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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A.T.A No. 442/2001

R.A/C.P No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Application No. 442/2001

Applicant(s) :- K.R. Singh

Respondant(s) :- U.O. I 90m...

Advocate for the Applicant :- Dr. N.K. Singh, Mr. R.K. Deb Chaudhary
Mr. A. Deb Roy Mr. A. Roshid

Advocate for the Respondant :- Sr.C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

16.11.01

This is application in form
C.F. for Rs. 50/- deposited
vide IPO/25 No 66740152
Dated 15.11.2001

By Dy. Registrar
16/11/01

No join prayer in
the petition.

NS
16/11/2001

Heard Mr. N.K. Singh, learned
counsel for the applicant.

Issue notice as to why the applica-
tion shall not be admitted. Returnable
by four weeks.

Also issue notice as to why interim
order as prayed for shall not be
granted. Mr. A. Deb Roy, learned Sr.C.G.S.C.
accepts notice on behalf of the responde-
nts.

In the meantime, respondents are
directed not to make any recovery of SDA
from the applicants.

List on 19/12/01 for admission.

Member

Vice-Chairman

19.12.01

List on 17.1.2002 to enable the
respondents to obtain necessary instruct-
ions. Meanwhile, interim order dated
16.11.01 shall continue.

Member

Vice-Chairman

mb

Notice prepared and
sent to D/S for issuing
the Respondents by
Regd A.D.

22/11/01

D/O No 4367 W 4370
Dtd 27/11/01

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17.2.02 List on 24.1.2002 to enable the

respondents to pass the order in presence of Mr. A. Deb Roy, learned Sr. C.G.S.C. who is absent today.

K. C. Choudhury
Member

Vice-Chairman

mb

24.1.02 The respondents are yet to file written statement though time granted. However, on the prayer of Mr. A. Deb Roy, Learned Sr. C.G.S.C. further three weeks is allowed to file written statement, else the matter will be decided without written statement.

List on 18.2.2002 for admission.

K. C. Choudhury
Member

Vice-Chairman

mb

No. Written statement has been filed.

18.2.02

List on 15.3.02 to enable the respondents to file written statement.

14.3.02.

K. C. Choudhury
Member

Vice-Chairman

lm

15.3.02

It has been stated by Sri R.K. Deb Choudhury, learned counsel for the applicant that he has received the written statement in course of the day. List the matter for admission on 20.3.2002. Endeavour shall be made to dispose of the same at the admission stage.

Office to connect the written statement in the application.

K. C. Choudhury
Member

Vice-Chairman

mb

19.3.2002

The written statement has been filed by the respondent through Mr. A. Deb Roy, L.C.S.C. at page nos. 12 to 24.

HS

Q.A. No. 442 of 2001.

Notes of the Registry	Date	Order of the Tribunal
	20.3.02	<p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. Hon'ble Mr. K.K. Sharma, Administrative Member.</p> <p>The issue relates to the payment of Special Duty Allowance. The subject matter has already attained finality. As per policy laid-down by the Central Government and clarified by the Supreme Court in S.Vijay Kumar Vs. U.O.I. & Ors. case, SDA is admissible only to those who are posted at N.E. Region from outside and persons belonging to the N.E. Region are not eligible for SDA. In a series of decision of this Bench, following the cue from the decision of S.Vijay Kumar Vs. U.O.I. & Ors. it was ordered that the recovery of SDA amount already drawn was to be prospective not restrospective.</p> <p>In the instant case the Respondents are not justified to recover SDA paid to the employees restrospectively. Accordingly, there shall not be any recovery of SDA from those persons who were paid SDA already prior to the order dated 5.2.97.</p> <p>Subject to the observation made above the application is dismissed. There shall, however, be no order as to costs.</p>

8.4.2002

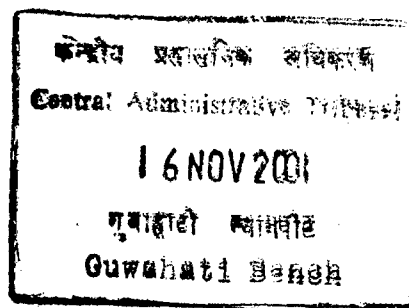
Copy of the order has been sent to the office for issuing the rule to the L/Advocates for the parties.

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K. K. Sharma
Member

Vice-Chairman

mb



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

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

ORIGINAL APPLICATION NO. 442 OF 2001.

Sri K. Ramakanta Singh

And others -Applicants.

-Versus-

The Union of India & Others

-Respondents.

I N D E X

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Filed by

Ranjit Kumar Dev Choudhury
Advocate.

Dr. L. Kumarjit Singh

Filed by the applicant through
Ranjit Kumar Dev Choudhury
Advocate
16/11/2001
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH, GAUHATI.

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

ORIGINAL APPLICATION NO. OF 2001.

B E T W E E N

- 1] Sri K Ramakanta Singh
Assistant Publicity Officer
Divisional Headquarter, SSB,
Kathing Hill, Itanagar,
Arunachal Pradesh.
- 2] Dr. Likmabam Kumarjit Singh,
Civil Asst. Surgeon (Vety)
Divisional Headquarter, SSB,
Manipur and Nagaland Division
Imphal, Manipur.
- 3] Dr. Kamei Gaidimlung Kabui
Senior Medical Officer
Group Center, SSB,
Kohima, Nagaland.
- 4] Shri M. Pumkhan khup
Assistant Publicity Officer
Divisional Headquarter, SSB,
Imphal, Manipur.
- 5] Dr. Soram Rajendra Singh
Civil Asst. surgeon (Vety.)

Dr. L. Kumarjit Singh.

- Group\ Center, SSB,
Kohima, Nagaland.
- 6] Th. Surendra Singh,
Assistant Publicity Officer
Divisional Headquarter, SSB,
Manipur and Nagaland Division
Imphal.
- 7] Yengkhom Chaoba Singh,
Circle Organiser
Utangpokpi Circle, Churachad-
pur Area, Manipur.
- 8] Dr. Y. Jibankumar Singh,
Group Center, SSB,
Imphal, Manipur.
- 9] Dr. G. Manoranjan Sharma,
Group Center, SSB, Tezu,
Dist-; Lohit,
Arunachal Pradesh.
- 10] Dr. Pamei Manglem Kabui,
Group Center, SSB,
Imphal, Manipur.
- 11] Shri T. Paukhanmang,
Circle Organiser, SSB
Group Centre, Kohima
Nagaland.
- 12] Dr. (Mrs) N. Memcha Devi
Civil Asst. Surgeon (Vety)

Dr. L. Kumarjit Singh

Dig, SSB, Headquarter,
Kohima, Nagaland.

---- Applicants

(For the common cause of action-----
- ~~applicants~~ and relief)

-AND-

1] The Union of India, represented by-
The Cabinet Secretary,
Deptt. of Cabinet Affairs, Govt. of
India, North Block,
New Delhi.

2] The Director General of Security
Block-V (East) R.K. puram
New Delhi- 110066.

3] The Director, SSB,
Block-V (East) R.K. puram
New Delhi- 110066.

4] The Director of Accounts
Cabinet Secretariat.
Block-IX (East) R.K. puram
New Delhi- 110066

Respondents-

Dr. L. Kumargil-Singh

DETAILS OF THE APPLICATION

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

This application is directed against 5/2/97 issued by the Deputy Inspector General (EB), Special Service Bureau, advising the Divisional Organisers / Commandants of North Eastern Region to recover the amount of SDA disbursed to persons after 20/9/94.

2] JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter against which they want redressal is within the jurisdiction of this Hon'ble Tribunal.

3] LIMITATION:

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

4] FACTS OF THE CASE:

4.1] That the applicants are bona fide citizens of India and hence are entitled to all the rights and privileges enshrined in the Constitution of India and the Rules framed thereunder.

Dr. L. Kumarjit Singh

4.2] That the applicants have been working on regular basis under the respondents in various capacities. After joining in their services they were getting Special Duty Allowance (SDA) payable to the Central Government Employees appointed to posts of All India Transfer liability in North Eastern Region under the O.M. dated 14/12/83, 29/10/86 & 20/4/87 of the Central Government.

4.3] That the Deputy Inspector General (EB) issued a circular No. 3/24/96-SSB/E-II/986-3/2 dated 5/2/97 advising all the Divisional Organisers/ Commandants of North Eastern Region to recover the amount of SDA disbursed to ineligible persons after 20/9/94 as per judgment dated 20/9/94 passed in Civil Appeal No. 3251 of 1993 by the Hon'ble Supreme Court, of their Group / Grade Service of all SSB, employees posted in North East Region from the above stipulated date and intimate compliance.

Annexure A/1 is a copy of the above Circular dated 5/2/97.

4.4] That after issuing the aforesaid circular dated 5/2/97. The Assistant Director of Accounts, Cabinet Secretariat, New Delhi has started recovering the Special Duty Allowance paid to the applicants from different dates as mentioned hereunder: -

Dr. L. Kumarjit Singh

Name	date from which SDA received	date from which recovered received:
1. K. Ramakanta Singh	8/3/97	<u>June 2000-Feb, 2001</u>
2. Dr. Likmabam Kumarjit Singh	4/5/95	June 2001.
3. Dr. Kamei Gaidimlung Kabui	29/8/94	June 2001.
4. M Pumkhan Khup	2/11/92	December, 2000
5. Dr. Soran Rajendra Singh	17/4/98	
6. Th. Surendra Singh	24/10/92	December 2000
7. Yengkhom Choaba Singh	24/8/95	June 2001
8. Dr. Y Jibankumar Singh	17/12/94	October 2001
9. Dr. G. Manoranjan Sharma	13/3/92	April 2001
10. Dr. Pamei Manglem Kabui	1/10/94	May 2001
11. Dr. (Mrs) N. Memcha Devi	25/8/95	June 2001
12. T. Paukhan Mang	7/2/95	January 2001.

4.5] That the applicants submit that having paid the income tax on the basis of the Special Duty Allowance the recovery of the same is against the principles of equity.

4.6] That the applicant submit that the above circular dated 5/2/97 and the consequential recovery is against the principles laid down by the Hon'ble Courts and also the policy adopted by the respondents. The respondents have adopted the policy of non-recovery of the Allowances so paid to the employees similarly situated. The Hon'ble

Dr. L. Kumarjit Singh

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Courts have also enunciated the same principles. Hence the applicants submit that they have been discriminated in the matter and their right under Articles 14 and 300-A has been violated.

5] GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1] For that the impugned circular dated 5/2/97 and the recovery of the Special Duty Allowance from the applicants is violative of the Article-14 of the Constitution of India.

5.2] For that the Hon'ble Courts having laid down the principle that the Special Duty Allowance which has been allowed to be enjoyed by the employees are not refundable, the respondents acted illegally in passing the impugned circular dated 5/2/97 and as such the same circular is liable to be set aside.

5.3] For those applicants have been discriminated in the matter, as the respondents have not recovered Special Duty Allowance from the employees similarly situated and as such the act of the respondents violates the applicant's rights under Article 14 of the Constitution of India.

5.4] For that the applicants having paid the income tax on the basis of the Special Duty Allowance the

Dr. L. Kumarjit Singh.

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recovery of the same Allowance is against the principles of equity and the same in effect violates the applicant's rights under Article 300-A of the Constitution of India.

5.5] For that at any rate the circular dated 5/2/97 and the recovery of Special Duty Allowance is not tenable in law.

6] DETAILS OF REMEDIES EXHAUSTED:

There is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal.

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

The applicant declares that the matter regarding which this application is made is not pending before any court of law or any other authority or any other bench or this Hon'ble Tribunal.

8] RELIEFS SOUGHT FOR:

That under the above facts and Circumstances the applicants pray for the following relief:

8.1] That the circular No. 3/24/96-99B/E-II/986-3/2 dated 5/2/97 issued by the

Dr. L. Kumarjit Singh

Deputy Inspector General (EB), Director General of Security, office of the Director, SSB, Block-V (East) R.K. Puram, New Delhi-110066 be set aside and quashed.

8.2] That the respondents be directed to stop the recovery of SDA from the applicants.

8.3] That the respondents be directed to refund the Special Duty Allowance already recovered from the applicants.

9] INTERIM ORDER IF ANY PRAYED FOR:

9.1] That the operation of the above circular No. 3/24/96-SSB/E-II/986-3/2 dated 5/2/97 be stayed.

9.2] That the respondents be directed not to recover the Special Duty Allowance from the applicants.

10] THIS APPLICATION IS FILED THROUGH ADVOCATE:

11] PARTICULARS OF IPO:

- (I) IPO No. 790152
- (II) Date of issue. 15/11/2001.
- (III) Issuing post office G.P.O. Guwahati
- (IV) Payable at. Guwahati

12] LIST OF ENCLOSURES

As per Index.

Dr. L. Kumajit Singh

VERIFICATION

I, Dr. L. Kumarjit Singh, son of L. Dhiron Singh, aged about 36 years, working as surgeon, Grade-I (Vety) at Divisional Headquarter, SSB, Manipur and Nagaland Division Imphal do hereby verify that the contents of paragraph Nos 4.1.

are true to my personal knowledge and paragraph Nos 4.2, 4.3, 4.4 believed to be true on legal advise and that I have not suppressed any material fact.

I have been empowered to take legal steps on behalf of the other applicants.

Dated: 16/11/2001

Place: Guwahati

Dr. L. Kumarjit Singh

NO. 3/24/96-SSB/E-II/986-312.
 Directorate General of Security
 Office of the Director, SSB,
 Block-V(East) R.K.Puram,
 New Delhi- 110066.

Dated: 5.2.97.

CIRCULAR

Enclosed please find herewith a photo copy of Supreme Court letter D-NO.3366/96/X dated 28.11.96 alongwith a copy of order dated 25.10.96 in writ petition NO.794/94 with IA NO.1 titled Sadan Kumar Goswami, SI/GD of GC Tripura and other Vrs. UOI & other.

The Hon'ble Supreme Court has dismissed the said petition with the clarification that locals of N.E. Region will not be entitled for grant of SDA as the aim of SDA is to attract persons from outside the NE Region to work in that Region because of inaccessibility and difficult terrain.

Hence all the DOs/Commandants of NE Region are advised to recover the amount of SDA disbursed to ineligible persons after 20.0.94 in the light of enclosed judgement irrespective of their group/grade service of all SSB employees posted in NE Region from the above stipulated date and intimate compliance.

This has approval of Director.

Sd/- 3.2.97.

(K. S. KATOCH)
 DY INSPECTOR GENERAL(RB)

TO.

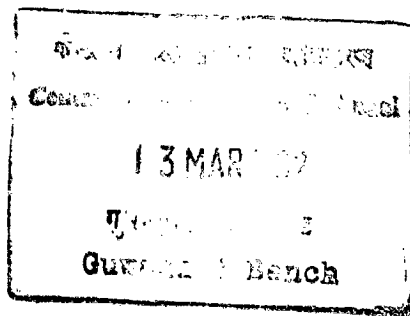
The DOs NDA/AP/Shillong M&N Division.

Copy to :-

1. Cab. Sectt. w.r.t. their U.NO.28/21/96-EA-III/4525 dated 16.12.96 for information please.
2. The DACS alongwith copy of judgement for information and necessary action in the case of Gazetted officerd.
3. Commandants :-D/Nagar/Bangaigaon/Dirang/Tezu/Basar/Tripura/Haflong/Kohima/Mokokchung/Imphal/Aizwal/Lungle.
4. DIG : TC Salonibari/TC Haflong.
5. Commandant, Wats, Debendranagar/Itanagar.
6. SOs. A-1/A-2/A-IV/E-1 alongwith copy of judgement for information and necessary action.
7. Shri S.N.Lal, Assistant, E-II/Branch.

Attested
 Advocate

DY.INSPECTOR GENERAL(RB)



7
Divisional Organiser
SSB A.P. Division
Itanagar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO. 442 OF 2001

Shri K.R. Singh & Ors.

- vs -

Union Of India & Ors.

- AND -

IN THE MATTER OF :

Written statement submitted by the
Respondents.

The Respondents beg to submit the written
statement as follows:-

1. That with regard to paras - 1 to 4 in OA the
respondents beg to offer no comments. These are
matter of records.

2. That with regard to para -4.2 in OA the
Respondents beg to state that the contentions
raised by the applicants in this para are denied.
The factual position in brief is given below :-

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Divisional Officer
SSB A.P. Division
Itanagar

(a) Govt. of India, Ministry of Finance, Deptt. of Expenditure vide their O.M. No. 20014/2/83-E.IV dated 14.12.1983 allowed S.D.A. to Central Govt. Employees who have all India transfer liability based on the recommendation of a committee set up by the Govt. of India. Based on the decision, the respondents were allowed to draw S.D.A. on the analogy to the employee having All India transfer liability to applicants, including all other SSB employees posted in N.E. Region.

Copy of Min.of Finance O.M. No. 20014/2/83-E.IV dated 14.12.1983 is attached as Annexure-'A'

3. That with regard to para - 4.3 & 4.4 in OA the Respondents beg to state that based on the Hon'ble Supreme Court Judgment dated 20.9.94 (in Civil Appeal No. 3251 of 1993) the Govt. of India Ministry of Finance Deptt. of Expenditure O.M. No. 11(3)/95-E.II(B) dated 12.1.96 incorporated the provision of above judgment as under :-


“Central Govt. employees who have All India Transfer liability are entitled to grant of SDA on being posted to any station to the N.E. Region from outside the region and SDA would be payable merely because of the clause in appointment order relating to All India transfer liability”

In regard to averment made in this para the respondents beg to submit that the applicants though fulfill the eligibility condition of All India transfer liability but not entitled to the grant of SDA since they hail from N.E. region, recruited in N.E. region and never been posted out of N.E. region, in the spirit of the judgment of Hon'ble Supreme Court delivered on 20.9.94 followed by Ministry of Finance clarification vide their O.M. dated 12.1.96. Therefore, the order of recovery of SDA paid after September, 1994 against the respondents was passed.

Copy of Ministry of Finance O.M. dated 12.1.96 is attached as Appendix - 'B'

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Divisional Officer
SSB A.P. Division
Itanagar

4. That with regard to para - 4.5 in OA the respondents beg to offer no comments.

5. That with regard to para - 4.6 in OA the respondents beg to state that in view of the Apex Court judgment dated 20.9.94 in Civil Appeal No. 3251 of 1993, the recovery of SDA from the ineligible persons have been effected and therefore no discriminatory action have been meted to the applicants.

6. That with regard to para - 5.1 in OA the respondents beg to state that Circular No. 3/24/96-SSB/E-II/986-312 dated 5.2.97 has been issued only for implementation of Appex Court Judgment dated 20.9.94 for effective recovery of SDA paid to the ineligible persons.

7. That with regard to para- 5.2 in OA the respondents beg to state that the respondents has not acted illegally but to implement the Apex Court judgment dated 20.9.94 for effecting of recovery of SDA from ineligible persons.

8. That with regard to para - 5.3 in OA the respondents beg to offer no comments. Since there is no record of non recovery of SDA from similarly situated persons.

9. That with regard to para - 5.4 in OA the respondents beg to offer no comments.

10. That with regard to para - 5.5 in OA the respondents beg to state that the respondent has acted recover the SDA paid to the ineligible persons in order to implement the Apex Court Judgment dated 20.9.94.

11. That with regard to para -6 in OA the respondents beg to offer no comments.

12. That with regard to para No. 7 in OA the respondents beg to offer no comments. These are matter of records.

13. That With regard to paragraphs 8 and 9 of the OA the respondents beg to submit that the applicants are not entitled to get any relief as sought for in the said Application. The grounds on which such reliefs have been sought for are neither cogent nor valid. Hence the instant application is liable to be dismissed in limine. Further submissions with regard to the above formulated grounds will be made at the time of hearing of the application.

14. That with regard to paragraphs 10 to 12 of the OA the respondents beg to offer no comments since the same are matters of record.


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

I Shri M.L. Chaudhuri, S/o Late M.M. Chaudhuri, aged about 56 years serving as Divisional Organiser, Arunachal Pradesh Division, SSB, Itanagar being authorised to do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and believe and I have not suppressed any material fact.

And I sign this verification on this 13th day of March, 2002.



DECLARANT.
Divisional Organiser
SSB A.P. Division
Itanagar

New Delhi, the 14th Deco. 1983.

OFFICE MEMORANDUM

Subject: Allowances and facilities for civilian employees of the Central Government serving in the State 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 Tripura and the Union Territories of Arunachal Pradesh 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 & 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:

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years service. Periods of leave, training, etc. in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of Service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Weightage for Central Deputation/training abroad special mention in Confidential Records.

Satisfactory performance of duties for the prescribed tenure in the North-East shall be given due recognition in the case of eligible officers in the matter of-

- (a) Promotion in cadre Posts;
- (b) deputation to Central tenure posts; and
- (c) Courses of training abroad.

The general requirement of at least three years service in a cadre Post between two Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

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A specific entry shall be made in the C.R. of all rendered a full tenure of service in the North-Eastern effect.

(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 these employees who are exempt from payment of income-tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any Special pay and/or 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 Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and project Allowance will be drawn separately.

(iv) Special Compensatory Allowance:

1. Assam and Nagaland

The rate of the allowance will be 5% of basic pay, subject to a maximum of Rs. 50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1.7.1982 in the case of Assam.

2. Manipur

The rate of allowance will be as follows for the whole of Manipur:-

Pay upto Rs. 260/-
pay upto Rs. 260/-

Rs. 40/- p.m.
15% of basic pay subject
to a maximum of Rs. 150/-
p.m.

3. Tripura

The rates of the allowance will be as follows:-

(a) Difficult Areas

25% of pay subject to a
minimum of Rs. 50/- and
a maximum of Rs. 150/- p.m.

(B) Other Areas

Pay upto Rs. 260/-

Pay above Rs. 260/-

Rs. 40/- p.m.

15% of basic pay subject to
a maximum of Rs. 150/- p.m.

There will be no change in the existing rates of Special Compensatory Allowances admissible in the Arunachal Pradesh, Nagaland and Mizoram and the existing rate of Disturbance Allowance admissible in specified areas of Mizoram.

(v) Travelling allowance on first Appointment:

In relaxation of the present rules (S.R. 105) that travelling allowance is not admissible for journeys undertaken in

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connection with initial appointment, in case of journeys for taking up initial appointment to a Post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 400 kms. for the Government servant himself are his family will admissible,

(vi) Travelling Allowance for journey on Transfer:

In relaxation of orders below S.R. 116 if on transfer to a station in the North-Eastern region, the family of the Government Servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the Post and will be permitted to carry personal effects upto 1/3rd of his entitlement at Government cost (or) have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of the cost of transportation of baggage. In case the family accompanying the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

(vii) Road Mileage for transportation of personal effects on transfer:

In relaxation of orders below S.R. 116, for transportation of personal effects on transfer between two different stations in the North-Eastern region, higher rate of allowance admissible for transportation in 'A' Class cities subject to the actual expenditure incurred by the Government Servant will admissible.

(viii) Joining Time with leave:

In case of Government servants proceeding on leave from a place of posting in North-Eastern Region, the period of travel in excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) Leave Travel Concession:

A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting to the North-East to his home town or place where the family is residing that in addition the facility for the family

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(restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North eastern region. In case the option is for the latter alternative, the cost of travel for the initial distance (400kms/150 kms) will not be borne by the officer.

Officers drawing pay of Rs. 2250/- or above, and their families, i.e., spouse and two dependent children (upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala and Calcutta and vice-versa, while performing journeys mentioned in the preceding paragraph.

(x) Children Education Allowance/Hostel Subsidy:

Where the children do not accompany the Government Servant to the North-Eastern Region, Children Education Allowance upto class XII will be admissible in respect of Children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government Servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

2. The above orders except in sub-para(iv) will also mutatis mutandis apply to Central Government employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st November 1983 and will remain in force for a period of three years upto 31st October, 1986.

4. All existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office memorandum.

5. Separate orders will be issued in respect of other recommendations of the Committee referred to in paragraph 1 as and when decisions are taken on them by the Government.

6. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

Sd/-

(S.D. MAHALIK)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

To

All Ministries/Departments of the Government of India.

Annexure B' (253)
2058-9

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

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's 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(B) dt. 1.12.88 on the subject mentioned above.

2. The Government of India vide the abovementioned 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 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made or 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.

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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 this allowance is concerned.

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

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

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

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

10. Hindi version of this OM is enclosed.

(C. Balachandran)

Under Secy to the Govt of India

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

Copy (with spare copies) to C&AG, UPSC etc. as per standard endorsement list.