

30/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No... 148/2001

R.A./C.P No... 39/2002

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

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2. Judgment/Order dtd. 19/12/2001Pg. 1to 4 allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
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16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)

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

ORDER SHEET

original

APPLICATION NO148.....OF 2001.

Applicant (s) H.N. Talukder Jom

Respondent (s) U.O.I Jom

Advocate for Applicants (s) B.K. Sharma, S. Sarna, Mrs. D. D. D.

Advocate for Respondent (s) Case.

Notes of the Registry | Date | Order of the Tribunal

25.4.01

Application is in form
but not in time. Ordination
Petition is filed. Dated
M.P. 18.4.01
for Re. Dated
IPO/2001/66792/172
Dated 4.4.2001

By Registrar.

24/4/01

Requints filed.

lm

28.5.01

28/5

Notice returned and sent to
D/Sec for issuing the respondents
No. 1 to 5 vide 1840 to
18/4/01 dtd. 22/5/01
by Regd A/P.

bb

20.6.01

17/5/01

① Service report are still
awaited.

② No written statement
has been filed.

bb

19.6.01

Heard learned counsel for the
parties. Application is admitted. Call for
records. Issue notice to show cause as to
why the interim prayer shall not be gran-
ted as prayed for. Returnable by 4 weeks
List on 28.5.01 for Admission.

Meanwhile, the respondents are
directed not to make any recovery from
the applicant in respect of SDA has
already been paid to him.

K. K. Sharma
Member

Vice-Chairman

No written statement has so far
been filed. The respondents may file
written statement, if any, within three
weeks from today.

List for hearing on 20.6.2001.

Vice-Chairman

Mr. B.C. Pathak, learned Addl. C.G.S.C.
for the respondents prays for and granted
four weeks time to file written statement.
The applicant will have two weeks there-
after to file rejoinder. List on 21.8.2001
for hearing.

K. K. Sharma
Member

Vice-Chairman

21.8

list again after
4 weeks to enable the
respondents to file w/s.
list again on 19/9/2001 by
orders.

By
A.K. Singh
21.8

19.9.01

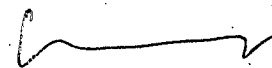
13.9.2001

w/s submitted
by the respondents.
(one copy filed)



Respondent Nos. 3,4 and 5 have filed
consolidated written statement.
Other respondents have not filed
any written statement. Four weeks
further time is allowed to enable
the other respondents to file
written statement if any on the
prayer of Mr. B.C. Pathak, learned
Addl. C.G.S.C.

List the matter on 18.10.2001.


Vice-Chairman

trd

18.10.01

Written statement has
been filed.

By
26.11.01

Mr. B.C. Pathak, learned Addl. C.G.S.C.
stands on behalf of Defence State Officer
that he has received instruction that as
the matter relates to the State Department
they intend to be impleaded. Request for
adjournment is made on ~~xxx~~ behalf of the
respondents.

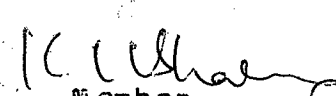
Request is accepted. List on 27.11.
2001 for further order.

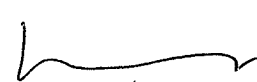

Member

bb

27.11.01

List on 19.12.01 for hearing.


Member


Vice-Chairman

mb

3

27

O.A.148 of 2901.

Notes of the Registry	Date	Order of the Tribunal
<p>30.1.2002</p> <p>Copy of the Judgment has been sent to the Office for issuing the rule to the L/Ps and to the parties.</p> <p>H.S.</p>	<p>19.12.2001</p> <p>bb</p>	<p>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.</p> <p>IC C. Ushary Member</p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 148 of 2001.

Date of Decision 19.12.2001...

----- Shri Nagendra Nath Talukdar & Others. -----
----- Petitioner(S)

----- Mr.B.K.Sharma, Mr.S.Sarma & Mr.U.K.Nair. -----
----- Advocate for the
----- Petitioner(s)

-Versus-

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

----- Mr.B.C.Pathak, Addl.C.G.S.C. -----
----- Advocate for the
----- Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman.

NO

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 148 of 2001.

Date of Order : This the 19th Day of December, 2001

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

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

1. Shri Nagendra Nath Talukdar
S.D.O. - III
2. Shri Biswanath Brahma
UDC.
3. Shri Ramesh Das
Daftry.
4. Shri Suresh Borgohain
SDO-I.
5. Shri Rothin Bhattacharjee
SDO-I.
6. Shri Barid Baran Purkayastha
UDC. . . . Applicants.

By Mr.B.K.Sharma, Mr.S.Sarma & Mr.U.K.Nair.

- Versus -

1. Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Defence
South Block, New Delhi.
2. Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Finance
North Block, New Delhi.
3. The Contorller General of Defence Accounts
R.K.Puram, Sector-I
New Delhi-66.
4. The Controller of Defence Accounts
Udayan Bihar, Narangi
Guwahati-781171.
5. The Area Accounts Officer
River Road, Shillong. . . . Respondents.

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

O R D E R

CHOWDHURY J.(.V.C.) :

This application pertains to the same familiar issue as to the payment of Special Duty Allowance. These six applicant are working under the respondents and posted in the Office of Defence Estate, Guwahati Circle. In this application the applicants stated that they were provided with the Special Duty Allowance till July, 1998, but after July, 1998 the respondents in a most illegal fashion stopped the payment of SDA on the ground that they belong to N.E.Region. As per the pleadings these applicants though belong to N.E.Region initially, they were subsequently transferred out of N.E.Region but re-posted to N.E.Region after some that they are serving in N.E.Region.


2. The respondents filed its written statement denying and disputing the avernment made by the applicants. On later stage at our instance Mr.B.C.Pathak, learned Addl.C.G.S.C. took further instruction from the office of the Defence Estate, Guwahati Circle and he submitted a statement showing the service particulars, more particularly, the transfer of these applicants. The statement to that effect is placed on record. From the aforementioned statement it appears that the applicant No.1 Nagendra Nath Talukdar was appointed in Group-C and

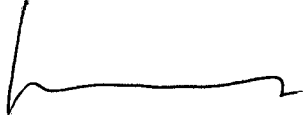
and his initial posting was in N.E. Region. He continued to work as such since his date of joining on 1.6.1976 till 12.5.1988. He was posted outside N.E. Region at Siliguri on 13.5.1988 and he worked there to 1.2.1989. Similarly, the other applicants though initially appointed in N.E. Region, they were posted outside N.E. Region and re-posted to N.E. Region. In that view of the matter all these applicants are eligible for the SDA on their re-posting. Mr. B.C. Pathak, however, stated that the applicant No. 4 & 5 would not be eligible for payment of SDA since both of them were transferred out prior to coming into force 1983 Scheme. Mr. Pathak pointed out that Sri Ramesh Das was transferred to Kolkata on 16.7.1975 and he worked there till 30.4.1977. Similarly, Rathin Bhattacharjee was transferred to Secendrabad on 22.11.1974 and he continued there till 23.10.1978. Mr. Pathak submitted that since they were transferred before coming into force of 1983 Scheme, they would not be entitled for SDA. The said contention of Mr. Pathak cannot be accepted. The question is the admissibility of SDA and for that purpose it is to be ascertained as to whether they were ever posted out of N.E. Region and thereafter they were re-transferred. As per the clarification issued by the Cabinet Secretariat in this regard it did not limit the benefit only to those

transferred after 1983 Scheme came into force. The applicant Nos.4 & 5 were employees belonging to N.E.Region, posted to N.E.Region initially, but subsequently transferred out of N.E.Region but re-posted to N.E.Region after sometime. In this circumstance, all theses applicants including the applicant Nos. 4 & 5 are eligible for SDA.

We have also heard Mr.S.Sarma, learned counsel for the applicants. The application is accordingly allowed. The respondents are directed to pay the applicants SDA from July, 1998. The respondents are also ordered to pay the arrears within four months from the date of receipt of this order.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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Filed by
the applicants through
Asha Das,
Advocate
10/4/2001

Title of the case :

O.A. No. 148 of 2000

BETWEEN

Shri Nagendra Nath Talukdar & Ors Applicant.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by :

Regn.No.:

File : NAGENDRA

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative Tribunal Act.1985)

D.A.No. 148 of 2001

BETWEEN

- ✓ 1. Shri Nagendra Nath Talukdar
S.D.O.- III
- ✓ 2. Shri Biswanath Brahma
UDC.
3. Shri Ramesh Das
Dantri.
4. Shri Suresh Borgohain
SDO-I
5. Shri Rothin Bhattachariya
SDO-I
- ✓ 6. Shri Barid Baran Purkayastha
UDC.

..... Applicants.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Defence, South Block,
New Delhi.
2. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Finance, North Block,
New Delhi.
3. The Controller General of Defence Accounts
R.K.Puram, Sector-I,
New Delhi-66
4. The Controller of Defence Accounts
Udayan Bihar, Narangi
Guwahati-781171.
5. The Area Accounts Officer
River Road, Shillong.

..... Respondents.

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PARTICULARS OF THE APPLICATION

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

The present Original Application is not directed against any particular order but has been preferred seeking a direction for payment Special Duty Allowance (SDA) along with arrears thereto. This application is also directed against the action of the respondents in discriminating the present applicants their legitimate claim of SDA.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2. That the present applicants are working under the respondents and presently they are posted in the office of the Defence Estate, Guwahati Circle, Silpukhuri and they are holding various posts as mentioned above.

4.3. That the grievances of the applicants are basically non-payment of special Duty Allowance (SDA). The applicants in the light of office Memorandum issued in this regards were in receipt of SDA. It is noteworthy to mention here that the aforesaid SDA is counted on the basis of basic pay of an employee

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subject to certain limits. The pay of the applicants have been raised after the commencement of 5th Central Pay Commission Recommendation, but the present applicants continued to draw their SDA as per the pre-revised pay scale. The applicants received SDA till the month of July '98 on the pre-revised pay scale. Applicants thereafter made some correspondence regarding their arrears before the concerned authority. The authority concerned thereafter stopped the payment of SDA to the applicants with effect from July 1998. Being aggrieved by the said action applicants preferred representation followed by a legal notice. The respondents thereafter served a copy of the order dated 5.10.2000 referring to the legal notice but till date nothing has been communicated. Hence the present application praying for appropriate reliefs. *The relief claim for by the applicants are similar and they pray for join together in a single application under Rule 6(5)(1) of CAT(P) Rules 1987.*

This is the crux of the matter involved in the present DA for which the applicants are seeking an appropriate direction to the Respondents for payment of SDA including arrears with 18% interest on the delayed payment.

4.4. That the applicants are presently holding various posts under the respondents as mentioned above and in the light various office Memorandum relating to payment of SDA they are entitled to such payment as they fulfill all the required qualification / criteria mentioned in the said OMs.

4.5. That the respondents in regard to payment of SDA issued of various circulars specifying the eligibility criteria for payment of such allowance. Mention may be made of the OM issued vide memo No.20014/9/83-B.IV dated 14.12.83 by which guidelines for payment of SDA has been issued. Basically the said OM dated 14.12.83 was the initial guidelines by which the terms and conditions regarding the payment of SDA has been started. The basic foundation of granting SDA was to meet the hardship being

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faced by the people of N.E. Region compare to other region in all respect including essential commodities because of it's peculiar geographical position as well as the unstable political situations. The N.E. Region comprises of seven states covering Assam, Meghalaya, Manipur, Nagaland, Mizoram, Tripura and Arunachal Pradesh. The major percentage of the land area is covered by hilly areas and same creates obvious disadvantages in road transportation and other communications resulting higher price of essential commodities. The above hardship covers the people on posting from outside NE Region.

4.6. That noticing the hardship the Govt. of India considering all the inconvenience and disadvantages faced by the employees of Central Govt. and on acting on the demand raised by the various levels/forums, issued an OM dated 14.12.83 granting an allowance namely special duty allowance (SDA). The said allowance was made applicable to the employees working in the NE region specifying certain eligibility criteria for the same. Amongst the eligibility criteria one of the most vital criteria is All India Transfer Liability.

A copy of OM dated 14.12.83 is annexed herewith and marked as Annexure-A.

4.7. That the applicants beg to state that they fulfill all the required qualification as well as eligibility criteria laid down in the Annexure-A OM dated 14.12.83 towards drawal of SDA. All the applicants have got All India Transfer Liability and in fact during the service tenure they have been transferred out from NE region and subsequently they got their posting in NE Region. Although the OM dated 14.12.83 has been worked unambiguously but even them facing various adverse situation the concerned Ministry issued further clarification to meet out the controversies. The respondent No.3 thereafter issued a circular

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dated 5.5.84 clarifying that all the civilian employees having All India Transfer Liability shall be entitled to get SDA, irrespective of the facts of their belongings.

A copy of the circular dated 5.5.84 is annexed herewith and marked as Annexure-B.

4.8. That even after the issuance of Annexure-B clarification dated 5.5.84 the controversies did not come to an end same again cropped up. Reiterating the stand the respondents issued a circular dated 10.12.86. The respondent No.3 took up the matter and issued another circular dated 17.12.86 circulating an OM dated 29.10.86 with the presidential Sanction.

A copy of the circular dated 17.12.86 is annexed herewith and marked as Annexure-C.

4.9. That as stated above all the applicants have been drawing SDA in the light of aforesaid OMs and circulars. All of them have got All India Transfer Liability clause in their appointment letters and in fact during their service tenure they have been made to transfer from NE Region to outside.

4.10. That having found certain discrepancies regarding payment of SDA Respondent No.2 issued an OM clarifying doubts raised cropped up in respect of eligibility criteria. The said OM was issued vide memo No.20014/3/83-E.IV dated 20.4.87.

A copy of the said OM dated 20.4.87 is annexed herewith and marked as Annexure-D.

4.11. That in the aforesaid OM dated 20.4.87 the respondents clarified/specied the controversies regarding eligibility criteria for grant of SDA. The basic criteria laid down in the said OM is All India Transfer Liability. The present applicants are in possession of all the eligibility criteria mentioned in the said OM dated 20.4.87 and therefore they are entitled to draw SDA.

4.12. That stated above the present applicants being fully eligible to draw SDA in the light of the OM dated 14.12.83 and its subsequent clarifications issued from time to time by the Respondents, have been drawing SDA till July 1998 with effect from 1.1.96 the recommendation of 5th Central Pay Commission Report, the pay structure of the present applicant's has been revised but inspite of such revision, their amount paid in respect of SDA was kept unrevised. The applicants raised their grievances regarding revision of SDA acting on which, respondents stopped paying SDA to the present applicant.

4.13. That the applicants beg to state that the respondents have acted illegally in not paying the applicants their due allowance without any prior notice. In fact the case of the applicants itself for granting the benefit of SDA but subsequently the respondents themselves misinterprets various judgments of the Hon'ble Apex Court have rejected payment of SDA to the present applicants.

4.14. That the applicants consequence of aforesaid illegalities meted out to them by the respondent casual utmost financial hardship to the present applicants. The aforesaid action on the part of the respondents disallowing the grant of SDA to the present applicants has resulted in hostile discrimination on name of insider and outsider virtually basing on an incorrect intelligible differentia.

4.15 That the applicants union took up the matter with the concerned authority praying inter-alia continuation of the payment of SDA with a further prayer to make payment of the arrear due to them. Respondent No. 4 explaining the details of the various OMs guiding the field wrote a letter to the respondent No. 3.

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A copy of the letter dated 7.11.96 is annexed herewith and marked as Annexure-E.

4.16 That as stated above the respondents have misread and mis understanding the directions of the Hon'ble Apex Court purportedly issued a circular dated 5.1.2000 highlighting the eligibility and admissibility of SDA to the local resident of NE Region. The said circular dated 5.1.2000 also circulates another letter dated 23.12.99 in this respect. Mere reading of the circular and letter it is clear that same has been issued pursuant to a letter dated 9.12.99 clarifying the stand of the respondents. By the above impugned letter dated 5.1.2000 the respondents issued direction to the concerned authorities to review the cases of the applicants regarding eligibility of grant of SDA.

Copies of the circular dated 5.1.2000 along with the letters dated 23.12.99 and 9.12.99 are annexed herewith and marked as Annexure-F series.

4.17 That the applicants beg to state that the respondents by issuing the impugned letter dated 5.1.2000 seek, clarification for the purpose of making payment of SDA between the recruitees of NE Region vis-a-vis the outsider. The classification sought to be made by the respondents between outsider as well as local recruitees is baseless and same speaks of discriminatory action on the part of the respondents.

4.18 That the applicants union in their representative capacity took up the matter before the respondents and a steering committee was formed to resolve the problem in respect of SDA and the circular was issued vide letter dated 18.2.2000.

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A copy of the said circular dated 18.2.2000 is annexed herewith and marked as Annexure-G.

4.19 That the applicants beg to state that the case of the applicants is covered by various OMs and its subsequent clarification issued from time to time but inspite of that the respondents have disallowed the said payment of SDA to them. In fact at various levels of clarification, the case of the applicants got due sanction from the President of India and the said sanction was conveyed by letter dated 31.5.91 issued by the Ministry of Defence (Finance).

A copy of the letter dated 31.5.91 is annexed herewith and marked as Annexure-H.

It is pertinent to mention here that the aforesaid letter dated 31.5.91 while conveying the sanction of President of India the Ministry of Finance (Department of Expenditure) also put.

4.20 That as stated above at various levels sanction for grant of SDA has been accorded by the President of India and the aforesaid sanction has been granted taking into consideration the duties and responsibilities soldered by the applicants. In fact the aforesaid Presidential sanction was sought for by various groups of employees but only in a very few case the said sanction was granted including the case of the applicants.

A copy of the letter dated 21.3.89 granting Presidential sanction is annexed herewith and marked as Annexure-I.

4.21 That the applicants beg to state that regarding payment of

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SDA controversies were still alive and to meet out the aforesaid double/controversies a high level committee was constituted in consultation with the Integrated Finance and Ministry of Finance (Department of Expenditure) issued a clarification vide its memo No. Cab.Sectt.UO.No.20/12/99-EA-I-1799 dated 2.5.2000.

A copy of the said clarification letter dated 2.5.2000 is annexed herewith and marked as Annexure-J.

4.22 That the applicants beg to state that all of them presently are holding various posts under the respondents and presently they are posted in the NE Region. During their service tenure each applicant in view of their All India Transfer Liability have been transferred out from NE Region. In view of the aforesaid clarification letter dated 2.5.2000 the applicants are entitled to get the payment of SDA. But the respondents by issuing the impugned orders have virtually stopped the payment of SDA and proposal has been made for recovery of payment of SDA already made to them. It is pertinent to mention here that the present applicants were in receipt of SDA till July 1998 at the pre-revised rate. However since 1998 the applicants have not been granted with the payment of SDA. The applicants are also entitled to get the arrear of SDA with effect from 1.1.96 to August 1998 in revised rate. In view of the above facts and circumstances it is a fit case for granting an appropriate interim relief regarding payment of SDA as well; as recovery by suspending the operation of the impugned orders during the pendency of the present OA.

4.23 That the applicants being aggrieved by the action of the respondents said several request to the concerned authority but nothing fruitful came from the same. Situated thus the applicants

preferred a legal notice through his counsel making a demand for redressal of his aforesaid grievances. To that effect the respondents have issued orders dated 5.10.2000 and 20.10.2000 by which another authority has been directed to make appropriate reply but till date nothing has been communicated to him.

Copy of the letter dated 5.10.2000 and 20.10.2000 are annexed herewith and marked as Annexure-K and L respectively.

4.24 That this application has been filed bonafide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action of the respondents in issuing the impugned orders more particularly the orders narrated under the head "Facts of the case" is illegal arbitrary and same has been issued with an ulterior motive only to deprive the legitimate claim of the applicants and hence same is liable to be set aside and quashed.

5.2. For that the respondents have acted illegally in issuing the impugned orders which are basically based on irrational and unreasonable classification in the name of outsider and insider is illegal, arbitrary and violating of Article 14, 16 of the constitution of India and hence same are liable to be set aside and quashed.

5.3. For that the impugned action on the part of the respondents are opposed to the constitutional mandates as the same differentiates the present applicants in the same of insider and outsider. In fact similarly situated employees like that of the present applicants are presently drawing SDA ignoring the claim of the present applicants. In this score alone the

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applicant is entitled to all the reliefs as prayed for in the present application.

5.4. For that there being no difference between the applicant as well as the employees who are receipt of SDA so far it relates to duties and responsibilities are concerned, the respondents ought not to have issued impugned order which based on such criteria.

5.5 For that the respondents have issued the impugned orders without consulting the OMs issued from time to time as well as its subsequent clarification issued from time to time and same has been issued without applying their mind. Hence the aforesaid impugned orders are liable to be set aside and quashed.

5.6. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicants crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other 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 applicant most respectfully prayed that the instant application

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be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned orders dated 5.1.2000, 9.12.99 and 23.12.99 with all consequential benefits with a further direction to the respondents to allow them to draw SDA, and not to make any recovery from the applicants towards the payment of SDA already made to them.

8.2. To set aside and quash any such orders and/or OMs by which the applicants have been deprived the applicants from drawing SDA.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays before this Hon'ble Tribunal for an interim order, directing the respondents not to make any recovery from the applicant in respect of SDA already paid to them and to allow them to draw current SDA.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 66 792177
2. Date : 4/4/2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Shri Nagendra Nath Talukdar, son of Late A. Talukdar, aged about 46 years, at present working as SDO III, do hereby solemnly affirm and verify that the statements made in paragraphs 1.10.3, 4.1.10.44, 4.13, 4.14, 4.17, 4.24, 4.26.12... are true to my knowledge and those made in paragraphs 4.5, 4.12, 4.15, 4.16, 4.18, 4.23 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the ... day of April 2001.

Signature.

Nagendra Nath Talukdar.

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ANNEXURE-A
Ann-P-i

ANNEXURE P-1
NO. 20014/9/83-B.IV
Government of India
Department of Expenditure

New Delhi, the 14th, December, 1983.

OFFICE MEMORANDUM

Subject :- Allowance and facilities for civilian employees of the Central Government serving in the State and Union Territories of North-Eastern Region- improvement thereof.

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

Attested

[Signature]

Advocate.

15 -

(i) Tenure of posting/deputation :

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Period of leave, training etc. in excess of 16 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

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

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

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

Attested

[Signature]

Advocate.

- 16=
- (a) promotion in cadre posts ;
 - (b) deputation to Central tenure posts; and
 - (c) courses of training abroad.

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

A specific entry shall be made in the C.R. of all employees who rendered a full tenure of service in the North Eastern Region to that effect.

(iii) Special (Duty) Allowance :

Central Government civilian employees who have All-India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs.400/- p.m. Special Allowances like Special Compensatory (Remote Locality) Allowance,

Attested

[Signature]

Advocate.

-17-

Construction Allowance and Project Allowance will be drawn separately.

(iv) Special Compensatory Allowance :-

1. Assam and Meghalaya

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

2. Manipur

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

Pay upto Rs. 260/-	Rs. 40/- p.m.
Pay above Rs. 260/-	15% of basic pay subject to a maximum of Rs. 150/- p.m.

3. Tripura

The rates of the allowance will be as follows:-

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

(b) Other Areas

Pay upto Rs.260/-	Rs.40/- p.m.
Pay above Rs.260/-	15% of basic pay subject to a maximum of Rs. 150/- p.m.

Attested



Advocate.

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

(v) Travelling Allowance on first appointment :

In relaxation of the present rules (S.R. 106) that travelling allowance is not admissible for journeys undertaken in connection to initial appointment, in case of journeys for taking up initial appointment to a post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 400 kms. for the Government servant himself and his family will be admissible.

(vi) Travelling Allowance for journey on transfer:

In relaxation of orders below S.R. 116, if on transfer to a station in the North-Eastern region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the post and will be permitted to carry personal effects upto 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of

Attested

W. D. S.

Secretary.

the cost of transportation of baggage. In case the family accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

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

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

(viii) Joining Time with leave :

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

Attested

[Signature]

Advocate.

20 -
(ix) Leave Travel Concession :

A Government servant who leaves his family behind at the duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent childrer only) also to travel once a year to visit the employee at the station of posting in the North Eastern region. In case the option is for the latter alternative, the cost of travel for the initial distance (400 kms./150 kms.), will not be borne by the officer.

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

Attested

[Signature]

Advocate.

- 21 -

(x) Children Education Allowance/Hostel Subsidy:

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

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

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

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

8

Attested

Advocate,

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

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

Sd/-

(S.C. MAHALIK)

JOINT SECRETARY OF THE
GOVERNMENT OF INDIA.

To,
All Ministries/Departments of the Government of
India, etc.
Copy (with spare copies) to C. & A.G., U.P.S.C. etc.

.....

Attested

[Signature]
Advocate.

ANNEXURE - B

-23-

Ann-p-2

ANNEXURE-B

CIRCULAR

ANNEXURE P-2
MOST IMMEDIATE

NO.AN/XIV/14004/III/VOL.I

Office of the
Controller General of Defence Accounts
West Block-V, R.K.PURAM
New Delhi-55

Dt. 5.5.84

To,

THE CDA PATNA
THE CDA GAUHATI
THE CDA (AF) DEHRADUN
THE CDA (ORs) (NORTH) MEERUT.

SUB:-ALLOWANCES & FACILITIES FOR CIVILIAN
EMPLOYEES OF THE CENTRAL GOVT. SERVING IN THE
STATES AND UNION TERRITORIES OF NORTH EASTERN
REGION - IMPROVEMENT THEREOF:

REF:-THIS OFFICE CIRCULAR NO.
AN/XIV/14004/III/VOL.I DATED 25.2.84
ADDRESSED TO CDA GAUHATI CDA PATNA, CDA (AF)
DEHRADUN, CDA (ORs) NORTH MEERUT WITH COPY TO
OTHER Cs. D.A.

Clarifications received from the Ministry of
Finance (Deptt. of Expdr.) on various points
raised by this office on the implementation of the
Govt. of India, Ministry of Finance (Deptt. of
Exper.) OM No. 200 14/3/83-EIV dated 14.12.83 are
given below for information and guidance.

Attested

[Signature]

Advocate.

POINT OF DOUBT

i) Whether the personnel posted to this region, either on recruitment or on transfer at their own request are eligible for these concessions and facilities.

ii) Whether the Spl. (Duty) allowance is admissible for duration of service in the region, irrespective of whether they are allowed to stay there at-their own request or otherwise, or will it be restricted to the duration of tenure ?

iii) Whether the Special (Duty) allowance would

CLARIFICATION

All civilian Central Govt. employees with all India Transfer Liability serving in North Eastern region are eligible for the allowances & facilities contained in those orders, irrespective of whether they were posted in the region on recruitment/transfer before or after the issue of the orders.

So long eligible staff serve in the region the allowance will continue to be admissible.

NO

Attested

[Signature]

Advocate.

be deemed as special pay
as defined in FR9(25).

iv) Whether the term
employees who are exempt
from payment of Income
Tax appearing in clause
(iii) of Govt. order
dt. 14.12.83 applies only
to those who are specifi-
cally exempt from payment
of I.T. under I.T. Act
(eg. Sn 10(25) of Act)
or it applise even to those
who are liable to pay
income tax by virtue of
their salary being less
than taxable limits.

It is confirmed that
term applies only
personnel who are
specifically exempted
under I.T. Act & Rules
not to these who are not
liable to pay income-
tax by virtue of their
salary being less than
taxable limits.

v) Whether these orders
are applicable to all
groups of Govt. servants
(by Gp. A, B, O&D).

YES

In elucidation of the necessity
for fixing the tenure under para 1(i)
of Govt. letter dt. 14.12.83
it has also been stated by the
Ministry of Finance that those
employees sent from outside to
this region for service there

Attested



Advocate.

-26-

should not be left for indefinite period and therefore laying down a tenure was necessary. However, so far as payment of Special duty allowance to DAD employees is concerned, please refer to clarification at item (4) above.

2. As it is desired that Govt. orders dated 14.12.83 should be implemented without delay, immediate action may please be taken to extend the allowance and facilities to DAD staff serving in North Eastern Region.

Please acknowledge receipt.

Sd/-

(T.S. MADHAVAN)

A.C.G.D.A. (AN)

Copy forwarded to :-

1. All Cs.D.A. for information.
2. All Groups/Sections in AN(Local).
3. AT/II Section (Local).

Sd/-

(T.S. MADHAVAN)

A.C.G.D.A. (AN)

Attested

[Signature]
Advocate

- 27 -

ANNEXURE

ANNEXURE - C

CIRCULAR

ANNEXURE P-3
NO. AN/XIV/14004/III/VOL-I
Office of the C.G.D.A.
West Block-V, R.K.Puram
New Delhi-66

Dated the 17th Dec.86.

To,

All CsD.A.

C of Accounts (Fys) Calcutta, HVF Avadi,
Madras and Jabalpur,

JCDA (Funds) Meerut Cantt.

Sub:-Allowance and facilities for civilian
employees of the Central Govt. serving in the
states and Union Territories of North Eastern
Region and Andman and Nicobar Islands and
Lakshdweep improvement thereof.

Ref:-In continuation to this office circular
No. dated.

Govt. of India, Ministry of Finance, Deptt.
of Expenditure OM No. 20014/3/83 E-IV dated
29.10.1986 on the above subject received under
Govt. of India Ministry of Defence (Finance
Division) Endorsement No.4(3)-Estt-1/C/86 (5271-
E.I) dated 14.11.86 is forwarded herewith for
information and guidance.

Attested

[Signature]

Advocate

2. The clarification issued vide para 1(iv) of our letter no. AN/XIV/14004/III/Vol-II dt. 5.5.84 as amended vide No. dt. 10.11.86 stands modified.

Sd/-
(T.S. MADHAVAN)
For Controller General of
Def. Accounts

Copy to :-
1. All Sections/groups local
2. Audit-II
3. Monday List.
4. Library.
5. File No.

Sd/-
(T.N. SRINIVASAN)
For Asstt. C.G.D.A. (AN)

Copy of Ministry of Finance Deptt. of
Expenditure's O.M. No. 20014/3/83-E.IV dated
29.10.1986.

Sub:- as above.

The undersigned is directed to refer to para 1(iii) of Ministry of Finance, Department of Expenditure O.M.No. 20014/3/83-E.IV dated 14th December, 1983 on the above subject and to say that the question of allowing Special (Duty) Allowance to those Central Government Scheduled Tribe employees who are exempted from payment of Income Tax under the Income Tax Act has been under consideration of the Government. The President is pleased to decide that Central Government Civilian employees who are Members of Scheduled Tribe and other eligible after the grant of Special

Attested

[Signature]

Advocate

(Duty) Allowance in terms of para 1(iii) of this Ministry's Office Memorandum dated 14th December, 1983 referred to above but are not being granted the same on account of their being covered under the scheme of Income Tax exemption, will not be eligible to draw the Special (Duty) Allowance. As such para 1(iii) of this Ministry's Office Memorandum dated 14th December, 1983 after modification may be read as under :-

1(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% of basic pay subject to a ceiling of Rs. 400/- per month of posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any Special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately".

Attested

[Signature]

Advocate

-30-

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ANNEXURE - C/B

2. This order will also apply to Central Government employees posted to Andaman and Nicobar Islands and Lakhdweep.

3. This order will take effect from the date of issue.

4. In so far as person serving in the Indian Audit and Accounts Department are concerned, this order issues after consultation with the Controller and Auditor General of India.

Sd/-
(A.N. SINHA)
DIRECTOR (EG)
TELE-3011819.

Attested

Sd/-

Advocate.

ANNEXURE—D

ANNEXURE—D

ANNEXURE P-4
NO. 20014/3/83-E.IV
Government of India,
Ministry of Finance,
Department of Expenditure

New Delhi, the 20th, April, 1987.

OFFICE MEMORANDUM

Subject :- Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region and A. & N. Islands and Lakshadweep - improvement thereof.

The undersigned is directed to refer to para 1(iii) of Ministry of Finance, Department of Expenditure O.M. No. 20014/3/83-E.IV dated 14th December 1983 as amended vide Office Memorandum of even number dated 29.10.1986 on the above subject, which is reproduced below :-

1(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% of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be

Attested

Advocate

in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like special compensatory (remote locality) allowance, construction allowance and Project Allowance will be drawn separately".

2. Instance have been brought to the notice of this Ministry where special (duty) Allowance has been allowed to Central Government employees serving in North East Region without the fulfilment of the condition of all India transfer liability. This is against the spirit of orders on the subject. For the purpose of sanctioning special (duty) allowance, the all India transfer liability of the members of any Service/Cadre or incumbents of any posts/group of posts has to be determined by applying tests of recruitment zone, promotion zone, etc. i.e. whether recruitment to the service/cadre/posts has been made on all-India basis and whether promotion is also done on the basis of the all-India zone of promotion based on common seniority for the service/cadre/posts as a whole). Mere clause in the appointment order (as is done in the case of almost all posts in the Central Secretariat etc., to the effect that the person concerned is liable to be transferred

Attested

[Signature]

[Signature]

anywhere in India does not make him eligible for the grant of special (duty) allowance.

3. Financial Advisers of the administrative Ministries/Departments are requested to review all such cases where special (duty) allowance has been sanctioned to the Central Government employees serving in the various offices including those of autonomous organisations located in the North East Region which are under administrative control of their Ministries/Departments.

(A.N. SINHA)
DIRECTOR (EG)
TELE: 3011819

To,

Financial Advisers, of all Ministries/Departments.

Attested



Advocate.

ANNEXURE P-5
NO. AN/III/01/P&A/MO/Order/VI
Office of the CDA
Udayan Vihar, Narangi
Guwahati, 781 171.

ANNEXURE - E

Dated : 7th November, 96.

To,

The CGDA

West Block-V

R.K. Puram,

NEW DELHI- 110 066

Sub:-Discrimination in payment of Special Duty
Allowance in N.E. Region.

Ref:-Your No. AT/II/2366/SDA-II dt. 7/8/96 and
Reminder dt. 9.9.96 and Telegram No.4614 dt.
7.10.96

.....
The representation received under Hqrs.
office letter cited under reference has been
examined. It briefly relates to :

- (i) Discrimination in payment of SDA to Class IV employees.
- (ii) Confusion and wrong intentional misinterpretation of the order of Supreme Court and non-implementation of Govt. order dated 12/1/96 and

Attested

21


Advocate,

(iii) Continuation of payment of SDA to DAD Staff in contravention of orders.

2. Instead of commenting on the specific issues highlighted in the representation, we would like to bring to the notice of the Hqs. office the complications and confusion faced by us as also certain categories of defence civilians serving in the NER due to inconsistency in the stand of the Deptt. of Expenditure in the Ministry of Finance in amplifying and interpreting the eligibility criteria for the grant of SDA. These are set out in the succeeding paragraphs :

3. The problem started right from the time, the GOI, Min. of Finance (Deptt. of Expenditure OM No.20014/Aa/83-E-IV dated 4/12/83 was issued. It was mentioned there in that with a view to attracting and retaining the services of competent officers for service in the North Eastern Region comprising of the states of Assam, Meghalaya, Manipur, Nagaland and Tripura and Union Territories of Arunachal Pradesh and Mizoram' the Govt. had appointed a committee to review the existing allowances and facilities admissible to various categories of Civilian Central Govt. Employees (C.C.G.E.) serving in this region' - the word serving used in the Govt. letter is meaningful here as it is distinct from the word transfer - and to suggest suitable improvements.

Based on the recommendations of the committee, the Govt. took various decisions which were embodied in the Deptt. of Expenditure OM dated 14.12.83. A perusal of various allowances and facilities extended by the Govt. vide their OM ibid indicates that these can be divided into three distinct categories :

(i) Allowances/facilities that were meant exclusively for those C.C.G.E. who were posted to N.E. Region from outside the N.E. Region, such as: a fixed tenure for posting on deputation of 2 to 3 years, relaxable in case of willingness of the affected employees to continue serving in the NER beyond the fixed tenure period; weightage to such deputationists or people coming to NER from outside NER on a fixed tenure basis in the matter of Central deputation and training appointment and for journey for travelling allowance on first appointment and for journey on transfer; joining time with leave; leave travel concession; and children education allowance and hostel subsidy.

(ii) The allowances which were to be paid to all the C.C.G.E. serving in the NER irrespective and independent of any other eligibility criteria except the fact they were serving in the N.E. region, such as : Special Compensatory allowance depending upon the particular state on U.T. of NER where a C.C.G.E. was posted;

Attested

23

Advocate

(iii) A special allowance called 'Special Duty Allowance' (SDA) to be paid to all the C.C.G.E. who have All India Transfer Liability on their posting to the North Eastern Region.

4. It will be seen from the above analysis that while the Govt. orders contained in the OM of 14.12.83 did adopt 3 different eligibility criteria for payment of various types of allowances and facilities to the C.C.G.E.'s at no place was any mention made about the fact that SDA or any other allowance will become payable to them only if they are not residents of NER.

5. In fact this doubt that the eligibility of a C.C.G.E. was to be dependent upon the status of his residence was never raised at any stage. And this perhaps was the reason that in response to some doubts expressed by some Controllers with regard to eligibility of C.C.G.E. for SDA and other allowances it was clarified by the Hqrs. office, after consultations with the Mis. of Finance, vide their letter No. AN/XIV/1404/III/Vol. I dated 5.5.84 that all civilian Central Govt. employees with All India Transfer Liability serving in North Eastern Region were eligible for SDA (amongst other allowances and facilities contained in the said OM dated 14.12.83) irrespective of whether they were posted in the region on recruitment/transfer before or after the issue of the orders.

Attested

24

Advocate.

10. This meant that while the former claimed and got SDA from our sub offices, the latter were denied of SDA due to absence of A.I.T.L. clause in their service conditions. Discontent therefore spread among the affected employees. What confused the matter further was that even some of the adversely affected employees subsequently managed to get payment of SDA from our Area Accounts office and other field functionaries like UAGE/LAO's for the reason that none of our offices had any means of verifying whether a particular individual for whom SDA was being claimed actually fulfilled the criteria or not.

11. It will therefore be pertinent to mention here that the nature of eligibility criteria for drawal of SDA, viz., all India transfer liability, was, and continues to be, such that its strict enforcement by this office or by our sub offices alone is not possible unless the executive authorities co-operate with us by not claiming the SDA for the employees who are not entitled to draw it. The reason is that neither in the pay bills for non-industrial civilian employees of defence establishments, which are pre-audited and paid by our Area Accounts office at Shillong, nor in the pay bills of the industrial employees, which are only to be post audited by our local audit offices/UAGE/LAO's etc, are there any columns for indicating whether these employees actually fulfill

Attested

[Signature]

Advocate.

6. Once these clarifications were issued on 1984 it became crystal clear that all DAD employees serving in the North Eastern Region were eligible to draw SDA as they fulfilled the criteria of All India transfer liability.

7. The aforesaid clarifications also made it evident that even the other Defence Civilians serving in the NER could also be paid SDA provided they fulfilled the All India transfer liability criteria.

8. In other words, the clarifications given by the Hqrs. office established the rule that the only criteria that a C.C.G.E. serving in the NE Region would have to fulfil to be eligible to draw SDA was his liability for All India transfer. Based on the above, this office began regulating the claims of C.C.G.E. serving in the N.E. Region.

9. Problems, however, arose sometime later in respect of certain categories of Defence civilians working as industrial or non-industrial employees under posts in Gp 'D' and 'C'. While the service conditions of some such employees contained a clause regarding their liability for All India transfer, although in actual practice most of them had never been transferred outside the NE Region, some other similarly placed employees in other Defence Establishments in the NE Region did not have this clause at all.

the necessary eligibility criteria, nor do we have the necessary manhours and manpower to send to each and every defence establishments to verify the service conditions of every civilian employees in this regard. In the circumstances we are totally dependent upon the support and help of the concerned executive authorities on whom lies the sole responsibility for ensuring that SDA is claimed only for those employees who are eligible to get it in terms of existing Govt. orders.

12. As soon as the matter came to the notice of Ministry of Finance, Deptt. of Expenditure, they issued clarificatory orders in regard to the eligibility criteria for drawal of SDA by the CCGE serving in the State and Union Territories of North Eastern Region vide their OM No. 20014/3/83-E-IV dated 20th April, 1987. Operative part of the said memorandum, viz. para-2, is reproduced below :

"Instances have been brought to the notice of this Ministry where SDA has been allowed to Central Govt. employees serving in North Eastern Region without the fulfilment of the condition of all India transfer liability. This is against the spirit of order on the subject. For the purpose of sanctioning SDA, the all India transfer liability of the members of any Service/Cadre or incumbents of any posts/group of posts has to be determined.

27-4-87

[Signature]
Director

by applying tests of recruitment zone., promotion zone etc. i.e. whether recruitment to the Service/Cadre/posts has been made on all India transfer basis and whether promotion is also done on the basis of the all India zone of promotion based on common seniority for the Service/Cadre/Posts as a whole. Mere clause in the appointment order (as is done in the case of almost all posts in the Central Secretariat etc.) to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of SDA."

13. It would be observed from the above OM which laid down the determining criteria for drawal of SDA that no mention whatsoever was made for restricting the payment of SDA to only those C.C.G.E. serving in this region who were not residents of North Eastern Region.

14. In fact, it is also pertinent to note from para-3 of the OM dated 20th April 1987 that while directing the Financial Advisers of all the administrative Ministries and departments, the Deptt. of Expenditure only requested them to review all such cases where SDA had been sanctioned to the C.C.G.E. serving in the various offices located in the NER without in any way directing them to effect recoveries from those who had been paid this allowance un-authorisedly.

[Signature]

[Signature]

[Signature]

15. When the amplified of all India transfer liability was applied to the DAD civilians of all groups working in the NER, it was found that they met the criteria in full. Accordingly payment of SDA to all of them was continued.

16. The payment of SDA to the non-DAD civilians working in various defence establishments in the NER was also regulated in accordance with the amplified eligibility criteria laid down by the department of expenditure. As a result of this, the civilian employees who were adversely affected, and who mostly belonged to Gp-'D' and in some case to Gp-'C' posts in various static establishments of Defence services in NER, approached CAT Guwahati. While we do not have the details of various CAT judgment, the Tribunal as and when approached by any effected party generally permitted the applicants to draw SDA provided they fulfilled the all India transfer liability criteria as laid down in the Govt. OM of Dec'83. No cognisance of the emplified criteria as set out in the OM of 87 was taken by the Tribunal in any of their judgments. Further payments of SDA to such personnel were therefore made as per the judgment of Tribunal.

17. A few years later some problem arose vis-a-vis the employees of 222 ABOD and 14 FAD, who were mostly industrial employees, where this

Attested
Advocate.

42

ANNEXURE

53

office sought to stop payment of SDA to these employees on the ground that they were mostly recruited locally and served only in the NE Region and did not fulfil the All India transfer liability criteria as set out in the two Govt. orders. As the difference of opinion between this office and the two Army formations persisted, the matter was referred by this office to the CGDA.

18. The Hqrs. office, after consulting MOD(Fin), who in turn consulted Min. of Finance, Deptt. of Expenditure, clarified vide their letter No.AT/II/2366/SDA dated 9.10.92 that the affected employees who were recruited locally in the North Eastern Region did not fulfil the criteria of All India transfer liability as set out in the two OM's of Deptt. of Expenditure dated 14.12.83 and 20.4.87 and as such were not eligible for grant of SDA. Although these establishments remained dissatisfied with this decision, we regulated payment of SDA to them in accordance with the directions from, the Hqrs. office. This decision continues to remain a sore point with the employees association till date and they have therefore questioned its validity in their representation to the CGDA's office.

19. The complications that currently beset this office, however, arose consequent to the delivery of judgment on 20.9.94 by the Hon'ble

Attested

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[Signature]

Advocate.

Supreme Court in a Civil Appeal No. 3251 of 1993, Union of India and others vs. S. Vijai Kumar & others. The point for determination in this appeal was whether the respondents were entitled to SDA, even though they were residents of NER, merely on the ground that the posts of which they were appointed were of All India transfer liability.

20. The stand taken by the Counsel for respondents was that since the OM dated 14.12.83 stated that SDA will be payable to the civilian Central Govt. employees posted to the North Eastern Region provided their posts carried All India transfer liability criteria, the respondents were entitled to payment of SDA.

21. However, the stand of Union of India was that if the OM dated 14.12.83 was read together with what was subsequently stated in the OM dated 20.4.87, it would be clear that the allowance was required to be paid only to those incumbents who had been posted in NER carrying the aforesaid service condition and not to those who were residents of this region. The Union Counsel further stated that the intention of the Govt. to grant SDA only to non residents of NER would further become clear. If we looked at the intention of the Govt. behind extending various facilities and allowances, which was to attract and retain the service of ex NER C.C.G.E. in the NE region. No wonder the Hon'ble Court accepted

Attested

[Signature]
Advocate

- 44 -

the stand of the Union and gave the judgment that SDA would not be payable to the residents of NER even though they fulfilled the All India transfer liability criteria as set out in the two OM's. The Court, however, graciously stopped the recovery of the SDA already paid to all such employees.

22. As, however, we did not receive a copy of the judgment of the Court we continued making payment of SDA to such employees even beyond the date of judgment. In any case, even if we had received the judgment we could not have stopped payment of SDA to other Govt. employees not a party to the appeal unless, the Govt. extended the provisions of the judgment to all through issue of specific orders.

23. It is neither our intention at this stage to question the judgment of the Hon'ble Apex Court, which it delivered based on the official stand of Union of India, nor do we have the necessary competence and wisdom to do so, we cannot hold ourselves back from indicating what appears to us the inconsistency and flaw in the stand of Union of India.

24. We have repeatedly read and carefully scrutinised the two OM's in question while it is indeed true that the allowances/facilities contained in the two OM were drawn with a view to

Attested

[Signature]

Advocate.

attracting and retaining the services of competent officers for service in the North Eastern Region, no where is there any indication, either explicitation implied, that any of the allowances or facilities contained in them were not meant for residents of NER.

25. And even if we grant, for a moment, the contention of the Govt. that these allowances and facilities were granted for attracting and retaining the services of officers who were not only posted to NER but were also not residents of NER, we cannot apply this criteria selectively to SDA alone and ignore it in respect of other allowances.

26. The facts on the other hand are that :

(i) Even a resident of NER, when he is posted to this region from outside NER is entitled to all those allowances/facilities which would be available to any other civilian Central Govt. employees who is not a resident of this region but is posted to this region.

(ii) Every civilian Central Govt. employee serving in the NER, irrespective of any other criteria, will be entitled to Special Compensatory Allowance.

Attested




Advocate.

27. Can we in the circumstances legitimately deny any of these allowances/facilities indicated above to a C.C.G.E. simply on the plea that he is not a resident of NER? If not, then how can we select just one allowance, viz. SDA, and deny it to a resident of NER even though he fulfils the laid down criteria of All India transfer liability.

28. It took the Deptt. of Expenditure nearly one and a half years to give effect to the judgment of the Hon'ble Court. However, the OM dated 12.1.96 issued by the Govt. on the subject only made partial implementation of the judgment of the Court as would be evident from the following :

(i) While the Court had decided that payment of SDA will not be made to the residents of NER even if they were posted to the region carrying All India transfer liability condition, the OM of 12.1.96 merely says that 'C.C.G.E. who have all India transfer liability are entitled to SDA on being posted to any station in the NER from outside the region'. It omits the words "and not to the residents of this region" which was actually the basic point for determination by the Court.

Attested


Advocate.

47 -

(i) Recovery was ordered from all the employees belonging to the in eligible category raised status quo ante will continue. Pending receipt of decision on issue for payments made after 20.9.94. This again gives rise to two problems. First, which ineligibility criteria is to be taken into account this purpose - the one laid down by the Supreme Court, which debars a resident of NER from claiming SDA irrespective of any other conditions, or the one laid down in the O.M. of 12.1.96, which permits a resident of NER to claim SDA provided he is posted to NER from outside the region. Second, whether it would be legally valid to recover SDA for the period 21.9.94 to 12.1.96 from the employees categorised as ineligible by the Supreme Court, except for respondents, in the subject litigation, because their eligibility to SDA stands till the date of issue of OM, viz. 12.1.96 ?

29. In the light of the aforesaid complications, there appears to exist an inescapable need to refer the whole matter to the Min. of Finance, Deptt. of Expenditure and request them to stick to the criteria of all India transfer liability, as set out in the two OM's of 14.12.83 and 20.4.87 respectively for the drawal of SDA without in any way linking it to place of residence of a C.C.G.E. The advantages of such a decision would be many as indicated below :

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Attested

[Signature]
Attocate.

(i) It will remove all the existing inconsistencies between Govt. orders, clarificatory orders, Supreme Court judgment and orders issued for giving effect to the Supreme Court judgment.

(ii) Since the number of C.C.G.E. posted to this region and also residents of this region who fulfil the all India transfer liability criteria as determined by test prescribed in Govt. order of 1987, are not many, payment of SDA to them would not cause any undue burden to the Govt. Exchequer. Instead, this move will greatly reduce the chasm between the NER and ex-NER employees. In fact, in the wake of the massive financial package announced by the Govt. for the States in the NER, it would be appropriate to approve the suggested move.

(iii) The suggested move for payment of SDA to the NER resident C.C.G.E. would also be more rational in as much it will recognise the problems that they face within the North East Region which consists of seven states that are widely scattered and remotely located. For example, the NER staff when posted from say, Rangiya or Guwahati to distant and difficult locations in Mizoram, Arunachal Pradesh, Tripura, Nagaland etc. which are sometimes more than 1000 kms. away, will face the same problems as would be faced by an ex-NER staff to those stations from other Commands.

Attested



Director

- 49 -

ANNEXURE - F

ANNEXURE - F
SERIES

CIRCULAR/LETTER

ANNEXURE P-6
NO. AN/III/01/P&A/MO/Order-
Office of the CDA Guwahati,
"Udayan Vihar", Narangi,
Guwahati- 781 171.

Date:- 5-1-2000

To,

1. The O i/c
Area Accounts Office,
Shillong

2. The O i/c
PAO (ORs) 58 GTC
Shillong

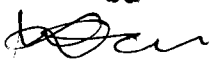
3. All the Sub-Offices
(Including Border Roads)

4. All the Section of M.O. Guwahati

Subject :- Payment of Special Duty Allowance to
DAD Employees Serving in NE Region

The issue regarding eligibility for grant of SDA to DAD employees serving in the NE Region was referred to HQrs New Delhi vide this office letters No. even dated 19.11.99 and 6.12.99 and it has been clarified by the CGDA New Delhi vide his letter No. AT/112366/SDA-IV dt. 9.12.99 (received under their covering letter NO. AN/XIV/14004/111/SPA dt. 23.12.99 that :

Attested


Advocate.

50- 95 70

I. SDA will be admissible only to those who are originally recruited in Regions other than North East; &

II. They are subsequently transferred from such outside region to the North East Region.

Locally recruited could be a person belonging to NER or any other Region.

You are therefore requested to review the cases of eligibility for grant of SDA in the light of above clarification and to regulate the payment of SDA accordingly w.e.f. the apy bill of Jan'2000.

As regards Main Office & Sub-Offices, the payment of SDA is being regulated as above from the Monthly Pay Bills of Jan'2000.

CDA has seen.

Sd/--

(RAVINESH KUMAR)

DY.C.D.A.(AN)

2000. 30

From,

The C.G.D.A.
West Block-V, R.K. Puram
New Delhi-66
No. AN/XIV/14004/III/SDA
Dated :- 23.12.99

Q F

To,

Shri Taliramba, IDAS DCDA
C/o- The CDA, Udyan Vihar,
Narangi, Guwahati, 781 171.

Sub:- Payment of Special (Duty) Allowance to DAD
employees serving in NE Region.

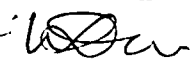
Ref:- Your no. AN/III/01/P&A/MO/Order-IV
dt. 19/11/99 and 16/12/99.

In this connection please refer to this Hqrs
No. AT/II/2366/SDA-IV dt. 9/12/99 (Copy enclosed)
under which Ministry has clarified the position
regarding the eligibility criteria for entitlement
of Special (Duty) Allowance to Defence Civilians.
The same criteria is Mutatis Mutandis to DAD
employees also. You may please regulate the cases
accordingly.

(D.K. GUABA)

For C.G.D.A.

Attested



Advocate.

- 52 - 97 22 69

No. AT/II/2366/SDA-IV
Officer of the CGDA
New Delhi

Dated:- 9-XII-99

To

The CDA (For kind attn. Sh. Ravinesh Kumar, ACDA)
Guwahati

Sub:- Eligibility criteria for entitlement of
Special (Duty) Allowance of Defence
Civilians.

Ref:- In confirmation of this Hqrs even no.
dt. 12-7-99 in response to your letter No.
P&A/01/SDA-CAT-I dt. 4.5.99

It has clarified by Min. of Defence /D(Cir.1)
in consultation with Min. of Def(Fin/AG)/PB Group
that in accordance with para 2 of Min. of Defence
OM No.4(3)/98/D(Cir.1) dt. 16.3.98 issued in
consultation with PA Group the following
conditions need to be satisfied for grant of
Special Duty Allowance :

(i) SDA will be admissible only to those who
are originally recruited in regions other than
North East; &

(ii) They are subsequently transferred from
such outside region to the North Eastern Region.

Locally submitted could be a person belonging to NER or any other Region.

2. On the basis of above conditions these cases reflected in Annexure 'A' to your letter dt. 4.5.99 cited under reference, Sh. Prikash Dev IDC tested at serial I is only eligible to get SDA since he had been originally recruited in COD, Kanpur and subsequently posted in N.E.R. Remaining two person viz. S/Shri Baidya and D.K.Basn who were originally recruited in Jorhat and Tezpur (both in NER) respectively and now posted in NER are not eligible to get SDA.

3. In view of the above classification, affected cases may be dealt with accordingly.

Please acknowledge the receipt.

JT CGDA (System) has seen.

Sd/-

Copy to: Genl file

ACGDA (AN)

Amara. n



Locals.

UNION IS STRENGTH

5

ALL INDIA DEFENCE ACCOUNTS ASSOCIATION

GROUP 'B' 'C' & 'D' EMPLOYEES

CENTRAL BODY, PUNE*Recognized by Govt. of India*

2013, SADASHIV PETH, PUNE - 411 002

Tel : 651306-7, 651483

651403, 652714, 651405

Gram : Fedact-Poona.

Telex : 0143-7559

Ref: AIDAA/CIR/2000

Dated: 18th February, 2000

Dear Comrades,

The undersigned along with our President Shri N.S. Dube, visited New Delhi in connection with 19th Steering Committee Meeting of 3rd Level JCM Council of CGDA Hqs held on 8th February, 2000.

1. Assured Career Progression Scheme :

Amongst the various issues discussed in the meetings, the main point was regarding non implementation of Govt orders on Assured Career Progression Scheme by the departmental authorities. It was stated in the meeting that the ACP Scheme being replica of 2 time bound promotion scheme already in operation in P&T Dept., there should be no difficulty in grant of scale of Rs. 1640/2900 to all the Senior Auditors who have completed 24 years of service. It was contented by us that the clarification given by the Department of Personnel and Training about the examination related scales is against the spirit of the scheme. The proposal of the ACP Scheme is to help the employees who are serving in the grade over 12 years without any promotion. The next financial upgradation is to be granted in all such cases. As the orders were issued way back in October, 1999, it was requested by us that the matter should be settled at the earliest. It was further stated that the IVth Central Pay Commission had restored the parity of scales of pay between DAD and other Accounts depts. on one side and Ind. & Audit and Accounts Depts. on other side. As C & AG and all the AG's offices, have already implemented the scheme to grant of scale of Rs. 1640/2900 to all the

Gauhati High Court.

Attested



Attocate.

Senior Auditors with 24 years of service, it was stated by us that same should be followed in our department also.

JCGDA [AN] Shri Amarchand who is also Chairman of the Steering Committee of 11th Level Hqrs Council JCM stated that the matter is being processed through Defence Ministry for obtaining necessary clarification from Dept. of Personnel and Training. He assured us that the same will be settled at the earliest with reference to the relevant factors. We intend to pursue the matter vigorously for settlement at the earliest.

2. Pay Parity/Grant of Scale of Rs 1640/2900 (Prerevised) to all the Senior Auditors/Senior Accountants

The matter regarding grant of scale of pay of Rs. 1640/2900 [prerevised] to all the Senior Auditors with reference to CAT Guwahati judgement delivered on 14th Sept '99 is still pending with Government. There is no Review Petition or appeal filed by Govt as yet. After certain rounds of negotiations by some leaders of Appex JAC with higher authorities in the Ministry of Finance it has been decided by JAC unanimously to request the Govt to consider the implementation from 1.1.1986 onwards notionally and to revise the pay scales with a prospective effect from a date to be decided with due mutual consultations between Govt and the J.A.C. A copy of the letter of 9th February 2000 addressed to the Secretary, Dept. of Expenditure, Min of Finance, New Delhi is enclosed herewith for your ready reference along with the copy of the circular No. 9/99 dtd 9.2.2000 on the subject matter.

As Stated therein, the circular may please be given wide publicity amongst the members through general body meetings etc.

Let us await further communication on the subject matter from Joint Action Committee.

3. Transfer Estt - Ex-Nagpur

As the transfers ex-Nagpur are now controlled by the CGDA, the issue regarding serving of alert notices to the staff of JCDA [AN] Nagpur who are not seniormost in the station was raised by us.

We have been assured that the criteria of station seniority will be strictly adhered to by Hqrs office while transferring staff ex-Nagpur.

Attested



Advocate.

Grant of Special Casual leave to delegates :

Grant of Special Casual Leave to the delegates attending VIIIth National Convention of AIDAA [CB] Pune was discussed in the meeting.

It was assured by the Chairman that the issue is being settled in consultation with D [JCM] of Min. of Defence and all Cs DAS will be informed about the correct rule position in this regard.

Special Disturbance allowance - N.E. Region (CDA)

The disturbance created in view of the decision of the H'ble Supreme Court bench and simultaneous Govt orders maintaining the irritant attitude which is against the fundamental rules was discussed with the Chairman H'rd Level JCM Council.

The Chairman while explaining the official view point stated that the case was not properly handled by the Govt Pleader. It is now upto the employees organizations to seek appropriate legal redressal of their grievance.

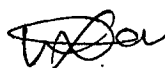
Decentralization of Work pertaining to DAD Staff under different Controller of Accounts [Factories] from main office Calcutta:

The issue regarding decentralization of work pertaining to DAD staff working in different Accounts offices all over the country which is done at present at main office Calcutta was raised by us. Inordinate delay in processing service increments, settlement of personal claims such as medical, LTC, TA/DA etc was brought to the notice of the authorities. The attention of the chair was invited to the decision already arrived at in the matter about decentralization of above work from main office Calcutta to respective Accounts offices of Factories. The inconvenience caused to the DAD staff over such delays was explained to the authorities.

It was stated by the JCGDA [AN] that the decision to decentralize above item of work has already been arrived at and implementation thereof is now in process. The PC of Accounts [Factories] Calcutta has been directed by CGDA New Delhi to finalize the same at the earliest.

As our long pending demand is now being met, it is a matter of sadness for all our colleagues who are serving in Accounts Offices of various organizations all over the country.

Attested


Advocate.

107-57

Organization Issues

It was a very happy moment for all of us to come together and discuss various staff matters and to arrive at some decision during our recently concluded VIIIth All India Convention of our Association on 5th & 6th January 2000 at Bangalore. The efforts put in by our local Comrades at Bangalore under the able guidance of Shri M. Sunder Dhas, President for successfully conducting the Convention deserve the appreciation. Their praise worthy contribution for the success of the event shall be always remembered by all of us. On behalf of all our branches, we convey sincere thanks to all our Comrades at Bangalore for the same.

The list of newly elected body has already been sent to the CGDA New Delhi. A copy of the same is being sent to all the Cs DAS for necessary action if any at their ends. The names are reproduced separately along with the list of special invitees.

The Managing Committee Meeting at the newly elected office bearers along with special invitees is to be held some time in April 2000 to decide further action on various staff problems.

Meanwhile all our newly elected office bearers of Central Body as well as Branch Association Office bearers are hereby requested to do their best to enroll new members for the Association. The enrollment as per CS RSA rules 1993 commences from 1st April 2000 to 30th April 2000. There should be fullest efforts to increase the present membership strength with a view to expand the organization. This may be given TO PRIORITY.

With regards, an opportunity is being given to all our Comrades to contribute their views on the above mentioned points.

Yours Comradely,
Safai

SAFAI
SECRETARY GENERAL
NATIONAL ASSOCIATION
OF ACCOUNTS ASSISTANTS

Attested


Advocate.

10: AN/XIV/14004/III/Vol.IV(PC)
Government of India,
Ministry of Defence (Finance),
New Delhi 15/91.

To

The C.G.D.A.
New Delhi.

Sub: Grant of Special (Duty) Allowance to
DAD Officers & Staff attached with
GREF in North Eastern Region.

Sir,

I am directed to refer to your UO note No. AN/XIV/14004/III/
Vol-IV dated 8.6.89 and to convey the sanction of the President for
the grant of Special (Duty) Allowance to DAD officers & Staff serving
in the offices of Defence Accounts Department attached with GREF
Units and formations located in North Eastern Region and Andaman &
Nicobar Islands, on the same terms and conditions as laid down in
Ministry of Finance (Deptt. of Expenditure) OM No. 20014/3/83-E-IV
dated 14.12.83 read with OM No. 20014/16/86/E-IV/E.II(B) dated
1.12.88 as amended from time to time, on the basis of Ministry of
Surface Transport, B.R.D.B. letter No. P.45(2)/BRDB/88-Estt/17084/
DGBR/E2A(T&C) Dated 21.3.89.

These orders will take effect from 21.3.89 only.

This issues with the concurrence of Ministry of Finance
(Deptt. of Expenditure) vide their U.O.No. 21011/6/85/E.II(B) Vol(II)
dated 14.5.91.

Yours faithfully,

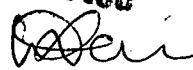
(T.S.MADHAVAN)
AFR(C)

Copy to:-

1. The Ministry of Def(Fin/DAD-Coord), New Delhi.
2. Min. of Fin(Deptt. of Exp.E.II B) New Delhi.
3. The Director of Audit Defence Services, New Delhi.
4. CDA, Border Roads, Kashmir House, New Delhi.
5. CDA(SC) Pune.
6. CDA(WC) Chandigarh.
7. CDA(IC) Jammu.
8. CDA Gauhati.
9. CDA Patna.
10. CDA(P) Allahabad (Auditing Controller).
11. The Jt. Director of Audit(DS) WC, Chandigarh.
12. Dy. Dir. of Audit(DS) E.C., Allahabad.
13. Library.

(T.S.MADHAVAN)
AFR(C)

Attested


Advocate.

No. F.45(2)/BRDB/88-Estt/17084/DGR/R22(TAC)
 Government of India
 Ministry of Surface Transport
 Border Roads Development Board
 'B' Wing, 4th Floor, Sandhawan
 New Delhi-110011
 Dated the 21st March, 1989.

To

The Director General Border Roads,
 Kashmir House,
 New Delhi-110011. - 50 copies.

Subject: Grant of Special (Duty) Allowance to the civilian officers/subordinates of the General Reserve Engineer Force serving in North Eastern Region and Andaman & Nicobar Islands.

Sir,

The question of extending the benefit of various allowances admissible to other civilian employees of the Central Govt. serving in the North Eastern Region and Andaman & Nicobar Islands, to the civilian officers/subordinates of the GREF (BRO) serving in these areas, has been under consideration for some time past.

The President is now pleased to grant Special (Duty) Allowance to the civilian officers/subordinates of the General Reserve Engineer Force serving in the North Eastern Region and Andaman & Nicobar Islands, on the same terms and conditions, as have been laid down in Ministry of Finance (Deptt. of Expr.) OM No. 20014/3/83-EIV dated 14.12.1983-read with OM No. 20014/16/86/E.IV/E.II (B) dated 1.12.88 as amended from time to time.

These orders will take effect from the date of issue of this letter.

This is issued with the concurrence of Ministry of Defence (Fin./BR) vide their U.O. No. BRS/201-MEC/2422/8 dated 9/21.3.89.

Yours faithfully,



(Vijay Kumar)

Under Secretary to the Govt. of India.

contd. p/2

Attested


 Adm. Secy.

Copy to:-

1. Min. of Def. (Fin./DR) - 5 copies.
2. CGDA, New Delhi.
3. DADS, New Delhi.
4. Sr. DDA, DS SC, Pune.
5. Sr. DDA, DS WC, Chandigarh.
6. Sr. DDA, DS EC, Patna.
7. CDA, EC, Patna.
8. CDA, NC, Jammu.
9. PAO (GREF), C/O CDA, SC, Pune.
10. CDA, CC, Meerut.
11. CDA, Gauhati.
12. CDA HQ ro, New Delhi.
13. PAO (KW), Min. of Surface Tpt, New Delhi.
14. SO I, Inspection Coll, PWD, RK Puram, New Delhi.
15. SAO/AO (BWA)-Local.
16. SO (Admin)-Local.
17. AO (Pore)-Local.

6 copies each
(one signed in ink).



(Vijay Kumar)
Under Secretary to the Govt. of India.

To Shri D. B. RAJPUT WC/AN

E

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AO

AO

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Normal

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E I B

Attested


Advocate.

(iv). Special Compensatory Allowance

The recommendations of the 4th Pay Commission have been accepted by Govt. and Special Compensatory Allowance at the revised rate has been made effective from 1.10.85

(v). Travelling Allowance on First appointment

The present provisions as contained in this Ministry's O.M. dated 14.12.83 will continue with the liberalisation that on first appointment T.A. should be admissible for the total distance, instead for the distance in excess of first 400 Kms only.

(vi). Travelling Allowance for journey on transfer:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(vii). Road mileage for transportation of personnel effect on transfer

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(viii). Joining time with leave

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(ix). Leave Travel Concession:

The existing concession as contained in this Ministry's O.M. dated 14.12.83 will continue.

Officers drawing pay of Rs.5100/- or above and their families i.e. spouse and two dependent children (upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala/Aizawl/Lilbari and Calcutta and vice-versa; between Port Blair and Calcutta/Madras and vice-versa in case of postings in Andaman Islands; and between Kavaratti and Cochin and vice-versa in case of posting in Lakshadweep.


(x). Children Education Allowance/Hostel subsidy:

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

The rates of Children Education Allowance/Hostel subsidy will be as per the M.P&T O.M. No 18011/1/87-Estt. (Allowance) dated 21.1.87, as amended from time to time.

Contd...3..

Attested


Advocate.

Copy of Government of India, Ministry of Finance (Deptt of Expenditure) O.M. No 20014/16/86/E.IV/E-11(B) dated 1.12.1988 regarding improvement in facilities for civilian employees of the Central Govt. serving in the States of North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep.

The undersigned is directed to refer to this Ministry's O.M. No 20014/5/83.IV dated 14th December 1983 and 30th March 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Govt. employees posted in North-Eastern Region comprising of the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the Government is now pleased to decide as follows :-

(1) Tenure of posting/deputation

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(11) Weightage for central deputation and training abroad:
Special mention in confidential records.

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue. Cadre authorities are advised to give due weightage for satisfactory performance of duties for the prescribed tenure in the North-East in the matter of promotion in the cadre posts, deputation to Central tenure post and courses of training abroad.

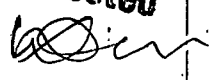
(114) Special (Duty) Allowance

Central Govt. Civilian employees who have all India transfer liabilities will be granted special (Duty) Allowance at the rate of 12% 12 1/2% of basic pay subject to ceiling of Rs 1000/- per month on posting to any station in North-Eastern Region. Special (Duty) allowance will be in addition to any special pay and/or deputation (duty) allowance already being drawn subject to the condition that the total of such special (Duty) Allowance plus special pay/deputation (Duty) Allowance will not exceed Rs.1000/- p.m. Special allowance like special compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

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

Contd....2...

Attested



Advocate.

(xi) Concession regarding Grant of House Rent Allowance to Officers posted in the State of North-Eastern Region, Andaman & Nicobar Island and Lakshadweep Islands.

The present concession as contained in this Ministry's O.E. No. 11016/1/E.11(11)/84 dated 29.3.84 as amended from time to time will continue to be applicable.

(xii) Telephone facilities:

The officers who are eligible to have residential telephone may be allowed to retain their telephone at their residence in their last place of the posting subject to the conditions that the rent and all other charges are paid by such officers.

The orders to apply mutatis-mutandis to officers posted in Andaman & Nicobar Islands and Lakshadweep Islands. These orders will also apply mutatis-mutandis to officers posted to N.E. Council, when they are stationed in the N.E. Region.

3. These orders will take effect from the date of issue.

4. In so far as the persons serving in the Indian Audit & Accounts Deptt. are concerned these orders issue after consultation with the Comptroller & Auditor General of India.

5. Hindi version of this Memorandum is attached.

Sd/- x x x
(I. JAYARAMAN)
JOINT SECRETARY TO THE GOVT. OF INDIA.

/COPY/

Attested

[Signature]

Advocate.

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ANNEXURE - J

COURT CASE
MOST IMMEDIATE

Cabinet Secretariat
(EA. I Section)

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

1. SSB Directorate may kindly refer to their UO No.42/SSB/AT/99(18) - 2369 dated 31.03.2000 on the subject mentioned above.

2. The points of doubt raised by SSB in their UN No.42/SSB/AT/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 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 Government 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.II(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 N.E. Region selection 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.

NO

Contd - 2/

Attested



Advocate,

- ii) An employee belongs to NE 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 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 N.E. Region though they can be transferred out to any place outside the NE Region having All India Transfer Liability.
- iii) An employee belongs to N.E. Region and subsequently posted outside N.E. 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.
- 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.
- 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 (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 © 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.

NO


YES

YES

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

Contd 3/-

Attested


 Advocate.

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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.

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

vii) Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20-9-1994 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 N.E. 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.

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 employee hailing from NE Region and posted in NE Region be recovered from the Date of payment Or after 20th Sept, 94 whichever is later.

Contd 3/-

Attested



Advocate

-67-

ANNEXURE— J

- : 3 : -

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) 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. Shri J.M. Menon, Director Finance (S), Cab.Sectt.
8. Col. K.L. Jaspal, CIOA, CIA

Cao, Sectt. UO.No.20/12/99 - EA - 1 - 1799 dated 2.5.2000

Attested


Advocate.

MOST Immediate
LEGAL NOTICE
Registered
No. Pay/VIAAD/460-VII
Office of the AAO
Shillong
Dated: 20-10-2000

To

The CDA
(Pay. Tech section)
Udayan Vihar
Narongi
Guwahati-171

Subject:- Legal notice regarding Payment
of SDA to the staff of DEO Gu-
wahati Circle

Reference:- Your No. Pay/Tech/SDA/CAT/II
dt. 9-10-2000

In this connection, it is stated
that reply on the subject in response to
Main office letter No. Pay/SDA/CAT/Vol-II dt.
20-9-2000 has already been furnished
to you vide this office letter of even No.
dt. 5-10-2000. However C.T.C. of the same
is enclosed herewith for your ready
reference please.

Enclos:- As above

Sd/-
(S.C. Prasad)
A.O.

Copy to:- Registered

✓ Sri Siddhartha Sarma { Please refer
Advocate
M.A. Road, Rehabori } to his legal
Guwahati-781108 notice dt.
16-8-2000.
In this

Connection it is stated that position of
the case has earlier been reported to
CDA Guwahati for their reply in
response to your legal notice dt. 16-8-2000
vide this office letter of even No. dt. 5-10-2000
However CTC of the same is enclosed
herewith for his information please.

Enclos:- As above

(S.C. Prasad)
A.O.

Amended

Sd/-
Advocate.

MOST IMMEDIATE.
LEGAL NOTICE

No. Pay/V/AAO/460-VII
Office of the AAO
Shillong
Dated:- 5/10/2000

To

The CDA
Udayan Vihar
Narongi
Guwahati - 781 001

Subject:- Legal notice regarding payment of SDA to the official of DEO Guwahati circle.

Reference:- Your NO. Pay/SDA/CAT/Vol-II dt. 20-9-2000

As per GOI, Min of Defence letter No. 4(3)/98/D (Civ-1) dt. 16-3-98 based on clarification of Honourable Supreme Court on the subject, the Defence civilians who are recruited from outside the NER and subsequently posted from outside into NER are entitled to the special duty Allowance (SDA)

2. Accordingly Defence civilians of DEO Guwahati circle are being paid SDA who are fulfilling the terms and conditions laid down in Govt. order for grant of SDA. In this connection position of SDA to noneligible employees has also been clarified by your office to DEO Guwahati circle vide your No. Pay/01/XIV dt. 21-5-99.


3. So far as DAD employees are concerned payment of SDA is continued to be made till further order only to the Applicants of particular O.A. and who obtained stay order as per instructions received from your office.

4. Main office is requested to give the suitable reply to Sri Siddhartha Sharma Advocate in response to his legal notice dt. 16-8-2000 under advice to this office.

DCDA has seen.

P.T.O. (S.C. Prasad)
A.O.

Attested


Advocate.

वा.सं.प्रा.पं.दे.ड-2011 (यका)
L. A. P. Z. 2011 (L. P. Z.)

आपन
Memorandum

सेवा में
From

सेवा में
To

सं.
No

स्थान
Station

तारीख
Date

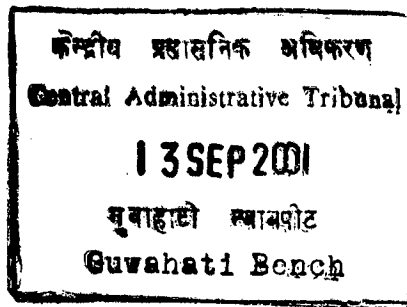
Copy No. **REGISTERED**

Sr. Siddhartha Sarna
Advocate
MA. Road, Rahabari
Guwahati - 781108

for information
wrt your
legal notice
dt. 16-8-2000

Sd/-
(S. C. Prasad)
A.O

(S. C. Prasad)
A.O



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 148 OF 2001

Shri N.N. Talukdar & others

- Vs -

Union of India & Others.

- And -

In the matter of :

Written Statement submitted by the
respondents

The respondents beg to submit the written
statement as follows :

1. That with regard to paras 1, 2, 3 and 4.1, the respondents beg to offer no comments.
2. That with regard to para 4.2, the respondents beg to state that the applicants are not working under respondents No. 2, 3, 4 and 5. Director General of Defence Estates, New - Delhi and DEO Guwahati are their Administrative Head/Controlling Officers.
3. That with regard to para 4.3, the respondents beg to state that the consequent upon the recommendations of 5th CPC allowances other than Pay & DA became effective w.e.f. August, 1997 and as the eligibility for payment of SDA to the applicants was somewhat controversial for quite some time, the applicants might have been paid SDA at the pre-revised scale

Attested
A. C. D. A.
GUWAHATI
A. C. D. A.
GUWAHATI
A. C. D. A.
GUWAHATI

(till finalisation of the matter) upto July 1998. However with the issue of Govt. of India, Ministry of Defence O.M. No. 4(3)/98/D/(Civ-I) dated 16.3.98 clearly stating that Defence Civilians recruited from outside NE Region and posted from outside into N.E. Region would be entitled to SDA payment of SDA has been stopped as the applicants have been recruited in NER. The contention of the applicants that their legal notice has so far not been responded to by the respondent is not true as the same has already been replied to their Learned Counsel vide this office letter No. Pay/Tech/SDA/CAT/II dated 9.11.2000 (copy enclosed) duly quoting the rule position.

4. That with regard to para 4.4, the respondents beg to state that the applicants are not holding any post under the Respondents No. 2, 3, 4 and 5 as mentioned above. As the applicants are initially recruited in the N.E. Region they are not entitled to SDA as per Govt. of India, Min. of Finance, OM No. 20014/3/83-E.IV dated 20.4.87 and Govt. of India, Min. of Defence letter OM No. 4(3)/98/D/(Civ-I) dated 16.3.98.

5. That with regard to para 4.5, the respondents beg to state that the statement is true so far as the reasoning for introducing SDA in N.E. Region is concerned. However so far as its applicability on the applicants of the present OA is concerned it is stated that the spirit of introducing SDA is to attract and retain the services of competent officers with the service in the North Eastern Region with specified tenure and to compensate the hardship faced by them due to

अनुमोदित
 डीलप कुमार
 डीलप कुमार
 A. C. D. A.
 वे. से. वि. गुवाहाटी
 C.D.A. GUWAHATI

-3-

difficult geographical terrain and other disadvantages which is also very clear from the Govt. of India, Deptt. of Expenditure No. 20014/9/83-B-IV dated 14.12.83. In this connection, Ministry of Finance, Department of Expenditure New Delhi have further issued Govt. orders vide their OM No. 11(3)/95/E.II(B) dated 12th Jan, 1996 which stipulates that Hon'ble Supreme Court in their Judgement delivered on 20.09.94 in Civil Appeal No. 3251 of 1993 upheld that Central Government 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. The Apex Court further added that grant of SDA only to the officers transferred from outside the Region to N.E. Region would not be violative of the provisions contained in Article 14 of the Constitution as well as equal pay doctrine. Further Ministry of Defence New Delhi vide para 2 of their OM No. 4(3)/98/D(Civ-I) dated 16th March, 1998 have also reiterated the Hon'ble Supreme Court Judgement that Special Duty Allowance will be admissible to only those who are originally recruited in the Region other than North East Region and subsequently transferred from such outside Region to North East Region. The applicants of the present O.A. are the residents of N.E. Region and also has been initially recruited in the N.E. Region. They have served in this region for more than 20 years since recruitment with one or even two Ex-NER tenures of duration from 6(six) months to 4(four) years and have come back to the N.E. Region and as such they do not come under the above purview of grant of SDA and

Akshay
 DILIP KUMAR
 C.O. No. 1/98
 10.05.1998

hence not entitled to draw SDA. This view was also upheld by the Hon'ble Supreme Court on 20.09.94 in their Judgement in Civil Appeal 3251/1993.

6. That with regard to para 4.6, the respondents beg to state that the facilities and concessions granted by Govt. of India vide its OM dated 14.12.83 is meant for outside people who face some disadvantageous situation on being posted in N.E. Region from outside and not in general to all Central Government people serving in NER as contended by the applicants.

7. That with regard to paras 4.7, 4.8 and 4.9, the respondents beg to offer no comments.

8. That with regard to para 4.10, the respondents beg to state that it has been clearly mentioned in Govt. of India, Min. of Finance, Deptt. of Expenditure No. 20014/3/83-E-IV dated 20.04.87 that for the purpose of sanctioning SDA, All India Transfer Liability of the incumbent has to be determined by applying test of recruitment Zone, promotion zone, common seniority etc. and mere inclusion of the clause of All India Transfer Liability in the appointment letter does not make any body eligible for grant of SDA.

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

10. That with regard to para 4.12, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.3 above.

Handwritten signature and stamp:
DILIP K. JHA
C. J. JHA
20.09.94

11. That with regard to para 4.13, the respondents beg to state that in this connection it is submitted that the respondents have not stopped payment of SDA to the applicants illegally but payment has been regulated as per various Govt. orders in force. It is also submitted that the respondents never misinterpreted the Hon'ble Apex Court, Judgement on the subject, rather the respondents' view was also upheld by the Hon'ble Apex Court, while pronouncing Judgement on the subject.

12. That with regard to para 4.14, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.13 above.

13. That with regard to para 4.15, the respondents beg to offer no comments.

14. That with regard to para 4.16, the respondents beg to state that in this connection it is submitted that the Hon'ble Supreme Court in their Judgement delivered on 20.9.94 (in Civil Appeal No. 3251 of 1993). upheld the submission of Govt. 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 NER from outside the region. However the Apex Court waived the recovery of the payment made to the ineligible employees upto 20.9.94. Govt. of India, Min. of Finance, Deptt. of Expdr. vide its OM No. 11(3)/95-E-II(B) dated 12.01.96 issued in pursuit to above Apex Court Order dated 20.9.94 also waived the recovery ~~the~~ of SDA made to ineligible employees upto 20.9.94 and

Approved
D. Kumar

14.9.94

directed for recovery of payment made thereafter. Thus as per Apex Court order dated 20.9.94 and Govt. of India, Min. of Finance subsequent OM dated 12.1.96 all disputes regarding payment of SDA to the applicants stand settled without recovery even though wrongly paid and as such their claim for continuation of the payment on the ground of being paid since 1983 is not tenable. The eligibility criteria of SDA has further been clarified vide Govt. of India, Min. of Defence, OM No. 4(3)/98/D(Civ-I) dated 16.3.98 that defence Civilians recruited from outside N.E. Region and posted from outside into N.E. - Region are entitled to SDA. As it is found that all the applicants have been recruited initially in N.E. Region they are not entitled to SDA as per above order. However these two letters have not been found quoted by the applicants in the O.A. which may please be brought to the notice of Hon'ble Tribunal.

15. That with regard to para 4.17, the respondents beg to state that in this connection it is submitted that no dis-crimination on the part of respondents to the N.E. Recruit-ees Vis-a-Vis outsiders has been done by not granting SDA. In this connection Hon'ble Supreme Court Judgement dated 20.9.94 may kindly be referred to where the Apex Court observed that grant of SDA 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 equal pay doctrine.

অনুলিপি প্রাপ্ত
মহাপ্রতি
DILIP KUMAR
A. C. D. A.
to go to, Guwahati
C.D.A., GUWAHATI

16. That with regard to para 4.18, the respondents beg to offer no comments.

17. That with regard to para 4.19, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.17 above.

18. That with regard to para 4.21, the respondents beg to state that the Cabinet Secretariat have given ~~again~~ clarifications to the various points of doubt raised by Directorate SSB on the payment of SDA to their employees. The same has been referred to Ministry of Defence for examination/clarification vis-a-vis existing Govt. orders dated 14.12.83 and dated 12.01.96 and 16.03.98. *ibid* based on Supreme Court Judgement dated 20.9.94 and 17.02.97 on Civil Appeal No. 3251/93 and No. 1572/1997 mentioned therein.

19. That with regard to para 4.23, the respondents beg to state that the Legal notice served by the applicants have been replied to their Learned Counsel vide No. Pay/Tech/SDA/CAT/II dated 9.11.2000.

Verification.....

अनुमोदित
सहायक निरीक्षक,
DILIP KUMAR
A. C. D. A.
पो को नि. गुवाहाटी
C.D.A. GUWAHATI

-8-

VERIFICATION

I, Shri DILIP KUMAR, A.C.D.A.

being authorised do hereby verify
and declare that the statements made in this written
statement are true to my knowledge, information and believe
and I have not suppressed any material fact.

And I sign this verification on this 12th
day of August, 2001.



Declarant

दिलीप कुमार
लघुशक नियंत्रक,
DILIP KUMAR
A. C. D. A.
र० ले० नि०, गुवाहाटी
C.D.A., GUWAHATI