

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

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

Applicant(s): Parixarathu Madhavan Kithan Joke

- Vs. -

Respondent(s): A. O. I Joke

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

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

Notes of the Registry

Date

Order of the Tribunal

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.

Laid before the
Hon'ble Court for further
orders.

Section Officer
20/1/03

mb
24.2.2003

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

The Hon'ble Mr. S.K. Hajra
Administrative Member.

Heard Mr. M.K. Mazumdar,
learned counsel for the applicant.

Issue notice to show cause
as to why the contempt proceeding
shall not be initiated.

List on 24.2.2003 for
orders.

Member

Vice-Chairman

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.

Vice-Chairman

Steps Taken, Notice prepared
and sent to D/S for immediate
respondent No. 1 to 4 by Regd.
A.D.

23/1/03

D/No 95598 dt 23/01/03

No reply has been
filed
21/2/03

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 recorded by the Tribunal.

In
27/2/03.

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

This is an application for initia-
tion of Contempt for the alleged vio-
lation of the judgment and order dat-
ed 25.9.2001 in O.A.238/2000. By the
aforementioned order of this Bench,
the applicants were to submit fresh
representation individually or colle-
ctively within the time prescribed
and the respondents were directed to
complete the exercise within the per-
iod prescribed.

The issue revolves around the pay-
ment 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 res-
pondents 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 accordi-
ngly 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. Kittan. The lea-
rned counsel for the applicant sub-
mitted that as per the order of the
Tribunal the respondents were orde-
red 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.E Region and thereafter transferred and posted in the N.E Region. According to the applicants No.1, since he was posted from outside to N.E Region and thereafter transferred and posted in the N.E Region 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 ~~said~~ 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. Banerjee
Member

[Signature]
Vice-Chairman

bb

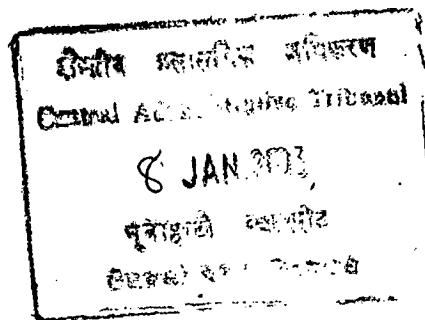
27.3.2003
Copy of the order
has been sent to the
Office for issuing the
order to the L/Adm.
for the parties.

18

Notes of the Registry

Date

Order of the Tribunal



Filed by the Petitioners
Through 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 Tribunal's Act, 1985, read with Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987.

-And-

In the matter of -

Willful 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 Pariyaranathu Madhavan Kitten,
U.D.C.,
MES/223980, Tezpur.
2. Shri Asim Kr. Bhattacharjee,
Superintendent, BIR, Grade-I,
MES/236465, Tezpur.

3.....

3. Shri Binay Bhusan Das,
supervisor, B/S. Grade-I,
NES/242236, Tezpur.

..... Applicants.

-versus-

1. Shri ~~G. G. Bhattacharya~~ ^{G. G. Bhattacharya}
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 (Salmara),
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.

A copy of the said order is annexed in Annexure-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 of 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 Kitten, son of Late Madhavan Kitten, 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.

Identified by me

M. K. Majumdar
Advocate.

P. M. Kitten
Deponent.

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

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 (Solmara),
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.

Moulikant Majumdar
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

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

1. Shri Pariyarathu Madhavan Kitten,
Upper Division Clerk,
NES/223980, Tezpur.
2. Shri Ashim Kumar Bhattacharjee,
Superintendent, BIR, Grade-1
MES/236465, Tezpur.
3. Shri Binoy Bhusan Das,
Supervisor, B/S, Grade-1
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 Controller 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. - Dekargaon (Solmara),
Dist. - Sonitpur. Respondents.

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

ORDER.....

Annx. 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. & C. Pathak, Adv. 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 Civil Rule. W.P. (C) No. 3491 of 2002.

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

-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 Controller 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 (Salmara),
Dist. - Sonitpur.

.....Petitioners
Respondents in
Original Application.

-Versus-

- 1) Shri Pariyarathu 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,

Add.....

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

AnnX. - 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/- Ranjon Gogoi,
Judge.

Sd/- R.S. Mongia,
Chief Justice.

Annexure - C.

Regd/AD.

Tele : 5052(Mil.Y).

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 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 take steps for payment of special Duty Allowances to the applicants. Accordingly the respondents, after considering everything carefully have examined the circumstances 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 (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 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 ~~xxx~~ Region would be entitled to the Special Duty Allowance....."

6. The above orders of the Min of Defence has further been re-affirmed by the latest Govt. of India, Min of Finance (Deptt. 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.....

Annx. C.

recruited that is, you come under category 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/- Illegible.

(TM Chandrakant),

Lt. Col.

SOI (Pers & Legal)

For Chief Engineer.

Copy to -

E-in-C's Br/EIC Legal-C
Army HQ DHQ,
New Delhi-110011.

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

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

- 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.

20-

24 FEB 2003

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI
Guwahati Bench

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

24

Amidkumar

Filed by -
Pooja Hangzo
(B.C.P.H.K) 24/2/03
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

(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.

Amidkumar

21

Handwritten signature

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.

Handwritten signature

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 24st 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 24th day
of February, 2003 at Guwahati

Dilip Basu
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:-

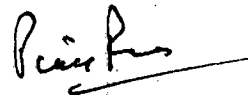
- | | | |
|-----|--|---|
| (a) | MES No. 242236
Sh. B.B. Das, BSO | From 31-8-93 till the date the
officer continues to be posted in NER |
| (b) | MES No. 236465
Sh. A.K. Bhattacharjee, AF | From 28-6-90 to 20-1-94
23-10-97 to 26-5-2001 |

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.

3. This issues with the concurrence of Ministry of Dcf (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)

AF/Org-4(Civ)(d)

DFA(Works)

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

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 24:
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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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

10 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 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

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 ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

Shri P.M. Kittan & 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

-31-
Filed by
24/2/03
(B.C.P. No. 4/2003)
Addl. Counsel
Central Adm. Bench
Guwahati

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, 27.7.2002, 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/EIC 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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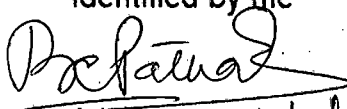
7. That I also respectfully submit that in case, this Hon'ble Tribunal comes to a finding/opinion that I am otherwise liable for contempt of court, in that case, I hereby tender my unqualified apology to exonerate me from the charges as I have clearly shown that there is no willful disobedience or disregard 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 24th day of February, 2003 at Guwahati.

Sanjay Datta
Deponent.

Identified by me


Advocate 24/2/02

(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 24th day of February, 2003 at Guwahati.

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

36
Tele: 2309

ANNEXURE : 240 RI
REGISTERED

Garrison Engineer
Tezpur

C/101/OA/PMK/ 340 /E1C

13 Jul 2002

Commander Works Engineer
Tezpur

OA NO 238/2000 FILED BY SHRI PM KITTAN
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
Encls : 04 sheets

Copy to :-

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

HQ Eastern Command
Engns 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

AMO Shillong
Biver Road
Shillong-11

(Sanjay Datta)
Major
Garrison Engineer

For info alongwith
a copy of judgement
for further advice.

Certified to be true Copy.
J. Das
Advocate

Tele Mily : 2309

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 UOI

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 said letter of three incl are fwd herewith for your further action please :-

MES No. & Desig	Name	Units served since appt	
1. MES/223980 SHRI PM KITTAN, UDC	GE BORJAR LDC -	17.09.64	31.12.74 ✓
	AGE(I) MES/LDC -	01.01.75	15.11.76 ✓
	RANGIYA		
	CWE(P) LDC -	16.11.76	26.04.85 ✓
	KALAIKUNDA		
	CWE(P) " UDC --	27.04.85	03.04.93 ✓
	GE TEZPUR UDC -	04.04.93	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	22.08.69
	GE 583 BP	16.12.75	24.05.80
	GE SILCHAR	25.05.80	31.05.84
	GE 872 TWSB/S-II	01.08.84	30.12.89
	GE UDAMPUR Z.	31.12.89	30.08.93
	GE TEZPUR	31.08.93	30.04.2000
3. MES/236465 SHRI AK BHATTACHARJEE, JE(CIV) NOW AE	CE NAZ TEZ	16.03.70	JUL 70
	GE AE BAGDOGRA	07.73	04.77
	CE(C) CAL	04.77	12.83
	AGE(I) 507	12.83	08.86
	GE FW CAL	08.86	06.90
	GE AF BORJAR	24.06.90	24.04.93
	GE(CE) OFB CAL	21.01.94	30.09.97
	GE TEZPUR	01.10.97	26.05.2001

May Kunda, Cee

C.F.

1503247-5052
SAD → Mr. Karna

Karnait

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

FAX

FILE NO : C/101/OA/PMK/ 356 /EIC

DATED 27 JUL 2002

NUMBER OF PAGES : ONE PAGE

ANNEXURE : R3

TELE MILY : 2309

FROM : GE TEZPUR

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

(AUTHORISED 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/212236 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 84 GE SILCHAR 01 SEP 84 TO 30 DEC 89 GE 872 EWS B/S II 31 DEC 89 TO 30 SEP 93 GE UDHAMPUR ZONE 31 AUG 93 TO 30 APR 00 (.) CHARLIE (.) MES/236465 SHRI AK BHATTACHARJEE JE CIV (NOW AE) CE 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 RECRUITED 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 UPHOLD 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

CEEC CESZ

(Sanjay Datta)

Major

Garrison Engineer Tezpur

Place of recruitment

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

Certified to be true Copy.

J. Das
Advocate

Tele Mily : 2309

BY HAND

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

C/101/AO/PMK/ 395 /EIC

28 Sep 2002

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

ANNEXURE : 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/EI 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 Sectt U.O. No 20/12/99-EA-I-1799 dt 2.5.2000 (copy att) and Finance Ministry OM No 11(S)/97-E.II(B) dt 29 May 02 on the subject of applicability of SDA to NE Region recd.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 :-

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

Encls : 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

for info and further direction please.

Certified to be true Copy.

J. Datta
Advocate

407
Tele : 2309

Garrison Engineer
Tezpur

C/101/OA/PMK/407/EIC

04 Oct 2002

CWE Tezpur

ANNEXURE : R5


CA NO 238/2000 FILED BY SHRI 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 implementing 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 instr regarding issue of SDA. In this connection please refer our letter No. C/101/AO/PMK/395/EIC dt 23 Sep 02 and C/101/AO/PMK/405/EIC dt 30 Sep 02.

Encls : Two sheets

Copy to :-

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


(Sanjay Datta)
Major
Garrison Engineer

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

Certified to be true Copy.


Advocate

222/OA 238/2000/Legal/37/E1

30 Oct 2002

MES-223930 Shri
PM Kittan, UDC
GE Tezpur

12/11

EIC

ANNEXURE: R 6 (a)
SeriesOA 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 Recruited
(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.

Certified to be true Copy.

J. D. A.
Advocate0.6
06/11

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 :-

46
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 (Deptt 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.

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

Copy to

E-in-C's Br/EIC Legal-C - Wrt their Sig No 502249/EIC/Legal-C dated 23 Oct 2002
Army HQ DHQ for information
New Delhi- 110 011

HQ Chief Engineer for information wrt their signal No. 0 7053 dated 26 Oct 2002..
HQ Eastern Command
Fort William

Kolkata 700 021

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

Shri Chinmoy Choudhury - for info and necessary action please.
Advocate
Sr CGSC, Guwahati High Court
Gunomoy Bhawan
Rajgarh 1st by Land (West)
East Sarania
Guwahati - 7812 003

Miss M Bordoloi, Advocate - for info wrt to her Legal Notice dated 25 Sep 2002.
Guwahati High Court
C/O - Plaza Building,
Rly Gate No. 2

Tele : 5052 (Mily)

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

70222/OA 238/2000/Legal/140/TE

MES-242236 Shri
BB Das, BSO
GE Dijnan

GE
AGE ()
A ()
B ()
C ()
D ()
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W ()
X ()
Y ()
Z ()

30 Oct 2002

ANNEXURE : R 6 (b)

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 outside 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 circumspet 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 Appl.	Name of Unit where locally Recruited
--------	-----------------------------	-----------------------	--------------------------------------

(a)	MES-242236 Shri BB Das, SK II (Now BSO)	03 Sep 64	GE (P) Chabua
-----	---	-----------	---------------

4. The Hon'ble Supreme Court in their ruling 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 Region 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 condition and not to those who are residents of NE Region.

05
06/11
Certified to be true Copy

J. D. Deo
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. 1) dated 16 Mar 1998 has issued orders as under :-

38 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 (Deptt of Expr) 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.

TM Chandrakant
(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
Gunomoy 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
Lakhtokia, Guwahati -- 781001

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

Tele : 5052 (Mily)

Regd./AD
Headquarters
Chief Engineer
Shillong Zone
SE Falls
Shillong-793011

70222/OA 238/2000/Legal/14/111

20 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 :-

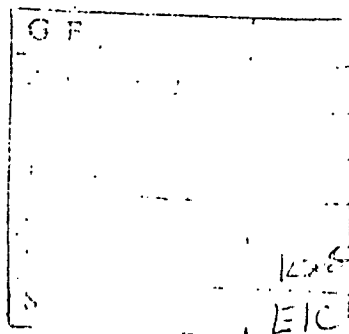
<u>Sl No.</u>	<u>Name of Applicant & Design.</u>	<u>Date of initial Appt.</u>	<u>Name of Unit where locally Recruited</u>
(b)	MES-236465 Shri AK Bhattacharjee, B/R II (Now AE)	16 Mar 70	CE NEZ Tezpur) (Erstwhile)

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.

Contd.. 2

Certified to be true Copy.

J. Dae
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:

50
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 (Dep't of Expendr) 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.

(ccat)
(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
Gunomoy 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.

17 44 437 E1
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 : R27

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 Kittan, UDC of this office is fwd herewith in dupl for your further action please.



(Sanjay Datta)
Major
Garrison Engineer

Encls : As above

63

JSW
Major Sanjay Datta
Garrison Engineer

438

Certified to be true Copy.

J. Das
Advocate

18
45-
ACKNOWLEDGEMENT

Received HQ CESZ Shillong letter No 70222/04-238/
2000/Legal/139/E1 dt 30 Oct 2002.

Place : Tezpur

Dated : 13 Nov 2002

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

Certified to be true Copy.

J. Das
Advocate

ANNEXURE : R 8

No.90237/7521/13C 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: QA 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. 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

Certified to be true Copy.

J. Das
 Advocate

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.

d. 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)

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) CWL, Tezpur
- 5) GE, Tezpur
- 6) CGDA, New Delhi
- 7) CDA, Guwahati.
- 8) Area Accounts Office, Shillong

Certified to be true Copy.

J. Dey
Advocate

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/236463, 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 NEER, 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.


 Advocate

22-49

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)

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.

J. D. D.
Advocate

01-02-03 17:36 FROM: T

10:03:1258421

PAGE: 01

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: CA 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
 J. Das
 Advocate

24/51

58

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. Dar
Advocate

Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

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.



Piara Ram
Piara Ram

FLB
Doc filed
C.B. Arya
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

-2/3

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 (Gen's)}) 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. S. R. P. S. R.

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

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

P. S. R.

P. S. R.

I identify the deponent who has
affirmed put T.A. in my presence
24.2.2003
M. S. R. S. R. S. R.
N. S. R. S. R. S. R.

Magistrate/Advocate.

SOLEMNLY AFFIRMED
SWORN BEFORE ME

[Signature]

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

24 FEB 2003



Annexure-1 (cont)

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. 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, AE | 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:

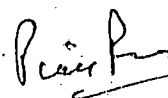
2. The amount so due as arrears will be paid to the applicants under Charged Expenditure Head for which a separate sanction will be issued.


5

63

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)

Under Secretary to the Govt. of India.

Copy to:-

- E-in-C's Branch /Army Hqrs.
- CE, Eastern Command, 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)

69

6

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

New Delhi, the 21st February, 2003.

To
MEG/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:-


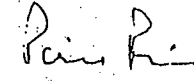
"Admittedly, there is no dispute that a person who are posted from outside to NE Region and reposted to the NE Region is entitled to SDA. No written statement had been filed. In the circumstances, we direct the respondents to examine the case of the applicants individually and if it is found that the 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 65
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

9

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)

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

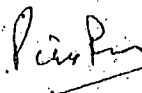
(ii) 23.10.1997 to 26.5.2001 in GE. Tezpur

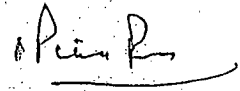
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During the above period, mentioned at (i) & (ii) above you are entitled to the grant of SDA as per the orders of the Ministry of Finance (Deptt. of Exp.) and Ministry of Defence mentioned above.

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)

Under Secretary to the Govt. of India

Copy to :

- 1) E-in-C Branch (JIC 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 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)

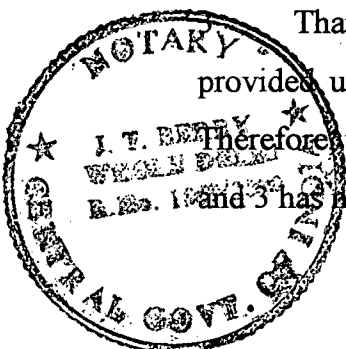
I, Kuppaswamy, son of Late Shri K.T.K.Iyengar aged about 57 years at present working as Assistant Controller General of Defence Accounts in the Office of the Controller General of Defence Accounts, West Block-V, R.K. Puram, New Delhi, do hereby solemnly affirm and state as follows:

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.

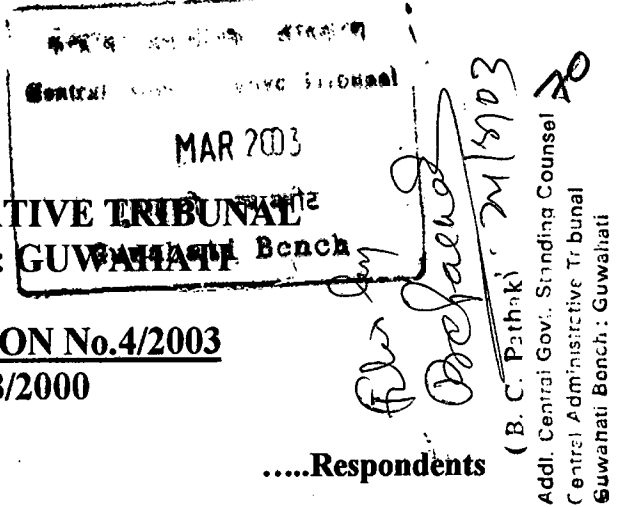
2. That the statements made in the petition, which are not specifically admitted, are hereby denied by me.

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 and 3 has not been made party by name as required by law.



Kuppaswamy



2

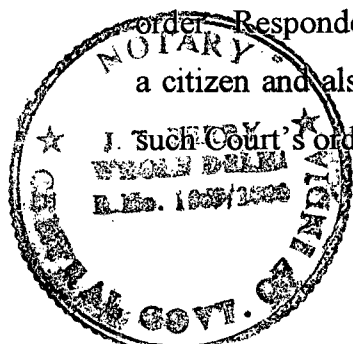
21

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). ^{as Annexure - 1 & 2} 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



Unsubscribed

3

22 ✓

8. That the statements made in paragraph 1,3,5 to7 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.

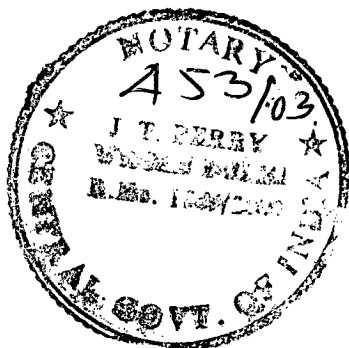
Kunda Chawry
Deponent

Identified by me

P. P. Chawry
21/2/03
Advocate

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

Magistrate/Advocate



Attested

J. T. Berry
Notary Public, New Delhi

J. T. BERRY (ADV)
M.B.A., L.L.B.
86-35, Somdutt Chamber-D
Bhikaji Cama Place,
New Delhi-110066

25 FEB 2003

Annexure - 1 Scans

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. 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, AP | 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.

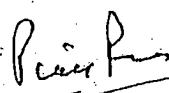
2. The amount so due as arrears will be paid to the applicants under Charged Expenditure Head for which a separate sanction will be issued.

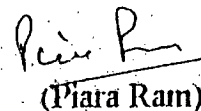
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24

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)

Under Secretary to the Govt. of India.

Copy to:-

- E-in-C's Branch / Army Hqrs.
- CE, Eastern Command, 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)

6

25

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

New Delhi, the 21st February, 2003.

To
ME 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 27
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 :

- 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)

29

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

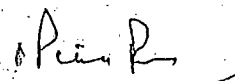
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During the above period, mentioned at (i) & (ii) above you are entitled to the grant of SDA as per the orders of the Ministry of Finance (Deptt. of Exp.) and Ministry of Defence mentioned above.

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)

Under Secretary to the Govt. of India

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- 5) GE, Tezpur
- 6) GE, Allahabad
- 7) CODA, New Delhi
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- ✓ 9) Area Accounts Office, Shillong