

ORDERS SHEET

1. Original Application No. EP 3/07

2. Miscellaneous Petition No. (62/07) in O.A 30/03

3. Contempt Petition No.

4. Review Application No.

Applicant (SI R. Sutradhar 90ks vs Union of India & Ors

Advocate for the Applicant (S) M. Chanda

S. Nath

Advocate for the Respondent (S) C.G.S.C. M.U. Ahmed

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

This Miscellaneous petition has been filed by the Counsel for the applicant W/R 24 of CAT (Proceeding) Rule 1987, Praying for a direction upon the Respondents for implementation of the order dated 3.6.03 passed in O.A 30/03 by this Hon'ble Tribunal. /bb/

6.7.2007

Heard Mr.S.Nath, learned counsel for the Applicant. Mr.M.U.Ahmed, learned Addl.C.G.S.C. appearing for the Respondents wanted time to take instruction. He is specifically directed to take instruction as to whether orders of this Tribunal have been complied with or not.

Post the matter on 8.8..2007.


Vice-Chairman

Laid before the Hon'ble Court for further orders.


29.8.07

Let the case be posted on 1.10.07.


Vice-Chairman

pg

For Section Officer


16/7/17

MP 62/07 (OA 30/03)

11.9.07

An affidavit submitted
as per order dated 26.4.07
of the Tribunal by the L.O. I.D.S.

01.10.07

Affidavit filed.

28.9.07.

Affidavit filed.

13.11.07.

Mr.S.Nath learned counsel for the Applicant
is present. Mr.M.U.Ahmed learned Addl.
Standing Counsel appearing for the Central
Government is absent.

Call this matter on 14.11.07, awaiting
reply from the Respondents.

(Khushiram)
Member(A)

(Manoranjan Mahanty)
Vice-Chairman

Lm

14.11.2007

M.A. 62/2007
This Misc. Application be ^{registered} as
Execution Petition in a separate register
and separate Execution No. be given to
this Misc. Petition No.62/2007.

No index has been filed to this
petition. Mr.M.Chanda, learned counsel for
the Applicant undertakes to file index to
this petition by 16th November, 2007.

Issue notice to the Respondents, at
the cost of the Applicant, requiring them to
file their reply by 12th December, 2007.
Mr.M.Chanda undertakes to file extra
copies of this petition, envelopes and
required postages for issuance of notice to
the Respondents by Friday, 16th November,
2007.

Contd....

The extra copies of this petition and required postages for issuance notice to the respondents received on 28/11/07.

Contd.
14.11.2007

Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, on whom a copy of this petition has already been served, undertakes to file reply by 12th December, 2007.

Call this matter on 12.12.2007.

Notice & order sent to D/Section for issuing to respondents no-1, 2 & 3 by regd. A.D post.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

D/No-1589 to 1591
Dt = 29/11/07.

12.12.2007

No objection has yet been filed in this case by the Respondents.

① Service report awaited.

② Reply not filed.

11.12.07.

On the prayer of Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, call this matter on 11.01.2008 awaiting objection.

(Gautam Ray)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

11.01.2008

Objection to Execution Petition No.3 of 2007/M.A 62 of 2007 is filed in course of the day without Index and Annexures and copy of the same has already been served the counsel for the Original Applicant.

① Affidavit filed.

② Reply not filed.

10.1.08.

Mr.M.U.Ahmed learned Addl. Standing counsel appearing for the Respondents undertakes to file Index and Annexures in the Execution Petition No.3 of 07 by 31st January, 2008.

Call this matter on 31.1.2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

Notice duly served on R-3, 2.

17/01/08.

31.01.2008

In this case objection has already been filed. Today Mr .M.U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents seeks to bring some documents on record. He may do so, by 8th February, 2008.

Call this matter on 08.02.2008.

W/s Gireh.

34
7.2.08.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

Lu

08.02.2008

On the prayer of Mr M. U. Ahmed, learned Addl. Standing counsel appearing for the Respondents the case stands adjourned to 05.03.2008.

W/s Gireh.

34
4.3.08

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

pg

05.03.08

Mr M.Chanda, learned counsel for the applicant and Mr M.U.Ahmed, learned Addl. C.G.S.C for the respondents are present. Learned counsel for the applicant seeks 3 weeks time to file rejoinder.

Call this matter on 1.4.2008 awaiting rejoinder from the applicant.

W/s Gireh.


34
31.3.08.


(Khushiram)
Member(A)

pg

01.04.2008 Non compliance of order of this Tribunal rendered in O.A.30/2003 is the subject matter of this Execution Petition No.3/07. By filing a reply, the Respondents have disclosed that the order dated 03.06.2003 of this Tribunal rendered in O.A. 30/2003 has been carried (by the Respondents) to the Hon'ble High Court of Gauhati in Writ Petition No.2472/2004. It is also disclosed in the reply that the said Writ Petition No.2472/2004 has already been admitted by Hon'ble Gauhati High Court on 06.05.2004.

Since the matter is now pending before the Hon'ble High Court (having been admitted on 06.05.2004) this Execution Petition cannot proceed and accordingly the same is dropped.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Received
Mulla
03/04/08

4.4.08
Copies of the
D.D 1.4.08 sent
to the D/Sec. for
issuing the order
to the parties
and copy to the
D/Sec. for the parties.
sh

- 8 -

- 4 -

95

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

WP(C) No. 4537/06
WP(C) No. 4552/06

PRESENT

HON'BLE THE CHIEF JUSTICE B.S. REDDY
HON'BLE MR. JUSTICE B.P. KATAKEY

13.9.2006.

REDDY, CJ: -

Mr. DC Chakraborty, learned counsel appearing for the Union of India states that the subject matter that arises for our consideration in these writ petitions is squarely covered by the judgment and order dated 4.1.2006 passed by us in WP(C) No. 5087/99 and batch thereof.

Following the decision, these writ petitions shall stand disposed of in terms of the said judgment and order dated 4.1.2006. No costs. The order of the Tribunal shall accordingly stand nullified. ✓

File in Court on
Court Officer.

Received
on 28/02/08
[Signature]

1- B.P. Katakey
Judge

Sd/- B.S. Reddy
Chief Justice

CERTIFIED TO BE TRUE COPY
Date
Superintendent (Copy/Int. Section)
Gauhati High Court
Authorised U/S 76, Act I. 1371

[Signature]
R. PONNIVALAVAN
Area Manager
Min. of Revenue
Canteen Stores Department
Narangi, Guwahati-27

P-61010

18.9.06

62/07

5

94

-9-

IN THE GAUHATI HIGH COURT
THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA
MANIPUR TRIPURA MIZORAM AND ARUNACHAL PRADESH.

PRESENT
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.P. KATAKEY

✓ The Regional Director
Employees State Insurance Corporation
N.E. Region
Bamunimaidan
Guwahati 781 021 and others

Petitioners

✓ W.P.(C) No. 5087/1999

VERSUS

1 The Secretary
Employees State Insurance Corporation
Employees Union, N.E. Region
Bamunimaidan, Guwahati 781021 and others
Respondents.

Proforma

For the Petitioner

Mr. B.R. Dey,
Mr K.K.Nandi
Mr H. Talukdar
Mr A.K. Choudhury
Advocates.

For the Respondents

Mr. D.S. Bhattacharyya
Mr. K.K. Goswami,
Advocates.

✓ W.P.(C) No. 3009/2001

✓ The Union of India and others

Petitioners

Versus

Shri Aravand Pall and others.


Respondents

For the Petitioner :

Mr. K.K. Mahanta
Advocate

For the Respondents

Mr. APK Joseph


R. PONNIVALAVAN

Area Manager

Min. of Defence

Canteen Stores Department

Narangi, Guwanati-27

Advocate.

For the Respondents Mr. J.L.Sarkar
Mr N. Choudhury
Ms S. Deka
Mr A. Choudhury
Advocates.

✓ W.P.(C) No. 3280/2001

✓ The Union of India and others

Petitioners ✓

VERSUS

Income tax Gazetted Service Federation
North Eastern Region Unit
Aayakar Bhawan, Uzanbazar Guwahati
Through the President of the Service
Federation and others

Respondents.

For the Petitioner Mr. G.P.Bhowmick
Advocate ✓

For the Respondents Mr. J.L.Sarkar.
Advocate.

✓ W.P.(C) No. 2771/2004.

✓ Union of India
Through the Director General of
Posts, Department of Posts
Represented by the Chief Postmaster
General of Posts, Assam Circle
Meghdoot Bhawan, Guwahati


Petitioner

VERSUS

Shri Bangshidhar Boro
Circle Secretary, National
Federation of Postal Employees
Assam Circle, Guwahati and others.

Respondents.

For the Petitioner : Mr. Bipul Sarma
Advocate


R. PONNIVALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Narangi, Guwanati-27

4 - 11 - 7
92
Mr A. Ahmed, Adv.

✓ W.P.(C) No. 7057/2001

✓ Union of India and others

Petitioners

Versus

Shri Apurba Kumar Ghosh and others

Respondents

For the petitioner

Mr. G.P. Bhowmick
Advocate.

For the Respondent

Mr M. Chanda
Mr S. Ghosh
Mr S. Dutta
Advocates.

✓ W.P.(C) No. 7324/2001

✓ The Union of India and others

Petitioners

VERSUS

Sri Sailendra Kr Sarma

Respondents

For the Petitioner

Mr. S. Kalita
Mr D. Saikia
Mr C. Baishya
Advocates.

For the Respondents

Mr B.K. Sarma
Mr U.K. Nair
Mr R.K. Vothra
Advocates

✓ W.P.(C) No. 3000/2001

✓ The Union of India and others

Petitioners

VERSUS

Sri Chandra Kanta Sinha
Deputy Commissioner of
Income Tax, Jorhat Circle
Jorhat.

Respondent

For the Petitioner

Mr. G.P. Bhowmick



R. PONNIMALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Mangal, Guwahati-27

For the Respondents, : None appears.

Date of Hearing : 19.12.05

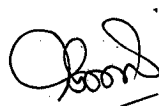
Date of Judgment : 04.01.06

JUDGMENT AND ORDER

(Katakey,J)

By this batch of Writ Petitions, the petitioners have challenged the judgments and orders passed by the learned Administrative Tribunal, Guwahati Bench regarding the grant of Special Duty Allowance(for short "SDA") to the employees under them.

2 In WP(C) No.5087/99 the petitioners, Regional Director, E.S.I. Corporation and another have challenged the order dated 17.2.99 passed by the learned Tribunal setting aside the order dated 12.6.96 issued by the petitioner, No.1 and directing that the employees of the Corporation will continue to receive the SDA in terms of the order dated 28.2.90 passed in O.A.No. 130(G)89. An application being O.A.No.103/96 was filed by the Respondent Nos 1 and 2 herein challenging the order issued by the Regional Director, ESI Corporation dated 12.6.96, whereby the SDA directed to be paid by the learned Tribunal vide order dated 28.2.90 in O.A. No. 130(G)89 was sought to be recovered with effect from 20.9.94 and also deciding not to pay the said allowances to the members of the Respondent No.1 Association, though the learned Tribunal by the aforesaid order dated 28.2.90 has held that the Members of the petitioners' association are entitled to such SDA.


R. POYVIVALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Narangi, Guwanati-2/

3 WP(C) No. 3009/2001 is filed by the Union of India challenging the order dated 20.12.2000 passed by the learned Tribunal in O.A. No.306/99 filed by the applicants therein, who are the respondents before this court, to pay the SDA in terms of the officer memorandums dated 14.12.83 and 1.12.88 for the period of their posting in North Eastern Region. The said Original Application was filed by the respondents herein claiming the said allowances in terms of the judgment passed by the Apex court in Union of India and others Vs B.Prasad B.S.D. and others, reported in (1997) 4 SCC 189 and also in terms of the office memorandums dated 14.12.83 and 1.12.88 claiming that they have fulfilled all the conditions for grant of such SDA.

4 Writ Petition (C) No. 7057/2001 is directed against the order dated 5.3.2001 passed by the learned Tribunal holding that the applicants (respondent herein) are entitled to SDA and directing the writ petitioners to pay the said allowances from the date of their subsequent posting in N.E Region. The Original Application was filed by the respondents herein claiming that though they were initially recruited in the North Eastern Region they were transferred to places out side the said Region and re-transferred to the North Eastern Region and as such they are entitled to the SDA.

5 The Union of India and others, in Writ Petition (C) No. 7324/2001 have challenged the order dated 19.12.2000 passed by the learned Tribunal directing the petitioners to give effect to the earlier order dated 28.2.90

[Signature]

R. PONNIVALAVAN

Area Manager

M/o of Defence

Canteen Stores Department

Narangi, Guwanati-27

[Signature]

passed by the learned Tribunal in O.A. No. 130(G)/89 and 130/96.

89

6 Writ Petition(C) No. 3000/2001 and 3280 of 2001 have been filed by the Union of India and others challenging the common order dated 19.12.2000 passed by the learned Tribunal in O.A. No. 268/ 2000 and O.A.No. 293/1999 filed by the present respondents, setting aside the order dated 12.7.2000, 14.7.2000 and 25.8.2000 , whereby the writ petitioners have decided to discontinue the payment of SDA and to recover the amount already paid and directing the writ petitioners to comply with the judgment and order passed on 31.8.90 in O.A. No.80/99, wherein the learned Tribunal declared that the respondents are entitled to SDA under the various office memorandums issued by the Government of India in that regard.

7 In Writ Petition(C) No. 2771/04 the Union of India has challenged the common order dated 12.5.03 passed by the learned Tribunal in O.A. No.249/2002 and other Original Applications, directing the petitioners not to make any further recovery of the SDA already paid to the respondents herein, while rejecting the claim of the respondents herein for grant of SDA. The said Original Application was filed before the Tribunal assailing the action of the respondents as regards the recovery of the SDA so far paid to the applicants - respondents herein.

1/10/04

Q. 10

R. P. SINGH, A. S. S. S.
Area Manager
Min. of Defence
Cantonment Department
Muzaffargarh, Government of India

7 8-15- (11) 88

8 We have heard Mr. Dey, learned Senior counsel and Mr. H. Rahman, learned Assistant Solicitor General for the writ petitioners in the aforesaid writ petitions and Mr. J.L. Sarkar and Mr. M. Chanda learned counsel for the respondents.

9 The Government of India, Ministry of Finance, upon consideration of the recommendation of the Committee appointed by it to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in the North Eastern Region, comprising the State of Assam, Meghalaya, Manipur, Nagaland, Tripura and erstwhile Union Territories of Arunachal Pradesh and Mizoram and to suggest suitable improvement, has decided to grant the Special Duty Allowances to the Central Government Civilian employees, who have All India transfer liability, on their posting from any region in to the North Eastern Region. It is evident from the said office memorandum that the intention of the Government and the spirit behind issuance of such office memorandum is to provide incentive and attraction to the officers belonging to the region other than the North Eastern Region to come and serve in the said region.

10 The learned counsel for the petitioners have submitted that the issue relating to the entitlement of SDA by the employees/officers of the Central Government has already been decided by the Apex Court in S. Vijaykumar's case. Therefore, according to the learned counsel, the employees/officers, who are not entitled to such allowance, in view of the said decision of the Apex court, cannot be paid

Apex
court order
of
[Signature]
R. PONNIVALAVAN

Area Manager

Min. of Defence

Canteen Stores Department

Narangi, Guwanati-2/

9 - 16 -

12
87

such allowance, even if the cases filed by them were heard and disposed of in their favour before the said decision of the Apex court, by the learned Tribunal or by the High Court in a petition challenging such decision of the learned Tribunal.

11 The learned counsel for the respondents, agreeing with the submissions of the learned counsel for the petitioners relating to the decision of the Apex court regarding the entitlement of SDA, in S. Vijaykumar's case, have however submitted that the said decision of the Apex court will not effect the decisions of the learned Tribunal, rendered prior to the said judgment of the Apex court, which have attained finality, either because of not challenging the same before the Higher Court or if challenged, were rejected.

12 In Union of India and others Vs S. Vijayakumar and others, reported in 1994 Supp (3) SCC 649, the Apex court by taking into account the purpose for which the office memorandums dated 14.12.83, 29.10.86 and 20.4.87 were issued, has held that such allowances was meant to attract persons out side the North Eastern Region to work in that Region because of inaccessibility and difficult terrain and with a view to attract and retain the services of the competent officers for service in North Eastern Region. It has further been held that the Central Government Civilian employees who have All India Transfer Liability would be granted the allowances on posting to any Station in the North Eastern Region and such employees would not become entitle to such allowances merely because of the Clause in the appointment order relating to All India Transfer Liability. However, the Apex court, on the basis

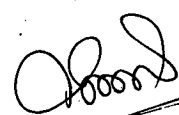
Camp

R. PONNIALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Narangi, Guwanati-27

of the concession given by the learned Additional Solicitor General, has directed that the amount already drawn by the ineligible employees/officers, towards SDA shall not be recovered from them. The Apex court in Chief General Management (Telecom), N.E. Telecom Circle and another Vs Rajendra Ch. Bhattacharjee and others, reported in AIR 1995 SC 813 has also reiterated the said position.

13 The Apex court in Union of India and others Vs Executive Officers Association Group C, reported in 1995 Supp.(1) SCC 757; upon consideration of the object behind issuance of the various office memorandums issued by the Government of India regarding entitlement of Special Duty Allowance, has held that as the North Eastern Region was considered to be 'hard zone' for various reasons, the Government has issued the said office memorandums providing certain extra allowances, benefits and other facilities to attract competent officers in the North Eastern Region at least for 2 to 3 years of tenure posting. Referring to Rajendra Ch. Bhattacharjee case, the Apex Court has further held that such benefits shall not be available to the persons belonging to the N.E. Region, where they were appointed and posted. The decision of the Apex court in Union of India & Ors etc Vs B. Prasad, B.S.D. & Ors, etc(supra) being related to the entitlement of SDA as well as Field area Special compensatory(Remote Locality) Allowance, of the defence civilian personnel, is not applicable in the present writ petitions as the said issue has not arisen in this batch of writ petitions.

Wing



R. PONNIVALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Marangi, Guwahati-21

14

11 - 18 -

14 From the aforesaid decisions of the Apex court, it is, therefore, evident that the SDA is payable to the civilian employees of the Government of India who were initially appointed and posted outside the North Eastern Region but subsequently posted in the North Eastern Region. The benefit of such allowance is also not available to the employees/officers belonging to North Eastern Region and to such officers/ persons who were appointed and posted in the said region.

15 The Government of India, Ministry of Finance (Department of Expenditure) thereafter issued an office memorandum dated 13.6.2001 regarding admissibility of SDA of postal employees in their posting in N.E Region. In the said office memorandum it has been clarified that there is no bar in eligibility of SDA for the officers belonging to North Eastern Region, if they satisfy the criteria that their appointment in service/post is made on All India basis and the promotion is also done on the basis of All India common seniority. However, it has been made clear that they will be entitled to the same, if they are posted in N.E. Region from outside the region.

16 The learned Assistant Solicitor General, during the course of argument, has placed on record another office memorandum dated 29.5.2002 issued by the Government of India, Ministry of Finance (Department of Expenditure) wherein it is stipulated that the SDA shall be admissible to the Central Government employees having All India Transfer Liability on their posting to the North Eastern Region, including Sikkim, from outside the region. Referring to the

R. PONNIVALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Narangi, Guwahati-27

84

5.10.2001

decision of the Apex court dated 5.10.2001 in Civil Appeal No. 7000/2001, the Ministry in the said office memorandum has also decided that the amount already paid on account of SDA to the ineligible persons not qualified to such allowances on or before 5.10.2001 will be waived. However, the recoveries, if any, already made, need not be refunded and the amount paid on account of such allowances after 5.10.2001 will be recovered.

17 It appears from the said office memorandum dated 29.5.2002 that the admissibility of SDA of the postal employees belonging to the North Eastern Region upon posting in the said region on the basis of the promotion pursuant to the All India common seniority and on their posting to N.E. region from outside the region, has not been dealt with.

18 Let us now consider the submission of the learned counsel for the parties on the point whether the aforesaid decision of the Apex court will in any way effect the rights of the employees/officers already accrued to them, prior to the said decisions of the Apex court, by virtue of the decisions given by the learned Tribunal in the applications where they were parties.

19 Doctrine of finality of judgment or the principles of res judicata are founded on the basic principle that when a court of competent jurisdiction renders any judgment, the same ought not to be allowed to be agitated again and again. The judgment which attained finality cannot be re-opened and the benefit occurred therein cannot be taken away by the

R. PONNIALAVAN

Area Manager

Min. of Defence

Canteen Stores Department

Varangi, Guwanati-2

13 - 20

16

83

authority by issuing any order or office memorandum, which is contrary to such decision, on the ground that the position of law has been changed because of the subsequent decision of the Apex court,, unless of course the Apex Court directs otherwise or such decisions of the competent court/tribunal is challenged and set aside. Such decision would operate as res judicata between the parties to such decision. Therefore, the rights of the employees/officers accrued under the order of the learned Tribunal, which attained finality, cannot be taken away because of the subsequent decision of the Apex court in S. Vijayakumar case. The learned counsel for the petitioners also could not place any direction of the Apex court that the said decision shall effect all the judgments already rendered by any competent court/tribunal.

20 In view of the law laid down by the Apex Court, as discussed above and also in view of the discussion relating to the finality of judgment, we hold that the officers and employees, who belongs to the region other than the N.E. Region, will be entitled to SDA. The persons belonging to the other parts of the country other than the N.E. Region, if initially appointed and posted in N.E. Region shall not be entitled to such allowance. (The Postal employees belonging to N.E. Region but posted in the said Region from out side the region on their promotion) on the basis of the All India Common Seniority List shall also be entitled to SDA from the date of such posting. The employees and officers, other than, the employees and officers mentioned above, shall not be entitled to SDA and the authorities shall be entitled to recover SDA already paid to them after 5.10.2001 in terms of the office memorandum dated 29.5.2002 and the amount already

1

5.10.2001

belong N.E. Region but the same region has no promotion

R. PONNIVALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Narangal, Guwanath

14 -21- 82

paid upto 5.10.2001 towards SDA shall not be recovered.

However, the recoveries, if any already been made, need not be refunded. This is also subject to the inter party judgment and order that have been passed by any competent Court or Tribunal, which have attained its finality.

21 The writ petitioners in view of our aforesaid decision, are directed to scrutinize each of the claim of the officers/employees for SDA and pass necessary orders in that regard. However, the authority cannot re-open and stop payment of SDA or recover such allowances from such officers/employees, whose cases have already been decided by the learned Tribunal, prior to S. Vijayakumar's case, declaring that they are entitled to such allowances, if the said decisions have not been assailed and set aside by the Higher court.

22 The judgments and orders passed by the learned Tribunal are accordingly modified to the extent indicated above. The writ petitions are accordingly disposed of. No order as to cost.

R. PONNIVALAVAN
Area Manager
Min. of Defence
Canteen Stores Department
Narangi, Guwahati-21

84/- BP KATAKTY
JUDGE

84/- BB REDDY
CHIEF JUSTICE

3810-13

Mem No. HC.XXI

R.M. dtd.

23-3-06

Copy forwarded for information and necessary action to

1. The Central Administrative Tribunal, Guwahati Bench Guwahati, represented by the Chairman.
2. The Secretary, Employees State Insurance Corporation, Employees Union, NE Region, Bammimalidan, Guwahati-21.
3. Income Tax Casetted Service Federation, North Eastern Region Unit, Aayekar Bhowan, Uzanbazar, Guwahati, through the President.
4. Sri Chandra Kanta Sinha, Deputy Commissioner of Income Tax, Jorhat Circle, Jorhat.
5. Sri Bangachhar Baro, Circle Secretary, National Federation of Postal Employees, Assam Circle, Guwahati.

By Order

Asstt. Registrar (I&E)
Guwahati High Court, Guwahati

केन्द्रीय प्रशासनिक अपील
Central Administrative Tribunal

- 5, P. 500

गुवाहाटी बेंच

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Rule 24 of Central Administrative Tribunal (Procedure)
Rule 1987)

EP 3/07

M. P No. 62/2007

In O. A. No. 30/2003

Filed by me applicants
Mr. Subrata Nath
Advocate
04/07/2007

In the matter of:

M. P No. 62/2007

In O. A. No. 30/2003

Shri Ranjit Sutradhar & Others.

..... Applicants.

-Vs-

Union of India and Others.

..... Respondents.

-And-

In the matter of:

Non-compliance of Hon'ble Tribunal's
Order dated 03.06.2003 passed in O.A.
No. 30/2003.

-And-

In the matter of:

An application under Rule 24 of Central
Administrative Tribunal (Procedure)
Rule 1987, praying for a direction upon
the Respondents for implementation of
the order dated 03.06.2003 passed in
O.A. No. 30/2003.

-And-

In the matter of:

1. Shri Hemanta Kumar Deka,
PN- 2191, SK-II,
CSD Depot, Missamari,
Missamari, Assam.

2. Shri Subal Chandra Rabha,
PN- 2191, SK-II,
CSD Depot, Missamari,
Missamari, Assam.

... Applicants.

-Versus-

1. The Union of India,
Represented by the
Secretary to the Govt. of India,
Ministry of Defence,
South Block, New Delhi- 110001.

2. The General Manager,
Canteen Store Department,
Govt. of India, Ministry of Defence
'Adelphi' 119 M.K. Road
Mumbai- 400 020.

3. The Manager,
CSD Depot, Missamari, Assam.

... Respondents.

The applicants above named most respectfully beg to state that: -

1. That the applicants along with others have approached this Hon'ble Tribunal through O.A. No. 30/2003 against arbitrary order of recovery of Special Duty Allowance already paid to the applicants and also praying for a direction upon the respondents to continue to pay Special Duty Allowance to the applicants from the date of discontinuation of SDA in terms of Govt. of India, Ministry of Finance O.M dated 14.12.1983, 01.12.1988 and 22.07.98.
2. That the aforesaid Original Application came up for consideration before this Hon'ble Tribunal and this Hon'ble Tribunal on perusal of the materials on record and after hearing the contention of the Counsel of the

Pl 24

parties was pleased to allow the Original Application on 03.06.2003 with a direction upon the respondents as follows: -

"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 out side region. As a matter of fact, the same was clarified by the Cabinet Secretariat (E.A. Section) vide Cab. 5 ectt. UO. 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 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 reposted 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 applicant is allowed in the light of the decision of this Bench in OA No. 88/2001 disposed on 12.9.2001.

The application is allowed. No order as to costs."

Copy of the order-dated 03.06.2003 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1.

3. That your applicants after receipt of the order-dated 03.06.2003 communicated the same to the respondents for implementation of the judgment and order dated 03.06.2003 passed in O.A. No. 30/2003. However, the respondents paid SDA in terms of the judgment and order dated 03.06.2003 in OA No. 30/2003 except the present applicants.

It is stated that the Lawyer of the applicants issued a notice to the Respondent No. 3 on 23.02.2007 for payment of SDA to the applicants in the light of the direction passed on 03.06.03 but to no result.

Copy Lawyer's Notice dated 23.02.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

4. That the applicants state that in response to the Notice dated 23.03.2007 the respondents released payment of SDA to the applicants, which was intimated to the Lawyer of the applicants vide letter dated 12.04.07. However, the respondents have not released the arrear of SDA due to the applicants and no such intimation regarding payment of arrear of SDA to the applicants is communicated either to the applicants or to the Lawyer of the applicants. In this connection it is relevant to mention here that payment of SDA due to the applicant No. 1 is for the period 17.05.2002 to 14.05.2006 during which period applicant No. 1 was posted at Bagdogra, State of West Bengal, as such he is entitled for payment of SDA during the period w.e.f. 17.05.02 to 14.05.02, which the respondents has not paid to the applicant No. 1. Applicant No. 1 submitted a representation on 30.03.07 to the respondent No. 3 stating the fact and prayed for release of arrear of SDA to him but to no result. It is further stated that applicant No. 2 was transferred and posted from Missamari to Port Blair w.e.f. 20.11.2001 to 07.09.2004, as such he is entitled for payment of arrear due to SDA w.e.f. 20.11.2001 to 07.09.2004 but the same is not paid to him in terms of the direction passed by this Hon'ble Tribunal on 03.06.03 in OA No. 30/2003 for the reasons best known to the respondents.

Copy of the representation dated 30.03.07 and letter dated 12.04.07 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3 and 4 respectively.

5. That it is stated that the A.C.D.A, CDA, Narengi vide his letter dated 26.10.2005 addressed to the Area Accounts Office, Shillong and others has clarified regarding payment of SDA and arrear to the employees of CDA. In the said letter it is laid down the criteria regarding payment of SDA and arrear, if any may be admitted with effect from the date of reposting of the employee from outside to NER. As such applicants are entitled for payment of SDA from the date when they has been reposted at NER but the same has been denied to them. Be it stated that in the order dated 03.06.2003, this Hon'ble Tribunal allowed the OA No. 30/2003 with the direction to the respondents to pay SDA to the applicants but the respondents most arbitrarily did not pay arrear of SDA to the applicants for the reasons best known to them. Therefore, finding no other alternative the applicants are approaching before this Hon'ble Tribunal for further direction upon the respondents for compliance of the order dated 03.06.2003 passed in O.A. No. 30/2003 of this Hon'ble Tribunal in respect of the applicants and to pass further order under Rule 24 of Central Administrative Tribunal (Procedure) Rule, 1987 for compliance of the order of the Hon'ble Tribunal.

Copy of the letter dated 26.10.06 is enclosed herewith
for perusal of Hon'ble Tribunal as Annexure- 5.

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

Under the facts and circumstances stated above
the Hon'ble Tribunal be pleased to direct the
respondents to implement the order dated 03.06.2003
passed in O.A. No. 30/2003 in respect of the
applicants with immediate effect and further be
pleased to pass any other order or orders as deem fit
and proper by the Hon'ble Tribunal.

And for this act of kindness applicants as in duty bound shall ever pray.

VERIFICATION

I, Shri Hemanta Deka, PN-2191, SK-II, CSD Depot., Missamari, Assam, aged about 50 years, applicant No. 1 in the instant application, duly authorized by the other to verify the statements made in the application, do hereby verify that the statements made in Paragraph 1 to 4 are true to my knowledge and rest are my humble prayer before the Hon'ble Tribunal, and I have not suppressed any material fact.

And I sign this verification on this the 18th day of July 2007.

Hemanta Hemanta Deka

ORDER SHEET

Annexure-1

Original Application No. : 30/03
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) Ranjit Sukra et al.

Respondent (s) U.O.I. Durgam

Advocate for the Applicant (s) M. Chandan, G. M. Chakraborty
Mr. A. J. Reddy

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

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 23 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, 1.12.1988 and 22.7.1978 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. Chandan, learned counsel for the applicant and



*Alleged
fact
elements*

3.6.2003

also Mr. A. Deb Roy, learned Sr. C.G.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 Cab. Sectt. UO. 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 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 reposted 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.

Memo No. 17/15

Copy for information and necessary action.

SD/VICE CHAIRMAN

- 1) Sri Ranjit Sutradhar (8012) LDC(S)
Cantonment Department at Dispur, Assam
- 2) Mr. A. Deb Roy, Sr.C.G.S.C., C.A.T.

Section Officer (2)
10/6/03

Manik Chanda

Advocate
Gauhati High Court

Annexure - 2

☎ : 2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No.....

Date..... 22/07/07.....

From:

Manik Chanda,
Advocate.

To.

The Manager,
CSD Depot,
Missamari, Assam.

My Clients: - 1.

Sri Hemanta Kumar Deka, PN-2191, SK-II, CSD
Depot, Missamari, Assam.

2.

Sri Subal Chandra Rabha, PN-2362, SK III, CSD
Depot, Missamari, Assam.

Dear Sir,

Under instructions of my above named clients, I do hereby serve you this notice for immediate compliance of the judgment and order dated 03.06.2003 passed in O.A No. 30/2003 (Sri Ranjit Sutradhar & others VS- Union of India & others) in respect of my above named clients. In this connection I beg to say that my above named clients along with others approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through O.A. No. 30/2003 being aggrieved by the arbitrary recovery of Special Duty Allowance already paid to my above named clients and also praying for a direction upon the respondents to continue to pay Special Duty Allowance to the above named clients as well as for payment of arrear SDA from the date of discontinuation of the Special Duty Allowance in terms of the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi O.M dated 14.12.83, 01.12.88, and 22.07.98. However, the O.A. No. 30/2003 came up for hearing on 03.06.2003 and the Hon'ble Tribunal was pleased to hold that, as per the above mentioned O.M dated 14.12.83, 01.12.88 and 22.07.98 the applicants are eligible for payment of

बीमा नहीं NOT INSURED

संलग्न गये डाक टिकटों का मूल्य रु. 22/-
Amount of Stamps affixed Rs. 22/-

यह रजिस्ट्रार* प्राप्त किया
Received a Registered* CSD Depot

पानेवाले का नाम
Addressed to: M. Ramani

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

रकमांक
No. 605
तारीख मॉड
Date Stamp

Attested
Jug
Hiroun

10
Manik Chanda

Advocate
Gauhati High Court

2

☎ : 2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No.

Date. 23/02/07.

SDA. The Hon'ble Tribunal also held that the applicants in O.A. No. 30/2003 were either posted to North East on public interest or they were transferred outside of the North East in public interest who were subsequently reposted in N.E Region, therefore it would not be appropriate to deny the claim of the applicants and accordingly the application was allowed.

Pursuant to the court's order dated 03.06.2003, my clients submitted representation, the last being on 16.11.2006, but surprisingly no decision has been taken or communicated to my aforesaid clients till date. It is relevant to mention here that all the other applicants of the above mentioned original application i.e. O.A. No. 30/2003 which was allowed by the Hon'ble Tribunal are getting SDA except my above named clients: namely applicant No. 3 Sri Hemanta Kumar Deka and applicant No. 9 Sri Subal Chandra Rabha of O.A. No. 30/2003 pursuant to the order dated 03.06.2003.

Therefore you are requested to arrange payment of SDA to my above named clients in compliance with the direction of the Learned Tribunal passed on 03.06.2003 in O.A. No 30/2003 with arrear monetary benefit and communicate your decision to my above named clients or to the undersigned within 30 days of receipt of this NOTICE, failing which my above named clients will be compelled to take further steps in accordance with law.

A copy of the order dated 03.06.2003 is enclosed herewith for your ready reference and early action thereof.


(MANIK CHANDA)

To,
The Manager
CSD Depot Missamari

Annexure-3

Dated 30th March 07

Sub: PAYMENT OF SDA ARREARS

Sir,

I beg to state the following few lines for your kind approval please.

That Sir, after a long correspondence with our HO. Mumbai and Guwahati CAT, HO agreed to make payment of current SDA to me. However for the payment of arrears from 1996 Aug, there is no clearance, so I am in dark. Therefore I furnish my following details as per our office records.


That Sir,

- (1) I posted from CSD Depot B.D. Bari (Jammu) to CSD Depot Missamari (NER) on 14.02.1991 vide transfer Order No. 11.91 date 10.01.91 But SDA was not paid for me.
- (2) Vide transfer Order No. 209/97 date 07.10.1997, transferred to Masimpur Depot from this Missamari and rejoined at Missamari on 27.10.2000. (SDA Not paid to me)
- (3) Again I transferred from Missamari Depot to Bagdogra Depot vide transfer Order No. 38/2000 and after Completion tenure there I rejoined at Missamari Depot (NER) on 15.05.2006. Now I am continuing my duty at this Missamari Depot.

However an order issued by our HO to make payment of SDA from 15.05.06 to 31.03.2007, but there is not mentioned for arrears payment. Therefore you are requested to approach/appeal to our Ho for payment of arrears. Your kind and sympathetic consideration will be highly appreciated.

Thanking you.

Your faithfully


PN-219, P.B. Dera, N.E.
CSD Depot Missamari
Assam

Received



03/04/07

OFFICE OF THE DEPT. SECY



Attested
Sd/-
Advocate

- 12 -

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
CANTEEN STORES DEPARTMENT
"ADELPHI", 119, M.K. ROAD
MUMBAI - 400 020

Annexure-4

Ref.No.3/A-3/Legal/CC-551/259

12 Apr 2007

// SPEED POST //

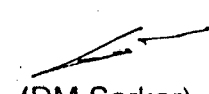
✓ Shri Manik Chanda
Advocate
Guhati High Court
Bye Lane-7
Lachit Nagar
GUWAHATI - 781 007

LEGAL NOTICE

Reference your notice dated 12.02.2007.

2. It is intimated that, PN 2191 Shri HK Deka, SK-II and PN-2362 Shri Chandra, SK-III were posted out of North Eastern Region before the court order, who were thus not entitled for SDA. Hence, the SDA has been released to all the applicants except these two applicants.

2. However, payment of SDA has been released to PN-2191 Shri HK Deka, SK-II and PN-2362 Shri SC Rabha, SK-III who are again posted to Misamari. Now the SDA amount have been worked out and the CSD Depot, Misamari, has been authorized vide telegram No. 6D/PR/PN-2191& 6D/PR/PN-2362/2339 both dated 28 Mar 2007, to release payment


(DM Sarkar)
Asstt. General Manager
(Vig, Legal & HRD & Legal)

*Attested
Law.
Advocate*

Annexure-5MOST IMPORTANT

No. PAY/TSCH/SDA/CAT/VII
 office of the CDA Guwahati
 "Udayan Vihar", Narangi,
 Guwahati - 781 171
 Dated: - 26/10/2005.

To,

- 1) Area Accounts Office,
Bluar Road, Shillong - 01
- 2) All Sub-Offices as per Standard list
- 3) All Sec in M.O. Guwahati

Sub: - Special Duty Allowance for civilian Employees of Central Govt.
 serving in North Eastern Region

-- XX --

After prolonged correspondence at various level, it has since been clarified/decided by the Ministry of Finance, Deptt. Of Expdr. Vide their U.O. NO.25 (4) E-II (B)/2001 dated 02.08.05 received with CGDA, New Delhi letter No.AT/III/2366/OA-267/04 dated 19.08.05 that barring those cases where CAT/Court has passed specific directions in respect of particular persons payment of SDA may be regulated as per provisions contained in Min. of Finance, Deptt. of Expdr. OM No.11(5)/E.II(B) dated 29.05.02. Hence while admitting the claim of such employees please ensure the fulfillment of under mentioned criteria -

- 1) Recruitment of such employees to the service/cadre/posts has been made on All India basis and not on Zonal basis.
- 2) Their promotion is granted on the basis of All India common seniority list for the service/cadre/post as a whole.
- 3) They are liable to be transferred on All India basis and not on Zonal basis.
- 4) Posted/transferred to NER from outside the region.

All pending cases at your end may be dealt with accordingly and arrear, if any may be admitted with effect from the date of reposting of the employee from outside to NER. Any specific doubt in implementation may be referred to this office. As regards cases where specific order has been passed by CAT/Court necessary speaking order/implementation order duly vetted by MOD (where Secretary, MOD is one of the respondents) will be required as per MOD ID No.1574/2004/D(CMU) dated 07.04.03.

(Contd. on page - 02)

*Affected
 Jato
 Advocate*

14
(Page 02)

This memo is issued with the approval of CDA on O.N. dated 03.09.05.

(P.R. BISWAS)
A.C.D.A.

Copy to: -

1. The CGDA
West Block-V
R.K. Puram
New Delhi-110 066

W. r. to their letter No.AT/II/2366/OA No.267/04
dated 19.08.05 and U.O. No.AT/II/2366/SDA/VI
dated 07.10.05 and letter of even no dated 17.10.05.
for his kind information please.

2. The CDA (CSD)
Mumbai
"Adelphi"
110, Maharshi Karve
Road
Mumbai-400 020

For information please.

3. HQ Eastern Command
Fort William, Kol-21

4. The Chief Engineer,
Shillong Zone
Spread Eagle Falls,
Shillong-11

5. Chief Engineer(AF)
Elephant Falls,
Camp-Nonglyer
Shillong-793009

For inf. with a request to issue necessary
directives to Sub-offices under them in the
above line.

6. Principal Director,
Defence Estate
Eastern Command
18th Camac Street
7th Floor, Kol-17

7. The Dte. Of Military
Firm
Fort William, Kol-21

(P.R. BISWAS)
A.C.D.A.

Execution Petition No-3/07

File in Court on... 11/11/08..
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

E.P. 3/07
Misc. Petition No.62 of 2007
In O.A.No.30/2003

for

Case No. 11/08

IN THE MATTER OF :

Shri Ranjit SutradharPetitioner

- Versus -

Union of India & Ors.Respondents

IN THE MATTER OF:

A short reply for and on behalf of the
Respondents

The humble petition on behalf of the
petitioners above named:

MOST RESPECTFULLY SHEWETH:

Preliminary Objection

At the outset, the Respondents humbly submit that as per Hon'ble CAT, Guwahati judgment dated 03.06.2003, the Respondents have released SDA to 25 staff members with effect from June 2003 after obtaining undertaking from each individual that the amount so paid will be refunded in full in case of any Government decision is contrary. The date of judgment has been taken as base for releasing SDA to the applicants except in the case of PN-2191 Shri H.K. Deka and PN-2362 Shri S.C. Rabha. The applicants viz, Shri H.K. Deka

Reviewed without annexures on 11/01/08
Adutta
T.G.R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Satgaon, Guwahati-27

and S.C. Rabha, was not paid the SDA due to posting out of the individual from North-Eastern Region before the date of court order.


2. The department had already filed Writ Petition No.2472 of 2004 in the High Court, Guwahati to set aside the above court order and Hon'ble High Court admitted the Writ Petition on 06.05.2004 for which the hearing is yet to be fixed.

3. It has been stated in the WP that the Department has already implemented the CAT judgment against the indemnity bond issued by the eligible employees.


4. The department had also filed a Miscellaneous Petition in the Hon'ble High Court of Guwahati praying that the operation of the CAT order dated 03.06.2003 passed on O.A.No.30 of 2003 by the Hon'ble CAT Guwahati be stayed.

5. It has also been stated in the Miscellaneous Petition that the Petitioners are paying the said monetary benefit conditionally under the hearing of special duty allowances to the opposite parties and the same is pending before the Hon'ble High Court for adjudication.

6. The Hon'ble High Court, Guwahati has already rendered judgment dated 03.09.2006 for similar case of SDA in respect of Shri K.R. Das and Others for the WP No.2315 of 2004 and Shri N.C. Das and Others for WP No.4552 of 2006 filed by the Department. The gist of the judgment is reproduced as under:-


T.G.R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Satgaon, Guwahati-27

"We hold that the officers and employees, who belong to the region other than the N.E. Region, will be entitled to SDA. The persons belonging to the other parts of the country other than the N.E. Region will be entitled to SDA. The persons belonging to the other parts of the country other than the N.E. Region, if initially appointed and posted in N.E. Region shall not be entitled to such allowance. The postal employees belonging to N.E. region but posted in the said Region from outside the region on their promotion on the basis of the All India Common Seniority List shall also be entitled for SDA from the date of such posting. The employees and officers, other than, the employees and officers mentioned above, shall not be entitled to SDA and the authorities shall be entitled to recover SDA already paid to them after 05.10.2001 in terms of the office memorandum dated 29.05.2002 and the amount already paid upto 05.10.2001 towards SDA shall not be recovered. However the recoveries, if any already been made, need not be refunded. This is also subject to the inter party judgment and order that have been passed by any competent court or Tribunal, which have attained its finality (Exhibit 1).


T. G. R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Satgaon, Guwahati-27

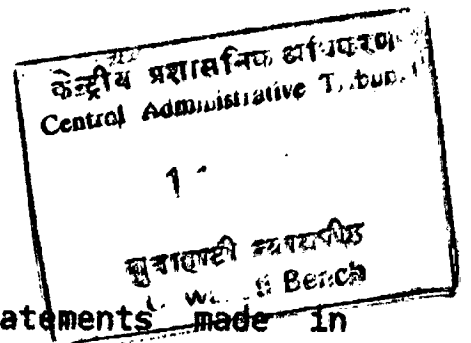
7. Based on the above judgment, action has already been taken to deduct the SDA paid to the non-entitled staff after obtaining legal opinion from Branch Secretariat, Ministry of Law and Justice, Mumbai.

8. However, without prejudice, the comments on each point covered in the MP are enumerated in the succeeding paragraphs:-

8.1 That with regard to the statements made in paragraph 1 of the Misc. Petition, the respondents beg to submit that as per Hon'ble CAT, Guwahati judgment dated 03.06.2003 in O.A.No.30/2003, the SDA has already been released to 25 staff members with effect from 06/2003 after obtaining undertaking from each individual that the amount so paid will be refunded in full in case of any Government decision is contrary. The department had already filed Writ Petition No.2472 of 2004 in the High Court, Guwahati to set aside the above court order and Hon'ble High Court admitted the Writ Petition on 06.05.2004 for which the hearing is yet to be fixed. The department had also filed a Miscellaneous Petition in the Hon'ble High Court of Guwahati praying that the operation of the CAT order dated 03.06.2003 passed on O.A.No.30 of 2003 by the Hon'ble CAT Guwahati be stayed.

8.2 That with regard to the statements made in paragraph 2 of the Misc. Petition, the respondents humbly submit what has been explained in the preliminary objection and para 1 above.


T. G. R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Satgaon, Guwahati-27



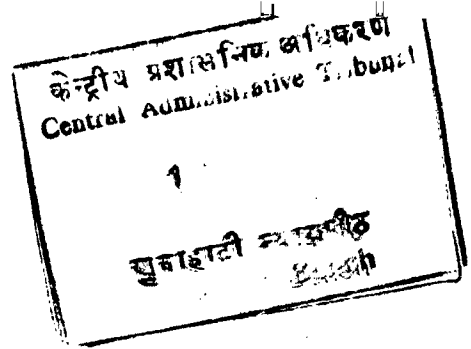
8.3 That with regard to the statements made in paragraph 3 of the Misc. Petition, the respondents beg to submit that the applicants viz. Shri H.K. Deka and S.C. Rabha, was not paid the SDA due to posting out of the individual from North-Eastern Region before the date of court order (i.e. posting out of Shri H.K. from Misamari to Baghdogra w.e.f. 12.05.2003 and Shri S.C. Rabha from Misamari to Port Blair w.e.f. 20.11.2001). However, a sum of Rs.11,917/- has been released to Shri H.K. Deka w.e.f. 05.05.2006 on his reposting to Misamari depot (Exhibit-2) and for the period 05.05.2006 to 31.03.2007 and a sum of Rs.8,090/- has been released to Shri S.C. Rabha who was again posted to Misamari w.e.f. 07.08.2006 from Port Blair for a period 07.08.2006 to 31.03.2007 (Exhibit-3). The individual served in Port Blair depot from 20.11.2001 to 08.04.2004 hence no SDA is entitled for this period as claimed by the individual.

The notice of the applicant's advocate dated 12.02.2007 was replied vide letter No.3/A-3/Legal/CC-551/259 dated 12.04.2007 (Exhibit 4).

8.4 That with regard to the statements made in paragraph 4 of the Misc. Petition, the respondents humbly submit what has been explained in para 3 above.

8.5 That with regard to the statements made in paragraph 5 of the Misc. Petition, the respondents beg to repeat and reiterate what has been explained in the


T.G.R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Salgaon, Guwahati-27

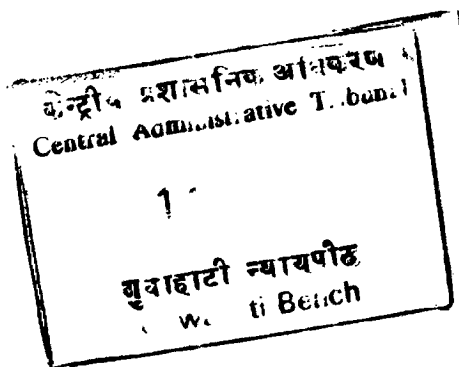


6

preliminary objection. Besides that the letter enclosed, as annexure 5 by the applicant is not addressed to CSD and it is an internal letter from CDA office.

8.6 That with regard to the statements made in paragraph 6 of the Misc. Petition, the respondents beg to submit that the judgment dated 03.06.2003 has already been implemented as stated in para 1 above.


T. G. R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Sotgson, Guwahati-27



A F F I D A V I T

I, Shri T. G. R. NAIR son of
P. GOPINATHAN NAIR aged about 53 years at present
working as REGIONAL MANAGER (EAST)
who is taking steps in the present Misc. Case and duly
authorized and competent to sign this affidavit do hereby
solemnly affirm and state that the statements made in
paragraphs _____ are true to my knowledge and
belief, those made in paragraphs _____
being matters of record are true to my information derived
there from and rest are my humble submission before the
Hon'ble Tribunal. I have not suppressed any material fact
before the Hon'ble Tribunal.

And I sign this verification on this the 10th
day of January 2008 at Guwahati.

Identified by me:-

Advocate

T. G. R. NAIR
Regional Manager (East)
Govt. of India
Ministry of Defence
Canteen Stores Department
P.O.: Satgaon, Guwahati-27
Deponent

Solemnly affirmed and declared
by the deponent before me, who
is identified by Motin Ud-Din
Ahmed Advocate at Guwahati on
this 10th day of
January 2008.