

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 11/2003.....

R.A/C.P No......

E.P/M.A No. 63/03.....

1. Orders Sheet..... OA.....Pg. 1.....to 4

2. Judgment/Order dtd. 25.5.2003.....Pg. 1.....to 102 29.6.04.7.03

3. Judgment & Order dtd.....Received from H.C/Supreme Court

4. O.A..... OA 11.....Pg. 1.....to 32

5. ~~E.P/M.P~~ 63/03.....Pg.to.....

6. ~~R.A/C.P~~.....Pg.to.....

✓ 7. W.S.....Pg. 1.....to 6

8. Rejoinder.....Pg.to.....

9. Reply.....Pg.to.....

10. Any other Papers.....Pg.to.....

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

Sahs
15.11.17

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 11/03
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Manik Sengupta

- Vs. -

Respondent(s): U.O.I. Govt

Advocate for the Applicant(s): Adil Ahmed

Advocate for the Respondent(s): Cafe

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time Companion Petition is filed / not filed for Rs. 5000/- vide IPO/B/No. 29605/345 Dated... 20.1.1.03 Heard Mr. A. Ahmed, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by four weeks. In the meantime, the respondents are directed not to make any recovery of SDA from the applicant till the returnable date. List on 28.2.2003 for admission.</p> <p><i>Steps taken. Notice prepared and sent to D/S for filing the respondent No. 1 to 4 by Regd. A/D.</i> <i>6/2/03</i> <i>DINo. 206.1 dtd 16/1/03</i></p> <p><i>Heard Mr. A. Ahmed, learned counsel for the applicant.</i> <i>Issue notice to show cause as to why the application shall not be admitted.</i> <i>Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by four weeks.</i> <i>In the meantime, the respondents are directed not to make any recovery of SDA from the applicant till the returnable date.</i> <i>List on 28.2.2003 for admission.</i></p> <p><i>Dr. Registrar</i></p>	28.1.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra Administrative Member.</p> <p>Heard Mr. A. Ahmed, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by four weeks. In the meantime, the respondents are directed not to make any recovery of SDA from the applicant till the returnable date. List on 28.2.2003 for admission.</p>

Member

Vice-Chairman

mb

28.2.2003

Heard Mr.A.Ahmed, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

Put up again on 28.3.2003 enabling the respondent to obtain necessary instruction on the matter, if any. Interim order dated 28.1.2003 to continue.

Vice-Chairman

bb

28.3.2003

List again on 25.4.2003 to enable the respondents to file reply.

Vice-Chairman

mb

22.4.03

VB submitted by the Respondents.

Doni

Order dtd 28/2/03
Communicated to the
Joint Council.
28/3/03

25.4.2003 . . Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

The controversy pertains to granting of Special Duty Allowance (SDA) to the applicant. The respondents in its written statement contended that SDA is admissible only to the Civilian Employees posted from outside the region and not to others. Admittedly, the applicant who belongs to North East Region was initially posted at Siliguri and by order dated 8.3.1995 the applicant was re-posted at Guwahati from Siliguri. Therefore, as per memorandum issued by the Cabinet Secretariat an employee hailing from N.E. Region, posted to N.E. Region initially but subsequently transferred out N.E. Region after some time serving in non N.E. Region is entitled SDA. As a matter of fact the respondent admitted the same in the written statement and asserted that in terms of the memorandum of the Cabinet Secretariat the respondents continued to pay the SDA to the applicant from 28.2.2001. However, the same was stopped later on in the light of the observation made in the Swamynews in terms of the Supreme Court judgment. The aforementioned considerations are totally irrelevant on the facts situations in the context of the decisions of the Central Govt. The impugned action of the respondents in withholding the SDA due to the applicant and consequent recovery of the same is thus unsustainable in law.

In the circumstances and in the light of the decision rendered by the Tribunal, the impugned office order No.AIR/CCWSE-GH/2(2)/2002-A/6830-34 dated 09.12.2002 issued by the respondent No.4 is thus set aside and quashed

Contd/-

25.4.2003 and the respondents are directed
to pay the SDA to the applicant
forthwith.

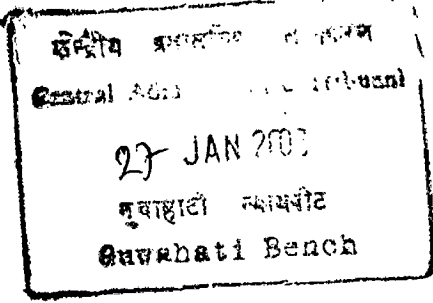
The application is allowed.
No order as to costs.

Received copy
of order

Subsisting
1-5-03
[Signature]
1.5.03

mb

[Signature]
Vice-Chairman



8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 41 OF 2003.

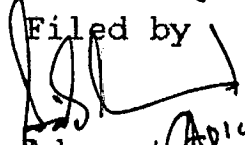
Sri Manik Sengupta -Applicant.

-Versus-

The Union of India & Ors. -Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1	Application	1 to 13
2.	Verification	14
3.	Annexure-A	15
4.	Annexure-B	16 to 17
5.	Annexure-C	18 to 20
6.	Annexure-D	21 to 23
7.	Annexure-E	24
8.	Annexure-F	25 to 27
9.	Annexure-G	28 to 30
10.	Annexure-H	31
11.	ANNEXURE-I	32

Filed by

Advocate (Adil Ahmed)

- 1 -

Filed by
Shri Manik Sengupta applicant
through [Signature] (Adv. AHMED) 9
Attorney

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. 11 OF 2003.

B E T W E E N

Sri Manik Sengupta,
S/o Late Rasharaj Sengupta,
Draftsman, Grade-I,
Office of the Superintending
Engineer (Civil),
Civil Construction Wing,
All India Radio,
Dooradarshan Staff
Quarter Complex,
VIP Road, P.O.-Hengrabari,
Guwahati-781036.

-AND-

- 1) The Union of India represented
by the Secretary to the
Government of India,
Ministry of Information and
Broadcasting, New Delhi.

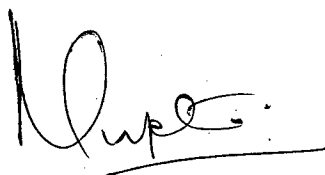
[Signature]

- 2) The Director General,
Prashar Bharati (Broadcas-
ting) Corporation of India,
Civil Construction Wing,
All India Radio,
Govt. of India, New Delhi-1.
- 3) The Chief Engineer-I
(Civil), Civil Construction
Wing, All India Radio,
Suchana Bhawan,
Sixth Floor, CGO Complex,
New Delhi-3.
- 4) The Superintending Engineer
(Civil) Civil Construction
Wing, All India Radio,
Dooradarshan Staff Quarter
Complex, VIP Road,
P.O.-Hengrabari,
Guwahati-781036.

-Respondents.

DETAILS OF THE APPLICATION:

- 1) PARTICULARS OF THE ORDER AGAINST
WHICH THE APPLICATION IS MADE:



The application is made against the order No. CCW/AIR/SE-GH/SDA/2002/6646 dtd 26-11-2002 issued by the Office of the Respondent No.4, and also against the order No. AIR/CCW/SE-GH/2(2)/2002^e A/6830-34 dated 09-12-2002.

2) JURISDICTION OF THE TRIBUNAL:

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

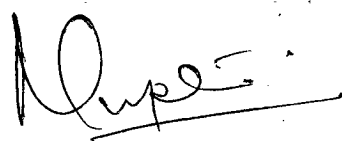
3) LIMITATION:

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

4) FACTS OF THE CASE:

4.1 That the applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2 That your applicant begs to state that he is working under the office of the Respondent No.4 as Draftsman Grade-I. He joined under the Ministry



12

- 4 -

of Information and Broadcasting on 28-09-1972 as Draftsman Grade-III. After that he was appointed as Draftsman Grade-II on 05-12-1973 after appearing examination. Now he has been promoted to Draftsman Grade-I in the year 1982. He was transferred to Siliguri from Dibrugarh Division in the month of September 1984 under Kolkata Circle, West Bengal. Again he was transferred from Siliguri West Bengal to Guwahati Circle vide Order No. SSW-1-25(3)/94-5/255 dated 08-03-1995.

It is worth to mention here that at the time of joining of the applicant in the above said Department his permanent address was shown as Badarpur, Silchar as he was staying at his father's Official Quarter (N.F. Rly) at Badarpur. But his permanent residence is 4/6 Ekadalia Road, Kolkata-19. In this regard he has informed the Office concern about his change of permanent address in the service book record.

Annexure-A is the photocopy of such transfer order dated 08-03-1995.

4.3] That the applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure granted certain improvements and facilities to the Central Government Civilian Employees of the Central Government serving in

N. Gupta

the States and Union Territories of North Eastern Region vide Office Memorandum No. 20014/3/83-IV dated 14-12-1983. In clause II of the said office memorandum Special (Duty) Allowance was granted to Central Government Civilian Employees, who have all India Transfer Liability at the rate of Rs. 25% of the basic pay subject to ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. The relevant portion of the office Memorandum dated 14.12.1983 is quoted below:

(iii) Special (Duty) Allowance:

Central Government Civilian employee who have all India Transfer Liability will be granted a Special (Duty) Allowance at the rate of Rs. 25% of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North East Region. Such of these employees who are exempted from payment of Income Tax, will however not be eligible for the Special (Duty) Allowance, Special (Duty) Allowance will be in addition to any Special Pay and for allowances already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Deputation (Duty) Allowance will not exceed Rs. 400/- per month. Special Allowance like Special Compensatory (Remote) Locality Allowance,

Qupe-

- 6 -

Construction Allowance and Project Allowance will be drawn separately."

The Govt. of India, Ministry of Finance, Department of Expenditure vide its Office Memorandum No. F. No. 11(2)/97-E-II(B) dated 22-07-1998 continued the said facilities as per recommendation of the Fifth Central Pay Commission.

An Extract of Office Memorandum dated 14-12-1983 is annexed hereto and marked as Annexure- B.

Annexure-C is the photocopy of Office Memorandum No. F. No. 11(2)/97-E-II(B) dated 22-07-1998.

4.4 That your applicant begs to state that he has All India Transfer liability and his seniority as Draftsman Grade-1 is All India Basis. Accordingly he was transferred from North Eastern Region to West Bengal. Again he was transferred from West Bengal to Assam. As such, with reference to the said Office Memorandum dated 14-12-83 and 22-07-1998 your applicant had approached the appropriate authorities for payment of Special (Duty) Allowance in terms of said Office Memorandum Dated 14-12-83 and 22-12-1998 as the applicant fulfilled the criteria laid down in the Office

10/12/98

Memo. Dated 14-12-83 and 22-12-1998. your applicant demanded for payment of Special (Duty) Allowance before the Respondents. Accordingly, the Respondent No.4 granted Special Duty Allowance to the applicant vide Order No. A.I.R./CCW/SE-GH-SDA/1917-21 dated 30-08-2001.

Annexure-D is the photocopy of extract of Seniority List of Draftsman Grade -I as on 31-03-1997(All India Basis).

Annexure-E is the photocopy of Order No. A.I.R./ CCW/SE-GH-SDA/1917-21 dated 30-08-2001.

4.5 That your applicant begs to state that he is saddled with All India Transfer Liability in terms of his offer of appointment and with the said liabilities he accepted the transfer order of posting from North Easter Region to West Bengal. Therefore, the applicant is in practice saddled with all India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 he is legally entitled for grant of Special (Duty) Allowances.

4.6 That your applicants beg state that as per cabinate Secretariat letter No. 20-12-1999-EA-1-1799 dated 02-05-2000 it has been clearly stated that an employee hailing from N E Region, posted

Appeal

to N E Region from outside will also be entitled for Special Duty Allowance.

Annexure-F is the photocopy of letter No. 20-12-1999-EA-1-1799 dated 02-05-2000.

4.7] That the applicant begs to state that similarly situated persons have earlier approached this Hon'ble Tribunal by filing O A No. 56/2000 and this Hon'ble Tribunal vide its Judgment dated 19-3-01 in the said case has stated that an employee hailing from N E Region initially but subsequently transferred out of N E Region but reposted to N E Region would also be entitled to S.D.A.

Annexure-G is the photocopy of Judgment and order dtd 19-03-2001 passed in OA No. 56/2000.

4.8] That your applicant begs to state that the Office of the Respondent No. 4 vide their Order No. CCW/AIR/SE-GH/SDA/2002/6646 dtd 26-11-2002 have stopped the Special Duty Allowance to the applicant which has been paid to him vide earlier sanction letter at Annexure-E. The Office of the Respondent No. 4 issued another Order No. AIR/CCW/SE-GH/2(2)/2002-A/6630-34 dated 09-12-2002 for recovery of SDA Allowance which have already paid to the applicant. It may be stated that earlier similarly situated persons have approached this

[Signature]

Hon'ble Tribunal against the recovery of SDA vide OA No. 263/2002. The Hon'ble Tribunal vide its order dated 8-11-2002 directed the Respondents not to make any recovery of SDA which had already paid.

Annexure-H is the photocopy of order dated 8-11-2002 passed by the Hon'ble Tribunal in OA No. 263/2002.

Annexure-I is the photocopy of order No. CCW/AIR/SE-GH/SDA/2002/6646 dated 26-11-2002.

Annexure-J is the photocopy of order No. AIR/CCW/SE-GH/2(2)/2002-A/6830-34 dtd 09-12-2002.

4.9] That your applicants state that he has fulfilled all the criteria laid down in the aforesaid Memorandum regarding payment of Special duty allowance, hence the Respondents can not deny the same to the applicant without any justification.

4.10] That your applicant begs to state that similarly situated persons have already been granted the said benefit as such the action of the Respondents is arbitrary, malafide, whimsical and also not sustainable in the eye of law as well as on facts.

4.11] That your applicant submits that there is no other alternative remedy and the remedy sought for if granted would be just, adequate and proper.

4.12] That this application is filed bona fide and for the cause of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1] For that on the reason and facts which are narrated above the action of the

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- 10 -

Respondents is prima facie illegal and without jurisdiction.

- 5.2) For that the action of the Respondents are mala fide and illegal and with a motive behind.
- 5.3) For that the applicant is practically having all India Transfer liability and he has been transferred from outside of the North Eastern Region.
- 5.4) For that that the applicant is having All India Seniority. As such, he is legally entitled to draw the Special (Duty) Allowance as per Office Memorandum dated 14-12-83, 01-12-88 and 22-07-1998.
- 5.5) For that there is no justification in denying the said benefit to the applicant and denial has resulted in violation of Articles 14 and 16 of the Constitution of India.
- 5.6) For that similarly situated persons who are working under various Ministry of Government of India have already been given the reliefs but the Respondents are not giving the same reliefs to the instant applicant. As such, the action of

10/10/98

- 11 -

the Respondents are bad in the eye of law and also not maintainable.

5.7) For that being a model employer the Respondents can not deny the same benefits to the instant applicant which have been granted to other similarly situated persons. As such, the Respondents should extend this benefit to the instant applicant without approaching this Hon'ble Tribunal.

5.8) For that in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of instant application.

6) DETAIL REMEDY EXHAUSTED:

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

7) MATTERS NOT PREVIOUSLY FILED OR
PENDING BEFORE ANY OTHER COURT:

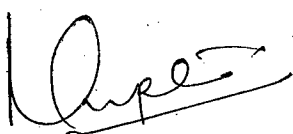
10/10/85

The applicant further declares that he have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority or any other bench of this Hon'ble Tribunal nor any such, application, writ petition or suit is pending before any of them.

8) RELIEF PRAYED FOR:

Under the facts and circumstances stated above your Lordships may be pleased to admit this petition, call for the records of the case, issue notice to the Respondents as to why the relief and reliefs sought for by the applicant may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be please to direct the Respondents to give the following reliefs:

- 8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to Grant the Special Duty Allowance to the Applicant and also to set aside the Order No. CCW/AIR/SE-GH/SDA/2002/6646 dated 26-11-2002 issued by the Office of the Respondent No. 4.



8.2 That the Hon'ble Tribunal may be pleased to set aside the Office Order No. AIR/CCW SE-GH/2(2)/2002-A/6830-34 dated 09-12-2002.

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

8.4 Cost of the application.

9) INTERIM ORDER PRAYED FOR:

The Hon'ble Tribunal may be pleased to stay the impugned Office Order No. AIR/CCWSE-GH/2(2)/2002-A/6830-34 dated 09-12-2002 issued by the Office of the Respondent No. 4 At Annexure-I and may be pleased to direct the Respondents to continue the payment of SDA to the applicant.

10) APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O./BANK DRAFT

I.P.O.No./~~Bank~~ Draft: 76605345

Date of Issue :

22.1.2003

Issued from :

GUWAHATI G.P.O.

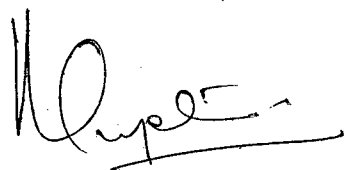
Payable at :

GUWAHATI.

12) LIST OF ENCLOSURES:

As stated in index.

-Verification.



22

- 14 -

Verification

I, Sri Manik Sengupta, S/o Late Rasharaj Sengupta, Draftsman, Grade-I, Office of the Superintending Engineer (Civil), Civil Construction Wing, All India Radio, Dooradarshan Staff Quarter Complex, VIP Road, P.O.-Hengrabari, Guwahati-781036 do hereby verify the statements made in accompanying application and in paragraphs 4.1, 4.3,

4.9, — are true to my knowledge and those made in paragraphs 4.2, 4.3, 4.4, 4.6, 4.7, 4.8 -

— are true to my information being matter of records and which I believe to be true and those made in paragraph 5 are true to my legal advise and I have not suppressed any material facts.

I signed this verification on this
27th day of January 2003 at Guwahati.

Manik Sengupta
Declarant.

- 15 -

ANNEXURE - A 23

Government of India
Directorate General: All India Radio
Civil Construction Wing.

6th floor,
Loknaya Bhawan
Khan Market,
New Delhi.

No: SSW-I-25(3)/94-S/ 25

Dated: 8/3/95

O R D E R

The following transfers in the cadre of D/man
ordered with immediate effect in public interest:

S.No.	Name & Designation	From	To	Remarks
1.	Shri. D.N. Singh, D/man Gr. II	Gauhati Circle	Patna Div.	Vice Shri. B.B. Kumar
2.	Shri Manik Sen Gupta, D/man Gr-I	Siliguri Div.	Gauhati Circle	Vice Shri D.N. Singh
3.	Shri B.B. Kumar, D/man Gr-I	Patna Div.	Siliguri Div.	Vice Shri Manik sen gupta.
4.	Shri Rajesh Shetty, D/man Gr-II	SSW-I	Panaji (Goa)	existing vacancy.

Sh. Manik Sengupta will move first.

This issues with the approval of SSW-I.

S.K. Verma

(S.K. VERMA)
Engineer Assistant
for Superintending Surveyor of Works-I

Copy to:

1. The Superintending Engineer(C), CCW, AIR, Gauhati/Calcutta/Bombay
2. The Executive Engineer(C), CCW, AIR, Siliguri/Patna/Panaji
3. Official concerned.

Attended
24
Advocate

S.K. Verma
for Superintending Surveyor of Works-I

No. 20014/2/83/E.IV
 Government of India
 Ministry of Finance
 Department of Expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances & Administrative Refers, 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.
 x x x x x x x x
- ii) Weight-age for Central Deputation/training abroad and special mention in confidential Record.
 x x x x x x x
- iii) Special (Duty) Allowance :

Central Government civilian employees who have All India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not

Contd..

Attested
[Signature]
Advocate

be eligible for this special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

xxxxxxx

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xxxxxxxxxxx

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Sd/- S.C. KAMLIK
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

[Handwritten signature]
[Handwritten signature]

New Delhi, Dated July 22, 1998.

OFFICE MEMORANDUM

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands -- Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid.* were also to apply mutatis mutandis to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86/E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows:

(i) **Tenure of Posting/Deputation**

The provisions in regard to posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(ii) **Weightage for Central Deputations/Training Abroad and Special Mention In Confidential Records**

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(iii) **Special [Duty] Allowance**

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special [Duty] Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

Attended
Sd/-
Advocate

(iv) Special Compensatory Allowances

Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Remote Locality Allowance, Bad Climate Allowance, Tribal Area Allowance, Composite Hill Compensatory Allowance, etc., which are location-specific, have either been separately issued or are under issue based on the Government decisions on the recommendations of the Fifth Central Pay Commission relating to these allowances. These orders shall apply to the eligible Central Government employees posted in the specified localities in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands, depending on the area(s) of their posting and subject to the observance of the terms and conditions specified therein. Such of those employees who are entitled to the Special [Duty] Allowance or the Island [Special Duty] Allowance shall also be entitled, in addition, to the Special Compensatory Allowance(s) as admissible to them in terms of these separate orders.

Central Government employees entitled to Special Compensatory Allowances, separate orders in respect of which are yet to be issued, will continue to draw such allowances at the existing rates with reference to the 'national' pay which they would have drawn in the applicable pre-revised scales of pay but for the introduction of the corresponding revised scales till the revised orders are issued on the basis of the recommendations of the Fifth Central Pay Commission and the Government decisions thereon.

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(vi) Travelling Allowance for Journeys on Transfer; Road Mileage for Transportation of Personal Effects on Transfer; Joining Time with Leave

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable.

(vii) Leave Travel Concession

In terms of the existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, the following options are available to a government servant who leaves his family behind at the old headquarters or another selected place of residence, and who has not availed of transfer travelling allowance for the family :

- (a) the government servant can avail of the leave travel concession for journey to the Home Town once in a block period of two years under the normal Leave Travel Concession Rules;

OR

- (b) in lieu thereof, the government servant can avail of the facility for himself/herself to travel once a year from the station of posting to the Home Town or the place where the family is residing and for the family
 - [restricted only to the spouse and two dependent children of age up to 18 years in respect of sons and up to 24 years in respect of daughters] also to travel once a year to visit the government servant at the station of posting.

These special provisions shall continue to be applicable.

In addition, Central Government employees and their families posted in these territories shall be entitled to avail of the Leave Travel Concession, in emergencies, on two additional occasions during their entire service career. This shall be termed as "Emergency Passage Concession" and is intended to enable the Central Government employees and/or their families [spouse and two dependent children] to travel either to the home town or the station of posting in an emergency. This shall be over and above the normal entitlements of the employees in terms of the O.M. dated December 14, 1983, and the two additional passages under the Emergency Passage Concession shall be availed of by the entitled mode and class of travel as admissible under the normal Leave Travel Concession Rules.

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependent children [up to 18 years in respect of sons and up to 24 years in respect of daughters] will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Lilabari/Silchar in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Madras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

Attended
G. S. I
Admitted

(viii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt. (Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees in Occupation of Hired Private Accommodation

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting

As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependants of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.

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

6. Hindi version will follow.

N. Sunder Rajan

(N.SUNDER RAJAN)

Joint Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and Administrator, Lakshadweep.

Attested
[Signature]
Advocate

GOVERNMENT OF INDIA
DIRECTORATE GENERAL: ALL INDIA RADIO
(CIVIL CONSTRUCTION WING)

6th floor, Lok Nayak Bh.
Khan, Park Road, New Delhi

No: SSW-1-25(7)09-5/726

Dated: 9/5/97

Subject: Final seniority list of D/Gen Gr-I, II, III & Farro-
Printers working in CCW: AIR, as on 31-3-97.

In continuation of this office letter No. SSW-1/
25(7)09-5/ dated 30/1/97 on the subject cited above.

The final seniority list of D/Gen Gr-I, II, III &
Farro-Printers as on 31-3-97 is sent enclosed for information.

Encl:- As above.

(Mohan Lal)

Engineer Assistant
for Superintending Surveyor of Works-I

Copy to:-

1. SSW-I, II, III and (Elect.) CCW, AIR
2. All SSW(C)/(E) and (Teg.) CCW, AIR
3. All EE(C)/(E) CCW, AIR *Patna*
4. EO-I to CE(C), CCW, AIR, PTI Building, New Delhi

Attested
[Signature]
Advocate

SENIGRITY LIST OF DRAUGHTSMAN GRADE-I AS ON 31-3-1997.

SENIORITY LIST OF DRAUGHTSMAN GRADE-I AS ON 31-3-1997.									
Name	Date of birth	Qualification	Whether Q.P./ permanent/ Temp.	Whether SC/ST	Date of apptt. in the grade			Place of present posting	
					III	II	I		
1	2	3	4	5	6	7	8	9	10
1. S/Shri S. Natrajan	27-11-43	NTC in D/man(C)	Pemt.	--	--	--	09.9.69	05.9.72	EE(C) Madras
2. Malik Sen Gupta	15-2-48	HCLA/Diploma in D/man	Pmt.	--	28-9-72	5-12-73	8-7-82	EE(C) Dibrugarh	
3. S.W. Galvankar	31-3-50	Diploma in Arch.	do	--	--	9-11-74	7-7-82	EE(C) Bombay	
4. R.S. Mishra	1-7-52	Trade test of D/man (C)	-dc-	--	3-12-73	28-11-74	6-7-82	EE(C) Lucknow	
5. Surjaet Singh	20-3-48	SSLC/Dip. in d/man(C)-do	--	10-5-72	30-3-78	7-5-84	EE(E)-II N.D.		
6. Girdhari Das	7-10-47	D/man (C)	-dc-	--	22-9-72	22-9-78	4-3-85	EE(C) Madurai	
7. R.C. Maske	1-4-52	ITI	-do-	--	26-8-72	25-9-78	1-3-85	EE(C) Pune	
8. K.K. Krishnan	20-10-51	SSIC/I/man(C)	-do-	--	25-9-72	20-8-83	20-12-90	SE(C) Madras	
9. N.S. Badgujar	16-2-49	SSC/ITI in D/man	-do-	--	9-10-72	17-8-83	21-12-90	EE(C) Sholapur	
10. P. Ramadas	15-2-52	SSIC/NTC in D/man(C)	-do-	--	1-5-73	12-9-83	21-1-91	EE(C) Madras	
11. S.B. Kumar	12-11-48	BA(part-I)	Pmt.	--	15-5-73	4-6-82	26-12-90	EE(C) Patna	
12. D.K. Mazumdar	24-7-54	High School	-dc-	--	1-11-73	7-12-83	19-12-90	EE(C) Calcutta	
13. Moti Lal Das	12-2-46	HSLC/Dip. in D/man (C)	-do-	SC	20-11-73	21-12-83	20-12-90	EE(C) Silchar	
14. Smt. Githika Pal	1-4-49	HSLC/D/man(C)	-do-	--	18-12-73	22-8-83	19-12-90	EE(C) Calcutta	
15. Purn Singh	6-3-53	HS/ITI	Pmt.	--	19-1-74	16-8-83	15-12-90	EE(C) Jaipur	
16. M. Geetha Kumar	8-6-50	SSLC/ITI	-do-	--	6-2-74	20-8-83	17-12-90	EE(C) Madras	
17. A.K. Bhattacharya	12-11-50	B.Com/D/man	-do-	--	11-5-74	16-8-83	15-12-90	EE(C) Calcutta	
18. Gursharan Singh	5-5-54	Dip. in Elect. Eng.	-do-	--	21-10-74	2-11-83	15-12-90	EE(C) Chandigarh	
		Patric/D/man(C)	Pmt.	--					

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1. G. Naik	18-6-49	SSC/Inter	QP	--	11-11-74	15-11-83	20-12-90	EE(C) Bombay
2. Ram Singh	5-11-53	High School	Pmt.	SC	8-12-77	15-11-83	10-12-90	SE(T)
<hr/>								
21. R.A. Dambare	1-3-49	ITI/SSC	Pmt.	--	20-11-74	10-12-84	3-3-92	SE(C) Bombay
22. M.N. Shukla	1-1-54	Hr. Sec/ITI	Pmt.	--	9-12-74	4-7-85	15-2-92	SSU-III
23. Lalji Pathak	10-8-55	Hr. Sec/ITI	Pmt.	--	10-12-74	14-1-85	28-8-92	SSU-I Unit
24. K. Sarker	23-7-51	--dc--	QP	--	21-12-74	24-5-85		EE(E) Lucknow
25. N. Sashidharan	20-10-50	ITI Exam in	QP	--	23-12-74	17-12-85		EE(C) Trivandrum
26. B.B. Lal	5-4-53	Hr. Sec/ITI	Pmt.	--	10-4-77	3-12-84		EE(E)-I.N. Delhi
27. Satish Kumar	10-6-50	Hr. sec.	Pmt.	--	9-5-77	15-12-84	17-1-92	SSU-E Unit
28. Uma Shankar	13-6-52	B.A.	Pmt.	--	4-11-77	31-12-84	20-2-92	EE(C)-I N. Delhi
29. Devi Ram	15-12-52	Hr. Sec.	Pmt.	SC	1-5-78	5-12-84	20-2-92	EE(C)-II N. Delhi
30. Shar Singh	6-9-48	Matric	Pmt.	SC	16-3-81	10-12-84	20-2-92	SE(C) N. Delhi
31. H.V. Paunikar	9-7-54	SSC	Pmt.	ST	4-9-82	10-1-86	12-5-92	SSU-I Unit

-24-

ANNEXURE-E 4

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE SUPERINTENDING ENGINEER (CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
GUWAHATI: CIRCLE

No: AIR\CCW\SE-GH\SDA\ 1917-21,

Dated: 30.8.2001

////SANCTION ORDER////

Sanction is hereby accorded for SDA to the following staffs, as per finance division, Cabinet Secretariat Dy no.1349 dated 11.10.99 of ministry of Finance (Expenditure) I.D. no. 1304/E-II(B)-99 dated 30.3.2000, para-II (iii) & (iv) w.e.f. their joining date in this office after serving outside the N.E. Zone.

S.N.	Name & Designation	Date	Rate
1.	Sri M. Sengupta, DM-I	Dec 97	12.5% of Basic
2.	Sri S. Aditya, DM-II	Aug 97	12.5 of Basic

The above mentioned official will be entitled to get arrears of said allowance as per rule II and CCS (Revised Pay) rules 1997 and it is subject to the post audit observation if, over payment is made in the forms of arrears or otherwise shall be recovered from the amount due to person concerned subsequently without any notice.

This issues as per the approval of SE(C), ~~vide~~ ~~order~~

~~Signature~~

To

1. Sri Manik Sengupta, DMI
2. Sri S. Aditya, DM II

EA to Superintending Engineer (C)

Attested
Advocate

COURT CASE
MOST IMMEDIATE

Cabinet Secretariat
(E.A.I. Section)

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

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

2. The points of doubt raised by SSB in their WD No. 12/99 AI/99(18)-5282 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department Expenditure) and clarification to the points of doubt is given 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 WD No. 11(3)/95.S.II(B) dated 1.5.97.
 - a) A person belongs to outside N.E. region but he is appointed and on first appointment posted in the N.E. Region after selection through direct recruitment based on the recruitment made on All India basis and having a common/centralised seniority list and All India Transfer liability. ✓
 - b) An employee hailing from the NE Region selected on the basis of an All India recruitment test and borne on the Centralised cadre/service common seniority on first appointment and posted in the N.E. Region. He has also All India Transfer liability. ✓
 - ii) An employee belongs to N.E. Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance WD No. 29911/2/91-91.12 dated 14.12.93 and 30.4.97 read with

Approved
H
Admitted

Contd... 2/-

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

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

YES

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

YES

v) The MOP, Deptt. of Expt. vide their No.11(3)/95-E.II(B) dated 7.6.97 have clarified that a mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty Allowance. For determination of the admissibility of the SDA to any Central Govt. Civilian employees having All India Transfer Liability will be by applying tests

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.

(a) whether recruitment to the Service/Cadre/Post has been made on All India basis (b) whether promotion is also done on the basis of All India Zone of promotion based on common seniority for the service/Cadre/Post as a whole (c) in the case of SSB/DGS, there is a common recruitment system based on All India basis and promotion 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.

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

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

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

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

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

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

1. Shri R.S.Bedi, Director, ARC
2. Shri R.P.Kurdel, Director, SSB
3. Brig (Retd) G.S.Uban, IG, SFF
4. Shri S.R.Mehra, JD (P&C), EGS
5. Shri Ashok Chaturvedi, JS (Pers), R&AW
6. Shri B.S.Gill, Director of Accounts, DACS
7. Sat. J.M.Menon, Director-Finance (S), Cab. Sectt.
8. Col. K.L. Jaspal, CMA, CTA

Attested
Admstr

Original Application No. 56 of 2000

Date of decision : This the 19th day of March, 2001.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Manoj Kumar,
Lower Division Clerk,
Office of the Deputy Director,
Subsidiary Intelligence Bureau,
Basistha Road, Guwahati-28 & 167 Ors.

... Applicants.

By Advocate Mr. A. Ahmed.

-versus-

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of
Home Affairs, North Block,
New Delhi.
2. The Director,
Intelligence Bureau,
North Block, New Delhi.
3. The Deputy Director,
Subsidiary Intelligence Bureau,
Basistha Road,
Guwahati-28.

... Respondents

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

ORDER (ORAL)

CHOWDHURY J. (V.C.).

The applicants are one hundred and sixty eight in number serving under the Deputy Director, Subsidiary Intelligence Bureau, in different capacities, like Lower Division Clerk, Assistant, Stenographer, Security Assistant, ACIO-I/G, P.S., JJO-II/G, Section Officer, Upper Division Clerk etc. Their grievance is common in nature claiming Special Duty Allowance (hereinafter referred to as SDA) payable to the Central Government employees serving in the North Eastern Region. By now the issue is involved is settled on the basis of numerous decision of the Supreme

Contd..

Attache
Advocate

Court subsequently clarified by the departmental Secretary (EA.1 Section) clarified the matter by a Notification dated 2.5.2000. The civilian employees who have all India transfer liability are entitled for grant of SDA on being posting to any station in the NE Region from outside the Region. An employee hailing from the North Eastern Region selected on the basis of all India recruitment test and borne on the centralised cadre/service, common seniority on first appointment and posted in the N.E. region per se is not entitled for the SDA. He or she would be entitled to SDA only if posted outside NE Region on transfer. An employee hailing from NE Region initially but subsequently transferred out of the NE Region but reposted to NE Region would also be entitled to SDA.

From the materials made available in this application it is difficult for the Tribunal to determine/evaluate as to nature of posting of each individual applicant.

In the circumstances upon hearing the learned counsel Mr. A.Ahmed for the applicant and Mr. A.Deb Roy, learned Sr. C.G.S.C. we are of the view that ends of justice will be met if a direction is issued to the applicant to submit individual representation before the concerned authority narrating the factual position. Accordingly we direct the applicants to make individual representations within a period of one month from the date of receipt of certified copy of this order. The respondents on receipt of such application consider the same in the light of the CM issued from time to time more particularly on the basis of the Clarification issued by the Director(SR), Cabinet Secretariat dated 2.5.2000 with the concurrence of the Finance Division as early as possible at any rate within the

Contd.....

[Handwritten signatures]
 Ahmed
 Deb Roy

period of two months from the date of receipt of individual representation from the applicants.

The application is disposed of accordingly. There shall however, no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Trd

Section Officer (J)
अनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायालय, गुवाहाटी-8

3/9/2017

Attended
Admitted

ORDER SHEET

ANNEXURE - H

Original Application No. 263 / 2002
Misc Petition No. _____
Intercept Petition No. _____
Review Application No. _____

Applicants. CPWD Engineering & Drawing Staff Association.

-Vs-

Respondant(s) UDIRDO

Advocate for the Appellant(s) MR. ADIL AHMED.

Advocate for the Respondant(s) Mr. A. Deb Roy, Sr. C.G.S.C.

8.11.02

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

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

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

BY/VICE CHAIRMAN



Adil Ahmed
Advocate

P.T.O.

-32-

ANNEXURE - 1 40

**PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER(civil)
Civil Construction Wing :: All India radio**

**Doordarshan Staff Qtrs Premises.
P.O. Hangrabari, Guwahati - 781036.
Date: 09.12.2002**

No: AIR/CCW/SE-Gh/2(2)/2002 - A/

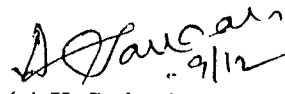
6230-39

✓ To,
Sri M. Sengupta, D.M.- I.
Civil Construction Wing
All India Radio
Guwahati

Sub: Refund of S.D.A. allowances already paid.

In continuation of this office letter no - AIR/CCW/SE-GH/SDA/2002/6646 dated 16.11.2002 you are requested to deposit **Rs. 4152.00(Rupees four thousand one hundred fifty two)** only being payment of A.D.A. already made to you for the month of Oct 01 to Jan 02 which is not payable as per the latest verdict of the Hon'ble Supreme Court immediately failing which the same will be recovered from the salary of January 2003 without further notice.

This issues with the approval of the Superintending Engineer(Civil)


(A.K. Sarkar)

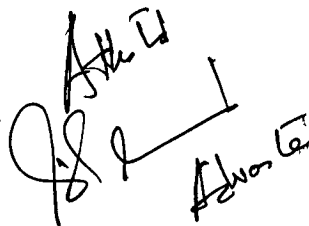
E. A. to Superintending Engineer©

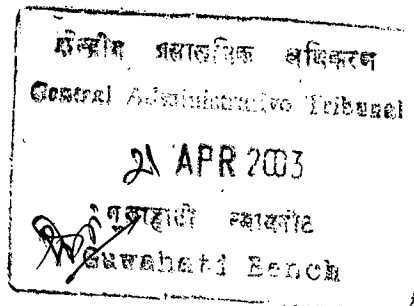
Copy to for information please:

1. The Pay (NER) ,DDK,Guwahati
2. Shri T. K. Ghose, Sr. Accounts Officer(IA), Internal Audit Organisation, 8, Esplanade East(2nd Floor),Kolkata - 700069.
3. Bill clerk - 2 copies.
4. Personnel file of official

(A.K. Sarkar)

E. A. to Superintending Engineer©





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

O.A. NO. 11 OF 2003

Shri M. Sengupta

-Vs- Applicant.

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written Statement submitted by
the respondents.

The humble respondents beg to submit the
para-wise written statement as follows :-

1. That with regard to paras 1, 2 and 3 of the application the respondents beg to offer no comments.
2. That with regard to the statement made in para 4.1, of the application the respondents beg to state that ~~with~~ is true to the fact that the petitioner as citizen of India and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.
3. That with regard to the statement made in para 4.2, of the application the respondents beg to state that as per his service book his permanent address was shown as Badarpur, Silchar, Cachar and till date his address

is recorded as Badarpur in the Service Book .(Annexure-A attached in OA missing).

As per his letter dated 17.11.1998 he intimated to this office that he applied for change of address to the KEO, CCW, AIR, Dibrugarh on dated 21.07.1994 as he was posted at that time at Dibrugarh, but no record is available in the Service Book which was verified at this end and he was instructed to apply fresh to this office vide this office letter No. CCW/AIR/SE-GH/P-MS/D/M-1/3286 dated 24.11.98 (copy enclosed). Unfortunately no action in this regard has been taken by the applicant till date. And ~~that~~ hence as per CCS Conduct Rule i.e. given and recorded in the Service Book will be considered as permanent address i.e. Badarpur, Silchar. The permanent address can only been changed once in complete service life.

With reference to letter dated 24.11.1998 the Head of Office has already intimated no change of home town address incorporated at his last place of posting i.e. at Dibrugarh and hence his permanent address is Badarpur, Silchar.

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the action for stoppage of SDA has been taken in number of occasion on the guide line of Internal Audit, Pay & Accounts Officer, All India Radio Directorate as follows :-

Contd.....

-3-

The Special Duty Allowances had been paid to the petitioner much before 1997 but on the guide line of Pay & Accounts Officer, DDK, Guwahati vide their letter No. PAO/NER/PC/(7 X1 Y97-98/20-25 dated 2.05.1997 (copy enclised) the SDA was stopped with effect from December, 1997. In correspondence with the Ministry of Information and Broadcasting letter No. 512/24/93-TV(A) dated 16.01.1997 (copy enclosed). The recovery of SDA already paid prior to December 97 could not be made as per Ministry of Finance letter No. 11(3 Y95-E/II(B) dated 12.01.1996 (copy enclosed) referred para 6). Accordingly this office continued the payment of SDA w.e.f. 12/1997 on dated 04.03.1998 (copy enclosed).

The same SDA was discontinued vide this office letter No. CCW/AIR/SE-GH/3231 dated 18.11.1998 w.e.f. November, 1998 based on the Directorate General All India Radio letter No. 15/3/97-A&G dated 27.03.1998 (copy enclosed) as the applicant belongs to North Eastern Region. Accordingly, arrear of SDA for Rs. 2761/- was received from Pay & Accounts Officer, Guwahati deposited back to concern head of account at State Bank of India through challan and intimated to Shri M. Sengupta, D/M-I vide this office letter No. AIR/CCW/SE-GH/SDA/4937 dated 14.06.1999 (copy enclosed). In this regard this office approached the Deputy Director General (NER) All India Radio Guwahati and reply received as Administrative Officer vide letter No.2(7 Y98-AC/109 dated 28.04.1998 (copy enclosed).

With the concurrence of the Finance Division, Cabinet Secretary vide diary No.949 dated 02.05.2000 (copy enclosed) and Ministry of Finance (Expenditure) O.M. No. 1304/E.II(B)/99 dated 31.03.2000, the same again continued with effect from 22.08.2001 and paid $\frac{1}{2}$ in December, 2001.

During the Internal Audit on this office for the period 4/99 to 3/2000 held with effect from 10.01.2002 to 14.01.2002, the Audit team had pointed out to stop the payment of SDA and to recover the payment of arrear of SDA already paid vide their letter No. IAO/MIB/CAL/SDO/CCW/AIR/2001-02/105 dated 27.08.2002 (copy enclosed). After obtaining the audit report this office has re-checked the admissibility of SDA to Shri Manik Sengupta and as per judgment of Hon'ble Supreme Court Govt. of India Ministry of Finance vide O.M. No.11(5)/97-E.II(B) dated 29.05.2002 published in Swamynews issue for the month of July, 2002 vide page No.17-18 of Article No.108 (para 5) Shri Sengupta is not eligible to get SDA.

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

In this regard Shri Kalyan Kamal Dey, Jr. Accounts Officer, All India Radio, CCWE Guwahati-7810903 asked the editor of Swamynews vide Sl.No.130 published in September,2002 issue of Swamynews at page No.75-76 (copy enclosed) and the clarification is "SDA is admissible only to the Civilian employees posted from outside the region and not to others."

5. That with regard to the statement made in para 4.5, of the application the respondents beg to state that petitioner belongs to a cadre of Class-III Staff and as per DDG(NE) AIR Guwahati letter No.2(7)/98-AC/109 dated 28.04.1998 he is not entitled for getting SDA.

6. That with regard to paras 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 and 4.13 the respondents beg to state that as per the said verdict of Hon'ble Supreme Court Govt. of India Ministry of Finance's order published in July, 2002 issue of Swamynews he belongs to North Eastern Region and not entitled to get SDA.

7. That with regard to the statement made in para 5.1, the respondents beg to offer that this office has not done any malfunctioning and illegal approach for not giving SDA to the petitioner.

All the action has been initiated on the guide-lines of Internal Audit Report, Directorate of All India Radio directive, the recent judgment of Hon'ble Supreme Court from time to time and the recovery proposed vide this office letter No. AIR/CCW/SE-GH/2(2)/2002-A/6830-34 dated 09.12.2002 kept in abeyance on the guidelines of Hon'ble Central Administrative Tribunal vide OA No.11/2003 of 209 dated 10.02.2002,

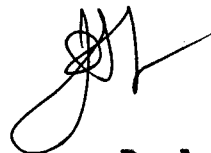
Verification.....

-6-

V E R I F I C A T I O N

I, Shri K.Ponniah, , presently
working as Superintending Engineer (Civil) , being duly
authorised and competent to sign this verification, do hereby
solemnly affirm and state that the statements made in para
as above 2 and 5 are true to my knowledge and belief and
those made in para 3 and 4 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 9 th day of April
March, 2003 at Guwahati.



Declarant.