

FORM NO. 4  
(See Rule 42 )IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::::::: GUWAHATI

## ORDER SHEET

Review Application No. .... 6 .... OF 2001.  
in O.A 282/2000

Applicant (s) Rabindranath Seal &amp; Sons

Respondent (s) Union of India &amp; Sons

Advocate for Applicants (s)

Advocate for Respondent (s) case.

Notes of the Registry	Date	Order of the Tribunal
This Review application has been filed by the Counsel for the petitioner praying for Review of the Judgement and order dated 22.12.2000 passed by the Hon'ble Tribunal in O.A. 282/2000.	16.7.01	Issue notice on the respondents returnable by three weeks. List on 30-7-2001.
Laid before the Hon'ble Tribunal for further orders.	30.7.01	ICC Usha Member
Section office No. 29/6/2001		Vice-Chairman
Notice prepared and sent to D/S for arr. the respondent No 1404 by Regd Adm. Wk D No 2459 W 62 on 12/7/01	pg NS 30/7/01	ICC Usha Member
		Vice-Chairman

23.8.01 Present Mr. Justice D.N. Chowdhury,  
Vice-Chairman.

This is a Review Application seeking for some correction of some clerical error in O.A. 282/2000. The said O.A. was disposed on 22.12.2000 alongwith other applications. The key note of the judgement was that the recovery was permissible prospectively, not retrospectively. Admittedly, in this case the respondents intended to make payment of SDA till 30.6.2000 and order for recovery was made on 1.7.2000. Therefore, the recovery of SDA already paid to the applicant did not arise. The judgement clearly spelt out that the amount of SDA had already been paid would not be recovered in terms of the decision. In the judgement and order dated 22.12.2000 of this tribunal an inadvertent error crept in as to the dates. The applicants were paid SDA till 31.1.1999 instead of 30.6.2000 as mentioned in the judgement and the direction to stop of payment was dated 12.1.1999 and not 1.7.2000. It was clerical mistake. The mistake of date did not affect the order. By the said judgement it was made clear that the recovery of SDA retrospective was unjustified and direction was issued to the office that the amount already recovered from retiral dues if any, the same were to be refunded.

The application being filed  
With the above observation the application stands allowed.

Vice-Chairman

mb

R.A. 6/2001

Notes of the Registry

Date

Order of the Tribunal

23.8.01

Present : Mr. Justice D.N.Chowdhury,  
Vice-Chairman.

This is a Review Application seeking for some correction of some clerical error in O.A. 282/2000. The said O.A. was disposed on 22.12.2000 alongwith other applications. The key note of the judgement was that the recovery was permissible ~~prospectively~~ not retrospectively. Admittedly, in this case the respondents made payment of SDA till 30.6.2000 and order for recovery was made on 1.7.2000. Therefore, the recovery of SDA already paid to the applicant did not arise. The judgement clearly spelt out that the amount of SDA had already been paid would not be recovered in terms of the decisions. In the judgement and order dated 22.12.2000 of this tribunal an inadvertent error crept in as to the dates. The applicants were shown to be paid SDA till 31.1.1999 instead of 30.6.2000 as mentioned in the judgement and the direction to stop of payment was recorded as dated 12.1.1999 and not 1.7.2000. It was clerical mistake. The mistake of date did not affect the order. By the said judgement it was made clear that the recovery of SDA retrospectively was unjustified and direction was issued to respondents that the amount already recovered from retiral dues if any the same were to be refunded.

23.8.2001

- Copy of the order has been sent to the Dsec. for issuing the same to the L/bds for the parties.

RS

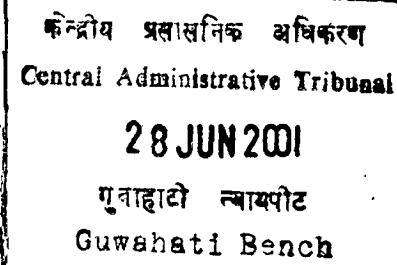
The application thus stands disposed.

Vice-Chairman

mb

WS  
24/8/01





Rabi Shankar Seal.

Filed by:-

Alka Verma;  
Advocate

28/6/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

REVIEW APPLICATION NO. 6 OF 2001.  
IN O.A. NO. 282 OF 2000.

IN THE MATTER OF:

An application under Section 22(f) of the Central Administrative Tribunal Act, 1985 praying for review of the Judgment and Order dated 22.12.2000 passed by the Hon'ble Tribunal in O.A. NO.282 of 2000.

-AND-

IN THE MATTER OF:

1. Sri Rabi Shankar Seal,  
Son of late Sananda Kumar Seal,  
Resident of Doomdooma,  
P.O. Doomdooma,  
District Tinsukia, Assam.

2. Sri Kumud Chandra Bora,  
son of Late Uttam Chandra Bora,  
resident of Doomdooma,  
P.O. Doomdooma,  
Dist. Tinsukia, Assam.

...Petitioners  
(Applicants).

contd...

*Rajeshwar Seal.*

2.

-Versus-

1. Union of India,  
represented by the Cabinet  
Secretary, Department of  
Cabinet Affairs, Bikaner  
House, Shahjahan Road, New Delhi.

2. The Director General of Security  
Block V(East) R.K. Puram,  
New Delhi- 110066.

3. The Director, Aviation Research Centre,  
Block V(East) R.K. Puram,  
New Delhi- 110066.

4. The Deputy Director (Admn), Aviation  
Research Centre, Doomdooma- 796151,  
District : Tinsukia(Assam).

...Opposite-party.

Respondent.

The humble petition of the petitioner  
above- named ;

MOST RESPECTFULLY SHEWETH:

1. That the petitioners have filed the O.A.  
No. 282/2000 before this Hon'ble Tribunal praying for  
certain directions to the respondents regarding payment

contd..

3.

*Rabichandran Seal.*

of Special Duty Allowance . The said petitioner was disposed of by this Hon'ble Tribunal by its Judgment and order dated 22.12.2000 contending that the S.D.A. paid to the petitioners upto 31.1.99 should not be recovered from them as the order for to stop the payment of SDA was passed on 12.1.99 which can have prospective effect only.

A copy of the Judgment and order dated 22.12.2000 is filed hereto and marked as Annexure- 'A'.

2. That being aggrieved by the Judgment and order dated 22.12.2000 by this Hon'ble Tribunal your humble petitioners have preferred the W.P(C) No.3616/2001, before the Hon'ble Gauhati High Court contending inter- alia that the respondents of their own went on paying the S.D.A. upto 30.6.2000 and the order with drawing the payment of S.D.A. have been passed on 1.7.2000, In the light of the Judgment and order dated 22.12.2000, the order of withdrawing the payment of S.D.A.passed on 1.7.2000 shall have prospective effect only.

3. That the Hon'ble High Court disposed of the said W.P(C) No.3616/2001 by order dated 25.5.2001 that

contd..

Abdullah Seal.

4.

the petitioners may file review petition before the learned Tribunal if so advised.

A copy of the order dated 25.5.2001 is filed hereto and marked as Annexure-'B'.

4. That in view of the order dated 25.5.2001, this review application has been filed praying for review of the Judgment and order dated 22.12.2000 on the following amongst other.

G R O U N D S

- i) For that, there has been an error apparent on the face of the record resulting miscarriage of justice and as such it is a fit case for reviewing the judgment by the Hon'ble Tribunal.
- ii) For that, the respondents have passed the order withdrawing the payment of S.D.A. on 1.7.2000

contd...

Rajeshankar Seal.

5.

which shall have a prospective effect. In that view of the matter it is a fit case for review as the Hon'ble Tribunal while passing the Judgment and order dated 22.12.2000 failed to appreciate that point.

In the premises aforesaid it is humbly prayed that your Lordships' may be pleased to admit this Review Application, call for the records and after hearing the parties review the impugned judgment and order dated 22.12.2000 passed in O.A. No.282/2000 and further direct the respondents to refund the amount of S.D.A. so recovered to the petitioners .

- AND-

Pending disposal of the Review application operation of the impugned judgment and order

contd...

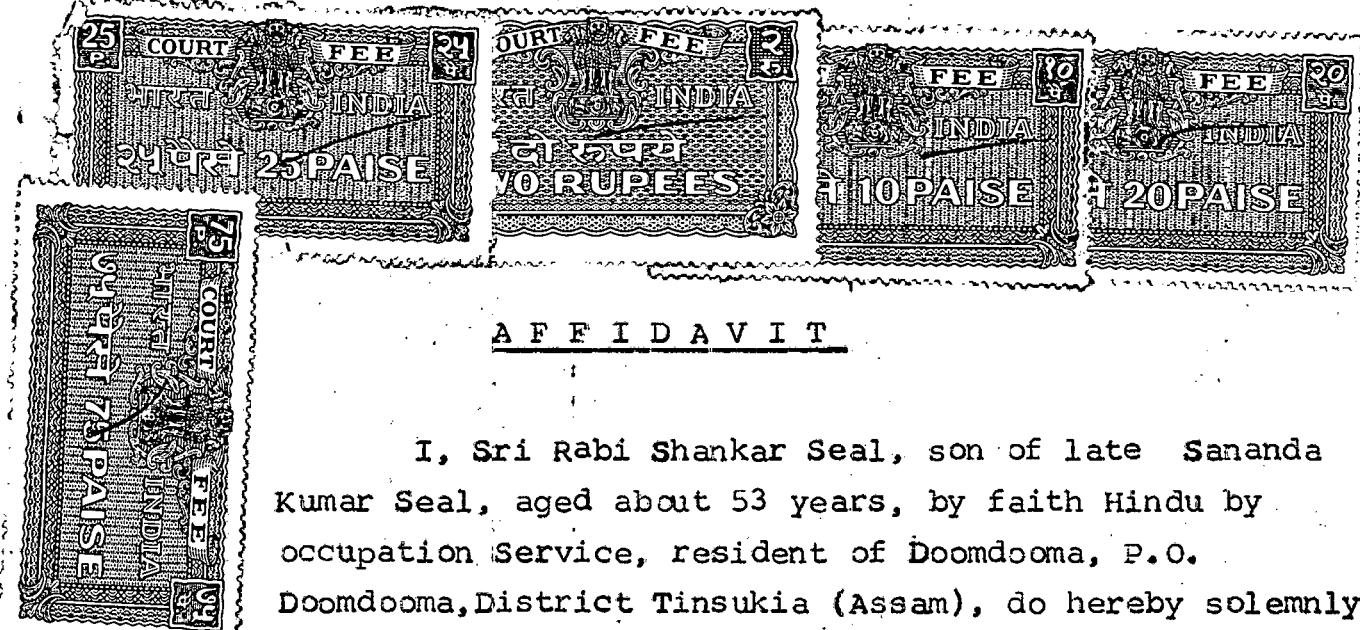
Rolishankar Seal.

6.

dated 22.12.2000 passed in O.A. No.  
282/2000 may be stayed.

And for this act of kindness, your petitioners as  
in duty bound shall ever pray.

contd...



A F F I D A V I T

I, Sri Rabi Shankar Seal, son of late Sananda Kumar Seal, aged about 53 years, by faith Hindu by occupation Service, resident of Doomdooma, P.O. Doomdooma, District Tinsukia (Assam), do hereby solemnly affirm and declare as follows :-

1. That I am one of the petitioner and as such well conversant with the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs. 2 & 4 of the petition are true to my knowledge and those made in paragraphs.. 1 & 3 are being matters of record true to my belief and information and therest are my humble submissions before this Hon'ble Tribunal.

Identified by :-

Alok Verma  
Advocate.

Rabi Shankar Seal.

Deponent.

Solemnly affirm and declared before me by the deponent who is identified by Sri Alok Verma, Advocate on this 20th day of June, 2001.

Anupam Deb Ray  
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORIGINAL APPLICATION NO. 149 OF 1999.

(AND 17 OTHER ORIGINAL APPLICATIONS)

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

Date of decision - December 22, 2000.

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

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

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

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

- APPLICANTS

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

- Versus -

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

contd ...

*Attn*  
*2/9/01*  
 (A. DEB ROY  
 Sr. C. G. S. C.  
 C. A. T., Guwahati Bench)

2. Officer Commanding,  
57 Mountain Division,  
Ordnance Unit,  
C/O 99 APO.

3. LAO (A),  
Silchar, Masimpur Cantonment,  
No.11 Det 57 Mountain Division,  
C/O 99 APO.

RESPONDENTS

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

JUDGMENT

M.P. SINGH, MEMBER (ADM.)

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

Attest  
Aj 213/01  
(L. P. ROY)  
Sr. C. S. C.  
A. T. Court  
Cawnpore Bench

page 3 ...

2. The cause of action, the issues raised and relief sought for in this O.A. are same as raised in O.A. No.217/93 (All India Central Ground Water Board Employees Association, North Eastern Region Central Ground Water Board, Tarun Nagar, Guwahati-5 and others - Vs - Union of India and others), (2) O.A. No.274/98 (Sri Dulal Sarma and others - Vs - Union of India and others), (3) O.A. No.18/99 (National Federation of Postal Employees Postmen and G.D - Vs - Union of India and others), (4) O.A. No.21/99 (Makhon Ch. Das and others - Vs - Union of India and others), (5) O.A. No.282/2000 (Rabi Shankar Seal and others - Vs - Union of India and others), (6) O.A. No.223/99 (Shri K. Letso and others - Vs - Union of India and others), (7) O.A. No.208/2000 (Krishanlal Saha and others - Vs - Union of India and others), (8) O.A. No.23/99 (Ordinance Mazdoor Union and another - Vs - Union of India and others), (9) O.A. No.24/2000 (Ramani Bhattacharyya - Vs - Union of India and others), (10) O.A. No.21/2000 (Sri Louis Khyriem and others - Vs - Union of India and others), (11) O.A. No.428/2000 (Sri T. Ahmed and others - Vs - Union of India and others), (12) O.A. No.297/93 (Eiswajit Choudhury and others - Vs - Union of India and others), (13) O.A. No.320/99 (Smt. Sanghamitra Choudhury and others - Vs - Union of India and others), (14) O.A. No.296/98 (Dwijendra Kumar Debnath and others - Vs - Union of India and others), (15) O.A. No.187/98 (All Assam M.E.S. Employees Union and another - Vs - Union of India and others), (16) O.A. No.234/2000 (Gautam Deb and others - Vs - Union of India and others), (17) O.A. No.81/99 (Sri Nitoy Nanda Paul - Vs - Union of India and others) and (18) O.A. No.84/2000 (Subodh Ch Gupta and 56 others - Vs - Union of India and others). We, therefore, proceed to hear all the

23/01/01  
(A. DEB ROY)

Sr. C. G. S. C.  
A. T. Guwahati Bench

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

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

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

wherein ...

*Abul* *Abul*  
21/3/01

(A. DEB ROY)  
Sr. C. G. S. C.  
C. A. T., Guwahati Bench

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

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

*Altered*  
21/3/01  
the clause ...

(A. DEB ROY)  
Sr. C. C. S. C.  
C. A. T. Guwahati Bench

the clause in the appointment order relating to all India transfer liability. It is also stated that the Apex Court also added that the grant of this allowance only to the officers transferred from outside the region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Supreme Court further directed that whatever amount has already been paid to the respondents or for that matter, to other similarly situated employees would not be recovered from them. But a contradictory view has been taken in regard to recovery of the Special (Duty) Allowance from the applicants vide para 7 of the office memorandum dated 12th January, 1996. The relevant para 7 of the office memorandum dated 12th January, 1996, is as follows :-

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

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

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

considerable time

*Attested*  
21/3/01

(A. DEB ROY)

Sr. C. C. S. C.

C. A. T., Guwahati Bench

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

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

*Alfred*

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21/3/01  
(A. K. ROY)

Sr. C. C. S. C.

C. A. T., Guwahati Bench

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

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

posted ...

*Alfred*  
21/3/01  
(R. DEU ROY)  
C. J. S. C.  
C. B. T. Gauhati Bench

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

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

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

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*Attested*  
C. A. T. Guwahati Bench  
(A. Deb Roy)  
Sr. C. T. S. C.  
C. A. T. Guwahati Bench

21/3/01

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

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

*Attested*

*21/3/01*

(A. DEB ROY)  
Sr. C. C. S. C.  
A. T. Cawthall Bench

*aspect*

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

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

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

*Altered*  
2/3/01  
(A. DEB ROY)  
Sr. C. I. A.  
A. T. Gurneshwar

36/65/2  
1.7.21C

17.21C  
page 12

1.7.21C  
1.7.21C

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

The O.A. is disposed of with the above direction.  
No order as to costs.

SD/-VICCCIIAIIIMAI  
SD/MEMBER (A)

Certified to be true Copy  
સત્તાપિત સત્તાપિત

## ପ୍ରମାଣିତ କରିଲିବି

9/22/03 (01) 52

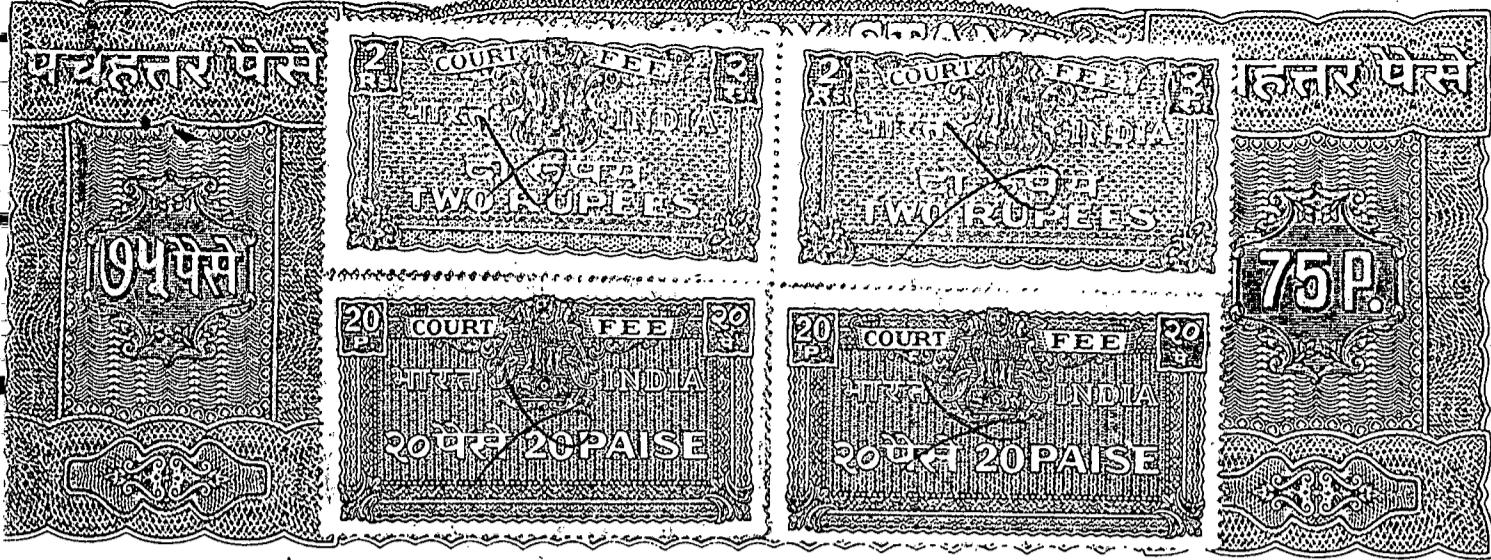
Section Officer (J)

## କେନ୍ଦ୍ରୀୟ ଶକ୍ତିଶାଖା ( କ୍ଷାତିକ ରାଜ୍ୟ ) Central Administrative Tribunals

- ৰাম কলামোৰ অসমৰ  
Guwahati: ৰামৰ, Guwahati-B  
পুস্তক: ব্ৰহ্মপুত্ৰ, পুস্তকালয়

Attesté, Fernand Adrocaé  
12/2001

Alice Newell  
28/6/2001



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
25.5.2001	30.5.2001	30.5.2001	30.5.2001	30.5.2001

## IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA MANIPUR TRIPURA  
MIZORAM & ARUNACHAL PRADESH.)

W.P. (C) NO. 3616/2001

1. Sri Rabi Shakar Seal,  
Son of Late Sananda Kumar Seal,  
resident of Doomdooma,  
P.O. Doomdooma, District -Tinsukia,  
Assam.
2. Sri Kumud Chandra Bora,  
son of Late Uttam Chandra Bora,  
resident of Doomdooma,  
P.O. Doomdooma, Dist. Tinsukia, Assam.

...Petitioners.

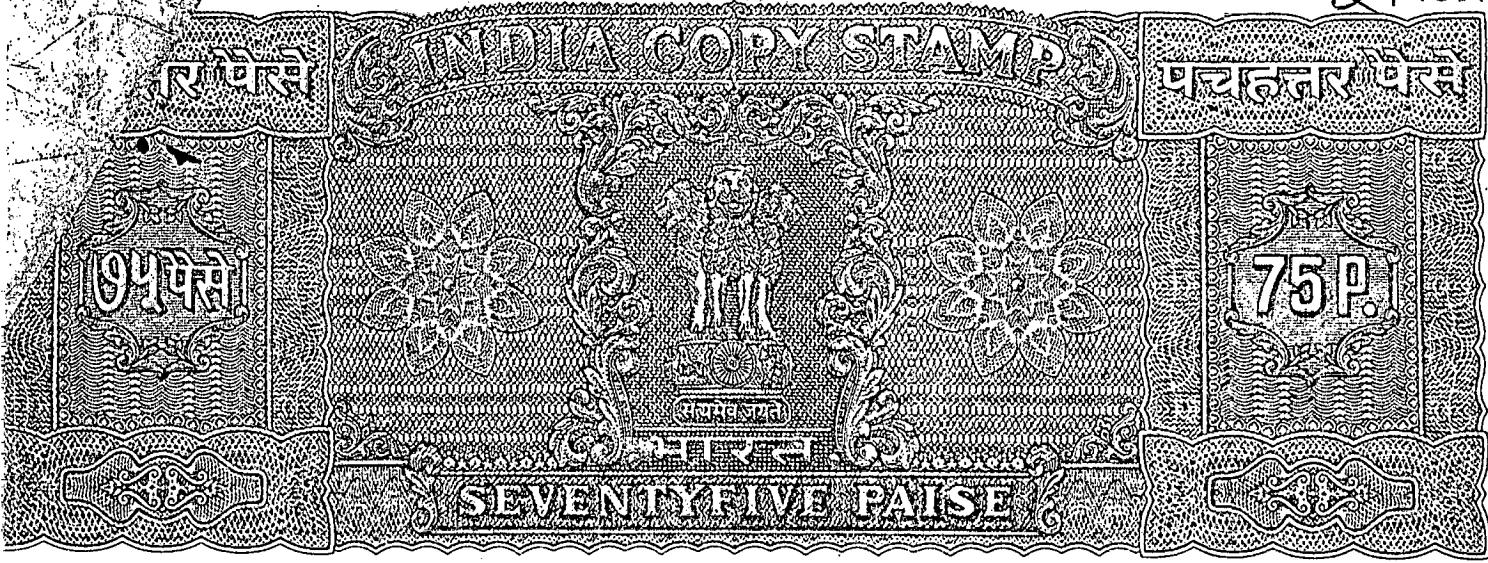
-Versus-

1. Union of India,  
represented by the Cabinet Secretary,  
Department of Cabinet Affairs,  
Bikaneor House, Shahjahan Road,  
New Delhi.
2. The Director General of Security  
Block V (East), R.K.Puram,  
New Delhi- 110066.
3. The Director,  
Aviation Research Centre,  
Block V (East) R.K.Puram,  
New Delhi -110066.
4. The Deputy Director (Admn),  
Aviation Research Centre,  
Doomdooma -796151  
District -Tinsukia, Assam.

...Respondents.

PRESENT.  
THE HON'BLE THE CHIEF JUSTICE (ACTING)  
THE HON'BLE MR JUSTICE RANJAN GOGOI

Contd. .



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाप और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाप और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी। Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

2.

FOR THE PETITIONERS : Mr. Alok Verma,  
Mr. Rajib Hazarika,  
Mr. S. Roy,  
Mr. J. Das, Advs.

FOR THE RESPONDENTS : C. G. S. C.

25.5.2001

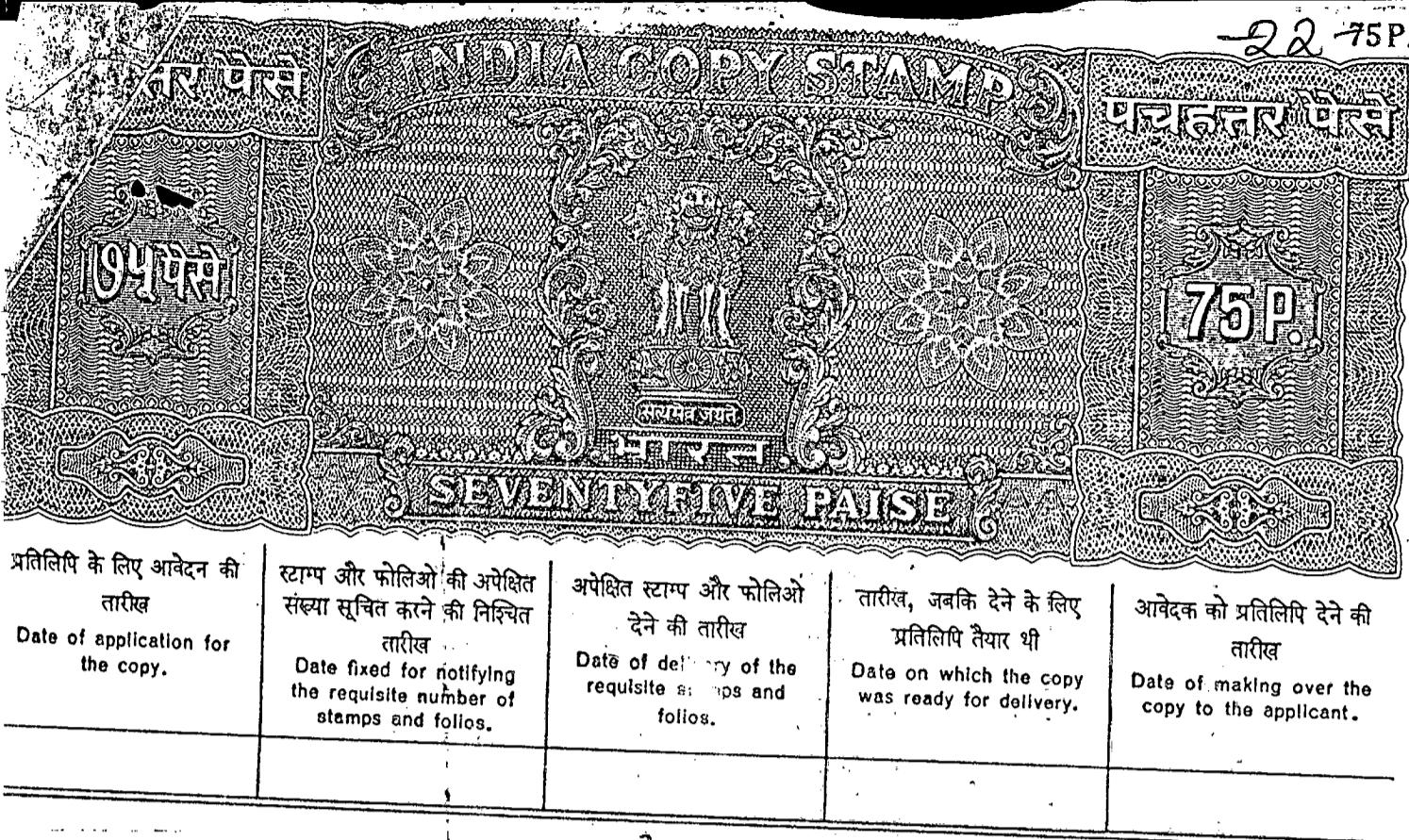
ORDER

We have heard Mr. Alok Verma, learned counsel for the petitioners as well as Mr. B. Kalita, learned CGSC for the respondents.

The writ petitioner is aggrieved by the part of the judgment and order passed by the learned Central Administrative Tribunal in O.A. No. 282/2000. By the judgment and order dated 22.12.2000 the learned Tribunal disposed of the bunch of original applications including O.A. No. 282/2000.

In paragraph 11 of the order the learned Tribunal have held that the applicants are not entitled to the payment of SDA as they are resident of North Eastern Region and they have been locally recruited and they do not have all India Transfer Liability. The aforesaid order has been passed in terms of the judgment of the Supreme Court passed on 20.9.98. While holding that the petitioners are not entitled to SDA, the learned tribunal was of the view that since the respondents on their own had continued to make the payment of S.D.A.

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to the applicants till 31.1.1999, the S.D.A. paid to them for the period upto 31.1.99 should not be recovered from them. It is however contended by the counsel for the petitioners that in the case of the petitioner in O.A. No. 282/2000 they have been paid S.D.A. upto 30.6.2000 and the order withdrawing the payment of S.D.A. have been passed on 1.7.2000. It is the case of the petitioner that instead of 12.1.99 it should be 1.7.2000 as they have been paid S.D.A. upto 30.6.2000.

This being the factual position we are of the view that the petitioner may file review petition before the learned Tribunal if so advised.

With the aforesaid direction this petition is disposed of.

Sd / RANJAN GOCOT

JUDGE

Sd / -HK SEMA

CHIEF JUSTICE (ACTING)

BY ..... 30/5/2001 *151*  
BY ..... *151*  
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Certified to be true Copy  
Superintendent (Copyist)  
GAUHATI HIGH COURT  
Authenticated U/S 9 of Act 44 of 1973

Attested  
Alain Verma  
Advocate  
28/6/2011  
10th  
35/P