

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 262/02
R.A/C.P No.
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SECTION OFFICER (Judl.)

[Signature]
29/11/17

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 264 / 2002

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants. CPWD

-Vs-

Respondant(s) W012012

Advocate for the Appellant(s) MR ADIL AHMED.

Mr. A. Deb Roy,

Advocate for the Respondant(s) In Case.


Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time Condonation Petition is filed / not filed C F for Rs. 50/- deposited vide IPO/B/ No 74 576607 Dated 7-6-2002</p> <p><i>19/8/02</i> <i>mb</i></p>	<p>20.8.02</p>	<p>Heard Mr. A. Ahmed, learned counsel for the applicant.</p> <p>Issue notice of motion. Returnable by four weeks.</p> <p>List on 20.9.2002 for admission</p> <p><i>19/8/02</i> <i>mb</i></p>
<p><i>Slips taken</i> <i>19/8/02</i></p> <p>Notice prepared and sent to D-Section for issuing of the same to the respondents through Regd. post, vide D No-2336 to 2346 Dtd. 28.8.02.</p> <p><i>27.8.02</i></p>	<p>20.9.02</p>	<p>List on 27.9.02 before Single Bench.</p> <p><i>19/8/02</i> <i>mb</i></p>
	<p>27.9.02</p>	<p>List on 8.11.02 alongwith O.A.No.117/02 for orders.</p> <p><i>19/8/02</i> <i>mb</i></p>

8.11.02

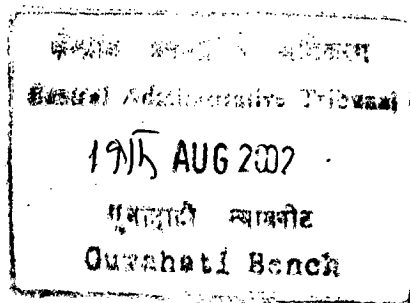
Heard Mr. A. Ahmed, learned counsel for the applicants and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents and also perused the written statement submitted by the respondents

The issue relates to recovery of Special Duty Allowance. In this application the applicants have assailed the order dated 17.7.2002 issued by the Deputy Director, Office of the Chief Engineer (NEZ), CPWD, Shillong. In view of the settled position the employees of the North Eastern Region are not entitled the Special Duty Allowance, unless they fulfill the conditions stipulated in the orders issued by the Ministry concerned. The Office memorandum in question dated 17.7.2002 has clarified the said position. However, direction of the authority to recover the SDA paid already, is seemingly unsustainable. The persons concerned were already paid SDA by the authority and it will not be appropriate to recover the same retrospectively. Accordingly, respondents are directed not to recover the amount paid already as SDA to the concerned applicants.

Subject to the observation made above, the application is disposed of. No order as to costs.


Vice-Chairman

14.11.2002
Copy of the order
has been sent to the
Office for issuing
the order to the L/As
for the parties.
HS



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 264 OF 2002.

The Central Public Works
Department All India Non-Gazetted
Officers ^{Staff} Association,
Guwahati Branch, Guwahati.

-Applicants.

-Versus-

The Union of India
& Others

-Respondents

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Filed by

Advocate

(Adv. AHMED)

Filed by
Shri Tapan Choudhury
Secretary
through *[Signature]*
(Adv. Ahmed)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 264 OF 2002.

BETWEEN

1] The Central Public Works
Department All India Non-Gazetted
Officers' Association,
Guwahati Branch, Guwahati.

2] Sri Tapan Choudhury
Secretary,
The Central Public Works
Department All India Non-Gazetted
Officers' Association,
Guwahati Branch, Guwahati.

Applicants.

-AND-

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

[Signature]

- 2] The Director General (Works) Central Public works Department, Nirman Bhawan, New Delhi- 110011.
- 3] The Additional Director General of Works, Eastern Region, C.P.W.D., Nizam Palace, Kolkata-20,
- 4] The Chief Engineer, North Eastern Zone, Central Public Works Department, Cleaves Colony, Shillong-3.
- 5] The Senior Accounts Officer, Pay and Accounts Office, N.E.Z., Central Public Works Department, Raja Villa, Malki Point, Shillong-1.

-Respondents.

DETAILS OF THE APPLICATION

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

This application is made against impugned order of recovery of payment of Special Duty Allowance, in Short, S.D.A. vide Office Order No. 71/2/2002-Admn dated 17-07-2002 issued by the Office of the Chief Engineer (NEZ) Shillong.

Elthy

2] JURISDICTION OF THE TRIBUNAL

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

3] LIMITATION

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

4] FACTS OF THE CASE

Facts of the case in brief are given below:

4.1] That your humble applicants are citizens of India and as such, they are entitled to all rights and privileges guaranteed under the Constitution of India. The applicant No. 1 is a recognized Association named as the Central Public Works Department All India Non-Gazetted Officers' Association, Guwahati Branch, Guwahati. The applicant No. 2 is authorized to file this application on behalf of the members of the Association..

A copy of list of the members of The Central Public Works Department All

—clerk

India Non-Gazetted Officer ^{Staff} Association, Guwahati Branch, Guwahati is annexed hereto and the same is marked as Annexure-A.

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

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

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

Ching

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

That another Office Memorandum No. F. No. 11(2)/97-E II (B) dated 22-07-1998 was issued by the Ministry of Finance, Department of Expenditure, Government of India extended the Special (Duty) Allowance to the Central Government employees posted at Sikkim. In this circular payment of Special (Duty) Allowance at Ceiling of Rs. 1000/- has also been withdrawn.

4.6] That the present applicants beg to state that the members of the aforesaid Association are saddled with All India Transfer Liability in terms of their offer of appointment and with this said liabilities they have received the offer of appointment and joined the service of the respondents. Be it stated that, most of the members of the Association on numbers of occasions are being transferred outside of the North Eastern Region. Therefore, the applicants

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are in practice saddled with all India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 they are legally entitled for grant of Special (Duty) Allowances.

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

After that, the Office of the Respondent No. 4 issued the Office Memorandum No. 71/2/2002-Admn. dated 17-07-2002 to take necessary action for recovery of Special (Duty) Allowance from ineligible persons with effect from 05-10-2001.


Annexure-B is the photo copy of Office Memorandum dated 17-07-2002 issued by the Office of the Respondent No. 4.

4.81 That your applicants beg to state that the payment of Special Duty Allowance was made to the applicants with effect from 01-11-1983 or from the respective dates of their joining in this Department. The Payment of Special (Duty)

-clerk-

Allowance is made to the applicants only after full satisfaction of the Respondents. Now, the Respondents have issued the recovery order of Special (Duty) Allowance. As such, the act of the respondents is arbitrary regarding recovery of payment of Special Duty Allowance. As such, the Hon'ble Tribunal may be pleased to direct the Respondents not to make any recovery of any amount of the Special (Duty) Allowance, which has been paid by the Respondents to the applicant.

4.9] That your applicant begs to state that in other similar cases filed before the Hon'ble Central Administrative Tribunal, Guwahati Bench and in the Hon'ble Gauhati High Court as well as in the Supreme Court of India the said Courts it was held that the Union of India is not entitled for recovery of any amount of Special Duty Allowance from the applicants. Moreover, the Hon'ble courts held that the recovery order can have only prospective effect so in the instant case the Respondents cannot recover the said Special Duty Allowance prior to their recovery order dated 17-07-2002.

Annexures-C, D, & E,  are photocopies of some of judgments passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Hon'ble Gauhati High Court and also by the Hon'ble Supreme Court of India.



4.10] That your applicant begs to state that the Respondents have already made some recovery from Guwahati Electrical Division No. II, Tezpur Central Electrical Division, Central Public Works Department. Hence, it is now necessary for the applicants to get an interim order from this Hon'ble Central Administrative Tribunal for protection of their rights.

4.11] That the applicant begs to state that under the facts and circumstances mentioned above, finding no other alternative, the applicant approached this Hon'ble Tribunal for protection of their rights and interest through this Original application. This Hon'ble Tribunal may be pleased to stay the impugned recovery order issued under Office Memorandum No.71/2/2002 -Admn. Dated 17-07-2002 as an interim measure and further be pleased to set aside and quash the Office Memorandum dated 17-07-2002 at Annexure-B.

4.12 That your applicants submit that they have got reason to believe that the Respondents are resorting the colorable exercise of power.

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

4.14] That your applicants submit that the action of the Respondents by which the applicants have been deprived of their legitimate rights is

ehdms

arbitrary. It is further stated that the Respondents have acted with a mala-fide intention only to deprive the applicants from their legitimate rights.

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

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

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

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

5.2] For that, the applicants satisfied the criterion for grant of Special (Duty) Allowance laid down in Office Memorandum dated 14-12-1983 and 01-12-1988 and 22-07-2002 issued by the Government of India, Ministry of Finance, therefore, the recovery of the Special (Duty)

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Allowance in terms of impugned Office Memorandum dated 17-07-2002 is violative of the provisions of law and is liable to be set aside and quashed.

5.3] For that the impugned office Memo dated 17-07-2002 is contrary to the decision of the Hon'ble Supreme Court of India as well as the decision rendered by the Hon'ble Gauhati High Court and the Hon'ble Central Administrative Tribunal.

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

5.5 For that the order issued in terms of impugned Office Memorandum dated 17-17-2002 is without following any established procedure of principle of natural justice.

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

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

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

That the applicant further declares, that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this

W. M. Singh

application, call for the records of the case, issue notices to the Respondents as to why the relief and relives sought for by the applicant may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be pleased to direct the Respondents to give the following relief:

8.1 That the Hon'ble Tribunal may be pleased to set aside and quash the impugned Office Memorandum No. 71/2/2002-Admn. Dated 17-07-2992 issued by the Respondent No. 4.

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

8.3 Cost of the Case.

9] INTERIM ORDER PRAYED FOR:

The applicant most respectfully prays for interim order from this Hon'ble Tribunal that the Hon'ble Tribunal may be pleased to stay the Impugned Office Order No. 71/2/2002-Admn. dated 17-07-2002 at Annexure-B.

10] Application Is Filed Through Advocate.

chmy

11] Particulars of I.P.O.:

I.P.O. NO. 7Q576610

Date Of Issue 7.8.2002

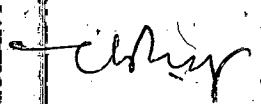
Issued from Guwahati G.P.O.

Payable at Guwahati

12] LIST OF ENCLOSURES:

As stated above.

-Verification.



VERIFICATION

I, Shri Tapan Choudhury, Secretary, The Central Public Works Department All India Non-Gazetted Office ~~Staff~~ Association, Guwahati Branch, Guwahati applicant No. 2 of this application and also authorized to sign this verification on behalf of other applicants /members of the Association/Union and verify the statements made in the accompanying application and in paragraphs 4.2 to 4.6, 4.8, 4.10, 4.11 are true to my knowledge, and those made in paragraphs 4.1, 4.7, 4.9 are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification today on this the 19th day of August 2002 at Guwahati.

Tapan Choudhury
Declarant

(Secy. All India
CPWD Non-Gazetted
Office Staff Assn)

ALL INDIA CPWD NON-GAZETTED OFFICE STAFF ASSOCIATION
(Recognised by the Government of India)

GUWAHATI

S/Shri

1. N. Bhatta
2. Pralay Kar
3. Mrs. Niyali Ghatak
4. Niranjan Kr. Das
5. N. Narzari
6. Mrs. Geeta Rani Dutta
7. D.K. Nag
8. Ajit Das
9. J. C. Mondal
10. Swapan Bhattacharjee
11. Uttam Paul
12. B. P. Guha
13. A.K. Paul
14. D.K. Sengupta
15. Tapan Choudhury
16. Sonowar Gogoi
17. Narendra Singh
18. K.C. Ghosh
19. K.R. Das
20. Ashish Das
21. K.K. Das
22. T.K. Deb.

Attended
Sd/-
Advocate

- 10 -

SIKKIM (GANGTOK)

S/Shri

1. N.D. Bhutia
2. S.K. Pradhan
3. P.K. Mizar
4. K.B. Sewa
5. T. Roy
6. G.S. Roy
7. Smt. Thinlay Choden
8. Smt. Sumitra Bhattacharjee
9. Miss Sangamitra Chakraborty
10. Miss Gyalmo Yolmo
11. S.K. Sinha

IMPHAL (MANIPUR)

S/Shri

1. Smt Alhakapan Sewa Devi
2. Laishram Ibomoha Singh
3. T.N. Singh
4. Abui Gangmei
5. L.S. Sapuni
6. Dou Mang Guito
7. Chinir Luckson
8. Santosh Kumar Dey
9. S. Doren Singh
10. Thangkolum Raokip
11. Lunpi Gangte

Attal
Advocate

- 20 -

12. K. Rava
13. L.G. Singh
14. Lal Pawlian Tuolar
15. Smt. Radhey Devi
16. L. Rajendra Singh
17. Miss K. Lucy
18. Kh. Binoy Singh
19. Pomodini Devi
20. U. Bhattacharjee
21. I.S. Singh
22. N. A. Singh
23. Smt. Jamet Chingkhovung
24. Bero Singh

AGARTALA (TRIPURA)

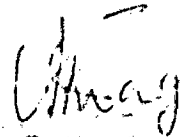
1. Sri P.L. Taran.
2. Sri Gopal Barman

SILCHAR

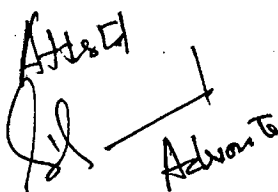
1. Sri S.K. Banik
2. Sri R. Mehra



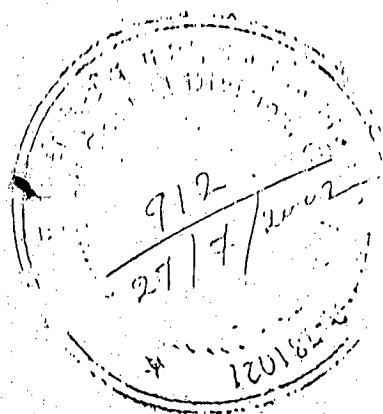
(N. Bhatta)
Branch President
All India CPWD NGOS Association
Guwahati Branch, Guwahati-781021



(D.K. Nag)
Branch Secretary
All India CPWD NGOS Assocn.
Guwahati Branch, Guwahati-21



Advait



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ANNEXURE - B

24

No.71/2/2002-Admn.
Government of India
Office of Chief Engineer (NEZ)
Central Public Works Department
Shillong-03.

Dated, 17.7.2002

OFFICE MEMORANDUM

Subject:- S.D.A. for Civilian Employees to the Central Govt. Serving in the state and Union Territories of North Eastern Region i/c Sikkim.

The undersigned is directed to refer to SE/ACC-I letter No.55(13)/E-II/SDA/ACC-I/2002/1855 dated 9.7.02 and SE/ACC-II letter No.3(I)/ACC-II/2002/398 dated 21.6.02 on the above subject and to say that the case has been examined as per instructions contained in M/o Finance, Deptt. of Expenditure O.M.No.11(3)/95-E.II(B) dated 12.1.96, No.11(5)/97-E.II(B) dated 29.5.02, M/o Urban Dev. & P.A. O.M.No.1069/DOI/W&E/02 dated 6.6.02 and found that group 'C' 'D' and W.C. employees of N.E. Region are not entitled to SDA irrespective of being posted to N.E.R from outside the Region as they do not fulfill the conditions stipulated in M/o Finance O.M. dated 12.1.96.

2. The Group 'A' 'B' including JE, OS, and Steno Grade-I belonging to outside N.E. Region appointed and on their first appointments posted in 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 and posted in N.E. Region promoted as EE, AE, OS or Steno Grade-I in N.E. Region are not entitled to SDA as they are not transferred out of the Region and they are continuing in the Region. These categories i.e. AE, JE, OS and Steno grade-I who are only posted to N.E. Region on transfer from outside the Region irrespective of they are being posted on their own willingness or not are entitled to S.D.A.

3. As such, all cases of S.D.A. may be regulated strictly in accordance with the instructions contained in the above letters referred to above and the amount already paid on account of S.D.A. to ineligible persons after 5.10.2001 should be recovered immediately.

This issues with the approval of CE(NEZ).

(James Vanlalhlir)
Dy. Director of Admn.

All SEs. lul

Attn
Advocate

মহাপ্রতিপত্তি মহাপ্রতিপত্তি Date of application for the copy.	মহাপ্রতিপত্তি মহাপ্রতিপত্তি Date fixed for notifying the requisite number of stamps and fees.	মহাপ্রতিপত্তি মহাপ্রতিপত্তি Date of delivery of the requisite stamps and fees.	মহাপ্রতিপত্তি মহাপ্রতিপত্তি Date on which the copy was ready for delivery.	মহাপ্রতিপত্তি মহাপ্রতিপত্তি Date of making over the copy to the applicant.
1/4/02	1/4/02	1/4/02	1/4/02	1/4/02

ANNEXURE - C

IN THE GAROHAH HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

W. P (C)

No. 2504 of 2001

Appellant
Petitioner

Union of India & Ors
versus

Shree Tasiruddin Ahmed & Ors

Respondent
Opposite-Party

Appellant
For
Petitioner

Mr. P. N. Chaudhury

Respondent
For
Opposite-Party

Noting by Officer or
Advocate

Serial No. Date

Office notes, reports, orders or proceedings
with signature

Admitted
1
Advocate

-AND-

IN THE MATTER OF:

1. Union of India
Through Secretary,
Ministry of Information Technology,
Electronics Niketan, 6, C.G.O. Complex
New Delhi - 110003
2. National Informatics Centre (NIC)
Through The Director General, NIC
Ministry of Information Technology
A-Block, C.G.O. Complex
New Delhi-110003
3. The Technical Director &
State Informatics Officer
National Informatics Centre
Assam State Unit
F-Block, Assam Secretariat
Guwahati - 781006

Petitioners
Respondents

-VERSUS-

1. Sri Tasiruddin Ahmed
Scientist-C
Employee Code No.2364
2. Sri Dinesh Kumar Bhuiyan
Scientist-C
Employee Code No.2349
3. Sri Dipanta Barman
Senior Systems Analyst
Employee Code No.1692

Attd
Advocate

4. Sri Hemanta Kumar Saikia
Scientist-D
Employee Code No.1691
5. Sri Hiramani Goswami
Scientist-C
Employee Code No.2366
6. Ms. Kakoli Choudhury
Scientist-C
Employee Code No.3628
7. Ms. Hiranmayee Goswami
Scientist-C
Employee Code No.2325
8. Sri Manabendra Goswami
Scientific Officer-Sb
Employee Code No.4085
9. Mr. S.M. Sheikh
Scientific Officer-Sb
Employee Code No.3943
10. Sri Dipam Kumar Baruah
Scientific Officer-Sb
Employee Code No.2370
11. Ms. Anuradha Barua
Scientific Officer-Sb
Employee Code No.4080
12. Ms. Bhaswati Duara
Scientist-B
Employee Code No.2373
13. Sri Gautam Choudhury
Scientist-C
Employee Code No.2360
14. Sri Pranjali Bezbaruah
Scientist-C
Employee Code No.3694
15. Sri Arun Chandra Dutta
Scientific Officer-Sb
Employee Code No.3945
16. Md. Asan Ali
Lower Division Clerk
Employee Code No.0871

Att. Q
J.S.
Advocate

17. Sri Ranjyoti Choudhury
Upper Division Clerk
Employee Code No. 2710
18. Sri Mokab Ali
Upper Division Clerk
Employee Code No. 2713
19. Sri Chinmoy Bhattacharjya
Scientist-C
Employee Code No.
20. Sri Ajit Kumar Nath
Scientist-C
Employee Code No. 2718
21. Sri Chandra Gupta Dutta Barua
Scientist-C
Employee Code No. 2356
22. Sri Sandip Paul
Scientist-GB
Employee Code No. 4172
23. Ms. Seemantinee Sengupta
Scientist-C
Employee Code No. 2334
24. Sri Dipankar Sengupta
Scientist-C
Employee Code No. 2709
25. Ms. Kavita Mazumdar
Scientist-C
Employee Code No. 2326
26. Ms. Kabita Roy Das
Scientist-C
Employee Code No. 2365
27. Sri Gautam Khanikar
Scientist-B
Employee Code No. 2333
28. Sri Sumitav Saikia
Scientist-C
Employee Code No. 2604
29. Mrs. Naina Begum
Scientist-C
Employee Code No. 2606

Att. 1
Adm. 1

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30. Sri Rubaiyat Ul Ali
Scientist-C
Employee Code No.2605
31. Sri Kailash Kalita
Scientist-C
Employee Code No.2352
32. Sri Dibyajit Dutta
Scientist-C
Employee Code No.2329
33. Sri Anup Kumar Barua
Scientist-C
Employee Code No.2351
34. Sri Joydeep Shome
Scientist-C
Employee Code No.2358
35. Sri Upen Baishya
Messenger-Cum-Helper
Employee Code No.0879

[Handwritten signature]

(All the above named Respondents are working in the Office of the Petitioner No.3)

36. Central Administrative Tribunal
Guwahati Bench
Guwahati

Respondent
Applicant

[Handwritten signature]
[Handwritten signature]
Advocate

Submitted by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
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W.P.(C) No.2004/2001

- PRESENT -

THE HON'BLE MR JUSTICE JN SARMA
THE HON'BLE MR JUSTICE IA ANSARI

18-03-2002

There is no merit in this writ application and the same shall stand dismissed in view of paragraph 11 of the judgment of Central Administrative Tribunal in OA No.149/99. That paragraph is quoted below :-

" In view of the criteria laid down by the Hon'ble Supreme Court in the aforesaid judgments, the applicants are not entitled to the payment of S.D.A., as they are resident of North eastern Region and they have been locally recruited and they do not have all India Transfer Liability. As regards the recovery of the amount already paid to them by way of S.D.A., the Hon'ble Supreme Court in the aforesaid, judgments has specifically directed that whatever amount has been paid to the employees, would not be recovered from them. The judgment of the Supreme Court was passed on 20.9.1994 but the respondents on their own had continued to make the payment of d by the respondents to stop to payment of S.D.A. only on 12.1.1999. The order passed on 12.1.1999 can have only prospective effect and, therefore, the recovery of the SDA already paid to the applicants would have to be waived."

Att. to
Advocate

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By this order only the recovery has been prohibited and that aspect of the matter has already been clinched by the Apex Court.

Sd/- J A Andani

Sd/- J M Sharma

Shri

Pt No 6067

1/4/02

CERTIFIED TO BE TRUE COPY

Date

Superintendent (Copying Section)

Gauhati High Court

Authorised U/S 76, Act I, 1873

JKW 1/4/02

Att 27

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Adverse

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8208 - 8213

(Arising out of SLP Nos.12430 - 55/92)

Union of India & Others

- Appellants

- versus -

Geological Survey of India
Employees' Association & Others.

- Respondants

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 counsels 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. 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.

Attal
Advocate

Sd/- G.N.Ray,

Sd/- S.B.Majumdar

Certified to be true copy
Assistant Registrar (JULI.)
20.11.2001
Supreme Court of India

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 7000 OF 2001
(Arising out of S.L.R. (C) No. 5455 of 1999)

544783

Union of India & Anr. Appellants

Versus

National Union of Telecom Engineering
Employees Union Anrs. Respondents

ORDER

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. V. Lakshmanan & Ors. reported as 1994 (Supp. 3) SCC, 640 and followed in the case of Union of India & Ors. Vs. Executive Officers' Association Group 'C' 1996 (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

.....2/-

Attest
[Signature]
Advocate

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

.....J.
(N. SANTOSH HEGDE)

.....J.
(P.G. BALAKRISHNAN)

New Delhi,
October 05, 1961

After Lel
Sg Adm
Adm