

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 104/2001
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

Salil
6/12/17

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH ::::: GUWAHATI

ORDER SHEET
Original APPLICATION NO 104 OF 2001

Applicant (s) R.N. Sharma & ORS

Respondent(s) U.O.I & ORS

Advocate for Applicant(s) Mr. Adil Ahmed

Advocate for Respondent(s) case.

Notes of the Registry	Date	Order of the Tribunal
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Applicant's application is in form
but not in the Condorisation
Petition is filed, not filed vide
M. P. No. C. F.
for Rs. 50/- Dated 13.3.01
IPO/BD No. 56/422642
Dated 10.3.2001

13.3.01

Present: Hon'ble Mr. Justice
D.N. Choudhury, Vice-Chairman and
Hon'ble Mr. K.K. Sharma, Administra-
tive Member.

Heard learned counsel for the
parties.

Application is admitted.
Call for records. Issue notice on
the respondents. Returnable by
4 weeks. Mr. A. Deb Roy, Sr. C.G.S.C.
accepts notice on behalf of all
the respondents.

List on 10.4.01 for orders.

Member Vice-Chairman

Requints filed
affirmed. two copies
15/3

15.3.2001

Service of Notice is
Completed.

20.3.2001
Service of Notice of orders
issued to the Mr. A. Deb
Roy, Sr. C.G.S.C.

1m

NS
13/3/01

10.4.2001

Four weeks time allowed to the
respondents to file written statement.
List for orders on 11.5.01.

Vice-Chairman

No. written statement
has been filed.

11.5.01

List on 11.6.01 to enable the
respondents to file written statement.

ICUShan
Member

[Signature]
Vice-Chairman

lm

11.6.01

Mr. A. Deb Roy, learned Sr. C.G.S.C. for
the respondents is allowed 4 weeks time and no
more time to file written statement.

The applicant may file rejoinder, if any,
within 4 weeks thereafter.

List on 2-8-2001 for order.

01-08-2001

Rejoinder has
not been filed.

Don

ICUShan
Member

[Signature]
Vice-Chairman

bb

2.8.01

List on 4-9-2001 to enable the
respondents to file written statement.

ICUShan
Member

[Signature]
Vice-Chairman

mb

4.9.01

Written statement has been filed. The applicant
may file rejoinder, if any.

List on 25/9/01 for order.

6.8.2001

W/S submitted
on behalf of respondent
No. 1 & 2.

ICUShan
Member

mb

[Signature] 25.9.01

Pleadings are complete. The matter now be
posted for hearing.

List on 20/11/01 for hearing.

No. rejoinder has
been filed.

By
19.11.01

ICUShan
Member

[Signature]
Vice-Chairman

mb

20.11.01

Name appeared for the applicant
posted new to 21.11.2001.

[Signature]
20.11.

Notes of the Registry

Date

Order of the Tribunal

21.11.01

Heard counsel for the parties.

Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is dismissed in terms of the order. No order as to costs.

IC Whelan
Member


Vice-Chairman

pg

29.11.2001
Copy of the Jdgt
has been sent to
the office for issuing
the rule to the
L/Advocates for the
parties.
JL

Notes of the Registry

Date _____

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 104 of 2001.

Date of Decision.....21-11-2001

Shri Raghu Nath Sharma & Ors.

Petitioner(S)

Sri A. Ahmed.

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

Sri A. Deb Roy, Sr.C.G.S.C

Advocate for the
Respondent(s)

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

NO

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 104 of 2001.

Date of Order : This the 21st Day of November, 2001.

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

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Raghu Nath Sharma and 142 others. . . Applicant.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Defence,
New Delhi.
2. The Assistant Garrison Engineer,
(Independent), Rangia Railway Crossing,
P.O. Rangia, Dist. Kamrup (Assam). . . Respondents.

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J(V.C)

The issue relates to granting of Special Duty Allowance (S.D.A). Mr A.Ahmed, learned counsel for the applicant has stated that the applicants are serving in the Modified Field Areas so they are atleast entitled for one type of benefit and not the double benefit under the law. Since the applicants are not given the benefit provided under the law they have approached this Tribunal by this application. Mr Ahmed submitted that the respondents unlawfully depriving them from the lawful benefit.

2. The respondents have submitted their written statement and contended that the applicants had already been granted Special Compensatory Allowance and in that view of the matter they are not entitled to S.D.A. Mr A.Deb Roy, learned

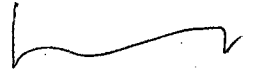
Sr.C.G.S.C referring to para 20 of the written statement submitted that these applicants are not entitled for any other benefit save and except the benefit provided to them.

3. Upon hearing learned counsel for the parties we do not find any merit in this application. Accordingly the application stands dismissed.

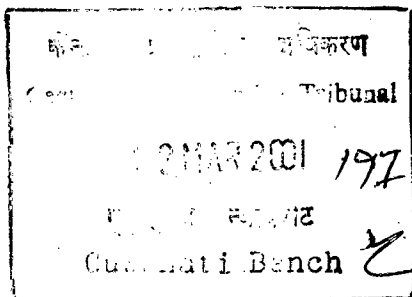
There shall, however, be no order as to costs.



(K.K.SHARMA)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
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. 104 OF 2001.

Sri Raghu Nath Sharma & others

-Applicants.

-Versus-

The Union of India & Others.

-Respondents.

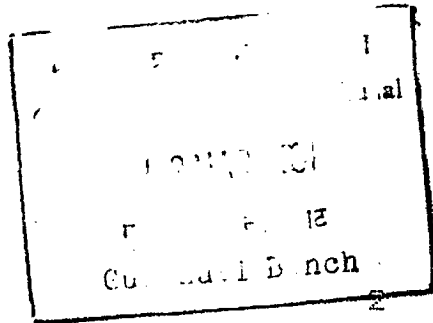
I N D E X

Sl.No.	Particulars	Page No.
1	Application	1 to 15
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4.	Annexure-2	19
5.	Annexure-3	20 to 24
6.	Annexure-4	25 to 26

Filed by

(Adil Ahmed)

Advocate.



Filed by
Shri Ragu Nath Sharma
through J.D. (applying)
10
(Chic Handed)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

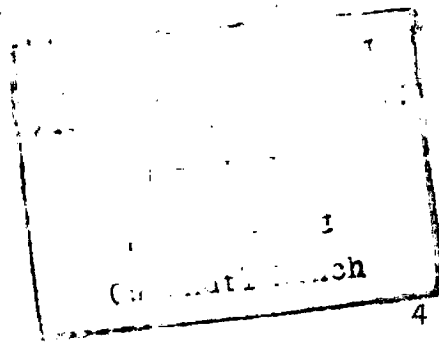
(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. OF 2001.

BETWEEN

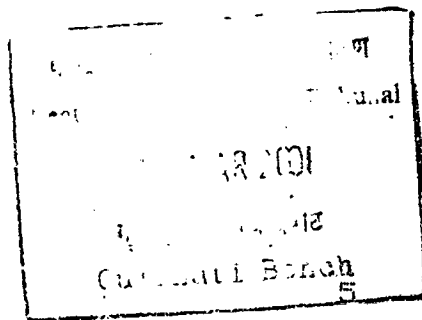
SL.	MES No.	Name
11	235035	Sri Raghu Nath Sharma
21	224815	" Madan Lal
31	224740	" Sant Ram
41	224768	" Ram Janam Singh
51	224128	" Jullum Basfor
61	6306241	" Puran Balmiki
71	224835	" Bharat Singh
81	225565	" Tazim Ali
91	-----	" Rajat Ali
101	225593	" Muslim Ali
111	-----	" Siddique Ali
121	225558	" Ibrahim Ali
131	225071	" Shobha Ram Deka
141	225860	" Gada Ram Das
151	235051	" Raghubansh Thakur
161	225397	" Abani Sharma
171	225672	" Chakradhar Deka
181	225668	" Lokeswar Nath
191	223890	" Giridhar Nath
201	235061	" Chandra Mohan Tarafdar
211	225196	" Deo Kanta Jha
221	225861	" Parimal Ch Paul
231	224861	" Bhakta Bahadur Thapa

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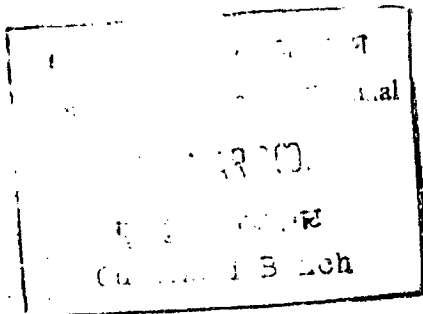
581 234661 Sri Amar Sharma
591 229235 Biplab Biswas
601 238498 Ramesh Chandra Deka
611 232372 Arun Chandra Das
621 235072 Mahananda Mishra
631 224814 Gopi Chand Singh
641 225067 Sarbeswar Roy
651 225595 Sani Ram Gayari
661 225550 Ataur Rahman
671 225061 Pradip Das
681 232997 Fiznur Ali
691 234972 Jalandhar Thakur
701 229598 Haren Baishya
711 224663 Ganesh Mallah
721 224972 Noor Mohammad Ali
731 235179 Sadhan Chandra Dev
741 224980 Tabibur Rahman
751 224935 Siddique Ali
761 225419 Arabinda Devnath
771 225549 Sydur Rahman
781 225553 Mumtaz Hussain
791 225466 Derazuddin Ahmed
801 225862 Baharuddin Ahmed
811 225552 Mano Ram Daimary
821 14117217 Debeswar Kumal
831 225473 Hara Kanta Ram Das
841 ----- Jitendra Nath Sharma
851 225599 Tabib Ali
861 234116 Kandarp Chandra Das
871 224982 Naushuddin Ahmed
881 225491 Maheswar Baishya
891 225855 Tatin Saikia
901 ----- Panpati Domin
911 225090 Piyush Kanti Dev

रघुनाथ शर्मा



921	235217	Sri	Bala Ram Kundu
931	225707	"	Loknath Baro
941	225895	"	Sd Samsul Haque
951	-----	"	Jay Narayan Das
961	225540	"	Girish Chandra Deka
971	225869	"	Ataur Rahman
981	233238	"	Debabrata Nag
991	-----	"	Holi Ram Kalita
1001	225407	"	Binod Deka
1011	224618	"	P. S. Pillai
1021	224981	"	B. K. Sharma
1031	225289	"	D. K. Majumdar
1041	235134	"	Jagabandhu Baishya
1051	224792	"	Suraj Ram
1061	225888	"	Dilip Baishya
1071	225724	"	Fiznur Rahman
1081	225446	"	Gamiruddin Ahmed
1091	224559	"	Jogendra Nath Rabha
1101	225832	"	Praneswar Kalita
1111	-----	"	Saru Bapr Tanti
1121	-----	"	Parshu Ram Barman
1131	225216	"	Kangalal Kakati
1141	-----	"	Srikanta Sharma
1151	225601	"	Krishna Kanta Roy
1161	225434	"	Mahabali Kewat
1171			
1181	224725	"	Harihar Baishya
1191	265381	"	Priya Ranjan Baro
1201	225868	"	Ajay Kalita
1211	225904	"	Purna Ram Baro
1221	235213	"	Moti Ram Kalita
1231	225505	"	Muslim Ali
1241	225831	"	Majnur Ali
1251	224832	"	Manjur Hussain

ସ୍ୱାମୀନାଥ



1261	NYA	Sri Ajay Saikia
1271	225928	Dhupendra Nath Basumatary
1281	235002	Jyotish Sharma
1291	2351311	Abdul Sattar
1301	225703	Kamini Kanta Sharma
1311	225416	Bhaben Chandra Bania
1321	225371	Soneswar Haloi
1331	223637	Halodhar Kalita
1341	224933	Praphat Chandra Das
1351	225484	Mukut Das
1361	225673	Jagat Das
1371	225828	Sitaram Bania
1381	224824	Ramesh Kalita
1391	225868	Jatindra Kumar Sharma
1401	225449	Khudi Ram Baro
1411	225447	Kutubuddin Ahmed
1421	225025	Amrit Kalia
1431	235208	K Baish

-Applicants.

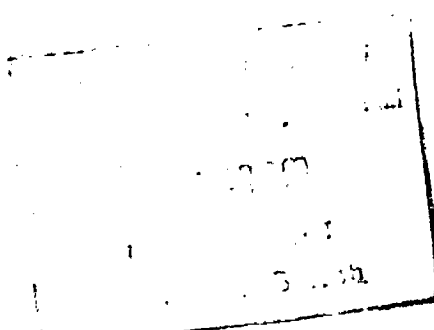
All applicants are working under the Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup.

-AND-

- 1) The Union of India, represented by the Secretary Defence, Government of India, Ministry of Defence, New Delhi.
- 2) The Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup.

-RESPONDENTS.

स्वतंत्रता



1] DETAILS OF THE APPLICATION:

i) The application is made for non-implementation of Memo No. 20014/3/83-IV, Government of India, Ministry of Expenditure, New Delhi and Office Memo No. 4(19)/83/D Civil-I dated 11.01.84 regarding payment of Special Duty Allowance for Defence Civilian Employees.

ii) The application is made for non-implementation of the Hon'ble Apex Court's judgement in Civil Appeal No. 1572/97 dated 17.02.97 for payment of special Duty Allowances to the Defence Civilian Employees working in the North Eastern Region.

2] JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the instant application is within the jurisdiction of this 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:

The facts of the case in brief are given below:

सुनाथशर्मा

4.1 That your humble applicants are all Indian Citizens as such they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Defence Civilian employees and they are serving in Defence Department since a long time.

Now they are serving under the Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup since long time. They are serving as Defence Civilian under the Ministry of Defence on various capacities in North Eastern Region.

4.2 That all the applicants have got common grievances, common course of action and nature of their relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this instant application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant application redressal of their common grievances.

4.3 That the Government of India, Ministry of Finance, Department of Expenditure granted certain improvement and facilities in the Central Government Civilian Employees of the Central Government serving in the States

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and Union Territories of North-Eastern Region vide Office Memorandum No. 20014/3/83-IV dated 14.12.1983. In clause II of the said office Memorandum Special (Duty) Allowances was granted to Central Government Civilian Employees who have all India Transfer Liability at the rate of Rs. 25% of the basic pay subject to ceiling of Rs. 400/- per month on posting to any station in the North-Eastern Region. The relevant portion of O. M. dated 14.12.1983 is quoted below:

■ (iii) Special (Duty) Allowance:

Central Government Civilian Employees who have all India Transfer Liability will be granted a (special) Duty Allowance at the rate of Rs. 25% of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North-East Region. Such of these employees who are exempted from pay of income Tax, will however not be eligible for the special (duty) Allowance, Special (duty) Allowance will be in addition to any special Pay and for allowances already being drawn subject to the condition that the total of such special (duty) Allowance plus special deputation (Duty) Allowance will not exceed Rs. 400/- per month. Special Allowance like Special Compensatory (Remote) Locality Allowance, Construction Allowance and project Allowance will be drawn separately:

An extract of office Memorandum dated 14.12.88 are annexed hereto and the

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same are marked as Annexure- 1 and 2 respectively.

4.4 That your applicants beg to state that, they are all scheduled with all India Transfer Liability in terms of their offer of appointment and with the said liability they have received the offer of appointment and joined the service of the respondents.

4.5 That these Defence Civilian Employees are entitled to get the benefits of Special (Duty) Allowance vide recent judgement of the Hon'ble Supreme Court of India in civil Appeal No. 1572/97 dated 17.2.97. The Hon'ble Supreme Court in their judgement it has been clearly stated that all the Defence Civilian Employees who are working in the North-Eastern Region are entitled to get the benefits of Special (Duty) Allowance because the Defence Civilian employee deployed at the North Eastern Region for support of Operational Requirement they face the imminent hostilities supporting the Army Personnel deployed there.

Annexure-3 is the photocopy of the Judgment & Order dated 17-02-1997 passed in Civil Appeal No. 1572/97.

4.6 That your applicant begs to state that they have fulfilled all the terms and condition of Special (Duty) Allowance as admissible to all the Defence Civilian Employees serving in the North-Eastern Region and the recent Hon'ble Supreme Court's order/

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judgement in which it was held that those Defence Civilian Employees who are serving in the North Eastern Region are entitled to get the benefit of Special Duty Allowance and as such, they can not be denied by the Respondents to get the benefits of Special (Duty) Allowance and as such, the applicants are legally entitled to get the benefits of Special (Duty) Allowance.

4.7 That your applicants beg to state that they have submitted representation before the Respondents for payment of Special (Duty) Allowance to the Defence Civilian Employees as per the recent Hon'ble. Supreme Court's Judgement in Civil Appeal No. 1572/97 dated 17.2.97. But the Respondents have not yet taken any steps for payment of Special (Duty) Allowance to the Defence Civilian Employees and in the circumstances finding no other alternative way the applicants are approaching before this Hon'ble Tribunal for protection of their interest and rights.

4.8 That your applicant begs to state that the similarly situated some employees of the Applicants' Office filed an Original Application No. 204 of 1999 before this Hon'ble Tribunal with a prayer for payment of Special Duty Allowance to the Defence Civilian Employee as per Hon'ble Supreme Court Judgment in Civil Appeal No. 1572 of 1997 [Reported in SCC (1997) 4 Page 189]. The Hon'ble Tribunal after hearing both the parties allowed the Original Application No. 204 of 1999 and

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directed the Respondents to pay the Special Duty Allowance to the Defence Civilian Employees.

Annexure-4 is the Photocopy of Judgment and Order dated 20-12-2000 passed in O.A. No. 204 of 1999 by this Hon'ble Tribunal.

4.9 That your applicants submit that there is no other alternative remedy and the remedy sought for, if granted, would be just, adequate and proper.

4.10 That this application is filed bona fide and for the cause of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION

5.1 For that the applicants having fulfilled the entire Criterion laid down by the Hon'ble Supreme Court judgement in Civil Appeal No. 1572 of 1997 towards granting the Special (Duty) Allowance, to the Defence Civilian Employees of North Eastern Region. Hence the Respondents can not deny the same to the applicants without any jurisdiction.

5.2 For that there is no jurisdiction in denying the said benefits granted to the applicants and the denial has resulted in violation of the Articles 14 and 16 of the Constitution of India and also other similarly situated employees already have been granted the said benefits.

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5.3 For that the applicants having fulfilled all the criterion laid down in the aforesaid Memorandum towards granting the Special (Duty) Allowance, the respondents can not deny the same to the applicants without any jurisdiction.

5.4 For that the application has been denied the said benefits without any principle of being heard. There is a violation of the principle of natural justice in denial of the benefits to the applicants and accordingly proper reliefs and required to be granted to the applicants.

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

5.6 For that the recent Hon'ble Supreme court's judgement it was held that irrespective of facts and circumstances the Defence Civilian Personnel who are posted in the North Eastern Region are entitled to get the benefits of Special (Duty) Allowance and as such, the same can not be denied to the applicants by the Respondents.

5.7 For that the action of the Respondents are illegal, arbitrary and not sustainable in law.

सुनाथ शर्मा

6. DETAIL REMEDY EXHAUSTED:

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

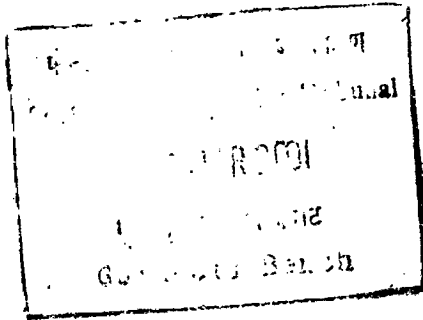
7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY COURT:

The applicants further declare that they have not filed any application, the applicants most respectfully pray that your Lordship may be pleased to ad application and grant the following reliefs:-

8. RELIEF PRAYED FOR:

Under the facts and circumstances stated above in this application it is therefore most respectfully prayed that your Lordship may be pleased to admit this application and call for the records, issue notices to the Respondents to show cause as to why the reliefs sought for should not be granted to the applicants and after hearing the parties on the cause or cause that may be shown and also on perusal of records your Lordships may be pleased to pass the necessary order or orders as your Lordships may deem fit and proper for granting the following reliefs to the applicants:

24/11/2011



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- 8.1 That the Hon'ble Tribunal may be pleased to grant the Special (Duty) Allowance to the applicants in terms of Memo. No. 20014/ 3/83 E-IV dated 14.12.83 and office Memorandum No. 20014/16/86 IV/E II (B) dated 1.12.88.
- 8.2 That the respondents may be directed to pay the Special (Duty) Allowance to the applicants in terms of Hon'ble Supreme Court's Judgment in civil Rule No. 1572 of 1997 dated 17-02-97.
- 8.3 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.
- 8.4 Cost of the Case.
9. APPLICATION IS FILED THROUGH ADVOCATE
10. PARTICULARS OF I.P.O.
- | | |
|---------------|-------------|
| I.P.O. No. | : 56422642 |
| Date of issue | : 10.3.2001 |
| Issue from | : Guadante |
| Payable at | : Guadante |
11. LIST OF ENCLOSURES: As stated above.

रघुनाथ शर्मा

30.1.21

16

VERIFICATION

I, Sri Raghu Nath Sharma MES No. 235035, working under the Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup as Defence Civilian employee and applicant No. 1 of the instant application also authorised by the other applicants do hereby solemnly affirm and verify the statements in paragraphs 4.1, 4.2, 4.4, 4.6, 4.7 are true to my knowledge, those made in paragraphs 4.3, 4.5, 4.8 are being matters of record true to my information and those made in paragraph 5 of the application are true to my legal advice and those made in the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification today on this 12th day of March 2001 at Guwahati.

रघुनाथ शर्मा
DECLARANT.

No. 20014/2/83/E.IV - 17-
Government of India
Ministry of Finance
Department of Expenditure

ANNEXURE - I

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

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

i) Tenure of posting/deputation.

x x x x x x x x

ii) Weight-age for Central deputation/training abroad and special mention in confidential Records.

x x x x x x x x

iii) Special (Duty) Allowance :

Central Government civilian employees who have All India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not

Contd..

Attd.
SS
Amrte

24

be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

xxxxxxxx

xxxxxxxxxx

xxxxxxxxxxxx

xxxxxxxxxxxx

xxxxxxxxxx

Sd/- S.C. KANALIK
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

Attd
Sd/-
Ananda

Annexure-B (Extract)

ANNEXURE-2

G.O. No. 20014/18/86/E.IV/E.II (A)
Govt. of India, Ministry of Finance
Department of Expenditure

New Delhi the 1 Dec 1986

OFFICE MEMORANDUM

Subject : Improvements and facilities for Civilian
employees of the Central Govt. serving in the
States of North Eastern Region, Andaman
Nicobar and Lakshadweep.

The undersigned is directed to refer to this
Ministry's G.O. No. 20014/3/83-E.IV dated 14th December,
1983 and 20th March, 1984 on the subject mentioned
above and to say that the question of making suitable
improvements in the allowances and facilities to Central
Government employees posted in North Eastern Region
comprising the States of Assam, Meghalaya, Manipur,
Nagaland, Tripura, Arunachal Pradesh and Mizoram has been
engaging the attention of the Govt. Accordingly the
President is now pleased to decide as follows.

- i) xxxxxxxxxxxx
ii) x x x x x x x

iii) Special (Duty) Allowance.

The Central Govt. Civilian employees who have
all India transfer liability will be granted special
(Duty) Allowance at the rate of 12% of basic pay
subject to ceiling of Rs. 1000/- per month on posting
to any station in the North Eastern Region. Special
(Duty) Allowance will be in addition to any special
pay and/or deputation (Duty) allowance already being
drawn subject to the condition that the total of such
allowance will not exceed Rs. 1000/- p.m. Special
allowance like special compensatory (Remote locality)
Allowance, Construction Allowance and Project Allowance
will be drawn separately.

The Central Govt. civilian employees who are
members of Scheduled Tribes and are otherwise eligible
for the grant special (Duty) Allowance under this para
and are exempted from payment of Income-Tax under the
Income Tax Act will also draw Special (Duty) Allowance.

xx xxxxxx
xxx xxx

Asst
SS
Admte

ANNEXURE B

- 20 -

Certified to be true copy

James P. C. D. S.
Assistant Registrar (JUL)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. 14088 of 1996)

Union of India & Ors. etc.

Appellants

100181

Versus

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

Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578-1579, 1580-1585/97)

(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42, 15740, 25108-10 of 1996, SLP (C) No. 4396/96 (CC-5040/96) and SLP (C) No. 4398/96 (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, Guwahati Bench in different matters. The main order was passed on 17.11.1995 in RA No. 4/95 in OA No. 49/89.

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

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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. P.P. Malhotra, learned senior 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

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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.

NEW DELHI;
FEBRUARY 17, 1997.

(K. RANASWAMY)

(G. T. NANAVATI)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 270 of 1990.

Date of Order : This the 20th Day of December, 2000.

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

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

Shri Bikash Deb and 29 others. . . . applicants.

By Advocate Sri A.Ahmed.

- Versus -

Union of India & Ors. . . . Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C.

ORDER

CHOWDHURY J.(V.C)

All the applicants are serving under the Commandant, 222 A.B.O.D, Narengi Camp. Having regard to the common grievance and seeking common relief, the leave is granted to them under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 to file this single application. By this application the applicants have sought for a direction on the respondents to pay Special (Duty) Allowance to the applicants in terms of Office Memoranda No. 20014/3/83-E-IV dated 14.12.1983 and No. 20014/16/86 IV/II(B) dated 1.12.1988. In the light of the aforementioned Memorandum and in view of the decisions rendered by the Hon'ble Supreme Court in Union of India & Ors. vs. B.Prasad, B.S.O.and others, reported in (1997) 4 SCC 189. In that order the Supreme Court observed as follows :

"As regards the payment of Special Duty Allowance to the defence civilian personnel deployed in the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessaril

contd...

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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 hilly areas risking their lives as envisaged in the proceedings of the Army dated 13.1.1994. 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."



In the light of the aforesaid observation, the respondents are directed to pay Special (Duty) Allowance to the applicants. The application is accordingly allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/MEMBER (Adm)

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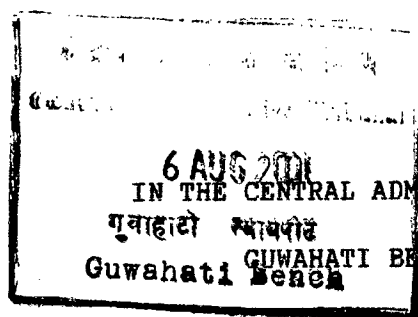
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22/12/2000

Section Officer (A)
आनुमान अधिकारी (अनुमानिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Newahall Bench, Guwahati
नयाहाल बेंच, गुवाहाटी

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22/12/2000

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Filed by
6/8/01
C.C. S.C.

OA NO 104 OF 2001

SHRI RAGHUNATH SHARMA & OTHERS

- APPLICANTS

- Versus -

1. The Union of India and others
2. Assistant Garrison Engineer (Independent) Rangiya

... Respondents

IN THE MATTER OF

Written statement submitted on

behalf of the respondent No 1 & 2

WRITTEN STATEMENT

The humble respondents beg to

submit written statement

as follows

1. That I am the Assistant Garrison Engineer (Independent) Rangiya, Kamrup the respondent No 2 above named. I am authorised to swear and file this written statement on behalf of the respondent No 1. I am acquainted with the facts and circumstances of the case, I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement made in the application may be deemed to have been denied.

2. That with regard to para 1 (i) the respondent begs to state that as per Govt of India, Ministry of Defence Memo No 20014/2/83-IV dated 14 Dec 83 and Govt of India, Ministry of Expenditure New Delhi Office memo No 4(19)-83/D Civ-I dated 11.01.84 regarding payment of Special Duty Allowance for Defence Civilian Employees having All India Transfer Liability only. A copy of the Officer Memorandum dated 14 Dec 1983 is enclosed and marked as Annexure "A".

3. That with regard to para 2 and 3 it is stated that the same are matters of record and no comment is required from the answering respondents.

4. That with regard para 4.1 to 4.4 that the Govt of India by Office Memorandum dated 20.04.1987 clarified that the purpose of sanctioning SDA the post must have all India Transfer liability. The Apex Court in Union of India & others Vs S Vijayakumar & others reported in 1994 Suppl (3) SCC 649 considered various Office Memorandum of the Govt in connection with SDA and inter alia held that a close perusal of Office Memorandum dated 14.12.1983, 20.04.1987 and 29.10.1986 clearly show that allowance in question was meant to attract persons outside the North Eastern Region to work in that region because of inaccessibility and difficult terrain. The 1986 Memorandum makes this position clear by stating that the Central Govt Civilian Employees who have all India Transfer liability would be granted allowance "on posting to any station to the North Easter Region". This aspect is made clear beyond doubt by the 1987 Memorandum which states that the allowance would not become payable merely because of the clause in the appointment order relating to "All India Transfer Liability". In short, for entitlement of getting SDA one should be serving in Advance operational area which is known as "Field Area". Copy of civil appeal No 3251 of 1993 declared on 30 Sep 1994 is enclosed as Annexure "B".

5. That with regard to para 4.5 inspite of the aforesaid position and various decisions of the Apex Court to the effect ration of which postulates that the petitioners are not entitled to get SDA, they approached the Central Administrative Tribunal, Guwahati Bench, Guwahati by filing O.A. 104 of 2001 praying for a direction to the present respondents therein to pay them the SDA as per the Office Memorandum dated 14.12.1983.

6. That the learned Tribunal upon hearing both sides in O.A. 204/99 disposed of the same by Order dated 20.12.2000. The learned Tribunal did not give any decision as to entitlement of the Applicants/present petitioners to get the SDA and without discussing the merits and law involved in the case held that in the light of the Judgement passed in O.A. 270/98 on 20.12.2000 and in view of the decision rendered by the Hon'ble Supreme Court reported in 1997 (4) SCC 189.

7. That the petitioners beg to state that the learned Tribunal in both the cases viz. O.A. 270 of 1998 and O.A. 204 of 1999 did not examined the position as to whether the applicants in those cases were working in "Field Area" ie. in "Operational Advance Area" or in "Modified Field Area"/ in Defence Department terminology "Barracks" and further, did not decide whether the applicants in O.A. 204/99 have got all India Transfer liability. A copy of the Order dated 20.12.2000 passed in O.A. 270/98 is filed hereto and the impugned order dated 20.12.2000 passed in O.A. 204/99 are filed hereto and marked as Annexure "C" & "D" respectively.

8. That the learned Tribunal below decided the case very mechanically and arrived at an erroneous finding causing miscarriage of justice thereby and as such the same is liable to be set aside and quashed.

9. That the respondents submit that the petitioners are not entitled to get the SDA as they are serving in "Modified Field Area" ie. in Defence terminology in "Barrack" which is lesser risking area.

10. That the respondents submit that the learned Tribunal below in passing the impugned order did not take into consideration the Govt of India, Ministry of Defence O.M. 4(3)/98/D (Civ-I) dated 16.03.1998 in which it was clearly brought out that SDA is not admissible to the Defence Civilian Employees those who are recruited in North-Eastern Region and Residents of the same region as is the case of the petitioners. Moreover, posts of the petitioners do not carry "All India Transfer Liability". Copy of the OM dated 16 Mar 1998 is enclosed and marked as Annexure "E".

11. That the respondents submit that the recruitment authority for all petitioners/applicants is Headquarter Commander Works Engineer Tezpur except for certain categories for whom recruitment authority is Chief Engineer Shillong Zone. Their recruitment is done Zonal basis, ie. by inviting names from local employment exchange. Their seniority is also determined Zonal basis and those employees are also not transferred in All India Basis. Hence the applicants are not fulfilling the criteria for grant of Special Duty Allowance.

12. That the petitioners submit that Govt orders dated 11 Jan 1984 were implemented till Min of Def issued instructions vide ID No 4(19)/83-D(Civ-I) dated 18 Jan 96 circulating Min of Fin OM No 11(3)/95-E-II (B) dated 12 Jan 96. In OM dated 12 Jan 96 Min of Fin on the basis of Supreme Court Judgement dated 20 Sep 94 in CA No 3251/1993 had settled the question of payment of SDA to the Govt Employees posted in North-Eastern Region from outside North-Eastern Region. Thus those employees who were locally recruited in North-Eastern Region were not eligible for payment of SDA. In this case the applicants were not eligible for SDA and further payments of SDA were stopped. Copy of OM dated 18 Jan 1996 is enclosed and marked as annexure "F".

13. That with regard to para 1(ii), 4.6 and 4.7 the Hon'ble Supreme Court in Civil Appeal No 1572 of 1997 Union of India & Others Vs B Prasad & others (with a batch of civil Appeals of similar nature arose from various orders passed by the Central Administrative Tribunal, Guwahati reported in (1997) 4 Sec 189 discussed various aspect of the matter and in conclusion held that as regard the payment of SDA to Defence Civilian personnel deployed at the boarder area for support of operational requirements they face the imminent hostilities in supporting the Army Personnel deployed there, necessarily they alone require double payment as ordered by the Government. They can not be deprived of the same etc.... But the Modified Field Area, in otherwords in the Defence terminology, "Barracks" in that area is a lesser risky area hence they shall not be entitled to double payment. Copy of civil Appeal No 1572 of 1997 is enclosed and marked as Annexure "G".

14. That the respondents state that in view of the aforesaid position the petitioners are not entitled to get the SDA as because firstly, they are all recruited in North Eastern Region, Zone wise without any "All India Transfer Liability" and Secondly they are all working in the "Modified Field Area"/ "Barrack" ie. in lesser risky place than the "Field Area/operational area in North Eastern Region.

15. With regard to para 4.8 to 4.10 the respondents submitted that SDA is not entitled to Defence Civilian employees who are recruited locally and serving in North-Eastern Region itself vide the Judgement passed by the Hon'ble Guwahati High Court on 22 Nov 99 in writ petition (C) No 5793 of 1999 Shri Bijush Kantikar, Vs Union of India and others. Copy of WPC No 5793 of 1999 is enclosed and marked as Annexure "H".

16. That It is further submitted that the Tribunal committed error of law apparent on the face of record in passing the impugned Judgement dated 20 Dec 2000 purportedly relying on the decision of the Apex Court rendered in civil appeal 1572/97, 3251/93 and Govt of India memo Nos 4(3)/98/D(Civ-I) dt 16 Mar 1998. As such, the impugned Judgement can not be legally given effect to and the same is liable to set aside and quashed.

17. That it is also submitted that a writ appeal has been filed by the respondent in the Hon'ble High Court Guwahati on the Judgement issued by the Tribunal on OA No 204/99 on 20 Dec 2000 and stay order obtained as enclosed as Annexure "J".

18. With regard to para 5.1 to 5.7 the respondents submit that in the Judgement dated 17 Feb 97 in CA No 1572/1997 the Hon'ble Supreme Court had directed the Govt to modify the orders dated 17 Apr 95 and accordingly Govt had issued OM No 4(3)/98/D(Civ-I) dated 16 Mar 1998. According to the instruction issued in this OM dated 16 Mar 98 Defence Civilians Employees working in Field Area and posted in the North-Eastern Region (NER) from outside North Eastern Region would be entitled to SDA in addition to the field service concession ie. Special Compensatory Allowances which is being paid to all the entitled Defence Civilian Employees by the respondents. The petitioners are all locally recruited in North Eastern Region and not posted from outside North Eastern Region and hence they are not entitled to get SDA.

20. With regard to 6, 7 and 8 that in view of the facts already stated herein above in this written statement and applicants are already paid SCA (Special Compensatory Allowances), they are not entitled to SDA (Special Duty Allowance) and the application is deserved to be dismissed in limine.

VERIFICATION

I, Maj JK Murthy, Assistant Garrison Engineer (Independent)
Rangiya, Kamrup do hereby declare that the statement made in this
written statement are true to the best of my knowledge derived
from the records of the case.

I sign this verification of this the19th..... day of July 2001
at Rangiya.

JK Murthy
Deponent
AGE (1) Rangiya

No. 20014/2/83/C.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

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

- i) Tenure of posting/deputation.
x x x x x x x
- ii) Sight-leave for Central deputation/training abroad and special mention in confidential Records.
x x x x x x x
- iii) Special (Duty) Allowance

Central Government civilian employees who have All India Transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not

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Annexure-1 (Contd.)

be eligible for this special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

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50/- S.C. RAHULIK
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

OFFICE OF THE JUDGE, SUPREME COURT

1993

6. It is gratifying to note that at the late stage wisdom has dawned on the learned District Judge who has realised his serious lapse in ordering notice on the application in a routine way. The dismissal of the application on 17.8.1993 is after the order of this Court on 16.8.1993 which has been extracted above. Therefore, that does not improve the situation for him. However, in view of the unconditional apology offered by him through his affidavit dated 26.10.1993, we do not think it is necessary to pursue the proceedings further. We do hope that the learned District Judge has realised that in the hierarchical system of courts a willing and disciplined acceptance of the order of the higher courts is the fundamental feature of the system and that what the learned District Judge did in the case was perilously close to destroying this discipline. In view of his apology, we drop the further proceedings.

1994 Supp (3) Supreme Court Cases 649

(BLOOM K. SINGH AND OTHERS vs. UNION OF INDIA)

UNION OF INDIA AND OTHERS

Appellants,

Versus

S. VIJAYAKUMAR AND OTHERS

Respondents

7. Civil Appeal No. 3251 of 1993 with Civil Appeal Nos. 6164-81 of 1993, decided on September 29, 1994.

8. Service Law — Allowances — Special duty allowance payable to Central Government employees appointed to posts of All India Transfer Liability in North-Eastern Region — Held, not payable to employees who were residents of that region — Subject of 1983 O.M. not decisive of the question — Further held, denial of the allowance to such employees, did not violate Art. 14 — O.M.s dated 14-12-1983, 29-10-1986 and 20-4-1987 — Constitution of India, Arts. 14 and 16 — Pay — Equal pay for equal work.

Held:

A close perusal of the Office Memoranda dated 14-12-1983, 20-4-1987 and 29-10-1986 clearly show that allowance in question was meant to attract persons outside the North-Eastern Region to work in that Region because of inaccessibility and difficult terrain. Even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 20 years to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North-Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. (Para 4)

1. From the Judgment and Order dated 15.12.1992 in 1992-93 A. 1122, 1993-94 A. 1122 and 1993-94 A. 1123, 1993-94 A. 1124, 1993-94 A. 1125, 1993-94 A. 1126, 1993-94 A. 1127, 1993-94 A. 1128, 1993-94 A. 1129, 1993-94 A. 1130, 1993-94 A. 1131, 1993-94 A. 1132, 1993-94 A. 1133, 1993-94 A. 1134, 1993-94 A. 1135, 1993-94 A. 1136, 1993-94 A. 1137, 1993-94 A. 1138, 1993-94 A. 1139, 1993-94 A. 1140, 1993-94 A. 1141, 1993-94 A. 1142, 1993-94 A. 1143, 1993-94 A. 1144, 1993-94 A. 1145, 1993-94 A. 1146, 1993-94 A. 1147, 1993-94 A. 1148, 1993-94 A. 1149, 1993-94 A. 1150, 1993-94 A. 1151, 1993-94 A. 1152, 1993-94 A. 1153, 1993-94 A. 1154, 1993-94 A. 1155, 1993-94 A. 1156, 1993-94 A. 1157, 1993-94 A. 1158, 1993-94 A. 1159, 1993-94 A. 1160, 1993-94 A. 1161, 1993-94 A. 1162, 1993-94 A. 1163, 1993-94 A. 1164, 1993-94 A. 1165, 1993-94 A. 1166, 1993-94 A. 1167, 1993-94 A. 1168, 1993-94 A. 1169, 1993-94 A. 1170, 1993-94 A. 1171, 1993-94 A. 1172, 1993-94 A. 1173, 1993-94 A. 1174, 1993-94 A. 1175, 1993-94 A. 1176, 1993-94 A. 1177, 1993-94 A. 1178, 1993-94 A. 1179, 1993-94 A. 1180, 1993-94 A. 1181, 1993-94 A. 1182, 1993-94 A. 1183, 1993-94 A. 1184, 1993-94 A. 1185, 1993-94 A. 1186, 1993-94 A. 1187, 1993-94 A. 1188, 1993-94 A. 1189, 1993-94 A. 1190, 1993-94 A. 1191, 1993-94 A. 1192, 1993-94 A. 1193, 1993-94 A. 1194, 1993-94 A. 1195, 1993-94 A. 1196, 1993-94 A. 1197, 1993-94 A. 1198, 1993-94 A. 1199, 1993-94 A. 1200, 1993-94 A. 1201, 1993-94 A. 1202, 1993-94 A. 1203, 1993-94 A. 1204, 1993-94 A. 1205, 1993-94 A. 1206, 1993-94 A. 1207, 1993-94 A. 1208, 1993-94 A. 1209, 1993-94 A. 1210, 1993-94 A. 1211, 1993-94 A. 1212, 1993-94 A. 1213, 1993-94 A. 1214, 1993-94 A. 1215, 1993-94 A. 1216, 1993-94 A. 1217, 1993-94 A. 1218, 1993-94 A. 1219, 1993-94 A. 1220, 1993-94 A. 1221, 1993-94 A. 1222, 1993-94 A. 1223, 1993-94 A. 1224, 1993-94 A. 1225, 1993-94 A. 1226, 1993-94 A. 1227, 1993-94 A. 1228, 1993-94 A. 1229, 1993-94 A. 1230, 1993-94 A. 1231, 1993-94 A. 1232, 1993-94 A. 1233, 1993-94 A. 1234, 1993-94 A. 1235, 1993-94 A. 1236, 1993-94 A. 1237, 1993-94 A. 1238, 1993-94 A. 1239, 1993-94 A. 1240, 1993-94 A. 1241, 1993-94 A. 1242, 1993-94 A. 1243, 1993-94 A. 1244, 1993-94 A. 1245, 1993-94 A. 1246, 1993-94 A. 1247, 1993-94 A. 1248, 1993-94 A. 1249, 1993-94 A. 1250, 1993-94 A. 1251, 1993-94 A. 1252, 1993-94 A. 1253, 1993-94 A. 1254, 1993-94 A. 1255, 1993-94 A. 1256, 1993-94 A. 1257, 1993-94 A. 1258, 1993-94 A. 1259, 1993-94 A. 1260, 1993-94 A. 1261, 1993-94 A. 1262, 1993-94 A. 1263, 1993-94 A. 1264, 1993-94 A. 1265, 1993-94 A. 1266, 1993-94 A. 1267, 1993-94 A. 1268, 1993-94 A. 1269, 1993-94 A. 1270, 1993-94 A. 1271, 1993-94 A. 1272, 1993-94 A. 1273, 1993-94 A. 1274, 1993-94 A. 1275, 1993-94 A. 1276, 1993-94 A. 1277, 1993-94 A. 1278, 1993-94 A. 1279, 1993-94 A. 1280, 1993-94 A. 1281, 1993-94 A. 1282, 1993-94 A. 1283, 1993-94 A. 1284, 1993-94 A. 1285, 1993-94 A. 1286, 1993-94 A. 1287, 1993-94 A. 1288, 1993-94 A. 1289, 1993-94 A. 1290, 1993-94 A. 1291, 1993-94 A. 1292, 1993-94 A. 1293, 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1352, 1993-94 A. 1353, 1993-94 A. 1354, 1993-94 A. 1355, 1993-94 A. 1356, 1993-94 A. 1357, 1993-94 A. 1358, 1993-94 A. 1359, 1993-94 A. 1360, 1993-94 A. 1361, 1993-94 A. 1362, 1993-94 A. 1363, 1993-94 A. 1364, 1993-94 A. 1365, 1993-94 A. 1366, 1993-94 A. 1367, 1993-94 A. 1368, 1993-94 A. 1369, 1993-94 A. 1370, 1993-94 A. 1371, 1993-94 A. 1372, 1993-94 A. 1373, 1993-94 A. 1374, 1993-94 A. 1375, 1993-94 A. 1376, 1993-94 A. 1377, 1993-94 A. 1378, 1993-94 A. 1379, 1993-94 A. 1380, 1993-94 A. 1381, 1993-94 A. 1382, 1993-94 A. 1383, 1993-94 A. 1384, 1993-94 A. 1385, 1993-94 A. 1386, 1993-94 A. 1387, 1993-94 A. 1388, 1993-94 A. 1389, 1993-94 A. 1390, 1993-94 A. 1391, 1993-94 A. 1392, 1993-94 A. 1393, 1993-94 A. 1394, 1993-94 A. 1395, 1993-94 A. 1396, 1993-94 A. 1397, 1993-94 A. 1398, 1993-94 A. 1399, 1993-94 A. 1400, 1993-94 A. 1401, 1993-94 A. 1402, 1993-94 A. 1403, 1993-94 A. 1404, 1993-94 A. 1405, 1993-94 A. 1406, 1993-94 A. 1407, 1993-94 A. 1408, 1993-94 A. 1409, 1993-94 A. 1410, 1993-94 A. 1411, 1993-94 A. 1412, 1993-94 A. 1413, 1993-94 A. 1414, 1993-94 A. 1415, 1993-94 A. 1416, 1993-94 A. 1417, 1993-94 A. 1418, 1993-94 A. 1419, 1993-94 A. 1420, 1993-94 A. 1421, 1993-94 A. 1422, 1993-94 A. 1423, 1993-94 A. 1424, 1993-94 A. 1425, 1993-94 A. 1426, 1993-94 A. 1427, 1993-94 A. 1428, 1993-94 A. 1429, 1993-94 A. 1430, 1993-94 A. 1431, 1993-94 A. 1432, 1993-94 A. 1433, 1993-94 A. 1434, 1993-94 A. 1435, 1993-94 A. 1436, 1993-94 A. 1437, 1993-94 A. 1438, 1993-94 A. 1439, 1993-94 A. 1440, 1993-94 A. 1441, 1993-94 A. 1442, 1993-94 A. 1443, 1993-94 A. 1444, 1993-94 A. 1445, 1993-94 A. 1446, 1993-94 A. 1447, 1993-94 A. 1448, 1993-94 A. 1449, 1993-94 A. 1450, 1993-94 A. 1451, 1993-94 A. 1452, 1993-94 A. 1453, 1993-94 A. 1454, 1993-94 A. 1455, 1993-94 A. 1456, 1993-94 A. 1457, 1993-94 A. 1458, 1993-94 A. 1459, 1993-94 A. 1460, 1993-94 A. 1461, 1993-94 A. 1462, 1993-94 A. 1463, 1993-94 A. 1464, 1993-94 A. 1465, 1993-94 A. 1466, 1993-94 A. 1467, 1993-94 A. 1468, 1993-94 A. 1469, 1993-94 A. 1470, 1993-94 A. 1471, 1993-94 A. 1472, 1993-94 A. 1473, 1993-94 A. 1474, 1993-94 A. 1475, 1993-94 A. 1476, 1993-94 A. 1477, 1993-94 A. 1478, 1993-94 A. 1479, 1993-94 A. 1480, 1993-94 A. 1481, 1993-94 A. 1482, 1993-94 A. 1483, 1993-94 A. 1484, 1993-94 A. 1485, 1993-94 A. 1486, 1993-94 A. 1487, 1993-94 A. 1488, 1993-94 A. 1489, 1993-94 A. 1490, 1993-94 A. 1491, 1993-94 A. 1492, 1993-94 A. 1493, 1993-94 A. 1494, 1993-94 A. 1495, 1993-94 A. 1496, 1993-94 A. 1497, 1993-94 A. 1498, 1993-94 A. 1499, 1993-94 A. 1500, 1993-94 A. 1501, 1993-94 A. 1502, 1993-94 A. 1503, 1993-94 A. 1504, 1993-94 A. 1505, 1993-94 A. 1506, 1993-94 A. 1507, 1993-94 A. 1508, 1993-94 A. 1509, 1993-94 A. 1510, 1993-94 A. 1511, 1993-94 A. 1512, 1993-94 A. 1513, 1993-94 A. 1514, 1993-94 A. 1515, 1993-94 A. 1516, 1993-94 A. 1517, 1993-94 A. 1518, 1993-94 A. 1519, 1993-94 A. 1520, 1993-94 A. 1521, 1993-94 A. 1522, 1993-94 A. 1523, 1993-94 A. 1524, 1993-94 A. 1525, 1993-94 A. 1526, 1993-94 A. 1527, 1993-94 A. 1528, 1993-94 A. 1529, 1993-94 A. 1530, 1993-94 A. 1531, 1993-94 A. 1532, 1993-94 A. 1533, 1993-94 A. 1534, 1993-94 A. 1535, 1993-94 A. 1536, 1993-94 A. 1537, 1993-94 A. 1538, 1993-94 A. 1539, 1993-94 A. 1540, 1993-94 A. 1541, 1993-94 A. 1542, 1993-94 A. 1543, 1993-94 A. 1544, 1993-94 A. 1545, 1993-94 A. 1546, 1993-94 A. 1547, 1993-94 A. 1548, 1993-94 A. 1549, 1993-94 A. 1550, 1993-94 A. 1551, 1993-94 A. 1552, 1993-94 A. 1553, 1993-94 A. 1554, 1993-94 A. 1555, 1993-94 A. 1556, 1993-94 A. 1557, 1993-94 A. 1558, 1993-94 A. 1559, 1993-94 A. 1560, 1993-94 A. 1561, 1993-94 A. 1562, 1993-94 A. 1563, 1993-94 A. 1564, 1993-94 A. 1565, 1993-94 A. 1566, 1993-94 A. 1567, 1993-94 A. 1568, 1993-94 A. 1569, 1993-94 A. 1570, 1993-94 A. 1571, 1993-94 A. 1572, 1993-94 A. 1573, 1993-94 A. 1574, 1993-94 A. 1575, 1993-94 A. 1576, 1993-94 A. 1577, 1993-94 A. 1578, 1993-94 A. 1579, 1993-94 A. 1580, 1993-94 A. 1581, 1993-94 A. 1582, 1993-94 A. 1583, 1993-94 A. 1584, 1993-94 A. 1585, 1993-94 A. 1586, 1993-94 A. 1587, 1993-94 A. 1588, 1993-94 A. 1589, 1993-94 A. 1590, 1993-94 A. 1591, 1993-94 A. 1592, 1993-94 A. 1593, 1993-94 A. 1594, 1993-94 A. 1595, 1993-94 A. 1596, 1993-94 A. 1597, 1993-94 A. 1598, 1993-94 A. 1599, 1993-94 A. 1600, 1993-94 A. 1601, 1993-94 A. 1602, 1993-94 A. 1603, 1993-94 A. 1604, 1993-94 A. 1605, 1993-94 A. 1606, 1993-94 A. 1607, 1993-94 A. 1608, 1993-94 A. 1609, 1993-94 A. 1610, 1993-94 A. 1611, 1993-94 A. 1612, 1993-94 A. 1613, 1993-94 A. 1614, 1993-94 A. 1615, 1993-94 A. 1616, 1993-94 A. 1617, 1993-94 A. 1618, 1993-94 A. 1619, 1993-94 A. 1620, 1993-94 A. 1621, 1993-94 A. 1622, 1993-94 A. 1623, 1993-94 A. 1624, 1993-94 A. 1625, 1993-94 A. 1626, 1993-94 A. 1627, 1993-94 A. 1628, 1993-94 A. 1629, 1993-94 A. 1630, 1993-94 A. 1631, 1993-94 A. 1632, 1993-94 A. 1633, 1993-94 A. 1634, 1993-94 A. 1635, 1993-94 A. 1636, 1993-94 A. 1637, 1993-94 A. 1638, 1993-94 A. 1639, 1993-94 A. 1640, 1993-94 A. 1641, 1993-94 A. 1642, 1993-94 A. 1643, 1993-94 A. 1644, 1993-94 A. 1645, 1993-94 A. 1646, 1993-94 A. 1647, 1993-94 A. 1648, 1993-94 A. 1649, 1993-94 A. 1650, 1993-94 A. 1651, 1993-94 A. 1652, 1993-94 A. 1653, 1993-94 A. 1654, 1993-94 A. 1655, 1993-94 A. 1656, 1993-94 A. 1657, 1993-94 A. 1658, 1993-94 A. 1659, 1993-94 A. 1660, 1993-94 A. 1661, 1993-94 A. 1662, 1993-94 A. 1663, 1993-94 A. 1664, 1993-94 A. 1665, 1993-94 A. 1666, 1993-94 A. 1667, 1993-94 A. 1668, 1993-94 A. 1669, 1993-94 A. 1670, 1993-94 A. 1671, 1993-94 A. 1672, 1993-94 A. 1673, 1993-94 A. 1674, 1993-94 A. 1675, 1993-94 A. 1676, 1993-94 A. 1677, 1993-94 A. 1678, 1993-94 A. 1679, 1993-94 A. 1680, 1993-94 A. 1681, 1993-94 A. 1682, 1993-94 A. 1683, 1993-94 A. 1684, 1993-94 A. 1685, 1993-94 A. 1686, 1993-94 A. 1687, 1993-94 A. 1688, 1993-94 A. 1689, 1993-94 A. 1690, 1993-94 A. 1691, 1993-94 A. 1692, 1993-94 A. 1693, 1993-94 A. 1694, 1993-94 A. 1695, 1993-94 A. 1696, 1993-94 A. 1697, 1993-94 A. 1698, 1993-94 A. 1699, 1993-94 A. 1700, 1993-94 A. 1701, 1993-94 A. 1702, 1993-94 A. 1703, 1993-94 A. 1704, 1993-94 A. 1705, 1993-94 A. 1706, 1993-94 A. 1707, 1993-94 A. 1708, 1993-94 A. 1709, 1993-94 A. 1710, 1993-94 A. 1711, 1993-94 A. 1712, 1993-94 A. 1713, 1993-94 A. 1714, 1993-94 A. 1715, 1993-94 A. 1716, 1993-94 A. 1717, 1993-94 A. 1718, 1993-94 A. 1719, 1993-94 A. 1720, 1993-94 A. 1721, 1993-94 A. 1722, 1993-94 A. 1723, 1993-94 A. 1724, 1993-94 A. 1725, 1993-94 A. 1726, 1993-94 A. 1727, 1993-94 A. 1728, 1993-94 A. 1729, 1993-94 A. 1730, 1993-94 A. 1731, 1993-94 A. 1732, 1993-94 A. 1733, 1993-94 A. 1734, 1993-94 A. 1735, 1993-94 A. 1736, 1993-94 A. 1737, 1993-94 A. 1738, 1993-94 A. 1739, 1993-94 A. 1740, 1993-94 A. 1741, 1993-94 A. 1742, 1993-94 A. 1743, 1993-94 A. 1744, 1993-94 A. 1745, 1993-94 A. 1746, 1993-94 A. 1747, 1993-94 A. 1748, 1993-94 A. 1749, 1993-94 A. 1750, 1993-94 A. 1751, 1993-94 A. 1752, 1993-94 A. 1753, 1993-94 A. 1754, 1993-94 A. 1755, 1993-94 A. 1756, 1993-94 A. 1757, 1993-94 A. 1758, 1993-94 A. 1759, 1993-94 A. 1760, 1993-94 A. 1761, 1993-94 A. 1762, 1993-94 A. 1763, 1993-94 A. 1764, 1993-94 A. 1765, 1993-94 A. 1766, 1993-94 A. 1767, 1993-94 A. 1768, 1993-94 A. 1769, 1993-94 A. 1770, 1993-94 A. 1771, 1993-94 A. 1772, 1993-94 A. 1773, 1993-94 A. 1774, 1993-94 A. 1775, 1993-94 A. 1776, 1993-94 A. 1777, 1993-94 A. 1778, 1993-94 A. 1779, 1993-94 A. 1780, 1993-94 A. 1781, 1993-94 A. 1782, 1993-94 A. 1783, 1993-94 A. 1784, 1993-94 A. 1785, 1993-94 A. 1786, 1993-94 A. 1787, 1993-94 A. 1788, 1993-94 A. 1789, 1993-94 A. 1790, 1993-94 A. 1791, 1993-94 A. 1792, 1993-94 A. 1793, 1993-94 A. 1794, 1993-94 A. 1795, 1993-94 A. 1796, 1993-94 A. 1797, 1993-94 A. 1798, 1993-94 A. 1799, 1993-94 A. 1800, 1993-94 A. 1801, 1993-94 A. 1802, 1993-94 A. 1803, 1993-94 A. 1804, 1993-94 A. 1805, 1993-94 A. 1806, 1993-94 A. 1807, 1993-94 A. 1808, 1993-94 A. 1809, 1993-94 A. 1810, 199

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SUPREME COURT CASES

1994 Supp (3) SCC

The contention that the denial of the allowance to the residents would violate the equal pay doctrine and Articles 14 and 16 of the Constitution is adequately met by the Supreme Court's decision in *Reserve Bank of India case*. (Para 5)

Reserve Bank of India v. Reserve Bank of India Staff Officers Assn. (1991) 4 SCC 132; 1991 SCC (L.S.) 1090, (1991) 17 ATC 295, followed

Appeals allowed

II-M/13562/SLA

Advocates who appeared in this case:

K.T.S. Tuli, Additional Solicitor General, V.C. Mahajan, N.N. Goswami and Dr. Shankar Ghosh, Senior Advocates (C.V.S. Rao, Mr. A. Subhashini, Mr. Sushma Suri, Mr. Pura Tanita, S. Wasim A. Qadri, S.N. Terdal, P. Narasimhan, S.K. Nandy and D.S. Mahra, Advocates, with them) for the appearing parties

Respondent in person in C.A. No. 3251 of 1993

The Judgment of the Court was delivered by

HANSARAJ L. The point for determination in this appeal and in the special leave petitions (which have our leave) is whether the respondents are entitled to special duty allowance thereinafter referred to as "the allowance". Even though they are residents of North-Eastern Region merely because of the posts to which they were appointed were of "All India Transfer Liability". The Tribunal has answered the question in affirmative. These appeals have been preferred by the Union of India.

2. The Tribunal took the aforesaid view because the Office Memorandum dated 14-12-1983 which is on the subject of "Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of the North-Eastern Region — improvement thereof" had stated that allowance shall be payable if the posts be those which have "All India Transfer Liability". The stand of the Union of India, however, is that this office memorandum, if it is read along with what was stated subsequently in office memorandum dated 20-4-1987, it would become clear that the allowance was required to be paid to those incumbents who had been posted in North-Eastern Region carrying the aforesaid service condition and not to those who were residents of this region. The office memorandum of 1987 has clearly stated that the allowance would not become payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India.

3. Dr. Ghosh appearing for the respondents contends that the office memorandum of 1983 having not stated what is contained in the memorandum of 1987, a rider cannot be added to the former that the allowance could be payable only to those who had been given posting in the North-Eastern Region, and not to those who were residents of this Region. It is also contended that denial of the allowance to the residents, while permitting the same to the non-residents, would be violative of doctrine of equal pay for equal work and as such of Articles 14 and 16 of the Constitution.

4. We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tuli for two reasons. The first is that a close perusal of the two aforesaid memoranda, along with what was stated in the memorandum dated 29-10-1986 which has been quoted in the memorandum of 20-4-1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern

- Region to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 23 years to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North-Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the office memoranda of 1983 the subject was mentioned as quoted above is not enough to concede to the submission of Dr Ghosh.
5. The submission of Dr Ghosh that the denial of the allowance to residents would violate the equal pay doctrine is adequately met by what was held in *Reserve Bank of India v. Reserve Bank of India Staff Officers' Association*, which our attention has been invited by the learned Additional Solicitor General, in which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution.
6. In view of the above, we hold that the respondents were not entitled to the allowance and the impugned judgments of the Tribunal are, therefore, set aside. Even so, in view of the fair stand taken by the Additional Solicitor General we state that whatever amount has been paid to the respondents, or for that matter to other similarly situated employees, would not be recovered from them insofar as the allowance is concerned.
7. The appeals are allowed accordingly. There will be no order as to costs.

1994 Supp (3) Supreme Court Cases 651
(BEFORE R.M. SAHAJI AND N.P. SINGH, JJ.)

STATE OF GOA AND OTHERS

Versus

Appellants;

Respondent.

1 (1991) 4 SCC 132 : 1991 SCC (L&S) 1020 : (1991) 17 ATC 295

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 270 of 1998.

Date of Order : This the 20th Day of December, 2000.

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

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

Shri Bikash Deb and 29 others.

... applicants.

By Advocate Sri A.Ahmed.

- Versus -

Union of India & Ors.

... Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

All the applicants are serving under the Commandant, 222 A.B.O.D, Narengi Camp. Having regard to the common grievance and seeking common relief, the leave is granted to them under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 to file this single application. By this application the applicants have sought for a direction on the respondents to pay Special (Duty) Allowance to the applicants in terms of Office Memoranda No. 20014/3/83-E-IV dated 14.12.1983 and No. 20014/16/86-IV/II(B) dated 1.12.1988. In the light of the aforementioned Memorandum and in view of the decisions rendered by the Hon'ble Supreme Court in Union of India & Ors. vs. B.Prasad, B.S.O.and others, reported in (1997) 4 SCC 189. In that order the Supreme Court observed as follows :

"As regards the payment of Special Duty Allowance to the defence civilian personnel deployed in 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 hilly areas risking their lives as envisaged in the proceedings of the Army dated 13.1.1994. 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."

In the light of the aforesaid observation, the respondents are directed to pay Special (Duty) Allowance to the applicants. The application is accordingly allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/MEMBER (Adm)

Certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (J),

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-7
गुवाहाटी न्यायाधीश, गुवाहाटी-७

22/12/2000

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 204 of 1999.

Date of Order : This the 20th Day of December, 2000.

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

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

Shri Anil Kumar Ghosh and 85 others. . . . Applicant.

By Advocate Sri A. Ahmed.

- Versus -

Union of India & Ors.

. . . Respondents

By Sri A. Deb Roy, Sr.C.G.S.C.

ORDER

CHOWDHURY J. (V.C)

Heard Mr A. Ahmed, learned counsel for the applicant and Mr A. Deb Roy, learned Sr.C.G.S.C for the respondents. It has been stated in the Bar that the case is squarely covered by the series of judgments rendered by this Tribunal.

2. In the light of the judgment passed in O.A.270/98 on 20.12.2000 and in view of the decisions rendered by the Hon'ble Supreme Court in Union of India & Ors. vs. B. Prasad, B.S.O. and others, reported in (1997) 4 SCC 189, we direct the respondents to pay Special (Duty) Allowance to the applicants on the strength of O.H. No.20014/3/83 E-IV dated 14.12.1983 and No. 20014/16/86 IV/E II(B) dated 1.12.1988 at the rate prescribed thereunder per month for the period of their posting in the North Eastern Region.

The application is accordingly allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/MEMBER (ADM)

Ad to be true Cop.
সত্য প্রতিলিপি

22/12/2000
Section Officer (A)
Central Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক আদালত
Guwahati Bench, Guwahati
গুৱাহাটী বেঞ্চ, গুৱাহাটী

22/12/2000

No. 4(3)/98/D(Civ. I)
 Government of India
 Ministry of Defence
 New Delhi, the 16th March 1998

OFFICE MEMORANDUM

Subject:-- Field Service Concessions admissible to Defence Civilians in area classified as Field Area and Modified Field Area - Clarifications.

The undersigned is directed to refer to Corrigendum No. B/37269/AG/PS-3(a)/730/D(Pay/Services) dated 17.4.95 and to say that the Hon'ble Supreme Court in Civil Appeal No. 1572/1997 had observed as under and had directed the Government to modify the order dated 17.4.95 accordingly:-

(i) "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 Location) 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."

(ii) "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 hilly areas risking their lives as envisaged in the proceedings of the Army dated January, 13, 1994."

2...../-

2. The Hon'ble Supreme Court in Civil Appeal No. 7251/91, Union of India, V/S S. V. Jaykumar and others had held that the Special Compensatory Allowance including Special Duty Allowance to Central Government employees in the North-Eastern Region will be admissible to only those who are originally recruited in regions other than North-East and subsequently transferred from such outside region to the North-Eastern Region. Accordingly, I am directed to convey the sanction that Defence Civilians who are working in Field Areas will be entitled, in addition to the Field Service Concessions as applicable, to receive Special Duty Allowance at the applicable rates provided they had been originally recruited outside the North-Eastern Region and have been transferred to the North-Eastern Region from such outside region.

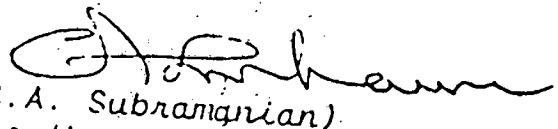
3. Any payment made not in accordance with the aforesaid corrigendum dated 17.4.95 read with clarification in the preceding paragraph, will be recovered in so far as they relate to the period beyond 17.4.95. In other words:-

(i) No recovery would be made on account of payment made to Defence Civilians in respect of Special Compensatory (Remote Locality) Allowance as well as Special Duty Allowance in respect of personnel posted in North-Eastern Region prior to 17.4.95.

(ii) The Defence Civilians recruited from outside the North-Eastern Region and posted from outside into the North-Eastern Region would be entitled to the Special Duty Allowance in addition to the Field Service Concessions.

(iii) Special Compensatory (Remote Locality) Allowance will not, however be admissible along with Field Service Concession in Field Areas beyond 17.4.95. and overpayment made on this account would be recovered.

This is issued with the concurrence of Finance Division/AG of this Ministry vide their ID No. 232-PA/98 dated 11.3.98.


(C.A. Subramanian)

Under Secretary to the Govt. of India

To

The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff

R&D/Orgn./DOP DGNCC/Pers(C) DGDE/Admin
DGAfMS/DG-2(B) DGAQA DGQA/Admin-7B
The OFB Calcutta DPR D(JCH)

Copy to:-

The CCDA; All CDAs; All Sr. Dy. DADS; The
UGAUS; The Asst. Audit Officer: (Defence
Services), Kanpur, Bangalore and Allahabad;
The Director of Accounts (Postal) APS Section,
Nagpur - 440001.

DFA(AG); DFA(Navy); DFA(AF); DFA(Budget-II);
AFA(DP-I); C.C.A (Factory) Calcutta.

D(AG); D(Air.III); D(E&C); D(Fy.I); D(Fy.II);
D(GS.I); D(GS.II); D(GS.III); D(GS.IV); D(GS.V);
D(GS.VI); D(HAL); D(Insp.); D(Med); D(Mov); D(N.I);
D(N.II); D(N.III); D(N.IV); D(O.II); D(QS); D(Q&C);
D(R&D); D(Res.); D(SSC); D(W.II); D(Amts.);
D(Lab); D(Civ.II); AFO; D(PS/Coord); D(Pay/Serv-
ices).

OF Cell; Chief Canteen Officer/QMG's Branch; OC
Defence Security Troops, Room No. 4, H-Block; Air
HQrs./JDPC; AG/PS-3A; AG/PS-3B; AG/Budget; E-in-C's
Branch/CSCC; E-in-C's Branch/EIB; HVF Cell; Addl.
DGOF, Kanpur; DGQA/Admin(14); RD-24; Const Guard
HQrs. National Stadium, New Delhi; AD/DGQA(Coord).

General Secretary, All India Defence Employees
Federations, 70 Market Road, Kharkee, Pune-411003.

General Secretary, Indian National Defence Workers
Federations, 25/19, Karachi Khana, Kanpur-208001.

Chairman, Central Administrative Tribunal, Faridkot
House, Copernicus Marg, New Delhi.

Ministry of Defence
D(Civ.I)

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

A copy of Ministry of Finance (Department of Expenditure) O.M. No. 11(3)/95-E.II(3) dated 12th Jan. 1996 on the above mentioned subject is forwarded herewith for information and necessary action, in so far as civilians paid from Defence Services Estimates are concerned. Hindi version is also enclosed herewith.

R. S. Sharma

(R. S. Sharma)
Section Officer
Tele. 3012414.

AG/Org 4(Civ)(d)

Air Hqs./PERS-2

WHQ/CP Dte.

R3D/Orgn./DOP

DEFCC/Pers(C)

DTAFS/SG-2(3)

The OFB Calcutta

DPR

DDDE/Adm

ETD&P(Air)/Adm

DEA(Coord)

D(JC)

M of D I.D. No. 4(19)/35-D(Civ.I) Vol.II dated 18.1.96.

Copy to:-

The CCDA; All CsDA; All Sr. Dy. DADS; The DGADS; The Asstt. Audit Officers (Defence Services), Birkee, Kanpur, Bangalore and Allahabad, The Director of Accounts (Postal) APS Section, Wazirpur - 440001.

DFA(AG); DFA(Navy); DFA(AF); FA(Budget-II); FA(DP-I)
C.C. (Factory) Calcutta.

Copy of Ministry of Finance (Department of Expenditure) O.M. No. 11(3)/95-E.II(3) dated 12th Jan. 1996 regarding Special Duty Allowance for civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region-regarding.

.....2/-

The undersigned is directed to refer to this Department's OM No. 20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No. 20014/16/86-E.IV/E.II(3) dt. 1.12.88 on the subject mentioned above.

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

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or increments of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

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

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

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil Appeal no. 3251 of 1993) upheld the submissions of the Government of India that Central Government Civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as the allowance is concerned.

- 3 -

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

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

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

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

10. Hindi version of this OM is enclosed.

- 31/ -

(C. Balachandran)
Under Secretary to the Govt. of India.

160619

Assistant Registrar (Jad.)

5-3-1997

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. 14068 of 1996)

Union of India & Ors. etc.

... Appellants

Versus

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

... Respondents

WITH
CIVIL APPEAL NOS. 1573-1576, 1577, 1578-1579, 1580-1585/97)

(Arising out of SLP (C) Nos. 17236-38, 14104, 15141-42, 15740, 25108-10 of 1996; SLP (C) No. 4336/96 (CC-5040/96) and SLP (C) No. 4338/96 (CC-6660/96))

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 OA No. 49/89.

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

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. P.P. Halhotra, learned senior 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

to either of the allowances. Shri R.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 during 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.

5 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, 1945, 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 on 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 now 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 in the border area for support of operational requirements, 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 the same since they are facing imminent hostilities

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 1st, 1995. No costs.

(K. RAHASYA)

(G.T. NAHAYATI)

NEW DELHI;
FEBRUARY 17, 1997.

Order Date of application for the copy. 25/11/99	Order Date fixed for making the requisite number of stamps and fees. 25/11/99	Order Date of delivery of the requisite stamps and fees. 25/11/99	Order Date on which the copy was ready for delivery. 25/11/99	Order Date of making over the copy to the applicant. 25/11/99
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IN THE GUARATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

WRIT PETITION (C) No. 5793 OF 1999.

Shri Pijush Kanti Kar,
Superintendent of Buildings/Roads,
C/o Garrison Engineer,
Silchar.

Petitioner.

-Versus-

1. The Union of India.
2. The Army Head Quarters,
Engineer in Chief,
Kashmir House,
New Delhi.
3. Head Quarters,
Chief Engineer, Shillong Zone,
Shillong.
4. Accounts Officer,
Area Accounts Office,
Shillong.
5. HQ 137 Works Engineer,
c/o 99 APO.
6. Garrison Engineer, Silchar.

Respondents.

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR. BRIJESH KUMAR

THE HON'BLE MR. JUSTICE D. BISWAS

For the petitioner : Mr. I. Hussain, Advocate.

For the respondents : Mr. K.K. Mahanta, Sr. central
Govt. Standing Counsel.

Date of Hearing and Judgment : 22nd November, 1999.

JUDGMENT AND ORDER

BRIJESH KUMAR, C.J. :-

This writ petition is preferred against the
order of the Central Administrative Tribunal, Guwahati
Bench, dated 22.4.99, passed in Application No. 102/99,
rejecting the petition preferred by the petitioner claiming
Special Duty Allowance on account of posting in the North-
Eastern Region.

Learned counsel for the petitioner does not dispute that this question has been settled by the Supreme Court in the case reported in (1994) Suppl.III SCC 649, Union of India and others v. S. Vijaykumar and others. It has been held that such Special Duty Allowance is not admissible to those who are residents of North-Eastern Region. The Hon'ble Supreme Court had considered the relevant Office Memoranda in relation to payment of such allowance. That being the position, we hardly find that the order passed by the Central Administrative Tribunal can be faulted with.

Learned counsel for the petitioner has, however, vehemently urged that Special Duty Allowance is being paid even to such employees in certain Departments who are residents of North-Eastern Region and have been posted within the said region. In this connection, our attention has also been drawn to paragraph 13 of the writ petition, which gives out a chart indicating names of certain persons posted in the North-Eastern Region who, according to the petitioner, are being paid the Special Duty Allowance. In none of the columns, however, it is indicated as to which place they belong, except that initially it is averred that they hail from North-Eastern Region. It is submitted that it amounts to discrimination; hence, the petitioner should also be allowed Special Duty Allowance.

It is difficult for us to accede to the submission made. It is finally settled by the Hon'ble Supreme Court in the case of Union of India and ors. v. S. Vijaykumar and ors. (supra), referred to above, that the allowance is not admissible to such persons. Hence, the question of discrimination does not arise. The question of discrimination could be pleaded, or would arise, if the allowance was payable under the Rules

(Such cases)
needs to be
reviewed by
all officials in
the region.

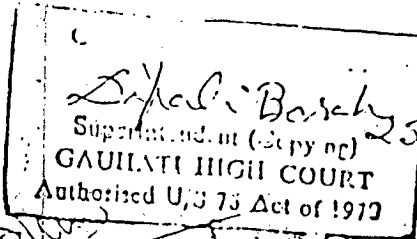
20
Hence

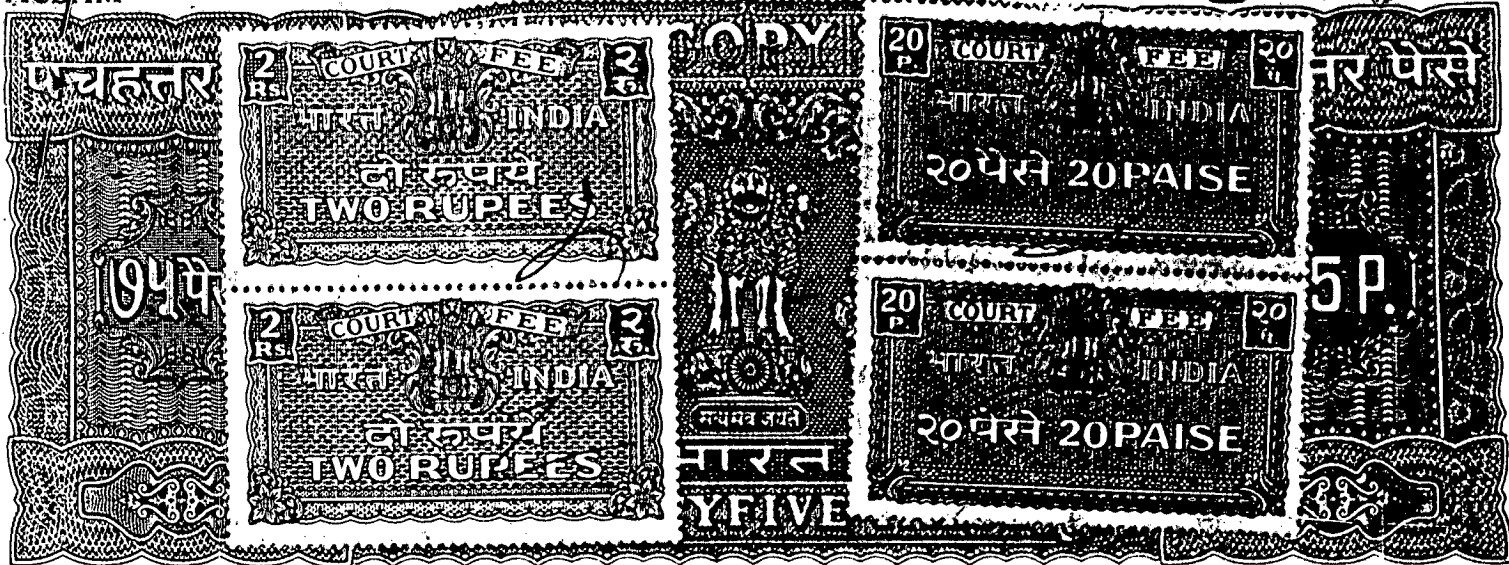
- 3 -

which was being denied to some and was being paid to others. But, that is not the position here. Parity cannot be claimed with those who are, if at all, being paid against the Rules. It is for the Government or the Department concerned to look into that matter. It would hardly make the petitioner entitled for the Special Duty Allowance.

We find no merit in the petition. It is accordingly dismissed.

Sd/- *Brigesh Kumar*
Chief Justice
Sd/- *D. Biswas*
Judge





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

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

M.P. (C) NO. 837/2001

- Union of India,
Represented by Secretary,
Ministry of Defence,
New Delhi.
- Assistant Garrison Engineer (Independent),
Under Ministry of Defence,
Rangiya, Assam.

...Petitioners.

-Vs-

- MES/224932 Shri Anal Kumar Ghosh,
FGH HS -II and 85 Ors.

... Respondents.

PRESENT.

THE HON'BLE MR JUSTICE H.K. SEMA

THE HON'BLE MR JUSTICE P.G. AGARWAL

FOR THE PETITIONERS : Mr. M.R. Guru Pada Bhowmick, Adv.

FOR THE RESPONDENTS : Mr. A. Ahmed,
Mr. A.J. Atia, Advs for Caveator.

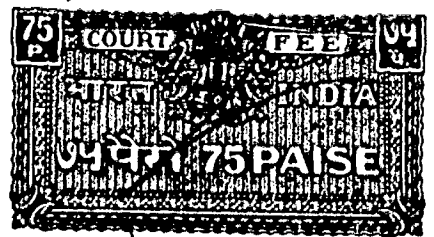
14.02.2001

ORDER

Heard Mr. G.F. Bhowmick, learned counsel for the
petitioner Union of India.

Mr. A. Ahmed, appeared on behalf of the respondent/
caveators. The caveat is discharged.

Contd...2



2.

Call for the records.

Issue rule calling upon the respondents to show cause as to why a writ should not be issued as prayed for ; or why such further or other order should not be passed as to this Court may seem fit and proper.

Since notice has been received by Mr. Ahmed, no formal notice need be issued.

Rule is made returnable within a month.

In the meantime the operation of the impugned order dated 20.12.2000 passed by the learned Central Administrative Tribunal, Guwahati in O.A.No.204/99 shall remain suspended.

Sd/-P.G. AGARWAL

JUDGE

Sd/-HK SEMA

JUDGE.

No. 11975
19/7/2001

TYPED BY: 20.7.2001
READ BY: 20/7/2001
COMPARED BY: 20/7/2001

Certified to be true Copy
Kristina Kundhosh
Superintendent (Copying)
GAUHATI HIGH COURT
20/7/2001
20/7/2001

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 104 OF 2001.

Sri Raghu Nath Sharma & others

-Applicants.

-Versus-

The Union of India & Others.

-Respondents.

I N D E X

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2.	Verification	16
3.	Annexure-1	17 to 18
4.	Annexure-2	19
5.	Annexure-3	20 to 24
6.	Annexure-4	25 to 26

Filed by

(Adil Ahmed)

Advocate.

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. OF 2001.

BETWEEN

SL.	MES No.	Name
11	235035	Sri Raghu Nath Sharma
21	224815	.. Madan Lal
31	224740	.. Sant Ram
41	224768	.. Ram Janam Singh
51	224128	.. Jullum Basfor
61	6306241	.. Puran Balmiki
71	224835	.. Bharat Singh
81	225565	.. Tazim Ali
91	-----	.. Rajat Ali
101	225593	.. Muslim Ali
111	----	.. Siddique Ali
121	225558	.. Ibrahim Ali
131	225071	.. Shobha Ram Deka
141	225860	.. Gada Ram Das
151	235051	.. Raghubansh Thakur
161	225397	.. Abani Sharma
171	225672	.. Chakradhar Deka
181	225668	.. Lokeswar Nath
191	223890	.. Giridhar Nath
201	235061	.. Chandra Mohan Tarafdar
211	225196	.. Deo Kanta Jha
221	225861	.. Parimal Ch Paul
231	224861	.. Bhakta Bahadur Thapa

241	224514	Sri Upendra Chandra Nath
251	235054	Jagdish Paswan
261	224931	Atul Chandra Deka
271	225056	Kameswar Mandal
281	224794	Briznath Rawat
291	235199	Bhim Bahadur Limboo
301	234748	Prabhu Nath Harijan
311	224747	Kapil Dev
321	14117216	T. U. Ahmed
331	225070	Dibakar Baro
341	225508	Lokoman Ali
351	225897	Badir Ali
361	225612	Maniruddin Ahmed
371	225852	Paritosh Chakrabarty
381	225550	Atowar Gahman
391	225671	Laxman Basfar
401	225569	Raghu Mahato
411	234999	Gauhar Ali
421	225837	Jitan Sharma
431	234664	Dilip Borah
441	2247571	Narahari Das
451	225058	Budha Bora
461	225803	Gali Bhimaya
471	225650	Biren Borah
481	225072	Hara Kanta Kalita
491	237458	Mahi Ram Dutta
501	224938	Ataur Rahman
511	-----	K.K. Hazarika
521	224750	Gabinda Kalita
531	224768	Ram Kar Singh
541	-----	S. R. Baro
551	225462	Deba Kanta Borah
561	232616	Adalat Basfor
571	225883	Jehirul Haque

581	234661	Sri Amar Sharma
591	229235	" Biplab Biswas
601	238498	" Ramesh Chandra Deka
611	232372	" Arun Chandra Das
621	235072	" Mahananda Mishra
631	224814	" Gopi Chand Singh
641	225067	" Sarbeswar Roy
651	225595	" Sani Ram Gayari
661	225550	" Ateur Rahman
671	225061	" Pradip Das
681	232997	" Fiznur Ali
691	234972	" Jalandhar Thakur
701	229598	" Haren Baishya
711	224663	" Ganesh Mallah
721	224972	" Noor Mohammad Ali
731	235179	" Sadhan Chandra Dev
741	224980	" Tabibur Rahman
751	224935	" Siddique Ali
761	225419	" Arabinda Devnath
771	225549	" Sydur Rahman
781	225553	" Mumtaz Hussain
791	225466	" Derazuddin Ahmed
801	225862	" Baharuddin Ahmed
811	225552	" Mano Ram Daimary
821	14117217	" Debeswar Kumal
831	225473	" Hara Kanta Ram Das
841	-----	" Jitendra Nath Sharma
851	225599	" Tabib Ali
861	234116	" Kandarp Chandra Das
871	224982	" Naushuddin Ahmed
881	225491	" Maheswar Baishya
891	225855	" Tatin Saikia
901	-----	" Panpati Domin
911	225090	" Piyush Kanti Dev

921	235217	Sri Bala Ram Kundu
931	225707	" Loknath Baro
941	225895	" Sd Samsul Haque
951	-----	" Jay Narayan Das
961	225540	" Girish Chandra Deka
971	225869	" Ataur Rahman
981	233238	" Debabrata Nag
991	-----	" Holi Ram Kalita
1001	225407	" Binod Deka
1011	224618	" P. S. Pillai
1021	224981	" B. K. Sharma
1031	225289	" D. K. Majumdar
1041	235134	" Jagabandhu Baishya
1051	224792	" Suraj Ram
1061	225888	" Dilip Baishya
1071	225724	" Fiznur Rahman
1081	225446	" Gamiruddin Ahmed
1091	224559	" Jogendra Nath Rabha
1101	225832	" Praneswar Kalita
1111	-----	" Saru Bapr Tanti
1121	-----	" Parshu Ram Barmen
1131	225216	" Kangalal Kakati
1141	-----	" Srikanta Sharma
1151	225601	" Krishna Kanta Roy
1161	225434	" Mahabali Kewat
1171		
1181	224725	" Harihar Baishya
1191	265381	" Priya Ranjan Baro
1201	225868	" Ajay Kalita
1211	225904	" Purna Ram Baro
1221	235213	" Moti Ram Kalita
1231	225505	" Muslim Ali
1241	225831	" Majnur Ali
1251	224832	" Manjur Hussain

1261	NYA	Sri Ajay Saikia
1271	225928	.. Dhupendra Nath Basumatary
1281	235002	.. Jyotish Sharma
1291	2351311	.. Abdul Sattar
1301	225703	.. Kamini Kanta Sharma
1311	225416	.. Bhaben Chandra Bania
1321	225371	.. Soneswar Haloi
1331	223637	.. Halodhar Kalita
1341	224933	.. Praphat Chandra Das
1351	225484	.. Mukut Das
1361	225673	.. Jagat Das
1371	225828	.. Sitaram Bania
1381	224824	.. Ramesh Kalita
1391	225868	.. Jatindra Kumar Sharma
1401	225449	.. Khudi Ram Baro
1411	225447	.. Kutubuddin Ahmed
1421	225025	.. Amrit Kalia
1431	235208	.. K Baish

-Applicants.

All applicants are working under the Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup.

--AND--

- 1) The Union of India, represented by the Secretary Defence, Government of India, Ministry of Defence, New Delhi.
- 2) The Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup.

-RESPONDENTS.

1] DETAILS OF THE APPLICATION:

i) The application is made for non-implementation of Memo No. 20014/3/83-IV, Government of India, Ministry of Expenditure, New Delhi and Office Memo No. 4(19)/83/D Civil-I dated 11.01.84 regarding payment of Special Duty Allowance for Defence Civilian Employees.

ii) The application is made for non-implementation of the Hon'ble Apex Court's judgement in Civil Appeal No. 1572/97 dated 17.02.97 for payment of special Duty Allowances to the Defence Civilian Employees working in the North Eastern Region.

2] JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the instant application is within the jurisdiction of this 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:

The facts of the case in brief are given below:

4.1 That your humble applicants are all Indian Citizens as such they are entitled to all the rights and privileges guaranteed under the Constitution of India. The applicants are all Defence Civilian employees and they are serving in Defence Department since a long time.

Now they are serving under the Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup since long time. They are serving as Defence Civilian under the Ministry of Defence on various capacities in North Eastern Region.

4.2 That all the applicants have got common grievances, common course of action and nature of their relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this instant application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant application redressal of their common grievances.

4.3 That the Government of India, Ministry of Finance, Department of Expenditure granted certain improvement and facilities in the Central Government Civilian Employees of the Central Government serving in the States

and Union Territories of North-Eastern Region vide Office Memorandum No. 20014/3/83-IV dated 14.12.1983. In clause II of the said office Memorandum Special (Duty) Allowances was granted to Central Government Civilian Employees who have all India Transfer Liability at the rate of Rs. 25% of the basic pay subject to ceiling of Rs. 400/- per month on posting to any station in the North-Eastern Region. The relevant portion of O. M. dated 14.12.1983 is quoted below:

■ (iii) Special (Duty) Allowance:

Central Government Civilian Employees who have all India Transfer Liability will be granted a (special) Duty Allowance at the rate of Rs. 25% of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North-East Region. Such of these employees who are exempted from pay of income Tax, will however not be eligible for the special (duty) Allowance, Special (duty) Allowance will be in addition to any special Pay and for allowances already being drawn subject to the condition that the total of such special (duty) Allowance plus special deputation (Duty) Allowance will not exceed Rs. 400/- per month. Special Allowance like Special Compensatory (Remote) Locality Allowance, Construction Allowance and project Allowance will be drawn separately:

An extract of office Memorandum dated 14.12.88 are annexed hereto and the

same are marked as Annexure- 1 and 2 respectively.

4.4 That your applicants beg to state that, they are all scheduled with all India Transfer Liability in terms of their offer of appointment and with the said liability they have received the offer of appointment and joined the service of the respondents.

4.5 That these Defence Civilian Employees are entitled to get the benefits of Special (Duty) Allowance vide recent judgement of the Hon'ble Supreme Court of India in civil Appeal No. 1572/97 dated 17.2.97. The Hon'ble Supreme Court in their judgement it has been clearly stated that all the Defence Civilian Employees who are working in the North-Eastern Region are entitled to get the benefits of Special (Duty) Allowance because the Defence Civilian employee deployed at the North Eastern Region for support of Operational Requirement they face the imminent hostilities supporting the Army Personnel deployed there.

Annexure-3 is the photocopy of the Judgment & Order dated 17-02-1997 passed in Civil Appeal No. 1572/97.

4.6 That your applicant begs to state that they have fulfilled all the terms and condition of Special (Duty) Allowance as admissible to all the Defence Civilian Employees serving in the North-Eastern Region and the recent Hon'ble Supreme Court's order/

Judgement in which it was held that those Defence Civilian Employees who are serving in the North Eastern Region are entitled to get the benefit of Special Duty Allowance and as such, they can not be denied by the Respondents to get the benefits of Special (Duty) Allowance and as such, the applicants are legally entitled to get the benefits of Special (Duty) Allowance.

4.7 That your applicants beg to state that they have submitted representation before the Respondents for payment of Special (Duty) Allowance to the Defence Civilian Employees as per the recent Hon'ble Supreme Court's Judgement in Civil Appeal No. 1572/97 dated 17.2.97. But the Respondents have not yet taken any steps for payment of Special (Duty) Allowance to the Defence Civilian Employees and in the circumstances finding no other alternative way the applicants are approaching before this Hon'ble Tribunal for protection of their interest and rights.

4.8 That your applicant begs to state that the similarly situated some employees of the Applicants' Office filed an Original Application No. 204 of 1999 before this Hon'ble Tribunal with a prayer for payment of Special Duty Allowance to the Defence Civilian Employee as per Hon'ble Supreme Court Judgment in Civil Appeal No. 1572 of 1997 [Reported in SCC (1997) 4 Page 187]. The Hon'ble Tribunal after hearing both the parties allowed the Original Application No. 204 of 1999 and

directed the Respondents to pay the Special Duty Allowance to the Defence Civilian Employees.

Annexure-4 is the Photocopy of Judgment and Order dated 20-12-2000 passed in O.A. No. 204 of 1999 by this Hon'ble Tribunal.

4.9 That your applicants submit that there is no other alternative remedy and the remedy sought for, if granted, would be just, adequate and proper.

4.10 That this application is filed bona fide and for the cause of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION

5.1 For that the applicants having fulfilled the entire Criterion laid down by the Hon'ble Supreme Court judgement in Civil Appeal No. 1572 of 1997 towards granting the Special (Duty) Allowance, to the Defence Civilian Employees of North Eastern Region. Hence the Respondents can not deny the same to the applicants without any jurisdiction.

5.2 For that there is no jurisdiction in denying the said benefits granted to the applicants and the denial has resulted in violation of the Articles 14 and 16 of the Constitution of India and also other similarly situated employees already have been granted the said benefits.

5.3 For that the applicants having fulfilled all the criterion laid down in the aforesaid Memorandum towards granting the Special (Duty) Allowance, the respondents can not deny the same to the applicants without any jurisdiction.

5.4 For that the application has been denied the said benefits without any principle of being heard. There is a violation of the principle of natural justice in denial of the benefits to the applicants and accordingly proper reliefs and required to be granted to the applicants.

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

5.6 For that the recent Hon'ble Supreme court's judgement it was held that irrespective of facts and circumstances the Defence Civilian Personnel who are posted in the North Eastern Region are entitled to get the benefits of Special (Duty) Allowance and as such, the same can not be denied to the applicants by the Respondents.

5.7 For that the action of the Respondents are illegal, arbitrary and not sustainable in law.

6. DETAIL REMEDY EXHAUSTED:

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

7. MATTERS NOT PREVIOUSLY FILED OR
PENDING BEFORE ANY COURT:

The applicants further declare that they have not filed any application, the applicants most respectfully pray that your Lordship may be pleased to ad application and grant the following reliefs:-

8. RELIEF PRAYED FOR:

Under the facts and circumstances stated above in this application it is therefore most respectfully prayed that your Lordship may be pleased to admit this application and call for the records, issue notices to the Respondents to show cause as to why the reliefs sought for should not be granted to the applicants and after hearing the parties on the cause or cause that may be shown and also on perusal of records your Lordships may be pleased to pass the necessary order or orders as your Lordships may deem fit and proper for granting the following reliefs to the applicants:

- 8.1 That the Hon'ble Tribunal may be pleased to grant the Special (Duty) Allowance to the applicants in terms of Memo No. 20014/ 1701 E-IV dated 14.12.83 and office Memorandum No. 20014/14/86 IV/E II (B) dated 1.12.88.
- 8.2 That the respondents may be directed to pay the Special (Duty) Allowance to the applicants in terms of Hon'ble Supreme Court's Judgment in civil Rule No. 1572 of 1997 dated 17-02-97.
- 8.3 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.
- 8.4 Cost of the Case.
9. APPLICATION IS FILED THROUGH ADVOCATE
10. PARTICULARS OF I.P.O.
- | | |
|---------------|---|
| I.P.O. No. | : |
| Date of issue | : |
| Issue from | : |
| Payable at | : |
11. LIST OF ENCLOSURES: As stated above.

VERIFICATION

I, Sri Raghu Nath Sharma MES No. 235035, working under the Assistant Garrison Engineer (Independent), Rangia Railway Crossing, P.O. Rangia, Kamrup as Defence Civilian employee and applicant No. 1 of the instant application also authorised by the other applicants do hereby solemnly affirm and verify the statements in paragraphs are true to my knowledge, those made in paragraphs

are being matters of record true to my information and those made in paragraph 5 of the application are true to my legal advice and those made in the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification today on this day of , 2001 at Guwahati.

DECLARANT.

No. 20014/2/83/E.IV
Government of India
Ministry of Finance
Department of Expenditure

Annexure : 1

New Delhi, the 14th Dec 83

OFFICE MEMORANDUM

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

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

- 1) Tenure of posting/deputation.
x x x x x x x x
- ii) Weight-age for Central Deputation/training abroad and special mention in confidential Records.

x x x x x x x

- iii) Special (Duty) Allowance :

Central Government civilian employees who have All India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not

Contd..

be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pro Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

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SD/- S.C. BANERJEE

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

No. 20014/13/E6/E.IV/E.11(3)

Govt. of India, Ministry of Finance
Department of Expenditure

New Delhi the 1 Dec 1986

OFFICE MEMORANDUM

Subject : Improvements and facilities for Civilian employees of the Central Govt. serving in the States of North Eastern Region, Andaman Nicobar and Lakshadweep.

The undersigned is directed to refer to this Ministry's O.P. No. 20014/3/83-E.IV dated 14th December, 1983 and 20th March, 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Government employees posted in North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the President is now pleased to decide as follows.

1) xxxxxxxxxxxx
11) x x x x x x x

111) Special (Duty) Allowance.

The Central Govt. Civilian employees who have all India transfer liability will be granted special (Duty) Allowance at the rate of 12% of basic pay subject to ceiling of Rs. 1000/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation (Duty) allowance already being drawn subject to the condition that the total of such allowance will not exceed Rs. 1000/- p.m. Special allowance like special compensatory (Remote locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

The Central Govt. civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant special (Duty) Allowance under this para and are exempted from payment of Income-tax under the Income Tax Act will also draw Special (Duty) Allowance.

xx xxxxx
xxx xxx

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Entered in the Book
J. M. P. S. S. S.
Assistant Registrar (Juel.)
3/3/97
Supreme Court of India

CIVIL APPEAL NO. 1572 OF 1997

(Arising out of SLP (C) No. 14068 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, 1580-1585/97

(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42, 15740, 25108-10 of 1996, SLP (C) No. 4396/96 (CC-5040/96) and SLP (C) No. 4398/96 (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 EA No. 4/95 in OA No. 49/89.

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

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. P.P. Malhotra, learned senior 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

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 Jitely, 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

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 any place 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 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 risk 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.

(K. RAHASWANY)

(G. T. NARAYAN)

NEW DELHI
FEBRUARY 17, 1997.

- 55- - 35- AUGUST 2002 62
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI Bench.

Original Application No. 270 of 1994

Date of Order : This the 20th Day of December, 2000.

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

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

Shri Bikash Deb and 29 others. . . . applicants.

By Advocate Sri A.Ahmed.

- Versus -

Union of India & Ors. . . . Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C)

All the applicants are serving under the Commandant 222 A.B.O.D, Narengi Camp. Having regard to the common grievance and seeking common relief, the leave is granted to them under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 to file this single application. By this application the applicants have sought for a direction on the respondents to pay Special (Duty) Allowance to the applicants in terms of Office Memoranda No. 20014/3/83-E-IV dated 14.12.1983 and No. 20014/16/86 IV IT(B) dated 1.12.1988. In the light of the aforementioned Memorandum and in view of the decisions rendered by the Hon'ble Supreme Court in Union of India & Ors. vs. B.Prasad R.S.O. and others, reported in (1997) 4 SCC 189. In that order the Supreme Court observed as follows :

"As regards the payment of Special Duty Allowance to the defence civilian person deployed in the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessary

contd..

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 hilly areas risking their lives as envisaged in the proceedings of the Army dated 13.1.1994. 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."

In the light of the aforesaid observation, the respondents are directed to pay Special (Duty) Allowance to the applicants. The application is accordingly allowed. There shall, however, be no order as to costs.

SU/ VICE CHAIRMAN
SU/MEMBER (Adm)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (A)
आनुषंगिक अधिकारी (अ)
Control Administration Tribunal
केन्द्रीय प्रशासनिक न्यायालय,
New Delhi Branch, Government of India
नई दिल्ली, भारत सरकार

1/6
22/11/2000