

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 34/1/2008

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SECTION OFFICER (Judl.)

✓
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ✓

Original Application No.203 of 1998 and series

Date of decision: This the 19th day of December 2000

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

The Hon'ble Mr M.P. Singh, Administrative Member

1. O.A.No.203/1998

Shri R.S. Pathak and 423 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and
Mrs S. Deka.

- versus -

Union of India and others

.....Respondents

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

2. O.A.No.207/1998

Shri Hemendra Nath Sharma and 24 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and
Mrs S. Deka.

- versus -

The Union of India and others

.....Respondents

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

3. O.A.No.222/1998

Shri Bimal Kumar Chatterjee and 31 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and
Mr S. Mukherjee.

- versus -

The Union of India and others

.....Respondents

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

4. O.A.No.225/1999

Shri Subrata Kumar Dhar and 23 others

.....Applicants

By Advocates Mr M. Chanda, Mrs U. Dutta and
Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

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

O.A.No.268/1999

Shri V.S. Sarma and 86 others

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

The Union of India and Others

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

.....Applicants

.....Respondents

6.

O.A.No.312/1999

Shri Keshab Choudhury and 67 others

By Advocates Mr D.K. Mishra, Mr A. Dutta and Mr R. Agarwal.

- versus -

The Union of India and others

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

.....Applicants

.....Respondents

7.

O.A.No.372/1999

Smt Sunita Devi Bhuyan and 41 others

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

- versus -

The Union of India and others

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

.....Applicants

.....Respondents

8.

O.A.No.144/1999

Shri Arun Chandra Chanda and 19 others

By Advocates Mr J.L. Sarkar, Mr M. Chanda and Mrs U. Dutta.

- versus -

The Union of India and others

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

.....Applicants

.....Respondents

9.

O.A.No.194/1999

Shri Bidhan Chandra Roy and 20 others

By Advocates Mr J.L. Sarkar, Mr M. Chanda, Mrs U. Dutta and Mr G.N. Chakrabarty.

- versus -

The Union of India and others

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

.....Applicants

.....Respondents

10.

O.A.No.285/1999

Shri Samir Ch. Kar and 9 others

By Advocates Mr J.L. Sarkar, Mr M. Chanda, Mrs N.D. Goswami and Mr G.N. Chakrabarty.

- versus -

The Union of India and others

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

.....Applicants

.....Respondents

O.A.No.379/1999

Shri M.R. Chakraborty and 78 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and
Mrs N.D. Goswami.

- versus -

The Union of India and others

.....Respondents

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

12.

O.A.No.442/1999

Shri A. Mahendra Kumar and 5 others

.....Applicants

By Advocates Mr M. Chanda and N.D. Goswami.

- versus -

The Union of India and others

.....Respondents

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

13.

O.A.No.129/2000

Shri K. Bayan and 154 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda,
Mrs N.D. Goswami and Mr G.N. Chakraborty.

- versus -

The Union of India and others

.....Respondents

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

14.

O.A.No.166/2000

Shri Bhabendra Nath Deka and 5 others

.....Applicants

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

- versus -

The Union of India and others

.....Respondents

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

15.

O.A.No.168/2000

Dr Ajit Bora

.....Applicant

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

The Union of India and others

.....Respondents

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

16.

O.A.No.284/1999

Shri Gaj Bahadur Singh Thapa and 98 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda,
Mrs N.D. Goswami and Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

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

17.

O.A.No.109/2000

Dr Priya Kumar Singh and 6 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda,
Mrs N.D. Goswami and Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

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

18.

O.A.No.341/2000

Shri Pulak Chakraborty and 5 others

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

The Union of India and others

.....Respondents

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

19.

O.A.No.345/2000

Dr Basab Ghosh and 2 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and
Mr S. Ghosh.

- versus -

The Union of India and others

.....Respondents

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

20.

O.A.No.425/2000

Dr Songkhcngam Dimngel and 12 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mrs S. Deka and
Ms T. Das.

- versus -

The Union of India and others

.....Respondents

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

21.

O.A.No.429/2000

Shri Bhupendra Nath Talukdar and 16 others

.....Applicants

By Advocates Mr M. Chanda, Mrs N.D. Goswami and
Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

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

.....

O R D E R (ORAL)
GHOWDHURY.J. (V.C.)

The admissibility of Special (Duty) Allowance is the main question in all these applications, and therefore, all these applications were taken up together for consideration. For the purpose of adjudication of this proceeding, however, we shall mainly refer to O.A.No.203 of 1998 as the lead case.

2. All the applicants are working in different capacities under the Director General, Assam Rifles. The applicants are civilian employees working under the Central Government. The Union Government, with a view to provide some incentives to the civilian employees of the Central Government in the States and Union Territories of the North Eastern Region, amongst others, granted Special (Duty) Allowance (SDA for short) to the employees having All India Transfer liability. The original scheme was introduced by O.M.No.II.20014/3/83/E.IV dated 14.12.1983. The Government of India by letter No.II.11011/1/84-FP.IV dated 3.3.1986

clarified the Government policy and accordingly the Director General, Assam Rifles, was informed by the aforesaid letter that personnel in Battalions of Assam Rifles would not be entitled to the concessions envisaged in the Ministry of Finance (Department of Expenditure) O.M. NO.20014/3/83-E-IV dated 14.12.1983. It also indicated that Assam Rifles personnel and civilian non-combatised officers/employees of Assam Rifles did not have All India Transfer liability and as such, the question of grant of SDA even in the case of civilian non-combatised officers/employees did not arise. It further mentioned that non-combatised civilian staff of Static formations such as officers of DG, IGP, DIGs and Range Headquarters of Assam Rifles would be allowed concessions as envisaged in the O.M. dated 14.12.1983 except SDA. The Government of India again had to deal with the matter pertaining to grant of SDA and Special Compensatory (Remote Locality) Allowance to the Assam Rifles personnel posted in the States and Union Territories of the North Eastern Region, Andaman and Nicobar Islands and Lakshadweep. Considering the subject the Government of India decided to sanction grant of certain allowances like SDA, Special Compensatory (Remote Locality) Allowance (SCA(RL) for short), etc. By order No.11011/1/84-FP.IV dated 2.2.1989, Annexure D, the sanction of the President granting the following allowances were indicated. The relevant part of the Notification is reproduced hereinbelow:

<u>Category of personnel entitled to allowance</u>	<u>Particulars of O.M.s regulating the allowance</u>
(1)	(2)
1) <u>Special (Duty) Allowance</u>	
1) Combatised personnel (including Cadre officer) in battalions of Assam Rifles and the combatised personnel (including Cadre officers) in static formations (such as officers of DG, IGP, DIGs, Range HQs, Training Centre etc.) and other units (Maintenance Groups, Workshops etc.) of Assam Rifles.	Item (iii) in para 1 of Ministry E.IV dated 14.12.83 as amended from time to time, read with their O.M.No.II.20014/3/83-E.IV dated 29.10.86 and 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).

(1)

(2)

ii) Non-combatised civilian personnel (including officers) in battalions of Assam Rifles and static formations (such as offices of DG, IGP, DIGs, Range HQrs., Training Centre etc.) and other Groups (Maintenance Groups, Workshops etc.) of Assam Rifles.

Same as above. (This is in modification of the sanction issued vide item (3) of MHA letter No.11011/1/84-FP.IV dated 3.3.86).

(2)

(3)"

The above communication also indicated that the above allowances were not applicable to Army Officers/personnel on deputation to Assam Rifles. In pursuance to the aforesaid Government order the applicants were paid the SDA with effect from 7.11.1988. When the matter rested at this stage situation the Supreme Court rendered its decision in Civil Appeal No.3251 of 1993 alongwith analogous appeals on 20.9.1994, known as Union of India and others vs. S. Vijay Kumar and others reported in (1994) 28 ATC 598. In the said decision, the Supreme Court had the occasion to deal with the O.M.s dated 14.12.1983, 29.10.1986 and 20.4.1987 pertaining to grant of SDA to the Central Government employees working in the North Eastern Region having All India Transfer liability. The Supreme Court, in the aforesaid decision, held that the aforesaid three Notifications were applicable only to the persons specified therein, namely those persons who have All India Transfer liability on being posted to any station of the North Eastern Region from outside the region. Referring to the Notification dated 20.4.1987 the Supreme Court made the position clear that the allowance should not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. In the light of the above decision of the Supreme Court, the O.M.No.11(3)/95-E.II(B) dated 12.1.1996 clarified that the Central Government civilian employees who have All India Transfer Liability were entitled to SDA on being posted to any station in N.E. 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 aforesaid communication created some misgivings and in order to avoid the

misgivings.....

misgivings, the Director General, Assam Rifles, the respondent No.3 herein, issued the Memorandum dated 6.6.1998, Annexure E. By the aforementioned communication the Ministry of Home Affairs was informed that SDA was one of the ten concessions/facilities extended to the Central Government civilian employees serving in the N.E. Region with effect from 1.11.1983 sanctioned under Ministry of Finance O.M. dated 14.12.1983. Subsequently, consequent to Fourth Central Pay Commission recommendations, the above concessions/facilities were modified and two more concessions were given with effect from 1.12.1988. It also mentioned that 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 N.E. Region. While grant of the above concessions to the combatant employees were turned down, all the concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General, Assam Rifles, Inspector General, Assam Rifles (North), Range Headquarters and Assam Rifles Training Centre and School with effect from 3.3.1986 under Ministry of Home Affairs letter No.II.11011/1/84PP 4 dated 3.3.1986, copy of which was endorsed, alongwith others, to the Pay and Accounts Office, Assam Rifles, Shillong and Ministry of Finance, Department of Expenditure (E.IV). Subsequently, all these concessions except SDA were also extended to the combatant employees of Assam Rifles with effect from 1.11.1986 vide Ministry of Home Affairs letter dated 4.4.1987. The communication further mentioned that consequent to change over of pay structure of Assam Rifles personnel from Army pattern to CPO, pattern from 1.1.1986 following Fourth Central Pay Commission recommendations. SDA on the analogy of other CPOs like BSF, CRPF etc. was also extended to both combatant and civilian employees of Assam Rifles with effect from 7.11.1986, with categorical mention of the civilian staff and officers of all static formations of Assam Rifles including Directorate General, Assam Rifles, vide Ministry of Home Affairs letter dated 2.2.1989. Para 4 of the letter dated 2.2.1989 laid 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. The Pay and Accounts Officer, Assam Rifles, was passing the monthly bills of the civilian employees of Directorate General, Assam Rifles without any objection right from the time of sanction of SDA to Assam Rifles. However in the end of April 1998, the Pay and Accounts Officer, Assam Rifles, Shillong, intimated that SDA was not applicable to the civilian employees of DGAR, Shillong as per the Ministry of Finance O.M.No.11(3)95-E.II(B) dated 12.1.1996. The communication also clarified that the judgment of the Apex Court regarding non-entitlement of SDA to certain category of civilian employees was based on the general order sanctioning the ten concessions/facilities including SDA to civilians serving in the N.E. Region. SDA was sanctioned to the combatant and civilian employees of Assam Rifles on CPO analogy and that too, from a much later date, 7.11.1988, when the pay pattern of Assam Rifles personnel was made on the lines of CPO pattern after the Fourth Central Pay Commission recommendations. It was also mentioned in the communication dated 6.6.1998 that the Ministry of Home Affairs and the Ministry of Finance were fully aware of the general eligibility criteria for SDA, namely, conditions of appointments, posting, transfer, retention, exigency of service etc. of the civilian employees of static formations of Assam Rifles like DGAR, IGAR, etc. Keeping all these aspects 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 as mentioned earlier. The Director General accordingly intimated the view about the eligibility of SDA to the civilian employees of the Directorate General, Assam Rifles.

3. The above communication was, however, turned down by the Ministry of Home Affairs, by its communication dated 9.7.1998. The Association represented the matter to the Home Ministry by representation dated 13.8.1998, but the Ministry turned down the same. The Directorate General, Assam Rifles, by its communication dated 18.8.1998 informed that the Pay and Accounts Officer, Assam Rifles, advised for discontinuance

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of SDA from the pay of August 1988 in respect of all the civilian employees of DGAR and further advised that the SDA drawn from 20.9.1994 to till date was also to be recovered. Hence this application before this Tribunal challenging the legitimacy of the action taken by the respondents.

4. The respondents submitted their written statement and in their written statement, the respondents have not disputed about the Presidential order granting SDA with effect from 7.11.1988. It was also stated that in the written statement that the employees of the Central Government having All India Transfer liability serving in the States and Union Territories of the N.E. Region were granted SDA from 1983 onwards vide Government of India O.M. dated 14.12.1983. The orders of the President granting SDA to Assam Rifles with effect from 7.11.1988 was a distinct and a special order for Assam Rifles which was issued after a lapse of almost five years and after considering all the pros and cons of the eligibility criteria. The respondents further stated that the civilian employees of Assam Rifles were granted SCA from 1988 through a special order vide Government of India, Ministry of Home Affairs letter No.11011/1/84-FP.IV dated 2.2.1989. The O.M. dated 12.1.1996 was made operative till July 1988 and pay bill were duly passed by the Audit authorities, namely Pay and Accounts Office, Assam Rifles, Ministry of Home Affairs. In August 1998, the Pay and Accounts Officer, Assam Rifles intimated that SDA was not applicable to the civilian employees of the Directorate General, Assam Rifles as per Ministry of Finance O.M. dated 12.1.1996. The respondents also stated that the O.M. dated 12.1.1996 was applicable to civilian employees of Assam Rifles as per Ministry of Home Affairs letter dated 9.7.1998.

5. From the facts enumerated above it thus emerges that the Assam Rifles personnel were not covered by the O.M. dated 14.12.1983 and the subsequent O.M.s dated 29.10.1986 and 20.4.1987. By communication dated 3.3.1986 the Ministry of Home Affairs in clear terms stated that

Assam.....

Assam Rifles personnel and civilian non-combatised officers of Assam Rifles did not have All India Transfer liability and as such question of grant of SDA even in the case of civilian non-combatised officers/employees did not arise. The aforesaid communication was considered by the Ministry while taking a decision for grant of SDA, SCA(RL) to the Assam Rifles personnel posted in the States and Union Territories of N.E. Region, Andaman and Nicobar Islands and Lakshadweep. Conveying the sanction of the President for grant of the allowances to the personnel of Assam Rifles with effect from 7.11.1988, the Ministry took note of the earlier O.M.s dated 14.12.1983, 29.10.1986 and 1.12.1988. The O.M. dated 1.12.1988 was made in modification of the sanction issued by MHA letter No.II.27012/31/85-FP.II dated 6.4.1987. It thus appears that while granting SDA to the non-combatised civilian staff of the static formation of the Assam Rifles, the Ministry took note of its earlier O.M.s. The orders of the President granting SDA to Assam Rifles with effect from 7.11.1988 was mentioned as a distinct order. A ^{conscious decision} consensus was taken by the respondents by considering the service conditions of the personnel serving in the Assam Rifles. This order granting SDA is not relatable to the O.M.s dated 14.12.1983, 29.10.1986 and 20.4.87. The competent authority felt it appropriate for granting SDA knowing it that such civilian non-combatised officers and personnel of the Assam Rifles did not have All India Transfer liability, notwithstanding, the Government thought it wise to grant the same. The aforesaid direction of the authority has been passed in absolute terms and in the absence of any modification of the said order the respondents were not justified to refuse the benefit of the order dated 2.2.1989. The order dated 2.2.1989 was not the subject matter of the decision rendered by the Supreme Court in Vijay Kumar (Supra). In the circumstances we do not find any justification on the part of the respondents for refusing to grant SDA to the applicants which was earlier granted. Accordingly all such actions of the respondents refusing SDA to the applicants are quashed and set aside. In view of our decision we hold that the steps for recovery are also unjustified.

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6. The application is accordingly allowed. If any recovery has already been made by virtue of the earlier action, the respondents are directed to refund the same forthwith to the applicants after examining the records.

No order as to costs.

Sd/ VICE CHAIRMAN

Sd/MEMBER (Adm)



TRUE COPY

प्रतिलिपि

[Signature]
4/11/01
Section Officer (J)

प्रमुख अधिकारी (अध्यक्ष शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-8

गुवाहाटी - अठारवी, गुवाहाटी-8

[Signature]
4/11/01

20/1800
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI.

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

Title of the Case : O.A. No. 341/2000

Sri Pulak Chakraborty & : Applicants
4 Ors.

-versus-

Union of India & Ors. : Respondents

I N D E X

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Date : 28.9.2000

Filed by
Sijilshosh
Advocate

16

Filed by the app-
licant through :-
S. Sharma
Advocate
18.10.2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 341/2000

BETWEEN

1. Shri Pulak Chakraborty
Stenographer Grade III
Son of Late Manik Lal Chakraborty,
C/o HQ DGAR (Record Branch)
Shillong-793011
2. Shri Pranesh Chakraborty
Son of Late Prafulla Chakraborty
Stenographer Grade I
C/o HQ DGAR (GS) Branch,
Shillong-793011
3. Shri Girish Chandra
Son of Shri Mahesh Nand Debriyal
C/o HQ DGAR (PRO Cell)
Shillong-793011
4. Shri Probodh Chakraborty
Stenographer Grade I
C/o Headquarter (Record Branch)
Shillong-793011
5. Shri Jagadish Prasad Gaur
Son of Shri Bhajji Ram Gaur
Hindi Translator,
C/o HQ DGAR (Hindi Section)
Shillong-793011
6. Shri Anil Kumar 'D'
Son of Shri Damodaram N
Draughtsman, Headquarter, NER (South)
Assam Rifles, C/o 99 APO.

...Applicants

-AND-

1. The Union of India
Through the Secretary to the
Government of India,
Ministry of Home Affairs,
New Delhi.
2. The Secretary to the Govt. of India,
Ministry of Finance,
Government of India,
New Delhi.
3. The Director General,
Assam Rifles,
Arbuthnath Road,
Shillong-793011
4. The Deputy Inspector General,
Headquarter, Assam Rifles,
Arunachal and Assam Range
C/o 99 APO.
5. Commander,
Headquarter, NLR(South),
Assam Rifles,
C/o 99 A.P.O.

DETAILS OF APPLICATION

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

This application is made against the order of discontinuation of Special (Duty) Allowance (for short SDA to the applicant Nos. 1,2,4 and 6 with effect from 14.5.1999, 02.08.1999 and 13.11.1998 and recovery of Special(Duty) Allowance already drawn with effect from 20.9.94 issued

under letter No. E/1-A/PRS/98 dated 18.8.98 from the Directorate General, Assam Rifles, Shillong, ~~Tezpur~~

2. Jurisdiction

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

3. Limitation

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

4. Facts of the Case.

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

4.2 That the applicants are working in the capacity of Stenographers Grade I, and Grade III and Hindi Translator under the Director General of Assam Rifles, Shillong and at present are posted at Headquarters, Shillong at various branches. Their cause of action is same and they are also low paid employees and the grievances and reliefs sought for are also common, as such pray before Your Lordships for permission to file this common application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That the Govt. of India had decided to give some incentive to the civilian employees of the Central Govt. service in the states and Union Territories of North

Contd.....

Shri Pankaj Chakrabarty

Eastern Region. The scheme amongst others granted Special (Duty) Allowance to the employees having All India Transfer Liability. The Original Scheme was issued under Ministry of Finance, O.M. No. II.20014/3/83-IV dated 14.12.1983. Those who are covered by the scheme dated 14.12.1983 were given SDA with effect from 1.11.1983. ~~xxxxxx~~ ~~xxxxxx~~ The period and rate of payment was subsequently modified from time to time. The Central Government civilian employees posted in North Eastern Region 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~~ approached the Hon'ble Central Administrative Tribunal, Guwahati and Calcutta Benches and as a result of the judgement of 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.

An extract of the O.M. dated 14.12.1983 is annexed as Annexure-1.

4.4 That after the judgement of the Hon'ble Supreme Court, the Government of India, Ministry of Finance issued O.M. No. II(3)/95-E/II (B) dated 12.1.1996 by which payment of SDA has been regulated in the manner indicated in para 6 of that O.M. referred above.

Copy of the Memo dated 12.1.1996 is annexed as Annexure-2.

Shri Pratik Chakraborty

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

Copy of the O.M. dated 3.3.86 is annexed as
Annexure-3.

4.6 That the Govt. of India, Ministry of Home Affairs was seized with the matter of improving the conditions of the service of the Assam Rifles personnel particularly in the grant of SDA and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the States and Union Territories of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep Grant of Sikkim Compensatory Allowance. The President of India considering the peculiar conditions of service of the Assam Rifles employees accorded sanction of some allowance, and SDA is one of the such allowances sanctioned by the President is Special Compensatory Allowance (Also called Special 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 to allowance.	Particulars of O.M.s regulating the allowance.
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(I)	<u>Special (Duty) Allowance.</u>
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Shri Anur Chakraborty

- (i) 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. of Assam Rifles.
- Item(iii) in para 1 of Ministry of Finance O.M. No. II.20014/3/83 E.IV dated 14.12.83 as amended from time to time, read with their O.M. No.II.20014/3/83.E.IV dated 29.10.86 and their OM No. II 20014/3/83-E.IV dated 15.7.88 and Min. of Fin. OM No. F. 20014/16/86.E.IV/E-IV ~~xxxx~~ (B) ~~xxxx~~ dated 1.12.88. This is in modification of sanction issued in HRA letter No.II 27012/31/85-PF II dated 6.4.87.
- (ii) Non-combatised civilian personnel (including officers) in battalions of Assam Rifles and static formations (such as offices of DG, IGP, DIGs Range Hqrs. Training Centre etc.) and other Groups (Maintenance Groups, Workshops etc.) of Assam Rifles.
- Same as above (This is in modification of the sanction issued vide item(3) of MHA letter No. 1101084-PF.IV dated 3.3.86.

The letter dated 2.2.1989 stipulates improvement in the condition of service of Assam Rifles employees and this decision is a clear and considered decisions modifying earlier order by which your humble applicants were not given SDA. The decision to grant SDA to the applicants as

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Shri Pradeep Chandra

sanctioned by the President of India communicated to the Director General, Assam Rifles, Shillong by circulation dated 2.2.1989 is a distinct decision as regards the Assam Rifles employees and as such this is a special provisions as regards the Assam Rifles only as distinguished from other Central Govt. civilian employees. Your humble applicants beg to state 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 here that while the other civilian Central Government employees were paid SDA with effect from 1.11.83 your humble 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 marked as Annexure-4.

4.7 That the Pay and Accounts Officer, Assam Rifles, Shillong was raising questions regarding payment of SDA to your applicant. 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

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Shri Pankaj Chakraborty

No. A/I-A/242/98 dated 6.6.98. This letter discussed in detail the entitlement of SDA to the civilian employees of the Director General, Assam Rifles and also the matter of objection by the Pay and Accounts Officer, Assam Rifles and also the matter of objection by the Pay and Accounts Officer, Assam Rifles and came 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 of Directorate General Assam Rifles, Shillong is not permitted on a logical interpretation of the extant Govt. orders cited above, which provide 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 drawal of SDA by the civilian employees of DGAR, Shillong is in order."

Copy of the letter dated 6.6.1998 is annexed as Annexure -5.

4.8 That the Ministry of Home Affairs under their letter dated 9.7.98 to Director General, Assam Rifles Shillong in reply to his letter dated 6.6.98 informed that the proposal has been considered in the Ministry but the same has not been agreed to in view of the orders of the Ministry of Finance dated 12.1.1996. Thereafter the Director General Assam Rifles under his letter dated 21.7.98 forwarded a copy of the said letter

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dated 9.7.98 to the Pay and Accounts Office, Assam Rifles for information and necessary action. This was followed by letter dated 29.7.98 to the Pay and Accounts Office, Assam Rifles from the Director General, Assam Rifles, Shillong.

Copies of the letter dated 9.7.98, 21.7.98 and 29.7.98 are annexed hereto and the same are marked as Annexures-6, 7 and 8 respectively.

4.9 That the applicants came to know that Pay & Accounts Office was returning the bills for deleting Special (Duty) Allowance. Thereafter the matter was represented by the applicants through the Assam Rifles (Civil) employees Association by a letter dated 27.7.98 from the General Secretary of the said Association. Be it stated that the applicants are not members of the said Association. In the representation it was explained in detail that the Finance Ministry's letter dated 12.1.196 has not nexus with the SDA paid to the applicant and the SDA was paid by the Presidential sanction under Memo of February 1989 and that the payment was made with effect from 8.8.88. It has also been mentioned in the application that due to non-applicability of letter dated 12.1.96 SDA has been continued to be paid to the applicants. The representation requested for stoppage of arbitrary withdrawal of the SDA by the Pay & Accounts Office. This was followed by another letter dated 30.7.98 of the General Secretary of the said Association.

Copies of the representation dated 27.7.98 and 30.7.98 are annexed as Annexures 9 and 10.

Shri Purlok Chakraborty

4.10 That the Director General of Assam Rifles wrote a letter dated 4.8.98 to the Pay & Accounts Office, Assam Rifles, Shillong explaining the details of entitlement of SDA to the civilian employees of the Director General, Assam Rifles. This letter also narrated the fact of grant of SDA to the applicants by Memo dated 2.2.89, and from 7.11.88. This letter also clarified that unless Govt. of India's order dated 2.2.89 sanctioning SDA with effect from 7.11.98 was modified or cancelled or superceded the civilian employees of the Director General, Assam Rifles would be entitled to draw SDA. This letter also indicated that the matter requires further examination and would be taken up with the Appropriate Authorities. It was also stated that pending clarification and final decision from the Competent Authority no deduction/recovery of SDA of Civilian employees of the Director General, Assam Rifles may be made.

Copy of the letter dated 4.8.98 is annexed as Annexure-11.

4.11 That the Assam Rifles civilian employees Association have also written a letter dated 13.8.98 to the Joint Secretary, Ministry of Home Affairs regarding the above subject explaining the details of entitlement of SDA to civilian employees of Directorate General, ~~and~~ Assam Rifles, Shillong and Tripura.

Copy of the letter dated 13.8.98 is annexed as Annexure-12.

4.12 That by their letter dated 18.8.98 the Director General, Assam Rifles, Shillong has intimated the applicants

Shri Pankaj Chakraborty

the applicants that Pay & Accounts Office, Assam Rifles has initiated 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 has further stated that the SDA draw from 20.9.94 to the date of payment made has also be recovered.

Copy of the letter dated 18.8.98 is annexed as Annexure-13.

4.13 That the applicants are received SDA on the sanction of the President under order dated 2.2.89 with effect from 7.11.98 and not from 1983 like other Central Government employees. It is humbly stated that there is no order modifying or cancelling the said order dated 2.2.89. The finance ministry's letter dated 12.1.1996, in humble submission of the applicants has no application in the case of the present applicants.

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

Copy of the letter dated 20.8.98 is enclosed as Annexure-14.

4.15 That the applicants state that thereafter the Ministry of Home Affairs under their letter No.22012/1/98-P.P. V dated 22.9.98 and No.22012/10/97-PP.V dated 12.05.99

Shri Purok Chakraborty

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.2 issued the separate letter on 12.10.98 and 17.05.99 respectively informing, amongst others, the General Secretary of Assam Rifles Civilian Employees Association regarding passing of the aforesaid clarifications and it was further informed that the Directorate was in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Rifles outcome of which would be intimated separately. The applicants state that the clarification given by the Ministry 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 12.10.98 and 17.5.99 is unjustified. Therefore the letters dated 22.9.98 and 12.10.98 and letters dated 12.05.99 and 17.05.99 are liable to be set aside and quashed.

Copies of the aforesaid letter dated 22.9.98, 12.10.98 and letters dated 12.05.99 and 17.05.99 are Annexed as Annexures 15, 16, 17 and 18 respectively.

4.16 That your applicants beg to state some of the similarly situation employees of Assam Rifles, Shillong have also approached the Hon'ble Tribunal by way of filing

Shri Pankaj Chakraborty

Original Application Nos. 379/1999, 225/1999 and 285/1999 and the said O.A.s are pending before the Hon'ble Tribunal. The said O.A.s came up before the Hon'ble Tribunal on different dates namely 24.11.99, 3.8.1999 and 3.9.1999 and the Hon'ble Tribunal was pleased to admit the said O.A.s and was pleased to show cause as to why the interim order as prayed for should not be granted and was also pleased to stay the operation of the impugned orders dated 9.7.1998 and 18.8.1998. Therefore the present applicants pray before the Hon'ble Tribunal for a similar order like of O.A. No. 279/99 as the applicants are similarly situated and their grievances are also same against the same respondents.

Copies of the order dated 24.11.99, 3.8.99 and 3.9.99 are annexed hereto and marked as Annexures-19, 20 & 21 respectively.

4.27 That your applicants beg to state almost all the civilian employees belong to Group B, C and D of Assam Rifles have approached this Hon'ble Tribunal challenging the aforesaid impugned order discontinuation of SDA and the Hon'ble Tribunal after hearing the arguments of the learned counsel for the parties was pleased to stay the impugned order of discontinuation of SDA and by virtue of the said orders all Group B, C and D employees of the Assam Rifles are enjoying the SDA where the present applicants are also working but the applicants are denied the benefit of SDA only on the ground that they were not the applicants in any of the case pending before this Hon'ble Tribunal. Therefore non-payment of SDA to the present applicants is highly arbitrary, illegal and unfair. It is pertinent to mention here that the applicant Nos.1,2,4 and

6 have been discontinued payment of SDA with effect from 14.5.1999, 2.8.99, 13.11.98 and July 1998 and the applicant No.3 and 5 being new appointees has also been denied payment of Soecial Duty Allowance whereas all the impugned orders regarding discontinuation of payment of Special Duty Allowance has already been kept in abeyance following the series of orders passed by the Hon'ble Tribunal in case of Civilian Employees of Assam Rifles and as a result all these civilian employees who are similarly situated like the present applicants approached this Hon'ble Tribunal are being paid SDA but the present applicants have been denied Special Deuty Allowance only on the ground that they were not applicants in any of the cases pending before the Hon'ble Tribunal. Therefore this action of denial of payment of SDA to the present applicants by the respondents is highly arbitrary, illegal and unfair and the same is violative of Articles 14 and 16 of the Constitution of India.

That the non-payment of SDA to the applicants and payment of SDA to the other similarly situated civilian employees, gives rise cause of action each and every month as such the application is well within the period of limitation as per Section 21 of the Administrative Tribunals Act, 1985.

In view of the interim order passed in O.A. No.379/99, 225/99, 285/99 and other similar cases pending before the Hon'ble Tribunal, the present applicants are also entitled to SDA with immediate effect with arrear at least from the date of discontinuation of SDA to the present applicants.

It is stated that applicant No.6 the permanent resident of Thundil House, Cherukunuam, Thekkekara, P.O.

Kurathikad, Mavelikara, Dist. Allepy, Kerala-690107.

He is recruited to the cadre of Draughtsman following an advertisement in Times of India in the month of October 1988 by the Headquarter DGAR, Assam Rifles. The seniority of applicant No.6 is being maintained on All India basis and his recruitment zone is also all India basis as such he is entitled to payment of SDA. It is categorically submitted that all the applicants are recruited on All India basis and their promotion zone and seniority are also being maintained on All India basis, as such all the applicants are saddled with all India Transfer liability as such they are entitled to SDA with arrears monetary benefit with immediate effect.

Therefore the Hon'ble Tribunal be pleased to direct the respondents to continue the payment of SDA to the applicants. It is pertinent to mention here that the applicant No.4 & 5 have joined very recently in the month of January and May 2000 respectively but they are not being paid SDA to the reason best known to the respondents but they are also saddled with similar service conditions with other similar civilian employees of the Assam Rifles who are enjoying the benefit of SDA as such the applicant nos. 4 and 5 are also entitled to SDA. It is further stated that the similar matter relating to the payment of SDA to the employees of the Assam Rifles has already been entertained by this Hon'ble Tribunal and therefore the applicants pray before the Hon'ble Tribunal for a similar order passed in O.A. Nos. 379/99, 225/99 and 285/99.

4.18 That your applicants beg to state that the Office Memorandum dated 12.1.96 has no bearing with the payment of Special Duty Allowance to the applicants as because the

entitlement of Special Duty Allowance has been made available to the applicants by the President of India through a separate Circular dated 2.2.1989 and it has got no link with the O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998 issued by the Ministry of Finance, Department of Expenditure whereby the all other central Govt. civilian employees have drawn Special Duty Allowance with effect from 1.12.1983. The employees of the Assam Rifles have been granted SDA with effect from 7.11.1988 by the President of India. It is also relevant to mention here that due to non-applicability of O.M. dated 12.1.1996 issued by the Ministry of Finance, Department of Expenditure SDA has been continued to pay to the applicants after the issuance of the said O.M. Therefore the Hon'ble Tribunal would be pleased to declare that the respondents are not entitled to discontinue the payment of ~~SDA~~ Special Duty Allowance to the applicants in terms of the Office Memorandum issued by the Govt. of India, Ministry of Finance, New Delhi dated 1.2.1.1996 as because the benefit of SDA was sanctioned to the employees of the Assam Rifles by Presidential Sanction dated 7.11.1988. Therefore there is no relevance with the payment of Special Duty Allowance to the present applicants with the O.M. dated 12.1.1996 issued by the Government of India, Ministry of Finance, Department of Expenditure, New Delhi, and the Hon'ble Tribunal would be pleased to direct the respondents to continue to pay SDA to the applicants and further be pleased to pay the arrear from the date of discontinuation of SDA to the applicants with immediate effect.

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

5. Ground 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 case of the present applicants.
- 5.3 For that the Respondents themselves paid SDA to the applicants with effect from 7.11.88 due to their entitlement, and there has not been any change of the order of the entitlement and as such they should continue to get the SDA.
- 5.4 For that the SDA is sought to be stopped and recovery sought to be made without giving any scope of explanation by the applicants. This 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 and recovery of SDA already drawn shall cause undue hardships to the applicants. The applicants are being paid SDA because of their entitlement.
- 5.7 For that non-payment and proposed recovery of SDA payments shall be violative of Articles 14, 16, and 21 of the Constitution of India, being arbitrary.

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Shri Pradeep Chatterjee

5.8 For that the entitlement of Special Duty Allowance of the civilian Employees of the Assam Rifles has no relevancy with the clarification issued by the O.M. dated 12.1.1996 and as such there is no relevancy to the order passed under letter dated 12.10.98 as well as letter dated 22.9.98 and the same are liable to be set aside and quashed.

6. Details of remedy exhausted.

The applicants beg to state that there is no other remedy under any rule than to file this application before the Hon'ble Tribunal. Moreover, the applicants requested for payment of SDA has been rejected by the authority.

7. Matter not pending before any other court or Tribunal.

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

8. Relief(s) sought for :

Under the facts and circumstances of the case, the applicants pray that Your Lordships would be pleased to issue notice to the respondents to show cause as to why the relief(s) sought for by the applicants shall not

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be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown be pleased to grant the following reliefs :

- 8.1 The payment of SDA to the applicants should be continued and no recovery with regard to payment of SDA should be made from the applicants.
- 8.2 The orders in letter dated 9.7.1998 (Annexure-6) and communication in order dated 29.7.98 (Annexure-8) regarding non-entitlement of SDA to the applicants ~~xxxxxxxx~~ and the decision of Pay and Accounts Officer, Assam Rifles, as intimated in letter dated 18.8.1998 (Annexure-13) that SDA to the applicants should be discontinued from the pay of the applicants and that the SDA drawn after 20.9.1994 shall be recovered, ~~be~~ be set aside and quashed, and the Hon'ble Tribunal further be pleased to set aside and quash para 2 of the impugned letter bearing No.A/1-A/242/98 dated 12.10.1998 and letter No.22013/2/98-Pt.V dated 22.9.98 and letter No. F. 19(1)-E.II(A)/98 dated 20.8.98, letter No. 22012/10/97 dated 12.05.99 and letter No.A/O-M/241/99 dated 17.05.99.
- 8.3 That the Hon'ble Tribunal would be pleased to declare that the O.M. No.11(3)/95-E.II(B) dated 12.1.96 has no application regarding payment of Special Duty Allowance in the instant case of the applicants.

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8.4 Costs of the Application.

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

9. Interim Reliefs prayed for :

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

9.1 That the letter dated 9.7.98 issued by the Ministry of Home Affairs, New Delhi, letter dated 18.8.98 issued by the Respondent No3, letter dated 12.10.1998, 22.09.98, 17.05.99 and 12.05.99 be suspendent and further be pleased to direct the respondents to continue the payment of SDA to the applicants with immediate effect and the proposed recovery of Special Duty Allowance from the applicants which have already drawn after 20.9.1994. *Should not be made*

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

10.

This application has been filed through Advocate.

11. Particulars of Postal Order.

i.	I.P.O. No.	: 26 502962
ii.	Date of Issue	: 30.7.2000
iii.	Issued from	: G.P.O., Guwahati.
iv.	Payable at	: G.P.O., Guwahati.

12. List of enclosures.

As stated in the Index.

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

I, Sri Pulak Chakraborty, son of Late Manik Lal Chakraborty, working as Stenographer Gr. III, in the office of the Headquarters Directorate General of Assam Rifles, Shillong, one of the applicants in this Original Application and I have been duly authorised by the other applicants to verify the statements made in this application, accordingly I do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 18th day of ~~September~~ ^{October}, 2000.

Sri Pulak Chakraborty
Signature

No. 20014/3/83/E.1V
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

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

i) Tenure of Posting/deputation.

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

ii) Relief for Central deputation/training abroad and special mention in confidential records.

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

iii) Special (Duty) Allowance

Central Government civilian employees who have all India transfer liability will be granted a Special (Duty) Allowance at the rate of 25% of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of Income Tax will, however, not be

True copy
Sd/-
Advocate

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Annexure - 1

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~~Annexure - 3 (Contd.)~~

~~Annexure-7 (Contd.)~~

eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and the deputation duty allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

x x x x x x

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JOINT SECRETARY TO THE GOVERNMENT OF INDIA

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20/19-
L. 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-ElV 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 on 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.

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*certified to be true copy
Sivithash
Adv.*

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 i.e. 20-9-94) will be recovered.

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

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

10. Hindi version of this CM is enclosed.

Sd/-xx
(C Balachandran)

Under Secy. to the Govt : of India.

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

Copy(with endorsement list.) , UPSC etc. as per standard

-26- 24-32-24- (1097) (35) C1
No. 11.11.11/1/01-11.1V
Government of India/Minist Sarkar
Ministry of Home Affairs/Gish Mantralaya.

New Delhi, the 3-3-86.

Annexure-3

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
relating with your letter No. A/IV-(C)/1-64/8 dated
28th 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 Nos. 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 11.12.1983 as they move in
organised group and have back-up support.

2. The Assam Rifles personnel & Civilian non-
combatant 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-combatant officers/employees does not
arise.

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

This is done with the concurrence of the
Integrated Finance Division vide their Dy.No. 705/UG-
Fin.111, D.I. dated 21.02.1986.

Yours faithfully,

SJ/ XXX

(P. VIJAYAN BHATT)

DEPUTY SECY. TO THE GOVT. OF INDIA.

XXXXXX

.... 2/-

certified to be
true copy
Signature
Adv.

Annexure-3

No. 11. 11011/1/51-PP.IV

New Delhi, the 3-3-56.

Copy to :-

1. Pay & Accounts Office, Assam Rifles, Shillong
2. A. S., Assam Rifles, etc., Shillong.
3. Finance III, Ministry of Home Affairs.
4. Ministry of Finance, Deptt. of Expenditure
(E.IV. Branch).
5. Liaison Officer of Assam Rifles, New Delhi.
6. 10 more copies.

sd/ xxx

(P.VIJAYARAGHAVAN)

DEPUTY S.E.Y. TO THE GOVT OF INDIA.

11011/1/51-PP.IV
22
12-2

/ COPY /

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

ANEXURE-D
Annexure - 4

2nd
New Delhi, dated the 1st Feb 1989

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)

Particulars of O.Ms regulating
the allowance
(2)

(1) Special (Duty) Allowance

(i) 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, DTGs, Range HQs, 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, DTGs, Range HQs, 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.20014/3/83-E.IV dated 14.12.83 as amended from time to time, read with their O.M. No.20014/3/83-E.IV /II dated 29.10.85 and 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).

Certified to be true copy
Sivulish
Adv

-29- 2/35

158 44
Annexure - 4

- 2 -

Category of personnel
entitled to allowance
(1)

Particulars of O Ms regulating
the allowance
(2)

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

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

Same as indicated against item 1 (1)
above. Ministry of Finance O.Ms
No.20014/6/86-E.IV dated 23.9.86
and 27.4.87 (Meghalaya), No.20014/
7/86-E.IV dated 23.9.86 and 27.4.87
(Assam), No.20014/10/86-E. IV date-
23.9.86 and 22.4.87 (Tripura); No.
20014/2/86-E.IV dated 23.9.86 and
16.4.87 (Mizoram); No.20014/9/86-
E.IV dated 23.9.86 and 22.4.87
(Nagaland); No.20014/11/86-E.IV
dated 23.9.86 and 16.4.87 (Manipur);
No.20014/4/86-E.IV dated 23.9.86
and 22.4.87 (Arunachal Pradesh)
also refer. (This is in modification
of MHA letter No.27012/31/85-PP.II
dated 6.4.87).

(3) Sikkim Compensatory
Allowance

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

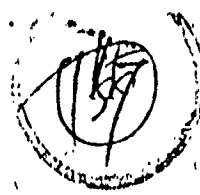
Ministry of Finance O.M. No.
20014/8/86-E.IV dated 23.9.86
and 22.4.87.

2. With effect from 7.11.1988, 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 on deputation to Assam Rifles.

... 3.

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Answered - 4

- 3 -

4. This issue with the concurrence of the Ministry of Finance vide their I.D. No.5(72)E. III/88 date-d 7.11.88 and F.89/AS(E)/89 dated 13.1.89 and the Integrated Finance Division of this Ministry vide their Dy. No.4744/FA(H)/88 dated 7.12.88.

Yours faithfully,

Sd/- xx

(M.M.Sharma)

Deputy Secretary to the Government of India

No.11011/1/84-FP.IV. Dated New Delhi, the ^{2nd} 1st February, 1989.

Copy to :-

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

Sd/- xx

(M.M. Sharma)

Deputy Secretary to the Government of India

- 31 -
Annexure - E 37
- 26 -
Annexure - E 46
Annexure - S 5

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

No.0/1-A/242/93

Dated: 6 June, 98

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

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF PGAR, 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 as 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. 20014/15/86/E. IV/E. II(B) dated 01 Dec. 88 attached as Annexure II.
2. The Assam Rifles projected to the Ministry of Home Affairs for extension of the above concessions/facilities including SDA to the combatant and civilian employees of Assam Rifles on the analogy that all those concessions including SDA were available to the employees of other CPOs like BSF, CRPF etc similarly situated in the North eastern Region. While grant of the above concessions to the combatant employees were turned down, all these concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General Assam Rifles, Inspector General Assam Rifles (North), Range HQrs. and Assam Rifles Training Centre and School with effect from 3 March '86 under Ministry of Home Affairs letter No. IX.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/PH. 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

- 32 - *WJG* - 20 - *Annexure 5*
- 2 -

Affairs letter No. 110X1/1/84-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 AG(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 '88, 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) 96-E.II(D) dated 12 Jan 86 (Annexure-V).

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 24 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, recommends that grant 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 B Sharma)
Major General

Dy. Director General Assam Rifles,
for Director General.

Encl. As above.

-33-
-28-
-29-
-30-
-31-
Annexure
Annexure 6
No. IL-22013/2/98-PF.V
Government of India
Ministry of Home Affairs

New Delhi, dated 9-7-98

To

Director General,
Assam Rifles,
Shillong - 793011

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

Sir,

I am directed to refer to your letter No. A/LA/242/98
dt 6.6.98 on the above mentioned subject and to say that the
proposal has been considered in the Ministry, but the same has
not been agreed to in view of the orders of Ministry of
Finance dated 12.2.96. (12.1.96).

Yours faithfully,

Sd/-xx
(Nirmala Dev)
Desk Officer

Copy to LOAR, North Block, New Delhi.

11/12/98
certified to be true copy
Swishosh
Adv.

34-
COPY 42-28
29-1
File No. 170-5076

Annexure
H9
Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Bhutanidoshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

A/LA/242/98

21 Jul 98

The Pay and Accounts Office
Assam Rifles
Government of India
Ministry of Home Affairs
Leitumkhrah, Shillong- 3

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF DGAR SHILLONG

1. Enclosed please find herewith photo copy of MHA letter No. II.22013/2/98-PF.V dated 09 Jul 98 on the subject cited above, for info and necessary action.

Sd/- xx
(R S Rawat)
Lt Col
AD(A)
1st LG Assam Rifles

Encl : 2

Copy to :-

Estt Branch (Internal)

Finance Branch

- for info and necessary action
alongwith a copy of MHA letter No.
II.22013/2/98-PF.V dated 09 Jul 98.

-do-

11/1
certified to be true copy
Rijit Shesh
ADH

~~-30-47-~~

~~(100)~~

~~33-~~

Annexure - 8

Mahanidishalaya Assam Rifles Annexure
Directorate General Assam Rifles
Shillong-782011

508

Tele No : 703075

A/I-A/242-88/98/

29 Jul 98

Pay and Accounts Office
Assam Rifles
Laitumkhrah
Shillong-3

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

1. Reference our letter No.A/I-A/242/98 dated 21 Jul 98.
2. Consequent to the issue of Ministry of Finance (Department of Expenditure) CM No.11(3)/95-E.II(B) dated 12 Jan 96 and the observations raised by your Office regarding entitlement of SDA to civilian employees of DGAR, Shillong, a case was taken up with the Ministry for clarification of entitlement of SDA to civilian employees of DGAR, Shillong. The Ministry of Home Affairs has intimated, vide their letter No. II. 22013/2/98-PF.V dated 09 Jul 98 (copy enclosed) that the civilian employees of DGAR, Shillong are not entitled for SDA in view of Ministry of Finance letter dated 12 Jan 96.
3. The above is for information and necessary action.

MR SGT DFR
NAD 1110 1998
10000000

Signature

(R S Dhull)
Col
DA(A)
for DG Assam Rifles

*Advt
20
Advt*

Encl : As above

N.O.O.

Copy to :-

1. CC AMFG

for information and necessary action
alongwith copies of following letters :-

- (a) MOF letter No. 11(3)/95-E.II(B) dated 12 Jan 96.
- (b) DGAR letter No.A/I-A/242/98 dated 06 Jun 98.
- (c) PHA letter No. II.22013/2/98-PF.V dated 09 Jul 98.

*certified to be true copy
with hash
adv.*

2. ENIT BR.

-do- (your 11.11015/5/98-Est(B) dt 27 Jul 98 received).

3. ENIT BR.

-do- (your 11.11015/5/98-Est(B) dt 24 Jul 98 received).

36-42

Assam Rifles (Civil) Employees Association

SHILLONG
ESTD 1969

~~Annexure I~~ 9

Annexure 9

12(2)/24/98/84

Dated Shillong the 27 Jul 98

Lt General Gurpreet Singh
Director General Assam Rifles
Shillong

WITHDRAWAL OF SPECIAL DUTY ALLOWANCE FROM
PAY OF JUL 1998 IN RESPECT OF CIVILIAN
EMPLOYEES OF THE DIRECTORATE GENERAL
ASSAM RIFLES, SHILLONG BY THE PAY AND
ACCOUNTS OFFICE (ASSAM RIFLES), SHILLONG

1. The undersigned would like to apprise the following matter for favour of your kind personal intervention please.
2. It has come to the notice of the civilian staff members of this Directorate that the Pay and Accounts Office (Assam Rifles), Shillong has returned the Pay Bill of July 1998 with instruction to delete "Special Duty Allowance " from the pay bill in accordance with the Ministry of Home Affairs, New Delhi letter No. II.22013/2/98-PH.V dated 9 July 1998 (Photostat Copy enclosed) which was forwarded to them by this Directorate vide letter No. A/1-A/242/98 dated 21 July 98 (Photostat Copy enclosed).
3. Sir, Due to return of Pay Bill for the month of July 1998 by the PAO (AR), Shillong, it has become panic amongst the civilian staff members of this Directorate and they have urged me to take up this matter immediately with your honour so that your honour would be kind enough to look into this matter personally and would save all civilian members from financial loss which has been caused by the PAO (AR).

Contd...2/-

Dist. 278
A 2
certified to be true copy
Suyash
Adv.

-37- 42
Assam Rifles (Civil) Employees Association

SHILLONG
ESTD - 1960

Annexure - 10
10

Ref No AR(C)/EA/98/86

Dated Shillong the 30 Jul 98

To

Lt General Gurpreet Singh
Director General Assam Rifles
Shillong

WITHDRAWAL OF SPECIAL DUTY ALLOWANCE FROM
PAY OF JULY 1998 IN RESPECT OF CIVILIAN
EMPLOYEES OF THE DIRECTORATE GENERAL
ASSAM RIFLES, SHILLONG BY THE PAY AND
ACCOUNTS OFFICE (ASSAM RIFLES), SHILLONG

Respected Sir,

1. Kindly refer to our letter No. AR(C)/EA/98/84 dated 27th July 1998.
2. Sir, it is learnt that the contention made by the Ministry of Finance letter dated 12-1-1996 as quoted by the Ministry of Home Affairs, New Delhi vide their letter No. II.22013/2/98-PF.V dated 9 July 1998 has not been considered and the Pay bill for the month of July 1998 in respect of civilian employees of this Directorate has been re-submitted stating that the special duty allowance would be ceased from the month of July 1998 which has extremely shocked to entire civilian employees of this Directorate.
3. Sir, all civilian employees were extremely hopeful that our dynamic leader Director General would exercise his all efforts that the poor employees working under him would not loose their pay packet by ceasing their genuine allowance which is still in existence even though the MHA has turned down our strong recommendation by simply quoting Ministry of Finance letter dated 12-1-1996.
4. Sir, we are still hundred percent sure that we may defend our case with the PAO (AR), Shillong based on the reference quoted by the MHA in their letter dated 9 July 1998 with a view that in no case the order of Ministry of Finance letter dated 12-1-1996 has got any relation with the sanctioning order of the MHA vide No.11011/1/84-FP.IV dated 1st Feb 1989.

Contd...2/-

*Amr
11/11
Adv*
*certified to be true copy
Sigitash
Adv.*

Answer 10

-38- HH

Assam Rifles (Civil) Employees Association

59

SHILLONG
ESTD - 1969

Ref No _____

-2-

Dated Shillong the _____

5. Sir, your honour would definitely appreciate that the pay which we are getting now in our each cadre is quite insufficient to meet even proper two square meals. In addition to this we are to meet expenditure towards education to our children, medical treatment as and when required and various social obligations.

6. ~~Sir, our earnest appeal to your honour that your employees what-so-ever rank and file may be do get proper justice keeping in view of the correct inter-pretation of the Government orders received from time to time and as to how the SDA proposal was originated from the Director General Assam Rifles to the Ministry so that all confusions would be removed sir,~~

7. Sir, inspite of your all efforts if our SDA is ceased, we have no other way but to take shelter of the law for correct inter-pretation of the Ministry of Finance letter dated 12-1-1996 and MWA's sanctioning order No. IE. 11011/1/84.FP.IV dated 1st Feb 1989 so that we do not suffer financial loss in this critical hard days of our daily life. We believe your vision of thoughts will remove all clouds in regard to correct inter-pretation of the Government orders.

8. Looking forward for favour of your valuable judgement on this matter Sir,

Please accept my sincere regards Sir,

Thanking you Sir,

Yours faithfully,

R. S. Pathak
(R S PATHAK)
General Secretary

*Printed by
2/8
A-2-2
Contributed by the
Sujit Shishu
Advocate*

File : 3021

47-39-
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

No.A/1-A/242-88/98/

07 Aug 98

Pay and Accounts Office
Assam Rifles
Laitumkhrah
Shillong - 3

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF LGAR SHILLONG

1. Reference this Directorate letter No.A/1-A/242/98 dated 21 Jul 1998 and No.A/1-A/242-88/98 dated 29 Jul 1998.

2. The photostat copies of the following letters are sent herewith :-

(a) Ministry of Home Affairs New Delhi letter No.11.11011/1/84-FP.IV dated 3.3.1986.

(b) Ministry of Home Affairs New Delhi letter No.11011/1/84-FP.IV dated 1st/2nd Feb 1989.

(c) Ministry of Finance Department of expenditure letter No.11(3)/95-E.11(B) dated 12th Jan 1996.

3. While allowing various concessions as envisaged in the Ministry of Finance O.M dated 14-12-1983 to the civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region, except "Special (Duty) Allowance to the non combatised civilian staff of static formations such as offices of DG, IGP, DIGs and Range HQs of Assam Rifles was not agreed to by the Ministry as communicated under their letter No.11.11011/1/84-FP.IV dated 03-3-1986.

4. The Government of India, Ministry of Home Affairs while sanctioning the sanction of Special (duty) allowance vide No.11011/1/84-FP.IV dated 1st/2nd Feb 1989, it may be perused from para 1(ii) of the above sanctioning order that the sanction to the grant of special (duty) allowance to the non-combatised civilian personnel (including officers) in Battalion of Assam Rifles and in static formations (such as offices of DG, IGP, DIGs, Range HQs, Training Centre etc) and other units (Maintenance Groups, Workshops etc) of Assam Rifles was made in modification of the sanction issued vide item (3) of the Ministry of Home Affairs order No.11.11011/1/84-FP.IV dated 03 Mar 1986.

5. It appears from the O.M No.11(3)/95-E.11(B) dated 12-1-96 issued by the Ministry of Finance, Department of Expenditure that the Government of India vide O.M Nos mentioned in Para 1 of the aforesaid letter had ceased special (duty) allowance to the civilian employees of the Central Government serving in the state and Union Territories of North Eastern Region giving effect from 20-9-1994 but in the aforesaid order, there was no reference quoted of the

Contd...2/-

A.M.
certified to be true
S. K. Shishoh
Adm.

3-40-*lft*

Ministry of Home Affairs Order No. 11011/1-84-FP.IV dated 1st/2nd Feb 1989 with a view that the special (duty) allowance to the civilian employees of the Central Government serving in the state and Union Territories of North Eastern Region was granted from the year 1983 onwards whereas the civilian employees of the Directorate General Assam Rifles was granted special (duty) allowance from 7-11-1988 onwards and hence the order of the Ministry of Finance letter dated 12-1-96 was not being made operative till date.

6. Since the Ministry of Finance, Department of Expenditure in their O.M No. 11(3)/95-F. 11(E), dated 12th Jan 1996 had not made any reference of MHA order dated 1st/2nd Feb 1989, it is felt that the contention made in the MHA's letter No. II. 22013/2/98-F.F.V dated 09-7-1998 forwarded to you under this Directorate letter No. A/1-A/242/98 dated 21 Jul 1998 need to be examined at your end for admissibility of special (duty) allowance in regard to civilian employees of the Directorate General Assam Rifles, Shillong before ceasing the said allowance. The special (duty) allowance was discontinued from 20-9-1994 for those who were in receipt of said allowance from 1983 onwards and was not effective to those who were receiving the said allowance from 7-11-1988 to till date. Unless, the Government of India, MHA, modify/cancel or supersede the provision contained in para 1(ii) of order No. 11011/1-84-FP.IV dated 1st/2nd Feb 1989, the civilian employees of the Directorate General Assam Rifles, Shillong would be entitled to draw the special (duty) allowance.

7. In view of the above, you are requested to examine this matter and let this Directorate know immediately about the correct inter-pretation of the Government orders to enable this Directorate to take up the matter with the appropriate authority.

8. Pending clarification from your end as well as final decision as received from the competent authority, no deduction/recovery of special (duty) allowance of civilian employees of the Directorate General Assam Rifles, Shillong may please be made.

9. An early clarification on this matter is requested.

(Mandhata Singh)
Brig
Director (Adm)
for DG Assam Rifles

N.O.D

Copy to :-

1. CC, AMIO, H/Valley, Shillong

2. Est Branch
DGAR, Shillong

- for information and necessary action.
You are requested to continue drawal of SDA till such time clarification is received from IAO(AR), Shillong. Further direction on this matter will be given on receipt of reply from IAO(AR), Shillong.

3. Fin Branch
DGAR, Shillong

Amal
7/10

47-41- Annexure - 12
Assam Rifles (Civil) Employees Association

SHILLONG
ESTD-1969

Ref No AN(C)/EA/98/176

Dated Shillong the 13 Aug 98

To

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

(Through the Director General Assam Rifles, Shillong)

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

Respected Sir,

1. The undersigned on behalf of all civilian employees of the Directorate General Assam Rifles, Shillong would like to bring before your honour on the following matter for favour of your kind and sympathetic orders Sir;
2. The Government of India, Ministry of Home Affairs vide order No.11011/1/84-FP.IV dated 1st/2nd Feb 1989 (photostat copy enclosed) had conveyed the sanction of Special (duty) allowance to the non-commissioned civilian personnel (including officers) in battalions of Assam Rifles and in static formations (such as offices of DG, IGP, DIGs, Range HQ, Training Centre etc) and other units (Maintenance Groups, Workshops etc) of Assam Rifles in modification of the sanction issued vide item No 3 of the Ministry of Home Affairs order No.11.11011/1/84-FP.IV dated 03 Mar 1986 (photostat copy enclosed).
3. Sir, Special (duty) allowance to the civilian employees of the Central Government serving in the state and Union Territories of North Eastern Region was granted from the year 1983 onwards and was discontinued to them with effect from 20-9-86 under the orders of the Ministry of Finance letter dated 12-1-1987.

...2/-

12/11/98
PS
17/2/99
Certified to be true copy
Signed
Adv.

Assam Rifles (Civil) Employees Association

SHILLONG

ESTD-1960

Ref No

- 2 -

Dated Shillong the 11. Aug '98

4. Sir, after lapse of 3 years, the civilian employees was granted Special (duty) allowance from 7-11-1988 under the orders of the MWA vide No.11011/1/84-EP.IV dated 1st/2nd Feb 1989 and therefore under no circumstances the orders of the Ministry of Finance letter dated 12-1-96 could be made operative unless the aforesaid order is modified/cancelled or superseded by the MWA with a view that no reference of MWA's letter dated 1st/2nd Feb 1989 was quoted by the Ministry of Finance in their letter dated 12-1-96 for ceasing the SDA from 20-9-94.

5. Sir, this Association : firmly believe that the Special (duty) allowance was discontinued from 20-9-1994 for those who were in receipt of said allowance from 1983 onwards and was not effective to those who were receiving the said allowance after lapse of 3 years i.e from 7-11-1988.

6. Sir, Dy Controller of PAO(AR) has unnecessarily created panic and confusions by sending one after another letter to our respected Director General Assam Rifles by mis-interpreting the orders of the Government issued from time to time and directed this Dto to stop SDA from the pay of Aug 98 and also to recover the SDA drawn by the civilian staff of this Dto from 20-9-94 and inspite of all efforts and good offices exercised by our respected Director General and other dignitary officers to make him understand about the correct interpretation of the govt orders but it appears that all efforts of our respected and dignitary officers good offices failed because of the negative attitude of the Dy Controller, PAO(AR) Shillong.

7. Sir, it is our earnest appeal to your honour that you will kindly pass your valuable clarification on this matter at the earliest so that serving civilian staff of Directorate General Assam Rifles, Shillong and the civilian staff who have already proceeded on retirement from 20-9-94 are not being

certified to be true copy
Sd/-
7-8-98

...3/-

49-43 Annexure-12

Assam Rifles (Civil) Employees Association

SHILLONG
ESTD-1969

Ref No

- 3 -

Dated Shillong the 13 Aug '18

compelled to cease their SDA and also not to recover the SDA drawn by them from 20-9-94 due to wrong interpretation of the Govt orders by the Dy Controller of PAC(AR), MHA, Shillong.

8. Sir, it has been resolved in the General body meeting held on 27th July 1998 that if the present attitude of the Dy Controller of PAC(AR) is not removed and both serving civilian employees as well as the civilian staff of this Directorate who have already proceeded on retirement are being compelled to recover their SDA drawn from 20-9-94 due to non-receipt of any intimation from PAC(AR) from 12-1-96 onwards, the staff members has no other way but to take shelter of the law for correct interpretation of the Ministry of Finance letter dated 12-1-1996 and MHA's sanctioning order No. 11.11011/1/84.FP.IV dated 1st/2nd Feb 1989.

9. Sir, Dy Controller, PAC(AR) has no locus-standi to direct our respected Administration to stop SDA from Aug 98 and also to make recovery of SDA drawn from 20-9-94 since he is functioning as Treasury Officer-Cum Pre-check and nothing else. The PAC(AR) without raising any objection, passing monthly pay bills of civilian staff and civilian officer of the Directorate General Assam Rifles, Shillong even after receipt of Ministry of Finance letter dated 12-1-96. It is not clear to us as to why he becomes efficient after lapse of more than 2 years for discontinuation of SDA and also to recover the SDA drawn from the civilian staff of this Directorate from 20-9-94. If the stoppage and the recovery are to be effected, it was the responsibility of the PAC(AR) to return monthly pay bill from 12-1-96 itself stating the above contention and the staff would not be dissatisfied. Due to serious lapses on the part of the PAC(AR), the serving civilian staff and officers and the civilian staff and officer proceeded on retirement/died

...4/-

44 - Annexure-12
7-141- (124)
Assam Rifles (Civil) Employees Association

SHILLONG

ESTD-1969

Ref No

- 4 -

Dated Shillong the 13 Aug 98


should not be made responsible to make recovery from 20-9-94 and the responsibility to be fixed by the competent authority to the person/persons of the PAO(AR) for such serious lapses and make good of the loss sustained by them and not by the civilian staff of this Directorate.

10. Looking for favour your kind judgement on this matter Sir.

11. Please accept my respectful regards and regards of all civilian employees serving in the Directorate General Assam Rifles, Shillong.

Thanking you sir.

Yours faithfully,



(R S Pathak)
General Secretary

Artist
DS
Ad.

A/I-A/Pers/98/

18 Aug 98

Annexure - 13

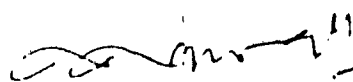
Shri PS Pathak
General Secretary
Assam Rifles (Civil)
Employees Association
Directorate General Assam Rifles
Shillong

ENTITLEMENT OF SDA TO THE CIVILIAN
EMPLOYEES ASSOCIATION
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.


(PS Pawat)
Lt Col
AD(A)

Tolo No 705009

Annexure-14
-46- 52
Dharat Dargkar
Government of India
Orh Mantrolaya
Ministry of Home Affairs
Mahavidyalaya Annam Riflen
Directorate General Annam Riflen
Shillong - 793011

N1-N/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 Annam Riflen, Shillong was taken up vide this Directorate letter No. N/1-N/242/98 dated 06 Jun 1998 but not agreed to in view of Ministry of Finance order No. II(3)/95-E.II(B) dated 12 Jan 1996.
2. After careful examination of Ministry of Finance Order dated 12 Jan 1996, a doubt has arisen in regard to applicability of the said order to the civilian employees of Directorate General Annam Riflen, Shillong. The civilian employees of Directorate General Annam Riflen 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 Annam Riflen, 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 (Annam Riflen) has intimated this Directorate to stop payment of SDA to the civilian employees from the month of Aug 98 and also to recover the SDA drawn by them since 20-9-1994.
4. It may be seen that while ceasing SDA to the civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region with effect from 20-9-94, the Ministry of Finance has not made any reference of the MHA's order No. II.11011/1/84-FP.IV dated 01 Feb 1989 in their letter dated 12 Jan 1996. The civilian employees of this Directorate were granted SDA after 1988 and were 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/-

PAO's decision to recover the SPA 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. 11.11011/1/84-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, order 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. 11.11011/1/84-FP.IV dated 01 Feb 1989 and review the applicability of SPA to civilian employees of this Directorate.

Yours faithfully

(S. J. B. Sharma)
Major General
Deputy Director General
Armed Rifles,
for Director General

R. Q. Q.

1. LOAF

2. PAO (AR)
Lal. umkhrah
Shillong

Est Branch
DGAR

- You are requested to liaise with the MHA and obtain a clarification on this matter at the earliest.
- It is requested that no deduction/recovery on SPA to civilian employees of this Directorate may please be made till final decision on this clarification is received from MHA.
- For info please.

Idraca/

11/11/84

-48- 57

Annexure-15

63

Annexure - F 15

No. 22013/2/08-19.V
Government of India
Ministry of Home Affairs

New Delhi dated 22nd Sept, 1998

To

Director General
Assam Rifles
Shillong- 793011.

Sub:

Entitlement of Special Duty Allowance to
Civilian employees of ARIF, Shillong.

Sir,

I am directed to refer to your letter No. A/1-1/242/98/310 dated 25th 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,

92/- 1 1 1 1 1

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

Tele No. 735-76

Mahaniteshalaya 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 'F'

MEMORANDUM TO 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, Pz. HQs and units etc was under query based on an observation raised by FMO, Assam Rifles, Shillong. The Ministry has now clarified the admissibility under their letter No. 22013/2/98-FP.V dated 22 Sep 98 and FOM letter No.F.1.(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 Sd. however, is in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Rifles, outcome of which will be intimated separately.

Sd/- P. S. Javat
Lt. Colonel
AM(1)

Incls as above .

for DG Assam Rifles.

Copy to :

List 'D'

List 'C'

Com. Secy, Assam Rifles (Civil) Employees Association,

Shillong-11.

- 50 - 56

65

Annexure - 17

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. II.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

*certified to be true copy
Sujit Ghosh
Adv.*

- 51-
SF
18
Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahavidyalaya 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 ALLOWANCES
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. Fm HQs/Units are requested to take action accordingly.
4. However, this Dte, is in touch with Ministry for restoration of the entitlement of SDA to Civilian Employees of Assam Rifles, out come of which will be intimated separately.

(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

*certified to be true copy
Sivithash
Adm.*

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 379/99 OF 199

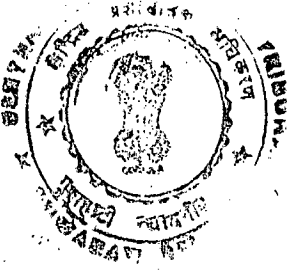
Applicant(s) Sri M.R. Chakrabarty and others.

Respondent(s) Union of India and others.

Advocate for Applicant(s) Mr. J.L. Sarkar, Mr. M. Chanda.
Mrs. N. D. Goo Wami.

Advocate for Respondent(s)

C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
	24.11.99	<p>The application has been submitted by 79 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.</p> <p>Perused the application. Heard counsel of both sides. Application is admitted. Issue notice on the respondents by registered post. List on 3.1. 2000. for written statement and further orders.</p> <p>Mr J.L.Sarkar, learned counsel for the applicants prays for an interim order.</p> <p>Issue notice to show cause as to why interim order shall not be granted as prayed for.</p>

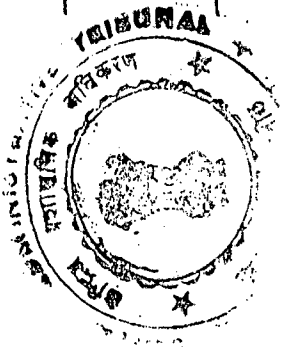
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certified to be true
copy
Sigitlshah
adv.

(2)

O.A. 379/99

Date	Order of the Tribunal
24.11.99	List on 3.1.2000 for order. In the meantime the respondents are directed to keep in abeyance the operation of orders dated 9.7.1998, 18.8.1998, 22.9.1998, 12.10.1998, 12.5.1999 and 17.5.1999 Annexures 6, 13, 15, 16, 17 and 18 till disposal of the show cause.



Sd/-VICE CHAIRMAN

Sd/-MEMBER (ADM)

Certified to be true Copy

प्रमाणित प्रतिलिपि

Handwritten signature and date: 19/11/2000

Secy to the Bench (3)
Central Administrative Tribunal
Guwahati Bench, Guwahati
Assam

Handwritten signature and date: 19/11/2000

-34-
58
Annexure - 19
69
FORM NO. 4
(See Rule 42)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 225/99 OF 199

Applicant(s) Subrata Kumar Dhar
and ors

Respondent(s) Union of India and ors

Advocate for Applicant(s) Mr. ~~S. Sankar~~ M. Chandra.

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.

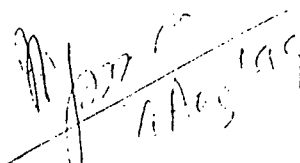
Perused the application. Heard counsel for both sides. Application is admitted. Issue notice on the respondents by registered post. List on 2-9-99 for written statement and further orders.

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> <p style="text-align: right;">/</p> <p style="text-align: right;">SD/ MEMBER (JCN)</p>

Certified to be true Copy
प्रमाणित प्रतिलिपि


11 AUG 1999
SD/ MEMBER (JCN)
Central Appellate Tribunal
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

ORDER SHEET

Application No. 285 /99

Applicant(s) : Sri Samir Chandra Kar and Ors.

Respondent(s) : Union of India and Ors.

Advocate for Applicant(s): Mr. M. Chanda, Mrs. N.D.Goswami,
Mr. G.N.Chakraborty.

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

Notes of the Date
Registry

Order of the Tribunal

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

This application has been submitted by 10 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 of both sides. Application is admitted. Issue notice to the respondents by registered post. List on 5.10.99 for written statement and further orders.

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

Issue notice to show cause as to why interim order as prayed for shall not be granted.

List on 5.10.99 for orders. In the meantime the respondents are directed to keep in abeyance the operation of

Contd...

*certified to be true copy
S. N. Ghosh
Advocate*

3.9.99 the orders dated 9.7.98, 18.8.98, 12.10.98, 22.9.98, 17.5.99 and 12.5.99, Annexures 6,7,9.10,11 and 12 till disposal of the show cause.

The matter will be decided by the Division Bench. The counsel of both sides has no objection. List on 5.10.99 before Division Bench.

~~Sd/- Member~~

Sd/- Vide. Chairman

certified to be true copy
S. V. Hash
Advocate.