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**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.  
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SECTION OFFICER (Judl.)

**In The Central Administrative Tribunal**

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 175/2000 OF 199

Applicant(s) Krishna Ks. Sharma and ors.

Respondent(s) WOT and ors.

Advocate for Applicant(s)

Mr. J. L. Sarkar

Mr. M. Chandra

Advocate for Respondent(s)

Mr. A. Deo Roy,  
Sr. C. G. S. L.

Notes of the Registry	Date	Order of the Tribunal
<p>Application in form and within time C. F. of Rs. 50/- deposited vide IPO No. 492443 Dated 10.5.2000</p> <p>9/11/2000</p>	19.5.00	<p>Present: Hon'ble Mr A.K. Misra, Judicial Member</p> <p>Learned counsel Mr J.L. Sarkar learned counsel for the applicants and considered the prayer relating to joint petition and for issuance of notice in the O.A. for relief. Joint petition by the applicants allowed.</p> <p>Issue notice to the respondents to show cause as to why the application should not be admitted. Returnable by 26.6.00.</p> <p>Considered the prayer for interim relief regarding staying operation of the impugned order issued vide letters dated 9.7.1998,</p>

Notes of the Registry	Date	Order of the Tribunal
<p>24-5-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A.D. vide D.No 1444 to 1451 dtd. 25.5.2000.</p> <p>Show cause has not been filed.</p> <p>12.7.2000</p>	<p>19.5.00</p> <p>nkm</p> <p>24/5/2000</p> <p>26.6.00</p> <p>13.7.00</p>	<p>18.8.1998, 12.1.1996, 12.10.1998, 22.9.1998, 17.5.1999 and 12.5.1999. The operation of these orders has already been stayed in other similar O.A.s. Therefore, in view of the similarity in the present case, the operation of the above mentioned orders is hereby stayed.</p> <p>However, a condition is attached to the interim order that in case of payment of the allowance to the applicants in view of the stay of operation of the various orders, it will not cause them to retain money in future if they are found not entitled to the same.</p> <p>Issue notice to the respondents to show cause as to why the interim order shall not be made absolute. Returnable by 26.6.00.</p> <p>Put up on 26.6.00 for consideration of admission.</p> <p style="text-align: right;">Jm Member(J)</p> <p>There is no basis today. Admitted on 13.7.00.</p> <p>Present: Hon'ble Mr.S.Biswas, Administrative Member.</p> <p>Mr.J.L.Sarkar learned counsel for the applicant and Mr.A.Deb Roy, Sr.CG.S.C. for the respondents. Post the case for hearing on 16.8.00 since this is SDA case and it is similar to the other SDA cases. The learned counsel for the respondents submits that reply would be</p> <p style="text-align: right;">contd/-</p>

Notes of the Registry      Date      Order of the Tribunal

13.7.00

submitted in all the cases. However, written statement is to be filed within this time. List for hearing on 16.8.00.

*s. Beas*  
Member(A)

LM

18-9-2000  
Written statement has been filed by the respondents No 1-8.

16.8.00

*Jan 4, 2000*  
*1870*

27.10.00

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.  
Mr. M. Chanda, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

Written statement has been filed. List the matter for hearing on 5.2.2001. In the meantime the respondents may file written statement, if any.

*[Signature]*  
Vice-Chairman

Boon

work has been filed

30  
29.11.2001

ord

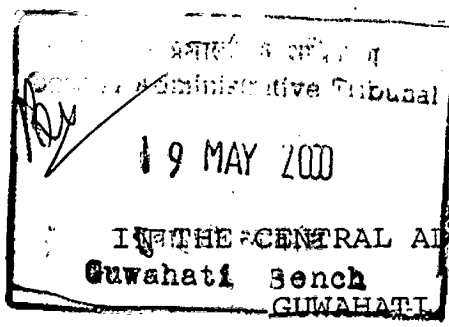
*27.9.20*

2.2.2001  
(Shillong)

Present: Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman  
Hon'ble Mr K.K. Sharma, Administrative Member.

Heard Mr M. Chanda, learned counsel for the applicants and Mr A. Deb Roy, learned Sr. C.G.S.C. It has been stated that in the Bar that this case is squarely covered by the decision rendered by this Bench in O.A.No.203 of 1998 and a host of such applications disposed of on 19.12.2000. The present applications are also similarly situated and accordingly the applicants shall also be entitled to the benefit of the Judgment and Order dated 19.12.2000 passed by this Tribunal in the

Notes of the Registry	Date	Order of the Tribunal
<p>J</p> <p>23.2.2001</p> <p>Copy of the order has been sent to the Office for inquiry. The same to L/Advocate for the parties.</p> <p>MS</p>	<p>2.2.2001</p> <p>nkm</p>	<p>forementioned O.A.s.</p> <p>The application is accordingly allowed. The action of the respondents refusing Special (Duty) Allowance to the applicants is quashed and set aside. The respondents are further directed to refund the amount, if any such recovery has been made from the applicants.</p> <p>No order as to costs.</p> <p>K.C. Sharma Member</p> <p><i>[Signature]</i> Vice-Chairman</p>



6

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

Title of the Case : O.A. No. 175/2000  
Sri Krishna Chandra Sharma : Applicants  
and Ors.

-versus-

Union of India & Ors. : Respondents

I N D E X

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Date : 19.05.2000

Filed by :  
S Datta  
Advocate

*Biman Bhattacharjee*

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

ORIGINAL APPLICATION NO. \_\_\_\_\_/2000

BETWEEN

1. Shri Krishna Chandra Sharma  
Son of Late Dev Datt Sharma  
Junior Accounts Officer  
Headquarter Mizoram Range  
Assam Rifles,  
C/o 99 APO
2. Shri Biman Bhattacharjee  
Son of Shri Bhupendra Bhuson Bhattacharjee  
Peon  
Headquarter Mizoram Range  
Assam Rifles,  
C/o 99 APO
3. Smt. Anita Pun  
Daughter of K.H. Limbu  
Female Attendant  
4 Dental Unit Assam Rifles,  
C/o 99 APO
4. Smt. Mamatha Kumari  
Daughter of Shri Baijnath Singh  
Headquarter Mizoram Range  
Assam Rifles,  
C/o 99 APO

Contd....

*Biman Bhattacharjee*

5. Shri Lalhming Thanga  
Son of late Lian Chhinge  
Safaiwala  
Headquarter Mizoram Range  
Assam Rifles  
C/o 99 APO
6. Mrs. Aleyamma Abraham  
Daughter of Shri MK Abraham  
Sister  
Headquarter 1 Assam Rifles  
C/o 99 APO
7. Mrs. Sosamma Jacob  
Daughter of Late EV Varkey  
Sister  
Headquarter 1 Assam Rifles  
C/o 99 APO
8. Mrs Beena Jose  
Daughter of late NO Chacko  
Staff Nurse  
Headquarter 1 Assam Rifles  
C/o 99 APO
9. Mrs. Chawal Kungi  
Daughter of late Tawana  
Female Safai  
Headquarter 1 Assam Rifles  
C/o 99 APO
10. Mrs. Buatsaihi Lushai  
Daughter of Mr. C. Thangpuia  
Female Safai, HQ 1 Assam Rifles,  
C/o 99 APO

11. Smt. Shanti Devi Rawat  
Daughter of Shri Darshan Singh Gusain  
Female Attendant  
Headquarter 1 Assam Rifles  
C/o 99 APO
12. Mrs. Ngur Nuinmawii Sailo  
Daughter of Late Laibuanga  
Aya  
Headquarter 1 Assam Rifles  
C/o 99 APO
13. Smt Baishree Sunal  
Daughter of Late Seti Sunal  
Female Attendant  
Headquarter 1 Assam Rifles  
C/o 99 APO
14. Shri Chandrakant Kadu  
Son of Shri Sukhdeo Kadu  
Vetenary Field Assistant  
Headquarter 1 Assam Rifles  
C/o 99 APO
15. Shri S.B.Thanga  
Son of Mr. L.T.Chhawaa  
V.F.A.  
Headquarter 19 Assam Rifles  
C/o 99 APO
16. Miss Junu Roy  
Daughter of late Ramesh Chandra Roy  
A.N.M.  
HQ 6 Assam Rifles,  
C/o 99 APO

Contd..

*Biman Bhattacharjee*

17. Smt. Hemakala Gurung  
D/o Shri Bal Bahadur Gurung  
Female Attendant  
HQ 6 Assam Rifles  
C/o 99 APO.
18. Smt. Kusuma Devi  
Daughter of Shri Parameswan Ray (Yadav)  
Female Attendant  
HQ 6 Assam Rifles  
C/o 99 APO
19. Smt Mandraji Bansor  
Dauthger of Late Bahadur Basfor  
Female Safai  
HQ 6 Assam Rifles,  
C/o 99 APO

....Applicants

-AND-

1. The Union of India  
Through the Secretary to the  
Government of India, Ministry of  
Home Affairs, New Delhi.
2. The Secretary,  
Ministry of Finance,  
Government of India,  
New Delhi.
3. The Director General,  
Assam Rifles,  
Shillong

Contd...

*Biman Bhattacharjee*

4. The Dy. Director General  
Assam Rifles,  
Mizoram Range Assam Rifles  
C/o 99 APO
5. The Commandant,  
Headquarter 1 Assam Rifles  
C/o 99 APO
6. The Commandant,  
19 Assam Rifles,  
C/o APO
7. The Commandant,  
Headquarter 6 Assam Rifles  
C/o 99 APO
8. The Commandant  
4 Dental Unit Assam Rifles,  
C/o 99 APO

.... Respondents

DETAILS OF APPLICATION

1. Particulars of the orders against which the application is made.

This application is made against the order of discontinuation of Special (Duty) Allowance (for short SDA) December 1998/January 1999 and recovery of SDA already drawn with effect from 20.9.1994 issued under letter No. A/1-A/PRS/92 dated 18.8.98 from the Directorate General, Assam Rifles, Shillong, C/o 99 APO.

Contd.....

*Biman Bhattacharjee*

2. Jurisdiction

The applicants declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicants further declare that the application is within the period of limitation under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That the applicants are citizens of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicants are working in different capacities under the Director General of Assam Rifles, Shillong and at present they are posted under the control of Deputy Director General, Headquarter Mizoram Range Assam Rifles. Their cause of action is same and they are also low paid employees and as such pray before the Hon'ble Tribunal for permission to move this application jointly in a single application under the provision of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That the Government of India had decided to give some incentives to the civilian employees of the Central Government civilian employees working in the States and Union Territories of North Eastern Region. The scheme amongst others granted Special (Duty) Allowance to the

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employees having all India Transfer Liability. The Original Scheme was issued under Ministry of Finance, O.M. No. II 20014/3/83/E.IV dated 14.12.1983 were given SDA with effect from 1.11.1983 in terms of Para 3 of the said O.M. The period and rate of payment was subsequently modified from time to time. The Central Government Civilian employees posted in North Eastern Region covered by the said O.M. dated 14.12.1983 were paid SDA in terms of the said O.M. It is stated that there were employees who were not given SDA and who approached the Hon'ble Central Administrative Tribunal got SDA. Thereafter the same was taken up to the Hon'ble Supreme Court in a number of cases. The Hon'ble Supreme Court decided on the entitlement of SDA as laid down in the O.M. dated 14.12.1983.

An extract of the O.M. dated 14.12.1983 is annexed hereto and the same is marked as Annexure-1.

4.4 That after judgement of the Hon'ble Supreme Court, the Government of India, Ministry of Finance issued an O.M. No. II (3)/95-I/II (B) dated 12.1.1996 by which the payment of SDA has been regulated in the manner as indicated in para 6 of that O.M. referred above.

Copy of the Memo dated 12.1.1996 is annexed hereto and the same is marked as Annexure-2.

4.5 That the Ministry of Home Affairs issued a letter to the Director General, Assam Rifles, under No. II/11011/1/84-PP.IV dated 3.3.86 informing that the personnel and civilians non-combatised officers/employees are not entitled to SDA as envisaged in the O.M. dated 14.12.1983.

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Therefore, the applicants were not paid SDA in terms of the O.M. dated 14.12.1983.

A copy of the O.M. dated 3.3.1986 is annexed hereto and the same is marked as Annexure-5.

4.6 That the Government of India, Ministry of Home Affairs was seized with the matter of improving the conditions of the services of the Assam Rifles Personnel particularly for grant of SDA and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the States and Union Territories of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep and grant of Sikkim Compensatory Allowance. The President of India considering the peculiar conditions of service of the Assam Rifles employees accorded sanction of some allowances, and SDA is one of such allowances sanctioned by the President. Other allowances sanctioned by the President are Special Compensatory Allowance (also called Special Compensatory (Remote Locality) Allowance and Sikkim Compensatory Allowance). These allowances to the Assam Rifles personnel were granted by the President of India with effect from 7.11.1988. As regards the non-combatised civilian employees, the sanction of the President of India is as under. The employees fall in this category.

Category of personnel entitled to allowance	Particulars of O.M.'s regulating the allowance.
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i) Special (Duty) Allowance

Combatised personnel (including Cadre Officers) in battalions of	Item (iii) in para 1 of Ministry of Finance O.M. No. II.20014/3/83 E.IV dated 14.12.1983 as
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*Biman Bhattacharjee*

Assam Rifles and the  
combatised personnel  
(including cadre officers)  
in static formations (such  
as offices of DG, IGF, DIGs,  
Range Hqrs, Training Centre  
etc) and other units (main-  
tenance Groups, Workshops  
etc.) of Assam Rifles.

amended from time to time,  
read with their O.M. No.  
I.20014/3/83 E.IV dt.29.10.  
86 and their O.M. No.F.  
20014/16/3/83-E.IV dated  
15.7.99 and Min. of Fin.OM  
No. F.20014/16/86.E.IV/E.II  
(B) dated 1.12.1988. This is  
in modification of sanction  
issued in MHA letter No.II.  
27012/31/83-PP.II dated  
6.4.87.

ii. Non combatised civilian  
personnel (including  
officers) in Battalions of  
Assam Rifles and static  
formations (such as officers  
of DG, IG, DIG Range Hqrs,  
Training Centre etc. and  
other group (maintenance  
Groups, Workshops etc.) of  
Assam Rifles.

Same as above. (This is  
modification of the sanction  
issued vide item (3) of MHA  
letter No. 11011/1/84-E.IV  
dated 3.3.1986.

The letter dated 2.2.1989 stipulates improvement in  
the condition of service of Assam Rifles employees and  
this decision is a clear and considered decisions modi-  
fying earlier order by which your applicants were not  
given the said SDA. The decision to grant SDA to the  
applicants are sanctioned by the President of India  
communicated to the Director General, Assam Rifles,

*Biman Bhattacharjee*

Shillong by circular dated 2.2.1989 is a distinct decision as regards the Assam Rifles employees and as such this is a special provision as regards the Assam Rifles only as distinguished from other Central Government civilian employees. Your humble applicants beg to state this distinction has always been maintained and as such while SDA was paid to the other Central Government civilian employees by the O.M. dated 14.12.83 Assam Rifles employees were not embraced by the said O.M. It is only with the sanction of the President of India as a peculiar case of the Assam Rifles that the employees of the Assam Rifles are being paid SDA under the Circular dated 2.2.1989. In this connection it is also pertinent to mention that while the other civilian Central Government employees were paid SDA with effect from 1.11.1983, your applicants have been granted the SDA for Assam Rifles with effect from 7.1.1988.

Copy of the Circular dated 2.2.1989 is annexed hereto and the same is marked as Annexure-4.

4.7 That the Pay & Accounts Office, Assam Rifles, Shillong was raising questions regarding payment of SDA to your applicants. They were confused for the O.M. dated 12.1.1996 issued by the Ministry of Finance by which the SDA or the other Central Government employees were regulated. A communication was made from the Director General, Assam Rifles, Shillong to the Joint Secretary, Ministry of Home Affairs explaining the entitlement of SDA to civilian employees of Director General, Assam Rifles, Shillong, under letter No. A/1-A/

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242/98 dated 8.6.98. This letter discussed in detail the entitlement of SDA to the civilian employees of Director General, Assam Rifles and also the matter of objection by the Pay and Accounts Officer, Assam Rifles and came to the following view :

"In view of the position explained above, this Directorate is of the opinion that the concern of the Pay & Accounts Office (Assam Rifles) about the eligibility of SDA to Civilian employees of Directorate General Assam Rifles, Shillong is not premises on the logical interpretation of extent Govt. orders cited above, which provide for a special dispensation to the non-combatised civilian personnel (including officers) in units as well as static formations including this Directorate. This Directorate therefore maintains that drawal of SDA by the Civilian employees of DGAR, Shillong is in order."

Copy of the letter dated 6.6.1998 is annexed hereto and the same is marked as Annexure-5.

4.8 That the Ministry of Home Affairs under their letter dated 9.7.1998, while replying the letter dated 6.6.98 of the Respondent No.3, informed the letter that the proposal for grant of SDA to the civilian employees of Assam Rifles had been considered in the Ministry but the same had not been agreed to in view of the orders of the Ministry of Finance dated 12.1.1996. The respondent No.3 thereafter on 21.7.1998 forwarded a copy of the

*Biman Bhattacharya*

said letter to the Pay & Accounts Office, Assam Rifles, for information and necessary action.

A copy of the aforesaid letter dated 9.7.98 is annexed herewith as Annexure-6.

4.9 That thereafter by their letter dated 18.8.98, the Director General, Assam Rifles, Shillong had intimated the applicants that Pay and Accounts Office, Assam Rifles had intimated that SDA should be discontinued with effect from the pay of August, 1998 in respect of civilian employees of Director General, Assam Rifles, The Pay and Accounts Office, Assam Rifles had further stated that the SDA drawn from 20.9.94 to till date is also to be recovered.

Copy of the letter dated 18.8.1998 is annexed hereto and marked as Annexure-7.

4.10 That the applicants are receiving SDA on the sanction of the President under order dated 2.2.1989 with effect from 7.11.88 and not from 1983 like other Central Government employees. It is humbly stated that there is no order modifying or cancelling the said order dated 2.2.1989. The Finance Ministry's letter dated 12.1.1996, in humble submission of the applicants has no application in the case of the present applicants.

4.11 That the Directorate General, Assam Rifles, Shillong had written another letter dated 20.9.98 to Joint Secretary (P), Ministry of Home Affairs, New Delhi clarifying the total position of the entitlement of SDA to the civilian employees of Assam Rifles. It

*Biman Bhattacharjee*

is humbly stated that the applicants are entitled to SDA and payment of SDA to them should be continued and no recovery should be made for payment of SDA.

Copy of the letter dated 10.8.98 is annexed hereto and the same is marked as Annexure-8.

4.12 That the applicants state that thereafter the Ministry of Home Affairs under their letter No.22013/2/98-PF.V dated 22.9.98 and No. 22012/10/97-PP.V dated 12.05.99 clarified that the Special Duty Allowance would not be admissible to the civilian employees of Assam Rifles and discontinuation thereof was applicable. It was also directed therein that the amount already paid to the civilian employees be recovered. After passing of the said clarifications, the respondent No.3 issued separate letters on 13.10.98 and 17.05.99 respectively informing amongst others, the General Secretary of Assam Rifles Civilian Employees' Association regarding passing of the aforesaid clarifications and it was further informed that the Directorate was in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Rifles outcome of which would be intimated separately. The applicants state that the clarification given by the Ministry vide letter dated 20.08.99 and 12.05.99 is arbitrary and the direction for recovery of the amount paid is unreasonable. Moreover, the decision of the respondent No.3 to implement the said direction/clarification, as communicated through the letter dated 12.10.98 and 17.5.99 is unjustified. Therefore, the letters dated 22.9.98 and letters dated 12.5.99 and 17.05.99 are liable to be set aside and quashed.

*Biman Bhattacharjee*

Copies of the aforesaid letter dattd 22.09.98, 12.10.98 and letters dt. 12.5.99 and 17.5.99 are annexed herewith as Annexures 9,10,11 and 12 respectively.

4.13 That the applicants state that the Office Memorandum dated 12.1.1996 has no bearing with the payment of Special(Duty) Allowance to them in as much as the same has been granted by the President of India through a separate circular dated 2.2.89 and it has got no link with the O.M. dated 14.12.1983, 12.1.1996 or 22.7.1998 through which SDA was granted to other Central Govtl civilian employees. Therefore the Hon'ble Tribunal may be pleased to declare that the O.M. dated 12.1.1996 has got no relevance with the payment of SDA to the present applicants.

4.14 That your applicants beg to state that some of the similarly situated employees of Assam Rifles, Shillong have also approached the Hon'ble Tribunal by way of filing of an Original Application which is pending before the Hon'ble Tribunal. The said Original Application came up before the Hon'ble Tribunal on 3.8.99 for admission and the Hon'ble Tribunal was pleased to admit the said O.A. and was further pleased to stay the operation of the orders dated 3.8.99. Therefore the present applicants pray before the Tribunal for a similar order like that of O.A. No. 225/99 as the applicants are similarly situated and their grievances are also same against the same respondents of the same department of Assam Rifles.

Copy of the order dated 3.8.99 passed in O.A. No. 225/99 is annexed hereto and the same is marked as Annexure-13.

4.15 That this application has been made bona fide and for the cause of justice.

Contd....

*Biman Bhattacharjee*

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

- 5.1 For that the applicants are entitled to SDA by Presidential Order dated 2.2.1989 which has not been cancelled or modified.
- 5.2 For that the Office Memorandum dated 12.1.1996 has no application in the instant case of the applicants.
- 5.3 For that the Respondents themselves have paid SDA to the applicants with effect from 7.11.88 due to their entitlement, and there has not been any change in the order of the entitlement and as such they should continue to get the SDA.
- 5.4 For that the SDA has been sought to be stopped and recovery has been ordered without giving any scope of explanation by the applicant which is violative of principles of natural justice.
- 5.5 For that the payment of SDA received have already been spent by the applicants and there is no scope of refund of such amount.
- 5.6 For that non-payment of SDA and recovery of SDA already drawn shall cause undue hardship to the applicants which they are being paid as SDA because of their entitlement.
- 5.7 For that non-payment and proposed recovery of SDA payments shall be violative of Article 14, 16 and 21 of the Constitution of India, being arbitrary.

*S. Jit kr. Anam*

5.8 For that the entitlement of Special Duty Allowance of the civilian employees of the Assam Rifles has no relevance with the clarification issued by the O.M. dated 12.1.1996 and as such there is no relevance to the order passed under letter dated 12.10.1998 as well as letter dated 22.9.98 and the same are liable to be set aside and quashed.

6. Details of remedy exhausted.

The applicants begs to state that there is no other remedy under any rule. However, the applicants request<sup>ed</sup> for payment of SDA has been rejected by the authority.

7. Matter not pending before any other Court.

The applicants further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any court of law or any other authority or Bench of the Tribunal and/or any such application writ petition or suit is pending before any of them.

8. Relief(s) sought for :

Under the facts and circumstances of the case the applicants pray that Your Lordships would be pleased to issued notice to the respondents to show cause as to why the relief(s) sought for by the applicants shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s) :

Sgt. Mr. Aram

- 8.1 That the O.M. dated 12.1.1996 be declared as not applicable in the case of the present applicants.
- 8.2 The payment of SDA to the applicants should be continued and no recovery of SDA should be made further from the applicants.
- 8.3 The orders in letter dated 9.7.98 (Annexure-6) and communication in order dated 18.8.98 - (Annexure- 7 ) regarding non-entitlement of SDA to the applicants be set aside and quashed.
- 8.4 The amount of SDA has been recovered from the pay of the applicants arbitrarily with effect from January, 1999 be declared illegal and the Hon'ble Tribunal further be pleased to direct respondents to refund the said amount to the applicants with immediate effect.
- 8.5 The decision of pay and Accounts Officer, Assam Rifles, as intimated in letter dated 18.8.98 (Annexure-7) that SDA to the applicants should be discontinued from the pay of August, 1998 and that the SDA drawn from 20.9.94 shall be recovered, be set aside and quashed.
- 8.6 That the impugned orders passed under letter No. 22013/2/98-PP.V dated 22.9.98 (Annexure-9) letter No. A/I-A/242/98 dated 12.10.98 (Annexure-10) letter No. 22012/10/87 dated 12.5.99 (Annexure-11) and letter No. A/Q-H/242/99 dated 17.05.99 (Annexure-12) be set aside and quashed.

*Sd/- Jitendra Kumar*

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- 8.7 Costs of the Application.
- 8.8 Any other relief/reliefs to which the applicants are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. Interim Reliefs prayed for :

During pendency of this application, the applicants pray for the following reliefs :

- 9.1 That the letter dated 9.7.98 (Annexure-6) issued by the Ministry of Home Affairs, New Delhi and letter dated 18.8.98 (Annexure-7) issued by the respondent No.3 be suspended.
- 9.2 That the payment of SDA to the applicants be continued and proposed recovery of SDA drawn from 20.9.94 be stayed.
- 9.3 That the operation of the impugned letters dated 12.1.1996, 12.10.98, 22.09.98, 17.05.99 and 12.5.99 be stayed till disposal of this application.

The above interim reliefs are prayed on the grounds narrated in paragraph of this application.

10. ....  
This application is filed through advocate.

11. Particulars of Postal Order.

- i. I.P.O. No. :
- ii. Date of Issue :
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati.

12. List of enclosures

As stated in the Index.

Signature

*Sd/- Mr. Anam*

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

I, Shri Biman Bhattacharjee, son of Shri Bupendra Bhuson Bhattacharjee, aged about 37 years working as Peaon in the Headquarter Mizoram Range Assam Rifles, C/o 99 APO, one of the applicants in this Original Application and I have been duly authorised to sign this verification by the other applicants accordingly I verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 19th day of May, 2000.

*Biman Bhattacharjee*  
Signature

Annexure 1  
Annexure 2  
Annexure A  
Annexure B  
- 31-20  
- 20-  
- 48-  
- 2-  
Annexure 7

No. 20014/2/D3/E.IV  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi, the 15th Dec '83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for sometime. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

- 1) Tenure of posting/deputation  
xxxxxxxxxxxxxxxx
- ii) Weightage for Central deputation/training abroad and special mention in confidential records.  
xxxxxxxxxxxxxxxx
- iii) Special (Duty) Allowance

Central Government civilian employees who have All India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any

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Annexure-1 (contd)

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~~Annexure-1 (contd)~~

Annexure-1 (Contd.)

station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre-emption (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be paid separately.

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SC/- S. S. JAIN  
SECRETARY TO THE GOVERNMENT OF INDIA

Handwritten signature and initials.

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~~Annexure - 1~~  
~~Annexure - 1~~

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

New Delhi, the 12th Jan 1996

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's O.I. No. 20014/3/87-EI V dated 14.13.83 and 20.4.88 read with O.I. No. 20014/16/86.E.IV/E.II(D) dated 1.12.88 on the subject mentioned above.

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

3. It was clarified vide the above mentioned OI dt 20.4.87 that for the purpose of sanctioning "Special Duty Allowance" the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

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

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil appeal no. 3251 of 1993) uphold the submission of the Government of India that Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to all India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the constitution as well as the equal pay doctrine. The Hon'ble court also directed that whatever amount has already

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been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

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

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

8. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance.

9. In their application to employees of Indian Audit and Accounts Department, these orders issue in consultation with the controller and Auditor General of India.

10. Hindi version of this OM is enclosed.

Sd/- xx xx xx  
(C. Balachandran)

Under Secy to the Govt. of India

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

-22- New Delhi, the 3-3-86.

Annexure-3

To

The Director General,  
Assam Files,

Subj- Allowance and facilities for civilian employees  
of the Central Government serving in the States  
and Union Territories of North Eastern Region-  
Improvement time-of.

Sir,

I am directed to refer to the correspondence  
relating with your letter No. A/IV-(C)/1-64/0 dated  
24th November, 1985 on the subject noted above and to  
say that the matter has been examined in detail in  
consultation with the Ministry of Finance. The following  
decisions have been taken :-

1. The personnel in serv. of Assam Rifles will not  
be entitled to the concessions envisaged in the  
Ministry of Finance (Deptt. of Expr.) O.M.No. 20014/  
3/83-2-17, dated 11.12.1983 as they move in  
organised group and have back-up support.

The Assam Rifles personnel & Civilian non-  
commissioned officers/employees of Assam Rifles  
do not have All India transfer liability and  
as such, the question of grant of special  
(duty) allowance even in the case of civilian  
non-commissioned officers/employees does not  
arise.

3. Non-commissioned civilian staff of static  
formations such as offices of DJ, JGP, DIGs  
and Range Headquarters of Assam Rifles may  
be allowed concessions envisaged in the  
Ministry of Finance O.M. dated 14.12.83 referred  
to above (except special (duty) allowance)  
subject to the condition that they move as  
individuals and do not have back-up support.

This agrees with the concurrence of the  
Ministry of Finance vide their D.O. No. 703/UG-  
Fin. III, D.I. dated 21.02.1986.

Yours faithfully,

Sd/-  
(P. VILAYATHI SWAMI)  
DEPUTY SECRETARY TO THE GOVT. OF INDIA.

22/3/86

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Annexure - 3 (contd)

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Annexure - 3

11. 11011/1/51-11.11  
Copy to :-

New Delhi, D.D. 3-3-56.

1. Pay & Accounts Office, Assam Hill, Shillong
2. A. S., Assam Hill, etc., Shillong.
3. Finance III, Ministry of Home Affairs.
4. Ministry of Finance, Deptt. of Expenditure  
( E.W. Branch).
5. Liaison Officer of Assam Hill, New Delhi.
6. 10 copies.

sd/ xxx

( P. VIJAYARAGHAVAN )  
DEPUTY S.E. TO THE GOVT. OF INDIA.

12/12/56

No. 11011/1/84-PP.IV  
Government of India  
Ministry of Home Affairs

New Delhi, dated the 2nd Feb'89

To  
The Director General  
Assam Rifles  
Shillong-793011

Subject : Grant of special (Duty Allowance and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the States and Union Territories of north eastern region, Andaman & Nicobar Islands and Lakshadweep-Grant of Sikkim Compensatory Allowance Sanction regarding.

Sir,

I am directed to convey the sanction of the President to the grant of the following allowances to the personnel in Assam Rifles with effect from 7.11.1988 :-

Category of personnel entitled to allowance  
(1)

Particulars of O.Ms regulating the allowance  
(2)

(1) Combatized personnel (including Cadre Officers) in battalions of Assam rifles and the combatized personnel (including Cadre Officers) in static formations (such as offices of DG, IGP, DIGs, Range Hqs, Training Centre etc.) and other units (Maintenance Groups, Workshops etc.) of Assam Rifles

Item (111) in para 1 of Ministry of Finance O.M.No.II/20014/3/83-E.IV dt 14/12/83 as amended from time to time, read with their O.M.No/20014/3/83-E-IV/II dated 29/10/86 their O.M.No.II.20014/3/83-E.IV dated 15/7/86 and Min of Fin.O.M. No.F. 20014/16/86.E.IV/E-II(B) dated 1/12/86.(This is in modification of sanction issued in MHA letter No. II. 27012/31/85-PP.II dated 6/4/87)

✓ (1i) Non combatized civilian personnel (including Officers) in battalions of Assam Rifles and in static formations (such as offices of DG, IGP, DIGs, R Range Hqs, Training Centre etc) and other units (Maintenance Groups, Workshops etc) of Assam Rifles

Same as above - (This is in Modification of the sanction issued vide item (3) of para 1 of MHA letter No. 11011/1/84-PP.IV dated 3/3/86).

(2) Special Compensatory Allowance (Also called as Special Compensatory (Remote Locality) Allowance)

Category of personnel as mentioned against item 1(1).

Same as indicated against items 1(1) above. Ministry of Finance O.Ms No. 20014/6/86-F.IV dated 23/9/86 and 27/4/87 (Meghalaya) No. 20014/7/ (Assam) No.20014/10/86-E.IV dated 23/9/86 and 22/4/87 (Tripura) No. 20014/2/86-E.IV dt 23/9/86 and 16/4/87 (Mizoram) No. 20014/9/86-E.IV dt 23/9/86 and 22/4/87 (Nagaland) and 16/4/87 (Himalayas) No. 20014/4/86-E.IV

*[Handwritten signature]*

~~A. Sharma~~

(3) Sikkim Compensatory Allowance

Combatized as well as non-combatized personnel (including officers) in Assam Rifles posted in Sikkim.

Ministry of Finance (M.F.) 20014/9/86-E.IV dated 23/9/86 and 22/4/87.

2. With effect from 7/11/88, the Assam Rifles personnel who were in receipt of special compensatory Field Area Allowance (as in the Army) will cease to draw the same.
3. The above sanctions are not applicable to Army Officers/personnel on deputation to Assam Rifles.
4. This issue with the concurrence of the Ministry of Finance vide M O D No. 5(72) E, dated 7/11/88 and F.89/AS(E)/89 dated 13/1/89 and Integrated Finance Division of this Ministry vide their Dy.No. 4744/ (H0/88 dated 7/12/88).

Yours faithfully,

Sd/- X X X X

( H.M. Sharma )

Deputy Secretary to the Government of India

No. 11011/1/84-PP.IV dated New Delhi, the 2nd Feb 89.

Copy to :-

1. The Pay & Accounts Office, Assam Rifles, Shillong
2. The Accountant General, Assam Meghalaya, etc. Shillong.
3. Finance -III, Ministry of Home Affairs.
4. Ministry of Finance, Deptt of Expenditure (E.IVI Branch).
5. Ministry of Finance, Deptt, of Expenditure (E.IV Branch).
6. Liaison Officer, Assam Rifles, New Delhi.
7. 20 Spare copies.

Sd/- X X X

( H.M. Sharma )

Deputy Secretary to the Government of India

Annexure - 5

Annexure 5

Annexure 5

Government of India,  
Ministry of Home Affairs,  
Directorate General Assam Rifles,  
Shillong-783011-

No.0/1-N/242/83

Dated: 6 June, 88

Shri O. P. Orya,  
Joint Secretary (P)  
North block,  
Ministry of Home Affairs,  
New Delhi.

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF HQAR, SHILLONG.

Sir,

1. I am directed to state that Special Duty Allowance (SDA) is one of the ten concessions/facilities extended to the Central Govt. civilian employees serving in North Eastern Region with effect from 01 Nov. '83 sanctioned under Ministry of Finance OM No. 20014/3/83 E. IV dated 14.12.83 enclosed as Annexure I. Subsequently, consequent to 4th Central Pay Commission recommendations, above concessions/facilities were modified and two more concessions were given with effect from 01 Dec. '88 under Ministry of Finance OM No. 20014/13/86/E. IV/E. II(B) dated 01 Dec. 88 attached as Annexure II.
2. The Assam Rifles projected to the Ministry of Home Affairs for extension of the above concessions/facilities including SDA to the combatant and civilian employees of Assam Rifles on the analogy that all these concessions including SDA were available to the employees of other CPOs like BSF, CRPF etc similarly situated in the North eastern Region. While grant of the above concessions to the combatant employees were turned down, all these concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General Assam Rifles, Inspector General Assam Rifles (North), Range HQrs. and Assam Rifles Training Centre and School with effect from 3 March '86 under Ministry of Home Affairs letter No. 11.11011/1/84PP 4 dated 3 March '86 (Annexure III attached) copy endorsed, alongwith others to pay and accounts Office (Assam Rifles), Shillong and Ministry of Finance, Deptt. of Expenditure (E. IV), Subsequently, all these concessions except SDA were also extended in the combatant employees of Assam Rifles with effect from 01 Nov. '86 under Ministry of Home Affairs letter No. 11.27012/31/86/PP. II dated 04 April '87 (Annexure-IV).
3. Consequent to change over of pay structure of Assam Rifles personnel from Army pattern to CPO, pattern from 01 Jan 86 following Fourth Central Pay Commission recommendations. SDA on the analogy of other VPOs like BSF, CRPF etc. was also extended to both combatant and civilian employees of Assam Rifles with effect from 07 Nov. 88 (with categorical mention of the civilian staff and officers of all static formations of Assam Rifles including Directorate General Assam Rifles) under Ministry of Home

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Affairs letter No. 11021/1/84-PP-IV dated 02 Feb 89 (attached as Annexure-V). Para 4 of the said letter lays down that the sanction of SDA for the combatant and civilian employees of Assam Rifles was duly concurred by the concerned departments of the Ministry of Finance, viz. P.IIX and AG(F) Branches. Copy of above original sanctioning letter of Ministry of Home Affairs was also endorsed to Pay and Accounts Office, (Assam Rifles), Shillong and also to Ministry of Finance, Department of Expenditure, E.III and E.IV Branches.

4. The Pay & Accounts Officer (AR) has, therefore, been obligatorily passing the monthly bills of the civilian employees of Directorate General Assam Rifles, Shillong without any objection right from the time of sanction of SDA to Assam Rifles. However, in and April '98, Pay & Accounts Officer (Assam Rifles), Shillong has intimated that SDA is not entitled to the civilian employees of DGAR, Shillong citing Ministry of Finance (Department of Expenditure) OM No. 11(3) 06-E-11(B) dated 12 June 86 (Annexure-V refers).

5. The Judgment of the Apex Court regarding non-entitlement of SDA to certain category of civilian personnel is based on the general order sanctioning the ten concessions/facilities including SDA to civilian serving in the North-eastern region, vide Ministry of Finance OM No. 20014/3/85-E.IV dated 24 Dec. '83 (Annexure I refers) and its subsequent modification. SDA was sanctioned to the combatant and civilian employees of Assam Rifles on CPO analogy and that too, from a much later date (07 Nov. '88) when the Pay pattern of Assam Rifles personnel was made on the lines of CPO pattern after Fourth Central Pay Commission recommendations. It may also be appreciated that the Ministry of Home Affairs as well as Ministry of Finance were fully aware of the general eligibility criteria for SDA vis-a-vis the conditions of appointments, posting, transfer, retention, exigency of service etc. of the civilian employees of static formations of Assam Rifles like DGAR, IGAR, Range HQs. and Training Centre. Keeping all these factors in view, a separate and exclusive sanction was accorded by the Ministry of Home Affairs for grant of SDA to the combatant and civilian employees of Assam Rifles (Annexure-V refers).

6. In view of the position explained above, this Directorate is of the opinion that the concern of the Pay & Accounts Office (Assam Rifles) about the eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong is not premised on a logical interpretation of extant Govt. orders cited above which provided for a special dispensation to the non-combatant civilian personnel (including officers) in units as well as static formations including this Directorate. The Directorate therefore, concurs with the award of SDA by the civilian employees of DGAR, Shillong is in order.

7. The above proposal/reference has been vetted by the Financial Adviser, North Eastern Council.

8. The Ministry is requested to kindly issue a clarification on the subject.

Yours faithfully,  
Sd/-

(S J R Sharon)  
Major General

By, Director General Assam Rifles,  
for Director General.

Encl: As above.

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Annex - P 6

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No. IL-22013/2/98-PF.V  
Government of India  
Ministry of Home Affairs

Pg. 29

New Delhi, dated 9-7-98

To

Director General,  
Assam Rifles,  
Shillong - 793011  
-----

Subject : Entitlement of Special Duty Allowance to  
Civilian employees of LGAR Shillong.

Sir,

I am directed to refer to your letter No. A/LA/242/98  
dt. 6.6.98 on the above mentioned subject and to say that the  
proposal has been considered in the Ministry, but the same has  
not been agreed to in view of the orders of Ministry of  
Finance dated 12.2.95. (12.1.95).  
12.1.96.

Yours faithfully,

Sd/-xx  
(Mirmala Devi )  
Desk Officer

Copy to LGAR, North Block, New Delhi.

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Annexure-7

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Mahandebhalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong - 793011

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A/1-A/Perk/98/

18 Aug 98

Annexure-7

Sd/- P.S. Pawar  
General Secretary  
Nagar (Civil)  
Employees Association  
Directorate General Assam Rifles  
Shillong

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- 32 -

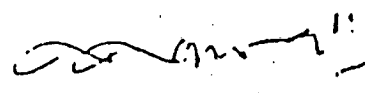
ENTITLEMENT OF SDA TO THE CIVILIAN  
EMPLOYEES OF DIRECTORATE GENERAL  
ASSAM RIFLES SHILLONG

Re: your letter No. M(C)/LA/40/179 dated  
12 Aug 98.

1. The PAC AR has intimated that SDA should be discontinued from the pay of Aug 98 in respect of all civilian employees of Directorate General Assam Rifles, Shillong. The PAC AR has further stated that the SDA drawn from 20 Sep 94 to till date is also to be recovered.

2. For information please.

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Annexure-8  
Annexure-9

Tele No. 705009

Minist Dargkar  
Government of India  
11th Mantralaya  
Ministry of Home Affairs  
Mahatma Gandhi Bhawan  
Directorate General Assam Rifles  
Shillong - 793011

M/1-N/242/90/JIC

Shri O P Arya  
Joint Secretary (P)  
North Block  
Ministry of Home Affairs  
New Delhi - 110001

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF DGAR, SHILLONG.

Sir,

1. I am directed to refer to your letter No. 11.22013/2/90-PF.V dated 09-7-1998 and to state that the proposal for eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong was taken up vide this Directorate letter No. M/1-N/242/90 dated 06 Jun 1998 but not agreed to in view of Ministry of Finance order No. 11(31/95-E.11(1)) dated 12 Jan 1996.
2. After careful examination of Ministry of Finance Order dated 12 Jan 1996, a doubt has arisen in regard to applicability of the said order to the civilian employees of Directorate General Assam Rifles, Shillong. The civilian employees of Directorate General Assam Rifles were granted SDA from 1988 onwards vide MHA's order No. 11.11011/1/84-FP.IV dated 01 Feb 1989, whereas employees of the Central Government serving in the States and Union Territories of NE Region were granted the said allowance from 1983 onwards. The allowance was discontinued for other employees from 20-9-1994 under the Ministry of Finance Order dated 12 Jan 1996. Since the civilian employees of Directorate General Assam Rifles, Shillong were granted SDA from 1988 onwards, the orders of the Ministry of Finance letter dated 12 Jan 1996 were not made operative till date.
3. Now, the Pay and Accounts Officer (Assam Rifles) has intimated this Directorate to stop payment of SDA to the civilian employees from the month of Aug 98 and also to recover the SDA drawn by them since 20-9-1994.
4. It may be seen that while granting SDA to the civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region with effect from 20-9-94, the Ministry of Finance has not made any reference of the MHA's order No. 11.11011/1/84-FP.IV dated 01 Feb 1989 in their letter dated 12 Jan 1996. The civilian employees of this Directorate were granted SDA after their appointment from 11-1987 and were being allowed to draw the said allowance by the PAO (AR) even after receipt of Ministry of Finance letter dated 12 Jan 1996. With the

Contd to . . . 37

Advocate

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The MIA needs to be reviewed. The SDA drawn by civilian employees since 1994...  
Sup 1994...  
will be adversely affected and under financial loss and non of  
harassment. Since the MIA's Order No. 11.11011/1/04-EP:IV dated 01  
Feb 1989 has not been cancelled/modified or superseded by the MIA  
till date and there is no reference of the said order in the  
Ministry of Finance order dated 12 Jan 1996, order for refund of  
entire amount drawn since 1994 needs to be reviewed.

In view of the above, you are requested to examine the MIA's  
order No 11.11011/1/04-EP:IV dated 01 Feb 1989 and review the  
applicability of SDA to civilian employees of this Directorate.

Yours faithfully

(S J B Sharma)  
Major General  
Deputy Director General  
Annam Rillea  
for Director General

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2. (AR)  
3. (AR)  
4. (AR)  
5. (AR)

You are requested to liaise with the MIA and  
obtain a clarification on this matter at the  
earliest.  
It is requested that no deduction/recovery on  
SDA to civilian employees of this Directorate  
may please be made till final decision on  
this clarification is received from MIA.  
For info please.

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~~34~~ 34 Annexure - 9 10  
-48-  
-48-25-

Annexure - 2/5 10

No. 27013/2/90-J.F.V  
Government of India  
Ministry of Home Affairs

New Delhi dated 22nd Sept, 1998

To

Director General  
Assam Rifles  
Shillong - 793011.

Subj: Intitlement of Special Duty Allowance to  
Civilian Employees of DRAF, Shillong.

Sir,

I am directed to refer to your letter No. A/1-1/242/98/310 dated 20th Aug 1998 on the subject cited above and to say that it has already been intimated to your vide, court letter dated 9.7.98 that Special Duty - Allowance is not admissible to the civilian employees of Assam Rifles in view of the orders of Ministry of Finance dated 12.1.1996. Therefore, the amount already paid to the employees is to be recovered.

Yours faithfully,

sd/-

( Nirmala Dev )  
Desk Officer  
22/9/98.

*Handwritten signature/initials*

~~AS-49-35~~ Annexure-20  
~~47-26~~

Annexure-2 to 11.

Tele No. 73576

Mohan Chahalya Assam Rifles  
Director to General Assam Rifles  
Shillong - 793 011

A/I-M/242/98

12 Oct '98.

- List 'D'
- List 'B'
- List 'C'
- List 'E'
- List 'F'

INFORMATION ON SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF IGAR, SHILLONG.

1. Reference Ministry of Finance letter No.11(3)-K-II (3) dated 12 Jan 96 ( Copy enclosed ).
2. The admissibility of Special Duty Allowance (SDA) to the civilian employees of IGAR, P. HQs and units etc was under query based on an observation raised by FMO, Assam Rifles, Shillong. The Ministry has now clarified the admissibility under their letter No. 22013/2/98-PP.V dated 27 Sep 98 and for letter No.F.12(1)-P-II(A)/98 dated 20 Aug 98, copies of which are enclosed herewith for information and necessary action by all concerned.
3. This etc, however, is in touch with the Ministry for restoration of the entitlement of SDA to civilian employees of Assam Rifles, outcome of which will be intimated separately.

*Handwritten initials/signature*

Sd/- P. J. Javat  
Lt. Colonel  
MF(1)  
for DG Assam Rifles.

Incls : As above .

Copy to :

List 'D'

List 'G'

Com. Secy, Assam Rifles ( Civil ) Employees Association,

Shillong-11.

Date :

*Handwritten signatures and initials*

Filed by :

Advocate

~~50-46~~  
36  
37

ANNEXURE - II 12

32

No. 22012/10/97-PP-V  
Government of India  
Ministry of Home Affairs  
.....

To

New Delhi dated 12th May, 1999

Director General  
Assam Rifles  
Shillong - 793011

Subject: Entitlement of Special Duty Allowance to  
Civilian Employees of Assam Rifles.

Sir,

I am directed to refer to your fax message No. I.11018/27/99-legal dated 3.5.99 on the subject cited above and to say that the orders of the Ministry No. II.22013/2/98-PP-V dated 9-7-98 regarding discontinuation of the Special Duty allowance is applicable for all the civilian employees of the Assam Rifles.

Yours faithfully.

sd/-XXXX  
( Himala Devi )  
Desk Officer

*Handwritten signature*  
ADW

- 24-37

- 38 -

ANNEXURE-12

29

ANNEXURE-12-13

Shriat Sarkar  
Government of India  
Civil Handralaya  
Ministry of Home Affairs  
Mahaulderhalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong - 11

A/1-H/242/99

17 May 99

- List 'A'
- List 'B'
- List 'C'
- List 'D'
- List 'E'

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE  
TO CIVILIAN EMPLOYEES OF ASSAM RIF

1. Ministry of Home Affairs letter No. 22012/10/97-PF.V dated 12 May 99 and No. 11.22012/2/98-PF.V dated 09 Jul 98 regarding discontinuation of the Special Duty Allowances are fwd herewith for necessary action please.
2. As per Ministry's above cited letters, civ employees of Assam Rifles are not entitled Special Duty Allowances.
3. Fwd Hqs/Units are requested to take action accordingly.
4. However, this M.O. is in touch with Ministry for restoration of the entitlement of SD to Civilian Employees of Assam Rifles, out come of which will be intimated separately.

mp/

(Sd/-) *[Signature]*  
( Lt Col )  
AD(A)  
for DG Assam Rifles

Copy to

- List 'D'
- List 'E'

for info please.

General Secretary  
Assam Rifles (Civil) Employees  
Association  
Shillong - 11

44-48-38  
Annexure 8

FORM NO. 4  
(See Rule 42)

14

In The Central Administrative Tribunal  
GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO. 225/99 OF 199

Applicant(s) Subrata Kumar Dhar

Respondent(s) Union of India and ors

Advocate for Applicant(s) Mr. S. Sankar, M. Chandu.

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

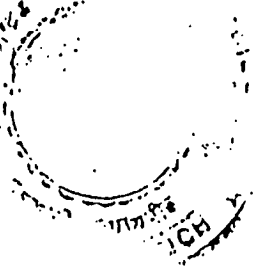
3.8.99

The application has been submitted by 25 applicants. They have prayed for permission to file this single application under the provision of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987. Heard counsel of both sides. Permission is granted as prayed for.

Perused the application. Heard counsel for both sides. Application is admitted. Issue notice on the respondent by registered post. List on 2-9-99 for written statement and further orders.

Mr. J. L. Sarkar learned counsel for the applicant prays for an interim order.

contd/-



450

38-45

49

C.A. 27 of 99

Notes of the Registry

Date

Order of the Tribunal

3-8-99

Issue notice to show cause as to why interim order shall not be granted as prayed for. List on 2-9-99 for orders. In the meantime the respondents are directed to keep in abeyance the operation of the order dated. 9-7-98, 13-8-98, 12-10-98, 22-9-98, 17-5-99 and 12-5-99, Annexure 6,7,9,10,11,12. till disposal of the show cause.

The matter will be decided by Division Bench. The counsel of both sides has no objection. List on 2-9-99 before Division Bench.

sd/ JENSEN (JUN)



Certified to be true Copy

प्रमाणित प्रतिलिपि

*[Handwritten signature]*  
 (U)  
 Central Public Works Dept. Tribunal

Gurchari Bouchi

16/8/99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GAUHATI BENCH

O A No 175 OF 2000

18 SEP 2000

Shri Krishna  
Chandra Sharma and 18 Others

Writ Petition  
Guwahati Bench

Filed by

5/9/2000  
(A. DEBROY)  
Sr. C. C. S. C.  
G. A. T., Guwahati

Vs

Union of India and others

Respondents

In the matter of :

Written Statement submitted by  
respondents No 1 to 8

WRITTEN STATEMENT

The humble respondents submit  
their written statements as  
follows :

1. That no comment is called for against para 1 of the Application being factual.
2. That the statement made in paras 2 and 3 of the application are admitted being matter of record.
3. That the statement made in para 4.1 to 4.5 of the application are admitted being matter of records.
4. That with reference to the statement made in para 4.6 of the application, this deponent begs to state that the employees of the Central Government serving in the States and Union Territories of North-East region were granted the Special Duty Allowances vide Govt of India O M No II.20014/3/83/E.IV dated 14.12.83. Orders of Special Duty Allowance to the employees of Assam Rifles were issued vide Ministry of Home Affairs O M No.11011/1/84-FP.IV dated 2.2.89 with effect from 7.11.88. These

...2 *[Signature]*

JK

orders were issued in pursuance of orders of Ministry of Finance dated 14.12.83.

5. That the statement made in para 4.7 to 4.13 of the application, this deponent begs to state that Government of India, Ministry of Finance vide OM No II(3)/95-E,II(B) dated 12.1.96 on SDA while examining the judgement of the Supreme Court on the grant of SDA vide Department of Expenditure OM No.20014/3/83-E-IV dated 14.12.83 and 20.4.88 read with OM No.20014/16/86-E.IV/E.II(B) dated 1.12.88, has decided that the amount of SDA paid to ineligible persons after 20.9.94 will be recovered and SDA will be admissible only on the basis of All India Transfer Liability Conditions as being posted in the North-East region from out side the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex court further added that the grant of this allowance only to the Officers transferred from outside the region to the North-East region would not be violative of the provisions contained in Article - 14 of the Constitution as well as the equal pay doctrine. In pursuance of order of Ministry of Finance order dated 12.1.96, the SDA was stopped by the Pay and Accounts Office of Assam Rifles for the civilian employees of Assam Rifles are confined only to the North-East Region, admissibility of the SDA to the civilian employees of Assam Rifles was again considered by Govt and was not agreed to. Accordingly, the orders for discontinuation of SDA to civilian employees of Assam Rifles were issued vide Ministry of Home Affairs letter No II.11013/2/98-PF.V dated 9.7.98 and 12.5.99.

*[Signature]*  
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6. Moreover, in the order of MHA dated 2.2.89, it was clearly mentioned that the Allowance will be regulated by Ministry of Finance O M No 20014/3/83-E.IV dated 14.12.83 as amended from time to time which stipulates the condition of All India Transfer Liability. The condition of All India Transfer Liability was amply clarified by the Hon'ble Supreme Court in their judgement dated 20.9.94 ( in Civil Appeal No.3251 of 1993). The judgement given by the Supreme Court and the Principle laid down therein is applicable to all the cases for grant of Special Duty Allowance including the personnel of Assam Rifles.

7. That the statement made in para 4.14 and 4.15 of the application are matter of records and are admitted except the statement that the applicants are similarly situated which is denied.

8. That with reference to the statement made in paragraph 4.16 to 4.19 of the application this deponent has no comments being prayers of the petitioners.

9. That with reference to the ground in 5.1 of the application this deponent states that the order dated 2.2.89 has not been referred to specifically in the Ministry of Finance OM dated 12.1.95.

10. That with reference to the statement made in ground 5.2 of the application it is stated that OM dated 12.1.96 is applicable to the civilian employees of Assam Rifles. ( Ministry of Home Affairs letter dated 12.5.99 annexed as Annexure 1 refers in this regard).

4 *[Signature]*

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11. That with reference to the statement made in ground 5.3 of the application this deponent states that the SDA was extended to the civilian employees of Assam Rifles with effect from 7.11.88 by Ministry's order. It is however denied that employees should continue to get the SDA as the Government is competent to review the matter considering the pros and cons as also the principles laid down by the Govt and upheld by the Apex Court and issue orders to affect modification in order dated 2.2.89.

12. That with reference to the statement made in ground 5.4 of the application this deponent begs to state that the condition of service of employees determined by an administrative order and there is no scope of giving any opportunity to the affected employees to explain as claimed.

13. That no comment is called for against ground 5.5 of the application.

14. That with reference to the statement made in ground 5.6, 5.7 and 5.8 of the application this deponent begs to state that grant and withdrawal of allowance is within the direction of Government and as such no civil right can be claimed on such allowance and as such no undue hardship is caused for such non-payment, as also can not be violative of Article 14, 16 and 21 of the Constitution of India.

15. That the statement made in para 6 and 7 of the application are self proclaimed declarations by the applicants.

16. That with reference to the statement made in para 8.1 to 8.3 of the application this deponent begs to state that the relief sought for in these paras needs review in view of what have been stated in replies to para 4.13 and 5.3 of the application.

5 *[Signature]*

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17. That with reference to the statement made in paragraph 8.4 and 8.6 of the application this deponent has no comments being prayers of the petitioners.

18. That no reply is called for against para 9.1 to 9.3 of the application as interim relief as prayed for has already been granted by the Hon'ble Tribunal vide order dated 24.03.2000.

19. That no reply is called for against para 10, 11 and 12 of the application being particulars of postal orders and enclosures.

20. In view of the Hon'ble Supreme Court's decision in Civil Appeal No 3251 of 1993, dated 20.9.94, the issue stands settled. The civilian employees of Assam Rifles can not be exception vis-a-vis other civilian Central Govt employees. The Appex Court has upheld the contention of the Govt of India, as such the respondents most humbly submit that the application has no merit and is liable to be dismissed.

VERIFICATION

I, Major Sandeep Kumar working as Joint Assistant Director (Legal) do hereby solemnly verify that the statements made in the written statement are true to my knowledge, belief and information and nothing has been suppressed.

And I sign this verification on this the 21 day of Aug 2000.

DEPONENT 