

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A./T.A No. 265/02
R.A/C.P No.
✓
E.P/M.A No. 118/02

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SECTION OFFICER (Judl.)

Bahar
29.11.17

FRSM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 265 / 2002

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants. CPND Mazdoor Union

-Vs-

Respondant(s) CCOI LARS.

Advocate for the Applicant(s) MR ADIL AHMED

Mr A. Deb Roy,

Advocate for the Respondant(s) Sr. C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
Application is in form but not in time Complaint Petition is filed / not filed C.F. Rs. 50/- deposited IPO/BA No. <u>76</u> <u>574869</u> <u>27.5.2002</u> <u>Regist.</u>	20.8.02	Heard Mr. A. Ahmed, learned counsel for the applicant. Issue notice of motion. Returnable by four weeks. List on 20.9.2002 for admission
Slips taken Notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post Vide D. No. - 2341 to 2345 Dtd. - 28.8.02.	mb 20.9.02	Member Vice-Chairman List on 27.9.02 before Single Bench. Vice-Chairman
<u>30</u> <u>28.8.02</u>	lm 27.9.02	Member List on 8.11.02 alongwith M.P.No.118 of 2002. for orders. Member
	lm	


8.11.02

Heard Mr. A.Ahmed, learned

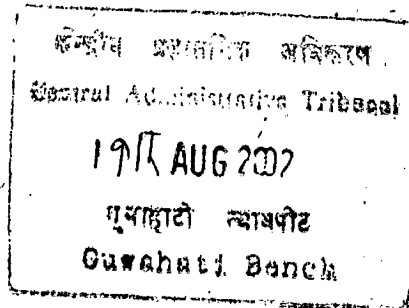
counsel for the applicants and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents and also perused the written statement submitted by the respondents

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/Advocate
for the parties.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 265 OF 2002.

The Central Public Works
Department Mazdoor Union,
Guwahati Branch, Guwahati.

-Applicants.

-Versus-

The Union of India
& Others

-Respondents

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Filed by

Advocate

(ADIL AHMED)

Picked by
Shri Narayan Singh
Applicant
through Shri
(ADIC 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. OF 2002.

BETWEEN

1] The Central Public Works
Department Mazdoor Union,
Guwahati Branch, Guwahati.

2] Sri Narayan Singha, President,
The Central Public Works
Department, Mazdoor Union,
Guwahati Branch, Guwahati.
Applicants.

-AND-

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

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

~~10~~

- 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.

- 2] JURISDICTION OF THE TRIBUNAL
- 28

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 Mazdoor Union, 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 Mazdoor Union, Guwahati Branch, Guwahati is annexed hereto and the same is marked as Annexure-A.

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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.

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 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 06-10-2001.

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

4.8] 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) 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, F and G 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

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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 arbitrary. It is further stated that the

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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) Allowance in terms of impugned Office Memorandum

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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

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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.

11] Particulars of I.P.O.:

I.P.O. NO. 76574869

Date Of Issue 27.5.2002

Issued from Guwahati C.P.O.

Payable at Guwahati

12] LIST OF ENCLOSURES:

As stated above.

-Verification.

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VERIFICATION

I, Shri Narayan Singh, President, The Central Public Works Department Mazdoor Union, 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.

Sri Narayan Singh
Declarant

President
MAZDOOR UNION
GUWAHATI-21

CENTRAL P.W.D. MAZDOOR UNION

Registered & Recognized by the Govt. of India

(Recognized by the Co-ordination committee for the Central Govt. Employees & works Union & Associations)

Regd. No.-2562

GUWAHATI

S/Shri

1. Mahadeo Roy
2. Judaji Roy
3. H.C. Sutradhar
4. P.R.A. Prasad
5. S. Kharkongar
6. K.C. Gayan.
7. Raju Sonar
8. R.N. Ram
9. Ashok Limboo
10. A.K. Das
11. K.K. Das
12. D.K. Chowdhury
13. S.Das
14. Ajab Lal Roy
15. Mahendra Singh
16. K.C.T. Paul
17. Ranjit Sarkar
18. K. Sharma
19. C.R. Sarkar
20. K. Sharma
21. D.K. Saikia
22. Ranadhir Dhar
23. Singeswar Roy
24. Surendra Ram
25. R.P. Singh
26. Nilomoni Nath
27. H.N. Das
28. K. Biswakarna
29. P.C. Das.
30. M. Das.
31. K.B. Thapa
32. M.D. Jha
33. K.C. Moth
34. Rambilas Roy
35. K.D.P. Gupta
36. Rajdeo Thakur
37. Ramji Roy
38. Rambilas Roy
39. Rodrik Swakmi.

Attent
Jil
Adm

40. M.K. Singh
41. Henry
42. Mst. Sunita Devi
43. D. Wallang
44. B. Khewar
45. M. Basfor
46. Mohan Kr. Rajak
47. Gyan Bahadur
48. Kitbok Kshir
49. Nazir Hussain
50. Hanif Ali
51. G.B. Giri
52. S.B. Chetri
53. B.R. Boro
54. H. Daimari
55. I. Boby Singh
56. D.B. Thapa
57. A.N. Singh
58. B.C. Das
59. M.R. Talukdar
60. T.C. Das
61. K. Rahman
62. P. Rabha
63. B.C. Sarkar
64. N.B. Bhujel.
65. J.N. Prasad
66. Safique Ali
67. Jaifal Ali
68. M.C. Boro
69. U.C. Deka
70. P.C. Kalita
71. P.K. Sharma
72. A.C. Malakar
73. R.C. Kumar
74. Gamir Ali
75. K.N. Das.
76. Dil Bahadur
77. M.K. Das
78. D.K. Hazarika
79. N. Boro
80. S. Ahmed
81. Mrs. S. Tamang
82. " N. Boro
83. " Jamuna Devi
84. N.C. Das
85. S. Bhowmik
86. K. Ali
87. B.C. Sharma

22
Jil
Attested
Advocate

88. B. Das.
89. K.C. Das
90. J. Boro
91. R. Das
92. M. Das.
93. K.N. Das
94. M. Boro
95. R.C. Bordoloi
96. S. Basfore
97. Md. Nazir
98. R.P. Kurmi
99. R. Prasad
100. D. Deb
101. A. B. Samed
102. K.C. Nath
103. M.A.D. Kumar
104. R.R. Das
105. K. Biswas.
106. R.C. Roy
107. R.C. Kalita
108. B.C. Baishya
109. H.K. M. Jamal
110. K. Hazarika
111. B.D. Giri
112. S. Ali
113. M. Ram
114. M. Basfore
115. Abdul Gafar.
116. K. Kalita
117. A.K. Chakraborty
118. R. Ali
119. D. Das
120. D. Devi
121. H. Nissa
122. P.K. Saikia
123. J. Sonwal.
124. K. Barua
125. S. Das
126. K.R. Das
127. A. Das
128. H.B. Das
129. B.B. Pradhan
130. D. Paharia

Attar
 12/1/50

- 24
131. A.M. Basfore
132. Ganga Maya
133. A.K. Brahma
134. K.L. Mahato
135. R.B. Gurung
136. A. Saha
137. R. Dutta
138. H. Roy
139. S.R. Tripathi
140. U.N. Thakurda
141. B.C. Barua
142. M.C. Kumar
143. S.C. Das
144. Kanu Chakraborty
145. K.C. Nath
146. A.K. Bharali
147. M.K. Sharma
148. J. Kumar
149. Smt. B.M. Guwung
150. Junu Dutta
151. D. Nandi
152. S. Das.
153. R. Mali
154. J. Bhattacharjaya
155. S. Sen
156. S.K. Biswas
157. R.K. Das
158. B.C. Sarma
159. R. Roy
160. S. Bhumij
161. S.K. Biswas
163. K.C. Das
164. S.N.D. s
165. M.C. Das
166. P.P. Bhatta
167. R.D. Harijon
168. K. Bahadur.
169. D. Mandal
170. K.N. Prasad.
171. M. Ram
172. H.N. Sharma
173. R. Pashi
174. C.R. Ghosh
175. J.C. Das.

Handwritten signature and stamp.

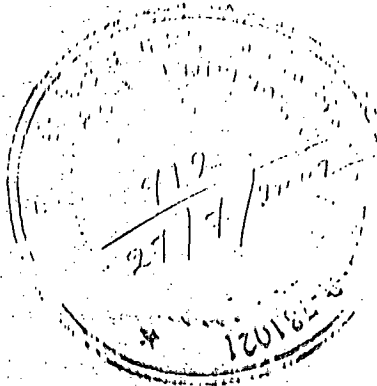
176. N. Chowdhury
177. T. Singh
178. L.N. Gogoi
179. I.B. Gopre
180. D.C. Debnath
181. B. Malakar
182. K. Rajbar
183. M. Mandal
184. R.S. Mahato
185. D. Binwas
186. G.C. Dey
187. H. Barla
188. M. Mili
189. S. Sonwal.

Branch Secretary

Hingler
Branch President

C. P. W. D. classmate letter

Hingler
Jil - *Hingler*



21

No. 21/2/2002-Adm.
Government of India
Office of Chief Engineer (NEZ)
Central Public Works Department
Shillong-03.

ANNEXURE-B 26

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 JE, 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 Vanlalhlair)
Dy. Director of Adm.

ALL SES. /LAL

Attchd
Jel
Advent

22				
Date of application for the copy.	Date fixed for notifying the requisite number of stamps and tolls.	Date of delivery of the requisite stamps and tolls.	Date on which the copy was ready for delivery.	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 GAWLAPI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from (A) P (C) No. 2564 of 10 2001

Union of India & Ors
Versus

Shree Jasiruddin 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

Sh. Jasiruddin Ahmed
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

Amended
Jal - Amended

4. Sri Hemanta Kumar Saikia
Scientist-D
Employee Code No.1691
5. Sri Hiranani Goswami
Scientist-C
Employee Code No.2366
6. Ms. Kakuli 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. Bhimsuni Duma
Scientist-B
Employee Code No.2373
13. Sri Gautam Choudhury
Scientist-C
Employee Code No.2360
14. Sri Pranjal 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

Annex
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A-1

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 Bhattacharyya
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-Sr
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 Gautami 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

T. A. 7.
16

Attended
12/8
14/10/6

30. Sri Rubaiyat Ull Ali
Scientist-C
Employee Code No. 2603
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 Baskin
Messenger-Cont. Helper
Employee Code No. 0879

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

36. Central Administrative Tribunal
Guwahati Bench
Guwahati

Respondent
Applicant

Attended
by
[Signature]

by Officer or Advocate	Serial No.	Date	Order made, by order, order or proceeding with reference
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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

10-03-2002

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.140/00. 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 20.0.1994 but the respondents on their own had continued to make the payment of it 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."

16 T.V.

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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.

[Handwritten signature]
J. A. ...

[Handwritten signature]
M. J. ...

P/No 6061
D.A. 1/12/01

CERTIFIED TO BE TRUE COPY

Date *[Handwritten]*
Superintendent (Copying Section)
Gauhati High Court
Authorized U/S 76, Act 1, 1872

[Handwritten signature]
J. A. ...

[Handwritten signature]
A. ...

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO.8208 - 8213

(Arising out of SLP Nos.12450 - 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.

Sd/- G.N. Ray,

Sd/- S.B. Majumdar

Attar
Sd/-
Advocate

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

36

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 & Ors. ... 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. Varadachariar, 1994 (Supp. 3) SCC, 640 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

.....2/-

Att. to
[Signature]
Amte

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.
(M. SANTOSH HEGDE)

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

New Delhi,
October 05, 1961

Amr
S. P. /
Sharma