

100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 429/2000

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

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

1. Orders Sheet..... Pg..... to.....
2. Judgment/Order dtd. 19.1.2000 Pg. 1..... to 12. All legal documents
each of 21 cases
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 21/2000 Pg. 1..... to 53.....
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg..... to.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Sabu
3.1.08

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 Advocate 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

.....Applicants

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

- versus -

The Union of India and Others

.....Respondents

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

6.

O.A.No.312/1999

Shri Keshab Choudhury and 67 others

.....Applicants

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

- versus -

The Union of India and others

.....Respondents

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

7.

O.A.No.372/1999

Smt Sunita Devi Bhuyan and 41 others

.....Applicants

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

- versus -

The Union of India and others

.....Respondents

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

8.

O.A.No.144/1999

Shri Arun Chandra Chanda and 19 others

.....Applicants

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

- versus -

The Union of India and others

.....Respondents

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

9.

O.A.No.194/1999

Shri Bidhan Chandra Roy and 20 others

.....Applicants

By Advocates Mr J.L. Sarkar, 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.

10.

O.A.No.285/1999

Shri Samir Ch. Kar and 9 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.

11.

O.A.No.379/1999

Shri M.R. Chakraborty and 78 others
By Advocates Mr J.L. Sarkar, Mr M. Chanda and
Mrs N.D. Goswami.

.....Applicants

- versus -

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

12.

O.A.No.442/1999

Shri A. Mahendra Kumar and 5 others
By Advocates Mr M. Chanda and N.D. Goswami.

.....Applicants

- versus -

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

13.

O.A.No.129/2000

Shri K. Bayan and 154 others
By Advocates Mr J.L. Sarkar, Mr M. Chanda,
Mrs N.D. Goswami and Mr G.N. Chakraborty.

.....Applicants

- versus -

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

14.

O.A.No.166/2000

Shri Bhabendra Nath Deka and 5 others
By Advocates Mr J.L. Sarkar and Mrs S. Deka.

.....Applicants

- versus -

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

15.

O.A.No.168/2000

Dr Ajit Bora
By Advocates Mr B.K. Sharma and Mr S. Sarma.

.....Applicant

- versus -

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

O.A.No.284/1999

16.

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 Songkhonam Diringel 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.

.....

ORDER (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 HQrs, 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)

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.

(2)

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 7.11.1988, 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 12.1.1990. 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, the 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

of SDA from the pay of August 1998 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 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} ~~concessus~~ 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.

12

12:

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

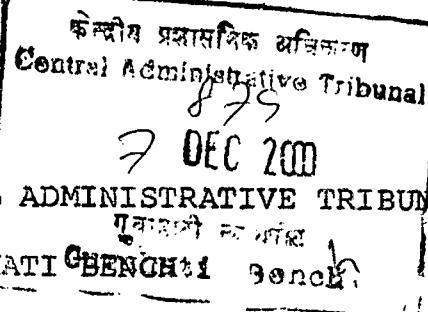
Sd/MEMBER (Adm)

TRUE COPY
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Section Officer (J)

গুৱাহাটী অধিদায়ী প্রশাসনিক বৰ্ষ
Central Administrative Tribunal
গুৱাহাটী প্রশাসনিক অধিদায়ী
Guwahati Bench, Guwahati-
গুৱাহাটী-গুৱাহাটী, পূর্ব ভাৰত

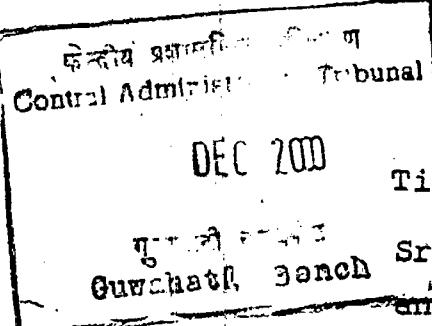
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14

Filed by the applicant
by Mr. B. C. Gomes
7/12/2000
Guwahati Bench

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



Title of the Case : O.A. No. 429/2000

Sri Bhupendra Nath Talukdar : Applicants
and 16 Ors.

-versus-

Union of India and Ors. : Respondents

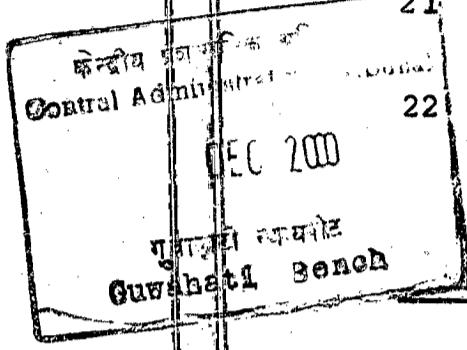
I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-19
2	-	Verification	20
3	1	O.M. dt. 14.12.83 12.I.96	21-22
4	2	O.M. dt. 1.12.88	23-24
5	3	O.M. dt. 3.3.1988	25-26
6	4	Circular dt. 2.2.89	27-29
7	5	Letter dt. 6.6.98	30-31
8	6	Letter dt. 9.7.98	32
9	7	Letter dt. 21.7.98	33
10	8	Letter dated 29.7.98	34
11	9	Representation dt. 27.7.98	35
12	10	Representation dt. 30.7.98	36-37
13	11	Letter dt. 4.8.98	38-39
14	12	Letter dt. 13.8.98	40-43
15	13	Letter dt. 18.8.98	44
16	14	Letter dt. 20.8.98	45-46

Contd....

B. N. Talukdar

17	15	Letter dt. 22.9.98	47
18	16	Letter dt. 12.10.98	48
19	17	Letter dt. 12.5.99	49
20	18	Letter dt. 17.5.99	50
21	19	Hon'ble Tribunal's order dt. 38.99 in O.A No. 225/99	51 - 52
22	20	Hon'ble Tribunal's order dt. 19.10.2K in O.A No. 341/2K	53



Date : 7/12/2K

Filed by
N.D. Goswami
Advocate

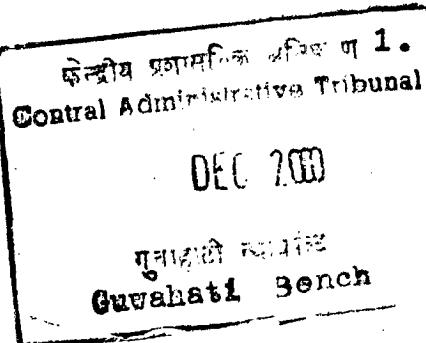
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

O.A. No. 429 /2000

BETWEEN



1. Shri Bhupendra Nath Talukdar
Son of Late Kanteswar Talukdar
Junior Teacher
14 Assam Rifles
C/o 99 APO

2. Shri Ram Nagina Prasad
Son of Late Ram Sewak
Prasad
Hindi Teacher
27 Assam Rifles,
C/o 99 APO

3. Sri Dulal Ch. Dey
Son of Late Manindra Ch. Dey
Head Assistant
No. 1 Maintenance Group Assam Rifles
C/o 99 APO

4. Shri Birendra Kumar Singh
Son of Sri Kundan Singh
14 Assam Rifles,
C/o 99 APO

5. Sri Sudhir Kumar
Son of Sri Dularchand Chaudhari
Hindi Typist
14 Assam Rifles, C/o 99 APO.

B. N. Talukdar

6. Sri Rabindra Debnath
Son of Late Ganga Charan Debnath
Junior Teacher
14 Assam Rifles
C/o 99 APO

Central Administrative Tribunal
केन्द्रीय प्रशासनिक नियम विधायक
Guwahati Bench
DEC 2000

Sri Mahnedra Singh
Son of Shri Shyo Prasad
Hindi Translator
14 Assam Rifles,
C/o 99 APO

8. Sarita Babu
Wife of Mr. C.S.Babu
Sister, 14 Assam Rifles,
C/o 99 APO

9. Mrs. Kishi Devi
Wife Late Kundan Singh Bist.
Female Attendance
14 Assam Rifles
C/o 99 APO

10. Smt. Putuli Pradhan
Daughter of Man Narayan Pradhan
Female Attendance
14 Assam Rifles
C/o 99 APO

11. Mrs. Sabitri Devi
Wife G. Khan Guchait
Female Sister, 14 Assam Rifles,
C/o 99 APO

Contd...

B.W. Talukdar

12. Mrs. Sarbati Devi

Wife of Subash

Female Sister

14 Assam Rifles,

C/o 99 APO

13. Mrs. D.M. Tameng

Wife of Shamsher Jamang

14 Assam Rifles,

C/o 99 APO

14. Mrs. Kushma Devi

Wife of Rajeshwar Prasad

Female Attendance

14 Assam Rifles,

C/o 99 APO

15. Mrs. Anita Purkayastha

Wife of R.N. Purkayastha

Female Attendance

135,

1 M G Assam Assam Rifles

C/o 99 APO

16. Smti Maya Devi Rai

Daughter of Lage Ganga Bahadur Rai

Sister

27 Assam Rifles,

C/o 99 APO

17. Sri Sudhir Kumar

S/o Sri Dularchand Choudhury

Hindi Typist

14 Assam Rifles,

C/o 99 APO.

... Applicants

B.N. Talukdar

-AND-

1. The Union of India
Represented by the Secretary to
the Government of India
Ministry of Home Affairs
New Delhi.
2. The Secretary
Ministry of Finance
Government of India
New Delhi
3. The Director General
Assam Rifles,
Arbuthnath Road,
Shillong
4. The Commandant,
14 Assam Rifles,
C/o 99 APO
5. The Commandant
1 M G Assam Rifles,
C/o 99 APO
6. The Commandant,
27 Assam Rifles,
C/o 99 APO

.. Respondents

B.N. Talukdar

DETAILS OF APPLICATION

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

This application is made against the order of discontinuation of Special (Duty) Allowance (for short SDA) through various orders including the impugned order dated 17.5.1999 and also against the decision of recovery of SDA already drawn by the applicant with effect from 20.9.1994 or after the respective drawal of SDA of the applicants. ~~issued under section 26 of the RTI Act~~

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 as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

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

4.2 That the applicants are working ~~as~~ ~~under~~ ~~the~~ ~~Director~~ ~~General~~ ~~of~~ in different capacities under the Director General of

B.N.Talukdar

Assam Rifles, and at present they are posted in 14 Assam Rifles, 1 M G Assam Rifles and 27 Assam Rifles, under the control of Deputy Director General/Commandant.

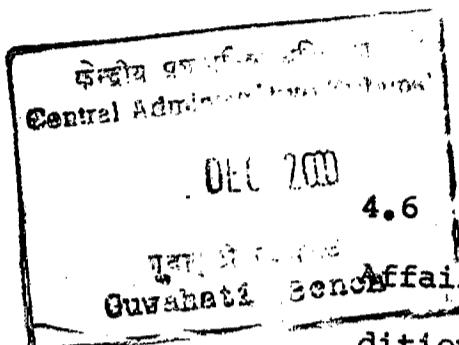
4.3 The applicants beg to state that their grievance and reliefs sought for in this application are common as such they pray before the Hon'ble Tribunal for permission to move this application jointly in a single application under the provision of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.4 That the Government of India had decided to give some incentive to the Central Government civilian employees ~~sixth~~ working in the States and Union Territories of North Eastern Region by the O.M. issued under Letter No. 20014/3/83/Estt.IV dated 14.12.1983. Those who were covered by the said O.M. dated 14.12.1983 were paid SDA with effect from 1.11.1983. The rate of payment of SDA was subsequently modified from time to time. The Central Government civilian employees posted in North Eastern Region covered by the said OM. dated 14.12.1983 were paid SDA in terms of the said O.M. It is stated that there were employees who were not paid SDA and who approached the Hon'ble Central Administrative Tribunal and by virtue of the order of the Hon'ble Tribunal SDA was paid to them.

An extract of the OM. dt. 14.12.83, ~~1.12.1988~~ ^{J2.L.26}
~~max7x12~~ are annexed as Annexure 1 & 2.

4.5 That the Ministry of Home Affairs issued a letter to the Director General, Assam Rifles under No. III/11011/1/84-PP.IV dated 3.3.86 inforing that the

the personnel in battalions of Assam Rifles and Assam Rifles personnel and civilians non-combatised officers/employees are not entitled to SDA as envisaged in the O.M. dated 14.12.1983. Therefore, the applicants were not paid SDA in terms of the O.M. dated 14.12.1983.



Copy of the O.M. dated 3.3.1988 is annexed as Annexure-3.

That the Government of India, Ministry of Home Affairs was seized with the matter of improving the conditions of the services of the Assam Rifles personnel particularly in the grant of SDA and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the states and Union Territories of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep - Grant of Sikkim Compensatory Allowance. The President of India considering the peculiar conditions of service of the Assam Rifles employees accorded sanction of some allowances and SDA is one of such allowances sanctioned by the President. Other allowances sanctioned by the President are Special Compensatory Allowance (also called Special Compensatory (Remote Locality) Allowance and Sikkil Compensatory Allowance). These allowances to the Assam Rifles Personnel were granted by the President of India with effect from 7.11.1988. 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.

i) Special (Duty) Allowance

Combatised personnel

Item (iii) in para 1 of Ministry

B.N. Talukdar

(including Cadre officers) in battalions of Assam Rifles and the combatised personnel (including Cadre Officers) in static formations (such as offices of DG, IGF, DIGs, Range

Hqrs. Training Centre etc.) and other units (Maintenance Groups, Workshops etc.) of

DEC 2000

Assam Rifles.

Guwahati 30th

ii) Non-combatised civilian personnel (including officers) in battalions of Assam Rifles and static formations (such as offices of DG, I GP, DI Gs, Range Hqrs., Training Centre tec., and other group (Maintenance Groups, Workshops etc.) of Assam Rifles.

of Finance ~~as~~ O.M. No. II.20014/3/83/ E.I V dated 14.12.1983 as amended from time to time, read with their O.M. No. II 20014/3/83 E.IV dt. 29.10.86 and their O.M. No. F. 20014/16/3/83-E.IV dated 15.7.99 and Min. of Fin. O.M. No. F. 20014/16/86. E.I V/ E-II(B) dated 1.12.88. This is in modification of sanction issued in MHA letter No. II.27012/31/85-PP.II dated 6.4.87

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

This letter dated 2.2.1989 stipulate improvement in the condition of service of Assam Rifles employees and this decision is a clear ~~decision~~ and considered decisions modifying the earlier order by which your humble applicants were not given the said SDA. The decision to grant SDA to the applicants as sanctioned by the President of India communicated to the Director General, Assam Rifles, Shillong by circulation dated 2.2.1989 is a distinct decision as regards the Assam Rifles employees and as such this a special provision as regards the Assam Rifles only as distinguished from other Central Govt. civilian employees.

B.N. Talukdar

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 Circlar dated 2.2.1989. In this connection it is also pertinent to mention that while the other Civilian Central Government employees were paid SDA with effect from 1.11.1983, your applicant have been granted the SDA for Assam Rifles with effect from 7.11.1988.

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

4.7 That the Pay and Accounts Office, Assam Rifles, Shillong was raising questions regarding payment of SDA to your applicants. They were confused for the O.M. dated 12.1.1996 issued by the Ministry of Finance by which the SDA of the other Central Government employees were regulated. A communication was made from the Director General, Assam Rifles, Shillong to the Joint Secretary, Ministry of Home Affairs explaining the entitlement of SDA to civilian employees of Director General, Assam Rifles, Shillong under No. A/1-A/242/98 dated 6.6.1998. This letter discussed in detail the entitlement of SDA to the civilian employees of Director General, Assam Rifles and also the matter of objection by the Pay and Accounts Office, Assam Rifles and come to the following view :

B.N.Talukdar

"In view of the position explained above, this Directorate is of the opinion that the concern Pay & Accounts Office (Assam Rifles) about the eligibility of SDA to civilian employees of Directorate General, Assam Rifles, Shillong is not premised on the logical interpretation of extent Govt. orders cited above, which provide for a special dispensation to the non-combatised civilian personnel (including officers) in units as well as static formations including this Directorate. The 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 9.7.88 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 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 & Accounts Office, Assam Rifles, from the Director General, Assam Rifles.

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-Exx 6, 7, & 8 respectively.

B.N. Talukdar

4.9 That the applicants came to know that Pay and 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 but the said Association functioning from the Headquarters did various correspondences in the matter of nonpayment of SDA to the civilian employees serving in the Assam Rifles as because the said Association are common therefore all these correspondences have been referred in the instant application as the payment of SDA is common interest to all the civilian employees serving in different places in the DGAR, Assam Rifles. In the representation it was explained in detail that the Finance Ministry's letter dated 12.1.1996 has no 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 7.8.88. It has also been mentioned in the application that due to non-applicability of letter dated 12.1.1996, 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 of the said Association.

Copies of the representation referred above dated 27.7.98 and 30.7.98 are annexed as Annexures 9 & 10 respectively.

B.N. Tahukdar

4.10 That the Director General of Assam Rifles wrote a letter dated 4.8.98 to the Pay and 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 7.11.88 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 the other Ranges of Assam Rifles situated at different places in North Eastern Region.

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

4.12 That thereafter by their letter dated 18.8.98, the Director General, Assam Rifles, Shillong had intimated

B.W. Salukdar

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

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

4.13 That the applicants are receiving SDA on the sanction of the President under order dated 2.2.89 with effect from 7.11.1988 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 2.2.1989. The Finance Ministry's letter dated 12.1.1996 is humble submission of the applicants has no application in the case of the present applicants.

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

Copy of the letter dated 20.8.98 is annexed as Annexure-14,

4.15 That the applicants state that thereafter the Ministry of Home Affairs under their letter No. 22013/

/2/98-PP.V dated 22.9.98 and No. 22012/10/97-PP.V dated 12.5.99 clarified that the Special Duty Allowance would not be admissible to the civilian employees of Assam Rifles and discontinuation thereof was applicable. It was also directed therein that the amount already paid to the civilian employees be recovered. After passing of the said clarifications, the respondent No.3 issued separate letters on 12.10.98 and 15.5.99 respectively informing amongst other, the General Secretary of the 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 letters dated 20.8.99 and 12.5.99 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 12.10.99 and letters dated 12.5.99 and 17.5.99 are liable to be set aside and quashed.

Copies of the aforesaid letters dated 22.9.98, 12.10.98, 12.5.99 and 17.5.99 are annexed as Annexures-15, 16, 17 & 18 respectively.

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

of Original Application Nos. OA 225/99 and OA 341/2000 and the said Original Applications are pending before the Hon'ble Tribunal. The said Original Applications came up before the Hon'ble Tribunal on 3.8.99 and 19.10.2K for admission. The Hon'ble Tribunal was pleased to admit those 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. Therefore the present applicants pray before the Tribunal for a similar order like that of O.A. Nos. 225/99 and 341/2K as the applicants are similarly situated and their grievances are also same against the same respondents.

Copy of the Orders dated 3.8.99 and 19.10.2K are annexed as Annexure-19 (Series) and 20.

4.17 That your applicants apprehending that the respondents are going to issue an order of recovery of the amount of SDA which has already paid to the applicants following the O.MI dated 12.1.1996 issued by the Ministry of Finance, Department of Expenditure. Therefore Hon'ble Tribunal be pleased to declare that the respondents are not entitled to make any recovery of SDA already paid to the applicants. It is also relevant to mention here that the Apex Court also decided in a number of cases with the decision that the Union of India are not entitled to make any recovery any part of SDA which is already paid to the employees.

4.18 That your applicants approaching this Honible Tribunal against the arbitrary decision of discontinuance

of SDA to the applicants as well as against the apprehension of the order of recovery. It is a fit case for the Hon'ble Tribunal in interfere with and protect the valuable right of the applicants directing the respondents to continue to pay SDA to the applicants and further be pleased to declare that the respondents are not entitled to recover any amount of SDA which has already paid to the applicants.

That this application has been made bona fide for the cause of justice.

5. Grounds for relief(s) with legal provisions :

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

5.2 For that Office Memorandum dated 12.1.1996 has no application in the instant case of the 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 should be made without giving 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 hardship 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 16 and 21 of the Constitution of India, being arbitrary.

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

5.9 For that Hon'ble Supreme Court held in various decisions the SDA already paid to the employees, cannot be recovered by the Union of India.

6. Details of remedy exhausted.

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

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

The applicant further declare that they have not previously filed any application, writ petition or

suit regarding the matter in respect of which the application has been made before any court of law or any other authority or any other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. Reliefs sought for :

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

- 8.1** That the payment of SDA to the applicants should be continued and no recovery of SDA should be made from the pay of the applicants with regard to payment of SDA, has already been paid.
- 8.2** That the O.M. dated 12.1.96 be declared as not applicable in the case of the present applicants.
- 8.3** The orders dated 9.7.98 (Annexure - 6) and communication in order dated 18.8.98 (Annexure-13) and the ~~order dated 22.9.98~~ impugned order passed under letters No. 22013/2/98-PP.V dated 22.9.98 (Annexure 15) No. A/I-A/242/98 dated 12.10.98 (Annexure 16) letter No. 22012/10/97 dated 12.5.99 (Annexure 17) and letter No. A/O-H/242/99 dt. 17.5.99 (Annexure 18) be set aside and quashed.

8.4 That the respondents be directed to continue to pay SDA to the applicant alongwith arrears with effect from

8.5 Costs of the application

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

9. Interim Reliefs prayed for :

9.1 That the letter dated 9-7-98 (Annexure-6) issued by the Ministry of Home Affairs, New Delhi and letter dated 19.8.98 issued by the respondent No.3 be suspended.

9.2 That the respondents be directed to continue the payment of SDA to the applicants with immediate effect with arrears in the case of individual applicants.

9.3 That the operation of the impugned letters dated 12.10.98, 22.10.98, 12.5.99 and 17.5.99 (Annexures -16, 17, 18) be stayed till disposal of this application.

10.

11. Particulars of the Postal Order.

i. I.P.O.No. : 66 771073
ii. Date of Issue : 4.12.2K
iii. Payable at : G.P.O., Guwahati.
iv. Issued from : G.P.O., Guwahati.

12. List of enclosures
As stated in the Index.

VERIFICATION

I, Shri Bhupendra Nath Talukdar, Son of late Kanteswar Talukdar, aged about ~~48~~⁵³ years, waoring as Junior Teacher, 14 Assam Rifles, C/o 99 APO, one of the applicants in this Original application, have been duly authorised to by the other applicants to sign this verification accordingly I verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are

to my knowledge and those 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 7th
December
day of November, 2000.

Bhupendra Nath Talukdar

Signature

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

New Delhi, the 14 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 -
Central Administrative Tributary Improvements thereof.

DEC 2000

The need for attracting and retaining the services of competent officers for service in the North Eastern Guwahati Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for some time. 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.

xxx x x x x

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

xxx 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 percent of basic subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who exempted from payment of income tax will, however,

- 19 -

not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre Deputation (Deuty) 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.

XXXXXX X

X X X X X

X X X X X X

Sd/- S. C. MAHALIK

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

No. 11 (3) ²⁰⁻ / 95-96 (B)
Government of India
Ministry of Finance
Department of Expenditure

Annexure-82

38

New Delhi, the 12th Jan 1996.

OFFICE MEMORANDUM

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

1. The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-E.IV dated 14.12.1983 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 dated 14.12.1983 granted certain incentive to the Central Government civilian employees posted to the NE Region. One of the incentives was payment of Special Duty Allowance (SDA) to those who have 'All India Transfer Liability'.

3. It was clarified vide the above mentioned OM dated 20.4.1987 that for the purpose of sanctioning "Special Duty Allowance" the All India Transfer Liability of the members of any service cadre of 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 they 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 liability and, accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile a few special leave petitions were filed in the Hon'ble Supreme Court by some Ministries/Departments against the orders of the CAT.

⑥ The Hon'ble Supreme Court in their judgement delivered on 20.2.94 (in civil appeal No 3251 of 1993) upheld the submission of the Government of India that Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to all India Transfer Liability. The apex Court further held 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.

Contd...

2
Annexure-3 (Contd.)

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

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

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

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

10. Hindi version of this OM is enclosed.

SD/-

(C. Balachandran)

Under Secy. to the Government of India

Ministries/Departments of Govt. of India, etc,

Copy (with endorsement list,

UPSC etc. as per
standard

No. 11.11011/1/84-RP.IV
Government of India/Bharat Sarker
Ministry of Home Affairs/Girh Mantralaya

10

New Delhi, the 3.3.86

To

The Director General
Assam Rifles

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

Sir,

I am directed to revert to the correspondence resting with your letter No. A/IV-(C)/1-64/8 dated 5th 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 Assam Rifles will not be entitled to the concessions envisaged in the Ministry of Finance (Dept. of Expr.) O.M. No. 20014/mxgazm 3/83-E.IV dated 14.12.1983 as they move in organised group and have back up support.
2. The Assam Rifles personnel & Civilian non-combatised officers/employees of Assam Rifles do not have All India Transfer Liability and as such, the question of grant of Special (Duty) Allowance even in the case of civilian non-combatised officers/employees does not arise.
3. Non-combatised civilian staff of static formations such as officers of DG, IGP, DIGs and Range Headquarters of Assam Rifles may be allowed concessions envisaged in the Ministry of Finance O.M. dated 14.12.1983 referred to above (except special duty) allowance) subject to the condition that they move as individuals and do not have back up support.

This issues with the concurrence of the Finance Division vide their Dy. No. 705/86-Fin.III. dated 21.2.1986

S./-

Deputy Secy to the Govt. of India

-23-

3
Annexure-2 (Contd.)

No. 11.11011/1/81-PP.IV New Delhi, the 3.3.86
Copy to :-

1. Pay & Accounts Office, Assam Rifles, Shillong.
2. A.G. Assam Meghalaya, Etc. Shillong.
3. Finance IIL, Ministry of Home Affairs,
4. Ministry of Finance, Deptt. of Expenditure (E.IV Branch).
5. Liaison Officer of Assam Rifles, New Delhi.
6. 10 Spare copies.

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

- 26 -

-24-

(27-28)

A9

42

Annexure-D 4

No. 11011/1/84-FP, IV

Government of India

Ministry of Home Affairs

New Delhi, dated the 2nd Feb 89

To

The Director General
Assam Rifles
Shillong-793011

Subject : Grant of Special (Duty) Allowance and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the States and Union Territories of North Eastern Region, Andaman Nicobar Islands and Lakhadweep - 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 7.1.1988 :-

Category of personnel
entitled to allowance
(1)

Particulars of O.Ms regulating
the allowances
(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, DIGs, Range Hqrs, Training Centre etc.) of Assam Rifles.

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

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 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. 20014/16/86E, IV/E-II(B) dated 1.12.88 (This is in modification of sanction issued in KHA letter No. 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.

Contd....

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Category of personnel
entitled to allowance
(1)

Particulars of OMs regulating
the allowance
(2)

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

Category of personnel
as mentioned against
item 1(i)

Same as indicated against item
(1) above. Ministry of Finance
O.M.s 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 dated 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 22.4.87
(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-FF.
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.

....Contd...

Annexure-B (Contd.)

4. This issue with the concurrence of the Ministry of Finance vide their I.D. No. 5(72)E.III/88 dated 7.11.88 and F.29/AS(E)/88 dated 13.1.89 and the Integrated Finance Division of this Ministry vide their Dy. No. 4744/PA(H)/88 dated 7.12.88.

Yours faithfully,

Sd/-

(M.M.Sharma)

Deputy Secretary to the Govt. of India.

No. 11011/1/84-FP.IV dated New Delhi the 2nd 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/-

(M.M.SHARMA)

Deputy Secretary to the Government of India

Reference - E/37/2/

Annexure # 5

Annexure 5

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

No.0/1-1/242/98

Dated: 6 June, 98

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

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF D.GAR. 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. 20014/3/03 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. 20014/13/86/E.IV/E.II(B) dated 01 Dec. 88 attached as Annexure II.

2. The Assam Rifles projected to the Ministry of Home Affairs for extension of the above concessions/facilities including SDA to the combatant and civilian employees of Assam Rifles on the analogy that all those concessions including SDA were available to the employees of other CPOs like DSF, CRPF etc similarly situated in the North Eastern Region. While grant of the above concessions to the combatant employees were turned down, all these concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General Assam Rifles, Inspector General Assam Rifles (North), Range HQs. and Assam Rifles Training Centre and School with effect from 3 March '86 under Ministry of Home Affairs letter No. II.11011/1/84PP 4 dated 3 March '86 (Annexure III attached) copy endorsed along with 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/PI. 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 consequential mention of the civilian staff and officers of all static formations of Assam Rifles including Directorate General Assam Rifles) under Ministry of Home Affairs letter No. II.27012/31/85/PI. II dated 04 April '87 (Annexure IV).

Affairs letter No. 11001/1/84-PP. IV dated 02 Feb 80 (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 (PA) 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) 85-E. II(D) dated 22 June 85 (copy para 1).

5. The Judgement of the Apex Court regarding non-entitlement of SDA to certain category of civilian personnel is based on the general order sanctioning the ten concessions/facilities including SDA to civilian serving in the North-eastern region, vide Ministry of Finance OM No. 20014/3/83-R. IV dated 14 Dec. '83 (Annexure 1) 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. '80) 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 criterion 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, 10AR, Rango 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, considers 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 R Sharma)

Major General

By: Director General Assam Rifles,
for Director General.

Encl: As above.

COPY/

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✓ Annexure - 6

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

New Delhi, dated 9.7.98 1998

To

Director General,
Assam Rifles
Shillong-793011

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

Sir,

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

Yours faithfully,

Sd/- x x x

(Nirmala Dev)
Desk Officer
9/7/98

Copy to LOAR, North Block, New Delhi.

File No. 70-5076

A/LA/242/98

Bharat Sarkar
Government of India
Cith Mantralaya
Ministry of Home Affairs
Mohonidoshalaya Assam Rifles
Directorate General Assam Rifles
Dibring - 793811

21 Jul 98

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

PAYMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN WORKERS IN COOKING

1. Enclosed please find herewith photo copy of MHA letter No. II.22813/2/98-PR. V dated 09 Jul 98 on the subject cited above, for info and necessary action.

SD/- xx
(H S Hawat)
Lt Cpl
AS(A)
for Lt Assam Rifles

Recd : Dr. A. K. Ray

Copy to :-

Estt Branch (Internal)

Finance Branch

- for info and necessary action along with a copy of MHA letter No. II.22813/2/98-PR. V dated 09 Jul 98.

- 3 -

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-2044- (contd) A8
- 77 - Annexure - 8
Mahahidevshalaaya Assam Rifles
Directorate General Assam Rifles
Shillong-793011
Annexure - 8

Tele No : 705075

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

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 the same, it is 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.

Encl : All above

N.O.O.

Copy to :-

1. CG AMRD

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

- (a) MOP letter No. 11(3)/95-E.II(B) dated 12 Jan 96.
- (b) DGAR letter No. A/I-A/242/98 dated 05 Jun 98.
- (c) MHA letter No. II.22013/2/98-PF.V dated 09 Jul 98.

2. EMTB R.

- 60- (your 11.11015/5/98-Est(B) dt
27 Jul 98 refd).

3. EMO R.

- 60- (your 11.11017/1/98-Est
24 Jul 98 refd).

Assam Rifles (Civil) Employees Association

SHILLONG
ESTD. 1969~~Annexure 9~~

W. No. 10 (C)/23/98/13

Dated Shillong the 27 Jul 98

Lt General Gurpreet Singh
 Director & General Assam Rifles
 Shillong

NOTIFICATION OF SPECIAL DUTY ALLOWANCE FROM
 PAY BILL JUL 1998 IN RESPECT OF CIVILIAN
 STAFF MEMBERS 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-PA, V dated 9 July 1998 (Photostat Copy enclosed) which was forwarded to them by this Directorate via letter No. A/1-A/212/98 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/-

Dated 27/7/98

Assam Rifles (Civil) Employees Association

SHILLONG
ESTD - 1969

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 & JULY 1998 IN RESPECT OF CIVILIAN
EMPLOYEE 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-IF.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 PRO (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/B4-PP. IV dated 1st Feb 1989.

Contd...2/-

Ranbir
20/7/98

Assam Rifles (Civil) Employees Association
SHILLONG
ESTD - 1969

Ref No.....

-2-

Dated Shillong the 20th July 1989

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 MIA's sanctioning order No. II, 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)
General Secretary

Dated 20-7-89

Tel : 5021

-38-
All
1/11/1998
Nahardeshalayn Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

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

07 Aug 98

Annexure - 11

Pay and Accounts Office
Assam Rifles
Laitumkhrah
Shillong - 3

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO
CIVILIAN EMPLOYEES OF DOOR SHILLONG

P-82/L

P-103/L

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. II.11011/1/84-FP. IV dated 3.3.1986.

(b) Ministry of Home Affairs New Delhi letter
No. II.11011/1/84-FP. IV dated 1st/2nd Feb 1988.

(c) Ministry of Finance Department of expenditure
letter No. II(3)/95-E. II(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 officers of DG, IGP, DIGs and Range HQs of Assam Rifles was not agreed to by the Ministry as communicated under their letter No. II.11011/1/84-FP. IV dated 03-3-1986.

4. The Government of India, Ministry of Home Affairs while conveying the sanction of Special (duty) allowance vide letter No. II.11011/1/84-FP. IV dated 1st/2nd Feb 1988, it may be perused from para 1(1) of the above sanctioning order that the sanction to the grant of special (duty) allowance to the non-combatised civilian personnel (including officers) in Lattalion 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. II.11011/1/84-FP. IV dated 03 Mar 1986.

5. It appears from the O.M No. II(3)/95-E. II(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 giving effect from 20-9-1991 but in the Central Government serving in the state and Union Territories of North Eastern Region giving effect from 20-9-1991 but in the aforesaid order, there was no reference quoted of the

Contd...2/-

12/8/98
12/8/98
12/8/98

L/K

Ministry of Home Affairs Order No.11011/1/81-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)/23.5.11(B), 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/SR-F.P. V dated 09-7-1998 forwarded to you under this Directorate letter No. A/1-A/212/98 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(i) of order No.11011/1/81-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 interpretation of the Government orders to enable this Directorate to take in 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.

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

N.O.O

Copy to :-

1. OC, MHO, II/Valley, Shillong

2. Est Branch
DGAR, Shillong

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

Fin Branch
DGAR, Shillong

Assam Rifles (Civil) Employees Association

SHILLONG
ESTD - 1969

40 A12

Annexure

Ref No AR(C)/EA/98/116

Dated Shillong the 13 Aug 98

Annexure-12

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 ASSAM RIFLES

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 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 1986 (photostat copy enclosed) had conveyed the sanction of Special (duty) allowance to the non-centralised civilian personnel (including officers) in battalions of Assam Rifles and in static formations (such as offices of LS, 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 13 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 Frontier was granted from the year 1983 onwards and was discontinued to them with effect from 20-2-96 under the orders of the Ministry of Finance letter dated 12-1-1997.

(P. J. Arya -
13-8-98)

...2/-

Assam Rifles (Civil) Employees Association

SHILLONG

ESTD 1960

Ref No

- 2 -

Dated Shillong the 13. Aug '98

4. Sir, after lapse of 5 years, the civilian employees was granted Special (duty) allowance from 7-11-1988 under the orders of the MHA vide No. 11011/1/84-FP. 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 MHA with a view that no reference of MHA'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 5 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 Dte to stop SDA from the pay of Aug 98 and also to recover the SDA drawn by the civilian staff of this Dte 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

221

15/11/98

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 PMO(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 PAU(AR) is not removed and both serving civilian employers 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 MVA's sanctioning order No. II.II1011/1/84.FP. IV dated 1st/2nd Feb 1989.

2. Sir, By 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-Cmp Pre-check and nothing else. The PAC(AII) 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

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Assam Rifles (Civil) Employees Association

SHILLONG
ESTD - 1969

Ref No.

- 1 - Dated Shillong the 13, Aug '78

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 of your kind judgement on this matter Sir.

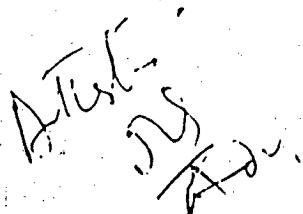
11. Please accept my respectful regards and regards of all civilian employees serving in the Directorate General Assam Rifles, Shillong.

Thanking you sir.

Yours faithfully,



(R S Pathak)
General Secretary



- 44 - 81

- 67 () - 111 (X) - 111

Nahandeshkhaliya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

Annexure - 13

A/I-A/Paru/98/

16 Aug 98

Annexure - 13

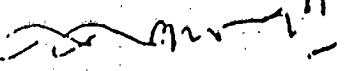
Shri PD Pathak
General Secretary,
Assam Rifles (Civil)
Employees Association
Directorate General Assam Rifles
Shillong

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

1. Ref. your letter No. A1(C)/Paru/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.


(R.S. Rawat)
Lt Col.
AID(A)

Ref. No. 705009

Minister
Government of India
Ministry of Home Affairs
Balwant Singhjiya Annam Rifles
Directorate General Annam Rifles
Shillong - 793011

20 Aug 94

N1-N/242/90/310

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 DGAU. SHILLONG**

Sir,

1. I am directed to refer to your letter No. II.22013/2/90-PF.V dated 09-7-1990 and to state that the proposal for entitlement of SDA to civilian employees of Directorate General Annam Rifles, Shillong was taken up vide this Directorate letter No. N1-N/242/90 dated 06 Jun 1990 but not agreed to in view of Ministry of Finance order No. II(3)/95-E.11(II) dated 12 Jan 1995.

2. After careful examination of Ministry of Finance Order dated 12 Jan 1995, a doubt has arisen in regard to applicability of the said order to the civilian employees of Directorate General Annam Rifles, Shillong. The civilian employees of Directorate General Annam Rifles were granted SDA from 1988 onwards vide MHA's order No. II.11011/1/94-PF.IV dated 01 Feb 1989, whereas employees of the Central Government serving in the State 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 1995. Since the civilian employees of Directorate General Annam Rifles, Shillong were granted SDA from 1988 onwards, the orders of the Ministry of Finance letter dated 12 Jan 1995 were not made operative till date.

3. Now, the Pay and Accounts Officer(Annam Rifles) has intimated this Directorate to stop payment of SDA to the civilian employees from the month of Aug 94 and also to recover the SDA drawn by them since 20-9-1994.

4. It may be seen that while granting SDA to the civilian employees of the Central Government serving in the State 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.11011/1/94-PF.IV dated 01 Feb 1989 in their letter dated 12 Jan 1995. The civilian employees of this Directorate were granted SDA after 1988 - i.e. - from 1989 and were being allowed to draw the said allowance by the DPAU (AII) even after receipt of Ministry of Finance letter dated 12 Jan 1995. With the

Particulars of deduction/recovery of SDA drawn by civilian employees under 20 Sep 1994, the service and related employment of whom, Directorate will be adversely affected and under no financial loss and non of disbarment. Since the MIA's order No. 11.11011/17/84-FD-TV dated 01 Feb 1989 has not been cancelled/modified or superseded by the MIA till date and there is no reference of the said order in the Ministry of Finance order dated 12 Jun 1996, orders for refund of amount drawn since 1994 needs to be reviewed.

5. In view of the above, you are requested to examine the MIA's order No. 11.11011/17/84-FD-TV dated 01 Feb 1989 and review the applicability of SDA to civilian employees of this Directorate.

Yours faithfully

(S. J. B. Shillong)
Major General
Deputy Director General
Antarik Shillong
For Director General

8 QD
1. LOAN
2. PAO (AR)
3. Lai Jumkhran
4. Shillong
5. Ent Branch
6. DGR

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

Address

DGR
DGR
DGR

A Annexure-15

-87-

A15

SK

89
13

Annexure-15 ~~EFAD~~

No. 27013/2/1043. v
Government of India
Ministry of Home Affairs

New Delhi dated 22nd Sept, 1998

To

Director General
Acme Piffen
Shillong-793011.

Subject

Entitlement of Special Duty Allowance to
Civillian employees of ICIF, Shillong.

Sir,

I am directed to refer to your letter No.
A/I-4/242/96/31 dated 25th Mar 1996 on the subject cited
above and to my that it has already been intimated to
your side Govt. Letter dated 9.7.98 that Special Duty
Allowance is not payable to the civilian employees
of Acme Piffen 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,

90/- 3 3 3 3

(Nirmala Dev)
Deak Officer
22/3/98.

Tele No. 705-76

Ex-88- Annexure 16
Annexure 16/17

Indirect Taxation Annexure 16/16
Director to General Account Division
Mizilong - 703 011

A/I-A/2A2/98

12 Oct 98.

List 'B'

List 'B'

List 'C'

List 'E'

List 'F'

INQUIRY TO CIVIL DIVISION TO
CIVIL DIVISION OF DIA, MIZILONG.

1. Reference Ministry of Finance letter No.11(3)-p-
II (3) dated 12 Jan 96 (Copy enclosed).
2. The admissibility of Special Duty Allowance (SDA) to the civilian employees of DIA, DIA, DIA and units etc was under query based on an observation raised by FMO, Assam Division, Mizilong. The Ministry has now clarified the admissibility under their letter No. 22013/2/98-PP, P dated 22 Sep 98 and 101 letter No. P.1, (1)-P-II(1)/98 dated 20 Aug 98, copies of which are enclosed herewith for information and necessary action by all concerned.
3. This State, however, is in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Division, outcome of which will be intimated separately.

cc/- P. S. Sawat
Lt. Colonel
A.I.(1)
for DIA Assam Division.

Incls : As above.

Copy to :

List 'B'

List 'C'

Gen. Secy, Assam DIA Division (Civil) Employee Association,
Mizilong-11.

contd....

5X -89- Annexure ¹¹⁷ 17

~~Annexure - 17~~

6
Filed & to be applicable
Printed on demand at Rs. 10/- 2000/-

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.
1.11018/27/99-Legal dated 3.5.99 on the subject cited above
and to say that the order of the Ministry No. II.22013/2/90-
PF-V dated 9-7-90 regarding discontinuation of the Special
Duty allowance is applicable for all the civilian employees
of the Assam Rifles.

Yours faithfully,

6d/-xxxx
(Bimala Devi)
Desk Officer

Bharat Bhawan
Government of India Annex - 18
Grah Bhawan
Ministry of Home Affairs
Mahatma Bhawan 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 RIFLES

1. Ministry of Home Affairs letter No. 22012/10/97-PF.V dated 12 May 99 and No. 11.22013/2/98-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 letter, ex-employees of Assam Rifles are not entitled Special Duty Allowances.
3. PWDs/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.

Parmanu

(R.G. Rawat)
Lt. Col.
MD(A)
For DC Assam Rifles

Copy to

List 'D' for info please.

List 'G'

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

Attested
Adm

Contd...

SS

Administrative KF8

57

Annex- 19

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 225/99 OF 199

 Central Administrative Tribunal
19/10/2000 @ 11:00 AM

Applicant(s) Subash Kumar Baru

and Ors

Respondent(s) Linica J. Dolia and Ors

Advocate for Applicant(s) Mr. ~~S. L. Sarker~~, M. Chatterjee.

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. Sarker 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. 9-7-96, 13-8-98, 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 invitation alone. The counsel of both sides have no objection. List on 2-9-99 before invitation hearing.</p> <p>At 10.30 A.M.</p>

Certified to be true Copy
मान्यता प्रदित्तम्

Sh. S. D. (D)
Central Administrative Tribunal
Gurudas Deuchi

11/5/0

16 14 Letter dt. 12.10.98

Contd....

Annex in - 20

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

ORIGINAL APPLICATION NO. 341/2000

Pulak Chatterjee and ors APPLICANTS
versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S) *Mr. B.K. Sharma*
ADVOCATE *Mr. S. Sarma.*

FOR THE RESPONDENT(S) *C.G. S.C.*

Notes of the Registry DATE COURT'S ORDER

19.10.2000 Present : Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.

Heard Mr. B.K. Sharma, learned
counsel for the applicants.

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

Issue notice to the respondents
to show cause as to why an interim
order as prayed for shall not be
granted. Returnable by four weeks.

Meanwhile, the operation of
the impugned communications dated
9.7.98 issued by the Ministry of Home
Affairs, New Delhi, dated 18.8.98
issued by the Respondent No. 3, dated
12.10.98, 22.9.98, 17.5.99 and
12.5.99 shall remain suspended till
the returnable date.

List on 29.11.00 for written
statement and further orders.

Sd/ VICE CHAIRMAN

Section Officer (J)

आनुपातिक अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गুৱাহাটী ন্যায়বৰ্ধ, গুৱাহাটী-৫

7/12/2000
7/12/2000