

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No :
Misc. Petition No.
Contempt Petition No.
Review Application No.

4/03 in o.A.238/2000

Applicant(s): Parikarathu Madhavan Kittan Jore

- Vs. -

Respondent(s): H. O. T. Jore

Advocate for the Applicant(s): S.C. Biswas, M.K. Hajnder

Advocate for the Respondent(s): CGSC. B.C. Pathak

Notes of the Registry	Date	Order of the Tribunal
<p>This contempt petition 21.1.2003 has been filed by the Counsel for the petitioner praying for wilful and deliberate violation of the order of this Hon'ble Tribunal dated 25.9.01 in o.A. 238/2000.</p> <p>Laid before the Hon'ble Court for further orders.</p> <p><i>Parikarathu Jore</i> 20/1/03 Section officer</p>	24.2.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chair- man.</p> <p>The Hon'ble Mr. S.K. Hajra Administrative Member.</p> <p>Heard Mr. M.K. Mazumdar, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the contempt proceeding shall not be initiated.</p> <p>List on 24.2.2003 for orders.</p> <p><i>Parikarathu Jore</i> 20/1/03 Section officer</p>
<p>Slips Taken, Notice preferred and sent to D/S for immediate respondent Nos. 1 to 4 by Regd. A.D. 23/1/03</p> <p>D/No 95 W 98 dt 23/01/03</p> <p>No reply has been brought 23/2/03</p>	mb	<p>Member</p> <p>Vice-Chairman</p> <p>The respondent Nos. 3 and 4 have entered appearance through Sr. B.C. Pathak, learned Addl.C.G.S.C. submitt- ed reply. Mr. Pathak, who also entered appearance on behalf of respondent Nos. 1 and 2 submitted that separate reply will file by them. In the circumstances list the matter on 24.3.2003 for orders.</p>

Vice-Chairman

25.2.03

(2)

Affidavit in reply
filed by the respondent No.4.

24.3.2003

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

The Hon'ble Mr. S. Biswas
Administrative Member.

Respondent No 1. Unreserved
due to "No Such person"
as search by hon. Lazar.

Dr
27/2/03.

Heard Mr. M.K. Mazumdar, learned
counsel for the applicants and Mr. B.
C. Pathak, learned Addl.C.G.S.C.

This is an application for initiation
of Contempt for the alleged violation
of the judgment and order dated
25.9.2001 in O.A.238/2000. By the
aforementioned order of this Bench,
the applicants were to submit fresh
representation individually or collectively
within the time prescribed and the respondents were directed to
complete the exercise within the period prescribed.

The issue revolves around the payment
of SDA. The respondents filed reply and in the reply it was stated
that the respondents in pursuance of
of the order of the Tribunal the respondents reviewed the cases of the
applicants and ordered for granting
SDA. As regards, the applicant No.1,
on consideration, was not found to
be eligible for the SDA and accordingly
his representation was turned down
vide order dated 21.2.2003.

Mr. M.K. Mazumdar, learned counsel
appearing for the applicants stated
that the respondents while ignoring
the claim of the applicant No.1
disregarded the order of the Tribunal
in not providing the SDA to the
applicant Shri P.M. Kitan. The learned
counsel for the applicant submitted
that as per the order of the
Tribunal the respondents were ordered
to examine the cases of the
applicants and to consider as to
whether the applicants were posted

Contd.

Notes of the Registry

Date

Order of the Tribunal

Contd.

24.3.2003 from outside to N.ERegion and thereafter transferred and posted in the N.ERegion. According to the applicants No.1, since he was posted from outside to N.ERegion and thereafter transferred and posted in the N.ERegion and as per his claim he was entitled for grant of SDA. Even if we accept the contention of Mr.M.K.Mazumdar, learned counsel of the applicants, the authority might have faltered in decision making process, but that by itself will not make the respondents liable for contempt. Even the respondents in the decision making process made any error, that may be subject of an O.A., but the respondents cannot be said to have committed Contempt of Court.

The Contempt Proceeding is accordingly dropped. The applicant may seek appropriate remedy in appropriate forum as per law.

S. Basu

Member

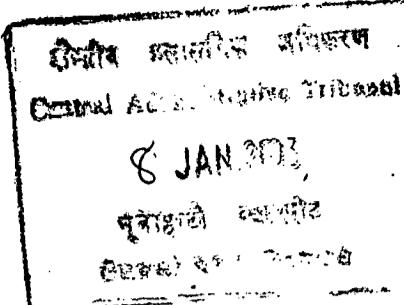
Vice-Chairman

bb

Notes of the Registry

Date

Order of the Tribunal



Filed by the Petitioner
Shrawan M.K. Majumdar
Advocate

08-01-03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

contempt petition 4 / 2002

In the matter of -

An application u/s. 17 of Administrative Tribunals Act, 1985, read with Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987.

-And-

In the matter of -

wilful and deliberate violation of the order of the Hon'ble Tribunal dated 25.9.01 passed in O.A. No. 238/2000 directing the Respondents to pay the SDA.

-And-

In the matter of -

1. Shri Pariyarthu Madhavan Kitten,
U.D.C.,
MES/ 223980, Tezpur.
2. Shri Asim K.R. Bhattacharjee,
Superintendent, BIR, Grade-I,
MES/ 236465, Tezpur.

3.....

3. Shri Binay Bhushan Das,
supervisor, B/S. Grade-I,
NES/ 24 2236, Tezpur.

..... Applicants.

-versus-

1. Shri Gurubhakshani
Secretary to the Govt. of India,
Shri PIARA RAM,
Ministry of Defence,
New Delhi.

2. Shri Kuppa Swami
The Controller General of Defence
Accounts, West Block, V, R.K.Puram,
New Delhi - 1100056.

3. Shri T. K. Hauza
Area Accounts Officer,
Bivar Road, Shillong - 1.

4. Shri Sanjay Dutta,
Garrison Engineer, Tezpur,
P.O. - Dekargaon (Srimara),
District - Sonitpur.

..... Respondents.

The abovenamed Applicant, - petitioners,

Most,.....

Most Respectfully sheweth :-

1. That the petitioners are civilian employees of the Central Govt. under the Ministry of Defence. On being agreed by the decision of the Authority respondent contemners to approach this Hon'ble Tribunal vide O.A. No. 238 of 2000 with a prayer to direct the respondent contemner as to pay SDA regularly since they are entitled as per the SDA policy framed by the Govt. and subsequent certification circulated time to time.
2. That the appellant petitioner states that the Hon'ble Tribunal after hearing the matter on 25th Sept. 2001 was pleased to notice that there is no dispute that the person who are posted from outside to N.E. Region and reported to N.E. Region is entitled to the special Duty Allowance and no written statement is filed in the circumstances. And hence Hon'ble Tribunal directed the respondent to consider to examine the case of the applicants individually and shall take step for payment of S.D.A.
3. That, after receiving the copy of the aforesaid order of this Hon'ble Tribunal, the petitioner furnished the same.....

the same to the respondents No. 4 along with an application requesting for compliance with the order of this Tribunal. But finding respondents' inaction to implement the order of this Tribunal the petitioner sent a legal notice on 20.4.2002 requesting to implement the order but the same also failed to evoke any response.

4. That, the petitioner states that while the matter was pending with the respondent without making any decision, they preferred writ petition before the Hon'ble Gauhati H.C. challenging the order vide W.P. (C) No. 3491/2002 and when the matter came to consideration to Hon'ble H.C. by order dated 29.5.02 observed that there is uniformity in the order of the Tribunal and consequently dismiss the writ petition with the direction to comply order of the CAT within 16.7.02.

A copy of the order dated 29.5.02 is annexed as Annexure - B.

5. That the petitioner says that even after the direction the respondent remained oblivious in compliance with the order and the petitioner sent a legal notice on 25.9.2002. Thereafter, the respondent vide its communication dated 30.10.02 replied the advocate of the petitioner

that

that since they are locally recruited, they are not entitled to SDA and in this manner they wiped out all the findings of this Hon'ble Court as well as the order of the Hon'ble High Court upholding the decision of Hon'ble Tribunal. They even did not bother to criticise the order of the court in wrong fashion which is sufficient to show their deliberate negligence attitude towards the decision finding and as such the action of the respondent is surely of contemptuous nature.

A copy of the letter has been annexed as Annexure-C.

6. That from the facts stated hereinabove, it is evident that the Respondent has continued to act in violation of the final order of this Hon'ble Tribunal dated 25.9.2001 passed in O.A. No. 238/2000. Hence, this Hon'ble Tribunal may be pleased to pass appropriate orders for execution and/or enforcement/implementation of its order dated 25.9.2001. Moreover, the Respondent by his act of wilful violation of the final order of this Hon'ble Tribunal has committed contempt of this Hon'ble Tribunal and as such, he is liable to be prosecuted under the provisions of the Contempt of Courts Act, 1971.

7. That after passing of the final order dated 25.9.02 by this Hon'ble Tribunal, the petitioner waited for a reasonable period so that Respondent acts in compliance

of the.....

of that said order. However, till this very date, the Respondents has not implemented the order of this Hon'ble Tribunal. The Respondent therefore has committed contempt of this Hon'ble Tribunal and he is liable to be punished severely for this act of wilful violation of the order this Hon'ble Tribunal.

8. That the petitioner files this petition bona fide for securing the ends of justice,

Prayer :

In the premises, it is therefore it is most respectfully prayed that Your Lordships may graciously be pleased to :

- (i) Punish the Respondents for committing contempt of this Hon'ble Tribunal by his act of violating the final order dated 25.9.2001 passed in O.A. No. 238/2000.
- (ii) Pass necessary/appropriate order for enforcement/implementation of the final order of the Hon'ble Tribunal dated 25.9.01 passed in O.A. No. 238/2000.
- (iii) Pass such order or orders as may be deemed fit and proper in the facts and circumstances in the case.

And for this, the petitioner, as in duty bound, shall ever pray.

Affidavit.....

A F F I D A V I T.

I, Shri Pariyarathu Madhavan Kittan, son of Late Madhavan Kittan, aged about 59 years, Upper Division Clerk, MES/ 223980, Tezpur, do hereby solemnly declare and state as follows :-

1. That I am the petitioner in the accompanying petition and as such, well conversant with the facts and circumstances of the case. I am therefore competent to swear this Affidavit.

2. That the statements made in this Affidavit and in paragraphs 1, 3, 6, 7, 8 are true to my knowledge, those made in paragraphs 2, 4, 5 are true to my information being based on records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. The Annexures are true copies of their originals and I have not suppressed any material facts.

And I sign this Affidavit on this the 20th day of November at Guwahati.

P M Kittan
Deponent.

Identified by me

Minal Kanti Majumder
Advocate.

The deponent has solemnly affirmed and declared who is identified by M.K. Majumder Advocate

Hukleswar
Advocate

DRAFT CHARGE.

Whereas -

1. Shri
Secretary to the Govt. of India,
Shri Piara Ram,
Ministry of Defence,
New Delhi
2. Shri
The Controller General of Defence Accounts,
West Block V, R.K.Puram,
New Delhi - 1100056,
3. Shri
Area Accounts Officer,
Bivar Road, Shillong - 1
4. Shri Sanjay Dutta,
Garrison Engineer, Tezpur,
P.O. - Dekargaon (Soni mara),
Dist. - Sonitpur.

have deliberately violated the order dated 25.9.2001
passed in O.A. NO. 238/2000 by the Gauhati Bench of the
Central Administrative Tribunal and as such, they are
liable to be prosecuted under the provisions of Contempt
of Courts Act, 1971.

Manmukh Singh
Advocate

Annexure - A.

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

Original Application No. 238 of 2000

Date of Order : This the 25th Day of September, 2001.

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

NON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

1. Shri Pariyarathu Madhavan Kittan,
Upper Division Clerk,
NES/ 223980, Tezpur.
2. Shri Ashim Kumar Bhattacharjee,
Superintendent, BIR, Grade-I
MES/ 236465, Tezpur.
3. Shri Binoy Bhushan Das,
Supervisor, B/S, Grade-I
NES/ 242236, Tezpur. Applicants.

By Advocate Mr. A.K. ROY, Mr. I. Gogoi.

-VS-

1. Union of India represented by the
Secretary to the Govt. of India,
Ministry of Defence, New Delhi.
2. The Comptroller General of Defence Accounts,
West Block V, R.K.Puram,
New Delhi -1100056.
3. Area Accounts Officer,
Bivar Road, Shillong-1.
4. Garrison Engineer, Tezpur
P.O. - Dekangaon (Srimara),
Dist. - Sonitpur. Respondents.

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

ORDER.....

Annex. A.

O R D E R

CHOWDHURY J. (VC):

The three Civilian Employees are working under the Ministry of Defence. Their grievances are common as to the entitlement of Special Duty Allowance. All the applicants were initially appointed in the N.E. Region subsequently they were transferred outside and posted. The Applicant No.1 was appointed as Lower Division Clerk in the year 1964 and posted at Barjhar. In the year 1976 he was transferred to West Bengal where he worked up to 1993. In the year 1993, he was again transferred and posted at Tezpur. Similarly, the Applicant No. 2 was appointed as Superintendent Grade II in the year 1970 and posted at Tezpur and he was transferred from Tezpur and posted at West Bengal. He was retransferred to N.E. Region in the year 1990 and again transferred to Calcutta in the year 1993 and he was reposted in Tezpur in 1997. The applicant No. 3 was also similarly situated person. Initially he was appointed at Chabua in 1964 and in June 1984 he was transferred and posted at Kumbhigram and thereafter he was transferred to Jammu and Kashmir. In September, 1993 he was reposted. As per Government instructions issued from time to time all the Civilian Employees who are transferred from outside the Region and subsequently posted in the N.E. Region are entitled to Special Duty Allowance.

we have.....

And. A.

We have heard Mr. I. Gogoi, learned counsel appearing on behalf of the applicant and Mr. B. K. C. Pathak, Addl. C.G.S.C. for the Respondents. Admittedly, there is no dispute that a person who are posted from outside to N.E. Region and posted to the N.E. Region is entitled to the Special Duty Allowance. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to N.E. Region and thereafter transferred and posted in the N.E. Region, in that event the respondents shall take steps for payment of special duty allowance to the applicants from the date of reposting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise.

The applicants may file fresh representations individually or collectively narrating all the relevant facts within three weeks from the receipt of the order. The respondents are directed to complete the exercise preferably within 3 months from the date of receipt of this order.

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

Sd/- VICE CHAIRMAN.

Sd/- MEMBER (A).

Annexure - B.

IN THE GAUHATI HIGH COURT.

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh).

CIVIL APPELLATE SIDE.

Appeal from W.P. (C) No. 3491 of 2002
Civil Rule.

The Union of India & ors. Appellant.
Petitioner.

-Versus-

Sri P.M. Kittan & ors. Respondent
Opposite Party.

For Appellant
Petitioner. Mr. C. Choudhury.
Sr. C.G.C.C.

For Respondent
Opposite party.

Name by serial Officer or No. Advocate.	Date.	Office notes, reports, orders or proceedings with signature.
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1	2	3	4
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-AND-

in the matter of -

- 1) Union of India, represented by
the Secretary to the Govt. of
India, Ministry of Defence,
New Delhi.
- 2) The Comptroller General of
Defence Account,
West Block - B, R.K.Puram,
New Delhi - 110056.

2)

3) Area Accounts Officer,

Bivar Road, Shillong- 1.

4) Garrison Engineer, Tezpur,

P.O. - Dekargaon (Silmara),

Dist. - Sonitpur.

.....Petitioners

Respondents in

Original Application.

- Versus -

1) Shri Parivarathu Madhavan Kittan,

Upper Division Clerk,

MES/ 222980, Tezpur.

2) Sri Ashim Kumar Bhattacharjee,

Superintendent, BIR, Grade-I,

MES/ 236466, Tezpur.

3) Sri Benoy Bhushan Das,

Supervisor, B/S, Grade-I,

MES/ 242236, Tezpur.

..... Respondents.

Before.

The Hon'ble the Chief Justice Mr. R. S. Mongia,

The Hon'ble Mr. Justice Ranjan Gogoi.

29 v. 2002

The Central Administrative Tribunal, Guwahati Bench
by the judgement dated 25.9.2001 disposed of the O.A.

No. 238/2000 by giving the following directions :-

"We have heard Mr. I. Gogoi, learned counsel
appearing on behalf of the applicant and Mr. B. C. Pathak,

Addl.....

Annx. B.

Addl. C.G.S.C., for the Respondents. Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the N.E. Region is entitled to the special Duty Allowance. Since no written statement had been filed, in the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the Respondents shall take steps for payments of special Duty Allowance to the applicants from the date of reposting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise.

The applicants may file fresh representations individually or collectively narrating all the relevant facts within three weeks from the receipt of the order. The respondents are directed to complete the exercise preferably within 3 months from the date of this order.

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

From the above, it is evident that what the Tribunal has directed the present petitioner is to examine the case

of each

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Annex. - B.

of each individual applicant in original application as to whether they were outsiders; meaning thereby they did not belong to N.E. Region and they have been posted in the NE Region and thereafter transferred outside the N.E. Region and retransferred them to N.E. Region. For the period such outsiders worked in N.E. Region, they are entitled to special duty allowance.

We do not find any infirmity in the aforesaid direction. Consequently, we dismiss the writ petition.

However, we find that the period granted to the petitioner to carry out the direction was 3 (three) months from the date of receipt of the order. We issue notice to the Respondents for 16.7.2002 only qua regarding extension of the period to comply with the direction. However, the petitioners would carry out the directions given by the Central Administrative Tribunal now if already not carried out.

Sd/- Ranjan Gogoi,

Judge.

Sd/- R. S. Mongia,

Chief Justice.

Annexure - C.

Regd/AD.

Tele : 5052(MILY).

Headquarters
Chief Engineer
Shillong Zone
SE Falls.
Shillong- 793011.

70222/OA 238/2000/Legal/141/EL.

30 Oct. 2002.

MES- 236465 Shri
A.K.Bhattacharjee, AE,
GE(E) Allahabad.

OA 238/2000 FILED BY SHRI PM KITTAN AND OTHERS
VS UNION OF INDIA.

Dear Sir,

1. Reference Hon'ble CAT Guwahati Judgement Order dated 25 sep. 2001 on the above OA filed by you regarding grant of Special Duty Allowance.
2. In the above judgement the Hon'ble CAT Guwahati held that :-

'In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside from N.E. Region and thereafter transferred and posted fix in the N.E. Region, in that event the respondents shall take steps for payment of special Duty Allowances to the applicants from the date of posting in the respective places'.

3. In the above verdict the Hon'ble CAT has directed to the respondents to examine the case of the applicants

individually.....

Annex. - C.

individually and if it is found that the applicants were posted from outside to N.E. Region and posted on transfer to N.E. Region the respondents shall takes steps for payment of special Duty Allowances to the applicants. Accordingly the respondents, after considering everything carefully have examined the circumspect of your case individually and have found that you are locally recruited in N.E. Region as per details given below :-

<u>Sl. No.</u>	<u>Name of Applicant & Design.</u>	<u>Date of Initial Appt.</u>	<u>Name of Unit where locally Recruited.</u>
(b)	MES-236465 Shri AK Bhattacharjee, B/R II	16 Mar 70.	CE NEZ Tezpur (Erstwhile).
	(Now AE).		

4. The Hon'ble Supreme Court in their rulings in OA No. 3251/1993 UOI Vs. Shri S. Vijay Kumar & others held that the special Duty Allowances to Central Govt. employees in the North Eastern Region will be admissible to only those who are originally recruited outside the NE Regions and subsequently transferred from such outside regions to the North Eastern Region. The Hon'ble Court has also stated that special duty allowances would not become payable merely because of the appointment order relating to All India transfer liability. The Hon'ble Supreme Court further reiterated that the allowance (SDA) was meant to attract persons from outside the N.E. Region to work in that region because of inaccessibility

and.....

and difficult terrain and paid to those incumbents who have been posted to NE Region carrying the aforesaid service condition and not to those who are residents of N. E. Region.

5. Based on the above rulings of the Apex Court, the Govt. of India, Min of Def. vide their Office Memorandum No. 4(3)/98/D (Civ.I) dated 16 Mar 1998 has issued orders as under :-

para 3(b) "The Defence Civilians recruited from the outside North Eastern Regions and posted from outside into the North Eastern ~~now~~ Region would be entitled to the special Duty Allowance...."

6. The above orders of the Min of ~~Defence~~ has further been reaffirmed by the latest Govt. of India, Min of Finance (Dept. of Exdr.) OM N. E. NO. 11(5)/97/E II (B) dated 29 May 2002 state that :-

(Para 5) "The special Duty Allowances shall be admissible to Central Govt. Employees having All India Transfer liability on posting to N.E. Region (including Sikkim) from outside the Region".

7. In the light of the above ruling of the Hon'ble Supreme Court and also subsequent instructions issued by the Govt. of India in this behalf, payment of special Duty Allowance is not applicable in your case as you were locally recruited.....

Annex. C.

recruited that is, you come under catngory of resident of N.E. Region for whom the special Duty Allowance is not applicable as elaborated above.

8. With the issuance of this speaking Order by the respondents the directions of the Hon'ble CAT Guwahati dated 25 Sep. 2001 in OA No. 238/2000 stand disposed of.

sd/- I begive.

(TM Chandrakant),

L.t. Col.

SOI (Pers & Legal)

For Chief Engineer.

copy to -

E-in-C's Br/EIC Legal-C - wrt their sig No. 50 2249/EIC/
Army HQ DHO,
New Delhi-110011.

for information wrt their signal
No. 07053 dated 26 Oct 2002.

HQ Chief Engineer
HQ Eastern Command,
Fort William
Kolkata 700 02.

for information wrt their signal
No. 07053 dated 26 Oct 2002.

CWE Tezpur,)
GE Tezpur.)

for information and filing
compliance in Hon'ble CAT
Guwahati of their direction and to
close the case through CGSC.

Shri Chinmoy Choudhury - for info and necessary action
Advocate please.

Sr. VGSC, Guwahati High Court
B Gunomoy Bhawan
Rajganj 1st by lane (West)
East Sarania,
Guwahati-781003.

Miss M. Bordoloi, Advocate, - for info wrt to her legal
Guwahati High Court,
C/O. - Plaza Building,
Rly. Gate No. 2.

20-
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Central Administrative Tribunal
24 FEB 2003
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI
Question B-ack
CONTEMPT PETITION No.4/2003
IN OA No.238/2000

Shri T.K.Hangzo & 3 others

.....Respondents

V/s

Shri P.M.Kittan & Others

.....Petitioners

(Affidavit in reply filed by Shri T.K.Hangzo, the respondent No. 3)

I, T.K.Hangzo, son of Shri V.K.Hangzo aged about 43 years at present working as Joint Controller of Defence Accounts in the Area Accounts Office, Shillong do hereby solemnly affirm and state as follows:

That a copy of the C.P.No.4/2003 (hereinafter referred as the "Petition") has been served on me and I have been implicated as respondent No.3 in the said Contempt Petition. I have gone through the same and understood the contents thereof. I am Joint Controller of Defence Accounts, Incharge Area Accounts office, Shillong under the Organisation of the Controller of Defence Accounts, Guwahati. I am not the final competent authority to decide the issue. However, I am submitting my replies based on the records.

2. That the statements made in the petition, which are not specifically admitted, are hereby denied by me.
3. That the petition has not been filed and made as per requirement of law as provided under Rule 5 (i) a (i) of the CAT (Contempt of Courts) Rules 1992. Therefore, the contempt petition is liable to be dismissed as the respondent No.1, 2 and 3 has not been made party by name as required by law.

B. C. Pathak
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

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Manob Bhattacharjee

4. That with regard to the statements made in paragraphs 1 to 4 of the petition, I have to offer no comments being the factual position.

5. That with regard to the statements made in paragraph 5 of the petition, I am to say that as directed by the Hon'ble High Court, Guwahati and Hon'ble CAT Guwahati, the representations of the three applicants were examined individually. A speaking order was issued by Chief Engineer Shillong Zone, Shillong to each of the applicants bearing Nos. 70222/OA/238/2000/Legal/139/E1, 70222/OA/238/2000/ Legal/ 140/E1 and 70222/OA/238/2000/Legal/141/E1 all three dated 30th October 2002. Ministry of Defence after reconsideration of the matter in consultation with Ministry of Finance have issued a Speaking Order No.PC-90237/7521/E1C (Legal-C)/86-LC/03/D (Civ-I) dated 21.2.2003 (copy enclosed) in supersession of the earlier Speaking Order dated 30.10.2002 issued in respect of all the three applicants. A Government letter No. PC No.90237/7521/E1C (Legal-C/89-LC/03/D (Civ-I) dated 21.2.03 for implementing the court order in respect of Shri B.B.Das, BSO and Shri A.K.Bhattacharjee, AE has also been issued, separately (copy enclosed). It is, therefore, submitted that the orders of Hon'ble CAT/High Court stand implemented.

6. That with regard to the statements made in paragraph 6 of the petition, it is submitted that in view of the submission made in para 5 above, there has been no willful violations of the orders of the Hon'ble CAT as well as Hon'ble High Court.

7. That with regard to the statements made in paragraph 7 of the petition, I, respectfully submit that in case, this Hon'ble Tribunal comes to a finding/opinion that respondents are otherwise liable for contempt of court, in that case, respondents hereby tender unqualified apology to exonerate from the charges as shown that there is no willful disobedience or disregard to the aforesaid court's order. Respondents have the highest regard to all the courts of the country and as a citizen and also as a Government Officer, being in duty bound to comply with such Court's order.

Manob Bhattacharjee

8. That the statements made in paragraph 1,3,5 to 7 above are true to my knowledge and believe and those made in paragraph 4 being matter of records, are true to my information derived there from and to rest of my humble request before this Hon'ble Tribunal. I have not suppressed any material fact.

And signed this affidavit on 24th day of February 2003 at Shillong, Guwahati

Deponent

Identified by me

B C Pathak
Advocate 24/2/03

(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

Solemnly affirmed and signed by the deponent,
Who is identified by Shri B C Pathak

Advocate, on this 24 the day
of February, 2003 at Guwahati

Dilip Baruah
24-2-2003
Magistrate/Advocate

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No. PC-90237/7521/EIC(Legal-C)/89-LC/D(Civ.I)/2003

Government of India

Ministry of Defence

New Delhi-110011

21st February, 2003

To

The Chief of the Army Staff

Subject:- Implementation of CAT Guwahati Judgement dated 25th September, 2001 in OA No. 238/2000 filed by Shri P.M. Kittan and 2 Others.

Sir,

I am directed to refer to the Hon'ble CAT Guwahati judgement dated 25th Sept. 2001 in OA No. 238/2000 filed by Shri PM Kittan and 2 others and to say that the question of payment of Special Duty Allowance (SDA) has been examined taking into account the criteria of All India Transfer Liability as prescribed in MOF OM F No. 11(5)/97-E.II(B) dated 29-5-2002 read with their earlier orders. On applying this criteria of eligibility, the following officers have been found to be eligible for grant of SDA from the dates indicated against their names below:-

(a) MES No.242236 Sh. B.B. Das, BSO	From 31-8-93 till the date the officer continues to be posted in NER
(b) MES No. 236465 Sh. A.K.Bhattacharjee, AR	From 28-6-90 to 20-1-94 23-10-97 to 26-5-2001

Accordingly, sanction of the President is hereby conveyed to the payment of Special Duty Allowance as per admissible rates to the above officers from the dates of their reposting in NER from outside as mentioned against their names above. Shri P.M.Kittan, UDC, has however, not been found eligible for grant of SDA as per prescribed criteria.

2. The amount so due as arrears will be paid to the applicants under Charged Expenditure Head for which a separate sanction will be issued.

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3. This issues with the concurrence of Ministry of Def (Fin) vide their U.O.No.130/AG/PB/2003 dated 21st February,2003.

Yours faithfully,

Piara Ram

Piara Ram
(Piara Ram)

Under Secretary to the Govt. of India.

Copy to:-

E-in-C's Branch /Army Hqrs.
CE, Eastc in Comand, Kolkata
CE, Shillong Zone, Shillong
CWE, Tezpur
GE, Tezpur
CGDA New Delhi
 CDA Guwahati--- ink signed copy
Area Accounts Office, Shillong
DFA(AG/PB)
AF/Org-4(Civ)(d)
DFA(Works)

No.90237/7521/EIC Legal-C/86-LC/D(Civ.I)/03

Government of India
Ministry of Defence

25
New Delhi, the 21st February, 2003.

To

MES/223980,
Shri P.M. Kittan, UDC
C/o GE, Tezpur

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

“Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise.”

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier. As per the Supreme Court judgements quoted in the Ministry of Finance OM dated 29th May, 2002 ibid, the Special Duty Allowance shall be admissible to the Central Govt. Employees having All India Transfer Liability on posting to North Eastern Region(including Sikkim) from outside the region.
3. You were originally recruited as LDC in the year 1964 and subsequently promoted as UDC in the year 1985. Both the posts of LDC and UDC held by you are not having All India Transfer Liability. Therefore, you are not entitled

7 26
to grant of Special Duty Allowance(SDA) as per the orders of the Ministry of Finance(Deptt. of Expenditure.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002.

Piara Ram Piara Ram

(Piara Ram)

Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (EIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur
- 5) GE, Tezpur.
- 6) CGDA, New Delhi
- 7) CDA, Guwahati.
- ✓ 8) Area Accounts Office, Shillong

8 28
No.90237/7521/EIC Legal-C/86-LC/03
Government of India
Ministry of Defence
D(Civ.I)

Dated 21st February, 2003

To

Shri B.B. Das, BSO,
MES/242236, Tezpur

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

“Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise.”

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier.
3. You were originally recruited as SK-II on 3.9.64. You were promoted to the post of SK-I on 16.12.75, and to the post of BS-II on 01st August, 84 and BS-I on 31st May 1990 and BSO after 22nd November, 01.

Applying the All India Transfer Liability criteria as per Ministry of Finance (Department of Expenditure) OM No.11(5)/97-E.II(B) dated 29..5.2002 you have got all India transfer liability on the post of BS-I w.e.f from 31st May 1990. After this date you have been posted to NER from outside NER from

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28/10/2002

31.8.93 till date. Therefore, you are entitled for grant of Special Duty Allowance as per the orders of Ministry of Finance and Ministry of Defence mentioned above from 31 September, 93 till date you continue to be posted in NER.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone vide their letter No. 70222/OA 239/2000/Legal/140/E-1 dated 30.10.2002. A Govt. letter in implementation of the CAT, Guwahati orders will be issued, separately.

Piara Ram

Piara Ram

(Piara Ram)

Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (EIC Legal)
- 2)CE, Eastern Command, Kolkata
- 3)CE, Shillong Zone, Shillong
- 4)CWE, Tezpur, GE Dinjan.
- 5)GE, Tezpur
- 6)CGDA, New Delhi
- 7)CDA, Guwahati
- 8)Area Accounts Office, Shillong

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No.90237/7521/EIC Legal-C/86-LC/03
Government of India
Ministry of Defence
D(Civ.I)

83

Dated 21st February, 2003

To

Shri A.K. Bhattacharjee, AE
MES/236465, GE, Allahabad

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

“Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise.”

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier.

3. You were originally recruited as Supdt. B/R Grade II in the year 1970. Subsequently you were promoted as Supdt. B/R Grade I on 27.1.88 and thus came under All India Transfer Liability, from this date i.e. 27.1.1988. Thereafter, you have served in the NER, coming from outside during the following period:-

- (i) 28.6.1990 to 20.1.1994 in GE(AF) Borjar
- (ii) 23.10.1997 to 26.5.2001 in GE. Tezpur

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During the above period, mentioned at (i) & (ii) above you are entitled to the grant of SDA as per the orders of the Ministry of Finance(Deptt. of Exp.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002. A Govt. letter for implementation of CAT Guwahati orders will be issued separately.

Piara Ram

Piara Ram

(Piara Ram)
Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (EIC Legal)
- 2)CE, Eastern Command, Kolkata
- 3)CE, Shillong Zone, Shillong
- 4)CWE, Tezpur/GE Borjar.
- 5)GE, Tezpur
- 6) GE, Allahabad
- 7)CGDA, New Delhi
- 8)CDA, Guwahati
- ✓ 9)Area Accounts Office, Shillong

Central Adm. 24 FEB 2003
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

CONTEMPT PETITION NO. 4/2003
IN O.A. NO. 238/2000

24/2/03
B.C.T.
Addl. Central Adm. Counsel
Central Adm. BENCH
Guwahati BENCH

Shri P.M. Kitan & Others

...Petitioners

-Vs-

Shri Sanjay Datta & three others

...Respondents

(Affidavit-in-reply filed by Shri Sanjay Datta, the respondent no. 4)

I, Shri Sanjay Datta, son of late S K Datta, aged about 37 years, at present working as Garrison Engineer, Tezpur, Dist. Sonitpur (Assam), do hereby solemnly affirm and state as follows :

1. That a copy of the C.P. No. 4/2003 (hereinafter referred as the "Petition") has been served on me and I have been implicated as respondent no.4 in the said contempt petition. I have gone through the same and understood the contents thereof.
2. That the statements made in the petition, which are not specifically admitted, are hereby denied by me.
3. That the petition has not been filed and made as per requirement of law as provided under Rule 5 (i) (a) (i) of the CAT (Contempt of Courts) Rules 1992. Therefore, the contempt petition is liable to be dismissed, as the respondent no. 1,2 and 3 has not been made party by name named as required by law.

Sanjay Datta

4. That with regard to the statements made in paragraphs 1 and 2 of the petition, I say that the petitioners as applicants filed the original application no.238/2000 and thereby claimed for payment of SDA. This Hon'ble Tribunal after hearing the parties in absence of a written statements from the respondents, directed the respondents to consider the case for payment of SDA as and when fresh representations individually or collectively were filed by the applicants. This was to be done within three month from the date of receipt of the order. Being aggrieved by the said order dt. 25.9.2001 passed in O.A. No. 238/2000, the respondents preferred a writ petition vide W.P.© No.3491/2002 in the Hon'ble Gauhati High Court. The said writ petition was heard and the same was disposed of vide order dt. 29.5.2002. By the said order, the Hon'ble High Court directed the respondents/petitioners to comply with the direction given by the Hon'ble Central Administrative Tribunal, Guwahati Bench. On receipt of the copy of the aforesaid judgment passed by the Hon'ble High Court, I immediately took up the matter with my immediate higher authorities for necessary action. This was done vide letter no. C/101/OA/PMK/340/E1C dt. 13.7.2002. I also informed the higher authority about the service particulars of the applicants regarding their posting in the N.E.Region and outside. This was communicated vide letter no. C/101/OA/PMK/346/E1C dt. 25.7.2002. This deponent also took up the matter with the competent authorities by sending all about the information for their necessary action through FAX messages. This was also done vide fax file no. C/101/OA/PMK/350/E1C dt. 27.7.2002. As explicit from records, the matter was moving in the process through different channels in the administrative hierarchy located at different distant places like Tezpur, Shillong, Kolkatta and New Delhi, which justified some delay in exhausting the procedure required to be followed. Accordingly, the higher authority directed me to seek extension of time from the Gauhati High Court which was done by filing a Misc. Case. I took up the matter with the senior CGSC at High Court vide letter no. C/101/AO/PMK/395/E1C dt. 28.9.2002. The Misc. petition filed in the Gauhati High court is still pending for disposal. From the above actions and steps taken by this deponent, it is explicit that the deponent being the officer in the lowest grade does not have any

Sanjay Datta

power to take a decision and to sanction money or any administrative capacity in such matter except liaisoning with the higher authorities.

The copies of the letter dt. 13.7.2002, 25.7.2002, 29.7.2002, 28.9.2002 are annexed as Annexure - R1, R2, R3 and R4 respectively.

5. That with regard to the statements made in the paragraphs 3,4 and 5 of the petition, I say that on receipt of the legal notice, I immediately took up the matter with the competent higher authorities vide my letter no. C/101/OA/PMK/407/E1C dt. 4.10.2002 and requested the higher authorities to issue necessary instruction to me ,if any, in that regard. In the meantime, the competent authority vide letter no. 70222/OA.238/2000/LEGAL/139/E1 dt. 30.10.2002, 70222/OA.238/2000/LEGAL/140/E1 dt. 30.10.2002 and 70222/OA.238/2000/LEGAL/141/E1 dt. 30.10.2002 disposed of the representations filed by the petitioners/ applicants and passed a speaking and reasoned order thereby stating that the applicants come under category of residents of N.R. Region and as a result they are not entitled to grant of SDA. The said copies of letter dt. 30.10.2002 addressed to the petitioners applicant were duly served on them. I forwarded one of such letters of acknowledgement to the competent higher authority vide my letter no. C/101/OA/PMK/437/E1C dt. 13.11.2002. However Govt of India, Ministry of Defence reviewed earlier order dated 30.10.2002 issued vide Chief Engineer Shillong Zone and issued another fresh speaking order vide their letter 90237/7521/EIC legel- C/86 - LC/03 dated 21.2. 2003 thereby superceding earlier order dated 30.10. 2002. By this fresh order the Govt of India has modified the earlier order dated 30.10. 2002 and thereby extending the benefit of SDA to two of the applicant namely, Shri BB Das and Shri AK Bhattacharjee from the respective dates of their posting in the NE region from outside and upto the date when they where again posted out from NE region. The Ministry at the same time rejected the claim of Shri PM kitten categorically on the basis of Govt of India Ministry of Finance OM dated 20.4.1987 read in conjunction with OM dated 29.5.2002. Separate speaking

Sanjay Datta

orders have been issued under the letter No 90237/7521/EIC legel- C/86 - LC/03 dated 21.2.2003 and the applicants/petitioners have been individually communicated about the fresh order passed by the Ministry. The orders being speaking and reasoned ones there is no ambiguity so far as the entitlement of SDA as claimed by applicants/petitioners. From the above action, it is now apparent that the respondents complied with the order passed by the Hon'ble Tribunal and there had not been any willful disobedience or violation of the courts order.

The copies of the letter dt. 4.10.2002,30.10.2002 and 13.11.2002 along with enclosures and speaking order dated 21.2.2003 are annexed as Annexure - R5,R6 (series), R7, R8, R9 and R10 respectively.

6. That with regard to the statements made in paragraph 6,7 and 8 of the petition, I say that I as an officer in the lowest grade in the administrative hierarchy, I do not have any delegation of power or authority to take any decision to comply with the order passed by the Hon'ble Courts as stated hereinabove. However, I being a responsible officer, I acted bonafide within my power and capacity with all diligence and care. This is very much clear and explicit from the statements as made hereinabove.

In view of the above facts and circumstances, I as a lowest grade officer, without any administrative power or authority to take any decision in such matter, I have not done anything which may amount to disregard or willful disobedience of the aforesaid court's orders. Rather, I did everything in time so that the competent authorities may take such decisions to comply with and obey the courts order as indicated above. Hence, I may kindly be exonerated from any such charge leveled against me for contempt of court.

Sanjay Datta

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7. That I also respectfully submit that in case, this Hon'ble Tribunal comes to a finding/opinion that I am otherwise liable for contempt of court, in that case, I hereby tender my unqualified apology to exonerate me from the charges as I have clearly shown that there is no willful disobedience or disregard to the aforesaid court's order. I have the highest regard to all the courts of the country and as a citizen and also as a Govt. officer, I know that I duty bound to comply with such court's order if not challenged in the next higher courts.

8. That the statements made in paragraph 1 to 4 are true to my knowledge and believe, those made in paragraph 5 and 6 being matter of records, are true to my information derived there from and the rest of my humble before this Hon'ble Tribunal. I have not suppressed any material fact.

And I signed this affidavit on 24 th day of February, 2003 at Guwahati.

Sanjay Datta
Deponent.

Identified by me

B.C. Pathak
Advocate 24/2/03

(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tr. bunal
Guwahati Bench : Guwahati

Solemnly affirmed and signed by the deponent, who is identified by Shri B. C. Pathak, advocate, on this 24 th day of February, 2003 at Guwahati.

Jay Das
Magistrate/Advocate. Pt. 24/2/2003.

Tele: 2309

36' ANNEXURE: 21st RI

REGISTERED

Garrison Engineer
Tezpur

C/101/DA/PMK/ 340 /EIC

13 Jul 2002

Commander Works Engineer
Tezpur

OA NO 238/2000 FILED BY SHRI PM KITMAN
AND OTHERS VS UOI AND OTHERS

1. A photocopy of Hon'ble Gauhati High Court Judgement order No WPC No 3491 of 2002 is enclosed.
2. As per Judgement, the term "outsider" to whom SDA has been granted has not been defined with ref to either residence or recruittee. However, as per Hon'ble Supreme court Judgement dt 20 Sep 94 in the case of Civil Appeal No 3251/1993 (copy att) has defined the term outside NER recruittee and subsequently posted to NER are eligible for SDA.
3. You are requested to advise further.

~~BR~~ 339
~~BR~~
Encl : 04 sheets

(Sanjay Datta)
Major
Garrison Engineer

Copy to :-

E-in-C's Branch, Legal Cell
AHQ, DHQ - PO
New Delhi-11

HQ Eastern Command
Engrs Branch
Fort William
Kolkata-21

HQ Chief Engineer
Shillong Zone
Shillong-11

Office of the CGDA
Min of Def, South Block
RK Puram, New Delhi

Office of the CDA
Udayan Vihar, Narangi
Gauhati-71

AO Shillong
Bivor Road
Shillong-11

To info alongwith
a copy of judgement
for further clarific.

Certified to be true Copy.
S. Datta
Advocate

Tele Mily : 2309

ANNEXURE : R2

Garrison Engineer
Tezpur

C/101/OA/PMK/ 346. /E1C

25 Jul 02

CWE Tezpur

OA NO 238/2000 FILED BY SHRI PM KITTAN
AND OTHER VS VOI

1. Reference your letter No 1350/OA/238/2K/100/E1C(3)
dt 25 Jul 2002.

2. Details of unit served since appointment as asked
vide your bld letter of three indl are fwd herewith for
your further action please :-

MES No, Name & Desig	Units served since apppt			
1. MES/223980 SHRI PM KITTAN, UDC	GE BORJAR LDC - 17.09.64 AGE(I) MES/LDC - 01.01.75 RANGIYA	31.12.74	15.11.76	✓
	CWE(P) LDC - 16.11.76 KALAIKUNDA	26.04.85		✓
	CWE(P) " UDC -- 27.04.85 GE TEZPUR UDC - 04.04.93	03.04.93		✓
		till to date		✓
2. MES/242236 SHRI BB DAS, B/S-I (Now BSO)	GE(P) CHABUA SK-II GE CHABUA SK-I 03.9.64 GE 583 EP 16.12.75 GE SILCHAR 25.05.80 GE 872 EWSB/S-II 01.08.84 GE UDAMPUR Z 31.12.89 GE TEZPUR 31.08.93	22.08.69	24.05.80	
		31.08.93*	30.04.2000	
3. MES/236465 SHRI AK BHATTACHARJEE, JE(CIV) NOW AE	CE NAZ TEZ GE AF BAGDOGRA 16.03.70 CE(C) CAL 07.73 AGE(I) 507 04.77 GE FW CAL 12.83 GE AF BORJAR 08.86 GE(CE) OFB CAL 24.06.90 GE TEZPUR 21.01.94 01.10.97	JUL 70	04.77	
			12.83	08.86
			06.90	
			24.01.93	
			30.09.93	
			26.05.2001	

May kindly see

66

SD 32
SD 52
SD 52

✓ *Amnaik*
Certified to be true Copy.
for GE Tezpur J. Das
Advocate

FAX

38
FILE NO : C/101/OA/PMK/ 350 /EIC
DATED 27 JUL 2002

NUMBER OF PAGES : ONE PAGE

ANNEXURE : R3

TELE MILE : 2309

FROM : GE TEZPUR

TO : INDARMY (E-IN-C'S BRANCH)
CEEC KOLKATA
CESZ SHILLONG
CWE TEZPUR - BY ORG

(AUTORISED SIGNATORY)

OA NO 238/2000 FILED BY SHRI PM KITTAN & OTHERS AT CAT GUWAHATI BENCH FOR PAYMENT OF SDA (.) REF YOUR SIG 501685/EIC (LEGAL-C) JUL 23 (.) FIRSTLY (.) DETAILS FOLLOW (.) ALFA (.) MES/223980 SHRI PM KITTAN COMMA LDC GE BORJAR 17 SEP 64 TO 31 DEC 74 AGE (I) MES RANGIYA 01 JAN 75 TO 15 NOV 76 CWE(P) KALAIKUNDA 16 NOV 76 TO 26 APR 85 CWE (P) KALAIKUNDA 27 APR 85 TO 03 APR 93 GE TEZPUR 04 APR 93 TILL TO DATE (.) BRAVO (.) MES/242236 SHRI BB DAS B/S I (NOW BSO GE (P) CHABUA SK II 03 SEP 64 TO 22 AUG 69 GE CHABUA COMMA SK I 16 DEC 75 TO 24 MAY 80 GE 583 EP 25 MAY 80 TO 31 MAY 81 GE SILCHAR 01 SEP 81 TO 30 DEC 89 GE 872 EWS B/S II 31 DEC 89 TO 30 SEP 93 GE UDHAIMPUR ZONE 31 AUG 93 TO 30 APR 00 (.) CHARLIE (.) MES/236465 SHRI AK BHATTACHARJEE JE CIV (NOW AE) GE NAZ TEZ 16 MAR 70 TO JUL 70 GE AF BAGDOGRA JUL 73 TO APR 77 CE (C) CAL APR 77 TO DEC 83 AGE (I) 507 DEC 83 TO AUG 86 GE FW CAL AUG 86 TO JUN 90 GE AF BORJAR 24 JUN 90 TO 24 APR 93 GE (CE) OFB CAL 21 JAN 94 TO 30 SEP 97 GE TEZPUR 01 OCT 97 TO SECONDLY (.) SUPREME COURT RULING IN CIVIL PETITION NO 3251/1993 SDA ADMISSIBLE TO THOSE WHO ARE RECRUITTED OUTSIDE NER AND LATER POSTED TO NER (.) APPLICANTS ARE NER LOCALLY RECRUITTEES THEN POSTED OUTSIDE & REPOSTED HENCE SDA NOT APPLICABLE AS PER SUPREME COURT INTERPRETATION (.) THIRDLY (.) FOLLOWING ACTION ALREADY TAKEN BY THIS OFFICE (.) ALFA (.) WRIT PETITION IN CAT (.) DECISION IN FAVOUR OF APPLICANT (.) BRAVO (.) WRIT PETITION FOR NON IMPLEMENTATION OF COURT ORDER EXTN GRANTED (.) CHARLIE (.) CWP IN HIGH COURT AGAINST CAT JUDGMENT FILED (.) HIGH COURT UPHELD CAT JUDGEMENT (.) FORTHLY (.) TERM OUTSIDERS NOT CLEARLY REFLECTED BY CAT AND HIGH COURT (.) FIFTHLY (.) ALSO REF OUR LETTER NO C/101/OA/PMK/ 340/EIC DT JUL 23 (.) SIXTHLY (.) ADVISE FURTHER ACTION

Copy by post in confirmation to :-

E-in-C's Branch

38
(Sanjay Datta)

Major

Garrison Engineer Tezpur

Place of recruitment

1. PM Kitchen — GE BORJAR AS LDC
2. Mr BB DAS GE (P) CHABUA
3. Mr A K Bhattacharjee

Certified to be true Copy.

J. Datta
Advocate

Tele Mily: 2309

BY HAND
Garrison Engineer Tezpur
Post : Dckargaon
Dist : Sonitpur
Tezpur - 784 501 (Assam)

C/104/AO/PMK/ 395 /EIC

28 Sep 2002

Shri Chinmoy Chowdhury
Sr CGSC
Guwahati High Court
Guwahati-781 005

ANEXURE : R4

OA NO 238/2000 FILED BY SHRI PM KITTAN AND
OTHERS VS UOI AND OTHERS (WP(c) 3491/2002 DT 6/6/2002)

Dear sir,

1. Reference your letter no Nil dt 16 Sep 2002.
2. It has been directed by HQ CESZ FAX No 70232/OA -238/2000/LEGAL/ 117/E1 dt 24 Sep 2002 to apply for EOT for implementation of High Court Judgement Order for additional six months.
3. Since there are number of conflicting Judgement/Orders and directions being given by CAT, Hon'ble High court, Cabinet Secrt U.O. No 20/12/99-EA-I-1799 dt 2.5.2000 (copy att) and Finance Ministry OM No 11(5)/97-E.II(B) dt 29 May 02 on the subject of applicability of SDA to NE Region rec.tee, clarification has been sought with AHQ, New Delhi on the above Judgement and its implementation.
4. The following documents are fwd herewith for filing petition for granting extension of time (EOT) by six months for implementation of high court order please:-

<input checked="" type="checkbox"/>	(a) Photocopies of Judgment Order WP(c) No 3491 of 06/02	-	04 Copies
<input checked="" type="checkbox"/>	(b) Verification certificate	-	01 Copy
<input checked="" type="checkbox"/>	(c) G of I, Min of Def, New Delhi letter No 49(3)/98/D(Civ-I) dt 16 Mar 1988.	-	01 Copy
<input checked="" type="checkbox"/>	(d) G of I, Min of Finance latest OM No 11(5)/97-E.II(B) dt 29 May 02 - Cabinet Secrt U.O. No 20/12/99-EA-I-1799 dt 2.5.2000	-	01 Copy
<input checked="" type="checkbox"/>	(e)	-	01 Copy

5. JC No-327588P. Nb/Sub AK Sinha of this office is hereby detailed alongwith connected documents and authorisation certificate to sign the court papers on behalf of the undersigned.
6. An early action is requested please.

Yours faithfully,


(Sanjay Datta)
Major
Garrison Engineer

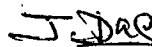
6/c 2
for info and further direction please.

Enccls : As above (19 sheets only)

Copy to :-
E-in-C's Br (Legal Cell)
HQ CEEC Kolkata
HQ CESZ Shillong
CDA Narangi, Guwahati-71
GWE Tezpur

FR 398
BB 392

Certified to be true Copy.


Advocate

407
Tele : 2309

Garrison Engineer
Tezpur

C/101/AO/PMK/407/E1C

04 Oct 2002

CNE Tezpur

ANNEXURE : R5

CA NO 238/2000 FILED BY SRI PM KITTAN, UDC
AND OTHERS VS UOI AND OTHERS (W.P.(C)3491/2002

1. A photocopy of legal notice by Miss M Bordoloi, Advocate of Shri PM KITTAN & others in the case No W.P.(c) 3491/2002 is fwd herewith. The lawyer has desired to implement the High Court Order on SDA within 15 days from the receipt of letter or else she will move on contempt case against the dept.
2. You are therefore, requested to approached higher HQ for issuing suitable insti regarding issue of SDA. In this connection please refer our letter No. C/101/AO/PMK/395/E1C dt 28 Sep 02 and C/101/AO/PMK/405/E1C dt 30 Sep 02.

SDT

(Sanjay Datta)
Major
Garrison Engineer

Encls : Two sheets

Copy to :-

E-in-C's Branch (Legal Cell)
AHQ, DHQ - PO
New Delhi-11
HQ CEEC Kolkata
HQ CESZ Shillong

for info alongwith a
copy of Guwahati High
Court legal notice
dt 25.09.02 for further
direction please.

Certified to be true Copy.

J. Datta
Advocate

29222/OA 238/2000/Legal//37/E1

30 Oct 2002

R6

18/15

MES-223980 Shri
PM Kittan, UDC
GE Tezpur

Last 25/11

EIC

ANNEXURE : R 6 (a)
series

OA 238/2000 FILED BY SHRI PM KITTAN AND OTHERS
VS UNION OF INDIA

Dear Sir,

1. Reference Hon'ble CAT Guwahati Judgement Order dated 25 Sep 2001 on the above OA filed by you regarding grant of Special Duty Allowances.

2. In the above judgement the Hon'ble CAT Guwahati held that :-

'In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from out side from NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of Special Duty Allowances to the applicants from the date of posting in the respective places.'

3. In the above verdict the Hon'ble CAT has directed to the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and posted on transfer to NE Region the respondents shall takes steps for payment of Special Duty Allowances to the applicants. Accordingly the respondents, after considering everything carefully have examined the circumspect of your case individually and have found that you were locally recruited in NE Region as per details given below :-

Sl No. Name of Applicant & Design. Date of initial Appt. Name of Unit where locally Recrurred

(a) MES-223980 Shri
PM Kittan, LDC
(Now UDC) 17 Sep 64 GE Borjar

4. The Hon'ble Supreme Court in their rulings in OA No. 3251/1993 UOI Vs Shri S Vijay Kumar & Others held that the Special Duty Allowances to Central Govt employees in the North Eastern Region will be admissible to only those who are originally recruited outside the NE Regions and subsequently transferred from such outside regions to the North Eastern Region. The Hon'ble Court has also stated that Special duty allowances would not become payable merely because of the clause in the appointment order relating to All India transfer liability. The Hon'ble Supreme Court further reiterated that the allowance (SDA) was meant to attract persons from outside the NE Region to work in that region because of inaccessibility and difficult terrain and paid to those incumbents who have been posted to NE Region carrying the aforesaid service condition and not to those who are residents of NE Region.

06/11
Certified to be true Copy.

J. S. Dube
Advocate

2 - 12

5. Based on the above rulings of the Apex Court, the Govt of India, Min of Def vide their Office Memorandum No. 4 (3)/98/D (Civ. I) dated 16 Mar 1998 has issued orders as under :-

Para 3 (b) "The Defence Civilians recruited from the outside North Eastern Regions and posted from outside in to the North Eastern Region would be entitled to the Special Duty Allowances....."

6. The above orders of the Min of Def has further been re-affirmed by the latest Govt of India, Min of Finance (Dept of Expd) OM No. F. No 11(5)/97/E II(B) dated 29 May 2002 states that :-

(Para 5) "The Special Duty Allowances shall be admissible to Central Govt. Employees having All India Transfer liability on posting to NE Region (Including Sikkim) from outside the Region".

7. In the light of the above ruling of the Hon'ble Supreme Court and also subsequent instructions issued by the Govt of India in this behalf, payment of Special Duty Allowance is not applicable in your case as you were locally recruited that is, you come under category of residents of NE Region for whom the Special Duty Allowance is not applicable as elaborated above.

8. With the issuance of this Speaking Order by the respondents the directions of the Hon'ble CAT Guwahati dated 25 Sep 2001 in OA No. 238/2000 stand disposed of.

CCaff

(TM Chandrakant)
Lt Col
SO I (Pers & Legal)
For Chief Engineer

Copy to

E-in-C's Br/EIC Legal-C
Army HQ DHQ
New Delhi- 110 011

- Wrt their Sig No 502249/EIC/Legal-C dated 23 Oct 2002
for information

HQ Chief Engineer
HQ Eastern Command
Fort William
Kolkata 700 021

for information wrt their signal No. 0 7053 dated 26 Oct 2002..

CWE Tezpur

GE Tezpur

} For information and filing compliance in Hon'ble CAT
Guwahati of their direction and to close the case through CGSC

Shri Chimoy Choudhury
Advocate
Sr CGSC, Guwahati High Court
Gumomoy Bhawan
Rajgarh 1st by Land (West)
East Sarania
Guwahati - 7812 003

- for info and necessary action please.

Miss M Bordoloi, Advocate
Guwahati High Court
C/O - Plaza Building,
Rly Gate No. 2

- for info wrt to her Legal Notice dated 25 Sep 2002.

Tele : 5052 (Milly)

6(b)

Regd/At
Headquarters
Chief Engineer
Shillong Zone
SE Falls
Shillong-793011

70222/OA 238/2000/Legal/(C,J)

G E
AGC (P) Chabua
AGC (P) Chabua
BB Das, BSO
GE Dibrugarh

30 Oct 2002

ANNEXURE : R 6(b)

MES-242236 Slu
BB Das, BSO
GE Dibrugarh

OA 238/2000 FILED BY SHRI PM KITTAN AND OTHERS
VS UNION OF INDIA

Dear Sir,

1. Reference Hon'ble CAT Gurvalal Judgement Order dated 25 Sep 2001 on the above OA filed by you regarding grant of Special Duty Allowances.

2. In the above judgement the Hon'ble CAT Gurvalal held that :-

'In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from out side from NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of Special Duty Allowances to the applicants from the date of posting in the respective places.'

3. In the above verdict the Hon'ble CAT has directed to the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and posted on transfer to NE Region the respondents shall take steps for payment of Special Duty Allowances to the applicants. Accordingly the respondents, after considering everything carefully have examined the circumstance of your case individually and have found that you were locally recruited in NE Region as per details given below :-

Sl.No.	Name of Applicant & Design.	Date of initial App.	Name of Unit where locally Recruited
--------	-----------------------------	----------------------	--------------------------------------

(a) MES-242236 Slu
BB Das, SE II
(Now BSO)

03 Sep 64

GE (P) Chabua

05/11
06/11

4. The Hon'ble Supreme Court in their rulings in OA No. 3254/1993 UOI Vs Shri S Vijay Kumar & Others held that the Special Duty Allowances to Central Govt employees in the North Eastern Region will be admissible to only those who are originally recruited outside the NE Regions and subsequently transferred from such outside regions to the North Eastern Region. The Hon'ble Court has also stated that Special duty allowances would not become payable merely because of the clause in the appointment order relating to All India transfer liability. The Hon'ble Supreme Court further reiterated that the allowance (SDA) was meant to attract persons from outside the NE Region to work in that region because of inaccessibility and difficult terrain and paid to those incumbents who have been posted to NE Region carrying the above-mentioned condition and not to those who are residents of NE Region.

Certified to be true Copy.

J. D. D
Advocate

5. Based on the above rulings of the Apex Court, the Govt of India, Min. of Def vide their Office Memorandum No. 4 (3)/98/D (Civ. I) dated 16 Mar 1998 has issued orders as under :-

Para 3 (b) " The Defence Civilians recruited from the outside North Eastern Regions and posted from outside in to the North Eastern Region would be entitled to the Special Duty Allowances....."

6. The above orders of the Min of Def has further been re-affirmed by the latest Govt of India, Min of Finance (Dept of Expdr) OM No. F. No.11(5)/97/E 11(B) dated 29 May 2002 states that :-

(Para 5) "The Special Duty Allowances shall be admissible to Central Govt. Employees having All India Transfer liability on posting to NE Region (Including Sikkim) from outside the Region".

7. In the light of the above ruling of the Hon'ble Supreme Court and also subsequent instructions issued by the Govt of India in this behalf, payment of Special Duty Allowance is not applicable in your case as you were locally recruited that is, you come under category of resident of NE Region for whom the Special Duty Allowance is not applicable as elaborated above.

8. With the issuance of this Speaking Order by the respondents the directions of the Hon'ble CAT Guwahati dated 25 Sep 2001 in OA No. 238/2000 stand disposed of.

Scdkt
(TM Chandrakant)
Lt Col
SO I (Pers & Legal)
For Chief Engineer

Copy to

E-in-C's Br/EIC Legal-C
Army HQ DHQ
New Delhi- 110 011

- Wrt their Sig No 502249/EIC/Legal-C dated 23 Oct 2002
for information

HQ Chief Engineer
HQ Eastern Command
Fort William
Kolkata 700 021

for information wrt their signal No. 0 7053 dated 26 Oct 2002..

CWE Tezpur

GE Tezpur

} For information and filing compliance in Hon'ble CAT
Guwahati of their direction and to close the case through CGSC

Shri Chinmoy Choudhury
Advocate

- for info and necessary action please.

Sr CGSC, Guwahati High Court
Gunomoy Bhawan
Rajgarh 1st by Land (West)
East Sarania
Guwahati - 7812 003

Miss M Bordoloi, Advocate
Guwahati High Court
C/O 4 Plaza Building,
Rly Gate No. 2
Lakhtokia, Guwahati - 781001

- for info wrt to her Legal Notice dated 25 Sep 2002.

70222/OA 238/2000/Legal/141/11

30 Oct 2002

MES-236465 Shri
AK Bhattacharjee, AE
GE (E) Allahabad

ANNEXURE : R 6(C)

OA 238/2000 FILED BY SHRI PM KITTAN AND OTHERS
VS UNION OF INDIA

Dear Sir,

1. Reference Hon'ble CAT Guwahati Judgement Order dated 25 Sep 2001 on the above OA filed by you regarding grant of Special Duty Allowances.

2. In the above judgement the Hon'ble CAT Guwahati held that :-

'In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from out side from NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of Special Duty Allowances to the applicants from the date of posting in the respective places.'

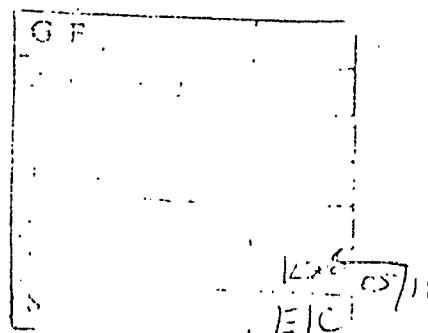
3. In the above verdict the Hon'ble CAT has directed to the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and posted on transfer to NE Region the respondents shall takes steps for payment of Special Duty Allowances to the applicants. Accordingly the respondents, after considering everything carefully have examined the circumspect of your case individually and have found that you were locally recruited in NE Region as per details given below :-

<u>Sl No.</u>	<u>Name of Applicant & Design.</u>	<u>Date of initial Appt.</u>	<u>Name of Unit where locally Recruited</u>
---------------	--	------------------------------	---

(b)	MES-236465 Shri AK Bhattacharjee, B/R II (Now AE)	16 Mar 70	CE NEZ Tezpur) (Erstwhile)
-----	---	-----------	-------------------------------

4. The Hon'ble Supreme Court in their rulings in OA No. 3251/1993 UOI Vs Shri S Vijay Kumar & Others held that the Special Duty Allowances to Central Govt employees in the North Eastern Region will be admissible to only those who are originally recruited outside the NE Regions and subsequently transferred from such outside regions to the North Eastern Region. The Hon'ble Court has also stated that Special duty allowances would not become payable merely because of the clause in the appointment order relating to All India transfer liability. The Hon'ble Supreme Court further reiterated that the allowance (SDA) was meant to attract persons from outside the NE Region to work in that region because of inaccessibility and difficult terrain and paid to those incumbents who have been posted to NE Region carrying the aforesaid service-condition and not to those who are residents of NE Region.

07
06/11



Contd.. 2

Certified to be true Copy.

J. D. Dabu
Advocate

5. Based on the above rulings of the Apex Court, the Govt of India, Min of Def vide their Office Memorandum No. 4 (3)/98/D (Civ. I) dated 16 Mar 1998 has issued orders as under:

Para 3 (b) "The Defence Civilians recruited from the outside North Eastern Regions and posted from outside in to the North Eastern Region would be entitled to the Special Duty Allowances....."

6. The above orders of the Min of Def has further been re-affirmed by the latest Govt of India, Min of Finance (Dept of Expr) OM No. F. No 11(5)/97/E II(B) dated 29 May 2002 states that:-

(Para 5) "The Special Duty Allowances shall be admissible to Central Govt. Employees having All India Transfer liability on posting to NE Region (Including Sikkim) from outside the Region".

7. In the light of the above ruling of the Hon'ble Supreme Court and also subsequent instructions issued by the Govt of India in this behalf, payment of Special Duty Allowance is not applicable in your case as you were locally recruited that is, you come under category of resident of NE Region for whom the Special Duty Allowance is not applicable as elaborated above.

8. With the issuance of this Speaking Order by the respondents the directions of the Hon'ble CAT Guwahati dated 25 Sep 2001 in OA No. 238/2000 stand disposed of.

(cc:)
(TM Chandrakant)
Lt Col
SO I (Pers & Legal)
For Chief Engineer

Copy to

E-in-C's Br/EIC Legal-C
Army HQ DHQ
New Delhi- 110 011

- Wrt their Sig No 502249/EIC/Legal-C dated 23 Oct 2002
for information.

HQ Chief Engineer
HQ Eastern Command
Fort William
Kolkata 700 021

for information wrt their signal No. 0 7053 dated 26 Oct 2002..

CWE Tezpur
GE Tezpur

} For information and filing compliance in Hon'ble CAT
Guwahati of their direction and to close the case through CGSC

Shri Chinmoy Choudhury
Advocate
Sr CGSC, Guwahati High Court
Gumomoy Bhawan
Rajgarh 1st by Land (West)
East Sarania
Guwahati - 7812 003

- for info and necessary action please.

Miss M Bordoloi, Advocate
Guwahati High Court
C/O - Plaza Building,
Rly Gate No. 2

- for info wrt to her Legal Notice dated 25 Sep 2002.

Tele : Mily : 2309

Garrison Engineer Tezpur
P.O. Dekargaon
Tezpur-784 501 (Assam)

C/101/OA/PMK/ 437/EIC. 13 Nov 2002

HQ CESZ Shillong

ANNEXURE : R 27

OA NO 238/2000 FILED BY SHRI PM KITTAN
AND OTHERS VS UOI

1. Reference your letter No 70222/OA 238/2000/Legal/146/E1 dt 05 Nov 2002.
2. Acknowledgement received from MES/223980 Shri PM Kitan, UDC of this office is fwd herewith in dupl for your further action please.


(Sanjay Datta)
Major
Garrison Engineer

Encls : As above

9/9
Certified to be true Copy:


J. Datta
Advocate

18

45'

ACKNOWLEDGEMENT

Received HQ CESZ Shillong letter No 70222/07-238/
2000/Legal/139/E1 dt 30 Oct 2002.

Place : Tezpur

Dated : 15 Nov 2002

(MES/223980 Shri
PM Kittan, UDC
GE Tezpur)

af m

Certified to be true Copy.


Advocate

15 16
ANNEXURE : R8

No.90237/7521/LC Legal-C/86-LC/D(Civ.1)/03
 Government of India
 Ministry of Defence

New Delhi, the 21st February, 2003

To

MES/223980,
 Shri P.M. Kittan, UDC
 C/o GE, Tezpur

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI
 and others

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No 238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and posted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.1) dated 10th October, 2002, read with all the orders issued earlier. As per the Supreme Court judgements quoted in the Ministry of Finance OM dated 29th May, 2002 ibid, the Special Duty Allowance shall be admissible to the Central Govt. Employees having All India Transfer Liability on posting to North Eastern Region(including Sikkim) from outside the region.

3. You were originally recruited as LDC in the year 1964 and subsequently promoted as UDC in the year 1985. Both the posts of LDC and UDC held by you are not having All India Transfer Liability. Therefore, you are not entitled

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J. Das
Advocate

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OR

54

To grant of Special Duty Allowance(SDA) as per the orders of the Ministry of Finance(Depat. of Expenditure.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/L-1 dated 30.10.2002.

Piara Ram

(Piara Ram)

Copy to :

Under Secretary to the Govt. of India

- 1) E-in-C Branch (EIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati.
- 8) Area Accounts Office, Shillong

Certified to be true Copy.

J. S. Deo
Advocate

21

ANNEXURE : R9

No.90237/7521/EIC Legal-C/86-LC/03

Government of India

Ministry of Defence

D(Civ.I)

Dated 21st February, 2003

To

Shri A.K. Bhattacharjee, AE
MES/236465, GE, Allahabad

Subject: OA No.238/2000 filed by Shri P.M. Killan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier.

3. You were originally recruited as Supdt. B/R Grade II in the year 1970. Subsequently you were promoted as Supdt. B/R Grade I on 27.1.88 and thus came under All India Transfer Liability, from this date i.e. 27.1.1988. Thereafter, you have served in the NER, coming from outside during the following period:-

(i) 28.6.1990 to 20.1.1994 in GE(AF) Borjar

(ii) 23.10.1997 to 26.5.2001 in GE. Tezpur

Certified to be true Copy.

J. Deo
Advocate

22/10/02

During the above period, mentioned at (i) & (ii) above you are entitled to the grant of SDA as per the orders of the Ministry of Finance (Dept. of Exp.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002. A Govt. letter for implementation of CAT Guwahati orders will be issued separately.

(P. Rama Ram)
Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (EIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur/GE Borjar.
- 5) GE, Tezpur
- 6) GE, Allahabad
- 7) CGDA, New Delhi
- 8) CDA, Guwahati
- 9) Area Accounts Office, Shillong

Certified to be true Copy.

Advocate

23 / 50 /
 No.90237/7521/EIC Legal-C/86-LC/03
 Government of India
 Ministry of Defence
 D(Civ.I)

Dated 21st February, 2003

To

Shri B.B. Das, BSO,
 MES/242236, Tezpur

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier.
3. You were originally recruited as SK-II on 3.9.64. You were promoted to the post of SK-I on 16.12.75, and to the post of BS-II on 01st August, 84 and BS-I on 31st May 1990 and BSO after 22nd November, 01.

Applying the All India Transfer Liability criteria as per Ministry of Finance (Department of Expenditure) OM No.11(5)/97-E.II(B) dated 29.5.2002 you have got all India transfer liability on the post of BS-I w.e.f from 31st May 1990. After this date you have been posted to NER from outside NER from

Certified to be true copy
S. Das
Advocate

31.8.93 till date. Therefore, you are entitled for grant of Special Duty Allowance as per the orders of Ministry of Finance and Ministry of Defence mentioned above from 31 September, 93 till date you continue to be posted in NER.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone vide their letter No. 70222/OA 239/2000/Legal/140/E-1 dated 30.10.2002. A Govt. letter in implementation of the CAT, Guwahati orders will be issued, separately.

Piara Ram

Piara Ram

(Piara Ram)

Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (LIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur, GE Dinjan.
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati
- 8) Area Accounts Office, Shillong

Certified to be true

J. D. D.
Advocate



**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI Bench**

**CONTEMPT PETITION NO. 4/2003
IN OA NO. 238/2000**

Shri Piara Ram & 3 others

.....Respondents

V/s

Shri P.M. Kittan & Others

.... Petitioners

(Affidavit in reply filed by Shri Piara Ram, the respondent No. 1)

I, Piara Ram, son of Late Shri Harnam Das, aged about 59 years at present working as Under Secretary in the Ministry of Defence, Government of India, Sena Bhavan New Delhi, do here by solemnly affirm and state as follows :

That a copy of the C.P. no. 4/2003 (hereinafter referred as the "Petition") has been served on me and I have been implicated as respondent No.1 in the said contempt petition. I have gone through the same and understood the contents thereof. My designation in the CP has been mentioned as Secretary to the Government of India, Ministry of Defence which is factually not correct. I am only the Under Secretary, Ministry of Defence, Government of India. However, I am the concerned Under Secretary dealing with the case but not the final competent authority to decide the issue. I am submitting my replies based on the records.

2. That the statements made in the petition, which are not specifically admitted, are hereby denied by me.

B. C. Pathak
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati



Piara Ram
Piara Ram

12/13

2

3. That the petition has not been filed and made as per requirement of law as provided under Rule 5(i) a (i) of the CAT (Contempt of Courts) Rules 1992. Therefore, the contempt petition is liable to be dismissed as the respondent No. 1,2 and 3 has not been made party by name as required by law.

4. That with regard to the statements made in paragraphs 1 to 4 of the petition, I have to offer no comments being the factual position.

5. That with regard to the statements made in paragraph 5 of the petition, I am to say that as directed by the Hon'ble High Court, Guwahati and Hon'ble CAT Guwahati, the representations of the three applicants were examined individually. A speaking order was issued by Chief Engineer Shilong Zone, Shilong to each of the applicants bearing Nos. 70222/OA/ 238/2000/Legal/139/EI/70222/OA/238/2000/Legal/140/EI and 70222/OA/238/2000/Legal/141/EI dated 30th October, 2002. Ministry of Defence after reconsideration of the matter in consultation with Ministry of Finance have issued a Speaking Order No. PC-90237/7521/EIC(Legal-C)/86-LC/03/D(Civ.I) dated 21.2.2003 (copy enclosed) ^{as Annexure-1 (See 5)} in supersession of the earlier Speaking Order dated 30.10.2002 issued in respect of all the three applicants. A Government letter No. PCNo.90237/7521/EIC(Legal-C/89-LC/03/D(Civ.I) dated 21.2.03 for implementing the court order in respect of Shri B.B. Das, BSO and Shri A.K. Bhattacharjee, AE has also been issued, separately (copy enclosed) It is, therefore, submitted that the orders of Hon'ble CAT/High court stand implemented.

6. That with regard to the statements made in paragraph 6 of the petition, it is submitted that in view of the submission made in para 5 above, it is submitted that there has been no willful violations of the orders of the Hon'ble CAT as well as Hon'ble High Court.

7. That with regard to the statements made in paragraph 7 of the petition, I, respectfully submit that in case, this Hon'ble Tribunal comes to a finding/opinion that respondents are otherwise liable for contempt of court, in that case, respondents hereby

P. S. Das
P. S. Das



→ tender unqualified apology to exonerate from the charges as shown that there is no willful disobedience or disregard to the aforesaid court's order. Respondents have the highest regard to all the courts of the country and as a citizen and also as a Government Officer, being in duty bound to comply with such court's order.

8. That the statements made in paragraph 1,3,5 to 7 above are true to my knowledge and believe and those made in paragraph 4 being matter of records, are true to my information derived there from and to rest of my humble request before this Hon'ble Tribunal, I have not suppressed any material fact.

And I signed this affidavit on 21st day of February, 2003 at New Delhi.

Identified by me

Deponent.

Advocate

P C R

P C R

Solemnly affirmed and signed by the deponent,
Who is identified by Shri

Advocate, on this the day of
February, 2003 at Guwahati.

P C R
SOLEMNLY AFFIRMED
SWORN BEFORE ME

P C R
NOTARY PUBLIC
N.C.T. OF N. DELHI

Magistrate/Advocate.

24 FEB 2003



Identifying the deponent who has
signed this affidavit is my
duty
M. D. Debnath
N. Debnath

No. PC-20237/7521/EIC(Legal-C)/39-LC/D(Civ.I)/2003

Government of India

Ministry of Defence

New Delhi-110011

21st February, 2003

(To:

The Chief of the Army Staff

Subject:- Implementation of CAT Guwahati Judgement dated 25th September, 2001 in OA No. 238/2000 filed by Shri P.M. Kittan and 2 Others.

Sir,

I am directed to refer to the Hon'ble CAT Guwahati judgement dated 25th Sept. 2001 in OA No. 238/2000 filed by Shri PM Kittan and 2 others and to say that the question of payment of Special Duty Allowance (SDA) has been examined taking into account the criteria of All India Transfer Liability as prescribed in MOF OM F No. A1(5)/97-E.II(B) dated 29-5-2002 read with their earlier orders. On applying this criteria of eligibility, the following officers have been found to be eligible for grant of SDA from the dates indicated against their names below:-

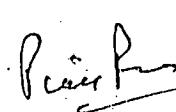
(a)	MES No.242236 Sh. B.B. Das, BSO	From 31-8-93 till the date the officer continues to be posted in NER
(b)	MES No. 236465 Sh. A.K.Bhattacharjee, AR	From 28-6-90 to 20-1-94 23-10-97 to 26-5-2001

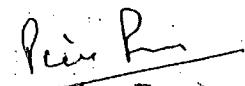
Accordingly, sanction of the President is hereby conveyed to the payment of Special Duty Allowance as per admissible rates to the above officers from the dates of their reposting in NER from outside as mentioned against their names above. Shri P.M.Kittan, UDC, has however, not been found eligible for grant of SDA as per prescribed criteria:

2. The amount so due as arrears will be paid to the applicants under Charged Expenditure Head for which a separate sanction will be issued.

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This issues with the concurrence of Ministry of Def (Fin) vide their
U.O.No.130/AG/PB/2003 dated 21st Februrary,2003.

Yours faithfully,





(Piara Ram)

Under Secretary to the Govt. of India.

Copy to:-

- E-in-C's Branch /Army Hqrs.
- CE, Eastern Comand, Kolkata
- CE, Shillong Zone, Shillong
- CWE, Tezpur
- GE, Tezpur
- CGDA New Delhi
- ✓CDA Guwahati--- ink signed copy
- Area Accounts Office, Shillong
- DFA(AG/PB)
- AJ/Org-4(Civ)(d)
- DFA(Works)

Government of India
Ministry of Defence

69
New Delhi, the 21st February, 2003.

To
MES/223980,
Shri P.M. Kittan, UDC
C/o GE, Tezpur

Subject: OA No. 238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI
and others.

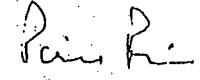
The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001,
in OA No.238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside
to NE Region and reposted to the NE Region is entitled to SDA. No
written statement had been filed. In the circumstances, we direct the
respondents to examine the case of the applicants individually and if it is
found that the applicants were posted from outside to NE Region and
thereafter transferred and posted in the NE Region, in that event the
respondents shall take steps for payment of SDA to the applicants from the
date of reporting in the respective places. If any deduction was made from
the applicants these are to be refunded to them forthwith on completion of
the exercise."

2. In compliance with the orders of CAT, Guwahati, your case has been
examined keeping in view the orders contained in the Ministry of Finance, Deptt.
of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide
Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated
10th October, 2002, read with all the orders issued earlier. As per the Supreme
Court judgements quoted in the Ministry of Finance OM dated 29th May, 2002
ibid, the Special Duty Allowance shall be admissible to the Central Govt.
Employees having All India Transfer Liability on posting to North Eastern
Region(including Sikkim) from outside the region.
3. You were originally recruited as LDC in the year 1964 and subsequently
promoted as UDC in the year 1985. Both the posts of LDC and UDC held by
you are not having All India Transfer Liability. Therefore, you are not entitled

to grant of Special Duty Allowance(SDA) as per the orders of the Ministry of Finance(Deptt. of Expenditure.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002.

(Piara Ram)

Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (EIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati
- 8) Area Accounts Office, Shillong

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No.90237/7521/EIC Legal-C/86-LC/03

Government of India
Ministry of Defence
D(Civ.I)

Dated 21st February, 2003

To

Shri B.B. Das, BSO,
MES/242236, Tezpur

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

“Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise.”

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier.

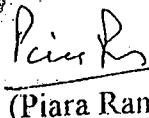
3. You were originally recruited as SK-II on 3.9.64. You were promoted to the post of SK-I on 16.12.75, and to the post of BS-II on 01st August, 84 and BS-I on 31st May 1990 and BSO after 22nd November, 01.

Applying the All India Transfer Liability criteria as per Ministry of Finance (Department of Expenditure) OM No.11(5)/97-E.II(B) dated 29.5.2002 you have got all India transfer liability on the post of BS-I w.e.f from 31st May 1990. After this date you have been posted to NER from outside NER from

31.8.93 till date. Therefore, you are entitled for grant of Special Duty Allowance as per the orders of Ministry of Finance and Ministry of Defence mentioned above from 31 September, 93 till date you continue to be posted in NER.

4: With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002. A Govt. letter in implementation of the CAT, Guwahati orders will be issued, separately.




(Piara Ram)

Under Secretary to the Govt. of India

Copy to:

- 1) E-in-C Branch (EIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur, GE Dinjan.
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati
- 8) Area Accounts Office, Shillong

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No. 90237/7521/EIC Legal-C/86-LC/03
Government of India
Ministry of Defence
D(Civ.1)

Dated 21st February, 2003

To

Shri A.K. Bhattacharjee, AE
MES/236465, GE, Allahabad

Subject: OA No. 238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No. 238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.1) dated 10th October, 2002, read with all the orders issued earlier.

3. You were originally recruited as Supdt. B/R Grade II in the year 1970. Subsequently you were promoted as Supdt. B/R Grade I on 27.1.88 and thus came under All India Transfer Liability, from this date i.e. 27.1.1988. Thereafter, you have served in the NER, coming from outside during the following period:-

- (i) 28.6.1990 to 20.1.1994 in GE(AF) Borjat
- (ii) 23.10.1997 to 26.5.2001 in GE. Tezpur

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During the above period, mentioned at (i) & (ii) above you are entitled to the grant of SDA as per the orders of the Ministry of Finance(Deptt. of Exp.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002. A Govt. letter for implementation of CAT Guwahati orders will be issued separately.

Piara Ram *Piara Ram*
(Piara Ram)
Under Secretary to the Govt. of India

Copy to:

- 1) E-in-C Branch (EIC Legal)
- 2) CII, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur/GE Borjar.
- 5) GE, Tezpur
- 6) GI, Allahabad
- 7) CGDA, New Delhi
- 8) CDA, Guwahati
- 9) Area Accounts Office, Shillong

MAR 2003

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI Bench

CONTEMPT PETITION No.4/2003
IN OA No.238/2000

Shri Kuppaswamy & 3 others

.....Respondents

V/s

Shri P.M.Kittan & Others

.....Petitioners

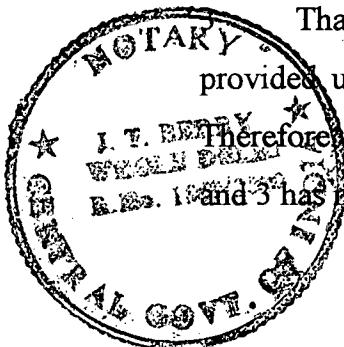
(Affidavit in reply filed by Shri Kuppaswamy, the respondent No. 2)

I, Kuppaswamy, son of Late Shri K.T.K.Iyengar aged about 57 years at present working as Assistant Controller General of Defence Accounts in the Office of the Controller General of Defence Accounts, West Block-V, R.K. Puram, New Delhi, do hereby solemnly affirm and state as follows:

That a copy of the C.P.No.4/2003 (hereinafter referred as the "Petition") has been served on me and I have been implicated as respondent No.2 in the said Contempt Petition. I have gone through the same and understood the contents thereof. My designation in the CP has been mentioned as Controller General of Defence Accounts which is not factually correct. I am only the Assistant Controller General of Defence Accounts in the Office of the Controller General of Defence Accounts, New Delhi. I am not the concerned official dealing with the case and also not the final competent authority to decide the issue. However, I am submitting my replies based on the records.

2. That the statements made in the petition, which are not specifically admitted, are hereby denied by me.

That the petition has not been filed and made as per requirement of law as provided under Rule 5 (i) a (i) of the CAT (Contempt of Courts) Rules 1992. Therefore the contempt petition is liable to be dismissed as the respondent No.1, 2 & 3 has not been made party by name as required by law.



Kuppaswamy

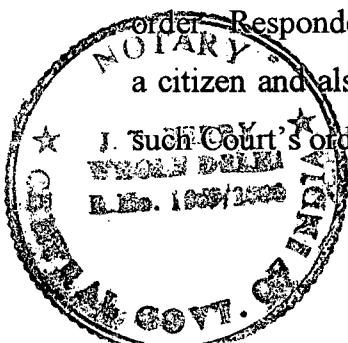
21/3/03
 B. C. Pathak
 (B. C. Pathak)
 Addl. Central Govt. Standing Counsel
 Central Administrative Tribunal
 Guwahati Bench : Guwahati

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4. That with regard to the statements made in paragraphs 1 to 4 of the petition, I have to offer no comments being the factual position.

5. That with regard to the statements made in paragraph 5 of the petition, I am to say that as directed by the Hon'ble High Court, Guwahati and Hon'ble CAT Guwahati, the representations of the three applicants were examined individually. A speaking order was issued by Chief Engineer Shillong Zone, Shillong to each of the applicants bearing Nos. 70222/OA/238/2000/Legal/139/E1, 70222/OA/ 238/2000/ Legal/ 140/E1 and 70222/OA/238/2000/Legal/141/E1 all three dated 30th October, 2002. Ministry of Defence after reconsideration of the matter in consultation with Ministry of Finance have issued a Speaking Order No.PC-90237/7521/E1C (Legal-C)/86-LC/03/D (Civ-I) dated 21.2.2003 (copy enclosed) in supersession of the earlier Speaking Order dated 30.10.2002 issued in respect of all the three applicants. A Government letter No. PC No.90237/7521/E1C (Legal-C/89-LC/03/D (Civ-I) dated 21.2.03 for implementing the court order in respect of Shri B.B.Das, BSO and Shri A.K.Bhattacharjee, AE has also been issued, ^{as Annexure - 1 & 2} separately (copy enclosed). It is, therefore, submitted that the orders of Hon'ble CAT/High Court stand implemented.

6. That with regard to the statements made in paragraph 6 of the petition, it is submitted that in view of the submission made in para 5 above, it is submitted that there has been no willful violations of the orders of the Hon'ble CAT as well as Hon'ble High Court.

7. That with regard to the statements made in paragraph 7 of the petition, I, respectfully submit that in case, this Hon'ble Tribunal comes to a finding/opinion that respondents are otherwise liable for contempt of court, in that case, respondents hereby tender unqualified apology to exonerate from the charges as shown that there is no willful disobedience or disregard to the aforesaid court's order. Respondents have the highest regard to all the courts of the country and as a citizen and also as a Government Officer, being in duty bound to comply with



Umesh Sharma

3

8. That the statements made in paragraph 1,3,5 to 7 above are true to my knowledge and believe and those made in paragraph 4 being matter of records, are true to my information derived there from and to rest of my humble request before this Hon'ble Tribunal. I have not suppressed any material fact.

And signed this affidavit on 21st day of February 2003 at New Delhi.

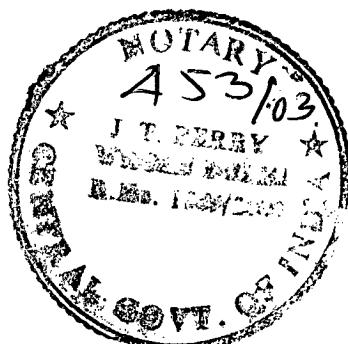
Kishore Chandra
Deponent

Identified by me

D. Chandra
21/2/03
Advocate

Solemnly affirmed and signed by the deponent,
Who is identified by Shri *B. Chandra*
Advocate, on this 21 the day
of February, 2003 at Guwahati

Magistrate/Advocate



Attested
J. T. BERRY (ADV)
M.B.A., L.L.B.
UG-35, Somdutt Chamber-D
Bhikaji Cama Place,
New Delhi-110068

25 FEB 2003

29
Annexure - I (contd)

No. PC-90237/7521/EIC(Legal-C)/39-LC/D(Civ.I)/2003

Government of India

Ministry of Defence

New Delhi-110011

21st February, 2003

To

The Chief of the Army Staff

Subject:- Implementation of CAT Guwahati Judgement dated 25th September, 2001 in OA No. 238/2000 filed by Shri P.M. Kittan and 2 Others.

Sir,

I am directed to refer to the Hon'ble CAT Guwahati judgement dated 25th Sept. 2001 in OA No. 238/2000 filed by Shri PM Kittan and 2 others and to say that the question of payment of Special Duty Allowance (SDA) has been examined taking into account the criteria of All India Transfer Liability as prescribed in MOF OM F No. 11(5)/97-E.II(B) dated 29-5-2002 read with their earlier orders. On applying this criteria of eligibility, the following officers have been found to be eligible for grant of SDA from the dates indicated against their names below:-

(a) MES No.242236	From 31-8-93 till the date the officer continues to be posted in NER
(b) MES No. 236465	From 28-6-90 to 20-1-94 23-10-97 to 26-5-2001

Accordingly, sanction of the President is hereby conveyed to the payment of Special Duty Allowance as per admissible rates to the above officers from the dates of their reposting in NER from outside as mentioned against their names above. Shri P.M.Kittan, UDC, has however, not been found eligible for grant of SDA as per prescribed criteria.

2. The amount so due as arrears will be paid to the applicants under Charged Expenditure Head for which a separate sanction will be issued.

This issues with the concurrence of Ministry of Def (Fin) vide their
M.O.No.130/AG/PB/2003 dated 21st February, 2003.

Yours faithfully,

Piara Ram

Piara Ram

(Piara Ram)

Under Secretary to the Govt. of India.

Copy to:-

- E-in-C's Branch /Army Hqrs.
- CE, Eastern Comand, Kolkata
- CE, Shillong Zone, Shillong
- CWE, Tezpur
- GE, Tezpur
- CGDA, New Delhi
- ✓CDA, Guwahati--- ink signed copy
- Area Accounts Office, Shillong
- DFA(AG/PB)
- AF/Org-4(Civ)(d)
- DFA(Works)

Government of India
Ministry of Defence

6
New Delhi, the 21st February, 2003.

To

MEB/223980,
Shri P.M. Kittan, UDC
C/o GE, Tezpur

Subject: OA No. 238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI
and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier. As per the Supreme Court judgements quoted in the Ministry of Finance OM dated 29th May, 2002 ibid, the Special Duty Allowance shall be admissible to the Central Govt. Employees having All India Transfer Liability on posting to North Eastern Region(including Sikkim) from outside the region.

3. You were originally recruited as LDC in the year 1964 and subsequently promoted as UDC in the year 1985. Both the posts of LDC and UDC held by you are not having All India Transfer Liability. Therefore, you are not entitled

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to grant of Special Duty Allowance(SDA) as per the orders of the Ministry of Finance(Deptt. of Expenditure) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002.

Piara Ram Piara Ram

(Piara Ram)

Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (EIC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati
- 8) Area Accounts Office, Shillong

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29
No.90237/7521/EIC Legal-C/86-LC/03

Government of India
Ministry of Defence
D(Civ.I)

Dated 21st February, 2003

To

Shri B.B. Das, BSO,
MES/242236, Tezpur

Subject: OA No.238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No.238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

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3. You were originally recruited as SK-II on 3.9.64. You were promoted to the post of SK-I on 16.12.75, and to the post of BS-II on 01st August, 84 and BS-I on 31st May 1990 and BSO after 22nd November, 01.

Applying the All India Transfer Liability criteria as per Ministry of Finance (Department of Expenditure) OM No.11(5)/97-E.II(B) dated 29.5.2002 you have got all India transfer liability on the post of BS-I w.e.f from 31st May 1990. After this date you have been posted to NER from outside NER from

31.8.93 till date. Therefore, you are entitled for grant of Special Duty Allowance as per the orders of Ministry of Finance and Ministry of Defence mentioned above from 31 September, 93 till date you continue to be posted in NER.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone vide their letter No. 70222/OA 239/2000/Legal/140/E-1 dated 30.10.2002. A Govt. letter in implementation of the CAT, Guwahati orders will be issued, separately.

Piara Ram

Piara Ram

(Piara Ram)

Under Secretary to the Govt. of India

Copy to :

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- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur, GE Dinjan.
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati
- 8) Area Accounts Office, Shillong

Dated 21st February, 2003

To

Shri A.K. Bhattacharjee, AE
MES/236465, GE, Allahabad

Subject: OA No. 238/2000 filed by Shri P.M. Kittan, UDC and others v/s UOI and
others.

The Hon'ble CAT Guwahati Bench in their order dated 25.9.2001, in OA No. 238/2000 has given the following directions:-

"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reported to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances we direct the respondents to examine the case of the applicants individually and if it is found that the applicants were posted from outside to NE Region and thereafter transferred and posted in the NE Region, in that event the respondents shall take steps for payment of SDA to the applicants from the date of reporting in the respective places. If any deduction was made from the applicants these are to be refunded to them forthwith on completion of the exercise."

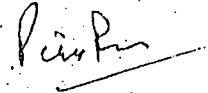
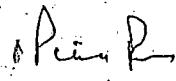
2. In compliance with the orders of CAT, Guwahati, your case has been examined keeping in view the orders contained in the Ministry of Finance, Deptt. of Expenditure OM dated 11(5)/97-E.II(B) dated 29.5.2002 circulated vide Ministry of Defence ID No. Ministry of Defence ID No.4(6)/2002/D(Civ.I) dated 10th October, 2002, read with all the orders issued earlier.

3. You were originally recruited as Supdt. B/R Grade II in the year 1970. Subsequently you were promoted as Supdt. B/R Grade I on 27.1.88 and thus came under All India Transfer Liability, from this date i.e. 27.1.1988. Thereafter, you have served in the NER, coming from outside during the following period:-

- (i) 28.6.1990 to 20.1.1994 in GE(AF) Borjat
- (ii) 23.10.1997 to 26.5.2001 in GE, Tezpur

During the above period, mentioned at (i) & (ii) above you are entitled to the grant of SDA as per the orders of the Ministry of Finance(Deptt. of Exp.) and Ministry of Defence mentioned above.

4. With the issue of this speaking order, the direction of the Hon'ble CAT, Guwahati Bench in OA No. 238/2000 filed by you and others has been complied with. This speaking order is issued in supersession of the earlier speaking order issued by CE Shillong Zone, Shillong vide their letter No. 70222/OA 239/2000/Legal/ 140/E-1 dated 30.10.2002. A Govt. letter for implementation of CAT Guwahati orders will be issued separately.

 
(Piaru Ram)

Under Secretary to the Govt. of India

Copy to :

- 1) B-in-C Branch (EiC Legal)
- 2) CE, Eastern Command, Kolkata
- 3) CE, Shillong Zone, Shillong
- 4) CWE, Tezpur/GE Borjar.
- 5) GE, Tezpur
- 6) GE, Allahabad
- 7) CGDA, New Delhi
- 8) CDA, Guwahati
- 9) Area Accounts Office, Shillong