

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 139/2000

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 139/2000 OF 199

Applicant(s) Sureshpal Singh Yadav.

Respondent(s) CIO? and ors.

Advocate for Applicant(s) Mr. B.K. Sharma Mr P.K. Tiwari
Mr S. Sarma.








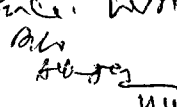
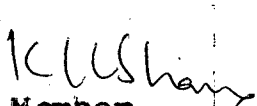
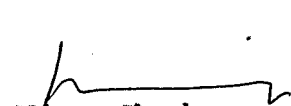
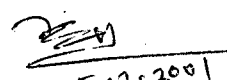
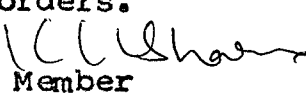
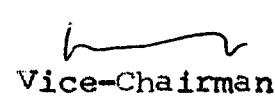
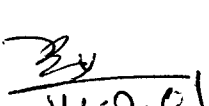
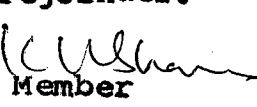

Advocate for Respondent(s) C.G. Se

Notes of the Registry	Date	Order of the Tribunal
<p>18.4.00</p> <p>Present: Hon'ble Mr G.L. Sanglyine, Administrative Member.</p> <p>Heard Mr P.K. Tiwari, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. The application is admitted. Issue notice on the respondents by registered post. List for written statement and further orders on 26.5.00.</p> <p>24-4-2000</p> <p>Notice prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D.</p> <p>Vide D.Nos. 1222 to 1226 dtd. 26.4.00</p>	<p>18.4.00</p> <p>nkm</p>	<p>Present: Hon'ble Mr G.L. Sanglyine, Administrative Member.</p> <p>Heard Mr P.K. Tiwari, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. The application is admitted. Issue notice on the respondents by registered post. List for written statement and further orders on 26.5.00.</p> <p>Member</p> <p>26.5.00</p> <p>Mem is no sum body.</p> <p>21.6.00.</p> <p>No la</p>

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② O.A 139/2000

Notes of the Registry	Date	Order of the Tribunal
<u>13-7-2000</u> No. written statements has been filed, <u>By</u>	21-6-00 14.7.00	There is no Bench today. Adjourned till 14.7-00 18/0 Present : The Hon'ble Mr S. Biswas, Administrative Member. At the request of Mr B.C.Pathak, learned Addl.C.G.S.C the case is adjourned and posted on 16.8.2000 for filing written statement. S. Q Member (A)
No. written statement has been filed. <u>By</u> 26.9.2000	pg 16.8-00 27.9.00	There is no Bench. Adjourned till 27.9.00. 18/0 Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman. Heard Mr. S. Sarma for the applicant and also Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents. Mr. Pathak prays for two weeks time to file written statement. Prayer allowed. List on 30.10.2000. Vice-Chairman
<u>27-10-2000</u> No. written statement has been filed by the respondents <u>By</u> <u>24-11-2000</u> No. written statement has been filed by the respondents. Order dtd. 18/6/01 Committes- sent to the parties Counsel. vide DINo. <u> </u> dtd <u> </u> <u>By</u> 21/6/01.	trd 30.10.00 mk	No written statement has so far been filed though adjournment was granted earlier. However, the respondents are given four weeks time to enable them to file written statement. List on 27.11.00 for written statement and further orders. Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
	27.11.00	List on 19.12.00 for hearing along with other connected cases. In the meantime the respondents may file written statement.  Vice-Chairman
pg Ayer 27.11.00	19.12.00	On the prayer of counsel for the parties case is adjourned to 4.1.01 for hearing. Member  Member  Vice-Chairman
No. u/s has been filed.  3.1.2001.	19.12.00	List on 4.1.01 to enable the applicant to file additional documents.  Member  Vice-Chairman
1-1-2000 An additional statements of facts has been filed by the applicant Advocate.  No. u/s has been filed.	lm 4-1-	There was a reference. List on 6.2.2001.  u/s.
	6.2.01	List on 20.2.01 to enable the respondents to file the written statements.  Member  Vice-Chairman
No. u/s has been filed.  5.2.2001	lm 20.2.01	Written statement has already been filed by the respondents. The applicant is granted three weeks time to file rejoinder if any. List on 15.3.01 for orders.  Member  Vice-Chairman
No. written statement has been filed.	lm	
① No. Rejoinder has been filed. ② Written statement filed by the respondents.  14.3.01	15.3.01	Written statement has been filed. List for hearing on 10.5.01. In the meantime the applicant may file rejoinder.  Member  Vice-Chairman

(4)

Notes of the Registry	Date	Order of the Tribunal
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23-2-2001.

W/s has been
filed on behalf of
Respondent Nos 1 to 5.

23/2

Written statement
has been filed.

23
15.6.01

10.5.
11.5.

Holiday,
There was a reference.
List again on 11.6.2001.
M/s
A. K. S.

Partly heard.

List on 13.6.2001 for hearing

B/S

23/2

List on 18.6.2001 for hearing

B/S

23/2

18.6.01

It appears that the copy of the
additional document filed by the applicant
was not served on Mr. B.C. Pathak, learned
addl. C.G.S.C. for the respondents. Copy
of additional document shall be served
during the course of the day.

List on 2-7-2001 for hearing.

K. U. Sharma

Member

[Signature]

Vice-Chairman

pg

23
19/6/01

Order dtd. 18/6/01 Communi-
cated to the parties Counsel.
vide DINo 2234 dated 25/6/01.
2.7.
21/6/01

Written statement
has been filed.

23
29.6.01

27-7

There is no B/S day the case is adjourned
to 27.7.2001.

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27

Heard both the parties (Mr. S. Sarma, learned
Counsel for the applicant & Mr. A. Pathak,
S.O.C.G.S.C. for the respondent), Hearing
concluded. Judgment reserved.
M/s A. K. S.

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Notes of the Registry	Date	Order of the Tribunal
<p><u>14.8.2001</u></p> <p>Copy of the Judgt has been sent to the Office for issuing the same to the Applicant as well as to Add. C.S.C. for the Recd.</p> <p>HS</p>	<p>06.08.01</p> <p>mb</p>	<p>Judgement pronounced in open court, kept in separate sheets. The application is disposed of in terms of the orders. No order as to costs.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <p><i>IC Ushakov</i></p> <p>Member</p> </div> <div style="text-align: center;"> <p><i>[Signature]</i></p> <p>Vice-Chairman</p> </div> </div>

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Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 139 of 2000.

6-8-2001.
Date of Decision.....1...

Shri Sureshpal Singh Yadav

Petitioner(S)

Sri S. Sarma.

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

Sri B.C.Pathak, Addl.C.G.S.C.

Advocate for the
Respondent(s)

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble : Admn. Member.

U.U. Sharma

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 139 of 2000.

Date of Order : This the 6th Day of August, 2001.

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

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Sureshpal Singh Yadav,
Inspector,
Central Bureau of Investigation,
Office of the Superintendent of Police,
Central Bureau of Investigation,
R.G.Baruah Road,
Sundarpur, Guwahati-781005. . . . Applicant

By Advocate Sri S.Sarma.

- Versus -


1. Union of India,
through the Secretary to the Govt. of India,
Ministry of Personnel & Training,
New Delhi.
2. Director,
Central Bureau of Investigation,
C.G.O.Complex, Lodhi Road,
New Delhi.
3. Deputy Inspector General,
Central Bureau of Investigation,
Chenikuthi, Nabagraha Hillside,
Guwahati-3.
4. Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
R.G.Baruah Road,
Sundarpur, Guwahati.
5. Administrative Officer (E)
Central Bureau of Investigation,
Government of India, Administrative Division,
Block No.3, C.G.O.Complex,
Lodhi Road, New Delhi-3. . . . Respondents.

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

O R D E R

K.K.SHARMA, ADMN.MEMBER.

In this application under Section 19 of the Administrative Tribunals Act 1985 the applicant has claimed relief in respect of Special Duty Allowance (SDA) and Emergency Passage Concession.



2. The applicant is at present holding the post of Inspector with Central Bureau of Investigation at Guwahati. He was appointed to this post on deputation from Uttar Pradesh Traffic Police with effect from 29.4.93. The applicant is claiming the benefit of Special Duty Allowance (SDA) with effect from 29.4.93. Another relief claimed by the applicant is the Emergency Passage Concession.

3. We have heard Mr S.Sarma, learned counsel appearing on behalf of the applicant and Mr B.C.Pathak, learned Addl. C.G.S.C for the respondents. The respondents have also filed the written statement. By Office Memorandum No. 20014/3/83-E.IV dated 14.12.1983 the SDA was made payable to the Central Government employees working in the North Eastern Region. The conditions for admissibility of the SDA are :

- i) It is applicable to Central Government civilian employees;
- ii) It is applicable to those Central Government Civilian employees who have all India transfer liability; and
- iii) such employees have been posted to North Eastern Region.

Admittedly, the applicant is not a Central Government employee as he belongs to the U.P.Police. When he came on deputation to the CBI he was a State Government employee. The claim of the applicant according to Mr S.Sarma, learned counsel for the applicant is based on the ground that as per deputation terms a deputationist is entitled to all other allowances admissible to Central Government employees. The relevant portion of the terms is as under :

"All other allowances will be at Central Govt. rates but no Central Dearness Allowance or Central House Rent Allowance

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will be payable, However Special Local allowances, such as frontier allowance, remote Locality allowance winter allowance heating concession, special compensatory allowance etc. are sanctioned for the Central Government servants, they will be automatically made applicable to deputationist staff as well. None of the allowance other than dearness allowance and house rent allowance to which the staff would have been entitled under parent Government but for their deputation will be payable while on deputation while changes in the rates of pay dearness allowance and house rent allowance effected by the State Govts. will be automatically made applicable from the date on which they occur, changes in the rates of the other allowances effected by the State Governments or the grant of fresh allowances by the State Government will not effect the terms of deputation. Changes in the rates of allowances (other than dearness allowance and house rent allowance) effected by the Central Govt. will however, be automatically made applicable from the date on which they occur."

The claim of the applicant does not appear to be justified as it would be seen from the admissibility of SDA as discussed above that SDA is not admissible to all Central Government employees. It is admissible to those Central Government employees who are transferred to North Eastern Region. As all Central Government employees are not entitled to SDA, the applicant's claim that he is entitled to the SDA on the basis of terms of deputation is not accepted. The applicant was a State Government employee and not a Central Government employee when he was posted to Guwahati. The claim for entitlement on the basis of deputation terms in respect of other allowances is also not justified on the ground that the other allowances will be admissible as per the admissibility of those allowances. The SDA will be admissible to the applicant only on satisfying the conditions required for payment of SDA.

4. So far as the Emergency Passage Concession is concerned central Government employees it is admissible to those who are entitled for leave travel concession. It is admissible only twice in the entire service career. The respondents have stated that the applicant is

10/11/64

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not entitled to the Emergency Passage Concession as he is not a Central Government employee. The Leave Travel Concession is admissible to Central Government employees as per conditions laid down in the L.T.C Rules. As per Annexure-8 of the O.A. the entitlement to 'Emergency Passage Concession' and its admissibility are given under the heading 'Leave Travel Concession' as under :

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


By the letter dated 2.7.1999 (Annexure-9 to the O.A) the applicant was informed that he is not entitled to "Emergency Passage Concession". No reasons have been given in this letter excepting that he is not a Central Government employee. In the deputation terms annexed with the O.A. (Annexure-A to the additional statement of facts filed by the applicant) there is no mention of the Leave Travel Concession. It appears that as per terms of deputation the applicant is not entitled to L.T.C. The respondents in their written statement have denied the admissibility of Emergency Passage Concession to the applicant, but have not stated anything about admissibility of LTC. If the applicant is entitled to LTC, his claim for Emergency Passage Concession would also be admissible. On the material before us we are unable

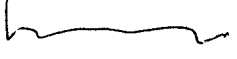
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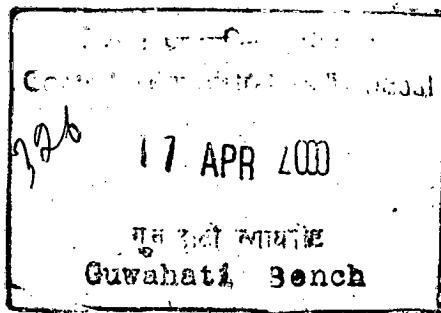
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to give a finding on this point. The respondents are directed to give a reasoned reply to the applicant, as to his claim for 'Emergency Passage Concession' within a month from the date of receipt of this order.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

TITLE OF THE CASE :

O.A.NO. 139 OF 2000

BETWEEN

Sureshpal Singh YadavApplicant

AND

Union of India & Ors.Respondents

I N D E X

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10.	Annexure - 8	- 29
11.	Annexure - 9	- 31

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Filed by :

Contd....p/-

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Filed by
Siddhanta Sonar
Advocate
17.4.2000.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

D.A.No. _____ of 2000.

BETWEEN

Shri Sureshpal Singh Yadav,
Inspector,
Central Bureau of Investigation,
Office of the Superintendent of Police,
Central Bureau of Investigation,
R.G.Baruah Road,
Sundarpur, Guwahati - 781005.

..... Applicant.

VERSUS

1. Union of India,
through the Secretary to the Govt of India,
Ministry of Personnel & Training,
New Delhi.
2. Director,
Central Bureau of Investigation,
C.B.O.Complex, Lodhi Road,
New Delhi.
3. Deputy Inspector General,
Central Bureau of Investigation,
Chenikuthi, Nabagraha Hillside,
Guwahati - 781003.
4. Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
R.G.Baruah Road,
Sundarpur, Guwahati.

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5. Administrative Officer (E),
Central Bureau of Investigation,
Government of India, Administrative Division,
Block No.3, C.G.O.Complex,
Lodhi Road, New Delhi - 110003.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDERS AGAINST WHICH THIS APPLICATION IS MADE :

This application has been made against the following orders :

a) Letter dated 25.05.99 issued by the Administrative Officer (E), Central Bureau of Investigation denying the applicant benefit of Special Duty Allowance ;

b) Letter dated 02.07.99 of the Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Guwahati denying the applicant benefit of Emergency Passage Concession.

2. LIMITATION :

The applicant declares that the instant application has been filed within the limitation

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period prescribed under Section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION :

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE :

4.1. That the petitioner is a citizen of India and he belongs to the State of Uttar Pradesh wherein he was appointed as Sub-Inspector, U.P. Traffic Police. While working as Sub-Inspector, in the U.P. Traffic Police the petitioner vide Office Order No.1621/93 dated 14.03.93 was appointed as Inspector of Police on Deputation in Delhi Special Police Establishment Division of the Central Investigation Bureau for a period of not exceeding three years. The appointment was made effective from 29.04.93.

A copy of the Office Order dated 14.03.93 is annexed hereto and marked as ANNEXURE --1.

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4.2 That in cosequence of his appointment as Inspector in the Central Bureau of Investigation, hereinafter for short 'the CBI', the applicant was posted to the Anti Corruption Branch in the Office of the Superintendent of Police, CBI, Shillong. The applicant accordingly joined in the said capacity at Shillong. Then in 1995 the office of the Superintendent of Police was shifted from Shillong to Guwahati and the applicant was also shifted to Guwahati.

4.3 That in view of excellent service given by the applicant as Inspector in the CBI, on completion of his deputation the department vide letter dated 16.10.97 intimated to the Deputy Inspector General (Personnel), U.P. that services of the applicant are required by the CBI and necessary sanction extending the period of applicant's deputation for three years more upto 23.09.99 may be granted. On the basis of the aforesaid letter the applicant's period of deputation in CBI was extended for three more years upto 03.09.99. However, even after expiry of the period the applicant is presently functioning in the Central Bureau of Investigation in the capacity of Inspector, CBI.

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4.4 That the Government of India vide office Memorandum dated 14.12.83 granted certain incentives to the Central Government civilian employees posted in the North Eastern Region. One of such incentive was payment of Special Duty Allowance (SDA) to those who have all-India transfer liability.

A copy of the Office Memorandum dated 14.12.83 is annexed hereto and marked as ANNEXURE -2.

4.5 That it was subsequently clarified by another office Memo dated 20.04.87 that for the purpose of sanctioning Special Duty Allowance to all-India transfer liability of the members in service/ cadres or incumbents of any post/group of post is to be determined by applying test of recruitment zone, promotion zone etc. i.e. recruitment to service/cadre/post has been made on all-India basis and where the promotion is also done on the basis of an all-India common seniority list for the service/ cadres/post as a whole. It was clarified that a mere clause in the appointment letter to the effect that the person concern is liable to

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be transferred any where in India, do not make him eligible for the grant of Special Duty Allowance (SDA).

A copy of the office Memo dated 20.04.87 is annexed hereto and marked as ANNEXURE - 3.

4.6 That the issue of Special Duty Allowance (SDA) also came up before the Hon'ble Supreme Court in the case of Union of India vs. S. Vijay Kumar. The Hon'ble Supreme Court in its judgment in the said case held that the Central Government Civilian Employees who have all-India transfer liability are entitled to the grant of SDA on being posted to any station in North East Region from outside the region and that the SDA would not be payable merely because of the clause in the appointment about order 'all-India transfer liability'. The Hon'ble Supreme Court further stated that granting of this allowance only to officers transferred from outside the region to the North Eastern Region would not be violative of the provision contained in Article 14 of the Constitution as well as 'equal pay' doctrine.

4.7 That the Government of India, Ministry of Finance, Department of Expenditure by

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its office Memorandum dated 12.01.96 by placing reliance on the judgment of the Supreme Court in the case of S.Vijay Kumar (Supra) issued necessary clarification.

A copy of the Office Memo dated 12.01.96 is annexed hereto and marked as ANNEXURE - 4.

4.8 That since the petitioner's home State was U.P. and while serving in the U.P. Traffic Police as Sub-Inspector, he was appointed in the CBI as Inspector on deputation and was posted to the North East Region, therefore, the petitioner is eligible to get the benefit of Special Duty Allowance. It is note worthy that since the applicant belongs to a central government organisation having all-India transfer liability. The applicant having found that he was not being given benefit of SDA submitted a representation dated 17.08.98 to the Superintendent of Police, CBI, Anti Corruption Branch, Guwahati wherein he requested that in view of his posting from outside the North Eastern Region, he may be given the benefit of SDA with effect from 24.09.93, the date on which he joined the CBI as Inspector on deputation from U.P. Police.

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A copy of the letter dated 17.08.98 is annexed hereto and marked as ANNEXURE - 5.

4.9 That when for quite some time the applicant did not receive any reply to his representation dated 17.08.98, he submitted another representation dated 02.11.98 wherein he elaborately discussed the ambit and scope of the judgment of the Hon'ble Supreme Court in the case of S.Vijay Kumar (supra). The petitioner in his representation also gave example of number of employees who despite being permanent resident of North Eastern Region are being wrongly given benefit of Special Dearness Allowance (SDA) whereas the applicant despite being eligible to get the SDA was being deprived of the same. Since in the representation the petitioner named all those employees with their necessary particulars, therefore, their names are not being repeated here in the body of this application.

A copy of the representation dated 07.11.98 is annexed hereto and marked as ANNEXURE - 6.

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4.10 That the representation of the applicant was duly forwarded by the SP/CBI to the authorities in Delhi and the Administrative Officer (E), CBI, New Delhi in his letter dated 25.05.99 which was received on 26.05.99 intimated that in view of the Office Memo of the Government of India, Ministry of Finance dated 12.01.96 the applicant is not entitled to get the benefit of SDA. It is noteworthy that no specific reason was given as to why the benefit of SDA could not be given to the applicant. The Department only placed reliance upon office Memorandum dated 12.01.96 of the Government of India, Ministry of Finance that has already been dealt with in earlier part of the present application. It is difficult to understand as to how the principles laid down for grant of SDA in the Office Memo dated 12.01.96 could be interpreted denying to the applicant to the applicant.

A copy of the letter dated 25.05.99 is annexed hereto and marked as ANNEXURE - 7.

4.11 That subsequently the Government of India by another Office Memo dated 22.07.98 laid down that Central Government Civilian Employees

Contd....p/-

having all-India transfer liability and posted in specified territories in the North Eastern Region shall be granted SDA @ 12.5% of their basic pay as prescribed in the Office Memorandum dated 01.12.88, but without any ceiling on its quantum meaning thereby that the ceiling of Rs. 1,000/- per month currently in force shall no longer be applicable and the condition that the aggregate of the SDA plus pay/deputation (duty allowance), if any, will not exceed Rs.1,000/- p.m. shall also be dispensed with.

However, in regard to this applicant the benefit of SDA has been consistently denied to him and apart from mechanically referring to the O.M. dated 12.01.96, the CBI authorities have not given any specific reasons as to why the benefit of SDA shall not be granted to the applicant.

4.12 That apart from SDA the applicant has also been denied the benefit of emergency passage concession which was introduced by the Government of India vide Office Memo dated 22.07.98. While introducing the concept of emergency passage concession the Govt of India in the aforesaid Memo stated that the Central Government

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Employees and their families posted in the North Eastern Region shall be entitled to avail of Leave Travel concession in emergencies on two additional occasions during their entire service career and this shall be termed as "Emergency Passage Concession" to enable the Central Government employees and/or their families (spouse and two dependant children) to travel either to the home town or the station of posting in an emergency.

A copy of the office Memo dated 22.07.98 given in Swami's Manual is annexed hereto and marked as ANNEXURE - 8.

4.13 That the applicant by preferring an application requested the competent authority to given him benefit of emergency passage concession. However, vide letter dated 02.07.99 the S.P/ CBI, Anti Corruption Branch intimated the applicant that he is not entitled to get this facility.

A copy of the letter dated 02.07.99 is annexed hereto and marked as ANNEXURE - 9.

4.14 That in the facts and circumstances of the present case the respondents have

Contd....p/-

now.

acted illegally in total non-application of mind by denying the applicant the benefit of SDA and emergency passage concession. It is stated that if the principles laid down by the Government of India in granting benefits of SDA and emergency passage concession are correctly applied then this applicant is eligible to get these benefits. In the present case the respondents have failed to understand the true ambit and scope of the office Memo of the Government of India giving benefits of SDA and Emergency Passage Concession to the Central Government employees.

4.15 The applicant having failed to get redressal of his grievances has come before this Hon'ble Tribunal being left with no alternative efficacious remedy. It is stated that the applicant by submitting representations sought to avail the alternative remedy but the respondents dismissed those representations and refused to give the applicant the benefit of SDA and Emergency Passage Concession. Hence, this applicant has filed the present application bonafide for securing the ends of justice.

Contd.....p/-

5. GROUND FOR RELIEF WITH LEGAL PROVISION :

5.1 Because the ambit and scope of Office Memo dated 14.12.83, 20.04.87 and 01.12.88 squarely covers the present applicant in regard to giving him the benefit of SDA. Even the office Memo dated 12.01.96 does not exclude the case of the employees like that of this applicant. Hence, the letter of the CBI authority dated 25.05.99 denying the applicant is not sustainable in law.

5.2 Because the letter dated 25.05.99 denying the applicant the benefit of SDA is not in conformity with the principles of granting SDA as underlined in Office Memo dated 12.01.96. The respondent CBI acted in total non-application of mind by mechanically placing reliance on the said office memorandum. It is submitted that if the office memorandum dated 12.01.96 is properly construed and understood in its true perspective then the applicant is to be held entitled to get the benefit of SDA.

5.3 Because the applicant having all-India transfer liability and belonging to the State of Uttar Pradesh is entitled to get the benefit of SDA on his posting in North Eastern Region on

Contd....p/-

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deputation in the CBI.

5.4 Because the CBI authorities after extending benefits of SDA to some of these employees mention of whose names was made in the representation dated 02.11.98 cannot deny the applicant the benefit of SDA. Action of the CBI authorities in denying the SDA to the applicant is contrary to the principles of equality enshrined by Article 14 of the Constitution of India, inasmuch as, the benefit of these facilities is being given to many other similarly situated employees and in some cases these benefits is being given to those who are not entitled to get as stated in the representation dated 02.11.98.

5.5 That denial of the benefit of grant of emergency passage concession to the applicant is contrary to the guidelines laid down in Office Memo dated 22.07.98. The applicant having been posted in North Eastern Region from the State of U.P. is entitled to get the benefit of emergency passage concession.

Contd....p/-

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following reliefs to the applicant -

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8.1 Direct the respondents to sanction
SDA to the Applicant with retrospective effect from
24.09.93 onwards ;

8.2 Direct the respondents to give the
applicant benefit of Emergency Passage Concession
as underlined in the Office Memo dated 22.07.98 ;
and

8.3 Pass any other order or orders as
may be deemed necessary in the facts and circum-
stances of the case.

9. INTERIM ORDER PRAYED FOR :

10. PARTICULARS OF THE I.P.O.

1.	I.P.O. No.	: OG 494207
2.	Date	: 4-4-2000
3.	Payable at	:

11. LIST OF ENCLOSURES :

As stated in the Index.

Contd....p/-

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ANU

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

I, Shri Suresh Pal Singh Yadav, aged about 47 years, son of late Netra Pal Singh Yadav, working as Inspector, Central Bureau of Investigation, Anti Corruption Branch, R.G. Baruah Road, Guwahati and residing at Dorothei Appurtment, 4th By-lane, A.B.C., Tarun Nagar, Guwahati - 781005, do hereby solemnly affirm and verify that the statements made in 1, 2, 3, 4.1, 4.2, 4.3, 4.6, 4.8, 4.9, 4.14, 4.15, 6 and 7 are true to my knowledge and those made in paragraphs 4.4, 4.5, 4.7, 4.10, 4.11, 4.12 and 4.13 are also true to my legal advice and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the verification on this 14th day of February, 2000 at Guwahati.

Signature.

Suresh Pal Singh Yadav.

No. A. 35018/12/92-AL.I(Pt.V)
Central Bureau of Investigation
Govt. of India
Kendriya Karyalaya Parisar
Block No.3, 4th Floor
Lodhi Road, New Delhi-110003

OFFICE ORDER NO. 1621/93 DATED : 14-10-93

The Dy. Inspector General of Police, Central Bureau of Investigation, SPE hereby appoints Shri Suresh Pal Singh Yadav, Sub-Inspector of U.P. Traffic Police, as Inspector of Police on deputation in Delhi Special Police Establishment Division of CBI for a period not exceeding 3 years in the first instance with effect from the forenoon of 24.9.93 until further orders.

2. On appointment as Inspector of Police, he is posted to CBI/Shillong.

(N.V. RAMDAS)
for ASSTT. DIRECTOR (E)/C.B.I.,
NEW DELHI.

Copy to :-

1. SP/CBI/Shillong w.r.t. his No.3/36/7072 dated 30.9.93. He is requested to send the service particulars of Shri Suresh Pal Singh.
2. DIG, CBI, Shillong.
3. Director (Traffic), U.P. Police, Lucknow w.r.t. his order No. DT-104-92 dated 9/9/1993.
4. Shri Suresh Pal Singh Yadav, Inspector (through) SP/CBI/Shillong.
5. AO, P&AO, CBI, New Delhi.
6. PAs to DD(A)/AD(E)/AO(A)/CBI/New Delhi.
7. SP(Trg.)/DPC Cell, Gazette Asstt. 'P' Div., CBI.
8. Office Order File (AD.I Section).

20014/2/83-2.IV
 Government of India
 Ministry of Finance
 Department of Expenditure

New Delhi, the 14th December, 1983.

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 officer, 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 2/3 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 abroad and special mention in Confidential Records.

Satisfactory performance of duties for the

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prescribed tenure in the North East shall be given due consideration 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 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/-

Pay above Rs. 260/-

Rs. 40/- p.m.

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

Tripura

The rates of the allowance will be as follows:-

....3/-

-21- (5)
-3-

(a) Difficult Areas

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

(b) Other Areas

up to Rs. 260/-

Rs. 40/- p.m.

pay above Rs. 260/-

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

There will be no change in the existing rates of Special Compensatory Allowance admissible in Arunachal Pradesh, Nagaland and Mizoram and the existing rate of Disturbance Allowance admissible in specified areas 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.R. 116, if 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. In 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.

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(vii) Road mileage for transportation of personal effects on transfer:

In relaxation of orders below S.R. 116, for transportation of personal effects on transfer between two different stations in the North-Eastern region, the rate of allowance admissible for transportation in 1st class cities subject to the actual expenditure incurred by the Government servant will be admissible.

(viii) Joining 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 outside that region will be treated as joining time. The same concession will be admissible 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 his/her 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./140 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/Hostel Subsidy :

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

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children studying at the last station of posting of the employee concerned or any other station where the child 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.


(S.C. MAHALIK)

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.P.S.C. etc.

.....

J.K.

38 No 11014 / 1/84 - E11 (B)

Govt of India.

(Ministry of Finance)

(Department of Expenditure.)

New Delhi 8.03.80

Office Memo number

2 Original order. 2015/1986 on the subject
"Improvement in allowances and facilities for civilian
employees of the Central Govt serving in the States and
Union Territories of M.E.R."

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 Allowance 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 the North East Region without 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 or 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 service/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 for the service/cadre/posts as a whole. 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 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 Advisors 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(EG)
Telo:3011819

To
Financial Advisors of all Ministries/Departments.

-24- Annexure: 4

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

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

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

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(B) dt. 1.12.88 on the subject mentioned above.

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

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the 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. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministers/Secretaries 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.

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

- i) the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
- ii) the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the 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.

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 issued in consultation with the Comptroller and Auditor General of India.

10. Hindi version of this OM is enclosed.

(C. Balachandran)

Under Secy to the Govt of India

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

Copy (with spare copies) to C&AG, UPSC etc. as per standard endorsement list.

To

The Supdt. of Police,
CBI/ACB/Guwahati.

Subject :- Prayer for Sanction of Special Duty Allowance
with retrospective effect from 24.9.93.

Sir,

In connection with the subject matter referred above, it is humbly submitted that I joined the Shillong Branch of CBI as Inspector of Police on deputation from Uttar Pradesh Police on 24.9.93.

The Govt. of India, vide the Ministry of Finance O.M.No.20014/3/83-E.IV dtd. 14.12.83 granted certain incentives to the Central Govt. Employees posted in the North East Region.

Further, vide Ministry of Finance O.M. No: 11(3)/95-E.ii(B) Dtd. 12 Jan'1996, Special Duty allowance for Civilian Employees of the Central Govt. serving in the North East are granted ~~Special Duty Allowance~~ in the light of the Hon'ble Supreme Court Judgement delivered on 20.9.94 arising out of Civil Appeal No. 3251 of 1993.

In the said judgement it was held that the officers transferred from outside region to the North East Region are eligible for Special Duty Allowance. As I am posted from Uttar Pradesh Region to North East Region therefore, I am entitled for the Special Duty Allowance in the light of the said judgement. However, unfortunately the said benefit is not being given to me.

It is requested, therefore, that the Special Duty Allowance may please be sanctioned with retrospective effect i.e. from 24.9.93.

ENCLOSURE!

O.M No 11 (3)/95-E.ii(B)
dtd 12 JAN 1996.

Yours faithfully,

(Suresh Pal Singh)

Insp. CBI : ACB : Guwahati.

To

The Supdt of Police,
CBI/ACB/Guwahati.

Sub :- PRAYER FOR GRANT OF SPECIAL DUTY ALLOWANCE
ADMISSABLE TO GOVT OF INDIA OFFICIALS POSTED
IN N.E. REGION FROM REST OF THE COUNTRY.

Ref :- MY PETITION DTD. 17.8.98 IN THIS REGARD.

Sir,

Kindly ref as above on the subject matter. I am yet to be communicated the outcome of the said prayer. In this con. I am further ~~xxx~~ enclosing herewith the decision of the HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NO. 3251 OF 1993, whereby the criterion for grant of S.D.A. and circumstances which prompted Govt. of India to announce said allowance to the Govt Official on deputation to N.E. Region from rest of the country were clearly and unambiguously specified.

The perusal of the said judgement reveal that allowance in question was meant to attract persons outside the N.E. Region to work in that region because of inaccessibility and difficult terrain and the need for the allowance was felt for 'Attracting and Retaining' the services of the competent officers for service in the N.E. region. The inclusion of term 'Retention' in the said memorandum has been necessitated because it was found that incumbants going to the 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 incumbant.

The aforesaid facts clearly shows that the said allowance is admissible to those Govt officials who are posted to N.E. Region and not to those who are resident of N.E. Region. However, after queer & strange interpretation of the spirit of said office memorandum, I, who fulfill the criterion, being denied the benefit of said SDA and those who are residents of this region as per their Service records are being irregularly benefited with the SDA which could be gaged from the following examples :-

...contd...

Dt. 2/11/98

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EXAMPLE-A :- I am posted as Inspector, CBI/ACB/Shillong in Sept'1993 on deputation from U.P. Police and thus fulfill the criterion for the admissability of S.D.A. however, I am being denied the said benefits.

EXAMPLE- B :-

1. SRI D.K. DUTTA, ACCOUNTANT, CBI/GHY.
2. SRI R.P. BOSE, INSPR. CBI/GHY.
3. SRI ADANI MAO -DO- SHILLONG.
4. SRI MANOJ DEB, CA TO DIG CBI/RO/GHY.

— G (from NE)
— from Assam P.
— from H. (G)
— M. (G)

amongst some others, are permanent resident of N.E. Region ~~for sometimes and again~~ albeit they were posted outside N.E. Region for sometimes and again transferred to N.E. Region but without change of their permanent residential status. The said officials though posted in the region for last several years are irregularly being given spl.D.A. despite the fact that they are permanent resident of N.E. Region and as such they should not be paid said allowance in the light of the spirit of Supreme Court Judgement.

5. SRI A.B. GUPTA, INSPR. CBI./GHY :-

Now Inspr/CBI/ACB/Calcutta is a permanent resident of Assam. Sri Gupta was a deputationist from Assam Police to CBI. During deputation he was posted at CBI/Patna Br. and again posted at CBI/Gauhati unit during deputation period. He later on sought for absorption in CBI which was granted in the year 1985. However, he was being given SDA during his stay at CBI/GHY though he was not transferred to outside region and again posted in NE Region as a so called full fledged CBI absorbee to claim for SDA even in view of the distorted interpretation heldout to deny this petitioner the benefit of SDA.

excl. a
deputation
now absorbed.

6. SRI N.R. DEY, ISNPR. CBI/GHY :- Sri Dey is deputationist from S.S.B. He is a resident of N.E Region and was all along posted in NE in S.S.B. from where he is posted on deputation to CBI/GHY. Thus in the light of Supreme Court's judgement though he is not entitled for the benefit of SDA, he is being paid SDA, while this petitioner is being denied the said benefit.

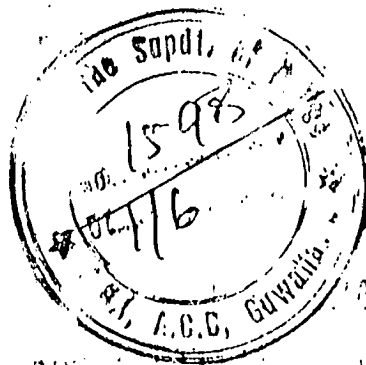
In view of the facts stated afore, it is not understood how I am being denied the benefit of SDA, resulting into recurring financial loss to me since Sept'93.

It is requested therefore, that I may kindly be granted said allowance and pass n/os for the disbursement of arrears with interest since SEPT'1993.

Yours faithfully,

(S.P. Singh Yadav)
Inspector: CBI: ACB: Guwahati.

BNS



No. DPWSU199900379/5/6/97-TWSU
Central Bureau of Investigation
Government of India
(Administration Division)
Block No.3, CGO Complex,
Lodhi Road, New Delhi-110003.

Dated: 25-5-99

26 MAY 1999

To: The Superintendent of Police
Central Bureau of Investigation,
ACB/GUWAHATI.

Subject: Representation of Shri S.P.S. Yadav, Inspector
for payment of Special Duty Allowance - reg.

Sir, Please refer to your letter No.E/49/IV/02040
dated 10.5.1999 regarding the subject cited above.

In this context, a copy of Ministry of Finance,
Department of Expenditure OM No.11(3)/95-E.II(B) dated
12th January, 1996 is sent herewith which is
self-explanatory. The matter has been examined in CBI
Head Office and it has been found that Shri S.P.S. Yadav,
Inspector does not fulfill the conditions for grant of
Special Duty Allowance. As such, he is not entitled for

Special Duty Allowance for his posting in Guwahati Branch

Yours faithfully,

(DR. TARSEM CHAND)
ADMINISTRATIVE OFFICER(E)/CBI

Encl.: As above.

Advocate

Government has decided that henceforth the industrial employees in Central Government Departments other than Railways shall be entitled to earned leave (termed as annual leave with wages) at the rate of 30 days for each completed year of service irrespective of the number of years of service rendered by them, subject to the condition that during availment of such leave the intervening holidays shall also count towards such leave.

2. The other terms and conditions applicable to industrial employees (other than Railways) shall remain the same.

3. These orders will also apply in the case of employees working in the Ministry of Defence (Industrial Workers).

4. These orders shall take effect from the date of issue.

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G.I., M.F., O.M. No. 11(2)/97-E.II (B), dated 22-7-1998

Allowances and facilities for employees serving in N-E. Region and A & N, Lakshadweep islands enlarged and extended to Sikkim, from 1-8-1997 — Quantum ceiling on Special (Duty) Allowance and aggregate of allowances removed — Emergency Passage Concession introduced.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV, dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. Pursuant to Paragraph 2 thereof, these orders other than those contained in the O.M. No. 11(2)/97-E.II (B), dated 22-7-1998, were also to apply *mutatis mutandis* to Government employees posted to the Andaman and Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. No. 20014/3/83-E.IV, dated March 30, 1984. The allowances and facilities were further liberalized in this Ministry's O.M. No. 20014/16/86/E.IV/E.II (B), dated December 1, 1988 (vide *Sl. No. 214 of Swamy's Annual*, 1988) and were also extended to the Central Government employees posted to the North-Eastern Council when stationed in the North-Eastern Region.

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

have been considered by the Government and the President is now pleased to decide as follows:

(i) **Tenure of Posting/Deputation**

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV, dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B), dated December 1, 1988 shall continue to be applicable.

(ii) **Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records.**—The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV, dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B), dated December 1, 1988 shall continue to be applicable.

(iii) **Special [Duty] Allowance**

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II (B), dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs. 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special [Duty] Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs. 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E. II(B), dated May 24, 1989, (vide *Sl. No. 360 of Swamy's Annual*, 1989) Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M., dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12 (1)/98-E. II (B), dated July 17, 1998 (vide *Sl. No. 203 of this issue*).

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11 (3)/95-E. II (3), dated January 12, 1996, (vide *St. No. 103 of Sagamy's Annual, 1996*) which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

(iv) Special Compensatory Allowances

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

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

(v) Travelling Allowance on First Appointment

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

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

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

(vii) Leave Travel Concession

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

(a) the Government servant can avail of the leave travel concession for himself in the home town or the place where the family is residing and for the family (restricted only to the spouse and two dependent children of age up to 18 years in respect of sons and up to 24 years in respect of daughters) also to travel once a year to visit the Government servant at the station of posting.

OR

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

These special provisions shall continue to be applicable.

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

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/86-E. IV/E. II (B), dated December 1, 1988, Officers drawing pay of Rs. 13,500 and above and their families, i.e. spouse and two dependent children (up to 18 years in respect of sons and up to 24 years in respect of daughters) will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Lilabari/Silchar in the North-

Annexure : 9

No.55/A/97/ 62857
Government of India
O/O the Supdt. of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
Sunderpur, Guwahati-5.

Dated Guwahati the 2/7 '99.

To

Shri S.P.Singh Yadav,
Inspector of Police,
CBI:ACB;Guwahati.

Sub:- Availing of Emergency Passage Concession-reg.

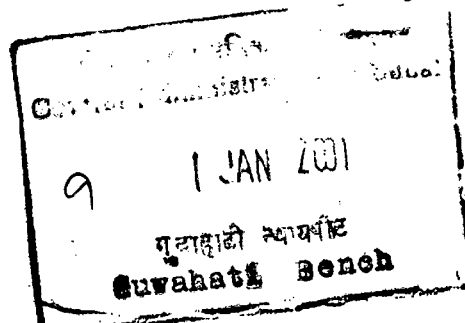
Refer your application dated nil on the above noted subject.

In this connection, it is to inform that as per G.O.I Order No.OM NO.20014/3/83-E.IV dated 14/12/1983, that the Central Government ~~fix~~ Employees posted in these territories shall be entitled to avail 'Emergency Passage Concession' on two additional occasions during their entire service career. Though you have come on deputation from U.P. state, the said facility can not be allowed.

(OM PRAKASH)
Superintendent of Police,
CBI:ACB:Guwahati.

§§§§

Attested
By
[Signature]



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Filed by
Liaqatunnisa Sarwar
Advocate
1-1-2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

O.A. No. 139 of 2000

Shri Suresh Pal Singh Yadav, ... Applicant

- Versus -

Union of India & Ors. ... Respondents

ADDITIONAL STATEMENTS OF FACTS BY THE APPLICANT

Humble Applicant abovenamed

MOST RESPECTFULLY SHEWETH :

1. That in O.A. No. 139/2000, due to sheer inadvertence, the Applicant could not bring to the notice of the Hon'ble Tribunal certain relevant facts that have great bearing in adjudicating the subject matter of the present O.A. During the pendency of the present O.A., Applicant came in the possession of certain documents copies of which he did not have at the time of filing of the present O.A. It is stated that except one document which is being annexed in the present application, all other documents annexed herein were not in the possession of the Applicant and he had no knowledge of the same. Since the documents annexed herein are important and have direct nexus with the subject matter of the present case, therefore, the Hon'ble Tribunal may be pleased to allow the Applicant to file the additional statements of facts in the interest of justice. It is stated that the Applicant exercised due diligence at the time of preparation of the original application, but since he had no knowledge of most of the documents annexed herein, therefore, he

was unable to make any statement in connection with the same.

2. That in the Central Bureau of Investigation, there is a prescribed format which is to be filled in by those Inspectors who come on deputation to the Central Bureau of Investigation. This prescribed format is titled "statement of terms applicable to Inspectors on deputation to the Central Bureau of Investigation." The aforesaid statement of terms is part of file No. A.21021/4/76-AD.I and is available in the CBI Manual. In the aforesaid statement of terms, details of allowances that are available to the Inspectors on deputation to the CBI, are given. In the aforesaid statement against the column "other allowances", it is stated that "all other allowances will be at Central Government rates but no central Dearness Allowance or Central House Rent Allowance will be payable, however, special Local Allowances such as Frontier Allowance, Remote Locality Allowance, Winter Allowance, Heating Concession, Special Compensatory Allowance etc. are sanctioned for the Central Government servants, they will be automatically made applicable to the deputationists staff as well." It is pertinent to mention that the aforesaid statement of terms is in existence much prior to the December 1993 office memorandum of the Government of India which brought in special benefit of Special Duty Allowance for those who are sent to North Eastern Region.

Copy of the statement of terms is annexed as ANNEXURE-A.

3. That the CBI Manual contains the letter of the Government of India, Ministry of Home Affairs No. 7/10/60-P.III dated 18.2.1961 in regard to rationalisation of pay scales and allowances for deputationists Police officers in the Intelligence Bureau/Special Police Establishment. In this letter, details of the benefit of various allowances made available to the deputationists Police Officer in CBI are given. In this letter, under the heading "other allowances" at column 7, it is stated that "all other allowances will be at Central Government rates, but no but no central Dearness Allowances or Central House Rent Allowance will be payable, however, special Local Allowances such as Frontier Allowance, Remote Locality Allowance, Winter Allowance, Heating Concession, Special Compensatory Allowance etc. are sanctioned for the Central Government servants, they will be automatically made applicable to the deputationists Assistant Central Intelligence officer/Inspector of Police(Special Police Establishment) etc. as well."

Copy of the aforesaid letter dated 18.2.1961 is annexed as ANNEXURE-B.

4. That there is an office memorandum of the Ministry of Finance, Government of India dated 4.5.1961 which deals with the subject of "transfer of Central Government employees to other Governments, Departments, Companies, Corporations etc. Deputation (Duty) Allowance". In this office memorandum, the term "deputation" has been defined to cover only

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appointments made by transfer on temporary basis. The aforesaid office memorandum deals with the various service benefits made available to the employees of Central Government. At para 5 of this office memorandum, it is stated that "these orders will, however, apply to the cases of appointment of employees of State Government to posts in the Central Government. The cases of employees of the Central Government appointed on transfer to posts under the State Governments should also be regulated in accordance with these principles."

Copy of the aforesaid office memorandum dated 4.5.1961 is annexed as ANNEXURE-C.

5. That when the Applicant was on deputation in CBI vide order No. PAC-1-207-97 dated Lucknow 26.3.1998 passed by the Deputy Inspector General of Police, the Applicant was given Proforma promotion as officiating Company Commander in the Provincial Armed Constabulary with effect from 19.9.97. The relevant portion of the order reads as follows :

"Under the provision of next below rule as laid down in the F.R. 22, Reserve Sub-Inspector Suresh Pal Singh of this organisation who is on deputation with CBI, Guwahati is hereby given Proforma promotion as officiating Coy. Comdr. w.e.f. 19.02.97 in the pay scale of Rs. 6500-200-10380 plus usual allowances as admissible to the Central Govt. employees from time to time. He will remain on deputation with CBI, Guwahati on promotion as officiating coy. comdr."

Copy of the aforesaid order of promotion is annexed as ANNEXURE-D.

6. That pursuant to the aforesaid order of promotion, the Superintendent of Police, CBI (ACB), Guwahati vide office order No. 193 dated 17.11.98 gave proforma promotion to the Applicant as officiating coy. comdr. with effect from 19.9.97 alongwith usual allowances as admissible to the Central Government employees from time to time.

Copy of the office order dated 17.11.98 is annexed as ANNEXURE-E.

7. That it is, therefore, seen that the Applicant while on deputation with the CBI in the North Eastern Region is entitled to all the allowances that are made applicable to the Central Government employees serving in this region. Moreover, the Applicant has come on deputation from the State of U.P. to serve with the North Eastern Region as Central Government employee. The Applicant was attracted to serve in the region as Central Government employee because of the special benefits that are made available to the Central Government employees serving in the North Eastern Region. Further the Applicant was retained in the North Eastern Region on completion of his period of deputation on the request of the CBI. Hence, the Applicant fulfills the very object and purpose behind the office memorandum of December 1983 that has made available to the Central Government employees who have come to the North Eastern Region from outside the

Region, the benefit of Special (Duty) Allowance. The Applicant, therefore, is entitled to get the Special (Duty) Allowance.

8. That the present additional statements of fact may be treated to be the part of the original application. The Applicant is filing the instant additional statement of facts bonafide for securing the ends of justice.

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

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 47 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1, 7 and 8 are true to my knowledge ; those made in paragraphs 2, 3, 4, 5 & 6 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 1st day of January 2001 at Guwahati.

Suresh Pal Singh Yadav
(1.1.2001)

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STATEMENT OF TERMS APPLICABLE TO INSPECTORS' DEPUTATION TO THE
CENTRAL BUREAU OF INVESTIGATION.

S/Shri.....
will be entitled to the following terms while on deputa-
tion to the Central Bureau of Investigation as
Inspector of Police.

<u>Period of deputation.</u>	Five years.
<u>Pay and Dearness Allowances.</u>	As admissible to the corresponding ranks in his/ their parent Department. No special pay that may be admissible to certain Branches of the State Police will be allowed.
<u>Deputation . Allowance.</u>	At the Rate of Rs.150.00 per month.
<u>Special Pay.</u>	SFE Special Pay @ Rs.75/- per month.
<u>Clothing Allowance.</u>	At the rate of Rs.100/- per annum (for period less than then a year, the allowances will be paid on a pro- rata basis for completed months of service only).
<u>House Rent Allowance.</u>	Will have the option either to get rent free unfur- nished accommodation as admissible to equivalent rank in CID/SB/IB staff of the State/Administration posted at the same place. Where such accommodation is is not available, to claim house rent Allowance in lieu thereof at the rate admissible to the CID/SB/ IB Staff of equivalent rank of the State/Administra- tion posted at the same place.
	OR
	To draw house rent allowance as admissible to Central Govt. employees in accordance with provision of the Ministry of Finance OM No.2(37)-E.II(B)/64 dated 27.12.65, as amended from time to time.
<u>Conveyance Allowance.</u>	Conveyance Allowance will be admissible in accordance with the rules of the Central Government.
<u>Other Allowance.</u>	All other allowances will be at Central Govt. rates but no Central Dearness Allowance or Central House Rent Allowance will be payable. However Special Local allowances, such as frontier allowance, remote locality allowance winter allowance heating concession, spe- cial compensatory allowance etc. are sanctioned for the Central Government servants, they will be automatically made applicable to deputationist staff as well. None of the allowance/other than dearness allowance and house rent allowance to which the staff would have been entitled under parent Government but for their deputation, will be payable while on deputa- tion while changes in the rates of pay dearness allowance and house rent allowance effected by the State Govts. will be automatically made applicable from the date on which they occur, changes in the

contd....2.

rates of the other allowances effected by the State Governments or the grant of fresh allowances by the State Gov. will not effect the terms of deputation. Changes in the rates of allowances (other than dearness allowance and house rent allowance) effected by the Central Govt. will however, be automatically made applicable from the date on which they occur.

LEAVE ADMISSIBILITY AND LEAVE SALARY.

In the matter of earning of leave and drawal of leave salary he/they will be governed by the rates of his/xxx their parent department.

"INCIDENCE OF PENSION AND LEAVE SALARY CONTRIBUTION".

Incidence of leave salary and pension should be regulated in accordance with the provisions of Appendix III to the accounts Code, Volume-I.

The Central Government would be liable to pay leave salary in respect of any disability leave that may be granted on account of disability incurred and through the service under Central Government even though such disability manifests itself after the termination of service under the Central Government if it is established beyond doubt that the disability has directly resulted from service under the Central Government. The leave salary charges for such leave will be recovered from the Central Government.

The Central Government would be liable for payment of injury or family pension claims in case such claims become admissible resulting from service under the Central Government in accordance with the State Civil Service Rules.

"INCIDENCE OF EXTRAORDINARY FAMILY PENSION & GRATUITY".

The Central Govt. would bear the expenses of the extraordinary gratuity and family pension to be paid by the State Government to the Government servant on deputation to the Special Police Establishment.

Medical Treatment:-

Shall be admissible as under the Central Civil Services (Medical Attendance) Rules, 1944.

(File No. A.21021/4/76-Ad.I).

(CHAPTER I, SECTION II, para 14.)

ANNEXURE- 3

No. 7/10/60-P.III
Government of India
Ministry of Home Affairs

FROM

Shri P.K.Dave,
Deputy Secretary to the Govt. of India.

To

- (1) The Director, Intelligence Bureau, New Delhi.
- (2) The Inspector General,
Special Police Establishment,
New Delhi.

Dated the 18th February, 1961.

Sub: Rationalisation of pay scales and Allowances for
deputationists Police Officers in the Intelligence
Bureau/Special Police Establishment.

Sir,

In supersession of all previous orders on the subject, I am directed to convey the sanction of the President to the grant of the following scales of pay and allowances to the Deputationist Police Officers in the Intelligence Bureau/Special Police Establishment, with effect from the 1st March, 1961, subject to the condition that staff already on deputation with these organisations on the date of issue of this letter, shall have the option to remain on the existing terms and conditions:-

1. Pay and Dearness Allowance.

The scales of pay and actual pay shall be those admissible in the parent state/Administration. For persons who come on promotion or are promoted while serving with the Government of India, the presumptive pay in the equivalent post, in the parent cadre, according to the parent State Administration rules will be admissible. In other case no special pay that may be admissible in certain branches of the State Police will be allowed in addition. Dearness allowance will be calculated at rates prescribed by the rules of the State/Administration corresponding to the basic pay as fixed above. The equivalent posts for the purpose of this paragraph in the State/Administration will be as follows:-

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<u>I.B.</u>	<u>S.P.E.</u>	<u>State/Admn.</u>
Assistant Central Intelligence Officer (Grade-I)	Inspector/Assistant Public Prosecutor (Grade-I)	Inspector.
Assistant Central Intelligence Officer (Grade-II)	Sub-Inspector Assistant Public Prosecutor (Grade-II)	Sub-Inspector.
Junior Intelligence Officer Assistant Sub-Inspector.	Assistant Sub-Inspector.	Assistant Sub-Inspector
Junior Intelligence Officer (Head Constable)	Head Constable	Head Constable
Constable	Constable	Constable

2. Deputation Allowance:

A consolidated deputation allowance will be paid at the following rates:-

Assistant Central Intelligence Officer (Grade-I) Inspector	Rs. 150/- p.m.
Assistant Central Intelligence Officer (Grade-II) / Sub-Inspector	Rs. 100/- p.m.
Junior Intelligence Officer Assistant Sub-Inspector / Assistant Sub-Inspector	Rs. 80 - p.m.
Junior Intelligence Officer (Head Constable) / Head Constable	Rs. 60 - p.m.
Constable	Rs. 50/- p.m.**

** N.B. Rates of Deputation Allowance admissible from 1.1.73 have been indicated above. A consolidated statement is enclosed vide Annexure NO.11 showing the rates of special pay/deputation allowance admissible to various categories of officers.

3) SPECIAL PAY:

In view of the onerous and difficult nature of duties a special pay, to be treated as duty allowance under Article 23-C, Civil service Regulations for purposes of pension under Article 486 CSR, will be paid as follows:-

Assistant Central Intelligence Officer (Grade-I)/Inspector	Rs. 75/- P. M.
Assistant Central Intelligence Officer (Grade-II)/Sub-Inspector	Rs. 50/- P. M.
Junior Intelligence Officer (Assistant Sub-Inspector)/ Assistant Sub-Inspector.	Rs. 30/- P.M.
Junior Intelligence Officer (Head Constable)/Head Constable	Rs. 20/- P.M.
Constable	Rs. 15/- P.M.

4) UNIFORM CLOTHING ALLOWANCE:

In view of the fact that Police Officers on deputation in the Intelligence Bureau/Special Police Establishment are required to maintain their uniform and may be called upon to wear it at short notice, a consolidated uniform allowance will be paid at the following rates, except for Head Constable and Constables in the Special Police Establishment, who will continue to get free uniform as at present:-

Assistant Central Intelligence Officer (Grade-I)/Inspector	Rs. 100/- per annum
Assistant Central Intelligence Officer (Grade-II) Sub-Inspector	Rs. 75, - -do-
Junior Intelligence Officer (Asstt. Sub-Inspector)/ Assistant Sub-Inspector)	Rs. 50, - -do-
Junior Intelligence Officer (Head Constable)/Head Constable	Rs. 40, - -do-
Constable	Rs. 30/- -do-

For period less than a year, the allowance will be paid on a pro-rata basis for completed months of service only.

5) HOUSE RENT ALLOWANCE:

Free unfurnished accommodation will be admissible to all deputationist staff of the above ranks at schemes prescribed for equivalent CID/SB/IB staff of the State/Administration, posted at the same place. Where such accommodation is not available, house-rent allowance will be paid at rates admissible to CID/SB/IB staff of equivalent ranks of the State/Admn, posted at the same place.

6) CONVEYANCE ALLOWANCE:

Conveyance allowance will be fixed in accordance with the rationalised scheme for this allowance which is at present under consideration of the Ministry of Finance. Till such time as this scheme is finalised and its provisions implemented for Intelligence Bureau/Special Police Establishment, the existing rates of the allowance will be continued, as fixed above.

7) OTHER ALLOWANCES.

All other allowances will be at Central Government rates but no Central Dearness Allowance or Central House Rent Allowance will be payable. Wherever special local allowances, such as frontier allowance, remote locality allowance, winter allowance, heating concession, special compensatory allowance, etc. are sanctioned for the Central Government Servants, they will be automatically made applicable to deputationist Asstt. Central Intelligence Officer/Inspector of Police (Special Police Establishment) etc. as well.

8) None of the allowance other than Dearness Allowance and house rent allowance to which the officers would have been entitled under their parent Government but for their deputation, will be payable while on deputation. While changes in the rates of pay, dearness allowance, effected by the State Government/Administration will be automatically made applicable from the date on which they occur, changes in the rates of other allowances effected by the State Governments/Administration of the grant of fresh allowances by the State Government/Administration will not effect the terms of deputation. Changes in the rates of allowances (other than dearness allowance and house rent allowances) effected by the Central Government, will be automatically made applicable from the date on which they occur.

Yours faithfully,

Sd/-

N.N. Tandon

Under Secy. to the Govt.
of India.

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ANNEXURE-8

Copy of OM NO. F.10/(24)-3.III/60, dated the 4th May, 1961 from the Ministry of Finance (Department of Expenditure) to all the Ministries/Department of Government of India, etc.

Sub: Transfer of Central Government Employees to other Governments, Departments, Companies, Corporations, etc. Deputation (Duty) Allowance.

The undersigned is directed to say that the President has been pleased to decide that the following orders shall govern the grant of deputation (duty) allowance to Central Government employees transferred on deputation to other Government departments or bodies (incorporated or not) who are substantially owned, transfer is outside the regular line and is in the public interest:-

✓ (i) The term 'deputation' will cover only appointments made by transfer on temporary basis. Appointment of serving Government servants made either by promotion or by direct recruitment in competition with open market candidates, whether on a permanent or temporary basis, will not be regarded as 'deputation'. Similarly permanent appointments made by transfer will not also be treated as deputation. The question whether the transfer is outside the regular line, will be one to be decided by the authority, which controls the service or post from which the Central Government's employees is transferred.

For the purpose of fixing the deputation (duty) allowance the transfer of Government employees on foreign service the bodies (incorporated or not) wholly or substantially owned or controlled by the Government shall also be treated as 'deputation'.

✓ (ii) The deputation (duty) allowance shall be at a uniform rate of 20 % of the employee's basic pay and be subject to a maximum Rs. 300/- per mensem, provided that the 'basic pay' plus the deputation (duty) allowance shall, at no time exceed Rs. 3,000/- per mensem.

'Basic pay' for the above purpose shall mean the pay drawn in the scale of pay of the substantive appointment held or the pay in the scale of pay of the officiating appointment in an employee's parent cadre, provided that the officiating appointment so held was not in a tenure post and it is certified by the appointing authority that but for the deputation the employees would have continued to hold the officiating appointment indefinitely.

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'Special Pay' drawn in a particular appointment shall be deemed as part of 'basic pay' only in the following circumstances.

- (a) The appointment to which the special pay is attached is not a tenure appointment; and
- (b) (i) the special pay has been shown in the Schedule to the Central Civil Services (Revised Pay) Rules, 1960: or (ii) the special pay has been specifically sanctioned for the post, in addition to a scale of pay, in lieu of a separate scale of pay for the post.

(iii) Any other special pay drawn by an employee in the parent department should not be allowed in addition to the Deputation(duty) allowance provided however, that Government may, by general or special order, suitably restrict the Deputation(duty) Allowance where, under special circumstances, the special pay drawn by an officer in a non-tenure post in his parent cadre is allowed to be drawn, in addition to basic pay, in his deputation post.

✓ (iv) Personal pay, if any, drawn by an employee in his parent department may be allowed in addition. This will not be absorbed in the depositions in (duty)allowance, but will be absorbed in other increases in pay e.g. increments or increase of pay by promotion or for any other reason.

✓ (v) An employee placed on deputation may elect to draw either the pay in the scale of pay of the new post as may be fixed under the normal rules or his basic pay in the parent department plus personal pay, if any, under para (iv) above plus deputation (duty)allowance. For determining the pay under the normal rules for this purpose in case of deputation to autonomous bodies, it may be assumed that the Government rules apply. The option once exercised shall be final except that on each occasion when such an employee receives proforma promotion in his parent department under the next below rule or is reverted to a lower grade in the parent department or is appointed to another grade in the new department, a fresh option shall be allowed to him.

(vi) The deputation(duty) allowance admissible under the previous clauses shall further be so restricted that the basic pay of the employee in his parent department from time to time plus the deputation(duty)allowance does not exceed the maximum of the scale of pay of the post held on deputation or, where the post on deputation has a fixed pay, that fixed pay. Where, subsequent to deputation this is not possible by virtue of the basic pay of an employees itself exceeding the maximum of the

scale of pay of the post or the fixed pay of the post, the deputation of the employee shall be restricted to a period of six months from the date on which his pay thus exceeds such maximum, and the employee should be reverted to his parent department. (It is obvious that under this clause no deputation(duty) allowance will be admissible to an employee from the date that his basic pay either equals or exceeds the maximum of the scale of the post which he holds on deputation.

No employee whose basic pay at the time of his proposed deputation exceeds the maximum of the scale of pay of the new post or the fixed pay of the new post shall be deputed to such a post.

✓ (vii) The employee on deputation may be given the benefit of the 'next below rule' subject (a) to the application of the conditions mentioned in sub-paragraph(vi) above in regard to the regulation of the deputation(duty) allowance, and (b) the reversion of the employee to the parent department where his basic pay as fixed under the 'next below rule' exceeds the maximum of the scale of pay of the new post.

(viii) Any project allowance admissible in a project area may be drawn in addition to the deputation(duty) allowance.

(ix) Where a special rate of deputation(duty) allowance is admissible under separate orders in any area on account of conditions of living there being particularly arduous or unattractive, such special rate being more favourable than that under (ii) above, employees deputed to the area will be given the benefit of the special rate.

2. The Administrative Ministries will be competent to sanction the deputation on the terms specified above in respect of their employees and those in office under them, sanction in respect of individual cases being issued by the Ministry transferring the employee of the Ministry borrowing the services of the employee as may be appropriate in the circumstances of each case. Any relaxation of these conditions and principles will require the prior concurrence of the Ministry of Finance. Any orders under para I(iii) above will also require the concurrence of the Ministry of Finance.

3. With a view to ensuring that no employee receives an abnormal pay increase because of his deputation the authorities ordering the deputationst will ensure that, where an employee is transferred on deputation, the minimum pay of the scale of pay of the post to which such deputation is made is not substantially in excess of his basic pay plus deputation(duty)allowance at 20%.

Contd...91

Where such minimum substantially exceeds the emoluments admissible under the alternative of drawing deputation (duty) allowance at 20%, the appointing authorities are expected to apply the provisions of Fundamental Rule 35 and specially restrict the pay of the deputationist to a suitable figure below the minimum pay of the post.

4. The orders contained in this memorandum shall not apply to appointments on deputation to posts in the Central Secretariat such as Under Secretary, Deputy Secretary, Joint Secretary, Additional Secretary or Secretary. For these appointments the existing separate orders, as modified from time to time, will continue to apply.

✓ 5. These orders will, however, apply to the cases of appointment of employees of State Governments to posts in the Central Government. The cases of employees of the Central Government appointed on transfer to posts under the State Governments should also be regulated in accordance with these principles. Where however special orders already exist in respect of appointments of a specified category of employees to a specified class of posts, those orders will continue to apply instead of the orders contained in this memorandum.

6.(a) These orders will apply to cases of deputation commencing hereafter.

(b) Employees already on deputation on the date of issue of these orders will be treated as follows:-

(i) They will all have the option to come over to the terms contained in this Memorandum with effect from the date of these orders, provided that the option must be exercised within three months of the date of this office memorandum and once exercised shall be final.

(ii) In respect of those who do not opt for the terms contained in this office Memorandum, these terms will nevertheless apply in the following circumstances:-

- A. On the expiry of their present term of deputation if the existing term is a specified one and is extended hereafter; provided that where the existing terms of deputation is for less than three years, the revised orders will apply on completion of a period of three years from the date of original deputation.
- B. On the expiry of a period of three years from the date of original deputation, where the deputation was for an unspecified period.

Contd...92

7. These orders will not apply to members of the All India Services and to appointments to posts whose terms are regulated under specific statutory rules or orders.

8. These orders will not also apply to cases of deputation to posts outside India.

9. These orders, in so far as they are applicable to employees of the Indian Audit and Accounts Department have been issued in consultation with the Comptroller and Auditor General of India who will exercise the power of an Administrative Ministry for the purpose of these orders, in respect of the employees of that department.

ANNEXURE-9

No. F.I/21/72-Finance
Government of India
Ministry of Home Affairs
Grih Mantralaya
.....

In continuation of this Ministry's endt.
NO. 1/6/72-Finance, dated 3.2.70. Copy of the
undermentioned paper is forwarded to the:-

XXX XXX

XXX

XXX

Sd/- R.S.Nagpal
Section Officer

MINISTRY OF HOME AFFAIRS

New Delhi, dated the 14th September, 1972

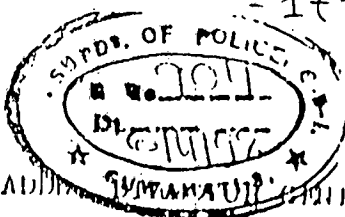
PAPER FORWARDED

Ministry of Finance OM NO. 10(24)-E.III(B)/60
dated 10.8.1972.

Sub: Transfer of Central Government employees to
other Governments, Departments, Companies,
Corporations, etc.- Deputation (duty) allowance.

Copy to all Sections in the Ministry of Home
Affairs /Department of Personnel as per standard list
for information.

Contd....93



Annexure: B

HEAD-QUARTERS OF ADDITIONAL INSPECTOR GENERAL OF POLICE, PAC UP
NO. PAC-1-207-97 DATED : LUCKNOW : 22.9.1998

ORDER

Under the provision of next below rule as laid down in the F.R.-22, Reserve Sub-Inspector SURESH PAL SINGH.. of this organisation who is on deputation with C.B.I. G. WAHAT. is hereby given proforma promotion as officiating Coy. Comdr. w.e.f. 19/09/97....in the pay scale of Rs. 6500-200-10000 plus usual allowances as admissible to the Central Govt. employees from time to time. He will remain on deputation with C.B.I. G. WAHAT.on promotion as officiating coy. comdr.

2. For next rank promotion, his seniority will be claimed w.e.f. 19/09/97.....but will draw pay & allowances from the date of actual promotion.

3. It is certified that :-

(1) RSI SURESH PAL SINGH was considered fit for promotion to the rank of officiating Coy. Comdr. w.e.f. 19/09/97.....

(ii) All officers senior to him (excluding those considered unfit) has been approved for promotion and have already been promoted. The Officer next junior to him has also been promoted and that his promotion is not forfeiture.

(iii) All condition of NBR including the principles of one to one have been satisfied in his case.

(iv) The Post held by the officer on promotion is out of the ordinary line of their promotion.

(Dr. KASIMIR SINGH)
DY. INSPECTOR GENERAL OF POLICE
PAC HQS, UTTAR PRADESH
LUCKNOW

Ccy For information and necessary action to :-

(1) Supdt. of Police, Central Bureau of Investigation, Govt. of India, Sundarpur Guwahati, Assam with reference to his letter No. 5711 dated 15/9/97.

(2) Admn. Officer(E) CBI, Govt. of India, Block No. 3, 4th. floor, CGO complex, Lodhi Road, New Delhi-110 003

(3) Comdts. 38 Bn. PAC Aligarh/35 Bn. PAC Lucknow

(4) DIG (Karmik) PHQ, Allahabad.

OFFICE ORDER NO. 193Dated: 17 Nov '98.

The extract of letter NO.PAC-1-207-97 dtd. 26. '98 of Dy.Inspector Genl.of Police,PAC Hqs,Uttar Pradesh Lucknow is reproduced below.

Under the provision of next below rule as laid down in the F.R.-22, Reserve Sub-Inspector Suresh Pal Singh Yadav of this organisation who is on deputation with CBI/ Guwahati is hereby given proforma promotion as officiating Coy. Comdr. w.e.f. 19/09/97 in the pay scale of Rs. 6500-200-10500 plus usual allowances as admissible to the Central Govt. employees from time to time. He will remain on deputation with CBI Guwahati on promotion as officiating Coy.Comdr.

2. For next rank promotion, his seniority will be claimed w.e.f. 19/09/97 but will draw pay & allowances from the date of actual promotion.

3. It is certified that :-

(i) RSI Suresh Pal Singh was considered fit for promotion to the rank of officiating Coy.Comdr. w.e.f. 19.09.97

(ii) All officers senior to him (excluding those considered unfit) has been approved for promotion and have already been promoted. The officer next junior to him has also been promoted and that his promotion is not forfeiture.

(iii) All condition of MMR including the principles of one to one have been satisfied in his case.

(iv) The post held by the officer on promotion is out of the ordinary line of their promotion.

(B.N.MISRA)

Superintendent of Police,
CBI(ACB)Guwahati.

Memo No.A/20/157/93/

Dated: 17 Nov '98.

Copy to :-

1. The Admn.Officer(E)CBI, Govt. of India, Block NO.3, 4th Floor, CGO Complex, Lodhi Road, New Delhi-110003.
2. The Dy.Inspr.Genl.of Police,PAC Hqs.Uttar Pradesh Lucknow.
3. The A/C Section in duplicate for n/a.
4. Person concerned.

Suptd.of Police,CBI,ACB,
Guwahati.

el/-

-000000-

15 FEB 2001

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

O.A.No.139 of 2000

Suresh Pal Singh Yadav

..... Applicant

Vs.

Union of India and 4 (four) others.

..... Respondents.

Written Statement on behalf of Respondents 1 to 5.

1. That the Copy of the O.A. No.139/2000(referred to as "application" has been served on respondents. The respondents have gone through the said application and understood the contents thereof. The interest and subject matter being common for all the respondents, a common written statement is being filed on behalf of all of them.
2. That the statements made in the application, save and except those which are specifically admitted , are hereby denied by the respondents.
3. That the statements made in para 1, 2 and 3 of the application need no comments .
4. That para 4.1 needs no reply and para 4.2 of the application needs no comment being matter of record.

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15 FEB 2001

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Dr. C. Pathak

Addl. Central Govt. Standing Counsel

Central Administrative Tribunal

Guwahati Bench : Guwahati

5. That with regards to the statement in para 4.3 of the application it is submitted that the applicant was appointed as Inspector in CBI on deputation initially for period of 3 years from Uttar Pradesh Traffic Police vide office order no.1621/93 dtd. 14/10/93 and was posted at CBI, Shillong Branch which was later shifted to Guwahati. He was posted in North East on his willingness. Though on completion of his initial deputation period in CBI the applicant vide his letter dated 23/12/96 intimated his willingness for extension of his deputation period for a further period of 3 years and also submitted his willingness for absorption in CBI which was turned down by CBI,HO. The applicant submitted an application dated 8/9/98 to CBI for repatriation to his parent department. Consequently the CBI HO vide FAX Msg. No. DPADII999/03447/A-20014/1609/93 dated 30/09/99 issued orders repatriating the applicants to his parent department. But the applicant whose conduct was unbecoming of a CBI Officer as endorsed by the then DIG,NER in the confidential reports, filed an application before the Hon'ble Tribunal in O.A. 338/99 dated 15/10/99 obtained stay orders against his repatriation order for continuing in CBI under the shelter of the said orders .
6. That the fact as mentioned in para 4.4 of the application with regards to issuance of office memorandum dated 14/12/83 by the Govt. of India, Ministry of Finance, Department of Expenditure regarding grant of Special Duty Allowance (hereinafter referred as S.D.A) to the Central Government Civilian Employees posted in North East Region is true but the said O.M. is applicable only to those Central Government Employees to have All India Transfer Liability.
7. That it is further submitted that Office Memo dated 20/04.87 as referred to para 4.5 of the application issued by the Govt. of India, Ministry of Finance reiterated the earlier O.M. and further clarified that the Central Government Civilian employees who has All India Transfer Liability posted in N.E. Region, A & N Islands and Lakswadeep will be granted Special Duty Allowance at the rate of 25% of the basic pay subject to a ceiling of Rs.400/- per month. The Ministry of Finance further cautioned in the said memo that instances have been brought to the notice of the Ministry where Special Duty Allowance have been allowed to Central Government employees serving in the N.E. Region without fulfilment of the condition of only a transfer liability. This is

against the spirit of orders on the subject. For the purpose of sanctioning SDA the All India Transfer Liability of the members of any service/cadre or incumbance of any post/group of post has to be determined by applying of tests of recruitment zone, Promotion Zone etc. i.e. whether recruitment to the service/cadre/post has been made in all India basis and whether promotion is also done on the basis of the all India zone of promotion based on common seniority for the service/cadre/post as a whole. Mere clause in appointment order (as is done in the case of almost all the post 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 grant of SDA. ✓

It is further humbly submitted that the office memorandum dated 14/12/83, 20/04/87 are clear on the subject. The applicant who was borne on U.P. Police Cadre has no All India Transfer Liability at all. His interpretation that his deputation to a Central Government department i.e. CBI and consequent posting in N.E. Region does not accrue any right whatsoever to claim all India Transfer Liability nor to claim special duty allowance. The applicant has been posted on deputation in the North East for the first time and is continuous serving in N.E. Region. Under these circumstances, the Hon'ble Apex Court's Judgement (as in S. Vijay Kumar) will also apply.

That with regards to the ruling of the Hon'ble Supreme Court in Union of India - Vs - S. Vijay Kumar as cited by the applicant at para no. 4.6 and 4.7 the Ministry of Finance has clearly dealt to the subject and issued D.O. No. 11/(28)/97-E.II(B) issued by Usha Mathur, Jt. Secy. dated 5/3/2000 wherein it was further emphasized that special duty allowance will be paid to the Government of India Civilian employees who are posted in N.E. Region having all India Transfer Liability only will be paid. The Hon'ble Supreme Court of India in the aforesaid Judgement decided on 20/09/94 discussed the O.M dtd. 14/12/83 and 20/04/87 clearly stated that SDA will be paid to those civilian employees who have all India transfer liability only who are posted to N.E. Region from outside. The Hon'ble Supreme Court, set aside the judgements of the tribunal and allowed the appeal filed by the Union of India and others.

A copy of the said judgement reported in Service Law Reporter, 1994(5) is annexed here as - R 1.

On the basis of aforesaid judgement of the Hon'ble Apex Court the Ministry of Finance issued OM dated 12/01/96, wherein the judgement of the Hon'ble Supreme Court was referred and issued guidelines regarding payment of SDA.

It is submitted that the contention of the application in para no. 4.8 that on his appointment as Inspector in CBI on deputation and posting to N.E. region from U.P. Police does not confer the status of all India Transfer Liability for the purpose of claiming SDA. The applicant is not a Central Government Employee uptill now.

8. That it is further submitted that it is true the applicant submitted a representation to the SP,CBI,ACB,Guwahati on 17/08/98 and 02/11/98 for payment of SDA and said representation was referred to the CBI for necessary clarification and the HO vide communication dated 25.05/99 to the SP,CBI,Guwahati intimated that Shri S.P. Singh Yadav does not fulfil the conditions for grant of SDA. The SP,CBI vide letter dated 2/7/99 intimated that applicant accordingly. The copies of aforesaid communication have been submitted by the applicant alongwith his application.
9. That with regard to the averments made in 4.8, 4.9, 4.10 and 4.11 in the application since the applicant does not come under all India Transfer Liability hence the payment of SDA does not arise.
10. That the respondents further submitted that claim of the benefit of emergency passage concession by the applicant is as stated in para 4.12 is ridiculous since the emergency passage concession was introduced by the Govt. of India for availing extra LTC by Central Govt. Employees and their families posted in N.E. region on two additional occasions during their entire service career and he intended the Central Govt. employees and/or their families (spouse and two dependent children) to travel either to the hometown or the station of posting in an emergency. This facility was intended to be availed by the Central Govt. employees and their families posted in N.E. Region, who retains their family at their last place of posting before coming on transfer to the N.E. Region. The applicant neither a Central Govt. employee posted on transfer to N.E. Region nor retain his family at last place of posting. Hence, his claim of emergency passage concession is baseless and without any merit.

11. That it is further submitted that as submitted by the applicant at para 4.13 the SP,CBI,ACB,Guwahati (Respondent No.4) intimated the applicant vide letter dated 2/7/99 that the applicant is not entitled to avail emergency passage concession by citing the GOI O.M. No.20014/3/83-E4 dated 14/12/83.

12. That the respondents state that the averments at petition at para no.14 and 15 have been replied suitably in foregoing paras, since the applicant filed the required documents i.e. Office Memorandum, his representation and the communications of the Department alongwith his application, the copies of said documents have not been enclosed herewith to avoid repetition. It is further submitted that the claim of SDA and emergency passage concession, the applicant is malicious and without any basis of entitlement, the application was filed with an intention to subvert the process of law though the Hon'ble Apex court of India clearly ruled that the employees who does not carry the all India Transfer Liability are not entitled to be paid SDA.

13. That with regard to the statements made in para 5.1 to 5.5 of the application, the respondents state that the grounds as shown are no grounds in the eye of law and as explained herein above. Hence the application is liable to be dismissed with cost as being devoid and any merit.

14. That the answering respondents have no comment to offer against the statements as in para 6 & 7 of the application.


15. That with regard to the relief sought for as in para 8.1 to 8.3 of the application, the respondents state that under the facts and circumstances of the case and the provisions of law, the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost.

In the premises aforesaid it is therefore prayed that Your Lordships would be pleased to hear the parties peruse the records and after hearing the parties and perusing the records shall further be pleased to dismiss the application with cost .

VERIFICATION

I, Shri Om Prakash, presently working as Supdt. of Police, CBI, ACB, Guwahati being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para are true to my knowledge and belief, these made in para being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hn'ble Tribunal.

And I sign this verification on this 7th day of April 2001 at Guwahati.


Deponent.
Supdt. of Police,
C.B.I. & A.C.B. : Guwahati

/nc.