

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 84/2001.....

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet O.A. 84/2001 Pg. 1 to ... 2
2. Judgment/Order dtd 10/08/2001 Pg. 1 to ... 3 allowed
3. Judgment & Order dtd Received from H.C/Supreme Court
4. O.A. 84/2001 Pg. 1 to ... 26
5. E.P/M.P. N.I.L. Pg. to
6. R.A/C.P. N.I.L. Pg. to
7. W.S. Submitted by the Respondents Pg. 1 to ... 12 ..
No-3
8. Rejoinder Pg. to
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance Pg. to
12. Additional Affidavit Pg. to
13. Written Arguments Pg. to
14. Amendment Reply by Respondents Pg. to
15. Amendment Reply filed by the Applicant Pg. to
16. Counter Reply Pg. to

SECTION OFFICER (Judl.)

FORM NO.4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH ::::: GUWAHATIOriginal ORDER SHEET
APPLICATION NO 84 OF 2001

Applicant (s) Jogmohan Singh

Respondent(s) U.O.I Tons

Advocate for Applicant(s) M. Chanda, Mr. N.D. Goswami, G. N. Chakrabarty
S.K. Ghosh

Advocate for Respondent(s) CASC

Notes of the Registry	Date	Order of the Tribunal
Applicant is informed that the application Petition No. 56422511 for the same IPD/2000 dated Dated..... 23.2.2001 Dy. Registrars My Subbador	27.2.01	Heard Mr M.Chanda, learned counsel for the applicant. XXX Application is admitted. Issue notice on the respondents. Call for the records. List on 27.3.2001 for written statement and further orders.
Encls photostatic envelops will be return Page 18 not desirable. 26/2/01		Mr Chanda prays for an interim order. Issue notice to show cause as to why an interim order shall not be granted suspending the operation of the orders No.V/4/Acct 1/85/98/10800 dated 13.11.2000 and No.NGE/SDA/91-2001/811 dated 19.1. 2001. Returnable by 27.3.2001. In the meantime the operation of the aforementioned orders shall remain suspended till the returnable date.

1-3-2001
Service of Notice issued
to the respondents
vide D.N.

Ran

I.U. Sharma

Member

Vice-Chairman

pg

26/2/01

No written statement
has been filed.

27.3.01 List on 1.5.01 to enable the
respondents to file written statement.

27
20.4.01

IC Usha
Member

h
Vice-Chairman

pg

1.5.01 List on 1.6.2001 to enable the
respondents to file written statement.

IC Usha
Member

h
Vice-Chairman

bb

1.6.01 NO written statement has so far
been filed by the respondents.

List the case on 5-7-2001 for
orders. Meanwhile the interim order
shall continue.

8.6.2001

W/S has been
submitted by the Respondent
No. 3.

bb

fs
6/6/01

h
Vice-Chairman

05.07.01

Written statement has been filed. The
case may be listed for hearing. The applicant
may file rejoinder, if any, within 2 weeks.
List on 10-08-2001 for hearing.

IC Usha
Member

h
Vice-Chairman

mb

written statement has
been filed.

10.8.01

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

IC Usha
Member

Vice-Chairman

27
9.8.01

23.8.2001
Copy of the Judgement
has been sent to the
S.P.C. for filing the same
to the Appellate authority as well as
to the ADD, CGSC for
the record.

4

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. NO. 84 of 2001 . . of

DATE OF DECISION 10.8.2001

Sri Jagmohan Singh

APPLICANT(S)

Mr. M. Chanda.

ADVOCATE FOR THE APPLICANT(S)

-- VERSUS --

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE MR. 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 ?

5. Judgment delivered by Hon'ble Vice-Chairman.

L

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Original Application No. 84 of 2001

Date of order : This the 10th day of August, 2001.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Jagmohan Singh
Son of Sri Magan Singh
Working as Senior Field Assistant (Homeo)
O/o the Sub Area Organiser, Changsari
Rangia,
District-Kamrup, Assam.

....Applicant

By Advocate Mr. M. Chanda.

-versus-

1. The Union of India
Represented through the Secretary
to the Government of India
Ministry of Home Affairs
New Delhi.
2. Directorate General of Security
Office of the Director, SSB,
West Block-V,
R.K.Puram,
New Delhi-110066.
3. The Divisional Organiser
North Assam Division
SSB, Tezpur.
4. Area Organiser,
SSB, North Kamrup Area,
Howly.
5. Area Organiser (Staff)
North Assam Division,
Tezpur.

...Respondents

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

O R D E R

CHOWDHURY J. (V.C.).

The applicant was initially working as Constable Group Central at SSB, Tehri Garowal, UP. He applied for the post of Senior Field Assistant (Homeo) and he was selected in due course on all India recruitment basis. The said recruitment was made vide order dated 16.9.1996 by the Director General of

Security. The applicant was appointed as SFA(H) on transfer basis. Pursuant to the notice dtd 16.9.1996 personnel of Group Central SSB Chamma selected for the post of SFA(H) on transfer basis were relieved from the Group Central with effect from 30.11.1996 (AN) with a direction to report to their respective unit as shown. The applicant was advised to report to S.A.O. Rangia. Accordingly he joined to the post of Senior Field Assistant (Homeo), Rangia. The applicant was provided with Special (Duty) Allowance as was paid to the Civilian Central Government employees serving in the North Eastern States. While things rested at this stage an impugned communication dated 13.11.2000 was served on the applicant indicating that the payment of SDA made to the applicant was irregular and accordingly ordered for recovery of the amount already paid to the applicant with effect from 21.09.1994 in suitable instalments. Consequent thereto the impugned Memorandum dated 19.1.2000 issued by the Area Organiser, SSB, N.E. is reproduced below :

"....It is apparent that Shri Jagmohan Singh, SFA(H) was appointed on selection from Group Centre on "Transfer basis" therefore, this is a case of first appointment in Civil side as SFA (H). As such. SDA is not admissible to him as per clarifications vide para (1) (a) of Cabinet Secretariat U.O. No. 20/12/99-EA-I-1-1799 dated 2.5.2000.

The copy of Memo No. D/SSB/A2/89(9)2375 dated 16.9.96 furnished by Shri Singh, SFA(H) with his representation speaks that he was selected for appointment as SFA (H) "on transfer basis", so this order does not indicate his transfer from outside N.E. region to N.E.

Shri Jagmohan Singh, SFA (H) may please be informed accordingly, and recovery of irregular payment of SDA may be made with immediate effect."

Heard Mr. M. Chanda, learned counsel for the applicant and Mr. B.C. Pathak, learned Addl. C.G.S.C.

The order dated 19.1.2001 per se is not sustainable in law. The appointment and posting order itself indicated that the applicant who was working in Tehri Garowal was selected for appointment as SFA (H) on transfr basis and he was posted from outside the N.E. Region. The applicant was not selected from

Contd..

N.E. Region, he was selected on the basis of all India recruitment basis. The inter se seniority of the applicant is also maintained on all India basis and having all India Transfer Liability. The case of the applicant is squarely covered by the O.M. dated 14.12.1983 issued by the Government of India, Ministry of Finance, and the clarification issued on 12.1.1996. The issue is also squarely covered by the decision of this Bench rendered in O.A. No.136 of 2000 on 20.12.2000.

In the circumstances, in our opinion the impugned orders dated 13.11.2000 and 19.1.2001 cannot be sustained in law and accordingly the same are set aside. The respondents are directed to pay SDA to the applicant from the date from which the applicant was denied with the SDA. The above exercise shall be completed by the respondents as early as possible preferably within a period of two months from today.

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

K K Sharma
(K.K.SHARMA)

Member (A)

D.N.Chowdhury
(D.N.CHOWDHURY)

Vice-Chairman

- trd

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

(An application under Section 19 of the Administrative
Tribunal Act, 1985)

Title of the Case : O.A. No. 84 /2001

Jagmohan Singh : Applicant.

- Vs -

Union of India and others : Respondents.

I N D E X

<u>Sl No.</u>	<u>Annexures</u>	<u>Particulars</u>	<u>Page No.</u>
1.	-	Application	1 - 10
2.	-	Verification	11
3.	1	Copy of the appointment letter dated 16.9.96.	12-13
4.	2	An extract of the O.M. dated 14.12.83.	14-15
5.	3	Copy of the memo dated 12.1.1996.	16-18
6.	4	Copy of the seniority list dated 20.1.98.	19-21
7.	5	Copy of the O.M. dated 22.7.98	22-24
8.	6	Copy of the impugned memorandum dt 13.11.2000	25
9.	7	Copy of the impugned memorandum dt 19.1.2001.	26

Filed by

Sujit Ghosh

Advocate.

Jagmohan Singh

8
Filed by the
applicants through
Sujit Ghosh
Advocate
23.2.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI
(An application under section 19 of the Administrative
Tribunals Act, 1985)

O.A. No. _____/2001.

BETWEEN

Shri Jogmohan Singh
son of Shri Magan Singh
Working as Sr. Field Assistant (Homeo)
6/o the Sub Area Organiser Changsari
Rangia, Dist. Kamrup, Assam.

..... Applicant.

AND

1. The Union of India
Represented through the Secretary
to the Government of India
Ministry of Home Affairs
New Delhi.
2. Directorate General of Security
Office of the Director, SSB,
West Block -V
R.K. Puram, New Delhi- 110 066.

Contd.....

Jogmohan Singh

3. The Divisional Organiser

North Assam Division

SSB, Tezpur.

4. Area Organiser,

SSB, North Kamrup Area,

Howly.

5. Area Organiser (Staff)

North Assam Division,

Tezpur.

DETAILS OF APPLICATION.

1. Particular of order(s) against which this application is made

This application is made against the impugned memorandum dated 19.1.2001 issued under letter No. NGE/SDA/91-2001/811 Directorate General of Security, by which the applicant is informed that the applicant is not entitled to SDA and also make an order for recovery of the payment of SDA which was paid on earlier.

2. Jurisdiction of the Tribunal.

That the applicant declares that the subject matter of this application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation.

The applicant further declares that this application is made within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

Jagannath Singh

4. Facts of the case

4.1 That the applicant is citizen of India and as such he is entitled to all the rights, privileges and protections as guaranteed by the Constitution of India.

4.2 That the applicant was initially appointed as Constable Group Central at SSB. CHAMMA, in U.P. Thereafter, the office of the respondents published advertisement for the post of Sr. Field Service (Aomco) on all India basis and as the present applicant was as a eligible candidate for the post of Sr. Field Assistant (Homeo) he was applied as one of the candidate and the applicant was also selected as All India recruitment basis on selection of All India basis the applicant was appointed and posted at SSB, Rangia as Sr. Field Assistant (Homco) vide office memorandum letter No. 6/SSB/A-2/89(9)/2367 dated 16.9.96. It is also relevent to mention here that in his appointment letter it is categorically mention that the appointment of applicant as SFA (Homco) on transfer basis and his appointment letter was issued from ~~Director~~ Director General of Security, SSB, New Delhi.

Copy of the appointment letter dated 16.9.96 is enclosed hereto and marked as Annexure -1.

4.3 That the Government of India had decided to give some incentive to the Civilian employees of the Central Government Civilian employees working in the States and Union Territories of North Eastern Region. The scheme amongst others granted special (Duty) Allowance to the employees having all India Transfer Liability. The original scheme was issued under

Jagmohan Singh

Ministry of Finance, O.M. No. II 20014/3/83/E.IV dated 14.12.83 were given SDA with effect from 1.11.1983 in terms of para 3 of the said O.M. The period and rate of payment was subsequently modified from time to time. The Central Government Civilian employees posted in North Eastern Region covered by the said O.M. dated 14.12.83 were paid SDA in terms of the said O.M. It is stated that there were employees who were not given SDA and who approached, the Hon'ble Central Administrative Tribunal got SDA. Thereafter the same was taken up to the Hon'ble Supreme Court in a number of cases. The Hon'ble Supreme Court decided on the entitlement of SDA as laid down in the O.M. Dated 14.12.1983.

An extract of the O.M. dated 14.12.83 is annexed hereto and marked as Annexure -2.

4.4 That after judgement of the Hon'ble Supreme Court, the Government of India, Ministry of Finance issued an O.M. No. 11(3)/95-I/11(s) dated 12.1.96 by which the payment of SDA has been regulated in the manner as indicated in para 6 of the O.M. referred above.

Copy of the Memo dated 12.1.1996 is annexed hereto and marked as Annexure -3.

4.5 That in terms of the above mention office memorandum the applicant was entitled for payment of SDA and according the applicant has been drawing SDA from date of appointment in SFA (Homco) in the N.E. Region. It is pertinent to mention here that Govt. of India, Ministry of Finance Department of Expenditure revise scheme and issued under office memorandum F.No.20014/16/86/E.IV/E.III(B) dated 1.12.1989 and accordingly he was paid SDA

Dagmohan Singh

during his stay at Rangia in N.E. Region and the applicant is entitled for a payment of SDA and drawing the SDA . It is also relevant to mention here that the seniority list of the applicant is maintained on all India seniority list which is evident from seniority list as on 20.1.98.

Copy of the seniority list dated 20.1.98 is enclosed herewith and marked as Annexure -4.

4.6 That your applicant begs to state that denial of Special (Duty) Allowance on the ground stated in Memorandum dated 13.11.2000 and 19.1.2001 are highly arbitrary, illegal and discriminatory. It is categorically stated that as per the clause laid down of the appointment letter of the applicant is saddled with All India Transfer Liability. The applicant joined in North Eastern from out side the North Eastern Region and the permanent ~~performed~~ home address of the applicant is Pokhal District of Tehringartwal state of Uttaranchal and the applicant was also initially posted at Chamma as a constable in the same department and he also ~~appointment~~ appointed in Sr. F.A. (Homco) by in the same department by ~~screaring~~ the Selection Board on all India basis his educational qualification. As such the application fulfilled all the criteria laid down for grant of Special (Duty) Allowance in ^{terms of} O.M. dated 14.12.1983, 1.12.88 and 22.7.98. In this connection it is further stated that as per the law laid down by the Hon'ble Supreme Court for entitlement of Special (duty) Allowance in the case of Union of India and Ors. -Vs- S. Vijay Kumar and others in Civil Appeal No. 3251/93 with Civil Appeal Nos. 6163-81 of 1994 decided on 20.9.1994 (28) ATC, 598, The relevant portion of paragraph 4 of the said judgement

Jagmohan Singh

and order dated 20.9.1994 is quoted below :

"4. We have only considered the rival submissions and are inclined to agree with the contention adverse by the learned Additional Solicitor General, Shri Tulsi for two reasons. The first is that a close perusal of the two aforesaid memorandum along with what was stated in the memorandum of 20.4.1987 clearly shows the allowance in question was meant to attract persons outside the North Eastern Region to work in that Region because of in accessibility and difficult we have said no 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 2/3 years to claim. The allowance depending upon the period of service of the Central Government a 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

Jagmohan Singh

5

Merely
All India Transfer Liability. Mainly because in the
O.M. dated 14.12.1983, 1.12.1988 and O.M. dated
22.7.1998 as such applicant is entitled to Special
(Duty) Allowance more particularly in view of the
fact that the applicant came to North Eastern Region
on transfer in public interest from the outside of
the North Eastern Region in public interest from the
outside of the North Eastern Region and the applicant
is not permanent resident of North Eastern Region.
Therefore, Hon'ble Tribunal be pleased to declare
that the present applicant is entitled to SDA".

Copy of the O.M. dated 22.7.98 is enclosed as

Annex Annexure -5, copy of the impugned order dated
13.11.2000 and 19.1.2001 are enclosed as Annexure-6 & 7

4.7 That this application has been made bonafide and
for the interest of justice.

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

5.1 For that the applicant is entitled to SDA in terms
of the office Memorandum dated 12.1.1996.

5.2 For that the applicant is saddled with All India
Transfer Liability and the recruitment as well as
promotion is being maintained on All India basis.

5.3 For that the SDA has been sought to be stopped and
recovery has been ordered without giving any scope
or without any show cause by to the applicant which
is violative of principles of Natural justice.

Jagmohan Singh

5.4. For that the payment of SDA received have already been spent by the applicants and there is no scope of refund of such amount.

5.5 For that non-payment of SDA and recovery of SDA already drawn shall cause undue hardship to the applicant which is being paid as SDA because of his entitlement.

5.6 For that the applicant is entitle to payment of SDA as per O.M. dated 14.12.83, O.M. dated 12.1.96 and also interms of clarificatory order dated 8.5.2000 issued by the Cabinet Secretariat after ~~xxxxxxxxxx~~ consultation with the Ministry of Finance, Department of expenditure.

5.7 For that impuged order of stoppage of special duty allowance as well as order of recovery of the said allowance has been passed arbitrarily and mechanically without application of mind and also by way of misinterpretation of the Cabinet Secretariat order dated 8.5.2000 with the deliverate intention to deprive the benefit of SDA to the applicant.

5.8 For that contention laid down in O.M. dated 12.1.96 as well as Cabinet Secretariat clarificatory order dated 8.5.2000 support the case of the applicant for payment of SDA.

6. Details of remedy exhausted.

The applicants beg to state that their is no other alternative remedy under any rule available before the applicant

Jagmohan Singh

then to approach the Hon'ble Tribunal by way of filing this Original Application.

7. Matter not pending before any other Court/Tribunal.

The applicant further declares that he had 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 the Tribunal and/or any such application writ petition or suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances of the case the applicant prays for the following ~~xx~~ reliefs :

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum issued under letter No. NGE/SDA/91-2001/811 dated 19.1.2001. (ANNEXURE-7) and impugned letter dated 13.11.2000 (ANNEXURE-6)

8.2 That the Hon'ble Tribunal be pleased to direct the respondent to pay special duty allowance to the applicant in terms of O.M. dated 14.12.83/1.12.88 and also under O.M. dated 22.7.98 along with arrear SDA.

8.3 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA in terms of the O.M. dated 14.12.83, 1.12.88, 22.7.98 and in terms of O.M. dated 12.1.96 issued by the Government of India, Ministry of Finance.

8.4. Cost of the application.

Tagmolhan Singh

9. Interim Prayer

During the pendency of this application the applicant prays for following interim relief.

9.1 That the respondents be directed not to make any recovery so far as the SDA is concerned till disposal of this application.

9.2 That the respondents be directed to continue to pay SDA with immediate effect at least from the date ~~of~~ filing of the instant application.

10.

This application is filed through Advocate.

11. Particulars of Postal Order :

i. I.P.O. No. : 5G 422511

ii. Date of Issue : 23.2.2001

iii. Issued from : G.P.O. Guwahati.

iv. Payable at : G.P.O. Guwahati.

12. List of enclosures :

As stated in the Index.

Verification.....

Jaymohan Singh

VERIFICATION

I, Shri Jagmohan Singh, son of Shri Magan Singh, aged about 31 years, ~~now~~ working as Sr. Field Assistant (Homco), o/o the sub Area Organiser Changsari Rangia, Dist. Kamrup, Assam, applicant in this original application do hereby verify that the ~~a~~ statements and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any ~~not~~ material fact.

And I, sign this verification on this the 23rd th day of February, 2001 at Guwahati.

Jagmohan Singh

Signature.

1/16/SSB/A2/89(9)- 225
Bectorate General of Security,
Office of the Director, SSB,
East Block-V, R.K. Puram,
New Delhi-110066.

Dated the 6 September 1996.

Stuart Minter

MEMORIAL

Subject: Recruitment to the post of SFA (Homeo) - Transfer of SSB Constable and Field Assistant (G) etc.

On the basis of the written examination and interview, the candidates shown in the enclosed 'Annexure "A"' have been selected for appointment as SPA (Homeo) on 'Transfer basis' in the pay scale of Rs. 975-25-1150-11B-30-1660, and allocated to the Division mentioned against each.

2. The terms and conditions of 'Transfer' will be as under:-

- (i) The seniority of SFA(Homeo) will be as per merit drawn by the Selection Board.
- (ii) Their pay will be fixed as per rules applicable and instructions issued by the Govt. from time to time.
- iii) They will be on probation for a period of two years as per SGB (Homoeopathy) Service rules 1972 from the date they assume charge, which may be extended or curtailed at the discretion of the competent authority as per SGB (Homeo) Service Rules.
- iv) They will be required to undergo training courses prescribed for SFA(Homeo) by the department from time to time.

3. You are requested to offer the above terms and conditions.

True (certified)

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Socia Original
Kastanienbaum

certified to be true
S. Smithfield
Adv.

ions of transfer to the candidates of your Division and obtain their written acceptance. In case the terms and conditions are acceptable to them, they may be transferred to their new units so that they may be appointed as SFA(Homeo) on transfer basis, by the Divisional Organisers concerned.

(Karan Singh)
 (KARAN SINGH) 16
 ASSISTANT DIRECTOR (EA)

D

To

1. The Divisional Organisers : HP/UP/NB/NA/J&K/AP/Shillong/R&G/Manipur and Nagaland.
2. The Commandants, G : Sapri/Shamshi/Ghitorni/Dharmpur/Chamna/Srinagar/Almora/Jammu/SriGanganagar/Bongaigaon/Saltonibari/Debendranagar/Haflong/Tripura/Basar/Manipur/Ranidanga/Falakata/Sikkim.

Willingness as desired in para-2 above may please be obtained from the Group Centre personnel and send the same to the concerned Divisional Organisers immediately for taking further necessary action at their end.

No. 20014/2/03/E. 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 sometime. The Government had appointed a committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Control 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

xxxxxxxxxxxxxx

ii) Weightage for Central deputation/training abroad and special mention in confidential Records.

xxxxxxxxxxxxxxx

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

Contd...

*certified to be true copy
S. M. Shukla
Adm.*

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

XXX X X XXX X XX

XX X X X X X

X XXXXXXXXX

XXXXXXXXXXXX

Sd/- S.C. MAHALIK

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

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

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

Sub :

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

The undersigned is directed to refer to this Department's
O.M. No. 20014/3/83-E.IV dated 14.12.1983 and 20.4.1987 read
with O.M. No. 20014/16/86-E.IV/E.II (b) dated 1.12.1988 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 N.E. Region.
One of the incentives as 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. 20.4.87
that for the purpose of sanctioning 'Special Duty Allowances'
the All India Transfer Liability of the members of any service/
cadre or incumbents of any post/group of posts has to be
determined by applying the tests of recruitment zone, promotion
zone etc. i.e. whether recruitment to service/cadre/post has
been made on all India basis 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.

(certified to be true copy)
S. B. Bhattacharya
Add'l
Adm.

4. Some employees working in the N.E. 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 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 DA to the ineligible persons on or before 20.9.94 will be waived;
- ii) the amount paid on account of DA 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 made after 20.9.94 up to i.e. 20.9.994) 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 issued in consultation with the Comptroller and Auditor General of India.

10. Hindi version of this OI is enclosed.

Sd/- C. Palachandran

Under Secretary to the Government of India

To:

All Ministries/Departments of the Govt. of India, etc.
Copy (with spare copies) to C & AC, BMO etc. as per
standard endorsement list.

SENIORITY LIST OF SENIOR FIRED ASSISTANT (HOMBO)

As on 20.1.98

Sl. No.	Name whether SC/ST	Edu. Qual.	Date of birth	Date of joining Govt. service	Date from which continuing in the grade	Date of conf. of post	Place of working in the grade
1.	Viaekram Singh Rawat	12th	28.12.55	22.6.77	07.04.94	Conf.	UP
2.	Shushanka Kr. Roy	HSLC	1.11.57	13.10.80	2.4.94	-do-	AP
3.	Mangal Singh Rawat	H.S.	15.2.69	10.7.87	1.4.94	PR.	NB
4.	Suresh Chand Sharma	Metric	20.1.54	15.11.74	18.4.94	Conf.	SHG
5.	Mohinder Singh		11.5.55	13.3.73	6.4.94	-do-	J&K
6.	Krishan Kumar	Metric	2.11.54	18.11.75	18.4.94	-do-	Shill.
7.	Chhinder Singh	Metric	13.4.63	16.12.85	8.4.94	-do-	HP
8.	Golokeswar Saranah	B.A.	1.8.57	4.4.78	11.4.94	-	MNP
9.	Kanwar Singh Negi	3...	19.4.56	1.5.78	17.3.94	Conf,	UP
10.	Atul Ch. Kalita	PU	1.9.53	19.11.76	11.4.94	-do-	AP
11.	Ram Lal (ST)	Metric	1.3.65	11.3.86	2.4.94	-do-	J&K
12.	Banarsi Lal (SC)		15.8.64	4.5.94	4.5.94	-do-	NB
13.	Gour Kishore Roy(OBC)	B...	4.8.54	1.3.76	11.4.94	-	MNP
14.	Daulat Ram		10.7.67	16.11.87	7.4.94	-	HP
15.	Nimai Ch. Das	Metric	6.10.54	13.7.76	11.7.94	-	Manipur
16.	Pushkar Dutt	H.S.	20.8.55	8.4.94	8.4.94	-	-do-
17.	Sansar Chand		10.7.59	24.7.78	2.4.94	-	-do-
18.	Dil Bahadur Tamang	AISS	7.4.64	1.9.89	5.4.94	-	-do-
19.	Anand Singh Rawat	B...	12.10.66	9.4.94	9.4.94	-	R&G
20.	Bhabendra Nath Bharoli		1.1.57	11.3.94	11.3.94	Conf.	NAD
21.	Bhuvaneshwar Singh	B...	5.10.52	14.5.76	1.5.54	-do-	HP
22.	Upinder Singh	10th	14.12.71	7.2.90	2.12.96	-	UP
23.	Shishpal Singh	B...	15.9.69	29.9.88	30.11.96	Conf.	UP
24.	Harish Chandra Joshi	B...	12.12.67	20.7.89	1.1.97	-do-	UP
25.	Dina Nath	B...	7.1.54	16.5.74	1.1.97	-do-	HP
26.	Hemant Kumar	Metric	14.2.68	22.4.88	1.1.97	-do-	HP
27.	Sahab Ram	S.P.	30.10.66	30.10.87	18.10.96	-	R&G
28.	Anil Kumar	7BA	7.1.70	20.6.91	1.1.97	Conf.	HP
29.	Raj Pal Singh	12th	10.4.69	15.12.88	12.10.96	-do-	UP
30.	Jeet Singh Goira	12th	13.5.64	26.9.86	3.12.96	-do-	UP

Contd... 2/-

Certified to be true by
Sukhdev
Ad

1.	2	3	4	5	6	7	8
31.	Rajesh Prakash Samwal	12th	27.8.65	6.11.87	2.12.96	Conf. UP	
32.	Kripal Singh	10th	4.7.69	1.6.83	3.12.96	-	UP
33.	Rajendra Singh S/O Jagat Singh	12th	21.10.66	4.4.87	2.12.96	-	UP
34.	Ram Lal	Matric	1.4.67	21.10.86	2.1.97	Conf. HP	
35.	Rajendra Singh	12th	10.4.60	12.9.89	2.12.96	-do-	UP
36.	Dinesh Prasad	10th	11.7.68	10.1.89	4.12.96	-do-	UP
37.	<u>Jag Mohan Singh</u>	-B.A	20.6.73	12.11.91	14.12.96		
38.	S.N. Sharma	SSC	28.10.54	21.3.77	30.9.96	-do-	SSB Dte.
39.	Om Prakash (ST)	Matric	27.3.68	20.1.89	16.1.97	-do-	HP
40.	Tarsen Singh	Matric	1.4.69	15.2.90	14.11.96	-	J&K
41.	Jaspal Singh	-do-	10.7.69	31.12.88	16.10.96	-	R&G
42.	Ranjit Singh	-do-	20.1.64	13.10.86	1.1.97	-	HP
43.	Gopal Chand Barmen				1.12.96		
44.	Joginder Singh	10th	15.7.65	26.5.86	2.11.96	-	R&G
45.	Sakla Nand	10th	5.2.55	3.2.73	8.1.97	Conf. R&G	
46.	Nand Lal (SC)	Matric	15.1.55	7.3.75	1.1.97	-do-	HP
47.	Jiwan Lal	-do-	14.12.67	2.1.84	30.1.96	-do-	HP
48.	Mast Ram	-do-	23.4.68	9.6.87	2.1.97	-do-	HP
49.	Khem Chand	-do-	19.7.70	19.2.90	1.1.97	-do-	HP
50.	Subhash Kumar	-do-	4.3.70	19.4.91	23.12.96	-	R&G
51.	Ramesh Chand	-do-	16.7.63	5.10.84	10.1.97	-	AP
52.	Bodh Raj						
53.	Rajesh Kumar	HELS	20.4.71	29.12.89	16.11.96	Conf. Shill.	
54.	Mehindar Singh	Matric	30.7.66	6.6.87	12.11.96	-do-	Shill.
55.	Virendra Singh	Inter	12.10.68	2.2.90	16.12.96	-	AP
56.	Ashwani Kumar	Matric	15.10.55	26.3.76	5.2.97	Conf. AP	
57.	Pabitra Kr. Sarkar				2.12.96	-	NA
58.	Trilok Chand	Matric	1.4.66	1.1.86	16.10.96	Conf. R&G	
59.	Norinder Singh	Matric	19.4.68	25.10.80	27.12.96	-do-	NB
60.	Basanta Kr. Dass				11.11.96		

Contd., . . . 3/-

1	2	3	4	5	6	7	8
61.	Tarun Kr. Roy (SC)	M...	10.4.64	18.8.86	2.12.96	Conf. NB	
62.	Sanjeev Singh	Metric	10, 11, 64	12, 10, 87	26, 12, 96	-do-	AP
63.	Shambhu Shankar	B.A.	6, 10, 63	28, 10, 85	2, 12, 96	-do-	NB
64.	Ashok Kr. Nirala	B.A.	30, 12, 63	5, 12, 86	11, 12, 97	-do-	AP
65.	Laibhakpam G. Singh	Metric	1.3.67	24, 10, 89	28, 2, 97	-	MNP
66.	Ashin Roy Chaudhury	B.A.	10, 1, 66	25, 10, 85	2, 12, 96	Conf. NB	
67.	Laisienliea Hmor (ST)	Metric	1.3.69	14, 2, 91	28, 2, 97	-	MNP
68.	Rajni Kanta Sarma				6, 12, 96	-	Lakhim- pur.
69.	Abhi Ram Das	S.F.	12, 10, 52	16, 2, 76	16, 12, 96	Conf. NB	
70.	Baneswar Sarmah				2, 12, 96	-	Dina- hat.
71.	Krishami Rd. Ponal P.U.		2, 11, 66	5, 12, 86	9, 1, 97	Conf. AP	
72.	K. Joyson Tangkhul	Metric	1.3.72	14, 4, 91	28, 2, 97	-	MNP
73.	Radhaballav Saha				30, 11, 96	-	TSK
74.	S. Chakraborty	H.S.	2, 1, 65	4, 12, 87	11, 12, 96	Conf. NB	
75.	Karbang Lepcha (ST)	Metric	11, 4, 65	7, 12, 87	30, 11, 96	-do-	NB
76.	S. Ch. Roy (SC)	HSLC	25, 12, 68	16, 7, 90	11, 11, 96	-do-	AP

7/CRS//

Forwarded for information
and necessary action.

-22-

ANNEXURE - 5

~~Recd. dated 18/8/95
(H. V. SIKATAPALAI)~~
F. No. 11(2)/97-E.II(B)
Government of India
Ministry of Finance
Department of Expenditure
SR. ADMINISTRATIVE OFFICER
(AUDIT RULES)

New Delhi, Dated July 22, 1998.

OFFICE MEMORANDUM

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands — Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) ibid. were also to apply mutatis mutandis to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows :

(i) **Tenure of Posting/Deputation**

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(ii) **Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records**

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(iii) **Special [Duty] Allowance**

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special [Duty] Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

*certified to be true copy
S. Bhattacharya
Advocate*

(iv) Special Compensatory Allowances

Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Remote Locality Allowance, Bad Climate Allowance, Tribal Area Allowance, Composite Hill Compensatory Allowance, etc., which are location-specific, have either been separately issued or are under issue based on the Government decisions on the recommendations of the Fifth Central Pay Commission relating to these allowances. These orders shall apply to the eligible Central Government employees posted in the specified localities in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands, depending on the area(s) of their posting and subject to the observance of the terms and conditions specified therein. Such of those employees who are entitled to the Special [Duty] Allowance or the Island [Special Duty] Allowance shall also be entitled, in addition, to the Special Compensatory Allowance(s) as admissible to them in terms of these separate orders.

Central Government employees entitled to Special Compensatory Allowances, separate orders in respect of which are yet to be issued, will continue to draw such allowances at the existing rates with reference to the 'notional' pay which they would have drawn in the applicable pre-revised scales of pay but for the introduction of the corresponding revised scales till the revised orders are issued on the basis of the recommendations of the Fifth Central Pay Commission and the Government decisions thereon.

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(vi) Travelling Allowance for Journeys on Transfer; Road Mileage for Transportation of Personal Effects on Transfer; Joining Time with Leave

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable.

(vii) Leave Travel Concession

In terms of the existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, the following options are available to a government servant who leaves his family behind at the old headquarters or another selected place of residence, and who has not availed of transfer travelling allowance for the family :

(a) the government servant can avail of the leave travel concession for journey to the Home Town once in a block period of two years under the normal Leave Travel Concession Rules;

OR

(b) in lieu thereof, the government servant can avail of the facility for himself/herself to travel once a year from the station of posting to the Home Town or the place where the family is residing and for the family [restricted only to the spouse and two dependent children of age up to 18 years in respect of sons and up to 24 years in respect of daughters] also to travel once a year to visit the government servant at the station of posting.

These special provisions shall continue to be applicable.

In addition, Central Government employees and their families posted in these territories shall be entitled to avail of the Leave Travel Concession, in emergencies, on two additional occasions during their entire service career. This shall be termed as "Emergency Passage Concession" and is intended to enable the Central Government employees and/or their families [spouse and two dependent children] to travel either to the home town or the station of posting in an emergency. This shall be over and above the normal entitlements of the employees in terms of the O.M. dated December 14, 1983, and the two additional passages under the Emergency Passage Concession shall be availed of by the entitled mode and class of travel as admissible under the normal Leave Travel Concession Rules.

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependent children [up to 18 years in respect of sons and up to 24 years in respect of daughters] will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Lilabari/Silchar in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Madras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

(viii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt.(Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees in Occupation of Hired Private Accommodation

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting

As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependents of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.

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

6. Hindi version will follow.

*Approved by
Sunder Rajan
10.1.1997*

N. Sunder Rajan

(N. SUNDER RAJAN)
Joint Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]
Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]
Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and Administrator, Lakshadweep.

COPY

No. V/4/Acct./1/85/98/10800.
 Directorate General of Security,
 Office of the Divisional Organis-
 North Assam Division, Tezpur. ser.

Dated 13.11.2000.

M E M O R A N D U M

Subject : Classification of SDA.

Please refer to your Memo. No. 2580, Dtd. 10.09.00
 on the subject cited above.

In this regard clarification issued by the C.S. has already been circulated to all units vide this office No. NGE/SDA/91-2000/4645-53, Dtd. 17.05.2000 alongwith SSB Dte. No. 42/SSB/A/A/99(18)/2486-2508, Dtd. 05.05.2000.

As per the said clarification Shri Amal Ch. Barman, SFA(M) and Shri J. Singh, SFA(M) who have initially joined as SFA(M) after tendering technical ~~regd~~ resignation appointed initially in N.E. Region is not admissible for SDA. As such the irregular payment of SDA made to them w.e.f. 21.09.94 may be recovered in suitable instalments and compliance reported this office.

Sd/- 13.11.2000.

(H. BORAH)
 Accounts Officer, SSB,
 North Assam Division,
 Tezpur.

To,

The Area Organiser,
 SSB, N.K. Area,
 Howly.

Memo. No. 3824, Dtd. Howly, the 6th Dec./2000.

Copy to :-

Shri J. Singh, SFA(H), ^{1/2 the} Sub-Area Organiser, Rangia.
 (Changrani).

*Certified to be true copy
 Smiti Hash
 Advocate*

S. Guanu
 6/12/00
 / Area Organiser,
 SSB, North Kamrup Area,
 Howly.

NO.NGE/SDA/91-2001/811
 Directorate General of Security
 Office of the Divisional Organiser
 SSB, North Assam Division, Tezpur.

Dated, the 19th Jan/2001.

M E M O R A N D U M

Subject :- Inadmissibility of SDA in respect of Shri Jagmohan Singh, SFA(H), -recovery thereof.

The Area Organiser, SSB, N.K. Area, Howly may please refer to his letter No. 3830 dated 6.12.2000 on the subject cited above.

2. It is apparent that Shri Jagmohan Singh, SFA(H) was appointed on selection from Group Centre on "Transfer basis" therefore, this is a case of first appointment in Civil side as SFA(H). As such, SDA is not admissible to him as per clarifications vide para (1)(a) of Cabinet Secretariat U.O. No. 20/12/99-EA-I-1799 dated 2.5.2000.

The copy of Memo No. D/SSB/A2/89(9)2375 dtd. 16.9.96 furnished by Shri Singh, SFA(H) with his ~~px~~ representation speaks that he was selected for appointment as SFA(H) "on transfer basis", so this order does not indicate his transfer from outside N.E. region to N.E. region.

Shri Jagmohan Singh, SFA(H) may please be informed accordingly, and recovery of irregular payment of SDA may be made with immediate effect.

Sd/-

Area Organiser (Staff)
 North Assam Division, Tezpur.

To,

The Area Organiser, SSB,
 North Kamrup Area, Howly.

Memo No.

423-24

Dt. 31.1.2001.

Copy to : Shri Jagmohan Singh, SFA(H) SAO, SSB, Changsari
 for information.

2. Accounts Branch (Local) for information and necessary action.

S. G. M.
 21-1-01

1 Area Organiser, SSB
 North Kamrup Area, Howly.

*certified to be true copy
 S. G. M.
 Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO. 84/2001

Shri Jagmohan Singh, (s/o Shri Magan Singh)

VRs

Union of India and Others

IN THE MATTER OF

Written statement submitted by the respondent (No.3)

The written statement in opposition filed on behalf of the Respondents No.1 to 5, are as follows :

Para 1 to 3 No comments as these are matter of records only.

Para 4.1 No comments

Para-4.2 The applicant was initially appointed as combatised Constable in Group Centre , SSB, Chamma in UP and was selected for appointment as Sr. Field Assistant (Homoeo) and was posted in the office of the Sub Area Organiser,SSB, Rangia (at present at Changsari) vide order dated 16-3-1996. The applicant was appointed as SFA(Homoeo) on selection from the post of Constable of SSB Group Centre " on transfer basis ". So this is a case of first appointment in civil side as SFA (Homoeo).

Contd....

Para 4.3 The Govt. of India has given the incentives to the civilian employees including special (duty) Allowance (SDA) to the employees having all India transfer liability and the eligibility conditions for getting said allowance have also been clarified vide Cabinet Sectt. U.O.No.20/12/99-EA-I- 1799 dated 2-5-2000. (Annexure- R-I). The payment of SDA has been regulated on the basis of above clarifications issued by the Cabinet Sectt. New Delhi, keeping in view of the clarifications issued by the Ministry of Finance, in this regard.

Para 4.4 No comment as this is a matter of record.

Para 4.5 On the basis of clarifications issued by the Cabinet Sectt. vide their U.O. dated 2-5-2000 (Para-2 (i)(a), a person belonging to outside N.E. Region, on the first appointment in the N.E. Region after selection, he is not entitled for the said allowance. As stated in para 4.2 above, the case of the applicant was a case of first appointment in Civil side as SFA(Homoeo) and hence he is not eligible for the said allowance.

Copy of Cabinet Secretariat U.O. dated 2-5-2000 is annexed as ANNEXURE- R-1

Contd....

Para . 4.6 The averment raised in para 4.6 and para 4.7 are nothing but matter of records and these paras are denied except to the extent supported by records. The reasons for refusal of the SDA to the applicant have already been enumerated/ explained in the foregoing paras.

Para 5 to 8 That it is submitted herein that the answering respondent(s) followed the rules and instructions as applicable to the Govt. employee and hence cannot be said to have done any arbitrary action as alleged. It is respectfully prayed that the O.A. No.84/2001 as filed by the applicant is not maintainable in law and in facts. The Answering Respondents having acted in strict accordance with the applicable rules/instructions. That in the circumstances it is most respectfully prayed that the application be dismissed, costs be imposed and or any other order that may be passed by Hon'ble Court (CAT) as deem fit and proper.

In this regard a copy of CAT Guwahati Judgment in Identical OA No.43/2000 titled Mathuresh Nath and Others Vs U.O.I. is annexed as ANNEXURE- R-II.

Para 9 The Interim order passed by the Hon'ble CAT Guwahati on 27-2-2001 regarding suspension of operation of the orders No.V/4/Acctt/1/85/98/10800 dated 13-11-2000 (Annexure-R-III) and No. NGE/SDA/91-2001/811 dated 19-1-2001 (Annexure -R-IV) may be vacated.

Para 10 to 12 No comments.

Contd....

(Page No. 4)

VERIFICATION

I, T.N.Shanoo, Deputy Inspector General,SSB, NAD, Tezpur being authorised do hereby solemnly affirm and declare that the statements made in this written statement are true to my knowledge and information and I have not suppressed any material/fact.

And I sign this verification on this 22 th day of May,2001

[Signature]
DECLARANT 22.5.21
Dy. Inspector General
N. A. Division : S. S. B,
Tezpur.

COURT CASE
MOST IMMEDIATE

Cabinet Secretariat
(EA.I Section)

8/147

39

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

SSB Directorate may kindly refer to their UO No. 42/SSB/AI/99(18)-2369 dated 31.3.2000 on the subject mentioned above.

2. The points of doubt raised by SSB in their UO No. 42/SSB/AI/99(18)-5282 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department of Expenditure) and clarification to the points of doubt is given as under for information, guidance and necessary action :

i) The Hon'ble Supreme Court in their judgement delivered on 26.11.96 in Writ Petition No. 794 of 1996 held that Civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. region from outside the region, and in the following situation whether a Central Govt. employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their UO No. 11(3)/95-E.III(B) dated 7.5.97.

a) A person belongs to outside N.E. region but he is appointed and on first appointment posted in the N.E. Region after selection through direct recruitment based on the recruitment made on all India basis and having a common/centralised seniority list and All India Transfer Liability.

b) An employee hailing from the NE Region selected on the basis of an All India recruitment test and borne on the Centralised Cadre/ service common seniority on first appointment and posted in the N.E. Region. He has also All India Transfer Liability.

ii) An employee belongs to N.E. Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of SDA) vide Ministry of Finance OM No. 20014/2/83-E.IV dated 14.12.83 and 20.4.87 read with

NO

NO

OM 20014/16/86 E.II(B) dated 1.12.88) but subsequently the post/cadre was centralised with common seniority list/promotion/All India Transfer Liability etc. on his continuing in the NE Region though they can be transferred out to any place outside the NE Region having All India Transfer Liability.

iii) An employee belongs to NE Region and subsequently posted outside NE Region, whether he will be eligible for SDA if posted/transferred to NE Region. He is also having a common All India seniority and All India Transfer Liability.

YES

iv) An employee hailing from NE Region, posted to NE Region initially but subsequently transferred out of NE Region but re-posted to NE Region after sometime serving in non-NE Region.

YES

v) The MOF, Deptt. of Expdr. vide their UO No.11(3)/95-E.II(B) dated 7.6.97 have clarified that a mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty Allowance. For determination of the admissibility of the SDA to any Central Govt. Civilian employees having All India Transfer Liability will be by applying tests

In case the employee, hailing from NE Region is posted within NE Region he is not entitled to SDA till he is once transferred out of that Region.

(a) whether recruitment to the Service/Cadre/Post has been made on All India basis, (b) whether promotion is also done on the basis of All India Zone of promotion based on common seniority for the service/Cadre/Post as a whole (c) in the case of SSB/DGS, there is a common recruitment system made on All India basis and promotions are also done on the basis of All India Common Seniority basis. Based on the above criteria/tests all employees recruited on the All India basis and having a common seniority list of All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from NE Region or posted to NE Region from outside the NE Region.

vi) Based on point (iv) above, some of the units of SSB/DGS have authorised payment of SDA to the employees hailing from NE Region and posted within the NE Region while in the case of others, the DACS have objected payment of SDA to employees hailing from NE Region and posted within the NE Region irrespective of the fact that their transfer liability is All India Transfer Liability or otherwise. In such cases what should be the norm for payment of SDA i.e. on fulfilling the criteria of All India Recruitment Test & to promotion of All India Common Seniority basis having been satisfied are all the employees eligible for the grant of SDA.

vii) Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20/9/1991 i.e. the date of decision of the Hon'ble Supreme Court and/or whether the payment of SDA should be allowed to all employees including those hailing from NE Region with effect from the date of their appointment if they have All India Transfer Liability and are promoted on the basis of All India Common Seniority List.

It has already been clarified by MOF that a mere clause in the appointment order regarding All India Transfer Liability does not make him eligible for grant of SDA.

The payment made to employees hailing from NE Region & posted in NE Region be recovered from the date of its payment. It may also be added that the payment made to the ineligible employees hailing from NE Region and posted in NE Region be recovered from the date of payment or after 20th Sept. 94 whichever is later.

3. This issues with the concurrence of the Finance Division, Cabinet Secretariat vide Dy. No. 1349 dated 11.10.99 and Ministry of Finance (Expenditure)'s I.D. No. 1204/E-II(B)/99 dated 30.3.2000.

Sd/-

(P.N. THAKUR)
DIRECTOR (SR)

1. Shri R.S.Bedi, Director, ARC
2. Shri R.P.Kureel, Director, SSB
3. Brig (Retd) G.S.Uban, IG, SFF
4. Shri S.R.Mehra, JD(P&C), DGS
5. Shri Ashok Chaturvedi, JS (Pers), R&AW
6. Shri B.S.Gill, Director of Accounts, DACS
7. Smt. J.M.Menon, Director-Finance(S), Cab.Sectt.
8. Col.K.L.Jaspal, CIOA, CIA
Cab. Sectt. UO No.20/12/99-EA-I-1799

dated 2.5.2000

FAX

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 43 of 2000

Date of decision: This the 11th day of January, 2001
The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr. K.K. Sharma, Administrative Member

Shri Mathuresh Nath and 4 othersApplicants

The applicants are employees of the
Special Service Bureau, Arunachal Pradesh Division

By Advocate Mr. K.P. Singh.

-Versus -

1. The Union of India
(Represented by the Cabinet Secretariat),
Department of Cabinet Affairs,
New Delhi.
2. The Director General of Security,
Block-V R.K. Puram,
New Delhi.
3. The Director,SSB,
Block-V; R.K. Puram,
New Delhi.
4. The Director of Accounts,
Cabinet Secretariat,
New Delhi.
5. The Divisional Organiser,
Arunachal Pradesh Division,SSB,
Itanagar, Arunachal Pradesh.Respondents

By Advocate Mr. E.S. Basumatary, Addl. C.G.S.C.

.....

C R D E R (ORAL)

CHOWDHURY, J. (V.C.)

The admissibility of Special (Duty) Allowance (SDA for short) is the key question raised in this application. The applicants are five in number and they are working in the Secretarial Cadre of Service under the respondents. They are claiming SDA in terms of the Central Government Notification dated 14.12.1983 and other Notifications issued from time to time.

2. The applicants on their own stated that though they hale from the North Eastern Region and are permanent residents of Assam, they were recruited in the Special Service Bureau (SSB for short) in the initial stage and consequent upon the promulgation of the Cadre Rules they were absorbed in D.G.(S) Secretarial Cadre Rules during 1975. Since they are borne in the Cadre Rules they have all India Transfer liability.

3. The issue raised in this application is no longer Res integra in view of the judgement of the Supreme Court rendered in Civil Appeal No.3251 of 1993 disposed of on 20.9.1994 in Union of India and others Vs. S. Vijay Kumar and others, reported in (1994) 28 AIC 598. As per the aforementioned Decision, Central Government employees who have All India Transfer liability are entitled to grant of SDA on being posted (emphasis supplied) to any station in the North Eastern Region from outside the region and SDA would not be payable merely because of the clause in the appointment letter relating to All India Transfer liability. Consequent thereto, the concerned Ministry issued necessary instructions not to disburse SDA to ineligible persons. There are also a number of decisions rendered by the Tribunal as well as the High Court.

4. In the circumstances there is no scope for directing the respondents to pay SDA to the present applicants. Mr. K.P. Singh, learned counsel for the applicants cited the instance of some persons who are allegedly being paid SDA though they are similarly situated like the present applicants. Assuming that the respondents are paying SDA to ineligible persons contrary to the provisions of law that would not be a ground for giving similar unlawful benefit to the applicants by the Tribunal.

-:: 3 ::-

5. Considering all the aspects of the matter and upon hearing the learned counsel for the parties we do not find any merit in this application. Accordingly the same is dismissed. There shall, however, be no orders as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (Adm)

No.NGE/P-9(A)/96/2000(152)
Government of India
Ministry of Home Affairs
Office of the Divisional Organiser
SSE, A.P. Division, Itanagar.

Dated:-07.3.2001

Copy to:-

1. The Jt. Dy. Director (EA) for information & necessary action please, w.r.t. SSB Dte. Sig.No.2932 dt.26.2.2001.
2. The Divisional Organiser, SSB, Shillong Division for information please w.r.t. DO Shillong sig. No.10422 dtd. 6.3.2001

Sd/- 7.3.01
AREA ORGANISER(STAFF)

O-O-O

RSD

ANNEXURE - R-III

11

COPY

No. V/4/Acct./1/85/98/10800.
Directorate General of Security,
Office of the Divisional Organis-
North Assam Division, Tezpur. ser.

Dated 13.11.2000. (S)

M E M O R A N D U M

Subject : Classification of SDA.

Please refer to your Memo. No. 2580, Dtd. 10.09.00
on the subject cited above.

In this regard clarification issued by the C.S.
has already been circulated to all units vide this office
No. NGE/SDA/91-2000/4645-53, Dtd. 17.05.2000 alongwith SSB
Dte. No. 42/SSB/B/A/99(18)/2486-2508, Dtd. 05.05.2000.

As per the said clarification Shri Amal Ch. Barman,
SFA(M) and Shri J. Singh, SFA(H) who have initially joined as
SFA(M) after tendering technical ~~resignation~~ resignation appointed
initially in N.E. Region is not admissible for SDA. As such
the irregular payment of SDA made to them w.e.f. 21.09.94
may be recovered in suitable instalments and compliance re-
ported this office.

Sd/- 13.11.2000.

(H. BORAH)
Accounts Officer, SSB,
North Assam Division,
Tezpur.

To,

The Area Organiser,
SSB, N.K. Area,
Howly.

Memo. No. 3824, Dtd. Howly, the 6th Dec./2000.

Copy to :-

Shri J. Singh, SFA(H), ^{1/2 the} Sub-Area Organiser, Rangia.
(Changsari).

S. Guwahati
/ 6/12/00
Area Organiser,
SSB, North Kamrup Area,
Howly.

(ANNEXURE-R-IV)

-12-

NO.NGE/SSDA/91-2001/811
Directorate General of Security
Office of the Divisional Organiser
SSB, North Assam Division, Tezpur.

Dated, the 19th Jan/2001.

M E M O R A N D U M

Subject :- Inadmissibility of SDA in respect of Shri Jagmohan Singh, SFA(H), -recovery thereof.

The Area Organiser, SSB, N.K. Area, Howly may please refer to his letter No. 3830 dated 6.12.2000 on the subject cited above.

2. It is apparent that Shri Jagmohan Singh, SFA(H) was appointed on selection from Group Centre on "Transfer basis" therefore, this is a case of first appointment in Civil side as SFA(H). As such, SDA is not admissible to him as per clarifications vide para (1)(a) of Cabinet Secretariat U.O. No. 20/12/99-EA-I-1799 dated 2.5.2000.

The copy of Memo No. D/SSB/A2/89(9)2375 dtd. 16.9.96 furnished by Shri Singh, SFA(H) with his ~~px~~ representation speaks that he was selected for appointment as SFA(H) "on transfer basis", so this order does not indicate his transfer from outside N.E. region to N.E. region.

Shri Jagmohan Singh, SFA(H) may please be informed accordingly, and recovery of irregular payment of SDA may be madw with immediate effect.

Sd/-

Area Organiser(Staff)
North Assam Division, Tezpur.

To,

The Area Organiser, SSB,
North Kamrup Area, Howly.

Memo No.

423-24

Dt. 31.1.2001.

Copy to Shri Jagmohan Singh, SFA(H) SAO, SSB, Changsari
for information.

2. Accounts Branch(Local) for information and necessary action.

21-1-01

Area Organiser, SSB
North Kamrup Area, Howly.