

100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 333/2000.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet. O.A. 333/2000.....Pg. 1.....to 3.....
2. Judgment/Order dtd. 07/08/2001.....Pg. 1.....to 3..... dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 333/2000.....Pg. 1.....to 24.....
5. E.P/M.P..... NIL.....Pg.....to.....
6. R.A/C.P..... NIL.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1.....to 5.....
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.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

COWAHATI BENCH: COWAHATI, 5 (FORM NO. 4)

ORDER SHEET.

(See Rule-42)

APPLICATION NO. 333/2000

Applicant(s) Sri Badal Chandra Roy and ors.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. J. L. Sarker

Mrs. S. Deka.

Advocate for Respondent(s)

C. G. S. C.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

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

Heard Mrs S. Deka, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C for the respondents.

Application is admitted. Issue usual notice. Call for the records.

List on 6.12.2000 for written statement and further orders.

Vice-Chairman

pg

WS
7/11/2000

6.12.00

None appears for the applicant. On the prayer of Mr. A. Deb Roy, learned Sr. Central Govt Standing Counsel, four weeks time is granted to the respondents to file written statement. List on 8.1.2001 for written statement and further orders.

Vice-Chairman

8.1.01

On the prayer of Mr. A. Deb Roy, Sr. C.G.S.C. four weeks time is allowed for filing of written statement. List on 7.2.01 for further orders.

Member

Vice-Chairman

lm

for
vide
Date

501784
12.9.2000

Dy. R.

31/10/2000

Registered filed.

Bee

Notice prepared and sent to D/S for issuing the respondents No 1 to 4 by Regd A.D. vide D/No 2876 to 2879 dtd 15/11/00

15/11/00.

5-12-2000

① Service report are still awaited,

② No. 1015 has been filed

3m

(2)

O.A. 333 of 2000

Notice duly served on
Respondent No 232.

6/12/00

7.2.01

On the prayer of Mr. A. Deb Roy,
Sr. C.G.S.C. case is adjourned to
12.3.01 for filing of written statement.

No written statement
has been filed.

Member

Vice-Chairman

23/6.2.01

lm

12.3.01

List on 10.4.01 to enable the
respondents to file written statement.

No written statement
has been filed.

Member

Vice-Chairman

23/9.4.01

lm

10.4.2001

Written statement has been filed.
The applicant may file rejoinder, if any, within
three weeks from today. List for orders on
3.5.01.

9.4.2001

w/s has been
submitted by the
respondents

nkm

Vice-Chairman

3.5.2001

Written statement has been filed. List on
5.6.2001 for hearing. The applicant may file
rejoinder if any within two weeks.

No Rejoinder has been
filed.

bb

5.6.2001

Mr M. Chanda, appearing on behalf
of Mr J.L. Sarkar, learned counsel for the
applicant, prays for an adjournment. Prayer
allowed. List the matter for hearing on 22.6.01.

23/1.5.2001

No Rejoinder has been
filed.

nkm

22.6.01

On the request made by Mr. J.L. Sar-
kar, learned counsel for the applicant,
the case is adjourned to 2-8-2001 for
hearing.

Member

Vice-Chairman

bb

OA 333/2000

Notes of the Registry

Date

Order of the Tribunal

2.8.

Heard Mr. J. L. Sarker, learned
Counsel for the applicant
Mr. A. Debroy, Sr. C.G.S.C. for the
respondent.

Heavily concluded,
Judgment reserved.

By
A. K. Sen

18/8/2001

7.8.01

Judgment pronounced in open court, kept
in separate sheets. The application is dismissed.
No costs.

Member

Vice-Chairman

mb

16.8.2001

Copy of the
Judgment has been
sent to the Office
for issuing the
order to the Applicant
as well as to the
Sr. C.G.S.C. for the
Respondent.

Notes of the Registry

Date

Order of the Tribunal

AX
b
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 333 of 2000

7-8-2001.
Date of Decision.....

----- Sri Badal Chandra Dey & 6 others. ----- Petitioner(S)

----- Mr. J. L. Sarker & Mrs. S. Deka ----- Advocate for the
----- -Versus- ----- Petitioner(s)

----- Union of India & Others ----- Respondent(s)

----- Mr. A. Deb Roy, Sr. C.G.S.C. ----- Advocate for the
----- Respondent(s)

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

THE HON'BLE MR. K. K. SHARMA, 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.

L

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH X

Original Application No. 333 of 2000.

Date of Order : This & the 7th day of August, 2001.

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

Hon'ble Mr. K. K. Sharma, Administrative Member.

1. Ordinance Depot Civilian Workers' Union,
Mashimpur, represented by President
Sri Badal Ch. Dey,
P.O:- Arunachal,
Dist:- Cachar, Assam.

2. Sri Basai Mia Laskar (T.No.33)

3. Sri Tuta Mia Laskar (T.No.143)

4. Sri Satimuddin Barbhuyan (T.No.71)

5. Sri Ashutosh Ch. Das (T.No.101)

6. Sri Moni Uddin (T.No.147)

7. Sri Nasral Islam Barbhuyan (T.No.152)

The applicant Nos. 2 to 7 are working as Mazdoor
in the Ordinance Depot, Mashimpur, P.O:- Arunachal
Dist:-Cachar, . . . Applicants.

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

. . . - Vs -

1. Union of India
Through the Secretary
Government of India
Ministry of Defence
New Delhi.

2. The Director General
Ordinance Services,
M.G.O. Branch,
Army Head Quarters
Sena Bhawan
DHO.P.O. New Delhi.

3. Commanding Officers
57 Mountain Division
Ordinance Unit
C/O. 99 APD

4. Officer in Charge
No.1. DET, 57, MTN. DIV.DRD.Unit.
Mashimpur Cantonment
C/O. 99 APD.

. . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

The applicant No. 1 a registered Union of Group

D Civilian Employees of Ordinance Depot Masimpur, P.O. Arunachal, Dist. Cachar is espousing the cause of 6 Mazdoors in Group D Category already working in the said Ordinance. The 6 Mazdoors are also impleaded as applicant nos. 2 to 7 in this application. The cause of action and the nature of relief sought for by all the applicants are one of the same and accordingly leave was granted to file a common application under rule 4(5) (b) of the Central Administrative Tribunal (Procedure) Rule 1987.

2. The grievances of these applicants mainly pertain to their service conditions. Admittedly, the applicants are Civilian Industrial Persons working under the respondents in question. The Unit has two Ammunition Points (APs) and two Detachments (Dets) located at far flung areas of North East Region. The respondents as well as the the applicant Nos. 2 to 7 are engaged in counter insurgency operations which are of arduous nature. The Commanding Officer of the Unit with prior permission of the competent Authorities is empowered to send the Civilian Industrial Persons like the applicants on temporary duty.

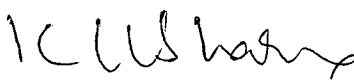
3. From the materials on records, it transpires that the respondents authority had already undertaken a policy for providing TA/DA advance prior to proceeding on temporary duty. As per the policy, during the period of temporary duty Civilian Industrial Persons are offered free rations and essential clothing. It has been stated in the written statement that after the order dated 29.9.99 passed by the Directorate General of Ordinance Services advance TA/DA are being paid regularly to the Civilian Industrial Persons including the applicants. By the order dated 29.9.99 the Directorate General of Ordinance Services


had almost taken care of the grievances made in this application. There is, however, an area, where the applicants had their misgivings against the action of the respondents for not paying their salary and allowance for the period from 3.6.98 to 7.8.98. It was said that the legitimate grievance of the applicants occurred when the applicant Nos. 2 to 7 were made to wait outside the gate for the period from 3.6.98 to 7.8.98. According to the applicant they had maintained a registrar showing their attendance on duty for the period from 17.7.99 to 31.8.99. The respondents paid full salary for the month of July, 1999, but from the month of August, 1999 salary and ration were not given.

4. We are not inclined to go into this controversy, since the Directorate General of Ordnance Services is in the helm of welfare and it can take care of the situation. We are confident that the Directorate should also look into the grievances of the applicants, pertaining to the period from 3.6.98 to 7.8.98. We feel that the matter should be sorted out at the administrative level under the Superintendent of the Directorate, so whatever doubts and misgivings nursed by the applicants, are allayed and to keep a contented ^{Contented} of Industrial Force.

With these observations, the application is dismissed.

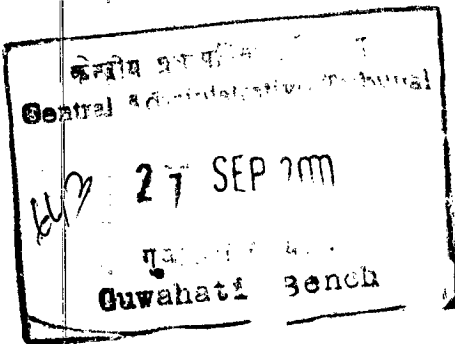
There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

In the Central Administrative Tribunal

Guwahati Bench : Guwahati



O. A. No.

333

1900

Filed by the Applicant
through: Mrs. S. Deka
Advocate.
10.27.9.2000

Badal Ch. Dey

Sri Badal Chandra Dey & Others

. . . Applicants

-vs-

Union of India & Others

. . . Respondents.

I N D E X

Sl.No.	Annexure	Particulars	Page
1.	-	Application	1-8
2.	-	Verification	9
3.	A & B	Copy of the representation dt. 23.10.98 and the order dt. 2.7.99 in O.A. 189/99.	10-14 15
4.	C	Copy of the representation dt. 14.8.99.	16-21
5.	D & E	Copies of the letter dt. 2.10.99 and dt. 29.9.99.	22- 23-24

In the Central Administrative Tribunal

Guwahati Bench : Guwahati.

O.A. No. .333.

27 SEP 2000

Guwahati Bench

Between

1. Ordnance Depot Civilian Qork's Union.
Mashimpur, represented by President
Sri Badal Ch. Dey.
P.O. Arunachal, Dist. Cachar, Assam.

2. Sri Basai Mia Laskar (T.NO. 33)
3. Sri Tuta Mia Laskar (T.No. 143)
4. Sri Satimuddin Barbhuyan. (T.No. 71)
5. Sri Ashutosh Ch. Das. (T.No. 101)
6. Sri Moni Uddin . (T.No. 147)
7. Sri Nasral Islam Borbhuyan.(T.No. 152)

The applicant No. 2 to 7 are working as Mazdoor
in the Ordnance Depot, Mashimpur, P.O. Arunachal
Dist. Cachar, under the respondents.

. . . . Applicants

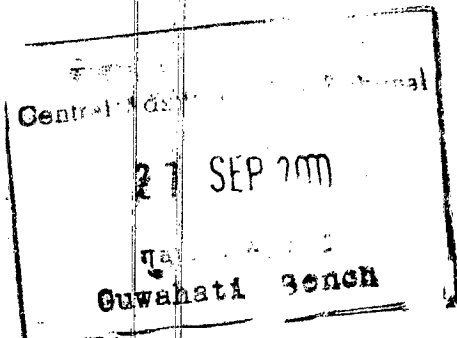
-And-

1. Union of India
Through the Secretary
Govt. of India, Ministry of Defence,
New Delhi.

Contd . . 2/-

Filed by the Applicant
through Mrs. S. Deka
Advocate
27.9.2000
Badal ch. Dey

3.6.98 to 7.8.98
p 3
17.7.99 to
31.8.99.
p 43



- 12
2. The Director General
Ordinance Services, M O. Branch
Army Head Quarter.
Sena Bhawan.
DHO. P.O. New Delhi.
3. Commanding Officers.
57 Mountain Division.
Ordinance Unit.
C/O. 99 APO.
4. Officer in Charge
No. 1. DET, 57, MTN. DIV.ORD. UNIT.
Mashimpur Cantonment.
C/O. 99 APO.

. . . Respondents.

1. Particulars for which this application is made :

The application is made praying for formulation of Policy declaration by issue of office order and paying salary for some period as explained in the petition. This application is made against order dt. 29.9.99 issued from the office of the Director General of Ordinance Services. New Delhi.

2. Jurisdiction :

This application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

This application is within the period of limitation.

Badal Ch. Dey

Badal Ch. Ray

4.1.

Facts of the Case :

That the applicant No. 1 is a registered Union of Group D Civilian Employees of Ordinance Depot Masimpur, P.O. Arunachal. Dist. Cachar. The Union is affiliated to the An Indian Defence Federation. The Union espouses the cause of the members of the Union in the matter of their Service.

Applicant No. 2 to 7 are working as Mazdoor in Group D Category in the Ordinance Depot. All of them are civilian. The Applicants prays for the permission to file the common application under rule 4(5) (b) of the Central Administrative Tribunal (Procedure) Rule 1987 for the Common cause of action.

4.2.

That the Mazdoors working at Masimpur under the respondents are frequently transfered to the interior and hazardens places including combatent areas for long periods intermittently. Such transfers are made whimsically and without any authority from the competent Officers. Advance T.A. and D.A. jointly time etc. are not given to the employees, who are temporarily transfered. It is also stated that the Mazdoor are even transfered to undisclosed destination without giving them any valid and lawful order and without giving any T.A. & D.A. The Applicant No. 2 to 7 are some of the victims of such illegal temporary transfers.

4.3.

That some of the members of the Union including the Applicants No. 2 to 7 protested against such unauthorised temporary transfers without any approval of the competent authority and without disclosing destination and also without giving advance T.A. and D.A. The said applicant No. 2 to 7 were not allowed to perform duty and even enter the duty area

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

27 SEP 2011

Guwahati Bench

Contd . . 4/-

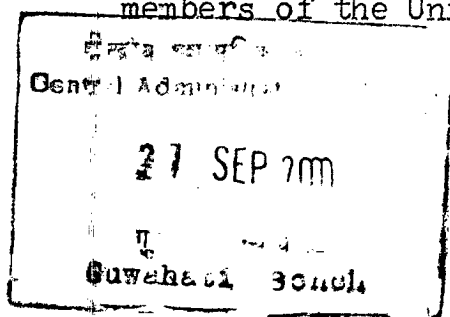
Badal Ch. Dey

and they were made to wait outside the gate of the period from 3.6.98 to 7.8.98. They were also not paid salary for the period. It is stated that they have maintained a registered showing their attendance in the gate in presence of the employee on duty in the gate. The same thing happen from the period from 17.7.99 to 31 st August 99. While making payment for the month of July 1999 full salary has been paid, But from 1st August 1999 salary and ration has not been given.

4.4. That the Union has submitted representation dated 28.10.98 to the Director General Ordinance Service MGO Branch Army Head Quarter, New Delhi explaining various difficulties including those explain above. They also made specific prayers in the said representation date 23.10.98. But to no result. Thereafter, the Union filed application before this Hon'ble Tribunal (O.A. 189/99). By an order dt. 2.7.99 this Hon'ble Tribunal was pleased to dispose of the O.A. with the direction to dispose the representation by speaking order.

Copy of the ~~order~~ representation dt. 23.10.98 and the order dt. 2.7.99 in O.A. 189/99 are enclosed as Annexure A and B respectively.

4.5. That the Union has again submitted another representation dt. 14.8.99 detailing the grievous of the Civilian Mazdoors and has paid for a harmonious relationship between the members of the Union and management.



Copy of the representation dt. 14.8.99 is enclosed as Annexure - C.

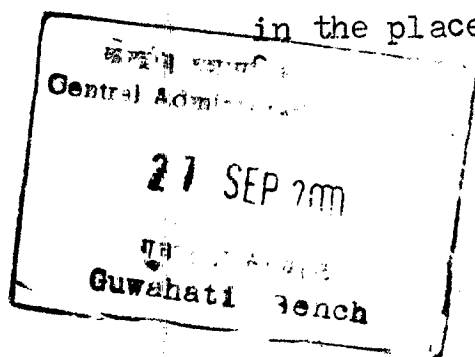
Contd . . .5/-

4.6. That the applicant No. 1 i.e. the Union has received letter dt. 2.10.99 address to the President of the Union with which the copy of the speaking order dt. 29.9.99 has been forwarded.

Copy of the letter dt. 2.10.99 and 29.9.99 are enclosed as Annexure D and E respectively.

4.7. That in reply to statement in para 4 (a) of letter dt. 29.9.99 it is stated that the reply is very vague and abstract, such a cryptic reply gives omnibus power to an officer without reference to any rule or regulation. Moreover as already explained such transfers have been made and are being made without sanction of the competent authority. Further, destination is not also informed and as such the employees can not informed the members of the family as to their whereabouts or likely places of posting during the absence of their head quarter. Such a procedure has not support of rules or regulations, and is arbitrary being violative of the Article 14, 16 and 21 of the Constitution. In reply to para 4 (b) it is stated that no formal office order has yet been issued delaiting the produce of advance TA/DA in cases of temporary transference. In reply to para 4(c),(d) and (f) the Union is looking forward for effective result in the field.

4.8. That in reply to statement in para 4(g) of the letter dt. 29.9.99 it is stated that the decision has been taken arbitrariness. The employees were present everyday in the place of work and kept waiting for duty. They were not



engaged to job by the inaction of the respondents. Respondents also understood that their order to move the Mazdoors temporarily without advance TA/DA was illegal. The Mazdoors could not go out of Head Quarter without money. Their destination was also not informed. Therefore the respondents themselves have paid salary for some period in the year 1999 when the Mazdoors were made to wait outside the gate for duty. Further, the considered decision of the respondents to pay advance TA/DA in such cases explicitly shows the legitimate claim of the Mazdoors for advance TA/DA which was denied earlier. For ~~which~~ the wrong decision of the respondents the Mazdoors can not be made to suffer. The decision in para 4 (d) for treating the period as leave deserves to be set aside and the period treated as on duty and salary for the period should be paid.

4.9. That it is stated that the Mazdoors were ordered for temporary duties without prior sanction of the competent authority and such temporary transfer without advance TA/DA is not covered by any travel regulations. Due to such adverse and arbitrary action of the respondent the loss of works by the workers was caused. The respondents have made past-payment for a part of the period of waiting for duty by the Mazdoors including applicant No. 2 to 7 and for some part i.e., for the periods from 3.6.98 to 7.8.98 has not been paid.

5. Grounds for reliefs with legal provision :

5.1. For that the respondents have arbitrarily denied advance TA/DA to the Mazdoors while temporarily transferring them.

5.2.

For that the temporary orders of duty of the Head ~~Quar~~ter was without sanction of competent authority.

General Manager

27 SEP 2000

Guwahati

Bench

5.3. For that the temporary duty out of Head Quarter without disclosing destination is arbitrary and violative of Article 14 and 16 of the Constitution of India.

5.4. For that denial of salary for the period from 3.6.98 to 7.8.98 is arbitrary and whimsical.

5.5. For that payment of some period of waiting for duty and denial for another period in the same circumstances is arbitrary and violative of Article 14 and 16 of the constitution of India.

6. Details of remedies exhausted :

The applicants state that there is no remedy under any rule and this Hon'ble Tribunal is the only remedy.

7. Matter not filed or pending with any other Court :

The applicants declares that no other application/ case has been filed before any other Tribunal/Court regarding the relief in respect of which this application has been made and that no such application is pending.

The applicant has narrated the earlier cases in O.A. No. . . and consequent cases which have already been decided.

8. Reliefs sought for :

In the facts and circumstances of the case the applicants pray for the following reliefs :

8.1. The applicants No. 2 to 7 and similar other Mazdoors be paid salary during the period 3.6.98 to 7.8.98 .

8.2. The orders in para 4(a) in the letter dt. 29.9.99 (Annexure E) and 4 (d) be set aside.

21 SEP 1999

Guwahati Bench

Contd . . 8/-

Badal Ch. Dey

8.3. Cost of the case.

9. Interim order, if any, prayed for :

No interim relief is prayed for.

10.

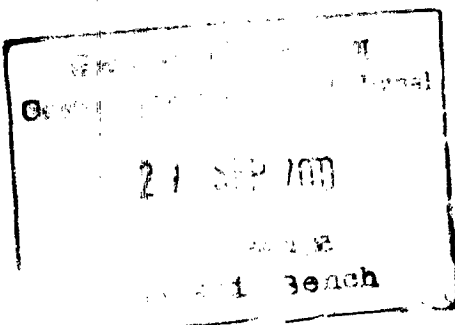
This application is filed through Advocates.

11. Particulars of Bank Draft :

Bank Draft No. 26 50 27 84
and Date 12.9.2K.

12. Details of Enclosures :

As per Index.



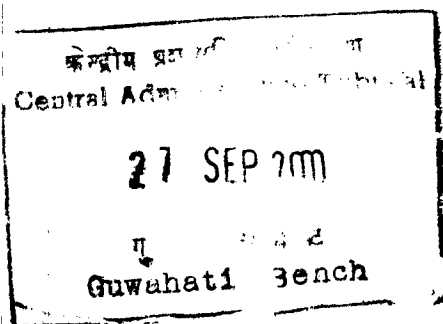
Verification 9/-

VERIFICATION

I, Badal Chandra Day, President
of the Ordinance Depot Civilian Workers Union,
Masimpur, P.O. Arunachal, Dist - Cachar, aged about
~~25~~ yrs. I am the applicant No. 1 in the above
case, and have been authorised by the applicant
No. 2 to 7 also to verify the contents of the
application. I do hereby verify that the statements in
paragraphs 1, 4, 6, 7, 8,9, 10, 11 and 12 are true to
my ~~knowledge~~ and personal knowledge and those made
in paragraphs 2, 3 and 5 are true according to legal
advice and I have not suppressed any material facts.

Silchar -
20.7.2000

Badal Ch. Day .
Signature



President- Badal Chandra Doy

Vice President- Maskandar Ali Barbhuiya

Cashier- Anwar Ali Laskar

Secy.- Jalal Uddin Mazumder

Asst Secy.- S. U. Laskar

Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION

MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/ 23/SIL/98

Date 23, Oct. '98

To

The Director General Ordnance Services
MGO Branch
Army Head Quarter, Sena Bhavan,
DHO, P.O. New Delhi.

Sub :- Grievance of the Civilian Workers (Mozdoors)
of 57 Mountain Division Ordnance Unit in
Masimpur, Cachar against the illegal and
arbitrary action of the officer Incharge of
57 Mountain Div. Ord. Unit, C/o 99 APO and
the appropriate relief prayed for.

Sir,

With reference to the above I, the undersigned
on behalf of our Ordnance Depot Civilian Workers Union
begs to place the following appeal seeking appropriate
relief from your gracious authority :-

1. That Sir, Civilian Workers are detailed to proceed
on Temporary duty to Main D.O.U. without any T.A./D.A.
advance but for name sake a Movement Order. In the
'authority' column of Movement Order no Govt. order No.
nor letter No. is quoted except the words "This movement
order' as authority which is not sufficient for movement
of civilian workers. Since the temporary duty involve
movement from one state to another state within the
jurisdiction of Command, ^{at authority} you are requested to obtain
prior move sanction from the competent authority as
envisaged in Travelling Regulations.

- 11 -

Ident- Badal Chandra Dey
Secy President- Maskandar Ali Barbhuiya
Cashier- Anwar Ali Laskar

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION

MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 2 -

2) That Sir, most of the civilian workers are belonging to lowest margin of pay scale and they have to manage all domestic expenses out of their limited income. So, sudden detailment of these employees to temporary duty without T.A./D.A. advance becomes an additional burden on them.

3) That Sir, inspite of our repeated appeals and personal requests to the local authority Civilian workers are detailed and/or compelled to proceed on transfer duty at random and in this way most of the time civilian workers are to remain far away from their family because of which family of the poor paid civilian workers have to suffer a lot.

4) That Sir, where the civilian workers are detailed on Temporary Duty in a very disturbed locality (Field area) and movement of civilians involve risk of life. Since the civilian workers are detailed for T.D. at a stretch for 90 days or more and they are to perform duties side by side with combatant personnels in similar working condition. *So the Civilian workers are legitimately demanding to be paid the Field Area Allowance also*

5) That Sir, two employees - Lakhi Panika (Token No.2) and Mantoo Goala (Token No.52) - died and one Shri Alkas Uddin (Token No.100) sustained major injury, while all were on Temporary Duty. But no compensation either under the Field Service Liability rule or under the Workmans' Compensation Act has been paid to the families of deceased

...3.

Ident- Badal Chandra Dey
Vice President- Maskandar Ali Barbhuiya
Cashier- Anwar Ali Laskar

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 3 -

victims and aforesaid Alkas Uddin, inspite of assurance in the case of latter vide letter No. O/0631/CL/688/Adm dated 16th April '98. These lead to lessen moral aptitude of other workers.

6. Sir, I also beg to state that Service Books are not produced to the civilian employees once in a year for their inspection and their signature are not obtained/ attested in appropriate column of Service Books.

7. That Sir, the pay of the following 6 nos. of workers are held for the period from 3.6.98 to 7.8.98 as they protested to go Dimapur on Temporary Transfer under Command order of Incharge Officer without any payment of Advance D.A./T.A. They were not allowed to enter the depot for long two months and ^{authority} made them ^{to} stand outside the depot. However later on through intervention of the General Secretary of our Central Union (D. Lobo) they were allowed to enter the Depot. But now their salary for the two months is with-held and the officer incharge is asking them to agree to show that period on leave otherwise they would not be paid salary for this period.

They are :-

- 1) T.No.33 Basai Mia Laskar
- 2) T.No.143 Tuta Mia Laskar
- 3) T.No. 71 Salim Uddin Barbhuiya
- 4) T.No.101 Ashutosh Ch. Das

contd..4.

President- Badal Chandra Dey
Vice President- Maskandar Ali Barbhuiya
Cashier- Mawar Ali Laskar

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 4 -

- 5) T.No.147 Moin Uddin
- 6) T.No.152 Nazrul Islam Barbhuiya

Under the above circumstances, I, on behalf of the Civilian workers Union, Masimpur, Cachar pray that your gracious authority would be pleased to accept our appeal and after making an enquiry as you deem fit, be pleased to direct (i) the Officer incharge No.1 Det.57 M.O.U. Att. 160 M.H. C/o 99 APD to provide us T.A./D.A. advance as per the pay scale of the individual worker before commencement of the temporary Transfer Duty, (ii) to take steps for systematic movement of civilian worker on Transfer Duty as to enable the poor paid workers to take care of his respective family at K.L.P. location, (iii) to pay Field Area

President- Badal Chandra Dey
Vice-President- Maskandar Ali Barbhuiya
Cashier- Anwar Ali Laskar

24
Secy.- Jalal Uddin Mazumder
Asst Secy.- E. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION

MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 5 -

Allowance; (iv) to pay appropriate compensation on the happening of unwanted incidents during the course of Temporary Duty in field and also be pleased to direct the local authority to allow the civilian workers to inspect their service books annually making it available to them and (v) a direction to be given for the payment or with held salary of the those 6 workers mentioned in para 7 above.

A n d

For this act of your kindness we shall ever pray.

Badal Ch. Dey
President
ODCWU MSP.

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 189/99

OF 199

Applicant(s) *Exclmance Dept Civil Workers Union, 2 Am*


Respondent(s) *Union of India and Ors.*

Advocate for Applicant(s) *Mr. M.H. Rajborbhuyan*

Advocate for Respondent(s) *Mr. A. Hazarika*

C.G. S.C.

Office Copy

Notes of the Registry	Date	Order of the Tribunal
 <p>Certified to be true Copy प्रमाणित प्रतिलिपि 9/7/99 Section Officer (J) माननीय अधिकारी (न्यायिक शाखा) Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय Guwahati Bench, Guwahati गुवाहाटी न्यायालय, गुवाहाटी-6 9/7/99</p>	2.7.99	<p>Present : Hon'ble Justice Sri D.M. Baruah, Vice-Chairman.</p> <p>This application has been filed by the applicants seeking certain directions as the respondents failed to give T.A and D.A to the applicants in advance. An appeal/representation was filed by the applicants which has not yet been disposed of. Hence the present application.</p> <p>Heard Mr. M.H. Rajborbhuyan, learned counsel for the applicants and Mr. A. Deb Roy, learned Sr. C.G. S.C. for the respondents. On hearing the counsel for the parties I feel that the authority should dispose of the Annexure-6 representation dated 23.10.98 by a speaking order and this must be done within one month from the date of receipt of this order.</p> <p>Application is disposed of. No order as to costs.</p> <p>Sd/VICE CHAIRMAN</p>

1
President - Rajal Chandra Dey
Vice-President - Maskandar Ali Barbhuiya
Cashier - Syed Ali Laskar

- 16 -

Annexure C. 26
Secy. - Jalal Uddin Mazumder
Asst Secy. - S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/ 27/ SIL/ 99

Date 14.8.99

To

The Lt. Gen. S.K. Bhatnagar, AVSM.

The Director General of Ordnance Services,

MGO's Branch, Army HQrs.

Sena Bhavan,

DHQ P.O. New Delhi.

Sub:- A representation.

1. That the Ordnance Depot Civilian Workers Union, Masimpur (Silchar) represents the Civilian Mazdoors under the disposal of 57 Mtn. Div. Ordnance Unit C/O 99 A.P.O.
2. That the Civilian Mazdoors are being subjected to constant harassment, threat, undue and illegal pressure by the C.O. of the unit and his subordinate Army officers in the name of temporary transfer without any T.A/D. A, special allowance, joining time etc. A lot of representations and protracted correspondences were made from time to time, but unfortunately the Army officers failed to appreciate the fact that there exists

contd...2

President- Badal Chandra Dey
President- Maskandar Ali Barbhuiya
Chief- Anwar Ali Laskar

- 17 -

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 2 -

a difference in laws and rules between the Army and the
Civilian staff engaged in the defence department.

3. That without repeating the earlier incidents, this union
is submitting the latest developments for your kind information,
perusal and necessary action.

4. That 81 (eighty one) Nos. of Civilian Mazdoors of this unit
were taken outside the State of Assam with advance T.A/D.A. etc.
and there were regular and lawful orders to that effect. As the
country was passing through worries and anxieties because of
Shameful Pak aggression at Kargil and other sector this union
also rendered all its cooperation in taking those 81 Nos. of
Civilian Mazdoors.

5. That apart from the above 81 Nos. of Civilian Mazdoors
another set of 22 (twenty two) Nos. of Civilian Mazdoors
of this unit were forcefully taken to an undisclosed destination

contd....,3

President- Badal Chandra Dey

Vice President- Maskandar Ali Barbhulya

Cashier- Anwar Ali Laskar

Secy.- Jalal Uddin Mazumder

Asst Secy.- S. U. Laskar

Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 3 -

without giving them any valid and lawful order for deputation and also without giving them any T.A./D.A. That act of C.O. and his subordinate Army officials was not in consonance with the provisions of rules and laws and cannot but be said to be an arbitrary and malafide Act. T./Nos. of those 22 Civilian Mazdoors of this unit (i.e. 57 Mtn. Div. Ord Union , C/O 99 A.P.O) are as such :-

43, 132, 184, 180, 13, 107, 120, 108, 142, 146, 225, 208, 149, 213, 178, 150, 157, 169, 171, 175, 136, and 185.

Till this date there is no information as to those workers.

6. That the O.I.C. No. 1 DET DOU, 57 Mtn.Div. Ord Unit, C/O 99 A.P.O. in the name of the C.O., forced another 11 (eleven) Nos. of Civilian Mazdoors of this Unit bearing T/Nos. 33, 148, 147, 71, 152, 101, 133, 69, 161, 63, 137 to go to some unknown destination and that too denying to issue any valid and lawful order for their movement and also without paying T.A./D.A. etc.

contd....4

-19-

President- Badal Chandra Dey
Vice President- Maskandar Ali Barbhulya
Cashier- Anwar Ali Laskar

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION

MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 4 -

As those Civilian Mazdoors expressed their unwillingness to move without any lawful order and without any T.A./D.A. etc, the said O.I.C. No. IDET DOU, 57 Mtn.Div. Ord Unit C/O 99 A.P.O. got displeased with them and started old game of not allowing those workers to enter into the depot and to do their duties since 17th July, 1999. Those workers were everyday turning up at the gate and were staying outside the gate during their full working hours. Matter was forthwith intimated to the Adjutant General, Army Hqrs, New Delhi and Sri D. Lobo, General Secretary All India Defence Employees Federation, pune by telegram dtd. 27.7.99.

- ✓ 7. That the monthly salary for the month of July, 1999 has been disbursed today i.e. on 13.8.99 and surprisingly all the Mazdoors in this station including those eleven workers has been paid with their full salary. But while making the payment of monthly salary it was stated again that from tomorrow onwards the out of those eleven workers ten numbers of workers (T. No. 161 has been excluded) would not be allowed to do any

President- Badal Chandra Dey
Vice President- Maskandar Ali Barbhuiya
Cashier- Alwar Ali Laskar

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION

MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)

NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date

- 5 -

work and again they would be kept outside the gate. This union failed to understand as to why all such expressions were being made off and on causing mental torture on the workers. This sort of activities also tell upon the morals of the workers.

8. That the local authorities have stopped giving payment ration to the Civilian Mazdoors from the 1st day of August, 1999 for best reasons known to them and for that the Civilian Mazdoors, who are ill paid group-D servants, are facing immense difficulties.

9. That it is prayed that your benigned honour would be pleased enough to exercise your good offices and to bring about a harmonious relationship so that our members can discharge their duties rightly, neatly, lawfully and with dignity, honour and prestige and for this kind act of yours

contd...6

Genl- Badal Chandra Dey
President- Maskandar Ali Barbhuiya
Shler- Sywar Ali Laskar

Secy.- Jalal Uddin Mazumder
Asst Secy.- S. U. Laskar
Org. Secy - Noor Ahmed Mazumder

ORDNANCE DEPOT CIVILIAN WORKERS' UNION MASIMPUR (SILCHAR)

(Registered and Affiliated with AIDEF)
NEAR MASIMPUR KALIBARI BAZAR

P. O. Arunachal, Dist Cachar (Assam) Pin - 788025

Registration No. LTR-5/84

Affiliation No-283

Ref No ODCWU/

Date 14/8/99

- 6 -

yours we shall remain eger grateful.

Yours faithfully,

Badal Ch. Dey
(Badal Ch. Dey)

president,

Ordnance Depot Civilian Workers Union,
Masimpur, (Silchar) P.O. Arunachal,
Dist. Cachar (Assam) .

Copy to :-

Sri D. Lobo, General Secretary,

All India Defence Employees Federation,

Survey No. 81, Elphinstone Road, Khadki, Pune- 411003. for

his kind information, necessary action and perusla please.

Latest developments are also included in brief.

57 Mtn Div Ord Unit
C/O 56 APO

0607/Civ/Est

02 Oct 99

Shri Badal Chandra Dey
President Ordnance
Depot Civilian worker's
Union
Masimpur(Silchar)
Dist - Cachar(Assam)

CENTRAL ADMINISTRATIVE TRIBUNAL
OA NO. 189 OF 1999 DT 02 JUL 99

1. Refer annexure 6 to CAT Guwahati Bench order sheet No 189/99 dt 02 Jul 99.

2. A copy of speaking order No B/Gen/13101/57 Mtn DOU/OS-8C(ii) dated 29 Sep 99 is forwarded herewith for your information. Receipt of speaking order is enclosed for your signature and return please.

Encls : (two only)

(Hegde GR)
Major
OIC Adm & Ser Wing
for Commanding Officer

Tele : 3018900

REGISTERED/SDS

Directorate General of Ordnance Services //
Master General of Ordnance Branch
Army Headquarters
DHQ PO New Delhi - 110 011

B/Gen/13101/57 Mtn DOU/OS-8C(ii)

28 Sep 99

ORDER

1. WHEREAS, Ordnance Depot Civilian Workers Union has submitted certain grievances through representation dated 23 Oct 98 to the DG OS and Commanding Officer of 57 Mtn DOU.
2. AND WHEREAS, the Worker's Union filed OA. No. 189/99 at CAT Guwahati Bench.
3. AND WHEREAS, CAT Guwahati passed an order dated 02 Jul 99 that the authority should dispose of the representation dated 23 Oct 98 by issuing a 'Speaking Order' within one month from the date of receipt of this order.
4. NOW THEREFORE, the representation has been examined and following facts of reply are brought to the notice of the applicants (the Union) in compliance of the CAT order :-
 - (a) Para 1. The Commanding Officer is empowered to detail a person to proceed on temporary duty within the unit and Sub Units and it is done with the prior sanction of the Competent Authority in accordance with 'Travel Regulations' as on required basis.
 - (b) Para 2. Necessary directions have been issued to Commanding Officer for payment of advance of TA/DA to Civs who are moved on temporary duty in accordance with the rules.
 - © Para 3. Civilians are moved on temporary duty as on required basis. Difficulties of civilians who are unable to move due to their domestic reasons will however be kept in view subject to exigencies of service and availability of civilian personnel.

Cont.....2

*Filed in
Dm
Dm*

(d) Para 4. Civilian posted in the Area are subject to Field Service Liability and all benefits as are admissible in Field are extended to them in accordance with instructions on the subject. As far as period of temporary duty at stretch beyond 90 days is concerned, this is done as on required basis and not on routine basis.

(e) Para 5. CGEIS and other pensionary benefits due to Civ IPs of 57 Mtn DOU who proceed on pension/die while in service will be claimed by the unit and paid to them/NOK. Injury sustained by T.No. 100 Mazdoor Shri Alkas Uddin is attributable to service as per the directions of General Officer Commanding, 3 Corps dated 26 May 97 and will be dealt with accordingly.

(f) Para 6. 57 DOU has been directed to show the Service Books to all civilians once in a year and obtain the signatures as a token of having inspected service book.

(g) Para 7. No pay and allowances can be paid to civilians, who remained absent from duty. Pay and Allowances will only be paid after regularising the period of absence by granting leave, on written request for leave from affected Civs IPs.

5. This 'Speaking Order' is issued to Depot Workers Union in response to CAT Guwahati Order dated 02 Jul 99 in OA No. 189/99 for information.

(SK Jain)

Col

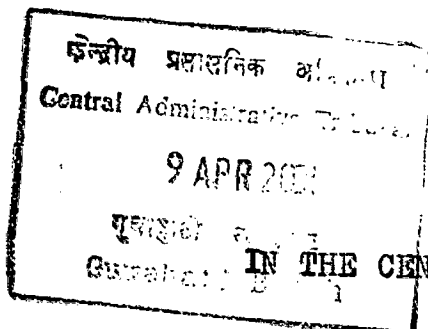
Director OS (Pers)

for Director General Ordnance Services

**The President
Ordnance Depot Civilian Workers Union
Mashimpur (Silchar)**

through

**Commanding Officer
57 Mtn Div Ord Unit
C/O 99 APO**



File No. 9/1/2001
13
(A. DEBROY)
Sr. C. G. S. C.
C. A. T., Guwahati Bench

GUWAHATI BENCH ::: GUWAHATI.

O . A . No. 333 OF 2000.

Shri B.C. Dey

-Vs-

Union of India and Others.

- And -

In the matter of :

Written Statement submitted by
the Respondents

The respondents Most Respectfully beg to submit
the Written Statement as follows :

1. That with regard to paras 1, 2 and 3 the respondents beg to offer no comments.
2. That with regard to para 4.1 the respondents beg to state that the Union is not recognised since Govt. employees serving in the field area are not authorised to form a union.
3. That with regard to para 4.2 the respondents beg to state that this unit have two Ammunition Points (APs) and two Detachments (Dets) located at far flung areas of North East Region. To discharge responsibilities of this unit in counter Insurgency operations (CI OPs) it is compulsory to send some civilian Industrial Person (CIV IPs) at different APs/Dets. Maximum strength of these Civilian Industrial Person have been sent to APs/Dets turnwise for a period of 3 months and a sum of Rs. 2000/- has been paid to them as advance TA/DA. It is also added that due consideration is also paid keeping in view

(S. Bakhtawar)
Colonel
Commanding Officer

32/3

CO	
2 IC	
HQ	
ICW	
SW	
ASATS	
Ark SWL	circled
CCAS	

~~Handwritten signature~~
 2/3

medical status/old age and domestic problems.

4. That with regard to para 4.3 the respondents beg to state that the applicants no. 2 to 7 sat on DHARNA as they refused to proceed on temporary duty without any proper reason. These Civilian Industrial Persons were never stopped to enter the depot in turn they were advised to report for duty else would be responsible for the absence. These Civilian Industrial Persons, however refused to join duty and went on DHARNA from 03 Jun '98 to 07 Aug '98 which is highly illegal. Matter has already been disposed off through speaking order by Director General Ordnance Services (Dte Gen. of Ord) vide Army HQ letter No. B/Gen/13101/57 Mtn. DOU/OS-8C dated 29th Sep '99, as ordered CAT Guwahati order of 01 Jul '99 (OA 189/99 rerer).

Copy of order dated 29.9.1999 is annexed hereto and marked as ANNEXURE-A.

5. That with regard to paras 4.4, 4.5, and 4.6 the respondents beg to offer no comments.

6. That with regard to para 4.7 the respondents beg to state that the Commanding Officer this unit is empowered to send Civ. Ips on temporary duty within sub units and proper prior permission of competent authorities is always been accorded for the same. All Civ. IPs know destination of sub units and a sum of Rs. 2000/- as TA/DA advance is also been paid prior to proceeding on temporary duty. During the period of temporary duty Civilian Industrial Persons are provided with free ration, essential clothing as per entitlement mentioned in the Annexure 'C' to Govt. of India Ministry of Defence

~~Letter No.~~

Contd.....

[Signature]
(S. Bakhtawar)

Colonel

Commanding Officer

Gen. of Ord.

letter No. A/O25484/AG/PS3(a)97/S/D (Pay) Services) dated 25 Jun '64. Final Claim of TA/DA is submitted on completion of temp duty.

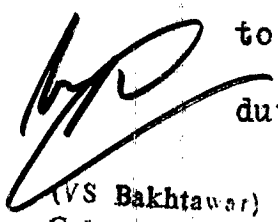
7. That with regard to para 4.8, the respondents beg to state that no payment can be paid to the Civ IPs who were illegally absent and sat on DHARNA and refused to go on temp duty even though some fellows of these Civ IPs proceed on temp duty to the same destination.

8. That with regard to para 4.9, the respondents beg to state that under the provisions of IR Para 17(i) (C) (iii) C(viii) TA/DA can be paid in advance in exceptional and emergent cases Civ IPs of this unit have been employed under clause of field service liabilities 1957, hence they are required to move on temp duty as and when ordered from main DOU to Sub Units and Vice versa.

9. That with regard to para 5, the respondents beg to offer no comments.

10. That with regard to para 5.1 the respondents beg to state that after receipt of speaking orders from DG OS vide Army HQ letter No. B/Gen/13101/57 Mtn. DOU / / OS-BC(11) dated 29 Sep 2000 advance TA/DA is paid regularly to the Civ IPs who were detailed for temp duty. ✓

11. That with regard to para 5.2 the respondents beg to state that the Civ IPs were ordered to proceed on temp duty within sub unit and prior sanction of competent


(VS Bakhtawar)
Colonel
Commanding

Contd.....

authorities is not required in emergent cases.

12. That with regard to para 5.3, the respondents beg to state that the destination of sub unit is known to every individual but the same could not be mentioned in movement order due to security reasons.

13. That with regard to para 5.4 the respondents beg to state that the applicants No. 2 to 7 were illegally absent from duty and are not entitled for any pay and allowances for the period of absence. ✓

14. That with regard to para 5.5 the respondents beg to state that the pay and allowances for the duty period have been paid.

15. That with regard to para 6 to 12, the respondents beg to offer no comments.



(VS Bakhtawar)
Colonel
Commanding Officer
57 Mtn Div Ord Unit

Affidavit..

Verification.....


VERIFICATION

I, *V. S. Bakhtawar*

Guwahati, being authorised do herē by solemnly declare that the statements made in this show cause reply is true to my knowledge, information and believe.

And I sign this verification on this *9th* day of *April* February, 2001, at Guwahati.

Declarant.


(*V. S. Bakhtawar*)
Colonel
Commanding Officer
57 Mtn Div Ord Bn