

01/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 103/104.....

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SECTION OFFICER (Judl.)

Gahls
09.11.17

FORM No. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org. App./Misc Petn/Cont. Petn/Rev. Appl.....
103/04

In O.A.....

Name of the Applicant(s) Md. A. Maseemdar.....

Name of the Respondent(s) Cleo. 2 ORT.....

Advocate for the Applicant .. Mr. Aslib. Ahmed.....

Counsel for the Railway/CGSC..... Case-.....

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

29.4.2004

List on 10.5.2004 for admission.

Member (A)

The application is in form
is filed/C. F. No. 13/14
d. posted p.c. No. 104
No. 2814104

Dated 28/4/04

17.5.2004

Heard Mr. A. Ahmed, learned counsel
the ~~xx~~ applicant.

The application is admitted, call
for the records. Issue notice to the
parties, returnable within four weeks.

List on 18.6.2004 for orders.

Member (A)

Notice & order
Sent to D/Section
for issuing to
respondent no -
1 to 5, by regd. 18.6.04
with A/D post.

Learned counsel for the applicant
has submitted a letter of absence due
to his personal ground.

List before next Division Bench.

Member (A)

Member (J)

A/D card return
from respondent
no. 4.

pg

11/6/04 A/D card return
from respondent No. 3.

25.8.04. Present: Hon'ble Mr. D.C. Verma, Vice-Chairman.

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

Heard learned counsel for the parties.

This application involves common question of law and facts and it would be heard together. The learned counsel for both sides prays that this case may be fixed before the next available Division Bench. Let this case be listed before the next available Division Bench as prayed for.

KV Prahladan
Member

KV Prahladan
Vice-Chairman

22-12-04

lm

Notice duly served

23.12.2004

List on 2.2.2005 for hearing.

Or-R-100384
No crls for serv-8/12/04

KV Prahladan
Member (A)

mb

23.03.2005 Present : The Hon'ble Mr. Justice S. Sivarajan, Vice-Chairman.

The Hon'ble Mr. K.V. Prahladan, Member (A).

Heard Mr. A. Ahmed, learned counsel for the applicants and also Ms. U. Das, learned Addl. C.G.S.C. for the respondents.

Hearing concluded. Orders reserved.

KV Prahladan
Member (A)

KV Prahladan
Vice-Chairman

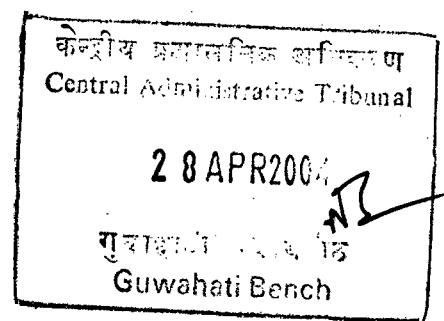
mb

31.5.05. Judgment delivered in open Court. Kept in separate sheets. Application is dismissed. No order as to costs.

KV Prahladan
Member

KV Prahladan
Vice-Chairman

lm



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.**

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

ORIGINAL APPLICATION NO. 103 OF 2004.

BETWEEN

Shri Aftabuddin *Magnus*

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A is the photocopy of extract of Office Memorandum dated 14-12-1983.

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

Annexure-C is the photocopy of representation dated 28-06-2003 submitted by the applicant before the Respondent No.4.

Annexure-D is the photocopy of representation dated 20-08-2003 submitted by the applicant before the Respondent No.4.

Annexure-E is the photocopy of letter No. 2 (2)/SCD/03-04/2063 dated, Silchar 16/12/03.

Annexure-F is the photocopy of letter No.3 (2)/SCC/03/185 dated, Silchar 29/1/04.

This original application is made for seeking a direction from this Hon'ble Tribunal to the Respondents for continuation of the payment of Special Duty Allowance to the applicant as per similarly situated persons who are working under the same department and same office are continuing the Special Duty Allowance without any interruption till day and also with a prayer for refund back the amount of Special Duty Allowance paid to the applicant earlier by the Respondents with effect from 06-10-2001 to July 2002 which has been recovered by the Respondents. The applicant is working as Assistant Engineer, Central Public Works Department, Silchar. The payment of Special Duty Allowance has been discontinued to him with effect from August 2002 but similarly situated persons have been enjoying this benefit without any interruption. The applicant has filed representations dated 28-06-2003 and 20-08-2003 before the Respondents for seeking justice in this matter. The Respondents vide their letter dated 16-12-2003 and 29-01-2004 rejected the claim of the applicant regarding payment of Special Duty Allowance. As such the applicant filed this instant Original Application before this Hon'ble Tribunal for continuation of Special Duty Allowance and also the refund back the amount of his Special Duty Allowance which has been recovered by the Respondents.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 103 OF 2004.

BETWEEN

Shri Aftabuddin *Mazumder*
Assistant Engineer (Planning)
Central Public Works Department,
Silchar Central Division, Malugram,
Mela Road, Silchar-2

...Applicant

-AND-

1. The Union of India represented by the Secretary to the Government of India, Ministry of Urban Affairs, Nirman Bhawan, New Delhi-110011.
2. The Director General Works,
Central Public Works Department,
118-A, Nirman Bhawan,
New Delhi- 10011.
3. The Additional Director General of Works (ER),
Central Public Works Department,
Nizam Palace, 17th floor,
234/4 AJC Bose Road, Kolkata-20.
4. The Superintending Engineer
Central Public Works Department,
Silchar Central Circle, Malugram,
Mela Road, Silchar-2

Filed by
Shri Aftabuddin Mazumder
Applicant

103
Chd (A) 11 (20)
A. D. W.

10
A. D. W.

5. The Executive Engineer,
Central Public Works Department,
Silchar Central Division,
Malugram,
Mela Road, Silchar-2
Assam.

... Respondents

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

This application is not made against any particular order but praying for a direction from this Hon'ble Tribunal to the Respondents for continuation of the payment of Special Duty Allowance to the applicant as per similarly situated persons who are working under the same department and office are continuing the Special Duty Allowance without any interruption till day and also with a prayer for refund back the amount of Special Duty Allowance with effect from 06-10-2001 to July 2002 which has been recovered by the Respondents.

2) JURISDICTION OF THE TRIBUNAL

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

3) LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.



4) **FACTS OF THE CASE:**

Facts of the case in brief are given below:

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

4.2) That your applicant begs to state that he is Assistant Engineer, Central Public Works Department. Now he is working as Assistant Engineer (Planning), Silchar Central Division, Silchar-2.

4.3) That your applicant 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 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 and Project Allowance will be drawn separately.”

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

Annexure-A is the photocopy of extract of Office Memorandum dated 14-12-1983.

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

4.4) That your applicant begs to state that he is saddled with All India Transfer liability and seniority in terms of his offer of appointment and with the said liabilities he has accepted for All India Transfer liability and seniority as per his appointment letter.

4.5) That your applicant begs to state that he has fulfilled all the criteria laid down in the Office Memorandums regarding payment of Special Duty Allowance. Accordingly after full satisfaction of the Respondents the applicant has been paid Special Duty Allowance without any interruption but all of sudden the Special Duty Allowance has been discontinued to the applicant by the Respondents with effect from August 2002 and recovery of payment of Special Duty Allowance has been made from the applicant with effect from 06-10-2001 to July 2002. It is also surprising that the similarly situated persons working under the same Department the Assistant Engineers who belongs to North Eastern Region and never been posted outside of North Eastern Region has been enjoying the said Special Duty Allowance without any interruption till today but the Respondents had discriminated your applicant by discontinuing the said Special Duty Allowance and also illegally recovered the said amount from the applicant which has been earlier paid to him. The Respondent cannot deny the same benefit to the applicant without any justification. As



such the applicant is compelled to approach this Hon'ble Tribunal by filing this Original Application for seeking justice in this matter.

4.6) That your applicant begs to state that he has filed representations dated 28-06-03 and 20-08-03 before the Respondent No.4. The Respondent No.4 vide his letter No.2 (2)/SCD/03-04/2063 dated, Silchar 16/12/03 and also the Superintending Engineer, Silchar Central Circle (CPWD), Silchar vide his letter No.3 (2)/SCC/03/185 dated, Silchar 29/1/04 rejected the claim of the applicant regarding payment of Special Duty Allowance. Interestingly the said letters did not specified nor clarified regarding continuous payment of Special Duty Allowance to the similarly situated persons i.e. Other Assistant Engineers belongs to North Eastern Region and never been transferred to outside of North Eastern Region. As such the said rejection letters are vague one and also mechanical by which your applicant has been deprived from his legitimate claim of Special Duty Allowance.

Annexure-C is the photocopy of representation dated 28-06-2003 submitted by the applicant before the Respondent No.4.

Annexure-D is the photocopy of representation dated 20-08-2003 submitted by the applicant before the Respondent No.4.

Annexure-E is the photocopy of letter No. 2 (2)/SCD/03-04/2063 dated, Silchar 16/12/03.

Annexure-F is the photocopy of letter No.3 (2)/SCC/03/185 dated, Silchar 29/1/04.

4.7) That your applicant beg to state that similarly situated persons are enjoying this benefit without any interruption as such the action of the Respondents is arbitrary, mala fide, whimsical and also not sustainable in the eye of law as well as on facts.

4.8) That your applicant submit that there is no other alternative remedy and the remedy sought for if granted would be just, adequate and proper.

4.9) That this application is filed bona fide and for the cause of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons and facts, which are narrated in details, the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without justification.

5.2) For that, the applicant is having All India Transfer liability and seniority as per offer of appointment letter as such he is legally entitled to draw Special Duty Allowance as per various office memorandums in this regard.

5.3) For that similarly situated persons who are working under the same Department and in the same office have been granted the Special Duty Allowance but the Respondents are not giving the same relief to the instant applicant. As such, the actions of the Respondents are bad in the eye of law and also not maintainable.

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

5.5) For that, it is unjust to discriminate among the employee similarly placed in the same department and it is also not proper to insist on every aggrieved employee to approach the court when the cause of action is identical.

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

The applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:



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

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, 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 the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to continue the Special Duty Allowance to the applicant and also please to direct the Respondents to refund back the amount of Special Duty Allowance with effect from 06-10-2001 to July2002 which has been recovered from the salary of the applicant by the Respondents.
- 8.2) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.
- 8.3) To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR:



At this stage no interim order 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.

I.P.O. No. 446 389223

Date of Issue 23/4/06

Issued from

Payable at *Gurdwara*

12. LIST OF ENCLOSURES:

As stated in Index.

Verification.....



VERIFICATION

I, Shri Aftabuddin *Mazumder* Assistant Engineer (Planning), Central Public Works Department, Silchar Central Division, Malugram, Mela Road, Silchar-2, do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2, 4.4, 4.5, 4.7, 4.8 — are true to my knowledge, those made in paragraph nos. 4.3, 4.6, — are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

•
And I sign this verification on this the *28th* day of 2004 at Guwahati.

Aftabuddin Mazumder

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

New Delhi, the 14th Dec '03

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 ringing 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 Records.

III) Special (Duty) Allowance :-

Central Government civilian employees who have All India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, net

Contd.:

Attn:
 Annexure

be eligible for this special (Duty) Allowance. ~~Nil~~ No Special (Duty) Allowance will be in addition to any special pay and pre Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay, deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

XXXXXX

XXXXXX

XXXXXX

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

Contd.

After
J.S. Annex

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, 1988.

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.

Attested
[Signature]

13 - 2 - 20 - 91 ✓
(iv) Special Compensatory Allowances

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

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

(v) Travelling Allowance on First Appointment

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

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

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

(vii) Leave Travel Concession

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

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

OR

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

These special provisions shall continue to be applicable.

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

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

(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. 20014/1G/86-E.IV/E.II(B) dated December 1, 1986, 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 employee 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 after consultation with the Comptroller and Auditor General of India.

6. Hindi version will follow.

1. Sandy *Visa*

(N. SUNDER RAJAN)

Join 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 L]

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

Afterwards
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io. 8(1)/GCSD-I/2003/ 111

Dtd. 28/6/03.

29

To
The Executive Engineer,
Guwahati Cent. Division,
CPWD, Guwahati-21.

Sub : SDA for Civilian Employee to the Central Govt.
Serving in the State & Union Territories of NER
i/o Sikkim.

Ref.: Your letter No. 9(1)/GCD/2002/1991 dt. 22/8/02

Sir,

With reference to the letter cited above the payment of SDA has been discontinued to me with effect from Aug./02 and recovery of payment already made to me has been effected from the salary of Sep./02 till 06/03 in accordance with stated O.M. No. 71/2/2002-Admn. dtd. 17/7/02 of CE(NEZ), Shillong.

In this connection it may be brought to your kind notice that other AE's working in NEZ with same service condition have been allowed payment of SDA on the ground that they have been posted back to NE Region from outside the Region, that may be for one time only in their entible service span. It may also be seen that many of the AE's belongs to NER might have posted to same station other than NER on promotion etc and subsequently brought back to their choice posting in NER after one year or so, that too 10-15 years back and never been transferred again to outside the region are enjoying SDA continuously.

Further many AE's belong to NER who have never been transferred to outside of NER, have been allowed payment of SDA till date.

But in my case the reason has been given for discontinuation of SDA that I have never been posted to NER from outside the region. This has caused a great injustice to me. Such discrimination among the members of same cadre officer's is bound to create an atmosphere of demoralisation.

Moreover, it is settled law that persons similarly situated to the beneficiaries of the judgement are to be extended the benefit thereof. As per pronouncement of CAT, Principal Branch, New Delhi, N.C.A. No. 2400/96 filed by CPWD JE's association, circulated vide O.M. No. 17/2& 98-Admn. dtd. 27.10.2000 of CE(NEZ), CPWD, Shillong for implementation it has been said therin that " It is unjust to discriminate among the employee similarly placed in the same department, it is also not proper to insist on every aggrieved employee to approach the court when the cause of action is identical."

In view of above stated facts it is earnestly requested to consider my case sympathetically and allow me to draw SDA continuously and the amount of SDA payment so far recovered from me may kindly be refunded.

Submitted for favour of kind perusal and early action please.

• Thanking you.

Yours faithfully,

A.U. Mazumdar,
Assistant Engineer,
Guwahati Cent. Sub-Divn-1
CPWD, Guwahati-23

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Ans 16

S/

To
The Executive Engineer,
Silchar Central Division,
C.P.W.D., Silchar - 2.

16
ANNEXURE - D
2

Sub:- SDA for civilian employee to the E Central Govt.
Serving in the state and Union Territories of
NER.

Sir,

The payment of SDA has been discontinued to me with effect from August'02 and recovery of payment from 6.10.01 to July'02 has been made from the salary of Sept'02 to June'02, in accordance with Office Memorandum No. 71/2/2002-Admn. dated 17.7.02 of Chief Engineer(NEZ), Shillong.

The reason has been given for discontinuation of SDA, that I have never been posted to NER from outside the Region. But there are many Assistant Engineers belonging to NER who have never been transferred to outside of NER, have been allowed payment of SDA till date. This has caused a great injustice to me. Such discrimination among the members of same cadre officers is bound to create an atmosphere of demoralisation.

Moreover, if is settled law that persons similarly situated to the beneficiaries of the judgement are to be extended the benefit thereof. As per pronouncement of "CAT", Principal Branch, New Delhi, N.O.A. No.2400/96 filed by CPWD Junior Engineers association, circulated vide O.M.No.17/2/98-Admn. dated 27.10.2000 of Chief Engineer(NEZ), CPWD, Shillong for implementation, it has been said therein that "It is unjust to discriminate among the employee similarly placed in the same Department, it is also not proper to insist on every aggrieved employee to approach the court when the cause of action is identical."

In view of the above stated facts, it is earnestly requested to allow me to draw SDA continuously and the amount of SDA payment so far recovered from me, may kindly be refunded as other Assistant Engineers in the same station with same service condition are getting the same.

Yours faithfully,

20/8/03
(A.U.MAZUMDER)

8/e Assistant Engineer(P)
Silchar Central Division
CPWD, Silchar - 2.

Received
8/8/03
20/8/03

17
22

ANNEXURE - E

GOVT. OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT.

Re.2(2)/SCD/03-04/Ro63

Dated, Silchar 16/12/03

To
Sri A.U.Mazumder,
Assistant Engineer(P),
Silchar Central Division,
C.P.W.D., Silchar - 2.

Sub:- SDA for Civilian Employee to the Central Government
Serving in the state and Union Territories of NER.

Ref:- Your letter dt. 20.9.03.

With reference to the above letter, regarding Payment
of SDA, it is to intimate that as per LPC, received from
Executive Engineer, Guwahati Central Division, CPWD, Guwahati vide
No. 1PC/GCD/03/1574, dt. 1/7/03, the amount of SDA as paid to
you with effect from 6/10/2001 to 31/7/02 has been recovered &
no SDA has been paid during 6/03. Though you have been posted
in NE Region, if any representation has been made thereafter
and any clarification has been received, may be intimated.

As such, as per LPC, the SDA has not been allowed to
you. However, matter is being referred to the Superintending
Engineer, Silchar Central Circle, first direction officer for
getting clarification & same shall be intimated on receipt of
the same.

Bapuji
Executive Engineer
Silchar Central Division
C.P.W.D., Silchar - 2.

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fil *Amrit*

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23
ANNEXURE - F

GOVT. OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT.

No.3(2)/SCC/03/185

Dated, Silchar 29/1/04

To
The Executive Engineer,
Silchar Central Division,
C.P.W.D., Silchar - 2.

Sub:- SDA for civilian Employee to the Central Govt.
Serving in the state and Union Territories of
NER including Sikkim.

Ref:- No.2(2)/SCD/03-04/2064 dtd.17.12.03.

Refer to your letter No.cited above on the subject
it is to inform that, SDA is admissible to the employees
having all India transfer liabilities and posted from outside
the region.

It is observed that, Sri A.U.Majumder, Assistant
Engineer has been transferred from Guwahati to Silchar, (Both
places comes under NE Region) while Sri Majumder, Assistant
Engineer was posted to Guwahati he was not getting SDA.

On the above basis Sri A.U.Majumder, Assistant
Engineer is not entitled for SDA.

By. No. A-113
Dated 31.1.104
A.C.L./S.C.C.

21/3/04
SUPERINTENDENT ENGINEER
SILCHAR CENTRAL CIRCLE
C.P.W.D., SILCHAR - 2

Govt. A. Sarker
C.P.W.D.

No. 2(2)/SCD/03-04/ 273

Dated 13/2/04

Copy to:

1. Sh. A.U. Majumder BZ(P) SCD. Silchar
for information ..

23
FEB 2004