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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 84/2000.....

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. *84/2000* OF 199

Applicant(s) *Shri Subodh Chandra Gupta and 56 others.*

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

Advocate for Applicant(s) *Mr. M. Chanda
Mrs. S. Sarma, Mr. G. N. Chakraborty.*

Advocate for Respondent(s) *C. G. S. C.*

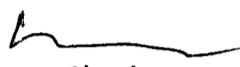
Notes of the Registry	Date	Order of the Tribunal
<p><i>Union of India within limit.</i></p> <p><i>Rs. 50/-</i></p> <p><i>493064</i></p> <p><i>24-4-2000</i></p> <p><i>2572/2000</i></p> <p><i>F-3-2000</i></p>	<p><i>28.2.00</i></p> <p><i>1.3.00</i></p>	<p><i>There is a reference made to 1.3.00.</i></p> <p><i>370</i></p> <p><i>by</i></p> <p>Learned counsel Mr M. Chanda for the applicant and Mr B.S. Basumatary, learned Addl. C.G.S.C. for the respondents.</p> <p>The applicants have prayed for permission to join in this single application under the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987. Heard the learned counsel for the parties. Permission is granted.</p> <p>Heard the learned counsel for the parties. The application is admitted. Issue notice on the</p>
<p><i>Steps received today</i></p> <p><i>20</i></p>		

Notes of the Registry	Date	Order of the Tribunal
<p><u>7-3-2000</u></p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. Post with A.D. vide D-Nos. 704 to 708 Dtd-8.3.2000</p>	<p>1.3.00</p>	<p>respondents by registered post. List for hearing on 30.3.00 alongwith other similar matters. In the meantime the respondents may file written statement.</p> <p>Mr Chanda prays for an interim order. Also heard Mr Basumatary. Issue notice to show cause why the interim prayer shall not be granted. List on 14.3.00 for interim order. Meanwhile, recovery of SDA shall remain suspended.</p> <p><i>J.S.</i> Member(J)</p> <p><i>Ba</i> Member(A)</p>
<p><u>13-3-00</u></p> <p>1) Service Reports are awaited</p> <p>2) w/statement is not seen till now</p>	<p>nkm</p> <p><i>AS</i> 2/3/2000</p> <p>14.3.00</p>	<p>On the prayer of Mr. B.S. Basumatary, learned Addl. C.G.S.C. two weeks time is allowed for filing of written statement.</p> <p>List on 31.3.00 for written statement and further orders.</p> <p><i>J.S.</i> Member(J)</p> <p><i>Ba</i> Member(A)</p>
<p><u>8-6-2000</u></p> <p>With statement has been filed by the respondents.</p>	<p>trd</p> <p>30.3.00</p> <p>nkm</p>	<p>No Division Bench is available today. List for hearing on 24.5.2000.</p> <p><i>Ba</i> Member</p>
<p><u>24.5.00</u></p>	<p>24.5.00</p>	<p>There is no Bench today. Adjourn to 16.8.00</p> <p><i>Ba</i> Member</p>
<p><u>16.8.00</u></p>	<p>16.8.00</p>	<p>There is no Bench. Adjourn to 19.12.00</p> <p><i>Ba</i> Member</p>

OA 84/200

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Notes of the Registry	Date	Order of the Tribunal
	19.12.00	Heard learned counsel for the parties. Hearing concluded. Judgment reserved. Member Vice-Chairman
lm	22.12.00	Judgment and order pronounced in open Court. Kept in separate sheets. Application is allowed.  Member  Vice-Chairman

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Notes of the Registry	Date	Order of the Tribunal
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO.149 OF 1999.

(AND 17 OTHER ORIGINAL APPLICATIONS)

(O.As 217, 274, 297, 296, and 187 of 1998; 18, 21, 223, 23, 380 and 81 of 1999 AND 282, 208, 24, 21, 428 and 234 of 2000)

Date of decision - December, 22, 2000.

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

THE HON'BLE MR. M.P. SINGH, ADMINISTRATIVE MEMBER.

1. Ordinance Depot Civil Workers' Union, Masimpur, P.O. Arunachal, Dist Cachar, Assam.
2. Sri Badal Ch Dey, President, Ordinance Depot Civil Workers' Union, Masimpur, P.O. Arunachal, Dist Cachar, Assam.
3. Sri Badal Chandra Dey, Son of Late Birendra Chandra Dey, Vill. Badarpur Part-II, P.O. Nij Jaynagar, (via Arunachal), Cachar, Pin 788025.
4. Sri Salim Uddin Barbhuyan, Son of Late Abdul Hakim Barbhuyan, Village-Uzam Gram, P.O.Nij Jaynagar, (via Arunachal) Dist Cachar, Assam.

(Applicant Nos.3 and 4 are effected members of the aforesaid Association working under No.1 Det 57 Mountain Division, Ordinance Unit as Mazdoor).

- APPLICANTS

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

- Versus -

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

contd ...

2. Officer Commanding,
57 Mountain Division,
Ordinance Unit,
C/O 99 APO.
3. LAO (A),
Silchar, Masimpur Cantonment,
No.1 Det 57 Mountain Division,
C/O 99 APO.

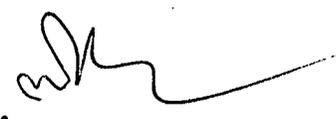
- RESPONDENTS

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

J U D G M E N T

M.P. SINGH, MEMBER (ADMN.) -

By filing this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicants have challenged the impugned order dated 12th January, 1999 whereby the Special (Duty) Allowance granted in the light of the Office Memorandum No.20014/3/83.E.IV dated 14th December, 1983 and Office Memorandum No.F.No.20014/16/86/E.IV/E.II(B) dated 1st December, 1988 is now sought to be recovered by the respondents. The applicants have sought relief by praying that the Office Memorandum dated 12th January, 1996 (Annexure-4) and 12th January, 1999 (Annexure-5) be quashed and set aside and the respondents be directed to continue to pay S.D.A. to the members of the applicant association in terms of O.M. dated 14th December, 1983, 1st December, 1988 and 22nd July, 1998. The applicants have also sought direction to the respondents not to make any recovery of any part of S.D.A. already paid to the members of the applicant association.



2. The cause of action, the issues raised and relief sought for in this O.A. are same as raised in O.A. No.217/98 (All India Central Ground Water Board Employees Association, North Eastern Region Central Ground Water Board, Tarun Nagar, Guwahati-5 and others - Vs - Union of India and others), (2) O.A. No.274/98 (Sri Dulal Sarma and others -Vs- Union of India and others), (3) O.A. No.18/99 (National Federation of Postal Employees Postmen and Gr.D - Vs - Union of India and others), (4) O.A. No.21/99 (Makhon Ch. Das and others - Vs - Union of India and others), (5) O.A. No.282/2000 (Rabi Shankar Seal and others - Vs - Union of India and others),6)O.A. No.223/99 (Shri K. Letso and others - Vs - Union of India and others), (7) O.A. No.208/2000 (Krishanlal Saha and others - Vs - Union of India and others), (8) O.A. No.23/99 (Ordinance Mazdoor Union and another - Vs - Union of India and others), (9) O.A. No.24/2000 (Ramani Bhattacharyya - Vs - Union of India and others), (10) O.A. No.21/2000 (Sri Louis Khyriem and others - Vs - Union of India and others), (11) O.A. No.428/2000 (Sri T. Ahmed and others - Vs - Union of India and others), (12) O.A. No.297/98 (Biswajit Choudhury and others - Vs - Union of India and others), (13) O.A. No.380/99 (Smt. Sanghamitra Choudhury and others - Vs - Union of India and others), (14) O.A. No.296/98 (Dwijendra Kumar Debnath and others - Vs - Union of India and others), (15) O.A. No.187/98 (All Assam M.E.S. Employees Union and another - Vs - Union of India and others), (16) O.A. No.234/2000 (Gautam Deb and others - Vs - Union of India and others), (17) O.A. No.81/9900 (Sri Nitya Nanda Paul - Vs - Union of India and others) and (18) O.A. No.84/2000 (Subodh Ch Gupta and 56 others - Vs - Union of India and others). We, therefore, proceed to hear all the



cases together. Among these O.As, O.A. No.149/99 is to be treated as a leading case and the orders passed in this O.A. shall be applicable to all other aforesaid O.As.

3. The brief facts as stated in O.A. No.149/1999 are that the applicant No.1 is an association of Group 'D' employees representing 155 persons working under the Officer Commanding No.1, Det, 57 Mountain Division, C/O 99 APO. The applicant No.2 is the President of the aforesaid association and the applicant No.3 and 4 are the affected members of the said association. They are civilian Government employees working under the Officer Commanding of the aforesaid Mountain Division.

4. The Government of India granted certain facilities to the Central Government civilian employees serving in the States and Union Territories of North Eastern Region vide Office Memorandum dated 14th December, 1983. As per clause II of the said memorandum, Special (Duty) Allowance was granted to the Central Government civilian employees, who have all India transfer liability on posting to any station in the North Eastern Region. The respondents after being satisfied that all the members of the said Association who are civilian Central Government employees are saddled with all India transfer liability and are, therefore, entitled to S.D.A. in terms of the office memorandum dated 14th December, 1983 and office memorandum dated 1st December, 1988. The Special (Duty) Allowance was accordingly granted to the members of the applicant association. ^{But} The Respondent No.3 issued the impugned order dated 12th January, 1999

 wherein ...

wherein it is stated that in view of the Supreme Court judgment, the persons who belong to North Eastern Region would not be entitled to S.D.A. but the said allowance would be payable only to the employees posted to North Eastern Region from outside the region. All the industrial persons working also fall within the same category and it is further requested to submit a list of employees showing permanent residential address for verification for entitlement of S.D.A. It was ^{also} further instructed to start recovery in respect of the employees who belong to North Eastern Region with effect from 21.9.1994 in instalments. As such, the applicants apprehend that in view of the instructions issued through impugned letter dated 12.1.1999, the respondents may start recovery of S.D.A. from the Pay Bill of May, 1999. The action of the respondents to stop the S.D.A. to the members of the applicant association is without any show cause notice and without following the principles of natural justice.

5. On an enquiry made by the applicants, they came to know that the Government of India while issuing the office memorandum dated 12th January, 1996 clarified the position regarding the entitlement of S.D.A. In para 6 of the said office memorandum, it is stated that the Hon'ble Supreme Court in the judgment dated 20th September, 1994 (in Civil Appeal No.3281 of 1993) upheld the submission of the Government civilian employees, ^{that those} who have all India transfer liability are entitled to the grant of S.D.A. on being posted to any station in the North Eastern Region from outside the region and S.D.A. would not be payable merely because of

the clause ...

the clause in the appointment order relating to all India transfer liability. It is also stated that the Apex Court ~~also~~ added that the grant of this allowance only to the officers transferred from outside the 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 Supreme Court further 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. But a contradictory view has been taken in regard to recovery of the Special (Duty) Allowance from the applicants vide para 7 of the office memorandum dated 12th January, 1996. The relevant para 7 of the office memorandum dated 12th January, ¹⁹⁹⁶ is as follows :-

"In view of the above judgment of the Hon'ble Supreme Court, the matter has been examined in consultation with the Ministry of Law and the following decisions have been taken :

- i) the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
- ii) the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes **those cases in respect** of which the allowance was pertaining to the period prior to 20.9.94, but payments were made after this date i.e. 20.9.94) will be recovered."

6. According to the applicants, the Hon'ble Supreme Court keeping in mind the possible hardship to the low paid employees directed not to make recovery of the S.D.A. which is already paid to the employees. After a lapse of


considerable ...

considerable period, the respondents have now sought to recover the amount of S.D.A. paid to them after 20.9.1994. Aggrieved by this, they have filed this O.A. seeking relief as mentioned in Para-1 above.

6. The respondents have contested the case and stated in their reply that in order to retain the services of civilian employees from outside the North Eastern Region, who do not like to come to serve in the North Eastern Region being a difficult and inaccessible terrain, the Government of India brought out a scheme under the office memorandum dated 14th December, 1983 thereby extending certain monetary and other benefits including "Special (Duty) Allowance" (in short SDA). While the provisions of the office memorandum dated 14th December, 1983 were wrongly interpreted which raised some confusion relating to payment of S.D.A., the Government of India brought out a clarification to remove the ambiguity of the earlier office memorandum dated 14th December, 1983 by the office memorandum dated 20th April, 1987 and also extended the benefit to Andaman, Nicobar and Lakshdweep Islands. According to this clarification for the sanctioning of S.D.A., the all India transfer liability of the members of any service/cadre or incumbents of any posts/Group of posts has to be determined by applying the test of recruitment zone, promotion zone etc. i.e. whether recruitment to the service/cadre/posts has been made on all India basis and whether promotion is also done on the basis of all India zone of promotion based on common seniority for the service/cadre/posts as a whole. Mere clause in the appointment order that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of S.D.A.



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7. Thereafter, a number of litigations came up challenging the non-payment/stoppage of payment of S.D.A. to certain classes of employees who were not coming within the zone of consideration as stated in the office memorandum dated 14th December, 1983 and 20th April, 1987. The Hon'ble Supreme Court in Civil Appeal No.3251/93 vide judgment dated 20th September, 1994 held that the benefit under the office memorandum dated 14.12.1983 read with office memorandum dated 20.4.1987 are available to the non-residents of North Eastern Region and such discrimination denying the benefit to the residents civilian employees of the region is not violative of Article 14 and 16 of the Constitution of India. It has also been held that as per the office memorandum dated 20th April, 1987 the S.D.A. would not be payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India. According to another decision dated 7th September, 1995, the Hon'ble Supreme Court in Civil Appeal No.8208-8213 held as follows :-

"It appears to us that although the employees of the Geological Survey of India were initially appointed with an All India Transfer Liability, subsequently, Government of India framed a policy that Class C and D employees should not be transferred outside the Region in which they are employed. Hence All India Transfer Liability no longer continues in respect of Group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having All India Transfer Liability is not to be paid to such group C and D employees of Geological Survey of India who are residents of the Region in which they are

posted. We may also indicate that such question has been considered by this Court in Union of India and others - Vs - S. Vijayakumar and others (1994) 3 SCC 649."

8. This Tribunal in O.A. No.75/96 (Hari Ram and others - Vs - Union of India and others) vide judgment dated 4th January, 1999 held that the S.D.A. is not payable to those employees who are residents of the North Eastern Region. In pursuance of the Supreme Court judgment, the Government of India took a policy decision vide office memorandum No.11(3)/95-E-II(B) dated 12th January, 1996. According to the respondents, the applicants No.3 and 4 and those in Annexure-'I' are resident of North Eastern Region and are locally recruited in the region and they do not have all India transfer liability although the list does not indicate that these employees are either residents of North Eastern Region or they belong to some other region outside the North Eastern Region and posted from outside the region as per the office memorandum dated 14th December, 1983. In view of the instructions contained in the office memorandum dated 12th January, 1996, no S.D.A. has been paid after 31st January, 1999. It was proposed to recover the amount already paid after 20th September, 1994 to 31st January, 1999. No recovery has been effected by them so far. In view of the aforesaid legal position, the O.A. is misconceived and cannot sustain in law.

9. Heard both the learned counsel for rival contesting parties and perused the records.



10. The question for consideration before us is as to whether the applicants are entitled for the payment of S.D.A. and if not, whether the recovery of the amount of S.D.A. already paid to them beyond 20.9.1994 is to be effected. The issue relating to the grant of S.D.A. has been considered and decided by the Hon'ble Supreme Court in Union of India and others - Vs - S.Vijayakumar and others, reported in 1994 Supp (3) SCC 649. The Hon'ble Supreme Court in that case has held as under :

"We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tulsi for two reasons. The first is that a close perusal of the two aforesaid memoranda, along with what was stated in the memorandum dated 29.10.1986 which has been quoted in the memorandum of 20.4.1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern Region to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2/3 years to claim the allowance depending upon the period of service of the incumbent. The 1986 Memorandum makes this position clear by stating that Central Government Civilian Employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North Eastern Region". This

aspect is made clear beyond doubt by the 1987 Memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the Office Memorandum of 1983 the subject was mentioned as quoted above is not be enough to concede to the submission of Dr.Ghosh."

The position has been further clarified by the Supreme Court vide their judgment in Union of India and others - Vs - Geological Survey of India Employees Association and others passed in Civil Appeal No.8208-8213 (arising out of S.L.P. Nos.12450-55/92) as stated in para 7 above.

11. In view of the criteria laid down by the Hon'ble Supreme Court in the aforesaid judgments, the applicants are not entitled to the payment of S.D.A. as they are resident of North Eastern Region and they have been locally recruited and they do not have all India Transfer Liability. As regards the recovery of the amount already paid to them by way of S.D.A., the Hon'ble Supreme Court in the aforesaid judgments has specifically directed that whatever amount has been paid to the employees, would not be recovered from them. The judgment of the Supreme Court was passed on 20.9.1994 but the respondents on their own had continued to make the payment of S.D.A. to the applicants till 31.1.1999. The orders have been passed by the respondents to stop to payment of S.D.A. only on 12.1.1999. The order passed on 12.1.1999 can have only prospective effect and, therefore, the recovery of the SDA already paid to the applicants would have to be waived.



12. For the reasons recorded above, the O.A. is partly allowed and the respondents are directed that no recovery would be made by them of the amount of S.D.A. already paid to the applicants upto 31.1.1999. In case any amount on account of payment of S.D.A. has been recovered/withheld from retiral dues, the same shall be refunded/released to the applicants immediately.

The O.A. is disposed of with the above direction.

No order as to costs.

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

177 25
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the Case : O.A. No. 84/2000
Sri Subodh Chandra Gupta & 56 : Applicants
Ors.

-versus-

Union of India & Ors : Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
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2	-	Verification	16
3	1	O.M. dt. 14.12.1983	17-21
4	2	Letter dt. 18.1.1996	22-24
5	3	Letter dt. 25.1.2000	25

Date : 25.2.2000

Filed by :

N.D. Goswami
Advocate

Subodh Chandra Gupta

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Original Application No. _____/2000

BETWEEN

1. Sri Subodh Chandra Gupta
Instrument Mechanic
307 Station Workshop EME
C/o 99 APO
2. Sri Kamal Singh Boro
Vehicle Mechanic (Mate)
307 Station Workshop
3. Sri Dibakar Mahanta
307 Station Workshop
C/o 99 APO
4. Sri Atul Chandra Choudhury
Vehicle Mechanic
5. Smt. Chhaya Krishna Singha
Chowkidar
6. Sri Atul Chandra Dutta
Vehicle Mechanic
7. Sri Jyotirmoy Biswas
Engineer Equipment mechanic

Contd....

Subodh Chandra Gupta

8. Md. Nazemuddin Ahmed
Turner
9. Sri Purandar Chandra Kalita
Vehicle Mechanic
10. Sri R thindra Nath Ghosh
Armourer
11. Sri Nandji Mishra
Armourer
12. Sri Motilal Boro
Armourer
13. Sri Naren Chandra Boro
Chowkidar
14. Sri Now Ram Boro
Metalsmith
15. Sri Khagen Chandra Barik
Vehicle Mechanic
15. Sri Abani Das
Metalsmith
17. Sri Satyaram Deka
Chowkidar
18. Sri Chaitanya Roy
Labour
19. Sri Babul Chandra Deb
Operator Tyre
20. Sri Dev Das Kakoti
Vehicle Mechanic

Contd....

Sabodh Chandra Gupta

21. Sri Balendra Nath Medhi
Chowkidar
22. Sri Dinaram Borah
Vehicle Mechanic
23. Sri Jyotish Chandra Das
Welder
24. Sri Bhubaneswar Nath
Chowkidar
25. Sri Biren Chandra Das
Vehicle Mechanic
26. Md. Safiq Ali
Barber
- ~~27.~~ Sri Sambhuram Patowary
Chowkidar
28. Sri Dasarath Thakur
Barber
29. Sri Raghunath Choudhury
Washerman
30. Sri Dhrubajyoti Das
Telecommunication Mechanic
31. Sri Birendra Kumar Ghosh
Vehicle Mechanic
32. Sri Pankaj Kumar Das
Labour
33. Sri Samarendra Das Gupta
Upper Division Clerk

Contd....

Subodh Chandra Gupta

34. Smt. Ratna Das
Upper Division Clerk
35. Sri Bidhan Ranjan Adhikary
Messenger
36. Sri Sanjay Chandra Das
Chowkidar
37. Sri Biren Chandra Das
Labour
38. Sri Debashish Mazumdar
Instrument Mechanic
39. Sri Mathura Mohan Roy
Engineer Equipment Mechanic
40. Sri Kartik Chandra Kalita
Electrician
41. Md. Sirajul Haq
Chowkidar
42. Sri Ananta Kumar Nath
Master Craftsman
43. Sri Basant Kakoti
Electrician
44. Sri Jogendra Nath Deka
Carpenter
45. Sri Rajender Baitha
Washerman
46. Sri Harendar Kumar Gogoi
Labour

Contd...

Subodh Chandra Gupta

47. Sri Sukleswar Sharma
Vehicle Mechanic
48. Kanak Narzary
Chowkidar
49. Sri Ranadhir Singh
Vehicle Mechanic (Mate)
50. Sri Narayan Chandra Sutradhar
Cook
51. Krishna Prasad Sharma
Cook
52. Sri Balireddi Appa Rao
~~Instrument Mechanic~~ Chowkidar
53. Sri Manomohan Nath
Instrument Mechanic
54. Sri Govind Naik
Labour
55. Sri Afsar Ali
Chowkidar
56. Sri Bishnu Kumar Das
Vehicle Mechanic
57. Sri Damar Bahadur
Equipment Boot Repairer

.... Applicants

(All the applicants are serving in the 307 Station Workshop Electrical and Mechanical Engineers, C/o 99 APO in the cadre of Group 'C' and 'D').

-AND-

Subodh Chandra Gupta

1. The Union of India
(Through the Secretary to the
Government of India, Ministry
of Defence, New Delhi).
2. The Director General of Electrical
and Mechanical Engineer,
Army Headquarters, Defence
Headquarters,
P.O. New Delhi-110011.
3. The Officer Commanding
307 Station Workshop EME
C/o 99 APO
4. The Controller of Defence Accounts
Udayan Vihar, *Narangi*.
Guwahati.
5. Area Accounts Officer,
Shillong

..... Respondents

DETAILS OF APPLICATION

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

The instant application is directed in respect of the Office Memorandum No. 11(3)/95-E.II (B) dated 12.1.1996 circulated under Ministry of Defence letter No. 4(19)/83-D (Civ.I) Vol. II dated 18.1.1996 and praying for a direction to the respondents not to

Sudhakar Chandra Gupta

make any recovery of Special (Duty) Allowance already paid to the applicants and further be pleased to direct the respondents to continue to pay Special (Duty) Allowance to the applicants in terms of the Office Memoranda dated 14.12.1982, 1.12.1988 and 22.7.1998.

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 filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

That all the applicants are citizens of India, and as such, they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India.

4.2 That the grievance relating to which the instant application has been filed in respect of the applicants has arisen out of the same cause of action. The applicants are all similarly situated and the reliefs sought for by them are also the same. Further, they have got common interest in the matter. Accordingly, the applicants have filed the instant application jointly. It is most respectfully prayed that the

In both & Ramesh Gupta

applicants may be permitted to join together in this application as provided for under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That all the applicants are serving under the cadre of Gfroup 'C' & 'D' under the office of the Commandant 307 Station Workshop Electrical and Mechanical Engineers, C/o 99 APO i.e. under the respondent No.3 The applicants fulfill all the conditions precedents for getting Special Duty Allowance is mentioned in the relevant circulars, mention has been made in subsequent paragraphs to this application. Accordingly all the applicants have been granted Special Duty Allowance ever since the said allowances was made applicable to the employees concerned working in the North Eastern Region.

4.4 That the Government of India, Ministry of Finance, Department of Expenditure, under the Office Memorandum dated 14.12.1983, issued under No. 20014/3/83-E.IV while granting certain facilities to the employees of the Central Government Departments also granted an allowance called as Special (Duty) Allowance (For short SDA). The applicants having fulfilled all the criteria laid down in the said O.M. were granted the said Special (Duty) Allowance which they have been enjoying till date. It will be pertinent to mention here that the applicants not only carry All India Transfer Liability as one of their service conditions but they have also got all India basis common seniority list, all India basis promotion zone, all India basis SAS Examination

Sudhakar Chandra Gupta

etc. unlike other employees of the Central Government organisation carrying merely a clause of All India Transfer Liability without fulfilling the other conditions precedents as laid down vide O.M. dated 14.12.1983 and 12.1.1996 mention of which has been made in subsequent paragraphs.

A copy of the said O.M. dated 14.12.1983 is annexed as Annexure-1.

4.5 That your applicants beg to state that the respondents started paying Special (Duty) Allowance to the applicants after being found them eligible for grant of Special (Duty) Allowance and all the applicants drawn SDA either with effect from 1.11.83 or from their respective date of joining in their services. As such the SDA was paid to the applicants by the respondents themselves. However, the said SDA was suddenly stopped without any prior notice to the applicants with effect from July 1995 but it is understood from a reliable source that the same has been stopped in terms of Ministry of Defence letter bearing No. 4(19)/83-D(CIB.I) Vol. II dated 18.1.1996 by which the O.M. No. 11(3)/95-E-II(B) dated 12.1.1996 issued by the Ministry of Finance, was circulated in various offices of the respondents and following the above instructions of the Ministry of Finance the payment of SDA had been stopped without issuing any notice to the applicants with effect from ~~August, 1995~~ July, 1995. In this connection it is stated that in the Office Memorandum dated 12.1.1996 it was stated that locally recruited employees are not entitled to SDA which was circulated

Subodh Chandra Gupta

through letter dated 18.1.1996.

Copy of the letter dated 18.1.1996 is annexed as Annexure-2.

4.6 That the authority on receipt of the letter dated 18.1.1996 as well as the Office Memorandum dated 12.1.1996 stopped the payment of SDA however no attempt was made for recovery of the SDA as the same was paid by the respondents on their own after the applicants being found eligible for the said allowance. But suddenly the respondents now in the month of January 2000 proposed to make recovery the SDA which was already paid to them and accordingly they have prepared the bills for recovery of SDA since ~~July, 1994~~ September, 1994. But no notice was served to the applicants for illegal recovery of SDA without following the principles of natural justice. As such, finding no other alternative the applicants approaching this Hon'ble Tribunal praying inter alia for a direction to the respondents not to make any recovery of SDA which was already paid to the applicants by the respondents on their own.

4.7 That your applicants beg to state that the payment of SDA which was received by the applicants have already been spent and now if the recovery is made it will cause undue hardship to the applicants and after such long lapse the respondents are not entitled to make any recovery of SDA and this has already been settled by the Apex Court in various judgements and order

Subodh Chandra Gupta

4.8 That your applicants beg to state that the Headquarter 101 area vide their letter bearing No. 10711/2/GS/(SD) dated 25.1.2000 directing the authorities including the office of the ~~87~~ 307 Station Workshop Electrical and Mechanical Engineers, to submit details of the amount which was paid to the individuals ineligible persons on account of SDA beyond 20.9.1994 and after receipt of this letter the authority and also in view of the letter dated 18.1.1996, O.M. dated 12.1.1996 the authority now preparing the bill for recovery of amount which is already paid to the applicants on account of SDA with effect from 20.9.94. Therefore it is a fit case for the Hon'ble Tribunal to interfere with to protect the rights and interests of the applicants directing the respondents not to make nay recovery of the amount which is paid as SDA to the applicants and further be pleased to direct the respondents to continue to pay SDA to the applicants in terms of the O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998. It is also stated that the applicants received the SDA after the respondents found them eligible for drawal of such allowance, therefore they cannot make any recovery and that too without following the established procedure of law.

A copy of the letter dated 25.1.12000 is annexed as Annexure-3.

4.9 That this application is made bonafide and for the cause of justice.

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

5.1 For that prima facie the impugned order of

Subodh Anandon Gupta

recovery is not sustainable and the same is liable to be set aside and quashed.

5.2 For that under the circumstances, no recovery can be made from the pay of the applicants in respect of the payment made after 20.10.1994. If at all any recovery was to be made, same should have been done by the respondents immediately after 20.9.1994. But instead they kept on paying the SDA to the applicants, but now by a stroke of pen has sought to recover the amount on account of SDA paid to the applicants after 20.9.1994.

5.3 !For that as pointed out above, the applicants satisfy the pre-requisite for grant of SDA and accordingly they have also been paid the SDA on the strength of concerned O.M. Now the respondents on a mechanical application of the O.M. dated 12.1.1996 has sought to recover the amount of SDA and discontinued the same which is arbitrary and illegal.

5.4 For that the respondents before recovery of SDA which is already paid to the applicant ought to have carried out the exercise as to who are the applicants to be termed as ineligible persons instead they have mechanically applied the O.M. dt. 12.1.1996 which was conveyed by letter dated 18.1.1996 and have sought to recover the SDA already paid to the applicants.

Subodh Chandra Gupta

- 5.5 For that the respondents have failed to appreciate the order of the Hon'ble Apex Court in various judgements and orders that the amount of SDA is already been paid to the employees shall not be recovered.
- 5.6 For that the decision of recovery of SDA which is already paid to the applicants amounts to hostile discrimination in violation of Article 14 and 16 of the Constitution of India.
- 5.7 For that the decision of recovery of SDA in respect of the applicants has been made without any notice to the applicant as such the same is not sustainable and liable to be set aside and quashed.

6. Details of remedies exhausted.

The applicants further declare that they ~~had not filed any application or petition~~ have no other alternative remedy than to come under the protective hands of this Hon'ble Tribunal.

7. Matters no previously filed or pending before any other court.

The applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of this application before any other court, Authority or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

Subodh Chandra Gupta

8. Reliefs sought for :

Under the facts and circumstances stated above, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to admit this O.A., call for the records of the case and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

- 8.1 Hon'ble Tribunal be pleased to set aside the impugned letter dated 18.1.1996 (Annexure-2) issued by the Ministry of Defence on the basis of the O.M. dated 12.1.1996 issued by the Ministry of Finance, Government of India, and further be pleased to declare that the respondents are not entitled to recover the amount of SDA which is paid to the applicants by the respondents on their own in the light of the various decisions of the Hon'ble Supreme Court as well as various decisions of this Hon'ble Tribunal.
- 8.2 Hon'ble Tribunal further be pleased to direct the respondents to continue to pay SDA to the applicants in the light of the O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998.
- 8.3 Any other relief or reliefs to which the applicants may be entitled to and as may be deemed fit and proper by this Hon'ble Tribunal.
- 8.4 Costs of the Application.

Subodh Ranjan Gupta

9. Interim order prayed for :

Pending disposal of the Original Application, the applicants pray that the Hon'ble Tribunal be pleased to direct the respondents that they are not entitled to recover the amount of SDA already paid to the applicants till disposal of this application.

10.

This application is filed through Advocate.

11. Particulars of the I.P.O.

- i. I.P.O. No. : 06493064
- ii. Date of issue : 29/2/20
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati.

12. List of enclosures

As stated in the Index.

.....Verification

Subodh Chandra Gupta

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

I, Subodh Chandra Gupta, son of late Hiralal Gupta, aged about 43 years, working as Instrument Mechanic, in the office of the Office Commanding, 307 Station Workshop EME, C/o 99 APO, one of the applicants in this application do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 4 and 6 to 12 are true to my legal advice and I have not suppressed any material fact. I have been duly authorised and competent to sign this verification on behalf of all other applicants.

And I sign this verification on this the 25th day of February, 2000.

Subodh Chandra Gupta
Signature

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

ANNEXURE

Annexure

New Delhi, the 14th December, 1963.

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh 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 & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows:-

(i) Tenure of posting/deputation:

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc. in excess of 15 days per year will be excluded in counting the tenure period of 2 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Weightage for Central deputation/training
should not be mentioned in Confidential
Records.

Satisfactory performance of duties for the

Attest
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18-1-83

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Annexure-1 (contd)

prescribed tenure in the North East shall be given due in the case of eligible officers in the matter of -

- (a) promotion in cadre posts;
- (b) deputation to Central tenure posts; and
- (c) courses of training abroad.

The general requirement of at least three years service in a cadre post between two Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

A specific entry shall be made in the C.R. of all employees who rendered a full tenure of service in the North Eastern Region to that effect.

(iii) Special (Duty) Allowance

Central Government civilian employees who have All-India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. 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 Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

(iv) Special Compensatory Allowance :

1. Assam and Meghalaya

The rate of the allowance will be 5% of basic pay subject to a maximum of Rs. 50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1.7.1982 in the case of Assam.

2. Manipur

The rate of allowance will be as follows for the whole of Manipur :-

Pay upto Rs. 260/-	Rs. 40/- p.m.
Pay above Rs. 260/-	15% of basic pay subject to a maximum of Rs. 150/- p.m.

3. Tripura

The rates of the allowance will be as follows:-

32 (2)

Difficult Areas

25% of pay subject to a minimum of Rs. 50/- and a maximum of Rs. 150/- p.m.

(b) Other Areas

Pay upto Rs. 260/-

Rs. 40/- p.m.

Pay above Rs. 260/-

15% of basic pay subject to a maximum of Rs. 150/- p.m.

(will be no change in the existing rates of Special Compensatory Allowances admissible in Arunachal Pradesh, Nagaland and Mizoram and existing rate of Disturbance Allowance admissible in specified 2 of Mizoram.

(v) Travelling Allowance on first appointment :

In relaxation of the present rules (S.R. 105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in case of journeys for taking up initial appointment to a post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 400 kms. for the Government servant himself and his family will be admissible.

(vi) Travelling Allowance for Journey on transfer :

In relaxation of orders below S.P. 115, II on transfer to a station in the North-Eastern region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the post and will be permitted to carry personal effects upto 1/3rd of his entitlement at Government cost or have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of the cost of transportation of baggage. If case the family accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

(vii) Travel Allowance for Transportation of Personal Effects

In accordance of orders below S.R. 116, for transportation of personal effects on transfer between two different stations in the North-Eastern region, higher rate of allowance admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Government servant will be admissible.

(viii) Joint Time with Leave

In case of Government servants proceeding on leave from a place of posting in North-Eastern region, the period of travel in excess of two days from the station of posting to outside that region will be treated as joint time. The same concession will be available on return from leave.

(ix) Leave Travel Concession

A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to another spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North Eastern region. In case the option is for the latter alternative, the cost of travel for the initial distance (400 kms./150 kms.) will not be borne by the officer.

Officers drawing pay of Rs. 2250/- or above, and their families, i.e., spouse and two dependent children (upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala and Calcutta and vice-versa, while performing journeys mentioned in the preceding paragraph.

(x) Children Education Allowance/Hotel Subsidy

When the children do not accompany the Government servant to the North-Eastern Region, Children Education Allowance upto class XII will be admissible in respect of

children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

2. The above orders except in sub-para (iv) will also mutatis mutandis apply to Central Government employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st November, 1983 and will remain in force for a period of three years upto 31st October, 1986.

4. All existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

5. Separate orders will be issued in respect of other recommendations of the Committee referred to in paragraph 1 as and when decisions are taken on them by the Government.

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

(Signature)
(S.C. RAJALIK)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA.

To,

All Ministries/Departments of the Government of India, etc. etc.

Copy (with spare copies) to C. & A.G., U.F.S.C. etc.

.....

J.K.

(Handwritten notes)
J.K. 1
A.C.

ANNEXURE 2

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Ministry of Defence
D(Civ.I)

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

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A copy of Ministry of Finance (Department of Expenditure) O.P. No. 11(3)/95-E.11(B) dated 12th Jan. 1996 on the above mentioned subject is forwarded herewith for information and necessary action, in respect of civilians paid from Defence Services Estimates are concerned. Final version is also enclosed herewith.

Account 2, received 2, validated
copy filed
[Signature]

[Signature]

(P. J. Sharma)
Section Officer
Tele. 3012016.

AG/Off 4(Civ)(d)
Sr. HRS./PPSR-2
M/C/CP Dto.
DOP/Ordn./DOP

DFCC/Secy(C)
D.F.F. 3/53-2(?)
The CFC Calcutta
DPR

DDP/Admn
DDP(MR)/Admn
D(AC)

M of D I.D. No. 4(19)/83-D(Civ.I) Vol. II dated 10.1.76.

Copy to:-

- The CCA; All C.A.; All Sr. Dy. DGS; The DGS;
- The Asst. Audit Officers (Defence Services), Lucknow;
- Kanpur, Bangalore and Allahabad; The Director of Accounts (Postal) APS Section, Lucknow - 240001.
- DFA(AG); DFA(Navy); DFA(AF); FA(Budget-II); FA(OP-I)
- C.C. (Factory) Calcutta.

Copy of Ministry of Finance (Department of Expenditure) O.P. No. 11(3)/95-E.11(B) dated 12th Jan. 1996 regarding Special Duty Allowance for civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region regarding.

Account
[Signature]

The undersigned is directed to refer to this Department's OM No. 20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No. 20014/16/86-E.IV/E.11(3) dt. 1.12.88 on the subject mentioned above.

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

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment for service/cadre/post has been made on all India basis and whether promotion has also been done on the basis of all India basis. In the appointment letter to the effect that the person concerned is liable 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 Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. However, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministries/Departments against the Orders of the CAT.

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (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 would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

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Annexure-2 (Contd)

In view of the above judgment 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;
- 11) 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 pertained to the period prior to 20.9.94, but payments were made after this date i.e. 20.9.94) will be recovered.
8. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance.
9. In their application to employees of Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.
10. Hindi version of this OM is enclosed.

- 91/ -
(C. Balachandran)
Under Secretary to the Govt. of India.

Arrested
A. S. Ar

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Annexure - 3

Mukhyalaya 101 Area
Headquarters 101 Area
C/o 99 APO

10711/2/BS(SD)

25 Jan 2000

(As per Distr List att)

**REC OF SDA PAYMENT MADE TO IN-ELIGIBLE CAT
OF DEF CIV MADE BEYOND 20 SEP 1994**

1. Refer to controller of Defence Accts Bwahati, DO letter No. Pay/Tech/025/Vol-I dat 19 Jan 2000 (copy encl).

2. Please carry out physical verification of service record of all Def civ employees under your jurisdiction to ascertain the following :-

(a) Details of payment of SDA made to in-eligible categories of Def civ employees beyond 20 Sep 94.

(b) Total amt involved in respect of each.

(c) Period of payment.

(d) Circumstances leading to the payment of a particular Allice.

3. Please fwd above details by courier/fax/sig by 10 Feb 2000 without fail.



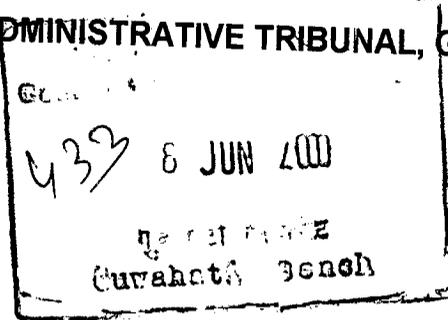
(Avtar Singh)
Lt. Col
GSO 1
for Col BS

Encls : As above

Internal

A Branch | - for info alongwith a copy of ibid DO letter.
Q Branch |
ST Branch |
Med Branch |

yadav/*



O.A. No. 84 of 2000

(Sri Subodh Ch Gupta & 56 others

Vs

Union of India & ors).

**WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENTS
No 1,2,3,4 AND 5.**

I, Major UK Sarma, Officer Commanding, 307 Station Workshop EME, C/O 99 APO, do hereby solemnly affirm and state as follows: -

1. That, I am the officer Commanding of 307 Station Workshop EME/C/O 99 APO. I have been impleaded as one of the party Respondents in the instant original application along with Union of India and others. I have received a copy of the aforesaid original application gone through the same and understood the contents thereof. Further I am authorized by the Union of India and other Respondents to look after the present case for and on behalf of them including filing of Written Statement and taking other steps. As such, I am competent to verify and file this Written Statement for and on behalf of Union of India and other Respondents.
2. That, this answering Respondent does not admit any of the facts, statements, allegations and averments made in the original application save and except those have been specifically admitted hereunder in this written statement. Further those statement which are not borne on records have also been categorically denied.
3. That as regards the context of paragraphs 1,2,3,4.1 and 4.2 this answering Respondent does not make any comments.
4. That as regards the contest of paragraph 4.3 of the original application this answering Respondent respectfully states that the Special Duty Allowance was claimed after affirming the eligibility from the concerned Comptroller of Defence Accounts after the order came into force and allowed to draw as such by the concerned audit offices.

Contd. 2/-

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Filed by - Maj. V.K. Sarma, RESP.
through - Mr. Subodh Ch Gupta, Ad. C.S.C., CAT

5. That as regards the contents of paragraphs 4.4 of the original application this answering Respondent respectfully states that the seniority roll of the locally controlled Group 'C' Industrial Employees is maintained Centrally by HQ Eastern Command (EME Branch) while the seniority roll of Non- Industrial employees is maintained on All India basis at EME Records, Secunderabad and the seniority roll of Group 'D' employees is locally maintained by the units holding such of the employees.

6. That as regards the contents of paragraph 4.5 of the original application this answering Respondent respectfully states that the Ministry of Finance vide Office Memorandum No 20014/3/83-E.IV dated 20 Apr 87 had observed that instances had been brought to the notice of the Government where Special Duty Allowance had been allowed to Central Government employees serving in North Eastern Region with the fulfillment of condition of All India Transfer liability. The Finance Ministry had held that mere clause in the appointment order as is done in the case of almost All posts in the Central Secretariat etc. to the effect that the persons concerned are liable to be transferred anywhere in India does make them eligible for the grant of Special Duty Allowance. LA Photostat copy of the aforesaid O M dated 20 Apr 87 is annexed herewith and marked as ANNEXURE 'R' hereof.

Be it stated that while scrutinizing the aforesaid OM in the case of Union of India Vs Shri Vijay Kumar and Others (CA No3251 of 1993) the view of Finance Ministry was approved by the Hon'ble Supreme court and observed: -

"The stand of the Union of India, however, is that this OM dated 14 Dec 83 if it is read alongwith what was stated subsequently in office Memorandum dated 20 Apr 87, it would become clear that the allowances was required to be paid to those incumbents who had been posted in the North East Region (NER) carrying the aforesaid service condition and not to those who were residents of this region. The office memorandum of 1987 has clearly stated that the allowance would not be payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred any where in India. We have duly considered the rival submissions and are included to agree with the intention advanced by the learned Addle Solicitor General for two reasons. The first is that a close perusal of the two aforesaid memoranda, along

Contd... 3/-

No 28

with what was stated in the memorandum dated 291-10-1986 which has been quoted in the memorandum dated 20 Apr 1987, clearly shows that allowance in question was meant to attract persons outside the NER to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for attracting and retaining the service of the competent officers for service in the NER. Mention about retention has been made because it was found that incumbents going to that region on deputation used to come back after joining thereby taking leave and therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2/3 years to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating that Central Government Civilian employees who have All India Transfer Liability would be granted the allowance on posting to any station to the NER. This aspect is made clear beyond doubt by the 1987 memorandum which stated allowance would not become payable merely because of the clause in the appointment order relating to all India Transfer Liability merely because in office memorandum of 1983 the subject was mentioned as quoted above is not enough to concede to the submission of Dr. Ghosh, Counsel for the respondents..... "

It is pertinent to mention further that applicants in this case are residents of NER and in pursuance of the aforesaid judgement of the Hon'ble Apex Court they are not entitled Special Duty Allowance. Therefore, pursuant to the aforesaid judgement passed by the Hon'ble Supreme Court, the Govt. of India, Ministry of Finance OM No.11 (3)/95-E:II (B) dated 12 Jan 96 thereby stating that the amount already paid on account of Special Duty Allowance to the ineligible persons on or before 20-9-94 i.e. the date on which judgement was delivered will be waived and payment made after this date will be recovered.

7. That as regards the contents of paragraph 4.6 of the original application this answering Respondent respectfully states that since the applicants are not entitled Special Duty Allowance as per aforesaid decision of the Apex Court as such the Government. India in the Ministry of Finance had issued the aforesaid OM dated 12 Jan 96 debarring further payment of Special Duty Allowance. However, the local workers forum, namely, Labour Welfare

Contd... 4/-

FA 29

Committee (JCM IV level) constituted under the guide line contained in Army HQ letter No 88325/Org 4(Civ)(c) dated 12 -12-1979 was time and against explained the terms and conditions of the admissibility criterion of special duty allowance. During the month of Nov 1999 vide HQ 51 Sub Area letter No.174903/A2 dated 10 Nov 99 followed by another letter No.10711/2/GS (SD) dated 25.1.2000 called for some information. As such, Labour Welfare Committee was called upon to accept the recovery without further lingering the process of adjustment. Therefore, it is incorrect to mention that a sudden drive has been made for realization of the overpayment.

8. That as regards the contents of paragraph 4.7 of the original application this answering Respondent respectfully that keeping in view the monetary constraints of the employees a comprehensive time was allowed

side by side the Labour Welfare Committee was explained the need for neutralization of the outstanding overpayment. In the meantime many course cases filed by other civilian employees of the other departments came up with a decree for discontinuance of the allowance and with a definite verdict of realization of the payment made after Sep 94. Thus the order was transparent and ought to be refunded. There is, therefore, justification for liquidation of the overpayment.

9. That as regards the contents of paragraphs 4.8 of the original application this answering Respondent for the sake of brevity he does not repeat, however, the contentions forwarded in preceding paragraphs have been reiterated.

10. That as regards the contents of paragraph 4.9 of the original application this answering Respondent does not make any comments.

11. That as regards the contents of paragraph 5(5.1 to 5.7) of the original application this answering Respondent respectfully submits that as has been explained above in the foregoing paragraphs the instant original application does not bear any valid legal grounds as such the same is not maintainable and liable to be dismissed.

Contd....5/-

48 20

12. That as regards the contents of paragraph 6 and 7 of the original application this answering Respondent does not make any comments.

13. That as regards the contents of paragraphs 8 and 9 of the original application this answering Respondent respectfully submits that since the instant original application as has been explained does not bear any merit as such the applicants are not entitled any relief as prayed for including interim relief, therefore, liable to dismissed.

VERIFICATION

I, Major UK Sarma, Officer Commanding, 307 Station Workshop EME, C/O 99 APO, do hereby hereby solemnly affirm and state that the statements made in this verification including those have been made on paragraphs ... of the civilian statement are true to my best of knowledge and belief and there have been made in paragraphs... are true to the best of my information which have been derived from the records and the rests are my humble submission before the Hon'ble Tribunal.

And I verify and sign this verifications this ... 8th Day of June 2000.

UK Sarma
UK Sarma
Maj Deponent
Officer Commanding
307 Stn WKSP EME

(COPY)

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

New Delhi, the 20th April, 1987

OFFICE MEMORANDUM

Subject: Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region and A. & N. Islands and Lakshadweep - improvement thereof.

The undersigned is directed to refer to para 1 (iii) of Ministry of Finance, Department of Expenditure O.M. No.20014/3/83/E.IV dated 14th December 1983 as amended vide Office Memorandum of even number dated 29.10.1986 on the above subject, which is reproduced below:-

1 (iii) "Special Duty) Allowance

"Central Government civilian employees who have all India transfer liability will be granted a special (duty) allowance at the rate of 25% of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. 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 Special (Duty) Allowance plus special pay/Deputation Duty Allowance will not exceed Rs.400 p.m. Special Allowances like special compensatory (remote locality) allowance, construction allowance and Project Allowance will be drawn separately".

2. Instances have been brought to the notice of this Ministry where special (duty) Allowance has been allowed to Central Government employees serving in North Eastern Region with the fulfilment of the condition of all India transfer liability. This is against the spirit of orders on the subject. For the purpose of sanctioning special (duty) allowance, the all India transfer liability of the members of any Service/Cadre of incumbents of any posts/group of posts has to be determined by applying tests of recruitment zone, promotion zone, etc., i.e. whether recruitment to the feeder cadre/posts has been made on all-India basis and whether promotion is also done on the basis of the all-India zone of promotion based on common seniority of the service/cadre/posts as a whole. Mere clauses in the appointment order as in done in the case of almost all posts in the Central Secretariat etc. to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of special (duty) allowance.

....2/

3. Financial Advisers of the administrative Ministries/ Departments are requested to review all such cases where special (duty) Allowance has been sanctioned to the Central Government employees serving in the various offices including those of autonomous organisations located in the North East Region which are under administrative control of their Ministries/Departments.

Sd/-
 (A.N. SINHA)
 DIRECTOR (EC)
 Tele : 3011819

To

Financial Advisers of all Ministries/Departments.

.....

[The following section contains extremely faint and illegible text, likely bleed-through from the reverse side of the page. It appears to be a list of recipients or a detailed list of cases, but the content is not readable.]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

51
Filed by 7/11
Applicant through
M. Chandra
Advocate
19-12-2000

O.A. No. 8A /2000

Sri Subodh Chandra Gupta

-vs-

Union of India and Others

-And-

In the matter of :

Rejoinder submitted by the applicant
in reply to the written statement
submitted by the respondents.

The abovenamed applicant Most Respectfully begs
to state as under :

1. That your applicant categorically denies the statements made in paragraphs 6,7,8,9,11 and 12 of the written statement and further begs to state that the contention of the respondents that the applicant is not entitled to SDA in view of the clarification given by the Ministry of Finance vide O.M. dated 20.4.92. It is relevant to mention here that Ministry of Finance Government of India, further given a clarification very recently which is communicated by the Director General of Security, SSB, New Delhi dated 8.5.2000 wherein it is communicated that the Cabinet Secretariat vide his letter issued under No. U.O. No. 20/12/99-EA-I-1799 dated 2.5.2000 clarified the question of points raised by the SSB Directorate vide letter No. UO No. 42/SDA/AI/99 (18) 5282 dated 2.9.99 in consultation with the Ministry of Finance. In the said clarification it is categorically stated that an employee belongs to N.E. Region and subsequently posted outside N.E. Region and

Contd...

having a common all India seniority and all India transfer liability entitled to SDA. Therefore clarification given by the Ministry of Finance vide OM dated 20.4.87 is now superseded in view of the above clarification as such the applicant is entitled to payment of SDA. Moreover the case of Vijoy Kumar and Ors. referred in the written statement is not applicable in the instant case of the applicant. It is further stated that the applicants are ~~xxxx~~ settled with all India transfer liability. In this connection it is relevant to mention here that applicant no.8, applicant no.24, applicant no. 33, and applicant no. 55 although posted initially in the N.E. Region but they were subsequently posted outside in N.E. Region on different dates in public interests but they were subsequently posted outside N.E.Region and again reposted in the N.E. Region and they are also saddled with all India transfer liability. The detail particulars of the transfer and posting of the applicants are furnished hereunder :

1. Sri Nazim Ahmed
applicant no.8
2. Sri Bhubaneswar Nath
applicant no.24
3. Sri S. Dasgupta
applicant No. 33
4. Sri A. Ali
Applicant No.55

The applicant No.8 initially posted under Commandant 1 Advance Base Workshop, EME, Guwahati was transferred to Central Ordnance Depot, New Delhi Cantonment (in short COD) and served there from 1972-1977.

The applicant no. 33 (Sri S. Dasgupta) was initially appointed in the office of Commandant, Assam Regimental

Shillong and was transferred and posted to 507 Army Base Workshop, Kankinara, Calcutta for the period 1981-85, presently also under order of transfer to Secunderbad.

Applicant No. 24 Sri B.S.Nath initially appointed at Changsari in N.E. Region thereafter transferred and post^{ed} to Kalimpong, West Bengal during the year 1981 and served there upto 1983 and further reposted to Guwahati.

Applicant No. 55 Sri Absor Ali, was initially appointed also at Changsari in N. E. Region thereafter transferred and posted to Kalimpong, West Bengal during the year 1981 and served thereat upto 1983 and further reposted to Guwahati.

In view of the above factula position the applicants are saddled with all India transfer liability in practice as such they are very much entitled to SDA specially in view of the Cabinet Secretariat letter/clarification as stated above.

Copies of the Memorandum issued by the Director General SSAb dated 8.5.2000, Cabinet Secretariat letter dated 2.5.2000 and transfer and posting orders in respect of the applicants referred to above are annexed as Annexures- L & M respectively.

Under the facts and circumstances stated above, the application is deserves to be allowed with costs.

.... Verification

57
- A -

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

I, Shri Samarendra Dasgupta, one of the applicants in the O.A. No. 84 of 2000 as such I am well acquainted with the facts and circumstances of the case mentioned above and I have been duly authorised to sign this verification accordingly I do hereby verify and declare that the statements made in this rejoinder are true to my knowledge and I have not suppressed any material fact.

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

Samarendra Dasgupta

Signature

Handwritten notes:
11/11/99
27/5
5

No. 42/SSB/AI/99(18) dated 21.2.99
Directorate General of Security
Office of the Director
East Block-V, R.K. Puram,
New Delhi - 110066.

Dated the, 5/5/2000

Memorandum

Subject :- Special Duty Allowance for Civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region - regarding.

Enclosed please find herewith a copy of Cabinet Secretariat (O) No. 20/12/99-CA-I-1799 dated 2.5.2000 clarifying the position of points raised by SSE Directorate vide O No. 42/SSB/AI/99(18)-5282 dated 2.9.1999 on the above subject for further necessary action at your end.

Please acknowledge receipt.

(S.S. BOHA)
JOINT DEPUTY DIRECTOR (IA)

1. The Divisional Organisations, MP/UP/RP/NA/MBES/MCH/SNG/AGS/JGR/
2. The DIST, TC Baling/TC Sarahan/TC Salonbari/TC Jammu/TC Bhatnagar/TC Gwaldam.
3. The Commandant, TC Faridabad/CSDM Bhopal/CSDM Salonbari/TC Bhatnagar/TC Gwaldam.
4. The Regional Officer, A-2/A-3 branch.
5. xxxxxGuard file.

Handwritten notes:
10/5/99
27/5/99

NOTE NO. IGR/SDA/91-2000/ 4645-53

17/5/2000

- copy to :-
1. AO, SSB TRK/MLP/TZR/UK/KJR
 2. Accounts Officer, Div. NO. HAU
 3. Commandant, Bhatnagar
 4. Commandant, Gwaldam
- For favour of information and necessary action.

Director (IA)

Handwritten mark: 27

Cabinet Secretariat
(E.A. I Section)

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

SEB Directorate may kindly refer to their U/O No. 42/SDA/AI/99(18)-2369 Dated 31.3.2000 on the subject mentioned above.

2. The points of doubt raised by SEB in their UO No. 42/SDA/AI/99(18)-5282 dated 2.9.1999 have been examined in consultation with our *Integrated* Finance and Ministry of Finance (Department of Expenditure) and clarification to the points of doubt is given :

1. The Hon'ble Supreme Court in their Judgement delivered on 26.11.1996 in Writ Petition No. 794 on 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. region from outside the region and in the following situation whether a Central Govt. employees would be eligible for the grant of SDA keeping in view the clarification issued by the Ministry of Finance vide their UO No.11(3)/95.9/II(B) dated 7.9.97.

- (a) A person belongs to outside N.E.Region but he is appointed and on first appointment posted in the N.E.Region after selection through direct recruitment based on the recruitment made on All India basis and having a common/centralised seniority list and All India Transfer Liability.
- (b) An employee hailing from the N.E.Region selected on the basis of an All India recruitment test and borne on the centralised cadre/service common seniority on first appointment and posted in the N.E.Region, he has also All India Transfer Liability.

No.

- 11) An employee belongs to N.E. Region was appointed on Group 'C' or 'D' employees based on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance O.M. No. 20014/2/83-E.IV dated 14.12.83 and 20.4.87 read with OM 20014/16/86 E.II (B) dated 1.12.88) but subsequently the post/cadre was centralized with common seniority list/promotion/All India Transfer Liability etc. on his continuing in the N.E. Region though they can be transferred out to any place outside the N.E. Region having All India Transfer Liability. NO
- 111) An employee belongs to N.E. Region and subsequently posted outside N.E. Region, whether he will be eligible for SDA if posted/transferred to NE Region. He is also having a common All India seniority and All India Transfer Liability. -YES
- iv) An employee hailing from NE Region, posted to NE Region initially but subsequently transferred out of NE Region, but re-posted to the NE Region after sometime serving in Non-NE Region. -YES
- v) The MOF, Deptt. of Expt. vide their UO No.11(3)/95-E.II(B) dated 7.6.98 have clarified that a mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty Allowance. For determination of the admissibility of the SDA to any Central Govt. Civilian employees having All India Transfer Liability will be by applying tests (a) whether recruitment to the service/cadre/post has been on All India basis (b) whether promotion is also done In case the employee hailing from NE Region is posted within the NE Region he is not entitled to SDA till he is once transferred out of that Region

on the basis of All India zone of promotion based on common seniority for the service/care/post as a whole (c) In the case of SSB/DGS, there is a common recruitment system made on All India basis and promotions are also done on the basis of All India Common seniority basis. Based on the above criteria/ tests all employees recruited on the All India basis and having a common seniority list of All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from N.E. Region or posted to NE Region from outside the N.E. Region.

vi) Based on points (iv) above, some of the units of SSB/DGS have authorized payment of SDA to the employees hailing from NE Region and posted within the N.E. Region while in the case of teachers, the DAs have objected payment of SDA to employees hailing from the NE Region and posted within the N.E. Region irrespective of the fact that their transfer liability is All India Transfer Liability or otherwise. In such cases what should be the norm for payment of SDA i.e. on fulfilling the criteria of All India Common seniority basis having been satisfied are all the employees eligible for the grant of SDA.

vii) Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20.9.94 i.e. the date of decision by the Hon'ble Supreme Court and/or whether the payment of SDA should be allowed to all employees including those hailing from N.E. Region

It has already been clarified by the MOF that a more clause in the appointment regarding All India Transfer liability does not make him eligible for grant of SDA.

The payment made to employees hailing from NE Region & posted in N.E. Region be recovered from

with effect from the date of their appointments if they have All India Transfer Liability and are promoted on the basis of All India Common seniority List.

the date of its payment. It may also be added that the payment made to the ineligible employees hailing from N.E. Region and posted in NE Region be recovered from the date of payment or after 20th September, 1994 whichever is later.

3. This issues with the concurrence/ of the Finance Division, Cabinet Secretariat vide Dy. No.1349 dated 11.10.1999 and Ministry of Finance (Expenditure)'s I.D. No. 1204/E-II (B)/99 dated 30.3.2000.

S/-
 (P.N. THAKUR)
 DIRECTOR (SE)

1. Shri R.S.Bedi, Director, VED.
2. Shri R.L. Kureel, Director, SSR.
3. Shri Brig. (Retd.) C.S. Menon, IG, SFF.
4. Shri S.B.Mehra, JD (SAC),
5. Shri Ashok Chaturvedi, UP (S-15),
6. Shri B.S.Gill, Director of accounts, EACS
7. Smt. J.H. Menon, Director-Finance (3), Cab. Sectt.
8. Smt. K.B. Gajpal, CICA, GPO.

Cab. Sectt. UO No. 26/12/99-Estt-IV dated 2.5.2000

50

MOVEMENT ORDER

1. Shri Md. HAZIMUDDIN AHMED, civilian Tool Maker (in lieu of cobt) of I Advance Base Wksp EME c/o 99 A.P.O. will proceed on permanent posting to CAO R&R II, Min of Def New Delhi on 5-9-76 (AN) and SOS wef 6-9-76.
 2. Authority:- Army HQ letter No. 68181/Aug/76/org 4 (GIV) (V) dated 26 AUG 76.
 3. His journey period will be counted as joining time.
- Certified that the previous service rendered by him is one of the consideration justifying his appointment to the new post.

Sd/x

(M. U JOSRPH)
 Major
 OIC Administration
 for Commandant.

UNIT SEAL

No. 20911

I Advance Base Wksp EME
 c/o 99 APO
 5 Sep 76

Distribution

1. CAO R&R II Min of Def New Delhi-II Certificate as Apps 'A' Ser No I & 2 are attached
2. Individual concerned
3. Army Hq AG&s Branch
DHQ P O NEW DELHI
4. HQ EASTERN COMMAND
Fort William CALCUTTA-21.
5. OIG EME RECORDS, SECUNDRABAD-21-
Internal.
6. Document Section Please forward his service documents to the unit duly completed.
7. Finance Section Pay and allic upto 5th Sep 76 may please be claimed and LPC be forwarded to his unit at the earliest.
8. QM SECTION

PERSONNEL INFORMATION

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COPY

1 ADV BASE WKSP EME
C/O 99 APO
25 Sept 76

20911

Directorate of Organisation Org 4(Civ)(b)
Adjutant General's Branch
Army Headquarters
DHQ PO NEW DELHI - 110011

ADJUSTMENT OF SURPLUSES & DEFICIENCIES : CIVS

1. Refer to your Headquarters letter No 68181/Aug/76/Org 4(Civ)(B) dated 14 Sep 76.
2. It is intimated that Shri Md. HAZIMUDDIN AHMED, Civilian Tool Maker (in lieu of Combt) has since been posted to CAO/R&R-II, Min of Def, NEW DELHI vide our movement order No 20911 dated 04 Sep 76.

Sd/- X X X X X X

(MU JOSEPH)
Major
OIC Administration
For Commandant

Copy to:-

CAO/R&R-II
Min of Def
New Delhi - 11
COD Delhi Cantt

For information.

*raj

62

APPOINTMENT ORDER

Sr. Md. NAZIMUDDIN AHMAD, O. S. Md. NAZIMUDDIN AHMAD resident of 7-2, Road GAUHATI-5

is appointed in a temporary vacancy of a Tool Maker with effect from 09 Feb 72 (inclusive).

Your services are likely to be terminated without any previous notice, without compensation in lieu of notice or an advance notice report or on the posting of combatant by the military authority or on any other grounds of discipline and security measures.

You will be governed by AI 17/49 with amendments thereto from time to time or by Army Orders, Instructions, Directives, letters from superior authorities for pay & Allowances and for leaves by such orders as issued to the military units.

You will observe

- (a) The code of conduct prescribed by the state including Central Govt & Army headquarters or by Officer acting on their behalf.
- (b) You will not discuss any military or Government matters

- (c) You will not be a member of any political party, anti Government activity and subversive element.
- (d) You will obey all Govt, Municipal, panchayat Orders and instructions.
- (e) You will give one month clear notice in the event of your discontinuance.

All decisions given in respect of any matter connected with OFFICIAL BUSINESS by the Commanding Officer of the unit will be final, and binding.

No. 202
1 ADV Base, JKSP, GME
C/O 99 EPO
09 Feb 72


(OFFICER-IN-CHARGE)
Major
OFFICER-IN-CHARGE, Administration
Gauhati

Md. Nazimuddin Ahmad
signature of the individual

(11)

69

DATE : 15 SEP 31
OFFICE : SHILLONG - 795007
DATED : 15 SEP 31

Order No. Part II Issued Serial No. 15 dated 17 Aug 31
17 of 1983-84 Seriality with date

TRANSFERS

1. No. NTA 1001
SAIL SERIAL 11981
- Employed as Mail in the pay scale of Rs. 196-3-220-2B-3-232/- on wof 01 Sep 31(40) and 108 wof the same date.
2. No. NTA 1002
SAIL SERIAL 11982
(Auth : S/O 10's Br No. 31131/Jun/5/ 04/ Org 4(017)(b) dt 27 Jul 31).
- Transferred on permanent posting to 400 NTA 3n(MF) C/O 99 APO under surplus/deficiencies scheme from Assm Regimental Centre, Shillong-7 wof 15 Aug 31(40) and 108 wof 17 Aug 31.
3. No. NTA 1003
SAIL SERIAL 11983
(Auth : to Serial 2 above)
- Transferred on permanent posting to 507 NTA, Mchinara(2B) under surplus/deficiencies scheme from Assm Regtl Centre, Shillong-7 wof 15 Aug 31(40) and 108 wof 17 Aug 31.
4. No. NTA 1004
SAIL SERIAL 11984
(Auth : to Serial 2 above)
- Transferred on permanent posting to 400 NTA 3n(MF) C/O 99 APO under surplus/deficiencies scheme from Assm Regimental Centre, Shillong-7 wof 15 Aug 31(40) and 108 wof 17 Aug 31.
5. No. NTA 1005
SAIL SERIAL 11985
(Auth : S/O 10's Br No. 31131/Jun/1/31/Org 4(017)(b) dt 23 Jun 31).
- Transferred on permanent posting to 400 NTA 3n(MF) C/O 99 APO under surplus/deficiencies scheme from Assm Regimental Centre, Shillong-7 wof 26 Jun 31(40) and 108 wof 27 Jun 31.
6. No. NTA 1006
SAIL SERIAL 11986
(Auth : to Serial 5 above)
- Transferred on permanent posting to 400 NTA 3n(MF) C/O 99 APO under surplus/deficiencies scheme from Assm Regimental Centre, Shillong-7 wof 26 Jun 31(40) and 108 wof 27 Jun 31.
7. No. NTA 1007
SAIL SERIAL 11987
(Auth : to Serial 5 above) (108)
- Transferred on permanent posting to 400 NTA 3n(MF) C/O 99 APO under surplus/deficiencies scheme from Assm Regimental Centre, Shillong wof 30 Jun 31 and 108 wof 1 Jul 31.

ANNUAL INCREMENT

Grant of Increment of PAY

1. No. 633 Book
PAYMENT VOUCHER
- Granted Annual Increment of pay @ Rs. 4.00 on wof 01.9.31. Pay after increment will be Rs. 258/- pm.

(P B Egan)
Capt
Offg Quartermaster
for Commandant

initialed & checked by _____

Authorisation

SERVICE CARD - CIVILIAN PERSONNEL

(To be maintained in all Record Offices)

64

*Army/Personal No.....
 Name *Sri. Sunil Das Gupta*
 Category.....
 Nationality.....
 Religion.....
 Scheduled Caste/Tribe.....
 Educational qualifications (including Army Courses).....
Passed the H.S.C. Examination in 1976
 Technical qualifications.....
Typing, L.A.F.Y.
 Departmental/Hindi examinations passed.....
 Appointments/promotions with dates.....

Character verified on.....
 Father's name..... *Sunil Das Gupta*
 Date of birth..... *3-3-1960*
 Terms of engagement.....
 Identification marks..... *A. black mole 7.5 cm below 7. cervical at 5 o'clock position*
 Permanent Home Address:—
 (a) Village/Town..... *Happy Valley*
 (b) Post Office..... *Happy Valley*
 (c) Teshil..... *Shillong*
 (d) District..... *Khasi Hills*
 (e) State..... *Meghalaya*
 Whether a displaced person?.....
 Next of Kin :—
 (a) Name..... *Sunil Das Gupta*
 (b) Relationship..... *Father*
 (c) Address..... *Happy Valley*

STATEMENT OF SERVICE

Promotions, appointments, reversions, casualties, postings and transfers showing dates of occurrence		Unit	No. and date of Part II order	Signature of officer certifying correctness of entries
Date	Nature of casualty			
1	2	3	4	5
16-8-77	View of conduct in clerks 16 Aug 79 (FN) to S The name is Transferred on Permanent Posting to 507 ABW, Kohimara (FN) was... ... 10-8-77 15-8-77	ARC ARC	No Pt II No 23/2/79 of 8 Sep 79 The Lt Col 16/2/91	<i>[Signature]</i> Major Road Clerk <i>[Signature]</i> 23-11-77

* Army numbers will be allotted to those civilians who have field service liability.
 † All changes in home address will be immediately carried out.
 ‡ If the reply is in the affirmative, state whether displaced from East or West Pakistan.

SCALES OF PAY AND INCREMENTS

5

वर्ग-पाय और वृद्धि-वृद्धि Scales of pay and increments	दिनांक तारीख से प्राप्त Date from which granted	प्राधिकार Authority	अफसर के हस्ताक्षर Signature of officer
1	2	3	4
<p>26-3-33</p> <p>Continued from previous division</p> <p>Refrained in the Post of Lower Division with effect from the date 26-3-33.</p>	<p>290.00</p> <p>Date 1-8-33</p> <p>Granted increment of Rs. 6.00</p> <p>He thus raised his pay to Rs. 296.00</p> <p>Report No. 65/CE/2/34</p>	<p>Signature of Officer</p>	
<p>(Ruth-EMF Recd G-III-1-35)</p> <p>done on 11/1/35</p>	<p>Signature of Officer</p> <p>Signature of Officer</p> <p>Signature of Officer</p>	<p>Signature of Officer</p>	
<p>Strength Records</p> <p>2-1-35 - OR - 1-35</p> <p>Refrained in the post of EMF to post of Station Wagon EMF 1-35 on compassionate grounds.</p>	<p>296.00</p> <p>Date 1-8-35</p> <p>Granted increment of Rs. 6.00</p> <p>He thus raised his pay to Rs. 302.00</p> <p>Report No. 75/CE/1/35</p> <p>Sanction accorded for grant increment across the vide P.W.R. Ltr No. 3519/D/O Aug 1935</p>	<p>Signature of Officer</p>	
<p>(Ruth-EMF Recd G-III-1-35)</p> <p>done on 11/1/35</p>	<p>Signature of Officer</p> <p>Signature of Officer</p>	<p>Signature of Officer</p>	

Reference: T810305

PRIORITY
Headquarters
1 EME Centre
Secunderabad - 500007

20/10/00

Oct 2000

307 Station Camp EME
C/ 99100

EMPLOYEES : CIVILIAN OFFICERS

1. Refer to EME Records Secunderabad letter No 1637/51/CA 3 dated 20 Sep 2000.

2. To 11690305L UDC Shri S Das Gupta of your Camp has been ordered for posting on permanent duty to this Centre vide EME Records, letter under reference. Services of the individual are urgently required. Hence, probable date of reporting of the individual to this Centre may please be indicated immediately.

Arora
(S. Jankshottam)
EME Officer (Civ)
Joint Adm Officer
for Commandant

/SR/

c.c.

30) Sta Insp EME ✓

①

Telephone : 7892131

90 99 APO

Vaidyut Aur Yantrik Engineer
Abhilekh Karyalaya
EME Records
Secunderabad - 500 021

1593/ 304 / CA 3

27 Mar 99

Unit concerned

SENIORITY ROLL OF CIVILIAN NON-INDUSTRIAL PERSONNEL
CENTRALLY CONTROLLED

1. Seniority roll in respect of Upper Division Clerks showing the position as on 01 Mar 99 is forwarded herewith.
2. Pay particulars shown are based on the information furnished by the units concerned. The requisite information wherever not received has been left blank. Anomalies, if any, may be rectified direct in consultation with the audit authorities.
3. Seniority:- The seniority of the individuals has been assigned as per the revised principles of seniority embodied in AI 241/50, CPRD 73/73 as amended by CPRD 11/75 and in terms of Govt of India, Min of Pers, Public Grievances & Pension (Deptt. of Pers & Trg) OM No 20011/1/96-Estt.(D) dated 30 Jan 97 wherever applicable.
4. Signature:- The seniority roll will be shown to all concerned and their signature obtained. The individuals concerned will be apprised of their position in the seniority roll. In the case of individuals who are on leave/away from units, the particulars shown in the seniority roll will be verified with their service documents.
5. Certificate:- Certificate to the effect that the seniority roll has been shown to all concerned/verified with the service documents for correctness will be forwarded to reach this office by 30 Apr 99 alongwith details of any errors/omissions/observations. In case of observations on service particulars/qualifications, their service documents/original educational/technical qualification certificates (with certified true copies thereof) will be attached. In case, no observation is received from units concerned by 30 Apr 99, the seniority rolls will be treated as correct.
6. Community status:- Please also ensure that special care to check the community (i.e., SC/ST) of the individuals shown against their names is taken and the mistake/omission if any, is intimated to this office while forwarding the certificate called for vide para 5 above.
7. Qualifications:- Only the following educational/technical qualifications which are completed in full have been incorporated in the seniority rolls:-
 - (a) Matriculation or equivalent
 - (b) Degree/Diploma in Engineering
 - (c) Army Education/Technical qualification
 - (d) Qualification acquired in Hindi

contd....2

8. Criteria for promotion:- A minimum period of three years in the lower grade is required for promotion to the above category.

(K Srihari)

Lt
Asst Record Officer
for Officer in Charge Records

Copy to:-

Directorate General of EME (EME Civ)
Master General of the Ordnance Branch
Army Head-Quarters
DHO No. Delhi - 110 011

HQ Tech Group EME
Delhi Cantt - 110 010

HQ Base Wksp Group EME
Delhi Cantt

MG EME, HQ Southern Command, Pune
MG EME, HQ Eastern Command, Calcutta
MG EME, HQ Western Command, Chandimandi
MG EME, HQ Central Command, Lucknow
MG EME, HQ Northern Command, C/O 56 APO

General Secretaries:-

All India EME Civ Pers Association
4-8-8, Gowliguda, Hyderabad - 500 012

All India Association of EME Supvrs Tech
20-A, Ayodhya Kunj, Agra - 202 001

All India Defence Employees Federation
70, Market Road, Kirkee, Pune - 411 003

All India Defence Civ Clerks Assn
332, RK Puram New Delhi - 110 022

All India Civ Storekeeping Pers Assn (EME)
7-400 B, Rajnagar, Palam Colony, New Delhi-110045

Indian National Defence Workers Federation
25/19, Karahchikhana, Kanpur

All India Defence Employees LHS & Supvrs Tech Assn
R-556, Mangolpuri, Delhi - 110 033

Together with
a copy of the
seniority roll.

Sent 3869
406

TOP SECRET DIVISION CLERKS (cont'd)

1 2 3 4 5 6 7 8 9 10

Serial	Name	Grade	Start Date	End Date	Remarks	Salary
303	1760532M Sgt A ALKIN S CIVIL SEC (MC R)	01-1-60	2-2-81	2-2-81		\$ 1275/- 1-2-68 \$ 4300/-
302	1325535V P/ADT R THIM SIVA HS	01-5-57	2-2-79	03-1-81		\$ 1325/- 1-1-57 \$ 4100/-
305	130040M VIAV KORNAN MA (507 MB)	21-3-53	15-1-81	15-1-83		\$ 1275/- 1-1-57 \$ 3950/-
307	130037L VIAV KORNAN MA (500 MB)	21-3-52	28-5-81	28-5-83		\$ 1300/- 1-5-58 \$ 4280/-
307	130035V VIAV KORNAN MA (507 MB)	15-1-53	15-1-81	15-1-83		\$ 1325/- 1-1-57 \$ 4100/-
308	130031V VIAV KORNAN MA (507 MB)	21-1-53	01-7-81	01-7-83	S/Caste	
309	130027V VIAV KORNAN MA (507 MB)	22-1-55	01-7-81	01-7-83		
310	130017V VIAV KORNAN MA (507 MB)	20-12-54	13-5-79	01-8-81		\$ 1375/- 1-2-57 \$ 4200/-
311	130053L NABIN SINGH HS (MC R)	15-10-53	01-1-81	07-3-81		

48 cont'd... 48
Sgt A ALKIN S CIVIL SEC (MC R) 07-7-81
Sgt A ALKIN S CIVIL SEC (MC R) 07-7-81

21

Telephone : 7382321

Valdyut Aur Yantrik Engineer
Amilekh Karyalaya
EME Records
Secunderabad - 500 021

1637/5 /CA 3

28 Sep 2000

307 Stn Wksp EME
C/O. 99 APO

POSTING : CIVILIAN CLERKS

1. Refer to your letter No 20903/Civ dated 06 Jul 2000.
2. The following posting is ordered on permanent duty and move will be carried out within 7 days from the date of receipt of this posting order:-

<u>Ser No</u>	<u>Details</u>	<u>From</u>	<u>To</u>
(a)	14690585L UDC Shri S Das Gupta	307 Stn Wksp EME C/O 99 APO	HQ 1 EME Centre Secunderabad

3. The occurrence will be published in Unit Part II Order. Copy of movement order will be endorsed to this office.
4. The above named individual will travel at state expenses and he will have to make his own arrangement for accommodation at the new station.
5. In case, the above named individual is involved in disciplinary case, his move will not be carried out before finalisation of the case, unless specific sanction of OIC EME Records is obtained.


(Xavier PA)
Major
Senior Record Officer
for Officer In Charge Records

Copy to:-

Hq 1 EME Centre - for information
Secunderabad

-23-
B S NATH

3 कार्यवाही के अन्तर्गत या अन्य तसदीक करने वाले अधिकारी के हस्ताक्षर और पदनाम Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 निर्वाह की समाप्ति की तारीख Date of termination of appointment	11 समाप्ति का कारण (अंग्रेजी में) पदोन्नति, स्थानांतरण या बर्खास्तगी इत्यादि Reason of termination (such as promotion, transfer, or dismissal, etc.)	12 कार्यवाही के अन्तर्गत या अन्य तसदीक करने वाले अधिकारी के हस्ताक्षर Signature of the head of the office or other attesting officer	13 छुट्टी का प्रकार व अवधि Nature and duration of leave taken	14 कार्यालय के अध्यक्ष या अन्य अधिकारी के हस्ताक्षर Signature of the head of the office or other attesting officer	15 सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ) Reference to any recorded punishment or reward given to the Government servant
<p>कार्यवाही के अन्तर्गत या अन्य तसदीक करने वाले अधिकारी के हस्ताक्षर और पदनाम</p>	<p>05-11-90 to 17-11-90 vide doo Div 165/9/90.</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की ऐसी औसत वेतन की छुट्टी को अवधियों का बटवारा जिनका छुट्टी वेतन दूसरी सरकार को देबिट किया जाएगा। Allocation of periods of leave on average pay upto four months for which leave salary is debitab to another Government.</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>
<p>B.S. Nath</p>	<p>Adm Comd Kullu</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>
<p>B.S. Nath</p>	<p>Adm Comd Kullu</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>
<p>B.S. Nath</p>	<p>Adm Comd Kullu</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>
<p>B.S. Nath</p>	<p>Adm Comd Kullu</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>
<p>B.S. Nath</p>	<p>Adm Comd Kullu</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>
<p>B.S. Nath</p>	<p>Adm Comd Kullu</p>	<p>अनुपस्थिति</p>	<p>अनुपस्थिति</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>13 दिनों तक की छुट्टी का प्रकार व अवधि</p>	<p>सर्वकारी कर्मचारी को दिए गए किसी भी आदेशित दण्ड या पुरस्कार का हवाल (संदर्भ)</p>

कार्यवाही के अन्तर्गत या अन्य तसदीक करने वाले अधिकारी के हस्ताक्षर और पदनाम
 Signature and designation of the head of the office or other attesting officer

Service vacated on 05-11-90 to 17-11-90 vide doo Div 165/9/90.
 With pay bills and supporting documents.

Posted to 207 Stn Wksp EME, C/399 APO on compassionate grounds w.e.f. 07 May 93. (Auth: Army Ho Posting order 146228/Compl/1002/5/93/Osg-U (ur) (16) dt 24 Mar 93).
 D.O. 20/3/93.

Grant of 13 days E.L. w.e.f. 04-8-91 to 16-2-91 and 8 days commuted leave w.e.f. 17-2-91 to 2-7-91 MC debiting 16 days HPL vide doo Div 11/5/91.

Grant of 13 days E.L. w.e.f. 07-10-91 to 19-10-91. D.O. 11/5/91.

Grant of 13 days E.L. w.e.f. 07-10-91 to 19-10-91. D.O. 11/5/91.

Grant of 13 days E.L. w.e.f. 07-10-91 to 19-10-91. D.O. 11/5/91.

Grant of 13 days E.L. w.e.f. 07-10-91 to 19-10-91. D.O. 11/5/91.

1 पद का नाम और वर्तमान Name of post and scale of pay	2 मूल पद है या स्थानापन्न और स्थायी है या अस्थायी* Whether substan- tive or officiating, and whether permanent or temporary*	3 यदि स्थानापन्न है तो निम्न कि (1) मूल पद नियमित या (2) नया सेवा अनुच्छेद 371 के अंतर्गत नि० के अनुसार पेंशन के लिये गिनी जायेगी ? If officiating, state— (1) substantive appointment, or (2) whether service counts for pension under Art. 371, C. S. R.	4 मूल पर भेद Pay in substan- tive post	5 स्थानापन्न होने का अतिरिक्त वेतन Additional pay for officiating		6 "वेतन" शब्द के अंतर्गत अन्य परिशुल्क Other emolu- ments falling under the term "Pay"		7 नियुक्ति की तारीख Date of appointment
			₹ Rs. प० P.	₹ Rs. प० P.	₹ Rs. प० P.			
Lab 196-3-220 EB-3-232								
Product G 349 Do. mail unit and S.S. way 15/3/80 (C.A.) C.A. H. R. No. 3/05/10/0881 (C.A.) dated 30/1/80 Do. 07/05/08/60								17/1/76 /m C.A. r.OC
Product G 349 Do. mail unit and S.S. way 15/3/80 (C.A.) C.A. H. R. No. 3/05/10/0881 (C.A.) dated 30/1/80 Do. 07/05/08/60								17/1/76 /m C.A. r.OC
Product G 349 Do. mail unit and S.S. way 15/3/80 (C.A.) C.A. H. R. No. 3/05/10/0881 (C.A.) dated 30/1/80 Do. 07/05/08/60								17/1/76 /m C.A. r.OC

*अस्थायी सेवा के लिये अनुच्छेद 370 के अंतर्गत आवश्यक प्रमाणपत्र अभिलिखित करने चाहिये।
*For temporary services, necessary certificate with reference to Article 370, C. S. R. should be recorded.

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