

pt 100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 0A 1181/2009

R.A/C.P No.

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SECTION OFFICER (Judl.)

*Shahil
09/11/17*

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

ORDER SHEET

Org. App. / Misc Petn / Cont. Petn / Rev. Appl. 118/04

In O.A.

Name of the Applicant(s) K. North, Jogaon & Ors.

Name of the Respondent(s) U. O. T. Ors.

Advocate for the Applicant Mr. Chanda, G.C. Chakrabarty
S. Chaudhury, S. Nait

Counsel for the Railway/CGSC.....

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

14.5.2004

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

This application is filed
is filed C.P. F. 13/04
deposited vide P. 14/04
No. 11389378

Dated 13.5.04

Dy. Registrar

PAI

14/5/04

Steps taken with
enclgs.

Notice & order dt. 14/5/04
Sent to D/Section mb
for issuing to 4.6.2004
respondent nos. 1, 2 & 3.

19/5/04

postal A/D card
return from
respondent No - 1

19/6/04

Heard Mr. M. Chanda, learned coun-
sel for the applicants and also Mr. B.C.
Pathak, learned Addl. C.G.S.C. for the
respondents.

Issue notice to show cause as to
why application shall not be admitted.

Also, issue notice to show cause
as to why interim order as prayed for
shall not be granted, returnable within
three weeks.

List on 4.6.2004 for admission.
In the meantime, no recovery shall be
made from the applicants till the return-
able date.

KV Prahladan
Member (A)

On the plea of counsel for the
respondents, list on 23.6.2004 for
admission. Interim order dated
14.5.2004 shall continue.

KV Prahladan
Member (A)

N

Order dt. 2/8/04
issuing to learned
counsel of both
parties.

On
13/8/04.

02.08.2004 Heard Mr. M. Chanda, learned
counsel for the applicant.

The application is admitted,
call for the records. Returnable
within four weeks.

List on 3.9.2004 for orders.
Interim order dated 14.5.2004
shall continue.

Member (A)

mb

25.8.04.

Present: Hon'ble Mr. D. C. Verma,
Vice-Chairman.
Hon'ble Mr. K. V. Prahadan, Admini-
strative 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.

Notices were issued to the
Respondents. But they have not filed
written statement. The same may be
filed before the next available
Division Bench.

Member

Vice-Chairman

lm

13.12.04.

Let this case be listed alongwith
other S.D.A. matters on 2.2.05 before
Division Bench. Interim order dated
14.5.04 shall continue.

Vice-Chairman

lm

Notice duly served on
Respondents No. 1.....

Service P..... is still
awaived f..... respondents
2/3.....

W/S has not been
filed.

(G)
T.D.R.

~~RECORDED~~
RECORDED

Notes of the Registry | Date | Order of the Tribunal

23.03.2005

Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Mr. K.V. Prahadan, Administrative Member.

The case is adjourned to 24.03.2005
for hearing.

KV Prahadan
Member (A)

Sivarajan
Vice-Chairman

24.3.2005

Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Mr. K.V. Prahadan, Administrative Member.

Heard Mr. M. Chanda, learned counsel for the applicant and also Ms. U. Das, learned Addl. C.G.S.C. for the respondents.

Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order.

KV Prahadan
Member (A)

Sivarajan
Vice-Chairman

Received Copy
Suvajit Choudhury
Advocate
on 20.4.05

Copy of the Judgment has
been handed over to the
Addl. C.G.S.C. on 27.4.05
on behalf of Respy.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / 114 No. 118/2004

DATE OF DECISION 24.3.2005

K. Nath Gogoi & Ors. APPLICANT(S)

~~Advocated~~ Mr. M. Chanda ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

U.O.I. & Ors. RESPONDENT(S)

~~Advocated~~ Ms. U. Das, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

JUSTICE

THE HON'BLE MR. G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

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

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 118/2004

Date of Order : This the 24th day of March, 2005

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN
THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Sri Khagendra Nath Gogoi,
Son of Late Dondeswar Gogoi
Assistant Central Intelligence Officer, Grade – I
SIB Office, Bhabendra Bhawan,
Beltola Road, Guwahati – 28.
2. Sri A.K. Dey,
Son of Late A.K. Dey,
Assistant Central Intelligence Officer, Grade – I
SIB Office, Gongotri,
P.O. – Beltola, Guwahati – 28.
3. Sri S.K. Nandy
Assistant Central Intelligence Officer, Grade – I,
Bhabendra Bhawan,
Beltola, Guwahati – 28.
4. Sri Bar Bahadur Chetri,
Son of Sri Lal Bahadur Chetri,
Assistant Central Intelligence Officer, Grade – I,
Subsidiary Intelligence Bureau (MHA),
Govt. of India,
Udalguri, P.O. Udalguri,
District – Udalguri (Assam).
5. Mrs. Banani Bera Das,
D/O Late Nemai Chandra Bera
Assistant Central Intelligence Officer, Grade – II,
SIB Office, Gongotri.
P.O. Beltola, Guwahati – 28.
6. Shri G.K. Kichko,
Assistant Central Intelligence Officer, Grade – II,
SIB Office, Gongotri,
P.O. – Beltola, Guwahati – 28.
7. Shri U.C. Hazarika,
SIB, Jorhat.

... Applicants.

By Advocates Mr. Mr. M. Chanda, Mr. G.N. Chakrabarty,
Mr. S. Choudhury, Mr. S. Nath.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Home Affairs,
New Delhi.
2. Director,
North Block,
Ministry of Home Affairs,
Govt. of India,
New Delhi.
3. Assistant Director,
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Guwahati.

... Respondents.

By Ms. U. Das, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J (V.C.):

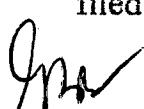
The matter relates to grant of Special Duty Allowance to the applicants, who are serving in North Eastern Region (NER in short). The applicants are seven in numbers and belong to NER. According to them, they were initially posted outside the region namely, New Delhi and Madhya Pradesh and then they were posted to the NER and they are continuing as such. It is stated that the applicants have been given Special Duty Allowance since they are transferred to NER and it has been taken away by a cryptic order dated 23.04.2004 (Annexure - IV) without affording any opportunity to the applicants.

[Signature]

2. Mr. M. Chanda, learned counsel for the applicants submits that issue relating to grant of Special Duty Allowance is governed by Circulars dated 13.06.2001 and 29.05.2002 issued by the Government of India, Ministry of Finance and three Judgments rendered by this Tribunal. Mr. Chanda, further submits that the facts stated in Annexure – IV does not disclose true facts. Mr. Chanda further submits that the applicants were initially appointed at New Delhi and Madhya Pradesh, that they were transferred to the NER from the said places and that they have got all India transfer liability and all India common seniority and promotion.

3. Ms. U. Das, learned Addl. C.G.S.C. for the respondents submits that it is for the applicants to bring these disputed question of facts firstly to the authorities concerned and if the applicants make proper representation to the concerned authorities appropriate order would be passed therein.

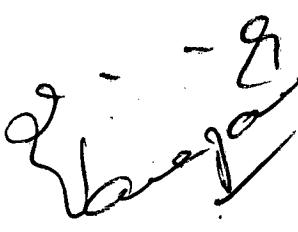
4. We have considered the submissions of the learned counsel for the parties. According to the applicants, they were first appointed outside the NER – at Delhi and Madhya Pradesh and later transferred to NER. Annexure – IV communication purport to state that at Delhi and DRTC Shivpuri there was only induction training and not posting. It is in the realm of disputed question of facts, which have to be gone in to by the respondents on the basis of the service records of the applicants. Accordingly, we direct the applicants to submit proper representation containing the facts situation and also enclosing copies of the relevant circulars and the three Judgments (O.A. No. 56/200 dated 19.03.2001, O.A. No. 237/2000 and O.A. No. 30/2003 dated 03.06.2003) relied on by the applicants within a period of one month from the date of receipt of copy of this order. If such a representation is filed by the applicants, the Respondent No. 2 will consider the same after giving



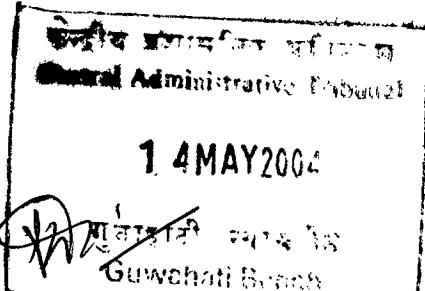
opportunity of personal hearing to the applicants and pass a reasoned order within a period of two months from the date of receipt of the representation. It is further ordered that the interim order passed on 14.05.2004 in this proceedings with regard to recovery will continue till orders are passed on the representation to be filed by the applicants as directed hereinabove. A copy of this order will also be produced alongwith the representation for compliance.

The application is disposed of as above.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE CHAIRMAN

/mb/



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

O.A. No. 118 /2004

Sri Khangendra Nath Gogoi & Ors.

-VS.-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

14.12.1983- Govt. of India, issued O.M. No. 20014/2/83/E.IV introducing Special (Duty) Allowance (SDA) for the civilian employees of the central Government posted in the N.E. Region from outside who are saddled with all India Transfer Liability. (Annexure-VI)

20.07.1987- Ministry of Finance, Government of India issued further order in respect of entitlement of SDA.

01.12.1988- Government of India issued O.M enhancing the permissible limit of SDA of Rs. 400/- followed by further order dated 22.07.1998.

12.01.1996- Govt. of India issued clarificatory order specifying that those civilian employees who are saddled with all India Transfer Liability and posted in N.E. Region are entitled to SDA provided their recruitment, promotion and seniority are being maintained on All India basis. (Annexure-V)

08.02.1973- All the applicants were initially posted at New Delhi or Madhya Pradesh, one of the applicant Shri Sanjib Kr. Nandy, who was initially appointed and posted at New Delhi

following the appointment order dated 21.01.73.

02.03.1974- Applicant was transferred and posted at Shillong S.I.B. The applicants who were initially posted either at New Delhi or Madhya Pradesh they were transferred and posted at N.E. Region.

17.07.2003- Seniority of the applicants are being maintained on all India basis, it would be evident from the letter bearing No. 2/Seniority (CC)/ 2001 (12)-11-3191, so there recruitment promotion and seniority is being maintained on all India basis and they were granted SDA by the respondents.

Jan/April, 2004- Some of the applicants paid SDA till January 2004 whereas some of the applicants paid SDA till April, 2004.

06.10.2001- Respondents have already started to recovery of SDA from some of the applicants.

23.04.2004- Respondent department have also decided to make recovery from some of the other applicants which would be evident from the impugned O.M No. E-26/NEA/84 (5)4493.

Hence this application before this Hon'ble Tribunal.

PRAYERS

Relief(s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause

as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the Hon'ble Tribunal be pleased to set aside and quashed the impugned order issued under letter no. E-26/NEA/84(5)/4493 dated 23.04.2004 and further be pleased to declare that all the applicants are entitled to payment of S.D.A in terms of O.M.dated 14.12.1983, 01.12.1988, 22.07.1998 and also in terms of clarificatory O.M.dated 12.01.1996.
2. That the Hon'ble Tribunal be pleased to direct that the respondents are not entitled to make any recovery of the amount already paid to the applicants on account of S.D.A and the amount already recovered be refunded to the applicants.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents not to make any recovery of the amount already paid to the applicants till the disposal of the Original Application.

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

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case

O. A. No. 118 / 2004

Sri Khagendra Nath Gogoi and Others. : Applicants

- Versus -

Union of India & Others : Respondents.

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Filed by

Surjit Choudhury
Advocate

Date: 14.5.04

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

(An Application under Section 19 of the Administrative Tribunals Act, 1985) . . .

O. A. No. 118 /2004

BETWEEN

1. Sri khagendra Nath Gogoi.
Son of Late Dondeswar Gogoi.
Assistant Central Intelligence Officer, Grade-I
SIB Office, Bhabendra Bhawan,
Beltola Road, Guwahati-28.
2. Sri A.K.Dey.
Son of Late A.K.Dey.
Assistant Central Intelligence Officer, Grade-I
SIB Office, Gongotri,
P.O.Beltola, Guwahati-28.
3. Sri S.K.Nandy.
Assistant Central Intelligence Officer, Grade-I
Bhabendra Bhawan,
Beltola, Guwahati-28.
4. Sri Nar Bahadur Chetri.
Son of Sri Sal Bahadur Chetri.
Asstt. Central Intelligence Officer, Grade-I,
Subsidiary Intelligence Bureau(MHA),
Govt. of India,
Udaguri, P.O.Udaguri,
Dist- Udaguri (Assam).
5. Mrs. Banani Bera Das.
D/O Late Nemai Chandra Bera.
Assistant Central Intelligence Officer, Grade-II
SIB Office, Gongotri,

Klagende Nath Gopinath

Filed by the Appellant
Presently Served Chancery
Court Advocate
on 14.S. 04.

14.5.04.

P.O.Beltola, Guwahati-28.

6. Shri G.K.Kichko.

Assistant Central Intelligence Officer, Grade-II
SIB Office, Gongotri,
P.O.Beltola, Guwahati-28.

7. Shri U.C.Hazarika.

SIB, Jorhat.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Home Affairs,
New Delhi.

2. Director,
North Block,
Ministry of Home Affairs,
Govt. of India,
New Delhi.

3. *Ansarak*-
Joint Director.
Subsidiary Intelligence Bureau,
(MHA), Govt. of India.
Guwahati

...Respondents.

DETAILS OF THE APPLICATION

Khagendra Nath Gogoi

1. Particulars of order(s) against which this application is made.

This application is made praying for a direction upon the respondents to continue to make payment of the Special (Duty) Allowance to the applicants from the date of discontinuation in terms of O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998 and also for a direction upon the respondents to refund the amount of SDA already recovered from the applicants, and also for setting aside the Impugned letter dated 29.04.2004.

2. Jurisdiction of the Tribunal.

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicants further declare that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

7.2 That the applicants are working in the Department of subsidiary Intelligence Bureau under the Ministry of

Khagendra Nath Gogoi

Home Affairs, Govt. of India. They belongs to group "B" category officers of the central Government.

✓ All the applicants are residents of N.E.Region. But they have applied for the post of Assistant Central Intelligence officers grade II pursuant to an advertisement issued by the Govt. of India, Ministry of Home Affairs on all India basis, accordingly they have applied and got selected on different dates. Be it stated that the advertisements and the interviews were issued and conducted on different occasions by the Ministry of Home Affairs. A few offer of appointment letters are enclosed as Annexure-I(series) for perusal of the Hon'ble Tribunal. It would be evident from the offer of appointment order that the specific clause was stipulated in the individual order to the effect that applicants are liable to serve in anywhere in India. Moreover a mere perusal of offer of appointment letter it would be evident that all the applicants were initially posted for duty at new Delhi/ Madhya Pradesh and there after they are transferred and posted to N.E.Region. Therefore it is quite clear that all the applicants are saddled with all India transfer liability in practise.

A few copies of offer of appointment order is enclosed herewith as Annexure-I(Series)

4.3 That it is stated that Sri Sanjib kumar Nandy applicant no 3 initially appointed on 08.02.1973 and posted at New Delhi following the appointment order dated

Khagen da nath Gogoi

27.01.1973. However he was transferred and posted to S.I.B Shillong vide transfer order dated 02.03.1974 at S.I.B. Shillong, similarly all the applicants were initially posted either at New Delhi or in the state of Madhya Pradesh and subsequently they were also transferred and posted to this Region. The aforesaid fact would be evident from the memorandum no. 2/TRG(AP)/73(3) dated nil issued by the Joint Assistant Director. Therefore it is quite clear that all the applicants after their initial posting either at N.Delhi or Shivpura(M.P) transferred and posted back to N.E.Region on different dates and since then they are working in this region.

A Copy of the Memorandum bearing letter no. 2/TRG(AP)/73(3) is enclosed as Annexure-II.

4.4 That it is stated that the seniority of the applicants are being maintained on all India basis by the Ministry of Home Affairs, Govt. of India which would be evident from letter no.2/seniority (CC)/2001(12)-II-3191 dated 17th July' 2003. Hence, it is quite clear that the recruitment promotion and seniority of the applicants are maintained on all India basis, it would be evident that appointment letters were issued from the Head Quarter office, New Delhi.

A Copy of the Seniority list is enclosed as Annexure-III.

Chagen dan Lakh Gogo'

4.5 That the applicants state that they being the civilian Central Government employees having all India Transfer liability were granted SDA by the respondents in terms of O.M. dated 14.12.1983. As per the said O.M. dated 14.12.1983 Special (Duty) Allowance are granted to such civilian employees of the Central Government who are saddled with All India Transfer liability. The relevant portion of the O.M. dated 14.12.1983 is quoted below:

"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, and Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some time. The Government has appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in the 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:

(iii) Special Duty Allowance

Central Government civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 25 percent of

Klagenda Nath Gogoi

basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax, will however, not be eligible in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance will not exceed Rs. 400/- P.M. Special Allowances like Special Compensatory (Remote Locality) allowance, Construction Allowance and Project Allowance will be drawn separately."

4.6 That after issuance of the aforesaid circulders for payment of S.D.A, the applicants were found eligible by the respondents themselves and accordingly they are started paying the S.D.A to all the applicants as per the terms and conditions of the O.M.dated 14.12.1983, 01.12.1988 and also in terms of O.M.dated 22.07.1998. But most surprisingly the said payment of S.D.A was stopped in respect of the applicants without issuing any notice and also in violation of principles of natural justice. Be it stated that out of the 7(seven) applicants 4(four) were paid S.D.A upto April'2004 and another 3(three) were paid till january'2004. However, the respondents have already started recovery of S.D.A w.e.f 06.10.2001 in respect of the applicant no. 2,3 and 4 and also now decided to make recovery in respect of applicant no. 1,5,6 and 7 from the pay-bill of May'

Klagender Nath Gogni

2004 as communicated vide impugned memorandum No. E-26/NEA/84(5)4493 dated 23.04.2004, no show cause or notice was issued prior to issuance of the aforesaid impugned memorandum and on that score alone the impugned action of the respondents as well as the memorandum dated 23.04.2004 are liable to be set aside and quashed.

A Copy of the Memorandum dated 23.04.2004 is enclosed as Annexure-IV.

4.7 That it is stated that Govt. of India, Ministry of Finance issued a clarificatory memorandum vide letter no.11(3)/95-E.II(8)dated 12.01.1996 wherein it is categorically stated the Civilian central govt. employees having all India transfer liability who were recruited on all India basis and who's promotion, seniority are maintained on all India basis are entitled to payment of S.D.A. The case of the applicants are squarely covered following the memorandum dated 12.01.1996 and in terms of O.M.dated 14.12.1983 and 22.07.1998. it is categorically submitted that applicants were initially appointed and posted outside N.E.Region and subsequently transferred and posted to N.E.Region. Therefore they cannot be denied the payment of S.D.A, on the alleged grounds raised in the Memorandum dated 23.04.2004 for denial of S.D.A cannot be sustained in the eye of law. The posting of the applicant in N.E.Region cannot be treated as initial

Khagendra Nath Gogoi

posting hence the memorandum dated 23.04.2004 is liable to be set aside and quashed.

A Copy of the O.M. dated 12.01.1996 and 14.12.1983 are annexed herewith and marked as **Annexure-V** and **VI.**

4.8 That it is stated that the cases of the present applicants are covered following the O.M.F.No11(3)/2000-E-II(B), dated 13.06.2001, wherein it is stated that the residents of N.E.Region are entitled to payment of S.D.A 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 will be admissible when they are posted in N.E.Region from outside the region. The case of the present applicants are also covered by the aforesaid O.M.Dated 13.06.2001. Hence the applicants are entitled to payment of S.D.A with arrear monetary benefit.

A Copy of the O.M.dated 13.06.2001 is enclosed as **Annexure-VII.**

4.9 That it is stated that the cases of the applicants are squarely covered following the series of judgments passed by this Hon'ble Tribunal. Therefore Hon'ble Tribunal be pleased to pass necessary order directing the respondents to continue the payment of S.D.A and also to pay arrear monetary benefit and further be please to pass order restraining the respondents to

Khagenrao Nath Gogoi

make any recovery of the alleged excess payment on account of S.D.A.

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

5. Grounds for relief(s) with legal provisions.

5.1 For that, the applicants have fulfilled all the conditions/criteria laid down in the Memorandum dated 14.12.1983, 01.12.1988 and also in O.M. dated 22.07.1998, as such they are entitled to payment of SDA in the terms of the O.M. referred to above.

5.2 For that, the applicants are posted at Guwahati from outside the N.E.Region, and they are not the permanent residents of N.E.Region.

5.3 For that, the applicants had been directed to move to N.E. Region for their posting at Guwahati.

5.4 For that, the applicants are saddled with all India Transfer liability as per condition stipulated in their offer of appointment orders.

5.5 For that discontinuation of payment of SDA has been made in total violation of Principles of natural justice.

5.6 For that recovery and discontinuation of payment of SDA has been made in total violation of principles natural

Khagenrao Halk Gayoi

justice and the action is contrary to the policy decision of the Govt. of India.

5.7 For that issues involved in the instant case has already been settled by this Hon'ble Tribunal in a series of cases of the similar nature.

5.8 For that the case of the applicants are squarely covered following the clarificatory order contained in the O.M. dated 12.01.1996 and O.M. dated 29.05.2002 issued by the Govt. of India, Ministry of Finance. More particularly in view of the clause 5 of the memorandum dated 29.05.2002.

5.9 For that decision rendered by this Hon'ble Tribunal on 20.12.2000 in O.A.No.136/2000 and in O.A. No.8/2002 decided on 13.02.2003 also gain support of the contention raised by the present applicants in the instant proceeding.

5.10 For that non-payment of S.D.A to the present applicants is in violation of Article 14 of the Constitution of India.

6. Details of remedies exhausted.

That the applicants state that there is no scope to submit any representation as because the stoppage and recovery of S.D.A, started without any show cause or notice.

K. Jagendra Nath Gogoi

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had not previously filed any application. However, no application, is pending before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quashed the impugned order issued under letter no. E-26/NEP/84(5)/4493 dated 23.04.2004 and further be pleased to declare that all the applicants are entitled to payment of S.D.A in terms of O.M.dated 14.12.1983, 01.12.1988, 22.07.1998 and also in terms of clarificatory O.M.dated 12.01.1996.

K. Jagendra Nath Gogoi

8.2 That the Hon'ble Tribunal be pleased to direct that the respondents are not entitled to make any recovery of the amount already paid to the applicants on account of S.D.A and the amount already recovered be refunded to the applicants.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to make any recovery of the amount already paid to the applicants till the disposal of the Original Application.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No. : J J G 389378 -

ii) Date of Issue : 13.5.04.

iii) Issued from : G Po. Guwahati .

iv) Payable at : G Po. Guwahati .

12. List of enclosures.

As given in the index.

Khagendra Nath Gope

VERIFICATION

I, Shri khagendra Nath Gogoi, Son of Late Shri Dondeswar Gogoi, aged about 59 years, working as Assistant Central Intelligence Officer, Subsidiary Intelligence Bureau, SIB office, Bhabendra Bhawan, Beltola Road, Guwahati-781028, Assam, one of the applicants in the instant application and duly authorized by the other applicants to verify the statements made in this application and to sign this verification. Accordingly I declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 14th day of May, 2004.

Khagendra Nath Gogoi

Immediate/Registered AD

No. 56/Est(G)/77 (JIO)

Intelligence Bureau

(M.H.A.), Govt. of India

New Delhi, the

MEMORANDUM

27 JAN 1973

The undersigned hereby offers Shri Sanjeev
Kumar Varma a temporary post of

Junior Intelligence Officer in this Bureau in the pay scale of Rs. 150-55-160-8-216. The appointee will also be entitled to draw dearness and other allowances at the rates admissible under rules and orders governing the grant of such allowances in force from time to time, and subject to the conditions laid down therein. He will be required to undergo training at the place or places selected by the Director, Intelligence Bureau.

2. The terms of appointment are as follows:-

- i) The appointment is temporary. His permanent appointment to the post if and when it is made permanent, however, will depend on various factors governing permanent appointment to such posts in force at the time, and will not confer him the title to permanency from the date the post is converted.
- ii) The appointment may be terminated at any time by a month's notice given by either side, viz. the appointee or the appointing authority, without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent of the pay and allowances for the period of notice or the unexpired portion thereof. His services are further liable to be terminated within a period of six months from the date of his appointment without any notice and without any reason being assigned.
- iii) He will have to serve for a minimum period of five years from the date of completion of training as Junior Intelligence Officer unless his services are dispensed with in the exigencies of services, or otherwise. In the event of his resigning or leaving service while in training or before completing 5 years of satisfactory service after training he and/or his surety will be liable to pay to the Govt. of India a sum of Rs. 4000/- (Rs. four thousand) together with interest @ the Govt. rates for the time being in force from the date of demand.

*Pls. seal
Sanjeev
Varma
on 14.5.04.*

2

by the I.B. He will have to execute a Security Bond to this effect in the enclosed form before he is allowed to join the Bureau as a J.I.O. The Bond is to be executed on a plain paper and no registration is necessary.

iv) The appointment carries with it the liability to serve in any part of India and abroad.

v) On joining he will be required to enroll as a member of the Intelligence Bureau Relief Fund which is contributed for the benefits of the members of the Bureau.

vi) Other conditions of services will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:

i) Production of a certificate of fitness from the Civil Surgeon in the enclosed form at his own cost. He should get himself medically examined from the nearest Civil Surgeon for whom a covering memorandum (which may be completed by the candidate) is attached with this offer. He will not be allowed to join unless he produces this certificate or a provisional certificate of medical fitness which he may obtain from Medical Authority at the time of his medical examination.

ii) Submission of a declaration in the form enclosed that he has not got more than one wife living.

iii) Taking of an oath of allegiance to the Constitution of India in the prescribed form. (copy enclosed).

iv) Production of the following original certificates:-

a) Certificate of educational and other technical qualifications (with one attested copy each).

b) Certificate of age.

c) Character certificates from two gazetted officers.

50

d) Certificates in the prescribed form in support of candidate's claims to belong to a Scheduled Caste or Scheduled Tribe or Anglo-Indian Community.

e) Discharge certificates in the prescribed form of previous employment, if any.

f) Any other documents (to be specified).

g) While serving in this office, he will not be allowed to apply for posts elsewhere.

4. On joining he will be required to enroll as a member of the Intelligence Bureau Relief Fund which is constituted for the benefits of the members of the Bureau.

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.

6. If Shri Sanjib Kumar Nandy accepts the offer on the above terms, he should report to G Branch, Level VII, East Block 8, R.K. Puram, New Delhi-22 for duty positively on 8-2-73. If he fails to report for duty by the prescribed date, the offer will be treated as cancelled. He should go through the instructions attached with the offer for compliance. He should inform us immediately by telegram or otherwise of his willingness or otherwise to accept the post of Junior Intelligence Officer and join us on 8-2-73.

7. No travelling allowance will be allowed for joining the appointment.

Subj:
Warden in
Assistant Director
Shri Sanjib Kumar Nandy

C/o Lal Chandra Lal Nandy
Kalibari Road, P.O. Silfuria
M/25572, Tinsukia, Assam

Copy to :-

1. S.B. Section(37 Copies) Attested copies of the medical certificates in respect of all the cadets (except the officials mentioned in the margin) are enclosed.
2. Cash-II Branch. The cadets have been medically examined and found fit. The pay and allowances in respect of abovementioned cadets may kindly be drawn and remitted to Joint Assistant Director Shivpuri(M.P) for disbursement to the trainees concerned.
3. Cash-I Branch for information.
4. Section Officer G Branch.
5. Section Officer, C.II Branch.
6. Assistant Director(Trg) A.F. Intelligence Bureau Hqrs, for information.
7. Joint Assistant Director, Shivpuri (with 37 spare copies for the cadets). The JIO's will be granted house rent allowance either at Central Govt. rates or on competing basis accordingly to the opinion which should be exercised by them and sent to Cash-II within 2 months from the date of their joining.
8. P.F(37 copies).

(K.N.S.
ASSISTANT DIRECTOR.

No. 56/ESTP(G)/96(1)-Aptt. 6308
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India.

NEW DELHI, THE

MEMORANDUM

The undersigned hereby offers ~~Mr./Ms.~~ **BANANI BERA**

a temporary post of Assistant Central Intelligence Officer, Grade-II (General) in this Bureau on a pay of Rs.1640/- in the scale of Rs.1640-CC-2500-EB-75-2900. The appointee will also be entitled to draw the dearness and other allowances at the rates admissible under rules and orders governing the grant of such allowances in force from time to time and subject to the conditions laid down therein. He will be required to undergo training successfully at the place/places selected by the Director, Intelligence Bureau.

2. The terms of his appointment are as follows:-

(i) The appointment is temporary. His appointment to the post in permanent capacity will, however, depend on various factors governing permanent appointment in such posts.

(ii) The appointment may be terminated at any time by a month's notice given by either side, viz. the appointee or the appointing authority, without assigning any reason. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him a sum equivalent to the pay and allowances for the period of notice of the unexpired portion thereof.

(iii) He will have to serve for a minimum period of five years from the date of completion of his training as ACIO-II/G, unless his services are disposed within the exigencies of service or otherwise. In the event of his resigning or leaving the service while in training or before completing 5 years of satisfactory service after training, he and/or his surety will be liable to pay the Govt. of India a sum of Rs. 6,000/- (Rs. Six thousand only) together with interest at the Govt. rates for the time being in force from the date of demand by the Intelligence Bureau. He will have to execute a surety bond to this effect to join the Bureau as ACIO-II/G. The Bond (form enclosed) is to be executed on plain paper and no registration is necessary.

TS/-*

- (iv) He should declare within one month of his joining the I.B. whether he had applied for any post in other Govt. Departments or Public Sector Undertakings.
- (v) During training period, he will have to undergo P.T. drill and such other physical activity as directed by the officer-in-charge of the Training Centre.
- (vi) The appointment carries with it the liability to serve in any part of India and abroad.
- (vii) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:-

- (i) Production of a certificate of fitness from the Civil Surgeon(Gr.I) in the enclosed forms at candidate's own cost. He should get himself medically examined from the nearest Civil Surgeon Grade-I for whom a covering Memorandum (which may be completed by the candidate) is attached with this certificate or a provisional certificate of medical fitness which may be obtained from Medical authority at the time of his Medical examination.
- (ii) Submission of a declaration in the form enclosed, that he has not got more than one wife living.
- (iii) Taking of an Oath of Allegiance to the Constitution of India in the prescribed form (copy enclosed).
- (iv) Production of the following original certificates and mark sheets:-

 - (a) Certificate of age (with one attested copy).
 - (b) Certificate of educational & other technical qualifications (with one attested copy each).
 - (c) Character Certificates from two gazetted officers (forms attached).
 - (d) Certificate in the prescribed form in support of candidates claim, as being to a Scheduled Caste/ Scheduled Tribe or OBC (form enclosed) from the
 - (e) Discharge certificate of previous employment, if any.
 - (f) Any other documents (to be specified).
 - (g) While serving in this office, he will not normally be allowed to apply for posts elsewhere.

TS/-*

... 3/- ...

4. On joining, he will be required to enrol himself/herself as a member of the Intelligence Bureau Relief Fund which is constituted for the benefit of the members of the Bureau.

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.

6. The appointment is provisional and is subject to the caste/tribe certificates being verified through the proper channels and if the verification reveals that the claim of his/her belonging to the scheduled caste/scheduled tribe or OBC, as the case may be, is false, his/her services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian penal code for production of false certificates.

7. This offer of appointment is further subject to satisfactory character and antecedents verification report in respect of the candidate. This offer of appointment is further subject to verification of educational qualifications of the candidate through proper channels. If found false, his/her service will be terminated forthwith without assigning any reason.

8. If Shri/Ms. BANNI BIRAI accept the offer on the terms and conditions mentioned above, he/she should report to the Assistant Director, DRTC, Madhav Vilas Palace, Shivpuri (MP) Pin: 473551 on 20-11-97. If he/she fails to report for duty by the prescribed date, the offer will be treated as cancelled. He/She should inform the undersigned immediately by telegram on or/before 29-11-96 of his/her willingness to accept the post otherwise it will be treated that he/she is not willing to join.

9. After joining, he/she will be required to undergo training at the DRTC, Shivpuri. In order to meet the initial expenses of Messing etc. till such time as his/her emoluments are drawn, he/she should carry a sum of atleast Rs.2,000/- (Rs. Two Thousand only) with him/her at the time of his/her training at Shivpuri. Instructions relating to candidate's joining the post of ACIO-II(G) are enclosed with this offer for strict compliance.

TS/-*

.....1/-.....

4:30

10. No travelling allowance will be allowed for joining at the time of appointment.

E. M. Mohanty
ASSISTANT DIRECTOR

To

Shri/Ms. BANANI BERA

53, P.P. ROAD

REHABARI

KAMTRUP, Pin: 781008

Guwahati (Assam)

Encl: As above.

Copy forwarded to Assistant Director (E), IB HQs., NCW
Delhi for information.

ASSISTANT DIRECTOR

Tariff/-

++++++

5. CLOTHING & EQUIPMENT

(a) All the trainees must bring with them the following articles of clothing at the time of their reporting at the training centre:-

- (i) Mosquito Net : 1 No.
- (ii) White Bed Sheet : 2 Nos.
- (iii) Duree/Hold-all : 1 No. each
- (iv) Quilt or Blanket : 1 No. (in winter)

(b) The trainees should also bring with them the following items if they are already having these:-

- (i) One full sleeves white shirt and one white full pant/trouser;
- (ii) A plain tie, preferably of navy blue colour or any other tie in their possession; and
- (iii) A pair of black leather shoes.

(c) No arms will be brought by the candidates.

6. MESS SECURITY ADVANCE

All the trainees will be required to deposit the following amounts with the Course Officer as soon as they report for training at the centre:-

- (a) Mess advance and Mess Security : Rs. 1200=00
- (b) Cost of Uniform, Books and other miscellaneous articles : Rs. 0800=00

Total : Rs. 2000=00

The above Rs. 2000 will be deposited by each trainee immediately after joining the training centre and the balance, if any, will be refunded to his/her at the time of completion of training.

TS/-*

JOINING INSTRUCTIONS FOR THE ASSISTANT-CENTRAL
INTELLIGENCE OFFICERS GRADE-II (G).

1. ARRIVAL AND REPORTING.

The trainees must report their arrival at the Training Centre at least one day before the actual commencement of the course.

After their arrival at the training centre, they must report to the course officer who will give them further information and instructions about their boarding and lodging etc.

2. ACCOMMODATION

All the trainees will be provided accommodation in the hostels and it is compulsory for all the trainees to reside in the hostels. No married accommodation will be given to any trainee and they will not bring their families with them.

Every trainee will be allotted accommodation in the hostel by the Course Officer and they will occupy the rooms allotted to them. Subject to the number of trainees and availability of space, the trainees will be given single seated or multi seated rooms. Each trainee will be provided with a cot, a chair, a writing table and a wardrobe. No trainee will be allowed to bring any other furniture, electric gadgets etc. with them.

3. MESSING

A cooperative Mess is run in the training centre on no-profit-no-loss basis by the trainees themselves. All the trainees will compulsory dine in the Mess and will share the cost of food, service boys etc.

4. PAY & ALLOWANCES

The pay and allowances of the trainees will be disbursed to them as and when they are received from HQs. No advance pay, travelling allowance or any other allowances will be paid by the training centre. Normally the first pay is received after about two months and, therefore, all the trainees are advised to bring about Rs.2,000 with them to meet their personal expenditure during this period.

The trainees will be required to pay their personal expenditure, charges for washerman, cobbler and other miscellaneous pocket expenses.

TS/-*

...2/-...

*Abdul Ghaffar
Sarji Advocate
on 14.5.04.*

SECRET/IMMEDIATE

No. 2/TRG(AP)/73(3)
 Intelligence Bureau,
 Ministry of Home Affairs,
 Government of India.

New Delhi, the

Memorandum

In pursuance of transfer order No. 8/TP(CI)/74(1) dated 2.3.74, the following J.I.Os of 29th batch have been relieved of their duties at I.B. Hqrs. w.e.f 7th March, 1974 (Afternoon) with the instructions that they should report to S.I.B. Shillong after availing the usual joining time and the Earned leaves as shown against their names. The casual leave availed by them have also been shown against their names:-

| Names | Casual Leave taken | Earned Leave with permission to prefix 8-10th March, 1974 |
|------------------------------|--------------------------|---|
| 1. Sh. K. L. Raina | - | 10 days (11.374 to 29th March, 1974) |
| 2. Sh. R. V. Mandhotra | 2 days | -do- |
| 3. Sh. P. Swaminathan | - | -do- |
| 4. Sh. K. Krupanandam | - | Nil |
| 5. Sh. M. R. Krishnacataram | - | - |
| 6. Sh. A. K. Sundararajan | - | - |
| 7. Sh. P. Krishnan | - | - |
| 8. Sh. S. K. Luxmikanta | - | - |
| 9. Sh. T. M. Vishwanathan | - | - |
| 10. Sh. N. V. L. Subramanyam | 3 days | - |
| 11. Sh. B. K. Nandy | - | - |
| 12. Sh. Manmohan Pal Sharma | - | - |

B.T.V.

(S.P. Sant)
 Lt. Assistant Director

To

Each individual officer

Copy forwarded for information to:-

1. D.D., S.I.B., Shillong.
2. S.O., Cash-I br. I.B. Hqrs.
3. S.O., Cash-II -do-
4. S.O. G-I -do-

(S.P. Sant)
 Lt. Assistant Director

LCS 17 copies

Addressed
Surya Jit Choudhury
Advocate
on 19.5.04



No.2/Seniority(CC)/2001(12)-II-319/

Intelligence Bureau
(Ministry of Home Affairs)
Government of India

17 JUL 2003

New Delhi, the

MEMORANDUM

Please refer to our Memo No.2/Seniority(CC)/2003(6) dated 14-05-03, circulating therewith the Seniority List of ACIOs-I(G) working in IB.

2. On consideration of some references, following corrections/ incorporations are carried out in the above mentioned Seniority List :--

- i) the name of the officer figuring at Sl.No.502 is corrected to read as 'Bushan Lal Bhan'.
- ii) the rank of joining IB (Col.6) and date of appointment as ACIO-I/G (Col.7) of Shri K.K. Thomas (Sl.No.563) are corrected to read as 'SA' and '23-9-92' respectively. Also, the date/rank of confirmation is incorporated as '2-6-76/JIO-II/G'.
- iii) the name of the officer figuring at Sl.No.1087 is corrected to read as 'Tsewang Namgyal'.
- iv) the PIS No. of Shri Ranjit Kumar figuring at Sl.No.1189 is corrected to read as 107380 instead of 107386.
- v) the name of the officer figuring at Sl.No.701 is corrected to read as 'GOVERDHAN LAL' instead of Goverdhan Pal. Also, his date of birth is corrected to read as '29-10-48' instead of 20-10-48.
- vi) the PIS No. and date of joining IB of Shri K.C. Bassa (Sl.No.750) are corrected to read as '117384' and '31-10-66' respectively. Also date/rank of confirmation is incorporated as 01-02-71/Constable'.
- vii) the name of the officer figuring at Sl.No.656 is corrected to read as 'H.P. TYAGI'. Also, the rank of joining IB (Co.6) is corrected to read as 'ACIO-I/G' instead of ACIO-II/G.
- viii) the date of birth of Shri S.S. Singh (Sl.No.60) is corrected to read as '17-01-47' instead of '17-07-47'. Also, the date/rank of joining IB is incorporated as '17-06-69/LDC'.

Contd.....

Adressed
Suryajit Senapati
Suryajit Senapati
ON 14.5.04.

-2-

ix) the name of the officer figuring at Sl.No.655 is corrected to read as '**POLICARP TICGA**'

x) the name of the officer figuring at Sl.No.325 is corrected to read as '**Ram Krishan**'. Also, the date/rank of confirmation is incorporated to read as '**01-02-71/J-I/G**'.

xi) the date of birth of Shri S.R. Chakraborty (Sl.No.942) is corrected to read as '**02-03-53**' instead of 2.3.52.

xii) the name of the officer figuring at Sl.No.786 is corrected to read as '**DULAL CHAKRABORTY**'. Also, his date of birth is corrected to read as '**31-12-47**'.

xiii) the rank of joining IB of Shri Subir Kumar Chatterjee (Sl.No.1139), is corrected to read as '**SA**' instead of JIO-I/G.

xiv) the name of the officer at Sl.No.289 is corrected to read as '**Shyam Lal Bogi**'

3. Further necessary action, if any, may please be taken at your end.

Rajay Chakraborty
ASSISTANT DIRECTOR(CC).

To

1. The SOs G-2, C-IV IB Hqrs., New Delhi.

Copy for information to:

1. _____ through _____

2. The SO/G, SIB, Guwahati with reference to their Memo No.E-II/Seniority/2003(1)-9393 dated 7-6-03. Shri Chakraborty may please be informed accordingly.

3. The SO/E, SIB, Raipur w.r.t. their memo No.RPR/1160/2001-Part-II-5107 dt: 04-07-03. The officers concerned may please be informed accordingly.

4. The AD/Admin., SIB, Jaipur w.r.t. their memo No.4/Est/Seniority/96(5)-2463 dt: 24-06-03. The officers concerned may please be informed accordingly.

5. AD's folder.

Rajay Chakraborty
ASSISTANT DIRECTOR(CC)

Seniority List of ACIOs-I(G)

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
|-----|--------------------|--------|-----|----------|------------------|---------------------|------------------|---------|
| 41 | M.M.Bhatt | 112569 | Gen | 07-08-48 | 09-04-74 /A-II/G | 03-07-87 | 01-08-77 /A-II/G | |
| 42 | Avadh Behari Singh | 114160 | Gen | 13-01-44 | 22-03-68 /J-I/G | 19-03-87 | | /A-II/G |
| 43 | S.P.Mehra | 112604 | Gen | 24-02-51 | 10-04-74 /A-II/G | 12-05-87 | 01-08-77 /A-II/G | |
| 44 | Thomas Simon | 116329 | Gen | 12-08-48 | 28-10-70 /J-I/G | 04-06-87 | 01-08-77 /A-II/G | |
| 45 | R.P.Sharma | 117010 | Gen | 14-07-51 | 06-04-74 /A-II/G | 23-05-87 | 01-08-77 /A-II/G | |
| 46 | M.C.Joshi | 117188 | Gen | 01-08-50 | 07-05-74 /A-II/G | 23-05-87 | 01-08-77 /A-II/G | |
| 47 | O.P.Dahiyā | 117033 | Gen | 14-02-44 | 22-03-68 /J-I/G | 19-02-87 | 01-08-76 /A-II/G | |
| 48 | Kamal Pandey | 101805 | Gen | 07-07-51 | 06-04-74 /A-II/G | 14-05-87 | 01-08-77 /A-II/G | |
| 49 | P.G.Kumar | 116381 | Gen | 22-07-49 | 18-12-71 /J-I/G | 15-06-87 | 01-08-77 /A-II/G | |
| 50 | G.K.Mishra | 110733 | Gen | 07-10-48 | 08-04-68 /J-I/G | 19-03-87 | | |
| 51 | N.B.Chetri | 112654 | Gen | 21-06-49 | 17-04-74 /A-II/G | 13-05-87 | 01-08-77 /A-II/G | |
| 52 | H.A.Shah | 118625 | Gen | 30-04-53 | 09-04-74 /A-II/G | 20-05-87 | 01-08-77 /A-II/G | |
| 53 | A.P.Menon | 110407 | Gen | 17-10-52 | 24-09-73 /A-II/G | 27-02-87 | 01-08-76 /A-II/G | |
| 54 | Debabrata Biswas | 116460 | Gen | 29-10-49 | 21-12-71 /J-I/G | <u>07-07-87(NP)</u> | | |
| | | | | | | 21-07-88 | | |
| 55 | S.D.Saxena | 101726 | Gen | 19-07-48 | 26-09-73 /A-II/G | 19-02-87 | 01-08-76 /A-II/G | |

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
|-----|-------------------------------|--------|-----|---------------------|-----------------|----------|-----------------|--|
| 416 | <i>Chandra Kanta Talukdar</i> | 119227 | Gen | 01-08-45 | 23-04-70 /J-I/G | 05-12-90 | 01-08-70 /J-I/G | |
| 417 | <i>K.L. Kashyap</i> | 116971 | Gen | 10-07-47 | 20-04-70 /J-I/G | 19-01-91 | 01-08-72 /J-I/G | |
| 418 | <i>Sushil Kumar Jha</i> | 112741 | Gen | 18-09-47 | 14-04-70 /J-I/G | 26-03-91 | 01-08-72 /J-I/G | |
| 419 | <i>Manohar Singh Rashi</i> | 101765 | Gen | 04-03-45 | 14-04-70 /J-I/G | 11-04-91 | 01-08-72 /J-I/G | |
| 420 | <i>R.C. Sharma</i> | 115793 | Gen | 10-07-45 | 14-04-70 /J-I/G | 29-11-90 | 01-08-72 /J-I/G | |
| 421 | <i>Parmeshwar Banikya</i> | 117991 | Gen | 01-03-47 | 18-04-70 /J-I/G | 05-12-90 | 01-08-72 /J-I/G | |
| 422 | <i>K.N. Gogoi</i> | 113963 | Gen | 1-12-44 31-12-45 | 18-04-70 /J-I/G | 29-11-90 | 01-08-72 /J-I/G | * 10 th Febr. Mr. S. S. D. |
| 423 | <i>A.K. Borah</i> | 119183 | Gen | 01-10-48 | 14-04-70 /J-I/G | 29-11-90 | 01-08-72 /J-I/G | |
| 424 | <i>S.K. Dogra</i> | 100981 | Gen | 20-10-44 | 16-09-68 /J-I/G | 07-01-91 | | |
| 425 | <i>Anil Kumar Biswas</i> | 115507 | Gen | 09-04-44 | 13-06-63 /SA | 11-02-91 | | |
| 426 | <i>N. Seshachari</i> | 112350 | Gen | 27-04-47 | 07-04-69 /J-I/G | 26-12-90 | 01-02-71 /J-I/G | |
| 427 | <i>Babu Ram Tripathi</i> | 118289 | Gen | 03-02-46 | 15-10-69 /J-I/G | 30-11-90 | | |
| 428 | <i>Amtabha Deb</i> | 114934 | Gen | 09-01-46 | 13-10-69 /J-I/G | 11-03-91 | | |
| 429 | <i>R.S. Jawahar</i> | 114783 | Gen | 06-07-46 | 14-04-70 /J-I/G | 28-01-91 | 01-08-72 /J-I/G | |
| 430 | <i>N. Gopalakrishnan Nair</i> | 113866 | Gen | 07-10-46 | 14-04-70 /J-I/G | 13-02-91 | 01-08-72 /J-I/G | |

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
|-----|-----------------------|--------|-----|----------|-----------------|----------|-----------------|-----|
| 461 | N. Vijayan | 115753 | Gen | 23-09-46 | 28-10-70 /J-I/G | 02-01-91 | 01-08-74 /J-I/G | |
| 462 | Ajay Kumar Dey | 115497 | Gen | 01-10-46 | 10-11-70 /J-I/G | 04-12-90 | 01-08-73 /J-I/G | |
| 463 | C.K.Balakrishnan | 110337 | Gen | 01-07-46 | 30-10-70 /J-I/G | 06-12-90 | 01-08-73 /J-I/G | |
| 464 | Harikant Mishra | 118501 | Gen | 03-12-46 | 30-10-70 /J-I/G | 29-11-90 | 01-08-73 /J-I/G | |
| 465 | P.Vijayan | 118228 | Gen | 14-08-45 | 31-10-70 /J-I/G | 29-11-90 | 01-08-73 /J-I/G | |
| 466 | Arunabha Chatterjee | 112944 | Gen | 07-07-47 | 31-10-70 /J-I/G | 30-01-91 | 01-08-73 /J-I/G | |
| 467 | N.Viswanathan | 114793 | Gen | 24-03-47 | 19-11-70 /J-I/G | 27-02-01 | 01-08-73 /J-I/G | |
| 468 | M.Krishnan Nair | 113864 | Gen | 20-04-46 | 31-10-70 /J-I/G | 29-11-90 | 01-08-73 /J-I/G | |
| 469 | Hari Bhusan | 11260 | Gen | 01-10-45 | 31-10-70 /J-I/G | 03-12-90 | 01-08-73 /J-I/G | |
| 470 | Manas Kumar Roy | 118684 | Gen | 27-07-45 | 04-12-70 /J-I/G | 31-01-91 | 01-08-73 /J-I/G | |
| 471 | R.Krishnan | 112681 | Gen | 15-02-47 | 31-10-70 /J-I/G | 18-03-91 | 01-08-73 /J-I/G | |
| 472 | K.Chandreskhara Sethy | 113859 | Gen | 01-07-47 | 31-10-70 /J-I/G | 01-12-90 | 01-08-73 /J-I/G | |
| 473 | Bhagwat Prasad | 112735 | Gen | 10-09-46 | 28-10-70 /J-I/G | 26-03-91 | 01-08-73 /J-I/G | |
| 474 | Indra Dev Singh | 112392 | Gen | 03-01-48 | 28-10-70 /J-I/G | 03-12-90 | 01-08-73 /J-I/G | |
| 475 | Shilnath Aras | 113118 | Gen | 07-01-47 | 09-11-70 /J-I/G | 29-11-90 | 01-08-73 /J-I/G | |

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
|-----|--------------------|--------|-----|----------|-----------------|----------|------------------|-----|
| 685 | M.P.Sharma | 117375 | Gen | 22-05-49 | 07-02-73 /J-I/G | 20-10-93 | | |
| 687 | S.R.Krishan Iyer | 116770 | Gen | 22-02-51 | 20-10-71 /LDC | 11-03-94 | 01-04-88 /A-II/G | |
| 688 | J.K.Lakhanpal | 117389 | Gen | 20-10-54 | 30-09-76 /J-I/G | 21-10-93 | | |
| 689 | S.K.nandy ✓ | 110683 | Gen | 15-02-47 | 08-02-73 /J-I/G | 01-11-93 | 01-08-75 /J-I/G | |
| 690 | P.G.nair | 114375 | Gen | 01-09-47 | 07-06-71 /J-I/G | 24-12-93 | | |
| 691 | Inderjit Gupta | 117386 | Gen | 27-10-43 | 11-01-63 /J-I/G | 21-10-93 | | |
| 692 | Ranjit Singh | 110860 | Gen | 19-10-48 | 07-02-73 /J-I/G | 11-04-94 | 01-08-75 /J-I/G | |
| 693 | M.M.Chakraborty | 114600 | Gen | 01-01-47 | 20-04-67 /SA | 13-01-94 | | |
| 694 | R.Lraina | 112038 | Gen | 27-02-49 | 07-02-73 /J-I/G | 20-10-93 | | |
| 695 | V.M.Vasudevan | 116134 | Gen | 15-01-51 | 08-02-73 /J-I/G | 08-03-94 | | |
| 696 | C.M.Aravindan | 116811 | Gen | 04-01-45 | 03-10-68 /SA | 11-04-94 | | |
| 697 | K.C.sharma | 111068 | Gen | 02-03-47 | 25-06-66 /SA | 24-02-94 | | |
| 698 | Mahima Singh | 112759 | Gen | 04-11-43 | 17-11-66 /SA | 13-06-94 | | |
| 699 | A.Vijayan | 114988 | Gen | 15-05-47 | 22-04-66 /SA | 18-04-94 | | |
| 700 | B.N.Satyanaarayana | 115027 | Gen | 15-06-43 | 01-05-67 /SA | 25-02-94 | | |

Admitted
Sury Iyer & Chadda
Advocates
on 14.5.04

1493

No. E-26/NEA/84(5)/
 Subsidiary Intelligence Bureau,
 (MHA), Govt. of India,
 Guwahati.

Dated, the
 23 APR 2004

Memorandum

I.B. Hqs New Delhi vide their Memo. No. 10/SO(C)/2003(1)-921 dated 14-11-2003 have intimated that posting of direct recruits officers after completion of their induction training at IBCTS New Delhi/DRTC Shrivpuri has to be treated as their initial posting and therefore they would not be entitled to Special Duty Allowance (SDA). Hence the payment of SDA to the following ACIOs-I(G) who joined N.E. Region after induction training is stopped forthwith and the amount already paid w.e.f. 6.10.2001 till date may be recovered from their pay for the month of May/2004 onwards on instalment basis.

S/Shri

| | | |
|----|---------------------------|-------------|
| 1. | U.C. Hazarika, ACIO-I(G), | Jorhat. |
| 2. | K.N. Gogoi, | " Guwahati |
| 3. | N.B. Chatri, | " Udaguri |
| 4. | G. Kiskuji | " Guwahati. |

Assistant Director/A

To
 1. The Section Officer/A, SIB, Guwahati, for IV/a.
 2. All persons concerned for information.

Deputed
 Surjijit Choudhury
 Adroell
 ON 14.5.04

Annexure-V

No. 11(3)/95-E.II (B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 12th Jan 1996

OFFICE ORDER

Sub : Special Duty Allowances for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region-regarding.

The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-EIV dated 14.12.1983 and 20.4.87 read with O.M. No. 20014/16/86 E.IV/E.II(B) dated 1.12.88 on the subject mentioned above.

2. The Government of India vide the above mentioned OM dated 14.12.83 granted certain incentives to the Central Government civilian employees posted to the N.E. region. One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have 'All India Transfer Liability'.

3. It was clarified vide the above mentioned OM dated 20.4.87 that for the purpose of sanctioning "Special Duty Allowance" the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions

Ansikta
Shyam Chakraborty
Advocate
on 14.5.04

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were filed in the Hon'ble Supreme Court by some Ministries/Departments against the orders of the CAT.

6. The Hon'ble Supreme Court in their judgment delivered on 20.9.94 (in Civil appeal No. 3251 of 1993) upheld the submission of the Government of India that Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to all India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

7. In view of the above judgment of the Hon'ble Supreme Court, the matter has been examined in consultation with the Ministry of law and the following decision have been taken :

- i. the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
- ii. the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.94 but payments were made after this date i.e. 20.9.94) will be recovered.

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

9. In their application to employees of India Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

10. Hindi version of this OM is enclosed.

Sd/- *****

(C. Balachandran)

Under Secy to the Govt. of India

All Ministries/Departments of Govt. of India, etc.

Annexure-VI

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

New Delhi, the 14th Dec'83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the State of Assam Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Control 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) (i) Tenure of posting/deputation :-

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of

*Abdul
Sayed Choudhury
Abroor
on 14.5.83.*

public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

ii) Weightage for Central deputation/training abroad and Special mention in confidential Records:

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ii) 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 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of Income Tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre-Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special pay/deputation (Duty) Allowance will not exceed Rs.400/- P.M. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

Sd/ S.C. MAHALIK

Joint Secretary to the Government of India

5. The action taken by the Administration in the case considered by the Privilege Committee cannot be considered to be in accordance with the instructions in the matter. All Ministries/Departments are requested to ensure that the basic principles and instructions regarding observance of proper procedure are followed by all concerned in letter and spirit and avoid recurrence of such incidents as reported by the Privilege Committee by careful approach and restraint on such occasions.

Copy of O.M. No. 3/46/2000-JCA, dated 9.7.2001, Government of India (Department of Personnel and Training).

[66]

Subject : Setting up of *Ad-hoc* Departmental Anomaly Committees to settle the anomalies arising out of the implementation of the 5th Pay Commission's recommendations.

The undersigned is directed to refer the instructions issued by this Department vide their O.M. No. 19/1/97-JCA dated 5.11.1998, (*Published in Services Law Journal of Feb. 1999 as Sl. No. 18*), wherein it was *inter-alia* provided that the Departmental Anomalies Committees may be constituted by nominating staff side representatives on such Committees by the Secretary, Staff Side of the respective councils from amongst the members of the Departmental Council only as it existed as on 4.5.1995. In terms of Rule 4 of the CCS (RSA) Rules, 1963, Service Associations or Federations which were recognised before commencement of these rules were allowed to continue to be so recognised for a period of one year, later extended by six months upto 4.5.1995 to enable them to seek recognition afresh under the said rules. Pending the said process to be completed, the Departmental Councils were allowed to function on the basis of nominations as on 4.5.1995.

2. It has come to notice that Departmental Councils in certain Departments where not functioning as on 4.5.1995 for various reasons and hence the Departmental Anomaly Committees could not be constituted. In such cases it has been decided as per decision in the meeting of the Standing Committee of the National Council (JCM) held on 6.2.2001 that *ad-hoc* Departmental Anomaly Committees may be set up to look into the pay related anomalies in terms of this Department's O.M. No. 19/1/97-JCA dated 6.2.1998 (*Published in Services Law Journal of March, 1998 as Sl. No. 38*) by co-opting Financial Advisor, representatives of Ministry of Finance and Department of Personnel and Training and six Staff Side members to be nominated by Secretary, Staff Side National Council (JCM), Shri U.M. Purohit, 13-C, Ferozeshah Road, New Delhi, from amongst members of the National Council (JCM).

3. Ministries/Departments may take action accordingly.

[67]

Copy of O.M. F. No. 11(3)/2000-E-II(B), dated 13.6.2001, Government of India, Ministry of Finance (Department of Expenditure).

Subject : Admissibility of Special Duty Allowance of Postal Employees on their posting in NE region.

The undersigned is directed to refer to your D.O. letter No. 5-2/98-PAP III dated 10.4.2001 and D.O. letter No. 5-2/98-Vol. III dated 17.4.2001 and to say that Special Duty Allowance is granted to the Central Government Employees having 'All India Transfer Liability' as clarified in Finance Ministry O.M. No. 11(3)/95-E. II(B), dated 12.1.1996 on their posting to N.E. Region from outside the region. Since Special Duty Allowance is given as an incentive to attract talented officers to serve in N.E. Region from outside the region, it cannot be granted to Group A&B officers belonging to NE and posted in NE

Region.

As regards judgment dated 22.12.2000 which directs the respondents of Ordnance Depot worker and Postal employees and 16 OAs from other departments for waiving the recovery of Special Duty Allowance till 31.1.1989. Since the issue of waiving of Special Duty Allowance has already been settled by the Supreme Court Judgment dated 30.9.1994, the decision of CAT Guwahati Bench for its further waiving have an error. In case of Department of Posts, it is seen that the payment of Special Duty Allowance from December, 1983 to November, 1993 has not been made to their employees. It seems that the payment of Special Duty Allowance to ineligible employees have been made from December, 1988 onwards. If so, it is totally against the orders issued by Ministry of Finance on 12.1.1996, and the directions of the Apex Court in Judgment dated 20.9.1994. It is further seen the Department of Posts have already advised their regional office in file an appeal in the High Court of Guwahati against the CAT Judgment dated 22.12.2000. Therefore, Department of Posts is advised to vigorously follow up the appeal case in Guwahati High Court, wherein attention of the Court may be drawn to the Supreme Court judgment dated 20.9.1994 and the orders issued by Ministry of Finance on 12.1.1996 based on that judgment of Supreme Court.

It is further clarified that there is no bar in eligibility of Special Duty Allowance for the officers belonging to the NE 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 will be admissible when they are posted in NE Region from outside the region.

[68]

Subject :

Copy of O.M. No. 36035/4/2000-Estt. (Res.), dated 13.6.2001, Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training).

Designating the competent authority for interchange of reserved vacancies between sub-categories of persons with disabilities in posts/services under the Central Government.

The undersigned is directed to invite a reference to this Department's O.M. No. 36035/17/85-Estt. (SCT) dated 1.4.1986 and No. 36035/16/91-Estt. (SCT) dated 18.2.1997 (*Published in Services Law Journal of August, 1997 as Sl. No. 59*), wherein the procedure for maintaining a separate 100 point register for implementation of 3% reservation for persons with disabilities has been prescribed.

2. It may be noted that according to the above instructions, the recruitment authorities have to ensure that there is proper rotation of reservation amongst the categories of disabilities consistent with identification of posts suitable for different categories of persons with disabilities. This Department's O.M. dated 1.4.1986 also provided that powers would vest in the Head of Department with regard to deciding which category of the handicapped should be accommodated first if the number of vacancies is such as to cover only one block or two. Although the instructions also provided for mutual exchange in the event of non-availability of candidates in the specific category for which the reserved point occurred, the authority competent to allow such an exchange had not been specified in the aforesaid instructions. The Committee on Petitions, Rajya Sabha, while reviewing the implementation of the reservation policy for persons with disability has pointed to the need for a clarification on this point.

3. The matter has been examined and it has been decided that the Head of the Department shall also be the competent authority to allow *inter-se* exchanges between various categories