smt. Helen Basumatary and o/s.*

Respondent(s) *Union of India and o/s.*

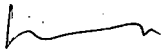
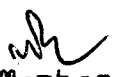
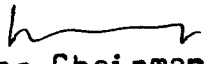
Advocate for Applicant(s) *Mr. J. L. Sarkar*
Mrs. S. Deka.

Advocate for Respondent(s) *Shri. C. G. S. L. Mrs. M. Das*

Notes of the Registry	Date	Order of the Tribunal
<p>Application No. 110/2000 Filed within time C. F. of Rs. 50/- Deposited vide IPO No. 456/169 Dated 8.2.2000</p> <p><i>AM 12/3/2000</i> <i>AS 23/3/2000</i></p> <p>Copy of this order be furnished to the learned counsel for the parties</p> <p>By order</p>	<p>24.3.2000</p> <p>mk <i>AS 27/3/2000</i></p> <p>26.4.00</p>	<p>Issue notice on the respondents to show cause as to why the application should not be admitted. Returnable on 26.4.2000.</p> <p>Pending consideration of admission, the respondents are directed to keep in abeyance the operation of the order dated 9.7.1998, 12.10.1998, 22.9.1998, 17.5.1999 and 12.5.1999.</p> <p>List on 26.4.00 for further orders.</p> <p><i>62</i> Member</p> <p>Mr.M.Chanda learned counsel on behalf of Mr.J.L.Sarkar learned counsel for the applicant prays for adjournment. List on 28.4.00 for consideration of Admission.</p> <p><i>62</i> Member</p>

OA. 110/2000

Notes of the Registry	Date	Order of the Tribunal
<p><u>30.3.2000</u></p> <p>Notice has been prepared and sent to D/s for issuing to the parties.</p> <p>AS Vide D.Nos. 30/3/2000 955 to 957 Dtd. 30.3.2000.</p> <p>28/4</p> <p>Pl. camp.</p> <p>2-5-00</p> <p>Notice issued vide the Regd order Dtd. 28.4.2000</p> <p>Vide D.No-1300 to 1302 Dtd. 4.5.2000.</p> <p>31.5-00</p> <p>3.5.2000 Notice duly served on R.No. 3.</p> <p>9.5.2000 Notice duly served on respondent No 2.</p> <p>6-11-2000</p> <p>No. written statement has been filed by the respondents.</p> <p>7.11.00</p> <p>Ne. WLS has been filed.</p> <p>5.12.2000.</p>	<p>28.4.00</p> <p>lm</p> <p>31.5-00</p> <p>28.6-00</p> <p>27.7-00</p> <p>30.8-00</p> <p>7.11.00</p>	<p>No copy has been submitted.</p> <p>Heard Mr. J.L. Sarkar 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 on the respondents by registered post. List on 31.5.00 for written statement and further orders.</p> <p>Mr. J.L. Sarkar learned counsel prays for an interim order. Heard counsel for both sides. The operation of the orders dated 9.7.1998, 12.10.1998, 22.9.1998 17.5.1999, 12.5.1999 shall be kept in abeyance until further orders.</p> <p>Member</p> <p>There is no Bench today. Adjourned to 28.6.00.</p> <p>There is no Bench today. Adjourned to 27.7-00.</p> <p>There is no Bench. Adjourned to 30.8-00.</p> <p>No Bench. Adjourned to 7.11-00.</p> <p>Four weeks further time allowed for filing of written statement on the prayer of Mr. B.S. Basumatary, learned Addl. C.G.S.C.</p> <p>List on 6.12.00 for order.</p>

Notes of the Registry	Date	Order of the Tribunal
	6.12.00	<p>Four weeks time is granted to the respondents to file written statement.</p> <p>List on 8.1.2001 for written statement and for further orders.</p> <p> Vice-Chairman</p>
mk	20.12.00	<p>Judgment and orders pronounced in open Court. Kept in separate sheets. Application is allowed. cf. No order as to costs.</p> <p> Member</p> <p> Vice-Chairman</p> <p>1m</p> <p>VB 27/12</p>

Notes of the Registry	Date	Order of the Tribunal
<p> <i>[Faint, mostly illegible text in the first column, possibly bleed-through from the reverse side of the page.]</i> </p>		

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Misc. Petition No.39 of 2008 in
(O.A. 110 of 2000 disposed of on 20.12.2000)

Date of Order: This, the 5th Day of February, 2009

HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

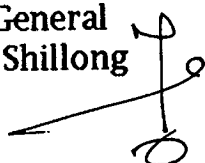
1. Smt. Sheela T.K., Sister
15 Assam Rifles, C/o 99 APO
Applicant, No.2 in O.A.No.110/2000.
2. Smt. Shanti Rana, Sister
46 Assam Rifles, C/o 99 APO
Applicant, No.3-in O.A.No.110/2000.
3. Smt. Sandhya Bhattacharyee
2MGAR, C/o 99 APO
Applicant, No.5 in O.A.No.110/2000.
4. Smt. Puspa Kalita, Aya
46 Assam Rifles, C/o 99 APO
Applicant, No.8 in O.A.No.110/2000.
5. Niva Hiloidhari, Female Attendant
46 Assam Rifles, C/o 99 APO
Applicant, No.7-in O.A.No.110/2000.
6. Smt. Lekh Maya Chhetri
Female Attendent
26 Sector, C/o 99 APO
Applicant, No.15 in O.A.No.110/2000.
7. Smt. H Adahra Mao Hepuni
S. Nurse, 42 Assam Rifles
Applicant, No.12 in O.A.No.110/2000.

..... Applicants

By Advocates : Dr. J.L. Sarkar & Mrs. S. Deka.

-Versus-

1. Union of India
Represented by the Secretary
Govt. of India, Ministry of Home Affairs
North Block, New Delhi-1.
2. The Secretary to the Govt. of India
Ministry of Finance
Department of Expenditure
North Block, New Delhi-1.
3. The Director General
Assam Rifles, Shillong



Meghalaya, Shillong-1.

..... Respondents

(By Advocate: Mrs. M. Das, Addl. C.G.S.C.)

ORDER (ORAL)
05.02.2009

MANORANJAN MOHANTY, (V.C.) :

Heard the learned counsel appearing for both the parties.

2. By their communication dated 09.07.2008, A Branch (Pers Sec) under the signature of the Lt. Col. Rajeev Kumar, SO-1(A) intimated the Law Branch as under:-

"1. Ref your ION No.1.11018/89/2001 Law/907 dated 07 July 2008.

2. MHA in principle has agreed to give SDA to the pers listed misc case No.3B/2008 in OA No. 406/2000, case No.39/08 in OA No.110/2000 misc case No.40/08 in OA No.328/99 (total 103 pers).

3. It is submitted that these 103 pers have either move out on posting to different units or proceeded on pension Calculation of arrears is a huge task and this Dte is presently doing the same on priority.

4. It is therefore requested that an extension of min six weeks be taken to implement the same and file compliance report."

3. It is stated on behalf of the Respondents that current payment of SDA are being made to the Applicants and that steps were being taken to release the arrears at the earliest.

4. In the aforesaid premises, this M.P. is, hereby, disposed of with direction to the Respondents to release the Special Duty Allowances regularly in favour of the Applicants and clear the arrears, if not already cleared, by end of March, 2009 and furnish a detailed compliance report by end of April, 2009.



5. Send copies of this order to the Respondents by post in the address given in the O.A. and free copies of this order be supplied to the counsel appearing for both the parties.

Y. Patel
05/02/09
(MANORANJAN MOHANTY)
VICE CHAIRMAN

/BB/

42

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~xxx~~. No. 110 of 2000, ~~xx~~ 406 of 2000,
O.A.No. 402 of 99 and 328 of 99.

DATE OF DECISION 20.12.2000

Smti Helan Basumatary, & 16 others.

PETITIONER(S)

O.A. 110/00 J.L.Sarkar, Mrs.S.Deka, O.A.406/00, Mr.J.L.Sarkar
Mrs.S.Deka. O.A. 402/99 Mr.M.Chanda, Mrs.N.D.Goswami, Mr.G.N.Chakraborty
in O.A.No.328 of 98 Mr.J.L.Sarkar, Mrs.S.Deka.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

110/2000 Mr.B.S.Basumatary, Addl.C.G.S.C. and
in three others Mr.A.Deb Roy, Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

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

THE HON'BLE MR.M.P.SINGH, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Hon'ble VICE-CHAIRMAN

49

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Date of Order: This the 20th Day of December 2000.

HON'BLE MR. JUSTICE D.N. CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR. M.P. SINGH, ADMINISTRATIVE MEMBER

O.A. NO. 110 of 2000

1. Smti Helan Basumatary,
& 16 others.
Assam Rifles Administrative Superintendent Unit
in application No. 1 to 10 and Applicant No. 11 to 17
are working in No. Construction Cy. (Medical Inspection
Room) Assam Rifles, Happy Valley Shillong.

.. Applicants.

By Advocate Mr. J.L. Sarkar and Mrs. S. Deka.

-Vs-

1. Union of India & Ors.

.. Respondents.

By Advocate Mr. B.S. Basumatary, Addl. C.G.S.C.

O.A. No. 406 of 2000

1. Smti Arupa Bordoloi and 13 others.

The applicants are working in 8 Assam Rifles under
Respondent No. 2.

.. Applicants.

By Advocate Mr. J.L. Sarkar and Mrs. S. Deka.

-Vs-

1. Union of India & Ors.

... Respondents.

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O.A. No. 402 of 1999

1. Mrs. Shasi Malra
Medical Officer
20 Assam Rifles,
Samsai
Dist. Ukhrul, Manipur.

... Applicant.

By Advocate Mr. M. Chanda, Mrs. N.D. Goswami,
Mr. G.N. Chakraborty.

-Vs-

1. Union of India & Ors.

... Respondents.

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O.A. No. 328 of 1998.

1. Md. M.A. Siddiqui and 70 others.
Under Assam Rifles in different places.

By Advocate Mr. Mr.J.L.Sarkar Mrs.S.Deka.

-Vs-

1. Union of India & Ors. Respondents.

By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.


O R D E R.

D.N.CHOUDHURY, J, VICE-CHAIRMAN:

Heard Mr.J.L.Sarkar learned counsel for the applicant and Mr.A.Deb Roy, Sr.C.G.S.C. for the respondents.

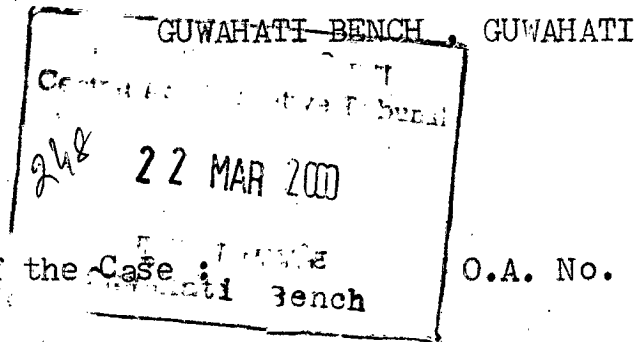
It has been stated at the bar that all these cases are squarly covered by the Judgment & Order dated 19.12.2000 in O.A.No.203 of 98 and series of OAs, these applications are allowed, there shall, however be no order as to costs.


(M.P.SINGH)
ADMINISTRATIVE MEMBER


(D.N.CHOUDHURY)
VICE-CHAIRMAN

LM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL



O.A. No. 110 /2000

Smt Helan Basumatry & Ors

. . Applicants.

-versus-

Union of India & Ors.

. . Respondents.

I N D E X

Sl. No.	Annexure	Particulars of documents	Page No.
1.	-	Application	1-17
2.	-	Verification	18
3.	1	Copy of the O.M. dated 14.12.83(Extract) issued by Ministry of Finance, New Delhi.	19-20
4.	2	Copy of O.M.dated 12.1.96 issued by the Ministry of Finance, New Delhi.	21-22
5.	3	Copy of O.M.dated 3.3.86 issued by the Ministry of Home Affairs, New Delhi.	23
6.	4	Copy of circular dated 2.2.89 issued by the Ministry of Home Affairs New Delhi.	24-25
7.	5	Copy of letter dated 6.6.99 issued by the Directorate General, Assam Rifles. Shillong.	26-27
8.	6	Copy of Ministry of Home Affairs letter dated 9.7.98.	28

45
Filed by the Applicants
Through - Jm's Clerk
Advocate
22.3.2000
Jm's Clerk

Sl.No.	Annexure	Particulars of documents	Page No.
9.	7	Copy of letter dated 18.8.98. issued by DG, Assam Rifles, Shillong.	29
10.	8	Copy of letter dated 20.8.93 issued by the DG, Assam Rifles, Shillong.	30-31
11.	9, 10, 11 and 12	Copies of the Ministry of Home Affairs letters dated 22.9.98, 12.10.98 and letters dated 12.05.99 and 17.05.99.	32, 33, 34, 35
12.	13	Copy of Communication dated 18.6.99	36
13.	14	Copy of Hon'ble Tribunal's Order dated 26.8.98 passed in O.A. No. 225/98	37-38

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO. 110 2000.

17
Filed by the Applicants
through State Deva
Advocate
22.3.2000.
Mamamally

BETWEEN

1. Smt Helan Basumatry, Staff Nurse
2. Smt Sheela T. K., Staff Nurse.
3. Smt Santi Rana, Staff Nurse.
4. Smt Vungkhanggai, ANM
5. Smt S. Bhattacharjee, F A
6. Smt Phuroiki Sherpani, F.A.
7. Smt Niva Hiloidhari, F. A.
8. Smt Puspa Kalita, AYA.
9. Smt Seni Tamang, AYA.
10. Smt Prema Jaishi, Aya.
11. Shri N. Das, Head Asstt.
12. Smt H. Adahra Mao Hepuni, Staff Nurse
13. Miss H. Chandrabati, Staff Nurse.
14. Smt . Chongniehtai, ANM
15. Smt Lekh Maya Chhetri, F.A.
16. Smt Meena Devi, AYA
17. Smt T. Noya Konyak, Aya

Applicant No 1 to 10 are working in Assam Rifles Administrative Superintendent Unit and Applicant No. 11 to 17 are working in No. Construction Cy. (Medical Inspection Room) Assam Rifles, Happy Valley Shillong.

. . . Applicants

Contd . . 3/-

A N D

1. Union of India

Through the Secretary to the
Government of India,
Ministry of Home Affairs,
New Delhi.

2. The Secretary,

Ministry of Finance,
Government of India,
New Delhi.

3. The Director General,

Assam Rifles, Shillong.

. . . . Respondents.

Details of Application :1. Particulars of the order against which the application is made

This application is made against the order of discontinuation of Special (Duty) Allowance (for short) SDA and recovery of the SDA already drawn with effect from 20.9.94, issued under letter No. A/1-A/P-RS/98 dated 18.8.93 from the Directorate General, Assam Rifles, Shillong, C/O 99 A.P.O., and order dated 12.5.99 and 17.5.99.

2. Jurisdiction :

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

3. Limitation :

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

Contd . . . 4/-

4. Facts of the Case

4.1. That the applicants are working in different capacities under the Director General of Assam Rifles and at present are posted at ^{Shillong} ~~Manipur~~ in different Units and unit Hqrs. There cause of action is same and they are low paid employees and as such pray before this Hon'ble Tribunal to allow them to move this application jointly under Rule 4(5)(a) of the Central Administrative Tribunals (procedure) Rules, 1987.

4.2. That the Government of India has 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 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. II.20014/3/83/E.IV dated 14.12.1983. Those who are covered by the scheme dated 14.12.1983 were given SDA with effect from 1.12.1983 in terms of para 3 of the said O. M. The period and rate of payment was subsequently modified from time to time. The Central Government Civilian Employees posted in North Eastern covered by the said O. M. dated 14.12.1983 were paid SDA in terms of the said O.M. It is stated that there were employees who were not given SDA and who approached the Hon'ble Central Administrative Tribunal got SDA. Thereafter the same was taken up to the Hon'ble Supreme Court in a number of cases. The Hon'ble Supreme Court decided on the entitlement of SDA as laid down in the O. M. dated 14.12.1983.

Contd . . . 2/-

An extract of the O.M. dated 14.12.1983 is annexed hereto and the same is marked as Annexure - I.

4.3. That after judgment of the Hon'ble Supreme Court, the Government of India, Ministry of Finance issued O. M. No. II(3)/95-R/II(B) dated 12.1.96 by which the payment of SDA has been regulated in the manner as indicated in para 6 of that O. M. referred above.

Copy of the Memo dated 12.1.1996 is annexed hereto and the same is marked as Annexure - 2.

4.4. That the Ministry of Home Affairs issued a letter to the Director General, Assam Rifles under No. II/11011/1/94-PP IV dated 3.3.86 informing that the personnel and civilian non-combatised officers/employees were not entitled to SDA as ~~SDA~~ envisaged in the O. M. dated 14.12.1983. Therefore, the applicants were not paid SDA intems of the O. M. dated 14.12.1983

A copy of the O.M. dated 3.3.1986 is enclosed as Annexure - 3.

4.5. That the Govt, of India, Ministry of Home Affairs was seized with the matter of improving the conditions of the services of the Assam Rifles personal particularly in the matter of grant of SDA and special Compensatory (Remote-Locality) Allowance to Assam Rifles personnel posted in the States and

Contd . . . 6/-

Union Territories of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep and 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, 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 of India with effect from 7.11.88. As regards the non-combatised civilian employees, the sanction of the President indicated as under. The employees fall in this category.

Category of personnel
Entitled allowance

Particulars of O.M. 's
regulating the allowance.

i) Special(Duty) Allowance
Combatised personnel
(including Cadre Officers)
in battalions of Assam Rifles
and the combatised personnel
(including Cadre Office) in
static formations (such as
offices of DC, 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 O.M.
No. II.200014/3/83 R. IV
dated 14.12.1983 as amended
from time to time, read
with their O.M.No.P.20014/
3/83 R.IV dated 29.10.86
and their O.M.No.P.20014/1/
3/83 E.IV dated 15.7.99
and Min. of Fin.O.M.No.
P.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-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 D.G. IGP, DIG, Range Hqrs. Training Centre etc. and other group (Maintenance Groups, workshops etc), of Assam Rifles.	same as above. (This is modification of the sanction issued vide item (3) of MHA letter No.11011/1/84 PP.IV dated 3.3.86)
--	---

This letter dated 2.2.1989 stipulated improvement in the condition of service of Assam Rifles employees and this decision is a clear and considered decision modifying earlier order by which your humble applicants were not given the said SDA. The decision to grant SDA to the applicants as sanctioned by the President of India communicated to the Director General, Assam Rifles, Shillong by circular dated 2.2.1989 which is a distinct decision as regards the Assam Rifles employees and as such this is a special provision as regards the Assam Rifles only as distinguished from other Central Govt. civilian employees. Your humble applicants beg to state that this distinction has always 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 that while the other civilian Central Government employees were paid SDA with effect from 1.11.83.

Your applicants have been granted the SDA for Assam Rifles with effect from 7.11.1988.

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

4.6. That the pay & Accounts Office, Assam Rifles, Shillong was raising questions regarding payment of SDA to Your humble 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 Joint Secretary, Ministry of Home Affairs explaining the entitlement of SDA to Civilian Employees of Director General, Assam Rifles, Shillong under letter No. A/I-A/242/98 dated 6.6.98. This letter discussed in detailed the entitlement of SDA to the Civilian Employees of Director General, Assam Rifles and also the matter of objection by the pay & Accounts Officer, Assam Rifles and to 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 Rifles) about the eligibility of SDA to civilian employees or Directorate General Assam Rifles, Shillong is not premised on the legal interpretation of extend Govt. orders cited above, which provide for a special dispensation to the non-combatised civilian personnel

Contd . . . 9/-

(including officers) in units as well as static formations including this Directorate. This Directorate therefore maintain 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.

4.7. That the Ministry of Home Affairs under their letter dated 9.7.98. while replying to the letter dated 6.6.98 of the Respondent No.3, informed the letter 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 ti in view of the orders of the Ministry of Finance dated 12.1.86. The respondent No. 3 therefore on 21.7.98 forwarded a copy of the said letter to the pay & Accounts Office, Assam Rifles for information and necessary action

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

4.8. That thereafter by their letter dated 18.8.98, the Director General, Assam Rifles, Shillong had intimated the General Secretary, A. R.(Civil) Employees Association, DGAR, Shillong that Pay & Accounts Office, Assam Rifles had 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 & Accounts office Assam Rifles had 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.

4.9. That the Civilians of Assam Rifles are receiving SDA on the sanction of the President under order dated 2.2.89 with effect from 7.11.88 and not from 1983 like other Central Government Employees. It is humbly stated that there ~~xxx~~ is no order modifying or cancelling the said order dated 2.2.1989. The Finance Ministry's letter dated 12.1.1996 in humble submission of the applicants had no application in the case of the present applicants. It is stated that the order in letter dated 12.1.96 applies only to cases who got SDA by orders of Courts. Those who have been getting SdA by decision of Govt. of India, departments are not affected by this letter. For example Group A Officers of the Govt. of India posted in North Eastern Region have been getting SDA irrespective of whether they have been appointed from outside N. E. Region or not. Those initially appointed in N. E. Region are also continuing to get SDA. They are not affected by letter dated 12.1.96. The applicants are getting SDA as per Govt. of India's decision and letter dated 12.1.96 is not attracted in their cases.. The Assam Rifles ^{Civilians} including the applicants form a separate class, as the Group A Officers also form a sepearte class and as such the matter of SDA for them has been dealt with seperately, and as such paid SDA.

4.10. 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 letter dated 20.8.98 is annexed hereto and marked as Annexure - 8.

4.11. That the applicants state that thereafter the Ministry of Home Affairs under their letter No. 22013/2/98-PP.IV dated 22.9.98 and No. 22012/10/97 - PP.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 letter dated 12.10.1998 and 17.05.1999 informing 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 state that the clarification given by the Ministry

Contd . . . 12/-

vide letter dated 20.08.98 and 12.05.99 is arbitrary and the direction for recovery 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 17.05.99 is unjustified. Therefore, the letters dated 22.9.98, 12.05.99 and 17.05.99 are liable to be set aside and quashed.

Handwritten signature

Copy of the aforesaid letter dated 22.09.98, 12.10.98 and letters dated 12.05.99 and 17.05.99 are annexed herewith as Annexures - 9, 10, 11 and 12 respectively.

4.12. That the applicants state that the office Memorandum dated 12.1.96 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 ~~14~~ 2.2.89 and it has got no link with O.M. dated 14.12.83, 12.1.86 or 22. 7.98 through which SDA was granted to other Central Govt. Civilian Employees. Therefore the Hon'ble Tribunal may be pleased to declare that the O.M. dated 12.1.96 has got no relevance with the payment of SDA to the present applicants. The condition of service of applicants renders entitlement of SDA.

Copy of communication dated 18.6.99 is enclosed as Annexure - 13.

4.14. That your applicants beg to state that some of the similarly situated employees of Assam Rifles, Shillong have also approached the Hon'ble Tribunal by way of filing of an original Application No.207 of 1998 and the said

Contd.....13

Original Application is pending before the Hon'ble Tribunal. The said original Application came up before the Hon'ble Tribunal on 26.8.98 for admission and the Hon'ble Tribunal was pleased to admit the said O.A. and was further pleased to stay the operation of the orders dated 9.7.98. Similar other O.A.S No. 225/99 and 328/99 and 372/99 have also been admitted with similar interim orders. Therefore the present applications pray before the Tribunal for a similar orders like that of O.A.207 of 1998. 225 of 1999 and 328 of 1999 as the applicants are similarly situated and their grievances are also same against the same respondent. It is stated that more number of similar original applications are pending before this Hon'ble Tribunal and the similarly situated employees are paid SDA.

Copy of the order dated 26.6.98 passed in

O.A. No. 225 of 1999 is annexed as Annexure-14.

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

5. Grounds 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 12.1.96 has no application in the instant case of the applications.

5.3. For that the respondents themselves have paid SDA to the applicants with effect from 7.11.88 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 sought to be stopped and recovery has been ordered 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.

5.6. For that non-payment of SDA already drawn shall cause undue hardship to the applicants which they have been paid SDA 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 relevance with the clarification issued by the O.M. dated 12.1.1996 and as such there is no relevance to the order passed under letters dated 9.7.98, 12.10.98 as well as letters dated 22.9.98., 12.5.99 and 17.5.99 and the same are liable to be set aside and quashed.

6. Details of Remedy :

The applicants beg to state that there is no other remedy under any Rule. The application before the Hon'ble Tribunal is the only remedy.

7. Matter no Pending before any other Court :

The applicants further declare that they have 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 application, Writ petition or Suit pending before any of them. But similar applications filed by other employees are pending before this Hon'ble Tribunal.

8. Relief(s) sought for ;

Under the facts and circumstances of the case the applicants pray for 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 - 7) 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. That the impugned orders passed under letter No. 22013/2/98-PP.V dated 22.9.98 (Annexure - 9) letter No. A/I-A/242/98 dated 12.10.98 (Annexure - 10). Letter No. 22012/10/97 dated 12.5.99 (Annexure - 11) and letter No. A/O-H/242/99 dated 17-5-99 (Annexure - 12) be set aside and quashed.

8.6. Costs of the application.

8.7. 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. Inteim Relief Prayed For :

During pendency of this application, the applicants pray for the following reliefs :-

9.1. That the letter dated 9.7.98 issued by the Ministry of Home Affairs, New Delhi and letter dated 18.8.98 issued by the Respondent No. 3 be suspended.

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 12.10.98 and 22.09.98 and letters dated 17.05.99 and 12.05.99 be stayed till disposal of this application.

The above interim relief are prayed on the grounds narrated in paragraph 5 of this application.

10. T

This application has been filed through Advocate.

11. Particulars of Postal Order :

i) I.P.O. No.	: 06 456169
ii) Date of Issue	: 8.2.2000.
iii) Issued from	: G.P.O. Guwahati
iv) Payable at	: G.P.O. Guwahati

12. Particulars of Enclosures :

As stated in the Index.

Verification . . .

VERIFICATION

I, Smti Helan Basumatary, daughter of Sri Samuel Basumatary, resident of Alugudam, Shillong, aged about 29 years, working as Staff Nurse in Assam Rifles Administrative Superintendent Unit, Shillong, say that I am one of the applicants in the above case and have been authorised by the other applicants to sign this verification and accordingly I verify that the statements made in paragraphs 1, 4, 6 to 12 are true to my personal knowledge and those made in paragraphs 2, 3 and 5 are true to my legal advise and that I have not addressed any material facts.

And I, sign this verification on this 12th day of March, 2000.

Guwahati
12.3.2000.

Helan Basumatary
(H. Basumatary)

SIGNATURE

No. 20014/2/81/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 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. 1) Tenure of posting/deputation
 xxxxxxxxxxxxxxxxx
- ii) Weightage for Central deputation/training abroad and special mention in Confidential Record.
 xxxxxxxxxxxxxxxxx
- 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

Annexure-1 (Contd.)

station in the North Eastern Region. Such of those employed who 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/or 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.

xxx x x xx x x x

x . x x x x

x xxxxxxxxx

xxxxxxxxxxx

Sd/- J. S. KHALIK
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

/ COPY /

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 Allowances for civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region- regarding.

1. The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-E.IV dated 14.12.83 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 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 pay concerned is liable to be transferred anywhere in India, do 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 letter 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 Administrations/Departments against the Orders of the CAT.

Contd....2/-

6. The Hon'ble Supreme Court in their judgement delivered on 20-9-94 (in civil appealing 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 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 ~~in~~ ineligible persons after 20-9-94 (Which also includes these cases in ~~xxxxxxx~~ respect of which the allowances was pertaining to the period prior to 20-9-94 but payment were given after this dated 1.3. 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 comptroller and Auditor General of India.

10. Hindi version of this OM is enclosed.

Sd/-xx

(C Balachandran)

Under Secy. to the Govt : of India.

Ministries/Department s of Govt. of the Govt. of India, etc.

Copy(with
endorsement list.

)

, UPSC etc. as per standard

NO.II.11011/1/84-FP.IV
Government of India/Bharat Sarkar
Ministry of Home Affairs/Girh Mantralaya.

New Delhi, the 3-3-86.

To .

The Director General,
Assam Rifles,

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

.

Sir,

I am directed to refer to the correspondence
resting with your letter No. A/IV-(C)/1-64/8 dated
8th November, 1985 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 Bns. of Assam Rifles will not
be entitled to the concessions envisaged in the
Ministry of Finance (Deptt. of Expr.) O.M.No. 20014/
3/83-E-IV. dated 14.12.1983 as they move in
organised group and have back-up support.
- ✓ 2. The Assam Rifles personnel & Civilian non-
combatised 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-combatised officers/employees does not
arise.
3. Non-combatised civilian staff of static
formations such as offices of DG, IGP, DIGs
and Range Headquarters of Assam Rifles may
be allowed concessions envisaged in the
Ministry of Finance O.M. dated 14.12.83 referred
to above (except special (duty) allowance)
subject to the condition that they move as
individuals and do not have back-up support.

2. This issues with the concurrence of the
Integrated Finance Division vide their Dy.No. 705/86-
Fin.III, D.I. dated 24.02.1986.

Yours faithfully,

Sd/ xxx
(P. VIJAYARAGHAVAN)
DEPUTY SECY. TO THE GOVT. OF INDIA.

xxxxx2/4

.... 2/-

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(1).

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 items 1(1) 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 para 1 letter No. 27012/31/85-FP.II dt 6/4/87).

.....2/-

(3) Sikkim Compensatory Allowance

Combatined as well as non-combatined personnel (including officers) in Assam Rifles posted in Sikkim.

Ministry of Finance C.M.N. 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.99/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/- X X X X
(M.M. Sharma)

Deputy Secretary to the Government of India

No. 11011/1/84-FP.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.IXI 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

Annexure- 5

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

Dated: 6 June, 88

No.0/1-A/242/88

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

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF BGAR, 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. '83 sanctioned under Ministry of Finance OM No.20014/3/93 E.IV dated 14.12.83 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. 20014/16/86/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, in static formations like Directorate General Assam Rifles, Inspector General Assam Rifles(North), Range Hqrs. and Assam Rifles Training Centre and School with effect from 3 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

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

- 2 -

Affairs letter No.11021/1/84-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 '96 (copy attached as Annexure VI).

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.20014/3/93-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, maintains that award of SDA 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.

Attested
sd/-
for

1 Copy/

Annexure-6

No. II.22013/2/98/PP.V
Govt of India
Ministry of Home Affairs
New Delhi dated 9-7-98

To,

DGAR
Shillong-11

Subject : Entitlement of SDA to Civil employees of DGAR
Shillong.

Sir,

I am directed to refer to your letter No. A/1-A/242/98 dated 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.

Yours faithfully,

(Nirmal Dev)
Desk Officer

9/7/98

Copy to :-

LOAR
North Block
New Delhi

Annexure - 7

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011


A/I-A/Pers/98/

18 Aug 98

Shri RS Pathak
General Secretary
Assam Rifles (Civil)
Employees Association
Directorate General Assam Rifles
Shillong

ENTITLEMENT OF SDA TO THE CIVILIAN
EMPLOYEES OF THE DIRECTORATE GENERAL
ASSAM RIFLES SHILLONG

1. Ref your letter No. AR(C)/EA/98/129 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 Rawat)
Lt Col
AD(A)

Attested
By
Adv.
22.3.200

Tele No. 705009

Registered

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

A/1-A/242/98/310

20 Aug 98

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,

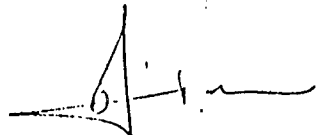
1. I am directed to refer to your letter No. II.22013/2/98-PF.V dated 09-7-1998 and to state that the proposal for eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong was taken up vide this Directorate letter No. A/1-A/242/98 dated 06 Jun 1998 but not agreed to in view 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 letter 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 lapse of 5 years ie. from 07-11-1988 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 . . . 2/-

76
- 32 - 31 -
PAO's decision to recover the SDA drawn by civilian employees since 20 Sep 1994, the serving and retired employees of this Directorate will be adversely affected and undergo financial loss and mental harassment. Since the MHA's Order No. II.11011/1/84-FP.IV dated 01 Feb 1989 has not been cancelled/modified or superseded by the MHA till date and there is no 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 MHA's order No II.11011/1/84-FP.IV dated 01 Feb 1989 and review the applicability of SDA to civilian employees of this Directorate.

Yours faithfully


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

N O O

1. LOAR

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

2. PAO (AR)
Laitumkhrah
Shillong

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

✓ 3. Est Branch
DGAR

- For info please.

Idrees/*

Annexure - 9

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

New Delhi dated 22nd Sept, 1998

To

Director General
Assam Rifles
Shillong- 793011.

Sub: Intitlement of Special Duty Allowance to
Civilian Employees of DGAR, Shillong.

Sir,

I am directed to refer to your letter No. A/I-5/242/98/310 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/- X X X X X

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

*Attested
22/9/98
D.D.*

Annexure - 2 10

Tele No. 70576

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

A/I-A/242/98

12 Oct '98.

List 'D'

List 'B'

List 'C'

List 'E'

List 'P'

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF IGAR, 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 IGAR, D. HQs and units etc was under query based on an observation raised by P/W, Assam Rifles, Shillong. The Ministry has now clarified the admissibility under their letter No. 22013/2/98-FF.7 dated 22 Sep 98 and MOP letter No.P.19(1)-E-II(A)/98 dated 20 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. T. Lawat
Lt. Colonel
M(1)

Encls : As above .

For DG Assam Rifles.

Copy to :

List 'A'

List 'G'

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

Attended
Adm
Ddr

ANNEXURE - 11

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.
I.11018/27/99-Legal dated 3.5.99 on the subject cited above
and to say that the orders of the Ministry No. IT.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.

Your's faithfully.

sd/-xxxx
(Nirmala Devi)
Desk Officer

*Attache
Assam
Rifles*

- 35 -

80

ANNEXURE- 12.

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

A/I-H/242/99

17 May 99

List 'A'
List 'B'
List 'C'
List 'E'
List 'F'

ENTITLEMENT OF SPECIAL DUTY ALLCES
TO CIVILIAN EMPLOYEES OF ASSAM RIF

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. Fmn HOs/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.

(Signature)
(RS Rawat)
Lt Col
AD(A)
for DG Assam Rifles

Copy to

List 'D'
List 'G'

for info please.

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

*Attested
Assam
Adv.*

Amnawa-13

From : NLR (N)

BTG : 18

UN-LAS

A 14/6

To : IGAR (N)

Info : DGAR (A/Fin Br)/10 AR/T/13 AR/15 AR

4 AR - by the originator

Entitlement of SDA to civ emp of AR (.) ref DGAR sig
No A/1-H/242/99 May 17 (.) civ emp serving in units/
HQ are having an all India transfer liability (.) it
is an well known and established fact that civ emp
had also moved to J & K, Sri Lanka and other States
alongwith troops during emergency and are moving as
and when ordered (.) as per terms and condition of
service in vogue civ emp in units/HQs are liable to
serve any where wherever units/HQs are deployed from
time to time (.) it is pertinent to mention that civ^{emp} are
also discharging same nature of work as their counterpart
combatant clerical staff (.) discontinuance of SDA
abruptly will certainly affect the moral of civ staff
while discharging their duties with devotion and ~~un~~
utmost sincerity (.) it would be prudent to allow civ
emp to continue drawing SDA on obtaining undertaking
from them till restoration of same (.) request advise
favourably to avoid financial hardship to civ emp -

Capt T A Mohlah, SO-3 (A)

'A'

Dated : 18 Jun 99

Capt

TOR : 18

h

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 225/99

OF 199

Applicant(s) : Subrat Kumar Dhar

Respondent(s) : Union of India and or

Advocate for Applicant(s) : Mr. J. L. Sarkar, M. Choudhary.

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 respondents by registered post. List on 2-9-99 for written statement and further orders.

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

contd/-



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 (JCM)

Certified to be true Copy

प्रमाणित प्रतिलिपि

[Signature]
AAAS 199
Member (U)
Central Appellate Court Tribunal
Guwahati Bench
[Signature]
4/8/99