

100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 435/2000

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

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

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:GUWAHATI.5

ORIGINAL APPLICATION NO. 635/2000

N. M. Patel and Ors.

Applicant.

VERSUS

Union of India & Ors. . . . . Respondents.

For the Applicant(s) Mr. B. Malakar.

Mr. R. Das.

For the Respondents. . . . . C. G. S. L.

NOTES OF THE REGISTRAR

DATE

ORDER

15.12.00

Present: Hon'ble Mr. Justice D.N.

Choudhury, Vice-Chairman and Hon'ble  
Mr. M.P. Singh, Administrative Member.

Heard learned counsel for the  
parties.

Application is admitted. Issue  
notice on the respondents. Call for  
records. List on 17.1.01 for filing  
of written statement and further  
orders.

xxx xxxxxxxxx xxxx be xxxx  
xxx xxxx be xxxx of xxxx application.

Member

Vice-Chairman

50 (J) 14/12/2000

17.1.01

List it after four weeks to  
enable the respondents to file  
written statement.

Fix it on 15.2.2001 for  
written statement and further orders.

Member

Vice-Chairman

Notice prepared and sent to  
D/S for enjoining the respondent  
No. 1 to 3 by Legal A.O. vide  
S/No 20/12/2000 dated 2/1/2001

trd

b  
1/1/2001.

① Service report are still  
awaited.

② No notice has been filed.

435/2000 (2)

Notice of Service on  
R No 1  
for 28/01/01.

15.2.01

List on 16.3.01 to enable the  
respondents to file written statement.

No. written statement  
has been filed.

lm

By  
14.2.01

19.3.01

I.C.U.Shah  
Member

Vice-Chairman

List on 26.4.01 to enable the respon-  
dents to file written statement.

16-3-01

No W.S has been filed.  
pg

for

26.4.01

I.C.U.Shah  
Member

Vice-Chairman

List on 30.5.01 to enable the  
respondents to file written statement.

No W.S has been filed.

By  
25/4/01

lm

30.5.01

I.C.U.Shah  
Member

Vice-Chairman

List on 27-6-2001 to enable the respon-  
dents to file written statement.

No W.S has been filed.

By  
26/6/01

bb

27.6.01

Mr. A. Deb Roy, learned Sr. C.G.S.C. for the  
respondents prays for and granted four weeks and no  
more time to file written statement. Applicant  
will have two weeks thereafter to file rejoinder.

List on 29-8-2001 for orders.

No. written statement  
has been filed.

By  
28/8/01

bb

29.8.01

I.C.U.Shah  
Member

Vice-Chairman

Judgment delivered in open Court.

Kept in separate sheets. Application  
is allowed. No order as to costs.

Copy of the Judgment  
has been sent to the  
Officer for issuing  
in due to the Appellate  
as well as to the Sr. C.G.S.C.  
for the respondent.

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 435 of 2000

Date of Decision..... **29.8.01**

**Mr.M.M.Patel & 11 Others.**

Petitioner(S)

**Mr.B.Malakar**

Versus-

Advocate for the  
Petitioner(s)

**Union of India & Ors.**

Respondent(s)

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

Advocate for the  
Respondent(s)

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

THE HON'BLE

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

Judgment delivered by Hon'ble : **VICE CHAIRMAN**

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.435 of 2000

Date of Order: This the 29th Day of August 2001

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

Mr.M.M.Patel & 11 Others

All the applicants are working under the Assistant  
Ex-Engineer, MSTLCISD, CWC, Alipurduar.

By Advocate Mr.B.Malakar.

-Vs-

1. Union of India,  
represented by the Secretary,  
CWC, New Delhi
2. The Superintendent Engineer,  
CWC, NEID, Shillong.
3. The Executive Engineer, CWC,  
NEID-III, Itanagar.

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

O R D E R.

D.N.CHOUDHURY, J. (VC):

The issue relates to payment of SDA. The twelve applicants are working as Work charged Khalasis under the respondents and posted at different Station as mentioned in paragraph 1. The applicant No.2, Shri K.V.Pillai is working from February 1974. The applicant No.1 Shri M.M.Patel was working under the respondents as Khalasi from 11.2.80 and worked in such capacity in different places of India. The applicant No.1 worked at Faridabad, Bareilly, Rewa, Gangtok and posted at Phuntsholing(Bhutan) and thereafter posted at N.E. Region

contd/-2

till he was transferred. Similarly the other applicants were also working different places in the N.E. Region. Admittedly, these applicants have not been paid the Special Duty Allowance for the period June 1990 to November, 1996. They were paid the SDA only when they were working in Bhutan Investigation Division at Phuntsholing. Even on transfer for the month of June they were paid the SDA. Since July 1990 onwards till they were posted out from N.E. Region in November 1996, however, they have not been paid the SDA. The applicants first moved the Administration but failing to get remedy the applicants filled this O.A. before this Tribunal.

The Respondents contested the claim and stated in the written statement that the applicants are not entitled to SDA since they are Work Charged Employees and SDA is payable only to regular employees. As alluded earlier all these applicants were posted to N.E. Region on transfer. They were also paid the SDA at Bhutan and they bear all India Transfer Liability since they were transferred and posted out of N.E. Region. The benefits provided in the Office Memorandum issued by the Government of India from time to time are squarely applicable to the applicants. The applicants were excluded from the benefit of the SDA only on the purported ground that they were working as Work Charged Employees. The reasons for withholding the SDA to these applicants are therefore unsustainable in law. The Respondents are accordingly, ordered to pay the SDA to the applicants since July 1990 to October 1996 from which period the applicants have been working in the N.E. Region.

I have also heard the learned counsel Mr.B.Malakar on behalf of the applicant and Mr.A.Deb Roy, Sr.C.G.S.C. for the respondents. The Respondents are ordered to pay SDA for the aforementioned period to the applicants as early as possible preferably within 3 months from the date of receipt of this order.

Application is allowed to the extent indicated above. There shall however be no order as to costs.

  
(D.N.CHOUDHURY)  
VICE-CHAIRMAN

LM

1407

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Branch  
GUWAHATI BRANCH

O.A. NO. 435 /2000

M. M. Patel & Ors. .... Applicants

- Versus -

Union of India & Ors. ---- Respondents

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH  
GUWAHATI

An application under Section 19 of the  
Central Administrative Tribunal Act,  
1985.

**-Versus-**

Union of India & Ors. Respondents.

1. Particulars of  
M.M. Patel  
applicants. Khalasi under Assistant Ex-Engineer  
MSTLCISD CWC, Alipurduar.

2. K.V.Pillai Work Sarkar, Gr-I under  
Assistant Ex-Engineer, MSTLCISD, CWC  
Alipurduar.

3. K.P.Sahu Khalasi MSTLCISD CWC, Alipurduar

4. P.R.Sahu Khalasi MSTLCISD, CWC, Alipurduar.

5. H.C.L. Kadam W.C. Khalasi, MSTLCISD, Alipurduar.

~~B. M. S. Pillai~~ ~~B. M. S. Pillai~~  
~~B. M. S. Pillai~~

6. P.V.Xavier Khalasi, MSTLCISD, CWC, Alipurduar.

7. Chotolal WC Khalasi, MSTLCISD, CWC, Alipurduar.

8. Mahendar Sharma. WC Khalasi, MSTLCISD, CWC, Alipurduar.

9. Jagdish Singh WC Khalasi, MSTLCISD, CWC, Alipurduar.

10. B.S.Yadav WC Khalasi, MSTLCISD, CWC, Alipurduar.

11. Bas Bhagawan. WC Khalasi, MSTLCISD, CWC, Alipurduar.

12. Markush Tirkey WC Khalasi, MSTLCISD, CWC, Alipurduar.

2. PARTICULARS OF THE RESPONDENTS:

1. UNION OF INDIA,

Represented by the Secretary,  
CWC, New Delhi.

2. The Superintendent Engineer,  
CWC, NEID, Shillong.

3. The Executive Engineer, CWC,  
NEID-III, Itanagar.

M.M. Patel

2.(i) Address for ser-

ving notices. As above.

3. Particulars of the Denial of special duty allowance to the order against which applicants which is admissible under the this application rules.

has been made.

4. Jurisdiction of the The applicant declares that the subject Tribunal. matter of this application is within the jurisdiction of this Tribunal.

5. Limitation: The applicant further declares that the application is within the limitation prescribed in Section 21 of the CAT Act, 1985.

6. Facts of the case: i) The applicants are working under the Central water Commission and posted at different stations as mentioned in paragraph 1 above. They are being employees under the Govt. of India have an All India transfer liability. Their cause of action being same and relief claim being identical, They may be allowed to file this common application under rule 4 (5)(a) of the CAT (Procedure) rules, 1987. *for JLY*

June 1990 par 1  
for par 1 JLY  
M. M. Patel

ii) That the applicants beg to state that since the date of their appointment they have been working at various places which may be seen from the enclosed statement with this application.

The statement is annexed herewith and marked as Annexure-A to this application.

iii) That the applicants earlier were posted in Phulsiling under bhutan  Investigation Division. Here they were given SDA.

iv) That in June, 1990 they were transferred to Itanagar division and  since then the SDA special duty allowance have not been paid. It is stated here that from November, 1996 they were posted in Alipurduar.

v) That the applicants beg to state that special duty allowance have been paid to similar employees working in Shillong and Arunachal Pradesh. In Arunachal Pradesh WC driver, Drill operator, Asstt. Drill Operator are getting SDA in Arunachal

M.M. Patel

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Pradesh. It is respondent<sup>5</sup> No. 3 who have not paid the SDA to the applicants.

vi) That the applicants beg to state that instruction was invited vide Memo No. A-15011/1/90/Estt. IV/194 dated 12.2.99 to the effect that Fifth Central Pay Commission recommended for grant of SDA and other facilities to civilian employees of Central Govt. Serving in NE Region whioch was accep[ted] by the Ministry of Finance, Department of Expenditure vide OM 11(2)/97/E. 11(B) dated 22.7.98.

A copy of the said instruction is annexed herewith and marked Annexure-B to this application.

vii) That thereafter another OM dated 12.1.96. was issued whrein it was clarified that certain incentives to the Central Govt. Civilian employees mposted in the NER and one of the incentives was p ) to those who have all India transfer liability. It was further clarified that for the purpose of sanctioning SDA the

M.M. Patel

all India transfer liability of the member of any service/cadre or incumbents of any post/group of post has to be determined by applying the test 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 that basis of on all India common seniority list for the service/cadre/post as a whole.

In the said memorandum reference was made to the filing of an application before this Tribunal by some employees on the ground that their appointment letters contained a clause of all India transfer liability. The Hon'ble Tribunal granted their prayer although they were in fact not illegible to get SDA. In some cases direction of the CAT were implemented although some Ministries/Departments filed SLP before the Hon'ble Supreme Court.

viii) That the Supreme Court on their judgment 20.9.94 in CA 3251/93 upheld the

M.M. Patel

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cenrtral Govt. civilian employees having all India transfer liability are entitled to the grant of SDA on being posted to any station in NE region. The Apex Court further added that the grant of SDA only to the Officer trarnsferred from outside the region to this region would not be vfiolative of the provisions contained in Article 14 of the Constitution as welol as the equal pay doctrine.

A copy of the said memorandum is annexed herewith and marked as Annexure-C to this petition.

ix) That the applicants beg to state that from November, 1996 they have been posted at Alipurduar and are working under the Assistant Executive Engineer MSTCCID-II CWC Alipurduar.

Copies of posting orders are annexed herewith and marked as Annexure-D series to this application.

x) That the applicants beg to state that since July, 1990 to October, 1996 they were working at Itanagar and as per the

*M M Patel*

Govt. policy they are entitled to the grant of SDA which has not been paid till today and as such they have approached this Hon'ble Tribunal for necessary direction.

6.(a) Legal ground: Payment of SDA being a policy matter the same cannot be arbitrary and discriminatory. For the period in question the SDA has not been paid. The applicants were working in NE Region and as such they are entitled to the grants of the SDA.

7. Remedies exhausted: That the applicants filed numerous representation praying for payment of SDA which has not been considered.

8. Matters not previously filed or pending before the Tribunal or any other Court or Tribunal. That the applicants declare that they have not filed any other application before any other Court or Tribunal including this Tribunal.

M. M. Latif

9. Relief sought: Under the above circumstances the applicants pray for the following reliefs:

(i) That SDA from July, 1990 to October, 1996 be paid to the applicants.

ii) Any further or other orders which the Hon'ble Tribunal may pass.

10. Interim order: Nil.

11. Number of IPO: i) Name of Issuing post office.

Banarsi cheque no. 839 dt. 14.12.2000  
for Rs. 50/-

ii) Post Office where payable.

12. Details of index:

13. List of enclosures: (i) Statement showing particulars of the places where applicants had worked.

(ii) Instruction issued by the Government:

(iii) Memorandum issued by the Government of India.

(iv) Posting orders.

M M Patel

VERIFICATION

I, Sri Madan Mohan Patel one of the applicants in this application do hereby verify that the statements made in this application in paras 1, 2, 3, 4, 5, 6 (1, 10, 11, 12, 13, 14, 15) <sup>6a, 7, 8, 9, 10, 11,</sup> are true to my knowledge and those made in paragraphs 6(vii), <sup>ix, x) 6a, 7, 8, 9, 10, 11, 12,</sup> being matters of records are true to my information which I believe to be true and the rest are my humble submission.

Guwahati  
(4.12.2000)

M. M. Patel  
Signature

S/No.	Name and Designation.	Date of appointment.	Date of posting in different place	W.E.F. Date from	Date to	Date of Quasi permanent	Date of permanency	S.D.A.Drawn upto.
15	Sh.Bas Bhagwan, Khalasi	18.09.1983	Faridabad Tankpur (UP) (Hariyana)	18.08.83		18.08.86	01.04.88	07.07.89 to 31.07.90
			Simdega (Bihar)					
			Rewa/Ambikapur (MP)					
			Ambikapur Mirzapur (UP)	12.10.86	19.12.87			
			(MP)					
			All the details same as Sl.No.1.					
16	Sh.N.P.Singh, Khalasi.	13.04.1988	Alipurduar (WB)	13.04.88	31.05.89 13.04.91	13.04.91	15.06.89 to 31.07.90	
			Alipurduar Wakro (AP)	01.06.89	31.10.96			
			Wakro (AP)	Alipurduar	01.11.96 (WB)			
17	Sh.T.N.Singh, Khalasi.	13.04.1988	Alipurduar (W.B)	13.04.88	31.05.89-13.04.91	13.04.91	15.06.89 to 31.07.90	
			All the details same as Sl.No.16					

S.No.	Name and Designation.	Date of appoint- ment.	Date of posting in different place From _____ To _____	W.E.F. Date From _____ To _____	Date of Quasi per- manent.	Date of permanency 22.10.90	S.D.A. Drawn upto.
3.	✓ Sh.M.M.Patel, Khalasi	11.02.1980	Sambalpur (ORISSA) All the details Same as Sl.No.2	11.02.80 30.09.81 11.02.83	22.10.90	15.06.89 to 31.07.90	
4.	✓ Sh.Chhote Lal, Khalasi	14.03.1980	Raigarh (M.P) All the details same as Sl.No.II	14.03.80 30.09.81 14.03.83	22.10.90	07.07.89 to 31.07.90	
5.	✓ Sh.B.S.Yadav, Khalasi.	10.03.1980	Raigarh (M.P) All the details same as Sl.No.II	10.03.80 30.09.81 10.03.83	22.10.90	07.07.89 to 31.07.90	
6.	✓ Sh.R.R.Sahu, Khalasi.	16.03.1980	Sambalpur (ORISSA) All the details same as Sl.No.II	16.03.80 30.09.81 16.03.83	22.10.90	07.07.89 to 31.07.90	
7.	✓ Sh.K.P.Sahu, Khalasi.	09.10.1980	Raigarh (M.P) Raigarh Pithoragarh Pithoragarh Ambikapur (UP) (MP)	09.10.80 30.09.81 09.10.83 01.10.81 31.01.85 01.02.85 11.10.86	01.04.88	07.07.89 to 31.07.90	
8.	✓ Sh.P.V.Xavier, Khalasi. X	21.06.1982	Now at Bareilly (UP) Bareilly (UP) All the details same as Sl.No.II.	11.06.82 31.01.85 11.06.85	01.04.88	07.07.89 to 31.07.90	
9.	✓ Sh.Markush Tirkey, Khalasi	21.06.1982	do	21.06.82 31.01.85 21.06.85	01.04.88	07.07.89 to 31.07.90	
10.	✓ Sh.Jagdish Singh, Khalasi	02.04.1984	Lohaghat (U.P) All the details same as Sl.No.I	02.04.84 31.01.85 02.04.87	01.04.88	07.07.89 to 31.07.90	
11.	✓ Sh.Shivjee Pandit, Khalasi	02.05.1983 X	Lohaghat (U.P) All the details same as Sl.No.I	02.05.83 31.01.85 02.05.86	01.04.88	07.07.89 to 31.07.90	
12.	✓ Sh.Mahendra Sharma, Khalasi	26.12.1974	Ranipul (Sikkim) All the details same as Sl.No.I - Chaparkhola/Tumma, Jorhat	26.12.74 25.10.81 26.12.77	01.04.88	07.07.89 to 31.07.90	
13.	✓ Sh.Gurmit Singh, Mech.II	19.06.1974 X	Ranipul (Sikkim) Ranipul Shillong Shillong Wakro (AP) Wakro(AP) Alipurduar (W.B).	19.06.74 25.07.81 26.07.81 12/90. 12/90 4/1997 Alipurduar (W.B).			
14.	✓ Sh.S.K.Das, Khalasi.	30.11.1985 X	Mizoram Mizoram Wakro (AP) Wakro (AP) Alipurduar(WB)	30.11.85 06.04.91 30.11.88 07.04.91 31.10.96 01.11.96	30.11.88		

S/No	Name and Designation	Date of appointment	Date of posting in different place	W.E.F. From	Date To	Date of Quasi Permanent	Date of permanancy	S.D.A. Drawn upto
1.	Sh.K.V.Pillai, W/S Gr.I	08.02.1974	Ranipul (Sikkim)	-	08.02.74	25.10.81	08.02.77	01.04.88
			Ranipul Lohaghat (Sikkim) (U.P)		26.10.81	31.01.85	-	
			Lohaghat Ambikapur (U.P) (M.P)		01.02.85	11.10.86		
			Ambikapur Mirzapur (M.P) (U.P)		12.10.86	19.12.87		
			Mirzapur Gajaldoba (U.P) (W.B)		20.12.87	30.06.89		
			Gajaldoba Wakro	01.07.89	30.06.90			09.07.89 to 31.07.90
			Under BID Phuntsholing (Bhutan).	01.07.89	30.06.90			
			Under NEID. III, Itanagar.	01.07.90	31.10.96			
			Wakro To Alipurduar	01.11.96				
			Alipurduar - 1998 - 96					
2.	Sh.H.C.L.Kadam, Khalasi	10.03.1980	Raigarh (M.P)	-	10.03.80	30.09.81	10.03.83	22.10.90
			Raigarh Bareilly (M.P) (U.P)		01.10.81	31.10.81		
			Bareilly Pancheshwar (U.P) (U.P)		01.11.81	31.01.85		
			Pancheshwar Majhatoli (UP) & Simdega (Bihar)		01.02.85	10.03.86		
			Simdega Ambikapur (Bihar) (M.P)		11.03.86	11.10.86		
			Ambikapur Gurda Dam (UP) dam site(UP)		12.10.86	19.12.87		
			Gurda Gajaldoba (W.B) (W.B)		20.12.87	31.05.88		
			Gajaldoba Ambipurduar (W.B) (W.B)		01.06.88	31.05.89		
			Alipurduar Wakro	Same S/No. I				
			(A9)					
			Wakro - Alipurduar 1996					

Contd....2.

Ref. A-15011/1/98-Batt. IV / 194

Government of India  
Central Water CommissionRoom No. 303, Sewa Bhawan,  
M.C. Road, New Delhi.  
Dated 12th Feb. 1999.

To

The Superintendent, Engg. Deptt.,  
Hyd. Directorate, Circle,  
Central Water Commission,  
Nabu Nagar, Janpath,  
New Delhi-110024 (Delhi)

Subject: "BDA" for civilian employees serving in NER - Reg.

Sir,

I am directed to refer to your letter dated 11.10.98 and your letter dated 9.1.99 on the above subject and to say that on the recommendation of the Fifth Central Pay Commission, Ministry of Finance, Deptt. of Expenditure vide O.M. No. 11(2)/97-B.II(D) dated 22.7.98 have issued the latest instructions regarding grant of BDA and other facilities to the civilian employees of Central Government serving in NER.

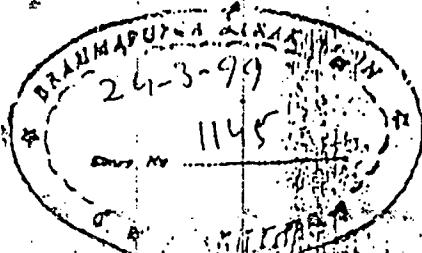
Certain points raised under Para 3 of your letter dated 15.10.98 are clarified as under:-

**Point No. (1)** A person resident of outside the NER on recruitment locally and posted in NER on first appointment:-  
Reply: Clarification has to be obtained from Ministry of Water Resources in this behalf. Therefore, send detailed application letter and application (xerox copy) for further examination at this end and necessary action thereafter.

**Point No. (11)** A person resident of NER transferred on deputation to another NER and again returned to NER:-

Reply: BDA not eligible.

**Point No. (13)** A person resident of NER posted on first appointment (not recruited in NER) or transferred outside NER and then posted to NER:-  
BDA is not includable.



Done to  
BDA  
Advocate

20  
Point No. (iv) i. A person having "All India Transfer Liability" as per service terms and conditions and since recruitment locally serving in NEIL but not refused transfer outside NEIL

Reply i. Not eligible for SDA.

Point No. (v) i. A person having "All India Transfer Liability" as per service terms and conditions and since recruitment locally serving in NEIL but refused to go outside NEIL/any other station in NEIL  
Reply i. Not eligible for SDA.

Copy of item No. 1 clarification would be obtained  
from Secretary of Water Resources after receipt of details as  
per para 2(1) from your Office.

Yours faithfully,

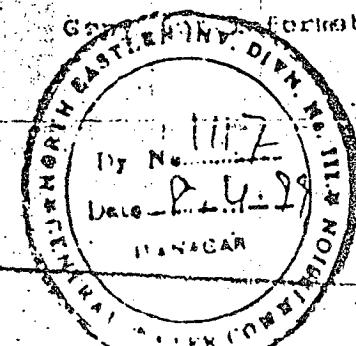
( B. R. SHARMA )

UNDER SECRETARY

TEL. 6107794

Copy of the same information to Chief Engineer, NEIC, CWC, Shillong.

( B. R. SHARMA )  
UNDER SECRETARY



O/o Chief Engineer  
NEIC, CWC, Shillong.

Encl. No. 4/P&C/1(C)/96-GBB 1086-87

Date 26 MAR 1999

Copy to the Suptd. Engg. NEIC, Shillong/ Director, NEIC,  
Directorate, CWC, Guwahati with the request to make SDA  
payment as above.

Cashier

OB3

26

6950 Copy to all  
681 AFEL (A) NEIC  
for compliance  
14/99 8/2/99

NORTH EASTERN DIVISION  
O/o 9/6  
DATE 26/3/99  
6/1/1999

(BASANT RAI)  
ACCIDENT ENGINEER(C)

C-1 No. NEIC/M.O. 000008/98/1086-87

At Shillong, the 30, 3, 99.

Copy to: 1. Executive Engineer, NEID-I/II & III, CWC, Silchar/  
Assam & Itanagar for compliance  
2. Asst. Ex. Engineer (I&II), NEIC, CWC, Shillong for compliance.

Single  
( P. S. Jaiswal ) 30/3  
Officer Superintendent

..... search the Civil order containing  
..... its orders - Necessary action  
..... is to be taken in Case No. 11(3)/95-E.II(B)-  
..... Government of India  
..... Ministry of Finance  
..... Department of Expenditure  
.....

## Annex - e, 18

12th Jan. 1990

OFFICE OF THE CHIEF JUSTICE

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

The undersigned is directed to refer to this Department's O/H No. 2001A/3/83-E.IV dated 14.12.83 and 20.4.1987 read with O/H No. 20014/16/88-E.IV/E.II(B) dt. 1.12.88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM dt. 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE Region. One of the incentives was payment of a "Special Duty Allowance" (SDA) to those who have "All India Transfer Liability".

It was clarified vide the above-mentioned OM dt. /20.3.1987 that for the purpose of sanctioning Special Duty Allowance, i. the All-India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e., whether recruitment is 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 for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is eligible to be transferred anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the "NE" Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati) 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 prayer of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

6." 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.

~~Volume 2009~~ ~~Book 1~~ ~~Serial~~

6. The Hon'ble Supreme Court in their Judgement delivered on 20.9.94 (in Civil Appeal no. 3251 of 1993) upheld the submissions of the Government of India that Central Government civilian employees who have All-India transfer liability are entitled to the grant of SDA on being posted to any station in the NE Region from outside the region and SDA could not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex Court further added that the grant of this allowance "only" to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them "as far as the allowance is concerned", etc.

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:

1) The amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived.

2) The amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was payable till the period prior to 20.9.94, but payments were made after this date i.e. 20.9.94) will be recovered.

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

4) 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 O.O. is enclosed.

(C. Balachandran),  
Under Secy to the Govt. of India

FA

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

DRY &amp; GROWTH CENTER : ITANAGAR

PHONE : 33510

GOVT. RAILWAY OF INDIA  
CENTRAL LABOUR COMMISSION  
NO. 11, CASTE 30, ENV. DIVN. LVI  
POST BOX NO. 144, ITANAGAR (AP)

NO. NELD-III/Adm-5

/ 1219-24

Date

1-3-92

OFFICE ORDER

The following persons attached to S.I.D., C.W.C., Dambuk are hereby transferred to Manas Sankosh Tista Link Canal Investigation Sub Division No. I, C.W.C., Alipurduar in the public interest as under :-

- 1. Shri Jagdish Singh / C.Khalasi
- 2. " Bas Bhagwan "
- 3. " Kader Panthkoti C.Khalasi 69 days.
- 4. " S.L.B. S.Yadav w/c kh.

*R.Singh*  
( Ravinder Singh )  
Executive Engineer

Copy for information and necessary action to :-

- 1. The Asstt. Ex. Engineer, NELC IAO NO. I, C.W.C., Alipurduar
- 2. The Assistant Engineer, S.I.D., C.W.C., Dambuk
- 3. Accounts Branch, NELD-III, C.W.C., Itanagar
- 4. Shri Jagdish Singh, Khalasi
- 5. " Bas Bhagwan "
- 6. " Kader Panthkoti, C.Khalasi 69 days, B.S. Yadav w/c

289

7-3-92

*Some Corp  
Brody  
Private*

CENTRAL WATER COMMISSION  
OFFICE OF THE ASSTT. ENGINEER  
SUSPENSE INVESTIGATION SUP:DIVISION  
DAHNUK: (ARUNACHAL PRADESH) 786154

RE: SISL/CAC/DEK/WC-4/97/2828-30 DATED DAHNUK THE 13/5/97.

OFFICE ORDER

In pursuance of the Executive Engineer, North Eastern Inv. Divn. III, Central Water Commission, Itanagar vide Office Order No. NFID-III/WC/PR-14/2721-25 dated 2.5.97. Shri Markus Tirkey W/C Khalasi is hereby relieved from his duties w.e.f. 3.5.97(A.N.) for further report for his duties to the Asstt. Ex. Engineer, MSTLCID-II, CWC, Alipurduar (W/B).

( B. Singh )  
Assistant Engineer

Copy to:-

1. The Executive Engineer, North Eastern Inv. Divn. III, CWC, Itanagar for information please.
2. The Asstt. Ex. Engineer, MSTLCID-II, CWC, Alipurduar (W/B) for information and further necessary action.
3. Shri Markush Tirkey W/C Khalasi.

( B. Singh )  
Assistant Engineer.

True copy  
J. M. Pradhan

GOVERNMENT OF INDIA  
CENTRAL WATER COMMISSION  
NORTH EASTERN INVN. DIVN. NO. III  
KRISHNA NAGAR : AGARTALA

NO. NEID-III/AGT/Adm-32/ 2687-94

Dated / 23 / 10 / 90.

OFFICE ORDER

Executive Engineer, North Eastern  
Investigation Division No.III, Central Water Commission  
Agartala hereby appoints the following Workcharged  
Khalasis of this Division in a Substantive capacity  
with effect from 22.10.90 on the basis of recommendation  
of the D.P.C. held on 22.10.90 in the office of the  
Executive Engineer, North Eastern Invn.Divn.No.III,  
CWC, Agartala.

Sl.No.	Name	Designation
--------	------	-------------

S/Shri,

1.✓	Madan Mohan Patel	W/C Khalasi
2.✓	Sarku Manger	W/C Khalasi
3.✓	Malik Ram	W/C Khalasi
4.✓	Raja Ram Sahu	W/C Khalasi
5.✓	Dhamrudhar Munda	W/C Khalasi
6.✓	B.S. Yadav	W/C Khalasi
7.✓	H.C.L. Kadam	W/C Khalasi
8.✓	Ram Sobaran	W/C Khalasi
9.✓	Chhotelal	W/C Khalasi

( S.K. HAMDAR ) 22  
EXECUTIVE ENGINEER

Copy to:-

1. The Superintending Engineer, North Eastern Invn. Circle, CWC, Shillong.
2. Assistant Engineer, North Eastern Const. Sub Divn CWC, Jatanbari.
3. Assistant Engineer, Kamlang Invn. Sub Division, CWC, Wakro.
4. Assistant Engineer, Sissiri Invn. Sub Divn. CWC, Dambuk.

Contd. .... 2/

SL. NO. 2

5. Accounts Branch.

6. Junior Engineer (H.Q.).

7. Person concerned. SL- No - 7 (A.C.L. Kadam)

8. Service book of person concerned.

Index  
( S.K. HALDAR )  
EXECUTIVE ENGINEER

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 NORTH EASTERN INVESTIGATION DIVISION NO. III  
POST BOX NO. 144, ITANAGAR (ARUNACHAL PRADESH)

NO. NE ID-III/Adm-5/252-5-

Date. 20 JAN 1995

TO

The Superintending Engineer  
 North Eastern Inv. Circle  
 Central Water Commission  
Shillong - 14 (Meghalaya).

Sub :- Applications of workcharged staff regarding  
 payment of Special Duty Allowance.

Sir,

Kindly find enclosed herewith the applications of the  
 following work-charged staff of this Division requesting for  
 payment of Special Duty Allowance for necessary action

S/Shri

1. K.V.Pillai	W/S Gr.I
2. Jagdish Singh	Khalasi
3. P.V.Xavier	Khalasi
4. B.S.Yadav	Khalasi
5. T.N.Singh	Khalasi
6. M.M.Patel	Khalasi
7. H.C.L.Kadam	Khalasi
8. N.P.Singh	Khalasi
9. Sarku Monger	Khalasi
10. Chhote Lal	Khalasi.



Yours faithfully,

( D. P. Singh )  
Executive Engineer

Copy to the Assistant Engineer, KISD, CWC, Wakro for information  
 w.r.t. to his letter No. KISD/WC-3/48 dated 14.1.95

*True w/ J. P. Advocate*  
 ( D. P. Singh )  
 20/1/95