

30/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 277/2001....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....O.A. 277/2001.....Pg.....1.....to.....3.....
2. Judgment/Order dtd. 10/02/2002.....Pg.....N.O.....Reported order Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....277/01.....Pg.....1.....to.....26.....
5. E.P/M.P.....1.....Pg.....to.....
6. R.A/C.P.....1.....Pg.....to.....
7. W.S. Submitted by the Respondents Pg.....1.....to.....3.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

( See Rule 42 )

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

ORDER SHEET

Original APPLICATION NO. 277 OF 2001

APPLICANT (s). B.N. Deori Phulam foibles

RESPONDENT (s) U.O. I form

ADVOCATE FOR APPLICANT(s) Mr. H. Rahman, Mr. N. Barua

ADVOCATE FOR RESPONDENT(s) C.R.C.

Notes of the Registry	dated	Order of the Tribunal
This application is in form but not in the <del>form</del> configuration. Petitioner did not file vide M.T. No. .... C.P. for Rs. 30/- deposited vide D.P.O.B. No. 6(1)29.1.245 Dated..... 23.7.2001 By Registered N.B 24/7/01	24.7.01	<p>Admit. Call for the records. Issue notice to show cause as to why the impugned order No.RLJ- SDA/2000 dated 3.7.2001 (Annexure-V) for recovery of the SDA shall not be suspended. Returnable by four weeks.</p> <p>Mr A. Deb Roy, learned Sr.C.G.S.C accepts notice on behalf of the respo- ndents.</p> <p>List on 23.8.2001 for further order. In the meantime the <del>operation</del> opera- tion of the impugned order dated 3.7.2001 shall remain suspended.</p>
Stamps & Envelope were received. Notice prepared and sent to SIS for calling the respondent No 1 to 4 by legal A.D. route D.P.O. No. 2822 W 25 dd 31/7/01	pg N.B 24/7/01 23.8.01	<p>K.C. Sharma Member</p> <p>Vice-Chairman</p> <p>List on 25/9/01 to enable the respondents to file written statement.</p>
N.B. written statement has been filed.	mb 24.9.01	<p>Vice-Chairman</p>

(2)

25.9.01 List on 13/11/01 to enable the respondents to file written statement.

IC Usha  
Member

Vice-Chairman

mb

13.11.01 It has been stated by Mr.A.Deb Roy, learned Sr.C.G.S.C that written statement has already been filed. Office to verify and report.

List on 15.11.2001 for further order.

IC Usha  
Member

Vice-Chairman

bb

15.11.01 List on 16/11/01 for order.

IC Usha  
Member

Vice-Chairman

mb

16.11.01 It has been stated by Mr.A.Deb Roy, learned Sr.C.G.S.C. that he will file written statement in course of the day. The applicant may file rejoinder, if any, within 2 weeks from today.

List on 6/12/01 for order.

IC Usha  
Member

Vice-Chairman

mb

6.12.01 Written statement has been filed. The respondents may serve a copy of the written statement to the applicant.

List the case for further order on 10.1.2002.

Member (J)

IC Usha  
Member (A)

bb  
10.1.02

Pleading's are complete. The case may now be listed for hearing. List on 19.2.2002 for hearing.

mb

IC Usha  
Member

Vice-Chairman

No Rejoinder has been filed.

3/12/01

No Rejoinder has been filed.

3/1/02

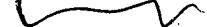
19.2.2002

Heard Mr H. Rahman, learned counsel for the applicants. The O.M. No.RLJ-SDA/2000 dated 3.7.2001 for recovery of SDA is under challenge. It appears that the direction for recovery is withdrawn and no recovery of Special (Duty) Allowance already paid to the applicants upto 30.6.2001 will be made. Any amount already recovered by way of SDA would be refunded/released to the applicants. A copy of the Order dated 8.11.2001 issued to this effect is placed on record.

In view of the above this application stands disposed of as infructuous.

I C Usha

Member

  
Vice-Chairman

nk m

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

ORIGINAL APPLICATION NO. 277 OF 2001

Shri Brajendra Nath Deuri Phukan & Others.

.... Applicants.

- Versus -

Union of India & Others

.... Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars of Documents</u>	<u>Page No.</u>
1.	Body of Application	1 to 19
2.	Verification	20
3.	Annexure-I	21
4.	Annexure-II	22
5.	Annexure-III	23
6.	Annexure-IV	24 to 25
7.	Annexure-V	26

!Filed by -

Advocate.

6  
Brajendra Nath  
Deuri Phukan &  
3 others  
Applicants  
through  
Abulbari Banerjee  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
AT GUWAHATI.

(An application U/S 19 of the Adminis-  
trative Tribunal Act, 1985) read with  
Rule 4(5)(A) of the Administrative Tri-  
bunal Procedure Rules, 1987.

ORIGINAL APPLICATION NO. OF 2001.

1. Sri Brajendra Nath Deuri Phukan  
son of Late Moniram Deori Phukan,  
President, Regional Research Labo-  
ratory, Jorhat Employees Association,  
Jorhat-2.
2. Sri Mondip Baruah  
son of Hiteswar Baruah  
General Secretary, Regional Research  
Laboratory, Jorhat Employees Associa-  
tion, Jorhat.
3. Sri Kartik Dutta,  
son of Late Lakheswar Dutta  
Vice-President, Regional Research  
Laboratory, Jorhat Employees Associa-  
tion, Jorhat.
4. Sri Narendra Nath Bora, Executive  
s/o Ratneswar Bora,  
Member, Regional Research Laboratory  
Jorhat Employees Association, Jorhat.

... Applicants.

*Sri Brajendra Nath Deuri Phukan.*

**versus-**

1. The Union of India - represented by the Ministry of Science & Technology New Delhi.
2. The Director General, Council of Science & Industrial Research, Anusandhan Bhawan, 2, Rafi Marg, New Delhi-1.
3. The Director, Regional Research Laboratory, Jorhat, Assam.
4. The Controller of Administration Regional Research Laboratory, Jorhat Assam. 785006.

... Respondents.

I. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

This application is made against the office memorandum No. RLJ-SDA/2000 dated 3.7.2001, issued by the Administrative Officer, Regional Research Laboratory, Jorhat by which the order for recovery of Special Duty Allowance for the period from 1994 was notified.

... Annexure- V

II. JURISDICTION

The applicant declares that the subject matter of the order against which the applicants wants redressal is within the jurisdiction of this Tribunal.

*Shri Jayadev Nath Das  
Dhankar*

contd...3

III. LIMITATION

The applicants further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

IV. FACTS OF THE CASE

1. That your humble applicant No.1 is the President of Regional Research Laboratory, Jorhat Employees Association and he is representing the Association, the members of which is around 400 employees.
2. That your humble applicant no.1 who is the President of Regional Research Laboratory, Jorhat Employees Association is belongs to following categories of staff of technical and non-technical. The non-technical staffs including the L.D.C., U.D.C., Assistants, Stenographers, Security Guard, Sweepers and Peons etc. and the technical staffs including technical Assistants to the grade of technical Officers Gr. I(1) upto Gr. 2(5).
3. That your humble applicant No.1 being the President of Regional Research Laboratory, Jorhat Employees Association, duly authorised by the Executive Committee of the Regional Research Laboratory, Jorhat Employees Association by a resolution dated 17.7.2001 to represent the case of the employees association on behalf of the technical and non-technical staffs before .

*Boginda Narz Dari*  
*Amerton.* contd...4

the Hon'ble Central Administrative Tribunal, Guwahati for redressal of their grievances.

4. That your humble applicant begs to state that as the grievances of all the employees are common and identical, the applicants are willing to file a common application and the application is filed by the President of the Association, General Secretary of the Association and two other members of the Executive committee of the Association and the Association prays for the permission from this Hon'ble Tribunal to treat this application as a common application under Rule 4(5)(A) of the Administrative Tribunal Rules, 1985.

5. That your humble applicant begs to state that the Regional Research Laboratory, Jorhat Employees Association is a registered Association registered under the Trade Union Act, 1926 and it is ~~affiliated to~~ the All India Federation of Council of Scientific & Industrial Research employees.

6. That your humble applicant beg to state that all the employees technical and non-technical working under Regional Research Laboratory, Jorhat were enjoyed the benefits of Special Duty Allowance as per the Govt. of India, Ministry of Finance's circular dated 14.12.83. The Govt. of India, Ministry of Finance have issued a circular for sanctioning Special Duty Allowance to the employees of North-Eastern States and

contd...5

Bogindra Nath  
Deuri Phukan

having their All India transfer liabilities and posted in North-Eastern States.

7. That your humble applicant begs to state that as per the circular of Govt. of India, special duty allowance were sanction to the all other departments of Central Govt. excepting the employees of the Regional Research Laboratory, Jorhat, and against the said circular, the Employees Association of the Regional Research Laboratory, Jorhat filed a Reference Case being Reference Case No. 20/85 before the Industrial Tribunal, Dibrugarh.

8. That your humble applicant begs to state that the Reference Case No. 20/85 was filed by the Regional Research Laboratory, Jorhat Employees Association claiming Special Duty Allowances facilities as has been offered to others and in the said Reference Case, the management of Council of Scientific & Industrial Research as well as the Director of Regional Research Laboratory, Jorhat was made a party and they have contested the case and ultimately, the judgment was delivered by the Industrial Tribunal, Dibrugarh on 10.3.89 in favour of the Employees Association, Regional Research Laboratory, Jorhat.

9. That your humble applicant beg to state that after pronouncement of the judgment by the Industrial Tribunal, Dibrugarh, the same was forwarded

contd...6

*Bijendra Nath Dasi  
Phukon.*

to the Director, Regional Research Laboratory, Jorhat and the management of the Council of Scientific & Industrial Research, 2, Rafi Marg, New Delhi.

10. That your humble applicants beg to state that after pronouncement of the judgment by the Industrial Tribunal, Dibrugarh, the Employees Association and the Federation of Council of Scientific & Industrial Research employees and workers Union were invited by the management of the Council of Scientific & Industrial Research for a discussion for redressal of their grievances and a joint meeting was held on 8.6.89 under the Presidentship of Joint Secretary (Administration) of Council of Scientific and Industrial Research.

11. That your humble applicants beg to state that in the said joint meeting, the Council of Scientific & Industrial Research was represented by the Joint Secretary (Administration, Legal Adviser of Council of Scientific & Industrial Research, Deputy Financial Adviser of Council of Scientific & Industrial Research, and Under Secretary (L/A) of Council of Scientific & Industrial Research. The Federation was represented by the National Committee headed by the General Secretary, Federation of Employees & Workers Union, President of Employees & Workers Union, President of Regional Research Labo-

*Bijendra Nath  
Dwari Phukan*

Laboratory Jorhat Employees Association, General Secretary of Regional Research Laboratory, Jorhat Employees Association and other executive members of the Regional Research Laboratory, Jorhat Employees Association.

12. That your humble applicants beg to state that as per the discussion of granting of Special Duty Allowance and regarding Award of Industrial Tribunal, Dibrugarh, the management was agreed to place the grievances of the Regional Research Laboratory, Jorhat Employees Association in view of the judgment passed by the Industrial Tribunal, Dibrugarh and the management agreeing to make reference to the demand of Special Duty Allowance to the employees of Regional Research Laboratory, Jorhat. The minutes of the meeting dated 8.3.89 was signed by both the parties and in that minutes it was agreed in the following terms and conditions :-

a) Council of Scientific & Industrial Research will make a reference to the Ministry of Finance for re-consideration of payments of Special Duty Allowance to the employees of the Regional Research Laboratory in view of the latest judgment published on 3.5.89.

b) Council of Scientific & Industrial Research shall kept pending the question of challenging

contd...8

Boguda Nath Devi  
Dinner.

challenging the said judgment before the Hon'ble High Court.

c) The Regional Research Laboratory, Jorhat Employees Association will not take any steps for implementation of the aforesaid Award till hearing from the Ministry of Finance, Govt. of India.

A photocopy of the Minutes of meeting dated 8.6.89 is annexed herewith and marked as ANNEXURE-I.

13. That the humble applicants beg to state that after signing of the agreement by both the parties, the Special Duty Allowance for the employees of the North-Eastern States and specially for Regional Research Laboratory was forwarded to the Ministry of Finance Govt. of India and the Ministry of Finance, Govt. of India approved the scheme which was put forward by the Governing Body of ~~Central~~ of Scientific & Industrial Research. The Joint Secretary(Adm.) Council of Scientific & Industrial Research by its office order No. 14(26)/84-E/Pt.II/ dated 30.11.99 addressed to the Director, Regional Research Laboratory, Jorhat conveying the decision of the Governing Body that - "it has been decided that the Govt. of India, Ministry of Finance, Deptt. of ~~Expenditure~~ by its official order No. 20014/3/83-E/IV dated 14.12.83 and allowed to enjoy the benefits of Special Duty Allowance for the

*Bijendra Nath  
Sarkar, M.A.*

contd...9

for the employees working in the North-Eastern States and all the staffs both belonging to All India transfer liabilities and the employees without All India transfer liability.

A copy of the notification dated 13.4.89 is annexed herewith as Annexure-II.

14. That your humble applicants beg to state that from the date of its approval, your humble applicants were enjoying the benefits of Special Duty Allowance as granted by the Govt. of India, Ministry of Finance and they have enjoyed the benefits till 1996.

15. That your humble applicants beg to state that there was an agreement on 8.6.89, between the management and the employees Association of Regional Research Laboratory, Jorhat that Council of Scientific and Industrial Research shall keep pending the question of Award of Industrial Tribunal, Dibrugarh before the Hon'ble High Court, but that was not honoured by the management of the Regional Research Laboratory, Jorhat as well as the management of Council of Scientific and Industrial Research, 2, Rafi Marg, New Delhi. The management of Council of Scientific & Industrial Research and the Director, Regional Research Laboratory and they have challenged the Award of the Industrial Tribunal, Dibrugarh before the Gauhati High Court by filing Civil Rule No. 4512/91.

16. That your humble applicants beg to state that Civil Rule No. 4512/91 was decided and the judgment was delivered on 13.8.96 and in the judgment of the Hon'ble High court passed on 13.8.96 it was observed that the employees recruited from the place outside the North East Region can only be entitled to the benefits of the Special Duty Allowance and who were not appointed from outside the State are not entitled to the benefits of Special Duty Allowance and the Award of the Industrial Tribunal, Dibrugarh was modified by the Hon'ble High court by its order dated 13.8.96 and it was made clear in the judgment of the Hon'ble High court that the employees who were recruited from the N.E. States although they have All India transfer liabilities are not entitled to enjoy the benefits of Special Duty Allowance if they were not transferred from outside the State.

17. That your humble applicants beg to state that on the basis of the judgment passed by the Hon'ble High Court, the Administrative Officer of Regional Research Laboratory, Jorhat issued an office memorandum bearing No. RRL/SDA/96 dated 18.11.96 by which the payment of special duty allowance to all officers and staffs were stopped from November, 1996.

A copy of the office memorandum dated 18.11.96 is annexed as Annexure-III.

contd..11

*Bijendra Nath Deuri  
Phukan*

18. That your humble applicants beg to state that as per the office memorandum 18.11.96, the benefit of the special duty allowance enjoyed by the employees of the Regional Research Laboratory Jorhat were stopped from November, 1996 and since then, no communication was made by the management regarding the payment of special duty allowance and the employees also respected the order of the Hon'ble High court and they were silent as they were not entitled to the benefits of special duty allowances as per the judgment of the Hon'ble High court.

19. That your humble applicants beg to state that on 4.5.98 the Joint Secretary(Admn.) of Council of Scientific & Industrial Research, Assam failed to communicate by which the payment of special duty allowance to the employees of the North-Eastern States, particularly, the staffs working in the Regional Research Laboratory, Jorhat were regularised and it was communicated that the amount already paid on account of special duty allowance to the ineligible persons on or before 20.9.94 will be waived and the payment which were paid on account of special duty allowance after 20.9.94 will be recovered. The said communication was issued by the Joint Secretary(Admn) Council of Scientific & Industrial Research to the Director of Regional Research Laboratory, Jorhat on 6.5.98.

*Bijendra Nath Das  
Dhukar.*

A copy of the said communication is annexed herewith as Annexure-IV.

20. That your humble applicants beg to state that the communication between the Joint Secretary (Admn) Council of Scientific & Industrial Research and the Director of Regional Research Laboratory made in the year 1998 and thereafter no order was intimated to the employees of the Regional Research Laboratory, Jorhat about the special duty allowance.

21. That your humble application beg to state that though there was an communication between the Director of Regional Research Laboratory, Jorhat and Joint Director (Admn) Council of Scientific and Industrial Research, but no decision was taken by the Regional Research Laboratory, Jorhat whether to recover the amount or not or to regulate the special duty allowance as per the instructions issued by the Council of Scientific & Industrial Research.

22. That your humble petitioner beg to state that on 3.7.2001 the Administrative Officer of the Regional Research Laboratory, Jorhat circulated one office memorandum No. RLJ-SDA/2000 and the copy of the said office memorandum was circulated to the notice board with a request to all ~~heads~~ of the deptt./section to circulate the said matter amongst the staff members working under them. The said office memorandum was issued on the subject of special duty

*Bijendra Nath  
Deuri Phukan.*

and it was conveyed that the competent authority of Regional Research Laboratory Jorhat has been pleased to proposed to recover the special duty allowance of ineligible person after (which also includes those cases in respect of which allowance was pertaining to the perios of 29.9.94) but payment was made after this date may be recovered. The amount paid on account of special duty allowance to ineligible person after September, 1994 will be recovered in 24 equal instalments.

A copy of the office memorandum circulated by the Admn. Officer is annexed as Annexure-V.

23. That your humble applicants beg to state that the office memorandum was circulated in the notice board and after going through the notice the Employees Association was surprised to note the intention of Regional Research Laboratory, Jorhat to recover the payment of special duty allowance paid prior to 1996 from the month of July, 2001, without any authoriry of ~~is~~ law. The Employees Association have no other alternative but to file this application considering the urgency of the matter and the Employees Association approach this Hon'ble Tribunal for redrassal of grievances of the employees of Regional Research Laboratory, Jorhat.

24. That your humble applicants beg to state that office memorandum dated 3.7.2001 was circulated

Contd.... 14

*Bijendra Nath Deuri  
Phukon.*

19  
was circulated on the notice board and no notice was issued to the individual of the employees concerned so that individual employees can file their representation before the authority before the deduction order is issued.

25. That your humble applicants beg to state that the applicants represented the Employees Association for the urgency of the situation as the authority cannot recover the special duty allowances paid prior to 1996. As per judgement delivered and the circular issued in 1996, and in the said circular the payment of special duty allowance was stopped from November, 1996 onwards. The circular dated 18.11.96 by which the Administrative Officer, Regional Research Laboratory, Jorhat stopped the payment of special duty allowance with effect from November, 1996 and in that letter and in the judgement of the Guwahati High Court it was not directed to recover or to give effect of any order with retrospective effect. The payment was stopped from 1996 as per the office memorandum dated 18.11.1996 issued by the Regional Research Laboratory, Jorhat and now by the office memorandum dated 3.7.2001 the action for recovery of payment of special duty allowance can not be authorised by any law.

26. That your humble applicants beg to state that as the matter is most urgent and the employees will be affected if the recovery is started from July, 2001 as stated in the office memorandum dated 3.7.2001

Bijendra Nath  
Deuri Phukan.

Contd....15

and the employees of the Regional Research Laboratory have no other alternative but to file this application before the Hon'ble Tribunal.

V, GROUND FOR RELIEF WITH REMEDY :

i) For that your humble applicants are entitled for the protection that the respondents are not authorised to recover the payment of special duty allowance which were paid to them prior to Nov. 1996 onwards.

ii) For that your humble applicants are entitled for the benefits of special duty allowance which were paid to them upto Nov. 1996 and there was no direction from the Hon'ble High Court to recover the special duty allowance which were paid to the employees prior to Nov. 1996. As such, action of the respondents to issue order of deduction is illegal and without jurisdiction.

iii) For that in the judgment of the Hon'ble High Court dated 13.8.96 there was no direction regarding recovery of special duty allowance already paid to the employees of the Regional Research Laboratory and the Regional Research Laboratory also issued issued office order dated 18.11.96 by which only payment of special duty allowance after Nov. 1996 was stopped, but in the said letter it was nowhere mentioned that the amount of special duty allowance already paid to the employees prior to Nov. 1996 are recoverable.

contd...16

*Bijendra Nath  
Deuri Phatnaik.*

iv) For that your humble applicants protected by the various decisions of the Hon'ble Tribunal on the proposals of retrospective recovery which is not permissible as per the law.

v) For that arrear recovery is not permissible and specially when there was no instructions from the Hon'ble High Court for arrear recovery of special duty allowance already paid to the employees.

vi) For that it was decided by the various Benches of the Tribunal that recovery after a long period is not permissible even if it is established that the payment was irregular. But in this case, it was not decided by the court that the special duty allowance which were paid to the employees of the Regional Research Laboratory, Jorhat prior to Nov. 1996 was irregular or illegal.

vii) For that when the matter of special duty allowance was settled in a joint meeting and the benefits of the special duty allowance granted to the employees as per minutes dated 8.6.89 on the basis of which the order dated 13.11.89 was issued; that cannot be stopped or recover the amount by office memorandum dated 3.7.2001 after a long gap of time.

Contd; ; ; ; 17

*Boginda Nath  
Dwari Thukor.*

Viii) For that your humble applicants are entitled for the payment of special duty allowance upto Nov. 1996 and thereafter no payment was made to any employees as per the judgment of the Hon'ble Gauhati High Court. The office memorandum dated 18.11.96 issued by the Administrative Officer does not say or does not approved for recovery of the amount already paid. Now after lapse of 5 years office memorandum which was issued on 3.7.2001 cannot be issued for recovery of amount which were already paid to the employees as a special duty allowance. The payment which were made prior to 20.9.94 and upto Nov. 1996 cannot be recovered without any authority ~~of~~ law as the arrear recovery is not permissible as laid down by various Benches of this Hon'ble Tribunal either in a case of payment by mistake. The law does not approved the arrear recovery without any authority. The special duty allowance paid prior to Nov. 1996 were issued as per the sanction order of the Council of Scientific and Industrial Research and so, it cannot be recovered now, hence, the office memorandum dated 3.7.2001 may be set aside and quashed.

ix) For that in any view of the matter, the applicants are entitled for a direction from this Hon'ble Tribunal restraining the respondents from giving effect to the order of recovery of special duty allowance paid to the employees prior to Nov. 1996.

contd...18

*Bijendra Nath  
Devi Shukla*

VI DETAILS OF REMEDY EXHAUSTED

There is no other alternative and efficacious remedy but to file this application before this Hon'ble Tribunal for the impugned action of the respondents.

VII. MATTER NOT PENDING IN ANY OTHER COURT/TRIBUNAL

That applicants further declares that he has not previously filed any application/writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other Bench of this Hon'ble Tribunal and no such application/writ application or suit is pending.

VIII. RELIEF PRAYED FOR

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case and direct the respondents not to give effect the order dated 3.7.2001 for recovery of payment of special duty allowance and after hearing the parties, the order dated 3.7.2001 may be set aside and quashed. And for this act of your kindness, the applicant as in duty bound shall ever pray.

IX) INTERIM RELIEF PRAYED FOR

The respondents may be directed not to give effect the order dated 3.7.2001 and the respondents

may be restrained from deduction of the amounts of special duty allowance from the employees of the Regional Research Laboratory, Jorhat.

X. POSTAL ORDER NO.6G791240 DATED 20.7.2001 OF GAUHATI POST OFFICE IS ANNEXED.

XI. DETAILS OF INDEX.

XII. DETAILS OF ENCLOSURES

*Devi Phukan*  
Devi Phukan

VERIFICATION

VERIFICATION

OP

I, Shri Brajendra Nath Deori Phukan aged about 46 years, ~~son~~ of Late Moniram Deori Phukan, President Regional Research Laboratory, Jorhat Employees Association, Jorhat Assam.

1) That I am representing the employees and members of the Association and I am authorised by the members of the Association to represent the case before the Tribunal and I am authorised to verify the statements made in this petition.

2) That the statements made in paragraphs 14 to 11, 14, 15, 16, 18, 20, 21, 23, 24 < 25 are true to my knowledge, and the statements made in paragraphs 12, 13, 17, 19 and 22 are matters of record and the others are legal advice and that I have not suppressed any material facts.

And I sign this verification on this 24 th day of July, 2001 at Guwahati.

Signature of Applicant

*Shri Brajendra Nath Deori Phukan*

President  
Extn Jorhat Employees Association  
Jorhat - Contd. ....

Minutes of meeting held on 8-6-1989 in the Conference Room under the Chairmanship of Joint Secretary (Administration), CSIR

The following were present:-

CSIR side: 1. Joint Secretary (Admin.), CSIR  
2. Legal Adviser, CSIR  
3. Dy. Financial Adviser, CSIR  
4. Under Secretary (LA)

Federation side: 5. Shri B.K. Roy, General Secretary, Federation of CSIR Employees and Workers Unions and Associations.  
6. Shri K.D. Sharma, President, Federation of CSIR Employees and Workers Unions and Associations  
7. Shri S.K. Deb, President, RRL Employees Assn.  
8. Shri K.R. Boruah, General Secy. -do-  
9. Shri B.C. Saikia, Member, Advisory Committee  
10. Shri D.K. Adhikari, President, SWA

The question of payment of Special Duty Allowance in pursuance of award of Industrial Tribunal, Dibrugarh published on 3rd May 1989 was discussed. It is agreed -

1. CSIR will make a reference to the Ministry of Finance for reconsideration of the question of payment of Special Duty Allowance to the employees of RRL, Jorhat in view of the latest judgement of Industrial Tribunal, Dibrugarh published on 3rd May 1989.
2. CSIR shall keep pending the question of challenging the aforesaid award in the High Court at Guwahati.
3. RRL Employees' Union will not take any steps for implementation of the aforesaid award, till hearing from Ministry of Finance

4. (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)

(S. in DL 13)

Ad. Dhr. M.

1. (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)

2. (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)

3. (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)

President  
Information P.C.  
Boruah  
15/6/89

Alister  
Boruah  
Advocate

-22.

ANNEXURE - II

AN  
V

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH

No.14(26)/84-E.II

New Delhi, 110001, 30th Nov '1989

From

Joint Secretary (Admn.)

Council of Scientific and Industrial Research.

To

The Director,  
Regional Research Laboratory,  
Jorhat-785 006.

Sub: Grant of Special Duty Allowance to the staff  
working in the North -Eastern Region(RRK, Jorhat).

Sir,

With reference to the correspondence resting with your letter No.RLJ-18(62)-Vig./85 dated 2nd November, 1989 on the above subject, I am directed to state that in pursuance of the approval accorded by the Governing Body at its meeting held on 8.9.1989, it has been decided that GOI, Ministry of Finance, Department of Expenditure O.M. No.20014/3/83-E.IV dated 14.12.1983 amended from time to time will be applicable to all the categories of staff both belonging to All-India Transfer liability or non-All India Transfer liability, working in the North -Eastern Region at Jorhat as given in the above orders. These orders will remain in force until further instructions.

Attested  
ABonu  
Alveast

Yours faithfully

Sd/- K.L. Kayyal ,  
UNDER SECRETARY.

REGIONAL RESEARCH LABORATORY : JORHAT

( A constituent establishment of CSIR )

No.RLJ/ SDA/96

Dated : 18.11.96

OFFICE MEMORANDUM

Sub: Special Duty Allowance- C.R. No.4512/91-CSIR  
VS. INDUSTRIAL TRIBUNAL, DIBRUGARH & ORS.

In pursuance of Guwahati High Court Judgement dated 13.8.96 received under CSIR letter No.21/3/86-Law dated November 7,1996, the Competent Authority, CSIR has approved for implementation of the said judgement dated 13.8.96. Accordingly, it has been decided to stop payment of Special Duty Allowance to all officers and staff members except ~~new~~ officers recruited from places outside N.E. Region against common cadre posts w.e.f. November,1996 onwards.

Interested officers/staff members may please see the Guwahati High Court Judgement dated 13.8.96 in the Library Counter/Office.

This issues with the approval of the competent authority, RRL, Jorhat.

Sd/-A.K.Baruah

Administrative Officer

Copy to : 1. All Heads of Divisions/Sections with request to bring the contents of this O.M. to the notice of officers and staff members working under them  
2. Legal Adviser, SSIR, Rafi Marg, New Delhi-This has reference to CSIR letter No.21/3/86-Law dated 7.11.96.  
3. Bill Section Payment of SDA may however be continued in respect of officers recruited from place outside N.E. Region against common cadre posts.  
4. Accounts Section  
5. Scientist -in-charge, RRL Laboratory, Naghalagun, A.P.-  
6. All Notice Boards.  
7. P.S. to Director.  
8. Secretary , SWA, RRL Jorhat Branch  
9. Secretary, N.C.Association, RRL Jorhat.  
10. Library Counter, RRL Jorhat, alongwith a copy of Guwahati High Court judgement dated 13.8.96 for persusal of interested officers and staff members of RRL, Jorhat.

Sd/-A.K.Baruah  
Administrative Officer.

M. Alsted  
R. B. Morris  
Advocate

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH

Dated 6.5.1998

Joint Secretary ( Admin )

The Director,  
Regional Research Laboratory  
Jorhat-785 006

Sub: Grant of Special (Duty) Allowance to the CSIR  
employment, working in the North -Eastern Region.

Sir,

I am directed to state that the matter regarding payment of Special (Duty) Allowance to the employees working in the North-Eastern Region was placed before the Governing Body at its 144th meeting held on 18.2.1998.

The Governing Body considered the matter and approved as under :

1. In supersession of all the earlier instruction/guidelines issued by CSIR on this subject, the payment of Special Duty Allowance as admissible under the Ministry of Finance O.M. No.20014/3/83-EIV dated 14.12.1983, as amended from time to time, to the Council Employees posted in North -Eastern region may henceforth be sanctioned as per instruction contained in Ministry of Finance O. M. No. 20014/3/83-EIV dated 20.4.1987. Accordingly the SDA will be admissible only to the employees posted in North-Eastern Region and who have been identified as eligible by applying the last of Recruitment Zone, Promotion Zone etc. e.i.e. whether Recruitment Rules Service/Cadre /Post has been made on All India Basis and whether promotion is done on the basis of All India Common seniority list for the service/cadre/post as a whole. A mere clause in the appointment order to the effect that the persons concerned is liable to be transferred any where in India does not make him eligible for grant of SDA.

Contd....P.2/-

*Allesed  
Albany  
Advocate*

- 2 -

2. To regulate the payment of SDA already paid to ineligible employees in terms of decision taken by the SOI and circulated vide Ministry of Finance O.M. No.11(3)/95-E.11(B) dated 12.1.1996, as under.

i) The amount already paid on account of SDA to the ineligible persons on or before 20.9.1994 will be waived ; and

ii) The amount paid on account of SDA to ineligible persons after 20.9.1994 ( which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.1994, but payments were made after this date i.e. 20.9.1994) will be recovered.

The above decision may kindly be brought to the notice of all concerned in your laboratory for their information guidance and necessary action.

Yours faithfully

( Sd/- BS Gaira)

Deputy Secretary.

Copy to :

1. Sr . F & AO, RRL, Jorhat.
2. PPS to DG, CSIR
3. PS to JS (Admn.),CSIR
4. PS to FA, CSIR
5. Officer on Special Duty, CSIR Hqrs.
6. Legal Adviser, CSIR

Waliest  
P.B.A.M.  
Advocate.

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM  
(Council of Scientific & Industrial Research)

No.RLJ-SDA/2000

Dated 03.07.2001

OFFICE MEMORANDUM

In pursuance of CSIR letter No.14(26)/86.E.II dated 06/12.05.98 and Audit Para 1 Section-A of I.R. for the year 1997-98 and 1998-99, the Competent authority RRL Jorhat has been pleased to approve for recovery of Spl. Duty Allowance paid to ineligible persons after 20.09.94 (which also includes those cases in respect of which the allowances was pertaining to the period prior to 20.09.94, but payments were made after this date i.e. 20.09.94 will be recovered). The amount paid on account of SDA to ineligible persons after 20.09.94 will be recovered in 24 (twenty four) equal monthly instalments with effect from July 2001 onwards. R. fwr

1

Sd/- N.K.Borbaruah.

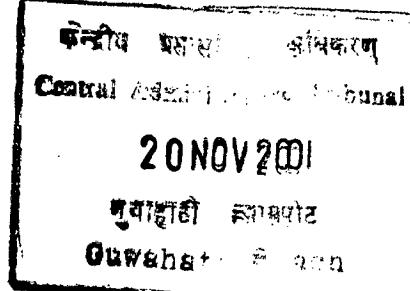
Administrative Officer.

Copy to : 1-All Heads of Divn./Sections :with the request to circulate to all the staff members working under them

- 2.F& A/Co: to effect the recovery
- 3.Section Officer(G)
- 4.P.S. to Director
- 5.All Notice Boards
- 6.Scientist in-charge B L I ( AP )
- 7.Scientist in-charge, Imphal, Manipur
- 8.Scientist in- charge, Nagaland.

Sd/ - ADMINISTRATIVE OFFICER.

Mr. N.K. Borbaruah  
Administrative Officer



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Filed by

19/11/01

O.A. NO. 277 OF 2001

(S. DEB MOY)  
Sr. C. C. C.  
C. A. P. Guwahati Bench

Shri B.N.D. Phukan & 3 others.

- Vs -

Union of India & ors.

- And -

In the matter of :

Written Statements submitted by  
the respondents

The written statements of the above noted respondents are as follows :

1. That with regard to para 1, the respondents beg to state that the content of this para is agreed. Although Mr. B.D.D. Phukan is the President of the RRL Jorhat Employees' Association, it is a de-recognized Association as per CCS ( Recognition of Service Association ) Rules, 1993.
2. That with regard to para 2, the respondents beg to state that the contents of this para is agreed.
3. That with regard to para 3 to 5, the respondents beg to offer no comments.
4. That with regard to paras 6 to 22, the respondents beg to state that the contents of these paras are agreed.

-2-

5. That with regard to para 23, the respondents beg to state that the RRL Authority has not taken the decision to recover the payment of SDA without any authority of law. The Competent Authority of RRL-Jorhat has ~~decided~~ decided to recover the ineligible amount of SDA already paid to the employees as per CSIR letter under reference No. 14(26)/86-E.II dated 6.5.1998 and after a series of audit observations.

A copy of the CSIR letter dated 6.5.1998 is annexed herewith and marked as Annexure -I.

6. That with regard to para 24, the respondents beg to offer no comments.

7. That with regard to para 25, the respondents beg to offer first portion no comments. The Authority of RRL-Jorhat has decided to recover the ineligible amount of SDA paid to its employees as per instruction of the CSIR.

8. That with regard to para 26, the respondents beg to offer no comments.

The respondents, therefore pray that the O.A. may be dismissed forth with.

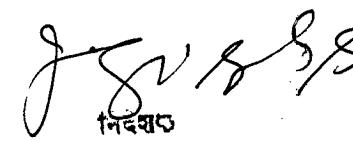
-3-

VERIFICATION

I, Dr. Jagir Singh Sandhu, Director RRL, Jorhat being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I sign this verification on this      th day

2001, at Guwahati.

  
निदेशक  
DIRECTOR  
क्षेत्रीय अनुसंधान प्रयोगशाला  
Regional Research Laboratory  
जोरहाट—६  
JORHAT—6