

501/00

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Sahla
21/11/17

FROM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: - 301 / 03

Misc Petition No: α /

Contempt Petition No: α /

Review Application No: α /

Name of the Appellant(s): K R Daman.

Name of the Respondent(s): Wojean.

Advocate for the Appellant: - Mr. A. Ahmed

Advocate for the Respondent: - CSC.

Notes of the Registry	date	Order of the Tribunal
First application is in form but not in time <u>Contempt</u> Petition is filed under C.P.	1.1.2004	Heard Mr. A. Ahmed, learned counsel for the applicants.
382521 28.12.03. Adm. 570		Issue notice on the respondents to show cause as to why the petition shall not be admitted, returnable by four weeks.
11e. <u>Wojean</u> 20/12/03 by		List the case on 30.1.2004 for admission.
Issue notice as per Court's order dated 1/1/04.		
1/1/04.	bb	


K. D. Sahadevan
Member (A)

Notice & order dt. 1/1/04,
sent to D/Section for
issuing to respondent
Nos. 1 to 6. wide memo
Off 1/1/04.
D/1/04. Nos. 1 to 6 dated
07-01-04.

✓

17.2.2004

Present: Hon'ble Mr K.V. Prahladan,
Administrative Member

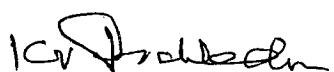
By this application the applicants have claimed Special (Duty) Allowance (SDA for short) on the strength of the Circular No.20-12-1999-EA-1-1789 dated 2.5.2003 of the Cabinet Secretariat.

Heard Mr A. Ahmed, learned counsel for the applicants and also perused the application. On hearing the learned counsel for the applicants and on perusal of the application, I dispose of the application with the following direction:

The respondents may regulate the payment of SDA to the applicants in terms of the Circular dated 2.5.2003 of the Cabinet Secretariat on SDA for Civilian employees of the Central Government in the States of N.E. Region and Union Territories.

The respondents are directed to complete the above exercise within four weeks from the date of receipt of the order.

The O.A. is accordingly disposed of.


(K. V. PRAHLADAN)
Administrative Member

nkm

20.2.04

Copy of the order
has been sent to the
Sect. for issuing
the same to the
applicants as well
as to the Resps.
no 5.


20/4/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. 301 OF 2003.

B E T W E E N

1] Sri Kali Ram Das,
P. No. 4910
Mukadam.

2] Sri A.N. Sharma
P No. 1402,
Superintendent.

3] Sri A. R. Dutta Roy,
P No. 1785, S.G.C.

4] Sri N C Das,
P. No. 2100 S K -II,

5] Sri Tekcham Lal Singh,
P. No. 2481,
Security In-charge,

Filed by
Shri Kali Ram Das
Applicant No.
through
K.D.S
(Advocate
Advocate)

K D.S.

6] Sri S Pantati,
P. No. 5809, W/Man,

7] Sri K Daimari,
P. No. 2184, S K -II,

8] Sri S K Dutta,
P. No. 1771, SK - III,

9] Sri H D Singh,
P No. 5040, W/Man

10] Sri Mahesh Pantati,
P No. 5664, Mazdoor,

11] Sri D R Das,
P No. 5077, W/Man

12] Sri R K Bonikya,
P. No. 5922, W/Man

13] Sri R K Puri,
P No. 5609, Mazdoor,

14] Sri Bhupen Kalita,
P No. 5951, W/Man

K DMS

All the applicants are working under the Office of the Regional Manager (East), Canteen Store Department, C.S.D., Narengi, P.O.- Satgaon, Guwahati-27.

-Applicants.

-AND-

- 1] The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, 101 South Block, New Delhi-1.
- 2] The General Manager, Canteen Store Department, 'ADELPHI' 119 Maharshi Karve Road, Mumbai-400020.
- 3] The Deputy General Manager (P & A), Canteen Store Department, 'ADELPHI' 119 Maharshi Karve Road, Mumbai-400020.

KDJS

4] The Deputy General
Manager (F & A),
Canteen Store Department,
'ADELPHI' 119 Maharshi Karve
Road, Mumbai-400020.

5] The Regional Manager (East),
Canteen Store Department,
P.O.- Satgaon, Narengi,
Guwahati-781027.

6] The Manager,
Canteen Store Department,
P.O.- Satgaon, Narengi,
Guwahati-781027.

-Respondents.

DETAILS OF THE APPLICATION:

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

The application is not made against any particular order but praying for a direction from this Hon'ble Tribunal to the Respondents to pay the Special

K DJS

Duty Allowance to the applicants as per Government of India, Cabinet Secretariat Letter No. 20-12-1999-EA-1-1789 dated 02-05-2003 and also as per other similar judgments passed by this Hon'ble Tribunal in O.A. No. 56 of 2000, O.A. No. 11 of 2003 and 30 of 2003.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

The applicants 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 applicants are citizen of India and as such, they are entitled to all the

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rights and privileges guaranteed under the Constitution of India.

4.2] That your applicants beg to state that they are working under the Ministry of Defence. They are all Group-C and D employees. Now they are posted at Narengi, Guwahati and working under the Office of the Respondent Nos. 5 & 6.

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

4.4] That the applicants beg 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 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

K.DS

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, Construction Allowance and Project Allowance will be drawn separately."

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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-A.

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

4.5] That your applicants beg to state that they have All India Transfer liability and their seniority are ~~on~~ ^{on} fixed All India Basis. The Applicant No. 1 to 15 were posted to this North Eastern Region from different places like, Jabalpur, Base Depot, Mumbai, Ramgarh, Bangalor, Bhatinda, Portblair, C.S.D. Depot, Cochin, B.D. Bari (Jammu), C.S.D. Depot, Leh, C.S.D. Depot, Shrinagar, C.S.D. Depot, Lucknow, C.S.D. Depot, Bagdogra, Office of the Regional Manager(S), C.S.D., Pune, C.S.D. Depot, Bikaner, C.S.D. Depot, Kolkata, etc. Accor-

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dingly, they were transferred from outside to North Eastern Region.

4.6 That your applicant begs to state that they are saddled with All India Transfer Liability in terms of their offer of appointment and with the said liabilities they accepted the transfer order of posting from North Easter Region to outside of this region and also from outside of this region to the North Eastern Region. Therefore, the applicants are in practice saddled with all India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 they are legally entitled for grant of Special (Duty) Allowances.

4.7 That your applicants beg state that as per cabinet 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 to N E Region from outside will also be entitled for Special Duty Allowance.

Annexure-C is the photocopy of letter No. 20-12-1999-EA-1-1799 dt 2-5-2000.

4.8] That the applicants beg to state that all the applicants are entitled for payment of

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Special Duty Allowance as per Annexure-C and accordingly, the Office of the Respondent No. 4 issued a letter Ref. No. 6 D/PR/SDA/1052 dated 26th March 2002 for payment of Special Duty Allowance to the instant applicants and others similarly situated persons as they have fulfilled criteria of the above said Office Memorandum at Annexure-C.

Annexure-D is the photocopy letter Ref. No. 6 D/PR/SDA/1052 dated 26th March 2002.

4.9 That the applicants beg 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 NE Region but reposted to N E Region would also be entitled to S.D.A. and similar other copy of judgment passed by this Hon'ble Tribunal is also annexed herewith for ready reference of this Hon'ble Court.

It is worth to mention here that similarly situated person who is working under

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the same Ministry and same office of the applicants has already been given the similar relief by this Hon'ble Tribunal in OA No. 30 of 2003.

Annexure-E, F & G are the photocopies of Judgment and order dtd 19-03-2001 and 25-04-2003 in OA Nos. 56/2000, 11/2003 and OA No. 30/2003 dated 03-06-2003 respectively passed by this Hon'ble Tribunal.

4.10] That your applicants state that they have 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 applicants without any justification.

4.11] That your applicants beg 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.

4.12] That your applicants submit that there is no other alternative remedy and the remedy

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sought for if granted would be just, adequate and proper.

4.13] 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 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 applicants are practically having all India Transfer liability and they have been transferred ^{to} ~~from~~ outside of the North Eastern Region and also from outside of North Eastern Region to North Eastern Region.

5.4] For that that the applicants are having All India Seniority. As such,



they are 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 applicants 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 applicants. As such, the action of the Respondents are bad in the eye of law and also not maintainable.

5.7] For that similarly situated persons who are working with the applicants have already been granted this relief by this Hon'ble Tribunal in OA No. 30 of 2003.

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5.8] For that being a model employer the Respondents can not deny the same benefits to the instant applicants which have been granted to other similarly situated persons. As such, the Respondents should extend this benefit to the instant applicants 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 applicants except invoking the jurisdiction of this Hon'ble Court under Section 19 of the Administrative Tribunal Act, 1985.

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

The applicants further declares that they 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 applicants 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 Applicants.

8.2 That the Hon'ble Tribunal may be pleased to pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.3 Cost of the application.

9) INTERIM ORDER PRAYED FOR:

At this stage no interim is prayed for, if the Hon'ble Tribunal deem fit may pass any order or orders.

10] APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O./BANK DRAFT
I.P.O.No./Bank Draft: 11G 387521
Date of Issue : 28.12.2003
Issued from : Guwahati G.P.O.
Payable at : Guwahati

12) LIST OF ENCLOSURES:
As stated in index.

K DJS

Verification

I, Sri Kali Ram Das, Son of Late Kamala Das, aged about 45 years, P. No. 4910, Mukadam working under the Office of the Regional Manager (East), Canteen Store Department, C.S.D., Narengi, P.O.- Satgaon, Guwahati-27, I am one of the applicants of the instant application; the other applicants have authorized me to sign this verification on their behalf. I do hereby verify the statements made in accompanying application and in paragraphs 4.1 to 4.3, 4.5, 4.6, 4.10 to 4.11 are true to my knowledge and those made in paragraphs 4.4, 4.7, 4.8, 4.9, 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.

And I signed this verification on this day 30th of December 2003 at Guwahati.



Declarant.

11/205-
- 18 - ~~18~~ ANNEXURE

Annexure-1 (Extract)

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 Public Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) Tenure of posting/deputation.

ii) Flight-age for Central deputation/training abroad and special mention in confidential Record.

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 a 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

Attested
S. L. Advani

Centd.

be eligible for this special (Duty) Allowance. ~~will be~~
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 Compensation (Remote Locality)
Allowance, Construction Allowance and Project Allowance
will be drawn separately.

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SD/- S.C. RAIK
JOINT ADVISORY TO THE GOVERNMENT OF INDIA

Attested
Advocate

- 20 -

New Delhi, Dated July 22, 1990.

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 tenure of 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.

Approved
Advocate

(iv) Special Compensatory Allowances

Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Remota 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;

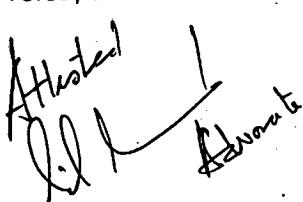
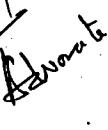
OR

(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.

*Attested
J. L. H. 
D. S. D. *

20-20-27
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(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, 1998, 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
ll
Advocate

20-20-27

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(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 30 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. I dated February 12, 1984, as amended from time to time. This facility shall continue to be available to all 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 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.

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

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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 will be issued 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]

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

Attached
J.S. *Advocate*

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 the letter No. A/99/10/2369 dated 31.3.2000 on the subject mentioned above.

2. The points of doubt raised by S&B in their W.O. No. 12/ A.R/99(10)-5232 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department of 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 26.11.95 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 H.E. region or on 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 via their GO No.11(3)/95.C.II(B) dated 1.2.97.

a) A person belongs to outside H.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 NC 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 H.E. Region. He has also All India Transfer liability.

ii) An employee belongs to H.E. Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules. For this post (prior to grant of SDA vide Ministry of Finance on 10.2.1991/2/3-11,12 dated 14.12.93 and 20.4.97 read with

Contd. on p. 7, 8.

Attack
Advocate

On 2001.4/16/86 E.T.I.(B) dated 1.12.80 but subsequently the post/cadre was centralized 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 M.O.F. Deptt. of Exptdr. vide their I.O. No.11(3)/95-E.T.I(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 Employee having All India Transfer Liability will be by applying tests (a) whether recruitment to the Service/Cadre/Post has been made on All India basis (b) whether promotion is also done on the basis of All India Zone of promotion based on common seniority for the service/Cadre/Post as a whole (c) in the case of SDA/DGS, there is a common recruitment system made on All India basis and promotion done also done on the basis of All India Common Seniority basis. Based on the above criteria/ tests all employees recruited on the All India basis and having a common seniority list of All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from NE Region or posted to NE Region from outside the NE Region.

In case the employee hailing from NE Region is posted within NE Region and is not eligible to SDA till it is once transferred out of that Region.

Attest

SDA
D.P.M.

Attest

Admire

Central 13/4/...

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.

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.

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

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.N. TILAKUR)
DIRECTOR (GR)

1. Shri R.S.Bedi, Director, ARC
2. Shri R.P.Kureel, Director, SRI
3. Brig (Retd) G.S.Uban, IG, SFF
4. Shri S.R.Mehra, JD (PAC), EGS
5. Shri Ashok Chaturvedi, JS (PAC), R&AW
6. Shri B.S.Gill, Director of Accounts, DACS
7. Shri J.M.Menon, Director-Finance (s), Cab.Secrt.
8. Col. K.L.Jaiswal, CMOA, CTA
9. Secrt. Dy. Dir. 10/12/99-FA

Cabinet Secretariat No. 20/12/99-FA

Attd
J. S. Sankar

कॉन्टीन स्टोर्स विभाग
CANTEEN STORES DEPARTMENT

द्वारा

From : ACCOUNTS SECTION
PAYROLL
CSD HO, MUMBAI-20.

प्रति

To : THE MANAGER

CSD DEPOT,

NARANGI/DIMAPUR/MASIMPUR/
MISSAMARI.

संदर्भ क्र.

Ref. No. 6D/PR/SDA/1052

दिनांक:

Date: 26 MAR 2002

SUB : PAYMENT OF SDA

Reference clarification cabinet secretariat note
No. 20/12/99-EA-1-1799 dated 25.2.2000 on payment of SDA.

2. The following category of employees are eligible
for SDA.

a) An employee belongs to NE Region and subsequently
posted outside NE Region, if posted/transferred to NE
Region and as he is also having a common All India
seniority and All India transfer liability.

b) 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.

3. In view of the above, you are requested to forward
the details of such employees who had worked or are
working in your depot for working out the SDA arrears.

4. Please accord priority.

MS Rajput

(M. S. RAJPUR)

AGM (ACCTS)

FOR DGM (F&A)

cc : RM (E) : For information and necessary action please.

Attached

Banks

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.

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

.... Respondents

O R D E R (ORAL)

1507 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., JIO-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

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(A) (b)

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Court subsequently clarified by the department.

Secretariat (EA.I Section) clarified the matter by a Notification dated 2.5.2000. The civilian employees who have 'all India transferability' 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 OM 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

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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)

trd

Certified to be true Copy

প্রমাণিত প্রতিপাদ্য

3/5/2017

Section Officer (S)

অসম প্রযোগী (সাধিক প্রাপ্তি)

Central Administrative Tribunal

কেন্দ্রীয় প্রযোগী (সাধিক)

Guwahati Bench, Guwahati-8

অসম প্রযোগী, প্রাপ্তি-8

3/5/2017

After
A. B.
Absent

ORDER SHEET

Original Application No : 11/03 - 31
 Misc. Petition No.
 Contempt Petition No.
 Review Application No.

Applicant(s): Manik Sengupta

- vs. -

Respondent(s): U.C.T. Ioms

Advocate for the Applicant(s): Abul Ahmed

Advocate for the Respondent(s): CAF-C

Name of the Registry	Date	Order of the Tribunal
----------------------	------	-----------------------

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 sometime 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 Swamyniwas 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/-

After
J.S.
Advocate



— 32 —



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.

Sd/VICE CHAIRMAN

Certified to be true Copy

શાહીન, માર્ગિલિંગ
2003-04-26
Section Officer (P)

શાહીન માર્ગિલિંગ (સાચિયાત)
State Administrative Tribunal
સ્ટેટ પ્રાસનિક કાર્યક્રમાલા
Government of Gujarat
સરકારી પ્રાસનિક કાર્યક્રમાલા

Attested
Sd/
Advocate

ORDER SHEET - 33 -

ANNEXURE - G

Original Application No : 90/03
 Misc. Petition No. /
 Contempt Petition No. /
 Review Application No. /

Applicant (s) Ramji Entwistle

-Vs-

Respondent (s) W.O.I. Govt.

Advocate for the Applicant (s) M. Chanda, G.N. Chakraborty
Mr. A. Sircar Ray

Advocate for the Respondent(s) Sr. C. A.

Date: 3.6.2003 . Present : The Hon'ble Mr. Justice
 D.N. Chowdhury, Vice-Chairman.

The issue relates to payment of Special Duty Allowance (SDA). The applicants are 25 in number who were working group 'C' and 'D' cadre in the Canteen Store Department, Missamari save and except applicant No.9 who was posted at Port Blair Canteen Store Department at the time of filing this application.

Considering the nature of the cause of action and relief sought for, the applicants were allowed to espouse their cause in a single application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1985.

According to the applicants, they were paid SDA in terms of memorandum dated 14.12.1983, 1.12.1986 and 22.7.1998 and the same was sought to be stopped whereupon the applicants moved this Tribunal by the O.A.

The respondents submitted written statement and contended that in view of the decision rendered by the Supreme Court in S. Vijaya Kumar and Ors. and like cases the Ministry of Finance issued appropriate direction for taking appropriate measure in regards payment of SDA vide communication dated 29.5.2002. According to the respondents SDA is admissible only to civilian employees posted from the outside region and not others. The decision of the Supreme Court in U.O.I. & Ors. Vs. Sh. S. Vijaya Kumar & Ors. has clarified the same. It was also mentioned that SDA would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

I have heard Mr. M. Chanda, learned counsel for the applicant and

Contd/-

Attoh
Sh. Sircar Ray

3.6.2003 also Mr. A. Deb Roy, learned Sr. C.C.S.C. for the respondents at length.

In view of the decision rendered by the Courts, the matter of payment of SDA is no longer unresolved. Normally, SDA is admissible to the employees posted at North-Eastern region from the outside region. As a matter of fact, the same was clarified by the Cabinet Secretariat (E.A. Section) vide Cao. Sectt. U.O. No. 20/12/99-EA-1-1799 dated 2.5.2000. There is no dispute that the those officers who belong to N.E. Region, subsequently posted from the outside region have a common All India Seniority and All India Transfer Liability are eligible for the SDA. As per memorandum mentioned above the applicants are also eligible for the SDA. The applicants were either posted North East on public interest or transferred out from North East and posted out who were subsequently re-posted in N.E. Region. The above communication clarified and resolved the issues in favour of these applicants. In the circumstances, it would not be appropriate to deny the claim of the applicants.

Accordingly, the application is allowed in the light of the decision of this Bench in O.A. No. 38/2001 disposed on 12.9.2001.

The application is allowed.
No order as to costs.

SD/VICE CHAIRMAN

CERTIFIED TRUE COPY

N. Sengupta
23.12.03
Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

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