

01/10/00 ?

2

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A./T.A No. 55/2002

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-55/02 .....Pg.....1.....to.....
2. Judgment/Order dtd. 19/03/2002 .....Pg.....1.....to.....5..... *disposed*
3. Judgment & Order dtd. 19/03/2002 Received from H.C/Supreme Court  
*WP(C) Pg 1 to 4*
4. O.A. 55/02 .....Pg.....1.....to.....26.....
5. E.P/M.P. ....Pg.....to.....
6. R.A/C.P. ....Pg.....to.....
7. W.S. ....Pg.....to.....
8. Rejoinder. ....Pg.....to.....
9. Reply. ....Pg.....to.....
10. Any other Papers. ....Pg.....to.....
11. Memo of Appearance. ....Pg.....to.....
12. Additional Affidavit. *affidavit filed* .....Pg.....1.....to.....21.....  
*respondent No-2 to 26*
13. Written Arguments. ....Pg.....to.....
14. Amendment Reply by Respondents. ....Pg.....to.....
15. Amendment Reply filed by the Applicant. ....Pg.....to.....
16. Counter Reply. ....Pg.....to.....

Office Not - pg - 1 -

High Court + order sheet - pg - 1 to 4

SECTION OFFICER (Judl.)

FORM NO. 4  
(See Rule 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI.

ORDER SHEET

Original No. 55/2002 (T)  
Misc. Petition No.             
Contempt Petition No.             
Review Application No.           

Applicant(s) All India Kendriya Vidyalaya Teachers Association

Respondent(s) L.O.I. Jom

Advocate for Applicant(s) D.P. Chaliha, R. Chetmy

Advocate for Respondent(s) K.H. Chandling & B.P. Todi, Mrs. P. Borua  
Pgdt. 2 & 26

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>This application in form C.F. No. 50/ disposed vide <u>Transfer Case</u> Dated <u>26/2/02</u> by <u>Dr. Registrar</u></p> <p>Order dtd <u>26/2/02</u> communicated to the parties Court. 26/2/02</p> <p>Do No <u>          </u></p> <p>Dtd <u>          </u></p> <p><u>27.3.02</u></p> <p>Copy of the Judgment has been sent to the office. For filing the same to the applicant as well as to the Advocate for the Registry.</p> <p>Received for K.V.S. 27/3/02</p>	<p>26.2.02</p> <p>19.3.2002</p>	<p>The matter has come before this Tribunal from the High Court. Pleadings are complete. The case may now be listed for hearing on 19.3.2002. Parties may be informed accordingly.</p> <p>Member <u>          </u> Vice-Chairman <u>          </u></p> <p>Heard Mr. S. Sarma, learned counsel for the respondents and none for the applicants. Judgment delivered in Open Court, kept in separate sheets.</p> <p>The application is disposed of in terms of the order. No order as to costs.</p> <p>Vice-Chairman <u>          </u></p>

received from the Registry of the Honible High Court  
by special Messenger.

The judgment and order dtd 19-3-2009<sup>at flag A</sup> passed  
by the Honible High Court in W.P.(C) No. 7355/02  
received by this Registry of the CAT, Guwahati  
Bench, Guwahati. <sup>along with the copy received of CAT O.A. No. 55/02</sup> The Writ petition No. 7355/02  
was filed against the order dated 19/3/2002  
passed by the learned Central Administrative  
Tribunal, Guwahati Bench in O.A. No. 55/2002.

The W.P.(C) No. 7355/02 is disposed of  
without causing any interference with the order  
dated 19/3/02 passed by this Honible Tribunal,  
Guwahati Bench.

The matter may be placed before the  
Honible Vice - chairman for kind perusal.

*[Signature]*  
21.8.09

*[Signature]*  
S.O. (5)  
18/8/09

*[Signature]*  
18/08/09

*[Signature]*  
DR

Honible ve,

Returned  
N.J.  
11.9.09

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 55 of 2002 (T)

Date of Decision. 19.3.2002...

All India Kendriya Vidyalaya

----- Teachers' Association, Gauhati Region. -----

Petitioner(S)

----- Mr. D. P. Chaliha & R. Chetry. -----

Advocate for the  
Petitioner(s)

-Versus-

----- Union of India & others. -----

Respondent(s)

----- Mr. S. Sarma. -----

Advocate for the  
Respondent(s)

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

THE HON'BLE

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

Judgment delivered by Hon'ble : Vice-Chairman.

} NW  
L

9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.55 of 2002 (T).

Date of Order : This the 19th Day of March, 2002.

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

All India Kendriya Vidyalaya Teachers'  
Association (Gauhati Region) represented  
by its General Secretary  
Guwahati.

. . . Applicants.

None appears for the applicants.

- Vs -

1. The Union of India, represented by the  
Secretary, Human Resource Development  
Department, New Delhi:
2. Kendriya Vidyalaya Sangathan  
Nehru House, 4, Bahadur Shah Zaffar Marg  
New Delhi.
3. Commissioner, Kendriya Vidyalaya Sangathan  
18, Institutional Area, Shaheed Jeet Singh  
Marg, New Delhi.
4. The Senior Accounts Officer  
Kendriya Vidyalaya Sangathan  
18, Institutional Area  
Shaheed Jeet Singh Marg  
New Delhi.
5. The Assistant Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office  
Guwahati.
6. The Principal, Kendriya Vidyalaya  
Digaru, P.O: Sonapur, Digaru - 782 402.
7. Kendriya Vidyalaya, Borjhar  
Mountain Shadow, Azara  
Guwahati - 781 017.
8. Kendriya Vidyalaya C.R.P.F.  
Amerigog, Guwahati - 781 020.
9. Kendriya Vidyalaya, I.O.C.  
Noonmati, Guwahati - 781 020.
10. Kendriya Vidyalaya, Khanapara  
Guwahati - 781 022.
11. Kendriya Vidyalaya, Maligaon  
Guwahati - 781 011.
12. Kendriya Vidyalaya, Narangi  
P.O: Satgaon, Guwahati - 781 027.
13. Kendriya Vidyalaya, Jagiroad  
H.P.C.L. Jagiroad - 782 413.
14. Kendriya Vidyalaya, Jorhat -2  
Jorhat - O.N.G.C. Campus  
Jorhat - 785 001.

Contd..2

15. Kendriya Vidyalaya, Kokrajhar  
Hathimatha, Kokrajhar - 783370.
  16. Kendriya Vidyalaya No.1  
Missamari-784506, Dist: Sonitpur.
  17. Kendriya Vidyalaya No.2  
Missamari-784506, Dist: Sonitpur.
  18. Kendriya Vidyalaya, New Bongaigaon  
P.O: New Bongaigaon - 783 381.
  19. Kendriya Vidyalaya, Nagaon  
P.O: Nagaon - 782 001.
  20. Kendriya Vidyalaya, Tezpur No.1  
P.O: Dekargaon, Tezpur - 784 501.
  21. Kendriya Vidyalaya No.2  
A.F.S. Tezpur, P.O: Salanibari  
Tezpur.
  22. Kendriya Vidyalaya No.3  
A.F.S. Tezpur, P.O: Salanipur  
Tezpur - 784 104.
  23. Kendriya Vidyalaya No.2  
Itanagar - 791 111.
  24. K.V.Nehu, HLP Campus, Umshing  
Shillong - 793 032.
  25. K.V.Upper Shillong  
H.Q. E.A.C. P.O: Nonghyr  
Shillong - 793 009.
  26. K.V.Umroi Cantt  
P.O: Umroicant, Barapani  
Shillong - 793 103.
- . . . Respondents.

By Advocate Mr.S.Sarma.

O R D E R

CHOWDHURY J.(V.C.) :

The subject matter relates to payment of S.D.A. to the teachers serving in the Kendriya Vidyalaya Sangathan. The cause of the teachers are espoused by the Petitioner's Association claiming S.D.A. and more particularly, assailing the Office Memo No.11(3)/95-E-II(B) dated 12.1.96 issued by the Ministry of Finance, Deptt. of Expenditure.

2. The Petitioner's Association preferred a Writ Petition before the Hon'ble Gauhati High Court which

Contd...3

was numbered and registered as 1690 of 1998. By order dated 6.4.98 the Hon'ble High Court issued rule and directed the respondents not to make recovery proceeding in terms of Govt. of India Office Memorandum dated 12.1.96. By order dated 17.1.2002 the said application was finally transferred by the Hon'ble High Court for adjudication by the Tribunal. The issue of granting of S.D.A. is almost settled. With a view to attract and retain the services of persons in N.E.Region steps were taken for providing incentives by way of giving amongst others S.D.A. The Kendriya Vidyalaya Sangathan also took a decision in this regard for providing special allowance and facilities for service in N.E.Region as incorporated in Appendix 24 of the Accounts Code for the Kendriya Vidyalayas. The provision is in tune with the orders passed by the Govt. of India from time to time in this regard. As per paragraph 3 of Appendix 24 of Accounts Code for the Kendriya Vidyalayas KVS employees who have all India transfer liability are entitled for payment of S.D.A. and the same is in addition to special pay and/or deputation (duty) allowance, if any, drawn. This allowance is, however, not admissible to the employees serving in the North-Eastern Region, who have been specifically recruited by the Sangathan for service in the area. The Office Memorandum dated 12.1.96 mentioned in the application particularly dealt with the subject of granting of S.D.A. for civilian employees serving in the N.E.Region. It also took note of the

judgment of Apex Court rendered in Union of India & Others -vs- S.Vijaya Kumar & Others (1994) Supplementary 3 SCC 649.

3. The communication dated 12.1.96 forwarded by the Sr. Accounts Officer, Kendriya Vidyalaya Sangathan to the concerned authority in this set of circumstances cannot be faulted. It is, however, made clear that the retrospective recovery in the facts and circumstances is seemingly unjustified. Mr.S.Sarma, learned counsel for the respondents infact drawing my attention to the avernments made in the affidavit submitted that no steps for recovery has so far been taken. It must be made clear that in the light of the decision rendered in Union of India & Others -vs- S.Vijaya Kumar & Others and also in the light of the consistent decisions of the Tribunal no recovery shall be made retrospectively. The Hon'ble High Court by its order dated 6.4.98 has already stayed the recovery.


4. For all the reasons stated above the Appendix 24, more particularly, para three of the said Appendix will be fully operative and persons other than the persons who are specifically recruited by the Sangathan for service in that area shall be entitled for the payment of S.D.A. In granting S.D.A. the Sangathan may also take aid of the Central Govt. policies in the matter of S.D.A. As per the clarification issued by the Cabinet Secretariat (E.A. I Section) an employee who



belongs to N.E.Region and subsequently posted outside<sup>3</sup>  
N.E.Region if posted and transferred to N.E.Region  
having a common All India transfer liability will also  
be eligible for S.D.A.

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

There shall, however, be no order as to  
costs.

  
( D.N.CHOWDHURY )  
VICE CHAIRAN

1

IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF  
ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,  
MIZORAM AND ARUNACHAL PRADESH)  
(CIVIL WRIT JURISDICTION)

WRIT PETITION No. 7355 OF 2002

**THE KENDRIYA VIDYALAYA SANGATHAN**

Through its Commissioner,

18 Institutional Area,

Shaheed Jeet Singh Marg, New Delhi.

**WRIT PETITIONER**

**VERSUS-**

**ALL INDIA KENDRIYA VIDYALAYA**

**TEACHERS' ASSOCIATION (Gauhati Region)**

represented by its General Secretary, Gauhati.

**RESPONDENT**

**P R E S E N T**

**THE HON'BLE MR. JUSTICE RANJAN GOGOI**

**THE HON'BLE MR. JUSTICE BP KATAKEY**

For the Petitioner      Sri J. Singh, Sr. Advocate,  
Sri IA Talukdar, Advocate.

For the Respondents None appears

Date of Hearing :      19.03.2009.

Date of Judgment-      Thursday, the 19th day of <sup>March</sup> 2009.

**JUDGMENT & ORDER**  
**(ORAL)**

**RANJAN GOGOI, J.-**

Heard Sri J. Singh, learned Senior Counsel appearing for the Writ Petitioner. None has appeared on behalf of the Respondents in spite of due service of notice.

2. The challenge in the Writ Petition is against an order dated 19.03.2002 passed by the learned Central Administrative Tribunal, Gauhati Bench, Guwahati, in OA No. 55 of 2002. By the aforesaid order the learned Tribunal while upholding the validity of the impugned communication dated 12.01.1996, had, however, directed that there shall be no retrospective recovery of the Special (Duty) Allowance ( hereinafter referred to as the SDA) that may have been paid. Aggrieved by the aforesaid order passed by the learned Tribunal, this Writ Petition has been filed by the Kendriya Vidyalaya Sangathan.

3. The facts, in brief, may be required to be noticed at the outset. With a view to attract and retain the services of the employees in the North Eastern Region, steps were taken to provide various incentives including SDA. The Kendriya Vidyalaya Sangathan also took a decision in this regard, which was incorporated in Appendix-24 of the Accounts Code for the Kendriya Vidyalaya Sangathan. As per the Government of India's Orders issued from time to time and paragraph-3 of Appendix-24 of the Accounts Code for the Kendriya Vidyalaya Sangathan, the employees of Kendriya Vidyalaya Sangathan having an all India transfer liability

were entitled for payment of SDA. This allowance was, however, not admissible to the employees/teachers serving in the N.E.Region, who had been specifically recruited by the authorities of the Kendriya Vidyalaya Sangathan for service in the area in question. The Apex Court in the case of UNION OF INDIA AND OTHERS -VERSUS- S. VIJAYAKUMAR AND OTHERS [1994 SUPP (3) SCC 649], laid down that a mere clause in the appointment order regarding all India transfer liability will not entitle a person from the N.E.Region to draw SDA. However, in paragraph 6 of the judgment of the Apex Court, it was directed that SDA already paid should not be recovered. Following the aforesaid orders in the case of UNION OF INDIA AND OTHERS (supra), a communication dated 12.01.1996 was issued by the Ministry of Finance, Department of Expenditure to all concerned authorities reiterating the directions laid down by the Apex Court with regard to entitlement for SDA. However, in the said communication, it was also mentioned that SDA drawn up to 20.09.1994 (date of order of the Apex Court) will not be recovered but SDA drawn thereafter shall be subjected to recovery.

4. The aforesaid communication dated 12.01.1996 was put to challenge before this Court by the Respondent Association in a proceeding registered and numbered as C.R. No.1690 of 1998. By order dated 17.01.2002 the said application was transferred to the learned Tribunal for adjudication. The learned Tribunal by the order dated 19.03.2002, impugned in the present Writ Petition, took the view that the communication dated 12.01.1996 cannot be faulted. However, retrospective recovery was held to be unjustified and, therefore, directions

were issued that there should be no such retrospective recovery. In paragraph 4 of the judgment it was specifically observed by the learned Tribunal that under Appendix-24 of the Accounts Code for Kendriya Vidyalaya Sangathan, persons other than those who are specifically recruited by the Sangathan for serving in the N.E. Region will be entitled to payment of SDA.

5. In so far as the validity of the communication dated 12.01.1996, particularly, with regard to the entitlement of employees/teachers to draw SDA, the finding of the learned Tribunal, as already noted, had been to the effect that the said communication dated 12.01.1996 cannot be faulted. The said finding, therefore, is in favour of the petitioner Sangathan. The Respondent Association has not challenged the aforesaid finding. In so far as the recovery is concerned, the learned Tribunal took the view that in the facts and circumstances of the case, retrospective recovery would be unjustified. A reading of paragraph 6 of the judgment in UNION OF INDIA AND OTHERS (supra) indicates that the Apex Court had directed that SDA drawn by the employees involved in the said proceeding should not be recovered from them. There is no indication in any part of the judgment in the aforesaid case that the Apex Court had intended to lay down the date of the judgment to be the cut off date for recovery of SDA paid to persons, who became ineligible to receive the same in terms of the judgment in question. In such a situation, and having regard to the facts of the case, the learned Tribunal took the view that retrospective recovery should not be permitted in the case before it. Having due regard to the above, we do not see any good reason to find

WP (C) No. 7355/02

By Special  
Messenger

any fault in the said conclusion of the learned Tribunal. In coming to the above conclusion, we have also taken note of the stand of the learned counsel for the petitioner that he has not been instructed as to whether any amount due from the members of the Respondent Association is liable to be recovered and whether any steps have been taken for such recovery.

6. The above being the position, we are of the view, that this Writ Petition should be disposed of without causing any interference with the order dated 19.03.2002 passed by the learned Tribunal. The Writ Petition, consequently, shall stand disposed of in the above terms.

Sd/- B.P. KATAKEY  
JUDGE

Sd/- RANJAN GOGOI  
JUDGE

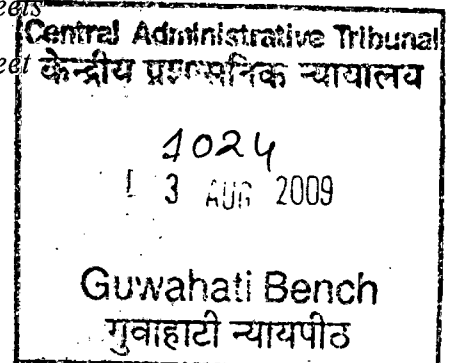
Memo No. HC.XXI. 13, 559-61 R.M.Dtd. 31/7/09

Copy forwarded for information and necessary action to: -

1. The Kendriya Vidyalaya Sangathan through its Commissioner, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
2. All India Kendriya Vidyalaya Teachers' Association (Gauhati Region), represented by its General Secretary, Gauhati.
3. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati-5. He is requested to acknowledge the receipt of the following case records. This has a reference to his letter No. 16-3/02-JA/741 dtd. 25-11-2008.

Encls:-

- |  |           |
|--|-----------|
| 1. Original Judgment passed in O.A. No. 55/02 (T) .... | 5 sheets  |
| 2. Original Order sheet ....                           | 1 sheet   |
| 3. C.R. No. 1690/98 - H.C. File Part-I with            |           |
| Order sheet ....                                       | 2 sheets  |
| Petition ....  | 26 sheets |
| Vakalatnama ....                                       | 2 sheets  |
| Affidavit in opposition ....                           | 21 sheets |



Sd/-  
3.8.09

By order

R/K/A

Asstt. Registrar (B)  
Gauhati High Court, Guwahati

22/7/09

Central Administrative

## THE GAUHATI HIGH COURT

केन्द्रीय प्रशासनिक न्यायालय

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
TRIPURA, MIZORAM & ARUNACHAL PRADESH)Gauhati Bench.  
गुवाहाटी न्यायापीठNo. 1626-30/RM  
dt. 31.1.02

From

Sri D.C. Goswami,

Assistant Registrar(B),

**URGENT**

GAUHATI HIGH COURT, GUWAHATI-781001

To

The Deputy Registrar,

Central Administrative Tribunal,

Guwahati Bench, Rajgarh Road, Bhangagarh, Ghy-5.

Dated Guwahati, the \_\_\_\_\_ 20

Subject:- Transmission of case records of C.R. no.1690/98 (All India Kendriya Vidyalaya Teachers' Asson.(Gauhati Region -vs- Union of India & Ors.)

Reference:- Hon'ble Court's order dt.17.1.2002 passed in the case.

Sir,

In pursuance of the Hon'ble Court's order under reference, I am sending herewith the marginally noted case records along with other connected papers to you for taking necessary action at your end.

Receipt of the records may please be acknowledged.

Yours faithfully,

Assistant Registrar(B).

dt. 23.1.02

Enclose:-

1. H.C.P. I of C.R. case no.1690/98 with 2 o/s and affidavit-in-opposition filed on behalf of Respdt. nos.2 to 26; Filing No. 15226/58. ....= 1 file.

Memo No.

/RM Dated

Copy forwarded for favour of information &amp; necessary action to:-

1. Smti. Rekha Chakraborty, Advocate, Gauhati High Court, Guwahati.
2. The Central Govt. Standing Counsel, Gauhati High Court, Guwahati.
3. Mrs. Priyanka Barua, Advocate, Gauhati High Court, Guwahati.

(PTO)... 2/-

High Court 1/01-80,000 - 23-7-01

SOP 57

MS  
1/2/2

Mr. Datta

Pl. do the needful.  
MS  
1/2/02

4. The Notice Board, Bar Association, Gauhati High Court, Ghy.

Assistant Registrar (B).

.....

rm/2201002



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

Appeal from

## Civil Rule

No. 1670 of 1998

**Petitioner**

all India Kendriya vidyalaya Teachers Association

*Versus*

Union of India Gov.

Respondent

### Opposite-Party

Appellant  
For \_\_\_\_\_  
Petitioner

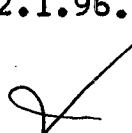
MR. D. P. Chaliha

Mis R. Chetys

Respondent  
For \_\_\_\_\_  
Opposite-Party

~~C. G. S. C.~~, Dr. B. P. Todi, Mrs. P. Barua for respondent  
(nos 22 to 26)  
Mr. K. N. Choudhury, Advocate

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders proceedings with signatures
	6.4.98		<p style="text-align: center;">B E F O R E THE HON'BLE MR.JUSTICE JN SARMA</p> <p>Heard Mr.D.P.Chaliha, Learned Advocate for the petitioner.</p> <p>Call for the records.</p> <p>Let a Rule issue calling upon the respondents to show cause as to why a Writ should not be issued as prayed for; and/or why such further order or other orders should not be passed as to this court may seem fit and proper.</p> <p>Sri KN Choudhury, Learned Govt. Advocate accepts notice on behalf of all the respondents. 26 copies of the petition shall be served on him by tomorrow.</p> <p>In the meantime, it is directed that no recovery proceeding shall be made by Govt. of India Office Memorandum dated 12.1.96.</p> <p style="text-align: right;"> JUDGE</p>
	UPADHAYA		

Pl. Communicate

2/20/98

20.4.98

dt. 23.9.98

Order dt. 6.4.98

Committ-ed to the Record  
has been called :

m

Noting by Office or Advocate

Serial  
No.

Date

Office notes, reports, orders or proceedings  
with signature

16.7.99

Mr. K. N. Chon Thung,  
Advocate, have entered  
appearance on behalf  
of respondent No. 4  
having filed a  
vakkalat nama on  
6.6.9

01-08-2000

An affidavit-in-opposi-  
tion on behalf of resp-  
ondent nos. 2 to 26  
has been filed.

B  
01/08

3/11/2001

The Rule is ready as  
regard Service

all

Noting by office of Advocate.	Serial	Date	Office notes, reports, orders, or proceeding with signature.
-------------------------------	--------	------	--

17-1-2002  
P. C. Phukan

Heard Mr. D. P. Chaliha  
learned Sr. Counsel for the  
petitioner and Dr. B. P. Todi,  
learned Counsel for the respondent  
Kendriya Vidyalaya.

Let this matter be  
transferred to the Central  
Administrative Tribunal  
Guwahati Bench, Guwahati.

Judge  
GUWAHATI HIGH COURT

Transfer the  
matter to the C.A.T.  
Guwahati Fortnightly.

19/1/02

20/1

**THE GAUHATI HIGH COURT**  
 (THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA MANIPUR : TRIPURA  
 MIZORAM AND ARUNACHAL PRADESH)

**CHECK SLIP**

DISTRICT : KamrupCR CASE NO. 1620 198

DB/SB/A/B

CATEGORI CODE :

FILING SL. NO.

DATE OF FILING :

Name of Party :

All India Kinsman Vidhanya  
Association  
Union of Insore

Signature of D. A.

1. Court Fee due : Rs. 50.00  
 Court Fee paid : Rs. 50.00  
 Deficit if any : Rs. 50.00
2. Filed within Limitation : Yes / No.  
 Condaton Petition : Yes / No.  
 ( if any )
3. Related information For : Yes / No.  
 Caveat Matching
4. Vakalatnama File : Yes / No.
5. Certified copy of order : Yes / No.  
 Judgement, if required, : Yes / No.  
 Filed.
6. Affidavit / Vertification : Yes / No.  
 in order.
7. From in proper. : Yes / No.
8. Any other defects ( to be : Yes / No.  
 name )

CASE READY / DEFECTIVE.

SIGNATURE OF THE SUPDT.  
FILING SECTION.

Signature of D. A.  
 SIGNATURE OF THE AFFIDAVIT  
 REPLYING STAMP  
 Gauhati High Court

THE GAUHATI HIGH COURT  
( THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA  
MIZORAM AND ARUNACHAL PRADESH )

Category No. Year

1(a). Case No.: CR / 1620 / 1998

1(b) Related Case No.: \_\_\_\_\_ / \_\_\_\_\_ / 199

1(c) Related Information : \_\_\_\_\_

1(d) Jurisdictional Value Rs. 50.00 1(e) Court Fee Rs. 58.80

1(e) Provision of law under which the case is filed \_\_\_\_\_  
dd / mm / yy

1(f) Date of Registration : 06 / 04 / 98

2(a). Case Category Code : CR

2(b). Subject Category Code :

2(c). Bench Code :

3. State Name : Assam 4. State Code : 78

4. Petitioner(s) : All Indian Women say 18/11/13

5. Respondent(s) : The Union & Joe

6. Petitioner(s): Ms. D. F. Chavira  
Advocate(s): Mr. A. K. Chisholm

7. Respondent(s): G. G. S. C.  
Advocate(s): \_\_\_\_\_

8. Stage Code of the Case :           

9. Court No. : 14

10. Caveat( if any) : Yes ☐ / No ☒

**Signature with date :**

\* kindly use appropriate codes.

DISTRICT : Kamrup

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR :  
TRIPURA: MIZORAM AND ARUNACHAL PRADESH).

(CIVIL ~~WRTA~~ JURISDICTION).

CIVIL RULE NO 1690/98.

IN THE MATTER OF:

All India Kendriya Vidyalaya Teachers'  
Association (Gauhati Region),  
represented by its General Secretary,  
Guwahati and others.

.... PETITIONERS.

VERSUS

Union of India & ors ... RESPONDENTS.

MATTER : Others, Civil Rule (Service)

BENCH : B

CODE NO : 10189

I N D E X

<u>Sl.No.</u>	<u>Particular</u>	<u>Page.</u>
1.	Petition -	1 to 15
2.	Affidavit -	16
3.	Annexure -A -	17
4.	Annexure -B -	18-20
5.	Annexure -C -	21
6.	Annexure -D -	22-24
7.	Annexure -E -	25-26

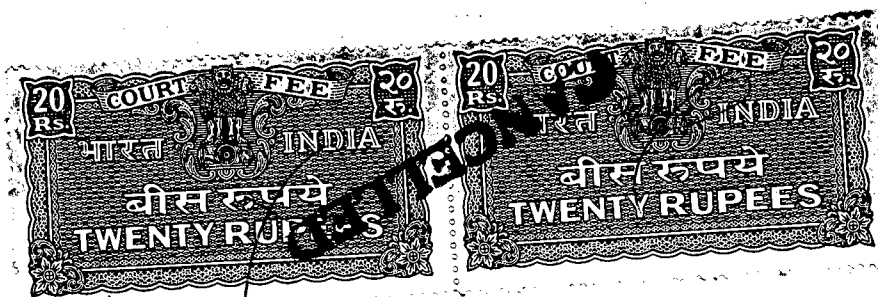


Filed by -

Rakha Chakraverty

Advocate.

6.4.98



Filed by:

All India Kendriya Vidyalaya  
Teacher's Association (Gauhati Region)  
..... petitioners  
Thru: Mr. Rakesh Chakravarty  
Advocate  
6.4.98

DISTRICT : KAMRUP

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR:  
TRIPURA: MIZORAM AND ARUNACHAL PRADESH).

(CIVIL WRIT JURISDICTION).

1620  
CIVIL RULE NO 1620 / 1998.

To

COPE 16183 Other Civil Rules

The Hon'ble Sri M. RAMAKRISHNA, B.A., BL.,  
the Chief Justice of the Hon'ble Gauhati  
High Court and His Lordship's Other  
Companion Justices of the said Hon'ble  
Court.

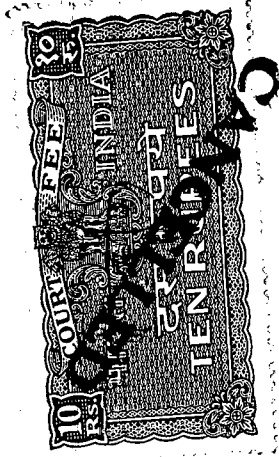
IN THE MATTER OF :

An application under Article 226 of  
the Constitution of India for a  
writ in the nature of Mandamus and/or  
any other Writ, Order or Direction.

-AND -

IN THE MATTER OF :

Enforcement of Petitioners Fundamental  
rights guaranteed under Pt. III of  
the Constitution of India for enforce-  
ment of the Petitioners legal rights  
as per Provisions of the Accounts  
Code of the Kendriya Vidyalaya  
Sangathan and for violation of





-2-

the Principles of natural justice .

-AND -

IN THE MATTER OF :

✓ An Office Order dated 25.9.97 issued by the Senior Accounts Officer ,Kendriya Vidyalaya Sangathan ,New Delhi to implement the Govt. of India's office memorandum dated 12.1.96 directing the Department to stop forthwith the payment of special duty allowance with immediate effect and to make recovery of the payment made beyond 20.9.94 (Annexure - 'A' ) .

-AND-

IN THE MATTER OF :

The representation submitted by the Petitioners' Association on 31.1.98 to the Commissioner ,Kendriya Vidyalaya Sangathan , New Delhi ( Annexure 'D' ) .

-AND-

IN THE MATTER OF :

All India Kendriya Vidyalaya Teachers' Association (Gauhati Region ) represented by its General Secretary, Guwahati.

VERSUS

...PETITIONERS.

1. The Union of India ,represented by the Secretary ,Human Resource Development Department , New Delhi.

.....3.....

2. Kendriya Vidyalaya Sangathan,  
Neheru House, 4, Bahadur Shah Zaffar Marg,  
New Delhi.
3. Commissioner, Kendriya Vidyalaya Sangathan  
18, Institutional Area, Shaheed Jeet Singh  
Marg, New Delhi - 11016.
4. The Senior Accounts Officer ,  
Kendriya Vidyalaya Sangathan ,  
18, Institutional Area, Shaheed Jeet Singh  
Marg , New Delhi.
5. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan ,  
Regional Office, Guwahati.
6. The Principal, Kendriya Vidyalaya ,  
Digaru, P.O. Sonapur, Digaru - 782 402.
7. Kendriya Vidyalaya , Borjhar ,  
Mountain Shadow , Azara, Guwahati- 781 017.
8. Kendriya Vidyalaya C.R.P.F.  
Amerigog , Guwahati - 781 020.
9. Kendriya Vidyalaya , I.O.C.  
Noonmati, Guwahati - 781 020,
10. Kendriya Vidyalaya , Khanapara,  
Guwahati - 781 022,
11. Kendriya Vidyalaya, Maligaon ,  
Guwahati - 781 011,
12. Kendriya Vidyalaya , Narangi ,  
P.O. Satgaon , Guwahati - 781 027,
13. Kendriya Vidyalaya, Jagiroad,  
H.P.C.L. Jagiroad - 782 413.
14. Kendriya Vidyalaya, Jorhat-2,  
Jorhat - O.N.G.C. Campus ,  
Jorhat - 785001.

-4-

15. Kendriya Vidyalaya, Kokrajhar ,  
Hathimatha , Kokrajhar - 783370,
16. Kendriya Vidyalaya No. 1,  
Missamari -784506, Dist. Sonitpur ,
17. Kendriya Vidyalaya No. 2,  
Missamari , 784506, Dist. Sonitpur,
18. Kendriya Vidyalaya, New Bongaigaon ,  
P.O. New Bongaigaon - 783381
19. Kendriya Vidyalaya, Nagaon ,  
P.O. Nagaon , 782001.
20. Kendriya Vidyalaya, Tezpur No. 1,  
P.O. Dekargaon , Tezpur- 784501.
21. Kendriya Vidyalaya No. 2,  
A.F.S. Tezpur, P.O. Salanibari,  
Tezpur.
22. Kendriya Vidyalaya No. 3,  
A.F.S. Tezpur, P.O. Salanibari, Tezpur-784104.
23. Kendriya Vidyalaya No. 2,  
Itanagar - 791111.
24. K.V. NEHU , HLP Campus, Umshing,  
Shillong - 793032
25. K.V. Upper Shillong ,  
HQ. E.A.C. P.O. Nonghyr, Shillong- 793009,
26. K.V. Umroi Cantt ,  
P.O. Umroicant, Barapani, Shillong- 793103.

....RESPONDENTS.

contd.....5...

The humble petition of the Petitioners  
above named -

MOST RESPECTFULLY SHEWETH :

1. That the Petitioner above named is an Association of the Teachers serving in the Kendriya Vidyalaya Sangathan situated in the Guwahati Region mostly in the State of Assam and Meghalaya and in Arunachal Pradesh. There are about 300 (three hundred) members in the Association who are working in various schools in the region run and managed by the Kendriya Vidyalaya Sangathan. Except a small percentage of Teachers of the Association all the Teachers are appointed on the basis of All India Selection and their jobs are transferrable on All India Basis and the seniority of the teachers of the region are also fixed on All India Basis. Most of them have been posted in the region on transfer from outside the North East. All the members of the Petitioners Association are permanent residents of different areas and are citizens of India. The members of the Petitioners Association as a citizen are entitled to all the rights and privileges guaranteed under the Constitution of India.

2. That the Kendriya Vidyalaya Sangathan is an autonomous body set up by the Ministry of Education. It is registered as a Society under the Societies Registration Act in December, 1965. The Kendriya Vidyalaya Sangathan to be expressed as "SANGATHAN". In future reference it was set up to administer the Central

Schools established throughout the country to provide proper educational facilities to the children of the Defence personnel and Central Govt. employees working at different places. The Sangathan is directly under the control of the Ministry of Human Resource Development and there is a Board of Governors with one Chairman who happen to be the Minister of the Department. The Commissioner is the Chief Executive of the Sangathan who holds all the executive powers and carry on day today administration of the Sangathan. All other Respondents are directly under the control and supervision of the Commissioner of the Sangathan. The fund for management, supervision, control and administration of the Sangathan as well as the Kendriya Vidyalaya throughout India are provided by the Govt. of India.

3. That the Petitioners Association is looking after the welfare of the Teachers working in various Kendriya Vidyalaya Sangathan of the region. The Teachers of the Petitioners Association in course of their employment have been granted various service benefits like the enhanced D.A., house rent, compensatory allowance and all other service benefits that are granted to the Central Govt. employees from time to time. The accounts code of the Sangathan provides for all matters relating to the pay and other benefits

.....7.

of the employees. In Appendix 24 of the said code , make Provisions for special allowances and facilities for service in North Eastern Region and Andaman Nicobor Islands.

Clause III of the said Appendix provides thus-

" Special(Duty ) Allowance.

KVS 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. Such of these 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, Construction Allowance and Project Allowance will be drawn separately (upto 30.11.1988).

NOTE :

- (1) The Special (duty) Allowance shall be payable for the period from 1.1.1986 to 31.11.1988 on the existing basic pay as on 31.12.1985 in the pre-revised scale.

.....8.....

- ii) From 1.12.1988 KVS employees who have all India transfer liability will be granted Special (Duty) Allowance @ 12½% of basic pay subject to a ceiling of Rs. 1,000/- 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 allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

The KVS employees who are member of Schedule Tribes and are otherwise eligible for the grant of Special (Duty) Allowance under this para and are exempted from payment of Income-Tax under the Income-Tax Act will also draw Special (Duty) Allowance.

(G.I.M.F. (Deptt. of Expenditure), O.M.No.20014/16/86/ E.IV(B) dated 1.12.1988)

- (iii) Special (Duty) Allowances will not be admissible during period of leave/training beyond 15 days at a time and beyond 30 days in a year. For this purpose while maternity leave is leave, the vacations are also of the same nature and as such

the payment of Special (Duty) Allowance during the period of maternity leave and vacations will be regulated accordingly. The allowance is not admissible during suspension and joining time.

iv) Special (Duty) Allowance will not be admissible to the employees serving in the North Eastern Region etc. who have been specifically recruited by the Sangathan for service in the area.

4. That on the face of the said Provision made in Appendix 24 of the Accounts Code, the Teachers and Grade IV staff of the Sangathan working in the region were given special duty allowance since 1983. The special duty allowance initially paid was upto Rs. 400/- but the same has now been raised and the members of the Petitioners Association have been getting about Rs. 1200/- p.m. as special duty allowance. It was further provided in the accounts code that the persons who have been appointed in the Sangathan as Teacher on the basis of the selection held in the regions and were appointed locally will not be entitled to the said allowance inspite of their having all India transfer liability.

5. That the Sr. Accounts Officer of the Sangathan by his letter dated 25th September, 1997 forwarded a copy of the office memorandum issued by the Ministry of Finance Department, Dept. expenditures relating to the



-10-

payment of special duty allowance for civilian employees serving in the State and in Union Territories of the North Eastern Region and requested the Asstt. Commissioner of the Region to take necessary action in the matter.

The Office Memorandum no.O.M.No. 11(3)/95 E 11(E) dated 12.1.96. Copy of which was forwarded along with the letter dated 25.9.97 after making reference to the office memorandum issued on the subject of payment of special duty allowance for the employees serving in the North Eastern Region directed that on the basis of the Supreme Court judgment dated 20.9.94 in Civil Appeal No.3251/93 directed grant of this allowance only to employees who have been transferred from outside the region for their posting and service in the North Eastern region and not to the local employees who have been appointed to the service from that region, and to recover the amount paid after 20.9.94.

A typed copy of the letter dated 25.9.97 and the office memorandum dated 12.1.96 are annexed herewith and marked as Annexures A and B respectively.

6. That except ~~that~~ forwarding the said office memorandum to the Principals of the Kendriya Vidyalaya Sangathan who are the Drawing & Disbursing Officer of the salary of the Teachers and other staff of the Kendriya Vidyalaya Sangathan, no further instruction as to the enforcement to the office memorandum was issued by the office of the Sangathan and as a result

- 11 -

inspite of the clear direction in the accounts code of the Sangathan .The teachers who have all India transfer liability and whose seniority is also fixed on all India basis and who have been working in the region after being transferred from outside the region are not provided with the special duty allowance by the Principals . The Petitioners Association ,therefore , submitted a representation to the Commissioner on/or about 31.1.98 expressing their strong reasoning over stoppage of special duty allowance and requested him to take appropriate steps in the matter. The Asstt. Commissioner of the Sangathan ,Guwahati forwarded the said representation to the Senior Accounts Officer vide letter dated 3.2.98 and requested him to send clarifications in the matter immediately. But no action has been taken on the said two representations of the Petitioners Association and the Principal of the Kendriya Vidyalaya Sangathan are now taking steps for recovery of the amount of special duty allowance already paid to the members of the Petitioners Association after 20.9.94 as per the direction issued in the office memorandum dated 12.1.96 (Annexure B).

Letter dtd.3.2.98 & 31.1.98 are enclosed as Anx.C & D respectively.  
7. That it is further stated that the Teachers

who have been appointed on All India Basis and whose seniority is also fixed on All India Basis and have been transferred to the region for service by the Sangathan have ~~been~~<sup>been</sup> not denied the special duty

.....12.....

allowance by the Respondents. One lady teacher of the Kendriya Vidyalaya no.2 Air Force Station , Tezpur who joined the service at Tezpur in 1995 November , on being transferred from Kendriya Vidyalaya in Himachal Pradesh has ~~been~~ denied the special duty allowance since October, 1997 and inspite of repeated requests and demands the Principal has not paid the same. Finding no other alternative she has requested the Asstt. Commissioner of the Sangathan at Guwhati to issue necessary instructions to release the special duty allowance to her immediately but no action has been taken as yet .

A copy of the letter dated 27th March '98 is annexed hereto and marked as Annexure E.

8. That the teachers of the Kendriya Vidyalayas are controlled and guided by the various Rules and Regulations of the Sangathan. The Sangathan being an autonomous body it is a separate entity and the Rules and Regulations made by the Sangathan will only be applicable in respect of their employees. The Appendix 24 of the accounts code having categorically provided for payment of special duty allowance. The Respondents are bound by the said Provisions and the Petitioners are entitled to all the benefits and privileges provided therein.

9. That the office memorandum dated 12.1.96 issued by the Govt. of India can govern only the Central

on the subject. There being specific provision on the subject provided for by the Sangathan, the Govt. circular will not be applicable in case of the employees of the Sangathan

10. That the accounts code having provided as to who are the category of employees who will not be paid the special duty allowance inspite of their employment in the region, the action of the authorities in denying the special duty allowance to the employees of the Sangathan having all India transfer liability merely on the basis of the office memorandum dated 12.1.96 is illegal and void.

11. That the members of the Petitioners Association having been paid the special duty allowance on the basis of the provisions in the accounts code denial of the special duty allowance with effect from October'97 on the basis of the communication of the Senior Accounts Officer dated 25th Sept'97 amounts to denial of rights of privileges guaranteed to the employees of the Sangathan and it is therefore violative of the fundamental rights of the petitioners.

12. That the members of the Petitioners Association having been paid the special duty allowance initiation of recovery proceeding of the payments made after 20.9.94 without any opportunity will be arbitrary and illegal.

-14-

12. The members of the Petitioners Association having been granted the pecuniary benefit , the recovery merely on the basis of the Government circular is illegal.

13. That the payment of the special duty allowance to the Teachers of the Sangathan being exclusively provided in the accounts code applicable to the members of the Association , the recovery of the amount already paid after September '94 on the basis of the Govt. Circular will be extraneous to the Provisions of the code and is therefore illegal.

14. That it is a fit case where your Lordships in exercise of the extraordinary jurisdiction granted under Article 226 of the Constitution of India issued necessary direction to the Respondents to pay the special duty allowance to the Teachers of the Sangathan having All India transfer liability and further directs not to recover any amount already paid to them on the basis of the Govt. Memorandum dated 12.1.96( Annexure B).

15. That the petitioner demanded justice and the same has been denied.

16. That the remedy sought for is just and complete and there is no other efficacious , alternative remedy.

17.

.....15.....

- 15 -

17. That this application is made bonafide and for the ends of justice.

It is, therefore, humbly prayed that your Lordships be pleased to admit the application, call for the records of the case and issue a Rule, calling upon the Respondents to show cause as to why the office Memorandum dated 12.1.96 (Annexure B) should not be set aside and quash to the extent the rights of the petitioner and further to issue necessary direction to the Respondents to enforce the Appendix 24 of the accounts code in respect of the employees of the Sangathan and after hearing the parties and perusal of the records make the Rule absolute and/or pass such order or orders as your Lordships deem fit and proper in the facts and circumstances of the case .

Pending hearing of the Rule, it is further prayed that the impugned office Memorandum dated 12.1.98 (Annexure B) may be suspended with specific direction not to recover any amount from the members of the Petitioners Association and to pay the special duty allowance to the members during the pendency of the Civil Rule -

And for this act of kindness, as in duty bound, the Petitioners shall ever pray.

Commissioner of Affidavits  
Central High Court  
Chennai

...affidavit.....

A F F I D A V I T

I, Sri Chandra Kanta Haloi, son of late -  
Harendra Nath Haloi , aged about 55 years , resident  
of Bhagadattapur, Beltola ,Guwahati- 22 by profession  
Service , do hereby solemnly affirm andsay as follows :

1. That I am the General Secretary of the  
Petitioners Association and having been duly authorised  
by the Executive Committee to take steps in the matter.

I am acquainted with the facts andthe  
circumstances of the case .

2. That the statements made in this affidavit  
and in paragraphs 1, 4, 6, 7, 8,  
are true to my knowledge, those made in paragraphs  
2, 3, 5, are being matters  
of records of the case are true to my information  
derived therefrom and the rest are my humble submissions  
before this Hon'ble court which I believe to be true.

And I set my hands to this affidavit on this  
6 th day of April , 1998 at Guwahati.

Chandra Kanta Haloi  
DEPONENT 6/4/98

Identified by.

Hitesh Barman  
Advocate's clerk 6.4.98

Subscribed before me on 6/4/98  
The declarant is identified by me  
I certify that I read over and the contents  
of the declaration are true and correct  
as stated by the declarant.

Commissioner of Affidavits  
Guwahati High Court  
Guwahati

ANNEXURE A.

KENDRIYA VIDYALAYA SANGATHAN  
18, INSTITUTIONAL AREA ,  
SHAHEED JEET SING MARG  
NEW DELHI - 1

F.130-46/KVS/Budget /Part.II Date 25 Sept'97.

Subject: Special (Duty) Allowance for civilian employees  
serving in the State and Union Territories on  
North Eastern Region.

A copy of Government of India Ministry of Finance,  
Deptt. of Expenditure O.M.No.11(3)/95-E-II(B) dated 12.1.96  
on the subject cited above is forwarded for information  
and necessary action.

Hindi version of this O.M. will follow.

Sd/-

(J.S. TALWAR)

SR. ACCOUNTS OFFICER .

Distribution :-

1. The Assistant Commissioner, KVS all Region Offices  
with the remarks of circulate this O.M. to all KV's  
under your control.
2. The Accounts-Cum-Inspecting Officer KVS all  
Regional Office.
3. All Officer/Sections in the KVS(H.Q.) including  
Training Wing.
4. The General Secretary all Recognised Associations,
5. Principal, K.V.I. Post Blair(S & N Islands for  
information with reference to his letter no. 377/KVPS/96-  
97/ 1284 dated 1.3.1997.
6. Guard File.



ANNEXURE B.

No.F.O.M.No.11(3)/95-E.II(B) Dated 12-01.1996.

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 20.04.1987 read with O.M.No.20014/16/86-E.IV/E-II(B) dated- 1.12.1988 on the subject mentioned above.

2. The Government of India vide the above-mentioned O.M. dated 14.12.1983 ,granted certain incentives to the Central-Government civilian employees pointed to the N.E.Region, one of the incentives was payment of Special Duty Allowances (SDA) to those who have "All India Transfer Liability".

3. It was clarified vide the above -mentioned O.M.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. ie. whether recruitment to service/cadre/post has been made on All India Basis and whether promotion is also done on the basis of on 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 any where 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 of 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 of 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/Department against the orders of the CAT.

6. The Hon'ble Supreme Court in their Judgment delivered on 20-09-1994( in Civil Appeal No.3251 of 1993) upheld the submissions of the Government of India that Central Government Civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the N.E. Region from outside the region and SDA would not be payable more because of the cause in the appointment order relating to All India Transfer its 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 know the above

ANNEXURE C.

Kendriya Vidyalaya Sangathan  
Regional Office :Guwahati.

No.F.28-1/97-KVS(GR)/ 15998

Dt. 03.02. 1998.

SPEED POST .

Shri J.S. Talwar, Sr. A/Os Officer ,  
Kendriya Vidyalaya Sangathan ,  
New Delhi - 16.

Subject -Special (Duty) Allowance for civilian employees  
serving in the State & Union Territories of  
North-East-Region.

Sir,

I am to invite your kind attention to this office letter of even number dated 23.10-97 on the subject cited above and to request you please to send the required clarification to this office urgently so that the points of doubts raised by the Kendriya Vidyalayas under this region can be clarified suitably by this office at the earliest.

I am to also enclose herewith a copy of the letter received from Shri C.K.Haloi, General Secy.KVSTA, Guwahati Region, Kendriya Vidyalaya, Khanapara for taking immediate action in this regard.

Encl:- As above.

Yours faithfully

Sd/-

(Dr.E.Prabhakar )

EDUCATION OFFICER

FOR ASSISTANT COMMISSIONER .

Copy to -

Shri C.K.Haloi, Gen.Secty,KVSTA, Kendriya Vidyalaya,  
Khanapara for information.

Sd/- E.Prabhakar

For ASSISTANT COMMISSIONER .

ANNEXURE D.ALL INDIA KENDRIYA VIDYALAYA TEACHERS ASSOCIATION  
GUWAHATI REGION

C.K.Haloi. MA. (Pol.Science) B.T.

General Secretary

A.I.K.V.T.A.

Regisvered with A/D.

K.V.Khanapara,

Guwahati- 781 022

Phone No. 561062

31st January , 1998.

To

Commissioner ,  
Kendriya Vidyalaya Sangathan  
18 Institutional Area ,  
Shahid Jeet Singh Marg,  
New Delhi - 110016.Subject -Spécial Duty Allowance for North  
Eastern Région-regarding.

Madam,

I would like to invite reference to my letter dated-  
10.11.97 addressed to the Asstt. Commissioner, (GR) copy to you  
on the above subject.

It is matter of great regret that we have neither  
heard anything from the Asstt. Commissioner nor any clari-  
fication from your good -self. The recent circular issued  
by the Account Officer, K.V.S. on the light of the Supreme  
Court Virdict, 1994 and the Finance Ministry's Circular  
no. OM II(3)/95-E II(G) dated 12.1.96 has been mis-interpre-  
ted by the Principals of this region and started stoppage  
and recovery of the Special Duty Allowance paid to the  
eligible employees of Kendriya Vidyalaya Sangathan of North  
East Region . The Principals of different schools have  
misconceptions on the circulars and stopped giving the  
special Duty Allowance to some of the employees who have  
been receiving the allowance on the strength of the norms  
mentioned in the Accounts code. The criteria for the

-2-

Special Duty Allowances was based on the employees having all India Transfer Liability and posting in the North Eastern Region. Except for those teachers and staff who had been exclusively recruited from N.E.R. the Special Duty Allowances have been paid to all the employees on the basis of their eligibility. But it is a matter of great surprise that many Principals have started paying the Allowances to the P.G.Ts only posted from outside this region and discontinued the Allowances to the other categories of employees. The recruitment of all categories of teachers are made on all India basis and seniority and selection procedures are also based on all India basis and hence depriving the allowance to some of the teachers and staff is not just and gross violation of the norms made by the Sangathan. The confusion created by the false posting from outside the region may kindly be clarified and discrimination made by the principals may kindly be stopped with your intervention at an early date.

The teachers and the staff of this region have expressed their strong resentment over the issue of the special duty allowances and proposed the path of agitation and legal help if they fail to get justice from you within 15 days on receipt of this letter. The future course of action will be intimated to you and the Sangathan will be held responsible for the injustice done to the Teachers and Staff of the North Eastern Region.

.....3.....

24  
33

-3-

Under the circumstances, mentioned above I, fervently appeal to your goodself to cast your urgent attention on this matter and ameliorate the wounds of all the employees of North Eastern Region.

Thanking you,

Yours faithfully

Sd/- C.K.Haloi 31.1.98.

(C.K.HALOI )

General Secretary .

Copy to-

1. The Asstt. Commissioner, Kendriya Vidyalaya Sangathan, Guwahati Region, for information.
2. The Principals, Kendriya Vidyalayas, Guwahati Region, for information.
3. The Minister, Human Resource Development, Government of India, for information and necessary action.

ANNEXURE E.

TO

The Assistant Commissioner ,  
Kendriya Vidyalaya Sangathan,  
Regional Office Chayaram Building,  
Guwahati (Assam ).

(Through proper Channel).

Sub - NON PAYMENT OF SPECIAL (DUTY) ALLOWANCE SINCE  
OCT 1997.ONWARDS.

Sir,

Respectfully I beseech to submit the following few lines for your kind consideration and favourable action please:-

2. That I am posted as PRT in KV No.2, Air Force Station, Tezpur since Nov'95 , after being transferred from KV, CCI, rajban, (Sirmour) Himachal Pradesh on completion of 5½ years of service.

3. On being posted from outside NE region, I was being paid SDA @ 12.5% of my pre-revised B/Pay until Oct'97 when the allowance was abruptly stopped for payment, for the reason known to the Vidyalaya, leaving me in financial loss and agony.

4. In this regard, I would like to state the following :-

a) I have All India Transfer Liability.

b) I was recruited by KVS, RO, Chandigarh and not by any KVS, no situated in the NE region.

c) SDA is admissible to attract and retain the service of employees who are transferred from outside NE region and not those who have been appointed /promoted and posted in the NE region itself as per Govt. of India, Min of Finance, Deptt. of Exptt O.M.No.11(3)/95-E II(P) entitled to this allowance.

d)



d) I am not among the Ineligible persons for receiving SDA as per para (7) of the said O.M., keeping in view my recruitment/posting profile.

e) I do not have my Home Town in the NE region.

5. In view of the above, I earnestly request you to issue instruction to the Vidyalaya (KV No.2, AF, Tezpur) to release my arrear of SDA and continue the allowance in the pre-revised scale of pay till further order of payment of SDA in the revised scale is received from the Govt.

Seeking your sublime reasoning, and with thanks,

Yours faithfully,

Sd/-Mrs. Shaukat Haloi )

(Mrs. SHAUKAT HALOI ),

KV no. 2, AFFOSTATION  
TEZPUR.

Date : 27 Mar'98.

Copy to -

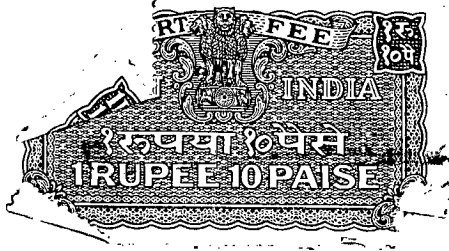
KVS, New Delhi,

KVS, RO, Guwahati

O/O the Teachers' Association,  
Guwahati.

X For advance information &  
X suitable action please.  
X

DISTRICT :



36

Filed on behalf  
of Respondent no. 2  
S. B. Bhattacharya  
Pallab Bhattacharya  
Advocate, 10/99.

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, MEGHALAYA, MANIPUR,  
NAGALAND, TRIPURA, MIZORAM & ARUNACHAL PRADESH)

(CIVIL EXTRAORDINARY JURISDICTION)

IN THE MATTER OF:

Civil Rule No.1690/98.

-AND-

IN THE MATTER OF:

An Affidavit-in-Opposition filed  
on behalf of Respondents No.2 to 26.  
All India Kendriya Vidyalaya  
Teachers' Association (Guwahati  
Region) - represented by its  
General Secretary, Guwahati.

... Petitioner.

-AND-

IN THE MATTER OF:

Union of India & Ors

... Respondents.

I, Shri. Deo Kishan Saini s/o Shri Chhotulal, aged about  
50 years, presently working as Assistant Commissioner, <sup>(Offg.)</sup> Kendriya  
Vidyalaya Sangathan, Regional Office, Maligaon, Guwahati-11,  
do hereby solemnly affirm and declare as follows :-

....2/-



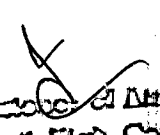
15/ 226/58

Received of Affidavit  
Gauhati High Court  
Guwahati

37  
2.

1. That I have been impleaded as Respondent No.5 in the instant Civil Rule. I am competent to file this affidavit on behalf of Respondents No.2 to 26 as authorised and I, accordingly, swear the same. A copy of the Writ Petition filed by the petitioner Association has been served upon my counsel and I have gone through the same and understood the contents thereof. I am fully acquainted with the facts and circumstances of the case. Save what has been specifically admitted in this affidavit all the averments and submissions made in the Writ Petition is denied by me.
2. That with regard to the statements made in paragraph 1 of the Writ Petition I beg to state that the Kendriya Vidyalaya Sangathan (hereinafter referred to as the Sangathan) authorities has granted recognition to All India Kendriya Vidyalaya Teachers' Association (hereinafter referred to as the Association) and no separate recognition has been granted to the Association, Guwahati Region.
3. That with regard to the statements made in paragraph 2 of the Writ Petition I have no comments to offer.
4. That with regard to the statements made in paragraph 3 of the Writ Petition I beg to state that Accounts Code of Sangathan contains the instructions issued by the Government of India from time to time and also contains the decision of the Board of Governors of the Sangathan. Appendix-24 of the Accounts Code contains instructions for payment and regulation of Special Duty Allowance (hereinafter referred to as the SDA payable in North-Eastern Region. The instructions

....3/-

  
Advocate  
Guwahati

contained in Appendix-24 are the instructions applicable at the time of printing of Accounts Code. Various instructions have been issued by the Government of India from time to time. The latest instructions for regulating the payment of SDA in North Eastern Region are contained in the Ministry of Finance O.M.No.11/37-95-E.II(B) dated 12.1.96 circulated by the Sangathan's Circular No.F.130-46/KVS/Budget/Pt.II dated 25.9.97.

5. That with regard to the statement made in paragraph 4 of the Writ Petition I beg to state that Accounts Code contains the decision/orders passed by the Government of India from time to time and also the decision of the Board of Governors of the Sangathan. Accordingly, the SEA sanctioned to the Central Government employees since 1983 was also extended to the employees of the Sangathan.

6. That with regard to the statements made in paragraph 5 of the Writ Petition I beg to state that it has been made clear in paragraphs 4 & 5 of this affidavit-in-opposition (hereinafter referred to as the counter) that the SDA to Sangathan employees has been sanctioned as was sanctioned to Central Government employees. The payment of SDA is governed by various orders issued by the Central Government and circulated by the Sangathan from time to time. The Government of India has issued O.M. No.11(3)/95-E.II(b) dated 12.1.96 it has been circulated by the Sangathan Circular No.F.130-46/KVS/Budget-Pt.II dated 25.9.1997.

....4/-

As the payment of SDA has been extended based on the Government orders, the latest order issued by the Government ~~has been~~ Sangathan to regulate the payment in terms of Government orders.

A copy of the aforesaid Circular dated 25.9.97 is annexed hereto and marked as Annexure-I.

7. That with regard to the statements made in paragraph 6 of the Writ Petition I beg to state that it is factually incorrect to say that except after forwarding the aforesaid O.M. dated 12.1.96 circulated vide Circular dated 25.9.97, no further instructions as to enforcement of the aforesaid O.M. was issued by the Sangathan after issue of the order, the Sangathan's headquarters received communication regarding enforcement of the orders. The matter was deliberated and clarification was issued vide letter No.F.130-46/KVS/Budget dated 21.1.98. The representation of the petitioner Association dated 31.1.98 was received by the Sangathan vide letter No.AIKVTA(2)/98-009 dated 2.2.98 from AIKVTA, New Delhi. The General Secretary of the AIKVTA has forwarded the copy of the representation dated 31.1.98 and the copy of the Central Administrative Tribunal's orders staying the implementation of Government order dated 12.1.96 of SDA with the request to stop the recoveries from the employees against the SDA already paid. The representation of the petitioner Association was

....5/-

*Commissioner of Accounts  
Central High Court  
Chennai*

40  
5.

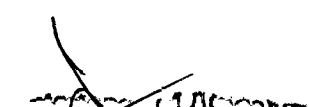
considered by the Sangathan and as the petitioner Association was not the party to the stay granted by the Hon'ble Central Administrative Tribunal, Guwahati Bench, the matter was referred to the Government of India for seeking a clarification regarding the operation of the stay order granted by the CAT, Guwahati Bench in July, 1997 in which the petitioner Association was not a party. The position was also explained to the General Secretary, AIKVTa vide Sangathan's letter No.F.130-46/KVS/Budget dated 22.4.98. Thus, the petitioner Association's stand that no action has been taken on the representation of the petitioner Association is totally incorrect.

The Sangathan has only circulated the orders of the Government of India dated 12.1.96 for the recovery of the unauthorised payment made on or after 20.9.94 to ineligible persons.

A copy of the aforesaid letter dated 21.1.98 and 22.4.98 are annexed hereto and marked as Annexure-II & III respectively.

8. That with regard to the statements made in paragraph 7 of the Writ Petition I beg to state that the Sangathan has issued only the clarificatory orders for regulating the drawal of SDA vide Sangathan's circular No.F.130-46/KVS/Budget/Pt-II dated 25.9.97 circulated therewith the Ministry of Finance, Department of Expenditure O.M. No.11(3)/95-E.II(B) dated 12.1.1996. That I deny the statement that a lday correctness of the

....6/-

  
Minister of Agriculture  
United High Court  
Cuttack


teacher of KV No.2, Airforce Station, Tezpur, who came on transfer from Himachal Pradesh has been denied the SDA. In this connection, I crave leave of this Hon'ble Court to file an additional affidavit refuting the allegation made herein.

9. That with regard to the statements made in paragraph 8 of the Writ Petition I beg to state that those employees of the Sangathan, who fulfilled the conditions for grant of SDA as per the terms and conditions contained in the Sangathan's O.M. No.F.130-46/KVS/Budget dated 24.4.84 as has been incorporated in Appendix-24 of the Accounts Code the Sangathan is still paying the SDA to all such eligible persons in terms of the Appendix-24 of the Accounts Code. The Sangathan has only circulated the Government's latest order.

A copy of the aforesaid O.M. dated 24.4.84 is annexed hereto and marked as Annexure-IV.

10. That with regard to the statements made in paragraph 9 of the Writ Petition I beg to state that SDA has been allowed to the Sangathan employees as are payable to the Central Government employees. The payment is being regulated in terms of the Appendix-24 of the Accounts Code. On receipt of the clarificatory orders from the Government, the Sangathan has also issued clarification vide circular dated 25.9.1997. Thus, the Sangathan circular is a valid

....7/-

  
Sd/-  
Chief High Court  
Guwahati

circular.

11. That with regard to the statements made in paragraph 10 of the Writ Petition I beg to state that Sangathan is still paying the SDA to those of its employees who have All India Transfer Liability and are posted in the North Eastern Region from outside the region the payment of SDA has not been stopped to all eligible Sangathan employees vide Memo dated 12.1.96 as has been alleged by the petitioner Association.

12. That with regard to the statement made in paragraph 11 of the Writ Petition I beg to state that Sangathan employees who are eligible to draw the SDA in terms of the provisions contained in Appendix-24 of the Accounts Code have not been denied the payment of SDA, only a clarification has been issued to stop payment to ineligible persons, if any. There is no violation of the fundamental rights of the petitioner Association as has been alleged in the Writ Petition. In fact, the clarification issued by the Sangathan is based on the orders of the Government of India which, in turn, is based on the Judgment given by the Apex Court in its Judgment delivered on 20.9.94 in Civil Appeal No.3251/93. Thus, the Sangathan has only circulated the Government orders which based on the Judgment of the Apex Court.

13. That with regard to the statements made in paragraph 12 of the Writ Petition I beg to state that orders for

....8/-

*[Handwritten signature]*  
 Chief Justice  
 (Court)




recoveries have been given only in respect of those employees, who were not eligible to draw the SDA since some of the employees were not eligible to draw the allowance recovery from them is not illegal and/or arbitrary.

14. That with regard to the statements made in paragraph 13 of the Writ Petition I beg to state that payment of SDA to the Sangathan employees was to be regulated in terms of the Sangathan's order dated 24.4.84 as contained in Appendix-24 of the Accounts Code. The unauthorised payment made to any employee will have to be recovered as it is against the coded provision of the Sangathan.

15. That with regard to the statements made in paragraph 14 of the Writ Petition I beg to state that as the clarificatory instructions issued by the Sangathan based on the Government orders and the orders based on the Judgment of Apex Court the petition filed by the petitioner Association the challenge in the writ petition is totally unfounded and liable to be rejected outright.

16. That with regard to the statements made in paragraph 15 & 17 of the Writ Petition I beg to state that the Writ Petition is not maintainable as payment of SDA to the eligible employees of the Sangathan is still being made as per the instructions contained in Appendix-24 of the Accounts Code which are in conformity with the order issued by the Government of India from time to time and upheld by the Apex Court.

...9/-

  
Commissioner  
Central High Court  
Chennai

9.

17. That under the facts and circumstances stated above, it is respectfully submitted that challenge in the Writ Petition is devoid of any merit and, as such, is liable to be dismissed with costs.

18. That the statements made in this affidavit and in paragraphs 1,3,7(Pt),8(Pt),10,11,12,13,14,15 & 16 are true to my knowledge and those made in paragraphs 2,4,5,6,7(Pt), 8(Pt) & 9 being matters of records of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

Deokishan Saini  
DEPONENT

Identified by me.

*Trailokya Deka*  
Advocate's Clerk.

14-10-99

14-10-99  
the declaration is identified  
by *[Signature]*  
Deponent  
Declarations are true to the best of my knowledge  
Declarations are true perfectly to the best of my knowledge  
10-7

KENDRIYA VIDYALAYA SANGHATHAN(HE)  
18, Institutional Area,  
SAHEED JEET SINGH MARG,  
NEW DELHI - 16.

F:130-45/KVS/Budget/Part-II

Subject: Special (Duty) Allowance for civilian  
employees serving in the State and Union  
Territories of North-Eastern Region.

A copy of Government of India, Ministry of Finance,  
Deptt. of Expenditure O.M. No.11(3)/95-E-II(B), dt.12/01/1996  
on the subject cited above is forwarded for information &  
necessary action.

Hindi version of this O.M. will follow.

Sd/-

(J.S. TALWAR)  
SR. ACCOUNTS OFFICER

Distribution:-

1. The Asstt. Commissioner, KVS all Region offices with the remarks of circulate this O.M. to all KV's under your control.
2. The Accounts-cum-Inspecting Officer, KVS, all Regional office.
3. All officer/sections in the KVS(HL) including Training Wing.
4. The General Secretary, all Recognised Associations.
5. Principal, K.V. No.I, Port Blair, (A&N Islands for information with reference to his letter No.377/KVS/96-97/1284 dated 21/05/1997.
6. Guard File.

Sd/-

( P.N. KATHURI )  
SUPDT. OF ACCOUNTS

46

REF. O.M. NO.1193)/95-E,II(B),dated 12/01/1996.

**SPECIAL DUTY ALLOWANCE FOR CIVILIAN EMPLOYEES SERVING IN THE  
STATE AND UNION TERRITORIES OF NORTH-EASTERN STATE/REGION.**

The undersigned is directed to refer to this Department's O.M. No.20014/3/82-E.KV, dated 14/12/1983 and 20/04/1987 read with O.M. No.20014/16/86-EIV/E,II(S), dated 1/12/1988 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 Liabilities'.

3. It was clarified vide the above-mentioned O.M. 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 supplying 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 on All India Common seniority list for the service/cadre/post as a whole. 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 (C.T.) (Guwahati Bench) praying for the grant of SDA of 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 of them.

....2/-

*[Handwritten signature]*  
[Handwritten text]  
[Handwritten text]

5. The Hon'ble Supreme Court in their Judgment delivered on 20/09/94 (in Civil Appeal No.3251 of 1993) upheld the submissions of the Government of India that Central Government civilian employees who have all India Transfer Liability are entitled to the grant of SDA, on being posted to any station in the North Eastern 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 its 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 usual 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 dated 20/9/1994 (which also includes those cases in respect of which the allowances was pertaining to the period prior to 20/09/1994, but payments were made after this date i.e. 20/09/1994 will be recovered.

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

\*\*\*\*\*

48

13

ANNEXURE-II.

E. 130-46/KVS/Budget

21-1-1998.

The Asstt. Commissioner  
Kendriya Vidyalaya Sangathan  
Regional Office,  
Silchar.

Subject: Payment of Special Duty Allowance to KVS  
employees posted in North Eastern Region-  
clarification.

Sir,

I am directed to inform you that this Office has received various letters/representations from number of Kendriya Vidyalayas/Staff Associations seeking clarification on the admissibility of Special Duty Allowance consequent upon the issue of Ministry of Finance, Deptt. of Expenditure OM NO.11(3)/95-E.II(B) dated 12.1.1996 which was circulated by this Office vide Circular No.130-46/KVS/Budget/Part.II dated 25.9.97. The matter has been examined thoroughly and it is observed that as per instructions contained in the Ministry of Finance, Deptt. of Expenditure O.M. dated 12.1.1996 the payment of Special Duty Allowance in North Eastern Region is subject to fulfilment of the following two conditions :-

- i) The Central Govt. employees (KVS employees) must have an All India Transfer Liability; and
- ii) The Central Govt. (KVS employees) must have been posted to any station in the North Eastern Region from outside the Region.

2. The payment of Special Duty Allowance is subject to fulfilment of both the above conditions. Accordingly, only those KVS employees who have All India Transfer Liability and are posted in North Eastern Region, from outside the Region are eligible for the Special Duty Allowance.

....2/-

14  
2.

49  
3. You are, therefore, requested to kindly inform all the Vidyalayas under your jurisdiction that drawal of Special Duty Allowance may be regulated accordingly and over payment made on or after 20.9.1994 is recovered from all those employees who are not eligible in terms of the said orders but were paid.

4. This issue with the approval of the Commissioner, KVS.

Yours faithfully,

Sd/-

( R.K. Bhojwani )  
Dy. Commissioner (Fin.)

Copy to the Asstt. Commissioner, KVS, RO, Guwahati for information and necessary action please.

Sd/-

Dy. Commissioner (Fin.)

15

38

ANNEXURE-III.

Kendriya Vidyalaya Sangathan

18, Institutional Area,  
Saheed Jeet Singh Marg,  
NEW DELHI.

No. F.130-36/KVS/Budget

Dated: 22.04.98

Shri A.S.Mazumder,  
General Secretary, A.I.K.V.T.A.,  
B.IA/1, AAI Residential Complex,  
Mahipalpur,  
New Delhi-37.

Subject: Request to stop the recovery of Special Duty Allowance paid to the employees serving in the North Eastern Region on the basis of the Stay Order granted by CAT.

Sir,

I am to refer to your letter No.AIKVTA(2)/98-009 dated 2.2.1998 regarding stopping of the recovery of Special Duty Allowance to the ineligible employees serving in the North Eastern Region on the basis of the stay Order granted by the Central Administrative Tribunal, Gauhati Bench and directed to inform you that the matter has been referred to the Ministry of Human Resource Development, Deptt.of Education for clarification in the matter. On receipt of the clarification from the Government, the position will be intimated.

Yours faithfully,

Sd/-

( K.K.Bhojwani )  
Dy.Commissioner(Fin.)

Copy to:-

1. The Asstt.Commissioner, KVS, RO, Gauhati for information and necessary action.
2. The Asstt.Commissioner, KVS, RO, Silchar for information and necessary action please.

Sd/-

Dy. Commissioner(Fin)



ANNEXURE-IV.

KENDRIYA VIDYALAYA SANGATHAN  
NEW MEHRAULI ROAD, NEW DELHI-110067

No. F.130-46/84-85/KVS/B&F

Dated: 24.4.1984

OFFICE MEMORANDUM

SUBJECT:- Allowances and facilities for the employees of Kendriya Vidyalaya Sangathan serving in the States and Union Territories of North-Eastern Region - improvements thereon.

The need for attracting and retaining the services of competent teachers and 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 KVS for some time. It has been accordingly decided that the following improved allowances and facilities may be sanctioned to the employees of the KVS serving in the North-Eastern Region on the analogy of similar orders issued by the Govt. of India in respect of their civilian employees serving in that area.

(1) Tenure of posting

There will be a fixed tenure of posting of three years at a time for officers of the rank of PGT and above and on the completion of this tenure, they will be considered for posting to a station of their choice as far as possible. This will not, however, be applicable to those officers who have been specifically recruited for service in the North-Eastern Region.

....2/-

(2) Weightage for service in North-Eastern Region.

Satisfactory performance of duties for the prescribed tenure in the North-Eastern Region shall be given due recognition in the case of eligible officers in the matter of -

- a) Deputation to Central tenure posts; &
- b) Courses of training in India and abroad.

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

(3) Special (Duty) Allowance.

KVS 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. Such of these 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.

Special Compensatory Allowance

~~Assam & Meghalaya~~  
Assam & Meghalaya.

of the allowance will be 5% of the basic pay subject to a maximum of Rs.50/- p.m. admissible to all

18

63

3.

employees without any pay limit. The above allowance will be admissible w.e.f. 1.7.1982 in the case of Assam.

2. Manipur

The rate of allowance will be as follows for the whole of Manipur:

Pay upto Rs.260/-	Rs.40/- p.m.
Pay above Rs.260/-	15% of basic pay subject to a maximum of Rs.150/- p.m.

3. Tripura

The rates of the allowance will be as follows:-

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

(5) Travelling Allowance on first appointment.

In relaxation of the present rules (S.R.105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in 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 KVS employees himself and his family will be admissible.

....4/-

(6) 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 KVS employee does not accompany him, the KVS employee 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 KVS cost or have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects to 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 KVS employee on transfer, the KVS employee will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effect 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.

(7) 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 KVS employee will be admissible.

(8) Leave Travel Concession.

KVS employees who leaves his family behind at the old duty station or another selected place of residence and has not

5.

(8) Joining time with leave.

In case of KVS employees 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.

(9) Leave Travel Concession.

KVS employees 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 3 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North-Eastern to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North-Eastern Region. In case the option is for the later 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 paragraphs.

....6/-

(10) Children Education Allowance/Hostel Subsidy.

Where the children do not accompany the KVS employee to the North Eastern Region, Children Education Allowance upto class XII will be admissible in respect of children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the KVS employee, 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. These orders will take effect from the 1st November, 1983 and will remain in force for a period of three years upto 31st October, 1986.

3. The above order except in sub-para (4) regarding payment of Special Compensatory Allowance will also mutatis mutandis apply to KVS employees posted to Andamans & Nicobar Islands.

4. All existing special allowance, facilities and concessions extended by any special cadre by the Sangathan to its own employees in the North-Eastern Region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

Sd/-

( J.N. SHARMA )  
DEPUTY COMMISSIONER (ADMN.)

DISTRIBUTION

1. All Kendriya Vidyalays
2. All Regional Offices, Kendriya Vidyalaya Sangathan
3. All Accounts-cum-Inspecting Officers Regional Offices.
4. All Officers/Sections in the Headquarters of the Sangathan.
5. The General Secretary Principals' Forum/AIKVTA/KVSSA/KEVINTSA.
6. Guard File.

Sd/-

( J.N. SHARMA )  
DEPUTY COMMISSIONER (ADMN.)