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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

**In The Central Administrative Tribunal**

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 179/2000 OF 199

Applicant(s) *Shri Kulamasi Singh and ors.*

Respondent(s) *Union of India and ors.*

Advocate for Applicant(s) *Mr. A. Ahmed.*

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

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form and within time                      F. of Rs 50/- deposited vide                      IPO BID No. 453297                      Dated 5/6/2000</p> <p><i>RM 12/6</i>  <i>2/16/2000</i></p> <p>Notice issued to the Respondent No. 1, 2, &amp; 3 along with Court order dtd. 5/6/00 by Regd A.D. - Despatch No 1548/1530 dtd. 12/6/00.</p> <p><i>Ann 5/6/00</i></p>	<p>5.6.00</p> <p>nkm  <i>5/6/2000</i></p>	<p>Present: Hon'ble Mr D.C. Verma, Judicial Member</p> <p>Heard Mr A. Ahmed, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. The application is <u>admitted</u>. Issue usual notice. Counter reply be filed within four weeks. List the case on 6.7.00 for orders. Meanwhile the respondents are directed not to make any recovery of any allowance paid earlier under the Head of Field Service Concession allowance.</p> <p style="text-align: right;"><i>[Signature]</i> Member(J)</p>

Notes of the Registry	Date	Order of the Tribunal
<p>① Service report are still awaited.</p> <p>② No. wfs has been filed.</p> <p><u>20</u> 5.7.2000</p> <p><u>0/8/00</u> Notice duly served oneshell. No 1.</p>	<p>6.7.00</p> <p>lm</p>	<p>Present: Hon'ble Mr. S. Biswas, Administrative Member.</p> <p>None for the applicant. Written statement has not been filed. At the request of Mr. A. Deb Roy, Sr. C.G.S.C. two weeks time is allowed for filing of written statement. List on 24.7.00 for orders.</p> <p><i>S. Biswas</i> Member(A)</p>
<p><u>27 - 9 - 2000</u></p> <p>No. written statement has been filed.</p>	<p>29.7.00</p> <p>8.8.00</p>	<p>NO Bench is available. Adjourn to 8.8.00.</p> <p>NO Bench is available. Adjourn to 30.8.00.</p>
<p><u>23.10.2000</u></p> <p>Written statement has been filed by the respondents.</p>	<p>30.8.00</p> <p>28-9-00</p>	<p>NO Bench. Adjourn to 28.9.00.</p> <p>3 weeks further time allowed for filing of written statement on the prayer of Mr A. Deb Roy, learned Sr. C.G.S.C.</p>
<p><u>30.10.2000</u></p> <p>The case is ready for hearing.</p>	<p>pg</p>	<p>List on 31.10.2000 for order.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p><u>7.11.2000</u></p> <p>The case is ready.</p>	<p>31.10.2000</p>	<p>Present: Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman</p> <p>Mr A. Deb Roy, learned Sr. C.G.S.C. submitted that written statement has been filed. The case is ready for hearing. Mr A. Ahmed, learned counsel for the applicant is present. List the case for hearing on 8.11.00.</p> <p><i>[Signature]</i> Vice-Chairman</p>

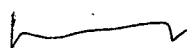
Notes of the Registry	Date	Order of the Tribunal
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8.11.00

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

Learned counsel for the applicant Mr. A. Ahmed has submitted an application for his inability to appear before the Tribunal today. Accordingly the case is adjourned to 15.11.2000.

List on 15.11.2000 for hearing.

  
Vice-Chairman

trd

13.11.00

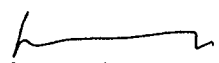
Written statement has been filed. Similar matters are already posted for hearing before the Division Bench on 6.12.2000. List the matter on 6.12.2000 before Division Bench for hearing.

  
Vice-Chairman

trd

6.12.00

List on 11.12.00 for hearing.


  
Vice-Chairman

lm

11.12.2000

Present: Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman  
Hon'ble Mr M.P. Singh,  
Administrative Member

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.

  
Member(A)

  
Vice-Chairman

nkm

*The case is ready for hearing.*  
*By*  
*5.12.2000*

3.1.2001  
*Copy of the Judgment has been sent to the D/Sec for issuing the same to the L/Adm for the parties.*  
*SS*

Notes of the Registry	Date	Order of the Tribunal
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24-2-2004

10.3.04

List before the next available Division Bench in the month of May for hearing.

*[Signature]*  
Member (A)

mb

27.8.2004

present: The Hon'ble Shri D. C. Verma, Vice-Chairman (J).

The Hon'ble Shri K.V.Prahladan Member (A).

Mr.A.Ahmed, learned counsel for the applicant submitted leave note. Adjourned and listed before the next Division Bench

*[Signature]*  
Member (A)

*[Signature]*  
Vice-Chairman

bb

16.9.04

~~On the request of Mr. A. Deb Roy, Sr.C.G.S.C. stand over to 29.9.04 for hearing.~~

~~Member~~

~~Vice-Chairman~~

11

16.9.04

On the request of Mr.A. Deb Roy, Sr.C.G.S.C. stand over to 29.9.04. for hearing.

Member

Vice-Chairman

*[Signature]*

C.R. 5614/98 in Hon'ble High Court's order dated 18/9/2002 received from the Asstt. Registrar, Gauhati High Court, Kohima Bench vide case NOS. 170/99, 02/99, 319/99, 179/2000, 26/2000, 224/2000, 155/2000, 10/2000 The Hon'ble Tribunal, Kohima Bench order has been passed by this Bench. I re-mand the matter for reconsideration afresh. The petitions filed by the petitioner -

paid before for taxon of kind orders at F-X'

Dy. Registrar

*[Signature]*  
24/2/04

List the case jointly and keep the copy of the judgement in every case file.

*[Signature]*  
24.2.04

(15)

3.3.2005 Present: Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

Hon'ble Shri K.V. Prahladan, Administrative Member.

At the request of the learned Standing Counsel appearing for the respondents, the case is adjourned to 7.3.2005.

*K.V. Prahladan*  
Member

*G. Sivarajan*  
Vice-Chairman

nkm

7.3.05. Present: Hon'ble Mr. Justice G. Sivarajan Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Member (A)

At the request of the learned counsel, for the parties case is adjourned to 22.3.05.

*K.V. Prahladan*  
Member

*G. Sivarajan*  
Vice-Chairman

lm

22.03.2005 Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

The Hon'ble Mr. K.V. Prahladan, Administrative Member.

Heard Mr. A. Ahmed, learned counsel for the applicants and/ also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

Hearing concluded. Orders reserved

*CANCELLED*  
Member (A)

Vice-Chairman

mb

22.03.2005 Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

The Hon'ble Mr. K.V. Prahladan Administrative Member.

Heard Mr. A. Ahmed, learned counse for the applicants and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. assisted by Ms. U. Das, learned Addl. C. G.S.C. for the respondents.

Hearing concluded. Orders reserved.

*K.V. Prahladan*

*G. Sivarajan*

Notes of the Registry	Date	Order of the Tribunal
	16.9.04.  lm	<p>On the request of learned counsel for both the parties stand over to 29.9.04 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	29.9.04.  lm	<p>On the request of learned counsel for the applicant stand over to 22nd Nov, 2004 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	22.11.2004  mb	<p>List on 17.1.2005 for hearing.</p> <p><i>[Signature]</i> Member (A)</p>
	17.2.05	<p>Present : The Hon'ble Mr.M.K. Gupta, Judicial Member.</p> <p>The Hon'ble Mr. K.V. Prahladan, Administrative Member.</p> <p>Request received from Mr. A. Ahmed, learned counsel for the applicant indicating that because of personal ground he would not be able to attend the Court today. Similarly, Mr. S. Sarma, learned counsel for the applicant appearing in O.A. No. 15/00 and 201/00 states that he has received certain instructions from the applicant. Normally, we <sup>would</sup> <del>are</del> not <sup>accord</sup> <del>grant</del> such request, more so, when the matters were remanded back from the Hon'ble Gauhati High Court. As a matter of <sup>indulgence &amp; based</sup> <del>acting</del> on the prayer, all the cases be listed on 03.03.2005.</p> <p><i>[Signature]</i> Member (A)</p> <p><i>[Signature]</i> Member (T)</p>

X

F

Office Notes

Date

Order of the Tribunal

31.5.05.

Judgment delivered in open Court.  
Kept in separate sheets. Application  
is disposed of. No order as to costs.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

lm

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./XXX. No. 170 . . . . of 1999, O.A.No.202/1999,  
O.A.No.319/1999, O.A.179/2000, O.A.No.276/2000 and . . .  
O.A.No.224/2000

DATE OF DECISION 11.12.2000

1. Shri Gadadhar Bania and 80 others
2. Shri Deba Das Bhattacharjee and 22 others
3. Shri Krishna Sinha and 274 others
4. Shri Kulamani Singh and 23 others
5. Shri Satya Brata Mazumder and 20 others
6. Shri Indreswar Rajkumar and 7 others

PETITIONER(S)

Mr A. Ahmed

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C. and  
Mr B.C. Pathak, Addl. C.G.S.C.

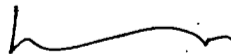
ADVOCATE FOR THE  
RESPONDENTS

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

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

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

Judgment delivered by Hon'ble Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.170 of 1999  
Original Application No.202 of 1999  
Original Application No.319 of 1999  
Original Application No.179 of 2000  
Original Application No.276 of 2000  
And  
Original Application No.224 of 2000

Date of decision: This the 11th day of December 2000

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

Hon'ble Mr M.P. Singh, Administrative Member

O.A.No.170/99

Shri Gadahar Bania and 80 others  
By Advocate Mr A. Ahmed

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....Respondents

O.A.No.202/99

Shri Deba Das Bhattacharjee and 22 others  
By Advocate Mr A. Ahmed.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....Respondents

O.A.No.319/99

Shri Krishna Sinha and 274 others  
By Advocate Mr A. Ahmed

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....Respondents

O.A.No.179/2000


Shri Kulamani Singh and 23 others  
By Advocate Mr A. Ahmed,

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents



O.A.No.276/2000

Shri Satya Brata Mazumder and 20 others

.....Applicants

By Advocate Mr A. Ahmed.

- versus -

The Union of India and others

.....Respondents

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

O.A.No.224/200

Shri Indreswar Rajkumar and 7 others

.....Applicants

By Advocate Mr A. Ahmed.

- versus -

The Union of India and others

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

All these cases pertain to Field Service Concession (FSC for short) admissible to Defence Civilian employees pertaining to Group 'C' and 'D' employees. Since the cases involve common question of facts and common questions of law, all these cases were taken up together for hearing.

2. The applicants are serving in the State of Nagaland and Manipur as Defence Civilian employees. The subject matter that has come up for adjudication were earlier adjudicated upon by this Tribunal in a number of cases, more particularly in O.A.Nos.124, 125, 217 and 218 of 1995. The Tribunal by Judgment and Order dated 24.8.1995 passed in O.A.Nos. 124 and 125 of 1995 held that FSC was admissible to the applicants with effect from 1.4.1993 and the respondents were directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993.

3. The Tribunal in the aforesaid cases basically dealt with, amongst others, the communication No.16729/GG4(civ)(d) dated 25.4.1994 issued by Sena Mukhyalaya. The respondent authority thereafter went to the Supreme Court by filing SLP and the Supreme Court granted

the leave. The Civil Appeals were finally disposed of by the Supreme Court. The respondents specifically raised the point that the Tribunal committed a grave error by holding that the applicants were entitled for FSC as per Army Headquarters letter dated 25.4.1994 without understanding the contents of the letter. It was raised that the Army Headquarter letter dated 25.4.1994 was addressed to the various Army Commands pertaining to certain proposals for concessions/allowances to Defence Civilians posted in certain areas. The operative portion of the judgment of the Supreme Court is reproduced below:

"Having regard to the respective contentions, we are of the view that the Government having been extending the benefit of payment of Special Duty Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17, 1995, they are entitled to both the Special Duty Allowance as well as Field Area Special Compensatory (Remote Locality) Allowance. The same came to be modified w.e.f. that date. Therefore, irrespective of the fact whether or not they have been deployed earlier to that date, all are entitled to both the allowance only upto that date. Thereafter, all the personnel whether transferred earlier to that or transferred from on or after that date, shall be entitled to payment of only one set of Special Duty Allowance in terms of the above modified order.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities in the hilly areas risking their lives as envisaged in the proceedings of the Army dated January 13, 1994. But the Modified Field Area, in other words, in the defence terminology, "barracks" in that area is a lesser risking area; hence they shall not be entitled to double payment. Under these circumstances. Mr P.P. Malhotra is right in saying that the wordings of the order requires modification. The Government is directed to modify the order and issue the corrigendum accordingly."

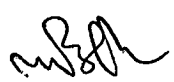
4. The judgment rendered by this Tribunal was finally merged with the judgment of the Supreme Court. The respondents by the impugned communication dated 10.4.1999 sought to make a distinction between payment of monetary and non-monetary allowance in the FSC and by the direction dated 10.4.1999 they instructed the concerned authorities to recover the payments already granted earlier on the basis of court judgments. The issue in these applications have already been adjudicated upon in O.A.Nos.124 and 125 of 1995, which went upto the Supreme Court and the determination on these matters has already attained its finality. According to the respondents, which appears from the written statement, the earlier judgment of the Tribunal was based on a misconception of facts, which was relatable to the Army personnel and not to the civilians. It was also averred that there was a lapse on the part fo the respondents in placing the matters on record.

5. The controversy relating to FSC has already been adjudicated upon in the aforementioned O.A.s by this Tribunal and the Supreme Court finally disposed of the applications as mentioned above. The judgment of this Tribunal delivered earlier has been merged with the judgment of the Supreme Court and it is binding on the parties. If there was any lapse on the part of the respondents in placing the matters in its entirety it was open for the respondents to take appropriate measures, but it was not permissible on the part of the respondents to act in defiance of the order of the Tribunal, which was finally dealt with by the Supreme Court. The finding of the Tribunal in the O.A.s as regards the admissibility of the FSC and the SCA(RL) were not disturbed by the judgment of the Supreme Court, in this regard. The FSC as alluded earlier was granted by this Tribunal and not interfered by the Supreme Court and it was not proper on the part of the respondents to modify the same and take a different


conclusion. The plea of admissibility of FSC was specifically taken in the SLP and the Supreme Court did not accept the ples<sup>a</sup>. The relief would therefore be deemed to have been refused.

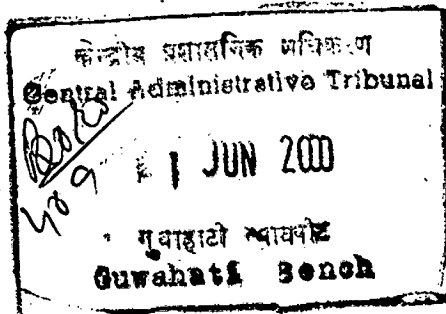
6. Mr B.C. Pathak, learned Addl. C.G.S.C., referred to the two decisions of the Supreme Court, reported in AIR 1966 Sc 1547, State of Orissavs. Durga Charan Das, and (1997) 3 SCC 321, State of Haryana and others vs. Ram Kumar Mann. Both the cases are decisions on facts pertaining to interpretation of the rules. In State of Orissa vs. Durga Charan Das (Supra) the Supreme Court observed that the State might have misconstrued the scope and effect of R.6 of the Protection Rules, but that would not preclude the authority to interpret the rule justly and reasonably. In State of Haryana vs. Ram Kumar Mann (Supra) the court was concerned as to whether a wrong decision rendered by the Government does not preclude them to take a right decision. But, here is a case in which the fact in issue was already adjudicated upon, maybe on a wrong premise. If the document was wrongly relied upon which was adjudicated upon, it was not open for the respondents to interpret the same on the face of the judgment of the Tribunal, which was not disturbed by the Supreme Court.

7. In the circumstances the applications are allowed and the impugned orders and/or directions for stoppage and recovery of Field Service Concession are set aside. There shall, however, be no order as to costs.

  
( M. P. SINGH )

ADMINISTRATIVE MEMBER

  
( D. N. CHOWHDURY )  
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.  
(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 179 OF 2000.

Sri Kulamani Singh & others  
Applicants.

-Versus-

Union of India & Others  
Respondents.

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1	Application	1 to 17
2	Verification	18
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Filed by

Advocate (ADIL AHMED)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 179 OF 2000.

B E T W E E N

1. MES/243673 Sri Kulamani Singh,  
Mazdoor (Unskilled)
2. MES/486721 ■ Umesh Kumar, AEE B/R
3. MES/4867744 ■ Devesh Pandey, AEE B/R
4. MES/263634 ■ Soumen Bhattacharya, JE (Civ)
5. MES/203543 ■ A K Mandal, JE (QS&C)
6. MES/A191580 ■ Gudas Singh, JE E/M
7. MES/239005 ■ Ratul Mahanta, JE E/M
8. MES/204078 ■ AK Haldar, JE (QS&C)
9. MES/A-125013 ■ Rami Chand, JE (Civ)
10. MES/242229 ■ B N Saikia, UDC
11. 224267 ■ PC Das, UDC
12. MES/264649 ■ Noris Rani, UDC
13. MES./237945 ■ Antony Cherian, LDC
14. MES/243461 ■ K.Y. Singh, LDC
15. MES/264068 ■ Narayan Sharma, Chowkidar
16. MES/243554 ■ D B Chetri, Peon
17. MES/242232 ■ KC Saikia, UDC
18. MES/220191 ■ Manju Passi, Chowkidar
19. MES/243916 ■ Smuel Killing, Chowkidar
20. MES/243893 ■ K Sikhra, Safaiwala
21. MES/220145 ■ Rama, Chowkidar
22. MES/243924 ■ Satrughan Thakur, Chowkidar
23. MES/225161 ■ Amar Singh, Chowkidar

(OTF)

Filed by  
Shri I. Kulamani Singh  
Applicant No 1  
through J.S. I  
(Nabil AHMED)  
Advocate

24. MES/232996 ■ Open Saikia JE (Civil)

-Applicants

Now all the applicants are working under Garrison Engineer, 869 EWS, C/o 99 APO.

-AND-

1] Union Of India,  
represented by the Secretary  
to the Government of India,  
Defence Department, New Delhi.

2] Shrimati Vandana Srivastava,  
Controller of Defence Accounts,  
UDHYAN VIHAR, Narangi,  
Guwahati-781171.

3] The Garrison Engineer,  
869 EWS, C/o 99 A.P.O.

■ Respondents.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This instant application is made against the impugned order of recovery as well as stoppage of the Field Service Concession vide D.O. No. Pay/Tech/025 dated 10<sup>th</sup> April 1999 issued by the Respondent No. 2 at Annexure- 4 and also praying for direction upon the Respondents for Continuation of the Field Service Concession as per this Hon'ble Tribunal's Judgement and order dated

26<sup>th</sup> September 1997 passed in O.A. No. 135 of 1997 and also as per Hon'ble Apex Court's Judgement in Civil Appeal No. 1572 of 1997 dated 17-2-97 in similarly situated cases.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

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

4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.1 That your humble applicants are citizens of India and as such, they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Defence Civilian Employees belonging to group C and D. They are serving under the Defence Department in Manipur since a long time.

4.2. That your applicants beg to state that all the applicants are serving under the Garrison Engineer 869 EWS c/o 99 A.P.O. The applicants are



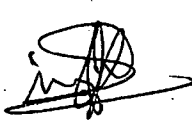
19

serving as AEE B/R, JE(Civ), JE (QS&C), JE E/M, UDC, Chowkidar, L.D.C., Labour, Safaiwala, etc.

4.3. That your applicants beg to state that they have got common grievances, Common cause of action and the nature of relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend prefer this application jointly, and accordingly they pray for grant of permission under Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules 1987 to move this application jointly.

4.4. That your applicants beg to state that under the Government of India various orders, Memos, Circulars, these Defence Civilian Employees who are serving in Field Areas including Manipur, Nagaland are eligible for certain benefits due to involving risk of life along with Armed Force personnel. These Defence Civilian Employees are facing imminent hostilities in these hilly Areas risking their lives in supporting the army personnel development there.

4.5. That your applicants beg to state that these Defence Civilian Employees are entitled to get the benefit of Field Service Concession and also Allowance as per Government Letter No. 37269/ AG/ PS 3(a) /D/ Pay/ Service dated 13-01-94. It is pertinent to mention here that in this letter it has been clearly mentioned in paragraph I that the Defence Civilian Employees serving in the newly defined field areas will continue to be extended the concession enumerated at Annexure-C of the Government letter No. A/02584/AG/PS-

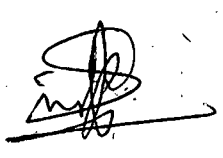


3(a)/97-S/D(Pay/Service) dated 25-01-64. The Field Service allowance is addition to Field Service Concession which was granted by the Government of India vide letter dated 25-01-64. The Additional Field Service Allowance has become effective from 1<sup>st</sup> April 1993.

Annexure-1 is the Photostat copy of the letter No. 37269/ AG/ PS 3(a) /D/ Pay/ Service dated 13-01-94.

Annexure-1(A) is the Photostat copy of the Defence Office Memo No. A/ 02584/ AG/ PS-3 (a)/97-S/D (Pay/ Service) dated 25-01-64.

4.6 That your applicants beg to state that they enjoying Field Service Concession since 1964 as per Annexure 1(A). But when the Defence Department issued another circular for Filed Service Allowance in addition to Field Concession as enumerated in letter dated 25-1-64, the applicants approached the authority to get the additional allowance. The authority refused to give this allowance in spite of their Office Memo at Annexure-1. The applicants being aggrieved by non-payment of Field Service Concession Allowance they approached the Hon'ble Tribunal by filing the Original Application No. 135/97. The Hon'ble Tribunal after hearing both sides allowed the Field Service Concession Allowance as Government letter No. 37269/ AG/ PS 3(a) /D/ Pay/ Service dated 13-01-94. The Judgment of Original Application No. 135/97 has been accepted by the Respondents. The Respondents have filed Misc.



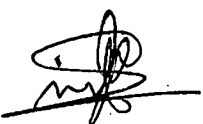
Petition No. 30 of 1998 in O.A. No. 135/97. In the said Misc. Petition the Respondents have stated before the Hon'ble Tribunal that the Government have accepted the judgment regarding payment of Field Service Concession passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati and accordingly the applicants have been paid the Field Service Concession Allowance as per Judgment in Original Application No. 135/97 by the Respondents.

Annexure-2 is the photocopy of Judgment & Order dated 26-09-07 passed in Original Application No. 135/97.

Annexure-2(a) is the photocopy of the Order passed in Misc. Petition No. 30/98 in O.A. No. 135/97.

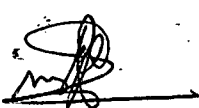
4.7 That your applicants beg to state that the Field Service Concession Allowance have been granted to the applicants by the Respondents after being satisfied by them. Accordingly, the applicants have been all along enjoying this Field Service Concession Allowance after getting judgment in Original Application No. 135/97.

That it is pertinent to mention here that the similarly situated Defence Civilian Employees who are serving in the Field Areas of Manipur and Nagaland filed the Original Application No. 124 and 125 of 1995 before the Hon'ble Tribunal, Guwahati Bench, Guwahati for payment of Field Service Concession Allowance, House Rent Allowance, Special Compensatory (Remote Locality)




Allowance and Special Duty Allowance. The Hon'ble Tribunal, Guwahati Bench, Guwahati after hearing both the parties in the above mentioned cases on 24<sup>th</sup> August 1995 passed a Judgment & Order allowing these Defence Civilian Employees to draw the Field Service Concession Allowance, House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Special Duty Allowance. In particular, the Hon'ble Tribunal directed the respondents to pay the Field Service Concession Allowance with effect from 01-04-93 in addition to Field Service Concession as per Government letter dtd 25-01-64 mentioned in Annexure 1(A). In these cases and similarly situated other cases, the Union of India filed Appeal before the Hon'ble Supreme Court of India. The Appeal was numbered as 1572/97. In this appeal the Union of India challenged the Judgment & Order which was passed in connection with the payment of the Field Service Concession Allowance, House Rent Allowance, Special Compensatory (Remote Locality) Allowance and Special Duty Allowance by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati. The grounds of the Special Leave Petition place by the Union of India before the Hon'ble Apex Court regarding payment of Field service Concession are given below:

• Because the Hon'ble Central Administrative Tribunal committed a grave error by directing that the petitioner are entitled for Field Service Concession as per Army Head Quarter letter dtd 25-04-94 with effect from 01-04-93. A reading of Army Head Quarter letter dtd 25-04-94 clearly show that



the Hon'ble Tribunal has pass the order without understanding the contents of the letter. Actually, the Army Head Quarter letter dtd 25-04-94 was addressed to the various Army Commandants indicating certain proposal for Concession/ Allowance to the Defence Civilian Employees in certain areas and which had been forwarded to the Ministry of Defence, for consideration and the Commandants, Head Quarter, were requested to examine the stated proposal and give their comments/views. The Hon'ble Tribunal has to the extent of directing the Government to pay such allowance even without Government sanction. The Army Head Quarter, on the proposal submitted that the Hon'ble Tribunal committed an error when it directed the Government to make payments as per this letter of Army Head Quarter. No such allowances could be given in the absence of the Government Sanction.

But the Apex court only dealt with the Special Duty Allowance and the Special Compensatory (Remote Locality) Allowance. The Apex court held that the Special Compensatory (Remote Locality) Allowance will be payable to the Defence Civilian Employees till 17th April, 1995 as per Government letter regarding payment of Special Duty Allowance. The Apex court held that the Defence Civilian Employees serving in the Field Areas are entitled to get both the allowances, the Special Duty Allowance and the Field Service Concession Allowance. In this judgment it was nowhere mentioned by the Apex court that the Defence Civilian Employees are not entitled to get Field Service Allowance as the Army Letter dtd 13-01-94



in addition to Field Service Concession as per the Ministry of Defence letter dated 25-01-64 and as such, these Defence Civilian employees posted in the Field Areas of Nagaland, Manipur, etc. are eligible for payment of Field Service Allowance in addition to Field Service Concession as the Hon'ble Tribunal and Apex Court's decision in Civil Appeal No. 1572/97.

Annexure-3 is the photocopy of Judgment & Order passed by the Hon'ble Tribunal in O.A. No. 124/95 & 125/95 dated 24-08-95.

Annexure-3(a) is the photocopy of SLP No. 1572/97 filed by the Union of India.

Annexure-3(b) is the photocopy of Judgment & Order passed by the Hon'ble Supreme of India in Civil Appeal No. 1572/97 dated 17<sup>th</sup> February 1997.

4.8 That your applicants beg to state that most surprisingly the Respondent No.2 Smti. Vandana Srivastava, the Controller of Defence Accounts, Guwahati, Naréngi issued a letter directing the Garrison Engineer, 869 EWS, C/o 99 APO, Respondent No.3 to recover the Field Service Concession from the applicants.

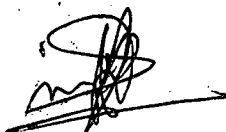
It may be worth to mention here that the applicants are enjoying the Field Service Concession Allowance as per Judgment & Order dated 26<sup>th</sup> Sept. 1997 passed on O.A. No. 135/97.

Annexure-4 is the recovery letter No. DO No. Pay/Tech/025 dated 10<sup>th</sup> April, 1999.

4.9 That your applicants beg to state that similarly situated Defence Civilian persons who are serving under the Garrison Engineer, 869 EWS, C/o 99 APO have already approached this Hon'ble Tribunal by filing the Original Application No. 170/99 against illegal recovery and stoppage of Field Service Concession Allowance paid to them. The Hon'ble Central Administrative Tribunal after hearing both sides on 28-05-99 admitted the Original Application and stayed the Operation of Impugned recovery order and also stoppage Field Service Concession Allowance at Annexure-4 dated 10-04-99 until further order. It may be stated that other Defence Civilian Employee also filed Original Application No. 202/99 and O.A. 319/99 before the Hon'ble Tribunal against the impugned recovery as well as stoppage order of Field Service Concession Allowance. All the above mentioned cases are admitted and stayed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati and these are pending before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for final hearing.

ANNEXURE-5 is the photcopy of an such order passed by the Hon'ble Tribunal dated 28.5.99.

4.10 That your applicants beg to state that the Respondent No. 2 has violated the Hon'ble Tribunal's order dated 26<sup>th</sup> Sept. 1997 and also the Hon'ble Apex court's Judgment in Civil Appeal No. 1572 in similar cases regarding payment Field Service Concession Allowance to the Defence Civilian employees who are serving in the Field

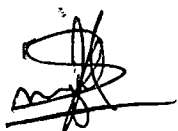


Area. As such, the Respondent No. 2 is liable for contempt of court for disobeying and suppressing the facts regarding payment of Field Service Concession Allowance to the Defence Civilian Employees who are serving in the Field Areas. Accordingly, the Hon'ble Tribunal may issue notice for personal appearance of Respondent No. 2 as she has violated the Hon'ble Tribunal's order as well as the Hon'ble Supreme Court of India's order.

4.11 That your applicants beg to state that the recovery and stay of Field Service Concession and discontinuation of Field Service Concession by the Respondent No.2 is highly illegal, arbitrary, unfair and violative of the principle of natural justice as well as fundamental rights of the applicants.

4.12 That your applicants beg to state that the Respondents are now issuing recovery letter to the applicants of the instant application for recovery of Field Service Concession Allowance from them from the next month because the applicants are not party to the Original Application No. 170/99 which was filed against the impugned order of recovery and stoppage of Field Service Concession Allowance by the similarly situated persons. Hence, the applicants are compelled to approach this Hon'ble Tribunal for seeking justice and also praying for stay against the impugned order of recovery and stoppage of Field Service Concession Allowance.

4.13 That your applicants beg to state that in the above circumstances finding no other alter-



native the applicants are approaching the Hon'ble Tribunal for protection of their rights and interest through this Original Application and the Hon'ble Tribunal may be pleased to stay the impugned order No. Pay/Tech/025/ dated 10<sup>th</sup> April 1999 issued by the Respondent No.2 and also direct the Respondents to continue the Field Service Concession Allowance to the present applicants as interim measure and further be pleased to set aside and quashed the impugned letter dated 10<sup>th</sup> April 1999.

4.14 That this application is filed bona fide and for the ends of justice.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, the action of the Respondents are highly illegal, arbitrary and violative of the principle of natural justice as well as the fundamental rights of the applicants.

5.2 For that, the applicants are enjoying the Field Service Concession Allowance as per Hon'ble Tribunal's order as well as the Apex Court's order in similar cases and as such, the Respondents can not deprive them these facilities of Field Service Concession Allowance without challenging the Hon'ble Tribunal's Judgment and as such, the order of recovery and the order of stoppage of the above said allowance are illegal and are liable to be set aside and quashed.



5.3 For that, the applicants are Defence Civilian Employees, serving in Manipur and being attached with the armed force personal who are deployed in the Field Areas for operational requirement facing the immense hostilities and also facing risk of life along with the armed forces, as such, they are entitled to get the Field Service Concession and as such, the same cannot be discontinued and also cannot be recovered by the respondents without challenging the Apex Court's Judgment as well as the Hon'ble Tribunal's judgment.

5.4 For that, the Field Service Concession was not obtained by the applicants by any fraudulent means but the respondents after accepting the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati and also accepting the Hon'ble Supreme Courts Judgment they were paying the Field Service Concession and as such the order issued by the Respondent No. 2 is liable to be set aside and quashed.

5.5 For that, it has been already conclusively held that the Hon'ble Supreme Court of India in other similar cases that the Defence Civilian who are serving in this area are entitled to get the said benefit of Field Service concession Allowance with effect from 01-

04-93 and the Field Service concession with effect from 25-01-64 as per Govt. letters as such, the respondents cannot discontinue these facilities to the present applicants.

5.6 For that, it is settled proposition of law that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the said benefits without requiring them to approach in the Court of law.

5.7 For that, the order of stoppage and recovery issued in terms of impugned order No. pay/tech/ 025 dated 10-04-99 is in total violation and disobedience of the Apex Court's Judgment and the Hon'ble Tribunal's Judgment and as such, the order issued by the Respondent No. 2 is liable to be set aside and quashed.

5.8 For the, in any view of the matter the action of the respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED :

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition and may be direct the respondents to give the following reliefs.

8.1 That the Hon'ble Tribunal may be pleased to declare that the applicants are entitled to get the Field Service Concession as per Government Letter, No. 37269/AG/PS/ 3(a)/ D (Pay/Service) dated 13-01-94.

8.2 That the stoppage and recovery of Field Service Concession vide letter No.D0 No. Pay/Tech/025 dated 10 April 1999 issued by the respondent No. 2 be set aside and quashed.

8.3 That the respondents may be directed to continue the Field Service Concession in terms of Appendix 'C' to the Government of India, Ministry of Defence letter No. A/02584/ AG/PS 3(a)/97-S/D(pay-Service) dated 25-01-64.

8.4 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.  
Cost of the case.

9. INTERIM ORDER PRAYED FOR :

Pending final decision of this application the applicants seek issue of the interim order.

9.1 That the Hon'ble Tribunal may be pleased to stay the letter No. Pay /Tech/025 dated 10<sup>th</sup> April 1999 issued by the respondent No. 2 at Annexure-4 for recovery and stoppage of Field Service Concession Allowance from the applicant and also may direct the Respondents to continue the Field Service Concession Allowance given to the applicant as per Hon'ble Tribunal's Judgement passed in O. A. 135/97.

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO. 06,453290

Date Of Issue 5.4.2000

Issued from GUWAHATI

Payable at GUWAHATI


12. LIST OF ENCLOSURES:

As stated above.

VERIFICATION

I, Sri Kulamani Singh, MES No. 243673, Mazdoor, (Unskilled) applicant No.1 serving in Office of the Garrison Engineer, 869, C/o 99 APO as authorised by the other applicants do hereby solemnly verify that the statements made in paragraphs 4.1 to 4.4, 4.9, 4.10, 4.11, 4.12, 4.13 are true to my knowledge, those made in paragraphs 4.5, 4.6, 4.7, 4.8 are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this 31st day of May 2000 at Guwahati.

  
(I. KULAMANI SINGH)

Declarant.

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~~ANNEXURE - 1~~

198 ANNEXURE - 31

RESTRICTED

Annexure - 4

As per Unit  
 Org 4 (Civ) (a)  
 Adjustment General  
 Sena Mukhyalaya  
 Adl. Dte. Gen. of  
 Adjustment General Board  
 Army Headquarters  
 New Delhi - 110 001

16729/org 4 (Civ) (a)

25 Apr. '94

Headquarters  
 Southern Command  
 Eastern Command  
 Western Command  
 Central Command  
 Northern Command

FIELD SERVICE CONCESSIONS TO CIVILIANS AND  
FROM XX SERVICE ESTIMATES INCLU-  
ING CIVILIANS EMPLOYED IN LIEU OF COMBATANTS  
AND NCSE (BOTH POSTED AND LOCALLY RECRUITED)

1. On the basis of the fourth central pay commi-  
 ssion recommendation, the existing classification of

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areas for grant of field service concessions has been revised recently, vide Min. of Defence letter No. 37269/AF/PS3 (a) 90/D (Pay/Services) dated 13 Jan. 94.

Some of the concessions/compensatory allowances have also been revised in respect of service personnel.

As per the ibid Govt. order held are as will be classified as field areas and modified field

areas only. The of newly defined field areas and modified field are as contained in Annex 'A' and 'B' respectively to this letter.

2. It is proposed to extend the same concessions to Defence civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas. They are also required to move in to the border areas and also serve in dense jungles risking their lives & performing duties assigned to them.

3. The following proposals for concessions/allowances to defence civilians posted in these areas have been proposed to Min. of Defence for consideration :-

- (a) Defence civilians serving in similar area, and modified field areas to be eligible to the

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AS L  
Advocate

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grant of field area allowances and  
compensatory modified field area  
allowances respectively at the follow-  
ing rates:-

Pay	Rate of comp. modified area allowances	Rate of comp. modified field area allowances
For pay upto 900/-per month	Rs.375/-PM	Rs.100/-PM
For pay exceeding Rs.900/- But not exceeding Rs.1500/-	Rs.450/-PM	Rs.175/-PM
For pay exceeding Rs.1500/- but not exceeding Rs.2300/-	Rs.650/-PM	Rs.225/-PM
For pay exceeding Rs.2301/- but not exceeding Rs.3000/-	Rs.750/-PM	Rs.300/-PM
For pay exceeding Rs.3000/-	Rs.975/-PM	Rs.325/-PM

(b) The special compensatory allowance  
such as Hill Compensatory and  
winter allowances, Bad climate  
allowances etc. not to be addi-  
tion to this allowances.

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Attest  
[Signature]  
Advocate

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(c) The other concessions in kind at present admissible in full field areas as per details given in Annexure 'C' to Min. of Defence O/A No. A 02584/AG/PS-3 (a)/92-S/P (Inv/Services) dated 25 Jan. 68 as amended from time to time to continue to be admissible in the newly defined field area listed at appx. 'B' to this letter.

(d) The above mentioned allowances will not be admissible to :-

(i) Static formation/units eg. military forms, MES, Recruiting office, Training Centres and establishments.

(ii) NCC Directorates and Units.

(iii) TA units unless embodied.

(iv) Record office and similar establishments.

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*Accepted*  
*ASL*  
*Annexure*

4. High altitude/Uncongenial climate allowance  
 Civilian serving in field areas which area situated  
 as a height of 9000 ft. and above including un-  
 congenial climate areas below the height of 9000 ft.  
 to be entitled. The details of these areas are  
 given in Appx. 'C' to this letter. The rates of  
 High Altitude/Uncongenial climate allowances are  
 given as under :-

Pay	Cat-I (Height from 9000 ft to 15000 ft incl. uncongenial climate areas of 9000 ft.)	Cat-II (Height above 15000 ft excl. Siachen)
For pay not exceeding Rs.950/--	Rs.100/--PM	Rs.150/--PM
For pay exceeding Rs.950/-PM	Rs.140/--PM	Rs.210/--PM
But not exceeding Rs.2300/-PM		
For pay exceeding Rs.1500/-PM but not exceeding Rs.3000/-PM	Rs.180/--PM	Rs.270/--PM
For pay exceeding Rs.3000/-PM	Rs.300/--PM	Rs.325/--PM

The High Altitude/Uncongenial climate allowance to be admissible in addition to the field compensatory allowances and other concession in kind.

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*Attested*  
*J.S. Khanna*  
*Secretary*

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5. Command Headquarters are requested to examine the above proposal submitted to Ministry of Defence and given their comments/views. Annual financial implication on the above proposals may please be worked out separately in respect of field allowance modified field area allowance and High Altitude/Uncogential climate allowance and furnished to this Headquarters latest by 20 May, 1994.

sd/- x x x x x  
(promoted Jt Saxena)  
SCSO  
Director (MP)  
Org 4 (Civ.) (I)  
for Adjutant General

RESTRICTED

*Abstract*  
*[Signature]*  
*Advant*

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RESTRICTED

No. B/37269/AG/PS3 (a)/165/D (Pay/Services)

Government of India

Ministry of Defence

New Delhi, the 31st January 1994.

To

The Chief of the Army Staff

Subject: Field Service Concessions to Defence  
          Civilians serving in the newly defined  
          Field Areas.

Sir,

I am directed to refer to para 13 of  
Govt. letter No. 37269/AG/PS3 (a)/D (Pay/Services)  
dated 13.1.1994 and to convey the sanction of the  
President to the following Field Service Concessions  
to Defence civilians in the newly defined Field  
Areas and Modified Field Areas as defined in the  
above mentioned letter:-

- (1) Defence civilian employees serving in the newly defined Field Areas will continue

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to be extended (concessions enumerated in Annexure (a) to Govt. letter No. 25761/AG/PS3 (a)/97-S/D (Services) dated 25.1.1964. Defence civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appendix 'B' to Govt. letter No. 25761/AG/PS3 (b)/140-S/2/D (Pay/Services) dated 2nd March 1968.

(ii)

In addition to above, the defence civilian employees serving in the newly defined field areas and Modified Field Areas will be entitled to payment of Special Compensatory (Remote Locality) Allowances as admissible to defence civilians as per the existing instructions issued by this Ministry from time to time.

2. These orders will come into force w.e.f. 1st April, 1993.
3. This issues with the concurrence of Finance Division of this Ministry vide their UO No.5 (1)/BS-AG (14-P/1) dated 9.1.1995.

Yours faithfully,

(U.T. Tiwari)  
Under Secretary to the Govt. of India.

Attested  
[Signature]  
Advocate

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RESTRICTED

Appendix 'A' to Govt. of India  
Ministry of Defence letter No.  
87267/AQ/PG 1 (6)/90/2 (pay/services)  
dated 13 Jan. '94

(Refer to para .23)

LIST OF FIELD AREAS

1. EASTERN COMMAND

(a) Arunachal Pradesh

(i) Tirap and Changlang Districts.

(ii) All areas North of line joining  
point 4448 in LZ 4179-Nukme Dong  
MS 3272-Sepia MT 2969-Palin MO  
\* 9213 Doperajo NR 5841 Along  
NL-1273-HUALI NM 3170 Tewakon  
MT 8136-Champai NM 9814  
all inclusive

W

(b) Manipur and Nagaland States

(c) Sikkim: All areas North and W of line  
Joining Phatue LV 4750-Gozing LV 7059-Mangkha

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~~27~~ - 28 - ANNEXURE - I (a)

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ANNEXURE - I (a) 2

Appendix 'C' to Government of India  
Ministry of Defence Letter No. A/02504/AG/  
PS J (a)/97-S/D (Pay/Services) dt. 25/1/64.

CONCESSIONS ADMISSIBLE TO CIVILIANS PAID FROM DEFENCE SERVICES ESTIMATES INCLUDING CIVILIANS EMPLOYED IN COMBATANTS AND ICS (E) (BOTH POSTED AND LOCALLY RECRUITED)

(a) Free rations as scale applicable to combatants of the Army of Air Force, as the case may be, and fuel.

(b) Free tented/bashe accommodation and connected service to the extent feasible.

(c) Free clothing on minimum essential scale of Army personnel if the crps commander/AOC in C Air Force Command considers the issue of such clothing essential for operational reasons.

(d) Free attendance of family allotments

(e) Free medical treatment and hospital treatment.

(f) Wound injury or family pension or gratuity under Chapter XXXVIII CSR or AI/57/57/AFI 20/58 as the case may be, or compensation under the worker's compensation Act where applicable.

(g) 2 postage free forced letters per individual per week.

(h) Remittance within India limits of money orders and Indian Orders free of Commission upto the maximum value of Rs. 30/- per month per individual.

Retention of family accommodation allotted by Government at the old duty station on payment of normal rent. If the accommodation retained is required to be allotted to another entitled personnel for exigences of service, the families may be shifted to alternative accommodation whether appropriate or inferior to the status of the individual concerned.

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AHET  
S. M. /  
Advocate

1. Dearness allowance will continue to be admissible in full.
2. The concession in (1) above is applicable only in respect of accommodation held by the Ministry of Defence. Separate orders will follow in respect to accommodation belonging to the Ministry of MH.&R.

The concessions in this annex. are also applicable to DAP vide C.G.D.A No.21013(I)/66-C. Orders are also applicable to industrial employees (Min of Defence letter No.A/11452/C 9.4(civ) (d)/F 47/S/D (Civ.II)/07 8-12-65) - P104.A

Atk  
 RS  
 Ashwate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.135 of 1997

And

Original Application No.194 of 1997

Date of decision: This the 26th day of September 1997

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

O.A.No.135/97

Shri W. Megha Singh and 112 others

Working in the office of the Office of the  
Garrison Engineer, 869 E.W.S., C/o 99 APO

.....Applicants

By Advocate Mr A. Ahmed

- versus -

1. Union of India, represented by the  
Secretary of Defence, Government of India,  
New Delhi.

2. The Garrison Engineer,  
869 E.W.S., C/o 99 APO.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

O.A.No.194/97

Shri Ulla Gouda and 84 others

Working in the Office of the  
Commanding Officer, 50 Company, A.S.C. (Supply),  
Type-C, C/o 99 APO.

.....Applicants

By Advocate Mr A. Ahmed

- versus -

1. Union of India, represented by the  
Secretary of Defence, Government of India,  
New Delhi.

2. The Commanding Officer, 50 Company,  
A.S.C. (Supply), Type-C, C/o 99 APO.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

Ahmed  
S. Ali  
Advocate

O R D E R

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BARUAH J. (V.C.)

Both the above applications involve common questions of law and similar facts. Therefore, I propose to dispose of both the applications by this common order. The facts are:

2. All the applicants are Group III and IV Civilian Employees serving under the Defence Department since long time. They are now posted in Nagaland. The applicants state that Central Government by various circulars gave directions that the Civilian Employees serving under the Defence Department in Nagaland are eligible for certain benefits for taking risk of their life. They further state that as per the various Government circulars and Office Memorandum the Civilian Employees are entitled to get the benefit of Field Service Concession. As per the Government letter No.37269/AG/PS/3(a)/D/Pay/Services dated 13.1.1994, the applicants being Civilian Employees under the Defence Department and at present posted in Nagaland are entitled to the benefit of Field Service Concession. In spite of repeated requests and demands the respondents have refused to give the said benefit. Hence the present applications.

3. Heard Mr A. Ahmed, learned counsel for the applicants and Mr S. Ali, learned Sr. C.G.S.C, appearing on behalf of the respondents. Mr Ahmed submits that the present cases are covered by the decision of this Tribunal, namely, the decision of O.A. No.267 of 1996 and others dated 10.6.1997. By the said decision this Tribunal directed the respondents to give the benefit of Field Service Concession to the applicants of the above original applications. The present applicants are also similarly situated and so they are also entitled to the said benefit. Mr Ali, very fairly

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concedes that this Tribunal in similar facts and circumstances of the cases directed the authority to give such benefit to those applicants and he also confirms that the present cases are covered by the said order.

4. On hearing the learned counsel for the parties and on perusal of the records I am of the opinion that the present cases are covered by the decision of this Tribunal passed in O.A.No.267 of 1996 and others, and therefore, I direct the respondents to pay Field Service Concession to the present applicants. This must be done as early as possible, at any rate within a period of two months from the date of receipt of the order.

5. Both the applications are accordingly disposed of. However, considering the facts and circumstances of the cases I make no order as to costs.

SD/-Vice-Chairman

nkm

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*Attest  
[Signature]  
Advocate*

33 - 22  
FORM NO. 4  
(See Rule 42)

ANNEXURE - 2(a) 49  
ANNEXURE - 2(a)

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO.

MP-30 OF 1998  
CA 135/97

Applicant(s) Union of Justice & Sons  
-vs-

Respondent(s) W. M. Singh & Ors

Advocate for Applicant(s) M. S. Ali, Sr., C.G.S.C

Advocate for Respondent(s) M. A. Ahmed.

Notes of the Registry	Date	Order of the Tribunal
	20.2.98	<p>This Misc. Petition has been filed by the petitioner/respondents praying for extension of time to implement the order dated 26.9/1997 passed by this Tribunal in Original Application No.135/97.</p> <p>Heard Mr S. Ali, learned counsel for the petitioner/respondents and Mr A. Ahmed, learned counsel for the opposite party/applicant. Mr Ali submits that the Government has accepted the judgment, but it needs some time to implement the same. Accordingly he prays for six months time. Mr Ahmed opposes the prayer.</p> <p>On hearing the learned counsel for the parties I grant two months time from the date of receipt of this order to implement the order dated 26.9.97</p>

Ahmed  
S. Ali  
Ahmed

Notes of the Registry	Date	Order of the Tribunal
	20.2.98	<p>passed in O.A.No.135/97. The Misc. Petition is accordingly disposed of.</p>

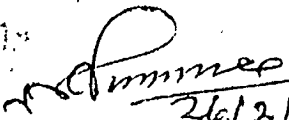
SD/- VICE CHAIRMAN

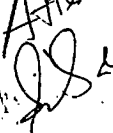
Hemo.No. 901

Dated 9/3/78

Copy for information and necessary action to :

1. PES.243801 W. Megha Singh, Electrician, O/o the Garrison Engineer 869 EWS, C/o 99 APD.
2. Shri Ajit Kumar, Secretary Defence, North Block, Government of India, New Delhi.
3. Shri A.K.Gupta, Garrison Engineer, 869 EWS, C/o 99 APD.

  
 SECTION OFFICER (J) 26/2/78  
 K 26/2

Attached  
  
 Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

~~ANNEXURE~~

ANNEXURE - 3

Original Application No.124 of 1995  
With  
Original Application No.125 of 1995

Date of decision: This the 24th day of August 1995  
( AT KOHIMA )  
The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman  
The Hon'ble Shri G.L. Sanglyne, Member (Administrative)

O.A.No.124/95

Shri Krishna Sinha and 116 others  
All are serving in the Office of the Garrison Engineer,  
868 EWS C/o 99 APO.

.....Applicants

- versus -

1. Union of India represented by  
The Secretary, Defence,  
Government of India, New Delhi.
2. The Garrison Engineer,  
868 EWS C/o 99 APO.
3. The Garrison Engineer,  
869 EWS, C.o 99 APO.

.....Respondents

O.A.No.125/95

Shri N. Limbu and 14 others  
All are serving in the Office of the Garrison Engineer,  
868 EWS C/o 99 APO.

.....Applicants

- versus -

1. Union of India represented by  
The Secretary, Defence,  
Government of India, New Delhi.
2. The Garrison Engineer,  
868 EWS, C/O 99 APO.

.....Respondents

For the applicants in both the cases : By Advocate Shri A. Ahmed

For the respondents in both the cases : By Advocate Shri S. Ali, Sr. C.G.S.C.

Attest  
Advocate



CHAUDHARI, J. V.C.

Mr A. Ahmed for the applicants.

Mr S. All, Sr. C.G.S.C. for the respondents.

Both these cases involve same question and therefore are being disposed of by this common order.

Facts of O.A.No.124 of 1995:

The applicants belong to Group "C" serving in the Defence Department as civilian employees. The application is restricted to applicants at serial No. 1 to 117. These applicants are from inside North Eastern Region and are serving in different capacities as Central Government employees in Nagaland under GE 868 EWS 99 APO. Their grievance is that they are being denied the payment of:

- i) Special (Duty) Allowance (SDA) payable under Memo No.20014/3/83-E-IV of the Government of India, Ministry of Defence dated 14.12.1983 read with O.M.No.4(19)/83/D, Civil-I dated 11.1.1984
  - ii) House Rent Allowance (HRA) as per the circular No.11013/2/86-E-II(B) dated 23.9.1986 issued by the Government of India, Ministry of Finance
  - iii) Special Compensatory (Remote Locality) Allowance SCA(RL) under the Ministry of Defence letters No.16037/E/A2 HQ 3 Corps (A) C/o 99 APO and No.B/37269/AG/PS3(b)/165/D/(Pay)/Service dated 31.1.1995
  - iv) Field Service Concession (FSC) vide letter No.16729/GG4 (clv)(d) dated 25.4.1994 of Army Headquarter, New Delhi,
- although they are entitled to get these concessions.

2. Although no written statement has been filed, Mr S. All, learned Sr. C.G.S.C., fairly states that we may decide the matter.

*Asst. Secy. (Adm.)*  
*Asst. Secy. (Adm.)*

*Secy.*

In the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

Facts of O.A.No.125 of 1995:

3. The applicant Nos.1 to 15 (other applicants already deleted) who belong to Group "A", "B", "C" and "D" employed in the Defence Department as civilian employees and posted in Nagaland make a grievance that the respondents are denying them the benefit of SDA, HRA, SCA(RL) and FSC although they are entitled to get these concessions.

4. The respondents have not filed any written statement. However, Mr S. All, learned Sr. C.G.S.C., fairly states that we may decide the matter in the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

REASONS (common to both the cases) :

5. The applicants place reliance upon the O.M. dated 14.12.1983 which provides that Central Government civilian employees who have All India Transfer liability will be granted SDA at the rate prescribed thereunder per month on posting to any station in the North Eastern Region. Likewise, the letter of Ministry of Defence dated 31.1.1995 provides that the Defence Civilian Employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of SCA(RL) together with other allowances as may be admissible. The O.M.dated 23.9.1986 issued by the Ministry of Finance (Department of Expenditure) provides that on the recommendation of the 4th Pay Commission it has been decided that the Central Government employees shall be entitled to HRA, on a slab basis related to their pay and separately prescribed for "A", "B-1" and "B-2", "C" class and "Unclassified" cities with effect from.....

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from 1.10.1986. It is further provided that HRA at the rates prescribed shall be paid to all employees (other than those provided with Government home/hired accommodation) without requiring them to produce rent receipts, but on compliance with the prescribed procedure thereunder. It also provides that where HRA at 15% has been allowed under special orders the same shall be given as admissible in "A", "B-1" and "B-2" class cities and it shall be admissible at the rates in "C" class cities in other areas. The memorandum issued by the Army Headquarter - Org 4(civil)(d) dated 25.4.1994 bearing No.16729/ GG4(Civ)(d) on the subject of FSC to civilians paid from Defence Service Estimates including civilians employed in lieu of combatants and NC&E (both posted and locally recruited) provides that it is proposed to extend the same concessions to Defence civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas and the same shall be paid at the rates prescribed under the said memorandum. It has, however, been provided that SCA such as bad climate allowance etc. shall not be in addition to these allowances.

6. The applicants have based their respective claims on these memorandums.

7. It appears that the applicants in both the cases had filed a Civil Suit in the court of DC(Judicial), Dimapur, Nagaland, being Civil Suit No.255/89 making the same claims. The civil court by judgment and decree dated 19.12.1994 has allowed the claims and directed the respondents to make the payment accordingly. The civil court relied upon the decision of this Tribunal in O.A.Nos.48, 49 and 50 of 1989 of the Central Administrative Tribunal, Guwahati Bench. The decree has not been complied with, but the applicants have now stated in the applications that they would not proceed with the execution of the decree as they have now realised that they had obtained the decree from the court which lacked inherent jurisdiction.....

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in addition to entertain and try the suit in view of the  
 lack of jurisdiction arising under the provisions of the  
 Administrative Tribunal Act and, therefore, they have  
 approached this Tribunal for relief by these applications.  
 Since the applicants were agitating the claim in respect  
 of SDA and HRA in a wrong forum it is just and proper to  
 give them the benefit of exclusion of the period of  
 pendency of the civil suit for the purpose of holding the  
 said claims within limitation in these applications. The  
 relief sought in respect of the other two claims is  
 within jurisdiction.

3. The question of entitlement for all these  
 claims in respect of Defence civilian employees have  
 exhaustively examined by us in the decision in the case  
 of S.C. Omar, Assistant Executive Engineer, -vs- Garrison  
 Engineer and another (O.A.No.174 of 1993) reported in SLJ  
 1995(1) CAT (Guwahati Bench) <sup>p.74</sup>. We have held in that case  
 that SDA and SCA(RL) are payable to civilians with All  
 India transfer liability posted in Nagaland even if they  
 get Field Service Concessions. We have not accepted the  
 plea that admissibility of Field Service Concession  
 deprives them of these benefits. In view of this  
 conclusion since facts are identical and as we had also  
 referred to the earlier decisions in O.A.No.48/89 and  
 O.A.No.749/89 dated 29.3.1994 in support, we are satisfied  
 that the relief claimed by the applicants in the instant  
 applications relating to SDA and SCA(RL) must be allowed.  
 We, therefore, declare that the applicants in the  
 respective applications are entitled to be paid SDA with  
 effect from 1.12.1938 or from the actual date of posting

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as the case may be. We further declare that the applicants in the respective applications are entitled to be paid SCA(RL) also, with effect from 1.10.1986. For specifying these dates in respect of these two reliefs we rely upon O.M.No.20014/16/86/E-IV/E-II(B) dated 1.12.1988. This is consistent with the decision in S.C. Omar's case (Supra). It is, however, made clear that this applies only to such of the applicants who are appointed outside N.E. Region, but are posted in N.E. Region on tenure basis.

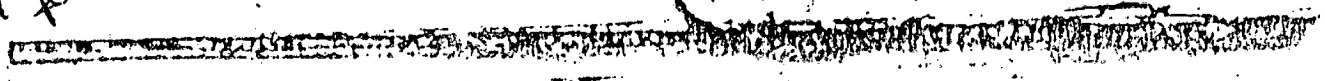
9. Consistently with the view we have taken in Omar's case on the nature of FSC and with the view taken that SDA and SCA(RL) are payable independently of FSC we hold that on the subject the applicants in the respective applications are entitled to draw the same as provided in the letter of the Government of India No.37269/AG/PS 3(a)/D(Pay & Services) dated 13.1.1994 with effect from 1.4.1993 subject to fulfilment of other conditions prescribed therein.

10. Lastly, in so far as the claim for HRA is concerned we follow our decision in O.A.No.48/91 dated 22.8.1995 and hold that under the O.M. dated 23.9.1986 the applicants are entitled to draw the HRA prescribed for B class cities with effect from 1.10.1986 at the rates prescribed from time to time since 1.10.1986 whether on percentage basis or flat rate or slab basis till (28.2.1993) and thereafter to be regulated in accordance with the O.M.No.2(2)93-E-2(B) dated 14.5.1993 with effect from 1.3.1991 and continued to be paid.

11. For the purpose of the aforesaid order it is made clear that as now held by the Hon'ble Supreme Court the benefit of SDA is admissible only to those employees who are appointed outside the North Eastern Region and are posted in the North Eastern Region. It will be open

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to the respondents to ascertain the case of each applicant for that purpose if necessary. Further it is made clear that this order has been passed on the footing that all the applicants in the two cases are posted in Nagaland.

12. For the aforesaid reasons following order is passed:

(A) O.A.No.124/95:

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986.

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

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J. S. Y. i.  
A. M. W. T. E.  
[Signature]

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4(22)-FD(15)/60 v. 1.1.1993

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iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below.

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

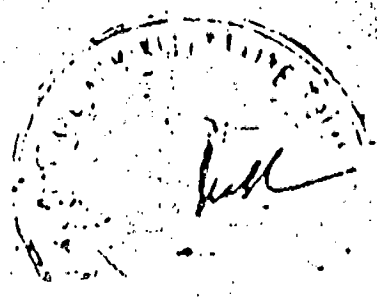
(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

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(B) O.A.No.125/95

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986.

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and.....

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D. H.  
A. H. Tal

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K. H.

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and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

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Section Officer (A)

Central Administrative Tribunal

Central Administrative Tribunal  
New Delhi



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A. K. Talwar  
S. S. ...  
...

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ANNEXURE - 3 (a)

ANNEXURE - 3 (a)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

17

SPECIAL LEAVE PETITION (C) NO. 1578-79/97 OF 1995  
IN CIVIL APPEAL No 1572 of 1997 with  
No 1573-85 of 1997

In the matter of:

(Arising out of CA 124 of 1995  
Guwahati Bench)

1. Union of India represented  
by Secretary of Defence,  
Government of India,  
New Delhi,

2. Garrison Engineer,  
868 EWS O/O 99 A.P.O.

3. The Garrison Engineer,  
869, EWS C/O 99 APO . . . . . Petitioners

Versus

1. 243506 Shri Krishna Sinha,  
Elect. HS-II, Silchar, Assam.

2. 237837 Shri D. Boara,  
Ch/Elect, Jorhat, Assam.

3. 238368, Shri H.K. Gogoi,  
Elect. HS-II, Assam.

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4. 238370 Shri G.K. Borah,  
Ch./Elect, Assam.
- ✓ 5. 243768, Shri Dulal Das,  
Mate, Dimapur, Nagaland.
6. 243765 Shri Shymal Deb,  
Mate, Dimapur, Nagaland.
7. 243761 Shri Samar Kr. Paul,  
Mason(SK), Rangapahar,  
Nagaland.
8. 243782 Shri Robinson Muivah,  
Carpt(SK),  
Ukhrul, Manipur.
9. 243783 Shri Varaykham Muivah,  
Carpt(SK),  
Ukhrul, Manipur.
10. 243764 Shri Samir Dey,  
Carpt(SK), Rangapahar,  
Nagaland.
11. 43760 Shri Roseswar Gogoi,  
Carpt(SK),  
Jorhat, Assam.
12. 248596 Shri Sunil Barua, Maz. Assam.
13. 237906 Shri Kulai Kuttum,  
Ftr-pipe(SK),  
Jorhat, Assam.

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14. 243496 Shri M.M.Morah, Maz.,  
Jorhat, Assam.
15. 208219 Shri Suresh Gowala,  
Maz. Jorhat, Assam.
16. 243820 Shri Peter Fuchium, Maz.  
Ukhral, Manipur.
17. 267917 Shri K. Gogoi, Mason  
Ex-II, Assam.
18. 243498 Shri K. Sangma, Maz,  
Nagaland.
19. 243763 Shri Narayan Ch. Mazumdar,  
Maz., Dimapur, Nagaland.
20. 243768 Shri Tarun Kr. Borah,  
Maz. Jorhat, Assam.
21. 238220 Shri A. C. Kakati,  
Elect. HS-II, Golaghat,  
Assam.
22. 224743 Sh. T. R. Boro,  
Mate, Kamrup, Assam.
23. 243731 Shri R. K. Pal, Elect (SK),  
Dimapur, Nagaland.
24. 243818 Shri Himangshu Paul,  
Mate, Dimapur, Nagaland.
25. 223827 Shri H. C. Boro, Elect (SK),  
Kamrup, Assam.

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- 26. 243604 Shri Luehan Tanti, Haz.,  
Dimapur, Nagaland.
- 27. 238010 Shri J.C. Boragohain,  
Fitter HS-I, Sivasagar, Assam.
- 28. 230134 Shri M.K. Das, FGM(SK),  
Golaghat, Assam.
- 29. 237668 Shri Dinanath Hazarika,  
Ch/Mech, Cochar, Assam.
- 30. 243736 Shri A.K. Mondol,  
F.O.M., Cachar, Assam.
- 31. 243036 Shri K. Kalita, FGM, Nalbari,  
Assam.
- 32. 243737 Shri A. Ali Ahmed,  
FGM, Cachar, Assam.
- 33. 228628 Shri Z. R. Choudhary, FCH, Cochar,  
Assam.
- 34. 243510 Shri Toshi AO, Maz.,  
Mokokohang, Nagaland.
- 35. 237624 Shri Nagin Saikia  
V/Man, Jorhat, Assam.
- 36. 243442 Shri H.C. Das, Elect HS-II,  
Guwahati, Assam.

Abstract  
for  
Account

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- 37. 220112 Shri Rajendra Prasad,  
Chow, Bapar Shina, Manipur.
- 38. 237990 Shri S.K. Rai, Mate,  
Dimapur, Nagaland.
- 39. 243605 Shri Tulshi Tanti, Maz,  
Dimapur, Nagaland.
- 40. T/No. 126 Shri Bhanu Bhakt, Mate  
(O/P t) Diphu, Assam.
- 41. 243630 Shri Sushil Ch. Das,  
Elect. HS-II, Lumding,  
Assam.
- 42. 243580 Shri N. Chakraborty,  
Elect. HS-II, Silchar, Assam.
- 43. 243751 Shri W. Bahadur, Maz.,  
Dimapur, Nagaland.
- 44. 243789 Shri N.K. Gaichun, Maz.,  
Tamonglong, Manipur.
- 45. 243738 Shri S.K. Baidhya, FCM,  
Cochar, Assam.
- 46. 243739 Shri B.K. Goswami,  
FCM, Cachar, Assam.
- 47. 238117 Shri K.C. Boro,  
Elect. (SK), Darang, Assam.

Atk. Et  
A. S.  
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- 48. 237830 Shri J.N. Baruah,  
Elect. HS-II, Jorhat, Assam.
- 49. 243756 Shri H.C. Roy, Elect. SK,  
Lumding, Assam.
- 50. 243744 Shri L. Angrow, Elect. HS-II,  
Ukhrul, Manipur.
- 51. 238509 Shri K. Ghosh, FCM, Assam.
- 52. 243740 Shri Himangshu Ranjan Das,  
FCM, Assam.
- 53. 248366 Shri T.K. Baruah,  
Elect. (SK), Jorhat, Assam.
- 54. 243741 Shri Ratan Roy Elect(SK),  
Dimapur, Nagaland.
- 55. 243867 Shri Rakesh Chanda,  
Elect(SK), Dimapur, Nagaland.
- 56. 243732 Shri S. Karamakar,  
Elect(SK), Karimganj, Assam.
- 57. 243735 Shri Jugmay Das, FCM(SK)  
Silchar, Assam.
- 58. 248356 Shri Jodh Bahadur, Mate,  
Dimapur, Nagaland.
- 59. 243897 Shri K.B. Dorjee, Maz.  
Karbianglong, Assam.

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H.P.A  
S.C(R.L)  
F.S.

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60. 243752 Shri Bilash Dey, Mz. Dimapur,  
Nagaland.
61. 243753 Shri Bai Bahadur,  
Maz., Dimapur, Nagaland.
62. 220111 Shri J. Sangma, Rofg./Mech,  
Kamrup, Assam.
63. 238382 Shri Tapan Sen Sharma,  
Mate, Dibrugarh, Assam.
64. 243754 Shri Chandrama Mahato,  
Mate, Dimapur, Nagaland.
65. 208206 Shri R. Neog Maz., Jorhat,  
Assam.
66. 237499 Shri M. C. Neog, V/Man, Jorhant,  
Assam.
67. 237195 Shri Adiram Hazarika,  
Pipe Fitter, Jorhat,  
Assam.
68. 220334 Shri Kamal Baruah, V/Man,  
Sibsagar, Assam.
69. 237806 Shri T. P. Biswas, FGM,  
Bongalgaon, Assam.
70. 237898 Shri B. C. Doloy, FGM,  
Assam.
71. 228867 Shri L. B. Rai, Mate,  
Cachar, Assam.

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- 72. 237468 Shri Maliram Deb,  
Mate, Jorhat, Assam.
- 73. 220337 Shri B.N. Dowrah, Pipe/Fitter,  
Golaghat, Assam.
- 74. 237903 Shri Pranotosh Sarkar,  
Mate, Nagaland.
- 75. 243493 Shri P. Vaskaran, Mate, Nagaland.
- 76. 243650 Shri Y.S. Aso, Mate, Nagaland.
- 77. 243895 Shri Ram Bahadur, Maz.  
Assam.
- 78. 243111 Shri Baliraj,  
H/Man, Assam.
- 79. 228494 Shri J.K. Das, Carpt, HS-I,  
Assam.
- 80. 243765 Shri Jong Pong Ao,  
Carpt, Nagaland.
- 81. 243367 Shri Dimbeswar Boro, Mate,  
Assam.
- 82. 243796 Shri Lolonmar AO, Maz.  
Mokokchung, Nagaland.
- 83. 243492 Shri Bhim Bahadur, Maz.  
Cachar, Assam.
- 84. 243759 Shri Champok Konwar, Maz.  
Jorhat, Assam.

Attst  
A. S. Saha

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85. 243495 Shri Kaukak Bou, S/wala,  
Ukhrul, Manipur.
86. 243686 Shri Havi Zealing, S/wala  
Nagaland.
87. 243782 Shri Bimal Ch. Gogoi, Maz.,  
Jorhat, Assam.
88. 243894 Shri Shandra Kanta Sharma,  
Maz. Dinapur, Nagaland.
89. 820323 Shri Upen Kalita, Mason  
HS. II, Assam.
90. 243550 Shri J. C. Das, Cable Jointer,  
Nowgaon, Assam.
91. NO OP/Hes g/70 Sh. Atul Nath, Maz.,  
Kamrup, Assam.
92. 242217 Shri J. Marandi, Elect. (SK),  
Assam.
93. 243905 Shri Hiralal, Maz.,  
Nagaland.
94. 238146 Shri Gopal Sheel, V/Men, Assam.
95. M 238367 Shri Kalipada Nay, Elect. (SK),  
Assam.
96. 237809 Shri A.C. Borah, Elect. BS-II,  
Jorhat, Assam.

All set  
J. G. S.  
Amite

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97. 243507 Shri P.K.Sanyal, Maz. 26  
Assam.
98. 237867 Shri Ajit Chandra Deb PGM  
(SK), Dimapur, Nagaland.
99. 243755 Shri Pranab Chakraborty, Maz.,  
Dimapur, Nagaland.
100. Army No. 72505M Shri L. John Tangkul,  
FCH (SK), Dimapur, Nagaland.
101. 220322 Shri M.N. Kalita, V/Man,  
Jorhat, Assam.
102. 237472 Shri B. Kalita, Maz.  
Jorhat, Assam.
103. 243866 Shri Keyhon Chung, Maz.  
Nagaland.
104. 243806 Shri Indra Bahadur, Mate,  
Kohima, Nagaland.
105. 237278 Shri B.N. Mazumdar,  
Painter HS-I, Dimapur, Nagaland.
106. 237303 Shri N.K. Goswami, Painter  
HS-II, Dimapur, Nagaland.
107. 238140 Shri L. Baruah, Black Smith  
(SK) Jorhat, Assam.

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*Admit*

108. 238360 Shri Nagesh Baruah,  
Carpt(SK), Dibrugarh, Assam. 27
109. 243527 Shri E.R. Narak, Maz.  
Guwahati, Assam.
110. 243525 Shri Jatan Mazumdar,  
Lumding, Assam.
111. 243525 Shri Lalit Bora, Maz.  
Jorhat, Assam.
112. 243791 Shri Shibon Paul, Maz.  
Dimapur, Nagaland.
113. 243791 Shri Iman Bahadur, Maz.  
Bangapahar, Nagaland.
114. 243777 Shri R.S. Prem, S/Wala, Manipur.
115. 243662 Shrimati Sumitra Loom,  
S/Wala, Silchar, Assam.
116. 243512 Shri P.K. Roy, Elect. Assam..
117. 243844 Sh. D.K. Doruah, Maz..  
Assam.

And in the matter of:

(Arising out of OA No. 125 of 1995,  
Guwahati Bench).

-14-

Versus

28

1. 237947 Shri N. Limbu, Peon, Mukhuchang, Nagaland.
2. 237332 Shri B. R. Bora, UDC, Jorhat, Assam.
3. 233928 Shri B. S. Majumdar, S. A. Grade-I, Silchar, Assam.
4. 243486 Shri A. Pham, Peon, Sangtam, Nagaland.
5. 238324 Shri K. K. Choudha, L. D. C. Jorhat, Assam.
6. 220333 Shri Mohan Saikia, LDC, Assam.
7. 237540 Shri Hironath Barua, Ferro Printer, Jorhat, Assam.
8. 243458 Shri P. P. Chowdhury, LDC, Dimapur, Nagaland.
9. 223615 Shri S. E. Mazumdar, UDC, Guwahati, Assam.
10. 232243 Shri M. L. Dey, Dufftry, Tezpur, Assam.
11. 24725 Shri Kanu Debnath, Peon, Dimapur, Nagaland.
12. MES/237323 Shri N. C. S. Neog, D. Man Grade I, Jorhat, Assam.

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13. PNO 6954961 Shri B.C. Baruah, ILC  
Jorhat, Assam. 29
14. MES/237523 Shri P.D. Chutia, S.K. Grade-I,  
Jorhat, Assam.
15. MES/225367 Shri R.C. Boro, S.K. Grade I,  
Guwahati, Assam. . . . . Respondents

A N D

In the matter of:

Two Special Leave Petitions under  
Article 136 of the Constitution of  
India.

To

The Hon'ble Chief Justice of India  
and His Companion Judges of the  
Hon'ble Supreme Court of India, at New Delhi.

The humble petition of the  
petitioners aforesaid

Most Respectfully Showeth:

1. That these are two petitions for  
Special Leave to appeal against the Judgment  
and order dated 24.8.1995 passed by CAT Guwahati  
Bench in OA No. 124 of 1995 and OA 125 of 1995

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and the facts and circumstances giving rise to the same are mentioned hereinafter. Both the above shown OAS were decided by a common judgment by the CAT.

2. That the petitioner has not filed any other petition for Special Leave to Appeal or writ petition against the impugned order in this Hon'ble Court.

3. That the present petitioner seeks to raise the following substantial question of law of general public importance under Article 136 of the Constitution of India.

A: Whether the CAT was justified in allowing Special duty allowance and the other allowances to the persons, who are not entitled to them as per Government orders and circulars?

B: Whether an order of the CAT, which is passed on the non-consideration of material facts is not perverse?

Regarding OA No. 124 of 1995:

4. That the respondents (restricted to) No. 1 to 117 in the Special Leave Petition,

Attal  
Advocate

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filed the said OA on the allegations that they belong to Group C and they are serving in the Defence Department as civilian employees since a long time. Some are working since 1963, some are from 1964, some are from 1981, some are from 1987 onwards.

5. That the said respondents claimed that are from inside North Eastern region and they were serving in different capacities as Central Government Employee in Nagaland under the Office of CE 868 EWS 99 A.P.O. since long time. They were originally appointed in the Office of GE Panagarh, CE(West) Delhi Cantt., GE (A/F) Hasimara, GE Leh Ladakh, 856 EWS, EST Kankinara. They have been transferred from their original posting to the different places of India. Now they are serving as Electrician, M/Reader, Carpenter, Fitter, V/Man, FGM, Pipe Fitter, Plumber, Mate, Mazdoor, Charge Electrician, Refg. Mechanic and S/wala etc. In fact they are serving in different capacity as Central Government employee in Nagaland in the Office of the G.E. 868 EWS C/o 99 A.P.O. from different dates from 1963 onwards.

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6. That: the said respondents alleged under the Central Government various orders, memos, circulars, the civilian employee serving in Defence department in Nagaland are eligible per certain benefits for involving risk of life alongwith Armed Forces. They claimed the following benefits;

(i) S.D.A. (Special Duty Allowance) under the Defence Ministry Office Memorandum GM B1, 4(19)/83/D, New Delhi dated 11.1.1984 and Finance Ministry Memo No. 20014/3/83-E-IV Govt. of India, Ministry of Expenditure, New Delhi.

(ii) H.R.A. (House Rent Allowances) at the rate of 16% on the monthly salary as per circular No. 11013/2/B6-k-II(B) 23.9.1986 issued by the Government of India, Ministry of Finance (Department of Expenditure, New Delhi the 23rd September, 1986 (Annexure-2) and O.M. No. 48/91 Judgment and order dated 26.11.1993.

(iii) Special Compensatory (Remote Locality) Allowance to Defence Department Civilian Employees as per letter No. 16037/E/A2 HQ 3 Corps (a) C/O. 99 A.P.O. issued by the Under Secretary (Defence) to the Government of India, (Annexure-3) and as per Government of India,

*Attended  
D.S.H.  
Admitted*

Ministry of Defence New Delhi letter  
No. SB/37269/AG/PS 3(a)/165/D/(Pay)/services  
dated: 31.1.1995.

(iv) Field Service concessions to the  
civilian employee of Defence service on the  
basis of a mere proposal vide letter  
No. 16729/004 (civ) (d) 25th April, 1994 issued  
by the Director (MP) Org. 4(civ) (d) for adjutant  
General Army Headquarter, New Delhi.

7. That the said respondents alleged  
that they have failed to obtain the said  
benefits inspite of their repeated requests  
both oral and in writing. They had filed a  
suit in the Court of Deputy Commissioner  
(Judicial) Dimapur, Nagaland.

8. That respondent herein alleged that  
they alongwith other numbering 847 filed a  
Civil Suit No. 268/89 against the Union of  
India and others before the Deputy  
Commissioner (Judicial) Nagaland Dimapur  
praying for decree for payment of S.D.A. H.R.A.  
Special Compensatory Allowances (Remote Locality)  
Allowances. The suit was contested by the  
Union of India and others. In the said  
Suit the plea was taken that the Court of

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J.S. [Signature]  
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Deputy Commissioner(Judicial) has no authority to adjudicate the above allowance of Central Government Employees and the case is to be dealt with by the Central Administrative Tribunal Gauhati Bench at Guwahati. The Deputy Commissioner decreed the suit vide Judgment and order dated 19.12.1994 giving a direction to Union of India and others to pay Special Duty Allowances Special Compensatory (Remote Locality Allowances), House Rent Allowances by the Respondents. However, the said Judgment of the D.C.(Judicial) has been suspended until further order by the Guwahati High Court vide order dated 21.4.1995.

9. That the respondents claimed that they having fulfilled all the terms and conditions of S.D.A., H.R.A.Special Compensatory (Remote Locality Allowance), field allowances and other allowances as admissible as Central Government Employees serving at North Eastern Region particularly in Nagaland, are entitled to the above mentioned benefits. The copy of the said O.A. along with its annexures is marked herewith as Annexure 'A' (Colly).

Attested  
*[Signature]*  
 Assistant

Regarding O.A.No.125 of 1995: 35

10. The petitioners in O.A.No.125 of 1995 also made similar claims.

11. That both the above O.As were heard by the CAT Bench of Guwahati at Kohima which by means of its Judgment and order dated 24.9.95 held as under:

(i) That the applicants are entitled to receive Special Duty Allowance payable from 1.12.88 or from the date of actual posting in Nagaland as the case may be.

(ii) The petitioners are entitled to receive Special Compensatory (Remote Locality) Allowance from 1.10.86 or from the date of actual posting of the applicants in Nagaland as the case may be.

(iii) The respondents are directed to extend the Field Service Concessions to the applicants in the prescribed manner w.e.f.1.4.1993.

That the said Bench of CAT has stated that while granting relief to the

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respondents herein they have relied upon the decision of this Tribunal in O.A.No.48,49 and 50 of 1989.

Aggrieved by the order of the CAT the Special Leave Petition is preferred on the following other grounds against the impugned order:

G R O U N D S

- (a) Because the impugned order was passed by basing the earlier decision of the CAT Guwahati Bench in O.A.No.48,49 and 50/89 and since the petitioner had filed review applications before the CAT on the basis of this Hon'ble Court's directions on 10.2.1995 for the review of the said decisions, for the maintenance of judicial consistency the Tribunal should have first decided the review application on merit as directed by this Hon'ble Court before any judgment was passed in O.A.No.124 and 125 of 1995.
- (b) Because the petitioners in both the cases had obtained a similar Judgment

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in civil suit in the court of D.C. Judicial Dhimapur, Nagaland being civil Suit No. 255/88 and the Civil Court by Judgment dated 19.12.94 had allowed the claims and directed the respondents to make the payments accordingly. The Guwahati High Court has already admitted the appeal of the Union of India and suspended the impugned order dated 19.12.1994 until further orders. The Hon'ble Tribunal committed grave error of law by passing judgment when the Judgment passed by the DC Judicial Dhimapur is already under appeal in the High Court and the High Court has stayed the judgment.

(c) Because the employees who are locally recruited and posted in the offices situated in the North-eastern States, shall not be eligible for special Duty Allowance as already decided by this Hon'ble Court in several decisions, as reported in Reserve Bank of India Vs. Reserve Bank of India Staff Association (1991) (4) SPC 32 (Para 5), Union of India vs. S. Vijay Kumar (JT 1991 (6)

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SC 443 Union of India Vs. Mazdoor

Union of 14 FAD arising out SLP  
(Nos. 21234-35 of 1994). The order of  
the Tribunal is therefore in conflict  
with the law laid down by this Hon'ble  
Court.

(d) Because it is against the basic  
concept of payment of HRA that any  
employee is paid HRA even when he is  
provided with free accommodation. The  
payment of HRA and free accommodation  
cannot go together.

(e) Because as per Ministry of Defence  
orders dated 17.4.1995 in respect  
of Defence Civilian employees in  
field areas, Special Compensatory  
(Remote Locality) Allowance are not  
concurrently admissible alongwith  
Field Service Concessions. The CAT  
has directed that the petitioners  
are entitled for the Remote Locality  
Allowance in respect of they are  
getting Field Service Concessions in  
terms of Ministry of Defence letter  
dated 13.1.1994. In fact as per  
Ministry of Defence letter dated 13.1.94

AKH  
D. K. I.  
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the Special Compensatory (Remote Locality) Allowance has been actually withdrawn from 1.2.1994. In Hon'ble Tribunal's orders but also illegal in that the MOD orders clearly provide the FSC and Remote Locality Allowance are not concurrently admissible.

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Because the Tribunal committed a grave error by directing that the petitioners are entitled for Field Service Concession as per Army Hqrs. letter dated 25.4.94 w.e.f. 1.4.93. A reading of Army Hqrs letter dated 25.4.1994 will clearly show that the Tribunal has passed the orders without understanding the contents of the letter. Actually the Army Hqrs letter dated 25.4.1994 is addressed to the various Army Commands indicating that certain proposals for concessions/allowances to Defence Civilians posted in certain areas have been forwarded to Ministry of Defence for consideration and the Command Hqrs were requested to examine the stated proposals and give their comments/views. The Hon'ble Tribunal has gone to the extent of

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10/10/94

directing that the Government should pay such allowances even without a Government sanction. The Army Hqrs. on the proposal submitted and the Tribunal was committing an error when it issued directions to the Government to make payment as per this letter of Army Hqrs. No such allowance could be paid in the absence of Government sanction.

(g) Because the Judgment and order of the CAT is illegal, unsound and has been passed without applying its mind seriously on the question of fact and law.

(h) Because otherwise also the view of the CAT that the respondents herein were entitled to any concession on the matter of exclusion of limitation by pursuing their remedy in wrong forum is not legally sound.

(i) Because, in any case, the order of the CAT is liable to be set aside.

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Certified to be true copy  
J. P. ...  
Assistant Registrar - (Judl.)  
3/3/97  
Supreme Court of India

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997  
(Arising out of SLP (C) No. 14008 of 1996)

100181

Union of India & Ors. etc.

... Appellants

Versus

B. Prasad, B.S.O. & Ors. etc.

... Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578, 1579, 1580-1581/97  
(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42, 15740, 25108-10 of 1996, SLP (C) No. 4336/96 (CC-5040/96) and SLP (C) No. 4338/96 (CC-6860/96))

O R D E R

Leave granted. We have heard learned counsel for the parties.

These appeals by special leave arise from the various orders passed by the Central Administrative Tribunal, Gauhati Bench in different matters. The main order was passed on 17.11.1995 in RA No. 4/95 in O.A. No. 49/89.

The Government of India have been issuing orders from time to time for payment of allowances and

Asst  
Advocate

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facilities for civilian employees of the Central Government servants working in the States and Union Territories of the North-eastern region. It is not in dispute that Special Duty Allowance was ordered by the Government @ 25% of the basic pay subject to a ceiling of Rs. 400/- per month on posting on any station in the North-eastern region. Subsequently, the Government have been issuing orders from time to time. In the proceedings dated April 17, 1995, the Government modified the payment of the Special Duty Allowance and Special Compensatory (Remote Locality) Allowance as under:

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilian employees in the newly defined Field Areas, Special Compensatory (Remote Locality) Allowance and other allowances not concurrently admissible along with Field Service Concessions."

It is contended by Mr. R.P. Malhotra, learned counsel appearing for the Union of India, that the view taken by the Tribunal that they are entitled to both, is not correct and that they would be entitled

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to either of the allowances. Shri P.P. Rao, learned senior counsel appearing for some of the respondents has contended that those civilian employees working in the defence service at various stations in the North-eastern region were given Special Duty Allowance with a view to attract the competent persons and the persons having been deployed, are entitled to the same and the amended concessions would be applicable to those employees who are transferred after April 17, 1975. All those who were serving earlier would be entitled to both. Shri Arun Jaitely, learned senior counsel appearing for some of the respondents has drawn our attention to the distinction between Field area and Modified Field area and submitted that in cases where civilian employees are supporting the field defence persons deployed for the border operational requirements facing the immense hostilities, they will be denied the payment of both allowances while the personnel working in the Modified Field Area, in other words, in barracks, will be entitled to double benefit of both the allowance. This creates hostile discrimination and unjust results.

Having regard to the respective contentions, we are of the view that the Government having been

A. K. Jaitely  
Advocate

extending the benefit of payment of Special Duty Allowance to all the defence employees working in the North-eastern region as per the orders issued by the Government from time to time as on April 17, 1995, they are entitled to both the Special Duty Allowance as well as Field Area Special Compensatory (Remote Locality) Allowance. The same came to be modified w.e.f. that date. Therefore, irrespective of the fact whether or not they have been deployed earlier to that date, all are entitled to both the allowances only upto that date. Thereafter, all the personnel whether transferred earlier to that or transferred from on or after that date, shall be entitled to payment of only one set of Special Duty Allowance in terms of the above modified order.

As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities

Attested  
 J.S.  
 1/10/95

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in hilly areas risking their lives as envisaged in the proceedings of the Army dated January 13, 1994. But the Modified Field Area, in other words, in the defence terminology, "barracks" in that area is a lesser risking area; hence they shall not be entitled to double payment. Under these circumstances, Mr. P.P. Malhotra is right in saying that the wording of the order requires modification. The Government is directed to modify the order and issue the corrigendum accordingly.

The appeals are disposed of accordingly. It is made clear that the Union of India is not entitled to recover any payments made of the period prior to April 17, 1995. No costs.

.....J.  
(K. BANASWARY)

.....J.  
(G. T. NARAYANI)

NEW DELHI;  
FEBRUARY 17, 1997.

Attested  
[Signature]  
June 7

श्री सरिता  
विश्वनाथ  
SRIVASTAVA  
CONTROLLER



Tel: 0361 - 550110 (4)  
0361 - 550549 (10)  
Fax: 0361 - 550204 (1)

रक्षा सेवा विभाग  
उपयन्त्र विभाग, गुवाहाटी - 781 111  
CONTROLLER OF DEFENCE ACCOUNTS  
UDAYAN VIHAR, NAHANGI  
GUWAHATI 781111

DU NO. PAY/TECH/025  
Dated: 10th April, 1999

Dear General Chopra,

This is regarding the admissibility of Field Service concessions to Defence civilians serving in Field and Modified Field areas in conformity with Government order issued from time to time.

2. The Defence civilians serving in Field and Modified Field areas as re-classified in Ministry of Defence letter No. 37269/AG/PS/3(a)/90/D(Pay/services) dated 13/1/94 are entitled to non-monetary field service concessions as envisaged in Appendix 'C' to Ministry of Defence letter No. A/02584/AG/PS-3(a)/97/S/D(Pay/services) dated 25/1/1964 and Appendix-'B' to Ministry of Defence letter No. 25761/AG/PS3(b)/146-5/27/D(Pay/services) dated 09/03/68 respectively.

3. Admissibility of only non-monetary field service concessions in Field and Modified Field areas was brought out in the following Govt. orders consequent upon reclassification of areas vide Ministry of Defence letter of 13/1/94.

- (i) Ministry of Defence  
No. B/37269/AG/PS3(a)/165/D(Pay/services) dt. 31/1/95.
- (ii) Ministry of Defence  
No. B/37269/AG/PS3(a)/130/D(Pay/services) dt. 17/4/95.
- (iii) Ministry of Defence  
No. B/37269/AG/PS3(a)/1862/D(Pay/services) dt. 12/9/95.

4. The Field Service concessions thus do not include any monetary allowance in the form of Compensatory Field Area Allowance (CFAA) or Compensatory Modified Field Area Allowance (CMFAA) as is applicable to service personnel but a large number of Defence civilians are being paid CFAA and CMFAA in the form of monetary allowance. A copy of Ministry of Defence letter No. 3014/95/D(Pay/services) dated 12/3/99 in this regard in response to a reference made and CAPA's instructions thereon is enclosed herewith which is self explanatory. Payment of monetary allowance in the form of CFAA or CMFAA to Defence civilians as a part of FSC has to be stopped immediately and payments made so far are to be recovered after giving show cause notice. The details of recoveries to be effected would be available with the Unit authorities and they may be advised accordingly.

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PRIORITY

1. Report the content of this letter to the Unit
2. Reply to the reference
3. FOR

All C/Os

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5. In view of the above you are requested to kindly issue necessary instructions to various service branches of your HQ and lower formations to effect recoveries of payment already made earlier on the basis of Court judgements or otherwise after giving show cause notices. We are also instructing our sub-offices to stop payment of the monetary allowance from this month. Further, CAI judgements on the above account awaiting implementation are to be held in abeyance and ongoing cases contested in CAI for payment of FSC are required to be defended on the basis of Ministry of Defence letter dated 12/3/99.

6. A copy of the instructions issued in this regard may kindly be endorsed to us.

With regards,

Yours sincerely,

*(Signature)*

(VANDANA SRIVASTAVA)

Lt Gen S.C. Chopra  
Chief of Staff  
Hqns. Eastern Command  
Fort William,  
CALCUTTA - 700 021

Copy to :-

1. Maj Gen S.D. Makanti  
Chief of Staff  
HQ 3 Corps  
C/O 99 APO
2. Maj Gen S.S. Chahal  
Chief of Staff  
HQ 4 Corps  
C/O 99 APO
3. Maj Gen S.S. Puri  
Chief Engineer  
Hqns. E.C.  
Calcutta
4. Maj Gen V.K. Dua, VSM  
G.O.C., 101 Area  
C/O 99 APO
5. Brig. S.K. Sharma  
Chief Engineer  
Shillong Zone
6. Brig. P.S. Thubral  
Chief Engineer  
Shillong Zone

Copies of MOD communication dated 12/3/99 and CGDA New Delhi letter dated 1/4/99 mentioned above are enclosed with request :

- i) to get claiming of payment of CIAA & CMFAA from April '99 pay bill stopped.
- ii) to get recoveries of payment whatsoever already made effected after serving show cause notice.
- iii) Withholding payment on above account against CAI Judgement awaiting implementation.
- iv) to defend on going CAI cases/contempt proceedings based on MOD letter of 12/3/99.

(11.5.1999)  
JL.CDA

Contd.....P/3

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Sharma

EXPRESS POST

- 7. Headquarter  
137 NR  
C/O 99 A.P.O.
- 8. ~~Station Headquarter~~  
Dimapur  
Rangapahar  
Nagaland.
- 9. OC  
GD Dimapur  
Nagaland.
- 10. 165 Military Hospital  
C/O 99 A.P.O.
- 11. 310 5th Wksp  
C/O 99 A.P.O.
- 12. Garrison Engineer  
C/O 99 A.P.O.
- 13. Garrison Engineer  
B69 NEWS  
C/O 99 A.P.O.
- 14. OC  
Supply Point  
Leimakhong.

Copion of Ministry of Defence communication dated 12-03-99 and CGDA New Delhi letter dated 01-04-99 mentioned above are enclosed with

- 1) to get claiming of payment of CFMA & CMFAA from April '99 pay bill stopped.
- ii) to get recoveries of payment whatsoever already made effected after serving show cause notice.
- iii) withholding payment on above account against CAT Judgement awaiting implementation.
- iv) to defend on going CAT cases/contempt proceedings based on Ministry of Defence letter of 12-03-99.

( TALIREMBA )  
D.C.D.A.

Attested  
[Signature]  
[Signature]

~~77~~  
- 77 -

~~ANNEXURE 2~~  
ANNEXURE-5

FORM NO. 4  
( See Rule 42 )

# In The Central Administrative Tribunal

GUAHATI BENCH : GUAHATI

ORDER SHEET  
APPLICATION NO. 170/99 OF 199

Applicant(s) *Graadar Bania and Co.*

Respondent(s) *U.O.I and Co.*

Advocate for Applicant(s) *Ms. D. Phand.*

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

Notes of the Registry	Date	Order of the Tribunal
	28.5.99	<p>Present : Hon'ble Mr. Justice D.N.Baruah, Vice-Chairman.</p> <p>Application is admitted. Issue usual notices. Returnable on 9.7.99.</p> <p>Heard Mr. A.Ahmed learned counsel appearing on behalf of the applicants on the interim prayer. Issue notice as to why the interim prayer shall not be granted as prayed for.</p> <p>Meanwhile the operation of the Annexure-4 order dated 10.4.1999 is stayed until further orders.</p>



TRUE COPY  
प्रतिलिपि

*[Signature]*  
29/6/99

Section Officer (J)

सहायक अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक आयोग  
Guwahati Bench, Guwahati-6  
গুৱাহাটী - ৬

SE/ VICE CHAIRMAN

*[Signature]*

Central Administrative Tribunal  
23 OCT 2000  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Bench  
GUWAHATI

78  
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Filed by  
(A. DEBROY)  
23/10/00  
Sr. C. C. & C.  
C. A. T., Guwahati Bench

OA NO 179/2000

IN THE MATTER OF

Shri Kulmani Singh & Others

..... Petitioner

- Versus -

..... Respondents

-AND-

IN THE MATTER OF

Written statement submitted  
by Respondents as 1 to 9.

.....Contd

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COUNTER AFFIDAVIT

- (1) That save and except what have been admitted hereinafter, all other statements as contained in the O.A which are contrary to and in consistant with what has been admitted hereinafter are deemed to have been denied by the respondents.
- (2) That with regard to statement contained in Para 1, 2 and 3 of the respondents have no comments to offer.
- (3) That with regard to statement contained in Para 4, 4.1 and 4.2 of the petition, the respondents admit the same to the extent borne out of record.
- (4) That in reply to the statement contained in Para 4.3 of the O.A. which are contrary to and in consistent with what has been admitted hereinafter are deemed to have been denied by the respondents.
- (5) That with regard to the statement contained in Para 4.4 the respondents admit the same to the extent borne out of record.
- (6) That in reply to the statement contained in Para 4.5, the respondents beg to state that as per Govt of India, Min of Def letter No A/02584/S/PS-3(a)/97/S-D(Pay)/Services) dt 25 Jan 64, the petitioners are already availing FSD which is a Non Monetary benefit in field area.

Copy of letter dt 25.1.1964 is annexed hereto and marked as ANNEXURE-I.

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(7) That in reply to the statement contained in Para 4.6 of the application, the respondents beg to state that as per instructions contained in Govt of India, Min of Def letter No B/37269/AG/PS3(a)/730/D(Pay/Services) dt 17 Apr 95 FSC is not concurrently admissible alongwith other allowances. The similar issue of FSC filed vide OA No 170/99 at Hon'ble CAT Guwahati and Review Petition filed by the Respondents is pending for final decision by Hon'ble Tribunal.

Copy of letter dt 17.4.1995 is annexed hereto and marked as ANNEXURE-II.

(8) That in reply to the statement contained in Para 4.7, the respondents beg to state that the position of FSC which is a non Monetary benefits has been clarified by Govt of India vide their letter dt 25.1.64 (annexure-I).

(9) That with regard to statement contained in Para 4.8, the respondents beg to offer no comments.

(10) That in reply to the statement contained in Para 4.9 of the application, the respondents to admit that similar situated employees of this unit have filed OA No 170/99 but the Respondents have filed Review application before the Hon'ble Tribunal which is pending for final decision.

(11) That with regard to statement contained in Para 4.10, the respondents beg to state that the case be decided in the light of Govt of India, Min of Def letter No A/02684/AG/PS3(a)/97/S-D(Pay/Services) dt 25 Jan 1964.

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(12) That in reply to the statement contained in Para 4.11, the respondents beg to state that no injustice has been done by the Respondents and recovery of FSC is legal as per CDA Guwahati letter No PAY/Tech/025 dt 10.4.99.

Copy of letter dt 10.4.99 is annexed as ANNEXURE-III.

(13) That with regard to statement contained in Para 4.12, the respondents beg to state that step were taken to recover FSC based on CDA Guwahati letter dt 10.4.99 (annexure-III).

(14) That with regard to statement contained in Para 4.13, the respondents beg to offer no comments.

(15) That with regard to statement contained in Para 4.14, the respondents has no comments.

(16) That with regard to statement contained in Para 5, the respondents has no comments.

(17) That in reply to statement contained in Para 5.1, 5.2, 5.3 and 5.4 the respondents beg to submit that no injustice and discrimination has been done to petitioners.

(18) That in reply to the statement contained in Para 5.5, the respondents beg to submit that the petitioners are posted in Nagaland/Manipur and already availing FSC at par with Army Personnel. The question of discontinue does not arise.

(19) That with regard to the statement contained in Para 5.6, the respondents beg to state that the applicants are not eligible to get Monetary benefit of FSC as per Govt letter.

(20) That in reply to the statement contained in Para 5.7, the respondents has no comments.

(21) That with regard to statement contained in Para 5.8, the respondents has no comments.

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(22) That in reply to statement contained in Para 6,7 and 8 the respondents has no comments.

(23) That in reply to statement contained in Para 8.1 the respondents beg to state that applicants are already availing FSC in terms of Govt's order dated 25 Jan 1964. The reference of Govt's letter No 37269/AG/PS3(a)/D(Pay/Services) dt 13 Jan 94 is applicable to Armd forces personnel only. The plea of the petitioners is liable to be rejected.

(24) That with regard to statement contained in Para 8.2, the respondents has no comments.

(25) That in reply to statement contained in Para 8.3, the respondents beg to state that the applicants are already availing FSC in terms of Govt letter dt 25 Jan 1964.

(26) That with regard to statement contained in Para 8.4, the respondents has no comments.

(27) That with regard to statement contained in Para 9, the respondents has no comments.

(28) That in reply to statement contained in Para 9.1 the respondents beg to offer no comments.

(29) That in reply to statement contained in Para 10, 11 and 12 the respondents admit the same to the extent borne out of record.

.....F/5

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VERIFICATION

I, Major Vijaya Kumar VS, Garrison Engineer 869  
Engineer Works Section, C/O 99 APO, being duly authorised  
and competent to sign this verification, do hereby solemnly  
affirm and declare that the statements made in the written  
statement are true to my knowledge and belief and  
information and no material facts have been suppressed.

And I sign this verification on this 23 th day  
of Oct Sep 2000 at Guwahati.

  
DECLARANT

Appendix (a) to Government of India  
Ministry of Defence Letter No. A/02504/AG/  
PS 3. (a)/97-3/D (Pay/Services) dt. 25/1/64.

CONCESSIONS ADMISSIBLE TO CIVILIANS PAID FROM DEFENCE SERVICES ESTIMATES INCLUDING CIVILIANS EMPLOYEES IN COMBATANTS AND HCs (E) (BOTH POSTED AND LOCALLY RECRUITED)

- (a) Free rations as scale applicable to combatants of the Army of Air Force, as the case may be, and Fuel.
- (b) Free tented/dashie accommodation and connected service to the extent feasible.
- (c) Free clothing on minimum essential scale of Army personnel if the cpts commander/AOC in C Air Force Command considers the issue of such clothing essential for operational reasons.
- (d) Free maintenance of family allotments
- (e) Free medical treatment and hospital treatment. ✓
- (f) Wound injury or family pension or gratuity under Chapter XXXVIII CSR or AT/67/57/AFT 20/58 as the case may be, or compensation under the worker's compensation Act where applicable.
- (g) 2 postage free forces letters per individual per week.
- (h) Remittance within India limits of money orders and Indian Orders free of Commission upto the maximum value of Rs. 30/- per month per individual.

Retention of family accommodation allotted by Government at the old duty station on payment of normal rent. If the accommodation retained is required to be allotted to another entitled personnel for exigences of service, the families may be shifted to alternative accommodation whether appropriate or inferior to the status of the individual concerned.

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Date: / /

1. Dearness allowance will continue to be admissible in full.

2. The concession in (1) above is applicable only in respect of accommodation held by the Ministry of Defence. Separate orders will follow in respect to accommodation belonging to the Ministry of M.R.

The concessions in this annex. are also applicable to DAP vide C.G.D.A No.21013(I)/66. C. Orders are also applicable to industrial employees (Min of Defence letter No.A/11452/03.4(civ)(d)/F 47/S/D (Civ.II)/07 8-12-65) - P184.A

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RESTRICTED

No. B/37259/G/PS3(a)/730/D(Pay/Services)  
Government of India  
Ministry of Defence

New Delhi, the 17th April, 1995.

CORRIGENDUM

The following amendment is made to this Ministry's letter No. B/37263/G/PS3(-)/135/D(Pay/Services) dated 31.1.1995, regarding Field Service Concessions to Defence Civilians serving in the newly defined Field Areas:-

Para 1(1) may be deleted and substituted as under:-

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilians employed in the newly defined Field Areas, special compensatory (Remote Locality) Allowance and other allowances are not concurrently admissible along with Field Service.

2. This corrigendum issues with the concurrence of the Finance Division/AF of this Ministry vide their L.D.No. 300/P dated 3.3.1995.

Sd/- faithfully

(L.L. Tiwari)  
Under Secretary to the Govt. of India  
Tele: 3012739

To:  
The Chief of the Army Staff  
New Delhi

Copy to:-  
16 per list attached.

TRUE COPY

*N. Srinivasan*  
B. Registrar (D. 5/12/96)  
Administrative Tribunal  
Small Bench, Coimbatore

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ANNEXURE - 4 (9) 71

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श्री वास्तव  
नियंत्रक  
ANNA SRIVASTAVA  
CONTROLLER



10/24/99

Phone : 0361 - 550110 (01)  
0361 - 550549 (01)  
Fax : 0361 - 550204 (01)

रक्षा लेखा नियंत्रक  
उपन निर, गुवाहाटी - 781 171  
CONTROLLER OF DEFENCE ACCOUNTS  
UDAYAN VIHAR, NAHANGI,  
GUWAHATI 781171

VO NO. PAV/TECH/025  
Dated : 10th April, 1999

Dear General Chopra,

This is regarding the admissibility of Field Service concessions to Defence civilians serving in Field and in Modified Field areas in conformity with Government order issued from time to time.

2. The Defence civilians serving in Field and Modified Field areas as re-classified in Ministry of Defence letter No. 37269/AG/PS/3(a)/90/D(Pay/services) dated 13/1/94 are entitled to non-monetary field service concessions as envisaged in Appendix 'C' to Ministry of Defence letter No. A/02584/AG/PS-3(a)/97/S/D(Pay/services) dated 25/1/1964 and Appendix-'B' to Ministry of Defence letter No. 25761/AG/PS3(b)/146-5/27/D(Pay/services) dated 02/03/68 respectively.

3. Admissibility of only non-monetary field service concessions in Field and Modified Field areas was brought out in the following Govt. orders consequent upon reclassification of areas vide Ministry of Defence letter of 13/1/94.

- (i) Ministry of Defence  
No. B/37269/AG/PS3(a)/165/D(Pay/services) dt. 31/1/95.
- (ii) Ministry of Defence  
No. B/37269/AG/PS3(a)/130/D(Pay/services) dt. 17/4/95.
- (iii) Ministry of Defence  
No. B/37269/AG/PS3(a)/1862/D(Pay/services) dt. 12/9/95.

4. The Field service concessions thus do not include any monetary allowance in the form of Compensatory Field Area Allowance (CFAA) or Compensatory Modified Field Area Allowance (CMFAA) as is applicable to service personnel but a large number of Defence civilians are being paid CFAA and CMFAA in the form of monetary allowance. A copy of Ministry of Defence letter No. 30(4)/96/D(Pay/services) dated 12/3/99 in this regard in response to a reference made and CDA's instructions thereon is enclosed herewith which is self explanatory. Payment of monetary allowance in the form of CFAA or CMFAA to Defence civilians as a part of FSC has to be stopped immediately and payments made so far are to be recovered after giving show cause notice. The details of recoveries to be effected would be available with the Unit authorities and they may be advised accordingly.

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5. In view of the above you are requested to kindly issue necessary instructions to various service branches of your HQ and lower formations to effect recoveries of payment already made earlier on the basis of Court judgements or otherwise after giving show cause notices. We are also instructing our sub-offices to stop payment of the monetary allowance from this month. Further, CAT judgements on the above account awaiting implementation are to be held in obedience and ongoing cases contested in CAT for payment of FSC are required to be defended on the basis of Ministry of Defence letter dated 12/3/99.

6. A copy of the instructions issued in this regard may kindly be endorsed to us.

With regards,

Yours sincerely,

*V. S. Kripal*

(VANDANA SRIVASTAVA)

Lt Gen S.C. Chopra  
 Chief of Staff  
 Hqs. Eastern Command  
 Fort William,  
 CALCUTTA 700 021

Copy to :-

1. Maj Gen S.D. Mahanti  
 Chief of Staff  
 HQ 3 Corps  
 C/O 99 APO
2. Maj Gen S.S. Chahal  
 Chief of Staff  
 HQ 4 Corps  
 C/O 99 APO
3. Maj Gen S.S. Puri  
 Chief Engineer  
 Hqs. E.C.  
 Calcutta
4. Maj Gen V.K. Dua, VSM  
 G.O.C., 101 Area  
 C/O 99 APO
5. Brig. S.K. Sharma  
 Chief Engineer  
 Shillong Zone
6. Brig. D.S. Thukral  
 CE (Air Force)  
 Shillong Zone

Copies of MOD communication dated 12/3/99 and CGDA New Delhi letter dated 1/4/99 mentioned above are enclosed with request :

- i) to get claiming of payment of CIAA & CMFAA from April '99 pay bill stopped.
- ii) to get recoveries of payment whatsoever already made effected after serving show cause notice.
- iii) Withholding payment on above account against CAT Judgement awaiting implementation.
- iv) to defend on going CAT cases/contempt proceedings based on MOD letter of 12/3/99.

(1. S. KRIPAL)  
 J. CPA

Contd. .... P/3