

01/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 22/2002

R.A/C.P No.

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SECTION OFFICER (Judl.)

21/11/17

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal : Guwahati Bench
Guwahati

ORDER SHEET

APPLICATION NO. 29/2002

Applicant(s) CPWD classiv union.

Respondent(s) u.o.I & Oms.

Advocate for Applicant(s) A. Ahmed.

Advocate for Respondent(s) C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IPO/ED No 1955/1.23 Dated 17.1.2002</p> <p>Dy. Registrar</p> <p><i>Slips taken. Notice prepared and sent to D/S for mis lii respondent No. 1 to 5 by Regd AD.</i></p> <p><i>29/1</i> DINo <u>295 W 299</u> Dtd <u>1/2/02</u></p>	<p>25.1.02</p> <p>mb</p> <p>12.2.02</p> <p>mb</p>	<p>Heard Mr.A.Ahmed learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>Issue notice as to why the interim order as prayed for shall not be granted.</p> <p>List on 12.2.2002 for order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>List on 19.3.2002 to enable the respondents to obtain necessary instructions.</p> <p><i>[Signature]</i> Member6</p> <p><i>[Signature]</i> Vice-Chairman</p>

Order dtd 19/3/02
Communicated to the
Parties Counsel.

21/3/02

19.3.02 Heard Mr. A.Ahmed, learned
counsel for the applicants and also
Mr. B.C.Pathak, learned Addl. C.G.S.C.
for the Respondents.

Respondents are given some time
to obtain necessary instructions on the
matter and also the applicants.

List on 23.4.2002 for order. In
the meantime, Respondents are directed
not to make any recovery of DCRG Bill
from the applicants till the returnable
date.

Vice-Chairman

mb

23.4.2002

Mr.A.Deb Roy, learned Sr.C.G.S.C.
appearing for the respondents submitted
that the matter can be heard at any
convenient date and the respondents shall
produce before the Tribunal all the
necessary materials on the matter.

List the case accordingly on
14.5.2002 for hearing.

Vice-Chairman

bb

14.5.2002

Heard counsel for the parties. Judg-
ment delivered in open Court, kept in sepa-
rate sheets.

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

Member

Vice-Chairman

bb

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./X.X. Nos.18,19,20,, 21,, 23 & 24 of 2002.

DATE OF DECISION 14.5.2002.....

The Central Public Works Department
Junior Engineers' Association & 11 Others APPLICANT(S)

Mr.A.Ahmed.

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

Union of India & Others. RESPONDENT(S)

Mr.A.Deb Roy, Sr.C.G.S.C. &
Mr.B.C.Pathak, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

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

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

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

5.

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos.18, 19, 20, 21, 23 & 24 of 2002.

Date of Order : This the 14th Day of May, 2002.

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

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

1. The Central Public Works Department
Junior Engineers' Association
Guwahati Branch
Guwahati.
2. Sri Umananda Deori
Branch Secretary
The Central Public Works Department
Junior Engineers' Association
Guwahati Branch
Guwahati. . . . Applicants in O.A.18/2002.
3. The Engineering and Drawing Staff Association
Central Public Works Department
Guwahati.
4. Sri Sachin Kalita
Secretary
The Engineering and Drawing Staff Association
Central Public Works Department
Guwahati. . . . Applicants in O.A.19/2002.
5. The Central Public Works Department
All India Non-Gazetted Officers' Association
Guwahati Branch
Guwahati.
6. Sri Tapan Choudhury
Secretary
The Central Public Works Department
All India Non-Gazetted Officers' Association
Guwahati Branch
Guwahati. . . . Applicants in 20/2002.
7. The Central Public Works Department
Staff Association, Guwahati Branch
Guwahati.
8. Sri U.D.Rao
Secretary
The Central Public Works Department
Staff Association, Guwahati Branch
Guwahati. . . . Applicants in O.A.21/2002.

9. The Central Public Works Department
Class -IV Staff Union
Guwahati Branch
Guwahati.
10. Sri Joram Topno
Secretary
The Central Public Works Department
Class-IV Staff Union
Guwahati Branch
Guwahati. . . . Applicants in O.A.23/2002.
11. The Central Public Works Department
Mazdoor Union, Guwahati Branch
Guwahati.
12. Sri Narayan Singh
Secretary
The Central Public Works Department
Mazdoor Union, Guwahati Branch
Guwahati. . . . Applicants in O.A.24/2002.

By Advocate Mr.A.Ahmed (in all cases)

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Urban Affairs
New Delhi-110 001.
2. The Director General (Works)
Central Public Works Department
Nirman Bhawan, New Delhi-110 011.
3. The Additional Director General of Works
Eastern Region, C.P.W.D.
Nizam Palace, Kolkata - 20.
4. The Chief Engineer
North Eastern Zone
Central Public Works Department
Cleaves Colony
Shillong-3.
5. The Senior Accounts Officer
Pay and Accounts Office
N.E.Z., Central Public Works Department
Raj Villa, Malki Point
Shillong-1. . . . Respondents in all Cases.

O R D E R

CHOWDHURY J.(V.C) :

The thematic contents of all these applications are common and accordingly all these cases are taken up for consideration together.

1. By Office order dated 7.1.2002 the respondents authority passed a general order relating to payment of S.D.A. to the employees posted at N.E.Region clarifying the stand taken by the Department. The order itself indicated that reasoned order are to be followed subsequently. Apparently there is no mala fide in the impugned order and it will only be discernible if orders are passed individually. Needless to state that by numerous decisions by the Hon'ble Supreme Court as well as CAT the policy of payment of S.D.A. is almost settled. The respondents should assiduously adhere to the policy guidelines issued by the Central Government from time to time as well as the decisions rendered by the Hon'ble Supreme Court and the Tribunals.


2. We have heard Mr.A.Ahmed, learned counsel for the applicants as well as Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents at length. Mr. Ahmed, learned counsel for the applicants brought our attention to para 4 of the impugned order dated 7.1.2002. The order did not indicate as to any steps of recovery was made. It is expected that the authority shall adhere to the policy guidelines issued by the respondents vide order No.14/1/91/EC-IV(C) dated 14.2.99 on the subject Payment of SDA to staff working in North Eastern Zone.


Contd./4

Subject to the observations made above, the application stands disposed of.

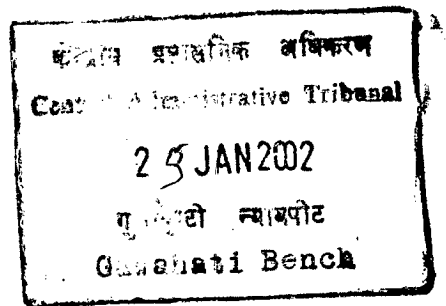
No order as to costs.

Interim orders, if any stand vacated.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

BB



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 23 OF 2002.

The Central Public Works Department
Class-IV Staff Union, Guwahati Branch,
Guwahati -Applicants.

-Versus-

The Union of India
& Others -Respondents

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Filed by

Advocate

(Apic AHMB)

- 1 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. ²³ OF 2002.

BETWEEN

1] The Central Public Works
Department Class-IV Staff
Union, Guwahati Branch,
Guwahati.

2] Sri Joram Topno,
Secretary,
The Central Public Works
Department Class-IV Staff
Union, Guwahati Branch,
Guwahati.

-Applicants.

-AND-

1] The Union of India represented
by the Secretary to the
Government of India Ministry
of Urban Affairs New Delhi-
110011.

2] The Director General (Works)
Central Public works Depart-
ment, Nirman Bhawan, New
Delhi- 110011.

Filed by
Shri Joram Topno
through D.L. applicant No 2
(Adv. AHMED)
Advocate

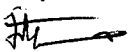
- 3] The Additional Director
General of Works, Eastern
Region, C.P.W.D., Nizam
Palace, Kolkata-20,
- 4] The Chief Engineer,
North Eastern Zone,
Central Public Works
Department, Cleaves Colony,
Shillong-3.
- 5] The Senior Accounts Officer,
Pay and Accounts Office,
N.E.Z., Central Public Works
Department, Raja Villa,
Malki Point, Shillong-1.

-Respondents.

DETAILS OF THE APPLICATION

- 1] PARTICULARS OF THE ORDER AGAINST WITH
THE APPLICATION IS MADE:

This application is made against
impugned order of stoppage and recovery of
payment of Special Duty Allowance, in Short,
S.D.A. vide Office Order No. 14/21/91 EC IV C
New Delhi dated 07-01-2002 issued by the Office
of the Director General of Works, Central Public
Works Department, Nirman Bhawan, New Delhi and
also praying for direction upon the Respondents



for continuation of payment of Special Duty Allowance to all members of the above Association. (List of Members is enclosed at Annexure-A of this Original Application).

2] JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal

3] LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under section 21 of the Administrative Tribunal Act 1985.

4] FACTS OF THE CASE

Facts of the case in brief are given below:

4.11 That your humble applicants are citizens of India and as such, they are entitled to all rights and privileges guaranteed under the Constitution of India. The applicant No. 1 is a recognized Association named as the Central Public Works Department Class-IV Staff Union, Guwahati Branch, Guwahati. The applicant No. 2 is authorized to file this application on behalf of the members of the Association.

H/2

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A copy of list of the members of The Central Public Works Department Class-IV Staff Union, Guwahati Bench, Guwahati is annexed hereto and the same is marked as Annexure-A.

4.2] That your applicants beg to state that as the grievances and reliefs prayed in this application are common, therefore, they pray for grant of permission under Section 4(5)(a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

4.3] That all the members of the Association including the applicant No. 2 are serving and posted in different offices under the Administrative Control of the Director General of Works, Central Public Works Department, New Delhi.

4.4] That the Government of India, Ministry of Finance, Department of Expenditure granted certain improvements and facilities to The Central Government Civilian Employees of the Central Government serving in the states and Union Territories of North Eastern Region vide Office Memorandum No. 20014/3/83-IV dated 14-12-1983. In Clause-II of the said office memorandum Special (Duty) Allowance was granted to Central Government Civilian Employees, who have all India Transfer Liability at the rate of Rs. 25% of the basic pay subject to ceiling of Rs. 400/-

[Signature]

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per month on posting to any station in the North Eastern Region. The relevant portion of the office Memorandum dated 14-12-1983 is quoted below:

* (iii) Special (Duty) Allowance

Central Government Civilian employee who have all India Transfer Liability will be granted a Special (Duty) Allowance at the rate of Rs. 25% of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North East Region. Such of these employee who are exempted from payment of Income Tax, will however not be eligible for the Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any Special pay and for allowances already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Deputation (Duty) Allowance will not exceed Rs. 400/- per month. Special Allowance like Special Compensatory (Remote Locality Allowance, Construction Allowance and Project Allowance will be drawn separately.

An Extract of Office Memorandum dated 14-12-1983 and Office Memo dated 01-12-1988 are annexed hereto and the same are marked as Annexure- B & C respectively.

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4.5] That after issuance of the aforesaid Office Memorandum dated 14-12-1983 the members of the aforesaid Association approached the local authorities for payment of Special (Duty) Allowance in terms of Office Memorandum Dated 14-12-1983 as the applicants, i.e., the members of the aforesaid Association fulfilled the criteria laid down in the Office Memo dated 14-12-1983. They demanded for payment of Special (Duty) Allowance and accordingly the authority had paid them.

That another Office Memorandum No. F. No. 11(2)/97-E II (B) dated 22-07-1998 was issued by the Ministry of Finance, Department of Expenditure, Government of India extended the Special (Duty) Allowance to the Central Government employees posted at Sikkim. In this circular payment of Special (Duty) Allowance at Ceiling of Rs. 1000/- has also been withdrawn. It is pertinent to mention here that in these circulars of Special (Duty) Allowance nowhere it was mention that Group -C & D employee are not entitled to Special (Duty) Allowance. But all the Central Government Employees who have All India Transfer Liability are entitled to Special (Duty) Allowance.

Annexure-D is the photocopy of office order F. No. 11(2)/97-E II (B) dated 22-07-1998.

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4.6] That the present applicants beg to state that the members of the aforesaid Association are saddled with All India Transfer Liability in terms of their offer of appointment and with this said liabilities they have received the offer of appointment and joined the service of the respondents. Be it stated that, most of the members of the Association on numbers of occasions are being transferred outside of the North Eastern Region. Therefore, the applicants are in practice saddled with all India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 they are legally entitled for grant of Special (Duty) Allowances.

Few copies of transfer, posting and appointment are annexed hereto and the same are marked as Annexure-E series.

4.7 That your applicants further beg to state that the payment of Special (Duty) Allowance has been granted to the applicants by the Respondents after being satisfied with all the applicants. All the applicants are legally entitled and eligible for grant of Special (Duty) Allowance in terms of Office Memorandum dated 14-12-1983, 01-12-1988 and 22-07-1998 and accordingly payment of Special (Duty) Allowance has been continued and paid to the members of the aforesaid Association.

After that, the Respondent No. 2 issued the Office Memorandum No. 14/1/91/EC-IV (C) dated 24-02-1999 directing the Chief Engineer, Central Public Works Department, North Eastern Zone, Respondent No. 3 to take necessary action for stoppage of Special (Duty) Allowance to Group C & D employees posted in the North Eastern Region, Central Public Works Department. In the Office Memorandum it has been stated that the Central Public Works Department Group C & D employees are not eligible for payment of Special (Duty) Allowance because their transfer liability is within 12 States, that is, 7(seven) States of North Eastern Region, West Bengal, Bihar, Orissa, Sikkim and part of Madhya Pradesh can not be treated as All India Transfer liability to fulfill conditions for payment of Special (Duty) Allowance.

Annexure-F is the photocopy of Office Memorandum dated 24-02-1999 issued by Respondent No. 2 to the Respondent No.3.

4.8] That your applicants beg to state that being aggrieved by the Annexure-F issued by the Respondent No.3 your applicants and similarly situated Central Public Works Department different Employees Associations filed Original applications Nos. 94/99 to 100/99 before this Hon'ble Central Administrative Tribunal, Guwahati Bench against the impugned Office

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Memorandum dated 24-02-1999. The Hon'ble Tribunal was pleased to pass an interim order and stayed the impugned Office Memorandum dated 24-02-1999. The case was finally heard by the Hon'ble Tribunal on 19-12-2000. The Hon'ble Tribunal was pleased to direct the Respondents for reconsideration of Office Memorandum dated 24-02-1999 and was pleased to direct the Respondent to examine afresh the impugned Office Memorandum dated 24-02-1999.

Annexure-G is the photocopy of order dated 28-04-1999 passed by the Hon'ble Tribunal.

Annexure-H is the photocopy of the common judgment and order dated 19-12-2000 passed by the Hon'ble Tribunal in D.A. No. 94/99 to 100/99.

4.91 That your applicant begs to state that most surprisingly the Respondents issued an order vide No. 14/21/91-EC IV(C) dated 07-01-2002 which is almost similar to the Office Memorandum dated 24-02-1999. In this Memorandum also the Respondent No. 3 without going through the case has issued Impugned Office Memorandum stating that Group C & D are not entitled for Special (Duty) Allowance. Although, in fact, these employees are transferred to North Eastern

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Region from Kolkata, Ranchi, Jammu, Mumbai, Ahmedabad, Nepal, Patna, etc. which are outside of North Eastern Region.

Annexure-I is the photocopy of Office Order No. 14/21/91-EC IV (C) dated 07-01-2002.

4.10] That your applicants beg to state that the Respondents with a deliberate intention did not reviewed the earlier order dated 24-02-1999 in spite of clear cut direction by the Hon'ble Tribunal and passed the Impugned Office Memorandum dated 07-01-2002.

4.11] That your applicants beg to state that the Respondents are going to discontinue and recover the payment of Special (Duty) Allowance to the members of the applicants' Union in terms of Office Memo No. 14/21/91 EC/IV (C) New Delhi dated 07-01-2002 from the pay bill of January, 2002 and under the circumstances finding no other alternative the applicants approached this Hon'ble Tribunal for protection of rights and interests of the members of the Union through this Original Application and this Hon'ble Tribunal may be pleased to stay the impugned order issued under Memo dated 07-01-2002 as interim measure and further be pleased to set aside and quash the Office Memorandum dated 07-01-2002.

4.12 That your applicants submit that they have got reason to believe that the Respondents are resorting the colorable exercise of power for discriminating applicants with other similarly situated persons.

4.13 That your applicants submit that the action of the Respondents are mala fide, illegal and with a motive behind.

4.14] That your applicants submit that the action of the Respondents by which the applicants have been deprived of their legitimate rights is arbitrary. It is further stated that the Respondents have acted with a mala-fide intention only to deprive the applicants from their legitimate rights.

4.15] That your applicants submit that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India.

4.16] That in view of the facts and circumstances it is a fit case for interference by the Hon'ble Tribunal to protect the interest of the applicants.

4.17] That this application is filed bona fide and for the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

[Handwritten signature]

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5.1] For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala-fide, arbitrary and without jurisdiction.

5.2] For that, the applicants satisfied the criterion for grant of Special (Duty) Allowance laid down in Office Memorandum dated 14-12-1983 and 01-12-1988 and 22-07-2002 issued by the Government of India, Ministry of Finance, therefore, discontinuation of the Special (Duty) Allowance in terms of impugned Office Memorandum dated 07-01-2002 is violative of the provisions of law and is liable to be set aside and quashed.

5.3] For that the applicants having fulfilled all the criteria laid down by the Hon'ble Supreme Court Judgment towards granting the Special (Duty) Allowance, the Respondents can not deny the same to the applicants without any jurisdiction.

5.4] For that the Respondents have paid the Special (Duty) Allowance to the applicants after being fully satisfied with their own that the applicants are eligible for payment of Special (Duty) Allowance in terms of the Office Memorandum dated 14-12-1983 and Office Memo dated 01-12-1988 and 22-07-2002 issued by the Ministry of Finance, Government of India.

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5.51 For that the impugned office Memo dated 07-01-2002 is contrary to the decision of the Hon'ble Supreme Court. The Hon'ble Apex Court in their judgment regarding payment of Special (Duty) Allowance to the Central Government Employees it was not anywhere mentioned that who are posted from 12 States of Eastern Region are not entitled to payment of Special (Duty) Allowance and as such the, Department has itself violated the Hon'ble Apex Court's decision. As such, Office Memo dated 07-01-2002 is liable to be set aside and quashed.

5.6 For that, the payment of Special (Duty) Allowance was not obtained by the applicants by any fraudulent means but the Respondents after finding them eligible, paid the Special (Duty) Allowance to the applicants.

5.7 For that, the members of the applicants' Association are having practically All India transfer liability. As such, they are legally entitled to draw the Special (Duty) Allowance as per Office Memorandum dated 14-12-1983 and 01-12-1988 and 22-07-2002.

5.8 For that the order issued in terms of impugned Office Memorandum dated 07-01-2002 is without following any established procedure of principle of natural justice.

5.9] For that, the Respondents have violated the Article 14, 16 and 21 of the Constitution of India.

5.10] For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.11] For that, in any view of the matter the action of the respondents are not sustainable in the eye of law and as well as fact.

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject

matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relives sought for by the applicant may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be pleased to direct the Respondents to give the following relifs:

8.1 That the Hon'ble Tribunal may be pleased to declare that the Members of the applicants' Association/Union are entitled to draw the Special (Duty) Allowance in terms of Office Memo No. 20014/3/83 E-IV dated 14-12-83 and Office Memorandum No. 20014/16/86 IV/E II(B) dated 01-12-88 and 22-07-1998.

8.2 The impugned Office Memorandum issued under letter No. 14/21/01 EC IV C New Delhi dated 07-01-2002 issued by the

Office of the Director General of Works, Central Public Works Department, be set aside and quashed.

8.3 That the Respondents may be directed to continue the Special (Duty) Allowance to the members of the applicants' Association/Union in terms of Office Memorandum dated 14-12-83 and dated 01-12-1988 and 22-07-1998.

8.4 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.5 Cost of the Case.

9] INTERIM ORDER PRAYED FOR:

The applicant most respectfully prays for interim order from this Hon'ble Tribunal that the Hon'ble Tribunal may be pleased to stay the Impugned Office Order No. 14/21/91-EC IV(C) dated 07-01-2002 at Annexure-I.

10] Application Is Filed Through Advocate.

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110 Particulars of I.P.O.:

I.P.O. NO. 76551793

Date Of Issue 17.1.2002

Issued from Guachate

Payable at Guachate

121 LIST OF ENCLOSURES:

As stated above.

-Verification.

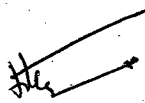
2

VERIFICATION

I, Shri Joram Tapno, Secretary, The Central Public Works Department Class-IV Staff Union, Guwahati Bench, Guwahati applicant No. 2 of this application and also authorized to sign this verification on behalf of other applicants /members of the Association/Union and verify the statements made in the accompanying application and in paragraphs 4.2, 4.3, 4.10, 4.11

are true to my knowledge, and those made in paragraphs 4.1, 4.4 to 4.8, 4.9 are being matters of records are true to information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification today on this the 24th day of January, 2002 at Guwahati.


Declarant

JORAM Tapno

Branch Secretary
C.P.W.D. Class-IV Staff Union
Guwahati Branch, Guwahati-21

~~20~~ - 19 - ANNEXURE. A
ALL INDIA CENTRAL P.W.D. CLASS IV STAFF UNION
(Recognised by the Government of India)

GUWAHATI

S/Shri

1. Md. S. Ali.
2. B.C. Nath
3. D.C. Medni
4. M.C. Das
5. D.C. Das
6. D.K. Borah
7. K.C. Das
8. L.B. Mukhia
9. Ratneswar Das
10. Smt. H.K. Tiwari
11. Ujjal Das
12. Banjit Das
13. M.K. Das
14. K.K. Das
15. A.K. Sharma
16. Smt. Lakhi Rani Hussain
17. Smt. Sumitra Saikia
18. J. Topno
19. D.K. Nath
20. Md. Samed Ali
21. Sri K. Bhatta
22. Sri J. Das
23. Sri D. Boro
24. Sri P. Boro
25. Mrs. Debala Chakraborty
26. Sri Chabin Ch. Geyari
27. Sri Sujit Roy Choudhury
28. Sri Babul Rabi Das
29. Sri Dipankar Paul
30. Sri Gangesh Chakraborty
31. Sri Sajal Das
32. Sri Arup Taru Dutta
33. Sri Jawharlal Rabi Das
34. Sri Dilip Das
35. Sri Sajal Burman
36. Sri Joy Singh Kabui
37. Sri Nantu Roy
38. Sri Benjamin Rongnei
39. Sri N. Pradhan
40. Sri S. Ali
41. Sri Jotirmoy Deb
42. Sri Philip Chetri
43. Sri Biplab Dasgupta
44. Sri N. G. Rongnei

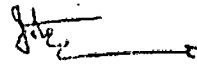
Attchd
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Sd/-

(2)

45. Sri Chaamani Sarkar
46. Sri Lal Singh Kahl
47. Sri Dipu Das
48. Sri Pranesh Das
49. Sri Harendra Nath Bydh
50. Sri B.C. Mahato
51. Sri Maheswar Boro
52. Sri S.N. Das
53. Sri B.C. Kalita
54. Sri B.K. Das
55. Sri Uzal Das
56. Sri Afaj Ali.


Branch Secretary

Name of president



Branch Secretary

C.P.D. Union

Attested
 Date

- 25 -
21-5-83
ANNEXURE-B (Extract)

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No. 20014/2/83/E.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

Sub : Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region-improvements thereof.

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

- i) Tenure of posting/deputation.
x x x x x x x x
- ii) Weight-age for Central deputation/training abroad and special mention in confidential Record.
x x x x x x x
- iii) Special (Duty) Allowance :

Central Government civilian employees who have All India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of Income tax will, however, not

Contd..

A. H. S. /
Advocate

be eligible for this Special (Duty) Allowance. Will be Special (Duty) Allowance will be in addition to any special pay and pro 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.

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50/- S.C. PAPER
JOINT SECRETARY TO THE GOV. SECRET OF INDIA

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Annexure-C (Extract)

No. 20014/1/16/E.IV/E.II(3)
Govt. of India, Ministry of Finance
Department of Expenditure

New Delhi the 1 Dec 1983

OFFICE MEMO

Subject : Improvements and facilities for Civilian employees of the Central Govt. serving in the States of North Eastern Region, Andaman Nicobar and Lakshadweep.

The undersigned is directed to refer to this Ministry's C.O. No. 20014/3/83-E.IV dated 14th December, 1983 and 10th March, 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Government employees posted in North East in Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the President is now pleased to decide as follows.

- i) xxxxxxxxxxxx
ii) x x x x x x x

iii) Special (Duty) Allowance.

The Central Govt. Civilian employees who have all India transfer liability will be granted special (Duty) Allowance at the rate of 12% of basic pay subject to ceiling of Rs. 1000/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation (dut.) allowance already being drawn subject to the condition that the total of such 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 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.

xx xxxxx
xxx, xx

Attested
[Signature]
Admin

New Delhi, Dated July 22, 1988

OFFICE MEMORANDUM

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

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

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

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

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

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

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

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

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

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/95-E.II(E) dated July 17, 1990.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1990, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

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Special Compensatory Allowances

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

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

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/13/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/13/88 E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

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

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

(vii) Leave Travel Concession

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

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

OR

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

These special provisions shall continue to be applicable.

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

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/88-E.IV/E.II(B) dated December 1, 1988, Officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependent children (up to 18 years in respect of sons and up to 24 years in respect of daughters) will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Itanagar/Shillong in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Madras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

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(viii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/87-Estt.(Allowances) dated June 12, 1988, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

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

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

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

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 20, 1984, and extended in this Ministry's O.M. No. 20014/16/88-E.IV/E.II(E) dated December 1, 1988, shall continue to be applicable.

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

As provided in this Ministry's O.M. No. 20014/16/88-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

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

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

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

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

6. Hindi version will follow.

(N.SUNDER RAJAN)

Joint Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and Administrator, Lakshadweep.

Handwritten signatures and initials at the bottom of the page.

LIST OF STAFF WHOSE MEMBERSHIP COME ON
TRANSFER FROM OTHER STATES IN GUARATI
CENTRAL DIVISION, C.D., GUARATI

Name & Designation	From	To	Ref. of Transfer order.
1. S/Sri K.D. Das, B.D.I.	Ranchi	Guahati	No.A-2201/9/84/Pr.A.C./SI/32/2119-32 dtd.4.3.86 of Principal Account Offr Ministry of Urban Development New Delh
2. P.D. Bhuttia, Head Clerk	Gangtok	Guahati	SE (Coordn) CPD, Cal. 0/3 So. 9(54)/83-SI Coord/Cal dtd. 23.6.85
3. G.C. Borah, U.D.C.	AGARWALA	Guahati	
4. M.I. Ansari, U.D.C.	Patna, Shillong	Shillong	No. 21(7)/LDC/76/SEI/Coord/Cal dtd. 25
	Shillong	Guahati	No. 9(56)/82-SEI/Coord/Cal/51 dtd. 2.9.
5. U.C. Das, U.D.C.	Cooch Bihar	Guahati	
6. R.N. Singh, U.D.C.	Gangtok	Guahati	No. 9(56)/82-SEI/Coord/Cal dtd. 27.5.85
7. M.N. Paul, U.D.C.	Shillong	Guahati	No. 9(56)78/SEI/Cal dtd. 4.11.78
8. G.D. Prasad, L.D.C.	Patna	Guahati	No. 26(7)/LDC/76/SEI/Coord/Cal dtd. 25
9. J.C. Mondal, L.D.C.	Shillong	Guahati	No. 16(8)/69-ACC/2527 dtd. 26.5.69
10. P.C. Neog, L.D.C.	Shillong	Guahati	
11. S. Saha, D/M G-I.	Calcutta	Guahati	No. 9(57)SEI/Coord/Cal dtd. 27.3.87
12. S. Kalati, D'man, G-III	Itanagar (IF)	Guahati	-
13. M.L. Das, Dftary,	Shillong	Guahati	-
14. K.R. Das, Barkandaz	Shillong	Guahati	-
15. Sukumar Das, Peon	Patna	Guahati	No. 21(7)/Closure/SEI/Coord dtd. 2.8.6
16. E.B. Purbey, Peon	Patna	Imphal) Guahati)	-
17. Balindar Ojha, Chowkidar	Patna	Guahati	-
18. B.D. Giri, Chowkidar	Patna	Guahati	-
19. Mohan Dasfore, Swerman	Pana	Guahati	-
20. Abdul Gafar, W/Asstt.	Purnia	Guahati	-

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STATEMENT SHOWING THE TRANSFER TO AND FROM NORTH EASTERN REGION

Name & Designation	Transferred From	To	O.M. Number
S/Shri			
1. K.N.Kalita, U.D.C.	1. EE/AAWD/Gauhati	East-West Highway Circle-I, Nepal	SE (Coord), Cal. No. 21 (5)/70/SE/Coord/ Cal dated 5-9-1970.
	2. East-West Highway Circle-I, Nepal	Dhanbad Cent. Dn.	- do No. 9 (55)/73/SE/Coord/ Cal dt. 26-6-73.
2. P.K.Majumdar, U.D.C.	Elec. & Mechanical Dn., CPWD, Marten, Singtam, Sikkim	Dum Dum Ave. Works Dn., CPWD, Assam	- do No. 21 (7)/65/SE/Coord/ Cal dt. 20-9-65.
3. H.N.Sahay, U.D.C.	GCD/Gauhati	CCD-III, Calcutta	- do - No. 9 (55)/84/SE/Coord/ Cal dt. 29-6-66.
4. T.N.Banerjee, U.D.C.	MRMC/Nepal	ACC/CPWD/Gauhati	- do - No. 21 (5)/82/SE-1/Coord/ Cal dt. 25-6-1982.
5. H.N.Sahay, L.D.C.	GCD/Gauhati	CCD-I/Calcutta	- do - No. 9 (55)/SE/Coord/Cal dt. 15-7-63.
6. S.K.Das, L.D.C.	MRMD-IV/Nepal	ACC/CPWD/Gauhati	- do - No. 9 (55)/84/SE/Coord/ Cal dt. 26-8-64.
7. B.R.Naskar, LDC	ACC/CPWD/Gauhati	CCD-I/Calcutta	- do - No. 21 (7)/55/82/SE/Coord/ Cal dt. 23-10-82.
8. Debidas Palit, L.D.C.	ACPWD/Shillong	CCD-III/Calcutta	- do - No. 21 (10)/82/SE/Coord/ Cal dt. 30-11-82.
9. M.R.Roy, L.D.C.	MCD/Imphal	Ranchi Cent. Dn./Ranchi.	- do - No. 21 (7)/LDC/82/SE/Coord/ Cal dt. 18-12-1982.
10. B.Paricha, L.D.C.	ACC/Gauhati	Bhubaneswar Cent. Dn., Bhubaneswar.	- do - No. 21 (7)/R.O./81/SE/Coord/Cal dt. 3-2-80.
11. K.D.Ram, U.D.C.	ACC/Gauhati	Ranchi Cent. Dn./Ranchi	- do - No. 4 (55) 84/SE/Coord/Cal dt. 1-1-1985.
12. Lalji, U.D.C.	MCD/Imphal	Dhanbad Cent. Dn./Dhanbad.	- do - No. 21 (7) WDC/82/SE/Coord/ Cal dt. 20-5-1982.
13. T.P.Singh, D/Man Gr. II	ACC/Gauhati	Ranchi Cent. Dn./Ranchi	- do - No. 9 (57)/85/SE/Coord/Cal dt. 25-3-85.
14. P.R.Aich, D/Man Gr. I	ACC/CPWD/Gauhati	CCD-III/Calcutta-20	- do -

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Name & Designation	Transferred From	To	O.M. No.
15. S.K. Chakraborty, Steno (SR. Gr.)	ACC/Gauhati	Calcutta	
16. Surendra Prasad, L.D.C.		TCD/Calcutta	
17. Manager Prasad, Chowkidar	Food Storage Dvn., CPWD/ Patna.	GCD/Gauhati	SE(Coord), Cal. No. 9 (53)/Cdw/67/SEI/Coord. Dt. 6-12-1967.
18. Ayub Ali, Ferropainter	Avn. Constn., CPWD, Patna (Bihar)	Patna Avn. Dvn. Patna	
	Patna Avn. Dvn./ Patna	ACC/Gauhati	- do - No. 21(7)/66/Closure/SEI/Coord/Cal dt. 15-3-67.

No. 2(16)/ACC/SEI
GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT
OFFICE OF THE SUPERINTENDING ENGINEER
DATED GUWAHATI THE 8TH APRIL 1967.

It is certified that the above mentioned particulars have taken from the original record of this office and ~~therefore~~ these are correct.

EA to Superintending Engineer,
Assam Central Circle, C.P.W.D.,
Guwahati-781021.

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CHH
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Advocate

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C.P.W.D. Class IV Staff Union & Ors. Applicants.

-VS-

Union of India & Ors. Respondents.

PRESENT

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

Advocate for the applicants: Mr. A. Ahmed.

Advocate for the respondents: Mr. B.C. Pathak, Addl. C.G.S.C.

Order of the Tribunal

28-4-99

Present: Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.

Objection has not been filed in spite of granting adjournment. *Application is admitted.*

Application is admitted. Mr. B.C. Pathak, learned Addl. C.G.S.C. has already entered appearance on behalf of all the respondents. No formal notice need be sent. List on 21-5-99 for filing of written statement and further orders.

Interim order shall continue.

SC/VICE CHAIRMAN

Memo. No. 1558 Date 7/5/99

- Copy for information and necessary action to:

1. Mr. B.C. Pathak, Addl. C.G.S.C., Central Administrative Tribunal, Guwahati Bench, Guwahati-5.
2. Mr. A. Ahmed, Advocate, Central Administrative Tribunal, Guwahati Bench, Guwahati-5.

7/5/99
SECRETARY

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Date of Order: This the 19th Day of December 2000.

HON'BLE MR. JUSTICE D.N. CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR. M.P. SINGH, ADMINISTRATIVE MEMBER

O.A.No.94 of 1999

1. Engineering Drawing Staff Association Guwahati Branch, Guwahati.
 2. Sri Akan Kumar Dutta, President of Engineering Drawing Staff Association Guwahati Branch, Guwahati.
 3. Sri Anil Kumar Das, Secretary of Engineering Drawing Staff Association, Guwahati Branch, Guwahati.
- Applicants.

By Advocate Mr. A. Ahmed.
-Vs-

1. Union of India & Ors.
- Respondents.
- By Advocate Mr. B.C. Pathak. Addl. C.G.S.C.

O.A.No.95 of 1999

1. All India N.G.O.S.s Association.
 2. Sri Nagen Bhatta President.
 3. Sri Dhiraj Nag, Secretary Central Public Works Department, Guwahati Branch, Guwahati.
- Applicants.
- Advocate Mr. A. Ahmed.

-Vs-

1. Union of India & Ors.
- Respondents.
- By Advocate Mr. B.C. Pathak., Addl. C.G.S.C.

O.A.No.96 of 1999

1. Central P.W.D. Workers Union Guwahati Branch, Guwahati.
 2. Sri Anil Goswami, Secretary of Central P.W.D. Workers Union, Guwahati Branch, Guwahati.
 3. Sri Sibnath Saha President of Central P.W.D. Workers Union Guwahati Branch, Guwahati.
- Applicants.

By Advocate Mr. A. Ahmed
-Vs-

1. Union of India & Ors.
- Respondents.
- By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.

contd/-



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O.A.No.97 of 1999

1. Central Public Works Department
Mazdoor Union, Guwahati Branch,
Guwahati.
2. Sri Narayan Singh, President of
Central Public Works Department
Mazdoor Union, Guwahati Branch,
Guwahati.
3. Sri Prafulla Chandra Kalita,
Secretary of Central Public Works Department,
Mazdoor Union, Guwahati Branch, Guwahati. Applicants.

By Advocate Mr.A.Ahmed

-Vs-

1. Union of India & Ors. Respondents.

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

O.A.No.98 of 1999

1. Central Public Works Department,
Class IV Staff Union, Guwahati Branch, Guwahati.
2. Sri Mritunjay Das, President of Central Public Works
Department, Class IV Staff Union, Guwahati Branch,
Guwahati.
- Sri Joram Topno, Secretary of Central Public Works
Department, Class IV Staff Union, Guwahati Branch,
Guwahati. Applicants.

By Advocate Mr.A.Ahmed.

-Vs-

1. Union of India & Ors. Respondents.

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

O.A.No.99 of 1999

1. Central Public Work Department,
Junior Engineers Association,
Guwahati Branch, Guwahati.
2. Sri Umesh Chandra Das, President of
Central Public Work Department.
Junior Engineers Association,
Guwahati Branch.
3. Sri Dilip Deka, Secretary of Central Public Works
Department, Junior Engineers Association,
Guwahati Branch, Guwahati. Applicants.

By Advocate Mr.A.Ahmed,

-Vs-

1. Union of India & Ors. Respondents.

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O.A.No.100 of 1999

1. Central Public Works Department
Staff Association, Guwahati Branch, Guwahati.
2. Sri Birish Chandra Bora,
President of Central Public Work Department,
Staff Association, Guwahati Branch, Guwahati.
3. Sri Dinesh Chandra Paul,
Secretary of Central Public Work Department,
Staff Association, Guwahati Division.

Applicants.

By Advocate Mr. A.Ahmed.

-Vs-

1. Union of India & Ors.

Respondents.

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

O R D E R.

D.N.CHOUDHURY, VICE-CHAIRMAN:

The issue raised in these applications are no longer resintegra from O.A.No.94 of 1999 to 100 of 1999.

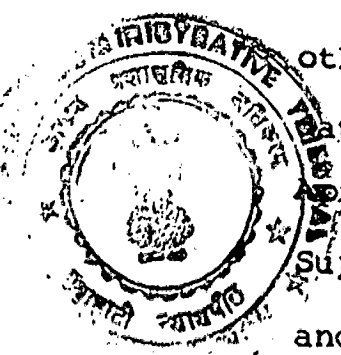
The admissibility of Special Duty Allowance and other like allowance mentioning in the office Memorandum dated 14th December 1983, 29th October, 1986 and 20th April, 1987 has already been adjudicated upon by the Supreme Court in Union of India & Ors -Vs- S.Vijaukumar and others, reported in 1994 Supp.(3) SCC. The relevant part of the judgment of the Supreme Court is reproduced below:-

"Para 4.(b).The 1986 memorandum makes this position clear by stating that Central Government Civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North Eastern Region." This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the office memoranda of 1983 the subject was mentioned as quoted above is not enough to concede to the submission of Dr.Ghosh. "

The admissibility of the Special Duty Allowance in pursuance of the Government Memorandum has already been adjudicated

contd/-

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upon thus the aforesaid judgment will also regulate the admissibility of these cases. The respondents are accordingly, directed to act as per the decision rendered by the Supreme Court. The office Memorandum dated 24.2.99 (Annexure 5) is reproduced below:-

"The undersigned is directed to refer to Chief Engineer(NEZ)'s letter No.71/2/92-Admn, dated 11.9.98 on the subject cited above and to say that admissibility criteria for grant of Special Duty Allowance to Central Government Group 'C' and 'D' Employees posted in North East Region has been examined in consultation with M/O UA&E and M/O Finance Department of Expenditure and it has been decided that transfer liability to these employees within 12 States i.e. 7 States of NER, West Bengal, Bihar, Orissa, Sikkim and part of Madhya Pradesh cannot be treated as all India transfer Liability to fulfil the conditions laid down by the Supreme Court as well as M/O Finance. Hence they are not entitled to S.D.A.

Therefore, in terms of C.A.T, Guwahati Bench's judgment dated 26.6.98 these employees may not be paid Special Duty Allowance henceforth, However, the amount already paid to them shall not be recovered.

This issued with the approval of the Director General(Works). "

The matter is required to be re-considered and the appropriate order to that effect. In the facts and circumstances the respondents are directed to examine afresh the office Memorandum.

In the light of the decision of the Supreme Court these applications stand disposed of, there shall, however be no order as to costs.

Self. view Chairman
Self. Member (A)

certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (A)

अनुभाग अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी न्यायपीठ, गुवाहाटी

Attet
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36 -ANNEXURE - 1

No. 14/21/91-EC. IV(C)
Government of India
Directorate General of Works
Central Public Works Department

Nirman Bhawan, New Delhi.
Dated the 7 January, 2002.

OFFICE ORDER

Sub:- Payment of Special Duty Allowance to Group 'C', 'D' and Work Charged officials of CPWD in North East Region.

The payment of Special Duty Allowance (SDA) to the employees posted in the North East Region was allowed vide M/o Finance O.M. No. 20014/3/83-E.IV dated 14.12.1983 as amended from time to time. Some employees' Unions in CPWD have also raised the issue before the Hon'ble CAT, Guwahati Bench in OA No. 95 to 100 of 1999 where the Hon'ble CAT has issued Order dated 19.12.2000 to review this Directorate's Order of even number dated 24.2.1999.

The matter has been considered in consultation with M/o Finance (Dept. of Expenditure). All pending cases in the North East Region may be decided as under:-

1. Group 'C', 'D' and Work-Charged employees of NER for whom recruitment, transfer and seniority are regionalized, are not entitled to Special Duty Allowance. These employees need to be considered individually and a reasoned order detailing all the reasons for non-entitlement of SDA to any such employee considered ineligible will be issued by the concerned Superintending Engineers. Such reasoned order should be addressed individually and served by Registered Post / Peon Book.
2. Junior Engineers recruited and promoted on All India basis and posted to any station in NE Region from outside may be entitled to SDA.
3. Office Superintendents and Stenographer, Grade I promoted on all India basis may also be entitled to SDA, if posted to NE Region from outside.

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[Signature]

Issue directions
to all SEs

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4. The payment of Special Duty Allowance to ineligible officials must be stopped immediately henceforth. As regards recovery of the amount already paid, the cut off date for the purpose will be intimated as soon as the decision is taken by the competent authority.

(V.K. KONDAL)
Dy. Director Admin. II

To

1. Addl Director General (Works),
Eastern Region, CPWD,
Kolkata-20.
2. Chief Engineer (NEZ),
CPWD, Dhankheti,
Shillong.
3. Suptdg. Engineer (Coord.),
Eastern Region, Kolkata-20.
4. To All Applicants in O.As No. 95 to 100 of 1999.

Copy also forwarded to:-

Chief Controller of Accounts, Nirman Bhawan, New Delhi with reference
to his U.O letter No. G-Misc/SDA/Pr.AO/TC/2001-02/2739 dt. 15.6.2001.

(U.K. SINHA)
Section Officer

Attended
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Amount