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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed Date-30/06/06

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 244/02
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. G. K. Nair (A)

-Vs-

Respondant(s) M. O. I. Lem

Advocate for the Applicant(s) M. Chanda, G. M. Chakrabarty
H. Dutta, S. Ghosh

Advocate for the Respondant(s) Case

Notes of the Registry	Date	Order of the Tribunal
<p>Application for admission of the Respondent to the Tribunal No. 576556 27-7-02 11c 21/8/02 H. Dutta H. Dutta</p>	9.8.02	<p>Heard Mr M.Chanda, learned counsel for the applicant. Issue notice to show cause as to why this application shall not be admitted. Returnable by four weeks. List on 6.9.2002 for show cause and admission.</p>
<p>Notices prepared and sent to D. Section for issuing to the Respondent to the Respondent's Throught Regd. post with A.P.D. Vide D.No - 20 14.8.02</p>	pg 6.9.02	<p>Heard Mr. H.Dutta, learned counsel for the applicant and also Mr. B.C.Pathak, learned counsel for the Respondents. No reply so far filed by the Respondents. The application is admitted. Call for the records. List on 6/9</p>

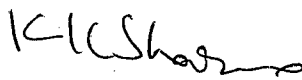
6.9.02

Heard Mr. H. Dutta, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the Respondents.

No reply so far filed by the Respondents.

The application is admitted.
Call for the records.

List on 7.10.2002 for orders.


Member



Vice-Chairman

mb

7.10.01

No reply so far filed by the
However, four weeks time allowed to the respondents to file written statement. List on 15.11.02 for orders.

No written statement
has been filed.


Member



Vice-Chairman

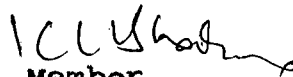
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13.11.2002

On the prayer made by Mr. B.C. Pathak, learned Addl. C.G.S.C. further four weeks time is allowed to the respondents to file written statement.

List the case on 16.12.2002 for further order.

Notices submitted in No 5
respondent No 5
returned incomplete address



Member

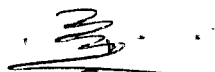

Vice-Chairman

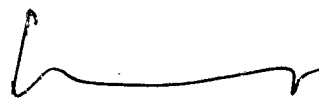
bb

16.12.02

List on 22.1.2003 to enable the respondents to file written statement as prayed by Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

No written statement
has been filed.


21.1.03


Vice-Chairman

mb

22.1.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra, Administrative Member.

The respondents are yet to file written statement though time granted. List again on 10.2.2003 to enable the respondents to file written statement as a last chance.

No. written statement has been filed.

7.2.03

Member

Vice-Chairman

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

Heard counsel for the parties. Mr B.C. Pathak, learned Addl.C.G.S.C stated that the respondents are filing written statement in a short time. In the circumstances the is listed for hearing on 24.3.03.

In the meantime the respondents may file written statement.

Vice-Chairman

24.3.03 Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr S.Biswas, Admn. Member.

Mr B.C.Pathak, learned Addl.C.G.S.C has stated that he is also filing written statement on behalf of respondent No.4 separately and accordingly some time be given for him to file the written statement.

List again on 23.5.03 for hearing. In the meantime the respondents authority may file written statement, if any within three weeks.

Reminder filed by the applicant.

12.5.03

Member

Vice-Chairman

26.3.03

Rejoinder submitted
by the applicants.

A.O.

4.9.03

was filed by
the Respondent No. 1

A.O.

13.5.2003

On the prayer of Mr. M. Chanda, learned counsel for the applicant, the case is adjourned.

List again on 20.6.2003 for hearing.


Vice-Chairman

mb

20.6.2003

On the prayer of Mr. G.N. Chakraborty, learned counsel for the applicant, the case is adjourned. Put up again on 18.7.2003 for hearing.


Vice-Chairman


mb

17.7.2003

Present: The Hon'ble Mr. N.D. Dayal
Administrative Member.

Mr. S. Dutta, learned counsel appearing on behalf of Mr. M. Chanda, learned counsel for the applicant requests that the matter may be taken up next week.

List the case on 14.8.2003 for hearing.


Member

bb

14.8.2003

Adjourned.

List the matter on 29.8.03 in presence of Mr. B.C. Pathak, C.G.S.C.


Vice-Chairman

lm

29.8.03

On the prayer of learned counsel for the applicant case is adjourned to 5.9.03 for hearing.


Vice-Chairman

lm

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O.A. NO. 244/2002

Office Note	Date	Tribunal's Order
	5.9.03	Adjourned to 12.9.03 for hearing. MO Mr
12.9.03 Additional request submitted by the applicant no. 1 and 2.	12.9.2003	On the prayer made by Mr.M.Chanda, learned counsel for the applicant, the case is adjourned and again listed for hearing on 26.9.2003. bb
The case is ready for hearing.	26.9.2003	Adjourned on the prayer of learned counsel for the applicant. List again on 24.10.2003 for hearing. Vice-Chairman
2.6.2004	2.6.2004	List on 15.6.2004 before the Division Bench for hearing. Member (A)
21.7.2004	21.7.2004	Present: Hon'ble Shri K.V. Sachidanandan, Judicial Member Hon'ble Shri K.V. Prahladan, Administrative Member. When the matter came up for hearing the learned counsel for the parties submitted that this is a case pertaining to payment of SDA to the applicants and other similar cases are also pending before this Tribunal. They also submitted that for a uniform decision the case may

Office Note	Date	Tribunal's Order
<p>17.5.04</p> <p>W/S filed by the Respondent Mrs. A.</p> <p><i>[Signature]</i></p> <p>24-8-04</p> <p>Case is ready for hearing</p> <p>4/10/04</p> <p>As regards W/S & rejoinder the case is ready for hearing.</p> <p><i>[Signature]</i> 4/10/04</p>	<p>21.7.2004</p> <p>nkm</p> <p>25.8.04</p> <p>25.8.04.</p>	<p>be posted alongwith the similar cases.</p> <p>Registry is directed to find out the similar ^{11/12/04} cases and post this case alongwith the other cases on the same date for hearing.</p> <p><i>[Signature]</i> Member(A)</p> <p><i>[Signature]</i> Member(J)</p> <p>PRESENT: Hon'ble Mr. D. C. Verma Vice-Chairman Hon'ble Mr. K. V. Prahladan</p> <p>Present: Hon'ble Mr. D. C. Verma, Vice-Chairman. Hon'ble Mr. K. V. Prahladan, Administrative Member.</p> <p>Heard learned counsel for the parties.</p> <p>This application involves common question of law and facts and it would be heard to-gether. The learned counsel for both sides prays that & this case may be fixed before the next available Division Bench. Let this case be listed before the next available Division Bench as prayed for.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

2

24.3.2005

Heard Mr. M. Chanda, learned counsel for the applicants and Mr. M. U. Ahmed, learned counsel for the respondents.

Hearing concluded. Orders reserved.

[Signature]
Member (A)

[Signature]
Vice-Chairman

mb

15.6.2005

Judgment delivered in open Court kept in separate sheets. The application is disposed of. No order as to costs.

Mr. M. U. Ahmed
24/6/05
ADDRESS

[Signature]
Member

[Signature]
Vice-Chairman

mb

28.6.05

Copy of the Judgment has been sent to the D/Sec. for issuing the same to the applicant by post.
[Signature]

Notes of the Registry

Date

Order of the Tribunal

5.10.2004

Present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

The Hon'ble Mr. K.V. Prahladan, Member (A).

None for the parties. Adjourned to 17.11.2004 for hearing.

K.V. Prahladan
Member (A)

R.K. Batta
Vice-Chairman

mb

6.12.2004
Shillong

Mr B.C. Pathak, learned Addl.C.G.SC. has submitted a note of expressing his inability to come today and prays that his matter be fixed on 8.12.2004. The matter shall accordingly be listed on 8.12.2004.

K.V. Prahladan
Member (A)

R.K. Batta
Vice-Chairman
~~Member~~

nkm

8.12.2004

The learned counsel for the parties are present. Let this case be listed alongwith other SDA matters on 2.2.2005 for hearing.

K.V. Prahladan
Member

R.K. Batta
Vice-Chairman

nkm

23.03.2005

Present : The Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman.

The Hon'ble Mr.K.V. Prahladan, Administrative Member.

The case is adjourned to 24.3.2005 for hearing.

K.V. Prahladan
Member (A)

G. Sivaraman
Vice-Chairman

mb

Case is ready for hearing.

Case is ready for hearing.

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./XXX No. 244 of 2002

DATE OF DECISION 15-06-2005

Shri G.K. Nair and 4 othersAPPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty,
Mr H. Dutta and Mr S. Ghosh.ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India and othersRESPONDENT(S)

Mr M.U. Ahmed, Addl. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE-CHAIRMAN

THE HON'BLE MR. K. V. PRAHLADAN, 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

G. Sivarajan

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 244 of 2002

Date of Order : This the 15th day of June, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Sri K.V. Prahladan, Administrative Member.

1. Shri G.K. Nair,
Superintendent,
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.
2. Sri Sunil Ghosh
Superintendent
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region
Shillong.
3. Sri Tarit Ranjan Das
Superintendent
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.
4. Sri Dhaneswar Sahoo
Storekeeper (Tech.)
Office Deputy Director General
Geological Survey of India
North Eastern Region, Shillong.
5. Sri Ramdeo Chourasia,
Stenographer Grade I (Hindi)
Office of the Deputy Director General
Geological Survey of India
North Eastern Region
Shillong.

... Applicants

By Advocates Mr. M. Chanda, Mr. G.N. Chakraborty,
Mr. H. Dutta, Mr. S. Ghosh.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India,
Ministry of Mines, New Delhi.
2. The Director General,
Geological Survey of India,
27 J.L. Nehru Road,
Calcutta - 16
3. The Senior Deputy Director General
Geological Survey of India,
North Eastern Region,
Nongrim Hills,
Shillong.
4. The Registrar
Central Administrative Tribunal
Faridkot House, Copernicus Marg
New Delhi.
5. The Controller of Accounts
Geological Survey of India,
Ministry of Steel & Mines,
Calcutta.

... Respondents.

By Mr. M.U. Ahmed, Addl. C.G.S.C.

ORDER

SIVARAJAN. J. (V.C.)

Applicants 1, 2 and 3 are Superintendents, applicant No.4 is a Storekeeper (Tech) and applicant No.5 is Stenographer Grade I (Hindi), all working in the Office of the Deputy Director General, Geological Survey of India (GSI for short), North Eastern Region, Shillong. They have filed this application seeking for a declaration that they are entitled to Special (Duty) Allowance (SDA for short) in terms of O.M. dated 14.12.1983 as well as in terms of the order of the Supreme Court dated 7.9.1995 passed in C.A. No.8208-8213 and also

gny

in terms of the judgment and order dated 4.1.1999 passed in O.A. No.75 of 1996. They also seek for a direction to the respondents to continue to pay the SDA to the applicants. There is also a prayer for direction to the respondent No.4 to pay SDA to applicant No.3 for the period he served in the Central Administrative Tribunal on deputation basis to the post of Private Secretary, i.e. for the period from 1.9.1994 to 31.8.1997 and 1.8.1998 to the actual date of repatriation to his parent department.

2. According to the applicants all of them joined the Geological Survey of India, North Eastern Region either on transfer from outside the North Eastern Region and few of them were initially posted in the North Eastern Region from outside the North Eastern Region on different dates having All India Transfer Liability. Applicant No.2, it is stated, after recruitment in the GSI, his first appointment was in Calcutta on 7.7.1974 and from Calcutta he was transferred to North Eastern Region in June 1977 in public interest. Applicant No.3, it is stated was appointed in GSI through Staff Selection Commission to the post of Stenographer Grade II on 4.1.1984 and he was serving in the Central Administrative Tribunal, Guwahati Bench on deputation basis in the post of Private Secretary since 1.8.1998. Applicant No.4, it is stated joined the GSI on 26.10.1987 on regular basis. Applicant No.5, it is stated joined GSI on 23.1.1984 through the Staff Selection Commission and thereafter he was promoted to the post of Stenographer Grade I with effect from 18.10.1996. It is stated that the said promotion was made on common All India Seniority List and he is serving the GSI with All India Transfer Liability. It is further stated that all the five applicants are permanent residents of places outside the North Eastern Region and that while the aforesaid applicants joined the GSI and posted in the North Eastern Region with All India

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Transfer Liability they had a hope that at least during their service career they will get transfer and posting in their respective home State/town since they had accepted the offer of appointment with the clause of 'All India Transfer Liability'. It is further stated that the Government of India took a decision for regionalisation of the services of Group 'C' and 'D' employees of the GSI and the Group 'C' and 'D' employees who came from places outside North Eastern Region to the North Eastern Region were offered a fait a compli. They either had the option of leaving the job or to serve in the North Eastern Region for the remaining part of their service career. It is further stated that when on the basis of regionalisation the respondents stopped the payment of SDA to its employees of the North Eastern Region with effect from 1.8.1984, some of the employees of GSI, North Eastern Region filed O.A. Nos.182 and 183 of 1990 for a declaration that the employees of GSI, North Eastern Region are entitled to SDA; the Tribunal by order dated 12.9.1991 allowed the applications; though a Review Application filed by the Union of India was dismissed they took the matter before the Supreme Court by filing SLP later numbered as Civil Appeal and the Supreme Court by its judgment dated 7.9.1995 disposed of the appeals by holding that "the Special Duty Allowance payable to the Central Government employees having all India Transfer Liability is not to be paid to such Group 'C' and Group 'D' employees of Geological Survey of India who are residents of the region in which they are posted." It is also stated that the subject matter of the appeal before the Supreme Court was only whether the Group 'C' and 'D' employees of GSI, North Eastern Region are entitled to SDA even after the regionalisation with effect from 1.8.1984. The respondents stopped the payment of SDA to Group

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'C' and 'D' employees of the GSI with effect from 1.8.1984. The applicants have stated that by the decision of the Supreme Court mentioned above only the employees who are residents of North Eastern Region were held to be disentitled to get SDA on account of regionalisation and that the same does not apply to Group 'C' and 'D' employees of the North Eastern Region belonging to outside North Eastern Region.

2. The respondents have filed a written statement. After elaborately referring to the Government Orders regarding grant of SDA and the decisions of the Supreme Court, the position is summarized by the respondents stating that only those employees irrespective of their group in 'A', 'B', 'C' or 'D' shall be entitled to SDA if they fulfill the criteria as underlined in O.M. dated 20.4.1987 and such employees are in fact posted in the North Eastern Region actually on transfer. The written statement further states that with effect from 1.8.1994 regionalisation was made and accordingly payment of SDA was stopped to Group 'C' and 'D' employees of GSI; that subsequently Government of India framed a policy that Group 'C' and 'D' employees should not be transferred outside the region and accordingly their All India Transfer Liability was withdrawn vide order dated 23.8.1990. Regarding O.A.Nos.182 and 183 of 1990 are concerned, it is stated that though the claim of the applicants therein was allowed the Supreme Court in the appeal held that Group 'C' and 'D' employees of the GSI are not having All India Transfer Liability since the Government of India has framed a policy that Group 'C' and 'D' employees should not be transferred outside the region in which they are employed and in view of the said judgment the respondents stopped the payment of SDA to its Group 'C' and 'D' employees with



effect from 1.1.1996. Regarding O.A.No.75 of 1996 it is stated that pursuant to the directions issued in the said order on 4.1.1999 the respondent No.3 considered the matter and held that the applicants therein are not entitled to SDA since the applicants did not have All India Transfer Liability and therefore, did not fulfill the eligibility criteria prescribed for grant of SDA in the various O.M.s. Regarding furnishing of options to the applicants, it is stated that they were not provided any opportunity for submitting their options for posting after regionalisation as it could adversely affect and cause imbalances within the region. It is stated that at the time of regionalisation the existing incumbents who were transferred from other regions to the North Eastern Region were placed at the administrative control of the respective regions on "as is where is basis" and subsequently the term "transfer anywhere in India" was replaced by "serve anywhere in NER" and the same was confirmed by the Supreme Court in the judgment dated 7.9.1995.

3. We have heard Mr M. Chanda, learned counsel for the applicants, and Mr M.U. Ahmed, learned Addl. C.G.S.C. appearing for the respondents. Mr Chanda submitted that all the applicants were posted from outside the North Eastern Region either on transfer or on posting from outside the region on different dates, that all the applicants have All India Transfer Liability, that all the applicants belong to Group 'B' and also having All India Common Seniority, that initially SDA was stopped from 1.8.1984 and thereafter again paid from with effect from 1.4.1990 to 31.12.1995 and that the payment of SDA was stopped with effect from 1.1.1996. The counsel also submitted that the respondents admitted in para 7 of the written statement that all the applicants joined the GSI from outside the



North Eastern Region and that the respondents did not deny that the applicants now belong to Group 'B' category. Counsel pointed out that none of the applicants are residents of the North Eastern Region and as such is entitled to the payment of SDA in view of the decision of the Supreme Court in Union of India and others Vs. S. Vijoykumar and others (C.A.No.3251 of 1993) and other cases as also under the Government Order under clause 5 of the O.M. dated 29.5.2002. Counsel also relied on various orders passed by this Tribunal in support.

4. Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents submitted that though the applicants had initially satisfied the requirement under the Government orders, by virtue of the regionalisation order and the Government policy regarding non-transfer of Group 'C' and 'D' employees one of the conditions for grant of SDA, namely All India Transfer Liability has come to an end and consequently the applicants are not entitled to SDA thereafter. The Standing Counsel also submitted that this position is succinctly stated by the Hon'ble Supreme Court in the decision rendered on 7.9.1995 itself. Counsel accordingly submitted that the application has only to be dismissed.

5. We have considered the rival submissions. So far as the question of admissibility of SDA to Central Government Civilian employees, this Bench had considered the matter in very great detail and summarized the guidelines in the order dated 31.5.2005 in O.A.No.170 of 1999 and connected cases in paras 52 and 53 as follows:

"52 The position as it obtained on 5.10.2001 by virtue of the Supreme Court decisions and Government orders can be summarized thus:



Special Duty Allowance is admissible to Central Government employees having All India Transfer Liability on posting to North Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E. Region if he is retransferred to N.E. Region he will also be entitled to grant of SDA provided he is also having promotional avenues based on a common All India seniority and All India Transfer liability. This will be the position in the case of residents of North Eastern Region originally recruited from outside the region and later transferred to North Eastern Region by virtue of the All India Transfer Liability provided the promotions are also based on All India Common Seniority.

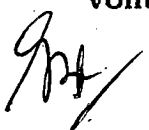
53. Further payment of SDA, if any made to ineligible person till 5.10.2001 will be waived."

6. Normally, the case of the applicants has to be considered in the light of the aforesaid governing principles. In the instant case the applicants contended that all of them are residents of outside the North Eastern Region and they were either initially appointed in the North Eastern Region or by transfer from outside to the North Eastern Region. It is also their contention that their appointments and transfers were based on the All India Transfer Liability and All India Common Seniority list. It is the case of the applicants that in the case of these persons the regionalisation order of the Central Government cannot have any application. It is also their case that they are Group 'B' employees to which the regionalisation order does not apply. It is also their case that the decision of the Supreme Court in the Civil Appeals rendered on 7.9.1995 had application only in the case of residents of North Eastern Region who were transferred outside the North Eastern Region and later retransferred to the North Eastern Region and that it will not apply to persons from outside the North Eastern Region who were either posted in the North Eastern Region

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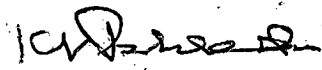
initially or by transfer from outside with All India Transfer Liability and All India Common Seniority list.

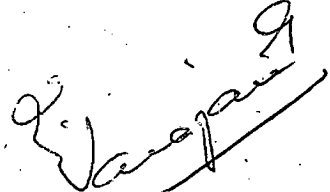
7. This is a peculiar situation which has arisen subsequently as a result of regionalisation where the respondents had taken a decision not to transfer Group 'C' and 'D' employees to outside the region. In view of the said decision one of the requirements for the grant of SDA, namely All India Transfer Liability has come to an end. If All India Transfer Liability has come to an end, notwithstanding the fact that the applicants belong to outside the region and are posted to the North Eastern Region with All India Transfer Liability and All India Common Seniority list. Once the All India Transfer Liability comes to an end they cannot be heard to say that still they must be granted SDA. However, one situation survives, namely if as a matter of fact, all the applicants belong to outside the region and they were transferred from outside the North Eastern Region or in the case of residents of the North Eastern Region who were transferred from the North Eastern Region to outside the North Eastern Region and later retransferred to the North Eastern Region, all under the All India Transfer Liability, if they had not been given an option to revert to outside the region, can the respondents deny the benefit of grant of SDA to such persons? As the Government orders and decisions now stand, the applicants are not entitled to the grant of SDA due to the cessation of the All India Transfer Liability on account of regionalisation. However, this is a matter to be considered by the concerned Ministry as to whether the benefit can be extended to persons of outside region who are on transfer to the North Eastern Region and who were forced to remain in the said region without their volition. The applicants are directed to make a proper representation



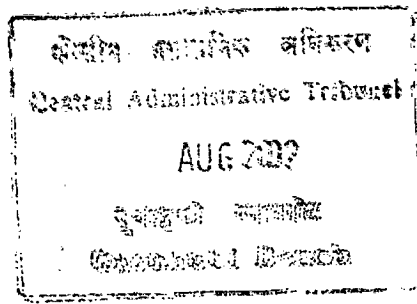
in this regard before the Secretary to the Government of India, Ministry of Mines, New Delhi, respondent No.1, within a period of two months. If any such representation is filed as directed, the respondent No.1 will consider the same with all seriousness and take a decision thereon within a period of four months thereof and communicate it to the applicants without delay. The applicants will produce a copy of this order alongwith the representation for compliance.

8. The application is disposed of as above. No order as to costs.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE CHAIRMAN

/nkm/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

Title of the case : O.A. No. 244/2002

Sri G.K. Nair & 4 Ors.: Applicants

- Versus -

Union of India & Others: Respondents.

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Filed by

Date

Advocate

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

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

O.A. No. 244 /2002

BETWEEN

1. Shri G.K.Nair,
Superintendent
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.
2. Sri Sunil Ghosh
Superintendent,
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.
3. Sri Tarit Ranjan Das
Superintendent
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.
4. Sri Dhaneswar Sahoo,
Storekeeper (Tech.)
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region, Shillong.

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5. Sri Ramdeo Chourasia,
Stenographer Grade I (Hindi)
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.

.....Applicants

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Mines, New Delhi.
2. The Director General,
Geological Survey of India,
27 J.L.Nehru Road,
Calcutta-16.
Shillong.
3. The Senior Deputy Director General,
Geological Survey of India,
North Eastern Region,
Nongrim Hills.
Shillong.
4. The Registrar
Central Administrative Tribunal
Faridkot House, Copernicus Marg,
New Delhi.
5. The controller of Accounts,
Geological Survey of India,
Ministry of Steel & Mines,
Calcutta.

.....Respondents.

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DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made praying for a direction for payment of Special (Duty) allowance (in short SDA) to the applicants in terms of the Office Memoranda 14.12.1983, 1.12.1988 and 22.7.1998 and further be pleased to direct the respondents to pay arrear SDA to the applicants in terms of the aforesaid Memorandum issued by the Ministry of Finance, Govt. of India, Department of Expenditure. New Delhi.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the case.

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

4.2 That your applicant nos. 1,2,3 are presently working as Superintendent in the cadre of Non Gazetted Group B and applicant No. 4 working as Storekeeper (Tech) in the cadre of Group C and applicant no. 5 also working as Stenographer Grade I in the cadre of Non Gazetted Group B under the Senior Deputy Director General, Geological Survey of India, North Eastern Region.

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4.3 The applicants pray for permission to move this applicant jointly in a single application under Section 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1985 as the reliefs sought for in this application by the applicant are common, therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.

4.4 That it is stated that all the applicants joined the Geological Survey of India, North Eastern Region either on transfer from outside the North Eastern Region and few of them were initially posted in North Eastern Region from outside the region on different dates having all India Transfer Liability. Applicant no.1 is a permanent resident of Thozuvaratala House, Pawgappara, Kazhakuttam, Trivandrum, Kerala.

Applicant no. 2 is the permanent resident of Rabindra Palli, P.O. Prafulla Kanan, Calcutta 59 in the State of West Bengal. At the time of joining the GSI the applicant's home town was Jalpaiguri in the State of West Bengal. However, subsequently, the applicant's family permanently shifted to Calcutta. At present in the official records also the applicant's permanent address has been shown to be in Calcutta. After the recruitment in the GSI, the applicant's first appointment was in Calcutta on 7.7.1974. From Calcutta he was transferred to the North Eastern Region in June, 1977 in Public Interest. Thus since 1977 the applicant has been serving in the North Eastern Region.

Applicant no. 3 is the permanent resident of Cooch Behar, West Bengal. He was appointed in GSI through Staff Selection Commission to the post of Stenographer Grade I (now redesignated to Grade II) on 4.1.1984. At present he is serving Central Administrative Tribunal, Guwahati Bench, on deputation basis in the post of Private Secretary since 1.8.1998. However, the applicant no. 3 was conditionally absorbed in the C.A.T., Guwahati Bench with effect from 1.7.2001 as such respondent no. 4 is

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impleaded as party respondent in the instant case. It is relevant to mention here that the applicant no.3 has joined in this application as the prayer for relief is common and if the application is allowed he would also be entitled to payment of arrear special duty allowance for the period he was working under the respondent nos. 1 to 3 as well as for the period he has served under the respondent no.4.

Applicant no. 4 is the permanent resident of Orissa and he joined the GSI on 26.10.1987 on regular basis. Prior to his regularisation he served the GSI on contingent basis for a period about 10 years at Shillong.

Applicant no. 5 is the permanent resident of Begusari, Bihar and he also joined the GSI on 23.01.1984 through the Staff Selection like the applicant no.3. Thereafter he is promoted to the post of Stenographer Grade I with effect from 18.10.1996. Mention has to be brought here that the said promotion was made on common All India seniority list and serving the GSI with all India Transfer Liability. Mention has to be made here that the seniority of the applicant nos. 3 and 5 are all along maintained on All India Basis even after the regionalisation with effect from 1.8.1984 till date since their joining. The applicants craves leave of the Hon'ble Tribunal to produce the seniority lists as stated above at the time of hearing.

A few of the appointment orders are annexed hereto and marked as **Annexure-1 series**.

- 4.5 That your applicants while serving in the office of the Geological Survey of India, Shillong, Government of India, Ministry of Finance, Department of Expenditure, issued an Office Memorandum under letter No. 20014/3/Estt-IV dated 14.12.1983 granting certain improvements and facilities to the Central Government Civilian employees serving in the North Eastern Region. As per the said Office Memorandum the Special (Duty) Allowance (in

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short SDA) has been granted to the Civilian Employees of the Central Government who are saddled with all India Transfer Liability. The relevant portion of the O.M. dated 14.12.1983 is quoted below :

"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, and Tripura and the Union Territories of Arunachal Pradesh 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 and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in the 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 :

(iii) Special Duty Allowance

Central Government civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax, will however, not be eligible 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 will not exceed Rs. 400/- P.M. Special Allowances like Special Compensatory (Remote Locality) allowance, Construction Allowance and Project Allowance will be drawn separately."

An extract of the O.M. dated 14.12.1983 is annexed hereto and marked as Annexure-2.

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- 4.6 That it is therefore seen that all the 5 applicants are the permanent residents of places outside the North Eastern Region. In the case of applicant no.2 his appointment to the GSI was initially posted to the place outside the North Eastern Region and was subsequently transferred to the North Eastern Region. Though in the remaining case of the applicants their first appointment was in the North Eastern Region itself but it is noteworthy that all of them came from outside the North East to North East for the sake of job and incentives attached to it. Moreover at the time when applicants were given appointment in the GSI they had all India transfer liability and it is only carrying out their official duties the above mentioned applicants are at present in the North East Region and their permanent dwelling house/place is outside the North Eastern Region.
- 4.7 That it is stated that after issuing the O.M. dated 14.12.1983 by the Government of India, Ministry of Finance, Department of expenditure the respondents on their own started paying SDA to the applicants with effect from 1.8.1984.
- 4.8 That it is stated that during 1981 the Government of India vide letter No. J-11011/104/78-M.2 dated 1.10.1981 decided to transfer administrative control over Group C and D posts to the respective Sr. DDG/DDGs/In charge of Regional Offices/Divisions of the GSI. While transferring administrative control over Group C and D posts to the respective DDGs of regions/Division, the respondents did not call for any option from their employees and arbitrarily given effect of the letter dated 1.10.1981 referred to above. Thus when the Government of India directed the regionalisation of the services of Group C and D employees of the GSI, the Group C and D employees who came from the places outside the North Eastern Region to the North Eastern Region were offered a fait a compli. They either had the option of leaving the job or to serve in the North Eastern Region for the remaining part of their service

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career. They were thus compelled to choose the least ominous of the two - the latter. It is also noteworthy to mention here that while the aforesaid applicants joined the GSI and posted in the North Eastern Region with all India Transfer Liability with a hope that at least during their service career they will get transfer and posting in their respective home state/town since they had accepted the offer of appointment with the clause of 'All India Transfer Liability'.

- 4.9 That it is stated that after the regionalisation the respondents stopped the payment of SDA to its employees of North Eastern Region with effect from 1.8.1984. Thus finding no other alternative some of the employees of the GSI, NER approached the Hon'ble Tribunal through O.A. No. 182/1990 and 183/1990 for a direction that the employees of the GSI, NER are entitled to SDA. The Hon'ble Tribunal in its judgment and order dated 12.9.1991 held that the Group C and D employees are entitled to SDA. The Union of India being dissatisfied with the order of the Hon'ble Tribunal dated 12.9.1991 made a review of the said judgment before the Hon'ble Tribunal and Hon'ble Tribunal was also pleased to dismiss the said Review Application. Finally, the Judgment of the Hon'ble Tribunal dated 12.9.1991 was a subject matter of challenge before the Supreme Court in Civil Appeal No. 8208213 of 1995 arising out SLP Nos. 12450-55/92, filed by the Union of India. The Supreme Court vide its order dated 7.9.1995 disposed of the aforesaid appeals and held that "the Special Duty Allowance payable to the Central Government employees having all India Transfer Liability is not to be paid to such Group C and Group "d" employees of Geological Survey of India who are residents of the region in which they are posted (emphasis added). It is also noteworthy to mention here that in the aforesaid SLPs subject matter was only whether the Group C and D employees of GSI, NER are entitled to SDA even after the regionalisation with effect from 1.8.1984 as has been stated above.

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Copy of the order of the Hon'ble Supreme Court dated 7.9.1995 is annexed as **Annexure-3**.

4.10 That it is pertinent to note that the Supreme Court in its Annexure-2 order emphasised the factum of residence in the North Eastern Region as the only relevant factor to be considered while determining the eligibility of the employees to get the SDA. The Hon'ble Supreme Court in its order dated 7.9.1995 observed that Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are posted and therefore all India transfer liability no longer continues in respect of Group C and D employees. In the very next line of the said order it is observed that in that view of the matter the Special duty allowance payable to the Central Government employees having all India transfer liability is not to be paid to such Group C and Group D employees of Geological Survey of India who are residents of the region in which they are posted. While stating so the Apex Court did not make any mention "of All India Transfer Liability" as a factor which might be taken into consideration while determining and deciding the question of payment of SDA to the employees of the Geological Survey of India posted in the North Eastern Region.

4.11 That pursuant to the Annexure-2 order of the Hon'ble Supreme Court the Deputy Director General, Geological Survey of India, North Eastern Region, vide its office order No. 5426/12/SLP-SDA/92 dated 29th December 1995 declared that in compliance of the order of the Supreme Court, Special Duty Allowance currently being paid to Group C and D employees of the GSI shall not be paid w.e.f. 1.1.1996. While stating so the order conveniently and selectively quoted out of context that part of the order of the Supreme Court where the Court had unequivocally stated the well accepted official position that all India transfer liability no longer continues in respect of Group C and D employees. It is stated that there is no dispute with the fact that the All India Transfer

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Liability no longer continues in regard to Group C and D employees of the GSI posted in the North Eastern Region, but this has happened only since 1984. Hence the employees who are the residents of the places outside the North Eastern Region and were posted or transferred to the North Eastern Region prior to 1984 and were working in the North Eastern Region since, then cannot be held to be the residents of the North Eastern Region just because they do not have All India Transfer Liability and they are liable to be transferred only within the North Eastern Region. This is because factum of being the residents of the North Eastern Region cannot be determined on the basis of All India Transfer liability, a fact recognised and accepted by the Hon'ble Supreme Court in its order dated 7.9.1995.

Copy of the order dated 29.12.1995 is annexed hereto and marked as **Annexure-4**.

4.12 That pursuant to the Annexure-3 order of the DDG, since 1.1.1996 the Group C and D employees of the GSI posted in the North Eastern Region had not been paid SDA. It is stated that the said order has greatly disturbed and pained those Group C and D employees who were posted and transferred to the North Eastern Region prior to 1984. By no stretch of imagination can it be held that the regionalisation scheme of 1984 and discontinuation of All India Transfer liability clause had made to those employees the residents of the North Eastern Region. Being aggrieved with the order dated 29.12.1995 issued by the Deputy Director General, whereby the payment of SDA to such employees who are belonged to outside the North Eastern Region and joined the GSI either on transfer for posted in NER before 1.8.1984 had to approach the Hon'ble Tribunal again by way of filing the O.A. No. 75/1996, although the Hon'ble Supreme Court in its judgment made it clearly observed that "Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are posted and therefore all India transfer

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liability no longer continues in respect of Group C and D employees." In the very next line of the said order it is observed that in that view of the matter the Special duty allowance payable to the Central Government employees having all India transfer liability is not to be paid to such Group C and Group D employees of Geological Survey of India who are residents of the region in which they are posted. It is quite clear from the above observation that the employees who joined the GSI either on transfer or on initial posting from outside the Region are entitled to payment of SDA in terms of the O.M. dated 14.12.1983 and the aforesaid order of the Hon'ble Apex Court in fact excluded the Group C and D employees of the Geological Survey of India who are permanent resident of this Region from the purview of the O.M. dated 14.12.1983. As such applicants are entitled to Special Duty Allowance with arrears in terms of the Hon'ble Supreme Court Judgment and order passed in Civil Appeal No. 8208-8213 of 1995 arising out of Special Leave Petition No. 12450-55/92.

- 4.13 That it is stated that all the applicants are saddled with All India Transfer Liability since their joining in Geological Survey of India and applicants being residents of outside the N.E. Region, as such the said transfer liability which is subsequently curtailed or restricted so far Group C and D employees working in GSI without inviting any option from the applicants cannot disqualify the entitlement of Special Duty Allowance to the present applicants which is also confirmed by the Hon'ble Supreme Court in its order dated 7.9.1995 referred to above.

It is pertinent to mention here that all the applicants have joined the GSI, NER, on appointment with all India transfer liability from outside the N.E. Region with a hope that they may be posted back to their home town/choice station during their service career on transfer after serving the certain period in N.E.R. But the respondents had taken the decision of regionalisation of Group C and D cadre with effect from 1.8.1984

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that too without inviting any option from the applicants. As a result of such arbitrary decision of the respondents the present applicants have been forced to serve GSI in N.E.R. and their services are not sought to be confined within north eastern region, although by the lapse of time the present applicants have been placed in Group "B" Cadre by way of promotion. As such the aforesaid policy of regionalisation does not apply in the instant case of the present applicants. Therefore the present applicants are entitled to Special Duty Allowance in terms of the order of the Hon'ble Supreme Court dated 7.9.1995.

Copy of the letter dated 5.5.2000/8.5.2000 is annexed as
Annexure- 4A.

4.14 That the applicants were paid SDA by the respondents either on their on in terms of the O.M. dated 1.12.1983 or on the Direction of the Hon'ble Tribunal for the following period :

Sl. No.	From	To
1	1.11.1983	31.7.1984
2	1.4.1990	31.12.1995
3	Applicant no. 5 and 72 other employees of the GSI posted in Itanagar and Assam have already been paid the payment of SDA by the respondents since 1.11.1983 to 31.12.1995.	

4.15 That it is stated that Group C and D employees Association of Geological Survey of India, North Eastern Region, Shillong, namely, Geological Survey of India, Employees Association and Ors had filed an Original Application which was registered as O.A. No. 183 of 1990 claiming payment of Special Duty Allowance in terms of Office Memorandum dated 14.12.1983 issued by the Government of India, Ministry of Finance, Department of Expenditure, New Delhi. However, this Hon'ble Tribunal vide order dated 12.9.1991 gave

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direction to the respondents to pay SDA to the members of the aforesaid Association. The Union of India preferred a Review Application against the said judgment and order dated 12.9.1991 before the Central Administrative Tribunal. However, the Hon'ble Tribunal dismissed the said Review Application and thereafter respondent Union of India preferred an appeal before the Hon'ble Supreme Court against the said judgment and order which was registered as SLP No. 12450-55/92. It is pertinent to mention here that the Original Application No. 183/1990 which was filed before the C.A.T, Guwahati Bench, where both residents and non residents of N.E. Region, who were working under the respondents- Union of India were applicants. But the said fact was not specifically brought before the Hon'ble Supreme Court by the respondent Union of India - petitioner before the Hon'ble Supreme Court. It is also not disclosed at any point of time neither by the Association nor by the respondent union of India that a few group C employees were either joined the N.E. Region on transfer in public interest before 1.8.1984 (before the date of regionalisation) or initially posted from outside the N.E. Region through open competitive examination which was conducted by the Staff Selection Commission and at the relevant time all those particular employees were saddled with all India transfer liability. However, even then the Hon'ble Supreme Court while disposing the aforesaid appeal observed as follows :

" Heard learned counsel for the parties. It appears to us that although the employees of the Geological survey of India were initially appointed with an all India transfer liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of Group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government

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employees having all India Transfer Liability is not to be paid to such Group "C" and Group "D" employees of Geological Survey of India who are residents of the region in which they are posted.

It is quite clear from the above observation made by the Hon'ble Supreme Court only excluded entitlement of Special Duty Allowance to such Group C & D employees of GSI who are permanent resident of North Eastern Region. As such present applicants who joined the GSI from outside the N.E. Region before 1.8.1984 (prior to regionalisation) cannot be excluded from payment of Special Duty Allowance in terms of O.M. dated 14.12.1983, rather they are entitled to payment of Special Duty Allowance in terms of the O.M. dated 14.12.1983 which was further extended from time to time by the Government of India.

4.16 That it is stated that after decision of the Hon'ble Supreme in the Special Leave Petition referred to above, all the applicants approached the authorities for continuation of payment of Special Duty Allowance. But the payment of SDA was denied to the applicants, in such compelling circumstances applicant nos. 1 and 2 approached this Hon'ble Tribunal along with other similarly situated employees through O.A. No. 75 of 1996. The said O.A. was finally decided by the Hon'ble Tribunal on 4.1.1999 and disposed of the same with the following direction :

"on hearing the learned counsel for the parties we are of the opinion that the Annexure 5 judgment dated 7.9.1995 of the Supreme Court has clearly mentioned that the SDA is not payable to those employees who are residents of the North Eastern Region. It is not possible for this Tribunal to come to a definite conclusion in the absence of necessary facts as to whether the present applicants are residents of the North Eastern Region or not. The Annexure 6 order dated

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29.12.1995 also does not indicate that this was issued after taking into consideration of the fact that the applicant Nos. 1, 2 and 9 were transferred from outside to the N.E. Region. Therefore, we feel it will be apposite if the matter is sent to the respondent No. 3 to consider the following.

- A. Whether the applicant No.1, in whose favour this Tribunal gave direction by order dated 29.6.1990 passed in Original application No. 37(G)/89 to pay the SDA and there being no appeal against that order, is entitled to get the SDA even after the Annexure-5 judgment dated 7.9.1995 of the Supreme Court.
 - B. Whether the applicant Nos. 1,2 and 9 who were transferred to the North Eastern Region from outside prior to the Annexure 3 regionalisation which came into effect from 1.8.1984, are entitled to get SDA even after the Annexure 5 judgment dated 7.9.1995 of the Supreme Court.
 - C. The respondent No. 3 shall further consider whether the applicant Nos. 3 to 8 are residents of the North Eastern Region and not entitled to SDA as indicated in the Annexure-5 judgment dated 7.9.1995 of the Supreme Court.
9. The application is accordingly disposed of. No order as to costs."

It is quite clear from the judgment and order dated 4.1.1999 passed by this Hon'ble Tribunal wherein the Hon'ble Tribunal directed the respondents to decide the entitlement of those applicants taking into consideration whether applicant nos. 1, 2 and 9 were transferred to N.E. Region from outside prior to the regionalisation which came into effect from 1.8.1984 are entitled

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to get SDA even after the judgment and Order dated 7.9.1995 passed by the Hon'ble Supreme court.

Secondly, it was also directed by the Hon'ble Tribunal to the respondents to consider whether applicant nos. 3 to 8 are residents of the N.E. Region and not entitled to SDA as indicated in the judgment dated 7.9.1995 passed by the Hon'ble Supreme Court. It is specifically observed by the Hon'ble Tribunal in O.A. No. 75 of 1996 that respondent no.3 i.e. Deputy Director General, GSI, NER, Shillong should decide these points after taking into consideration of the relevant rules and law and dispose of the matter as early as possible within a period of three months from the date of receipt of that order.

A copy of the judgment and order dated 4.1.1999 are enclosed as Annexure-5.

4.17 That it is stated that a mere reading of the judgment dated 4.1.1999 will make it abundantly clear that if it is held by the respondents that those applicants of O.A. No. 75 of 1996 are not permanent resident of N.E. Region in that event applicant nos. 3 to 8 would be entitled to Special Duty Allowance and applicant nos. 1, 2 and 9 would be entitled to Special Duty Allowance if it is held by the respondents that they have been transferred and posted in N.E. Region before regionalisation in public interest having all India Transfer Liability at the relevant time.

4.18 That it is stated that most surprisingly, the respondents after receipt of the judgment and order dated 4.1.1999 although examined the matter but it appears that the respondents have misunderstood the very contents of the judgment and order dated 4.1.1999 and accordingly took an erroneous view while passing the impugned order bearing letter No. 588/97/CAT/Law/96/NER dated 29.4.1999.

It is relevant to mention here that this Hon'ble Tribunal while passing the judgment and order dated 4.1.1999 in O.A. 75 of

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1996 sufficiently indicated in its order that the crux of the matter "whether the present applicants are residents of the North Eastern or not". It is further held by the Hon'ble Tribunal in paragraph 8 of the judgment that the then impugned order of stoppage of Special Duty Allowance to the applicants dated 29.12.1995 did not indicate that the said order was issued after taking into consideration of the fact that the applicants nos. of O.A. No. 75 of 1996 were transferred from outside to the North Eastern Region. The relevant portion of paragraph 8 of the judgement and order dated 4.1.1999 passed in O.A. No. 75/1996 is quoted below :

" on hearing the learned counsel for the parties we are of the opinion that the Annexure 5 judgment dated 7.9.1995 of the Supreme Court has clearly mentioned that the SDA is not payable to those employees who are residents of the North Eastern Region. It is not possible for this Tribunal to come to a definite conclusion in the absence of necessary facts as to whether the present applicants are residents of the North Eastern Region or not. The Annexure 6 order dated 29.12.1995 also does not indicate that this was issued after taking into consideration of the fact that the applicant Nos. 1, 2 and 9 were transferred from outside to the N.E. Region."

It is further submitted that the present applicants cannot be treated as permanent resident of North Eastern Region as per the existing laws, local laws, and rules. As such all the applicants are entitled to payment of Special Duty Allowance.

4.19 That it is stated that in the impugned order dated 29.4.1999 the respondents have arbitrarily decided that those applicants of O.A. 75/96 who came on transfer from outside the N.E. Region prior to 1.8.1984 in the Group C cadre were entitled to SDA up to 31.7.1984. and they are not entitled to SDA with effect from

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1.8.1984 in view of the decision of regionalisation which came into effect w.e.f. 1.8.1984. This decision of the respondents is contrary to law as well as the same contrary to the object of the Office Memorandum dated 14.12.1983 and the same is also violative of the order of the Hon'ble Supreme court dated 7.9.1995 passed in S.L.P. No. 12450-55 and also the judgment and order dated 4.1.1999 passed in O.A. No. 75 of 1996 by this Hon'ble Tribunal. As such the impugned order 29.4.1999 is void ab initio.

A copy of the impugned order dated 29.4.1999 is annexed hereto and marked as **Annexure-6**.

4.20 That it is stated that all the applicants are now serving in the cadre of Group B and their seniority is also maintained on all India Basis. As such, applicants are entitled to payment of Special Duty Allowance in terms of the O.M. dated 14.12.1983.

4.21 That all the applicants approached the authorities on several occasions for payment of Special Duty Allowance and the competent authorities thereafter sometime during the year 2001 accorded sanction for payment of SDA to the applicants with arrears in terms of the Hon'ble Supreme Court order dated 7.9.1995 referred to above. Accordingly the bill for payment of SDA was prepared from the Office of Deputy Director General, GSI, NER Shillong and the same was sent to the Pay and Accounts Officer GSI, and the said Pay and Accounts Officer also passed necessary order for payment of the same and accordingly Cheque was issued against the aforesaid bill. But surprisingly the office of the Controller of Accounts, Calcutta passed a direction immediately to withhold the said payment of SDA to the applicants and other similarly situated employees which would be evident from the File No. 12/SLP-LTA/92. Therefore the Hon'ble Tribunal be pleased to direct the respondents to produce the aforesaid file before the Hon'ble Tribunal for perusal of the same.

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It is relevant to mention here that the applicant No. 3 also submitted a detail representation for payment of Special Duty Allowance in the month of March 2001 to the Dy. Director General, N.E. Region, Shillong and the applicants were very much hopeful that they would receive the payment of Special Duty Allowance with arrears in terms of the order of the Hon'ble Supreme Court order dated 7.9.1995 passed in SLP No. 124565 in the case of Union of India Vs. GSI Employees Association & Ors., but to no result. It is stated that cause of action for non payment of Special Duty Allowance is arises in each and every day as well as every month and it is a recurring cause of action, as such the applicant incurring financial loss each and every month and in such compelling circumstances the applicants finding no other alternative approaching the Hon'ble Tribunal once again for redressal of their grievances.

A few Copies of the representation referred to above is annexed hereto and marked as **Annexure-7.**

4.22 That this application is made bonafide and for the cause of justice.

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

- 5.1 For that, the respondents have misread and misinterpreted the judgment and order of the Hon'ble Supreme Court passed in Civil Appeal No. 8208-8213/95 and the judgment and order dated 4.1.1999 passed in O.A. No. 75 of 1996 with the deliberate intention to deprive the benefit of SDA to the applicants.
- 5.2 For that the same respondents subsequently after passing of the impugned order dated 29.4.1999, accorded sanction for payment of SDA to the applicants with arrears sometime in the month of November, 2000 but the payment is withheld at the instance of the Controller of Accounts, GSI, Calcutta without assigning any reason.

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- 5.3 For that the decision of the Controller of Accounts withholding the payment of SDA when the same was sanctioned, approved and passed by the competent authority of the GSI, as well as the Pay and Accounts Officer, GSI, NER, Shillong without assigning any reason cannot be sustained in the eye of law.
- 5.4 For that all the applicants were initially joined the GSI, NER, either on transfer or initially posted on appointment from outside the N.E. Region before 1.8.1984 and the applicants cannot be treated as permanent resident of N.E. Region at any stretch of imagination as such they are entitled to payment of SDA.
- 5.5 For that the applicants are entitled to payment of SDA in terms of the Hon'ble Supreme Court order passed in Civil Appeal NO. 8208-8213 dated 7.9.1995 in the case of Union of India Vs. Geological Survey of India Employees Association & Ors. and also in terms of the judgment and order dated 4.1.1999 passed in O.A. No. 75 of 1996.
- 5.6 For that the present applicants are now serving in the cadre of Group 'B' Non Gazetted except applicant no.5 as such the decision of regionalisation of services of Group C and D employees which was imposed with effect from 1.8.1984 cannot make the applicants ineligible for entitlement of SDA.
- 5.7 For that the applicant no.5 as well as other applicants joined the GSI, NER from outside the North Eastern Region in public interest. As such the subsequent decision of regionalisation w.e.f. 1.8.1984 without providing any opportunity or without inviting any option cannot disqualify the applicants for entitlement of Special Duty Allowance.
- 5.8 For that the decision of the Controller of Accounts, GSI, NER, Calcutta, for withholding of payment of SDA to the applicants as learnt from reliable source did not base on any justifiable reason

Tarit Ranjan Das

and the said arbitrary decision has not been disclosed by the respondents to the applicants for the reason best known to them.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other court.

The applicant further declares that the applicant nos. 1 and 2 had previously filed an application before the Hon'ble Tribunal which was registered as O.A. No. 75 of 1996 following the judgment delivered by the Hon'ble Supreme Court in Civil Appeal No. 8208-8213, and the same was disposed of on 4.1.1999 with a direction to decide whether they were transferred from outside to N.E.R. but the respondents rejected the claim of the applicants arbitrarily. The applicants further declare that no such Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

Tarjit Ranjan Das

48

- 8.1 That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to SDA in terms of O.M. dated 14.12.1983 as well as in terms of the order of the Supreme Court dated 7.9.1995 passed in Civil Appeal No. 8208-8213 and also in terms of the judgment and order dated 4.1.1999 passed in O.A. No. 75 of 1996.
- 8.2 That the respondents be directed to continue to pay the Special Duty Allowance to the applicants along with arrears for the period 1.8.1984 to 31.3.1990 and to continue to pay with effect from 1.1.1995 to with immediate effect.
- 8.3 That the Hon'ble Tribunal further be pleased to direct the respondent no. 4 to pay the Special Duty Allowance for the period the served the Central Administrative Tribunal on deputation basis to the post of Private Secretary i.e. for the period 1.9.1994 to 31.8.1997 and 1.8.1998 to the actual date of repatriation to his parent department in terms of the prayer No. 8.1.
- 8.3 Costs of the application.
- 8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief :-

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents to continue to pay the Special Duty Allowance to the applicants.

Tariff Rajan 200

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No. : 76576556.
ii) Date of issue : 27.7.2002.
iii) Issued from : G.P.O., Guwahati.
iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Tarit Ranjan Das

VERIFICATION

I, Shri Tarit Ranjan Das, Son of Late Khagendra Chandra Das, aged about 44 years, working as Superintendent, Office of the Senior Deputy Director General, Geological Survey of India, North Eastern Region Shillong, (at present posted in the C.A.T. Guwahati Bench, as Private Secretary, on deputation basis) one of the applicants in the instant application duly authorized by the other applicants to verify the statements made in this application and to sign this verification. Accordingly I declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to My legal advice which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 18th day of Aug July 2002.

Tarit Ranjan Das
Signature

Tarit Ranjan Das

From:
The Dy. Director General,
Geological Survey of India,
N. E. Region, Shillong.

Dated: 24/11/83.

To:
--- Shri. --- T. R. R. Das.
--- P. O. --- De W. R. Das.
--- Asst. --- C. R. R. Das.
--- Pin --- 736134

MEMORANDUM

Sub: Recruitment to the post of Stenographer Gr-I
in the Geological Survey of India, N.E. Region, Shillong.

Subject to the production of the original documents herein after mentioned and to the acceptance of the contents here of by the undersigned and also subject to the conditions set forth below, Shri/Miss/Ms. T. R. R. Das is offered a temporary appointment of Stenographer Gr-I in the Geological Survey of India on a pay of Rs. 425/- in the scale of Rs. 425-15-500-60-15-560-20-700/- plus dearness and other allowances at the rate admissible under, and subject to the conditions laid down in, rules and orders governing the grant of such allowances in force from time to time.

2. The appointment is temporary, but likely to continue for an indefinite period.
3. Appointment carries with its liability to serve in any part of India.

4. He will have to remain on probation for 2 years in the first instance from the date of his appointment as Stenographer Gr-I in the G.S.I. Retention in the post for further period will depend on assessment of his work during probationary period. This ~~probationary~~ period may, however, be extended or modified at the discretion of the Government of India.

5. His services may be terminated as follows:—

- (1). At any time without notice during the probationary period.
- (ii) At any time except during the probationary period on one calendar month's notice in writing given to him by Government if in the opinion of the Government he proves unsuitable for the efficient performance of his duties.
- (iii) At any time, without previous notice, if Government is satisfied on medical evidence that he is unfit or is likely, for considerable period, to continue unfit for the discharge of duties provided always that the decision of the Government that he is likely to continue unfit shall be conclusively binding on him.

Contd..... 2/

Attested
Dy. Dir.
Advocate

- any case, without any previous notices, if he is found to be guilty of any insubordination, intemperance or other misconduct or of any breach of non-performance of any of the provisions of his conduct with the Government or of any rules pertaining to the breach of the public Service to which he may belongs.
- (v) By 1 (one) month's notice in writing given at any time either by him to the Government or by Government to him without cause assigned. Provided always that the Government may in lieu of any notice herein provided for, give him a sum equivalent to the amount of his pay for one month.
 6. The appointment is subject to his being declared medically fit by a competent medical authority and his character and antecedents found satisfactory.
 7. He will have to take an oath of allegiance to the constitution of India in the prescribed form.
 8. He will have to give a declaration of his marriage in the prescribed form and in the event of his having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirement in this behalf.
 9. Other conditions of his service will be governed by the relevant rules and orders in force from time to time.
 10. He should produce the following :-
 - (i) Original Matriculation and other certificates of educational qualifications together with attested copies thereof and any other documents as an evidence of age.
 - (ii) One Character Certificate in the enclosed form from the Head of Educational Institution last attended by his/her and a similar certificate from his employer, if any, duly attested by the stipendary 1st Class Executive Magistrate, District Magistrate or S.D. Magistrate or their higher authorities.
 - (iii) All the forms.
 11. If any declaration give or informations furnished by the candidate proves to be false or if the candidate is found to have wilfully, suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.
 12. No travelling allowance will be allowed for joining the appointment.
 13. He/She should acquire the minimum 30 words per minute in typing within six months from the date of his/her joining, failing which he/she will not be entitled to increment/quasi-permanency/permanency etc.
 14. He/She will be posted in the office North Eastern Region
Geological Survey of India, (Asst. Quartermaster) Shillong
If Shri/Smt./Ms. Tarjit Royan Das
 willing to accept the above appointment on the terms and conditions as mentioned he is requested to report for duty to the undersigned within 30 days from the date of issue of this memo.

(A.K. CHATTERJEE)
 Admn. Officer,
 for Dy. Director General.

No. A 1202/1/8/2-Recd.

Dated. '83.

Copy for information and necessary action to:-

1. The Sr. Dy. Director General (Personnel), G.S.I., 4, Chowringhee Lane, Cal- 16.

2. The Regional Director S.I. Commission
R.K. Chatterjee, Room 2, Gachhale, Shillong
Gachhale 781004. AS per your letter
NO. 5526/EXAM/45/1-83/14505.
dt. 6.12.83

(A.K. CHATTERJEE)
 Admn. Officer,
 for Dy. Director General.

GOVERNMENT OF INDIA
GEOLOGICAL SURVEY OF INDIA
N.E. REGION, SHILLONG

Page No. 2

To. 5738/A-1221/18/82-100

Date. 21.12.83.

From:

The Dy. Director General,
Geological Survey of India,
N. E. Region, Shillong.

To:

Hind Commercial

Shri. Ramdeo Choudhary
Hind Commercial Institute, Gopabandhu
P.O. - ~~Patna~~ POBRORE
Dist. - Begusarai (Bihar)

MEMORANDUM

Sub: Recruitment to the post of Steno-graphic Clerk
in the Geological Survey of India, N.E. Region, Shillong.

Subject to the production of the original documents herein after mentioned and to the acceptance of the contents here of by the undersigned and also subject to the conditions set forth below, Shri/Miss/Mrs. Ramdeo Choudhary IS offered a temporary appointment of Steno-graphic Clerk in the Geological Survey of India on a pay of Rs. 1425/- in the scale of Rs. 1425-1552-60-1556-20-700/- plus dearness and other allowances at the rate admissible under, and subject to the conditions laid down in, rules and orders governing the grant of such allowances in force from time to time.

2. The appointment is temporary, but likely to continue for an indefinite period.
3. Appointment carries with its liability to serve in any part of India.
4. He will have to remain on probation for 2 years in the first instance from the date of his appointment as Steno-graphic Clerk in the G.S.I. Retention in the post for further period will depend on assessment of his work during probationary period. This ~~probationary~~ period may, however, be extended or modified at the discretion of the Government of India.
5. His services may be terminated as follows:
 - (i). At any time without notice during the probationary period.
 - (ii) At any time except during the probationary period on one calendar month's notice in writing given to him by Government if in the opinion of the Government he proves unsuitable for the efficient performance of his duties.
 - (iii) At any time, without previous notice, if Government is satisfied on medical evidence that he is unfit or is likely, for considerable period, to continue unfit for the discharge of duties provided always that the decision of the Government that he is likely to continue unfit shall be conclusively binding on him.

Contd..... 2/

Shri. Ramdeo Choudhary
Advocate

- (iv) At any time, without any previous notices, if he is found to be guilty of any insubordination, intemperance or other misconduct or of any breach of non-performance of any of the provisions of his conduct with the Government or of any rules pertaining to the breach of the public Service to which he may belongs.
- (v) By 1 (one) month's notice in writing given at any time either by him to the Government or by Government to him without cause assigned. Provided always that the Government may in lieu of any notice herein provided for, give him a sum equivalent to the amount of his pay for one month.
- 6. The appointment is subject to his being declared medically fit by a competent medical authority and his character and antecedents found satisfactory.
- 7. He will have to take an oath of allegiance to the constitution of India in the prescribed form.
- 8. He will have to give a declaration of his marriage in the prescribed form and in the event of his having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirement in this behalf.
- 9. Other conditions of his service will be governed by the relevant rules and orders in force from time to time.
- 10. He should produce the following :-
 - (i) Original Matriculation and other certificates of educational qualifications together with attested copies thereof and any other documents as an evidence of age.
 - (ii) One Character Certificate in the enclosed form from the Head of Educational Institution last attended by him/her and a similar certificate from his employer, if any, duly attested by the stipendiary 1st Class Executive Magistrate, District Magistrate or S.D. Magistrate or their higher authorities.
 - (iii) All the forms.
- 11. If any declaration given or informations furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.
- 12. No travelling allowance will be allowed for joining the appointment.
- 13. He/She should acquire the minimum 30 words per minute in typing within six months from the date of his/her joining, failing which he/she will not be entitled to increment/quasi-permanency/permanency etc.
- 14. He/She will be posted in the office M. N. C. S. R. E. S. I. N. E. R.
Geological Survey of India,
If Mr./Mrs./Ms. Ramdeo Chakrabarti
willing to accept the above appointment on the terms and conditions as mentioned he is requested to report for duty to the undersigned within 30 days from the date of issue of this memo.

Director, GSI, M.N.C. S.R.E.S.I. N.E.R.
(Manipur - Nagaland circle)
G.S.I. / DIMA-PUR

(A.K. CHAKRABARTY)
Acting Officer
Sr Dy. Director General.

No. 1A-12021/1/8/82-Pat

Dated. '83.

Copy for information and necessary action to:-

- 1. The Sr. Dy. Director General (Personnel), G.S.I., 4, Chowringhee Lane, Cal- 16.
- 2. The Director, M.N.C. S.R.E.S.I. Dimapur
Shri Ramdeo Chakrabarti may be permitted
to join as stenographer, Jr-I in your office
after verification of his educational
qualifications and previous service
as original documents and joining report for Dy. Director General.
Along with a copy of the M.O. and other papers
the documents furnished to the undersigned are being forwarded.

Noted
for
approval

No.20014/2/83/B.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 State 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 Control Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) Tenure of posting/deputation :-

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. Periods of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the

*certified
 to be true copy
 J. S. Adv. cal*

employee concerned in 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.

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 exempted from payment of Income Tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre-Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance 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.

Sd/S.C. MAILALIK
Joint Secretary to the Government of
India

*certified to
be true copy
for
Sd/S.C. MAILALIK*

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8208-8213
(Arising out of SLP Nos. 12450-55/92)

Union of India & Ors.

--- Appellances

-VERSUS

Geological Survey of India

24512

Employees' Association & Ors.

... Respondents

ORDER

Delay condoned

Leave granted

Mr. P.K.Goswami, learned senior counsel appears for Geological Survey of India Employees' Association and Mr. S.K.Nandy, Advocate, appears for the other respondents in all the matters.

Heard learned counsel for the parties. It appears to us that although the employees of the Geological Survey of India were initially appointed with an all India Transfer liability, [subsequently Government of India framed a policy that Class C and D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of Group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such group C and Group D employees of Geological Survey of India who are residents of the region in which they are posted. We may also indicate that such question has been considered by this Court in Union of India & Others Vs.

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Learn
Advocate*

*Residents
with*

Annexure-3 (Contd.)

S. Vijay Kumar & Others (1994 (3) SCC 649).

Accordingly, the impugned order is set aside. We, however direct that the appellant will not be entitled to recover any part of payment of special duty allowance already made to the concerned employees. Appeals are accordingly disposed of.

New Delhi

September 7, 1995

Sd/- G.N. Ray

Sd/- S.Z. Majumdar

*Attested
Jus
Advo call*

Annexure-4

Government of India
Geological Survey of India
North Eastern Region
Shillong.

No. ____/12/SLP-SDA/92

Dated ____ December, 1995

OFFICE ORDER

The Hon'ble Supreme Court vide Order dated 7.9.95 on the petition of Special Leave to Appeal (Civil) No. 1245/-55/92, Civil appeal No. 8208-8213/1995 against the judgment and order dated 12.09.91 passed in O.A. No. 183/90, MA 159/91, RA 47/91 in respect of Payment of Special Duty Allowance to Group 'C; and Group 'D' employee filed by UOI Vs. GSI Employees Association held that'

"It appears to us that although the employees of Geological Survey of India, were initially appointed with an all India Transfer Liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of Group C and D employees".

In compliance of the order of the Hon'ble Supreme Court, Special Duty Allowance currently being paid to Group 'C; and 'D; employees of Geological Survey of India shall not be paid w.e.f. 01.01.1996.

As directed by Hon'ble Supreme Court, no recovery of any part of payment of Special Duty Allowance already made to them will be effected.

Sd/- Illegible

(K. KRISHNAUNNI)

Deputy Director General
Geological Survey of India
North Eastern Region
Shillong.

No. 5426/12/SLP-SDA/92

Dated 29th December 1995

Copy to :

1. The Dy. Director General (P), Geological Survey of India, Calcutta.
2. The Director, RGD's G.S.I., N.E.R., Assam, Guwahati/Itanagar/Dimapur/Agartala/Director Drilling/C.O. to bring to the notice of all concerned.
3. The Sr. Pay & Accounts Officer, G.S.I., N.E.R. Shillong.
4. The administrative officer, Accounts IIA/Accounts IIB/Accounts-III/DDO/NER/Drilling/Budget etc.

*certified to
for true copy
for
Advocate*

-34-

1160N

Ty.Misc./RCP/GSI/98/19A

GOVERNMENT OF INDIA

5.5.2000
B.S. 2000

N/No

No

To (Name)

To (Address)

To (City)

From :

Dy. DIRECTOR GENERAL (PERSONNEL)

GOVERNMENT OF INDIA

4, CHOWRINGHIE LANE

The Sr.Dy.Directors General/
Dy. Directors GeneralGOVERNMENT SURVEYS OF INDIA
North-East Region/Wing
Shillong

Sub: re-classification of posts in GSI based on revised norms of pay scales consequent upon issuance of DOPT orders No.13012/1/98-Estt.(D), dated 20.4.1998 and No.13012/1/98-Estt.(D), dated 12.6.1998.

Sir,

Consequent upon further upgradation of the pay scales of STA level posts in some streams of Technical Operators and certain legal developments, the issue of re-classification in terms of the subject notification has been reviewed de-novo and it has been decided to accept the same for implementation in-into. Consequently all STAs, Foreman(Sr), Superintendent, Stores Supdt (Tech), Steno Gr I and Supdt (Publication) will stand re-classified as Group-D (non-gazetted) as per revised classification w.e.f 20.4.1998.

The instructions issued under fax message No.Ty Misc/Reclassification of posts GSI/98-19A, dated 15/18.99 are hereby re-instated in full. A copy of the same is enclosed for your ready reference. Consequently HQ letter No.Ty/Misc/Re-classification of posts/GSI/98/19A dated 18.3.99 and all subsequent correspondence/orders/instructions issued in supersession to the above instruction of 15.18-1.99 are hereby treated as cancelled and withdrawn. In view of the existing ban on filling up of the posts and instructions already in force in this connection, it is presumed that no promotion has been effected to these posts through DPC. This may be confirmed. As already requested, details of D/R vacancies, if any, to these grades that have been filled up subsequent to 20.4.1998 and before the implementation of the ban orders, may be forwarded at the earliest and in any case latest by 15.5.2000.

Encls: as above.

Yours faithfully,

(P.K.Ranganathan)
Dy. Director General(P)

Date

Marked to

(1) This is

(2) This is

(3) This is

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.75 of 1996

Date of decision: This the 4th day of January 1999

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. Shri Hari Ram
2. Shri Sunil Ghosh
3. Shri Gopala Kr Nair
4. Shri Ashoke Kr Das
5. Mrs Reena Ghosh
6. Shri Dilip Kr Sarkehi
7. Shri Radheshyam Ram
8. Shri Rajendra Prasad Singh
9. Shri Manindra Chandra Das

All are Group 'C' and 'D' employees of Geological Survey of India serving in the States of North Eastern Region.

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

1. The Union of India, through the Secretary, Ministry of Steel & Mines, Government of India, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. The Deputy Director General, Geological Survey of India, North Eastern Region, Shillong.

.....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

In this application the applicants have challenged the Annexure 6 order dated 29.12.1995 issued by the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong- respondent No.3.

2. The applicants as per the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 prayed for an order allowing

*Dismissed
for want of
prosecution*

B2

them to pursue the case by a single application. This Tribunal by order dated 24.5.1996 allowed the applicants to proceed with the case by this single application.

3. The contention of the applicants is that they are from various parts of the country posted in the North Eastern Region and they are not residents of the North Eastern Region. The applicant No.1 was appointed in Nagpur and transferred to various places of the country. Ultimately he was transferred to the North Eastern Region on 12.8.1980 and since then he has been posted in the North Eastern Region. The applicant No.2 was appointed in Calcutta and he was transferred to the North Eastern Region in June 1977 and since then he has been serving in the North Eastern Region. The applicant No.9 was initially appointed at Bangalore and he was transferred to the North Eastern Region on 1.7.1977 and since then he has been serving in the North Eastern Region. The other applicants were appointed in the North Eastern Region though they are not permanent residents of the North Eastern Region. These applicants, namely, applicant Nos.3 to 8 were appointed on the basis of All India Recruitment and posted in the North Eastern Region. According to them they are not permanent residents of the North Eastern Region.

4. On 14.12.1983 the Government of India, Ministry of Finance issued Annexure 1A Office Memorandum granting certain allowances and facilities to the employees working in the North Eastern Region including Special (Duty) Allowance (SDA for short). The said office memorandum was issued with the sole idea of attracting and retaining employees from outside the region because there was dearth of local employees and employees from outside the North Eastern Region were unwilling to come

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to this region. A fixed amount of SDA is paid to the employees. This office memorandum was later on modified by Annexure 1B Office Memorandum dated 20.4.1987. The applicant No.1, though he was transferred before the introduction of the scheme by Annexure 1A Office Memorandum, he was not given the SDA. Therefore, he filed an Original Application No.37(G)/89 before this Tribunal. This original application was disposed of by order dated 29.6.1990 by directing the respondents to pay the SDA to him. No appeal was filed against the said order. Another application was filed by the Employees Association of Geological Survey of India and others before this Tribunal against the denial of payment of SDA to the members of the association. The said application was registered and numbered as Original Application No.183/1990. This Tribunal by order dated 12.9.1991 gave direction to the respondents to pay SDA to the members of the association. In the said Original Application No.183/90 the present applicant No.2 was one of the members of the association at the time of filing of the application. Against the order of the Tribunal an SLP was filed before the Supreme Court (C.A.No.8208-8213 of 1995 arising out of SLP Nos.1245-55/92) by the Union of India. The Supreme Court disposed of the said SLP by order dated 7.9.1995. In the said order the Supreme Court observed thus:

".....It appears to us that although the employees of the Geological Survey of India were initially appointed with an all India transfer liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability

Pls. see
Advocate

B

no longer continues in respect of group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such group C and D employees of Geological Survey of India who are residents of the region in which they are posted." (emphasis added).

5. After the Annexure 5 judgment of the Supreme Court dated 7.9.1995, respondent No.3 issued Annexure 6 office order dated 29.12.1995. By the said order it was directed as follows:

".....In compliance of the order of the Hon'ble Supreme Court, Special Duty Allowance currently being paid to Group 'C' and 'D' employees of Geological Survey of India shall not be paid w.e.f. 01.01.1996."

Being aggrieved by the above order the applicants have filed the present application.

6. In due course the respondents have entered appearance and have filed written statement. The contention of the respondents as it appears from the written statement is that in view of the regionalisation the SDA should not be paid to the Group 'C' and 'D' employees working in the North Eastern Region.

7. We have heard Mr B.K. Sharma, learned counsel for the applicants and Mr B.C. Pathak, learned Addl. C.G.S.C. Mr Sharma submits that this Tribunal gave a final order on the basis of the original application No.37(G)/89 filed by the applicant No.1, holding that the applicant No.1 was entitled to SDA. No appeal

was filed against that judgment. According to Mr Sharma the said judgment of the Tribunal reached its finality so far as applicant No.1 is concerned. The applicant No.2 was a party to the original application No.183/90 and the Tribunal in this case also directed payment of SDA to the members of the association in

which.....

*Attested
Signature
Advocate*

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: 5 :

which the applicant No.2 was also a member. On appeal, the Supreme Court passed the Annexure 5 order dated 7.9.1995, portion of which have already been quoted. Besides, Mr Sharma submits that the applicant Nos.1, 2 and 9 were appointed outside the North Eastern Region prior to 1980 and the authority had transferred them to the North Eastern Region between 1977 and 1980. In respect of the other applicants Mr Sharma has very strenuously argued that, no doubt, these applicants were recruited in the North Eastern Region, but they were appointed on the basis of All India Recruitment and they do not belong to the North Eastern Region. Therefore, in spite of the Annexure 5 judgment of the Supreme Court, these applicants are also entitled to get SDA. Mr B.C. Pathak learned Addl. C.G.S.C., on the other hand, submits that the present applicants are not entitled to get the SDA as per the spirit of the Annexure IA Office Memorandum dated 14.12.1983 and in the light of the observations made by the Supreme Court in the case of Chief General Manager (Telecom), N.E. Telcom Circle -vs- Rajendra Ch Bhattacharjee reported in (1995) AIR 813.

8. On hearing the learned counsel for the parties we are of the opinion that the Annexure 5 judgment dated 7.9.1995 of the Supreme Court has clearly mentioned that the SDA is not payable to those employees who are residents of the North Eastern Region. It is not possible for this Tribunal to come to a definite conclusion in the absence of necessary facts as to whether the present applicants are residents of the North Eastern Region or not. The Annexure 6 order dated 29.12.1995 also does not indicate that this was issued after taking into consideration of the fact that

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Alleged
Advocate

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the applicant Nos.1, 2 and 9 were transferred from outside to the North Eastern Region. Therefore, we feel it will be apposite if the matter is sent to the respondent No.3 to consider the following:

- A) Whether the applicant No.1, in whose favour this Tribunal gave direction by order dated 29.6.1990 passed in original application No.37(G)/89 to pay the SDA and there being no appeal against that order, is entitled to get the SDA even after the Annexure 5 judgment dated 7.9.1995 of the Supreme Court.
- B) Whether the applicant Nos.1, 2 and 9 who were transferred to the North Eastern Region from outside prior to the Annexure 3 regionalisation which came into effect from 1.8.1984, are entitled to get SDA even after the Annexure 5 judgment dated 7.9.1995 of the Supreme Court.
- C) The respondent No.3 shall further consider whether the applicant Nos.3 to 8 are residents of the North Eastern Region and not entitled to SDA as indicated in the Annexure 5 judgment dated 7.9.1995 of the Supreme Court.

The respondent No.3 shall decide these points after taking into consideration of the relevant rules and law and dispose of the matter as early as possible at any rate within a period of three months from the date of receipt of this order. As prayed by the learned counsel for the applicants, before a decision is taken by respondent No.3 a personal hearing may be given to the applicants or their representative.

9. The application is accordingly disposed of. No order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMN)

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Adm. cell*

CONFIDENTIAL

GOVERNMENT OF INDIA

Geological Survey of India
North Eastern Region
Shillong

No. ⁵⁸⁸ /97/CAT/LAW/96/NER

Dated 29.04.1999

SPEAKING ORDER

Sub: OA No. 75/1996 filed by Shri Hari Ram & 8 others in the CAT, Guwahati Bench, Guwahati.

Shri Hari Ram and 8 others in the subject case filed the subject application with a request to pray for the following relief:

- i) Quash and set aside the office order No. 5426/12/SLP-SDA/92 dated 29.12.95.
- ii) Direct the respondents to pay the Special Duty Allowance to the applicants alongwith arrears retrospectively from 1.1.96.
- iii) Pass any other or further order or orders or give direction or directions as may be deemed fit and proper in the facts and circumstances of the case.

The Hon'ble CAT, Guwahati Bench in their order dated 04-01-1999 gave the following directions in the subject application:-

"The matter is sent to the Respondent No.3 to consider the following :

- a) Whether the applicant No.1, in whose favour this Tribunal gave direction by order dated 29.6.1990 passed in original application No. 37(G)/89 to pay the SDA and there being no appeal against that order, is entitled to get SDA even after the Annexure-5 judgement dated 7.9.1995 of the Supreme Court.
- b) Whether the applicant Nos. 1, 2 and 9 who were transferred to the North Eastern Region from outside prior to the Annexure-3 regionalisation which came into effect from 1.8.1984, are entitled to get SDA even after the Annexure-5 judgement dated 7.9.1995 of the Supreme Court.
- c) The Respondent No. 3 shall further consider whether the applicant Nos. 3 to 8 are residents of the North Eastern Region and not entitled to SDA as indicated in the Annexure-5 judgement dated 7.9.1995 of the Supreme Court.

The Respondent No. 3 shall decide these points after taking into consideration of the relevant rules and law and dispose of the matter as early as possible at any rate within a period of three months from the date of receipt of this order. As prayed by the learned

*Attended
Law
Advocate*

counsel for the applicants, before a decision is taken by Respondent No. 3 a personal hearing may be given to the applicants or their representative."

In compliance with the Order of the Hon'ble CAT at Para 8(A), 8(B) & 8(C) of the above Order dated 4.1.1999, the matter was thoroughly considered by Respondent No. 3 (i.e. the Deputy Director General, GSI, NER, Shillong) as desired by CAT in the light of relevant rules and law, and the matter is disposed of as stated in the Speaking Order as below :-

✓
Relating to Para 8(A) : Applicant No. 1 Sri Hari Ram was transferred to NER as a Group-C employee on 12.8.80. The SDA orders became effective in December, 1983. The regionalisation order became effective on 1.8.84. He was certainly eligible for payment of SDA as UDC in NER upto 31.7.84 from the date of issue of the order, i.e. 14.12.83. He ceased to be eligible for S.D.A. w.e.f. 1.8.84 when he became part and parcel of the regionalised cadre of NER and consequent withdrawal of the transfer liability. Subsequently, when he was promoted to the post of A.O. which he took charge in NER on 10.11.97 on promotion from the post of Superintendent, the transfer liability was again placed on his post and therefore he became eligible for grant of SDA in terms of the original orders of DOPT of 1983. However, the clarification issued by DOPT vide their OM No. 11(3)/95-E.II(B), dated 12.1.96 would mean that only those who are having transfer liability and posted to NER on transfer from outside would be eligible for SDA. The essential and only criterion for grant of SDA in NER is the existence of transfer liability as tested against the method of recruitment, consideration of transfer etc. as clarified by the DOPT OM/All Group-B and A posts are having All India transfer liability and hence all those occupying these posts in NER should be eligible for SDA, a position affirmed by the Supreme Court in their order dated 7.9.95 in SLP No. 12450-55 of 92. On the other hand if the provisions under Para-6 of the DOPT clarification of 12.1.96 are applied then SDA will be applicable only on transfer from outside NER, as is presently the case. Shri Hari Ram's earlier status of eligibility ceased to exist as on 1.8.84 and when Shri Hari Ram again had the eligibility by virtue of his promotion to the post of Administrative Officer, he was posted in NER, not from outside NER.

On these grounds, Shri Hari Ram, Administrative Officer is considered not eligible for grant of SDA even after assuming charge as AO in NER.

Relating to Para 8(B) : The applicant No.1, 2 & 9 though came on transfer to NER prior to regionalisation, they became part and parcel of the regionalised cadre from 1.8.84, where separate cadres for Gr.'C' & 'D' post for the region were constituted along with the incumbents holding posts on the above date. The Supreme Court in the judgement dt. 7.9.95 clearly states "that Government of India framed a policy that Class 'C' and Class 'D' employees should not be transferred outside the region in which they are employed." Since then, the applicants No. 1, 2 & 9 have been promoted to the next Gr.'C' higher grade on the basis of regional seniority list (Applicant No. 1 promoted to the post of Assistant on 24.12.86 Superintendent on 30.8.93, Applicant No. 2 promoted to the post of UDC on 30.8.85, Assistant on 23.4.90 and then Superintendent on 23.4.97, Applicant No. 3 promoted to the post of S.T.A. (Survey) on 8.3.85.

The Applicant No. 1, 2 & 9 are not eligible for the S.D.A. even after the judgement dt. 7.9.95 of the Supreme Court as they do not fulfil the basic criteria of all India transfer liability for this purpose and as laid down for grant of S.D.A., vide OM No. 20014/2//83-E.IV, dt. 14.12.83, dt. 29.10.86 and 20.4.87.

*Attended
Lear
Advocate*

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Relating to Para 8(C) : As per Service records, the declared Home Town of Applicant Nos. 3 to 8 is outside NER but initially appointed to respective posts in NER. Since, then they have been promoted to Gr.C next higher grade on the basis of regional seniority list. } 64

Though the applicant Nos. 3 to 8 are not residents of NER, they are not eligible to S.D.A. in view of the Supreme Court Judgement dated 7.9.95 which clearly states "Hence all India transfer liability no longer continues in respect of Group C & D employees". Since they do not have all India transfer liability, they do not fulfil the eligibility criteria prescribed for grant of S.D.A. in OM dt. 14.12.83, 29.10.86 and 20.04.87.

Bhattacharya 29/04/99
(Dr. B.P.BHATTACHARYYA)
DY.DIRECTOR GENERAL
G.S.I., N.E.R., SHILLONG.

To
(All applicants at Sl.No. 1 to 9) as
per CAT, Guwahati Bench Order dt. 4.1.99.

✓ Shri Sunil Ghosh,
Superintendent,
Geological Survey of India,
North Eastern Region,
Shillong.

No. /97/CAT/LAW/96/NER.

Dated 29-04-99

Copy forwarded for information and necessary action to :

1. The Secretary to the Govt. of India, Ministry of Steel & Mines, Department of Mines, New Delhi. (Attn: Shri K.Sasikanthan, Under Secretary to Govt. of India).
2. The Director General, Geological Survey of India, 27, J.L.Nehru Road, Calcutta—700 016. (Attn: DDG(P)).

(SUBRATA CHAKRAVARTI)
DIRECTOR
FOR DY. DIRECTOR GENERAL
GSI,NER.

*Attested
Secy
D. S. V. S. S. S.*

To

The Deputy Deputy Director General
Geological Survey of India
North Eastern Region
Shillong-793003

Sub : Special (Duty) Allowance.

Sir,

With due deference and profound submission, I beg to state following for your kind perusal, favourable consideration and necessary order thereof.

1. That Sir, you are aware presently I have been working as Private Secretary in the Central Administrative Tribunal, Guwahati Bench, Guwahati on deputation basis with effect from 1.8.1998. That I belong to the cadre of Stenographer Grade II. I had joined my assignment as Stenographer Grade II (Formerly Grade-I) in the year 1984 (i.e. on 04.01.1984) in terms of offer of appointment vide memorandum dated 23.12.1983. A copy of the said O.M. dt. 23.12.1983 is enclosed for ready reference.
2. That my said appointment carries All India Transfer Liability in terms of clause (iii) of the said Office Memorandum dated 23.12.1983. My seniority is also maintained on All India common seniority list. In the seniority list of 1984, 1986 and 1988, 1998 published on All India common seniority list my position at serial Nos. 54, 53 and 24 respectively. In the seniority list of Superintendent my position at serial No. 236 published as on 31.12.1998. It is relevant to mention here that I have been promoted to the post of Superintendent in the year 1998 while my seniority position in the grade of Stenographer Gr.II was no.1 for consideration of my promotion in the All India seniority list of 1995. Needless to mention here that all India seniority is maintained on All India common seniority list since the day of joining.

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Attested
Jm
Advocate

3. That in pursuance of the Office Memorandum issued by the Government of India dated 14.12.1983, I was granted SDA in terms of the said O.M. Then the said benefit of SDA was withdrawn w.e.f. 1.8.1994, the employees of the Geological Survey of India had approached the Hon'ble CAT through O.A. No. 182/1990 in the year 1990. The said O.A. was allowed in favour of the employees. The Respondents of the aforesaid application preferred for Review of the judgement and order passed by the Hon'ble Tribunal, the Review application was also dismissed. It is pertinent to mention here that during the period I was on deputation on the Income Tax Appellate Tribunal, Guwahati Bench, Guwahati for a period of one year i.e. w.e.f. August 91 to July 1992, and on return to GSI on reversion I continued to get the benefit of Special (Duty) Allowance till August, 1994. It is relevant to mention here that I was sent on Deputation w.e.f. 1.9.94 to 31.8.1997 i.e. for a period of three years in the C.A.T., Guwahati Bench, Guwahati to the post of Private Secretary.
4. That against the said Judgement and Order of the Hon'ble Tribunal, the Union of India preferred an SLP before the Apex Court by its order dated 7.9.95 while disposing the appeal made it clear as follows :

"In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such Group C and D employees of Geological Survey of India who are residents of the region in which they are posted."

*Attested
Jeen
Advocate*

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In terms of the order of the Supreme Court dt. 7.9.95 mentioned above, the employees of the GSI who are not the resident of this Region served a Lawyer Notice for implementation of the said judgement dt. 7.9.95. But after gap of of few months a letter was received from the the Sendor Administrative Officer that the matter is under consideration and it was also mentioned that legal ^{opinion} ~~apex~~ was called for from the concerned C.G.S.C. But after that no communication has been made ~~XXXXXXXXXXXXXXXXXXXX~~ from the department to the cengaged advocate. In the meantime several representations were also made neither the judgement of the Supreme Court has been implemented nor a declaration is made that the non-resident of N.E. Region are entitled SDA, in terms of the aforesaid order of the Supreme Court dt. 7.9.95.

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That apart, The Central Administrative Tribunal, Guwahati Bench, Guwahati passed number of judgements during the year 2000-2001 on the subject of entitlement of SDA to the employees serving in the N.E. Region, one of which is i.e. O.A. No. 136 of 2000 in the case of Santosh Kr. N.V. passed on 20.12.2001 is enclosed. In the said case Santosh Kumar N.V. was joined as LDC through SSC and he belonged to the State of Kerala. The Hon'ble Tribunal after consulting the Supreme Court judgements referred by the parties found that he is entitled to SDA.

The circumstances explained above, leave no manner of doubt that I am entitled to the benefit of Special Duty Allowance and I have been deprived of the same illegally with a wrong notion of matter without taking into account the relevant facts including the Judgement of the Apex Court referred to above. I have been treated at par with other ineligible persons and thereby I have been deprived of the benefit of SDA from the year 1996 illegall y alongwith other ineligible persons. ~~XXXXXXXXXXXX~~

Contd...

Attested
J. S. Sengupta
Asst. Secy. to Govt.

In view of the above should you be graciously pleased to redonsider the matter in the light of the facts and circumstances stated above and a declaration be made that I am entitled to Special Duty allowance and further be pleased to pay SDA for the period from 1.9.1984 to 1990 and for the period for which I have not been paid SDA illegally.

I shall be remain bound to you in deep gratitute.
With sincere regards,

Enclo as stated above.

Date: March 20/

Yours faithfully,

[Signature]

(TARIT RANJAN DAS)
Private Secretary to CAT, Guwahati Bench,
Guwahati (on deputation)

*Attended
by
Advocate*

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To
The Dy. Director General
Zoological Survey of India
North Eastern Region
Shillong.

REMINIS

Subject:- Payment of Special Duty Allowance who came on transfer to North Eastern Region.

Reference :- O/A No.75/96 dt. 4th January.1999 and O.M No. C18014/2/90/(PF)/MF-CGA(A)/IC/223 dt. 22.3.1999.

Sir,

With reference of my earlier letter dated, 2nd May.2001 regarding payment of Special Duty Allowance, no reply has been received from you till date. Once again I am requested to you kindly settled my bonafide dues as early as possible.

Thanking You.

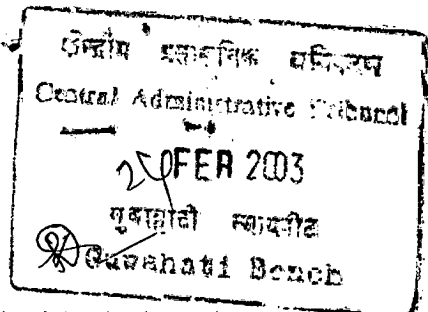
Yours faithfully

[Signature]
14/5/01

(Sunil Ghosh)
Superintendent

*Assisted
Jeev
Advocate*

Sc



Filed by: - (30)
11/10/03
Dr. J. J. J.
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

OA NO.244/2002

Shri G.K. Nair & Others ... Applicant

-Vs-

Union of India & Others ... Respondents.

(Written statements filed by the respondent No.1,2,3,4 and 5).

The written statements of the aforesaid respondents are as follows :

1. That a copy of the OA No.244/2002 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof.

2. That the statements made in the application, which are not specifically admitted by the respondents, are hereby denied by the respondents.

3. That before traversing the various statements made in different paragraphs of the application, the respondents beg to give a brief resume to the facts and circumstances of the case and the legal provisions of law as under :

(a) That the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi, vide Office Memorandum No. 20014/3/83-E.IV dt.14.12.1983 brought out a scheme thereby extending certain facilities

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and allowances including the SDA for the civilian employees of the Central Govt. serving in the North-Eastern States and Union Territories etc. This was done to attract and retain the services of officers in the region due to inaccessibility and difficult terrain. A bare reading of the provisions of the said O.M. it is clear that these facilities and allowances are made available only to those who are posted in the region from outside on transfer.

A copy of the said O.M.Dt.14.12.83 is annexed as ANNEXURE-R1.

(b) That after some time, some departments sought some clarifications about the applicability of the said O.M. dt.14.12.83. In response to the said clarification, the Govt. of India issued another Office Memo. Vide No.20014/3/83-E.IV dt. 20.4.1987. The relevant portion of the said O.M. is quoted below:

"2. Instances have been brought to the notice of this Ministry where Special (Duty) Allowance has been allowed to Central Govt. employees serving in the North East Region without the fulfillment of the condition of all India Transfer liability. This against the spirit of the 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 the 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 anywhere in India, does not make him eligible for the grant of special (duty) allowance."

A copy of the said O.M. dt.20.4.87 is annexed as ANNEXURE-R2.

(c) That the Govt. of India again brought out another Office Memo. Vide F.No.20014/16/86/E.IV/E.II(B) dt. 1.12.88. By the said O.M. the special (duty) allowance was further continued to the central Govt. employees at the rate prescribed therein.

A copy of the said O.M. dt.1.12.88 is annexed as ANNEXURE-R3.

(d) That in the meantime, several cases were filed in the court/Tribunal challenging the refusal of grant of SDA and some of such cases went to the Hon'ble Supreme Court. The Hon'ble Supreme Court in Union of India & others -vs- S.Vijoykumar & others (C.A. No.3251/93) upheld the provisions of the O.M. dt.20.4.87 and also made it clear that only those employees who were posted on transfer from outside to the N.E.Region were entitled to grant of SDA on fulfilling the criteria as in O.M.dt.20.4.87. Such SDA was not available to the local residents of the N.E.Region. The Hon'ble Supreme Court also went into the object and spirit of the O.M.dt.14.12.83 as a whole.

A copy of the said judgment dt.20.9.94 is annexed as ANNEXURE-R4.

(e) That the Hon'ble Supreme court in another decision dated 23.2.1995, in Ca No.3034/95 (Union of India & ors -vs-Executive Officers Association Group-C) held that the spirit of the O.M. dt. 14.12.83 is to attract and retain the services of the officers from outside posted in the North-Eastern Region, which does not apply to the officers belonging to the North-Eastern Region. The question of attracting and retaining the services of competent officers who belong to North-Eastern Region itself would not arise. Therefore, the incentives granted by the said O.M. is meant for the

persons posted from outside to the North-Eastern Region, not for the local residents of the said defined reason.

A copy of the said judgment dt.23.2.95 is annexed as ANNEXURE-5.

(f) That the Hon'ble Supreme court in another judgment dt.7.9.95 passed in Union of India & others -vs- Geological Survey of India employees' Association & others (CA No. 8208-8213) held that the Group C and D employees who belong to the N.E.Region and whose transfer liability is restricted to their region only, they do not have all India transfer liability and consequently , they are not entitled to grant of SDA.

A copy of the judgment dt. 7.9.95 is annexed as ANNEXURE-R5.6

(g) That after the judgment of the Hon'ble supreme court, the Govt. of India brought yet another Office Memo. Vide No. 11(3)/95-E.II(B) dt.12.1.96 and directed the departments to recover the amount paid to the ineligible employees after 20.9.94 as held by the Hon'ble Supreme Court.

A copy of the said O.M.dt.12.1.96 is annexed as ANNEXURE-R7.

(h) That in another case vide Writ petition No.794/1996 in Sadhan Kumar Goswami & others -vs- Union of India & others, the Hon'ble Supreme Court again put reliance on the earlier decision as in S. Vijoykumar case and held that the criteria required for the grant of SDA is same for both group A and B officers as in the case of Group C and D,- and there is no distinction. By the said judgment, the said Hon'ble court also held that the SDA paid to the ineligible employees after 20.9.94 be recovered.

A copy of the judgment dt. 25.10.96 is annexed as ANNEXURE-R8.

(i) That the Ministry of Finance further in connection with query made by the Directorate General of Security, New Delhi gave some clarification to the questions raised by some employees regarding eligibility of SDA. This was done vide I.D No.1204/E-II(B)/99 and which was duly approved by the Cabinet Secretariat U.O. No.20/12/99-EA.I-1798 dt.2.5.2000. According to that clarification, an employee belonging to the N.E.Region, posted in the N.E.Region having all India transfer liability as a condition of service, shall not be entitled to grant of SDA. But if such employee is transferred out of the N.E.Region and reposted to N.E.Region on transfer from outside, in that case such employee would be entitled to SDA. In the instant case, there is not a single such employee who had ever been transferred and reposted in the N.E.Region after 14.12.1983. Hence, the applicants in the instant case have no cause of action to agitate in this Tribunal.

A copy of the said clarification of Cab. Sectt. Dt. 2.5.2000 is annexed as ANNEXURE-R9.

(j) That in a recent decision dt. 5.10.2001, in Union of India & others -vs- National Union of Telecom Engineering Employees Union & others (CA No. 7000/2001) the Hon'ble Supreme court once again clinched on the vexed question of grant of SDA to the central govt. employees and by relying on the earlier decision of S.Vijoykumar held that the amount already paid to such ineligible employees should not be recovered.

The copy of the judgment dt. 5.10.2001 is annexed as ANNEXURE-R10.

(k) That pursuant to the said judgment passed in CA No. 7000/2001. the Govt. of India, Ministry of Finance, Department of Expenditure, brought out another Office Memo. F.No.11(5)/97-E.II(B) dt.29.5.2002 and thereby directed all the departments to recover the amount of SDA already paid to such ineligible employees with effect from 6.10.2001 onwards and to waive the amount upto 5.10.2001 i.e. the date of the said judgment.

The copy of the O.M. dt. 29.5.2002 is annexed as ANNEXURE-R11.

Now, from the above facts and circumstances of the case and the clarifications made in the matter, it is very much clear that only those employees irrespective of their group in A,B,C or D, shall be entitled to grant of SDA if they fulfil the criteria as underlined in O.M. dt. 20.4.87 and such employees are in fact posted in the North-Eastern Region actually on transfer. Therefore the amount paid to the ineligible employees upto 5.10.2001 would be waived. However, the amount paid after 5.10.2001 should be recovered. This aspect of the matter is clear as indicated by the Hon'ble Supreme Court in its all earlier decisions also.

1) That the respondents paid SDA to its employees in terms of the aforesaid Office Memorandum dated 14.12.1983. It is relevant to mention here that with effect from 1.8.1994 regionalisation was made and accordingly the payment of SDA was stopped to Group C and D employees of GSI. Subsequently Government of India framed a policy that Group C and Group D employees should not be transferred outside the region and accordingly ✓ their all India transfer liability was withdrawn vide order dated 23.8.1990. ✓ Thereafter some of the employees being aggrieved by the aforesaid decision in not paying the SDA approached the Hon'ble CAT, Guwahati Bench, Guwahati through original application nos. 182/1990 and ✓ 183/1990 respectively with a prayer for a direction for payment of Special Duty Allowance. The said O.As were decided by the Hon'ble Tribunal holding that the applicants are entitled to draw SDA vide its order dated 12.9.1991. The Union of India being dissatisfied with the decision of the Tribunal passed on 12.9.1991 filed a Review Petition before the Hon'ble Tribunal ✓ and the Review Petition was ultimately dismissed. In the meantime the respondents again started the payment of SDA to its Group C and D employees consequent upon the direction passed by the Hon'ble Tribunal

in O.A. Nos. 182/90 and 183/90. Ultimately the judgment of the Hon'ble Tribunal was carried on appeal before the Hon'ble Supreme Court through Civil Appeal No. 8208-8213 of 1995 arising out of SLP Nos. 12450-55/92. The Hon'ble Supreme Court disposed of the said appeal on 7.9.1995 holding that the Group C and D employees of the GSI are not having all India Transfer Liability since the Govt. of India has framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. In view of the judgment passed by the Hon'ble Supreme Court dated 7.9.95 the respondents stopped the payment of SDA to its Group C and D employees with effect from 1.1.1996.

Being aggrieved by the decision of non-payment of SDA 9 employees of North Eastern Region again approached the Hon'ble Central Administrative Tribunal through O.A. No. 75 of 1996 claiming that in terms of the order dated 7.9.1995 passed by the Hon'ble Supreme Court they are entitled to SDA. The said O.A. was also disposed of by the Hon'ble Tribunal on 4.1.1999 with a direction to the respondent no.3, Deputy Director ✓ General to decide the matter taking into consideration of the relevant rules and law within a period of three months from the date of receipt of that order of the Hon'ble Tribunal. The respondents after taking into consideration of all the relevant circulars, Office Memoranda considered the matter and also took a personal hearing of the applicants and disposed of the matter holding that the applicants of the O.A No. 75 of 1996 are not entitled to SDA since the applicants do not have all India transfer liability and therefore do not fulfil the eligibility criteria prescribed for grant of SDA in terms of OM dated 14.12.83, 29.10.1986 and 20.04.1987.

4. That with regard to the statements made in para 1 of the application, the respondents state that there is no cause of action of the case and hence, the application is not tenable in law and liable to the dismissed with cost.

5. That with regard to the statement made in para 2 and 3, the answering respondents have no comments.

6. That with regard to the statement made in paragraphs 4.1, 4.2, 4.4 and 4.5 of the Original Application the respondents beg to offer no comments as the same is a matter of records. However, nothing is admitted which are not supplied by such records.

7. That with regard to the statements made paragraphs 4.6 of the application the respondents beg to state that the applicant no. 2 through came on transfer to NER prior to regionalisation and he became part and parcel of the regionalized cadre from 1.8.1984 where separate cadres for Gr. C and D post for the region were constituted along with the incumbents holding posts on the date mentioned above. The other applicants joined initially in NER from outside the region prior to regionalisation and consequent upon the regionalisation w.e.f. 1.8.1984 are not eligible for payment of SDA after the judgment dated 7.9.1995 of the Supreme Court mentioned above. They do not fulfil the basic criteria of all India transfer liability for this purpose as laid down for grant of S.D.A., in O.A. No. 20014/2/83-E.IV dated 14.12.1986, 29.10.1986 and 20.4.87.

8. That with regard to the statement made in paragraph 4.7, the respondents beg to offer no comments as the same is a matter of records. However, nothing is admitted which are not borne on records.

9. That with regard to the statement made in paragraph 4.8 of the Original Application the respondents beg to state that it is a matter of record, option was not sought from the applicants as it could be adversely affected and caused imbalances within the North Eastern Region. The position of staff accordingly remained "as is where basis".

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10. That with regard to the statement made in paragraph 4.9 of the Original Application the respondents beg to state that the applicants have misinterpreted the contents of the judgment and order dated 7.9.1995 as well as the judgment and order dated 4.1.99 passed in O.A. No. 75/96. The basis criteria for payment of SDA is All India Transfer Liability in terms of the O.M. dated 14.12.1993 and no.4.87 and the same has already been discussed in the speaking order passed by the respondent no. 3 in its order dated 29.4.1999 (Annexure-6 to the O.A.).

11. That with regard to the statement made in paragraph 4.10 of the Original Application the respondents beg to state that the Hon'ble Supreme Court has held in its judgment and order dated 7.9.95 that the Gr. C and D employees of GSI are not having all India Transfer Liability since 1.8.1984 as such they are not entitled to SDA.

12. That with regard to the statement made in paragraph 4.11 of the Original Application the respondents beg to state that the payment of SDA was stopped to the Group C and D employees of North Eastern Region following the judgment passed by the Hon'ble Supreme Court dated 7.9.1995. The respondents further state that the claim of the SDA to the applicants is the misinterpretation of the judgment and order dated 7.9.95 of the Hon'ble Supreme Court as well as the judgment and order dated 4.1.1999 passed in O.A. No.75/96. The respondents state that although the applicants joined with all India Transfer Liability but the same has already been withdrawn after 1.8.1984 and the same has been upheld by the Hon'ble Supreme Court vide its judgment and order dated 7.9.1995. The basic criteria for grant of SDA is all India Transfer Liability and the applicants do not have all India transfer liability after 1.8.1994 as such question of payment of SDA does not arise.

13. That with regard to the statement made in paragraph 4.12 of the Original Application the respondents beg to state that the contentions of the applicants in this paragraph are the misinterpretation of the judgment and order dated 7.9.95 and 4.1.1999 already stated above.

14. That with regard to the statement made in paragraph 4.13 of the Original Application the respondents beg to state that the applicants joined the service in NER with all India Transfer Liability except applicant no. 2 who come on transfer prior to regionalisation and in case of all the applicants all India Transfer Liability was withdrawn vide letter dated 23.8.1990. As such, the applicants cannot be paid SDA. As regards the points raised by the applicants that they were not provided any opportunity for submitting their option for posting after regionalisation, the respondents state that option was not given to them as it could adversely affect and cause imbalances within the Region. The position of staff were allotted on "as is where basis". However, the respondents beg to state that at the time of regionalisation the existing incumbents who were transferred from other regions to NER were placed at the administrative control of the respective regions. "as is where basis" subsequently the terms of transfer anywhere in India was replaced by the clause to 'serve anywhere in NER'. This was confirmed by the Hon'ble Supreme Court in its judgment dated 7.9.95. Applicant no. 2 was transferred to NER prior to regionalisation of cadres and also before the issue of order dated 14.12.1983. Since the case has been duly considered by the highest court and in this regard a speaking order has already been passed on 29.4.1999, the question of payment of SDA does not arise.

15. That with regard to the statement made in paragraph 4.14 of the Original Application the respondents beg to state that this a matter of record as such the respondents beg to offer no comments.

16. That with regard to the statement made in paragraph 4.15 of the Original Application the respondents beg to state that in the earlier paragraphs the reasons for not paying the SDA to the applicants has been elaborately stated.

17. That with regard to the statements made in paragraphs 4.16, 4.17, 4.18, 4.19, 4.20, 4.21 and 4.22 the respondents beg to state that the claim of the applicants for payment of the SDA on misinterpretation of the judgment and order dated 7.9.95 passed by the Hon'ble Supreme Court as well as the judgment and order dated 4.1.1999 passed in O.A. 75/96. It is also relevant to mention here that on the basis of the direction contained in the judgment and order of the Hon'ble Tribunal in O.A. No. 75/1996 the respondents passed a speaking order dated 29.4.1999 holding that the similarly situated applicants are not entitled to SDA, in view of the Supreme Court judgment dated 7.9.95 which clearly states that "Hence all India transfer liability no longer continues in respect of Group C & D employees". Since they do not have all India transfer liability, they do not fulfil the eligibility criteria prescribed for grant of SDA in terms of the O.M. dated 14.12.1983, 29.10.86 and 20.4.84, though they are not residents of NER. In addition to that the Hon'ble Supreme Court again has made it clear that the spirit of the scheme to pay the incentives is to attract and retain the officers from outside posted in the N.E. Region on transfer and the same is not applicable to the local residents of the N.E. Region.

18. That with regard to the statements made in para 5.1 to 5.8, the respondents state that in view of the facts and circumstances of the case and the settled provisions of law, the grounds shown can not sustain in law and hence the application is liable to be dismissed with cost.

19. That with regard to the statements made in para 6 and 7, the respondents have nothing to comment.

20. That with regard to the statements made in para 8.1 to 8.4 and 9.1, the respondents state that under the facts and circumstances of the case and the provisions of law, the application is liable to be dismissed with cost as devoid of any merit and without any cause of action.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to dismiss the application with cost.

VERIFICATION

I Shri D.T. SYIENLIENH, at present working as the Regional Admin. Officer in the office of the Geological Survey of India North Eastern Region, Shillong, who is taking steps in all court cases, being competent and duly authorized to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 2, 4 - 19 and 20 - are true to my knowledge and belief, those made in para 3A-3K being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material facts.

And I sign this verification on this, ^{10th} ~~20~~ ^{Feb.} day of January, 2003 at Guwahati.

DEPONENT. D.T. Syienlienh
Regional Admin. Office
Geological Survey of India
NER, Shillong

New Delhi, th 14th December, 1983.

OFFICE MEMORANDUM

Subject :- Allowances and facilities for civilian employees of the Central Government serving in the states 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 Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a committee under the Chairmanship of Secretary, Department of Personnel & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) Tenure of posting/deputation

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

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the 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.

- a) promotion in cadre posts;
- b) deputation of 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 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of 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 Allowance like special Compensatory (Remote Locality) Allowance, 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 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 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. |

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

(v) Travelling Allowance on first appointment

In relaxation of the present rules (S.R. 105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in cases 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 station in the North-Eastern Region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the post and will be permitted to carry personal effects upto 1/3rd of his entitlement at Government cost or have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of the cost of transportation of baggage. In case the family accompanied the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North-Eastern Region.

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

In relaxation of orders below S.R. 116 for transportation of personal effects on transfer between two different stations in the North Eastern Region, higher rate of allowance admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Government servant will 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 traveling excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) & Leave Travel Concession :

A government servant who leaves his family behind the old duty station or another selected place or 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-Eastern to his home town or place where the family is residing and in addition the facility for the family is (restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employees 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.

(x) Children Education Allowance/Hostel Subsidy :

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

2. The above orders except in sub-para (iv) will also mutatis mutandis apply to Central Government employees posted to Andhra 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, facilitation and a concession extended by any special order by the Ministries/Departments of the Central Government to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

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

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

Sd/-

(S C BHALLIK)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

To,

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

Contd..../-

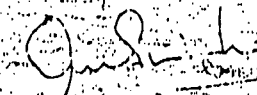
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3. Financial Advisers of the administrative Ministries/ Departments are requested to review all such cases where special (duty) allowance has been sanctioned to the Central Government employees serving in the various offices including those of autonomous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

F.K.

ANNEXURE : R3 (65)

ANNEXURE : R3

F.No. 20014/16/E.IV/E.11(11)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 1 December, 1953

ANNEXURE : R3

OFFICE MEMORANDUM

Subject: 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. 20014/3/E.IV dt. 14th December, 1953 and 20th March, 1954 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 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:-

- (1) Scope of posting/deputation
The existing provisions as contained in this Ministry's P.M. dated 14.12.53 will continue.
- (ii) Maintenance for Central deputation and training abroad
The existing provisions as contained in this Ministry's P.M. dated 14.12.53 will continue. Cadre authorities are advised to give due weightage for satisfactory performance of duty for the prescribed tenure in the North-East in the matter of promotion in the cadre, deputation to Central cadre post and course of training abroad.
- (iii) Special (Duty) Allowance
Central Govt. Civilian employees who have All India Seniority will be granted Special (Duty) Allowance at the rate of 12% of basic pay subject to a 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 (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. All allowances like Special Compensatory (Recruits Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

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

(iv) Special Supplementary Allowance:-

The recommendations of the 4th Pay Commission have been accepted by the Govt. and Special Supplementary Allowance at the revised rates have been made effective from 1.10.80.

(v) Traveling Allowance on First appointment:-

The present concessions as contained in this Ministry's O.M. dt. 14.12.80 will continue with the liberalisation that on first appointment, F.A. should be admissible for the total distance, instead of for the distance in excess of first 400 kms. only.

(vi) Traveling Allowance for journey on transfer:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.80 will continue.

(vii) House Allowance for transportation of baggage effects on transfer:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.80 will continue.

(viii) Joining time with leave:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.80 will continue.

(ix) Leave Travel Concession:-

The existing concession as contained in this Ministry's O.M. dated 14.12.80 will continue.

Officers drawing pay of Rs. 5100/- or above, and their families upto 4 members and the dependent children (upto 6 years for boys and 4 years for girls) will be allowed air travel between Jammu/Srinagar/Ahmednagar/Aizawl/Mumbai and Calcutta and vice versa; Jammu/Srinagar/Ahmednagar/Aizawl/Mumbai and Calcutta and vice versa in case of postings in A & B Islands; and between Lucknow and Cochin and vice versa in case of postings in Lakshadweep.

(x) Children Education Allowance/Hotel subsidy

Where the children do not accompany the Government servant to the North-Eastern Region, Children Education Allowance upto Rs. 200/- 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. If children studying on holiday are not in hostel at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

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of Children Education Allowance/Hotel subsidy will be in the DOP&S, O.M. 10011/1/07-Ext. (Allowance) dt. 31.12.67. Amended from time to time.

(x) Concurrence regarding grant of House Rent Allowance to officers posted in the States of North Eastern Region, Andaman & Nicobar Island and Lakshadweep Islands.

The present concurrence as contained in this Ministry's O.M. No. 11016/1/E, II(11)/64 dt. 29.3.64 is amended from time to time will continue to be applicable.

(xi) Telephone facilities.

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

2. The above orders will also apply mutatis mutandis to the Central Govt. employees posted in Andaman & Nicobar Islands and Lakshadweep Island. These orders will also apply mutatis mutandis to officers posted to H.E. Council, when they are stationed in the N.E. Region.

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

4. In as far as the provisions relating to the Indian Audit & Accounts Dept. are concerned these orders issue after consultation with the Comptroller & Auditor General of India.

5. Final version of this Memorandum is attached.

(A. JAYARAMAN)

JOINT SECRETARY TO THE GOVT. OF INDIA.

To

All Ministries/Departments of Govt. of India, etc.
Copy (with usual number of spare copies) forwarded to C.S.A.O., U.P.S., etc. etc. for per standard endorsement list.

C.I. : -22-
-20-24-

ANNEXURE-W
ANNEXURE: R4a
ANNEXURE: R2
ANNEXURE: R4

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3321 OF 1973

Union of India and others

Appellants

VERSUS

S. Vijayakumar and others

Respondents

(With Civil Appeal Nos. 6103-81
of 1974 arising out of
SLF(C) Nos. 16794/91, 10070-79/93, 16791-92/93,
10461/93, 9240/93).

J U D G M E N T

HANSARAJA, J.

The point for determination in this appeal
and in the special leave petitions (which have our leave)

-21-22-

whether the respondents are entitled to special duty allowance (hereinafter referred to as the "allowance"), even though they are residents of North-Eastern Region merely because of the posts to which they were appointed were of "All India Transfer Liability". The Tribunal has answered the question in affirmative. These appeals have been preferred by the Union of India.

2. The Tribunal took the aforesaid view because of an office memorandum dated 17.12.1905 which on the subject of "Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of the North-Eastern Region" had stated that allowance shall be payable if the posts be those which have "All India Transfer Liability". The stand of the Union of India, however, is that this office memorandum, if it is read along with what was stated subsequently in office memorandum dated 20.4.1907, it would become clear that the allowance was required to be paid to those incumbents who had been posted in North-Eastern Region carrying the aforesaid service condition and not to those who were residents of this region. The office memorandum of 1907 has clearly stated that the allowance

of inaccessibility and difficult terrain. It was said so because even the 1983 memorandum stated that the need for the allowance was felt for "serving and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2/3 year to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating that "Civilian employees who have All India Transfer Liability would be granted the allowance 'on posting to a 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.

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(71)

not become payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India.

3. Dr. Ghosh appearing for the Government contends that the office memorandum of 1983 having not stated what is contained in the memorandum of 1987, a rider cannot be added to the former that the allowance could be payable only to those who have been given posting in the North-Eastern Region, and not to those who were residents of this Region. It is also contended that denial of the allowance to the residents, while permitting the same to the non-residents, would be a violation of the doctrine of equal pay for equal work and an infringement of Articles 14 and 16 of the Constitution.

4. We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tulsi for two reasons. The first is that a close perusal of the two aforesaid memoranda, in view of what was stated in the memorandum dated 23.10.1983 which has been quoted in the memorandum of 20.4.1987, clearly shows that allowance in question was meant to attract persons outside the North Eastern Region to work in that Region.

The submission of Dr. Ghosh that the denial of allowance to the respondents would violate the equality doctrine is adequately met by what was held in Reserve Bank of India vs. Reserve Bank of India Staff

Officers' Association and others, 1991 (1) 1000-1001 - to which an attention has been invited by the learned

Additional Solicitor General. In which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution.

In view of the above, we hold that the respondents were not entitled to the allowance and the impugned judgments of the Tribunal are, therefore, set aside. Even so, in view of the fair stand taken by the Additional Solicitor General we state that whatever amount has been paid to the respondents, or for that matter to other similarly situated employees, would not be recovered from them in so far as the allowance is concerned.

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ANNEXURE : R5

Filed to be true copy
S. H. D.
Assistant Registrar (Judl.)
11/3/95
Supreme Court of India

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

579905

ANNEXURE : 5

CIVIL APPEAL NO. 3034 OF 1995
(Arising out of S.L.P. (C) NO. 16717 of 1994)

Union of India & Ors.

.....Appellants

Vs.

Executive Officers Association
Group-C

.....Respondents

J U D G M E N T

Faizan Uddin, J.

1. Delay condoned.
2. Leave granted. The counsel for parties are heard.
3. This appeal has been directed by the appellants against the judgment dated May 28, 1995 passed by the Central Administrative Tribunal, Guwanati Bench (hereinafter referred to as Tribunal, in O.A. No.

172 of 1972. By the said judgment the Tribunal held that the respondents are entitled to Special Duty Allowance in terms of Office memorandum dated December 14, 1983 with effect from the date specifically indicated in the said Office Memorandum and directed the appellants herein to pay and clear the Special Duty Allowance to the respondents herein within 90 days from the date of receipt of copy of the judgment in respect of the arrears due and to release the current Special Duty Allowance with effect from the month of June, 1993.

4. The respondent No. 1 is an Association of Group (C) Inspectors of Customs and Central Excise under the Collectorate of Customs and Central Excise, Shillong and respondent Nos. 2 and 3 are its President and General Secretary respectively. The respondents approached the Tribunal claiming Special Duty Allowance on the strength of Office Memorandum No. 20014/2/83-E.IV dated December 14, 1983 and the Office Memorandum No. 20014/16/86.IV/E.11(B) dated December 1, 1986 issued by the Ministry of Finance, Government of India. The respondent-Association claimed that its members have all India transfer liability under the Central Excise and Land Customs Department Group (C) Posts Recruitment Rules, 1979 which were applicable to its members and in pursuance of which three of its members had been

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transferred and one Smt. Lisa L. Rynjon of Shillong has been posted at Goa under the said recruitment Rules and, therefore, they are eligible and entitled to claim Special Duty Allowance. The appellants herein opposed and contested the aforesaid claim of the respondents before the Tribunal. The appellants took the defence by stating that the Office Memorandum No. 20014/3/83.E/IV dated April 20, 1987 had clarified that the Special Duty Allowance is payable only to those officers, incumbents of Group (C) of posts who are having all India transfer liability defined in the said Office Memorandum keeping in view the original Office Memorandum dated March 14, 1983 and that the conditions stipulated in the Recruitment Rules, 1979 referred to above cannot be taken as basis for saddling the respondents or its members with all India transfer liability and consequent payment of Special Duty Allowance to them. The appellants also took the plea that all India transfer liability of the members of any service/cadre or incumbent of any posts/Group of posts is to be determined by applying the tests of recruitment to the service/cadre/post made on all India basis and that mere clauses in the Recruitment Rules/Appointment Order stipulating all India transfer liability does not make him/them eligible for grant of Special Duty Allowance in terms of Office Memorandum dated December 14, 1983.

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-29-
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5. After considering the rival contentions the Tribunal observed that the contents of Office Memorandum dated April 12, 1984 as well as the letter No. 7/47/48.EA dated September 28, 1984 have been fully discussed by the Full Bench. Calcutta and held that the real test/criteria for determination is whether all India transfer liability exists and opined that without recalling the Office Memorandum issued in 1963 the concerned departments had no reason to deny the benefit of memorandum available to certain classes of employees and to withdraw its application to certain other classes. Relying on the said Bench decision of the Central Administrative Tribunal, Calcutta, the Tribunal allowed the application of the respondents by the impugned judgment and granted the relief as stated above against which this appeal has been preferred.

6. Learned counsel for the appellants submitted that the Tribunal has failed to appreciate the true meaning, intention and spirit behind the term 'all India transfer liability' which occurred in the Finance Ministry Office Memorandum referred to above and has thus seriously erred in holding that the members of the respondent-Association are entitled to the Special Duty Allowance. He further submitted that the package of incentives contained in the Ministry's Office Memorandum

P-16

dated December 14, 1983 (as amended) is based on the recommendations of the committee to review the facilities and allowance admissible to Central Government Employees in the North-Eastern Region and it was with a view to attract and retain competent officers service in the States and Union Territories in the North-Eastern Region that the Government of India on the recommendations of the committee made the provision for Special Duty Allowance to be paid to such officers who come on posting and deputation to North-Eastern Region from other Regions. It was, therefore, submitted that since the members of the respondent-Association belonged to the North-Eastern Region itself who were recruited and posted in the same Region, they were not entitled for Special Duty Allowance.

7. The main source for claiming the Special Duty Allowance is the Office Memorandum dated December 14, 1983 the very first paragraph of which reads as under:-

"The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram have been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary Department of Personnel & Administrative Reforms, to review the existing allowances and

P-17

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."

.....

B. A careful perusal of the opening part of the Office Memorandum reproduced above would show that the Government had appointed a Committee under the Chairmanship of the Secretary Department of Personnel and Administrative Reforms to review the existing allowances and facilities admissible to the various categories of Civilian Central Government Employees serving in the North-Eastern Region so that competent officers may be attracted and retained in the North-Eastern Region States. The use of words attracting and retaining in service are very much significant which only suggest that it means the competent officers belonging to the Region other than the North-Eastern Region. The question of attracting and retaining the services of competent officers who belong to North-Eastern Region itself would not arise. The intention of the Government and spirit behind the Office Memorandum is to provide an incentive and attraction to the competent officers belonging to the Region other than

P-18

the North-Eastern region to come and serve in the North-Eastern Region. It can hardly be disputed that the geographical, climatic, living and food conditions of people living in North-Eastern Region and the States comprising therein are different from other Regions of the country. The North-Eastern Region is considered to be 'hard zone' for various reasons and it appears that it is for these reasons that the Government provided certain extra allowance, benefits and other facilities to attract competent officers in the North-Eastern Region at least for two to three years of tenure posting. The Ministry's Office Memorandum in question came up for consideration before this Court in Chief General Manager (Telecom) Vs. S. Rajender C.H. Bhattacharjee & Ors. [JT 1995 (1) SC 440] which was decided by us by judgment dated January 18, 1995 in which this Court took the view that the said Office Memorandums are meant for attracting and retaining the services of competent officers in the North-Eastern Region from other parts of the country and not the persons belonging to that region where they were appointed and posted. This was also the view expressed by this Court in yet another case reported in J.T. 1994 (6) 443 - Union of India Vs. S. Vinaya Kumar & Ors. In Vinaya Kumar (Supra) the point for consideration was exactly identical, with regard to the entitlement to Special Duty Allowance to those employees/officers who

are residents of North-Eastern Region itself. After considering the memorandum dated December 14, 1993 and other related Office Memorandums indicated above, it was held that the purpose of the allowance was to attract persons from outside the North-Eastern Region to work in the North-Eastern Region because of inaccessibility and difficult terrain. In the facts and circumstances stated above the view taken by the Tribunal cannot be upheld and deserves to be set aside.

9. For the reasons stated above the appeal is allowed. The impugned order of the tribunal is set aside and the application filed by the respondents before the tribunal for grant of Special Duty Allowance to them is dismissed. In the facts and circumstances of the case, we make no order as to costs.

SH-
.....J.
(S.C. Agrawal)

SH-
.....J.
(Faizan Uddin)

New Delhi.

February 23, 1995.

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Annexure R-6

C/33 ANNEXURE: R 6/5

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 2 & 3 - of 1995
(Arising out of S.L.P. Nos. 12450-55/92)

Union of India & Ors.

..appellants

versus

24512

Geological Survey of India
Employees' Association & Ors.

..respondents

O R D E R

Delay condoned.

Leave granted.

Filed to be true copy
At Court Registrar (Judl.)
27.11.1995
Supreme Court of India

Mr. F.K. Goswami, learned senior counsel appears for Geological Survey of India Employees' Association and Mr. S.K. Nandy, Advocate, appears for the other respondents in all the matters.

Heard learned counsel for the parties. It appears to us that although the employees of the Geological Survey of India were initially appointed with an all India transfer liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such group C and group D employees of Geological Survey of India who are residents of the region in which they are posted. We may also indicate that such question has been considered by this Court in Union of India and Others Vs. S. Vijay Kumar & Others (1994, (3) SCC 649).

C/335

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- 2 -

Accordingly, the impugned order is set aside. He, however, direct that the appellant will not be entitled to recover any part of payment of special duty allowance already made to the concerned employees. Appeals are accordingly disposed of.

Sd/-
(G. H. Ray)

Sd/-
(S. B. Majumdar)

New Delhi
September 7, 1935

ANNEXURE: R7

No. 11(31/95-E.II(B))
Government of India
Ministry of Finance,
Department of Expenditure

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's OM No. 20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No. 20011/10/86-E.IV/E.II(B) dt. 1.12.88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM dt. 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE Region. One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have "All India Transfer Liability".

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e., whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministers/Departments against the Orders of the CAT.

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil Appeal no. 3251 of 1993) upheld the submissions of the Government of India that Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

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

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

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

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

10. Hindi version of this is enclosed.

(C. Balachandran)

Under Secy to the Govt of India

5A/
All Ministries/Departments of the Govt. of India, etc.
etc.

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

All communications should be
addressed to the Registrar,
Supreme Court, by designation,
NOT by name
Telegraphic address:—
"SUPREMECO"

472/3500
-37-
-28-

39
No. 3300/96/1
ANNEXURE: R 8 (82)
SUPREME COURT
INDIA
Dated New Delhi, the 28th November, 1996

FROM: ASSISTANT REGISTRAR (JUDL)

ANNEXURE: R 7
R 8

- TO :
1. The Union of India,
Represented by the Cabinet Secretary,
Government of India, North Block,
New Delhi.
 2. The Director, SSU,
Office of the Director, SSB,
East Block- V, P.K. Puram,
New Delhi - 110 065
 3. The Divisional Officer,
SSB Shillong Division,
A.P. Secretariat Building,
Shillong, Meghalaya.
 4. Commandant, Group Centre, SSB,
Tripura, Salbagan, Gartala,
Tripura West.

WRIT PETITION NO. 724 OF 1996
(Under Article 32 of the Constitution of India)

WITH
INTERIM APPLICATION NO. 1
(Application for ex-parte stay)

Sadan Kumar Goswami & Ors.

VERSUS

.. PETITIONERS

.. RESPONDENTS

Union of India & Ors.

Sir,

I am directed to forward herewith for your information
and necessary action a certified copy of the signed order dated
the 25th October, 1996, of this Court passed in the writ
Petition and application for stay.
Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR (JUDL)

21/12
11/12
CP
17/11/96
A.I.

Seemed to be true
12/10/95
A-1000-10000 (1995)
D-1000-10000 (1995)
Supreme Court of India
12779/95

133724

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
PETITION NO. 794 OF 1995
(Under Article 32 of the Constitution of India)

Sub-Inspector Sadhan Kumar Goswami &
Ors.

v.

The Union of India & Ors.

...Petitioners

...Respondents

THE 25TH DAY OF OCTOBER, 1995

PRESENT:

Hon'ble Mr. Justice K. Ramaswami
Hon'ble Mr. Justice S.P. Kurdukar

Sankar Ghosh, Sr. Adv. and Anjan Ghosh, Adv. with him for
the Petitioners.

O_R_D_E_R

The following Order of the Court was delivered:

-30- -41-
-28- -39-
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRT PETITION NO. 783 OF 1996

Sub-Inspector Sadhan Kumar Goswami &
Ors.

... Petitioners

Versus

The Union of India & Ors.

... Respondents

O R D E R

This writ petition under Article 32 is one of the series of cases we have come across to reopen the judgments/orders of this Court rendered under Article 136 of the Constitution of India after their becoming final.

The admitted facts are that the petitioners who joined service under the Special Security Bureau (SSB) in North Eastern Region of India, claimed special duty allowances as per order of the Central Government. The question was considered by this Court in Union of India vs. S. Vijay Kumar [CA No. 325 of 93] decided on September 20, 1994; therein this Court had held thus:

"We have only considered the rival submissions and are inclined to agree with the contention advanced by the

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learned Additional Solicitor General, Shri Tulsī for two reasons. The first is that a close perusal of the two aforesaid memoranda, along with what was stated in the memorandum dated 28.10.1966 which has been quoted in the memorandum of 20.4.1967, clearly shows that allowance in question was meant to attract persons outside the North Eastern Region to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1963 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining thereby taking leave and. Therefore, the memorandum stated that this period of leave would be excluded when counting the period of tenure of posting which was required to be of 2 1/2 years to claim the allowance depending upon the period of service of the incumbent. The 1966 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 1967 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 1963 the subject was mentioned as quoted above is not be enough to concede to the submission of Mr. Ghosh.

The submission of Mr. Ghosh that the denial of the allowance to the residents would violate the equal pay doctrine is adequately met by what was held in

- 31 - 443 -

(2) (10) 87
113

Reserve Bank of India vs. Reserve Bank of India Staff Officers Association 2 Ors. [(1991) 4 SCC 132] to which an attention has been invited by the learned Additional Solicitor General, in which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution.

In view of the above, this Court allowed the appeals of the State and held that the respondents were not entitled to the allowances but whatever amount was paid upto the date of the judgment, was directed not to be recovered from them. The petitioners are relying upon the Office Memorandum dated July 11, 1996 which provided that "it is not applicable from one station to another station within the region of Group A and B staff will further continue to get the facilities". They have filed this writ petition contending that while the Group C and D employees have been denied the benefit of the above judgment, special duty allowance benefit is being granted to Group A and B; it tantamounts to violation of Article 14 and, therefore, the writ petition should be allowed so as to give them the same benefit. Admittedly, the petitioners are Group C and D employees and are bound

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by the above declaration of law made by this Court. Merely because they were not parties to the judgment, they cannot file writ petition under Article 32. The contention that they are entitled to get the benefit at par with Group A and B officers under the above Memorandum dated July 11, 1996 ~~is not correct~~ Apart from the fact that Group A and B employees are entitled to special duty allowance contrary to the law declared by this Court in the above judgment, they too are bound by it. Whether or not they are entitled to the above benefit due to this Court's judgment, the petitioners are not entitled to the benefits of the allowances as claimed by them. The judgment of this Court should indicate that it did not make any distinction between Group C and B and Group A and B Officers. All are governed by the law under Article 141. The petitioners are not entitled to the payment of the special duty allowance irrespective of whether or not they were parties to the judgment rendered in Vijay Kumar's case (supra); they cannot be permitted to raise new grounds, though not raised or argued in earlier case, to canvass the correctness of the judgment by filing the writ petition under Article 32.

Of late, we have been coming across this type

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- 43 -

(103) (86)
115

of writ petitions filed by several parties. We are constrained to take the view that the learned counsel who are advising them to move this court under Article 32 should certify to the court that though they advised the petitioners that the judgment of this court binds them and cannot canvass its correctness and still, in spite of such advice, the party insisted upon filing the writ petition. It would then be for this Court to consider and deal with the case appropriately. Hereinafter, it would be necessary that the Advocate-on-Record should file, as part of the paper book of the writ petition filed under Article 32, a statement and certificate that the party concerned was advised that the matter is covered by the judgment of this Court and yet, the writ petitioner insisted to file the same. Should such certification form part of the record of the petition, then only the Court would deal with the writ petition. In view of the fact that Class C and D employees are not entitled to special duty allowance as per the law already declared by this Court, the petitioners are not entitled to the benefit.

It is next contended that the Government is recovering as per Memorandum dated January 17, 1956 the amounts paid which is contrary to the direction issued

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- 44 -

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by this Court in the above judgment. The petitioners are not right in their contentions. It is seen that the Government have limited the payments already made after the date of the judgment of this Court; payments made prior to that date are not being recovered.

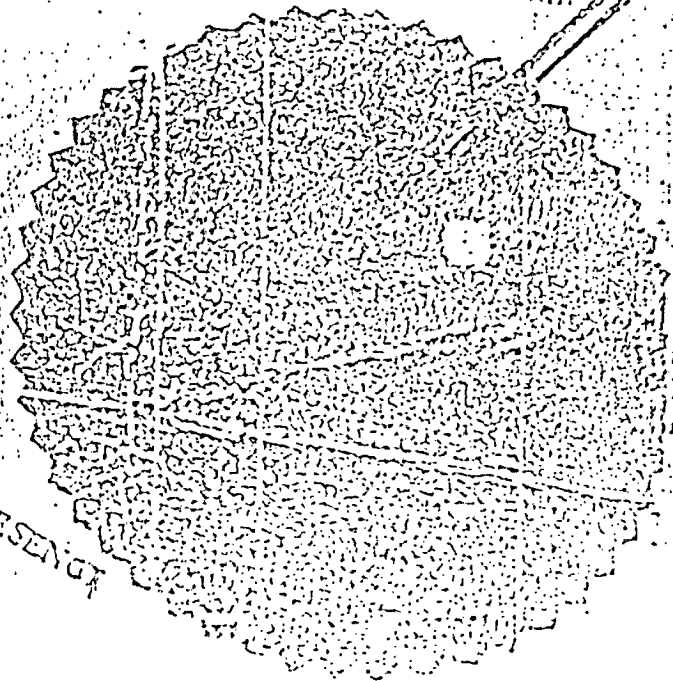
Under those circumstances, we do not think that there will be any justification to direct the respondents not to recover the amount from the petitioner after the date of the judgment of this Court.

The writ petition is accordingly dismissed.

(K. RINASHAY)

(S. P. KUPURAJ)

NEW DELHI;
OCTOBER 25, 1926.



SEALED IN MY PRESENCE
12/11/26

COURT CASE
MOST IMMEDIATE

Cabinet Secretariat
(E.A.I Section)

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

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

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

- i) The Hon'ble Supreme Court in their judgement delivered on 26.11.96 in Writ Petition No.794 of 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. region from outside the region. and in the following situation whether a Central Govt. employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their VO No.11(3)/95.E.II(I) dated 7.5.97.
- a) A person belongs to outside N.E.region but he is appointed and on first appointment posted in the N.E.Region after selection through direct recruitment based on the recruitment made on all India basis and having a common/centralised seniority list. and All India Transfer Liability.
- b) An employee hailing from the NE Region selected on the basis of an All India recruitment test and borne on the Centralised cadre/ service common seniority on first appointment and posted in the N.E.Region. He has also All India Transfer Liability.
- i) An employee belongs to N.E.Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance OM No.20014/2/83-E.IV dated 14.12.83 and 20.4.87 read with

No

No

Annexure 9

94

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- 2 -

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

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

YES

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

YES

- v) The MOP, Deptt of Ex. & A. vide their O.O 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 (c) in the case of SSP/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.

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/-...

Annexure 9

- 3 -

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 MDP that a mere 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 20/9/1991 i.e. the date of decision of the Hon'ble Supreme Court and/or whether the payment of SDA should be allowed to all employees including those hailing from NE Region with effect from the date of their appointment if they have All India Transfer Liability and are promoted on the basis of All India Common Seniority List.

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

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

Sd/-
(P.N. THAKUR)
DIRECTOR (SR)

1. Shri R.S. Bedi, Director, ARC
 2. Shri R.P. Kuroel, 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), REAW
 6. Shri B.S. Gill, Director of Accounts, DACS
 7. Smt. J.M. Menon, Director-Finance (S), Cab. Sectt.
 8. Col. K.L. Jaspal, CIOA, CIA
- Cab. Sectt. UO No. 20/12/99-EX-1-1799 dated 2.5.2000

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 7029 OF 2001
(Arising out of S.L.P.(C) No. 6465 of 1999)

ANNEXURE: R10
Assistant Registrar (Jus.)
Supreme Court of India
544783

Union of India & Anr. Appellants
versus
National Union of Telecom Engineering Employees Union Anrs. Respondents

O R D E R

Leave granted.

It is stated on behalf of the respondents that this appeal of the Union of India is covered by the judgment of this Court in the case of Union of India & Ors. Vs. S. V. Jayakumar & Ors. reported as 1994 (Supp. 3) SCC, 649 and followed in the case of Union of India & Ors. Vs. Executive Officers' Association Group 'C' 1995 (Supp. 1) SCC, 757. Therefore, this appeal is to be allowed in favour of the Union of India. It is ordered accordingly.

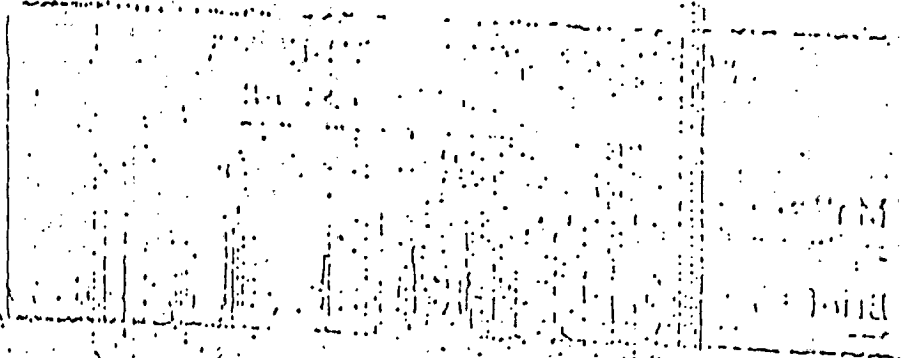
It is, however, made clear that when this appeal came up for admission on 13.1.2000, the learned Solicitor General had given an undertaking that whatever amount has been paid to the respondents by way of special duty allowance will not, in any case or event, be recovered from them. It is on this assurance that delay was condoned. It is made clear

— 47 — — 51 —
the Union of India shall not be entitled to recover any
amount paid as special duty allowance inspite of the fact
that this appeal has been allowed.

(H. SANTOSH HEGDE)

(K.G. BALAKRISHNAN)

New Delhi,
October 05, 2001



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Annexure 11

ANNEXURE - R11

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SwamysnewsS

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July, 2002

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G.I., M.F., O.M. No. 11 (5)/97-E. II (B), dated 29-5-2002 (but to

Special Duty Allowance to civilian employees posted from outside the region only

The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-E. IV, dated 14-12-1983 and 20-4-1987 read with O.M. No. 20014/16/86-E.IV/E. II (B), dated 1-12-1988, and O.M. No. 11 (3)/95-E.II (B), dated 12-1-1996 (Sl. Nos. 214 and 103 of Swamy's Annual, 1988 and 1996 respectively) on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in N-E. region vide OM, dated 14-12-1983. Special Duty Allowance (SDA) is one of the incentives granted to the Central Government employees having "All India Transfer Liability". The necessary clarification for determining the All India Transfer Liability was issued vide OM, dated 20-4-1987, laying down that the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone, etc., i.e., whether recruitment to service/cadre/post has been made on All India basis and whether promotion is also done on the basis of an All India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of Special Duty Allowance.

3. Some employees working in N-E. region who were not eligible for grant of Special Duty Allowance in accordance with the orders issued from time to time agitated the issue of payment of Special Duty Allowance to them before CAT, Guwahati Bench and in certain cases CAT upheld the prayer of employees. The Central Government filed appeals against CAT orders which have been decided by Supreme Court of India in favour of UoI. The Hon'ble Supreme Court in judgment delivered on 20-9-1994 (in Civil Appeal No. 3251 of 1993, in the case of *UoI and Others v. Sh. S. Vijaya Kumar and Others*) have upheld the submissions of the Government of India that Central Government civilian employees who have All India Transfer Liability are entitled to the grant of Special Duty Allowance on being posted to any station in the North-Eastern Region from outside the region and Special Duty Allowance would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

July, 2002

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Swamysnews

4. In a recent appeal filed by Telecom Department (Civil Appeal No. 7000 of 2001-arising out of SLP No. 5455 of 1999), Supreme Court of India has ordered on 5-10-2001 that this appeal is covered by the judgment of this Court, in the case of *UOI and Others v. S. Vijaya-kumar and Others*, [reported as 1994 (Supp. 3) SCC, 649] and followed in the case of *UOI and Others v. Executive Officers' Association Group 'C'* [1995 (Supp. 1) SCC, 757]. Therefore, this appeal is to be allowed in favour of the UOI. The Hon'ble Supreme Court further ordered that whatever amount has been paid to the employees by way of SDA will not, in any event, be recovered from them in spite of the fact that the appeal has been allowed.

5. In view of the aforesaid judgments, the criteria for payment of Special Duty Allowance, as upheld by the Supreme Court, is reiterated as under:-

"The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North-Eastern region, (including Sikkim), from outside the region."

All cases for grant of Special Duty Allowance including those of All India Service Officers may be regulated strictly in accordance with the above-mentioned criteria.

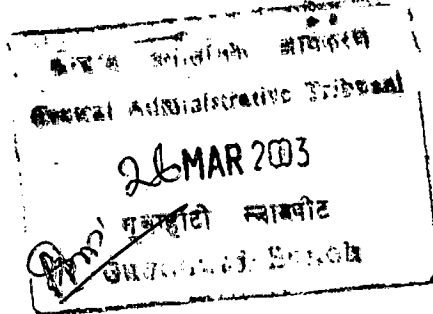
6. All the Ministries/Departments, etc., are requested to keep the above instructions in view for strict compliance. Further, as per direction of Hon'ble Supreme Court, it has also been decided that—

(i) The amount already paid on account of Special Duty Allowance to the ineligible persons not qualifying the criteria mentioned in 5 above on or before 5-10-2001, which is the date of judgment of the Supreme Court, will be waived. However, recoveries, if any, already made, need not be refunded.

(ii) The amount paid on account of Special Duty Allowance to ineligible persons after 5-10-2001 will be recovered.

7. These orders will be applicable *mutatis mutandis* for regulating the claims of Islands Special (Duty) Allowance which is payable on the analogy of Special (Duty) Allowance to Central Government Civilian employees serving in the Andaman and Nicobar and Lakshadweep Groups of Islands.

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



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the Matter of :

O. A. No. 244 of 2002

Sri G.K.Nair & Ors.

Vs.

Union of India & Ors.

-And-

In the matter of :

Rejoinder submitted by the
applicants in reply to the written
statement filed by the Respondents.

The applicant above named -

Most Respectfully begs to state as under:

1. That your applicant with regard to the statement made in paragraphs 3 (a), (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) by the respondents in their written statement the applicants beg to state that the respondent Union of India specifically admitted the entitlement to Special Duty Allowance to the present applicants in paragraph 3 (d) and more over the contention of the respondents made in paragraph 3 (e) referring to the decision of the Hon'ble Supreme Court

Gopala Krishnan Nani

dated 23.2.1995 in Civil Appeal Nos. 3034/95 (Union of India Vs. Executive Officers Group C) in fact support the contention of the present applicants and other contentions of the respondents made therein which are not borne out of records are specifically denied.

It is pertinent to mention here that the O.M. dated 20.4.1987 issued by the Govt. of India, Department of Expenditure, Ministry of Finance also support the case of present applicant as the applicants were saddled with All India Transfer Liability since their initial recruitment basis and the promotion zone of the applicants are also based on all India basis.

So far the decision rendered by the Hon'ble Supreme Court in Civil No. 8208-8213 of 1995 arising out of SLP No. 12450-55/92 the Hon'ble Supreme Court disposed of the said Civil Appeals in a very peculiar facts and circumstances of the case. The only question that has been considered by the Hon'ble Supreme Court that after passing of the order of Regionalisation w.e.f. 1.8.1994, whether Group C and D employees of the Geological Survey of India are entitled to the payment of Special Duty Allowance or not and the Hon'ble Supreme Court after hearing the arguments of learned counsel for the parties held that after passing of the order of regionalisation w.e.f. 1.8.1994 in respect of Group C and D employees of the Geological Survey of India serving in N.E. Region are not entitled to payment of Special Duty Allowance in view of the fact

that no transfer liability exists after 1.8.1984 in the cadre of Group C and D employees of the Geological Survey of India. But the case in hand where the present applicants claiming payment SDA, altogether stand on a different footing. In the instant case question basic question involves that the present applicants who were posted to N.E. Region from outside the North eastern Region whether entitlement of Special Duty Allowance. The Hon'ble Supreme Court in its decision dated 7.9.1995 specifically held as follows :

" Heard learned counsel for the parties. It appears to us that although the employees of the Geological survey of India were initially appointed with an all India transfer liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of Group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India Transfer Liability is not to be paid to such Group "C" and Group "D" employees of Geological Survey of India who are residents of the region in which they are posted."

A mere reading of the aforesaid portion of judgment and order passed by the Hon'ble Supreme Court it is quite clear that the payment of SDA is restricted after regionalisation i.e. 1.8.1984 only to those Group C and D employees who are residents of the region, as such entitlement to SDA to the present applicants is never denied by the Hon'ble Apex Court in its judgment dated 7.9.1995 and as such the present applicants are very much entitled to special duty allowance in view of Hon'ble Supreme Court judgment passed in Civil No. 8208-8213 (arising out of SLP No. 2450-55/92). Hence the contentions of the respondents is irrelevant in the facts and circumstances of the present case and the contentions of the respondents have been made just mislead the Hon'ble Tribunal.

2. That with regard to the statements made in paragraphs 4,7,9,10,11,12,13,14 are specifically denied and further begs to state that the Respondents Union of India has wrongly interpreted the judgment and order dated 7.9.1995 passed by the Hon'ble Supreme Court. It is also specifically denied that the order of regionalisation passed w.e.f. 1.8.1994 cannot adversely affect the question of entitlement to SDA to the present applicants.

It is categorically stated that the Respondent Union of India in paragraph 9 of their written statement specifically admitted that 'No option was called for' from the present applicants relating to

Gopalakrishnan

regionalisation for the sake of interest of the department as such payment of SDA cannot be restricted to the present applicants on the plea of regionalisation, who joined the GSI, NER from outside the North Eastern Region. The decision of the Hon'ble Supreme Court rendered on 7.9.1995 so far payment of SDA is concerned is confined only to those Group C and D employees who are residents of this region. Therefore the present applicants are entitled to Special Duty Allowance even after in view of the judgment and order dated 7.9.95 referred to above passed by the Hon'ble Supreme Court in a peculiar circumstances narrated in the Original Application.

3. That with regard to the statement made in paragraph 15,16,17,18, 20 are specifically denied and the same are irrelevant in the facts and circumstances of the instant case.

It is pertinent to mention here that after the pronouncement of judgment and order dated 7.9.1995 rendered by the Hon'ble Supreme court and thereafter pronounce of the decision of this Tribunal on 4.1.1999 in O.A. 75 of 1996 the respondents Union of India examined the case of the applicants including other employees of GSI and decided to pay the Special Duty Allowance to the applicants and other similarly situated employees and accordingly bill was prepared and the same was processed for payment and accordingly a Check was issued on 30.9.1999 amounting to Rs.

9,68,756/- in favour of A.O. GSI, NER, Shillong where payment of SDA was involved. But surprisingly the office of the Controller of Accounts, Central Accounts Office GSI, Calcutta stopped the payment vide letter bearing No. Co-Ord/3(8)/Vol-IV/318 dated 30.9.1999 without having any jurisdiction. The contentions made in 4.21 of the O.A. has not been specifically dealt with by the respondent Union of India, as such the contention of the present applicant made in paragraph 4.21 deemed to have been admitted by the respondents.

A photocopy of the cheque dated 30.9.1999 letter dated 30.9.1999 and the letter dated 30.9.1999 is annexed as Annexure-11 and 12 respectively.

4. In the facts and circumstances above, the application is deserves to be allowed with costs.

VERIFICATION

I, Shri Gopal Krishan Nair, aged about 56 years working as Superintendent in the office of the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong, one of the applicants in the instant application and I have been duly authorized by the other applicants to sign this verification on their behalf. Accordingly I do hereby verify that the statements made in Paragraph 1 to 3 of this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 24th day of March, 2003.

Gopala Krishnan Nair

अहस्तांतरणीय

Not Transferable

Annexure - 11

105

चेक संख्या Cheque No.



489580

मंत्रालय MINISTRY OF
विभाग DEPARTMENT OF

STEEL AND MINES
MINES, G. S. I.

दिनांक 30.9.99
Dated 19.99

WCO BANK, SHILLONG

देना है
TO

भारतीय रिज़र्व बैंक THE RESERVE BANK OF INDIA
भारतीय स्टेट बैंक THE STATE BANK OF INDIA

अदा करें Administ. at the Office, WCO, Shillong
Pay to को ही Only.
रुपये Nine lakh thirty eight thousand
Rupees
हundred fifty six only = ₹
Rs. 9,68,756/-

और उसे and charge the same against the account of the drawer

चेक काटने वाले के खाते में नामे डालें

[Signature]
Account Officer,
WCO Bank, Shillong

टिप्पणी : यह चेक जिस महीने में जारी किया गया है उसके बाद केवल तीन महीने तक भुगतान का सम्बन्ध है। M. S. : THIS CHEQUE IS VALID FOR THREE MONTHS ONLY AFTER THE MONTH OF ISSUE.

अहस्तांतरणीय

Not Transferable

चेक संख्या Cheque No.



489581

मंत्रालय MINISTRY OF
विभाग DEPARTMENT OF

STEEL AND MINES
MINES, G. S. I.

दिनांक 30.9.99
Dated 19.99

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भारतीय रिज़र्व बैंक THE RESERVE BANK OF INDIA
भारतीय स्टेट बैंक THE STATE BANK OF INDIA

अदा करें Administ. at the Office, WCO, Shillong
Pay to को ही Only.
रुपये nine lakh twenty seven thousand
Rupees
seven hundred eighty eight only = ₹
Rs. 9,77,718/-

और उसे and charge the same against the account of the drawer

चेक काटने वाले के खाते में नामे डालें

[Signature]
Account Officer,
WCO Bank, Shillong

टिप्पणी : यह चेक जिस महीने में जारी किया गया है उसके बाद केवल तीन महीने तक भुगतान का सम्बन्ध है। M. S. : THIS CHEQUE IS VALID FOR THREE MONTHS ONLY AFTER THE MONTH OF ISSUE.

*Attached for
zero cut*

BP 30 99 13:41 CH CMO 2554630 10: 227040 P02

GOVERNMENT OF INDIA

OFFICE OF THE CONTROLLER OF ACCOUNTS
CENTRAL ACCOUNTS OFFICE (MINISTRY OF MINES)
GEOLOGICAL SURVEY OF INDIA
6A, BRABOURNE ROAD, CALCUTTA-700 001
PHONE : 221-0817, 221-5698, 236-9187

All communication should be addressed to the Controller of Accounts, Central Accounts Office, (Ministry of Mines) GSI Calcutta by designation, Not by Name.
Telegram : GEOCOUNTS

No. Co-ord/3(B)/Vol-IV/318

Dated the 30-9-1999.

To
The Manager,
UCO Bank,
G.B. Road,
Shillong.

Sub : Request not to honour the Cheque Nos. B489579,
B489580 & B489581 - reg.

Sir,

Kindly refer my letter (No. Co-ord/3(B)/V -IV/317 dated 30-9-99) in which I have withdrawn the Cheque Drawing power from the Pay & Accounts Officer, P.A.O., GSI, Shillong due to some administrative reasons. He was instructed over phone also not to issue any Cheque relating to Special Duty Allowance. In reply he told to the undersigned that three Cheques of 'B' Category as mentioned above have already issued by him. Now the above mentioned three Cheques amount to Rs.25,48,000/- as they are related to SDA payments will not be honoured by you at any cost. Other cheques issued by him may be hon and as usual.

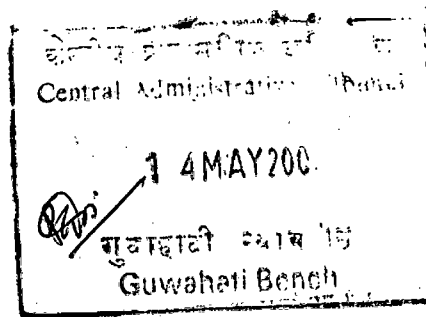
With regards,

Yours faithfully,

(*) relating to special duty allowance

P. O. DAS
(P. O. DAS)
CONTROLLER OF ACCOUNTS

Disputed
In-
sufficient



Filed by:

[Signature]

17/5/04
10/5/04

(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI**

OA NO.244/2002

Shri G.K. Nair & Others ... Applicant

-Vs-

Union of India & Others ... Respondents

(Written statements filed by the respondent No.4, the
Central Administrative Tribunal, Guwahati Bench)

The written statements of the aforesaid respondents are as follows:

1. That a copy of the OA No.244/2002 (referred to as the "application") has been served on the respondent No.4. The respondent has gone through the same and understood the contents thereof.
2. That the statements made in the application, which are not specifically admitted by the respondents, are hereby denied by the answering respondents.
3. That before traversing the various statements made in different paragraphs of the application, the respondents

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

OA No. 244/2002

Shri G.K. Nair & Others ... Applicant

-Vs-

Union of India & Others ... Respondents

(Written statements filed by the respondent No. 1
Central Administrative Tribunal, Guwahati Bench)

The written statements of the aforesaid respondent
follows:

1. That a copy of the OA No. 244/2002 (referred to
"application") has been served on the respondent
respondent has done through the same and under
contents thereof.

2. That the statements made in the application, which
specifically admitted by the respondents, are here
by the answering respondents.

3. That before traversing the various statements
different paragraphs of the application the re

determined by applying the 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 anywhere in India, does not make him eligible for the grant of special (duty) allowance."

A copy of the said O.M. dt.20.4.87 is annexed as ANNEXURE-R2.

- c) That the Govt. of India again brought out another Office Memo. Vide F.No.20014/16/86/E.IV/E.II(B) dt. 1.12.88. By the said O.M. the special (duty) allowance was further continued to the central Govt. employees at the rate prescribed therein.

A copy of the said O.M. dt.1.12.88 is annexed as ANNEXURE-R3.

- d) That in the meantime, several cases were filed in the court/Tribunal challenging the refusal of grant of SDA and some of such cases went to the Hon'ble Supreme Court. The Hon'ble Supreme Court in Union of India & others -vs- S.Vijoykumar & others (C.A. No.3251/93) upheld the provisions of the O.M. dt.20.4.87 and also made it clear that only those employees who were posted on transfer from outside to the N.E.Region were entitled to grant of SDA on fulfilling the criteria as in O.M.dt.20.4.87. Such SDA was not available to the local residents of the N.E.Region. The

Hon'ble Supreme Court also went into the object and spirit of the O.M.dt.14.12.83 as a whole.

A copy of the said judgment dt.20.9.94 is annexed as ANNEXURE-R4.

- (e) That the Hon'ble Supreme court in another decision dated 23.2.1995, in Ca No.3034/95 (Union of India & ors -vs- Executive Officers Association Group-C) held that the spirit of the O.M. dt. 14.12.83 is to attract and retain the services of the officers from outside posted in the North-Eastern Region, which does not apply to the officers belonging to the North-Eastern Region. The question of attracting and retaining the services of competent officers who belong to North-Eastern Region itself would not arise. Therefore, the incentives granted by the said O.M. is meant for the persons posted from outside to the North-Eastern Region, not for the local residents of the said defined reason.

A copy of the said judgment dt.23.2.95 is annexed as ANNEXURE-5.

- (f) That the Hon'ble Supreme court in another judgment dt.7.9.95 passed in Union of India & others -vs- Geological Survey of India employees' Association & others (CA No. 8208-8213) held that the Group C and D employees who belong to the N.E.Region and whose transfer liability is restricted to their region only, they do not have all India transfer liability and consequently , they are not entitled to grant of SDA.

A copy of the judgment dt. 7.9.95 is annexed as ANNEXURE-R5.6

- (g) That after the judgment of the Hon'ble supreme court, the Govt. of India brought yet another Office Memo. Vide No. 11(3)/95-E.II(B) dt.12.1.96 and directed the departments to recover the amount paid to the ineligible employees after 20.9.94 as held by the Hon'ble Supreme Court.

A copy of the said O.M.dt.12.1.96 is annexed as ANNEXURE-R7.

- (h) That in another case vide Writ petition No.794/1996 in Sadhan Kumar Goswami & others -vs- Union of India & others, the Hon'ble Supreme Court again put reliance on the earlier decision as in S. Vijoykumar case and held that the criteria required for the grant of SDA is same for both group A and B officers as in the case of Group C and D, and there is no distinction. By the said judgment, the said Hon'ble court also held that the SDA paid to the ineligible employees after 20.9.94 be recovered.

A copy of the judgment dt. 25.10.96 is annexed as ANNEXURE-R8.

- (i) That the Ministry of Finance further in connection with query made by the Directorate General of Security, New Delhi gave some clarification to the questions raised by some employees regarding eligibility of SDA. This was done vide I.D No.1204/E-II(B)/99 and which was duly approved by the Cabinet Secretariat U.O. No.20/12/99-EA.I-1798 dt.2.5.2000. According to that clarification, an employee belonging to the N.E.Region, posted in the N.E.Region having all India transfer liability as a condition of service, shall not be entitled to grant of SDA. But if such employee is transferred out of the N.E.Region and reposted to N.E.Region on transfer from outside, in that case such employee would be entitled to SDA. In the instant case, there is not a single such employee who had ever been transferred and reposted in the N.E.Region after 14.12.1983.

Hence, the applicants in the instant case have no cause of action to agitate in this Tribunal.

A copy of the said clarification of Cab. Sectt. Dt. 2.5.2000 is annexed as ANNEXURE-R9.

- (j) That in a recent decision dt. 5.10.2001, in Union of India & others -vs- National Union of Telecom Engineering Employees Union & others (CA No. 7000/2001) the Hon'ble Supreme court once again clinched on the vexed question of grant of SDA to the central govt. employees and by relying on the earlier decision of S.Vijoykumar held that the amount already paid to such ineligible employees should not be recovered.

The copy of the judgment dt. 5.10.2001 is annexed as ANNEXURE-R10.

- (k) That pursuant to the said judgment passed in CA No. 7000/2001. the Govt. of India, Ministry of Finance, Department of Expenditure, brought out another Office Memo. F.No.11(5)/97-E.II(B) dt.29.5.2002 and thereby directed all the departments to recover the amount of SDA already paid to such ineligible employees with effect from 6.10.2001 onwards and to waive the amount upto 5.10.2001 i.e. the date of the said judgment.

The copy of the O.M. dt. 29.5.2002 is annexed as ANNEXURE-R11.

✓ Now, from the above facts and circumstances of the case and the clarifications made in the matter, it is very much clear that only those employees irrespective of their group in A,B,C or D, shall be entitled to grant of SDA if they fulfil the criteria as underlined in O.M. dt. 20.4.87 and such employees are in fact posted in the North-Eastern

Region actually on transfer. Therefore the amount paid to the ineligible employees upto 5.10.2001 would be waived. However, the amount paid after 5.10.2001 should be recovered. This aspect of the matter is clear as indicated by the Hon'ble Supreme Court in its all earlier decisions also.

- 1) In the instant case, the parent employer respondents paid SDA to its employees in terms of the aforesaid Office Memorandum dated 14.12.1983. It is relevant to mention here that with effect from 1.8.1994 regionalisation was made and accordingly the payment of SDA was stopped to Group C and D employees of GSI. Subsequently Government of India framed a policy that Group C and Group D employees should not be transferred outside the region and accordingly their all India transfer liability was withdrawn vide order dated 23.8.1990. Thereafter some of the employees being aggrieved by the aforesaid decision in not paying the SDA approached the Hon'ble CAT, Guwahati Bench, Guwahati through original application nos. 182/1990 and 183/1990 respectively with a prayer for a direction for payment of Special Duty Allowance. The said O.As were decided by the Hon'ble Tribunal holding that the applicants are entitled to draw SDA vide its order dated 12.9.1991. The Union of India being dissatisfied with the decision of the Tribunal passed on 12.9.1991 filed a Review Petition before the Hon'ble Tribunal and the Review Petition was ultimately dismissed. In the meantime the respondents again started the payment of SDA to its Group C and D employees consequent upon the direction passed by the Hon'ble Tribunal in O.A. Nos. 182/90 and 183/90. Ultimately the judgment of the Hon'ble Tribunal was carried on appeal before the Hon'ble Supreme Court through Civil Appeal No. /8208-8213 of 1995 arising out of SLP Nos. 12450-55/92. The Hon'ble Supreme Court disposed of the said appeal on 7.9.1995 holding that the Group C and D employees of the

GSI are not having all India Transfer Liability since the Govt. of India has framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. In view of the judgment passed by the Hon'ble Supreme Court dated 7.9.95 the respondents stopped the payment of SDA to its Group C and D employees with effect from 1.1.1996.

Being aggrieved by the decision of non-payment of SDA 9 employees of North Eastern Region again approached the Hon'ble Central Administrative Tribunal through O.A. No. 75 of 1996 claiming that in terms of the order dated 7.9.1995 passed by the Hon'ble Supreme Court they are entitled to SDA. The said O.A. was also disposed of by the Hon'ble Tribunal on 4.1.1999 with a direction to the respondent no.3, Deputy Director General to decide the matter taking into consideration of the relevant rules and law within a period of three months from the date of receipt of that order of the Hon'ble Tribunal. The respondents after taking into consideration of all the relevant circulars, Office Memoranda considered the matter and also took a personal hearing of the applicants and disposed of the matter holding that the applicants of the O.A No. 75 of 1996 are not entitled to SDA since the applicants do not have all India transfer liability and therefore do not fulfil the eligibility criteria prescribed for grant of SDA in terms of OM dated 14.12.83, 29.10.1986 and 20.04.1987.

PARA-WISE REPLY:

4. That with regard to the statements made in para 1 of the application, the respondents state that there is no cause of action of the case and hence, the application is not tenable in law and liable to be dismissed with cost.

5. That with regard to the statement made in para 2 and 3, the answering respondents have no comments.
6. That with regard to the statement made in paragraphs 4.2, 4.4 and 4.5 of the Application the answering respondent beg to offer no comment as the same is a matter of records pertaining to other department. However nothing is admitted which are not supplied by such records. So far as the case of the applicant No.3, Shri T.R.Das is concerned, the respondent states that he joined as Private Secretary in the scale of pay of Rs. 6500-10500/- in the Central Administrative Tribunal, Guwahati Bench (CAT) from the Geological Survey of India (GSI), Shillong on deputation basis w.e.f 1.9.94 and was repatriated on 1.7.97. Again for the second spell, he joined in the same capacity from GSI, Arunachal Pradesh on 3.8.98 on deputation basis and was repatriated on 30.8.2002. During the period of deputation, the said applicant was absorbed in the CAT w.e.f 31.7.2001 conditionally that his absorption is subject to the outcome of the Court case and if no decision would come in his favour within a period of two years (lien period) or the case remain undecided with that period, his absorption would be revoked and be reverted to the original position and consequently be repatriated to his parent department. In this regard, the applicant submitted his representation and the said representation was rejected by the competent authority. Accordingly, he was repatriated w.e.f 30.8.2002.

In this connection, the respondent also state that some of the employees of the CAT filed the O.A No. 128/91 and 111/98 demanding grant of SDA. The said O.A No. 128/91 was dismissed on 6.6.95 with the observation that the Group

C and D have no All India Transfer liability in CAT. The O.A. 111/98 was withdrawn by the applicant on 29.1.99.

7. That with regard to the statements made in paragraphs 4.6 of the application the answering respondent have no specific comment to offer, but supports the statements made by the other respondents as it pertains to their area. As per law laid down by the Hon'ble Supreme Court, and facts stated by the other respondents, this respondent begs to state that the applicant no. 2 though came on transfer to NER prior to regionalisation and he became part and parcel of the regionalized cadre from 1.8.1984 where separate cadres for Gr. C and D post for the region were constituted along with the incumbents holding posts on the date mentioned above. The other applicants joined initially in NER from outside the region prior to regionalisation and consequent upon the regionalisation w.e.f. 1.8.1984 are not eligible for payment of SDA after the judgment dated 7.9.1995 of the Supreme Court mentioned above. They do not fulfil the basic criteria of all India transfer liability for this purpose as laid down for grant of S.D.A., in O.A. No. 20014/2/83-E.IV dated 14.12.1986, 29.10.1986 and 20.4.87.
8. That with regard to the statement made in paragraph 4.7, the respondent beg to offer no comments as the same are matter of records pertaining to the other department. However, nothing is admitted which are not borne on records.
9. That with regard to the statement made in paragraph 4.8 of the Original Application the respondent supports the statements of the other respondents.

10. That with regard to the statement made in paragraph 4.9 of the Original Application the respondent begs state that these matter pertaining other department. However, these being matter of law, the answering respondent supports the statements of the other respondents and state that the applicants have misinterpreted the contents of the judgment and order dated 7.9.1995 as well as the judgment and order dated 4.1.99 passed in O.A. No. 75/96. The basis criteria for payment of SDA is All India Transfer Liability in terms of the O.M. dated 14.12.1993 and no.4.87 and the same has already been discussed in the speaking order passed by the respondent no. 3 in its order dated 29.4.1999 (Annexure-6 to the O.A.).
11. That with regard to the statement made in paragraph 4.10 of the Original Application the respondent states that the Hon'ble Supreme Court has held in its judgment and order dated 7.9.95 that the Gr. C and D employees of GSI are not having all India Transfer Liability since 1.8.1984 as such they are not entitled to SDA.
12. That with regard to the statement made in paragraph 4.11 of the Original Application the answering respondent supports statements of other the respondents and begs to state that the payment of SDA was stopped to the Group C and D employees of North Eastern Region following the judgment passed by the Hon'ble Supreme Court dated 7.9.1995. The respondent further state that the claim of the SDA to the applicants is the misinterpretation of the judgment and order dated 7.9.95 of the Hon'ble Supreme Court as well as the judgment and order dated 4.1.1999

passed in O.A. No.75/96. The basic criteria for grant of SDA is all India Transfer Liability and the applicants do not have all India transfer liability after 1.8.1994 as such question of payment of SDA does not arise.

13. That with regard to the statement made in paragraph 4.12 of the Original Application the respondent begs to state that the contentions of the applicants in this paragraph are the misinterpretation of the judgment and order dated 7.9.95 and 4.1.1999 already stated above.
14. That with regard to the statement made in paragraph 4.13 of the Original Application the answering respondent supports the statements of the other respondents.
15. That with regard to the statement made in paragraph 4.14 of the Original Application the answering respondent supports the contentions of the other respondents.
16. That with regard to the statements made in paragraph 4.15 of the Original Application the answering respondent supports the contention of the other respondents and begs to state that in the earlier paragraphs the reasons for not paying the SDA to the applicants has been elaborately stated.
17. That with regard to the statements made in paragraphs 4.16, 4.17, 4.18, 4.19, 4.20, 4.21 and 4.22 the respondents beg to state that the claim of the applicants for payment of the SDA on misinterpretation of the judgment and order

dated 7.9.95 passed by the Hon'ble Supreme Court as well as the judgment and order dated 4.1.1999 passed in O.A. 75/96 can not sustain.

18. That with regard to the statements made in para 5.1 to 5.8, the respondent states that in view of the facts and circumstances of the case and the settled provisions of law, the grounds shown can not sustain in law and hence the application is liable to be dismissed with cost.
19. That with regard to the statements made in para 6 and 7, the respondent has nothing to comment.
20. That with regard to the statements made in para 8.1 to 8.4 and 9.1, the respondent states that under the facts and circumstances of the case and the provisions of law, the application is liable to be dismissed with cost as devoid of any merit and without any cause of action.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to dismiss the application with cost.

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ANNEXURE : R₂

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 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".


Instances 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/groups of posts has to be determined by applying tests of recruitment one, 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 or 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 special (Duty) allowance.

Contd..../-

VERIFICATION

I Shri N. J. JOSEPH at present working as the DEPUTY REGISTRAR in the office of the CENTRAL ADMINISTRATIVE TRIBUNAL, Guwahati, who is taking steps in all court cases, being competent and duly authorized to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 2, 4 to 19 and 20 — are true to my knowledge and belief, those made in para - 3 — — — being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material facts.

And I sign this verification on this 17th day of May, 2004 at Guwahati.


DEPONENT
N. J. JOSEPH
Deputy Registrar
Central Administrative Tribunal
Guwahati Bench
Guwahati

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Annexure R 1
NO. 20014/2/03-C.IV
Government of India
Ministry of Finance
Department of Expenditure

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(K1)
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ANNEXURE : R1

New Delhi, th 14th December, 1983.

OFFICE MEMORANDUM

Subject :- Allowances and facilities for civilian employees of the Central Government serving in the states 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 Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been enjoying the attention of the Government for some time. The Government had appointed a committee under the Chairmanship of Secretary, Department of Personnel & Administrative Reform, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) Tenure of posting/deputation

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

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the 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.

- a) promotion in cadre posts;
- b) deputation of 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 in deserving cases of meritorious service in the North East.

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

iii) Special (Duty) Allowance :

Central Government civilian employees who have All India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such 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 not exceed Rs. 400/- p.m. Special Allowance like special Compensatory (Remote Locality) Allowance, 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 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.

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

(v) Travelling Allowance on first appointment

In relaxation of the present rules (S.R. 105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in cases 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 at Government cost or have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of the cost of transportation of baggage. In case the family accompanied the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North-Eastern Region.

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

In relaxation of orders below S.R. 116 for transportation of personal effects on transfer between two different stations in the North Eastern Region, higher rate of allowance admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Government servant will 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 travelling excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) & Leave Travel Concession :

A government servant who leaves his family behind the old duty station or another selected place or 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-Eastern 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 children only) also to travel once a year to visit the employees 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.

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- 4 -

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/Agora and Calcutta and vice versa, while performing journeys mentioned in the preceding paragraph.

(x) Children Education Allowance/Hostel Subsidy :

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

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

3. These orders will take effect from 1st November, 1963 and will remain in force for a period of three years upto 31st October, 1966.

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

5. Separate orders will be issued in respect of other recommendation 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 issued after consultation with the Comptroller and Auditor General of India.

S/-

(Sd/-)
 SECRETARY TO GOVERNMENT OF INDIA

To,

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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: 3011019

To
Financial Advisers of all Ministries/Departments.

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Annexure - R3

F.No. 20014/16/86/E.IV/E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

15/12/83
ANNEXURE : R3

New Delhi, the 1 December, 1988.

OFFICE MEMORANDUM

Sub.: Improvement of facilities for Civilian employees of the Central Govt. serving in the State of North-Eastern Region, Andaman & Nicobar Island and Lakshadweep.

The undersigned is directed to refer to this Ministry's O.M. No. 20014/2/83. E-IV dated 14th December, 1983 and 13th 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 the State 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) Tenure of posting/deputation :

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

(ii) 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 course of training abroad.

contd...2

(iii) Special (Duty) Allowances:

Central Government Civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 12½ % of basic pay subject to a 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 (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 allowances like Special Compensatory (Remote Locality) Allowance, construction Allowance and Project Allowance will be drawn separately.

The Central Government 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.

(iv) Special Compensatory Allowance :

The recommendations of the 4th Pay Commission have been accepted by the Government and Special compensatory allowance at the revised rates have been made effective from 1.10.86.

(v) Travelling Allowance on First appointment :

The present concessions 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 the total distance, instead of for the distance in excess of first 400 Kms. only.

contd...3

(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 personal 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. 5,100/- 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/Aizawal/Lilabari and Calcutta and vice-versa; between Portblair and Calcutta/Madras and vice-versa in case of posting in A & N Islands and between Kavatti 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 in the DOP&T, O.M. 18011/1/87-Estt. (Allowances) dated 31.12.87, as amended from time to time.

(xi) Concession regarding grant of House Rent Allowance to officers posted in the State of North-Eastern Region, Andaman & Nicobar Island and Lakshadweep Island :

The present concession as contained in this Ministry's O.M. No. 11016/1/E.II(B)/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 thier telephone at their residences in thier last place of the posting subject to the condition that the rental and all other charges are paid by such officers.

2. The above orders will also supply mutatis-mutandis to the Central Government employees posted in Andaman & Nicobar Islands and Lakshadweep Island. These orders will also apply mutatis-mutandis of 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.

Contd...5

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

5. Hindi version of this Memorandum is attached.

Sd/- Illegible

(A. JAYARAMAN)

JOINT SECRETARY TO THE GOVT. OF INDIA

To

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

Copy (.....) forwarded to C.& A.O.,
U.P.S.C. etc. as per endorsement
list.

(1994)28 Administrative Tribunals Cases 598
(1994) Supp 3 SCC 649)

Supreme Court of India

(BEFORE KULDIP SINGH AND B.L.HANSARIA, JJ)

UNION OF INDIA AND OTHERS ... Appellants.

Versus

S.VIJAY KUMAR AND OTHERS ... Respondents.

Civil Appeal No.3251 of 1903 with Civil Appeal Nos.
6163-81 of 1994, decided on September 20, 1994.

Allowances - Special duty allowance payable to Central Government employees appointed to posts of All India Transfer Liability in North-Eastern Region- Held, not payable to employees who were residents of that region - Subject of 1983, O.M. not decisive of the question - Further held, denial of the allowance to such employees, did not violate Art.14 - OMs dated 14-12-1983, 29-10-1986 and 20-4-1987 - Constitution of India, Arts. 14 and 16 - Pay- Equal pay for equal work.

HELD.

A close perusal of the Office Memoranda dated 14-12-1983, 20-4-1987 and 29.10.1986 clearly show that allowance in question was meant to attract persons outside the North Eastern Region to work in that Region because of inaccessibility and difficult terrain. Even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure or posting which was required

contd/-

to be of 2/3 years to claim the allowance depending upon the period of service of the incumbent. 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 be become payable merely because of the clause in the appointment order relating to All India Transfer Liability.

The contention that the denial of the allowance to the residents would violate the equal pay doctrine and Articles 14 and 16 of the Constitution is adequately met by the Supreme Court's decision in Reserve Bank of India case.

Reserve Bank of India V. Reserve Bank of India Staff Officers Assn., (1991) 4 SCC 132 1991 SCC (L&S) 1090 (1991) 17 ATC 295, followed.

Appeals allowed.

Advocates who appeared in this case :

K.T.S. Tulsi, Additional Solicitor General, V.C. Mahajan, N.N. Goswamy and Dr. Shankar Ghosh, Senior Advocates (C.V.S. Rao, Ms. A. Subhashini, Ms. Sushma Suri, Ms. Binu Tamta, S. Wasim A. Qadri S.N. Terdal, P. Narasimhan, S.K. Nandy and D.S. Mahra, Advocates, with them) for the appearing parties.

Respondent in person in C.A.No.3251 of 1993.

The Judgment of the Court was delivered by

HANSARIA, J. -The point for determination in this appeal and in the special leave petitions (which have our leave) is whether the respondents are entitled to special duty allowance (hereinafter referred to as "the allowance"), even though they are residents of North Eastern Region merely because of the posts to which they were appointed were of "All India Transfer Liability". The Tribunal has answered the question in affirmative. These appeals have been preferred by the Union of India.

2. The Tribunal took the aforesaid view because the Office Memorandum dated 14.12.1983 which is on the subject of "Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of the North Eastern Region-improvement thereof" had stated that allowance shall be payable if the posts

be those which have "All India Transfer Liability". The stand of the Union of India, however, is that this office memorandum, if it is read along with what was stated subsequently in office Memorandum dated 20.4.1987, it would become clear that the allowance was required to be paid to those incumbents who had been posted in North Eastern

Region carrying the aforesaid service condition and not to those who were residents of this region. The memorandum of 1987 has clearly stated that the allowance would not become payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India.

3. Dr. Ghosh appearing for the respondents contends that the office memorandum of 1983 having not stated what is contained in the memorandum of 1987, a rider cannot be added to the former that the allowance could be payable only to those who had been given posting in the North-Eastern Region and not to those who were residents of this Region. It is also contended that denial of the allowance to the residents, while permitting the same to the non-residents, would be violative of doctrine of equal pay for equal work and as such of Articles 14 and 16 of the Constitution.

4. We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tulsī for two reasons. The first is that a close perusal of the two aforesaid memoranda, along with what was stated in the memorandum dated 29-10-1986 which has been quoted in the memorandum of 20.4.1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern Region to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that region on deputation used to come back after joining there by taking leave and therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 23 years to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating the 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.

5. The submission of Dr. Ghosh that the denial of the allowance to the residents would violate the equal pay doctrine is adequately met by what was held in Reserve Bank of India, V. Reserve Bank of India Staff Officers, Assn, to which our attention has been invited by the learned Additional Solicitor General, in which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution.

6. In view of the above, we hold that the respondents were not entitled to the allowance and the impugned judgments of the Tribunal are, therefore, set aside. Even so, in view of the fair stand taken by the Additional Solicitor General We state that whatever amount has been paid to the respondents or for that matter to other similarly situated employees, would not be recovered from them insofar as the allowance is concerned.

7. The appeals are allowed accordingly. There will be no order as to costs.

Filed to be read copy

Assistant Registrar (Judicial)

11/3/95

Supreme Court of India

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

579905

ANNEXURE : 5

CIVIL APPEAL NO. 3034 OF 1995
 (Arising out of S.L.P. (C) NO. 18717 of 1994)

Union of India & Ors.

.....Appellants

Vs.

Executive Officers Association
Group-C

.....Respondents

J U D G M E N T

Faizal Udin. J.

1. Delay condoned.
2. Leave granted. The counsel for parties are heard.
3. This appeal has been directed by the appellants against the judgment dated May 20, 1990 passed by the Central Administrative Tribunal, Guwahati Bench (hereinafter referred to as Tribunal), in O.A. No.

172 of 1972. By the said judgment the Tribunal held that the respondents are entitled to Special Duty Allowance in terms of Office Memorandum dated December 14, 1983 with effect from the date. Specifically indicated in the said Office Memorandum and directed the appellants herein to pay and clear the Special Duty Allowance to the respondents herein within 90 days from the date of receipt of copy of the judgment in respect of the arrears due and to release the current Special Duty Allowance with effect from the month of June, 1993.

4. The respondent No. 1 is an Association of Group (C) Inspectors of Customs and Central Excise under the Collectorate of Customs and Central Excise, Shillong and respondent Nos. 2 and 3 are its President and General Secretary respectively. The respondents approached the Tribunal claiming Special Duty Allowance on the strength of Office Memorandum No. 20014/2/63-E.IV dated December 14, 1983 and the Office Memorandum No. 20014/16/26.IV/E.11(E) dated December 1, 1986 issued by the Ministry of Finance, Government of India. The respondent-Association claimed that its members have all India transfer liability under the Central Excise and Land Customs Department Group (C) Posts Recruitment Rules, 1979 which were applicable to its members and in pursuance of which three of its members had been

transferred and one Smt. Lisa L. Synon of Billone has been posted at Goa under the said recruitment Rules and, therefore, they are eligible and entitled to claim Special Duty Allowance. The appellants herein opposed and contested the aforesaid claim of the respondents before the Tribunal. The appellants took the defence by stating that the Office Memorandum No. 20014/E/EC.E/IV dated April 20, 1987 had clarified that the Special Duty Allowance is payable only to those officers, incumbents of Group (C) of posts who are having all India transfer liability defined in the said Office Memorandum. According to view the original Office Memorandum dated March 14, 1983 and that the conditions stipulated in the Recruitment Rules, 1979 referred to above cannot be taken as basis for saddling the respondents or its members with all India transfer liability and consequent payment of Special Duty Allowance to them. The appellants also took the plea that all India transfer liability of the members of any service/cadre or incumbent of any posts/Group of posts is to be determined by applying the tests of recruitment to the service/cadre/post made on all India basis and that mere clauses in the Recruitment Rules/Appointment Order stipulating all India transfer liability does not make him/them eligible for grant of Special Duty Allowance in terms of Office Memorandum dated December 14, 1983.

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5. After considering the rival contentions, the Tribunal observed that the contents of Office Memorandum dated April 12, 1984 as well as the letter dated 7/47/48.EA dated September 26, 1984 have been fully discussed by the Full Bench, Calcutta and held that the real test/criteria for determination is whether all India transfer liability exists and opined that without recalling the Office Memorandum issued in 1963 the concerned departments had no reason to deny the benefit of memorandum available to certain classes of employees and to withdraw its application to certain other classes. Relying on the said Bench decision of the Central Administrative Tribunal, Calcutta, the Tribunal allowed the application of the respondents by the impugned judgment and granted the relief as stated above against which this appeal has been preferred.

6. Learned counsel for the appellants submitted that the Tribunal has failed to appreciate the true meaning, intention and spirit behind the term 'all India transfer liability' which occurred in the Finance Ministry Office Memorandum referred to above and has thus seriously erred in holding that the members of the respondent-Association are entitled to the Special Duty Allowance. He further submitted that the package incentives contained in the Ministry's Office Memorandum

dated December 14, 1953 (as amended) is based on the recommendations of the committee to review the facilities and allowance admissible to Central Government Employees in the North-Eastern Region and it was with a view to attract and retain competent officers service in the States and Union Territories in the North-Eastern Region that the Government of India on the recommendations of the committee made the provision for Special Duty Allowance to be paid to such officers who come on posting and deputation to North-Eastern Region from other Regions. It was, therefore, submitted that since the members of the respondent-Association belonged to the North-Eastern Region itself who were recruited and posted in the same Region, they were not entitled for Special Duty Allowance.

7. The main source for claiming the Special Duty Allowance is the Office Memorandum dated December 14, 1953 the very first paragraph of which reads as under:-

"The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram have been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary Department of Personnel & Administrative Reforms, to review the existing allowances and

facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows."

.....

B. A careful perusal of the opening part of the Office Memorandum reproduced above would show that the Government had appointed a Committee under the Chairmanship of the Secretary Department of Personnel and Administrative Reforms to review the existing allowances and facilities admissible to the various categories of Civilian Central Government Employees serving in the North-Eastern Region so that competent officers may be attracted and retained in the North-Eastern Region States. The use of words attracting and retaining in service are very much significant which only suggest that it means the competent officers belonging to the Region other than the North-Eastern Region. The question of attracting and retaining the services of competent officers who belong to North-Eastern Region itself would not arise. The intention of the Government and spirit behind the Office Memorandum is to provide an incentive and attraction to the competent officers belonging to the Region other than

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- 32 - 36

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the North-Eastern region to come and serve in the North-Eastern Region. It can hardly be disputed that the geographical, climatic, living and food conditions of people living in North-Eastern Region and the States comprising therein are different from other Regions of the country. The North-Eastern Region is considered to be 'hard zone' for various reasons and it appears that it is for these reasons that the Government provided certain extra allowance, benefits and other facilities to attract competent officers in the North-Eastern Region at least for two to three years of tenure posting. The Ministry's Office Memorandum in question came up for consideration before this Court in Chief General Mansoor (Telecom) Vs. S. Rajender S.H. Bhattacharjee & Ors. [JT 1995 (1) SC 440] which was decided by us by judgement dated January 18, 1995 in which this Court took the view that the said Office Memorandums are meant for attracting and retaining the services of competent officers in the North-Eastern Region from other parts of the country and not the persons belonging to that region where they were appointed and posted. This was also the view expressed by this Court in yet another case reported in J.T. 1994 (6) 443 - Union of India Vs. S. Vinaya Kumar & Ors. In Vinaya Kumar (Suora) the point for consideration was exactly identical, with regard to the entitlement to Special Duty Allowance to those employees/officers who

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are residents of North-Eastern Region itself. After considering the memorandum dated December 14, 1953 and other related Office Memorandums indicated above, it was held that the purpose of the allowance was to attract persons from outside the North-Eastern Region to work in the North-Eastern Region because of inaccessibility and difficult terrain. In the facts and circumstances stated above the view taken by the Tribunal cannot be upheld and deserves to be set aside.

9. For the reasons stated above the appeal is allowed. The impugned order of the Tribunal is set aside and the application filed by the respondents before the Tribunal for grant of Special Duty Allowance to them is dismissed. In the facts and circumstances of the case, we make no order as to costs.

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.....
(S.C. Agrawal)

541-
.....
(Fazlan Uddin)

New Delhi.

February 22, 1955.

- 35-38 - *Annexure R-6* 147
C/33 **ANNEXURE: R619**

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2 & 3 - of 1995
(Arising out of S.L.P. Nos. 12450-55/92)

Union of India & Ors.

..appellants

versus

Geological Survey of India
Employees' Association & Ors.

..respondents

O R D E R

Delay condoned.

Leave granted.

Mr. P.K. Gouwami, learned senior counsel appears for Geological Survey of India Employees' Association and Mr. S.K. Nandy, Advocate, appears for the other respondents in all the matters.

Heard learned counsel for the parties. It appears to us that although the employees of the Geological Survey of India were initially appointed with an all India transfer liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such group C and group D employees of Geological Survey of India who are residents of the region in which they are posted. We may also indicate that such question has been considered by this Court in Union of India and Others Vs. S. Vijay Kumar & Others (1994 (3) SCC 649).

Filed to be true copy
At Court Registrar (Judl.)
27.05.1995
Supreme Court of India

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Accordingly, the impugned order is set aside. It is, however, directed that the appellant will not be entitled to recover any part of payment of special duty allowance already made to the concerned employees. Appeals are accordingly disposed of.

Sd/-
(G. H. Ray)

Sd/-
(S. B. Majumdar)

New Delhi
September 7, 1995

ANNEXURE : R7

NO. 11(31/95-E.II(B))
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's OM No. 20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No. 20011/10/86-E.IV/E.II(B) dt. 1.12.88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM dt. 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE Region. One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have "All India Transfer Liability".

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e., whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministers/Departments against the orders of the CAT.

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6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil Appeal no. 3251 of 1993) upheld the submissions of the Government of India that Central Government civilian employees who have All India Transfer Liability are entitled to the grant of SDA on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

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

i) the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &

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

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

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

10. Hindi version of this GM is enclosed.

(C. Balachandran)

Under Secy to the Govt of India

5A
All Ministries/Departments of the Govt. of India, etc.

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

Dated New Delhi, the 26th November, 1996

FROM: ASSISTANT REGISTRAR (JUDL)

- TO : 1. The Union of India
Represented by the Cabinet Secretary
Government of India, North Block
New Delhi.
2. The Director, SSB
Office of the Director, SSB
East Block-6, R.K.Puram
New Delhi - 110 065.
3. The Divisional Organiser
SSB Shillong Division
A.P. Secretariat Building
Shillong, Meghalaya.
4. Commandant, Group Centre, SSB
Tripura, Salbegan, Agartala
Tripura West.

WRIT PETITION NO.794 of 1996
(Under Article 32 of the Constitution of India)

WITH :

Application No. 1

(Application for ex-parte stay)

Sadan Kumar Goswami & Ors.

PETITIONERS.

VERSUS -

Union of India & Ors.

RESPONDENTS

Sir,

I am directed to forward herewith for your information and necessary action a certified copy of the signed Order dated the 25th October, 1996, of this Court passed in the Writ Petition and Application for stay.

Please acknowledge receipt.

Yours faithfully,

Sd/- Illegible
for ASSISTANT REGISTRAR (JUDL.)

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION NO. 794 of 1996

(Under Article 32 of the Constitution of India)

sub-Inspector Sadhan Kumar Goswami &
Ors.

. . . Petitioners.

Vs.

The Union of India & Ors.

. . . Respondents.

THE 25th DAY OF OCTOBER, 1996

Presents :

THE Hon'ble Mr. Justice K. Ramaswamy
The Hon'ble Mr. Justice S.P. Kurdukar

Sankar Gosh, Sr. Adv. and Amlan Ghosh, Adv. with him
for the petitioners.

O R D E R

The following Order of the Court was delivered :

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION NO.794 OF 1996

Sub-Inspector Sadhan Kumar Goswami &
Ors. Petitioners

Versus

The Union of India O Ors. Respondents.

O R D E R

This writ petition under Article 32 is one of the series of cases as have come across to reopen the judgments/orders of this Court rendered under Article 136 of the Constitution of India after their becoming final.

The admitted facts are that the petitioners who joined service under the Special Security Bureau (SSB) in North Eastern Region of India, claimed special duty allowances as per order of the Central Government. The question was considered by this Court in Union of India vs. S. Vijay Kumar (CA No.3251 of 93) decided on September 20, 1994; therein this Court had held thus:

"We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tulsi for two reasons. The first is that a close perusal of the two aforesaid memoranda, along with what was stated in the memorandum dated 29-10-1986 which has been quoted in the memorandum of 20-4-1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern Region to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of

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the competent officers for service in the North Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2/3 years to claim the allowance depending upon the period of service of the incumbent. 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 officer memoranda of 1983 the subject was mentioned as quoted above is not enough to concede to the submission of Dr. Ghosh.

The submission of Dr Ghosh that the denial of the allowance to the residents would violate that equal pay doctrine is adequately met by what was held in Reserve Bank of India v. Reserve Bank of India Staff Officers' Assn., to which our attention has been invited by the learned Additional Solicitor General, in which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution."

In view of the above, this Court allowed the appeals of the State and held that the respondents were not entitled to the allowances but whatever amount was paid upto the date of the judgment was directed not to be recovered from them. The petitioners are relying upon the office Memorandum dated July 11, 1996 which provided that "it is not applicable from one station to another station within the region of Group A and B staff will further continue to get the facilities." They have filed this writ petition contending that while the Group C and B employees have been denied the benefit of the

above judgment, special duty allowance benefit is being granted to Group A and B; it tantamounts to violation of Article 14 and, therefore, the writ petition should be allowed so as to give them the same benefit. Admittedly, the petitioners are Group C and D employees and are bound by the above declaration of law made by this Court. Merely because they were not parties in the judgment, they cannot file writ petition under Article 32. The contention that they are entitled to get the benefit at par with Group A and B officers under the above Memorandum dated July 11, 1996 is not correct. Apart from the fact that Group A and B employees are entitled to special duty allowance contrary to the law declared by this Court in the above judgment, they too are bound by its whether or not they are entitled to the above benefit due to this Court's judgment, the petitioners are not entitled to the benefits of the allowances as claimed by them. The judgment of this Court would indicate that it did not make any distinction between Group C and D and Group A and B Offices. All are governed by the law under Article 141. The petitioners are not entitled to the payment of the special duty allowance irrespective of whether or not they were parties to the judgment rendered in Vijay Kumar's case (Supra); they cannot be permitted to raise new grounds, though not raised or argued in earlier case, to canvass the correctness of the judgment by filing the writ petition under Article 32.

Of late, we have been coming across this type of writ petitions filed by several parties. We are constrained to take the view that the learned counsel who are advising them to move this Court under Article 32 should clarify to the court that though they advised the petitioners that the judgment of this court binds them and cannot canvass its correctness and still, in spite of such advice, the party insisted upon filing the writ petition. It would then be for this Court to consider and deal with the case appropriately. Hereinafter, it would be necessary that the Advocate-on-Record should file as part of the paper book of the writ petition filed under Article 32, a statement and certificate that the party concerned was advised that the matter is covered by the judgment of this Court and yet, the writ petitioner insisted to file the same. Should such certification form part of the record of the writ petition, then only the Court would deal with the writ petition. In view of the fact that Class C and D employees are not entitled to special duty allowance as per the law already declared by this Court, the petitioners are not entitled to the benefit.

It is next contended that the Government is recovering as per memorandum dated January 17, 1996 the amounts paid which is contrary to the direction issued by this Court in the above judgment. The petitioners are not right in their contentions. It is seen that the Government have limited the payments already made after the date of the judgment of this Court; payments made prior to that date are not being recovered.

Under those circumstances, we do not think that there will be any justification to direct the

respondents not to recover the amount from the petitioner after the date of the judgment of this Court.

The writ petition is accordingly dismissed.

.....
(K.RAMASWAMY)

.....
(S.P.KURDUKAR)

NEW DELHI;
OCTOBER 25 1996.

COURT CASE
MOST IMMEDIATECabinet Secretariat
(EA.I Section)

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

SSB Directorate may kindly refer to their UO No.42/SSB/AI/99(18)-2359 dated 31.3.2000 on the subject mentioned above.

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

- i) The Hon'ble Supreme Court in their judgement delivered on 26.11.96 in Writ Petition No.794 of 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. region from outside the region, and in the following situation whether a Central Govt. employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their UO No.11(3)/95.E.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. No
 - b) An employee hailing from the NE Region selected on the basis of an All India recruitment test and borne on the Centralised cadre/service common seniority on first appointment and posted in the N.E.Region. He has also All India Transfer Liability.
- ii) An employee belongs to N.E.Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance OM No.20014/2/83-E.IV dated 14.12.83 and 20.4.87 read with NO

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

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

YES

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

YES

v) The MOF, Deptt. of Expt. vide their DO
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 determi-
nation 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 (c) in the case
of SSB/DGS, there is a common recruit-
ment 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.

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

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

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

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

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

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

sd/-
(P.N. THAKUR)
DIRECTOR (SR)

1. Shri R.S.Bedi, Director, ARC
 2. Shri R.P.Kurcel, Director, SSB
 3. Brig (Retd) G.S.Uban, IG, SFF
 4. Shri S.R.Mehra, JD(P&C), DGS
 5. Shri Ashok Chaturvedi, JS(Pers), R&AW
 6. Shri B.S.Gill, Director of Accounts, DACS
 7. Smt. J.M.Menon, Director-Finance(S), Cab.Sectt.
 8. Col.K.L.Jaspal, CIOA, CIA
- Cab. Sectt. UO No.20/12/99-EA-I-1799 dated 2.5.2000

Union of India & Anrs.

. . . Applicants.

- versus -

National Union of Telecom Engineering
Employees Union & Anrs.

. . . Respondents.

O R D E R

Leave granted.

It is stated on behalf of the respondents that this Appeal of the Union of India is covered by the judgment of this Court in the case of Union of India & Ors. Vs. S. Bijay Kumar & Ors. reported as 1994 (Supp.) SCC, 649 and followed in the case of Union of India & Ors. Vs. Executive Officers Association Group 'C' 1995 (Supp.) SCC 757. Therefore, this appeal is to be allowed in favour of the Union of India. It is ordered accordingly.

It is, however, made clear that upon this appeal came up for admission on 13.1.2000, the learned Solicitor General had given an undertaking that whatever amount has been paid to the respondents by way of special duty allowance will not, in any case or event be recovered from them it is on this assurance that duty was condoned. It is made clear that the Union of India shall not be entitled to recover any amount paid as special duty allowance inspite of the fact this appeal has been allowed.

Vs

Sd/-

(R. SANTOSH HEDGE)

Sd/-

(K.G. BALAKRISHNAN)

New Delhi,

October, 05, 2001.

G.I., M.F., O.M. No. 11 (5)/97-E. II (B), dated 29-5-2002

Special Duty Allowance to civilian employees posted from outside the region only

The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-E. IV, dated 14-12-1983 and 20-4-1987 read with O.M. No. 20014/16/86-E.IV/E. II (B), dated 1-12-1988 and O.M. No. 11 (3)/95-E.II (B), dated 12-1-1996 (Sl. Nos. 214 and 103 of *Swamy's Annual*, 1988 and 1996 respectively) on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in N-E. region vide OM, dated 14-12-1983. Special Duty Allowance (SDA) is one of the incentives granted to the Central Government employees having "All India Transfer Liability". The necessary clarification for determining the All India Transfer Liability was issued vide OM, dated 20-4-1987, laying down that the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone, etc., i.e., whether recruitment to service/cadre/post has been made on All India basis and whether promotion is also done on the basis of an All India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of Special Duty Allowance.

3. Some employees working in N-E. region who were not eligible for grant of Special Duty Allowance in accordance with the orders issued from time to time agitated the issue of payment of Special Duty Allowance to them before CAT, Guwahati Bench and in certain cases CAT upheld the prayer of employees. The Central Government filed appeals against CAT orders which have been decided by Supreme Court of India in favour of UoI. The Hon'ble Supreme Court in judgment delivered on 20-9-1994 (in Civil Appeal No. 3251 of 1993 in the case of *UoI and Others v. Sh. S. Vijaya Kumar and Others*) have upheld the submissions of the Government of India that Central Government civilian employees who have All India Transfer Liability are entitled to the grant of Special Duty Allowance on being posted to any station in the North-Eastern Region from outside the region and Special Duty Allowance would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

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Annexure H
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July, 2002

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Swamysnews

4. In a recent appeal filed by Telecom Department (Civil Appeal No. 7000 of 2001-arising out of SLP No. 5455 of 1999), Supreme Court of India has ordered on 5-10-2001 that this appeal is covered by the judgment of this Court, in the case of *Uol and Others v. S. Vijaya-kumar and Others*, [reported as 1994 (Supp. 3) SCC, 649] and followed in the case of *Uol and Others v. Executive Officers' Association Group 'C'* [1995 (Supp. 1) SCC, 757]. Therefore, this appeal is to be allowed in favour of the Uol. The Hon'ble Supreme Court further ordered that whatever amount has been paid to the employees by way of SDA will not, in any event, be recovered from them inspite of the fact that the appeal has been allowed.

5. In view of the aforesaid judgments, the criteria for payment of Special Duty Allowance, as upheld by the Supreme Court, is reiterated as under:-

"The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North-Eastern region (including Sikkim), from outside the region."

All cases for grant of Special Duty Allowance including those of All India Service Officers may be regulated strictly in accordance with the above-mentioned criteria.

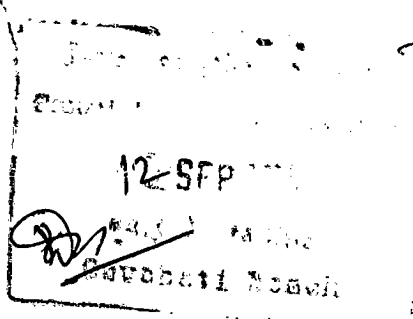
6. All the Ministries/Departments, etc., are requested to keep the above instructions in view for strict compliance. Further, as per direction of Hon'ble Supreme Court, it has also been decided that—

(i) The amount already paid on account of Special Duty Allowance to the ineligible persons not qualifying the criteria mentioned in 5 above on or before 5-10-2001, which is the date of judgment of the Supreme Court, will be waived. However, recoveries, if any, already made need not be refunded.

(ii) The amount paid on account of Special Duty Allowance to ineligible persons after 5-10-2001 will be recovered.

7. These orders will be applicable *mutatis mutandis* for regulating the claims of Islands Special (Duty) Allowance which is payable on the analogy of Special (Duty) Allowance to Central Government Civilian employees serving in the Andaman and Nicobar and Lakshadweep Groups of Islands.

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



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

In the Matter of :

O. A. No. 244 of 2002

Sri G.K.Nair & Ors.

Vs.

Union of India & Ors.

-And-

In the matter of :

Submission of additional rejoinder submitted by the applicant nos. 1 and 2 in support of their contentions raised in the aforesaid Original Application.

The applicant above named -

Most Respectfully begs to state as under:

That the applicants being aggrieved by the decision of the non-payment of Special (Duty) Allowance in spite of the order passed by this Hon'ble Tribunal in O.A. No. 75 of 1996 again approached this Hon'ble Tribunal through O.A. No. 244/2002. The said O.A. is now pending before the Hon'ble Tribunal for adjudication. In the Original Application the applicants stated that they have joined the service with All India Transfer liability. It is already stated in the O.A.

in paragraphs 4.2 and 4.3 that both the applicant nos. 1 and 2 are not the residents of North Eastern Region and they have hailed from Kerala and West Bengal respectively. In support of the contentions made in the O.A. the following documents are annexed for perusal of the Hon'ble Tribunal :

1. Appointment letter dated 27.6.1974
2. Memorandum dated 10.12.02
3. Office Order dated 2.7.03

2. That it is relevant to mention here that applicant nos. 1, 2 and 4 were appointed through Employment Exchange as the Staff Selection was not in existence at the relevant time.

3. That the applicants state that the above documents are necessary for proper adjudication of the Original Application.

VERIFICATION

I, Shri Tarit Ranjan Das, Son of Late Khagendra Chandra Das, aged about 45 years, working as Superintendent in the office of the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong, one of the applicants in the instant application and I have been duly authorized by the other applicants to sign this verification on their behalf. Accordingly I do hereby verify that the statements made in Paragraph 1 to 3 of this additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 5th day of September, 2003.

Signature

2291A

73

GOVERNMENT OF INDIA

No. 13/326/15A

Calcutta-16, the 27/6/1974

From:
The Director of Administration,
Geological Survey of India,
4, Chowringhee Lane.

To: Shri. Surendra Kumar Ghosh,
Assistant Engineer,
24, Ashwinda Road,
Santoshpur, P.O. Tabakpur,
Cal-32

M E M O R A N D U M

Subject: - Recruitment to the post of Lower Division Clerk.....
.....in the Geological Survey of India.

Subject to the production of the original documents hereinafter mentioned and to the acceptance of the contents hereof by the undersigned and also subject to the conditions set forth below, Shri. Surendra Kumar Ghosh

is offered a temporary appointment of Lower Division Clerk in the Geological Survey of India on a Pay of Rs. 110/- in the scale of Rs. 110-3-131-4-155-6-175-5-180 (plus dearness and other allowances at the rates admissible under, and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time. [old salary])

2. The appointment is temporary, but likely to continue for an indefinite period.

3. Appointment carries with it liability to serve in any part of India.

4. He will have to remain on probation for 2 years in the first instance from the date of his appointment as..... in the Geological Survey of India. Retention in the post for further period will depend on assessment of his work during probationary period. This period may, however, be extended or modified at the discretion of the Govt. of India.

5. His services may be terminated as follows:-

(i) At any time without notice during the probationary period.

(ii) At any time except during the probationary period on one calendar month's notice in writing given to him by Govt. if in the opinion of the Govt. he proves unsuitable for the efficient performance of his duties.

contd.....

Accepted
Sd/-
A. K. Ghosh
5/9/73

iii) At any time, without previous notice, if Govt. is satisfied on medical evidence that he is unfit or is likely, for considerable period, to continue unfit for the discharge of duties provided always that the decision of the Govt. that he is likely to continue unfit shall be conclusively binding on him.

(iv) At any time without any previous notice, if he is found to be guilty of any insubordination, intemperance or other misconduct or of any breach of non-performance of any of the provisions of his conduct with the Govt. or of any rules pertaining to the breach of the Public Service to which he may belong.

(v) By 1 (one) month's notice in writing given at any time either by him to the Govt. or by Govt. to him without cause assigned. Provided always that the Govt. may in lieu of any notice herein provided for, give him a sum equivalent to the amount of his pay for one month.

6. The appointment is subject to his being declared medically fit by a competent medical authority and his character and antecedents found satisfactory.

7. He will have to take an oath of allegiance to the constitution of India in the prescribed form.

8. He will have to give a declaration of his marriage in the prescribed form and in the event of his having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirement in this behalf.

9. Other conditions of his service will be governed by the relevant rules and orders in force from time to time.

10. He should produce the following :-

1) Original Matriculation and other certificates of educational qualifications together with attested copies thereof and any other documents as an evidence of age.

ii) One Character Certificate in the enclosed form from the Head of Educational Institution last attended by him and a similar certificate from his employer, if any, duly attested by the stipendary 1st Class executive Magistrate, District Magistrate or S.O. or their higher authorities.

11. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as Govt. may deem necessary.

L. E. Staff Surgeon, Fort William, Cal. Civil Surgeon, Dist. Reserve, Poona. 13. Chase of the station

✓12. No travelling allowance will be allowed for joining the appointment.

✓13. He/She should acquire the minimum 30 words per minute in typing within six months from the date of his/her joining, failing which he/she will not be entitled to increment/quasi-permanency/permanency etc.

14. He/She will be posted in the office of..... *Cent. H.B.*
Geological Survey of India..... *Calcutta*

If Shri/Smt./Km. *Sumil Kumar Ghosh* is willing to accept the above appointment on the terms and conditions as mentioned he is requested to report for duty on hearing from him/her *within 15th July '74* arrangements for his/her medical Examination by the Staff Surgeon, Fort William, will be arranged and he/she will be intimated the date and time of his/her medical examinations by the Staff Surgeon, Fort William, Calcutta.

[Signature]
for Director of Administration.

No. */15A* Dated, the *197*

Copy for information & necessary action to:-

1. The
2. The Staff Surgeon, Fort William, Calcutta for information.

[Signature]
for Director of Administration.

pdm.18/11.71.

166-
21

- 2 -

SPEED POST.

GOVERNMENT OF INDIA
GEOLOGICAL SURVEY OF INDIA
4, CHOWRINGHEE LANE, KOLKATA - 700 016.

4317/03
No. /A-32013(A.O.Gr.II)/2002/19A

Date : 10/12/02

M E M O R A N D U M

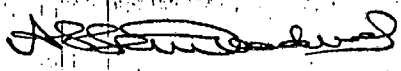
On the recommendations of the Departmental Promotion Committee the Director General, Geological Survey of India is pleased to approve the appointment of the following Superintendents to the post of Administrative Officer Grade II on promotion in the scale of Rs.6,500 - 200 - 10,500/- with their posting on promotion indicated against each, until further orders :-

Sl. No.	N A M E	Present Place of posting.	Posting on promotion.
1.	Shri B.G. Rayalu,	C.R.O., G.S.I., Nagpur.	C.R.O., G.S.I., Nagpur.
2.	Shri Chandra Madhab Baidya.	Coal Wing, G.S.I., Kolkata.	Coal Wing, G.S.I., Kolkata.
3.	Shri Sunil Ghosh.	N.E.R., G.S.I., Shillong.	C.H.Q., G.S.I., Kolkata.

The appointment of the above officers to the post of Administrative Officer Grade II in the Geological Survey of India will be subject to the following terms and conditions :-

- (i) Their seniority on promotion to the grade will be in the order indicated above.
- (ii) The pay of the officers concerned in the post of Administrative Officer Grade II in the Geological Survey of India will be fixed in accordance with the rules. However, they may exercise option in terms of FR-22(1)(a)(1) within one month from the date of joining to the post.
- (iii) Their promotion will take effect from the date of assumption of charge as Administrative Officer Grade II in the Geological Survey of India by the officer concerned after communication of this Memorandum.
- (iv) Their continuance in the grade will be considered in accordance with the instructions issued by the Govt. of India from time to time.

If they are willing to accept the offer of promotion on the above terms and conditions, they may assume charge of the post of Admn. Officer Gr.II after communication of this order at the place of posting on promotion mentioned against each but within one month from the date of issue failing which offer may be treated as cancelled without further intimation. Two copies of charge reports may be forwarded through proper channel to the undersigned for issuance of notification.


(A.S. SENTHI VADIVEL)
Administrative Officer Gr.I
for Dy. Director General(P)
Geological Survey of India.

contd...P/2.

Affected
Senthivadivel
5/9/03

- 202
1. Shri B.G. Rayalu, Supdt. C.R.O., G.S.I., Nagpur.
 2. Shri Chandra Madhab Baidya, Supdt. Coal Wing, G.S.I., Kolkata.
 3. Shri Sunil Ghosh, Supdt., N.E.R., G.S.I., Shillong.

No. _____/A-32013(A.O. Gr.II)/2002/19A

Date :

Copy forwarded to information and necessary action with the request to release/allow the joining of the concerned officials under his control (as the case may be) and forward their joining report to this office for issuance of notification :-

1. The Dy. Director General, G.S.I., C.O., Nagpur/N.E.R., Shillong/Coal Wing, Kolkata.
2. The Dy. Director General, G.S.I. (HR & II) / (CGL) / (IT) / (Drilling) / (Geophysics) / (Geophysical Instrumentation) / (Finance) / (Mechanical Engg.) / (Personnel) / (Map) / (Publication), C.H.Q., Kolkata.
3. The Director & C.V.O./Director (Personnel)/Director (Administration)/Director (Finance)/Technical Secretary to Director General, G.S.I., Kolkata.
4. The Sr. Private Secretary to Director General, G.S.I., Kolkata.
5. The Admn. Officer Grade II, G.S.I., C.H.Q., Section-15A/Accts. II/15B/Budget/19C, Kolkata.

(A.S. SENTHI VADEVEL)
Administrative Officer Gr.I
for Dy. Director General(P)
Geological Survey of India.

Sr. Sunil Ghosh.



भारतीय भूवैज्ञानिक सर्वेक्षण
Geological Survey of India,
पूर्वोत्तर क्षेत्र
North Eastern Region,
शिल्लोंग
Shillong - 793003

सं./No. /16/TR/GO/NER/2003

दिनांक/Dated 02-07-2003

OFFICE ORDER

Consequent upon proceeding on voluntary retirement of Shri G.F.Sanglien, A.O. Gr.I, w.e.f. 01-07-2003 (F/N) and posting of Shri Sunil Ghosh, A.O., Gr.II to NER, Shillong, on transfer from CHQ, Kolkata, following reallocations of posting of A.O.s is done.

- I. Shri P.C.Das, A.O. Gr.II - He is transferred from 'Advance, Welfare, Contingent Cell' of GSI, NER hqrs, Shillong to Drilling Division, Geological Survey of India, NER, Shillong w.e.f. 04-07-2003 (F.N.).
- II. Shri Sunil Ghosh, A.O. Gr.II - He is to join NER, Shillong on transfer from CHQ, Kolkata. He shall be posted to GSI, NER, Shillong and shall be in-charge of "Advance, Welfare, Contingent Cell and Pension Cell" with effect from 04-07-2003 (F/N). The date is subject to his joining NER.
- III. Ms. Lily M. Kharmawphlang, A.O. Gr.II - In addition to the charge of Accounts-II/section, she would also hold additional charge of 'Estate & Accommodation & Telephone' section, with effect from 04-07-2003 (F/N).

Y. Kumar
27.03

(Y. Kumar)
Director

for Director-in-Charge

To

1. Shri P.C.Das
 2. Shri Sunil Ghosh
 3. Ms. Lily M. Kharmawphlang
- } A.O. Grade II, GSI,
NER, Shillong

No. 567/16/TR/GO/NER/2003

Dated 02-07-2003

Copy forwarded for information necessary action to:

1. The Director-in-Charge / Director

Proj. / Division

Geological Survey of India, NER, Shillong / Guwahati / Dimapur / Agartala / Itanagar

2. The R.A.O. / Accounts, Geological Survey of India, NER, Shillong.
3. The PAO(Mines), Geological Survey of India, NER, Shillong.
4. Sr. P.S., Geological Survey of India, NER, Shillong.

Y. Kumar
27.03

(Y. Kumar)
Director

for Director-in-Charge

Attested
Sd/-
Advocate
5/9/03

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. _____
2. Misc Petition No. _____
- 3- Contempt Petition No. 6/06 in O.A 244/02
4. Review Application No. _____

Applicant(S) G.K. Naik & ors

Respondents A.K.D. Jadhav & ans.

Advocate for the Applicant(S) M. Chanda, S. Nath.....

Advocate for the Respondent(S) case... M. H. Ahmed...

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

This Contempt petition has been filed by the petitioners u/s 17 of the CAT Act, 1985 praying for initiation of a Contempt proceeding against the alleged Contemners for non compliance of the order dated 15.6.2005 passed by this Honble Tribunal in O.A. 244/02

Laid before the Honble Court for further order.

Section Officer
23.2.06

P1. comply order dated 24.2.06
27.2.06

Mr.M.Chanda, learned counsel for the applicant is present. Issue notice to the respondents.
post on 10.4.2006.

Vice-Chairman

post on 16.5.2006.

Vice-Chairman

Post on 24.05.2006.

Vice-Chairman

CP 6/06

Notice & order
sent to D/section
for issuing to
resp. nos. 1, 2
by regd. A/D post.
28/2/06.

Service report awaited

28.4.06

3.5.06

An affidavit filed on
Respondent No. 1.

NS
4/5/06.

16-5-06

Affidavit filed
by the R. No. 1.

28

Notice duly
served on resp.
no-1

23/5/06.

9-6-06

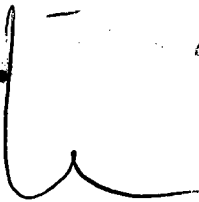
Affidavit filed
on behalf of R. No-1.

28

24.05.2006

Two weeks time is granted to
the respondents to file reply state-
ment, if any. It appears that notice
has already been served to the Respo-
ndent No. 1. None present nor repres-
ented. It is a very sorry state of
affairs.

Post on 12.06.2006.



Vice-Chairman

mb

12.06.2006

Mr. M.U. Ahmed, learned Addl.
C.G.S.C. for the respondents submitted
that reply affidavit has been filed
by the Respondent No. 1 alongwith
the speaking order in compliance of
the order of this Tribunal. ~~Thereafter~~
The Respondent No. 2 has also filed
reply affidavit stating that he has
already retired, which shall be kept
on record, if otherwise in order. Lear-
ned counsel for the applicant is
directed to take instructions as to
the compliance of the order.

Post on 30.06.2006.



Vice-Chairman

mb

30.06.2006

Mr. M.U. Ahmed, learned Addl.

C.G.S.C. for the respondents submitted that order of this Tribunal has been complied with vide order dated 31.01.2006 (Annexure - B). Mr S. Nath, learned counsel for the applicant submitted that, that is not in full compliance of the order of the Tribunal. Considering the fact that there is substantial compliance I am of the view that the contempt petition does not stand in its legs. Therefore, the C.P. stands disposed of. However, the applicant is at liberty to approach the appropriate forum, if he desires.

Received the Order copy
on behalf of Respondent No. 1 & 2.
G. S. Nath
4/7/06

Vice-Chairman

mb

18.7.06

Copy of the
order has been
handed over to the
Addl. C.G.S.C. and
also to the L.H. for
the applicant.
G.S.

4
C.P. 6/2006

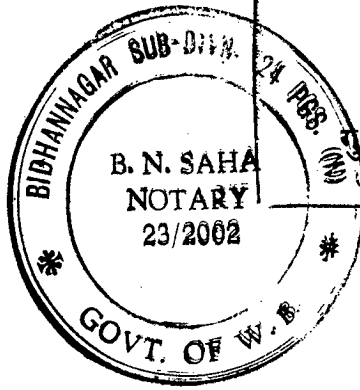
Notes of the Registry Date Order of the Tribunal

14.6.06

An affidavit/Compliance
report for and on behalf
of Respondent No. 2
has been filed by the
H. L. Ahmed, additional
C.A.S.

Laid before the
Honble Court for further
orders.

Das
for Section Officer



Central Administrative Tribunal

13 JUN 2006

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. : 6/2006
in Original Application No. 244/2002

1. Shri G.K. Nair,
2. Shri Sunil Ghosh,
3. Shri Tarit Ranjan Das
4. Shri Dhaneswar Sahoo
5. Shri Ramdeo Chaurasia,
Stenographer Grade I (Hindi)
Office of the Deputy Director General
Geological Survey of India
North Eastern Region
Shillong.

----- Petitioners

-Versus-

Shri M.K. Mukhopadhyay
Director General (Acting)
Geological Survey of India
27 J.L. Nehru Road,
Kolkata- 700016

----- Alleged Contemner/
Respondent No. 2

And

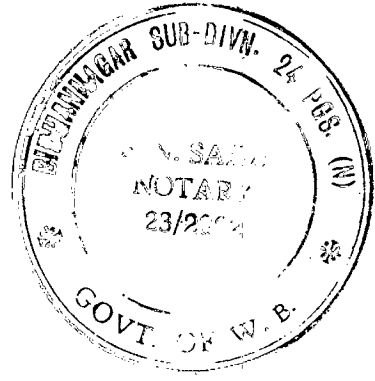
IN THE MATTER OF :

An Affidavit and/ or Compliance Report for and on
behalf of Respondent No. 2

I, Shri M.K. Mukhopadhyay, son of Late Jitendra Nath Mukhopadhyay

Ex- Sr. Dy. Director General, Geological Survey of India, Eastern Region, Kolkata do
hereby solemnly affirm and state as follows :-

Shri M.K. Mukhopadhyay
SHRI M.K. MUKHOPADHYAY
Dy. Director General (Rtd.)
Geological Survey of India
Eastern Region.
M.V. Howrah



1. That I am the Respondent No. 2 in the instant Contempt Petition and have gone through the aforesaid contempt petition filed by the petitioners and have understood the contents thereof and I am well acquainted with the facts and circumstances of the case based on records.
2. At the outset I submit that I have the highest regard for this Hon'ble Tribunal and there is no question of any willful disobedience of any order passed by the Hon'ble Tribunal. However, I tender unqualified and unconditional apology for any delay or lapse in the compliance of the order dated 15.06.2005 in the O.A. No. 244/2002 pronounced by this Hon'ble Tribunal, during the tenure of my service.
3. That there is no any willful or deliberate and reckless disobedience of the aforesaid order by me in my service tenure and showing any contempt to the order of this Tribunal does not arise.
4. That, I was made party to the case while holding the post of the Director General (Acting), in the office of Geological Survey of India, Central Hqr., Kolkata at that point of time and I have now been retired from Government service w.e.f. 31.03.2006 (A.N.).

A copy of order of retirement on superannuation is annexed and marked as Annexure-I.

P R A Y E R

Under the above circumstances, your Lordship would be pleased to admit this petition/affidavit and delete/ strike out my name from the instant case for the ends of justice and equity.

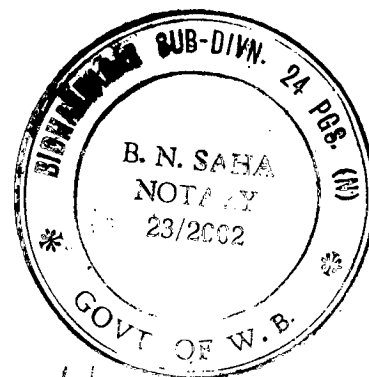
- And -

For this act of kindness your petitioner shall ever pray



BEFORE THE NOTARY PUBLIC

AFFIDAVIT



I, Shri M.K. Mukhopadhyay, son of Late Jitendra Nath Mukhopadhyay
Ex- Sr. Dy. Director General, Geological Survey of India, Eastern Region, Kolkata, aged
about 60 years, resident of 31/M, Brock-H, B.P. Township, Kolkata-700094
do hereby solemnly affirm and say as follows :

1. That I am the respondent No. 2 in the above case .
2. That the statement made in Para 1 to 4 of the Written Statement are true
to the best of my knowledge and belief.

(Prinankanti Mukhopadhyay)

SIGNATURE

M K MUKHOPADHYAY
Dy. Dir. Gen. (Rtd)
Geological Survey of India
Eastern Region.

Identified by :

Advocate

B. N. SAHA
NOTARY
Bachchan Bhawan
North Block, Gr. floor
Bachchanagar, Kolkata
West Bengal

Solemnly affirmed before me by the
deponent Shri M.K. Mukhopadhyay, who is
identified by [Signature]
Advocate at Kolkata on the 16th
day of May, 2006.

Solemnly Affirmed
&
Declared before me
Identification of Advocate
[Signature]
B. N. SAHA
Notary

16 MAY 2006

GOVERNMENT OF INDIA

Annexure - 1

No. 198 /ER/Adm.(G)/Charge Report/2006

Dated the 10th May'2006

From
Office of the
Deputy Director General,
Eastern Region,
Geological Survey of India,
Block DK - 6, Sector - II,
Salt Lake,
Kolkata - 700091.

To
The Director General,
Geological Survey of India,
27, J. L. Nehru Road,
Kolkata - 700016.

Attention : Deputy Director General(Personnel),
Geological Survey of India,
Central Headquarter, Kolkata.

Subject : Charge Report for handing over charge
consequent upon superannuation
retirement.

Sir,

Enclosed please find Charge Report, in duplicate, in respect
of Shri M. K. Mukhopadhyay, Senior Deputy Director General, Eastern
Region, Geological Survey of India, Kolkata, consequent upon his super-
annuation retirement w.e.f. 31.3.2006 (A/N.).

Yours faithfully,

Enclo : As above.

(C. Chakraborty Biswas)
Administrative Officer Gr.-I
for Director,
Eastern Region,
Geological Survey of India.

No. _____ /ER/Adm.(G)/Charge Report/2006

Dated the _____ May'2006

Copy together with copy of Charge Report forwarded for
information and necessary action to :-

1. The Director (Personnel), Geological Survey of India, Central
Headquarter, 27, J.L. Nehru Road, Kolkata - 700016.
2. The Director (Adm.), Geological Survey of India, Central Head-
Quarter, 27, J.L. Nehru Road, Kolkata - 700016.
3. The Controller of Accounts, Central Pay and Accounts Office
(Department of Mines), Geological Survey of India,
16A, Brabourne Road, Kolkata - 700001.
4. The Administrative Officer, Account - I Section, Eastern Region,
Geological Survey of India, Salt Lake, Kolkata - 7000091.

Assd
Bardham 11/5/06
Mamata Bardham
Administrative Officer Gr.II
Eastern Region
Geological Survey of India.

(C. Chakraborty Biswas)
Administrative Officer Gr.-I
for Director,
Eastern Region, Geological Survey of
India.

U

दिनांक - 1
(नियम 44 के अनुसार)

प्रसारित हस्तान्तरण प्रमाणपत्र
CERTIFICATE OF TRANSFER OF CHARGE

T.R. Form-1
(See Rule 44)

प्रमाणित किया जाता है कि हमने आदेशों के अनुसार प्रमाणित किया है कि हमने आदेशों के अनुसार प्रमाणित किया है।
Certified that we have in the fore/after noon of this day ~~received~~ made over the charge of the Office of **Sr. Deputy**
Director General (Opn), GSI, ER in ~~possession of~~ **superannuation**.

(केवल संवर्धन कार्यालय में उपयोग के लिए) / (For use in Audit Office only)

प. /आर. में पृष्ठ पर नोट किया गया
Noted in A./R. at page
छुट्टी लेखा में पृष्ठ पर नोट किया गया।
Noted in Leave Account at page
छुट्टी वेतन प्रमाणपत्र/संवा वितरण तारीख को जारी
किया गया।

Leave Salary Certificate/Service Statement issued on

सहायक महालेखापाल/A.A.G.

Auditor Supdt. सहायक लेखा अधिकारी/A.A.O.

प. /आर. में पृष्ठ पर नोट किया गया।

Noted in A./R. at page

छुट्टी लेखा में पृष्ठ पर नोट किया गया।

Noted in Leave Account at page

वेतन पर्ची तारीख को जारी की गई।

Pay Slip issued on

परीक्षक सहायक महालेखापाल/A.A.G.

Auditor Supdt. सहायक लेखा अधिकारी/A.A.O.

मैंने तारीखों का ज्ञान जिम्मा उत्तरदायित्व प्रसार सहण करने वाले अधिकारी ने स्वीकार किया है।

I have of the balances for which responsibility is accepted by the Officer receiving charge.

खजाना अतिरिक्त/Treasury Balance :-

रोक/ Cash :

समिति/Opium :

सूचना और शिवालयों के उत्पादक शुल्क बैन्डरोल :-

Stamps and Match Excise Banderols :-

स्थायी अग्रिम/Permanent Advance

प्रमाणित करने वाले अधिकारी द्वारा औपचारिक आदेशों के जारी होने पर प्रमाणित किया है, वहाँ उस आदेश
का सुनिश्चित संकेत दिया जायेगा।

While transfer of charge precedes the issue of formal order by the competent authority, a suitable indication to that effect may be given.

विवरण के लिए पृष्ठों पर देखिए/For details see overleaf.

..... को आगे भेजिए/Forwarded to.

पदभार सौंपने वाले अधिकारियों के हस्ताक्षर
Relieved Officer's Signature
नाम छोटे अक्षरों में
Name in Block Letters
पदनाम/Designation
स्थानान्तरण/छुट्टी/संवा नियुक्ति पर जा रहा है।
Proceeding on ~~leave/superannuation~~ **superannuation**. GSI, ER.

पदभार ग्रहण करने वाले अधिकारी के हस्ताक्षर
Relieving Officer's Signature
नाम छोटे अक्षरों में
Name in Block Letters
पदनाम/Designation
स्थान/Station
तारीख/Date

पदभार सौंपने वाला अधिकारी/Relieved Officer
पदभार ग्रहण करने वाला अधिकारी/Relieving Officer
(क.प.उ./P.T.O.)

Attest
Bardham 11/5/06
Mamata Bardham
Administrative Officer Gr. II
Eastern Region
Geological Survey of India

खजाना अभिलेखों के ब्यौरे/Details of Treasury Balances

विवरण* Description*	दोहरे ताले में Under double locks	कोषपाल के पास With treasurer	जमा खजाने में In Sub-treasurer	योग Total
1. सुरक्षित अभिरक्षा में रखी गयी सरकारी प्रति- भूतियां Government Securities held in safe custody				
2. जमाकर्ता के जमा खाते प्रतिशेष रु. Balance at credit of Depositor, Rs.				
(क) नोट* (a) Notes*				
(ख) सिक्के :— (b) Coins—				
(i) चांदी* Silver*				
(ii) निकल* Nickel*				
(iii) तांबा कांसा* Copper and Bronze*				
(iv) (iv)				
3. स्टाम्प और दियासलाइयों के उत्पादन-शुल्क बैंडरोल । Stamps and Match Excise Banderols				
4. अफीम मुन्नों में Opium in maunds				
5. रिजर्व बैंक ड्राफ्ट प्ररूप आदि (संख्या) Reserve Bank Draft Forms, etc. (Number)				
6. चेक प्ररूप (संख्या) Cheque Forms (Number)				

*विभिन्न अभिव्यक्त के नोट और सिक्के पृथक्कृत: दर्ज किये जायेंगे, अप्रचलित सिक्के भी यदि कोई हों, सुविधित दर्शित किए जाएंगे।
*The notes and coins of various denominations are to be listed separately; uncurrent, coins, if any, are also to be shown distinctly.

इस स्तम्भ में रोकड़ धानी का वही योग दर्शित किया जाना चाहिए जो उप-खजाना में, नोट और सिक्के आदि के विवरणों के बिना प्राप्त नवीनतम दैनिक शीटों में अंकित किया गया है।
The total of the cash balance reported in the latest daily sheets received from sub-treasuries without any details of notes or coins

etc. need only be shown in this column.

स्थान/Station Kolkata-91
तारीख/Date 31.03.2006 19

प्रभार सौंपने वाला अधिकारी

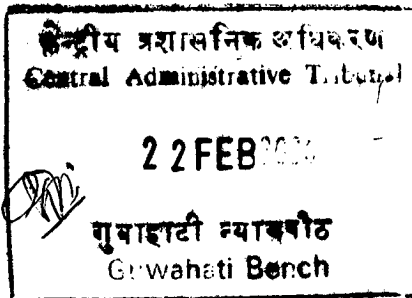
Relieved Officer

प्रभार ग्रहण करने वाला अधिकारी

Relieving Officer

MGIPRND/570 GIFS/95-II-D-13-6-95--2,00,000.

Attest
Bardhaman 11/5/06
Mamata Bardhaman
Administrative Officer Gr. II
Eastern Region
Geological Survey of India



11

filed by the petitioners
through Subroto M. S.
of Advocate
22/02/2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 17 of the Administrative Tribunals Act, 1985)

Contempt petition No. 6 /2006

In O.A No. 244 of 2002.

In the matter of:

Sri G.K. Nair & Ors.

..... Petitioners.

-Versus -

Sri A.K.D Jadhav & Another.

..... Alleged Contemnors.

-And -

In the matter of:

An application under section 17 of the
Administrative Tribunals Act, 1985
praying for initiation of a Contempt
proceeding against the alleged
contemnors for non-compliance of the
order dated 15.06.2005 passed in O.A.
No. 244/2002.

-And -

In the matter of:

1. Sri G.K. Nair.
2. Shri Sunil Chosh.
3. Sri Tarit Ranjan Das
4. Sri Dhaneswar Sahoo

5. Sri Ramdeo Chaurasia,
Stenographer Grade I (Hindi)
Office of the Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong.

...Petitioners.

-Versus-

1. Shri A.K. D. Jadhav,
Secretary, Ministry of Mines,
Shastri Bhawan,
2, Rajendra Prasad Marg,
New Delhi- 110 001.

2. Sri M.K. Mukhopadhaya,
Director General (Acting),
Geological Survey of India,
27 J.L. Nehru Road,
Kolkata- 700 016.

.. Alleged Contemnors.

The humble petitioners above named-

Most respectfully sheweth:-

That your petitioners approached this Hon'ble Tribunal through O.A. No. 344/02, praying for a direction upon the respondents for payment of Special Duty Allowance to the petitioners, in terms of Office Memorandum dated 14.12.1983, 01.12.88, 22.07.98 and further prayed for a direction upon the respondents to pay arrear Special Duty Allowance to the petitioners for the period 01.08.1984 to 31.03.1990 and to continue to pay with effect from 01.01.1995.

- 18
2. That the Hon'ble Tribunal after hearing the contentions of the parties was pleased to dispose of the application vide order dated 15.06.2005 passed in O.A. No. 244 of 2002 directing the respondents as follows: -

"7. However, this is a matter to be considered by the concerned Ministry as to whether the benefit can be extended to persons of outside region who are on transfer to the North Eastern Region and who were forced to remain in the said region without their volition. The applicants are directed to make a proper representation in this regard before the Secretary to the Government of India, Ministry of Mines, New Delhi, respondent No. 1, within a period of two months. If any such representation is filed as directed, the respondent No. 1 will consider the same with all seriousness and take a decision thereon within a period of four months thereof and communicate it to the applicants without delay. The applicants will produce a copy of this order alongwith the representation for compliance."

(Copy of the Judgment and order dated 15.06.2005 is annexed hereto and marked as Annexure-I).

3. That your petitioners on receipt of the judgment and order dated 15.06.2005 approached the alleged contemnor No. 1 through representation dated 08.08.2005 and 10.08.2005, praying for early implementation of the Judgment and order dated 15.06.2005 passed in O.A. No. 244 of 2002.

(Copy of the representations dated 08.08.05; 10.08.05 are annexed hereto and marked as Annexure-II series).

- 414
4. That the humble petitioners beg to state that more than 8 (eight) months time have passed since the passing of the order but the alleged contemnors have not initiated any action for implementation of the aforesaid Judgment.
 5. That your petitioners state that in the meantime 8 months have already elapsed but the alleged contemnors deliberately and willfully did not initiate any action for implementation of the Judgment and Order dated 15.06.2005 passed by this Hon'ble Tribunal in O.A. No 244 of 2002 which amounts to Contempt of Court. Therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order of the Hon'ble Tribunal dated 15.06.2005 in O.A. No. 244/2002 and further be pleased to impose punishment upon the alleged contemnors in accordance with law

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the Alleged Contemnors for willful non-compliance of the order dated 15.06.2005 in O.A. No. 244/2002 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

And for this act of kindness the petitioners as in duty bound shall ever pray.

AFFIDAVIT

I, Sri Ramdeo Chaurasia, S/o- Shri Basdev Chaurasia, aged about 48 years, working as Stenographer Grade- I (Hindi), in the Office of the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong, do hereby solemnly declare as follows: -

1. That I am one the petitioners in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and I have been duly authorized to swear this affidavit on behalf of the others.
2. That the statement made in para 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 15.06.2005 passed in O.A. No. 244/2002.

And I sign this Affidavit on this 20th day of February 2006.

Identified by
Suvajit Choudhury
Advocate

Ram Deo Chaurasia
Deponent

The above named deponent solemnly affirmed before Shri Subrata Nath, Advocate on 20th day of February who is identified by Shri Suvajit Choudhury Advocate.

Subrata Nath
Advocate
20/02/06

DRAFT CHARGE

Laid down before the Hon'ble central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 15.06.2005 passed in O.A. No 244/2002 and to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of order dated 15.06.2005 by this Hon'ble Tribunal.

SDA

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 244 of 2002

Date of Order: This the 15th day of June, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

The Hon'ble Sri K.V. Prahladan, Administrative Member.

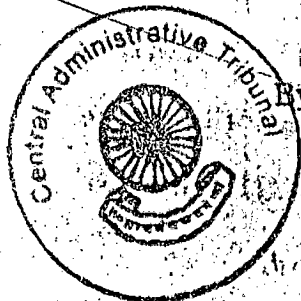
1. ✓ Sri G.K. Nair,
Superintendent,
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.

2. ✓ Sri Sunil Ghosh
Superintendent
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region
Shillong.

3. ✓ Sri Tarit Ranjan Das
Superintendent
Office of the Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong.

4. ✓ Sri Dhaneswar Sahoo
Storekeeper (Tech.)
Office Deputy Director General
Geological Survey of India
North Eastern Region, Shillong.

5. ✓ Sri Ramdeo Chourasia,
Stenographer Grade I (Hindi)
Office of the Deputy Director General
Geological Survey of India
North Eastern Region
Shillong.



By Advocates Mr. M. Chanda, Mr. G.N. Chakraborty,
Mr. H. Dutta, Mr. S. Ghosh.

- Versus -

... Applicants

*Alister
Law
Advocate*

1. The Union of India
Represented by the Secretary to the
Government of India,
Ministry of Mines, New Delhi.
2. The Director General,
Geological Survey of India,
27 J.L. Nehru Road,
Calcutta - 16
3. The Senior Deputy Director General
Geological Survey of India,
North Eastern Region,
Nongrim Hills,
Shillong.
4. The Registrar,
Central Administrative Tribunal
Faridkot House, Copernicus Marg
New Delhi.
5. The Controller of Accounts
Geological Survey of India,
Ministry of Steel & Mines,
Calcutta.

... Respondents.

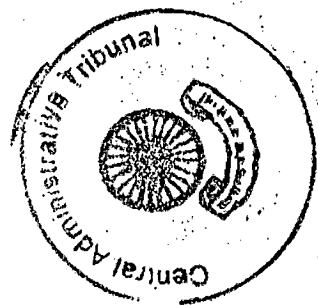
By Mr. M.U. Ahmed, Addl. C.G.S.C.

ORDER

SIVARAJAN. J. (V.C.)

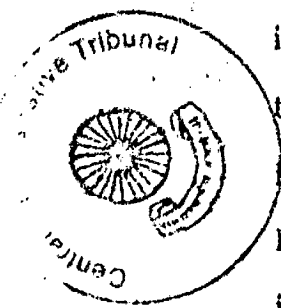
Applicants 1, 2 and 3 are Superintendents, applicant No.4 is a Storekeeper (Tech) and applicant No.5 is Stenographer Grade I (Hindi), all working in the Office of the Deputy Director General, Geological Survey of India (GSI for short), North Eastern Region, Shillong. They have filed this application seeking for a declaration that they are entitled to Special (Duty) Allowance (SDA for short) in terms of O.M. dated 14.12.1983 as well as in terms of the order of the Supreme Court dated 7.9.1995 passed in C.A. No.8208-8213 and also

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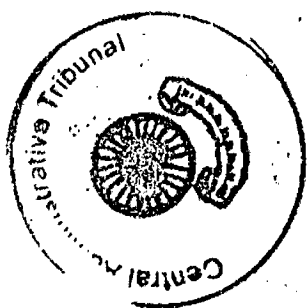
in terms of the judgment and order dated 4.1.1999 passed in O.A. No.75 of 1996. They also seek for a direction to the respondents to continue to pay the SDA to the applicants. There is also a prayer for direction to the respondent No.4 to pay SDA to applicant No.3 for the period he served in the Central Administrative Tribunal on deputation basis to the post of Private Secretary, i.e. for the period from 1.9.1994 to 31.8.1997 and 1.8.1998 to the actual date of repatriation to his parent department.

2. According to the applicants all of them joined the Geological Survey of India, North Eastern Region either on transfer from outside the North Eastern Region and few of them were initially posted in the North Eastern Region from outside the North Eastern Region on different dates having All India Transfer Liability. Applicant No.2, it is stated, after recruitment in the GSI, his first appointment was in Calcutta on 7.7.1974 and from Calcutta he was transferred to North Eastern Region in June 1977 in public interest. Applicant No.3, it is stated was appointed in GSI through Staff Selection Commission to the post of Stenographer Grade II on 4.1.1984 and he was serving in the Central Administrative Tribunal, Guwahati Bench on deputation basis in the post of Private Secretary since 1.8.1998. Applicant No.4, it is stated joined the GSI on 26.10.1987 on regular basis. Applicant No.5, it is stated joined GSI on 23.1.1984 through the Staff Selection Commission and thereafter he was promoted to the post of Stenographer Grade I with effect from 18.10.1996. It is stated that the said promotion was made on common All India Seniority List and he is serving the GSI with All India Transfer Liability. It is further stated that all the five applicants are permanent residents of places outside the North Eastern Region and that while the aforesaid applicants joined the GSI and posted in the North Eastern Region with All India



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Transfer Liability they had a hope that at least during their service career they will get transfer and posting in their respective home State/town since they had accepted the offer of appointment with the clause of 'All India Transfer Liability'. It is further stated that the Government of India took a decision for regionalisation of the services of Group 'C' and 'D' employees of the GSI and the Group 'C' and 'D' employees who came from places outside North Eastern Region to the North Eastern Region were offered a fait a compli. They either had the option of leaving the job or to serve in the North Eastern Region for the remaining part of their service career. It is further stated that when on the basis of regionalisation the respondents stopped the payment of SDA to its employees of the North Eastern Region with effect from 1.8.1984, some of the employees of GSI, North Eastern Region filed O.A. Nos.182 and 183 of 1990 for a declaration that the employees of GSI, North Eastern Region are entitled to SDA; the Tribunal by order dated 12.9.1991 allowed the applications; though a Review Application filed by the Union of India was dismissed they took the matter before the Supreme Court by filing SLP later numbered as Civil Appeal and the Supreme Court by its judgment dated 7.9.1995 disposed of the appeals by holding that "the Special Duty Allowance payable to the Central Government employees having all India Transfer Liability is not to be paid to such Group 'C' and Group 'D' employees of Geological Survey of India who are residents of the region in which they are posted." It is also stated that the subject matter of the appeal before the Supreme Court was only whether the Group 'C' and 'D' employees of GSI, North Eastern Region are entitled to SDA even after the regionalisation with effect from 1.8.1984. The respondents stopped the payment of SDA to Group



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'C' and 'D' employees of the GSI with effect from 1.8.1984. The applicants have stated that by the decision of the Supreme Court mentioned above only the employees who are residents of North Eastern Region were held to be disentitled to get SDA on account of regionalisation and that the same does not apply to Group 'C' and 'D' employees of the North Eastern Region belonging to outside North Eastern Region.

2. The respondents have filed a written statement. After elaborately referring to the Government Orders regarding grant of SDA and the decisions of the Supreme Court, the position is summarized by the respondents stating that only those employees irrespective of their group in 'A', 'B', 'C' or 'D' shall be entitled to SDA if they fulfill the criteria as underlined in O.M. dated 20.4.1987 and such employees are in fact posted in the North Eastern Region actually on transfer. The written statement further states that with effect from 1.8.1994 regionalisation was made and accordingly payment of SDA was stopped to Group 'C' and 'D' employees of GSI; that subsequently Government of India framed a policy that Group 'C' and 'D' employees should not be transferred outside the region and accordingly their All India Transfer Liability was withdrawn vide order dated 23.8.1990. Regarding O.A.Nos.182 and 183 of 1990 are concerned, it is stated that though the claim of the applicants therein was allowed the Supreme Court in the appeal held that Group 'C' and 'D' employees of the GSI are not having All India Transfer Liability since the Government of India has framed a policy that Group 'C' and 'D' employees should not be transferred outside the region in which they are employed and in view of the said judgment the respondents stopped the payment of SDA to its Group 'C' and 'D' employees with

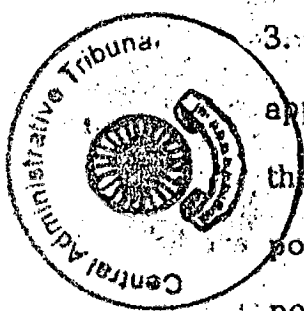
Central Administrative Tribunal

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effect from 1.1.1996. Regarding O.A.No.75 of 1996 it is stated that pursuant to the directions issued in the said order on 4.1.1999 the respondent No.3 considered the matter and held that the applicants therein are not entitled to SDA since the applicants did not have All India Transfer Liability and therefore, did not fulfill the eligibility criteria prescribed for grant of SDA in the various O.M.s. Regarding furnishing of options to the applicants, it is stated that they were not provided any opportunity for submitting their options for posting after regionalisation as it could adversely affect and cause imbalances within the region. It is stated that at the time of regionalisation the existing incumbents who were transferred from other regions to the North Eastern Region were placed at the administrative control of the respective regions on "as is where is basis" and subsequently the term "transfer anywhere in India" was replaced by "serve anywhere in NER" and the same was confirmed by the Supreme Court in the judgment dated 7.9.1995.

3. We have heard Mr M. Chanda, learned counsel for the applicants, and Mr M.U. Ahmed, learned Addl. C.G.S.C. appearing for the respondents. Mr Chanda submitted that all the applicants were posted from outside the North Eastern Region either on transfer or on posting from outside the region on different dates, that all the applicants have All India Transfer Liability, that all the applicants belong to Group 'B' and also having All India Common Seniority, that initially SDA was stopped from 1.8.1984 and thereafter again paid from with effect from 1.4.1990 to 31.12.1995 and that the payment of SDA was stopped with effect from 1.1.1996. The counsel also submitted that the respondents admitted in para 7 of the written statement that all the applicants joined the GSI from outside the



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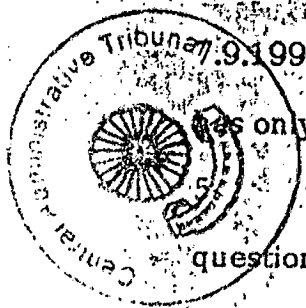
North Eastern Region and that the respondents did not deny that the applicants now belong to Group 'B' category. Counsel pointed out that none of the applicants are residents of the North Eastern Region and as such is entitled to the payment of SDA in view of the decision of the Supreme Court in Union of India and others Vs. S. Vijoykumar and others (C.A.No.3251 of 1993) and other cases as also under the Government Order under clause 5 of the O.M. dated 29.5.2002. Counsel also relied on various orders passed by this Tribunal in support.

4. Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents submitted that though the applicants had initially satisfied the requirement under the Government orders, by virtue of the regionalisation order and the Government policy regarding non-transfer of Group 'C' and 'D' employees one of the conditions for grant of SDA namely All India Transfer Liability has come to an end and consequently the applicants are not entitled to SDA thereafter.

The Standing Counsel also submitted that this position is succinctly stated by the Hon'ble Supreme Court in the decision rendered on 9.9.1995 itself. Counsel accordingly submitted that the application was only to be dismissed.

We have considered the rival submissions. So far as the question of admissibility of SDA to Central Government Civilian employees, this Bench had considered the matter in very great detail and summarized the guidelines in the order dated 31.5.2005 in O.A.No.170 of 1999 and connected cases in paras 52 and 53 as follows:

"52. The position as it obtained on 5.10.2001 by virtue of the Supreme Court decisions and Government orders can be summarized thus:

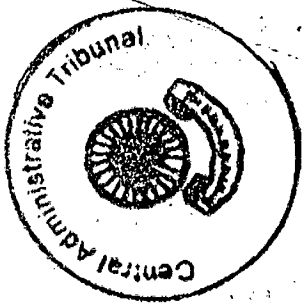


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Special Duty Allowance is admissible to Central Government employees having All India Transfer Liability on posting to North Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E. Region if he is retransferred to N.E. Region he will also be entitled to grant of SDA provided he is also having promotional avenues based on a common All India seniority and All India Transfer liability. This will be the position in the case of residents of North Eastern Region originally recruited from outside the region and later transferred to North Eastern Region by virtue of the All India Transfer Liability provided the promotions are also based on All India Common Seniority.

53. Further payment of SDA, if any made to ineligible person till 5.10.2001 will be waived."

6. Normally, the case of the applicants has to be considered in the light of the aforesaid governing principles. In the instant case the applicants contended that all of them are residents of outside the North Eastern Region and they were either initially appointed in the North Eastern Region or by transfer from outside to the North Eastern Region. It is also their contention that their appointments and transfers were based on the All India Transfer Liability and All India Common Seniority list. It is the case of the applicants that in the case of these persons the regionalisation order of the Central Government cannot have any application. It is also their case that they are Group 'B' employees to which the regionalisation order does not apply. It is also their case that the decision of the Supreme Court in the Civil Appeals rendered on 7.9.1995 had application only in the case of residents of North Eastern Region who were transferred outside the North Eastern Region and later retransferred to the North Eastern Region and that it will not apply to persons from outside the North Eastern Region who were either posted in the North Eastern Region



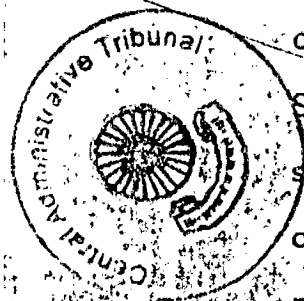
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initially or by transfer from outside with All India Transfer Liability and All India Common Seniority list.

7. This is a peculiar situation which has arisen subsequently as a result of regionalisation where the respondents had taken a decision not to transfer Group 'C' and 'D' employees to outside the region. In view of the said decision one of the requirements for the grant of SDA, namely All India Transfer Liability has come to an end.

If All India Transfer Liability has come to an end, notwithstanding the fact that the applicants belong to outside the region and are posted to the North Eastern Region with All India Transfer Liability and All India Common Seniority list. Once the All India Transfer Liability comes to an end they cannot be heard to say that still they must be granted SDA. However, one situation survives, namely if as a matter of fact all the applicants belong to outside the region and they were transferred from outside the North Eastern Region or in the case of residents of the North Eastern Region who were transferred from the North Eastern Region to outside the North Eastern Region and later retransferred to the North Eastern Region, all under the All India Transfer Liability, if they had not been given an option to revert to outside the region, can the respondents deny the benefit of grant of

SDA to such persons? As the Government orders and decisions now stand, the applicants are not entitled to the grant of SDA due to the cessation of the All India Transfer Liability on account of regionalisation. However, this is a matter to be considered by the concerned Ministry as to whether the benefit can be extended to persons of outside region who are on transfer to the North Eastern Region and who were forced to remain in the said region without their volition. The applicants are directed to make a proper representation



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In this regard before the Secretary to the Government of India, Ministry of Mines, New Delhi, respondent No.1, within a period of two months. If any such representation is filed as directed, the respondent No.1 will consider the same with all seriousness and take a decision thereon within a period of four months thereof and communicate it to the applicants without delay. The applicants will produce a copy of this order alongwith the representation for compliance.

8. The application is disposed of as above. No order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



/nkm/

Date of Application : 25.1.06
 Date on which copy is sent : 25.1.06
 Date on which copy is delivered : 25.1.06
 Certified to be true copy

[Signature]
 Section Officer (Jd)
 C. A. T. Guwahati Bench
 Guwahati

[Handwritten signature]
 Advocate

Dl 11.8.05

Annexure-II ✓
(series)

To
The Dy. Director General
G.S.I. NR
Lucknow

Sub. Special Duty Allowance

Sir,

I am submitting herewith an application addressed to the Secretary, Ministry of Mines, New Delhi in triplicate on the direction of Central Administrative Tribunal vide its OA No 244/02 (Sri G. K. Nay Dora) vs. U.O.I & Ors. for onward transmission to Ministry of Mines, New Delhi through S. O. G.S.I. Kolkata.

Yours faithfully,

11.8.05

(T R Das)

Admin. Officer,
G.S.I. NR
Lucknow

Encl: As stated above.

Attested
Sd/-
Revenue

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Annexure - II (Service)

To:

The Secretary to the Government of India
Ministry of Mines,
Shastri Bhawan,
New Delhi-110001

Dated the 10th day of August, 2005

(THROUGH PROPER CHANNEL)

Sub: Special (Duty) Allowance.

Sir,

This representation is submitted in terms of the direction made by the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A. No. 244 of 220 filed by Sri G.K. Nair and 4 ors. Vs. U.O.I & Ors. The said O.A. was disposed of 15th day of June 2005 and the said copy of the judgment and order received by the undersigned only on 5th August, 2005 since in the meantime I have been transferred and posted to NR, Lucknow w.e.f. October 2004, as such if there is any delay in submitting representation may be condoned.

Sir, I have joined the GSI, NER, Shillong on 4.1.1984 as Stenographer Gr. II (earlier Gr. I) through Staff Selection Commission having all India transfer liability. I belong to the district of Cooch Behar, West Bengal. The SDA was granted w.e.f. 14.12.1983. Accordingly I was paid SDA upto 31.7.1984. Thereafter the authority formulated a policy of regionalisation w.e.f. 1.8.1984 and accordingly SDA was stopped to all Group C and D Cadres. Some of the employees of GSI, NER approached the Hon'ble CAT, Guwahati Bench for payment of SDA and the Tribunal held that Group C and D employees of GSI, NER are entitled to draw SDA. Accordingly SDA was paid to all Group C and D employees of GSI for the period 1.9.1990 to 31.10.1991. Meanwhile the authority filed for review of the decision of the Tribunal and the said review application was also dismissed. Further the matter was brought before the Hon'ble Supreme Court by filing an SLP and the said SLP was disposed of with the observation that all India transfer liability for Group C and D employees of GSI are no longer continues as such are not entitled to SDA. Considering all the facts and circumstances the Hon'ble Supreme Court also observed in its order dated 7.9.1995 that "the Special Duty Allowance payable to the Central Government employees having all India Transfer Liability is not to be paid to such Group 'C' and Group 'D' employees of Geological Survey of India who are residents of the region in which they are posted". From the above order of the Hon'ble Supreme Court it was clear that group C and D employees of GSI are entitled to SDA who are not the resident of the region. Surprisingly the authority stopped the payment of SDA to all eligible and ineligible Group C and D employees in spite of the aforesaid observation of the Hon'ble Supreme Court. Needless to say that I have joined GSI with the burden of All India Transfer Liability and with common scope was provided to me for submission of an option about the choice place of posting. The respondents also admitted the same before the court that they were not provided any opportunity for submitting their options for posting after regionalisation as it could

Attested
Sub
Signature

adversely affect and cause imbalances within the region. Again SDA was paid with effect from 1.11.1991 to 31.12.1995. The details of the period of payment of SDA are as follows:

From	To
14.12.1983	31.7.1984 (paid)
1.8.1984	31.3.1990(not paid)
1.4.90	31.8.91 (paid)
1.9.1990	31.10.1990 (not paid)
1.11.91	31.12.95 (paid)
1.1.1996	8.10.2004 (not paid)

It is relevant to mention here that I served the Income Tax Appellate Tribunal for the period of one year i.e. from 1.8.1991 to 31.7.1992 and the Central Administrative Tribunal w.e.f. 1.9.1994 to 31.8.1997 and again w.e.f. 1.8.1998 to 31.8.2002 on deputation basis.


Finding no other alternative some of the applicants those who are not resident of the region approached before the Hon'ble Tribunal through O.A. No. 75 of 1996. In that O.A. the Tribunal directed the respondents to consider the case of the applicants after verifying the service records since no records was available before the court whether they are the residents of the regions or not. But the respondents without looking into the observation of the Tribunal as well as the observation of the Hon'ble Supreme Court made in the order dated 7.9.1995 held that applicants are not entitled to SDA since the applicants did not have All India Transfer Liability and therefore, did not fulfill the eligibility criteria prescribed for grant of SDA in the various O.M.s. Hence the applicants approached the Hon'ble Tribunal once again by filing of O.A. No. 244 of 2002.

The aforesaid O.A. was disposed of on 15.6.2005 after discussing all the facts it is observed that it is a peculiar situation where the respondents had taken a decision not to transfer Group 'C' and 'D' employees to outside the region. It is also observed that consequent upon the regionalisation if the applicant had not been given an option to revert to outside the region can the respondents deny the benefit of grant of SDA to such persons? Finally it is directed by the Hon'ble Tribunal to submit a proper representation in this regard before the Secretary to the Government of India, Ministry of Mines, New Delhi for consideration. Hence this application.

In view of the above, it is requested to kindly consider the matter for payment of SDA to the undersigned in terms of the orders of the Hon'ble Supreme Court dated 7.9.1995 and O.A. Nos. 75 of 1996 and O.A. No. 244 of 2002 and the said payment of SDA for the unpaid period is requested.

Encl:- Copy of the order dated 15.6.2005
in O.A. 244/2002

Yours faithfully,


(T.R.D.)
Admn. Officer
GSI, NR, Lucknow

Date : the 8th August 2005

To,

The Secretary,
Ministry of Mines,
Govt. of India,
Shastri Bhawan,
New Delhi - 11 0001

(Through Proper Channel)

Subject : Restoration of SDA reg.

Ref : Hon'ble CAT, Guwahati Bench decision dt.
15.06.05, OA No. 244 of 2002.

Sir,

With reference to above the applicant is hereby furnishing the following facts for your kind consideration and favourable action.

1. That I initially joined G.S.I. on the recommendation of the Staff Selection Commission on 23.01.1984 as Stenographer, Gr. II at Dimapur (Nagaland) and subsequently I was transferred to Shillong. The offer of appointment contained the condition of serving any where in India meaning all India transfer liability. I was promoted to the post of Stenographer, Gr. I on 18.10.1996 which belongs to Group 'B' Non-Gazetted category and as such has all India transfer liability. My earlier post of Stenographer, Gr. II also carried all India transfer liability.
2. That as per prevailing SDA rule, I was receiving SDA w.e.f. 23.01.1984 to 31.07.1984.
3. That the Deptt. implemented regionalisation scheme from 01.08.1984 for all Group 'C' and 'D' employees, but in fact the post of Stenographer, Gr. II did not come in the purview of regionalisation scheme as it continued to carry all India transfer liability. As such, even after regionalisation I got promotion to the post of Stenographer, Gr. I on the basis of all India common seniority. It is relevant here to mention that I did not get the promotion to the post of Stenographer, Gr. I on the basis of regional seniority i.e. to mean that regionalisation had no effect on my post. My contention is that I was carrying all India

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transfer liability in my earlier post of Stenographer, Gr. II on my first appointment and continued to carry all India transfer liability in my present post of Stenographer, Gr. I.

The judgement of Hon'ble Supreme Court dt. 07.09.1995, has not affected the service condition i.e. all India transfer liability in my earlier post of Stenographer, Gr. II which also carried all India common seniority. And my present post of Stenographer, Gr. I also carries all India transfer liability and all India common seniority. The new rule of SDA due to regionalisation is applicable only to those who are either appointed after the date of regionalisation i.e. 01.08.1984 or do not carry all India transfer liability.

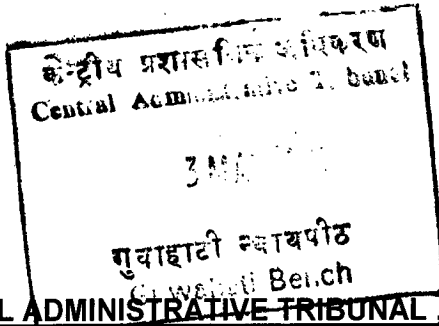
4. That the Deptt. paid SDA to me from 01.08.1984 to 31.08.1990 and from 01.11.1991 to 31.12.1995 on the basis of Hon'ble CAT, Guwahati bench decision dt. 29.06.1990, OA No. 36(G) of 1989 on the basis of all India transfer liability I was carrying with my earlier post of Stenographer, Gr. II as per the service condition in my appointment letter.
5. That I am not a resident of NER and my service conditions as described above and renders me eligibility to get SDA since my appointment in the post of Stenographer, Gr. II and carried through my present post of Stenographer, Gr. I till date.

Therefore, it is requested to kindly restore the payment of SDA to me w.e.f. 01.09.1990 to 31.10.1991 and from 01.01.1996 onwards.

It is requested that the final decision regarding the above subject may kindly be communicated to me at an early date.

Encl : A copy of judgement dt. 15.6.05
OA No. 244 of 2002

Yours faithfully,
R. Chaurasia
(RAMDEO CHAURASIA)
Stenographer, Grade I
GSI, NER
Shillong - 3



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

Contempt Petition No. : 6/2006
in Original Application No. 244/2002

1. Shri G.K. Nair,
2. Shri Sunil Ghosh,
3. Shri Tarit Ranjan Das
4. Shri Dhaneswar Sahoo
5. Shri Ramdeo Chaurasia,
Stenographer Grade I (Hindi)
Office of the Deputy Director General
Geological Survey of India
North Eastern Region
Shillong.

----- Petitioners

Versus

Shri A.K.D. Jadhav
Secretary
Government of India
Ministry of Mines
Shastri Bhawan
2, Rajendra Prasad Marg,
New Delhi- 110001

----- Respondent No. 1

And

IN THE MATTER OF :

An Affidavit for and on behalf of Respondent No. 1

I, Shri A.K.D. Jadhav, son of Daulat Rao Gulaji Jadhav

working as Secretary, Government of India, Ministry of Mines, New Delhi do hereby solemnly affirm and state as follows :

1. That I am the Respondent No. 1 in the Contempt Petition and have gone through the aforesaid contempt petition filed by the applicants have understood the contents thereof and also I am well acquainted with the facts and circumstances of the case based on records.

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ए.के.डी.जाधव/A.K.D.JADHAV
सचिव/Secretary
खान मंत्रालय/Ministry of Mines
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

- 2 -

- 23 - 33

2. That the Respondent No. 1 has not willfully flouted the order dated 15.06.2005 passed in OA No. 244/2002 by this Hon'ble Tribunal as alleged by the applicant.

3. At the outset I submit that I have the highest regard for this Hon'ble Tribunal and there is no question of any willful disobedience of any order passed by the Hon'ble Tribunal. However, I tender unqualified and unconditional apology for any delay or lapse in the compliance of the order dated 15.06.2005 in the O.A. No. 244/2002 pronounced by this Hon'ble Tribunal.

4. That there is no any willful or deliberate and reckless disobedience of the aforesaid order by the respondents and due to the compelling circumstances, the respondent could not implement the order in time, which can be termed as honest and innocent mistake without any malafide and/or hidden vested interest and such type of curable mistake may not be termed as willful disobedience of the aforesaid order.

5. That the submission made in the following paragraphs amply clarify that the respondents have shown due regard to the orders of this Hon'ble Tribunal and as such, there is no question of showing any contempt to the orders of this Hon'ble Tribunal.

6. That with regards to Para 1 and 2 of the Contempt Petition (herein after as Application) the Respondent No. 1 begs to state that these are matter of record.

7. That with regards to Para 3 of the application, the respondent No. 1 beg to state that the Applicants submitted their representations as follows:

1. Shri G.K. Nair on 26.08.2005
2. Shri Sunil Ghosh on 12.08.2005
3. Shri Tarit Ranjan Das on 10.08.2005
4. Shri Dhaneswar Sahoo did not submitted any representation till date.
5. Shri Ramdeo Chaurasia on 8.08.2005

Thus from above it appears that Applicant No. 2, 3 and 5 had submitted their representation in time. But Applicant No. 1 did not submit his

-3-

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representation as per the directives of the Hon'ble Central Administrative Tribunal, Guwahati Bench (herein after as Hon'ble Tribunal). The Hon'ble Tribunal while passing the Order dated 15th June, 2005 in OA No. 244/2002 directed, quoted "The Applicants are directed to make a proper representation in this regard before the Secretary to the Government of India, Ministry of Mines, New Delhi, respondent No. 1, within a period of two months." Thus the two months expired on 14th August, 2005. But the Applicant No. 1 had submitted his representation on 26th August, 2005. Surprisingly, the Applicant No. 4 has not submitted any representation till date and now he is one of the applicants in this Application.

Copy of the representation dtd. 26.08.2005 from Shri G.K. Nair, Applicant No. 1 is annexed and marked as Annexure-A.

8. That with regard to Para 4 & 5 of the Application, the Respondent No. 1 begs to state that on receipt of the representation from the Applicants, Geological Survey of India (herein after GSI) in turn forwarded the copies to the Respondent No 1 on 18th August, 2005 from GSI, NER. On receipt the copies of representation from GSI the Respondent No. 1 initiated action for considering the same. In this regard bio-data in respect of the applicants from GSI, NER was conveyed by GSI, Central Hqr. under their letter dated 22nd September, 2005. Then the matter was examined in consultation with the Department of Expenditure. Thereafter a Speaking Order No.10/68/02-M.II dated 30th January, 2006 was issued to all the Applicants. The Speaking Order No. 10/68/02-M.II dated 30th January, 2006 was served to all the applicants and they have been requested to exercise option of posting to NER/out of NER and action will be taken as per option.

In this connection copy of Speaking Order No.10/68/02-M.II dated 30th January, 2006 issued by the Respondent No. 1, copies of Acknowledgement receipt from all the applicants and copy of letter No. 7720-7723/188/SDA/CAT/LAW/NER/2002, dated 13th March, 2006 (seeking option) are enclosed and marked as Annexure B,C,D,E,F,G & H.

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9. That the Respondent No. 1 begs to state that the Applicant No. 2 namely Shri Sunil Ghosh transferred from NER on promotion to the post of Administrative Officer Gr. II and joined in GSI, Kolkata w.e.f. 17.12.2002 and retransferred back to GSI, NER w.e.f. 07.07.2003 and now receiving SDA. Applicant No. 1 Shri G.K. Nair and Applicant No. 3 Shri T.R. Das, both Administrative Officer Gr. II have been transferred from NER w.e.f. October, 2004 to GSI, Central Region, Bhopal and GSI, Northern Region, Lucknow respectively.
10. That the Respondent No. 1 beg to state that the delay in the implementation of Hon'ble Central Administrative Tribunal, Guwahati Bench is of administrative nature and not the willful delay.
11. That it is stated that Respondent No. 1 has the highest respect for the orders of Hon'ble Central Administrative Tribunal, Guwahati Bench. The respondent therefore prays that in the circumstances of the case mentioned above, the Hon'ble Central Administrative Tribunal, Guwahati Bench may be pleased to exempt the respondent from the contempt proceedings .

....Affidavit...

AFFIDAVIT

I, Shri A.K.D. Jadhav, son of Daulat Rao Gulaji Jadhav
Secretary, Government of India, Ministry of Mines, New Delhi, aged 59 about years,
resident of New Delhi

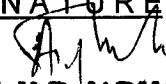
do hereby solemnly affirm and say as follows :

1. That I am the respondent No. 1 in the above case and I am acquainted with facts and circumstances of the case.
2. That the statement made in Para _____ to _____ of the Written Statement are true to the best of my knowledge and belief.

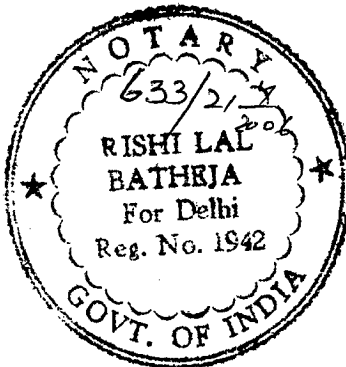
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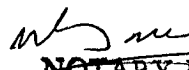

Advocate

SIGNATURE


ए.के.डी.जाधव/A.K.D.JADHAV
सचिव/Secretary
खान मंत्रालय/Ministry of Mines
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

Solemnly affirmed before me by the
deponent Shri A.K.D. Jadhav, who is
identified by M. V. Khanna,
Advocate at Chandigarh on the day of
2nd/May/1, 2006.



Solemnly affirmed before me

NOTARY, DELHI

21 APR 2006

Annexure - A

Bhopal, dated the 25th August, 2005

From

To

G.K. NAIR
Administrative Officer Gr.II
Geological Survey of India
Operation: MP& CG

The Secretary
Ministry of Mines
Govt. of India
Sastri Bhawan
NEW DELHI - 110 001

E/5, Arera Colony, BHOPAL - 462 016 (MP)

(Through Proper Channel)

Sub: Restoration of Special Duty Allowance - representation thereof

Ref: Hon'ble CAT, Guwahati Bench decision dated 15.6.2005 on OA No. 244 / 2002

Respected Sir,

With the directive of the Hon'ble Central Administrative Tribunal (CAT), Guwahati Bench and the Judgment passed by the Bench dated 15.6.2005 on Original Application No. 244/2002, I am submitting herewith the following facts for your kind consideration and favourable decision :-

- 1) That I joined GSI, NER, Shilong on 6.9.1974 as Telephone Operator with All India transfer liability. My home town is Trivandrum in Kerala State.
- 2) That as per prevailing Rules at that period I had received SDA w.e.f. 23.01.1984 to 31.7.1984.
- 3) That the Department had implemented Regionalisation Scheme from 01.8.1984 for all Group C&D employees. Employees who came from places outside NER to the NER were offered the option to serve in the NER or leave the job.
- 4) The judgment of the Hon'ble Supreme Court dated 07.9.1995, had not affected the service condition i.e. All India Transfer Liability in my earlier post. The new Rule of SDA due to Regionalisation is applicable only to those who are either appointed after the date of Regionalisation i.e. 01.8.1984 or do not carry all India Transfer Liability.
- 5) That the Deptt. paid SDA to me from 01.8.1984 to 31.8.1990 and from 01.11.1991 to 31.12.1995 on the basis of Hon'ble CAT, Guwahati Bench decision dated 29.6.1990, OA No. 36(G) of 1989 on the basis of All India transfer liability, I was carrying with my earlier post as per the service condition in my appointment letter.
- 6) That I am not a permanent Resident of NER and my service condition as described above renders me eligibility to get SDA since the beginning of the award of the Allowance.
- 7) Now I am serving in the capacity of an Administrative Officer Gr.II at Geological Survey of India, Operations: Madhya Pradesh & Chhattisgarh (Central Region) Bhopal (MP) since October 2004.

It is therefore, requested to kindly issue necessary orders for payment of SDA to me for the periods w.e.f. 01.09.1990 to 31.10.1991 and from 01.01.1996 to 26.10.2004 that is my service period in NE Region, keeping in view of the CAT judgment. The final decision may kindly be communicated to me.

A copy of the CAT order is enclosed as per directive, for compliance.

Thanking you, Sir

Encl: As above

Yours faithfully
(G.K. NAIR)

Administrative Officer Gr.II

Advance copy forwarded to the Secretary, Ministry of Mines, New Delhi

(R. N. SHRIVASTAVA)
DIRECTOR (SGA) - HEAD OF OFFICE
GEOLOGICAL SURVEY OF INDIA

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Annexure B

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-2858

Government of India
Ministry of Mines

No.10/68/02-M.II

Shastri Bhawan, New Delhi.
Dated 30th January, 2006

SPEAKING ORDER

S/Shri (1) G.K. Nair, (2) Sunil Ghosh (3) Tarit Ranjan Das (all Superintendents Gp 'B' non-gazetted), (4) Dhaneswar Sahoo (Storekeeper (Technical) Gp 'C'), and (5) Ramdeo Chourasia (Stenographer Gr. I (Hindi) Group 'B' non-gazetted), all working in office of the Sr. DDG, GSI, North Eastern Region (in brief NER), Shillong, had filed an O.A. No. 244/02 in Hon'ble CAT Guwahati Bench, against UOI & Ors., praying for direction for payment of Special (Duty) Allowance (SDA) to the applicants in terms of O.M. dated 14.12.1983, 1.12.1988, and 22.7.1998 of D/O Expenditure, Ministry of Finance and further to pay arrears on this account in terms of aforesaid O.Ms.

2. The applicants had further stated as under:-

- (i) that all the applicants joined GSI, NER either on transfer from outside the NER and few of them were initially posted in NER from outside the region on different dates having All India Transfer Liability (in brief AITL).
- (ii) that applicant No. (1) is a permanent resident of Kazhakuttam, Trivandrum, Kerala, applicant No. (2) of Profulla Kanan, Kolkata and serving in NER since June, 1977, applicant No. (3) is of Cooch Behar, West Bengal and appointed through SSC in GSI on 4.1.1984 but presently serving CAT, Guwahati Bench as Private Secretary since 1.8.1998 on deputation and conditionally absorbed there since 1.7.2001, applicant No. (4) of Orissa and joined GSI on 26.10.1987 and prior to that served GSI at Shillong on contingent basis for about 10 years, applicant No. (5) of Begusari, Bihar and joined GSI on 23.1.1984 through SSC and serving with All India Transfer Liability (AITL).
- (iii) that D/O Expenditure issued an O.M. dated 14.12.83 granting SDA @ 25% of basic pay subject to a ceiling of Rs. 400 per month on posting to any station in NER comprising state of Assam, Meghalaya, Manipur, Tripura and UTs of Arunachal Pradesh and Mizoram to civilian employees of central government civilian employee who have AITL.
- (iv) that all the five applicants are permanent residents of places outside NER and discharging their official duties in NER. After issue of O.M. dated 14.12.83 the respondents started paying SDA on their own to applicants w.e.f. 1.11.83 as mentioned in para 4.14 of OA (wrongly quoted as 1.8.1984 in para 4.7 of OA).

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- (v) that vide its letter No. J-11011/104/78 -M II dated 1.10.1981, the Government transferred the administrative control over Group 'C' and 'D' post to respective In charge/officers of regional offices/divisions of GSI but did not call for any option from the employees who came from outside the NER and after effecting such regionalization of administration, the respondents stopped paying SDA to the employees in NER w.e.f. 1.8.84.
- (vi) that some of the employees of GSI, NER filed O.A. No. 182/90, 183/90 in CAT Guwahati where the CAT in its order dated 12.9.91 held that Gp 'C' and 'D' employees were entitled to SDA. The review application filed by UOI was dismissed. The case came up before the Hon'ble Supreme Court in Civil Appeal No. 8208-8213/95 arising out of SLP No. 12450-55/92 by UOI where the Court, vide its order dated 7.9.1995, held that the SDA payable to Central Govt. employees having All India Transfer Liability is not to be paid to such Gp 'C' and 'D' employees of GSI who are residents of the region in which they are posted, emphasizing the fact of residence in NER as the only relevant factor to be considered while determining the eligibility of the employee to get SDA. In pursuance of Supreme Court Order, GSI issued an order dated 29.12.1995, stopping the payment of SDA to Gp 'C' and 'D' employees w.e.f. 1.1.1996.
- (vii) that the employees who are resident of places outside NER and were posted/transferred to NER prior to 1984 and working there since then cannot be held to be resident of NER just because they do not have All India Transfer Liability. By lapse of time, the applicants have been placed in group 'B' cadre by promotion and as such the policy of regionalization does not apply to them and make them eligible for SDA in terms of Supreme Court Order dated 7.9.95.
- (viii) that applicant 1 & 2, alongwith other similarly situated, filed an O.A. 75/96 in Hon'ble CAT, Guwahati where the CAT indicated in its Order dated 4.1.1999 that the crux of the matter was 'whether the present applicants are resident of NER or not'. In impugned order dated 29.4.1999 of GSI, issued following the CAT Orders stated above, the GSI had arbitrarily decided that those applicants of OA 75/96 who came on transfer from outside the NER prior to 1.8.1984 in group 'C' were entitled to SDA upto 31.7.84 and not thereafter in view of decision of regionalization which came into effect from 1.8.1984.
- (ix) that the decision of respondent is unjustified and arbitrary and the Hon'ble CAT be pleased to declare that the applicants are entitled to SDA in terms of O.M. dated 14.12.1983, SC order dated 7.9.1995 as well as order dated 4.1.1999 in OA No. 75/96 and accordingly the respondent be directed to continue to pay SDA to applicants alongwith arrears from 1.1984 and 31.3.1990 and from 1.1.1995 onwards.
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3. The respondent in his reply to averments had stated as under:-

- (i) that SDA was paid to central govt. civilian employees serving in NER with AITL in terms O.M. dated 14.12.1983 but with effect from 1.4.1984, regionalization was effected and SDA was stopped to group 'C' and 'D' employees of Geological Survey of India. Subsequently the Govt. framed a policy that Gp. 'C' and 'D' should not be transferred outside the region and their AITL was withdrawn vide order dated 23.8.1990.
- (ii) that the Hon'ble Supreme Court in its order dated 7.9.1995 decided that Gp 'C' and 'D' employees of GSI are not having AITL since Government of India has framed a policy that Gp 'C' & 'D' staff should not be transferred out side the region in which they are employed and hence respondent stopped SDA to Gp. 'C' and 'D' staff from 1.1.1996.
- (iii) that in terms of Hon'ble CAT Guwahati decision dated 4.1.1999, respondent held that applicant were not entitled for SDA as they had no AITL and hence failed to fulfill criteria in terms of O.M. dated 14.12.1983, 29.10.1986, 20.4.1987 and also the applicants became part and parcel of the regionalized cadre from 1.8.1984 when separate cadre for Gp. 'C' and 'D' posts for the region were constituted with incumbents holding post on the date on 1.8.1984 though they came on transfer to NER prior to regionalization and also that the option was not sought from applicants as it could adversely affected and cause imbalances within NER, and also that basic criteria for SDA is AITL in terms of O.M. dated 14.12.1983 and also that applicants have misunderstood the order of Supreme Court dated 7.9.1995 and CAT Guwahati Order dated 4.1.1999 as AITL was withdrawn from 1.8.1984.

The Hon'ble CAT vide its order dated 15.6.05 has inter - alia observed and directed as under:-

- (i) that once the AITL comes to an end the applicants cannot say that they must still be granted SDA. However, one situation survives, namely if as a matter of fact all the applicants belong to outside the region and they were transferred from outside the NER or in the face of residents of the NER who were transferred from the NER to outside the NER and re-transferred to the NER, all under the AITL and if they had not been given an option to revert to outside the region, can the respondents deny the benefits of grant of SDA to such persons?
- (ii) that as the Government orders and decisions now stand, the applicants are not entitled to the grant of SDA due to the cessation of the AITL on account of regionalization. However, this is a matter to be considered by the concerned Ministry as to whether the benefit can be extended to

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persons of outside region who are on transfer to the NER and who are forced to remain in the said region without their volition.

- (iii) that the applicant are directed to make a proper representation in this regard before the Secretary to the Govt. of India, Ministry of Mines, New Delhi respondent No. (1) within a period of 2 months. If any such representation is filed as directed, the respondent No. 1 will consider the same with all seriousness and take a decision thereon within a period of 4 months thereof and communicate it to the applicant without delay. The applicants will produce a copy of this order alongwith the representation for compliance.

5. Applicant 2 & 5 submitted the representation on 8.8.05 and 12.8.05 respectively to GSI with a copy forwarded to respondent No. 1 vide endorsement dated 16.7.05. Applicant No. 1 also sent his representation to respondent No. 1 on 26.8.05 alongwith a copy of CAT Order dated 15.3.05. The representation dated 10.8.05 of applicant No. 3 was received from GSI vide their endorsement dated 14.9.05; representation from applicant No. 4 is not yet received by respondent No. 1 either from GSI Shillong or Kolkata.

6. The Department of Expenditure, Ministry of Finance has opined that SDA is only admissible to Central Govt. Employees who have all India Transfer Liability on their posting to State and UTs or NER. Such Gp 'C' and 'D' employees of GSI who do not fulfill the criteria of AITL are not entitled to the SDA.

7. The Hon'ble CAT Guwahati Bench has directed respondent No. (1) i.e. Secretary, Ministry of Mines to consider the representation with all seriousness and take a decision. On examining the representations of the applicants vis-à-vis the Government instructions in vogue it is noticed:-

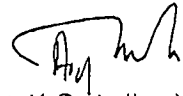
- (i) that the applicants resided permanently outside the NER and served in NER for reasons of their posting/transfer to their offices in NER as well as AITL.
- (ii) that after regionalisation in group 'C' and 'D' cadre with effect from 1.8.84, they ceased to carry AITL. At that time they were residing in NER.
- (iii) that the GSI failed to obtain options from the applicants at the time of regionalisation as to whether they agreed on their free will and volition to stay and continue in NER in the light of changed service conditions. For this reason the GSI assertion that they were residents of NER having been posted at that time in the region is wrong.

8. THEREFORE, after having considered the facts and circumstances of the case as well as government instructions, I am of the considered view that the applicants rightly and fairly deserved a chance to give their option at the time of regionalisation and the GSI should have obtained their options whether they wished to continue to stay on

FM

posting in NER and had they replied in negative, they should have been posted outside NER.

9. THEREFORE, the DG, GSI is directed to seek the options from the applicants for their posting to NER / out of NER and act according to the option. They can not be forced to remain in NER against their choice and also denied SDA at the same time.


(A.K.D. Jadhav)
Secretary

To

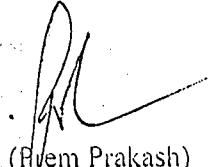
1. Shri G.K. Nair,
Superintendent,
Office of the Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong
2. Shri Sunil Ghosh,
Superintendent,
Office of the Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong
3. Shri Tarit Ranjan Das,
Superintendent,
Office of the Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong
4. Shri Dhaneswar Sahoo,
Storekeeper (Tech.),
Office of the Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong
5. Shri Ramdeo Chourasia,
Stenographer Grade -I (Hindi),
Office of the Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong

18-12-
-33- (196)
43
No. 10/68/2002-M.II

Dated 30.1.2006

Copy forwarded for information and necessary action to:

Sh. P.M. Tejale,
Acting Director General,
Geological Survey of India,
27, J.L.Nehru Marg,
Kolkata.


(Pyem Prakash)
Dy. Secretary to the Govt of India

- 13 -

Annexure - C

44

181 - 34 -

ACKNOWLEDGEMENT

Received a letter No. 471/DDG/OPMPCG/Misc/PS/01, dated 21.3.2006, along with a copy of Speaking Order No. 1068/02-M-II, dated 30.1.2006 of the Secretary, Ministry of Mines, Govt. of India, New Delhi, from Dy.DG, GSI, Op.MP&CG, Bhopal.

Bhopal
Dated : 21.3.2006

G.K. Nair
21/3/06

(G.K. Nair)
Administrative Officer Gr.II
GSI, Op.MP&CG, Bhopal

COURT CASE

Dated, 15 March, 2006. -35-

From :
Shri Sunil Ghosh,
Administrative Officer Gr. II
Accounts- III Section,
GSI, NER, Shillong- 14.

To :
The Dy. Director General,
Geological Survey of India,
North Eastern Region
Shillong-3.

Sub: Speaking Order in relation to implementation of Hon'ble CAT, Guwahati Bench Order dated 15.06.2005 in Original Application No. 244/2002, filed by Shri G.K. Nair and others vs. UOI and others regarding grant of SDA.

Sir,

In inviting a reference to the subject, cited above, it is to state that I am pleased to acknowledge the receipt of your letter No. 7454/ 188/SDA/CAT/LAW/NER/2002 dated 28th February, 2006 along with copies of Speaking Order No. 10/68/02-M.II dated 30th January, 2006 issued by the Secretary, Government of India, Ministry of Mines, Shastri Bhawan, New Delhi.

This is for your information and necessary action at your end please.

Yours faithfully,


(SUNIL GHOSH)

ACKNOWLEDGEMENT RECEIPT

Received order containing ib.10/68/2002-M-11 dated
30.1.2006 from the Secretary to the Govt. of India, Ministry
of Mines, Shastri Bhawan, New Delhi through Dy. Director General,
GSI, NR, Lucknow.

Dated 6.3.2006.

(T.R. Das)
Administrative Officer, Gr-II.
GSI, Northern Region, Lucknow.

COURT CASE

Dated, 1st March, 2006.

From :
Shri Dhaneswar Sahoo,
Store Superintendent (Tech.)
M.M. Division,
GSI, NER, Shillong- 3

To :
The Dy. Director General,
Geological Survey of India,
North Eastern Region
Shillong-3.

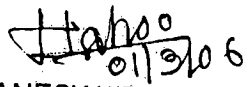
Sub: Speaking Order in relation to implementation of Hon'ble CAT, Guwahati Bench Order dated 15.06.2005 in Original Application No. 244/2002, filed by Shri G.K. Nair and others vs. UOI and others regarding grant of SDA.

Sir,

In inviting a reference to the subject, cited above, it is to state that I am pleased to acknowledge the receipt of your letter No. 7458/ 188/SDA/CAT/LAW/NER/2002 dated 28th February, 2006 along with copies of Speaking Order No. 10/68/02-M.II dated 30th January, 2006 issued by the Secretary, Government of India, Ministry of Mines, Shastri Bhawan, New Delhi.

This is for your information and necessary action at your end please.

Yours faithfully,


(DHANESWAR SAHOO)

COURT CASE

Dated, _____ March, 2006.

From :

Shri Ramdeo Chourasia,
Stenographer Grade I (Hindi)
Publication Division,
GSI, NER, Shillong- 3.

To :

The Dy. Director General,
Geological Survey of India,
North Eastern Region
Shillong-3.

Sub:

Speaking Order in relation to implementation of Hon'ble CAT, Guwahati Bench
Order dated 15.06.2005 in Original Application No. 244/2002, filed by Shri G.K.
Nair and others vs. UOI and others regarding grant of SDA.

Sir,

In inviting a reference to the subject, cited above, it is to state that I am pleased to acknowledge the receipt of your letter No. 7456/ 188/SDA/CAT/LAW/NER/2002 dated 28th February, 2006 along with copies of Speaking Order No. 10/68/02-M.II dated 30th January, 2006 issued by the Secretary, Government of India, Ministry of Mines, Shastri Bhawan, New Delhi.

This is for your information and necessary action at your end please.

Yours faithfully,

Ramdeo Chourasia
01/03/06
(RAMDEO CHOURASIA)

GOVERNMENT OF INDIA

No / 188/SDA/CAT/LAW/NER/2002

From :

The Dy. Director General,
Geological Survey of India,
North Eastern Region
Shillong-3.

FAX NO. 2520223, 2520033

Dated, 13th March, 2006.

To :


1. Shri Sunil Ghosh,
Administrative Officer Gr. II
Accounts- III Section,
Geological Survey of India,
North Eastern Region
Shillong .
2. Shri Ramdeo Chourasia,
Stenographer Gr. I (Hindi)
Publication Division,
GSI, NER, Shillong.
3. Shri Dhaneswar Sahoo,
Store Superintendent (Tech.)
M M Division,
GSI, NER, Shillong

Sub: Implementation of Hon'ble CAT, Guwahati Bench Order dated 15.06.2005 in Original Application No. 244/2002, filed by Shri G.K. Nair and others vs. UOI and others regarding grant of SDA.

Sir,

In continuation of this office letter No. 7454-7459/188/SDA/CAT/LAW/NER/2002 dated 28th February, 2006 and in invitation to the Sl. No. 9 of the Speaking Order No. 10/68/02-M.II dated 30th January, 2006 issued by the Secretary, Government of India, Ministry of Mines, Shastri Bhawan, New Delhi, I am directed to request you to exercise your option of posting to NER/out of NER immediately for further necessary action at this end.

Yours faithfully,


ac

(K. KHARMALKI)
Administrative Officer Gr. I
& H.O.O.
for Dy. Director General

No / 188/SDA/CAT/LAW/NER/2002

Dated, 13th March, 2006.

Copy forwarded for information and necessary action to :

The Director (P), Geological Survey of India, 27 Jawaharlal Nehru Road, Kolkata- 16.
(Attention : Shri N.N. Chaudhury, Law Officer). This has reference to the telephonic conversation held on the 13.03.2006.

ac

(K. KHARMALKI)
Administrative Officer Gr. I
& H.O.O.
for Dy. Director General