

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. B67/02

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SECTION OFFICER (JUDI.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

....

ORDER SHEET

Original Application No : 367/02

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Promod Neogi & 61

Respondent (s) h.c.t. forms -Vs-

Advocate for the Applicant (s) Mr. A. Sarma, Mr. S. Saikia

Advocate for the Respondent(s) Cafe

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IPY/1/02 No 74606005 Dated 15/11/02 <i>By Registrar</i> <i>Step 1 taken</i> <i>Notice not yet served</i> <i>18/11/02</i>	22.11.02	Issue notice of Motion. Returnable by four weeks. The Respondents may file reply as to why the interim relief as claimed shall not be allowed. List on 29.11.02 for Admission. <i>IC Usha</i> Member
Notice prepared and sent to H/s for serving the respondent No. 1 to 7 by Legal A.D. <i>4/12</i> <i>DINo 3293 W 3298</i> <i>dd/ 5/12/02</i>	1m 29.11.02	Heard Mr. A. Sarma learned counsel for the applicant and also Mr. A. Deb Roy, Sr.C.G.S.C. for the respondents. Considering the pleadings and upon hearing the learned counsel for the parties the respondents are directed not to make any recovery which were already paid to the applicant till the returnable dated.

contd

29.11.02

The respondents may ask for modification/alteration of the order.

List on 3.1.03 for Admission

Vice-Chairman

lm

3.1.2003

On the vacation, the case is adjourned to 24.1.2003.

Mr
An

24.1.03 present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.

put up on 21.2.03 enabling the respondents to submit written statement. This order is passed on the prayer made by Mr B.C.Pathak, learned Addl. C.G.S.C

Vice-Chairman

pg

21.2.2003

No written statement so far ~~filed~~ filed. The application is admitted, call for the record.

No further notice need to be issued. Four weeks time is granted to the respondents to file written statement.

List the case on 28.3.2003 for order.

Vice-Chairman

bb

28.3.2003

Written statement has been filed. The case may now be listed for hearing on 22.4.2003. The applicant may file rejoinder, if any, within two weeks from today.

Vice-Chairman

mb

Case did not get filed. The Case is

Nb. Rejoinder has been filed.

Mr —

Notes of the Registry

Date

Order of the Tribunal

28.4.2003

On the prayer of Mr C.M.

9.5.03

Das, learned counsel for the applicant, the case is adjourned to 13.5.03 for hearing. Also list analogous matters on SDA.

Rejoinder Submitted
by the Applicant.P.S.

Vice-Chairman

nkm

~~Recd copy
on behalf of
5/6/03~~13.5.03

Hearing concluded. Judgment reserved.

6.6.2003
Copy of the Judgment has been sent to the Office for issuing the same to the applicant by post.AS

23.5.2003

Judgment delivered in open Court, kept in separate sheets. The application is partly allowed. No order as to costs.

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.249 of 2002
Original Application No.316 of 2002
Original Application No.342 of 2002

And

Original Application No.367 of 2002

Date of decision: This the 23rd day of May 2003

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

O.A.No.249/2002

Shri Bangshidhar Boro and 3 othersApplicants
By Advocates Mr S. Ali and Mrs K. Chetri

- versus -

The Union of India and othersRespondents
By Advocates Mr A. Deb Roy, Sr. C.G.S.C.
and Mr B.C. Pathak, Addl. C.G.S.C.

O.A.No.316/2002

Shri Khagen Ch Medhi and 80 othersApplicants
By Advocates Mr A.C. Sarma, Mr C.M. Das
and S. Saikia

- versus -

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

O.A.No.342/2002

Shri Abhit Kumar Raha and 6 othersApplicants
By Advocates Mr A.C. Sarma, C.M. Das and
S. Saikia

- versus -

Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

O.A.No.367/2002

Shri P. Neogi and 60 othersApplicants
By Advocates Mr A. Sarma and Mr S. Saikia

- versus -

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
and Mr B.C. Pathak, Addl. C.G.S.C.

O R D E R

CHOWDHURY. J. (V.C.)

All the four O.A.s were taken up together since it involves common questions of fact as well as law pertaining to the Special (Duty) Allowance.

2. The employees of different posts in the Postal Department in Assam Circle and N.E. Circle through the office bearers of various unions of the postal employees working under the Chief Post Master General, Assam Circle, Guwahati and N.E. Circle, Shillong, in O.A. No.249/2002, mainly assailed the action of the respondents as regards the recovery of Special (Duty) Allowance (SDA for short) so far paid to them. In O.A. Nos.316, 342 and 367 of 2002, the applicants in addition, also assailed the action of the respondents in stopping the payment of SDA to the applicants and more particularly assailed the Office Memorandum whereby the respondents took steps for recovery of the amount of SDA paid to ineligible persons after 5.10.2001.

3. For the purpose of adjudication of the cases, the pleadings cited in O.A.No.249/2002 and O.a.No.342/2002 shall be referred to. The Office Memorandum bearing F.No.11(5)97-E.II(B) dated 29.5.2002 recounted the background of payment of SDA, the full text of which is reproduced below:

"The undersigned is directed to refer to this Department's O.M. No.20014/3/83 E.IV dated 14.12.83 and 20.4.1987 read with O.M. No.20014/16/86-E.IV/E.II(B) dated 1.12.88, and OM No.11(3)/95-E.II(B) dt. 12.1.1996 on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in NE region vide OM dt.14.12.83. 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 dt.20.4.87, 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 NE 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 judgement delivered on 20.9.94 (in Civil Appeal No.3251 of 1993 in the case of UOI and Ors V/s Sh. S. Vijaya Kumar and Ors) have upheld the submissions of the Government of India that C.G. 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.

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 judgement of this Court in the case of UOI & Ors. vs. S. Vijayakumar & Ors. reported as 1994 (Supp.3) SCC, 649 and followed in the case of UOI & Ors vs. 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 inspite of the fact that the appeal has been allowed.

5. In view of the aforesaid judgements, 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.....

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 mutandi 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 & Nicobar and Lakshadweep Groups of Islands.

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

4. Mr A.C. Sarma, learned counsel for the applicants, in O.A. Nos.342 and 367 of 2002, however, strenuously urged that the applicants in the aforementioned O.A.s are entitled for SDA in view of the fact that these applicants have All India Transfer Liability, which was also admitted by the respondents in Annexure-16 annexed to O.A.No.342/2002. According Mr A.C. Sarma the aforesaid communication dated 31.3.2000/3.4.2000 clearly spelt out that SDA was paid to all categories of officers and members of the staff of the Meteorological Department posted in the North Eastern Region according to the conditions laid down in the Ministry of Finance (Department of Expenditure) O.M. No.11(3)/95-E.II(B) dated 12.1.1996 and clarificatory O.M. No.20014/3/83-E.II dated 20.4.1987 as they have actual 'All India Transfer liability'. The learned counsel for the applicants contended.....

contended that in view of the aforementioned admission of facts, the respondents cannot now turn around and contend that these applicants are not entitled for SDA.

5. I have also heard Mr A. Deb Roy, learned Sr. C.G.S.C. who seriously disputed the claim of the applicants.

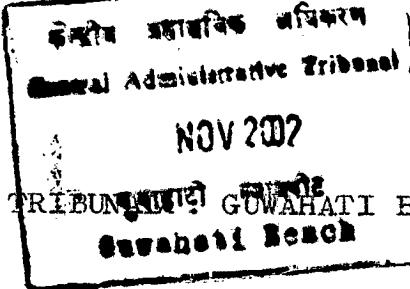
6. I have given my anxious consideration in the matter and also perused the lone document referred to by the applicants issued by the Deputy Director General of Meteorology (Administration & Stores). On the face of the available documents it cannot lead to the conclusion that the applicants are also entitled for the SDA. The issue raised in this application is no longer res integra in view of the consistent pronouncements made by the Supreme Court in Reserve Bank of India Vs. Reserve Bank of India Staff Officers' Association and others, reported in (1991) 17 ATC 295, Union of India and others Vs. S. Vijayakumar and others, reported in (1994) 28 ATC 598, Chief General Manager (Telecom), N.E. Telecom Circle Vs. R.C. Bhattacharjee and others, reported in AIR (1995) SC 813, Union of India Vs. Executive Officers' Association Group C, reported in 1995 SCC (L&S) 661, as well as the judgment rendered by the Supreme Court in Civil Appeal No.7000 of 2001, Union of India Vs. National Union of Telecom Employees' Union and others disposed of on 5.10.2001.

7. In the fact situation, therefore, the claim of the applicants for grant of SDA cannot be entertained. The only other issue for consideration is as to the admissibility on the part of the authority in recovering the amount of SDA already paid to the applicants. The aforementioned action of the respondents goes counter to

the legal policy as well as in view of the consistent decision of the Supreme Court. In the case of Union of India and another Vs. National Union of Telecom Employees Union referred to by the respondents as well as the decision rendered by the Supreme Court in Civil Appeal No.8208-8213 (Union of India and others Vs. Geological Survey of India Employees' Association and Others) itself indicated the concern expressed by the Apex Court in disentitling the authority from recovering any part of the payment of SDA already made to the concerned employees. Such recovery is inequitous and will invite misery to the employees. The action of the respondents for recovering the amount already paid is, therefore, held to unsustainable in law and the respondents are accordingly directed not to make any further recovery.

8. The applications are thus partially allowed. There shall, however, be no order as to costs.

sd/ VICE CHAIRMAN



(An application under Section 19 of
the Administrative Tribunal Act, 1985)

Title of the Suit

O.A. No. 367/2002.

Sri Pramod Neogi & Ors.

... Applicants.

- Vs -

Union of India & Ors.

... Respondents.

I N D E X

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For use in Tribunal Office only :

Date of filing :

Registration No. :

REGISTRY

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI

BENCH

12
P. Neogi
Filed through
A.C. Sengupta
B. Boruah
15-11-02

O.A. No.

367

2002.

1. Sri P. Neogi, L.D. Clerk.
2. Sri D. Ghosh, Jr. Engineer.
3. Sri N.C. Boro, U.D. Clerk.
4. Sri Bhanu Thapa, L.D. Clerk.
5. Srimati U.D. Gurung, L.D. Clerk.
6. Sri A. Warjri, M.V. Driver.
7. Sri Francis Dkhar, M.V. Driver.
8. Sri S.C. Dey, Dak runner
9. Sri K. Sunar, Peon.
10. Sri Rabi Das, Chowkidar.
11. Sri B.G. Barman, Barkandaz.
12. Sri Gagan Singh, Gauge Reader.
13. Sri R.R. Joshi, Chowkidar.
14. Smt. P. Diengdoh, Peon.
15. Sri B.L. Narayan, Draftsman,
O/O E.E. C.W.C. N.E.C.D.-III, Aizawl.

No. 1 to 14 all are working in the
Office of the Executive Engineer
Meghna Investigation Division,
Central Water Commission, Shillong.

16. Sri J.N. Arjun, Jr. Engineer.
17. Sri G.M. Barman, Draftsman, Gr. II.

Contd... 2/-

18. Sri B.P.Boro, U.D.Clerk.

19. Sri A.B.Thapa, Chowkidar.

No.16 to 19 are working in the
Office of the Chief Engineer,
Brahmaputra and Barak Basin,
Central Water Commission, Shillong.

20. Sri P.C. Barthakur, AAO.

21. Sri A.K.Pujari, Draftsman, Gr.I

22. Sri A.K.Das, Jr.Engineer(W.L.)

23. Sri P.Saikia Barua, Jr.Engineer(C).

24. Sri P.C. Roy, Chowkidar.

25. Sri N.C. Konwar, Chowkidar.

26. Sri M.Chowdhury, Jr.Computer.

27. Sri B.C.Hazarika, L.D.C.

28. Sri Ram Singh Chowkidar.

29. Sri T. Chetia, Chowkidar.

30. Sri J.K. Das, Chowkidar.

31. Sri D.N. Gogoi, Peon.

32. Sri A.R.Mikir, Assistant.

33. Sri R.S.Das.

34. Sri J.N. Sarma, Wireless Operator.

35. Sri P.Saikia, Wireless Operator.

36. Sri Bedamoni Bora, Diesel Mechanic.

37. Sri P.D.Moran, Wireless Operator.

38. Sri Dinanath Saikia, U.D.C.

39. Ss. Shukla Bhattacharjee, U.D.C.

40. Sri S.R. Deka, L.D.C.

41. Sri H.Das, L.D.C.
42. Sri S.K.Bose, M.V.Driver.
43. Smt. Rina Chowdhury, L.D.C.
44. Sri Rama Shankar Verma, MV Driver.
45. Mrs. Anju Plout, Chowkidar.
46. Sri S.R.Gogoi, Chowkidar.
47. Sri Kumar Tanang, MV Driver.

No. 20 to 47 are working in the
Office of the Executive Engineer,
Upper Brahmaputra Division Central
Water Commission, Dibrugarh.

48. Sri Bidyut Kr. Das, L.D.C.
49. Sri Mohan Ch. Talukdar, L.D.C.
50. Sri Chandra Barua, Peon.
51. Sri Naren Ch. Boro, Chowkidar.
52. Sri Eman Singh, Chowkidar.
53. Sri Ratia Orang, Driver.
54. Sri Raghunandan Roy, W.C.Driver.
55. Sri Bimal Deb Barua, Peon.
56. Sri Babul Shankar, Barkanda.
57. Sri Achyutananda Sarma, U.D.C.
58. Sri Bibhupada Bishwas, Draftsman
Grade-II.

No. 48 to 58 are working in the
Office of the Executive Engineer,
North Eastern Investigation
Division No.III Central Water
Commission, Itanagar.

59. Sri Sanjib Mishra, Jr. Engineer.

60. Sri E.C. John, D/O Grade-III.

61. Sri Govind Rai,

No. 59 to 61 are working in Kundil
Investigation Sub-Division Central
Water Commission, Chapakhowa.

..... APPLICANTS.

- Vs -

1. Union of India,

Represented by the Secretary,
Govt. of India, Ministry of
Water Resources, New Delhi.

2. The Chairman,

Central Water Commission,
R.K. Puram, New Delhi-6.

3. The Executive Engineer,

Meghna Investigation Division,
Central Water Commission,
Visquar, Motinagar, Shillong-14
(Meghalaya).

4. The Chief Engineer,

Brahmaputra & Barak Basin,
Central Water Commission,
"Maranatha Pohkseth", PPO.
Umping, Shillong-6.

5. The Executive Engineer Upper

Brahmaputra Division, Central
Water Commission, Jewan Phukan Road,
P.O. C.R. Building, Dibrugarh-786003.

6. The Executive Engineer,
North Eastern Investigation
Division, No.III, Central Water
Commission, Itanagar-791 111,
Arunachal Pradesh.

7. The Executive Engineer,
North Eastern Investigation
Division no. III, Central Water
Commission, Jemabawk,
Aizawl-796 017.

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDERS AGAINST WHICH
THE APPLICATION IS MADE :

The instant application is made challenging the following orders.

(I) Govt. of India, Ministry of Finance, O.M.No.II
(S)/97-E.II(B) dtd. 29-5-2002.

(II) Memo No. C.W.C. U.O. No.4/P & C (1) C/2002-BEE/
3631-45 dtd. 21-8-02 issued by the Assistant Engineer(HQ) C.W.C.
Brahmaputra and Barak Basin Shillong.

(III) Office order No.MID/A-14033/6/0.0/2002-03/3651-
60 dtd. 31-10-02 issued by the Executive Engineer Meghna Investi-
gation C.W.C. Shillong.

(IV) Office order no. NEID-II/E-4/2002/4003-II
dtd. 30-8-02 issued by the Executive Engineer, North Eastern
Investigation Division-II C.W.C., Aizawl.

(V) Letter No. UBD/DIB/CR /2002/9547 dt. 8-10-02
issued by the Executive Engineer, Upper Brahmaputra, Division,
C.W.C. Dibrugarh.

(VI) Office order no. 4/P & C(1)/2000-BBB/3833-37
dtd. 5-9-02 issued by the Superintending Engineer, Brahmaputra
& Barak Basin, C.W.C., Shillong.

(VII) Office order issued vide No. NEID-III/Adm-12(B)
VOL-IV 4186-91 dtd. 27-8-2002 by the Executive Engineer,
C.W.C. N.E. Investigation Division(III) Itanagar.

(VIII) Office order issued vide No. NEID-III/Admn-
114/VOL I/4464-69 dtd. 25-9-2002 by the Executive Engineer,
C.W.C. N.E. Investigation Division III Itanagar.

All the orders mentioned above relate to discontinuation
and recovery of S.D.A. from the respective applicants.

This application is made for stay of recovery of
S.D.A. amount already paid to the applicants and to continue
payment of S.D.A. to the applicants as before.

2. JURISDICTION OF THE TRIBUNAL

The applicants declare that the subject matter of
the instant application for which they want redressal is within
the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The applicants further declare that the application is within the limitation period prescribed under Section 21 of Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

4(i). That, the applicants are the citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the constitution of India.

4(ii). That, all the applicants are employees of Central Water Commission, they are residents of North Eastern region and they are posted in various places of N.E. region within the respective jurisdiction of the respondents in their respective grades as shown against each of them in the cause title of the case.

4(iii). That, the applicants in Serial No.1 to 14 are working in the office of the Executive Engineer, Meghna Investigation Division, Central Water Commission, Shillong (Opposite party No.3), the application no.15 is working in the office of the respondent no.7. Applicants in S.No.16 to 19 are working in the Office of the Opp. Party No.4, the applicants in serial No.20 to 47 are working in the Office of the opp. party No.5, the applicants in serial No.48 to 58 are working in the office of the opp. party no.6 and the applicants in S.No.59 to 61 are working in Kundil Investigation Sub-Division, C.W.C., Chapakhwa, under the Administrative Control of the opp. party no.6.

All the applicants have a common interest in the matter, as such they have joined together in the single application, the applicants crave the leave of the Hon'ble Tribunal to allow them to file a single application as provided in Rule 4(5) of the Central Administrative Tribunal (Procedure) Rules 1987.

4(iv). That, all the applicants were directly recruited to the service of the Central Water Commission on All India Basis having All India transfer liability. All the employees appointed in Central Water Commission irrespective of grades and Cadres are not only having All India Transfer liability as mentioned in their respective appointment letters but they are also recruited on All India basis having common seniority and they are also promoted on All India Basis only.

(Copies of some appointment letters and those of seniority list are annexed as Annexure-1 & 2 Series).

4(v). That, the Govt. of India vide their office Memo No.20014/2/83 - E.IV dtd. 14-12-83 decided to grant some additional allowances to the Civilian employees of the Central Govt. serving in the N.E.region. Amongst the various allowances proposed to be granted, one was the payment of special Duty Allowances (SDA) to the Central Govt. Civilian Employees having All India Transfer liability at the rate of 25% of Basic pay subject to a ciling of Rs.400 per month on their posting to any any station in the N.E.region. The rate of allowances was subsequently modified as 12 $\frac{1}{2}$ % of basic pay.

(A copy of the above memo is annexed as Annexure-3)
Contd....9/-

4(vi). That, in view of the above decision of the Govt. of India all the applicants were allowed the benefit of S.D.A. at the rate prescribed by the Govt. The Govt. of India vide Ministry of Finance memo No.20014/3/83-E.IV dated 20-4-87 further clarified the matter that mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India doesn't make him illegible for the grant of S.D.A. But for the purpose of sanctioning the S.D.A. the All India Transfer liability of the members of any service/cadre or incumbents of any post/group of post has to be determined by applying test of recruitment zone, promotion zone etc. i.e. whether recruitment of the service/cadre/post has been made on All India basis and whether promotion is also done on the basis of the All India z one of promotion based on common seniority for the service/cadre/post as a whole.

✓
S. D. A.

(A copy of the above memo is annexed as Annexure-4)

4(vii). That, the Govt. of India Ministry of Finance vide their memo no.11(3)/95-E.11(B) dtd. 12-1-96 further made it clear that in view of the Supreme Court judgement dated 20-9-94 passed in Civil appeal No. 3251 of 1993 that the Central Govt. Civilian employees who have all India transfer liability are entitled to S.D.A. on being posted to any station in the N.E. region from outside the region and S.D.A. would not be payable nearly because of the clause in the appointment order relating to All India Transfer Liability.

(A copy of the above memo is annexed as Annexure-5)

4(viii). That, the Chief Engineer Central Water Commission, Brahmaputra & Barak Basin, Shillong vide his letter no.4/P & C/I(C)/96-BBB/2663-05 dtd. 22-7-99 addressed to the Chief Engineer(HRM) C.W.C., New Delhi while refering to the Ministry of Finance O.M. dtd. 12-1-96 gave his suggestion that the Central Govt. employees irrespective of wheather they belong to the N.E.region or not and also wheather they are posted from N.E. ~~any~~ region or otherwise should be entitled to the benefits of S.D.A. and all the employees under C.W.C. including the present applicants were getting S.D.A. as before.

(A copy of the above letter is annexed as Annexure-6)

4(ix). That, the Govt. of India vide Ministry of Finance O.M. No.11(5)/97-E.11(B) dtd. 29-5-02 issued with reference to the judgement dtd. 5-10-01 passed by the Hon'ble Supreme Court of India in Civil appeal No. 7000/01 has mentioned that the S.D.A. shall be admissible to Central Govt. employees having all India transfer liabilities on posting to N.E.region from outside the region. It is further ordered vide that memo that the amount paid on account of S.D.A. to ~~ineligible~~ persons after 5-10-01 will be recovered whereas the Hon'ble Supreme Court in order dtd. 5-10-01 has clearly mentioned that whatever amount has been paid to the employees by way of S.D.A. will not in any event be recovered.

(A copy of the above memo is annexed as Annexure-7)

Contd...11/-

4(x). That in pursuance of the above instructions the Chief Engineer B & B.B C.W.C., Shillong vide order dated 21-8-02 ~~and~~ issued by the Assistant Engineer head quarter on his behalf has communicated all concerned that following 2 conditions have to be fulfilled for grant of S.D.A. to employees.

- i) The employees should have All India Transfer liability which is to be seen whether the recruitment to a particular post is on All India basis and Seniority list for promotion etc. is maintained centrally.
- ii) Whether the employee has been transferred from outside the N.E. region to this region.

It has been further ordered that if the above two condition are fulfilled only then the Central Govt. employees are to be given S.D.A. and for other employees no S.D.A. is admissible with effect from 6-10-01.

(A copy of the above order is annexed as Annexure-8)

4(xi). That, the Executive Engineer Meghna Investigation Division C.W.C., Shillong vide his office order no. MID/A-14033/6/00/2002-03/3651-60 dtd. 31-10-02 has ordered for discontinuation of S.D.A. to as many as 23 nos. ~~as~~ of employees of the division w.e.f. 6-10-01 and it is also ordered that the amount already paid on account of S.D.A. from 6-10-01 onwards will be recovered in maximum of 24 installments from their monthly salary from November, 2002 onwards. The applicants no. 1 to 14 are amongst those 23 employees and their S.D.A. amount was already discontinued from the month of September, 2002.

(A copy of the above order is annexed as Annexure-9)

Contd....12/-

4(xii). That, the respondent no.7 vide his office order no.NEID-II/E-4/2002/4003-II dtd. 30-8-02 has ordered for discontinuation of S.D.A. in respect of 12 employees w.e.f. 6-10-01. It has also been ordered that the amount already paid on account of S.D.A. from 6-10-01 to 31-8-02 will be recovered in maximum 11 equal installments from their monthly salary from September, 2002 onwards. The applicant no.15 is one of those 12 employees mentioned in the order.

(A copy of the above order is annexed as Annexure-10)

4(xiii). That, the Superintending Engineer(Coord) Central Water Commission Brahmaputra and Barak Basin, Shillong has issued order vide his memo no.4/P & C(1)/2002-BBB/3833-37 dtd. 05-09-02 for discontinuation of S.D.A. w.e.f. 6-10-01 in respect of 6 employees and for recovery of the amount already paid after 6-10-01. Applicant no.16 to 19 are amongst those employees as mentioned in the above order and their S.D.A. has been discontinued since September, 2002.

PLS. Ref

(A copy of the above order is annexed as Annexure-11)

4(xiv). That, the Executive Engineer C.W.C. Upper Brahmaputra Division, Dibrugarh vide his letter no.UBD/DIB/2002/9547 dtd. 8-10-02 has submitted list of a large number of employees including the applicants no.20 to 47 as in-eligible

Contd....13/-

for S.D.A. to the Superintending Engineer Hydrological observation Circle C.W.C., Guwahati and the S.D.A. in respect of applicants no. 20 to 47 has already been discontinued since August, 2002.

(A copy of the above order is annexed as Annexure-12)

4(xv). That, the Executive Engineer, S.W.C. North Eastern Investigation Division No.III, Itanagar have passed orders on 27-8-02 and 25-9-02 for discontinuation S.D.A.'s in respect of as many as 15 nos. of employees in total including the applicants no. 48^{and 50} to 61 and their S.D.A. has been discontinued w.e.f. August, 2002 and recovery has also been started from September, 2002.

(Copies of the above two orders are annexed as Annexure-13 & 14)

4(xvi), That, the contents of the Govt. of India, Ministry of Finance O.M. No.20014/3/83-E.IV dtd. 14-12-1983 itself speaks clearly that all the facilities extended there under are meant for all the civilian Central Govt. employees posted in N.E. region. However clarification regarding application on tenure of posting/deputation as provided in Para-1(i) of the above memo was sought for from the Govt. by the Audit vide U.O. No.519-Audit/117-83 dtd. 21-6-84 and the Govt. of India Ministry of Finance in their deptt. of expenditure U.O. No.3943-E.IV/84 dtd. 17-10-84 clarified the matter stating that

Contd... 14/-

their orders are applicable to all Central Govt. employees posted in the states/union territories of N.E.region. Hence it is implied that the Special duty allowance as sanctioned in paragraph-1(iii) of the said Govt. memo dtd. 14-12-83 will also be similarly applicable to all Central Govt. employees posted in the states/union territories of N.E.region. A further clarification to the point as to why the persons who may not have any all India transfer liability but would be prepared to serve in the N.E.region should be denied the allowance which was to encourage Govt. servant to serve in that region and it was clarified through a reply that "it is a conscious decision to allow special duty allowance to only those who have all India transfer liability.

(A copy of ~~SMK~~ swamy's publication is annexed as
Annexure-15)

4(xvii). That, one officer of Regional pay and Accounts Office, who is also resident of N.E.region and posted in N.E.region filed O.A.No. 7/99 before this Hon'ble Tribunal on the matter of S.D.A. and if was allowed by this Hon'ble Tribunal vide judgement dtd. 2-11-2000.

(A copy of the above judgement is annexed as
Annexure-16)

4(xviii). That, the Govt. of India, Ministry of Finance has issued the office memorandum dtd. 29-5-02(Ann-7 on the basis of the order dated 5-10-01 passed by the Hon'ble Supreme Court of India in C.A. No.7000/01 and the Hon'ble Supreme Court of India vide above order allowed the appeal considering it as a covered case by earlier two Judgements as reported in 1994(Supp-3) SCC-649 and 1995(Supp-1) SCC.757.

(A copy of the above order is annexed as Annexure-17)

4(xix). That, the applicants submitted representation through their representative to the Chairman, C.W.C. including some individual telegrams requesting him not to discontinue /recover S.D.A.

(A copy of the representation is annexed as Annexure-18)

4(xx). That, this application has been made bona-fide for the ends of justice and equity.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

i) For that, the applicants have been recruited on all India basis, they are having all India transfer liability and they are promoted on all India basis having an all India Common Seniority and as such they are eligible for the

getting the S.D.A. in terms of O.M. dtd. 14-12-83 (Annex- 3) as well as O.M. dtd. 20-4-87 (Annex- 4) issued by the Govt. of India, Ministry of Finance, Department of Expenditure and as such unilateral discontinuation of the payment of S.D.A. and order of recovery of the same without any notice to the applicants is extremely arbitrary, illegal and unfair, it is violative of natural justice and as such the impugned order passed by the respondent authorities are bad and liable to be set aside and quashed so far those relate to the applicants.

ii) for that, the respondent authorities have paid S.D.A. to the applicants after being fully satisfied with there illegibility criteria interms of the Govt. orders issued from time to time and it is now not open to the respondent authorities to hold that the applicants are not eligible to get S.D.A. and as such the impugned action of the authorities is bad in law and liable to be set aside.

iii) for that, the respondent authorities were paying S.D.A. to the applicants even after the Apex Court judgement reported in 1994 Supp(3) SCC-649 and 1995 Supp(1) SCC 757 and the latest Apex Court order passed in CA.7000/01 being passed only on the basis of earlier two judgements holding it as a covered case the impugned action of the respondents to discontinue and recovery S.D.A. from the applicants is bad and liable to be quashed.

iv) for that, the impugned orders have caused unreasonable classification amongst the similarly situated employees and as such those are liable to be quashed to the extent those relate to the applicants. The applicants are also entitled to be considered as eligible for S.D.A. in as much as it is violative of the constitutional provision of equal pay for equal work.

v) for that, there having no any order issued by the Ministry of Water Resources, Govt. of India under which the applicants are working to discontinue/recover the S.D.A. from the applicants the impugned orders issued by the deptt. authorities making the applicants ineligible for S.D.A. are illegal and liable to be quashed, so far those relate to the applicants.

vi) for that, the S.D.A. was paid to the applicants as well as other central Govt. Civilian employees posted in ~~xxx~~ N.E. region on the basis of the Govt. O.M. dtd. 14-12-83 (Annexure 3,) having consent of the President of India and as such it can not be withdrawn on the strength of the clarificatory order without having consent of the President of India issued vide O.M. dtd. 29-5-02. (Annexure 4).

vii) for that, the service condition of the applicants as well as the geographical situation of the N.E. region not being changed after 1983 when the Special benefits including the S.D.A. were extended to the Central Govt. Civilian

employees of N.E. region including the applicants the impugned action of withdrawal of the said benefit from the applicants is illegal and liable to be quashed.

viii) for that, the judgements passed by the Hon'ble Court in respect of employees having zonal system of recruitment, seniority, promotion, transfer etc. may not be considered at per with the service condition of the present applicants who are having All India Characteristics in all respects.

ix) for that, in any other view of the matter the impugned orders are bad and liable to be quashed and the applicants are considered to be eligible for getting S.D.A.

6. DETAILS OF REMEDIES EXASTED

All the applicants submitted a representation through there representative on 26-8-02 to the Chairman C.W.C., the applicants also individually sent, telegrams not to discontinue/recover S.D.A. but impugned action has been started.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH OTHER COURT

The applicants further declare that they have not previously filed application, 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.

RELIEF SOUGHT

In view of the facts and circumstances stated above it is most respectfully prayed that the Hon'ble Tribunal may be pleased to admit this application and upon hearing the respondents on the cause or causes that may be shown may be pleased to grant the following reliefs :

- (1) To declare the applicants as eligible for the S.D.A., to Continue payment of the same and not to make any recovery of the amount already paid to them.
- (2) To refund the amount already deducted on account of SDA from the salary of applicants in Serial No. 1 to 19 from the month of September and October, 2002.
- (3) To refund the amount already deducted on account of SDA from the salary of applicants in serial No.20 to 47 for the month of August, Sept. and October, 2002.
- (4) To refund the amount of SDA already deducted from the salary of applicants in serial No.48 to 61 for the month of Aug., Sppt. and Oct.,2002 along with the amount of recovery made for the month of September and October, 2002.
- (5) To quash the impugned orders issued vide (Annex-8,9,10,11,12,13)st so far those relate to the applicants and pass any other order/orders as your Lordship deem fit and proper.

For which act of your Lordships' kindness the applicants shall ever pray.

Contd...20/-

9.

INTERIM RELIEF IN ANY PRAYED FOR

It is further prayed that your Lordship would be pleased to direct the respondents to continue payment of the S.D.A. to the applicants and not to make any recovery of S.D.A. till final disposal of the applications, other wise the applicants will suffer loss and injury.

10.

PARTICULARS OF THE I.P.O.

(2)

1. I.P.O. No. : 7G606005.

2. Date : 15.11.02

3. Payable at : Gurahati. (GHP)

11.

LIST OF ENCLOSURES

As stated in the Index.

Contd....21/-

VERIFICATION

I, Sri P.Neogi, S/O Late M.L.Neogi, aged about 50 years, presently working as L.D.Clerk in the Office of the Executive Engineer, Meghna Investigation Division Central Water Commission, Shillong, do hereby verify and solemnly affirm that the statements made in paragraphs 1, 2, 3, 4, 6, 8, 7 of the accompanying application are true to my knowledge which I belief to be true and rests are my humble submission before the Hon'ble Tribunal. I being one of the applicants have been authorised by other applicants to sign this verification on behalf of all the applicants.

I have not suppressed any matterial facts and I sign this verification on the day of Nove., 2002.


(P. Sonale Neogi)
(L.D.C)
M.I.Dire
C.W.C Shillong

No: NEFA/Estt.-2/250-5
Government of India
Central Water & Power Commission
(Water Wing)

Dated, Tezpur,
the 6th 11
1971.

MEMORANDUM

The undersigned hereby offers Shri Naror Chandra Bora in the temporary post of Peon-Chowkidar in the office of Central Water & Power Commission (Water Wing) on a pay of Rs.70/- per month in the scale of Rs.70-1-80-EB-1-85. He will also be entitled to draw dearness and other allowances at the rates admissible under, and subject to, the conditions laid down in, rules and/or orders governing the grant of such allowances in force from time to time.

The terms of appointment are as follows :-

2.

- 1) The appointment is purely temporary and provisional and may be terminated at any time by a month's notice given by either side, viz. the appointee or the appointing authority, without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
- ii) The appointment carries with it the liability to serve in any part of India or outside. He will have to carry out such duties as may be assigned to him by the competent authority.
- iii) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

3.

- 1) Production of a certificate of fitness from the competent medical authority viz. Authorised Medical Attendant.
- ii) Submission of a declaration that he has not got more than one wife living (in case he is married). In the event of the candidate having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirement in this behalf.
- iii) Taking of an oath of allegiance/faithfulness to the Constitution of India (or making of solemn affirmation to that effect) in the prescribed form.
- iv) Production of the following original certificates :
 - a) Character Certificate in the prescribed form from a gazetted officer or a Magistrate.
 - b) Certificate of Age.
 - c) Discharge certificate in the prescribed form of previous employment, if any.
 - d) Certificate in the prescribed form in the support
contd...2

(Page No: 2)

of candidate's claims to belong to a Scheduled Caste or Tribe/Anglo-Indian community.

34

It may please be stated whether he is serving or is under obligation to serve, another Central Government Department, a State Government or a public authority.

5. If any declaration given or information furnished by him 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.

6. If Shri Mamta Chandra Deka accepts the offer on the above terms, he should report to the undersigned within 7 days from the issue of this offer. If he fails to report for duty by the prescribed date the offer will be treated as cancelled.

7. Travelling allowance will be allowed for joining the appointment.

Mamta Chandra Deka
4/11/71

Executive Engineer
NEFA Investigation Division,
Central Water & Power Commission,
T E Z P U R
(A S S A M)

Yours sincerely

Mamta Chandra Deka

Copy to:- Dist. Officer (Assam)

- a) The Superintending Engineer, Investigation Circle No:II, C.W. & P.C., NH IV, Faridabad, Haryana, with reference to his No: 12/11/71/6275 dated 13-11-71.
- b) The Superintending Engineer, Investigation Circle No:I, C.W. & P.C., NH IV, Faridabad, Haryana, for information and necessary action.
- c) The Employment Officer, Tezpur (Assam) for information. Shri Mamta Chandra Deka was sponsored against the above vacancy by the Employment Exchange and his Registration No. is 1542711.
- d) Personal File.

and.

Confidential
Certified to be true
Advocate
14.11.71

Regd

48

1

35

No. 10/8/Adm.V/95/ 1582-86
GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER
PLANNING CIRCLE: NH-IV, FARIDABAD.

Dated April, 1998.

OFFICE MEMORANDUM.

Shri Ratiya Urang S/o. Shri Fauda Urang
is hereby offered the post of Work charged Motor Vehicle Driver in
the office of the Ex-Engg. NED-W.C.E., Itanagar on a pay of
Rs. 3050/- p.m. in the scale of pay Rs. 3050-75-3950-80-4590/- plus other
allowances at the rates admissible subject to the conditions laid
down in the rules and orders governing the grant of such allowances
in force from time to time.

2. THE TERMS OF APPOINTMENT ARE AS FOLLOWS:-

- i) The appointment is temporary and will not confer any title to permanent employment.
- ii) The appointment may be terminated at any time by a month's notice given by either side viz. the appointee or the appointing authority without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to him as sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof. In case the appointee leaves the post before the completion of one month's notice, without permission, he will render himself liable to disciplinary action which may extend to recommending the authorities concerned that he is not fit person for employment under the Government.
- iii) The appointment carries with it the liability to serve in any part of India.
- iv) The other conditions of service will be governed by the relevant rules and orders in force from time to time.
- v) He will be on probation for 2 years.
- vi) The appointment is conditional upon his character and antecedents being good and satisfactory.

contd... 2.....



(B) 1627
2/5/98

3. The appointment will be further subject to:-

- i) Production of certificate of physical fitness from the competent medical authority viz. Asstt. Civil Surgeon/Civil Surgeon.
- ii) Submission of a declaration in the prescribed form regarding marital status. In the event of the candidate having more than one spouse living or being married to a person having more than one spouse living, the appointment will be subject to him being exempted from the enforcement of the requirements to this behalf.
- iii) Taking of an oath of allegiance/faithfulness to the Constitution of India (or making a solemn affirmation to that effect) in the prescribed form.
- iv) The statement made by him in respect of his Academic/technical qualifications, age and experience etc. in his application is being found correct. He should also give an undertaking in writing to reimburse to Govt. financially to such an extent as may be decided by the Government should any of his statement eventually prove to be wrong.
- v) Before joining, the candidate should produce a Character certificate from a Gazetted Officer and a similar certificate from his employer, if any, both attested by a stipendiary Magistrate (including District Magistrate) or a Sub-Divisional Magistrate.
- vi) Production of the following original certificates:-
 - a) Certificate of Educational and other technical qualification
 - b) Certificate for proof of age
 - c) Discharge certificate from previous employer
 - d) Driving Licence, badge, first aid certificate etc.
- vii) His production of the certificate to the effect that he belongs to Schedule Caste/Tribe Community/OBC as required by rule 5. In case he belongs to any of these communities he should produce the certificates in the prescribed form duly signed by the competent authority.

4. It may please be stated whether the candidate is serving or is under obligations to serve another Central Govt./State Govt. or a Public Authority.

5. If any declaration given or information furnished by 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 or such other action as Govt. may deem necessary.

contd... 3....

If Shri Ratya Uram accepts the offer of appointment on the above terms, he should communicate his acceptance or report for duty to the Ex. Engineer, N.E.D.-II, Cane, Ita Nagar (A.P.) within one month from the date of issue of this order. If no reply is received or the candidate fails to report for duty by the prescribed time, the offer will be treated as cancelled.

7. T.A./D.A. will be allowed for joining the above post.

(K.K. BHANDARI)
SUPERINTENDING ENGINEER

Shri Ratya Uram

Ex. Engineer, N.E.D.-II

Cane, Ita Nagar (A.P.)

Copy for information and necessary action to:

1. The Chief Engineer, (IIR), CWC., Sewa Bhawan, R.K.Puram, New Delhi.
2. The Chief Engineer (YB), CWC., Kalindi Bhawan, New Delhi.
3. The Chief Engineer (M), CWC., Nagpur. The joining report of Sh. M. Sh. Milon Joshi may please be intimated to the office.
4. The Superintending Engineer, N.E.I.C., CWC., Shillong.
5. The Superintending Engineer (HC), CWC., Varanasi.
6. The Ex.Engineer, Central Stores Division, CWC., Kalindi Bhawan, New Delhi. The Drivers may please be reposted/directed to report to the Secretary, CWC., Sewa Bhawan, New Delhi.
7. The Ex.Engineer, N.E.I.D.-III, CWC., Itanagar, Arunachal Pradesh.
8. The Ex.Engineer, P&I Division, CWC., Faridabad.
9. The Ex.Engineer, Upper Yamuna Division, CWC., Kalindi Bhawan, New Delhi.
10. The Ex.Engineer, Middle Ganga Divn.-III, CWC., Varanasi for information. Shri Firoj Sattar and Sh. Shiv Narayan Khatri have been appointed as W/o Driver and posted in Delhi.
11. The Ex.Engineer, Wanganga Division, CWC., Nagpur.
12. Office Order File.
13. Persons concerned.

(K.K. BHANDARI)
SUPERINTENDING ENGINEER

No. A-23022/4/2001-Estt.VII

Government of India

Central Water Commission.

Sewa Bhawan, R.K.Puram,
New Delhi - 110066.

Dated the 22 June, 2001.

To:

All Chief Engineers/Superintending Engineers/
Executive Engineers/Directors, of Subordinate
Offices of Central Water Commission.

Subject: Seniority list of Upper Division Clerks borne on
the ministerial cadre of subordinate offices of
Central Water Commission as on 1.1.2001.

Sir,

I am to forward the Seniority List of UDCs borne on the
ministerial cadre of subordinate offices of CWC updated as on
1.1.2001. It is requested that the same may please be brought
to the notice of all the concerned officials. The errors/
omissions/additions if any noticed in the said seniority list
may please be intimated to the Headquarters within a period of
one month of otherwise it will be presumed that the said
seniority list is in order needing no revision/alteration.

Yours faithfully,

Encl: As above.

H.L. Aggarwal
(H.L. AGGARWAL)
SECTION OFFICER
TELE. NO. 6107801.

Copy to:

The General Secretary, Association of ministerial staff
of CWC, Kalindi Bhawan, New Delhi (Shri G.S. Chauhan,
Assistant, CSD, New Delhi).



Noted Please
G 6570

1/1 14.11.01

1	2	3	4	5	6	7	8
109	Raj. Ram. Sah	25.02.1947	B.A(Hon)		21.02.72	07.09.79	G.C., Hyderabad.
110	N.D. Surati	12.08.1950	SAC	SC	Pmt. as LDC	31.08.79	Tapi Divn, Surat.
111	Smt. Madhu Bala	07.01.1951	Hr. Sec.		01.02.		
112	Hawa Singh	15.09.1959	Matric		15.01.73	12.09.79	P.I., Faridabad.
113	Narinder Kumar S/o Sh. Rahubir Nath.	15.04.1951	P.U.C.		Pmt. as LDC	24.02.73	15.01.79 LYD., Agra.
114	Achutadev and Sharma	21.01.1959	H.S.L.C.		Pmt. as LDC	20.03.73	03.12.79 On deputation to COA, M.O.W.R.
115	N.P. Swain	05.01.1951	Inter		03.01.73	30.08.79	NEID-III, Itanagar.
116	S.K. Kundra	14.03.1953	Hr. Sec		Pmt. as LDC	06.04.73	24.08.79 Eastern River Divn., Bhubaneshwar.
117	C.S. Sethiababu	31.05.1951	SSLC		04.05.73	11.10.79	Meghna Divn. Silchar.
118	Basantla Kumar Dasi	03.05.1952	P.U.C.		Pmt. as LDC	20.05.73	26.11.79 Southern River Divn., Coimbatore.
119	Yashpal Shiv Gotra	13.08.1954	Matric	SC	17.08.71	09.10.79	Meghna Divn., Shillong.
120	Som. Dutt. Shama	06.12.1947	Matric		Pmt. as LDC	22.06.73	31.12.79 Chenab Divn., Jammu.
121	Smt. Kamla Koushal	03.08.1952	Matric	SC	Pmt. as LDC	23.07.73	02.06.80 C.I.C., Gangtok.
					Pmt. as LDC	22.11.73	01.09.79 Under O/o transfer to CE(BBB), Shillong. 39

No. A-230 22/5/2001-Eatt. VII
Government of India
Central Water Commission

Sewa Bhawan, R.K.Puram,
New Delhi - 110066,

Dated the March, 2001.
20 June.

To :

All Chief Engineers/Superintending Engineers/Executive
Engineers/Directors of Sub-offices of CWC.

Subject: Seniority List of LDCs borne on the ministerial order
of Sub-offices of CWC as on 1.1.2001.

Sir,

I am directed to say that the seniority list of LDCs working
in the subordinate offices of CWC has been drawn up in accordance
with the instructions contained in the Ministry of Home Affairs
Office Memorandum No.9/11/55-RPS dated the 22nd December, 1959 as
amended from time to time.

It is requested that the contents thereof may please be
brought to the notice of all concerned LDCs and the errors/commission/
omissions if any noticed in the said list may be communicated to
the Commission within one month from the date of issue of this
communication.

Yours faithfully,

J.L. Aggarwal

(J.L. Aggarwal)

Section Officer

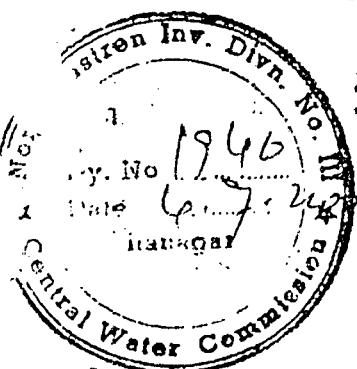
TELE. NO. 6107801.

Copy to:-

General Secretary (G.S. Chauhan), Kalindi Bhawan, New Delhi.

EC-I

V47
gpt



Hand
617/2001

certified to be true.

2001
14.11.02
D. Devale

S/ST/Smr.

1	2	3	4	5	6	7	8
5	Ramesh Sripat Talmale. 2.10.1961.	E.A.	OBC	<u>12.12.83</u> Pmt. LDC 01.04.85	12.12.83 On deputation. Through SSC		
6	S. N. Easwari 12.05.1958	E.Sc		<u>12.12.83</u> Pmt. LDC 01.04.85	19.12.83 SRD, Coimbatore ----- do -----		
7	Subash Chand Pagarra 01.07.1962	E.Com	SC	<u>21.12.83</u> Pmt. LDC 01.04.85	21.12.83 Dis. (A), Nagpur ----- do -----		
8	P. S. Sathesh Kr. 15.02.1961	ESLC	SC	<u>10.01.84</u> Pmt. LDC 01.04.85	19.01.84 SRD, Coimbatore, ----- do -----		
9	K. K. Bhaskaran 01.02.1959	ESLC	SC	<u>23.01.84 (AN)</u> Pmt. LDC 01.04.85	23.01.84 SRD, Coimbatore. ----- do -----		
10	B. D. Bhavser 09.03.1960	E.Com	OBC	<u>03.03.84</u> Pmt. LDC 01.04.85	03.03.84 Dir(M), Bhopal ----- do -----		
11	B. Rajamallu 01.01.1943 Rank-V.	Matric	SC	<u>24.03.63</u> Q.F. Chowkidar	23.03.84 LED, Hyderabad Through Deptt. Gr. 'D' Exam '83		
12	M. Gaurishanker Prasad. 9.4.54, Rank-I	Matric		<u>08.12.73</u> Pmt. BKZ. 1.4.85	02.04.84 MGD-V, Patna ----- do -----		
13	Khushal Mani 08.01.1955	High School		<u>12.04.84</u> Pmt. as Bkz.	12.04.84 UYD, New Delhi ----- do -----		
14	Misri Lal 12.09.63	E.A.	SC	<u>31.03.84</u> Pmt. LDC 01.04.85	31.03.84 Narmada Divn. Bhopal Through SSC		
15	M. C. Talukdar 01.07.53, Rank-III	Matric		<u>20.08.71</u> Pmt. Peon 01.04.85	01.05.84 HOD, Guwahati Through Deptt. Gr. 'D' Exam '83		
16	Ram Babu Das 1.1.58, Rank-II	Matric	SC	<u>07.06.84</u> Pmt. Chow. 01.04.85	07.06.84 MGD-I, Lucknow ----- do -----		

7(A)

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- 18 -

1	2	3	4	5	6	7	8
186	S/ Sh/Snt. Sidyut Kr. Das 15/10/73	B. A. (Part-I)	SC	15/05/97 Temp. LDC	07/05/97	IITD-I Itanagar.	Imp. Appt.
187	Miss Guvarra M. Dematti. 15/7/70	PUC	SC	08/05/97 Temp. LDC	08/05/97	CTU, Pune	---do---
188	Shri Vikram 02/10/78	12th Pass	SC	05/08/97	05/08/97	HCC, Poona	---do---
189	Thotakura Sriharsha	B. Com 05/03/76	SC	15/06/98 Temp. LDC	15/06/98	UOD, Pune.	Through SSC
190	Sh. Subhasish Baner- jee. 23/12/73.	B. SC	SC	17/07/98 Temp. LDC	17/07/98	Tapi Divn. Surat.	---do---
191	Miss Vaishali Puran Meshram. 04/10/76	B. SC	SC	19/08/98 Temp. LDC	19/08/98	Wainganga Divn. Nagpur.	---do---
192	Manik Chandra Mandal	B. Com 14/03/68	SC	24/08/98 Temp. LDC	24/08/98	HOD, Dehradun.	---do---
193	Meshran vidyanand Ramakrishna. 20/5/71	M. A. Pass	SC	28/08/98	28/08/98	UOD, Pune	---do---
194	Abhijit Roy 20/07/71	B. SC	SC	29/08/98 Temp. LDC	29/08/98	MGD-II, Lucknow.	Through SSC
195	Satykant Panda 09/07/73.	M. SC	SC	10/09/98 Temp. LDC	10/09/98	HOC, Shubaneswar	---do---
196	Kumari G. Sivaparna	SC	SC	18/09/98 Temp. LDC	18/09/98	HOC, Vadodara.	---do---
197	R. Murugesan 20/10/73	B. Com	OBC	12/10/98 Temp. LDC	12/10/98	MGD-II, Lucknow	---do---

No. 200143/83-E.IV
 Government of India
 Ministry of Finance
 Department of Expenditure

New Delhi, the 14th Dec., 1983.

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 therof.

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/deputations

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 employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

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

Satisfactory Performance of duties for the

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Contd.) *to be done*
Dr. Advocate
14.11.02

recognition

prescribed tenure in the North East shall be given due in the case of eligible officers in the matter of:-

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

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

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

(iii) Special (Duty) Allowance:

Central Government civilian employees who have All-India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs.400/- p.m. Special 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/-
Pay above Rs.260/-

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

Tripura

The rates of the allowance will be as follows:-

(a) Difficult Areas

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

(b) Other Areas

Pay upto Rs.260/- Rs.40/- p.m.

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

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. 1/65) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in case of journeys for taking up initial appointment to a post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 400 kms. for the Government servant himself and his family will be admissible.

(vi) Travelling Allowance for journey on transfer

In relaxation of orders below S.R. 116, if on transfer to a station in the North-Eastern region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the post and will be permitted to carry personal effects upto 1/3rd of his entitlement 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 accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

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

In relaxation of orders below S.R. 116, for transportation of personal effects on transfer between two different 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 travel in excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) Leave Travel Concession

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

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

(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 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 Andaman and Nicobar Islands.

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

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

5. Separate orders will be issued in respect of other recommendations of the Committees 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. MAHALIK)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

Mo. 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... 2/-

*Let this be done
D. S. Advocate
14.12.87*

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.

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

To

Financial Advisers of all Ministries/Departments.

11(A)

SECTION 21

NORTH-EASTERN REGION—ALLOWANCES AND FACILITIES

103

M.F., O.M. No. 11(3)/95-E. II (B), dated 12-1-1996

Special Duty Allowance for civilian employees serving in the State and Union Territories of North-Eastern Region

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 (*Sl. No. 214 of Swamy's Annual, 1988*) on the subject mentioned above.

2. The Government of India *vide* the above-mentioned OM, dated 14-12-1983, granted certain incentives to the Central Government civilian employees posted to the N-E Region. One of the incentives was payment of 'Special Duty Allowance' (SDA) to those who have 'All India Transfer Liability'.

3. It was clarified *vide* the above-mentioned OM, dated 20-4-1987, that for the purpose of sanctioning 'Special Duty Allowance' 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 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 N-E 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 Ministries/Departments against the orders of the CAT.

6. The Hon'ble Supreme Court in their judgment delivered on 20-9-1994 (in Civil Appeal No. 3251 of 1993) upheld the submissions of the

II(B)

certified to be true
D. J. A.
16.11.02

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 N-E 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 judgment 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 20-9-1994 will be waived; and
- (ii) the amount paid on account of SDA to ineligible persons after 20-9-1994 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20-9-1994, but payments were made after this date i.e., 20-9-1994) will be recovered.

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

11 (C)

CENTRAL WATER COMMISSION
Brahmaputra & Barak Basin
Shillong-793006

Annexure - 6 ✓

By Registered Post

4/P&C/1(C)/46-BBB/2603-05.

Dated. 22 JUL 1999

To

The Chief Engineer (HRM)
Central Water Commission
Sewa Bhawan, R.K. Puram
New Delhi - 110 066.

(Kind attention : Shri I.D. Garg)

Sir,

Kind reference is invited to the correspondence resting with this office letter No.1(34)98/BBB/1241-53 dated 31.03.99 regarding grant of Special Duty Allowance (SDA) for Civilian Employees serving in North Eastern Region(NER). In this connection, we have received numerous representation from the officers and staff of B&BB Organisation, which are enclosed for your perusal.

2. In this connection we would like to add the following lines for consideration of the competent authority.

In para 1(iii) of Appendix-9 of FRSR Part-I - Incentives for serving in Remote Areas, it has inter-alia, been stated that the " Central Govt. Civilian Employees who have All India Transfer liability will be granted Special (Duty) Allowance at the rate of 12.5 % of basic pay on posting to any station in the North Eastern Region..."

3. Further in para 3 of Ministry of Finance Deptt. of Expenditure O.M. No.11(3)95-E.II(B) dated 12th January, 1996 a clear categorisation has been made regarding the persons who are " eligible " and those who are " in-eligible " for the grant of Special Duty Allowance(SDA). Under this para it has been clarified 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.

4. Thus all categories of regular/Work charged staff who fulfil the above criteria are " eligible " for the grant of SDA. Those who do not fulfil this criteria, therefore, come under the category of " in-eligible " and a mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, therefore, did not make him " eligible " for the grant of SDA as per para-3 of the above referred O.M.

5. The Ministry of Finance, Deptt. of Expenditure in the operative part of O.M. in para-7 has conveyed the decision regarding the non-payment of SDA to the " in-eligible person " the definition of which has been very clearly spelt out in para-3 of the same O.M.

"उत्तराखण्ड", शिल्पी, निम. ३०, गुरुग्राम, हरियाणा-१२३००६

Certified to be true
S. D. Dovcaw
16.11.02

6. The Hon'ble Supreme Court's decision was also based on the petitions in respect of those employees who approached the Court for the grant of SDA to them even though they were not eligible for the grant of this allowance. The judgement of the Hon'ble Court is therefore for the "in-eligible persons" only and not in respect of those officials who are already eligible for the grant of SDA in terms of para-3 of the said O.M.

7. Therefore, these decisions conveyed in para-7 of the said O.M. are applicable only to those person who were "not eligible" for grant of SDA as explained in para-3 of the O.M. and who might have been granted SDA inadvertently by some authorities.

8. Thus all the "eligible persons" may continue to be granted SDA on satisfying the conditions enumerated in para-3 of the above O.M. irrespective of whether they belong to the N.E. Region or not and also whether they were posted from outside the Region or otherwise. Therefore, para 6 of the above O.M. of Ministry of Finance (Dept. of Expenditure) is not applicable for the category of "eligible persons" as determined in para-3.

✓ 9. It may, therefore, be concluded that all the officials (Regular as well as work-charged) on posting to any station in the North Eastern Region need to be granted the Special Duty Allowance (SDA) provided their recruitment to service/cadre/post has been made on all India basis and also in whose case the promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole.

✓ 10. The clarifications earlier given by CWC in their letter No.A-15011/1/98-Estt.IV dated 12.02.99 have already been withdrawn vide CWC letter No.A-51011/1/98-Estt.IV/462 dated 11.05.99. On the same analogy, the clarifications given under CWC letter No.1/19/90-Estt.XII/198-1203 dated 02.08.94 (copy enclosed) also need to be withdrawn, as the residential status of an official is not relevant for the grant of SDA. It is pertinent to mention that Superintending Engineer, Planning Circle, Faridabad is the Cadre Controlling Authority in respect of Work-Charged Motor Vehicle Drivers and Drill Operators in whose case the promotion etc. is being made based on an all India common seniority list for these two categories. These two categories of Work-Charged staff also, therefore, come under the "eligible category" for the grant of SDA. This may also kindly be confirmed.

11. Since the issue is very important and is agitating the minds of officials of this region, it is requested that the contentions in para 8, 9 and 10 above may kindly be confirmed at an early date so that the cases of grant of SDA may be settled at this end.

Yours faithfully,

Incl : As above.

- (i) 103 Nos. Representations from officials of N.E. Region.
- (ii) CWC letter dated 02.08.94.

Copy (without enclosures) forwarded for information and necessary action to Director(1) & Director(Adm), CWC, New Delhi

22/7/99
DC (M.L. GOYAL)
Chief Engineer (B&BB)

F.NO. 11(3) 27-E.H (B)
Government of India
Ministry of Finance
Department of Expenditure

5
New Delhi, dated the 29th May, 2002.

OFFICE MEMORANDUM

Subject: Special Duty Allowance for civilian employees of the Central Government Serving in the State and Union Territories of North Eastern Region including Sikkim.

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.20014/16/86-E.IV/E.H.(B) dated 1.12.88, and OM No.11(3)25-E.H.(B) dt. 12.1.1996 on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in NE region vide OM dt. 14.12.83. 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 dt.20.4.87, 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 NE 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 judgement delivered on 20.9.94 (in Civil Appeal No. 3251 of 1993 in the case of UOI and Ors Vs Sh. S. Vijaya Kumar and Ors) have upheld the submissions of the Government of India that C.G. 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.

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 judgement of this Court in the case of UOI & Ors. vs. S. Vijayakumar & Ors. reported as 1994 (Supp.3) SCC, 649 and followed in the case of UOI & Ors vs. Executive Officers' Association 'Group C' 1995.

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Certified to be true
D. J. Rao
14.11.02

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(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 judgements, 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."

6. All criteria for grant of Special Duty Allowance including those of All India Service Officers, will 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 judgement 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 & Nicobar and Lakshadweep Groups of Islands.

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

N.P.S.
(N.P. Singh)
Under Secretary to the Government of India.

All Ministries/Departments of the Government of India, etc.

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

14(A)



Government of India

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અનુભૂધ પણ હાયારા

ग्रन्थानुसार एवं धाराक व्येत्तिन

Brahmaputra & Barak Basin

प्रियांग - २४३००८

Shillong: 703000

Ref No. 19990000000000000000

1368

Sub: Special Dpjt. Allowance to Central Govt. employees posted from outside the NC Region.

I am directed to say that the Chief Engineer, B&BD, CWC has desired that G.O. I.P. O.M. No. 11(5)/87-B.I(B) dated 29.5.2002 may be implemented by all offices under B&BD Organization expeditiously. As per the above order the following two conditions have to be fulfilled for grant of SDA to employees

(i) The employees should have all India transfer liability which is to be seen whether the appointment to a particular post is on all India basis and the seniority list for promotion etc. is being maintained centrally.

and (ii) Whether the employee has been transferred from outside the NB Region to this region.

If above two conditions are fulfilled only then the Central Govt. employees are to be given SDA. For other employees 'No' SPA is admissible with effect from 6th October, 2001.

W.C. Kowshik
(S.C.CHAUDHURI) 21/08/2009
Assistant Engineer (H.Q.) ✓

SE(SOC), Guwahati/SE(NEIC), Shillong/SE(MC), Sittchar/Director(M&A),
Sittchar/SE(C), Dibrugarh/ER, Dibrugarh/ER, MDP, Guwahati/EE, NEIC-1

Gauhati/SE(C), B&BB/EE, DDD, Dibrugarh/ER, MDD, Gauhati/ER, NEID-I, NEID-II, NEID-III/EE, MID/EE, MID, Silchar/D/ER, Clerk, D&BB, CWC, 8Hillong.

CWC U.O. No. 4/P&C(1)C/2002-BJD/ 3631-45 Dated: 21/08/02

Dated: 2/10/81

Certified to be true
D. J. A. 16.11.02

“ਆਪਾਨਾਥਾ”, ਪੋਹਕਰੀ, ਪੰਜਾਬ, ਪਿੰਡ (ਤਾਪਲਿੰਗ), ਪਿੰਡਾਂ-੭੯੩੦੦੬

"Maranatha", P.O. Rynjeh (Umpiling), Shillong-793008, Phone : 0364-230424, 232284, 534920 Fax : 0364-232284

Registration No. 1

GOVERNMENT OF INDIA
 CENTRAL WATER COMMISSION
 MEGHNA INVESTIGATION DIVISION
 YINGYAR VILLA, LUMPYNGNGAD
 SHILLONG - 14.

No. MID/A-140. D.O./2002-03/ 3651 - 60

Dated the 31st October 2002

OFFICE ORDER

In Pursuance of Government of India, Ministry of Finance office memorandum No.11(5)/-97-E.II(B) dated 29.05.2002 as directed vide Chief Engineer, Brahmaputra and Barak Basin, CWC, Shillong's U.O. letter No.P&C(1) 12-BBB/3631-45 dated 21.08.2002 Special Duty Allowance (SDA) paid to the following officials of / division and Meghna Inv. Sub-Division-I,II&III, CWC, Shillong & Silchar is hereby discontinued w.e.f. 06.10.2001. The amount already paid on account of SDA from 06.10.2001 onwards will be recovered in maximum of 24 (twenty four) installments from their monthly salary from November 2002 onwards.

Sl. No.	Name & Designation S/Shri	Amount paid w.e.f. 06.10.2001 to 30.06.2002 (In Rs.)	Rate of Installment (1 st to 23 rd) (In Rs.)	Last Installment (In Rs.)
1	Dipak Ghosh, J/E	11394	474	492
2	R.K. Das, J/E	10538	439	411
3	A.H. Laskar, J/E	10691	445	456
4	N.C. Boro, UDC	5742	239	245
5	P. Neogi, LDC	6446	268	282
6	Bhanu Thapa, LDC	5533	230	243
7	Smt. U.D. Gurung, LDC	4735	192	199
8	N.L. Roy, G/Reader	5100	212	224
9	Dilip Das, G/Reader	4697	194	235
10	S.K. Das, G/Reader	4706	196	198
11	S.K. Kar, Chowkidar	4617	192	201
12	S. Chakraborty, G/Reader	4670	194	208
13	P.C. Chakraborty, G/Reader	4706	196	198
14	H.C. Das, G/Reader	4697	947	988
15	K. Sunar, Peon	5258	219	221
16	R.R. Joshi, Chowkidar	4709	196	201
17	S.C. Dey, Dak Runner	4543	189	196
18	Rabi Das, Chowkidar	4518	133	139
19	B.G. Barman, Barkandaz	4709	196	201
20	Smt. P. Diengdoh, Peon	4058	169	171
21	Gagan Singh, G/Reader	4670	194	208
22	A. Warji, M.V. Driver	3194	133	135
23	Francis Dkhar, M.V. Driver	3388	141	145

Copy to :

- 1 The Superintending Engineer, (C) Brahmaputra & Barak Basin, CWC, Shillong.
- 2 The Superintending Engineer, Meghna Circle, CWC, "Furkan Mansion" Panchayat Road, Silchar - 783 004
- 3 The Assistant Engineer, MISD-I/II/III/ CWC, Shillong/Silchar.
- 4 The Accounts Branch, Meghna Inv. Division, CWC, Shillong.
- 5 The Assistant Engineer (J.I.Q), Meghna Inv. Division, CWC, Shillong.
- 6 Bill Clerk, Meghna Inv. Division, CWC, Shillong (in duplicate).
- 7 Correspondence Branch, Meghna Inv. Division, CWC, Shillong.
- 8 Office order file.

10/10/2002
 (JANI RAM BORO)
 EXECUTIVE ENGINEER

Certified to be true
22.11.02
DR. BORO

Gram : NEIDIV: Aizawl

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
NORTH EASTERN INVESTIGATION DIVN.II
ZEMBAWK, AIZAWL-796017 (MIZORAM)

Dated, the 30th Aug 2002

No. NEID-II/E-4/2002/L/003 -11

OFFICE ORDER

In pursuance of G.I. M.F O.M. No.11(S)/97-E.II(B) dt. 29.5.2002 as
conveyed vide Chief Engineer, B&BBO, CWC, Shillong letter No.4/P&C(I)C/2002-
BBB/3631-45 dt. 21.08.2002 Special Duty Allowance (SDA) being paid to the following
officials of this Division is hereby discontinued w.e.f. 06.10.2001. The amount already
paid on account of SDA from 06.10.2001 to 31.08.2002 will be recovered in maximum
11 (eleven) equal installments from their monthly salary from Sept. 2002 onwards.

S/Shri
B.L. Narayan, D'man Gr.II

2. Nabendu De, JE

3. Pradeep Kumar, JE

4. Akhilesh Prasad, JE

5. P.Uday Singh, LDC

6. Th. Ningthemb Singh, LDC

7. Sangram Chakraborty, LDC

8. Hindu Rai, MV Driver

9. Amrit Kr. Ghimiray, Drill Optr.II

10. Narey Rana, MV Driver

11. Nirmal Ch. Das, MV Driver

12. Wonder Syiemlich, MV Driver


(R. D. Deshpande)
Executive Engineer

Copy to

1. The Chief Engineer, B&BBO, CWC, Shillong.
2. The Superintending Engineer, North Eastern Inv. Circle, CWC.
3. The Pay & Accounts Officer, CWC, New Delhi.
4. The Asst.Engineer (HQ), NEID-II, CWC, Aizawl.
5. The Asst.Engineer, MHISD/NEISD-III, CWC, Serchhip / Aizawl.
6. Accounts Branch, NEID-II, CWC, Aizawl.
7. Bill Clerk
8. Person concerned.
9. O/O file.

Certified to be true
Signature
Date: 11.11.02

Government of India

केन्द्रीय जल आयोग

CENTRAL WATER COMMISSION

ब्रह्मपुत्र एवं बराक बेसिन

Brahmaputra & Barak Basin

शिलांग - 793006

Shillong - 793006

Date 05/09/02

4/P&C(1)/2000-BBB/3833-37

Ref No.

OFFICE ORDER

In pursuance of Govt. of India, Ministry of Finance O.M. No.11(S)/97-E.II(B) dated 29.05.2002, Special duty Allowance (SDA) being paid to the following officials of this office is hereby discontinued w.e.f. 06.10.2001. The amount already paid on account of SDA from 06.10.2001 to 31.07.2002 will be recovered in maximum of 24 (twenty four) equal instalments from their monthly salary from September 2002 onwards.

1. Shri J.N. Arjun, JE
2. Shri G.M. Barman, D'man-II
3. Shri B.P. Boro, U.D. Clerk
4. Shri Ranjit Basumatary, LDC
5. Smt. Teresa Nungchim, LDC
6. Shri A.B. Thapa, Chowkidar

*T.P. Singh
07/09/02*
(T.P. SINGH)
Superintending Engineer (Coord.)

Copy to:-

1. Pay & Accounts Officer, CWC, New Delhi.
2. The Executive Engineer, MID, CWC, Shillong.
3. Bill Clerk, B&BB, CWC, Shillong.
4. Person concerned (6 copies).
5. Office Order file.

18 Certified to be true
D. Baruah
16.11.02

“मारानाथा”, पोहकशे, पो.आ. रिजा (उम्पिंग), शिलांग-793006

DO Bunkh (Umping), Shillong-793006, Phone : 0364-230424, 232294, 534928 Fax : 0364-232294

CBH - FORECAST

FAX/PHONE : 314398

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
C.R. BUILDINGS, DIBRUGARH 786003

NO. UBD/DBB/CIR 7/2002/ 9542

Dated, Dibrughat the 08.10.2002.

To,

The Superintending Engineer,
Hydrological Observation Circle,
Central Water Commission,
Nabin Nagari, Janapath,
Guwahati - 781023.

Sub : Admissibility of SDA to CWC employees posted N.E.Region regarding.

Ref :

- (1) This office letter No. UBD/DBB/CIR 7/2002/7308-17 dtd. 21.8.2002
- (2) C.E., Office letter No. CWC/DO No. A/P&C(1)C/2002/BRB/3631-45 dated 21.8.2002 reached 22.8.2002.
- (3) S.E., Office letter No. A/13017/12(53)/EST W/C/2002/2328-30 dated 26.8.2002.
- (4) This office letter No. UBD/DBB/CIR 7/2002/7545 dated 29.8.2002.

Sir,

With reference to the above letters I am herewith to submit that the Executive Engineer has attempted to implement the Supreme Court order or ruling by 2002/7308-17 dtd. 21.8.2002. However some names could not be found a place in the list due to lack of sufficient data and time before preparation of the pay bills. By the time the letter under reference (2) reached this office on 22.8.2002 the preparation of pay bills were over.

Subsequently some more names were added to the list, after verification of service registers etc, whether the incumbents are posted out side or appointed originally in N.E.Region.

The names of persons thus added subsequently to the list of persons who are eligible for SDA apart from that given in the list vide letter under reference (1) are given below :

- (a) Shri D.R. Bhattacharjee, J.E. (c)
- (b) Shri D.L. Saha, J.E. (c)
- (c) Shri P.P. Tamang, H.V. Driver (c)

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certified to be true
D. J. A.
10.11.02

The final list of person who are eligible for SDA and who are not eligible for SDA is given below.

ELIGIBLE FOR S.D.A.

Sl. No. Name and Designation

1. Sh. G.Penchalaiah,Ex.Engineer
2. Sh. J.N.Boruah,A.E.E.
3. Sh. S.P.Basu,A.E.E.
4. Sh. S.N.Karmakar,A.E.
5. Sh. G.A.Venkatachalam,A.E.
6. Sh. L.P.Bhuyan,EAD(HM)
7. Sh. Dilip Baruah,Sr.PA(HM)
8. Sh. D.R.Bhattacherjee,JE(C)
9. Sh. D.L.Sahu,JE(C)
10. Sh. V.C.Sharma,JE(C)
11. Sh. S.K.Mandal,JE(W/L)
12. Sh. T.D.Pandey,JE(W/L)
13. Sh. R.K.Chandra,Sr.Computer
14. Sh. G.S.Hari,L.D.C.
15. Sh. L.C.Kalita,W/Mechanic
16. Sh. H.R.Maikhuri,JE(C)
17. Sh. S.K.Goel,JE(C)
18. Sh. P.K.Das,JE(C)
19. Sh. G.K.Baruah,Painter
20. Sh. D.N.Saikia,Peon

WORK-CHARGED STAFF

?

1. Sh. D.D.Pamang,M.V.Driver Gr.I
2. Sh. K.S.Ramakrishnan,W/S Gr.II
3. Sh. P.Lakia,W/Sarkari Gr.III

3
67
INELIGIBLE FOR S.D.A.

Sl.	Name and Designation
No.	
1.	Sh. P. C. Borithakur, A.A.O.
2.	Sh. A. K. Puzari, D'man Gr. I
3.	Sh. M. C. Bezbahani, J.E. (C)
4.	Mrs. P. Saikia Barua, JE(C)
5.	Sh. A. K. Das, J.E. (W/B)
6.	Sh. B. Pegu, J.E. (C)
7.	Sh. R. C. Saikia, Jr. PA (HM)
8.	Sh. M. Choudhury, Jr. Computer
9.	Sh. G. Saikia, W/Operator
10.	Sh. B. Arundhara, W/Operator
11.	Sh. M. C. Neog, W/Operator
12.	Sh. T. R. Moran, W/Operator
13.	Sh. P. D. Moran, W/Operator
14.	Sh. P. Saikia, W/Operator
15.	Sh. R. C. Bhuyan, W/Operator
16.	Sh. U. Rahman, W/Operator
17.	Sh. J. H. Samal, W/Operator
18.	Sh. B. H. Bora, D/Mech.
19.	Sh. A. R. Mikir, Assistant
20.	Sh. D. N. Saikia, U.D.C.
21.	Mrs. S. Bhattacharjee, U.D.C.
22.	Sh. S. R. Deka, U.D.C.
23.	Sh. Hemanta Das, U.D.C.
24.	Sh. B. C. Hazarika, U.D.C.
25.	Mrs. Rina Choudhury, U.D.C.

WORK-CHARGED STAFF

1.	Sh. S. K. Bose, M.V. Driver
2.	Sh. R. S. Verma, M.V. Driver
3.	Sh. Kumar Tamang, M.V. Driver
4.	Sh. B. Basumatary, M.V. Driver
5.	Md. T. Ahmed, Jr. Observer
6.	Sh. Bhaben Bania, Jr. Observer
7.	Sh. S. K. Das, W/S Gr. II
8.	Sh. D. R. Das, W/S Gr. II
9.	Sh. B. C. Gogoi, W/S Gr. II
10.	Sh. Rohit Saini, W/S Gr. II
11.	Sh. H. Dehingia, W/S Gr. II
12.	Sh. S. Purkayastha, W/S Gr. II
13.	Sh. Rajen Ch. Das, W/S Gr. II
14.	Sh. T. C. Paul, W/S Gr. II
15.	Sh. N. K. Das, W/S Gr. II
16.	Sh. D. K. Sharma, W/S Gr. II
17.	Sh. H. C. Saikia, W/S Gr. II
18.	Sh. P. R. Das, W/S Gr. II
19.	Sh. M. C. Dutta, W/S Gr. II
20.	Sh. Bhola Neog, W/S Gr. II
21.	Sh. N. N. Bora, W/S Gr. II
22.	Sh. P. K. Dutta, W/S Gr. II
23.	Sh. Guriu Ch. Saikia, W/S Gr. II
24.	Sh. Jageswar Das, W/S Gr. II
25.	Sh. "R. Biswas, W/S Gr. II
26.	Sh. Jamuah, W/S Gr. II

Sl.	Name and designation
No.	
26.	Sh. Rup Singh Das, Peon
27.	Sh. D. N. Gogoi, Peon
28.	Sh. G. Hussain, Peon
29.	Sh. S. R. Gogoi, Chowkidar
30.	Sh. J. K. Das, Chowkidar
31.	Sh. T. Chetia, Chowkidar
32.	Sh. Ram Singh, Chowkidar
33.	Sh. T. C. Mech, Chowkidar
34.	Sh. K. C. Boro, Chowkidar
35.	Mrs. A. Mout, Chowkidar
36.	Sh. S. R. Chakraborty, Chowkidar
37.	Sh. N. C. Kumar, Chowkidar
38.	Sh. P. C. Roy, Chowkidar
39.	Sh. A. K. Bayan, Chowkidar
40.	Sh. R. C. Medhi, Chowkidar
41.	Sh. H. K. Boro, Chowkidar
42.	Sh. B. Kochari, Chowkidar
43.	Sh. D. K. Rava, Chowkidar
44.	Sh. L. C. Boro, Chowkidar
45.	Sh. M. C. Nath, Chowkidar
46.	Sh. A. C. Bora, Chowkidar

27.	Sh. T. L. Dabmathi, W/S Gr. II
28.	Sh. L. Charu, W/S Gr. II
29.	Sh. D. C. Gogoi, W/S Gr. II
30.	Sh. Gajen Kalita, W/S Gr. II
31.	Sh. P. Bhatta, W/S Gr. II
32.	Sh. R. Saikia, W/S Gr. II
33.	Sh. M. N. Gogoi, W/S Gr. II
34.	Sh. S. K. Deb, W/S Gr. III
35.	Sh. T. K. Paul, W/S Gr. III
36.	Sh. B. P. Das, W/S Gr. III
37.	Sh. K. Pondit, W/S Gr. III
38.	Sh. P. Konwar, W/S Gr. III
39.	Sh. P. Hazarika, W/S Gr. III
40.	Sh. Dipen Das, W/S Gr. III
41.	Sh. G. N. Das, W/S Gr. III
42.	Sh. U. K. Das, W/S Gr. III
43.	Sh. K. K. Chakraborty, W/S Gr. III
44.	Sh. S. Gaudhiya, W/S Gr. III
45.	Sh. A. K. Naidu, W/S Gr. III
46.	Sh. R. K. Sarma, W/S Gr. III
47.	Sh. K. K. Das, W/S Gr. III
48.	Sh. T. Sonwal, W/S Gr. III
49.	Sh. N. C. Bora, W/S Gr. III
50.	Sh. A. B. Sexana, W/S Gr. III
51.	Sh. S. Dutta, W/S Gr. III
52.	Sh. D. R. Das, W/S Gr. III

Name and Designation	
53.	Sh. T. K. Chetia, W/Sarkar Gr. III
54.	Sh. Mongial Loing, W/Sarkar Gr. III
55.	Sh. Jiten Ch. Borah, W/Sarkar Gr. III
56.	Sh. G. C. Saikia, W/Sarkar Gr. III
57.	Sh. Rajen Das, W/Sarkar Gr. III
58.	Sh. Nimal Banerjee, W/Sarkar Gr. III
59.	Sh. Gopal Ch. Kalita, W/Sarkar Gr. III
60.	Sh. B. C. Bhuyan, W/Sarkar Gr. III
61.	Sh. N. C. Das, W/Sarkar Gr. III
62.	Sh. Atul Ch. Sarmah, W/Sarkar Gr. III
63.	Sh. Pancham Bora, W/Sarkar Gr. III

W/C KHALASI

64.	Sh. M. P. Paswan
65.	Sh. D. B. Thappa
66.	Sh. Shyamal Deh
67.	Mrs. Timmaya Thappa
68.	Sh. Bhabesh Saikia
69.	Sh. Ganesh Sarmah
70.	Sh. Philip Borkakoty
71.	Sh. Dipti Gogoi
72.	Sh. Likson
73.	Sh. D. Saikia
74.	Sh. Khirod Changmai
75.	Sh. Mahendra Das
76.	Sh. J. K. Sonwal
77.	Sh. T. Khanikar
78.	Sh. Anil Mech
79.	Sh. M. Hazarika
80.	Sh. Mohim Konwar
81.	Sh. Anil Chanda
82.	Sh. Khagen Gogoi
83.	Sh. C. S. Das
84.	Sh. Krishna Dey
85.	Sh. Babul Ch. Borah
86.	Sh. Phuleswar Das
87.	Sh. H. K. Bora
88.	Sh. K. T. Gogoi
89.	Sh. A. Das
90.	Sh. H. Das
91.	Sh. A. Ch. Goswami
92.	Sh. H. C. Hazarika
93.	Sh. Julian Ch. Saikia
94.	Sh. Ishi Ch. Neog
95.	Sh. Jiduanda Borah
96.	Sh. Akash Ch. Handique
97.	Mrs. Surma Borah
98.	Sh. H. P. Dutta
99.	Sh. H. B. Chettri

Sl. No.	Name and designation
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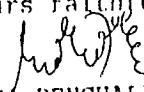
100.	Sh. D. Baruah
101.	Sh. T. C. Hazarika
102.	Sh. A. Biswas
103.	Sh. Bharani Das
104.	Sh. P. C. Hazarika
105.	Sh. Nagen Baruah
106.	Sh. K. Rabha
107.	Sh. Amar Goswami
108.	Sh. J. N. Das
109.	Sh. G. K. Basumatary
110.	Sh. S. R. Borgohain
111.	Sh. P. N. Mukhiar
112.	Sh. Bipul Sarmah
113.	Sh. B. H. Lohar
114.	Sh. A. K. Das
115.	Sh. Sri Nath Bordoloi
116.	Sh. Padma Kt. Saikia
117.	Sh. Biren Saikia
118.	Sh. Giridhar Sharma
119.	Md. Faruk Hussain
120.	Sh. Ghana Kt. Saikia
121.	Sh. P. C. Kalita
122.	Sh. B. R. Prasad
123.	Sh. H. D. Rabha
124.	Sh. Nagen Ch. Medhi
125.	Sh. Rup Ram Borah
126.	Sh. Narendra Nath Das
127.	Sh. Krishna Kr. Saikia
128.	Sh. D. R. Deka
129.	Sh. Bharanidhar Medhi
130.	Sh. Sibaram Das
131.	Sh. Ramani Rajkumar
132.	Sh. Arun Ch. Sarmah
133.	Sh. Prafulla Saikia(Sr)
134.	Sh. Bhogeswar Sarmah
135.	Smt. H. Kurmi
136.	Sh. Prafulla Saikia(Jr)
137.	Md. Abibuddin Ahmed
138.	Sh. M. C. Bania
139.	Sh. G. Borah
140.	Sh. S. K. Bala

After going through carefully the contents in the letter issued by G.B. and the subsequent clarifications sought by your office vide letter No. (3) under reference, this office had issued a clarification, the circumstances under which the office has allowed SDA for Shri Ramakrishnan, W/Sarkar Gr.II and Shri P.Lakra, W/Sarkar Gr.III vide letter under reference (4). In this context again the copy of the letter issued by various offices including that issued by the office of the Superintendent Engineer, H.O.Circle,CWC, Guwahati is enclosed. If the SDA has to be stopped for Shri K.S. Ramakrishnan, W/Sarkar Gr.II and Shri P.Lakra, W/S Gr.III who had joined in his circle from Andaman and Nicobar it may require the withdrawal of circular/letter No.A-15017/12(8)/94-Estt.11/9497 dated 22.11.1994 by the office of Superintendent-Engineer, H.O.Circle,CWC, Guwahati.

The following few points may also taken into consideration before withdrawal of the above circular or letter No.A-15017/12(8)/94-Estt.11/9497 dated 22.11.1994.

1. The seniority of persons like Shri K.S.Ramakrishnan,Work-Sarkar Gr.II and Shri P.Lakra,W/Sarkar Gr.III was maintained by Investigation Circle, Faridabad which had jurisdiction all over the country including the union territories, before their transfer to this circle.
2. Shri Ramakrishnan,W/S Gr.II and Shri Lakra,W/S Gr.III were transferred in public interest. The transfer order is enclosed as annexure-I, never conveys anything other than they were transferred in public interest.
3. The office of the Superintending Engineer, Brahmaputra & Barak Basin Circle,CWC, Guwahati has allowed the payment of SDA to the non local W/C employees as per Supreme Court decision dtd. 9.8.91.
4. Shri Ramakrishnan and Shri Lakra were not recruited from any employment exchange located in North Eastern Region. They were actually transferred from the region outside North Eastern Region.
5. The Supreme Court decision dated 9.8.1991 is very specific. It pertains to non local W/C employees working in North Eastern Region.
6. If an hypothetical case, such as transferring a Work Charged Khalasi from New Jalpaiguri which is located outside the North Eastern Region (even on punishment) to Itanagar arises, whether SDA is to be allowed or not?
7. The original seniority list of Shri Ramakrishnan and Lakra was maintained earlier by Investigation Circle, Faridabad which had jurisdiction all over India. Can Shri Ramakrishnan and Lakra can be treated as, having all India transfer liability or not?
8. Subsequently the seniority list of Shri Ramakrishnan and Lakra maintained by the then CFF Circle,Guwahati which still had jurisdiction over places other than N.E.Region.
9. The present seniority list of H.O.Circle,Guwahati in an amalgamation of C.F.E. Circle,Guwahati and another Ganga Circle which had jurisdiction over places other than N.E.Region, which includes persons who had transferred from out side the North Eastern Region.
10. The H. O. Circle, Guwahati which maintains the seniority list of W/C Estt. has jurisdiction over places other than N.E.Region.

Yours faithfully,


(G. PANCHALATAH)
EXECUTIVE ENGINEER



भारत सरकार
GOVERNMENT OF INDIA
केन्द्रीय जल आयोग
CENTRAL WATER COMMISSION
उत्तर पूर्व अन्वेषण मण्डल-III
N E INVESTIGATION DIVISION-III



No. NEID-III/Adm-12(B)/Vol-IV/ 4186-71

Dated : 21.8.2002

Office Order

Chief Engineer, Brahmaputra & Barak Basin Organisation, CWC has desired that Govt. of India, Ministry of Finance O.M. No. 11(5)/97-E-II(B) dated 29.5.2002 may be implemented by all offices under Brahmaputra & Barak Basin Organisation scrupulously. As per the above order the following two conditions have to be fulfilled for grant of SDA to employees.

(i) The employees should have all India transfer liability which is to be seen whether the recruitment to a particular post is on all India basis and the seniority list for promotion etc. is being maintained centrally.
and
(ii) Whether the employee has been transferred from outside the N.E. Region to this region.

The Central Govt. employees are to be given SDA only if they fulfil the above two conditions. For other employees 'No' SDA is admissible with effect from 06.10.2001.

In pursuance of the above, payment of SDA to the following employees of North Eastern Investigation Division-III, CWC, Itanagar who do not fulfil the above eligibility criteria is stopped immediately.

Sl. No.	Name and Designation	Date of joining service	Place of initial posting on appointment	Whether transferred from outside NER to within NER
1.	S/Shri Sanjib Mishra, Jr. Engineer	09.08.99	Itanagar	No
2.	B. P. Biswas, D'man Gr.II	30.10.78	Shillong	No
3.	A.N.Sarmah, UDC	03.04.73	Guwahati	No
4.	B.K. Das, LDC	07.05.97	Itanagar	No
5.	Chandra Baruah, Peon	02.01.78	Dibrugarh	No
6.	Bimal Deb Baruah, Peon	21.06.90	Agnitola	No
7.	Ishul Sarkar, Bkz	20.11.84	Alizawl	No
8.	H.C. Boro, Chowkidar	10.11.71	Tezpur	No
9.	Eman Singh, Chowkidar	06.11.71	Tezpur	No

The amount paid on account of SDA to ineligible persons after 05.10.2001 will be recovered in 24 installments after calculation of actual amount of recovery.

6/ C -

(D. K. Tiwary)
Executive Engineer

Copy to :-

1. The Superintending Engineer, North Eastern Investigation Circle, Central Water Commission, "Jamis Mansion", Nongshillong, Shillong - 793 014 (Meghalaya).
2. The Superintending Engineer (Co-ord.), Brahmaputra & Barak Basin Organisation, Central Water Commission, Shillong (Meghalaya).
3. The PA to Chief Engineer, Brahmaputra & Barak Basin Organisation, Central Water Commission, Shillong (Meghalaya).
4. Accounts branch, NEID-III, CWC, Itanagar.
5. Bill Clerk 2 copies. Amount to be recovered per instalment including the last instalment may be calculated for effecting recovery.
6. Person Concerned.

फॉर्म नं. 144, फॉर्म नं. 701111 (अनुमति नं. 2), P O Box-144, Chimpur, Itanagar-791111 (Arunachal Pradesh)
Gram : Centwater, Itanagar, Tel/Fax : 0360-203510, email : exenewet@sancharnet.in

74
certified to be done
D. K. Tiwary
16.11.02.

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भारत सरकार

GOVERNMENT OF INDIA

केन्द्रीय जल आयोग

CENTRAL WATER COMMISSION

उत्तर पूर्व अन्वेषण मण्डल-III

N E INVESTIGATION DIVISION-III

For Sd/- S. N. DODA, 14/09/02



No. NEID-III/Adm-114/Vol-I/

4464-69

Dated : 25.9.2002

Annexure - 14

Office Order

Chief Engineer Brahmaputra & Barak Basin Organisation, CWC has desired that Govt. of India, Ministry of Finance O.M. No. 11(5)/97-E-11(B) dated 29.5.2002 may be implemented by an order under Brahmaputra & Barak Basin Organisation scrupulously. As per the above order the following two conditions have to be fulfilled for grant of SDA to employees.

(i) The employees should have all India transfer liability which is to be seen whether the recruitment to a particular post is on all India basis and the seniority list for promotion etc. is being maintained centrally.
and
(ii) Whether the employee has been transferred from outside the N.E. Region to this region.

The Central Govt. employees are to be given SDA only if they fulfil the above two conditions. For other employees 'No' SDA is admissible with effect from 06.10.2001.

Therefore, in pursuance of the above and in continuation of this office order No. NEID-III/Adm-12(B)/ Vol.IV/4186-91 dt. 27.8.02, payment of SDA to the following employees of North Eastern Investigation Division-III, CWC, Itanagar who do not fulfil the above eligibility criteria is stopped immediately.

Sl. No.	Name and Designation	Date of joining service	Place of initial posting on appointment	Whether transferred from outside NER to within NER
1.	S/Shri T. Bhutia, W/C Driver	08.03.75 F.N.	Sikkim Inv. Divn, CW&FC, Gangtok (Sikkim)	No
2.	C. Roy, W/C Driver	05.05.98 F.N.	NEID-III, CWC, Itanagar	No
3. ✓	Raj. Sandan Roy, W/C Driver	07.05.99 F.N.	-do-	No
4.	Latiya Jrang, W/C Driver	23.05.98 F.N.	-do-	No
5.	B. Rai, W/C Driver	14.07.91 F.N.	-do-	No
6.	C. John, D/O Gr.II	01.03.79 F.N.	NEFA Inv. Divn, Tezpur	No

The amount paid on account of SDA to ineligible persons after 05.10.2001 will be recovered in 24 instalments after calculation of actual amount of recovery.

(D. K. Tiwary)
Executive Engineer

Copy to :-

1. The Superintending Engineer, North Eastern Investigation Circle, Central Water Commission, "Janir Mansiou", Nongshilliang, Shillong - 793 014 (Meghalaya).
2. The Superintending Engineer (Co-ord.), Brahmaputra & Barak Basin Organisation, Central Water Commission, Shillong (Meghalaya).
3. The PA to Chief Engineer, Brahmaputra & Barak Basin Organisation, Central Water Commission, Shillong (Meghalaya).
4. The Assistant Engineer, MSTLC/SD-I/NISD/KJSL, CWC, Alipurduar/Jaung/Chapakhowa.
5. Accounts branch, NEID-III, CWC, Itanagar.
6. ✓ Person Concerned.

पोर्ट बायरा-144, शिम्पु, इटानगर-791111(अरुणाचल प्रदेश), P O Box-144, Chimpui, Itanagar-791111 (Arunachal Pradesh)
Gram : Centwater, Itanagar, Tel/Fax : 0360-203510, email : cxen@cwc@sanchonet.in

Certified to be true
D. K. Tiwary
14.11.02

posting subject to the condition that the rental and all other charges be paid by such officers.

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

4. All existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government to their own employees in the North-Eastern Region will be withdrawn from the date of effect of the orders contained in this Office Memorandum, (viz. 1-11-1983).

NOTE.—These facilities are admissible also to the Central Government servants deputed to serve under the Governments of Manipur and Tripura.—See GIO (10) below FR 111.

Clarifications.—1. With reference to the Government of India, Ministry of Finance, O.M. No. 20014/3/83-E. IV, dated 14-12-1983 (vide in this Appendix), clarification received from the Government of India Ministry of Finance, in their Department of Expenditure, U.O. No. 3545-E. IV/84, dated 17-10-1984, with reference to our points of doubts raised in this Office U.O. No. 519-Audit/117-83, dated 21-6-1984 in the matter, are detailed below—

Point	Clarification
(a) Tenure of posting/deputation [Para. 1 (i) of the OM]: Since orders contained in O.M. No. 20014/3/83-E. IV, dated 14-12-1983, have also been extended to the members of All India Services serving in the States and Union Territories of the North-Eastern Region in terms of para. 3 of the Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms, Letter No. 14017/21/83-AIS, dated 3-2-1984, it is presumed that orders contained in the OM, dated 14-12-1983, will also apply to all such cases of appointments/postings, members of Central Government officers from one station/State, to another of the North-Eastern Region. This needs confirmation.	The point sought to be clarified is not very clear. Para. 1 (i) of our OM speaks of a fixed tenure of 2/3 years depending upon the service of the officer. Our orders are applicable to all Central Government employees posted in the States/Union Territories of North-Eastern Region.

certified 56th Jan 14.11.84
D. D. D.

APPX. 9 | INCENTIVES FOR SERVING IN REMOTE AREAS

564

Point	Clarification
etc., as well as in the case of payments to staff paid out of contingencies.	
5. T.A. on first appointment [para. 1 (v) of OM]: Grant of T.A. limited to ordinary bus fare/second class train fare for the distance in excess of the first 400 km has been allowed under the OM (now admissible for the entire distance) in case of journeys for taking up initial appointment to a post in the N-E Region in relaxation of the provisions of S.R. 105 but it is not clear whether this concession would be admissible to all appointees irrespective of the station from which the journey to take up the new appointment is undertaken. Position may be clarified.	It is confirmed that this concession is admissible irrespective of the station from which the journey commences.
6. T.A. for journey on transfer [para. 1 (vi) of OM]: It is to be clarified whether this provision will also apply to transfers from one station to another station both of which are in the N-E Region.	This concession is admissible only in cases where the Government servant is transferred from a station outside the region to a station in the N-E Region and vice versa, the same is not applicable from one station to another station within the region.
7. Road mileage on transportation of personal effects [para. 1 (vii) of the OM]: The higher road mileages have been prescribed under S.R. 116 only for application between places not connected by Railways. It is presumed that this condition would still apply while granting road mileage in terms of the above OM. This may please be confirmed.	It is confirmed that higher rate of road mileage as for 'A' class cities is admissible only between stations not connected by rail.
8. Withdrawals of all the existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government (para. 4 of the OM): It is not clear which are the special allowances, facilities and concessions which have been withdrawn and what new benefits and concessions have been given in lieu thereof to the employees. This needs to be specified clearly.	This relates to special orders issued by different Ministries/Departments, for their own employees posted in N-E Region, e.g., Ministry of Railways had granted higher rate of compensatory allowance to their employees in Lumbding area, which now stands withdrawn.

[C. & A.G., Circular Letter No. 908-Audit/117-83, dated the 11th December, 1984.]

26A)

Point	Clarification
1. (b) Since terms of deputation and admissibility of deputation allowance are in relaxation of the general condition of grant of deputation allowance, it is presumed that they will cover all cases of deputation of Central Government employees to Central and State Government organizations and companies, autonomous bodies, in N-E Region even if their parent offices are in that Region, e.g., Central Government employees from AG, Assam office deputed to such organization in the N-E Region. This may please be confirmed.	As stated above, the orders are applicable to Central Government civilian employees posted in the region in Central Government offices and will not be applicable on deputation to State Government organizations, Companies/Boards, etc.
2. Special (Duty) Allowance—[para. 1 (iii) of OM]: As already pointed out in our U.O., dated 13-12-1983, referred to above, <u>it is not clear as to why persons who may not have any All India transfer liability but would be prepared to serve in the N-E Region should be denied the allowance as the very purpose of the grant of the allowance is to encourage Government servants to serve in that region.</u> Further decision in this respect is solicited.	It is a conscious decision to allow special (duty) allowance to only those who have All India transfer liability.
3. Special Duty Allowance is described as a "duty" allowance and total of such allowance <u>plus</u> special pay/deputation (duty) allowance has been limited to Rs. 400 p.m., but its treatment for various purposes, i.e., T.A., DA, HRA, etc., has not been stated. It is felt that this should be treated as "Special Pay" as defined in F.Rs. like Deputation (Duty) Allowance for all such purposes. Position needs to be clarified clearly in this respect.	The special (duty) allowance is to be treated as allowance and not as special pay.
4. Special Compensatory allowance [para. 1 (iv) of OM]: It is felt that special compensatory allowance should be treated as compensatory allowance for all purposes (including for calculation of "Emoluments" under F.R. 45-C and regulated in the same manner as applicable in cases of compensatory (city) allowance during leave transfer, suspension, training,	In our OM, dated 14-12-1983, only the rates of the Special Compensatory Allowance have been revised in certain areas; the original orders laying down the conditions, etc., remain the same. In those orders, regulation of SCA during leave, transfer, suspension, etc., has been provided.

Point	Clarification
etc., as well as in the case of payments to staff paid out of contingencies.	
5. T.A. on first appointment [para. 1 (v) of OM]: Grant of T.A. limited to ordinary bus fare/second class train fare for the distance in excess of the first 400 km has been allowed under the OM (<i>now admissible for the entire distance</i>) in case of journeys for taking up initial appointment to a post in the N-E Region in relaxation of the provisions of S.R. 105 but it is not clear whether this concession would be admissible to all appointees irrespective of the station from which the journey to take up the new appointment is undertaken. Position may be clarified.	It is confirmed that this concession is admissible irrespective of the station from which the journey commences.
6. T.A. for journey on transfer [para. 1 (vi) of OM]: It is to be clarified whether this provision will also apply to transfers from one station to another station both of which are in the N-E Region.	This concession is admissible only in cases where the Government servant is transferred from a station outside the region to a station in the N-E Region and vice versa, the same is not applicable from one station to another station within the region.
7. Road mileage on transportation of personal effects [para. 1 (vii) of the OM]: The higher road mileages have been prescribed under S.R. 116 only for application between places not connected by Railways. It is presumed that this condition would still apply while granting road mileage in terms of the above OM. This may please be confirmed.	It is confirmed that higher rate of road mileage as for 'A' class cities is admissible only between stations not connected by rail.
8. Withdrawals of all the existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government (para. 4 of the OM): It is not clear which are the special allowances, facilities and concessions which have been withdrawn and what new benefits and concessions have been, given in lieu therefor to the employees. This needs to be specified clearly.	This relates to special orders issued by different Ministries/Departments, for their own employees posted in N-E Region, e.g., Ministry of Railways had granted higher rate of compensatory allowance to their employees in Lumbding area, which now stands withdrawn.

[C. & A.G., Circular Letter No. 908-Audit/117-83, dated the 11th December, 1984.]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Amritava K. P.

Original Application No.7 of 1999

Date of decision: This the 2nd day of November 2000.

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

Shri Tushar Kant Paul,
Assistant Accounts Officer,
Regional Pay and Accounts Officer(NH),
Ministry of Surface and Transport,
Government of India,
Guwahati.

By Advocates Mr S. Ali and Ms. N.D. Goswami,

.....Applicant

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Department of Expenditure, Ministry of Finance, New Delhi.
2. The Chief Controller of Accounts, Ministry of Surface and Transport, I.D.A. Building, Jaipur, Shahjahan Roud, New Delhi.
3. The Regional Pay and Accounts Officer (NH), Ministry of Surface Transport, Guwahati.
4. Shri Panna Lal Dey, Regional Pay and Accounts Officer (NH), Guwahati.
5. The Pay and Accounts Officer, Geological Survey of India, North Eastern Region, Shillong.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

ORDER (ORAL)

CHOWDHURY, J. (V.C.)

The legitimacy of the direction issued by the Regional Pay and Accounts Officer(NH), vide letter No. PAO(C)NH-1(25)98-99 dated 03.12.1998 is the subject matter of this application.

cert

Registration No. 8

order dated 23.7.1992, Mr Ali further submitted that the Judgment and Order of the Tribunal dated 8.2.1991 in O.A.No.208/91 has not yet been set aside and in the circumstances the directions given by the Regional Pay and Accounts Officer are contrary to the decisions of this Tribunal and therefore, not binding.

4. Considering all the aspects of the matter, I am of the view that since the Tribunal has already passed an order, the question of challenging the wisdom of that order by the Administration is not permissible. In the circumstances the impugned communication dated 30/31.12.1998 is not binding and operative and the same is hereby set aside.

The application is allowed. No order as to costs.

Sd/VICL CHIEF

Original to be true copy
প্রার্থনা সম্পর্কিত

21/8/02

Section Officer (1)
Central Administrative Tribunal
Chittagong Bench, Guwahati
Tribunal Secretary, CANTT

29

Date of filing : 23/9/02
Registration No :

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

Concorded to be true copy
Asstt. Registrar (J.D.)
..... 20-11-2001 X3
Supreme Court of India
Annexure- 17

544783

Union of India & Anr.

... Appellants

versus

National Employee Union of Telecom Engineering
Union & Ors.

... 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. 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. 11) 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/-

Concurred to be true
Asstt. Registrar (J.D.)
20-11-2001

— 6 —

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that 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.

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

New Delhi,
October 05, 2001.

.....J.
(T.G. BALAKRISHNAN)

OFFICE COUNCIL (JCM)
CENTRAL WATER COMMISSION
MINISTRY OF WATER RESOURCES (GOVT. OF INDIA)

S. RAJARATHINAM
Leader (Staff Side)

- 64 -

Annexure - 18

Middle Brahmaputra Division
Central Water Commission
Rajgarh Road, Guwahati-781007
Phone/Fax-03 61-541071

NO:LSS/OC/2002-03/

To,

Dated:- 26th August'2002.

Shri Suresh Chandra Sahib,
Chairman,
Central Water Commission,
New Delhi-110066.

Sub:-

Special Duty Allowance to the Employees of Central Water
Commission Posted under N.E. Region - regarding.

Your kind attention is invited to the above subject matter. In this context, I am to inform that a circular published in Swamys News during July/02, categorizing the admissibility of SDA to the Central Govt. Employees posted under NER based on the judgment pronounced by the Hon'ble Supreme Court, in the year 1994. Above said judgment passed by the Supreme Court on the SLP filed by the Govt. of India against the Group C & D employees serving under Postal and Telecom Deptt., on considering the facts and merits of the service conditions that are followed within the zonal, like recruitments, maintenance of Seniority, promotion, posting and transfer etc, prevailing in that Deptt.

Whereas, the Regular Group C & D employees serving under Central Water Commission are not covered by the Zonal system of recruitment, Seniority, promotion, transfer and posting etc. and are totally different from the above Deptt. The factual information pertains to the employees of CWC in particular have already been discussed by the then Chief Engineers and Superintending Engineers, after the pronouncement of judgment by Hon'ble Supreme Court and sent several references to the Central Water Commission in this regard i.e. after March/96. Necessary clarifications/decision on this volatile issues are yet to be received from appropriate authority.

The present O.M. published in the "Swamy's News" during July/02 is not referring any new contents and it is the reproduction of the judgment delivered in the year

32
Categorised to be forwarded
D. S. D.
16/11/02

1994. Further the Service conditions of Regular Group C & D employees of CWC has not undergone any changes during this period. However, on noticing the reproduction of the same old judgment in Swamy's News, the Chief Engineer, B&BB, CWC, Shillong has ordered/instructed to all the Field Officers to comply with the above direction without seeking any clarification on pending issues.

As the issue is considered to be very sensitive and volatile nature to the employees posted under NER, the staff side has requested the Administrative Authorities repeatedly to defer the decision till receiving the clarification from the appropriate authority also requested to pursue the matter to obtain necessary clarification explaining the present scenario. The request of the staff side went in air and the Administrative Authorities failed to take appropriate action on the genuine demand. Above indifferent nature, ill-attitude and improper administration are creating resentment and unrest among the employees. Such gross lapses and errors in considering the hot burning demand of the low paid employees posted to the NER may aggravate the situation. The suggestion placed by the staff side to defuse the misunderstanding among the working class has not been considered in the right perspective/directions and failed to yield the positive result from the regional administrators.

As regard point no.2 under O.M. No.11(5)/97-E II(B) dated 29.5.2002 the employees posted from the outside the region are only entitled to get the SDA facility is needs clarification based on the clarification given in the below paragraph of Group 'B', 'C' & 'D' employees working under Central Water Commission. As because the basic issue discussed in the above judgment totally belongs to the employees posted and working under one zone like Postal, Telecommunication, AIR, Doordarshan, Customs etc. Their transfer/posting are limited to that particular zone only. Their seniority and promotion are also confined to that particular zone only. The clarification made by the above judgment is not applicable to the employees working under Central Water Commission.

- (i) The service criteria of CWC employees (group 'C' & 'D') are not the similar with the service criteria of P&T employees, further the recruitment, maintenance of seniority, transfer/posting of CWC employees are on All India basis.
- (ii) The employee of CWC recruited in NER transferred within NER and are working in NER since appointment to till date, having All India Transfer Liability, maintained all India Common Seniority, promotion also done on the basis of (all India zone of promotion based) common all India seniority for their respective service/cadre/post as a whole and not on the regional seniority as in the case followed in other Central Govt. Department located in NER.
- (iii) The Employee recruited through Staff Selection Commission which is on All India competitive examination, on their selection they have been posted

to Central Water Commission, NER and received their appointment from New Delhi, having All India Transfer Liability and All India Seniority.

- (iv) The employee resident of NER, recruited in NER and posted in NER and subsequently transferred outside NER and posted back again on transfer to NER.
- (v) The employee recruited in NER, working in NER but home town is outside NER having All India Transfer Liability and All India Seniority.

Your esteemed good self is very well aware of the fact that the Group C & D employees of CWC serving under NER do not fall under the category at par with the employees of P&T Deptt. Hence the above points certainly needs clarification from the appropriate authority. Till such time it is also necessary to continue the facility of SDA to the Regular Group C & D staff without any discrimination or interruption.

Once again, it is requested that you may kindly intervene in this matter and pass on necessary direction that the instruction of Chief Engineer, B&B Basin conveyed to discontinue the facility of SDA based on the O.M. dated 29.5.2002 may be kept under abeyance. As because the above points needs clarification to decide the eligibility criteria for continuing the SDA to the staff serving under NER.

An early action solicited in this matter please.

Yours faithfully

SD/-
(S. RAJARATHINAM)
Leader (Staff Side)

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केन्द्रीय प्रशासनिक अधिकारम
Central Administrative Tribunal

28 MAR 2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

*Filed by -
B. C. Pathak
The Date 28/3/03*

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

O.A. NO. 367/2002

Shri Promod Neogi & Others

... Applicants.

- Vs -

Union of India & Others

... Respondents.

(Written statements of the respondents No.1 to 7).

The written statements of the aforesaid respondents are as follows :

1. That a copy of the O.A. No. 367/2002 (referred to as the "Application"), has been served in 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, are hereby denied by the respondents.

3. That before traversing the various paragraphs of the application, the respondents beg to state a brief resume to the facts and circumstances of the case and the basis for entitlement for payment of Special Duty Allowance (referred to as the "SDA") 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 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.Vijaykumar & 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 & others -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 region.

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 in the case of 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-R-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.

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(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.Vijaykumar 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. 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.

(l) That as per records of the respondents all the applicants are local residents of the defined area of N.E. Region except the

applicants No.12, 15,53,54,59 to 61. All the applicants are appointed initially in the North East Region and working in the N.E. Region. Hence from the facts and status of the applicants and the provisions of law, the applicants are not entitled to grant of S.D.A. and the amounts paid to them so far are liable to be recovered.

The statement of initial posting and transfer of the applicants in their service career are shown the statements annexed as Annexure R-12 (series).

(m) That the respondents issued the impugned order to recover the amount already paid to the ineligible applicants and except a few, no recovery was effected so far. But some amounts were recovered from the salaries of Oct.2002 of the applications no.16 to 19 thereafter no further recovery has been made for these applicants no.16 to 19. In another case recovery has been made from the month of Sept.02 to Nov.02 from the applicants No.48 to 52 and 55 to 59 and no further recovery there after. In case of applicants No.53,54,60 & 61 recoveries made in the month of Nov.02 but no recovery made there after.

The statement showing the payment of S.D.A. and recovery made are annexed as annexure R-13 (series).

4. That with regard to the statements made in para 1, the respondents state that the respondents have acted as per provisions of law settled by the Hon'ble Supreme Court and also the

Government instructions/circulars. Hence there is no cause of action in this case as no right or conditions of service of the applicants has been violated.

5. That the respondents have no comment to offer to the statements made in para 2,3 and 4(i).

6. That with regard to the statements made in para 4(ii) and 4(iii), the respondents state that by their own admission, they being local residents of N.E. Region and continuously serving in this region since their initial posting in the region, they are not entitled to get the SDA as clarified hereinabove.

7. That with regard to the statements made in para 4(iv), the respondents state that the mere clause of All India transfer liability in appointment letter is not sufficient to make an employee entitled to grant of SDA. There must be instances of actual transfer and that too in case of an employee, who belongs to other region of India and posted in transfer to N.E. Region and/or initially posted in N.E. Region but reposted in the region from outside; which makes one entitled to grant of SDA. The respondents verified the service antecedents of all the applicants on the basis of their Service Books and Personal Files and prepared statement of such facts of initial posting, transfer etc. if any during the tenure of service. But it is found that all the employees were initially posted in the N.E. Region and they are all local residents of N.E. Region (except applicants at Sl. No.12,15,53,54,59,60 and 61). Hence, they are not entitled to

SDA. These statements may be treated as a part of this written statements. Moreover, as stated above, the Hon'ble supreme court held that the spirit of the O.M. dt.14.12.83 is to attract and retain the services of the officers posted to the N.E.Region from outside and these provisions do not apply to the local residents of the said region.

The copies of such statements are annexed as Annexure - 12 (series).

8. That with regard to the statements made in para 4(v) to 4(viii), the respondents state that the SDA were paid to the applicant by default due to ignorance of the provisions of law and latest Government of India O.M.s/Circulars. Any payment made by default due to ignorance of latest orders could not be a valid reason for its continuance.
9. That with regard to the statements made in para 4(ix) to 4(xv), the respondents state that as per decision of the Hon'ble Supreme Court and the Government of India, O.M./instructions, the respondents have acted legally and stopped payment of SDA and also initiated the process of recovery. Hence, no such illegality has been committed by the respondents as alleged.
10. That with regard to the statements made in para 4(xvi), the respondents state that as clarified above, the matter of grant of SDA

has already been settled by the Hon'ble Supreme Court and the same is binding in all in India.

11. That with regard to the statements made in para 4(xvii), the respondents state that the subject matter and the facts of that case as referred to by the applicants, are different from the sets of facts in this instant case. Hence, it will not apply as a precedent in this case.

12. That with regard to the statements made in para 4(xviii) to 4(xx), the respondents state that in no way the applicants are entitled to SDA. A few applicants submitted representations and such representations are also replied. The respondents also state that they do not have any discretionary power to grant or stop SDA, but they are bound to be guided by the Hon'ble Supreme Court's order and the Government of India O.M./circulars.

13. That with regard to the statements made in para 5(i) to (ix), the respondents state that the grounds shown by the applicants are not tenable in law. Hence, the application is liable to be dismissed as baseless.

14. That the respondents have no comments to offer to the statements made in para 6 to 7 of the application.

15. That with regard to the statements made in para 8(1) to 8(5) and 9, the respondents state that under the facts and circumstances of the case and provisions of law the applicants are not entitled to any relief whatsoever as prayed for in regard to grant of SDA and

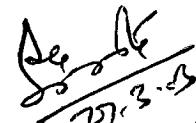
hence, the applications liable to be dismissed with cost as baseless and devoid of any merit. The interim order dated 29.11.2002 is also accordingly liable to be vacated.

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, also be pleased to dismiss the application with cost.

VERIFICATION

I, Shri Anup Kumar Srivstava, at present working as Executive Engineer, M.B. Division, CWC, Guwahati, who is taking steps in the case, 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 15..... are true to my knowledge and belief, those made in para3..... being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 27th day of March,2003 at Guwahati.



DEPONENT
M.D. Dir. C.W.C
Guwahati

~~10~~
~~ANNEXURE I~~

ANNEUXURE R-1

No. 20014/3/83-E.IV
Government of India
Ministry of Finance
Department of Expenditure

1991

1991 with En. 991810

Assam Circle, Guwahati-781001

New Delhi, the 14th December, 1991.

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and 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 & 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 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 employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Weightage for Central deputation/Training abroad and special mention in Confidential Records:

Satisfactory performance of duties for the

....2/-...

Certified

Shri

ASST. DIRECTOR (VIS)

ASST. DIRECTOR (VIS)
O/S/ASST. K.D. M.L.
Koxwahali

described tenure in the North East shall be given due recognition in the case of eligible officers in the matter of:-

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

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

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

(iii) Special (Duty) Allowance

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

3. Tripura

The rates of the allowance will be as follows:-

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

(b) Other Areas

Pay upto Rs.260/- Rs.40/- p.m.

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

There will be no change in the existing rates of Special compensatory allowances 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 the initial appointment, in case of journeys for taking up initial appointment to a post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 100 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 accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

contd....4....

(vii) Reimbursement 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 travel in excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) Leave Travel Concession:

A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North Eastern Region. In cases, the option is for the latter alternative, the cost of travel for the initial distance (400 Kms./160 Kms.) will not be borne by the officer.

Officers drawing pay of Rs. 2250/- & above, and their families, i.e., spouse and two dependent children (upto 18 years, or 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 to 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, without any restriction on 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 a hostel subsidy without other restrictions.

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5 :-

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

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

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

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

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

sd/-

(S.C. MAHALIK)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA.

TO:

All Ministries/Departments of the Government of India,
etc. etc.

Copy (with spare copies) to C. & A.G., U.P.S.C. etc.

19.20014/3/83-H. IV
Government of India,
Ministry of Finance
Department of Expenditure

ANNEXURE

R-2

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. There 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... 2/...

affixed

Tu. 1/1987

Asstt. Director (M)

(U.N. L. P. M. L.)

Ex-Sub

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3. Financial Advisors 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 the autonomous organisations located in the North East Region which are under administrative control of their Ministries/Departments.

Chandrasekhar

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

To

Financial Advisors of all Ministries/Departments.

J.K.

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

Now Delhi, the 1 December, 1960

Annexure - A

ANNEXURE : R-3

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. 20014/3/63-E.IV dt. 14th December, 1953 and 30th March,
1964 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 the above-mentioned States
of the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal
Pradesh and Mizoram has been enlisting the attention of the Govt.
Accordingly, the President is now pleased to decide as follows:-

- (i) Leave of posting/deputation
The existing provisions as contained in this Ministry's
O.M. dated 14.12.63 will continue.
- (ii) Weightage for Central deputation and training abroad
The existing provisions as contained in this Ministry's
O.M. dated 14.12.63 will continue. Cadre authorities are advised
to give due weightage for satisfactory performance of duties for
the prescribed tenure in the North-East in the matter of promotion
in the cadre. Posts, deputation to Central tenure-post and courses
of training abroad.
- (iii) Special(Duty) Allowance
Central Govt. Civilian employees who have All India
transfer liability will be granted Special(Duty) Allowance at the
rate of 12% of basic pay subject to 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 Compensation(Rugato Lorry)
Allowance, Construction Allowance and Project Allowance will be
drawn separately.

2/2

The Central Govt. Civilian employees who are members of
Central Tribes and are otherwise eligible for the grant of
Special (only) Allowance under this para and are exempted from
paying the Income-Tax under the Income-Tax Act will also draw
Special (Only) 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 1.10.86.

(v) Traveling Allowance on first appointment:-
The present concessions as contained in this Ministry's
O.M. dt. 14.12.83 will continue with the liberalisation that on
first appointment, T.A. should be admissible for the total distance
instead of 10% 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 14.12.83 will continue.

(vii) Allowance for transportation of personal effects:-
The existing provisions as contained in this Ministry's
O.M. dated 14.12.83 will continue.

(viii) Joining Allowance:-
The existing provisions as contained in this Ministry's
O.M. dated 14.12.83 will continue.

(ix) Leave & Duty Concession:-
The existing concession as contained in this Ministry's
dated 14.12.83 will continue.

(x) Officer's Arrears Pay:-
Officers arrears pay of Rs. 5100/- or above and their
families, i.e., spouses and the dependent children (Upto 18 years for
boys and 12 years for girls) will be allowed air-travels between
Mysore/ Bangalore/ Mysore/ Alwar/ Jaipur and Calcutta and vice-
versa, between Port Blair and Calcutta/ Madras and vice-versa in
case of postings in A & B Islands; and between Bangalore and
Cochin and vice-versa in case of postings in Lakshadweep.

(xi) Children Education Allowance/Hotel Allowance:-
Where the children do not accompany the Government servant
to the North-Eastern Region, Children Education Allowance upto
Rs. 1000/- will be admissible in respect of children studying at
the last station of posting of the Government concerned or any
other station where the children reside. If children studying
in schools are not in hospitals at the last station of posting
or any other station, the Government servant concerned will be
given寒舍, bursary without other restriction.

The rates of Children Education Allowance/House subsidy will be as in the D.O.P.B.S. O.M. 10011/1/07-Rev. (Allowances). dt. 31.12.07. as amended from time to time.

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

The present concession as contained in this Ministry's O.M. No. 11016/1/E, II(B)/06 dt. 29.3.06 as amended from time to time will continue to be applicable.

(xii) Telephone facility.

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

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

4. The officers will take effect from the date of issue.

5. In so far as the officers serving the Indian Audit & Accounts Deptt. are concerned these orders fetus after consultation with the Comptroller & Auditor General of India.

6. Final version of this Memorandum is attached.

(A. S. AYARAKARI)

JOINT SECRETARY TO THE GOVT. OF INDIA.

To

All Ministries/Departments of Govt. of India, etc.
Copy (with serial number of each copies) forwarded to
C. & A. O., U. P., S. S., etc., etc., on ~~not~~ standard endorsement
list.

61-23-89
20 Annexure

IN THE SUPREME COURT OF INDIA

ANNEXURE B : RG

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3721 OF 1973

Union of India and others

... Appellants

VERSUS

S. Vijayakumar and others

... Respondents

with Civil Appeal Nos. 6103-81
of 1991 (arising out of
SLP(C) Nos. 16794/91; 16795/91; 16796/91;
10461/93; 9210/93).

JUDGMENT

HANSARIA, J.

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

-24-2, 90
-21-

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 affirmatively. Those appeals have been preferred by the Union of India.

2. The Tribunal took the aforesaid view because of the Office Memorandum dated 17.12.1985 wherein with 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 office memorandum of 1987 has clearly stated that the allowance

because of inaccessibility and difficult terrain

have said so because even the 1983 memorandum states

saying that this period for the officers who take an
allowance and retaining the service of the competent
officers for a 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 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 Government employees
in 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 mere

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

quoted above is not enough to concede to your
submission of Dr. Ghosh.

would not be 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. According to 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 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 the doctrine of "equal pay for equal work" and an such of Articles 14 and 16 of the Constitution.

4. He has duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tulsidas for two reasons. The first is that a close perusal of the two aforesaid memoranda, viz. with what was stated in the memorandum dated 23.9.1983 which has been quoted in the memorandum of 20.6.1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern Region to work in that Region.

8. 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 vs. Reserve Bank of India Staff Officers' Association and others, 1991

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.

E. 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 employes, would not be recovered from them in so far as the allowance is concerned.

28-594-

ANNEXURE

2

Annexure

fixed to be this copy
3.4 D
Assistant Registrar (Judd)
11/3/95

Supreme Court of India

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

579905

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

Union of India & Ors.

.....:Appellants

vis.

Executive Officers Association
Group-C

.....Respondents

JUDGMENT

Faizanuddin. 3.

1. Delzy 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, 1993 passed by the Central Administrative Tribunal, Guwanati Bench (hereinafter referred to as Tribunal) in O.A. No.

outside the region and Special Duty Allowance would not be payable merely because

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.II(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 Departments 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. Rynjan 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.

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 coined that without recalling the Office Memorandum issued in 1982 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 judgement 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

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

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."

.....

S. 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

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 S.H. Bhattacharjee & Ors. [J.T. 1995 (1) SC 440] which was decided by today judgment dated January 18, 1995 in which this Court took the view that the said Office Memoranda 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) 143 - 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

are residents of North-Eastern Region, itself. After considering the memorandum dated December 14, 1983 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.

sd/-

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

SD/-

.....J.
(Faizan Uddin)

New Delhi.

February 23, 1995.

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Dec 30 1995 102

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R - 5

ANNEXURE

R 6 119

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 & Others

Appellants

- VERSUS -

Geological Survey of India
Employees' Association & Others.

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 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

-49-16

ANNEXURE VI

R 114
7

No. 11(31)/95-E.II(B)

Government of India

Ministry of Finance

Department of Expenditure

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) (Gauhati 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 Ministries/Departments against the Orders of the CAT.

32/POP/46

19/1/96

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil Appeal no. 3251 c.f. 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 on 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) If the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; & ii) If 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 OI is enclosed.

(C. Balachandran)
Under Secy to the Govt of India

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

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

57541 CS 96
7/17

39 - 103 - Appendix (K-7) (16)
aff. rep. No. 3366/96/X

All communications should be
addressed to the Registrar,
Supreme Court, by despatch,
NOT by name.
Telegraphic address:
"SUPHMCOR"

SUPREME COURT
INDIA

Dated New Delhi, the 26th November, 1996. 19

TO: ASSISTANT REGISTRAR (JUDS)

ANNEXURE: R 8

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-V, R.K.Puram,
New Delhi - 110 066
3. The Divisional Organiser,
SSB Shillong Division,
A.P. Secretariat building,
Shillong, Meghalaya.
4. Commandant, Group Centre, SSB,
Tripura, Salbagan, Kartala,
Tripura West.

MOTION PENDING AS ON 24/11/1996
(Under Article 52 of the Constitution of India)

With
SUPREME COURT APPLICATION NO. 1
(Application for ex-parte stay)

Sadan Kumar Goswami & Ors.

.. PETITIONERS

vs. CUS

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.

10/11/1996 Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR (JUDS)

Capable to be used

..... Nazbu

..... Assistant Registrar (Adm)

..... D. B. S.

..... Supreme Court Clerk

REPORTABLE-1279/95

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

W.L. PETITION NO. 794 OF 1995

133784

(Under Article 32 of the Constitution of India)

Sub-Inspector Sadhan Kumar Goswami &
Ors.

...Petitioners

v.

Union of India & Ors.

...Respondents

THE 25TH DAY OF OCTOBER, 1995

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

Bankat Ghosh, Sr. Adv. and Amalan Ghosh, Adv. with him for
the Petitioners.

O_R_D_E_R

The following order of the Court was delivered:

- 41 -
- 30 -
- 29 -

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18

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WIT PETITION NO. 784 OF 1996

Sub-Inspector Sadiq Kumar Goswami & Ors. Petitioners

Versus

The Union of India & Ors. Respondents

QUESTION

This writ petition under Article 32 is filed in the series of cases we have come across to re-open 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. Vilay Kumar (CA No. 5251 of 93) decided on September 20, 1994; wherein this Court had held that

"We have duly considered the facts submitted 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 memorandum, 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 services of the competent officers for service in the North-Eastern Region. Attraction and 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 while counting the period of tenure of posting, which was required to be of 2½ years, to claim the allowance depending upon the period of service of the incumbents. The 1966 memorandum makes this position clear by stating that Central Government civil servants, 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 memorandum of 1963 the subject was mentioned as quoted above is not enough to concur to the submission of Sir Ghosh.

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 vs. Reserve Bank of India Staff Officers Association & 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, 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 would indicate that it did not make any distinction between Group C and D 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.

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 has 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 Clas 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, 1990, the amount paid which is contrary to the direction issued

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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.R.PRAKASHAN)

(S.P.KURUKAR)

NEW DELHI:
OCTOBER 25, 1926.

SEALED IN MY PRESENCE
11/11/11

Document No. 113
Date: 12/5/2000
Page No. 1 of 1
ANNEXURE : R9

DDA
D.D.A.
No. (Admin.)
P.O. Box No. 1000
Aviation Bldg. Centre
Gangtok
Gangtok
Doom Dooma

No. ARC/Coord/4/99- 4.5.2000
Directorate General of Security
(Cabinet Secretariat)
O/o The Director, ANC
East Block-V, R K Puram
New Delhi - 110 066.

Dated, the 05/5/2000

MEMORANDUM

ANNEXURE : R9

**Subject : Special Duty Allowance for civilian
employees of the Central Government
serving in the States & Union Territories
of North Eastern Region - Regarding.**

A copy of Cabinet Secretariat U.O. No.20/
12/99-EL.I-1798, dated 02.5.2000 on the above
subject is sent herewith for information and
necessary action.

Enccl : as above.

(V. DORAI SWAMY)
ASSTT DIRECTOR (I.M.O.)

To

- (1) A.D. (A)/AD (B)/AD (C)/AD (D) of ARC Hqrs.
- (2) The A.O., ARC Hqrs.
- (3) -The A.D. (A), ARC, Charbatia/Doom Dooma/Sarsawa.
- (4) File copy.

No. ESTT/DDM/SDA/36-II- 6.5.2000
ARC, Doom Dooma

Dated the, 01/6/2000

1. Copy forwarded to the Accounts Officer, ARC, Doom Dooma
for information and necessary action.

2. All Unit Heads.

(C.D., C.C.C., A.M.C., D.G.C.) Doom Dooma
A.T.C.C., M.T.C.C., P.T.C.C., D.G.C. (D.D.A.)

(R.N. CHAKRABORTY)
SECTION OFFICER

1389
05/8/2000

Cabinet Secretariat
(EA.1 Section)

37-114
CST IMMEDIATE

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/A1/99(18)-2369 dated 31.3.2000 on the subject mentioned above.

2. The points of doubt raised by SSB in their UO No. 42/SSB/A1/99(18) 5282 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Dept. 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.
 - (b) An employee hailing from the N.E. 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.
 - (iii) 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.20014/2/03-E.IV dated 14.12.03 and

DD(B)

20.4.87 read with OM 20014/16/86 E.II(B) dated 1.12.86, 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, Dptt. of Exptk. vide their OO No.11(3)/95-E.II(B) dt.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 S.D.A. 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 SSI/PGS, 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.

vi)

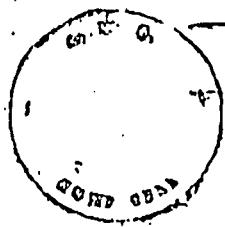
Based on point (iv) above, some of the units of SSB/DGS have authorized payment of SDA to the employees hailing from NE Region and posted within the NE Region while in the case of others, the DGS have objected payment of SDA to employees hailing from NE Region and posted within the NE Region irrespective of the fact that their transfer liability in 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. 91 whichever is later.



-4-

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. 1200/E-11(1)/99 dated 30.3.2000.

A/C

(P.N. Thakur)
Director (SR)

1. Shri R.F. Bedi, Director, ARC.
 2. Shri R.F. Kureel, Director, SSB.
 3. Brig (Retd) G.S. Uban, IG, SFF.
 4. Shri S.R. Mehra, JD (P&C), DGS.
 5. Shri Ashok Chaturvedi, JS (Pers), R&AW.
 6. Shri B.S. Gill, Director of Accounts, DACS.
 7. Smt. J.M. Menon, Director-Finance, Cab. Sectt.
 8. Col. K.L. Jasrai, CIA.
 Cab. Sectt. UO No. 20/12/99-EA. I, date 17/8/2000
 14-05-2000

- 2 MAY 2000

P.D.L.B)

A.D. (Encl)

Sectt)

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ANNEXURE - 8

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Assistant Registrar
20-11-2001
Supreme Court of India

ANNEXURE 8

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 7000 OF 2001
Arising out of S.L.P.(C) No. 6465 of 1999

ANNEXURE 8-10

504/83

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. 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, main 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

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- 28 -

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that 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.

(N. SANTOSH HEGDE)

(K.G. BALAKRISHNAN)

New Delhi,
October 06, 2001.

ANNEXURE - 115

54.5
F.No.11(5)/97-E.II.(B)
Government of India
Ministry of Finance
Department of Expenditure

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ANNEXURE - R-16

New Delhi, dated the 29th May, 2001.

OFFICE MEMORANDUM

Subject: Special Duty Allowance for civilian employees of the Central Government Serving in the State and Union Territories of North Eastern Region including Sikkim.

The undersigned is directed to refer to this Department's OM No 20014/3/B.I-B.IV dated 14.12.83 and 20.4.1987 read with OM No 20014/16/86-E.IV/E.II.(B) dated 1.12.88, and OM No.11(3)/95-E.II.(B) dt. 12.1.1996 on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in NE region vide OM dt. 14.12.83. 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 dt. 20.4.87, 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 NE 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 judgement delivered on 20.9.94 (in Civil Appeal No. 3251 of 1993 in the case of UOI and Ors V/s Sh. S. Vijaya Kumar and Ors) have upheld the submissions of the Government of India that C.G. 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.

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 judgement of this Court in the case of UOI & Ors. vs. S. Vijayakumar & Ors. reported as 1994 (Supp.3) SCC, 649 and followed in the case of UOI & Ors vs. Executive Officers' Association 'Group C' 1995.

APR
0/PM/12
b/b

(Supp. I) SCC, 757. Therefore, this appeal is to be allowed in favour of the U.O. 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 judgements, 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 judgement 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 recouped.

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 & Nicobar and Lakshadweep Groups of Islands.

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

N.P.S.

(N.P. Singh)

Under Secretary to the Government of India.

All Ministries/Departments of the Government of India, etc.

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

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ANNEXURE : R 12

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OA 367/02

Annexure R-12

ANNEXURE - III

STATEMENT OF OFFICERS SHOWING THEIR TRANSFER AND POSTING IN THE NORTH EASTERN REGION ()
SINCE THEIR INITIAL APPOINTMENT.

Sl. No.	Name of employee	Designation	Initial appointment Date	Place	If transferred from out-side to N.E. Region		Date	Place	If transferred from out-side & re-transferred		Re-transferred Date	Place	Whether resident of NER		If yes then indicate the place.	Remarks in k.s.
					From	To			From	To			From	To		
1	2	3	4	5	6	7	8	9	10	11	12	13				
1.	Sri P. Neogi	LDC	18.4.78	Shillong	No	No	No	No	No	No	No	No	Yes, Shillong			
2.	D. Ghosh	J.E.	22.12.77	Guwahati	No	No	No	No	No	No	No	No	Yes, Dawki			
3.	N.C. Boro	UDC	21.1.85	Guwahati	No	No	No	No	No	No	No	No	Yes, Guwahati			
4.	Bhanu Thapa	LDC	06.09.88	Shillong	No	No	No	No	No	No	No	No	Yes, Shillong			
5.	Smt. U.D. Gurung	LDC	29.12.95	Shillong	No	No	No	No	No	No	No	No	Yes, Shillong			
6.	A. Warjri	M.V. Driver	10.9.85	Shillong	No	No	No	No	No	No	No	No	Yes, Shillong			
7.	Francis Dkhar	M.V. Driver	15.2.2001	Aizawl	No	No	No	No	No	No	No	No	Yes, Shillong			
8.	S.C. Dey	Dak Runner	16.10.78	Shillong	No	No	No	No	No	No	No	No	Yes Shillong			
9.	K. Sunar	Peon	15.5.76	Shillong	No	No	No	No	No	No	No	No	Yes Shillong			
10.	Rabi Das	Chowkidar	31.8.85	Shillong	No	No	No	No	No	No	No	No	Yes Shillong			
11.	B.G. Barman	Barkandaz	13.01.78	Silchar	No	No	No	No	No	No	No	No	Yes Silchar			
12.	Gagan Singh	Gauge Reader	8.11.83	Shillong	No	No	No	No	No	No	No	No	No, (HP)			
13.	R.R. Joshi	Chowkidar	13.7.78	Shillong	No	No	No	No	No	No	No	No	Yes Shillong			
14.	Sat. P. Dkengdoh	Peon	29.3.90	Shillong	No	No	No	No	No	No	No	No	Yes Shillong			

RK/

F.I. 19 28

STATEMENT OF OFFICERS SHOWING THEIR TRANSFER AND POSTING IN THE NORTH EASTERN REGION (NEID-II, CWC, AIZAWL) SINCE THEIR INITIAL APPOINTMENT

Sl. No.	Name of employees	Designatio n	Date of recruitment	If transferred from outside to NE Region			If transferred from outside and re-transferred			Whether resident of NER	Re- marks
				Date	Place	Date	Place	Re- transferred	Re-transferred placed		
1.	Sh. B. L. Narayan	Draftsman Gr.II	11.02.81	Shillong	No	No	No	No	No	No	-



(R. D. Deshpande)
Executive Engineer

ANNEXURE-III

STATEMENT OF OFFICERS SHOWING THEIR TRANSFER AND POSTING IN THE NORTH EASTERN REGION SINCE THEIR INITIAL APPOINTMENT

Sl. No.	Name of employees	Designation	Initial appointment		If transferred from outside to N.E. Region			If transferred from outside & re-transferred			Whether resident of NER if yes then indicate the place	Remarks		
			Date	Place	Date	Place		Retrans- ferred	Retransferred placed					
						From	To							
1	2	3	4	5	6	7	8	9	10	11	12			
1.	J.N. Arjun	JE	12.12.1977	Guwahati	No	No	No	No	No	No	No	No, Noida (UP) Earlier his home town was Silchar (Assam)		
2.	G.M. Barman	D'man-II	10.05.1979	Shillong	No	No	No	No	No	No	Yes	Laduma, Cachar (Assam)		
3.	B.P. Boro	U.D. Clerk	13.05.1986	Guwahati	No	No	No	No	No	No	Yes	Dighali, Dhupdhara (Assam)		
4.	A.B. Thapa	Chowkidar	21.03.1979	Silchar	No	No	No	No	No	No	Yes	Bilijuri, Sonitpur (Assam)		

1. M.N.P. NAMPOORI
Assistant Engineer

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ANNEXURE - III

STATEMENT OF OFFICERS SHOWING THEIR TRANSFER AND POSTING IN THE NORTH EASTERN REGION
SINCE THEIR INITIAL APPOINTMENT

Sl. No.	Name of employee	Designation	Initial appointment			If transferred from outside to N.E.Region		If transferred from outside & Re-transferred		Whether resident of NER if Yes then indicate the place		REMARKS
			Date	Place	Date	Place	From	To	Date	From	To	
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	Sh.P.C.Borthakur	A.A.O.	6.7.73	Guwahati	-	-	-	-	-	-	-	Dibrugarh
2.	Sh.A.K.Puzari	D'man.I	11.10.76	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
3.	Sh.A.K.Das	JE(W/L)	-	-	-	-	-	-	-	-	-	Jorhat
4.	Mrs.P.Saikia Baruah	JE(C)	22.12.86	Guwahati	-	-	-	-	-	-	-	Guwahati
5.	Sh.A.R.Mikir	Asstt.	3.4.72	Jorhat	-	-	-	-	-	-	-	Dibrugarh
6.	Sh.D.N.Saikia	UDC	4.9.76	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
7.	Mrs.S.Bhattacherjee	UDC	7.1.77	Dibrugarh	-	-	-	-	-	-	-	Silchar
8.	Sh.M.Chowdhury	Jr.Computer	27.3.78	Silchar	-	-	-	-	-	-	-	Dibrugarh
9.	Sh.B.M.Bora	D/Mech.	1.8.78	Dibrugarh	-	-	-	-	-	-	-	Nagaon
10.	Sh.J.N.Sharma	W/Operator	4.3.77	Dibrugarh	-	-	-	-	-	-	-	Nagaon
11.	Sh.P.Saikia	W/O	29.4.81	Guwahati	-	-	-	-	-	-	-	Tinsukia
12.	Sh.P.D.Moran	W/O	9.12.76	Dibrugarh	-	-	-	-	-	-	-	Nalbari
13.	Sh.S.R.Deka	LDC	16.6.94	Silchar	-	-	-	-	-	-	-	Dibrugarh
14.	Sh.H.Das	LDC	4.7.94	Silchar	-	-	-	-	-	-	-	Guwahati
15.	Sh.B.C.Hazarika	LDC	30.5.78	Guwahati	-	-	-	-	-	-	-	Silchar
16.	Mrs.Rina Chowdhury	LDC	8.9.87	Shillong	-	-	-	-	-	-	-	Goalpara
17.	Sh.P.C.Roy	Chowkidar	4.8.88	Guwahati	-	-	-	-	-	-	-	Guwahati
18.	Sh.N.C.Kumar	- do -	28.5.82	Guwahati	-	-	-	-	-	-	-	Dibrugarh
19.	Sh.Ram Singh	- do -	24.2.77	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
20.	Sh.T.Chetia	- do -	16.2.77	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
21.	Sh.J.K.Das	- do -	1.10.71	Guwahati	-	-	-	-	-	-	-	Dibrugarh
22.	Mrs.Anju Mout	- do -	21.2.97	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
23.	Sh.S.R.Gogoi	- do -	7.1.78	Dibrugarh	-	-	-	-	-	-	-	Borpeta
24.	Sh.A.K.Bayan	- do -	3.8.88	Guwahati	-	-	-	-	-	-	-	Dibrugarh
25.	Sh.S.K.Bose	M.V.Driver	20.9.98	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
26.	Sh.R.S.Verma	- do -	28.6.97	Dibrugarh	-	-	-	-	-	-	-	Shillong
27.	Sh.Kumar Tamang	- do -	17.2.2001	Naharlagun	-	-	-	-	-	-	-	Darrang
28.	Sh.B.Basumatary	- do -	20.2.92	Nagaon	-	-	-	-	-	-	-	Dibrugarh
29.	Sh.D.N.Gogoi	Peon	18.10.77	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh
30.	Sh.R.S.Das	Peon	11.2.77	Dibrugarh	-	-	-	-	-	-	-	Dibrugarh

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Executive Engineer
Ippm Brahmaputra Division
C.W.C., Dibrugarh-3

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Statement of officers showing their transfer and posting in the north Eastern Region since their initial appointment

Name of Employee	Designation	Initial appointment		If Transfer from outside to NE Region		If transferred from outside & re-transferred		Whether resident of NER If Yes, then indicate the place	
		Date	Place	Date	Place	Re-transferred	Re-transferred placed		
		4	5	6	7	8	9	10	11
1	2	3							12
1.	S.Shri B.K.Das	L.D.C	7.5.97	Itanagar	No	No	No	No	No
2.	M.C.Talukdar	L.D.C.	20.8.71	Guwahati	No	No	No	No	No
3.	Chandra Baruah	Peon	2.1.78	Dibrugarh	No	No	No	No	No
4.	N.C.Boro	Chowkidar	10.11.71 (AN)	Tezpur	No	No	No	No	No
5.	Eman Singh	Chowkidar	6.11.71	Tezpur	No	No	No	No	No
6.	Ratiya Urang	W/C Driver	29.5.93	Itanagar	No	No	No	No	No
7.	Raghunandan Roy	W/C Driver	1.10.90	Aizwal	No	No	No	No	No
8.	Bimal Deb Barman	Peon	21.6.90	Agartala	No	No	No	No	No
9.	Babul Sarkar	Barkandaz	26.11.84	Aizawl	No	No	No	No	No
10.	A.N.Sarma	UDC	3.4.73	Guwahati	No	No	No	No	No
11.	B.P.Biswas	D'Man Gr. II	31.10.78	Shillong	No	No	No	No	No
12.	Sanjib Mishra	Jr.Engineer	9.8.99	Itanagar	No	No	No	No	No
13.	E.C.John	W/C D/O GR.II	13.79	(NER) Service book sent to NEID-II,CWC Aizawl Information given from the available record	No	No	No	No	No
14.	Govind Rai	W/C Driver	17.5.93	Itanagar	No	No	No	No	No

Dated 29/6/2002
S.T.C. NEID-II
13-14-54

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ANNEXURE P-12

Sl.No.	Name of employees who filed the case. S/Shri	Whether any recovered of SDA have been made Yes/No.	If made the recoverable amount.	Date of commencement of recovery.	Remarks.
1	2	3	4	5	6
1	P. Neogi, LDC	No	Nil	Nil	
2	D. Ghosh, JE	No	Nil	Nil	
3	N.C. Boro, UDC	No	Nil	Nil	
4	Bhanu Thapa, LDC	No	Nil	Nil	
5	Smt. U.D. Gurung, LDC	No	Nil	Nil	
6	A. Warjri, MVD	No	Nil	Nil	
7	Francis Dkhar, MVD	No	Nil	Nil	
8	S.C. Dey, D/Runner	No	Nil	Nil	
9	K. Sunar, Peon	No	Nil	Nil	
10	Rabi Das, Chowkidar	No	Nil	Nil	
11	B.G. Barnan, Bkz.	No	Nil	Nil	
12	Gagan Singh, G/R	No	Nil	Nil	
13	R.R. Joshi, Chowkidar	No	Nil	Nil	
14	Smt. P. Diengdoh, Peon	No	Nil	Nil	

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ANNEXURE-I

Sl. No.	Name of employees who filed the case	Whether any recoveries of SDA have been made Yes / No	If made the recoverable amount	Date of commencement of recovery	Remarks
1	2	3	4	5	6
1.	Shri B. L. Narayan, D"man Gr.II	No	No	Recovery not yet started	As per letter No. 4/P&C/(1) C/2002/BBB/4353- 68 dt. 28.10.2002 for defer to recover the SDA

(R. D. Deshpande)
Executive Engineer

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ANNEXURE-I

Sl. No.	Name of employees who filed the case	Whether any recoveries of SDA have been made Yes/No.	If made the recoverable amount	Date of commencement of recovery	Remarks
1.	Shri J.N. Arjun, Jr. Engineer	Yes	Rs.9475/-	October 2002	
2.	Shri G.M. Barman, D'man Gr.II	Yes	Rs.6187/-	October 2002	
3.	Shri B.P. Boro, U.D. Clerk	Yes	Rs.5008/-	October 2002	
4.	Shri A.B. Thapa, Chowkidar	Yes	Rs.4231/-	October 2002	

[Signature]
(M.N.P. NAMPOORI) 27/12/12
Assistant Engineer

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Sr. No.	Name of employees who filed the case	Whether any recoveries of SDA have been made Yes/No	If made the recoverable amount	Date of commencement of recovery	Remarks
1	2	3	4	5	6
1.	Sh.P.C.Borthakur,AAO	No	No	No	No
2.	Sh.A.K.Puzari,D'man.I	No	No	No	No
3.	Sh.A.K.Das,JE(W/L)	No	No	No	No
4.	Mrs.P.Saikia Baruah,JE(C)	No	No	No	No
5.	Sh.A.R.Mikir,Asstt.	No	No	No	No
6.	Sh.D.N.Saikia,UDC	No	No	No	No
7.	Mrs.S.Bhattacherjee, UDC	No	No	No	No
8.	Sh.M.Chowdhury,Jr.Computer	No	No	No	No
9.	Sh.B.M.Bora,D/Mech.	No	No	No	No
10.	Sh.J.N.Sharma,W/Operator	No	No	No	No
11.	Sh.P.K.Saikia,W/O	No	No	No	No
12.	Sh.P.D.Moran,W/O	No	No	No	No
13.	Sh.S.R.Deka,LDC	No	No	No	No
14.	Sh.H.Das,LDC	No	No	No	No
15.	Sh.B.C.Hazarika,LDC	No	No	No	No
16.	Mrs.Rina Chowdhury,LDC	No	No	No	No
17.	Sh.P.C.Roy,Chowkidar	No	No	No	No
18.	Sh.N.C.Kumar, - do -	No	No	No	No
19.	Sh.Ram Singh, - do -	No	No	No	No
20.	Sh.T.Chetia, - do -	No	No	No	No
21.	Sh.J.K.Das, - do -	No	No	No	No
22.	Mrs. Anju Mout,- do -	No	No	No	No
23.	Sh.S.R.Gogoi, - do -	No	No	No	No
24.	Sh.A.K.Bayan, - do -	No	No	No	No
25.	Sh.S.K.Bose,M.V.Driver	No	No	No	No
26.	Sh.R.S.Verma, - do -	No	No	No	No
27.	Sh.Kumar Tamang, - do -	No	No	No	No
28.	X Sh.Bahadur Basumatary,-do-	No	No	No	No
29.	Sh.D.N.Gogoi,Peon	No	No	No	No
30.	Sh.R.S.Das,Peon	No	No	No	No

Subhankar
Executive Engineer
Upper Brahmaputra Division
C.W.C., Dibrugarh-3.

Sl. No	Name Employees who filed the case	Whether Recoveries of SDA have been made Yes/No	If made the Recoverable Amount	Date Commencement of Recovery	Remarks
2	3	4	5	6	
1.	Shri. Bidyut KR. Dns L.D.C	Yes	3749=00	9/2002	@ Rs 156/- p.m upto 11/02
2.	Shri. Mohan Ch. Talukdar, L.D.C	Yes	3942=00	9/2002	@ Rs 227/- 9/02 @ Rs 101/- 10/02 @ Rs 164/- 11/02
3.	Shri Chandra Baruha Peon	Yes	4101=00	9/2002	@ Rs. 171 p.m upto 11/02
4.	Shri Naren Ch. Boro, Chowkidar	Yes	4387=00	9/2002	@ Rs 183/- p.m upto 11/02
5.	Shri Eman Singh Chowkidar	Yes	4621=00	9/02	@ Rs 192/- p.m upto 11/02
6.	Shri Ratia Orang W/C Driver	Yes	4054=00	11/02	@ Rs 170/- in 11/02
7.	Shri. Raghunandan Ray, W/C Driver	Yes	3963=00	11/02	@ Rs 166/- in 11/02
8.	Shri Bimal Deb Barman, Peon	Yes	3449=00	9/02	@ Rs 144/- p.m upto 11/02
9.	Shri Babul Sarkar, Barkunduz	Yes	4135=00	9/2002	@ Rs 172/- p.m upto 11/02
10.	Shri Achyutanandu Sarma, U.D.C	Yes	7438=00	9/02	@ Rs 310/- p.m upto 11/02
11.	Bibhu prcla Biswas, D/man GR. II	Yes	7255=00	9/02	@ Rs 302/- p.m. upto 11/02
12.	Shri Sanjib Mishra, Junior Engineer	Yes	6395=00	9/02	@ Rs 266/- p.m. upto 11/02
13.	Shri E.C.John, W/C D/O GR. II	Yes	4134=00	11/02	@ Rs 173 in 11/02
14.	Shri Govind Rai, W/C Driver	Yes	3473=00	11/2	@ Rs 145/- in 11/02

Executive Engineer
C.W.C NEDD III
Mymensingh

4 MAY 2005

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
Guwahati Bench
BENCH : GUWAHATI

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Promode Neogi
through C-H Advocate 9-5-1

O.A. 367/02.

Sri P. Neogi & Others.

... Applicants.

- Vs -

Union of India & Others.

... Respondents.

IN THE MATTER OF :

A rejoinder of the applicants to
the written statements filed by
the respondents.

The applicants beg to submit their

re-joinder as follows :

1. That, the applicants have received a copy of the written statement filed by the respondents, they have gone through it and understood the contents thereof.

2. That, the applicants have no comments as regard to the statements made in the paragraph-1 & 2 of the written statement filed by the respondents.

Contd... 2/-

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Promotion Scheme

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3. That, the statements made in paragraph-3(a) of the written statement as regard to the scheme adopted by the Govt. of India vide O.M.No.20014/3/83-E, IV dt. 14-12-83 extending certain facilities and allowances including the S.D.A. for the Civilian employees of the Central Govt. serving in the N.E.states and Union Territories are correct but the statements made therein to the effect that 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 is not correct and it is denied by the applicants. It is reaffirmed by the applicants that the facilities and allowances extended under the O.M. dtd. 14-12-83 are available to all Central Govt. employees serving in N.E.region who fulfill the service conditions as laid down in subsequent O.M. dtd. 20-4-87 issued by the Govt. of India.

4. That, the statements made in paragraph-3(b) of the written statement are true and the O.M. dtd. 20-4-87 issued by the Govt. of India is the vital order under which all the applicants are entitled to S.D.A. as all of them are having actual All India Transfer liabilities and their recruitment to the service being made on All India basis, their promotion being done on the basis of the All India Zone of promotion based on common seniority for the service/ cadre/ posts as a whole,

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5. That, the statements made in paragraph-3(c) of the written statement is true and all the applicants were getting the S.D.A. accordingly.

6. That, as regard to the statements made in the paragraph-3(d) of the written statement the applicants beg to state that the service conditions of the employees involved in the case under reference decided by the honourable Supreme Court of India were not similar with the service condition of the present applicants before this Hon'ble Tribunal. All the applicants having actual All India transfer liability with All India recruitment Zone, their promotion being done on All India basis based on common seniority as stipulated in O.M. dtd. 20-4-87 the applicants are entitled to the benefit of S.D.A.. To the information of the applicants the employees involved in the case under reference were of regional cadres in their service condition.

7. That, as regard to the statements made in paragraph-3(e) of the written statement it is stated that the service condition of the employees involved in the case under reference were not similar with the service condition of the present applicants. The present applicants wholly satisfies the requirements as stipulated in O.M. dtd. 20-4-87 and as such they are entitled to the benefit of S.D.A. whereas the employees involved in the case under reference do not satisfy the same.

8. That, the statements made in paragraph-3(f) of the written statement are true and admitted by the applicants. The Judgement dt. 7-9-95 passed in C.A. No.8208-8213 by the Hon'ble Supreme Court of India has made it amply clear that the S.D.A. is payable only to those Central Govt. civilian employees who are having actual All India Transfer liability as defined in O.M. dt. 20-4-87 and posted in N.E. region wheather originally or on transfer but it is not payable to those Central Govt. Civilian employees who are not having actual All India transfer liability in the sense of the O.M. dated 20-4-87 in their service condition although they are posted in N.E. region and as such the applicants reassert that in view of the judgement dtd. 7-9-95 passed by the Hon'ble Supreme Court of India in C.A. No.8208-8213 All of them are entitled to the S.D.A.

9. That, as regard to the statements made in paragraph-3(g) of the written statement the applicants reiterates that the chief Engineer Central Water Commission Brahmaputra and Barak Basin vide his letter dt. 22-7-99 (Annex-VI of the original application) already made it clear in reference to the O.M. dt. 12-1-96 that the employees who are found to be eligible under para.3 of the said O.M. i.e. who fulfill the service conditions as laid down in O.M. dt. 20-4-87 will be entitled to the S.D.A. and accordingly the applicants were getting the same.

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Promode Neogi

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10. That, as regards to the statement made in paragraph-3(h) of the written statement the applicants beg to state that in the Judgement dtd. 25-10-96 passed by the Hon'ble Supreme Court of India in writ petition No. 794/96 it has been made clear that the S.D.A. is payable only to those employees who fulfill the service conditions laid down in Govt. of Indias O.M. dtd. 20-4-87 and accordingly it was held by the Hon'ble Supreme Court of India in order dated 7-9-95 passed in C.A. 8208-8213 that S.D.A. was not payable to C and D employees as they were not having all India Criteria in their service condition. Therefore the applicants respectfully submit that all of them are entitled to S.D.A. in view of the judgement dt. 25-10-96 also passed by the Hon'ble Supreme Court of India in writ petition No. 794-96.

11. That, as regards to the statement made in paragraph-3(i) of the written statement the applicants beg to state that the order issued by the Cabinet Secretary vide No. 20/12/99-E... 1-1798 dt. 2-5-2000 clarifying the query made by the Directorate General of Security New Delhi has not anyway changed the settled position of the fact that S.D.A. is payable to those central Govt. Civilian employees working in N.E. region who fulfill the All India Criteria of service conditions in all aspects as stipulated in Govt.

Contd... 6/-

of India O.M. dtd. 20-4-87. A reference made to the reply given against the querry No.2(VI) of the above order issued by the Cabinet Secretariate makes it clear that it has confirmed that a mere clause in the appointment order regarding All India Transfer liability does not make one eligible for S.D.A. which in contrary implies that only those who are having actual All India Transfer liability satisfying All the tests as laid down in the Govt. of Indias O.M. dated 20-4-87 will only be eligible for the S.D.A.. Accordingly the applicants having satisfied all those tests they are entitled to the S.D.A.. The statements made in the paragraph under reference of the written statements alleging that according to the clarification given in Cabinet Secretariate U.O. No.20/12/99-E.A. 1-1798 dt. 2-5-2000 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 the grant of S.D.A. are not correct and those are denied by the applicants. The provision made therein that if an employee is transferred out of the N.E. region and reposted to N.E. region on transfer from outside in that case he would be entitled to S.D.A. has been made only for the Central Govt. civilian employees who are having only zonal characteristics in their service conditions. as stipulated in the Govt. of Indias O.M. dt. 30-4-87. Moreover, the applicants respectfully submits that if the Govt. wants to discriminate the similarly situated employees in the manner as stated in the above paragraph of the written statement it would be violative of Art 14 & 16 of the constitution of India.

12. That, as regard to the statements made in paragraph-3(j) of the written statement the applicants respectfully state that the Hon'ble Supreme Court of India has passed the order dtd. 5-10-2001 in C.A.No.700/01 only holding that the appeal is covered by the earlier judgements reported in (1994) ₃S.C.C. 649 and (1995) ₁S.C.C. 757 and no other new findings have been given by the Hon'ble Supreme Court of India. The applicants respectfully submit that they are eligible for S.D.A. in view of the above two judgements also passed by the Hon'ble Supreme Court of India as they posses the required service condition for the same and the Govt. of India also considered them eligible and continued payment of S.D.A. accordingly.

13. That, as regard to the statements made in paragraph-2(k) of the written statement the applicants beg to state that the instructions issued under O.M. dtd. 29-5-02 is applicable only to the ineligible employees. The applicants being eligible for S.D.A. the instructions laid down in said O.M. dtd. 29-5-02 are not applicable to them and applicants are entitled to the benefit of S.D.A. Moreover the Ministry of Finance, Dept. of Expenditure O.M. dtd. 29-5-02 is not having the consent of the President of India and as such the respondents can not withdraw the S.D.A. on the basis of the above O.M. as the S.D.A. was granted in pursuance of the Govt. of India, Ministry of Finance, Dept. of Expenditure O.M. dt. 14-12-83 which was passed with the consent of the President of India.

14. That, as regard to the statements made in paragraphs-2(1) and 2(m) of the written statement the applicants beg to reiterate that all the applicants are entitled for S.D.A. as they satisfy the service condition stipulated in Govt. of India O.M. dtd. 20-4-87. Recovery made from some of them are required to be refunded.

15. That, the statements made in paragraph-4 of the written statement are not correct hence those are denied by the applicants. The applicants have got a bonafide cause of action for their application referred before this Hon'ble Tribunal which is required to be decided according to the law.

16. That, as regards to the statements made in paragraph-6 of the written statement the applicants beg to state that there was an inadvertent mistake in making statement in paragraph-4(ii) of the O.A. to the effect that they are residents of N.E. region in as much as some of the applicants are not local residents of N.E. region. However, ~~the~~ all the applicants having fulfilled the requirements as stipulated in Govt. of India O.M. dtd. 20-4-87 all of them are entitled for S.D.A. irrespective of the fact, whether they are residents of N.E. region or not.

17. That, as regards to the statements made in paragraph-7 of the written statement the applicants respectfully beg to submit that all of them having actual All India Transfer liability with All India recruitment Zone and provision of their promotion also being on All India common seniority as stipulated in Govt. of India O.M. dtd. 20-4-87 the applicants are entitled for S.D.A. Be it~~s~~ stated here that Govt. of Indias O.M. dtd. 20-4-87 has bot provided that to get S.D.A. one has to be posted ~~in~~ transfer from outside to N.E. region.

18. That, as regards to the statements made in paragraph-8 and 9 of the written statement the applicants respectfully beg to state that the S.D.A. was lawfully paid to them and it can not be recovered nor discontinued so long the guidlines stipulated in Govt. of Indias O.M. dated 20-4-87 exist.

19. That, as regards to the statements made in paragraph-10 of the written statements the applicants respectfully submit that the decision made by the Hon'ble Supreme Court of India is always binding in respect of all similarly situated persons.

20. That, the statements made in paragraph-11 of the written statement is not correct and denied by the applicants.

21. That, as regards to the statements made in paragraph-12 to 15 of the written statement the applicants respectfully submit that all of them are entitled to get S.D.A. on the basis of their service conditions which satisfy the requirements as laid down in Govt. of Indias O.M. dtd. 20-4-87

22. That, the applicants respectfully beg to state that the Govt. of India Ministry of personal, PPG. and Pensions (Dept. of Personal and Training) vide their O.M. No. 21015/5/99 Estt. (A.L.) issued in the month June, 2001 has reaffirmed that the Central Govt. civilian employees working in the N.E. region who fulfill the all India service criteria as laid down in Ministry of Finance O.M. dtd. 20-4-87 are entitled to the benefit of S.D.A. The Govt. of India vide their above O.M. has further taken up the prayer of the Central Govt. employees of some department serving in N.E. region who are even locally recruited and called for the required information relating to likely financial implication for the grant of S.D.A. to them from the concerned Ministries/Department. The applicants respectfully submit before this Hon'ble Tribunal that the above O.M. clearly proves the intention of the Govt. of India to extend the benefit of S.D.A. even to those central Govt. employees serving in the N.E. region without having All India criteria of service condition. Hence, impugned action for withdrawal of S.D.A. in respect of the applicants who are having all India criteria of service condition in all aspects as laid down in Ministry of Finance O.M. dtd. 20-4-87 is illegal and liable to be quashed.

(A copy of the above memo is annexed as Annexure-A)

VERIFICATION

I, Sri P. Neogi, son of Late N.L. Neogi, aged about 50 years, presently working as L.D.Clerk in the Office of the Executive Engineer, Meghna Investigation Devision Central Water Commission, Shillong, do hereby verify and solemnly affirm that the statements made in paragraph: 1 to 18 and 22 of the accompanying application are true to my knowledge which I belief to be true and rest are my humble submission before the Hon'ble Tribunal. I being one of the applicants have been authorised by other applicants to sign this verification on behalf of all the applicants.

I have not suppressed any material facts and I sign this verification on the 9th day of May, 2003 at Guwahati.

Paromode Neogi
(Paromode Neogi)
L.D.C
M.I.Div
C.W.C. Shillong

S I G N A T U R E

MOU/015/9/99 ESTL. (A) 1
Government of India
Ministry of Personnel, P.O. & Pensions
(Department of Personnel & Training)
* * *

Dated: 1 June, 2001.

D. D. G. (T & M)
Dy. P. & P. S.
Date: 1/6/01

OFFICE MEMORANDUM

1. 2. 3. (contd.)
1. 2. 3. (contd.)
..... 186.75

Subject: Payment of SOA to Central Govt. employees working/posted to NE Region.

The undersigned is directed to invite attention to para 2 of Ministry of Finance's OM No. 20014/3/83-E.IV dated, 20.4.1983 as per which 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 zones, 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. Here clause in the appointment order (as is done in the case of almost all posts in the Central Secretariat, etc. to 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. Besides this, the benefit is also restricted to only such Central Govt. employees who are posted to NE region from outside the NE region and is not admissible to employees recruited locally i.e., from within the NE Region.

Representations have been received from various service Organisations/Unions/Associations from NE region for grant of SOA even to such Central Govt. employees who have been employed/posted to NE region from within the NE region i.e. to locally recruited employees as well. It is understood that Ministries of Finance / Railways/Defence/Urban Affairs & Employees and Deptt. of Posts and Telecommunications are the major Ministries/Deptts. whose employees have been working/posted to the NE region.

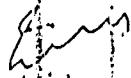
~~11/5~~ In order to enable this Deptt. to examine the demand of those Associations/Unions an estimate of the likely financial implications involved in acceptance of the demand is to be made. The Ministries/Deptts. noted above are therefore requested to furnish to this Deptt. the likely financial implication in respect of the Central Govt. employees working under their

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M/s

Administrative Control and are presently not getting SDA or not entitled to it as per Ministry of Finance's order on the subject. Besides, the expenditure already being incurred on this Head may also be indicated.

Yours faithfully



(J. Wilson)

Deputy Secretary to the Govt. of India

1. M/Finance, (Deptt. of Exp.)
Smt. Usha Mathur, JS(Pers)

2. M/Railways (Railway Board)
Shri A.C. Bakshi, JS(G)

3. M/Defence, South Block,
Shri R.P. Bagai, JS (E/PG)
New Delhi.

4. Deptt. of Urban Developt.
& Poverty Alleviation.
Shri S. Banerjee, JS(A)
Hirsh Bhawan
N.D.

✓ 5. M/Communications
Ms. Jyotsna Doshi, OOG(TAE)
Dak Tar Bhawan, N.D.

6. Shri H.K. Gupta,
OOG (Etc.)
Sanchay Bhawan,
20, Ashok Road, N.D.