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3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 86/2001

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO 86 OF 2001

Applicant (S) Sri P.C. Sasi Charan Nain & ORS.

Respondent(s) U.O. 1. 1 ORS.

Advocate for Applicant(s) Mr Adil Ahmed.

Advocate for Respondent(s) CGSC.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

This application is in form
but not in time Condonation
Petition is filed not filed vide
M.F. No. C.F.
for Rs. 50/- deposited vide
IPO/BD No 24 503686
Dated 22/02/2001

Dr. Registrar

Requisites filed.

26/2/01

2-3-2001

Service of notice
issued to the respon-
dents vide D.No. 926/01
Dd. 13.3.01.

① Service report are
still awaited.

② No written statement
has been filed.

26.3.01

27.2.01

Heard Mr A.Ahmed, learned
counsel for the applicants.

Application is admitted. Issue
notice on the respondents. Call for
records.

List on 27.3.2001 for written
statement and further orders.

Mr Ahmed prays for an interim
order. Issue notice to show cause
as to why the Order No.444/CIV/Gen/
ST-12 dated 13th October, 2000 shall
not be suspended. Returnable by
27.3.2001. In the meantime the
operation of the said order shall
remain suspended.

Member

Vice-Chairman

pg

27.3.01

List on 1.5.01 to enable the
respondents to file written state-
ment.

Member

Vice-Chairman

pg

②
O.A.86 of 2001

① No. written statement
has been filed.

20
30.4.01

1.5.2001 List on 4-6-2001 to enable the
respondents to file written statement.

ICU Sharma
Member

Vice-Chairman

bb

4.6.2001 List again on 5-7-2001 enabling
the respondents to file written state-
ment.

ICU Sharma
Member

Vice-Chairman

bb

5.7.01 Written statement has been filed.
The case may be listed for hearing.
In the meantime, the applicant may file
rejoinder within two weeks from today.
List for hearing on 21-8-2001.

ICU Sharma
Member

Vice-Chairman

bb

written statement
has been filed.

20
4.7.01

21.8. passed over.

Ms
A.K. Sharma
21.8

22.8.01 Heard counsel for the parties.
Hearing concluded. Judgment delivered in
open Court, kept in separate sheets.

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

ICU Sharma
Member

Vice-Chairman

bb

14.9.2001
Copy of the judgment
has been put to the
officer. Similarly
the same to the L/Advocate
for the parties.

ell

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 86 of 2001.

Date of Decision. 22.8.2001.

----- Shri P.C. Sasidharan Nair & 7 Ors. -----
----- Petitioner(S) -----

----- Mr. A. Ahmed -----
----- Advocate for the -----
----- Petitioner(s) -----

-Versus-

----- Union of India & Ors. -----
----- Respondent(s) -----

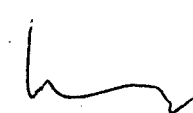
----- Mr. A. Deb Roy, Sr.C.G.S.C. -----
----- Advocate for the -----
----- Respondent(s) -----

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

THE HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble : Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 86 of 2001.

Date of Order : This the 22nd Day of August, 2001.

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

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

1. Shri P.C.Sasidharan Nair,
 2. " Dayanand Giri
 3. " Jairam Thakur
 4. " Rajbal Tirkey
 5. " Hari Narayan Ram
 6. " Radha Prasad Rai
 7. " Fadar Minz and
 8. " Smt. Sampti Devi
- . . . Applicants.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India
represented by the Secretary
to the Government of India,
Ministry of Defence, New Delhi.
 2. Smt Vandana Srivastava,
Controller of Defence Accounts,
Udayan Vihar, Narengi,
Guwahati-781026.
 3. The Officer Commanding,
Supply Point, Chakabama,
Ex - 557 A.S.C.Bn. C/o 1063 Field Workshop,
GREF, C/o 99 A.P.O.
 4. The Accounts Officer,
Office of the Area Accounts Office,
Ministry of Defence,
Bivar Road, Shillong-1.
- . . . Respondents.

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

O R D E R

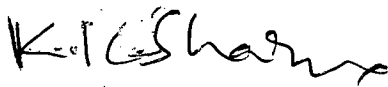
CHOWDHURY J.(V.C)

The applicants are eight in number assailing the order of recovery as well as of stoppage of Field Service Concession vide D.O.No. Pay/Tech/025 dated 10.4.1999 issued by respondent No.2 as well as letter No. 444/Civ/Gen/ST-12 dated 13.10.2000 (Annexure-3). The grievance raised in this application are common grievance having common cause of

action and the nature of relief prayed for are also same, in the circumstances the applicants are allowed to espouse their grievance by a single application.

2. It is submitted by the learned counsel for the parties that this case is squarely covered by the judgment and order rendered by this Tribunal in O.A. Nos.170/99, 202/99, 319/99, 179/2000, 2276/2000 and 224/2000 disposed of on 11.12.2000. In the light of the judgment and above order the application is allowed. The impugned order and the direction for stoppage of Field Service Concession are set aside.

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



(K.K.SHARMA)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 86 OF 2001.

Sri P.C. Sasidharan Nair

& Ors. -Applicants.

-Versus-

Union of India & Others

-Respondents.

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Filed by

Advocate.

(ADIL AHMED)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. OF 2001.

B E T W E E N

Sl. No.	T/No	NAME	RANK
1.	6403452	Shri P.C. Sasidharan Nair	Labour
2.	6403450	Dayanand Giri	-do-
3.	6403451	Jairam Thakur	-do-
4.	6403453	Rajbal Tirkey	-do-
5.	6403454	Hari Narayan Ram	-do-
6.	6403455	Radha Prasad Rai	-do-
7.	6403626	Fadar Minz	-do-
8.		Srimati Sampti Devi	
		Wife of Late Ram Sing Ex-Labour	
		Ticket No. 6403625	

Applicants.

Now all the applicants are working under the Officer Commanding, Supply Point, Chakabama, Ex- 557 A.S.C. Bn. C/o 1063 Field Workshop, GREF, C/o 99 A.P.O. Except Serial No. 8, Smti Sampti Devi whose husband was expired on 26-08-1998. She is the Legal Heir and Family Pensioner of Late Ram Singh, Ex-Labour, T/No. 6403625 who had worked under the

Filed by
Shri P.C. Sasidharan Nair
applicant no. 1
through Shri P.C. Sasidharan Nair
(Adv. AHMED)
Advocate

P.C. Sasidharan Nair

Officer Commanding, Supply Point,
Chakabama, Ex- 557 A.S.C. Bn. C/o
1063 Field Workshop, GREF, C/o 99
A.P.O.

-AND-

- 1] Union Of India,
represented by the Secretary
to the Government of India,
Ministry of Defence, New Delhi.
- 2] Shrimati Vandana Srivastava,
Controller of Defence Accounts,
UDHYAN VIHAR, Narangi,
Guwahati-781171.
- 3] The Officer Commanding, Supply
Point, Chakabama, Ex- 557 A.S.C.
Bn. C/o 1063 Field Workshop,
GREF, C/o 99 A.P.O.
- 4] The Accounts Officer,
Office of the Area Accounts
Office, Ministry of Defence,
Bivar Road, Shillong-1.

-Respondents.

DETAILS OF THE APPLICATION:

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

PCs Darsi

This instant application is made against the impugned order of recovery as well as stoppage of the Field Service Concession vide D. O. No. Pay/Tech/025 dated 10th April 1999 issued by the Respondent No. 2 at Annexure-3 and also letter dated 444/Civ/Gen/ST-12 dated 13-10-2000 issued by the Respondent No. 3 at Annexure-3(A) and also praying for direction upon the Respondents for Continuation of the Field Service Concession as per this Hon'ble Tribunal's Judgement and order in O.A. No. 124, 125, 148, 217 & 218 of 1995 which was affirmed by the Hon'ble Supreme Court of India in Civil Appeal No. 1572 of 1997 (Union of India & Ors. Vs- B. Prasad, B.S.O. & ors.).

2] JURISDICTION OF THE TRIBUNAL

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

3] LIMITATION

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

4] FACTS OF THE CASE

Facts of the case in brief are given below:

P. S. Wani

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

4.2. That your applicants beg to state that all the applicants are serving under the Officer Commanding, Supply Point, Chakabama, Ex- 557 A.S.C. Bn. C/o 1063 Field Workshop, GREF, C/o 99 A.P.O.

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

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

PCs. Dan

risking their lives in supporting the army personnel development there.

4.5 That your applicants beg to state that these Defence Civilian Employees are entitled to get the benefit of Field Service Concession and also Allowance as per various Government Circulars and orders. These orders are as per Letter No. 16729/Org 4(Civ)(d) dated 25th April 1994 and vide letter No. B/37269/AG/PS3(a)/165/0 (pay/Service) issued by the Govt. of India, Ministry of Defence, dated 31st January, 1995. These letters were forwarded vide letter No. 16037/R/A2 HQ 3 Crops (A), C/o 99 APD dated 6-3-95. In the above mentioned letters and circulars it has been clearly stated that the Defence Civilian (Both locally recruited and outsiders) posted at field area like Nagaland & Manipur are entitled to get certain monetary allowance, i.e., Field Service Concession with effect from 01-04-1993. It is pertinent to mention here that in these letters it has been clearly mentioned in paragraph I that "the Defence Civilian Employees serving in the newly defined field areas will continue to be extended the concession and facilities enumerated at Annexure-C of the Government letter No. A/02584 /AG/PS-3 (a)/97- S/D (Pay/Service) dated 25-01-64. The Field Service allowance as mentioned in the above mentioned letters are addition to Field Service Concession which was granted by the Government

P. S. Datta

of India vide letter dated 25-01-64. The Additional Field Service Allowance has become effective from 1st April 1993.

Annexure-1 is the Photocopy of the letter No. 16729/Org 4(Civ)(d) dated 25th April 1994.

Annexure-1(A) is the photocopy of letter No. B/37269/AG/PS3 (a)/165/0 (Pay/Service) dated 31st January, 1995.

Annexure-1(B) is the photocopy of letter No. 16037/R/A2 HQ 3 Crops (A), C/o 99 APO, dtd. 6-3-95.

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

4.6 That your applicants beg to state that, they ^{are} enjoying Field Service Concession since 1964 as per Annexure 1(C). But when the Defence Department issued another circular for Field Service Allowance in addition to Field Concession as enumerated in letter dated 25-1-64, the applicants approached the authority to get the additional allowance. The authority refused to give this allowance in spite of their Office Memos at Annexure-1, Annexure-1(A) & Annexure-1(B). The applicants being

Pis. Sar

aggrieved by non-payment of Field Service Concession Allowance they approached the Hon'ble Tribunal by filing the Original Application No. 148/95 before the Hon'ble Tribunal. The Hon'ble Tribunal after hearing both sides allowed the Field Service Concession Allowance (Monetary) as per Government letter No. 37269/ AG/ PS 3(a) /D/ Pay/ Service dated 13-01-94 w.e.f. 01-04-1993. Accordingly the applicants had enjoined the benefit of Field Service Concession Allowance.

4.7 That it is pertinent to mention that in the similarly situated persons who have filed the Original Application No. 124, 125 & 217 & 218 of 1995 prayed for grant of four allowances, i.e., Special Duty Allowance, House Rent Allowance, Special Compensatory (Remote Locality) Allowance & Field Service Concession. All these allowances are allowed by this Hon'ble Tribunal in the above mentioned Original Applications. The Hon'ble Tribunal in its judgments allowed the Special Duty Allowance from 01-12-88, House Rent Allowance from 1-10-86, Special Compensatory (Remote Locality) Allowance from 01-10-86 & Field Service Concession with effect from 01-4-93. Accordingly, the Respondents have paid the above allowances to the similarly situated persons as per Hon'ble Tribunal's Order & Judgement.

4.8 That your applicants beg to state that the Respondents, that is, the Union of India challenged the above mentioned Judgments

Pcs. Dhanu

& Orders alongwith applicants' O.A. No. 148/95 before the Hon'ble Supreme Court of India. The appeal was numbered as Civil Appeal No. 1572/97. The grounds taken by the Union of India before the Hon'ble Supreme Court of India regarding payment of Field Service Concession are given below:

Because the Hon'ble Central Administrative Tribunal committed a grave error by directing that the petitioner are entitled for Field Service Concession as per Army Head Quarter letter dtd 25-04-94 with effect from 01-04-93. A reading of Army Head Quarter letter dtd 25-04-94 clearly show that the Hon'ble Tribunal has pass the order without understanding the contents of the letter. Actually, the Army Head Quarter letter dtd 25-04-94 was addressed to the various Army Commandants indicating certain proposal for Concession/ Allowance to the Defence Civilian Employees in certain areas and which had been forwarded to the Ministry of Defence for consideration and the Commandants, Head Quarter, were requested to examine the stated proposal and give their comments/views. The Hon'ble Tribunal has to the extent of directing the Government to pay such allowance even without Government sanction. The Army Head Quarter, on the proposal submitted that the Hon'ble Tribunal committed an error when it directed the Government to make payments as per this letter of Army Head

Pes. Raw

Quarter. No such allowances could be given in the absence of the Government Sanction.

But the Hon'ble Supreme Court of India only dealt with the Special Duty Allowance and the Special Compensatory (Remote Locality) Allowance. The Apex court held that the Special Compensatory (Remote Locality) Allowance will be payable to the Defence Civilian Employees till 17th April, 1995 as per Government letter regarding payment of Special Duty Allowance. The Apex court held that the Defence Civilian Employees serving in the Field Areas are entitled to get both the allowances, the Special Duty Allowance and the Field Service Concession Allowance. In this judgment it was nowhere mentioned by the Apex court that the Defence Civilian Employees are not entitled to get Field Service Allowance as the Army Letter dated 13-01-94 in addition to Field Service Concession as per the Ministry of Defence' letter dated 25-01-64 and as such, these Defence Civilian employees posted in the Field Areas of Nagaland, Manipur, etc. are eligible for payment of Field Service Allowance in addition to Field Service Concession as the Hon'ble Tribunal and Hon'ble Apex Court's decision in Civil Appeal No. 1572/97.

Annexure-2 is the Photo copy of S.L.P. No. 1572 of 1997.

P. S. Hani

Annexure-2 (A) is the Photo copy of Judgment in Civil Appeal No. 1572/97.

4.9 That your applicants beg to state that most surprisingly the Respondent No.2 Smti, Vandana Srivastava, the Controller of Defence Accounts, Guwahati, Narengi issued a letter directing the Respondent No. 3 to recover the Field Service Concession from the applicants and also direct the Respondent No. 3 to stop further payment of Field Service Concession Allowance. The Respondent No. 3 has also vide his letter No. 444/Civ/Gen/ST-12 dated 13-10-2000 issued the impugned recovery order.

It may be worth to mention here that the applicants are enjoying the Field Service Concession Allowance as per Judgment & Order passed by this Hon'ble Tribunal in O.A. No. 148/95 which was affirmed by the Apex Court vide Civil Appeal No. 1572/97. They are enjoying this benefit since 1993. Accordingly, the Respondents have sanctioned the above mentioned allowance from the Defence Ministry, New Delhi and also from the Ministry of Finance. But surprisingly the Respondents particularly Respondent No. 2 has issued the impugned order at Annexure-3 dated 10th April, 1999 after 6(six) years of passing of this Hon'ble Tribunal Judgment regarding payment of Field Service Concession Allowance. The Respondents have already contested the similar matter before the Hon'ble Tribunal and also in the Hon'ble Supreme Court of India.

PCS. Daini

The Hon'ble Supreme Court of India affirmed the judgment of this Tribunal regarding payment of Field Service Concession Allowance vide its Civil Appeal No. 1572 dated 17-02-1997. As such, the Respondent No. 2 has acted whimsically and arbitrarily and she also has disobeyed the order of the Highest Court of Justice. Hence, the Respondent No. 2 deserve severe punishment from this Hon'ble Tribunal. The Respondent No. 2 in her impugned Order dated 10th April, 1999 stated that withholding payment of Field Service Concession against Hon'ble Central Administrative Tribunal Judgement. The Order issued by the Respondent No. 2 has shown willful disobedience to the entire judiciary. The Respondent No. 2 is not above the Judiciary. She cannot pass an order by over riding the judiciary system.

Annexure-3 is the recovery & Stoppage of Field Service Concession Allowance vide letter No. DO No. Pay/Tech/025 dated 10th April, 1999.

Annexure-3(A) is the one of such statement of impugned stoppage and recovery of Field Service Concession Allowance vide letter No. 444/Civ/Gen/ST-12 dated 13-10-2000 issued by the Respondent No. 3.

4.10 That your applicants beg to state that the Respondent No. 2 has violated the Hon'ble Tribunal's order & Judgment in O.A.

Pes. Sar-

No. 124, 125, 148, 217 & 218 of 1995 and also the Hon'ble Apex court's Judgment in Civil Appeal No. 1572 in similar cases regarding payment Field Service Concession Allowance to the Defence Civilian employees who are serving in the Field Area. As such, the Respondent No. 2 is liable for contempt of court for disobeying and suppressing the facts regarding payment of Field Service Concession Allowance to the Defence Civilian Employees who are serving in the Field Areas. Accordingly, the Hon'ble Tribunal may issue notice for personal appearance of Respondent No. 2 as she has violated the Hon'ble Tribunal order as well as the Hon'ble Supreme Court of India's order.

4.11 That your applicants beg to state that similarly situated Defence Civilian personnel who are serving in Nagaland and Manipur under the Ministry of Defence have already approached this Hon'ble Tribunal by filing various Original Applications No. 170/99, 202/99, 319/99, 179/2000, 276/2000 and 224 of 2000 against illegal recovery and stoppage of Field Service Concession Allowance paid to them. The Hon'ble Tribunal after hearing both sides on 11-12-2000 passed the judgment and allowed the applications and set aside the impugned Order of stoppage and recovery of Field Service Concession Allowance.

Pct. Sanj

Annexure-4 is the photocopy of common judgment and order dtd. 11-12-2000 passed by the Hon'ble Tribunal regarding recovery and stoppage of Field Service Concession Allowance.

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

4.13 That your applicants beg to state that now the Respondent No. 3 has already prepared bills for recovery of Field Service Concession Allowance which had been paid by the Respondents. The recovery of Field Service Concession Allowance will be effective from their pay bill with effect from 1st March 2001. Hence, the Hon'ble Tribunal may be pleased to protect the applicant by giving interim order for stay of impugned recovery order.

4.14 That your applicants beg to state that in the above circumstances finding no other alternative the applicants are approaching the Hon'ble Tribunal for protection of their rights and interest through this Original Application and the Hon'ble Tribunal may be pleased to stay the impugned order issued by the Respondent No. 2 & 3 [Annexure-3 &

P.C.S. Wani

3(A)] and also direct the Respondents to continue the Field Service Concession Allowance to the present applicants as interim measure and further be pleased to set aside and quashed the impugned Order at Annexures- 3 & 3(A).

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

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

5.2 For that, the applicants are enjoying the Field Service Concession Allowance as per Hon'ble Tribunal's order as well as the Apex Court's order and the Respondents can not deprive them these facilities of Field Service Concession Allowance and as such, the order or recovery and the order of stoppage of the above said allowance are illegal and are liable to be set aside and quashed.

5.3 For that, the applicants are Defence Civilian Employees serving in Nagaland and being attached with the armed force personal who are deployed in the Field Areas for operational requirement facing the immense

Pci. Star

hostilities and also facing risk of life along with the armed forces, as such, they are entitled to get the Field Service Concession and as such, the same cannot be discontinued.

5.4 For that, the Field Service Concession was not obtained by the applicants by any fraudulent means but the respondents after accepting the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati and also accepting the Hon'ble Supreme Courts Judgment they were paying the Field Service Concession and as such the order issued by the Respondent No. 2 & 3 is liable to be set aside and quashed.

5.5 For that, it has been already conclusively held that the Hon'ble Supreme Court of India in other similar cases that the Defence Civilian who are serving in this area are entitled to get the said benefit of Field Service concession Allowance with effect from 01-04-93 and the Field Service concession with effect from 25-01-64 as per Govt. letters as such, the respondents cannot discontinue these facilities to the present applicants.

5.6 For that, the Respondents have acted in a whimsical manner and particularly the Respondent No. 2 & 3 without going through the Hon'ble Tribunal's Judgement & Hon'ble Apex Court's judgement has issued the impugned recovery and stoppage letter by suppressing all relevant facts and documents. The

PCs. Wani

Respondent No. 2 & 3 has deliberately and intentionally violated the Hon'ble Tribunal's order & Hon'ble Apex Court's Judgment and as such, the order issued by the Respondent No. 2 and 3 are liable to set aside and quash.

5.7 For that, the order of stoppage and recovery issued in terms of impugned order No. pay/tech/Q25 dated 10-04-99 is in total violation and disobedience of the Apex Court's Judgment and the Hon'ble Tribunal's Judgment and as such, the order issued by the Respondent No. 2 & 3 are liable to be set aside and quashed.

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

Pes. Hant,

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

8. RELIEF SOUGHT FOR:

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

8.1 That the Hon'ble Tribunal may be pleased to declare that the applicants are entitled to get the Field Service Concession as per Government Letter No. 16729/Org 4(Civ)(d) dated 25th April 1994 and also as letter dated 31st January, 1995 and letter dated 6-3-95 as mentioned in this Original Application as Annexure-1, Annexure-1(A) & Annexure-1(B).

8.2 That the stoppage and recovery of Field Service Concession at Annexure-3 & 3(A) issued by the respondent No. 2 & 3 be set aside and quashed.

8.3 That the Respondents may be directed to continue the Field Service Concession Allowance as per Judgment & Order passed in

Per. San

O.A. No. 124, 125, 148, 217 & 218 of 1995 by this Hon'ble Tribunal which was affirmed by the Supreme Court of India in Civil Appeal No. 1572/97.

8.4 That the respondents may be directed to continue the Field Service Concession in terms of Appendix 'C' to the Government of India, Ministry of Defence letter No. A/02584/AG/PS 3(a)/97-S/D(pay-Service) dated 25-01-64 along with the Field Service Concession (Monetary) Allowance with effect from 1st April, 1993.

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

9. INTERIM ORDER PRAYED FOR:

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

9.1 That the Hon'ble Tribunal may be pleased to stay the impugned stoppage and recovery order of Field Service Concession Allowance at Annexures-3 and 3(A) issued by the respondents No. 2 & 3 and also to continue the Field Service Concession Allowance given to the applicants as per Hon'ble Tribunal's Judgement passed in O. A.124, 125, 148, 217 & 218 of 1995 which was affirmed by the Hon'ble Apex Court of India.

P. S. Rawal

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO. 2G 503686

Date Of Issue 22.2.2001

Issued from Guwahati

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

- Verification.

Per Wani

VERIFICATION

I, Shri P.C. Sasidharan Nair, Ticket No. 6403452 aged about 43 years, Applicant No. 1, Working as Labour in the Office of the The Officer Commanding, Supply Point, Chakabama, Ex- 557 A.S.C. Bn. C/o 1063 Field Workshop, GREF, C/o 99 A.P.O. as authorised by the other applicants do hereby solemnly verify that the statements made in paragraphs 4.1 to 4.4, 4.10 4.12 to 4.14 — are true to my knowledge, those made in paragraphs 4.5 to 4.7, 4.8, 4.9, 4.11 are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this February 26th day of Feb, 2001 at Guwahati.

P.C. Sasidharan Nair

Declarant.

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RESTRICTED

Annexure - 1

As per Unit

Org 4 (Civ) (d)

Adjustment General

Sena Mukhyalaya

Addl. Dte. Gen. of

Adjustment General Board

Army Headquarters

New Delhi - 110 001

16729/org 4 (Civ) (d)

25 Apr. '94

Headquarters

Southern Command

Eastern Command

Western Command

Central Command

Northern Command

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

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

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Attested
 [Signature]
 Advocate

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

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

As per the ibid Govt. order held are as will be classified as field areas and modified field areas only. The of newly defined field areas and modified field are as contained in Annex 'A' and 'B' respectively to this letter.

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

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

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

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Advocate

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

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

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

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Advocate

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(c)

The other concessions in kind at present
admissible in full field areas as per
details given in Annexure 'C' to

Min. of Defence OM No. A 02504/AC/

PS-3 (a)/97-B/D (Pay/Per diem) dated

25 Jan. 68 as amended from time to

time to continue to be admissible in the

newly defined field area listed at

appx. 'B' to this letter.

(d)

The above mentioned allowances will
not be admissible to :-

(i) Static formation/units eg.
military forms, MES, Recruit-
ing office, Training centres
and establishments.

(ii) NCC Directorates and Units.

(iii) TA units unless embodied.

(iv) Record office and similar
establishments.

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

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

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

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Advocate

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

SI/- x x x x x

(Promod Ji Saxena)
SCSO
Director (MP)
Org 4 (Civ.) (d)
for Adjutant General

RESTRICTED

Attd
S L
Advocate

RESTRICTED

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

Government of India

Ministry of Defence

New Delhi, the 31st January 1995.

TO

The Chief of the Army Staff

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

Sir,

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

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

Attest
[Signature]
Secretary

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to be extended the concessions enumerated in Annexure 'C' to Govt. letter No. A/25504/AG/PS3 (a)/97-S/D (Pay/Services) dated 25.1.1964. Defence civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appendix 'B' to Govt. letter No. A/25761/AG/PS3 (b)/140-S/2/D (Pay/Services) dated 2nd March 1968.

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

2. Those orders will come into force w.e.f. 1st April, 1993.

3. This issues with the concurrence of Finance Division of this Ministry vide their UO No. 5 (1)/85-FC (14-PV) dated 9.1.1995.

Yours faithfully,

21/-

(L.T. Thibanga)

Under Secretary to the Govt. of India.

Advocate

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Appendix 'A' to Govt. of India
Ministry of Defence letter No.
87269/AQ/PA 1 (b) /90/L (pay/servicemen)
dated 13 Jan. '94

(Refers to para .23)

LIST OF FIELD AREAS

1. EASTERN COMMAND

(a) Arunachal Pradesh

(i) Tirap and Changlang Districts.

(ii) All areas North of line joining
point 4448 in LZ 4179-Nulau Dong
MS 3272-sepla MT 2969-Palin MO
9213 Deparajo NR 5841 Along
NL-1273-Hunli NM 0170 Tewakon
MT 8136-Champai Hun NM 8814
all inclusive.

✓ (b) Manipur and Nagaland States ✓

(c) Sikkim: All areas North and NE of line
Joining Phalut LV 4750-Cezing LV 7059-Mangkha

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LV 6160-Penlang La LW 0666 Rangli
LW 1448-BP 1 in LW 2453 on Indo-
Bhutan Border - all inclusive.

2. WESTERN COMMAND

Himachal Pradesh:

All areas East of line joining Umasila
NV 3951 Udaipur NY 8663 Mani Karan SB 2300
- Pir Parbati Pass TA 1459 - Taranda TA 2335
v Barasua Pass TA 8801 all inclusive.

3. CENTRAL COMMAND

Uttar Pradesh:

All area North and NE of line joining Barasua
Pass Gangnani TG 1362 - Govind Chat TG 0937 -
Tapovan TH-1822 - Munsiri TN 8989 Relagad
TO 2466 all inclusive.

4. NORTHERN COMMAND

(a) Ladakh Sector:

Areas North and East of line joining
Zojila MJ 3036 Baralachala NE 6672 along

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*Attd
S.S.
Advocate*

the great Himalayan Range all
inclusive.

(b) valley sector;

All areas west of line joining point
1556 in UR 5470 Culmarg MT 3105 Nauphara MY
3105 Ringapati MT 2133 Mandwara MT 2043
Laingyal MT 2339 point 8405 in NC 4865
North of line joining point 8403 Bunakut
MT 5453 Razan NN 2239 Zojila all inclusive.

(c) Jammu-Rajouri sector;

All areas west of line joining Tip
of Chicken Neck RD 7073 Canal Junction
RD 4364 Mawa Brahmana MY 3054 point
1556 in NR 5470 all inclusive.

SS Attest
Alwout

Annexure - 2

HQ 3 Cirob (A)

C/o 99 APO

16037/R/A2

06 Mar. 1995

List A, B, C, E & F.

FIELD SERVICE CONCESSIONS TO DEFENCE CIVILIANS
SERVING IN THE NEWLY DEFINED FIELD AREAS

A copy of Govt, of India, Min.of Def. letter No. B/37269/AG/PS 3 (a)/165/D (Pay/Services) dated 31 Jan. 95 is forwarded herewith for your information and necessary action please.

sd/-
 (D. Chhral)
 Major
 DAAG
 for COS

Copy of above quoted letter.

AS ABOVE

Sir,

1. I am directed to refer to para 13 of Govt. letter No. 37269/AG/PS3 (a)/D (Pay/Services) dated

.....2

Attest
Shri
Advocate

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13.1.1994 and to convey the sanction of the President to the following Field Services Concessions to Defence civilians in the newly defined Field Areas and Modified Field Areas as defined in the above mentioned letter :-

- (i) Defence Civilian employees serving in the newly defined Field Areas will continue to be extended the concessions enumerated in Annexure 'C' to Govt. letter No. A/O2584/AG/PS 3 (a)/97-3/ (Pay/Services) dated 25.1.1964.
- Defence Civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appendix 'B' to Govt. letter No. L/25761/AG/PS3 (b)/146-S/2/D (Pay/Services) dated 2nd March 1968.
- (ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and
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Modified Field Areas will be entitled to payment of Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence civilians as per the existing instructions issued by this Ministry from time to time.

2. These orders will come into force w.e.f. 1st April 1993.

3. This issues with the concurrence of Finance Division of this Min. vide their U.O. NO.5(1)/85-AG(14-PA) dated 9.1.1995.

Yours faithfully,

Sd/- x x x x x

(L.T. Tluanga)

Under Secretary to the Govt. of India.

Attchd
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Advised

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Appendix 'A' to Govt. of India
Ministry of Defence letter No. ~~2092~~
87269/AG/PA 3 (a)/90/D (Pay/Servicess)
dated 13 Jan. '94
(Refers to para .23)

LIST OF FIELD AREAS

1. EASTERN COMMAND

(a) Arunachal Pradesh

- (i) Tirap and Changlang Districts.
- (ii) All areas North of line joining
point 4448 in LZ 4179-Nukme Dong
MS 3272-Sepia MT 2969-Palim MO
9213 Deparajo NR 5841 Along
NL-1273-Hunli NM 0170 Tawakau
MT 8136-Champai Bun NM 8814
all inclusive.

✓ (b) Manipur and Nagaland States:

- (c) Sikkim: All areas North and NE of line
Joining Phalut LW 4750-Gazing LW 7039-Mongkha

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[Signature]
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LV 6160-Penlang La LW 0666 Rangli
LW 1448-BP 1 in LW 2453 on Indo-
Bhutan Border - all inclusive.

2. WESTERN COMMAND

Himachal Pradesh:

All areas East of line joining Umasila
NV 3951 Udaipur NY 8063 Mani Karon SB 2300
- Pir Parbati Pass TA 1459 - Taranda TA 2335
- Barasua Pass TA 8801 all inclusive.

3. CENTRAL COMMAND

Uttar Pradesh:

All area North and NE of line joining Barasua
Pass Gangnani TG 1362 - Govind Chat TG 0937 -
Tapevan TH-1822 - Munsiri TN 8989 Relagad
TO 2466 all inclusive.

4. NORTHERN COMMAND

(a) Ladakh Sector:

Areas North and East of line joining
Zojila MU 3036 Baralochala NE 6672 along

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the great Himalayan Range all inclusive.

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(b) Valley sector:

All areas west of line joining point
1556 in UR 5470 Gulmarg MT 3105 Naushara MY
3105 Ringapatti MT 2133 Mandwara MT 2043
Laingyal MT 2339 Point 8405 in NG 4865
North of line joining point 8403 Bunakut
MT 5453 Razan NN 2239 Zojila all inclusive.

(c) Jammu-Rajouri sector:

All areas west of line joining Tip
of Chicken Neck RD 7073 Canal Junction
RD 6364 Mawa Brahmana MY 3854 Point
1556 in NR 5470 all inclusive.

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Advocate

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

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

- (a) Free rations as scale applicable to combatants of the Army of Air Force, as the case may be, and Fuel.
- (b) Free tented/bashe accommodation and connected service to the extent feasible.
- (c) Free clothing on minimum essential scale of Army personnel if the corps commander/AOC in C Air Force Command considers the issue of such clothing essential for operational reasons.
- (d) Free remittance of family allotments.
- (e) Free medical treatment and hospital treatment.
- (f) Wound/Injury or family pension or gratuity under Chapter XXXVIII CSR or AI/57/57/AFI 20/50 as the case may be, or compensation under the worker's compensation Act where applicable.
- (g) 2 postage free forces letters per individual per week.
- (h) Remittance within India limits of money orders and Indian Orders free of Commission upto the maximum value of Rs. 30/- per month per individual.

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

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

The concessions in this annex. are also applicable to DAP vide C.G.D.A No.21013(1)/66-An-C/22. Orders are also applicable to Industrial employees (Min of Defence letter No.A/11452/Org.4(civ)(d)/F 47/S/D (Civ.II)/07 8-12-65) - P184.A

AS
Attst
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 1578-79/97 OF 1995
IN CIVIL APPEAL NO 1572 OF 1997 WITH
NO 1573-85 OF 1997
In the matter of:

(Arising out of CA 124 of 1995

Guwahati Bench)

1. Union of India represented

by Secretary of Defence,

Government of India,

New Delhi.

2. Garrison Engineer,

868 EWS O/o 99 A.P.O.

3. The Garrison Engineer,

869, EWS C/o 99 APO Petitioners

Versus

1. 243506 Shri Krishna Sinha,

Elect. HS-II, Silchar, Assam.

2. 237837 Shri D. Boara,

Ch/Elect, Jorhat, Assam.

3. 238368, Shri H.K. Gogoi,

Elect. HS-II, Assam.

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S. H. B. /
Advocate

-4-

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4. 233370 Shri G.K. Borah,

Ch./Elect, Assam.

5. 243768 Shri Dalai Das,

Mate, Dimapur, Nagaland.

6. 243765 Shri Shymal Deb,

Mate, Dimapur, Nagaland.

7. 243761 Shri Samar Kr. Paul,

Mason(SK), Rangapahar,

Nagaland.

8. 243782 Shri Robinson Mulvah,

Carpenter(SK),

Ukhrul, Manipur.

9. 243783 Shri Varaykham, Luivah,

Carpenter(SK),

Ukhrul, Manipur.

10. 243764 Shri Samir Dey,

Carpenter(SK), Rangapahar,

Nagaland.

11. 243760 Shri Roseswar Corgoi,

Carpenter(SK),

Jorhat, Assam.

12. 243596 Shri Sunil Barua, Muz. Assam.

13. 237906 Shri Kulai Kuttum,

Printer(SK),

Jorhat, Assam.

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Admitted

14. 243496 Shri M.M.Morah, Maz.,
Jorhat, Assam.

15. 208219 Shri Suresh Gowala,
Maz, Jorhat, Assam.

16. 243820 Shri Peter Ruchium, Maz.
Ukhral, Manipur.

17. 287917 Shri K. Gogoi, Mason
Ex-II, Assam.

18. 243498, Shri K. Sangma, Maz.
Nagaland.

19. 243763 Shri Narayan Ch. Mazumdar,
Maz., Dimapur, Nagaland.

20. 243768 Shri Tarun Kr. Borah,
Maz. Jorhat, Assam.

21. 238220 Shri A.C. Kakati,
Elect. HS-II, Golaghat,
Assam.

22. 224743 Sh. T. R. Boro,
Mate, Kamrup, Assam.

23. 243731 Shri R.K. Pal, Elect(SK),
Dimapur, Nagaland.

24. 243818 Shri Himangshu Paul,
Mate, Dimapur, Nagaland.

25. 223827 Shri H.C. Boro, Elect(SK),
Kamrup, Assam.

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Advocate

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

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AS
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37. 220112 Shri Rajendra Prasad,
Chow. Bapar Shina, Manipur.
38. 237900 Shri S.K. Rai, Maz.,
Dimapur, Nagaland.
39. 243605 Shri Tulshi Tanti, Maz.,
Dimapur, Nagaland.
40. T/No. 126 Shri Bhanu Bhakt, Maz.,
(O/P t) Diphu, Assam.
41. 243630 Shri Gushil Ch. Das,
Elect. HS - II, Lunding,
Assam.
42. 243580 Shri N. Chakraborty,
Elect. HS - II, Silchar, Assam.
43. 243751 Shri W. Bahadur, Maz.,
Dimapur, Nagaland.
44. 243789 Shri N.K. Gaichun, Maz.,
Tamenglong, Manipur.
45. 243738 Shri S.K. Baidya, FCM,
Cochar, Assam.
46. 243739 Shri B.K. Goswami,
FCM, Cachar, Assam.
47. 238117 Shri K.C. Boro,
Elect. (SK), Darang, Assam.

Attested
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48. 237830 Shri J.N. Baruah,
Elect. HO-II, Jorhat, Assam.
49. 243756 Shri H.C. Roy, Elect. SK,
Lumding, Assam.
50. 243744 Shri L. Angrow, Elect. HO-II,
Ukhrul, Manipur.
51. 238509 Shri K. Chosh, FCM, Assam.
52. 243740 Shri Himangshu Ranjan Das,
FCM, Assam.
53. 248366 Shri T.K. Baruah,
Elect. (SK), Jorhat, Assam.
54. 243741 Shri Ratan Roy Elect (SK)
Dimapur, Nagaland.
55. 243867 Shri. Rakesh Chanda,
Elect (SK), Dimapur, Nagaland.
56. 243732 Shri S. Karamakar,
Elect (SK), Karimganj, Assam.
57. 243735 Shri Jugmay Das, FCM (SK)
Silchar, Assam.
58. 238356 Shri Jodh Bahadur, Mate,
Dimapur, Nagaland.
59. 243897 Shri K.B. Dorjee, Maz.
Karbianglong, Assam.

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Shri
Advocate

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

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

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SS
A. H. S. S.
A. H. S. S.

85. 243195 Shri. Kalkak Bou, S/wala,
Ukhrul, Manipur.
86. 243606 Shri. Havi Zolun, S/wala
Nagaland.
87. 243782 Shri. Bimal Ch. Gogoi, Maz.,
Jorhat, Assam.
88. 243894 Shri. Shandra Kanta Sharma,
Maz. Dimaapur, Nagaland.
89. 820323 Shri. Upen Kulita, Mason
JIS. II, Assam.
90. 243590 Shri. J. C. Das, Cable Joiner,
Nowgoun, Assam.
91. NO OP/Hes g/70 Sh. Atul Nath, Maz.,
Kamrup, Assam.
92. 242219 Shri. J. Marandi, Elect. (SK),
Assam.
93. 243905 Shri. Hiralal, Maz.,
Nagaland.
94. 238146 Shri. Gopal Ghosal, V/Man, Assam.
95. M 238367 Shri. Kalipada Roy, Elect. (SK),
Assam.
96. 237809 Shri. A. C. Borah, Elect. JI-JI,
Jorhat, Assam.

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

Handwritten signatures and initials:
A. H. D.
S. S.
A. H. D.

108. 230360 Shri Nagesh Baruah,
Carpt(SK), Dibrugarh, Assam.

109. 243527 Shri E.R. Narak, Maz.
Guwahati, Assam.

110. 243525 Shri Jatan Mazumdar,
Lumding, Assam.

111. 243525 Shri Lalit Bora, Maz.
Jorhat, Assam.

112. 243791 Shri Shibon Paul, Maz.
Dimapur, Nagaland.

113. 243791 Shri Iman Bahadur, Maz.
Bamapahar, Nagaland.

114. 243771 Shri R.S. Prem, S/Wala, Manipur.

115. 243662 Shrimati Sumitra Doom,
S/Wala, Silchar, Assam.

116. 243512 Shri P.K. Roy, Elect. Assam..

117. 243844 Sh. P.K. Doruah, Maz.,
Assam.

And in the matter of:

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

[Handwritten signatures and initials]

VOLUME

28

1. 237947 Shri N. Limbu, Peon,
Mukhuchang, Nagaland.
2. 237332 Shri B. R. Bora, ULC, Jorhat,
Assam.
3. 233928 Shri B. S. Majumdar, S. A. Grade-I,
Silchar, Assam.
4. 243486 Shri A. Pham, Peon, Sangtam,
Nagaland.
5. 238324 Shri K. K. Chutia, L.D.C.
Jorhat, Assam.
6. 220333 Shri Mohan Saikia, LDC, Assam.
7. 237540 Shri Hironath Barua,
Ferro Printer, Jorhat, Assam.
8. 243458 Shri P. P. Chowdhury, LLC,
Dimapur, Nagaland.
9. 223615 Shri S. E. Mazumdar, ULC,
Guwahati, Assam.
10. 232243 Shri M. L. Dey, Dufftry,
Tezpur, Assam.
11. 243725 Shri Kanu Debnath, Peon,
Dimapur, Nagaland.
12. MES/237323 Shri N. C. S. Neog, B. Man
Grade I, Jorhat, Assam.

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13. PNO 6951961 Shri. S. G. Baruah, I.A.,
Jorhat, Assam.
14. MES/237523 Shri P. L. Chutia, S.K. Grade-I,
Jorhat, Assam.
15. MES/225367 Shri. R. C. Boro, S.K. Grade I,
Guwahati, Assam. Respondent.

A. N. D.

In the matter of,

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

To

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

The humble petition of the
petitioners aforesaid

Most Respectfully Showeth:

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

[Handwritten signatures]

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

2. That the petitioner has not filed any other petition for Special Leave to Appeal or writ petition against the impugned order in this Hon'ble Court.
3. That the present petitioner seeks to raise the following substantial question of law of general public importance under Article 136 of the Constitution of India.

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

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

Regarding OA No. 124 of 1995:

4. That the respondents (restricted to) No. 1 to 17 in the Special Leave petition, No. 17.

Admitted
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Advocate

filed the said OA on the allegations that they belong to Group C and they are serving in the Defence Department as civilian employees since a long time. Some are working since 1963, some are from 1964, some are from 1981, some are from 1982 onwards.

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

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Advocate

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

(i) S.D.A. (Special Duty Allowance) under the Defence Ministry Office Memorandum GM 5/1, 4(19)/83/D, New Delhi dated 11.1.1984 and Finance Ministry Memo No. 20014/3/83-E-IV Govt. of India, Ministry of Expenditure, New Delhi.

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

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

19..

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[Handwritten signature]

Ministry of Defence New Delhi letter

No. SB/37269/AG/PS 3(a)/165/D/(Pay)/serv. con.
dated 31.1.1995.

(iv) Field Service concessions to the
civilian employee of defence service on the
basis of a mere proposal vide letter

No. 16729/004 (civ) (d) 25th April, 1994 issued
by the Director (MP) Org. 4 (civ) (d) for adjutant
General Army Headquarter, New Delhi.

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

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

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A. H. D.

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

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

Attest
[Signature]
[Signature]

Regarding O.A. No. 125 of 1995:

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

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

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

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

(iii) The respondents are directed to extend the Field Service Concessions to the applicants in the prescribed manner, v. o. c. 1.1.1993.

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

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

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

G R O U N D S

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

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

- (c) Because the employees who are locally recruited and posted in the offices situated in the North-Eastern States, shall not be eligible for Special Duty Allowance as already decided by this Hon'ble Court in several decisions, as reported in Reserve Bank of India Vs. Reserve Bank of India Staff Association (1991) (4) SCC 32 (Para 5), Union of India Vs. S. Vijay Kumar (JT 1994 (6) 24...

Advocate

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SC 443 Union of India Vs. Mazdoor
Union of 14 JAD arising out SLP
(Nos. 21234-35 of 1994). The order of
the Tribunal is therefore in conflict
with the law laid down by this Hon'ble
Court.

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

(e) Because as per Ministry of Defence
orders dated 12.4.1995 in respect
of Defence Civilian employees in
field areas, Special Compensatory
(Remote Locality) Allowance are not
concurrently admissible along with
Field Service Concessions. The CAT
has directed that the petitioners
are entitled for the Remote Locality
Allowance in respect of they are
getting Field Service Concessions in
terms of Ministry of Defence letter
dated 13.1.1994. In fact as per
Ministry of Defence letter dated 13.1.94

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Advocate

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

~~(f)~~

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

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P R A Y E R

It is, therefore, most respectfully
prayed that this Hon'ble Court may be pleased
to: -

- a) grant Special Leave to Appeal
against the Judgment and Order
passed by CAT Guwahati in OA Nos.
124/125 of 1995 on 24.8.1995.
- b) pass such other and further
order as be deemed fit and proper
in the circumstances of the case
to meet the ends of justice.

Drawn by:

Filed by:

(ANIL KATTIYAR)
Advocate for the petitioners

Filed on: Jan. 1996

Handwritten signatures and initials:
A. K. Kattiya
A. K. Kattiya

ANNEXURE - 2(A)

ANNEXURE - 2(A)

ANNEXURE - 2(a)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1572 OF 1997

(Arising out of SLP (C) No. 14088 of 1996)

Certified to be true copy

3/3/97
Supreme Court of India

Union of India & Ors. etc.

Appellants

Versus

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

Respondents

WITH

CIVIL APPEAL NOS. 1573-1576, 1577, 1578, 1579, 1580-1581/97

(Arising out of SLP (C) Nos. 17236-39, 14104, 15141-42, 15740, 25108-10 of 1996, SLP (C) No. 4336/96 (CC-5040/96) and SLP (C) No. 4338/96 (CC-6860/96))

O R D E R

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

These appeals by special leave arise from the various orders passed by the Central Administrative Tribunal, Gauhati Bench in different matters. The main order was passed on 17.11.1995 in RA No. 1/95. In OA No. 49/89.

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

Attest
Sd/-
Advocate

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

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

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

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

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

Advocate

- 83 -
- 41 - 42 -
- 68 -

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

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

Advocate

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

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

(K. RANASWAMY)

(G. I. NARAYAN)

NEW DELHI;
FEBRUARY 12, 1995.

Asstt
Advocate

~~ANNEXURE - 4~~

Phone: 0301 - 550119 (H)
0301 - 550549 (H)
Fax: 0301 - 550204 (H)

रक्षा वित्त विभाग
उपयन्त्र विभाग, पुराना - 701 171
CONTROLLER OF DEFENCE ACCOUNTS
UDAYAN VIHAR, NARAINI,
NEW DELHI 110028

DO NO. PAV/TECH/025

Dated: 10th April, 1999

श्रीवस्तवा
SRIVASTAVA
CONTROLLER



- 70 -

Dear General Chopra,

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

2. The Defence civilians serving in Field and Modified Field areas as re-classified in Ministry of Defence letter No. 37269/AG/PS3(a)/90/D(Pay/services) dated 13/1/94 are entitled to non-monetary field service concessions as envisaged in Appendix 'C' to Ministry of Defence letter No. A/02584/AG/PS-3(a)/97/S/D(Pay/services) dated 25/1/1994 and Appendix 'B' to Ministry of Defence letter No. 25761/AG/PS3(b)/146-5/2/V(Pay/services) dated 02/03/68 respectively.

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

- (i) Ministry of Defence
No. B/37269/AG/PS3(a)/165/D(Pay/services) dt. 31/1/95.
- (ii) Ministry of Defence
No. B/37269/AG/PS3(a)/730/D(Pay/services) dt. 17/4/95.
- (iii) Ministry of Defence
No. B/37269/AG/PS3(a)/1862/D(Pay/services) dt. 12/7/95.

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

Contd.... P/2

Asstt
Advocate

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

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

With regards.

Yours sincerely,

[Signature]
(VANDANA SRIVASTAVA)

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

Copy to :-

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

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

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

U.S. KRIPANIPHI
JL.CVA

Contd.....P/

[Signature]
Advocate

(3)

Headquarter
137 WE
C/O 99 A.P.O.

8. Adm Comdt
Station Headquarter
Dimapur
Rangapahar
Nagaland.

9. Oc
SD Dimapur
Nagaland.

10. 165 Military Hospital
C/O 99 A.P.O.

11. 310 Stn Wksp
C/O 99 A.P.O.

12. Garrison Engineer
B68 EWS
C/O 99 A.P.O.

13. Garrison Engineer
B69 EWS
C/O 99 A.P.O.

14. Oc
Supply Point
Leimakhong.

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

i) to get claiming of payment of CFMA & CMFAA from April '99 pay bill stopped.

ii) to get recoveries of payment whatsoever already made effected after serving show cause notice.

iii) withholding payment on above account against CAT Judgement awaiting implementation.

iv) to defend on going CAT cases/contempt proceedings based on Ministry of Defence letter of 12-03-99.

(TALIREMBA)
D.C.D.A.

[Signature]
A
Amar

13 OCT. 2000

444/CIV/Gen/ST-12

Ind/Lab

Radha Prasad Rai
LAI Ind/Mo3

रख. आर. स. और सी. स्फ. स. स. की मुद्रा तान
की हुई रकम को वापिस लेने हेतु नोटिस

1. रखा लेखा नियंत्रक गौहटी की पत्र संख्या PAY/TECH/025/VOI-1 दिनांक 02 मार्च 2000 एवं रक्षामंत्रालय की पत्र संख्या 30(4)/96/T/PAY-SERVICE दिनांक 02 मार्च 99 के संदर्भ में।
2. आपको सूचित किया जाता है कि रखा लेखा नियंत्रक की उपरोक्त पत्र द्वारा यह बताया गया है कि आपको रख. आर. स. और सी. स्फ. स. स. की रकम का जो मुद्रा तान किया गया है वह आपसे वापिस लिया जायेगा। आपको मुद्रा तान की हुई राशि और प्रत्येक महीना तनुरवा से काटने की राशि का विवरण इस पत्र के साथ नत्बी है।
3. उपरोक्त विषय में यदि आप कोई कार्यवाही करते हैं तो लिखित रूप में 10 नवम्बर 2000 तक इस कार्यालय में सूचित करें अन्यथा नवम्बर 2000 से आपकी तनुरवा से प्रतिमाह

A.H.P.

S. Anwar

नियमों की दृष्टि कागजात के मुताबिक कही जा रही है।

4. कृपया पावती लें।

अनुसूचित

कुल धीम सिंह

कालानिधि
अधिकारी कमांडिंग

Encs one only

For info With appx

COPY to:-

request to advise on
recovery of dices in
respect of

OFFICE OF THE C.D.A

Udayan Vihar

Naranyi. Guwahati. 7

Late 6403625-Ind/Ma3

Ram Singh who has

expired on 26 Aug 98

HQ 3 CORPS (ST)

For info please along with
att. appx.

C/o 99 APO

557 ASC BN

- do -

C/o 99 APO

Attd
S
Ameb

DETAILS OF HRA & GPAA PAID TO DEFENCE CIVILIANS AND RECOVERY THEREOF

S/No	Army No, Rank & Name	Amount Paid		Total amount paid (c+d)	Amount to be recovered
		HRA	GPAA		
(a)	(b)	(c)	(d)	(e)	(f)
1.	6403450 Ind/Lab Daya Hand Giri	7623	18450	26073	32 Instalment @ Rs 790/- Per month & 1 Instalment @ Rs 793/- Per month
2.	6403451 Ind/Lab Jai Ram Thakur	7623	18450	26073	-do-
3.	6403452 Ind/Lab PCB Hadd	7623	18450	26073	-do-
4.	6403453 Ind/Lab Rajbal Pirkay	7623	18450	26073	-do-
5.	6403454 Ind/Lab Hori Narayan Ram	7623	18450	26073	-do-
6.	6403455 Ind/Lab Rudha Prasad Rai	7623	18450	26073	-do-
7.	6403626 Ind/Lab Fedor Hing	7554	18450	26004	33 Instalment @ Rs 788/- Per Month
8.	6403625 Ind/Lab Ravi Singh	5262	15750	21012	Expired on 26 Aug 1990.
Total		58554	144900	203454	

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Sh. Anwar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

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

O.A.No.170/99

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

.....Applicants

- versus -

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

.....Respondents

O.A.No.202/99

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

.....Applicants

- versus -

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

.....Respondents

O.A.No.319/99

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

.....Applicants

- versus -

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

.....Respondents

O.A.No.179/2000

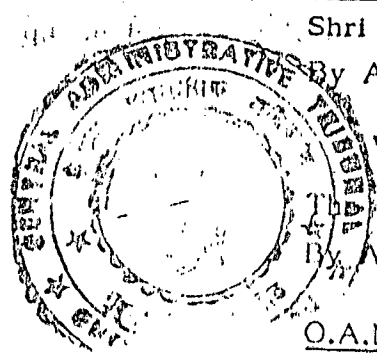
Shri Kulamani Singh and 23 others
By Advocate Mr A. Ahmed

.....Applicants

- versus -

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

.....Respondents



Attal
Shri
Advocate

O.A.No.276/2000

Shri Satya Brata Mazumder and 20 others
By Advocate Mr A. Ahmed.

.....Applicants

- versus -

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

.....Respondents

O.A.No.224/200

Shri Indreswar Rajkumar and 7 others
By Advocate Mr A. Ahmed.

.....Applicants

- versus -

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

.....Respondents

.....

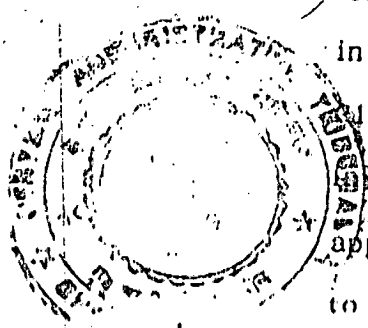
ORDER (ORAL)

CHOWDHURY.J. (V.C.)

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

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

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



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Admitted

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

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

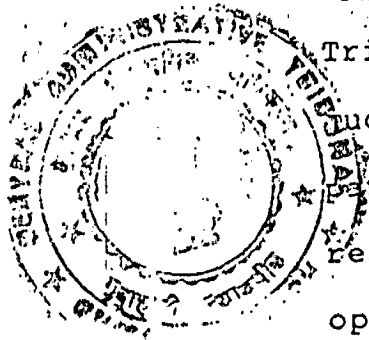
As regards the payment of Special Duty Allowance to the defence civilian personnel deployed at the border area for support of operational requirement, they face the imminent hostilities supporting the army personnel deployed there. Necessarily, they alone require the double payment as ordered by the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



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

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



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SS
Anon to

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

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

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

Certified to be true Copy

प्रमाणित प्रतिलिपि
21/12/2000

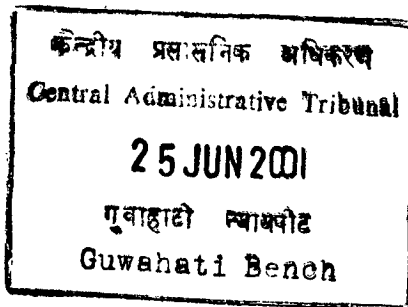
Deputy Officer (J)

कायदा विभाग (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रिय प्रशासनिक न्यायालय
गुवाहाटी, असम
गुवाहाटी, असम

Sd/ VICE CHAIRMAN

Sd/MEMBER (Adm)

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48

Regd by
25/6/01
C.G.S.C.
Dr.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

O.A. NO. 86/2001

Shri P.C. Sasidharan Nair & Others.

- Versus -

Union of India & Others.

- And -

In the matter of :

Written statement submitted by

Respondents 1 to 8.

The respondents beg to submit the written -
statements as follows :

1. That with regard to para ~~4.1~~ 4.1 to 4.4 , the respondents beg to offer no comments.
2. That with regard to para 4.5, the respondents beg to state that the applicants are getting ^{field} ~~fixed~~ service concession and so they are not entitled to get special compensatory (Remote Locality) allowances/field service allowances. In compliance to Hon'ble Supreme Court order (Annexure 3A of the O.A.) special compensatory (Remote Locality) allowances and the allied monetary benefits are not concurrently admissible alongwith field service concessions. The Army Headquarters letter No. 167291 Ofg. 4 (Civ) (d) dated 25th April 1994 (Annexure 1 of O.A.) referred to in para 4.5 of O.A. is addressed

to the various commands indicating that certain proposals for concessions/allowances to Defence Civilians posted in certain areas have been forwarded to Ministry of Defence for consideration and the Command Headquarters were requested to examine the stated proposals and give their comments/views.

3. That with regard to paras 4.6 and 4.7, the respondents beg to state that Defence Civilians serving in field areas are entitled to concessions as mentioned in the Ministry of Defence letter No. A/02584/AG/PS3(a)/197/S/D (Pay/Services) dated 25th January 1964. This consists of non-monetary concessions of free ration, free accommodation, free medical etc. It is pertinent to mention here that field service concession and Special Compensatory (Remote Locality) allowances are not concurrently admissible to Defence Civilians vide Ministry of Defence letter No. B/37264/AG/PS3(a)/730/D(Pay/Services) dated 17th April 1995.

Nonstary allowances as field service benefits are not admissible to Defence Civilians.

Copy of Ministry of Defence letter No. A/02584/AG/PS3(a)/97/D(Pay/Services) dated 25 January 1964 and B/37269/AG/PS3(a)/265/D(Pay/Services) dated 31 January 1995 are annexured hereto and marked as Annexure - A and B respectively.

4. That with regard to para 4.7, the respondents beg to state that the applicants are being extended Field services concessions and house rent allowance but they are not entitled to get Special Compensatory (Remote Locality)

Allowance concurrently alongwith field service concession, the Ministry of Defence issued a Office Memorandum No. 4(3)/98/D(Civ-I) dated 16 March 1998 in reference to Hon'ble Supreme Court direction in Civil Appeal No. 1972/1997. From the order of Hon'ble Apex Court penal in Civil Appeal No. It is evident that Special Compensatory (Remote Locality) Allowances will not be admissible alongwith field service concessions. The applicants are not applicable for Special Duty Allowance as they is applicable to those Defence Civilians recruited from outside the North Eastern Region and posted from outside into the North Eastern Region and serving in the Field/Modified areas in addition to Field Service Concessions, as Hon'ble Supreme Court order.

5. That with regard to para 4.8, the respondents beg to state that as the Apex Court order the Special Duty - Allowance is applicable to those Defence Civilians recruited from outside North Eastern Region and transferred from outside into the North Eastern Region after 17 April 1995. Applicants have been recruited locally and therefore not applicable for Special Duty Allowance. The applicants are being extended F Field service concessions therefore they are not applicable for the field service allowances as both the allowances are not admissible concurrently as Govt. of India letter dated 17 April 1995 and Apex Court judgement in Civil Appeal No. 1572/97.

6. That with regard to para 4.9, the respondents beg to state that the field service concessions do not include any monetary allowances in the form of compensatory field area

allowances. The applicants have been granted field service concession as they are entitled but monetary allowances given as field service concession are to be recovered as this was given ~~s~~ wrongly and the applicants are not entitled to get monetary allowances (field service concessions) and Special Compensatory (Remote Locality) allowances concurrently, ~~as~~ so Special Compensatory field area allowances given beyond 17th April 1995 are to be recovered.

7. That with regard to para 4.10, the respondents beg to state that the respondent no.2 has not violated. The Hon'ble Apex Court judgement in Civil Appeal No. 572 as monetary allowances given as field service concession given beyond 17 April 1995 are to be recovered.

8. That with regard to para 4.11, the respondents beg to offer no comments.

9. That with regard to paras 4.12, 4.13, and 4.14, the respondents beg to state that reply to the contents pertaining to there have already been given above.

10. That with regard to para 5 to 8, the respondents beg to state that applicants are not entitled to get any relief.

Verification.....

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

I, Capt Sushil Bugalia, Officer Commanding
Supply point ASC Chakhabama Ex 557 ASC Battalion, C/O
99 APO, being authorised to do, hereby solemnly affirmed
and state that the statements made in this written state-
ments made in this written statements are true to my
knowledge, information and belief. I have not suppressed
any material fact.

And I sign this verification on this day
of April, 2001.

Declarant.



Captain
99, Sup Point APO
Chakhabama