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S
**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 56/2000.....

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2
SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 56/2000

OF 199

Applicant(s) Sri Maurya Kumar and ors.

Respondent(s) Chief of India and others.

Advocate for Applicant(s) Mr. B. D. Dhone

Advocate for Respondent(s) C.G.SL.

Notes of the Registry	Date	Order of the Tribunal
Rs 50/- 22/2/2000 956084 22/2/2000	14.2.2000	Present : Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman and Hon'ble Mr.G.L. Sanglyine, Administrative Member. Application is admitted. Issue usual notices. List on 14.3.2000. JL Member
21-2-2000 Service of notices Placed and Sent D. Section for iring of the same The respondents ough Regd. post in A/D. vide S.No. trd 500 to 502 dtd. 21-2-2000	mk JL 14.3.00	On the prayer of Mr. A Deb Roy, learned Sr. C.G.S.C. two weeks time is allowed for filing of written statement. List on 31.4.00 for written statement and further orders. JL Member (J)
		6 Vice-Chairman 6 Member (A)

Notes of the Registry	Date	Order of the Tribunal
<u>13 - 3 - 00</u> Service reports are awaited	31.3.00	Two weeks further time is allowed on the prayer of Mr. A. Deb Roy, learned Sr.C.G.S.C. for filing of written statement. List on 11.4.2000 for written statement and further orders.
<u>13/3</u> <u>30 - 3 - 00</u> ① Service Reports are awaited ② w/stating. is not seen fw	trd 11.4.00	No written statement has been submitted. (Two weeks further time allowed for submission of written statement on the prayer of Mr A. Deb Roy, learned Sr. C.G.S.C. List for written statement and further orders on 2.5.00.
<u>30/3</u> <u>10 - 4 - 2000</u> ① Service completed. ② No w/statement has been filed.	nkm	2-5-00 WTS having been filed. There is no adjourned to 23-5-00.
<u>30/4</u> <u>12-7-00</u> No. wts has been filed.	23.5.00	There is no Bench today. Adjourned to 22.6.00.
	22.6.00	There is no Bench today. Adjourned to 13.7.00.

Notes of the Registry	Date	Order of the Tribunal
	13.7.00	Present : The Hon'ble Mr S. Biswas, Administrative Member. Mr A.Ahmed, learned counsel for the applicant and Mr A.Deb Roy, learned Sr. C.G.S.C for the respondents. Mr Deb Roy prays for 3 weeks time to file written statement. List on 7.8.2000 for order.
14-11-2000	pg	<i>S. Biswas</i> Member (A)
① Service completed.	7.8.00	There is no Bank holiday. Agreed on 8.9.00.
② No. WLS has been filed.	8.9.00	NO Bank. To be listed on 15.11.00.
14-11-00 ②	15.11.00	Three weeks time is allowed to file affidavit. List on 7.12.00 for orders.
No. WLS has been filed.	11-12-2000	<i>Vice-Chairman</i>
Written statement has been filed by the respondents.	7.12.00	Four weeks time is granted to the respondents to file written statement on the prayer of Mr.A. Deb Roy, learned Sr.C.G.S.C. List on 4.1.2001 for written statement and further orders.
Written statement has been filed.	14-1-2001	<i>Vice-Chairman</i> There was a reference, list it on 19.1.2001. <i>B.G. Agarwal</i>
3-1-2001	19.1.01	List on 2.2.01 to enable the applicant to file rejoinder.
		<i>Vice-Chairman</i>

Notes of the Registry

Date

Order of the Tribunal

16-3-01

2-2-

Court Bench at Shillong,
Adjourned to 12-2-2001
AM

16-3-01
2-2-

WJS has been
S.W. Registration
still awaited

12.2.01

It has been stated that written
statement has already been filed. No
rejoinder so far filed.

List on 19.3.2001 for hearing.

Vice-Chairman

pg

11.5.2001

19.3.01

Heard learned counsel for the
parties. Hearing concluded. Judgment
delivered in the open court, kept in
separate sheets. The application is
disposed of. No costs.

ICU Bhattacharya
Member

Vice-Chairman

trd

copy of the Judgment
has been sent to the
D/sec. for sending the
same to the applicant
as well as to the L/S/Adm
for the Respondent.

AT

4

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./RXX. NO. 56 of 2000 of

DATE OF DECISION 19.3.2001

Sri Manoj Kumar & 167 Ors.

PETITIONER(S)

Mr. A. Ahmed

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS

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

THE HON'BLE MR. K.K.SHARMA, MEMBER(A).

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.

X
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 56 of 2000

Date of decision : This the 19th day of March, 2001.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Manoj Kumar,
Lower Division Clerk,
Office of the Deputy Director,
Subsidiary Intelligence Bureau,
Basistha Road, Guwahati-28 & 167 Ors. ... Applicants.

By Advocate Mr. A. Ahmed.

-versus-

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of
Home Affairs, North Block,
New Delhi.

2. The Director,
Intelligence Bureau,
North Block, New Delhi.

3. The Deputy Director,
Subsidiary Intelligence Bureau,
Basistha Road,
Guwahati-28.

... Respondents

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

O R D E R (ORAL)

CHOWDHURY J. (v.C.).

The applicants are one hundred and sixty eight in number serving under the Deputy Director, Subsidiary Intelligence Bureau, in different capacities, like Lower Division Clerk, Assistant, Stenographer, Security Assistant, ACIO-I/G, P.S., JIO-II/G, Section Officer, Upper Division Clerk etc. Their grievance is common in nature claiming Special Duty Allowance (hereinafter referred to as SDA) payable to the Central Government employees serving in the North Eastern Region. By now the issue is involved is settled on the basis of numerous decision of the Supreme

Contd..

Court subsequently clarified by the department. The Cabinet Secretariat (EA.I Section) clarified the matter by a Notification dated 2.5.2000. The civilian employees who have all India transfer liability are entitled for grant of SDA on being posting to any station in the NE Region from outside the Region. An employee hailing from the North Eastern Region selected on the basis of all India recruitment test and borne on the centralised cadre/service, common seniority on first appointment and posted in the N.E. region per se is not entitled for the SDA. He or she would be entitled to SDA only if posted outside NE Region on transfer. An employee hailing from NE Region initially but subsequently transferred out of the NE Region but reposted to NE Region would also be entitled to SDA.

From the materials made available in this application it is difficult for the Tribunal to determine/evaluate as to nature of posting of each individual applicant.

In the circumstances upon hearing the learned counsel Mr. A.Ahmed for the applicant and Mr. A.Deb Roy, learned Sr. C.G.S.C. we are of the view that ends of justice will be met if a direction is issued to the applicant to submit individual representation before the concerned authority narrating the factual position. Accordingly we direct the applicants to make individual representations within a period of one month from the date of receipt of certified copy of this order. The respondents on receipt of such application consider the same in the light of the OM issued from time to time more particularly on the basis of the Clarification issued by the Director(SR), Cabinet Secretariat dated 2.5.2000 with the concurrence of the Finance Division as early as possible at any rate within the

Contd.....

period of two months from the date of receipt of individual representation from the applicants.

The application is disposed of accordingly. There shall however, no order as to costs.

K.K.Sharma

(K.K.Sharma)

Member(A)

D.N.Chowdhury

(D.N.CHOWDHURY)

Vice-Chairman

trd

Central Administrative Tribunal

123 11 FEB 2000

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 56 OF 2000.

Shri Manoj Kumar & Ors.

Applicants.

-Versus-

Union of India & Others

Respondents.

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Filed by

Advocate.

(Anil Ahirwar)

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. OF 2000.

BETWEEN

- 1] Shri Manoj Kumar
- 2] Shri Sunil Kumar Paswan
- 3] Shri Bhaben Kumar Sarkar
- 4] Shri Bikash Sharmakhikary, Steno
- 5] Shri Bivash Paul, S.A.
- 6] Shri Srikanta Mali, JIO-I/MT
- 7] Shri Gautam Saha, L.D.C
- 8] Shri Tapan Kumar Chanda, JIO-I/G
- 9] Shri Dharam Nath Singh, Peon.
- 10] Shri Ashok Kumar, Steno
- 11] Shri Benjamin Medak, L.D.A.
- 12] Shri Sanat Kumar Chanda, JIO-I/WT
- 13] Shri Bhim Lal Joshi, JIO-II/G
- 14] Shri Brojo Chandra Singh,
ACIO-II/MT
- 15] Shri Monihar Singh, JIO-I/G
- 16] Shri N. Brojamohan Singh,
JIO-I/G
- 17] Shri Hiranmoy Bisharud,
ACIO-II/WT
- 18] Shri Kripesh Ranjan Ayan,
JIO-I/WT
- 19] Shri Basanta Kumar Singh,
ACIO-II/G.

Filed by
Shri Manoj Kumar
Ayan
Ashok
(Adv. Ayan)
Ashok
(Adv. Ayan)

M Kumar

203 Sri Moni Ram Patgiri, Assistant
211 ■ Mrinal Kanti Dey, L.D.C.
223 ■ Satish Kumar Nath, Security
Assistant.
233 ■ Ujjal Mahanta, S.A.
243 ■ Jitendra Das, S.A.
253 ■ Dwijen Das, S.A.
263 ■ Dipankar Das, S.A.
273 ■ Tridip Kumar Deb, LDC
283 ■ Tarini Dey, ACIO-I/G
293 ■ Pranab Das, P.S.
303 ■ Parusuram Das, SA
313 ■ Nirmal Kumar Das, JIO-II/G
323 ■ Dharani Dhar Pathak, JIO-I/MT
333 ■ Prabin Kumar Das, Peon
343 ■ Shyamal Das, L.D.C.
353 ■ Nagen Chandra Baishya, SA
363 ■ Chandra Dhar Kumar, U.D.C.
373 ■ Manoj Kumar Rabha, JIO-II/MT
383 ■ Anjan Das, JIO-II/G
393 ■ Ajoy Das, JIO-I/G
403 ■ Hira Lal Das, JIO-II/G
413 ■ Pradeep Kumar Baishya, SA
423 ■ Kshitish Chandra Ghosh, UDC
433 ■ Mohan Chandra Saikia, UDC
443 ■ Ananta Das, JIO-II/G
453 ■ Jibon Chandra Kalita, JIO-I/G
463 ■ Lok Nath Upadhyaya, UDC
473 ■ Debasish Biswas, UDC
483 ■ Smita Barman, LDC
493 ■ Bihu Ram Nath, Assistant
503 ■ Utpal Ranjan Das, Asst.
513 ■ Paresh Chandra Dey, JIO-I/G

M Kumar

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521 ■ Achuyut Medhi, ACIO-I/G
 531 ■ Pradyut Kumar Datta, DUC
 541 ■ Sri Govinda Karmakar, JIO-II/G
 551 ■ Dev Kumar Rabha, SA
 561 ■ Bimal Kumar Oja,
 Section Officer.
 571 ■ Alok Paul, LDC
 581 ■ Prem Prasad Upadhyaya,
 JIO-I/G
 591 ■ Parama Nanda Das, Asst.
 601 ■ Sukhamay Bala, UDC
 611 ■ Manik Barman, SA
 621 ■ Jagannath Neog,
 Section Officer
 631 ■ Hargovinda Sarma, ACIO-II/MT
 641 ■ Suren Chandra Baruah,
 JIO-II/G
 651 ■ Abani Mohan Lahkar, SA
 661 ■ Susanta Sharma, UDC
 671 ■ Kajal Bhattacharjee, LDC
 681 ■ Mridul Biswas, LDC
 691 ■ Prabhat Chandra Borkakoti,
 Assistant
 701 ■ Miss Gauri Das, LDC
 711 ■ Pabitra Kumar Phukan, SA
 721 ■ Daisy Borah Hazarika, LDC
 731 ■ Shyamoli Seal, LDC
 741 ■ Mrs. Hemangi Das, LDC
 751 ■ Ananta Kumar Borah, SA
 761 ■ Jayanta Paul, UDC
 771 ■ Sudip Dutta Choudhury, Asst.
 781 ■ Tapan Sutradhar, LDC
 791 ■ Partha Sen Gupta, LDA
 801 ■ Sankar Prasad Nath, UDC
 811 ■ Priya Nath Boro, JIO-I/MT

M.Kumar

McKinnon

M. Kumar

1401 ■	Shyamalendu Acharjee, JIO-I/G
1411 ■	Modan Mohan Das, JIO-I/G
1421 ■	Jyotirmoy Nath, JIO-II/G
1431 ■	Panna Lal Dhar, JIO-II/G
1441 Sri	Tapadhir Chakraborty, SA
1451 ■	Bhabesh Deka, SA
1461 ■	Nripendra Sharma, JIO.
147. ■	Kishore Kumar Ghimire, SA/G
148. ■	Bichitra Kumar Baishya, JIO-I/G
149. ■	Pratul Chandra Talukdar, ACIO-II/MT
150. ■	Tilak Chandra Talukdar, JIO-I/G
151. ■	Kandarpa Haloi, JIO-II/G
152. ■	Gajendra Nath Das, JIO-I/G
152. ■	Rameswar Das, JIO-I/G
154. ■	Frahlad Chandra Kalita, JIO-I/G
155. ■	Brojendra Kumar Ojha, JIO-II/G
156. ■	Paramananda Badir, SA/G
157. ■	Jogen Chandra Boro, JIO-I/G
158. ■	Rabindra Kumar Deb, JIO-I/G
159. ■	Mahesh Goswami, JIO-II/G
160. ■	Bidhu Bhutan Das, ACIO-II/G
161. ■	Narendra Singh, JIO-I/
162. ■	Gour Mohan Singh, JIO-I/G
163. ■	Mohan Chandra Bora, JIO-I/G
164. ■	Bhadra Sen Bora, JIO-I/G
165. ■	Minik Chandra Baro, JIO-I/G
166. ■	Prasanta Kargupta, SA/G
167. ■	Swapan Kumar Roy, LDC
168. ■	Dorna Kanta Phukan, ACIO-II/G

Applicants:

M. Kumar

All the above applicants are working under the Office of the Deputy Director of Subsidiary Intelligence Bureau, Basistha Road, Guwahati - 28.

-AND-

- 1) Union of India, represented by the Secretary to the Govt. of India, Ministry of Home Affairs, North Block, New Delhi.
- 2) The Director, Intelligence Bureau, North Block, New Delhi.
- 3) The Deputy Director, Subsidiary Intelligence Bureau, Basistha Road, Guwahati-28.

... Respondents.

1. DETAILS OF THE APPLICATION:

- i) The application is made for non-implementation of Memo F No. 11(2)/97-E II(B) Government of India, Ministry of Expenditure, New Delhi dated July 22 1998, regarding payment of Special Duty Allowance for Central Government Employees serving in the states of North Eastern Region as per recommendation of Fifth Central Pay Commission.

M.Kumar

2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION:

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

4. FACTS OF THE CASE:

The facts of the case in brief are given below:

4.1 That your humble applicants are all Indian Citizens as such they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Central Government employees belonging to Group B, C & D and they are serving in Home Department since a long time.

Now they are serving under the Deputy Director, Subsidiary Intelligence Bureau, Basistha Road, Guwahati-28 since long time. They are serving as LDC, Assistant, Steno, Security Assistant, ACIO-I/G, P.S., JIO-II/G, Section Officer, UDC, etc.

4.2 That all the applicants have got common grievances, common course of action and nature of their relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this instant application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant application redressal of their common grievances.

4.3 That the Government of India, Ministry of Finance, Department of Expenditure granted certain improvement and facilities in the Central Government Civilian Employees of the Central Government serving in the States and Union Territories of North-Eastern Region vide Office Memorandum No. 20014/3/83-IV dated 14.12.1983. In clause II of the said office Memorandum Special (Duty) Allowances was granted to Central Government Civilian Employees who have all India Transfer Liability at the rate of Rs. 25% of the basic pay subject to ceiling of Rs. 400/- per month on posting to any station in the North-Eastern Region. The relevant portion of O. M. dated 14.12.1983 is quoted below:

*(iii) Special (Duty) Allowance:

M Kumar

Central Government Civilian Employees who have all India Transfer Liability will be granted a (special) Duty Allowance at the rate of Rs. 25% of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North-East Region. Such of these employees who are exempted from pay of income Tax, will however not be eligible for the special (duty) Allowance, Special (duty) Allowance will be in addition to any special Pay and for allowances already being drawn subject to the condition that the total of such special (duty) Allowance plus special deputation (Duty) Allowance will not exceed Rs. 400/- per month. Special Allowance like Special Compensatory (Remote) Locality Allowance, Construction Allowance and project Allowance will be drawn separately.

An extract of office Memorandum dated 14.12.88 are annexed hereto and the same are marked as Annexure- A and B respectively.

4.4 That your applicants beg to state that, they are all saddle with all India Transfer Liability in terms of their offer of appointment and with the said liability they have received the offer of appointment and joined the service of the respondents. Be it stated here that, in number of occasions they are being transferred from outside of the North-Eastern Region and also from North Eastern Region to outside the North-Eastern Region. Therefore, the applicants are in

practice of saddle with all India Transfer Liability in term of office Memo dated 14.12.83 and as such they are legally entitled for grant of Special (Duty) Allowance. The promotion, seniority, GPF A /C of the applicants of all rank are centralized.

Annexures-C, D, E and F are the photocopies some of appointment letters, transfer orders, promotion orders, GPF A/Cs and seniority list of the applicants.

4.5 That your applicants beg to state that all the applicants are entitled to get the benefits of Special (Duty) Allowance vide recent Office Memorandum F. No. 11(2)/97-E II (B), Government of India, Ministry of Finance, Department of Expenditure, New Delhi dated July 22, 1998. In this Office Memorandum it has been clearly stated that the Central Government Civilian Employee who have All India Transfer liability and posted at North Eastern Region are entitled to get Special Duty Allowance.

Annexure-G is photocopy of Office Memorandum dated July 22, 1998.

4.6 That your applicant begs to state that they have fulfilled all the terms and condition for payment of Special (Duty) Allowance as admissible to the Central Government

M.Kumar

Civilian Employees serving in the North-Eastern Region and as such, they can not be denied by the Respondents to get the benefits of Special (Duty) Allowance and as such, the applicants are legally entitled to get the benefits of Special (Duty) Allowance.

4.7 That your applicants beg to state that the applicants are entitled to get the Special Duty Allowance as per various Office Memorandums and also recent Office Memorandums dated July 22, 1998. In these Office Memorandums it has been clearly stated that those persons who are having all India Transfer liability and posted in the North Easter Region they are entitled to get the Special Duty Allowance. The applicants of this instant application are saddled with all India transfer liability and also apart from this their appointment, promotion, seniority are all India basis and as such the Respondents cannot deny this benefit to the applicants.

4.8 That your applicants beg to state that earlier the Respondents paid the Special Duty Allowance to the applicants but it was stopped on the ground that they belong to North Eastern Region as such they are not entitled for Special Duty Allowance as per judgment passed in Civil Appeal No. 3251 of 1993. It is pertinent to mention here that in the above Civil Appeal the applicants are not parties in the case. But after that the Respondents issued another Office Memorandum

dated 22nd July, 1998 regarding payment of Special Duty Allowance to the Central Government Employees serving in the North Eastern Region. In this memorandum nowhere it was mentioned that the person belong to North Easter Region are not entitled for payment of Special Duty Allowance. In this memorandum it has been clearly mentioned that the Central Govt. Employee who have all Transfer liability, are entitle for Special Duty Allowance. And as such the Respondents cannot deprive the applicants for payment of Special Duty Allowance.

4.9 That your applicants beg to state that finding no other alternative the applicants have compelled to approach this Hon'ble Tribunal for seeking justice.

4.10 That this petition is made bona fide and for the cause of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION

5.1 For that the applicants having fulfilled all the Criterion laid down by the various Office Memorandums towards granting the Special (Duty) Allowance, the Respondents can not deny the same to the applicants without any jurisdiction.

5.2 For that the applicants are having practically All India Transfer liability and their seniority has also been maintained by

All India Level and recruitment were also made by All India Level. As such, they are legally entitled to draw the Special (Duty) Allowance as per office Memorandum dated 14.12.83, 1.12.88 and 22 July, 1998.

5.3 For that there is no justification in denying the said benefits to be granted to the applicants and the denial has resulted in violation of the Articles 14 and 16 of the Constitution of India and also other similarly situated employees serving in the North Eastern Region who belong to north Eastern Region and also have all India transfer liability are given the benefit of payment of Special Duty Allowance.

5.4 For that the applicants having fulfilled all the criterion laid down in the aforesaid Memorandum towards granting the Special (Duty) Allowance, the respondents can not deny the same to the applicants without any jurisdiction.

5.5 For that the application has been denied the said benefits without any principle of being heard. There is a violation of the principle of natural justice in denial of the benefits to the applicants and accordingly proper reliefs and required to be granted to the applicants.

5.6 For that it is a settled proposition of law that when the same principle have been

laid down in given cases, all other persons who are similarly situated should be granted the said benefits without requiring them to approach in the court of law.

5.7 For that the action of the Respondents are illegal, arbitrary and not sustainable in law.

6. DETAIL REMEDY EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Court under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY COURT:

The applicants further declare that they have not filed any application, the applicants most respectfully pray that your Lordship may be pleased to admit this application and grant the following reliefs:-

8. RELIEF PRAYED FOR:

Under the facts and circumstances stated above in this application applicants pray for the following reliefs:-

M. Kumar

8.1 That the Hon'ble Tribunal may be pleased to grant the Special (Duty) Allowance to the applicants in terms of Office Memo F No. 11(2)/1997-E-II (B), Govt. of India, Ministry of Finance, Department of Expenditure New Delhi dated 22nd July 1998.

8.2 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.4 Cost of the Case.

9. APPLICATION IS FILED THROUGH ADVOCATE

10. PARTICULARS OF I.P.O.

I.P.O. No. : OG 456084
 Date of issue : 22.1.2000
 Issue from : Guwahati
 Payable at : Guwahati

11. LIST OF ENCLOSURES: As stated above.

VERIFICATION

I, Shri Manoj Kumar, Lower Division Clerk, serving in the office of the Deputy Director, Subsidiary Intelligence Bureau, Basistha Road, Guwahati-28 Assam do hereby solemnly affirm and verify the statements in paragraphs 4.1, 4.2, 4.6 to 4.9 -
 are true to my knowledge, those made in paragraphs 4.3, 4.4, 4.5 are being matters of record true to my information and those made in paragraph 5 of the present application are true to my legal advice and those made in the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification today on this 9th day of February, 2000 at Guwahati.

Manoj Kumar

DECLARANT.

No. 20014/2/83/E.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Nagaland, 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 ~~and~~ Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Control 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 :-

1) Tenure of posting/deputation.
 x x x x x x x x
ii) Leave for Central deputation/training abroad
and special mention in confidential Records.

6448 2011-01-01

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

Contd. 2

~~Albert~~   Adcock

Annexure ~~7~~ (Contd.)

29

be eligible for this special (Duty) Allowance. ~~will be~~ Special (Duty) Allowance will be in addition to any special pay and pre Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/deputation (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.

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Sd/- S.C. MAHALIK
JOINT MILITARY TO THE GOVERNMENT OF INDIA

*Attn'd
S.C.
Adm'te*

1. No. 20014/18/86/E.IV/S.II (B)
Govt. of India, Ministry of Finance
Department of Expenditure

New Delhi the 1 Dec 1986

OFFICES IN INDIA

Subject : Improvements and facilities for Civilian
Employees of the Central Govt. serving in the
States of North Eastern Region, Andaman
Nicobar and Lakshadweep.

The undersigned is directed to refer to this
Ministry's G.O. No. 20014/3/83-E.IV dated 14th December,
1983 and 30th March, 1984 on the subject mentioned
above and to say that the question of making suitable
improvements in the allowances and facilities to Central
Government employees posted in North East in Region
comprising the States of Assam, Meghalaya, Manipur,
Nagaland, Tripura, Arunachal Pradesh and Mizoram has been
engaging the attention of the Govt. Accordingly the
President is now pleased to decide as follows.

i) XXXXXXXXXX
ii) X X X X X X

iii) Special (Duty) Allowance.

The Central Govt. Civilian employees who have
all India transfer liability will be granted special
(Duty) Allowance at the rate of 12% of basic pay
subject to ceiling of Rs. 1000/- per month on posting
to any station in the North Eastern Region. Special
(Duty) Allowance will be in addition to any special
pay and/or deputation (duty) allowance already being
drawn subject to the condition that the total of such
allowance will not exceed Rs. 1000/- p.m. Special
allowance like special compensatory (Remote locality)
Allowance, Construction Allowance and Project Allowance
will be drawn separately.

The Central Govt. civilian employees who are
members of Scheduled Tribes and are otherwise eligible
for the grant special (Duty) Allowance under this para
and are exempted from payment of Income-Tax under the
Income Tax Act will also draw Special (Duty) Allowance.

XXX XXXXX
XXX XXX

Atul D. J. D.
Advocate

Received letter on 3-8-98

REGISTERED/AD

No. 74/ESTT(G)/98(2) - 2552
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India.,

Min. U
S. 1998
W. 1998

New Delhi, the.....

MEMORANDUM

27/10/1998

The undersigned hereby offers Shri Manoj Kumar a temporary post of Lower Division Clerk in the Bureau on pay of Rs.3050/- per month in the scale of Rs.3050-75-3950-80-4590. The appointee will also be entitled to draw dearness and other allowances at the rates admissible under rules and orders governing the grant of such allowances in force from time to time and subject to the conditions laid down therein.

2. The terms of appointment are as follows:-

i) The appointment is temporary. His/her permanent appointment to the post, if and when it is made permanent, will however, depend on various factors, governing permanent appointment to such posts as in force at that time, and will not confer on him/her the title to permanency from the date the post is converted to a permanent one.

ii) The appointment may be terminated at any time by a month's notice given by either side, viz., the appointee or the appointing authority without assigning any reasons. The appointing authority, however, reserve the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him/her of a sum equivalent to the period of notice or for the unexpired portion thereof.

iii) The appointment carries with it the liability to serve in any part of India.

iv) Other conditions of services will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:-

i) Production of a certificate of fitness from the Civil Surgeon(Grade-I)/Medical Supdt./District Medical Officer in the enclosed forms, at his/her own cost. He/She should get himself/herself medically examined from the nearest Civil Surgeon(Grade-I)/Medical Supdt./District Medical Officer for whom a covering memorandum(which may be completed by the candidate) is attached with this offer. He/She will not be allowed to join unless he/she produces this certificate, or a provisional certificate of medical fitness which he/she may obtain from the medical authority, quoted above.

Tarief/-*

Attd. S. L. I. Deut./-2/-....

ii) Submission of a declaration in the form enclosed that he has not got more than one wife living, or being married to a person having more than one wife living, unless exempted from the enforcement of the requirement in this behalf.

iii) Taking of an Oath of allegiance to the Constitution of India in the prescribed form.

iv) Production of the following original certificates:-

- Certificate of educational and other technical qualifications (with attested copy).
- Certificate of age (with attested copy).
- Character certificates from two Gazetted Officers.
- Certificates in the prescribed form in support of the candidate's claim to belong to a Scheduled Caste, Scheduled Tribe or OBC community.
- Discharge certificate, in the prescribed form, of previous employment, if any.
- Any other documents (to be specified).

4. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material information, he/she will be liable to removal from the service and such other action as Government may deem necessary.

5. If Shri/Smt/Kym. Manoj Kumar accepts the offer on the above terms, he/she should report for duty to the Assistant Director, Subsidiary Intelligence Bureau (MII), Gargotri Building, Beldola Bokhista Road, Guwahati-28, 11.30 am on or before the 24-8-98. If he/she fails to report for duty by the prescribed date, the offer will be treated as cancelled.

6. Within 7 days of his/her joining he/she would be required to apply for Government accommodation (where applicable).

7. No travelling allowance will be allowed for joining the appointment.

8. The seniority of candidate being fixed in this batch will be according to merit list, irrespective of their date of joining.

9. "The appointment is provisional and is subject to the caste/tribe/OBC certificate being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste, Scheduled Tribe, or OBC as the case may be, if false, the service will be terminated, forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificates."

10. The appointment is provisional and is subject to the Caste Certificate being verified through the proper channels. If the verification reveals that the claim of the candidate to belong to OBC is false, the services of such candidates will

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be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificate.

11. He/She is further directed to let the undersigned know within 7 days from the date of issue of this letter whether he/she is willing to join the Bureau on this post subject to his/her being found medically fit. In case the willingness of the candidate is not received within the stipulated time, it will be presumed that he/she is not interested and his/her case will be closed at our end.


22/7/64

(MARISH CHANDRA)
Assistant Director

To

Sh. [Ms. Mangal] Kumar

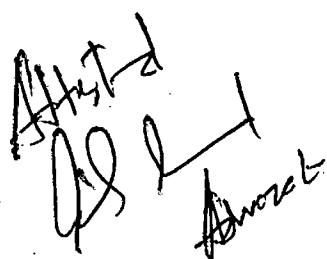
S/o late Chanu Singh

Vill + P.O: - Bihati, Tola - Ibrahimpur

Begusarai, Bihar - 851135

Tarief/-*

3787


Afft'd
D.S.L
Advocate

- 25 -

ANNEXURE - D

94

ORDER

The following Junior Intelligence Officers, Gr-I (General) of Intelligence Bureau are promoted to the grade of Assistant Central Intelligence Officer-Grade-II (General) in an officiating capacity with effect from the dates they take over as Assistant Central Intelligence Officer Gr-II (General) at their places of postings on promotion as shown against each :-

Sl. No.	Name/PIS No./DOB S/Shri	Present place of posting SIBx	Place of posting on promotion as ACIO-II/G(SIBx)
1	2	3	4
1.	R.L. Bhatt (112263/27.10.48)	IB Hqrs (PRC)	Amritsar.
2.	R.C. Maharaj (111870/July, 1947)	Patna	AIZAWL
3.	Surendra Kr. Singh (111856/6.7.50)	Patna	Jamshedpur.
4.	R.S. Sharma (112780/16.10.46)	Itanagar	Patna.
5.	Surendra Prasad Singh (111871/8.9.47)	Patna	Kohima
6.	Rajeshwar Singh (111866/3.7.49)	Jamshedpur	Gangtok
7.	Anil Chandra Kumar (112771/21.11.48)	Patna	Calcutta
8.	Shilwant Prasad (112778/20.12.46)	Patna	Calcutta
9.	Bhagwan Das (114890/2.5.47)	Itanagar	Patna
10.	S.N. Maharaj (112775/23.4.46)	SIB, Delhi	J&K (Srinagar)
11.	Kusheshwar Prasad (112786/14.7.50)	Patna	Srinagar
12.	Bhairav Nath Jha. (116303/20.4.46)	Patna	Srinagar.
13.	R.C. Ojha (116302/12.6.48)	SIB, Delhi	Dibrugarh
14.	R.K. Verma (111861/5.1.49)	Patna	Aizawl
15.	S.L.P. Yadav (112762/2.5.48)	Patna	Kohima

.....2/-...

(Affixed)
(Signature)
Amritsar

1	2	3	4
16.	R.N. Thakur (114885/1.1.49)	Jamshedpur	Kohima
17.	B.P. Sharma (114886/20.4.50)	Aizawl	Patna
18.	Ram Narain (100482/8.2.44)	IB Hqrs. (SES-X)	Jaipur
19.	Rajinder Prasad Gupta (102211/7.7.43)	IB Hqrs. (Receipt/N.B.)	IB Hqrs. (Receipt/N.B.)
20.	Chandi Lal Bodh (100360/2.5.44)	IB Hqrs. (SES-Y)	Jaipur
21.	Narain Singh Bishht (101283/3.10.45)	IB Hqrs. (SES-J)	Amritsar
22.	Ram Ashra Prashar (116092/13.11.48)	Chandigarh	Bhopal
23.	Ghanshyam Jha (102070/30.6.50)	IB Hqrs. (SES-II)	J&K (Srinagar)
24.	Inder Pal Singh (101267/11.7.45)	SIB, Delhi	Amritsar
25.	C.B. Pradhan (117843/1.7.40)	Imphal	Imphal
26.	L. Yimchunger (112579/1.7.43)	Kohima	Kohima
27.	P.C. Mithai (117842/25.7.44)	Kohima	Trivandrum
28.	G.I. Sharma (117163/1.8.47)	Imphal	Imphal
29.	K.K. Oommen (117220/3.2.48)	Ahmedabad	Trivandrum
30.	A.C. Acharjee (117274/28.11.47)	Agartala	Agartala
31.	P.S. Sinha (110766/22.1.48)	Calcutta	Patna
32.	D.N. Hazarika (117218/1.3.47)	Guwahati	Dibrugarh
33.	B.L. Koul (110542/7.9.49)	IB Hqrs. (K. Br)	Amritsar
34.	Omkar Nath Dhar (112155/14.10.46)	IB Hqrs. (SES-II)	Chandigarh
35.	Ram Paul Sharma (117411/26.10.46)	Jammu	IB Hqrs.
36.	Kasturi Lal (117410/15.2.49)	Jammu	IB Hqrs.
37.	Santokh Singh (117415/16.5.49)	Jammu	IB Hqrs.

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DS 3/-

2	3	4
38. Dansi Lal Wantoo (115594/27.4.48)	Srinagar	SIB, Delhi
39. Moti Lal Pandit (119306/27.5.49)	Srinagar	IB Hqrs.
40. Jankar Singh (117424/7.5.48)	Jammu	Jaipur
41. Avtar Singh Bali (112149/13.4.48)	Jammu	Amritsar
42. Jaswant Singh (112148/16.7.49)	Jammu	Bhopal
43. Sujan Singh (117435/13.6.49)	Jammu	Jaipur
44. Bodh Raj (117414/27.11.49)	Jammu	Bhopal
45. Harbans Lal Saini (117422/8.3.46)	Amritsar	IB Hqrs.
46. Krishan Chand (117421/13.4.48)	Jammu	Aligarh
47. Babu Ram Saini (117445/25.5.48)	Jammu	Amritsar
48. Didar Singh Bali (115593/10.3.47)	Srinagar	Jaipur
49. Des Raj Sharma (117450/15.12.47)	Jammu	Amritsar
50. K.S. Jamwal (117419/10.3.50)	Jammu	Ahmedabad
51. Avtar Krishan Koul (112150/2.2.46)	Srinagar	Chandigarh
52. Krishan Lal Chopra (112157/13.5.48)	Srinagar	IB Hqrs.
53. Balbir Singh (112145/4.9.49)	Jammu	IB Hqrs.
54. Paramjit Singh (112267/20.9.49)	Srinagar	Ahmedabad
55. Rattan Lal Kachroo (117406/23.4.50)	Jammu	Bhopal
56. B.L. Raina (115595/9.11.47)	IB Hqrs. (K.Dr.)	Amritsar
57. Didar Singh Raina (112152/15.1.50)	Srinagar	Dareilly
58. J.B. Singh (112193/7.4.47)	Srinagar	IB Hqrs.
59. Gunwant Singh (110540/17.6.48)	Srinagar	SIB, Delhi
60. Janak Raj (117405/10.1.50)	Jammu	Ahmedabad

1	2	3	4
61.	Kali Das (117426/2.9.49)	Jammu	Mumbai
62.	Om Prakash (117420/28.10.49)	Jammu	Mumbai
63.	Foja Singh (112154/26.6.48)	Srinagar	SIB, Delhi
64.	H.M. Dey (115522/1.3.46)	Guwahati	Calcutta
65.	A.C. Nath (115521/2.4.50)	Guwahati	Calcutta
66.	P.K. Dey (119580/6.5.49)	Guwahati	Calcutta

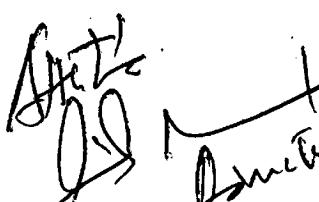
119586

2. The inter-se-seniority in the rank of ACIO-II/G will be in the same order as approved by the DPC. This promotion will, however, not give them any right of seniority over those who are otherwise senior to them and whose cases for promotion are yet to be finalised by the DPC.

3. They should avail their promotion within one month from the date of issue of this order. If any official cannot avail of promotion for any reason or ground, he can forego his promotion and he will not be considered for promotion for next one year from the date of refusal and the next person in the panel will be offered the promotion. After the expiry of one year, if it is still decided to promote him, he shall be considered for promotion only against next vacancy becoming available to accommodate him. He will not be allowed the benefit of original seniority in the above panel which he would have retained had he not refused promotion in turn. However, in case, reasons adduced by any official for his refusal of promotion are not acceptable to the competent authority, the promotion would be enforced on him and in case the official still refuses to be promoted, he will be liable to face disciplinary action for refusing to obey the orders.

4. In accordance with the directions issued by Department of Personnel and Training vide their S.M. No.16/7/90-Estt. (Pay-I) dated 9.9.92, all who have been transferred from one station to another on their promotion should be relieved immediately on receipt of the relevant orders for promotion. In exceptional circumstances where retention of the official concerned in the lower post is felt absolutely necessary in exigencies of services, the facts should be brought to the notice of I&B Hqrs. and order for their retention for a specific period (not exceeding 3 months) should be obtained. While recommending such retentions, the pecuniary loss likely to be suffered by the officer may have to be borne in mind so that retention is avoided as far as possible.

.....5/-...



The dates of taking over to ACTO-II/G by the above
ioned JIIO-I/G may please be intimated to AD(G), AD(CC)
4 AD(E) at ID Hqrs, New Delhi.

5. Before accepting their joining report as ACIO-II/G it may please be ensured that nothing adverse, pending or contemplated against them. It may also be ensured that there is no penalty currently in force against them.

7. The above mentioned officers on their promotion to the rank of ACFO-II/G should exercise their option for fixation of pay in terms of Ministry of P&G and Pension, D.P&F O.M. No.1/10889-ESRT (Pay-I) dated 30.8.1989 within one month from the date of their promotion, failing which their pay on promotion will be fixed under normal rules.

Sd/-
(P.L. Kher)
Assistant Director

NO. 4/C-IV/99(21) - 2275
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India,

New Delhi, the

Copy for information/necessary action to :-

1. JDS: E, D, K-Ops, X, S, at IB Hqrs, New Delhi.
2. JD, SIBX: Patna, Kohima, Calcutta, Delhi, Srinagar, Jaipur, Chandigarh, Bhopal, Trivandrum, Ahmedabad, Guwahati, Mumbai.
3. DDS : H, K, S, at IB Hqrs, New Delhi.
- 3A. DD, SIBX: Amritsar, Patna, Kohima, Calcutta, Delhi, Srinagar, Jaipur, Chandigarh, Bhopal, Trivandrum, Ahmedabad, Guwahati, Mumbai, Jamshedpur.
4. ADS/JADS: K, SES-Y, SES-J, AD I/C "ldg., SES-II/OPS, VO IB Hqrs, New Delhi.
5. AD/JAD/CIO, SIBX: Amritsar, Jizawl, Jamshedpur, Itanagar, Gangtok, Imphal, Agartala, Dibrugarh, Jammu, Aligarh, Bareilly, Patna, Kohima, Calcutta, Delhi, Sringgar(Jammu), Jaipur, Chandigarh, Bhopal, Trivandrum, Ahmedabad, Guwahati, Mumbai.
6. SO/DCIO: Cash-II, SD Sec., ACR Cell, Conf. Coll, K, G-2, SES-X, SES-Y, SES-II, SES-J, PRC, IB Hqrs, New Delhi.
7. SO's folder, TOP, Sh. AK, PS, C-4 Br, IB Hqrs, New Delhi.

Plether
Assistant Director

(SF/25.5.99)

The undermentioned Lower Division Clerks of the Intelligence Bureau are promoted to officiate in the grade of Lower Division Clerks with effect from the date they take up the places of their posting on promotion as indicated against each:-

89

Sl. No.	Name & PIS No DOB S/Shri	Present place of posting	Place of Posting on promotion
1.	Gulshan Kumar (103999) 21.2.66	IB Hqrs.	Amritsar
2.	Rakesh Kr. Agarwal (104071) 26.7.66	IB Hqrs.	IB Hqrs.
3.	Rakesh Batra (104069) 25.9.66	IB Hqrs.	Amritsar
4.	Jayendra Kr. Adhyaru (104085) 19.11.66	IB Hqrs.	Amritsar
5.	Mohd. Meeran (121310) 15.3.63	Banglore	Ahmedabad
6.	Debasish Paul (121267) 9.11.66	Itanagar	IB Hqrs.
✓ 7.	Bijoy Bhushan Paul (121269) 14.12.62	Guwahati	IB Hqrs.
✓ 8.	Sumitra Kr. Dey (121265) 1.1.62	Guwahati	IB Hqrs.
✓ 9.	Archana Bhowmick (122051) 13.11.65	Guwahati	IB Hqrs.

2. As per the DOP&T OM No.20011/1/96-Estt(D) dt.30.1.97, the promotion of SC and ST candidates against the reserved vacancies earlier than their senior General/OBC candidates to be promoted later, will not confer upon them right of seniority over General/OBC candidates. The General/OBC candidates promoted on later dates will regain their seniority over earlier promoted candidates belonging to SC/ST categories.

3. The promotion shall be availed within one month from the date of issue of this order. If any of the above mentioned LDC refuses to avail of the promotion for any reason or grounds he shall not be considered for promotion for the next one year, from the date of such refusal. After the expiry of one year, if it is still decided to promote him he shall be considered only against the next vacancy becoming available to accommodate him and he shall not be allowed the benefit of the original seniority on the above panel which he would have regained had he not refused to avail of the promotion in his turn. However, in case the reasons adduced by any official for his refusal to avail of the promotion are not acceptable to the competent authority

Contd....2...

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the promotion would be enforced on him and in case the official still refuses to be promoted, he will be liable to face the disciplinary action for refusing to obey the orders.

4. The date of taking over of these officials, as UDC or their written refusal to accept the promotion may be intimated immediately to the undersigned, AD/G and SO/Conf. Cell, IB Hqrs.

5. Before allowing the concerned officials to take over as UDC, it may please be ensured that there is nothing adverse pending or contemplated against them.

6. The above mentioned officials, on their promotion to the rank of UDC, may exercise their option for fixation of their pay in terms of O.M. No.F-7/1/80-Estt(p-1) dated 26.9.1981 within one month of the date of their promotion, failing which their pay on promotion will be fixed under normal rules.

Sd/-:
(A.B. Vohra)
Joint Director

No.4/TP/CV/99(21) - 2496
Intelligence Bureau
(Ministry of Home Affairs),
Govt. of India

New Delhi, the 29-6-99

Copy to:-

1. JD/E
2. DDS SIBx : Amritsar, Bangalore, Ahmedabad, Itanagar & Guwahati
3. DDS I, Tech and R
4. ADD(CP)
5. ADs CP, I, Tech & R2
6. SOs CP, Immg.& R2
7. ATO (Fax)
8. Sh. G.M. Panicker, Asstt. CV
9. BOB/SO's Folder

S.K. Sablok
(S.K. Sablok)
Assistant Director

*Attd
SABLOK*

New Delhi, Dated, July 22, 1998.

OFFICE MEMORANDUM

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands — Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) ibid, were also to apply mutatis mutandis to the Civilian Central Government employees posted to the Andaman & Nicobar islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1986 and were also extended to the Central Government employees posted to the North-Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows :

(i) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1986, shall continue to be applicable.

(ii) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1986, shall continue to be applicable.

(iii) Special [Duty] Allowance

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1986, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special [Duty] Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/90-E.II(B) dated July 17, 1990.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

[Handwritten signatures and initials]

[Signature]

[Signature]

(iv) Special Compensatory Allowances

Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Remote Locality Allowance, Bad Climate Allowance, Tribal Area Allowance, Composite Hill Compensatory Allowance, etc., which are location-specific, have either been separately issued or are under issue based on the Government decisions on the recommendations of the Fifth Central Pay Commission relating to these allowances. These orders shall apply to the eligible Central Government employees posted in the specified localities in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands, depending on the area(s) of their posting and subject to the observance of the terms and conditions specified therein. Such of those employees who are entitled to the Special (Duty) Allowance or the Island (Special Duty) Allowance shall also be entitled, in addition, to the Special Compensatory Allowance(s) as admissible to them in terms of these separate orders.

Central Government employees entitled to Special Compensatory Allowances, separate orders in respect of which are yet to be issued, will continue to draw such allowances at the existing rates with reference to the 'notional' pay which they would have drawn in the applicable pre-revised scales of pay but for the introduction of the corresponding revised scales till the revised orders are issued on the basis of the recommendations of the Fifth Central Pay Commission and the Government decisions thereon.

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/16/86-E.IV/E.II(3) dated December 1, 1988, shall continue to be applicable.

(vi) Travelling Allowance for Journeys on Transfer; Road Mileage for Transportation of Personal Effects on Transfer; Joining Time with Leave

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable.

(vii) Leave Travel Concession

In terms of the existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, the following options are available to a government servant who leaves his family behind at the old headquarters or another selected place of residence, and who has not availed of transfer travelling allowance for the family :

(a) the government servant can avail of the leave travel concession for journey to the Home Town once in a block period of two years under the normal Leave Travel Concession Rules;

OR

(b) in lieu thereof, the government servant can avail of the facility for himself/herself to travel once a year from the station of posting to the Home Town or the place where the family is residing and for the family [restricted only to the spouse and two dependent children of age up to 18 years in respect of sons and up to 24 years in respect of daughters] also to travel once a year to visit the government servant at the station of posting.

These special provisions shall continue to be applicable.

In addition, Central Government employees and their families posted in these territories shall be entitled to avail of the Leave Travel Concession, in emergencies, on two additional occasions during their entire service career. This shall be termed as "Emergency Passage Concession" and is intended to enable the Central Government employees and/or their families [spouse and two dependent children] to travel either to the home town or the station of posting in an emergency. This shall be over and above the normal entitlements of the employees in terms of the O.M. dated December 14, 1983, and the two additional passages under the Emergency Passage Concession shall be availed of by the entitled mode and class of travel as admissible under the normal Leave Travel Concession Rules.

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(3) dated December 1, 1988, officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependent children [up to 18 years in respect of sons and up to 24 years in respect of daughters] will be permitted to travel by air on Leave Travel Concession between Agartala/Alizawl/Imphal/Lilabari/Silchar in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Medras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

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(viii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt.(Allowances) dated June 12, 1997, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees in Occupations of Listed Private Autonomous Bodies

The orders contained in this Ministry's O.M. No. 1101G/1/E.!!(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/06-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Postino

As provided in this Ministry's O.M. No. 20014/10/66 E.IV/E.II(B) dated December 1, 1980, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependants of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from 1 AUGUST 1997.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, those orders issued after consultation with the Comptroller and Auditor General of India.

6. Hindi version will follow.

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All Ministries/Department of the Government of India (As per standard Distribution) (1st)

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]
Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and, Administrator, Lakshadweep.

AT&T
R.D. Smith

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

O.A. No. 56 OF 2000

Shri Manok Kumar & Others
..... Applicants

vs

Union of India & Others
..... Respondents

Filed by
A. DEBROY

Sr. Ct. C.
C. A. T. Guwahati Bench

IN THE MATTER OF

Written statement submitted by the Respondents

The respondents beg to submit the written statement as follows:

1. That with regard to para 1 the respondents have denied the contents of the para. It is not correct that Memo. No.11(2)/9-E.II(B) of MOF (Dept. of Expenditure) dated 22.7.98 has not been implemented. In this regard, it may be stated that the Memo. under reference has only removed the ceiling of Rs.1000/- per month prescribed in MOF O.M. dated 1.10.88 but other conditions governing the grant of this Allowance (SDA) continue to be applicable. Further, the clarificatory orders issued by MOF vide their OM No.11(3)/95-E.II(B) dated 12.1.96 in order to implement the Supreme Court Judgement in Civil Appeal No.3251/93 dated 20.9.94 continue to be applicable, which has been specifically mentioned in the OM under reference.
2. That with regard to paras 2, 3, 4.1 and 4.2 the respondents beg to offer no comments.
3. That with regard to para 4.3, it may be stated that the OM No.20014/3/83-IV dated 14.12.83 was issued by the Government for improving the facilities and allowances, including ~~grant~~ of SDA, admissible to Central Government employees for attracting and retaining the services of competent officers for service in the NE Region.

4. That with regard to para 4.4, it may be submitted that All-India transfer liability has been established in respect of IB employees owing to the fact that recruitment/promotion in IB is done on All-India basis and on the basis of common seniority list except for the post of Security Assistant and Group 'D' post. For these two categories of posts, the recruitment is being done on decentralised basis.

5. That with regard to paras 4.5, 4.6 and 4.7 the respondents denied the contents of these paras. The MOF OM No.11(2)/97-E.II(B) dated 22.7.98 has stipulated that the conditions for the grant of SDA will continue to remain same as issued from time to time on the subject. The petitioners claim for grant of SDA on the ground that they fulfil the eligibility criteria of (i) having All-India Transfer liability, and (ii) posted at NE Region is not correct. The Supreme Court judgement in Civil Appeal No.3251/93 dated 20.9.94 which was conveyed by MOF in consultation with MOL vide their OM dated 12.1.96 has conclusively decided the issue. MOF vide their OM dated 12.1.96 has laid down that Central Govt. civilian employees, who have All-India transfer liability are entitled to SDA, on being posted to any station in NE Region from outside the region and SDA would not be payable merely because of the clause in appointment order relating to All-India transfer liability. It has been further added that grant of this allowance only to officers transferred from outside the region to this region would not be violative of 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.

6. That with regard to para 4.8, the respondents admitted that all the employees irrespective of whether they belong to NE Region or not were paid SDA on their posting in NE Region prior to the judgement in Civil Appeal No.3251/93 and issue payment of MOF OM dated 12.1.96. However, thereafter ~~of~~ SDA has been regulated in accordance with the Apex Court judgement as reproduced in MOF OM dated 12.1.96 where it has been mentioned that payment of SDA is to be regulated in respect of petitioners and other similarly situated employees as per principle laid down i.e. Central Government Civilian Employees, who have All India transfer liability are entitled to the grant of SDA, on being posted to any station in NE Region from outside the region and SDA would not be payable merely because of the clauses 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. Further whatever amount has been paid upto the date of judgement (20.9.94) to the Respondents or for that matter to other similarly situated employees would not be recovered from them.

MOF OM No.11(3)/95-E.II(B) dated 12.1.96 and recent pronouncement of Hon'ble CAT Guwahati judgement dated

28.9.99 in OA No.140/97, where CAT has held that those persons, who belong to NE Region would not be entitled to SDA as per the Apex Court judgement mentioned in the O.A. dated 12.1.96. Further, CAT has directed the Respondents to determine the entitlement of applicants or some of them to SDA or not, as per decision of the Apex Court. In view of this, the applicants, who belong to NE Region are not entitled to SDA.

7. That with regard to para 4.9, it is stated that the payment of SDA has been regulated on the basis of MOF OM dated 12.1.96 issued in consultation with MOL. The petitioners has no legal ground to claim the benefit through Hon'ble CAT, which they are not entitled as per Government of India, MOF (Dept. of Expenditure), OM dated 12.1.96 issued to implement of Apex Court.

8. That with regard to para 5.1, it is stated that the Respondents action is in confirmity with decision of the Government, Deptt. of Expenditure conveyed vide MOF OM dated 12.1.96 issued in consultation with MOL to implement the directions of the Apex Court judgement in Civil Appeal 3251/93.

9. That with regard to para 5.2, the respondents beg to state that comments as per paras 5.

10. That with regard to paras 5.3 and 5.4, it is stated that the grievance of the present applicants for grant 5.4 of SDA are covered under the principle laid down in the Apex Court judgement in Civil Appeal No.3251/93 as reproduced in MOF OM dated 12.1.96 to the effect that grant of SDA only to the officers transferred from outside to NE Region would

not be violative of provisions contained in Article 14 of the Constitution as well as the equal pay doctrine, hence there is no violation of the equality and discrimination against the petitioners.

11. That with regard to paras 5.5 and 5.6, the respondents denied the contents of the paras. The applicants eligibility for grant of SDA has been duly considered in the department but the said benefit cannot be conferred to these employees as they are not found eligible as per conditions laid down by MOF O.M. dated 12.1.96 conveying the Apex Court judgement in Civil Appeal No. 3251/93 and the Hon'ble CAT Guwahati judgement dated 28.9.99 in OA No. 140/97.

12. That with regard to para 5.7, it is stated that in view ^{of the} submission made above, the respondents action is not illegal, arbitrary and very well stand the scrutiny of law.

13. That with regard to paras 6 and 7, the respondents beg to offer no comment.

14. That with regard to para 8.1, the respondents beg to state that in view of submission made above the applicants are not entitled to any relief.

15. That with regard to paras 8.2 and 8.3, the respondents beg to offer no comments.

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VERIFICATION

I, Shri M.R.K.S.Rao, Assistant Director,
Subsidiary Intelligence Bureau, Guwahati being authorised
do hereby verify and declare that the statements made in
this written statement are true to my knowledge, information
and belief and I have not suppressed any material fact.

2. And I sign this verification on this the 6th,
day of December 2000.



DECLARANT
Assistant Director,
S.I.B. (M.H.A.)
Govt. of India,
Guwahati.