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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 229/2004

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

E.P/M.A No. 89/05/

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SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 42)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

## ORDER SHEET.

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

In C.A. W.P.(C) 37(K) 102

Name of the Applicant(s) Sri Tapas Datta & Sons

Name of the Respondent(s) h. o. p. tors.

Advocate for the Applicant Mr. L.S. Jamie

Counsel for the ~~Railway~~/C.G.S.C.

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
As per order dated 7.9.04 of the Hon'ble Gauhati High Court (Kohima Bench) the case has been transferred to the C.A.T, Gauhati Bench u/s 14 of the C.A.T Act 1985.	6.10.2004 mb 3.11.04	Present : The Hon'ble Mr. Justice P Batta, Vice-Chairman.  None for the parties. The matt may be listed for further orders on 3.11.2004.
Laid before the Hon'ble Court for further orders.	4.12.04	The matter has been received from Hon'ble High Court. No one has appeared on behalf of the parties. The <del>Note appears for the applicant</del> <del>as well as the Respondents.</del> Stand over to 5.1.2005.
DR Section officer	5.1.2005 DR 3/11/04	None for the parties. List on 10.02.2005 for orders.
Pari Re: compl. order dated 3/11/04	mb	ICR Bhattacharya Member (A)

11.2.05. None appears for the applicant as well as the Respondents. It is a transfer case from Gauhati High Court, (Kohima Bench), as per order dated 7th September, 2004, which was passed in the presence of both sides. Thereafter, the present matter had been listed on 6.10.04, 3.11.04, 5.1.05. Even Registered notices were sent to the parties, yet there is no representation by other side. It appears that the applicant as well as the respondents have no interest left in prosecuting the present O.A. Accordingly, the application is dismissed.

Member (J)

lm

11.02.2005 None appears for the applicants as well as the respondents. It is a transfer case from Gauhati High Court (Kohima Bench), as per order dated 7th September, 2004, which was passed in presence of both sides.

Thereafter, the present matter had been listed on 6.10.2004, 3.11.2004, 5.1.05. Even Registered notices were sent to parties, yet there is no representation by the other sides. It appears that the applicants as well as respondents have no interest left in prosecuting the present O.A. Accordingly, the application is dismissed.

Member (A)

lm

17.5.2005 List on 20.6.2005 alongwith M.P. No. 89/2005.

K. B. Bhattacharya  
Member

2. D. D. D. D.  
Vice-Chairman

Office Notes	Date	Order of the Tribunal
	20.6.2005	<p>In view of the order passed in M.P. 89/2005 the O.A. is restored to file. Post the O.A. for final disposal on 29.7.2005. <del>Even</del> Even though written statement is seen filed, Mr. M.U. Ahmed, learned Addl. C.G.S.C. submits that fresh written statement is to be filed. Respondents are free to file additional written statement.</p> <p>No fresh W.S. filed by the respondents.</p> <p><u>By</u> 28/7/05</p>
	29.7.2005	<p>bb</p> <p>Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents submits that the written statement is sent for vetting and some more time is required for fixing filing written statement. Post on 31.8.2005.</p> <p><u>By</u> 30/8/05</p>
No W.S. has been filed.	31.8.2005	<p>mb</p> <p>Counsel for the applicant is absent. Mr. M.U. Ahmed, learned counsel for the respondents submits that written statement will file shortly. Post on 22.9.2005 for hearing.</p> <p><u>By</u> 21.9.05</p>
W.S. filed on behalf of R.No-1 for 5		

22.9.05. Mr. L. Wapang learned counsel for the applicant submits that he has received the written statement only to-day and he wants the matter to be taken up on Monday.

OS: 09.05

WJS submitted  
by the Respondent Nos. 1 to 5.

Post the matter on 26.9.05.

*Wajed*  
Vice-Chairman

lm

26.9.2005 Heard Mr. L.S. Jamir, learned counsel for the applicants and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The O.A. is disposed of. No order as to costs.

*Wajed*  
X/10/05  
Addl.C.G.S.C.

*Wajed*  
2/10/05  
Vice-Chairman

nkm

7.10.05  
On 9.9.05 C. Copy  
of the first  
has been collected  
by the L/Advocate  
for the applicant  
and a copy of the  
same handed to  
the Addl. C.G.S.C.  
for the Respon.  
*Wajed*

-1-

IN THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:TRIPURA:  
MIZORAM & ARUNACHAL PRADESH)  
KOHIMA BENCH

CIVIL APPELLATE SIDE

Appeal from  
Civil Rule

WP(C)

No. 37(K) of 2002  
Appellant  
Petitioner

Shri Tapam Dutta & ons  
- versus -

Union of India & ons

Respondent  
Opposite-party.

For Appellant  
Petitioner

L. S. Jamir

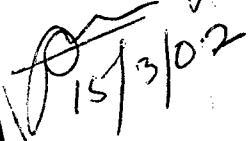
For Respondent  
Opposite-party.

Ms ~~N. R. Bhattacharya~~ <sup>Sr. C. G. S. C.</sup>  
~~add C. G. S. C.~~  
incls.

Noting by Office or advocate.	Serial No.	Date	Office notes, report order or proceedings with signature.
1	2	3	4

Petition v/A 226  
of the constitution.

stamps paid.  
copy <sup>not</sup> served.

  
15/3/02

2

Noting by Office or Advocate	Serial No.	Date	Office notes report or proceeding with signature.
1	2	3	4

NOTING BY OFFICER FOR ADVANCES.	RATE	OFFICE/NOTE/REPORT ORDERS PROCEEDING WITH SIGNATURES.
1	2	3
		BEFORE THE HON'BLE MR. JUSTICE B. LAMARE
<u>15/3/02</u>		Heard Mr. L.S. Jamir, learned counsel for the petitioner.
		Let a rule issue calling upon the respondents to show cause as to why a writ as prayed for should not be issued, or why such further or other orders should not be passed as to this court may deem fit and proper.
		This rule is made returnable within 6 weeks.
		The petitioner shall send a copy of this petition to the learned C.G.S.C. appearing for the Union of India.
		List it after 6 weeks.
MD		 JUDGE

2-7-02

Before:

The Hon'ble Mr. Justice  
B. Narare

On the prayer of  
Ms. N. Shetho Addl. CGSC,  
One month's time is  
allowed to the Respondent,  
Union of India to file  
Counter.

The name of Ms. N. Shetho  
be shown as Counsel for  
the Union of India.

Mamann  
JUDGE

NL

O. P.G) 37(K)02

NOTING BY OFFICER : DATE : OFFICE/NOTE/REPORT ORDERS  
OR ADVOCATES. : : PROCEEDING WITH SIGNATURES.

1

2

3

Before  
The Hon'ble Mr. Justice B. L. Lomare

02/08/02 Heard the A. S.  
James, learned counsel for  
the petitioner.  
Des' the matter  
after a month.

Manmohan  
Judge

Pl)

4/9/2002

Before

The Hon'ble Mr. Justice A. H. Sastri

On the request of  
Ms. N. Bhetsa, learned  
Adv. C.A.S.C., 4 (four)  
weeks time is granted  
to file counter.

AP  
Judge

3-9-02

Counter not filed.

Fai  
3/9/02

NOTING BY OFFICER  
OR ADVOCATES.

DATE

OFFICE/NOTE/REPORT ORDERS  
PROCEEDING WITH SIGNATURES.

1

2

3

30/10/2002

Before

The Hon'ble Mr. Justice B. L. Maran

4.2.03  
Filed an  
Affidavit in  
opposition on  
behalf of class 1-5

One month's time is  
allowed to the respondents  
to file counter as prayed  
for by Ms. N. Rethna.

Maran  
BUDGE

Polandy.

4/2/03

RS

WOC 37(C)02

NOTICE BY OFFICER OR ADVOCATES.	DATE	OFFICE/NOTE/REPORT ORDERS PRODUCED WITH SIGNATURE.
	2 19/02/03	3 Before The Hon'ble Mr. Justice B. Lomare Heard Ms. N. Riefso, Learned Addl. CGSC for the respondents. It is submitted by the counsel for the respondents that the affidavit-in-opposition has been filed but copy of the same has not been served upon the counsel for the petitioner. Let the matter be listed for hearing in usual course. Learned counsel for the respondents shall serve a copy of the affidavit-in- opposition to the counsel for the petitioner.

3/3/03

On  
Jolani M  
3/3/03

*Manan*  
JUDGE

NOTING BY OFFICER OR ADVOCATES.	DATE	OFFICE/NOTE/REPORT ORDERS PRODUCED WITH SIGNATURE.
1	2	3

Before  
the Hon'ble B. Lamare.

24-3-08 List it after 2(200)  
weeks as prayed for  
by respondents.

Maurice  
JUDGE

Before  
the Hon'ble Mr. Justice B. Lamare.

2-6-08 List it after a week  
as prayed for by Mr. N.  
Rhetso.

Maurice  
JUDGE

NOTING BY OFFICER  
OR ADVOCATES.

DATE

OFFICE/NOTE/REPORT ORDERS

PRODUCED WITH SIGNATURES.

3

Before

B. LAMHRE

The Hon'ble Mr. Justice.....

7-7-03

Let it after d (two)

Decree as prayed for by  
the N. Rehder Esq. C.A.S.C.

Manuam  
JUDGE

10-9-03  
Filed affidavits  
in reply by me  
petitions.

10/9/03

NOTING BY OFFICER OR ADVOCATES	DATE	OFFICE/NOTE/REPORT ORDERS PRODUCED WITH SIGNATURES
	2	3

Before  
The Honble Ms. Justice.....  
B. Lamare.  
10-9-03. did it after 2 (two) weeks  
as prayed for by Mr L.S. James

*Lamare*  
JUDGE

Before  
The Honble Ms. Justice.....  
B. Lamare.  
17-11-03. did it in the need  
mele as prayed for

*Lamare*  
JUDGE

Noting by Officer or Advocate. Noting Note/Report orders produced with signature.

Before B. Lamar  
The Hon'ble Mr. Justice.....

2-12-03: Visit in the next  
week as prayed for

Memorandum  
JUDGE

Before B. Laramore  
May 21, 1947, Pacific Ocean

8-12-03  
list is after winter  
vacation as fixed stress  
as foreseen.

*Maurice*  
JUDGE

Before  
The Hon'ble Mr. Justice B. L. Amaree

20-1-04.

Recd at our Registry on 26-1-04  
as prayed for.

Manan  
JUDGE

~12~

13

WPC 37 COS 02

NOTING BY OFFICER  
OR ADVOCATES.

DATE

OFFICE/NOTE/REPORT ORDER  
PRODUCED WITH SIGNATURE.

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2

3

27/1/04

Before

The Hon'ble Mr. Justice B. L. Manek

Fix List it on Thursday i.e.  
29/1/2004 as prayed for.

Manek  
JUDGE

NOTING BY OFFICER  
OR ADVOCATES.

DATE

OFFICE/NOTE/REPORT ORDER  
PRODUCED WITH SIGNATURE.

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W. P. (C) NO. 37 (R) 02

NOTING BY OFFICER OR ADVOCATES	DATE	OFFICE/NOTE/REPORT ORDER PRODUCED WITH SIGNATURE.
1	2	3
	29-01-04	Before The Hon'ble Mr. Justice B. Lamee list it after 2 (two) weeks as prayed for.
	23/2/04	Before The Hon'ble Mr. Justice B. Lamee list it on Thursday ie. 26/2/04 as prayed for.
	29-3-04	Before The Hon'ble Mr. Justice B. Lamee list it on Thursday ie 1-4-04 as prayed for.

NOTING BY OFFICER OR ADVOCATES.	DATE	OFFICE/NOTE/REPORT ORDER PRODUCED WITH SIGNATURE.
1	2	3
		Before The Hon'ble Mr. Justice <u>B. Lamare</u> .
	2-4-04	list it after 3 (three) weeks as prayed for by Mr. L. S. James
		<u>Lamare</u> JUDGE
		BEFORE THE HON'BLE MR. JUSTICE B. LAMARE
	24-6-04	list it in the next week as prayed for.
		<u>Lamare</u> JUDGE

NOTING BY OFFICER OR ADVOCATE..	DATE	OFFICE NOTE/REPORT ORDERS PRODUCED WITH SIGNATURE.
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BEFORE  
THE HON'BLE MR. JUSTICE B. LAMARF

22-6-04

dist it on Thursday i.e  
24-6-04 as prayed for.

*Lamarr*  
JUDGE

BEFORE  
THE HON'BLE MR. JUSTICE B. LAMARF

25-6-04

dist it in the next  
week as prayed for by  
Mr. T. B. Janir.

*Lamarr*  
JUDGE

NOTING BY OFFICER OR ADVOCATE.	DATE	OFFICE NOTE/REPORT ORDERS PRODUCED WITH SIGNATURE.
1	2	3

**BEFORE**  
**THE HON'BLE MR. JUSTICE B. LAMAR**

26-7-04. List it on Thursday  
i.e 29-7-04 as prayed for.

*Lamar*  
JUDGE

29/7/04

**BEFORE**  
**THE HON'BLE MR. JUSTICE B. LAMAR**

List it in the next  
week as prayed for by  
Mr. L. S. Samir

*Lamar*  
JUDGE

17

NOTING BY OFFICER | DATE | OFFICE NOTE/REPORT ORDERS PRODUCED  
OF ADVOCATE. | | WITH SIGNATURE.

1

2

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03-8-04

BEFORE  
THE HON'BLE MR. JUSTICE B. LAMARE

Meruno.

RJ

  
JUDGE

BEFORE  
THE HON'BLE MR. JUSTICE B. LAMARE

30-8-04

list in on Thursday  
i.e 2-9-04 as prayed for.

  
JUDGE

Noting by Officer  
or Advocates.

Date

Office/Note/Report orders produced  
with signature.

1

2

3

BEFORE

THE HON'BLE MR. JUSTICE B. LAMARE

2-9-04

Heard Mr. L. S. James  
for the petitioner, Mr. K. Menon  
for C.G.S.C for respondents.

dict is on 2-9-04

as fixed items.

*Lamare*  
JUDGE

Noting by Officer or Advocate	Date	Office/Note/Report orders produced with signature.
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1

2

3

79

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

ORIGINAL APPLICATION NO. 229 OF 2004.

DATE OF DECISION: 26-09-2005.

Shri Tapan Dutta & 76 others

APPLICANT(S)

Mr L.S. Jamir, Mr T. Ao and  
L. Wapang.

ADVOCATE(S) FOR THE  
APPLICANT(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr M.U.Ahmed, Addl.C.G.S.C

ADVOCATE FOR THE  
RESPONDENT(S)

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

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.

G. Sivrajjan  
9/9/05

30

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 229 of 2004

Date of Order: This the 26<sup>th</sup> day of September 2005.

The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

1. Shri Tapan Dutta
2. Shri Y. Lotha
3. Smti N. Malti
4. Shri K. Namgi
5. Shri D. Sangma
6. Shri Sudarsanan T.K.
7. Shri J.S. Kumar
8. Shri C.R. Bhattacharjee
9. Shri Raj Kumar
10. Shri S.D. Angami
11. Shri S. Lorho Mao
12. Shri Reizele Mechieu
13. Shri C.L. Phom
14. Shri N. Chale
15. Shri Daljit Singh
16. Smti T.Y. Konyak
17. Shri Monoy Joseph
18. Shri L.A. Benjamin
19. Shri A.K. Kuki
20. Shri N. Thapru
21. Shri S. Hekuto
22. Shri Y.C. Konyak
23. Shri K.G. Sema
24. Shri K. Sema
25. Shri J. Pradhan
26. Shri R.R. Prasad
27. Shri K.C. Phom
28. Shri L.Y. Ezung
29. Shri R.D. Angami
30. Shri T. Aier
31. Shri S.S. Singh
32. Shri Y.S.K. Singh
33. Shri V.P. Sema
34. Shri K.H. Sema
35. Shri N. Sema
36. Shri Y. John Patton
37. Shri M.S. Rengma
38. Shri Z. Ato Yimchunger
39. Shri S.P. Singh
40. Shri A.L. Chishi
41. Shri V. Nakhro
42. Shri S.R. Dutta
43. Shri N.M. Singh
44. Shri N. Chapolo

45. Shri Krelo Sani
46. Shri N. Mhao Lotha
47. Shri C. Lotha
48. Shri T. Kikon.
49. Shri V. Sale Angami
50. Shri Vepsuta
51. Shri S.K. Acharjee
52. Shri Z.T., Angami
53. Shri Girish Kumar
54. Shri T.B. Tulsidas
55. Shri Ubiram Gurung
56. Shri S.J. Sangma
57. Shri V. Kweho
58. Shri S. Dutta
59. Shri D. Roy
60. Shri D. Paul
61. Shri B. Dhar
62. Shri D. Mitra
63. Smti Annama Chacko
64. Shri K. Pamai
65. Shri D. Pukheo
66. Shri C. Kumar
67. Shri N.S. Singh
68. Shri C.K. Das
69. Shri S.D. Roy
70. Smti. Romita Lama
71. Smti V. Surendran
72. Shri Th. S. Singh
73. Shri R.C. Das
74. Shri N. Angami
75. Shri Debendra Singh
76. Shri P. Thira
77. Shri James Athiko

.....Applicants

All presently serving under the Subsidiary Intelligence Bureau, Government of India, Kohima, Nagaland.

By Advocates Mr L.S. Jamir, Mr T. Ao & Mr L. Wapang.

- Versus -

1. The Union of India, represented by the Secretary, Ministry of Home Affairs, New Delhi-1.
2. The Secretary, Ministry of Finance, Department of Expenditure, New Delhi.
3. The Director, Intelligence Bureau, Ministry of Home Affairs, New Delhi-1.

4. The Joint Director,  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
Kohima, Nagaland.

5. The Assistant Director,  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
Kohima, Nagaland. ....Respondents

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

.....

**ORDER (ORAL)**

**SIVARAJAN. J. (V.C.)**

The applicants, 77 in number, working in Group 'C' and 'D' posts in the Subsidiary Intelligence Bureau, Government of India, Kohima, Nagaland, had filed writ petition, WP © No.37 (K) of 2002 before the Gauhati High Court, Kohima Bench. The said Writ Petition was transferred to this Tribunal as per order dated 7.9.2004. The said order reads thus:

"Heard Mr L.S. Jamir, learned counsel for the petitioners and Mr K. Meruno, learned Sr. CGSC for the respondents.

"At the outset it is noticed that under section 14 of the Central Administrative Act, 1985 the case has to be decided by the Central Administrative Tribunal.

"Registry is directed to transfer this writ petition to the Central Administrative Tribunal, Guwahati Bench immediately. The Tribunal on receipt of the records shall issue notice to the concerned parties and if there is any delay, such delay shall be condoned by the Tribunal."

2. Pursuant to the said order this case is numbered as O.A.No.229 of 2004. This O.A. happened to be dismissed by order dated 11.2.2005 since there was no representation. However, the O.A.

*Lpt*

was restored to file as per order dated 20.6.2005. The respondents have filed a written statement in this O.A. on 29.8.2005.

3. I have heard Mr L.S. Jamir, learned counsel for the applicants and Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents.

4. The applicants, as already noted, are Group 'C' and 'D' employees working in the Subsidiary Intellitence Bureau (SIB for short), Government of India, Kohima, Nagaland. Their grievance is that Special (Duty) Allowance (SDA for short) granted to them has been discontinued in view of the O.M. dated 12.1.1996 and dated 5.10.1996 (Annexures- 2 & 4 respectively). According to the applicants the Intelligence Bureau, Ministry of Home Affairs, Government of India in Annexure-4 as also in their communication dated 4.2.1999 (Annexure-7) have clearly stated that the staff of Intelligence Bureau are having All India Transfer Liability and that it is not only a paper condition. According to the applicants they are entitled to grant of SDA as per the O.M. dated 14.12.1983 (Annexure-1) as clarified in Annexure-7.

5. The respondents in their written statement have clearly denied and inter alia, it is stated that the applicants have no All India Transfer Liability and that they are not entitled to grant of SDA.

6. The question regarding admissibility of SDA to Central Government Civilian employees posted in the North Eastern Region was considered by this Tribunal with reference to all the relevant O.M.s/Government Orders and the decisions of the Supreme Court, High Court and this Tribunal in its judgment dated 31.5.2005 in O.A.No.170 of 1999 and connected matters. In paras 52 and 53 of the

JP

said order the principles deducible from the O.M.s and the decisions of the Courts are stated thus:

52. The position as it obtained on 5.10.2001 by virtue of the Supreme Court decisions and Government orders can be summarized thus:

Special Duty Allowance is admissible to Central Government employees having All India Transfer Liability on posting to North Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E. Region if he is retransferred to N.E. Region he will also be entitled to grant of SDA provided he is also having promotional avenues based on a common All India seniority and All India Transfer liability. This will be the position in the case of residents of North Eastern Region originally recruited from outside the region and later transferred to North Eastern Region by virtue of the All India Transfer Liability provided the promotions are also based on All India Common Seniority.

53. Further payment of SDA, if any made to ineligible person till 5.10.2001 will be waived."

7. Coming to the present case altogether there are 77 applicants. The factual details to ascertain as to whether the applicants fulfill the requirements under the various Government Orders in the light of the above principles are not available in the pleadings. In view of this it is not possible for this Tribunal to decide as to whether the applicants are entitled to the relief of grant of SDA. It is also not seen from the pleadings in this case as to whether the applicants prior to filing of the writ petition had approached the concerned authorities. However, it is noted that one of the applicants had filed a representation (Annexure-10) which was disposed of by communication dated 23.7.1997 (Annexure-11) wherein it is stated that since the applicant was appointed from Nagaland and not from Kerala she is not entitled to SDA.

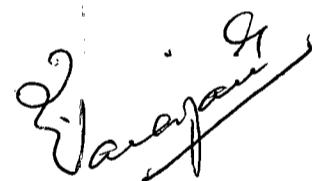
8. Since the principles governing the grant of SDA has been stated by us in paras 52 and 53 of the common order dated 31.5.2005

9/2

extracted hereinabove, if the applicants herein file separate representations detailing the factual circumstances entitling them to grant of SDA with reference to the principles laid down by this Tribunal extracted hereinabove within a period of six weeks from today, the concerned respondents will consider their individual claims on merits and pass appropriate orders in the light of the principles laid down by this Tribunal and extracted hereinabove and the relevant Government Orders including Annexures- 4 and 7 within a period of three months thereafter. The order so passed will be communicated to the applicants without further delay.

9. The O.A. is disposed of as above. The applicants will produce this order alongwith their representation before the respondents for compliance.

No order as to costs.



9  
G. Sivarajan  
( G. SIVARAJAN )  
VICE-CHAIRMAN

nkm

Reg AD / parcel

THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:TRIPURA:  
MIZORAM & ARUNACHAL PRADESH)  
KOHIMA BENCH

Central Administrative Tribunal  
কেন্দ্ৰীয় প্ৰশাসনিক উচ্চ বিধুত বৰ্ষ

20 SEP 2004

Guwahati Bench.  
ৰাজ্যিক প্ৰশাসনিক উচ্চ বিধুত বৰ্ষ

NO.HC(K)1/2000/J-1/

To

Dt. Kohima, the 10th Sept/04.

The Registrar,  
Central Administrative Tribunal,  
Guwahati Bench, Guwahati, Assam.

SUB:-

TRANSMISSION OF CASE RECORD OF W.P.(C) NO.37(K)2002  
AND W.P.(C) NO.149(K)2002 AND ORDER DATED 7-9-04.

Sir,

As per Hon'ble Courts order dated 7-9-2004,  
I am directed to forward herewith the case records of  
W.P.(C) No.37(K)2002 and W.P.(C) No.149(K)2002 for favour  
of necessary action.

Kindly acknowledge the receipt.

Enclosed:-

1.a) W.P.(C) No.37(K)02  
H.C. file part-I  
with order sheet  
page 1-19

b) Affidavit-in-Opposition  
page 1-18

Yours faithfully,

c) Affidavit-in-reply  
page 1-6.

2. W.P.(C) No.149(K)02  
High Court file part-1  
with order sheet page  
1-16.

*Chibosao Latha*  
10/9/04

( CHIBOSAO LATHA )  
Assistant Registrar (Jud1.)  
Guwahati High Court Kohima Bench

Laid before the  
Hon'ble VC for kind perusal.

01 C

Hon'ble VC

for "N" A

17/9/04

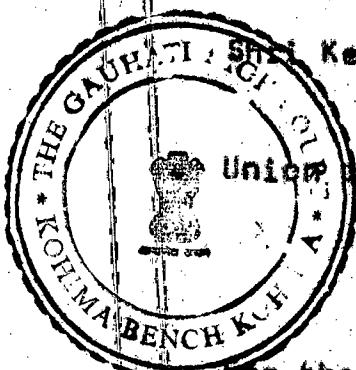
SO(J) in 3rd flr, West  
20/9/04 P. registered as T.A.  
as place of orders  
20/9/04 ...

20 SEP 2004

Guwahati Bench.  
গুৱাহাটী ন্যায়ালয়

IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:TRIPURA:  
MIZORAM & ARUNACHAL PRADESH)  
KOHIMA BENCH

W.P.(C) NO.149(K) OF 2002.



Shri Kovidelheouli & Ors. ... Petitioner  
-Vrs-  
The Union of India & Ors. ... Respondents.

PRESENT

THE HONORABLE MR. JUSTICE B. LAMARE.

for the petitioner :- Mr. L.S. Jamir,  
Adv.

for the Respondents:- Mr. K. Merune,  
Sr. C.G.S.C. for R/Nos. 1 & 2.

7-9-2004

ORDER

Heard Mr. L.S. Jamir, learned counsel for the petitioners and Mr. K. Merune, learned Sr. C.G.S.C. for the respondents.

At the outset it is noticed that under section 14 of the Central Administrative Act, 1985 the case has to be decided by the Central Administrative Tribunal.

Registry is directed to transfer this writ petition to the Central Administrative Tribunal, Guwahati Bench immediately. The Tribunal on receipt of the records shall issue notice to the concerned parties and if there is any delay, such delay shall be condoned by the Tribunal.

Sd/- JUDGE.

TRUE COPY

Superintendent 21/9/04  
9/9/04  
Stamp Reporter  
Guwahati High Court  
Kohima Bench

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA :  
MANIPUR : TRIPURA : MIZORAM : AND ARUNACHAL PRADESH)

KOHIMA BENCH

28  
Filed on 15.8.2002 by  
Perusing through  
Sd/- R.C. Tamiz, Advocate

CIVIL EXTRAORDINARY JURISDICTION

W.P. (C). NO. 37 (K) OF 2002

To,

The Hon'ble Shri R.S. Mongia, B.A., L.L.B.,  
the Chief Justice of the Gauhati High Court and  
His Lordship's other companion Justices of the  
said Hon'ble Court.

IN THE MATTER OF :

An application under  
Article 226 of the Con-  
stitution of India for  
issuance of a Writ of  
Mandamus and/or Certiorari  
and/or any other Writ,  
Order or Direction of the  
like nature.

- AND -

IN THE MATTER OF :

Ministry of Finance  
Office Memorandum No.

112  
15/3/02

...../-

39

~~55 C.R. Rs. 3850/-~~

Stamp sufficient (as per valuation)-

In cause

In form

The 2nd Judge's copy is not filed

Stamp ✓ Reportors.

ut  
- 2 -

11(3)/95-E-II(B) dated

12.1.96

- AND -

IN THE MATTER OF :

Office Memorandum No.

10(SO(C)/96(1)1056 dated

5.10.96 issued by the

Intelligence Bureau,

Ministry of of Home Affairs,

Government of India, New

Delhi stopping the payment

of Special Duty Allowamce

to the Intelligence Bureau

employees posted in the

North East Region of

India.

- AND -

IN THE MATTER OF :

Violation of the petitioners

fundamental and other legal

rights.

- AND -

..../-

Commissioner of affidavits  
Gauhati High Court  
K. L. Bhattacharya

IN THE MATTER OF :

1. Shri Tapan Dutta
2. Shri Y. Lotha
3. Smti N. Malti
4. Shri K. Namgi
5. Shri D. Sangma
6. Shri Sudarsanan T.K.
7. Shri J.S. Kumar
8. Shri C.R. Bhattacharjee
9. Shri Raj Kumar
10. Shri S.D. Angami
11. Shri S. Lorho Mao
12. Shri Reizele Mechieu
13. Shri C.L. Phom
14. Shri N. Chale
15. Shri Daljit Singh
16. Smti T.Y. Konyak
17. Shri Moncy Joseph
18. Shri L.A. Benjamin
19. Shri A.K. Kuki
20. Shri N. Thapru
21. Shri S. Hekuto
22. Shri Y.C. Konyak
23. Shri K.G. Sema
24. Shri K. Sema
25. Shri J. Pradhan
26. Shri R.R. Prasad
27. Shri K.C. Phom
28. Shri L.Y. Ezung
29. Shri R.D. Angami
30. Shri T. Aier

..../-

31. Shri S.S. Singh
32. Shri Y.S.K. Singh
33. Shri V.P. Sema
34. Shri K.H. Sema
35. Shri N. Sema
36. Shri Y. John Patton
37. Shri M.S. Rengma
38. Shri Z. Ato Yimchunger
39. Shri S.P. Singh
40. Shri A.L. Chishi
41. Shri V. Nakhro
42. Shri S.B. Dutta
43. Shri N.M. Singh
44. Shri N. Chapfolo
45. Shri Krelo Sani
46. Shri N. Mhao Lotha
47. Shri C. Lotha
48. Shri T. Kikon
49. Shri V. Sale Angami
50. Shri Vepsuta
51. Shri S.K. Acharjee
52. Shri Z.T. Angami
53. Shri Girish Kumar
54. Shri T.B. Tulsidas
55. Shri Ubiram Gurung
56. Shri S.J. Sangma
57. Shri V. Kweho
58. Shri S. Dutta
59. Shri D. Roy
60. Shri D. Paul

...../-

43

- 61. Shri B. Dhar
- 62. Shri D. Mitra
- 63. Smti Annama Chacko
- 64. Shri K. Pama
- 65. Shri D. Pukheo
- 66. Shri C. Kumar
- 67. Shri N.S. Singh
- 68. Shri G.K. Das
- 69. Shri S.D. Roy
- 70. Smti Romita Lama
- 71. Smti V. Surendran
- 72. Shri Th. S. Singh
- 73. Shri R.C. Das
- 74. Shri N. Angami
- 75. Shri Debendra Singh
- 76. Shri P. Thira.
- 77. Shri James Athiko

All presently serving under  
the Subsidiary Intelligence  
Bureau, Government of India,  
Kohima, Nagaland.

..... Petitioners

- Versus -

- 1. The Union of India represented  
through the Secretary,  
Ministry of Home Affairs,  
New Delhi - 1

...../-

Prisoner of State  
Gauhati High Court  
Assam, India

2. The Secretary,  
Ministry of Finance,  
Department of Expenditure,  
New Delhi

3. The Director,  
Intelligence Bureau,  
Ministry of Home Affairs,  
New Delhi- 1

4. The Joint Director,  
Subsidiary Intelligence  
Bureau,  
Ministry of Home Affairs,  
Government of India,  
Kohima, Nagaland.

5. The Assistant Director,  
Subsidiary Intelligence  
Bureau,  
Ministry of Home Affairs,  
Government of India,  
Kohima, Nagaland.

..... Respondants

The above-named petitioners  
beg to state the following  
and

...../-

MOST RESPECTFULLY SHEWETH :

1. That the petitioners are all citizens of India and as such they are all entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the Rules framed thereunder.
2. That the petitioners have the same cause of action and the nature of relief sought is also the same. They have a common interest in the case and have filed the petition jointly.
3. That the petitioners are all employees of Subsidiary Intelligence Bureau (Hereinafter referred to as SIB for the sake of brevity), Government of India and are all posted in the State of Nagaland.
4. That the employees of the SIB were initially paid Special Duty Allowance (hereinafter referred to as SDA for the sake of brevity) at the rate of 12.5% of the basic pay at par with other Central Government employees since the 19th of November, 1983 vide Ministry of Finance Office Memorandum No. 20014/3/83-E-IV dated 14.12.1983.

...../-

  
Commissioner of Income Tax  
Golaknath Ch. M.  
Nagaland

Photostat copy of the aforementioned Office Memorandum dated 14.12.83 is annexed herewith and marked as Annexure- 1 hereof.

5. That vide Ministry of Finance, Office Memorandum No. 11(3)/95-E.II(B) dated 12th January, 1996 the said SDA was discontinued wherein it states inter alia that 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. The said memorandum was issued based on the judgement of the Apex Court dated 20.9.94 wherein it was held that Central Government Civilian employees who have all India transfer liability are entitled to the grant of SDA, ~~on~~<sup>being</sup> posted to any station in the North East 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 held 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 said memorandum of the Ministry of Finance was followed up by a memorandum No.

...../-

Commissioner of ~~all~~ ~~all~~avita  
Gauhati High C. st.  
B. M. B. M. B. M.

Noting by Officer or Advocate	Date	Office/Note/Report orders produced with signature.
1	2	3

BEFORE  
THE HON'BLE MR. JUSTICE B. LAMARE  
7-9-2004

Heard Mr. L.S. Jamir, learned counsel for the petitioners and Mr. K. Meruno, learned Sr.CGSC for the respondents.

At the outset it is noticed that under section 14 of the Central Administrative Act, 1985 the case has to be decided by the Central Administrative Tribunal.

Registry is directed to transfer this writ petition to the Central Administrative Tribunal, Guwahati Bench immediately. The Tribunal on receipt of the records shall issue notice to the concerned parties and if there is any delay, such delay shall be condoned by the Tribunal.

  
JUDGE

RJ:

Noting by Officer or Advocates.	Date	Office/Note/Report officers produced with signature.
1	2	3

10/SO(C)/96(1)1056 dated 15th October, 1996 issued by the Intelligence Bureau, Ministry of Home Affairs wherein it also states inter alia that the grant of SDA on being posted to any station in the North East Region from outside the region and the SDA would not be payable merely because of the clause in the appointment order relating all India transfer liability.

Photostat copy of the aforementioned memoranda dated 12,1,96 and 5.10.96 are annexed herewith and marked as Annexures- 2 and 3 respectively hereof.

6. That by an Office memorandum No. 10/SO(C)/86(3) dated Nil issued by the Intelligence Bureau, Ministry of Home Affairs, Government of India the transfer liability of the petitioners has been clarified wherein it states inter alia that the question whether IB staff in various grades including Group C & D ranks of SA(G), SA(MT) & JIO-II(G) have the all India transfer liability has been examined at lenght. It has been found that in these ranks, transfer from one zone to another zone are made in exigency of public service. Even when initial appointment is made on zonal basis, it does not take away their inter zonal transfer liability. Hence in the case of all ranks of IB, the transfer

...../-

Commissioner of Income Tax  
Gandhi Bhawan, New Delhi

liability is not only a paper condition but a reality.

Photostat copy of the aforementioned memorandum dated Nil is annexed herewith and marked as Annexure- 4 hereof.

7. That the petitioners state that unlike other Central employees, the recruitment/promotion of the Intelligence Bureau employees are made at the centralised level on all India seniority list.

8. That on grievances being expressed, the Joint Director, Subsidiary Intelligence Bureau, Ministry of Home Affairs, Government of India, Kohima, Nagaland wrote a letter to the Additional Director, Intelligence Bureau, New Delhi vide D.O. No. 36/EST/GE/87(2)/718 dated Kohima the 15th October, 1996 requesting to examine the issue in its proper perspective.

Photostat copy of the aforementioned letter dated 15.10.96 is annexed herewith and marked as Annexure- 5 hereof.

...../-

8A. That the Joint Director, Subsidiary Intelligence Bureau (MHA), Kohima, Nagaland vide D.O. NO. 36/EST/GE/87(2)-644 dated 16.9.98 requested the IB Headquarters, New Delhi to examine the issue of payment of SDA denovo. However, the same was rejected vide IB, Headquarter vide D.O. letter NO. 10 /SO(C)/96(10)-1190 dated 7.10.1998.

Photostat copy of the aforementioned D.O dated 16.9.98 and letter dated 7.10.1998 is annexed herewith and marked as Annexure - 6 and 6 A respectively hereof.

9. That the Assistant Director, Intelligence Bureau, Ministry of Home Affairs, New Delhi issued a memorandum No. 10/SO(C)/98(6)-150 dated the 4th February 1999 wherein it is reiterated inter alia that all Central Civilian employees posted to North East region from outside the region irrespective of the fact whether it is their initial appointment or otherwise are entitled to SDA.

Photostat copy of the aforementioned memorandum dated 4.2.99 is annexed herewith and marked as Annexure - 7 hereof.

10. That the petitioners state that they belong to a special category of employees, i.e., combatised personnel under the Central Police Organisation/Central Para Military Force. Their duties are dedicated for security duty with danger to their lives and therefore they are allowed to enjoy extra facilities like ration money, concessional facility of 50% Airfare by Indian Airlines etc., etc., which are not enjoyed by other civilian employees of the Central Government. An example

of such is the Ministry of Home Affairs letter No. 9/27/85/IA/BSF/PF.II dated 29.12.92 wherein/ration revised money was made payable to the petitioners and also a memo No. K-9/ESTT/2001(26)-2104 dated the 14.6.2001 issued by the Joint Director, Subsidiary Intelligence Bureau (MHA), Government of India, Kohima on the subject of concessional facility of 50% airfare to IB personnel by Indian Airlines.

Photostat copies of the aforementioned letter dated 29.12.92 and Memo dated 14.6.2001 are annexed herewith and marked as Annexures- 8 and 9 respectively hereof.

11. That the petitioners state that the higher hierarchy of the Intelligence Bureau and the Subsidiary Intelligence Bureau are manned by the IPS officers brought on deputation which clearly depicts the functioning of the IB and SIB.

12. That the petitioners state that even the IPS officers of the Nagaland Cadre including those nominated Officers to the IPS cadre are being allowed to draw the Special Duty Allowance. Further, the personnel of the CRPF, BSF, GREF etc., who are all Central Police Organisations are also allowed to draw the Special Duty Allowance whereas the case of the petitioners who are similarly situated are being ignored.

...../-

13. That it is pertinent to mention here that the employees of the Assam Rifles whose SDA were withdrawn by the respondents had approached the Central Administrative Tribunal, Guwahati Bench in Original Application No. 203 of 1998 and a series of other applications which was disposed by the Hon'ble Tribunal by its common judgement and order dated 19.12.2000 by allowing the petitions. Similarly, This Hon'ble Court of the Aizawl Bench has disposed of W.P!(C) No. 115/99 by judgement and order dated 22.11.99 which was filed by the civilian members of the GREF by allowing the petition. The petitioners crave leave of this Hon'ble Court to produce and rely upon the same at the time of hearing.

14. That the petitioners state that they have represented against the withdrawal of SDA but the same has been rejected without any justifiable reasons. One such representation is that of the petitioner No. 71 and the same is dated 14.3.97.

Photostat copies of the aforementioned representation dated 14.3.97 and rejection memo is annexed herewith and marked as Annexures- 10 and 11 respectively hereof.

15. That the petitioners state that the judgement of the Apex Court has in reality no application in the case of the petitioners. The respondents are however applying the same to the petitioners on a wrong interpretation of the said judgement.

...../-

16. That the petitioners state that the respondents by withdrawing the SDA on a wrong interpretation of the Apex Court's judgement is violative of Articles 14, 16 and 21 of the Constitution of India.

17. That assuming but not admitting that the case of the petitioners are covered by the judgement of the Apex Court, the petitioners still has an all India transfer liability which is not only a paper condition but a reality as clarified by the respondents and therefore the question of withdrawing SDA does not arise under any circumstances.

18. That the actions of the respondents by allowing certain employees of CPO/CPMF to draw the SDA while denying the same to the petitioners who are similarly situated amounts to a colourable exercise of power lacking transparency and the same is therefore most discriminatory, arbitrary, unjust, unreasonable and unconstitutional.

19. That the actions of the respondents by withdrawing the SDA from the petitioners basing on a wrong interpretation of the Apex Court's judgement clearly depicts non-application of mind on the part of the respondents and the same is therefore not tenable in law.

...../-

20. That the petitioners state that the respondents should use the same yardstick while treating its employees who are equally circu<sup>st</sup>tanced and similarly situated. While the employees of the B.S.F., CRPF, GREF, Assam Rifles and IB are all under the umbrella of the CPO/CPMF, the respondents have singled out the petitioners by withdrawing their SDA facility. The petitioners respectfully submit that when the employees of the BSF, CRPF, GREF, Assam Rifles are allowed the SDA, they should also be allowed the same without any discrimination.

21. That there is no other equally efficacious remedy available to the petitioners and the relief sought shall be adequate, just and proper.

22. That the petitioners have demanded justice but the same has been denied to them.

23. That this petition is filed bona fide and in the interest of justice.

It is therefore respectfully  
prayed that your Lordships may  
be graciously pleased to admit this  
petition, call for the records,  
issue Rule calling upon the  
respondants to show cause as to  
why a Writ of Certiorari should not  
be issued quashing and setting

...../-

aside :

(a) Intelligence Bureau,  
Ministry of Home Affairs, Office  
Memorandum No. 10/SO(C)/96(1)/1056  
dated 15.10.96 (Annexure- 3)

(b) Ministry of Finance, Office  
Memorandum No. 11(3)/95-E.II(B)  
dated 12.1.96 (Annexure- 2)

And further to show cause as to why  
a Writ of Mandamus should not be  
issued directing the respondents to ~~not~~  
allow the petitioners to draw the  
Special Duty Allowance with effect  
from the date it was withdrawn along-  
with all ~~not~~ consequential arrears.

And on cause(s) being shown, and  
upon hearing the parties your  
Lordships may be graciously pleased  
to make the Rule absolute and/or pass  
such other Orders and/or Directions as  
this Hon'ble Court may deem fit and  
proper under the circumstances of the  
case and in the interest of justice.

And for this act of kindness your  
humble petitioners as in duty bound shall ever pray.

A F F I D A V I T.....

Commissioner of  
Court  
Gauhati  
Assam

## AFFIDAVIT

I, Shri Tapan Dutta, S/O late N.C. Dutta, aged about 41 years, presently serving as Upper Division Clerk(UDC) in the Office of the Subsidiary Intelligence Bureau, Ministry of Home Affairs, Government of India, Kohima, Nagaland do hereby solemnly affirm and state as follows :

1. That I am the petitioner No. 1 in the instant case and as such I am familiar with the facts and circumstances of the case. I have been authorised by the other co-petitioners to swear this affidavit on their behalf as well as of my own and I am competent to do so.
2. That the statements made in this affidavit and in paras 1-3, 7, 14 and 15-21 of the accompanying petition are true to my knowledge, those made in paras 4-6 and 8-13 are true to my informations derived from records and which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

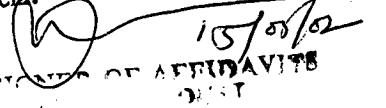
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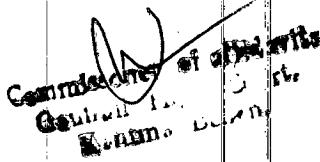
  
Shri L.S. Jamir  
Advocate.

  
Tapan Dutta

Deponent

Substantially affirms before me this the 15<sup>th</sup> day  
Identified by L.S. Jamir advocate  
of March, 2002. The declarant is.....  
personally known to me  
certify that I read over and explain the contents  
declarant and that the declarant seemed  
perfectly to understand them.

  
15/3/02  
COMMISSIONER OF AFFIDAVITS  
KOHIMA BENCH

  
Commissioner of Affidavits  
Court of Law  
Kohima Bench

18-

No. 20014/3/83 - E.IV  
Government of India  
Ministry of Finance  
Department of Expenditure.

New Delhi, 14 Dec, 1983.

OFFICE MEMORANDUM

Subject:-

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 Tripura and the Union Territories of Arunachal Pradesh 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 & 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 is now pleased to decide as follows:-

(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 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 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  
at fixed and admissible duration in Confidential  
Notes.

Anticipated performance of duties for the

.....2/.....

Prescribed tenure in the North East shall be given due weightage in the case of eligible officers in the matter of -

- (a) promotion in cadre posts;
- (b) deputation to Central tenure posts; and
- (c) courses of training abroad.

The general requirement of at least three years service in a cadre post between two Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

A specific entry shall be made in the C.R. of all employees who rendered a full tenure of service in the North Eastern Region to that effect.

### (iii) Special (Duty) Allowance :

Central Government civilian employees who have All-India grant for 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 exempt 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/or 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 allowances like Special Compensationary (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

### (iv) Special Compensationary Allowance :

#### 1. Assam and Nagaland

The rate of the allowance will be 5% of basic pay subject to a maximum of Rs.50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1.7.1982 in the case of all the

#### 2. Manipur

The rate of allowance will be as follows for the whole of Manipur :-

Pay upto Rs.260/-	Rs. 40/- p.m.
Pay above Rs. 260/-	15% of basic pay subject to a maximum of Rs.150/- p.m.

#### 3. Tripura

The rates of the allowance will be as follows :-

....5....

58  
30

-3:-

(a) Difficult areas 25% of pay subject to a minimum of Rs.50/- and a maximum of Rs.150/- p.m.

(b) Other areas

Pay upto Rs.260/- Rs. 40/- p.m.

Pay above Rs.260/- 15% of basic pay subject to a maximum of Rs.150/- p.m.

There will be no change in the existing rates of Special Compensation Allowances admissible in Arunachal Pradesh, Nagaland and Mizoram and the existing rate of Disturbance Allowance admissible in specified areas of Mizoram.

(v) Travelling Allowance on first appointment :

In relaxation of the present rules (S.R. 105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in case of journeys for taking up initial appointment to a post in the North-Eastern region, travelling allowance limited to ordinary bus fare/second class rail fare for road/rail journey in excess of first 400 Kms. for the Government servant himself and his family will be admissible.

(vi) Travelling Allowance for journey on transfer :

In relaxation of orders below S.R. 116, if on transfer to a station in the North-Eastern region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance on tour for self only for transit period to join the post and will be permitted to carry personal effects upto 1/3rd of his entitlement at Government cost or have a cash equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be, in lieu of the cost of transportation of baggage. In case the family accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage actually carried. The above provision will also apply for the return journey on transfer back from the Eastern Region.

(vii) Road mileage for transportation of personal effects on transfer:

In relaxation of orders below S.R. 116, for transportation of personal effects on transfer between two different stations in the North-Eastern region, higher rate of allowance admissible for transportation in class subject to the actual expenditure incurred by the Government servant will be admissible.

(viii) Joining Time leave:

In case of Government servants proceeding on leave from a place of posting in North-Eastern region, the period of travel in excess of two days from the station of posting to outside that region will be treated as joining time. The concession will be admissible on return from leave.

(ix) Leave Travel Concession:

A Government servant who leaves his family behind at the old duty station on another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North Eastern region. In case the option is for the latter alternative, the cost of travel for the initial distance (400kms./160 Kms.) will not be borne by the officer.

Officers drawing pay of Rs. 2250/- or above, and their families, i.e., spouse and two dependent children (upto 18 years for boys and 24 years for girls) will be allowed air-travel between Imphal/Silchar/Lumtala and Calcutta and vice-versa, while performing journeys mentioned in the preceding paragraph.

(x) Children Education Allowance/Hostel Subsidy:

Where the children do not accompany the Government servant to the North-Eastern region, Children Education Allowance upto class XII will be admissible in respect of

Children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

2. The above orders except in sub-para (iv) will also mutatis mutandis apply to Central Government employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st November 1963 and will remain in force for a period of three years up to 31st October, 1966.

4. All existing special allowances, facilities and concessions extended by any special order by the Ministries/Departments of the Central Government to their own employees in the North-Eastern Region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

5. Separate orders will be issued in respect of other recommendations of the Committee referred to in paragraph 1 as and when decisions are taken on them by the Government.

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

(S.C. MALLIK)  
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

10

All Ministries/Departments of the Government of India, etc. etc.

Copy (with spare copies) to C.A.A.G., U.P.S.C. etc

G.D/ 22-12-63

No. 11(3)/98-II(1)(b)  
Government of India  
Ministry of Finance  
Department of Expenditure

- 23 -

New Delhi, the 12th Jan., 1996

OFFICIAL MEMORANDUM

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

The undersigned is directed to refer to this Departmental OM No. 20014/3/83-L.IV dated 14.12.83 and 20.4.1987 read with OM No. 20014/16/86-L.II(b) dt 1-12-88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM dt. 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE 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 dt. 20.4.1987 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 the 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 were filed in the Hon'ble Supreme Court by some Ministers/Departments against the orders of the CAT.

6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 (in Civil Appeal no. 3251 of 1993) upheld the submissions of the Government of India that Central Government civilian employees who have All India Transfer liability, are entitled to the grant of DA, on being posted to any station in the U.P. region from outside the region and DA would not be payable merely because of the inclusion in the appointment order relating to All India Transfer liability. The High 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 16 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 judgement of the Hon'ble Supreme Court, the matter has been examined in consultation with the Ministry of Law and the following decisions have been taken:

- 1) The amount already paid on account of DA to the ineligible persons on or before 20.9.94 will be waived, &
- 2) The amount paid on account of DA 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 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 the application to employees in the Audit and Accounts Department, these orders issued in consultation with the Comptroller and Auditor General of India.

10. Hired version of this OM is enclosed.

Sd/-

C. Lalchandran  
Under Secy to the Govt of India

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

Cop. (with 3rd copies) to Compt. UPAO etc. as per standard endorsement list.

No. 10/So(c)/96(1) 1056  
 Intelligence Bureau,  
 Ministry of Home Affairs,  
 Government of India,  
 New Delhi.

Dated, the,.....

// MEMORANDUM //

5/1/1997

As per Hon'ble Supreme Court's judgement delivered on 20.9.94, conveyed vide MOF O.M. dated 12.1.96, the Central Government civilian employees who have all India transfer liability are entitled to the grant of Special Duty Allowance (SDA) on being posted to any station in NE region from outside the region and the SDA would not be payable merely because of the clauses in the appointment order relating to all India transfer liability. The apex Court further added in the judgement that the grant of SDA to the officers transferred from outside the region to NE region would not be violative of the provision contained in article 14 of the Constitution of India as well as the equal pay doctrine. The MOF, in consultation with the Min. of Law, conveyed their decision as under.

- 1) The amount already paid on account of SDA to ineligible persons on or before 20.9.94 will be waived and
- ii) the amount paid on account of SDA to ineligible persons after 20.9.94 will be recovered.

2. The MOF O.M. dated 12.1.96, containing the Hon'ble Supreme Court judgement, was circulated vide IB Hqrs. Memo, No. 12/so(c)/95(2) dated 12.8.96. Ever since circulation of MOF decision contained in their O.M. dated 12.1.96, a number of representations have been received from the SIBX located in NE region stating that the IB employees already fulfil the criteria laid down in MOF O.M. 20.4.97 for grant of SDA and hence they have already been declared eligible for grant of this allowance. It has, therefore, been requested that SDA being paid to IB employees in NE region need not be withdrawn.

3. The matter has been considered in view of the judgement of the Supreme Court contained in MOF O.M. dated 12.1.96 and it has been observed that IB employees on for that matter all the Central Government civilian employees are entitled to the grant of SDA provided they are posted to NE region from outside the region.

Contd..... P/2

1056  
10/10/96 (B)

// 2 //

No condition of domicile whether the person is local or non-local has been stipulated in the judgement of the Hon'ble Supreme Court or M.O.F. O.M. dated 12.1.96. Thus any IB employee posted in NE region from outside the region may be paid SDA on the prescribed rates. Since the government has taken a decision on the basis of Supreme Court judgement, it would not be prudent to take up the matter with the government for issue of any clarification or exemption in favour of IB employees. However, as regards recovery of SDA paid to the ineligible employees for the period from 20.9.94 to 12.1.96, we are taking up the matter with the government and the decision as and when arrived at will be communicated to the SIBX. Meanwhile, the payment of SDA to ineligible employees be stopped w.e.f. 12.1.96 as per the orders contained in M.O.F. of the same date.

Some of the SIBX have also suggested for the payment of hardship allowance based on the recommendations of the OMC in the event of SDA being withdrawn. This aspect has also been examined and it has been observed that it would be wrong to conclude that IB employees are no longer governed by the orders issued by the Min. of Finance from time to time. The M.O.F. orders on the subject continues to be applicable to IB employees posted in NE region, of course with certain stipulation laid down for all the Central Government civilian employees including IB employees. Besides, the employees posted in NE region are also in receipt of Special Compensation Allowance on the rates prescribed for different States in NE region.

*lunnum*  
11 X '96  
( S. Jayaraman )  
Deputy Director

To  
The Joint Directors : Shillong, Dibrugarh & Kohima.  
The Deputy Directors : Tezpur, Agartala & Imphal.  
The Assistant Directors : Dibrugarh & Aizawl.

ANNEXURE - 4

- 27 -

No. 10/SO(C)/86(3)  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India

New Delhi, the

MEMORANDUM

Sub: Allowances and facilities for civilian employees of the Central Govt. serving in the States and Union Territories of North-Eastern Region and A & N Islands and Lakshadweep - improvements thereof.

This is in continuation of our memo of even no. dated 24.6.87 on the above mentioned subject.

The question whether IB staff in various grades including group C & D ranks of SA(G), SA(MT) & JIO-II(G) have the All India transfer liability has been examined at length. It has been found that in these ranks, transfers from one zone to another zone are made in exigency of Public Service. Even when initial recruitment is made on zonal basis, it does not take away their interzonal transfer liability. Hence in the case of all ranks in IB, the transfer liability is not only a paper condition but a reality.

H. B. Saxena

(H. B. Saxena)  
Assistant Director

To

1. Joint Director (NE), Shillong.
2. Deputy Director, SIB, Guwahati, Kohima, Tezpur, Madras, Trivandrum,
3. Assistant Director, Aizawl, Imphal.
4. Central Intelligence Officer, Agartala.

P.S.Bhattacharya  
Joint Director

D.O.No.36/EST/GE/87 (2) 718  
SUBSIDIARY INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India

Kohima, the October 15, 1996.

Kindly recall our discussion at Shillong on October 2, 1996 regarding admissibility of SDA (Special Duty Allowance) to the staff working in the SIBx in North Eastern Region, in view of Supreme Court decision which was passed on a Postal Department case.

2. Special Duty Allowance is given to the staff with all India transfer liability working in the North East. It is given @ 12 1/2% of Basic Pay and is taxable. Myself and other JDs of North East have already taken up with IB Hqrs. this issue of admissibility of SDA for examining the issue in proper perspective and issuing of order facilitating action in this regard.

3. A rough calculation reveals that about 207 employees, out of 361 of SIB Kohima alone will be deprived of the SDA in case the order is implemented. It may be mentioned here that, most of the affected employees belong to the local communities and stoppage of SDA to them would invite resentment from them as they are also performing their duties like others in the same difficult situation. Some of the staff belonging to outside N.E. Region, have joined or their appointment far away from their family members. They will also be affected in view of this order. SIB employees, unlike P&T employees, are on security duty with danger to their lives. Moreover, unlike other Central Government employees like P&T etc., the recruitment/promotion of IB employees are made at the centralised level on all India seniority list. The recruitment/promotion of P&T/AG employees are made at a Zonal level and their seniority and transfer are also within the Zone.

4. I would be grateful, if you kindly arrange to get the issue examined in its proper perspective and a favourable decision is taken in this regard at the earliest.

Yours sincerely,

(P.S.Bhattacharya)

Shri Ratan Sehgal,  
Additional Director,  
Intelligence Bureau,  
New Delhi.



P.S. Bhattacharya  
Joint Director

Annexure - 29 - 69

D.O. No. 36/Est/GE/07 (2)-644  
SUBSIDIARY INTELLIGENCE BUREAU  
MINISTRY OF HOME AFFAIRS  
GOVERNMENT OF INDIA

Kohima September 16, 1998.

As you are aware, the issue of granting S.D.A. to our local staff, especially in view of the Honourable Supreme Court's judgement delivered on 20-3-1994 and conveyed vide MOF OM No. 11 (S)/95-E-II (B) dated 12-1-1998, remained contentious even then. As per the decision of the I.B. Hrs, the payment of SDA to the subordinate staff who joined our SIB on first appointment from within the North-East region, was stopped and some amount were also recovered which was, however, subsequently stopped by Court Order (CAT-Guwahati).

2. Now a section of our local staff had approached us that other Central Government departments have liberally interpreted para 11 of Office Memorandum No. 11(2)/97-E.II(B) dated 22-7-1998 (copy enclosed for ready reference) and thereby had allowed all the employees irrespective of any distinction to draw SDA at enhanced rate from 1st August, 1997. Our enquiries at Manipur also revealed the same position and though similar facts were pointed out to AD Imphal, our administration with local Telecom Department has also reviewed the issue. In this connection, a copy of Telecom Department letter No. C/25 (S)/98-PAT dated 18-8-1998 which has been shown to us as authority, is enclosed herewith. Our enquiries also revealed that not only Telecom Department but also other Departments like Assam Rifles, SSB, CPWD, Central Government Medical Officers posted at Tribal Health Care Research Project, Manipur, Directorate of Co-ordination of Police, Wireless, ICAR, etc. are also drawing the SDA for all the staff irrespective of any distinction.

3. It would, therefore, request you to examine the issue mentioned and extend the facility to our staff on the lines mentioned above.

Yours sincerely,

(P.S. Bhattacharya)

Shri A. B. Vohra,  
Joint Director/E.  
Intelligence Bureau  
New Delhi.

Cncl: As stated above.



A.B. Vohra  
Joint Director

सर्वोन्मत्तम्

INTELLIGENCE BUREAU

मिनिस्टरी ऑफ एयर्स

(MINISTRY OF HOME AFFAIRS)

गृह मंत्रालय

GOVERNMENT OF INDIA

भारत सरकार 7/01/1998

New Delhi, the  
12  
वार्षिक दिनांक

Dear Shri Bhattacharya,

Kindly refer to your D.O. letter No.36/Est/GE/87(2)-644 dated September 16, 1998 regarding payment of SDA to the Central Government employees posted in the North-Eastern region.

2. The matter has been got thoroughly examined in view of what has been stated in your D.O. under reference. The Min.of Finance O.M. dated 22.7.1998 only removes the ceiling of Rs.1000 for payment of SDA. All the other conditions/stipulation of Min.of Finance hold good even after issue of the said O.M. This is quite clear from the last para of the O.M. of the MOF cited above. It appears that the Central Government departments which have allowed their employees SDA irrespective of any distinction by liberally interpreting para 3 of the O.M. dated 22.7.98 have ignored the last para of the said O.M.

3. Incidentally, from the TM No.16/E/93(10) dated 16.9.98 of Cremo Itanagar to Cremo Kohima with a copy to us, it is seen that various Central Government departments stationed at Itanagar, except Telephone Deptt., do not pay SDA to their staff members belonging to North-Eastern region. Further, the opening sentence of the MOF O.M. dated July 22, 1998 itself makes the intention of the government clear as regards payment of SDA to staff posted to North-Eastern region.

4. In the circumstances, I am afraid, the existing conditions as brought out in my D.O. of even number dated 6.12.96 for payment of SDA still hold good.

With best wishes

Yours sincerely

(A.B. Vohra) 1/1/98

Shri P.S. Bhattacharya,  
Joint Director  
SIB Kohima

ANNEXURE - 7

No. 10/SO(C)/98(6)-150  
Intelligence Bureau  
Ministry of Home Affairs,  
Government of India,  
New Delhi.

-31-<sup>60</sup>

4 Feb 1999  
Dated, the,.....

MEMORANDUM //

Please refer to your TPM issued under file No. 30/Accts/93(28) dated 16.12.98 regarding entitlement of S.D.A. to the civilian employees of IB.

2. We have already clarified the position vide our memo dated 15.10.96 and JD/E's D.O. letter dated 6.12.96 which naturally superceded the earlier memo dated 10.9.98. It is once again reiterated that all Central Civilian employees posted to N.R. Region from outside the region irrespective of the fact whether it is their initial appointment or otherwise are entitled to S.D.A.

*Paravur*  
( P.V.Karunakaran )  
Assistant Director

To  
The Assistant Director,  
SIB, Aizawl.

Copy endorsed to Assistant Director, SIB, Gangtok w.r.t. para 2 of their memo no. 23/GTK/REF(NE State)784(3)-3085 dated 10.12.98. As regard the point pertaining to Addl. H.R.A. our proposal is ~~is~~ still pending with the Govt.

*Assistant Director.*

ANNEXURE - 8

- 02 -

No. 9/27/85/IA/BSF/PF.II  
GOVERNMENT OF INDIA | BHARAT SARKAR  
Ministry of Home Affairs/Grih Mantralaya,

New Delhi, 29.12.92

To

The Director General,  
BSF/CRPF/ITBP, New Delhi.

The Director  
IB, New Delhi

Sub. : Revision in the rates of ration money

.....

Sir, I am directed to refer to this Ministry's of even number dated 13 May '92 on the above subject and to convey the sanction of the President to the Government contribution towards ration money payable to non-gazetted combatised personnel of BSF, CRPF, ITBP and IB being fixed at Rs. 338/- with effect from 1.10.92 till further orders. All others conditions will remain unchanged.

2. This issues with the concurrence of Integrated Finance Division vide their Dy No. 1904/92-Fin.III.D.I. dated 2-12-1992.

Yours faithfully,

Sd/-  
(P. Prabhakaran )  
Desk Officer

68

ANNEXURE - 9

- 33 -

Copy of IB TPM No.4202 dated 7/6/2001 issued from file  
No.18/ADM(C)/2001(2)-792.

...

Subject: Concessional facility of 50% Air Fare to  
IB personnel by Indian Airlines.

...

Indian Airlines have decided to offer a discount of 50% on the Economy class Indian rupee fare to the personnel of Para Military Forces including IB and their family w.e.f. 1/2/2001. The discount is applicable on all types of journeys in Economy Class on domestic sectors and is applicable all year round. For the purpose of Para Military concession, the family includes spouse, dependent children between 12 and 26 of age (children and infant fares not permitted) and dependent parents. The fare applicable will be 50% of the normal Economy Class only. Inland Air Travel Tax and Passenger seat fee payable in full.

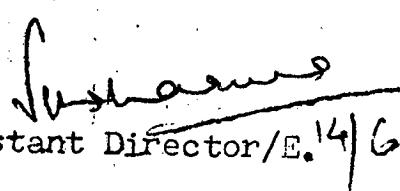
2. These concessional tickets will be issued against an Armed Forces concession form, available with Indian Airlines offices on payment of rupees 5 only. The concession form may be endorsed by Heads of Offices.

Sd/-  
Joint Director/E.  
No.K-9/ESTT/2001(26)-2104  
Subsidiary Intelligence Bureau  
(MHA)Government of India  
Kohima.

Copy to:-

Dated the 14/6/2001.

- 1) AD, Dimapur. 10 Armed Forces concession forms for Air travel may please be obtained from Indian Airlines authorities and forwarded to us for office use.
- 2) All branches at Hqrs. and outstation units.

  
Assistant Director/E. 14/6

To

The Joint Director,  
 Subsidiary Intelligence Bureau,  
 (Ministry of Home Affairs),  
 Government of India,  
 Kohima.

(through proper channel)

Subs: Withdrawal of SDA facility.

Sir,

I joined SIB, Kohima as Steno Gr.III on 12/11/1987 on the basis of appointment letter No.79/EST(G)/87-10478 dated November 2, 1987 issued by the Intelligence Bureau, New Delhi.

2. The appointment letter issued by IB Hqrs clearly stated that the appointment carries an all India transfer liability. In this connection, para No.2 sub-para (iii) of the appointment letter No.79/EST(G)/87-10478 may kindly be referred to. A copy of the appointment letter is enclosed.

3. I have been drawing the SDA applicable for the North-Eastern region upto October, 1986. Thereafter the SDA facility has not been extended to me. I understand that this was stopped in pursuance of some instructions contained in a Supreme Court judgement.

4. The matter was taken up with IB Hqrs who have given certain clarifications in this regard. Regarding admissibility of the SDA to those staff who have joined this SIB from outside the region.

Sir, I would like to mention in this connection that I joined SIB, Kohima on initial posting from out side the region and also my appointment order clearly stated that I am liable to serve anywhere in India. In view of this I shall be grateful if the SDA which was withdrawn may kindly be paid to me.

Thanking you, Sir

Yours faithfully,

*26/11/87*  
 (VASUMATHI SURENDRAN)  
 PA. SIB, Kohima.

Kohima.

ANNEXURE - II

- 25 - 70

No. 36/EST/GE/87(2) - 3835  
Subsidiary Intelligence Bureau,  
(MHA) Govt. of India.

Kohima, the

27. 6. 1997

Memorandum

Please refer to your No. ADK/MISC/97-2293 dated 25.6.97 forwarding therewith an application submitted by Smt. Vasumathy Surendran, PA.

2. As per Govt. orders she is not entitled for SDA since she joined IB on first appointment from Nagaland itself and not from Kerala.
3. Smt. Vasumathy may please be informed accordingly.
4. This issues with the approval of JD.

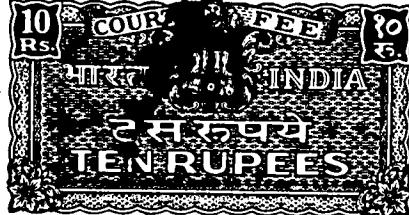
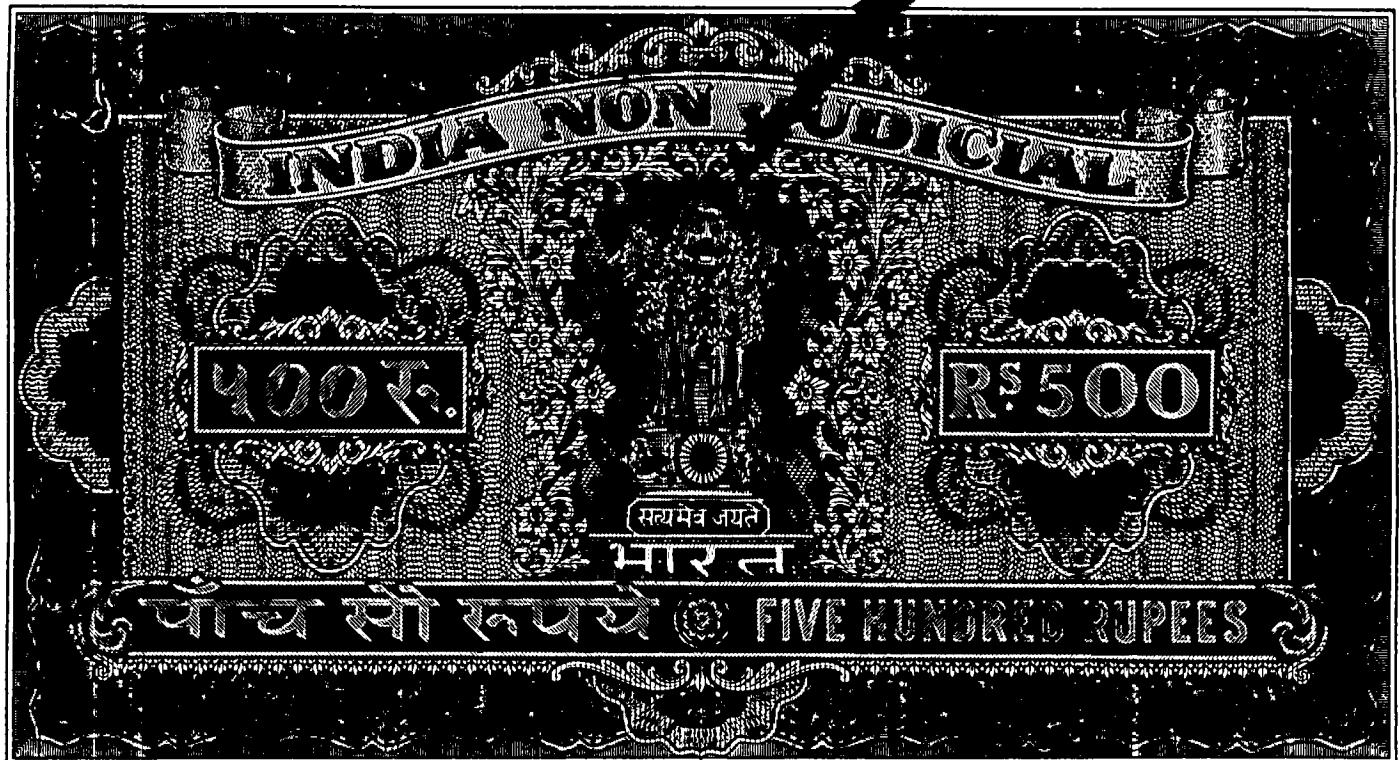
*D. M. D.*

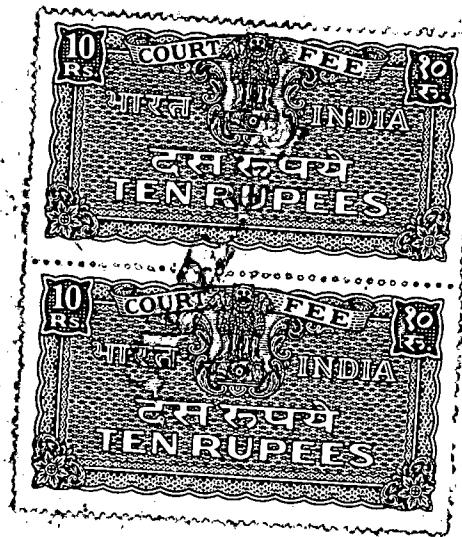
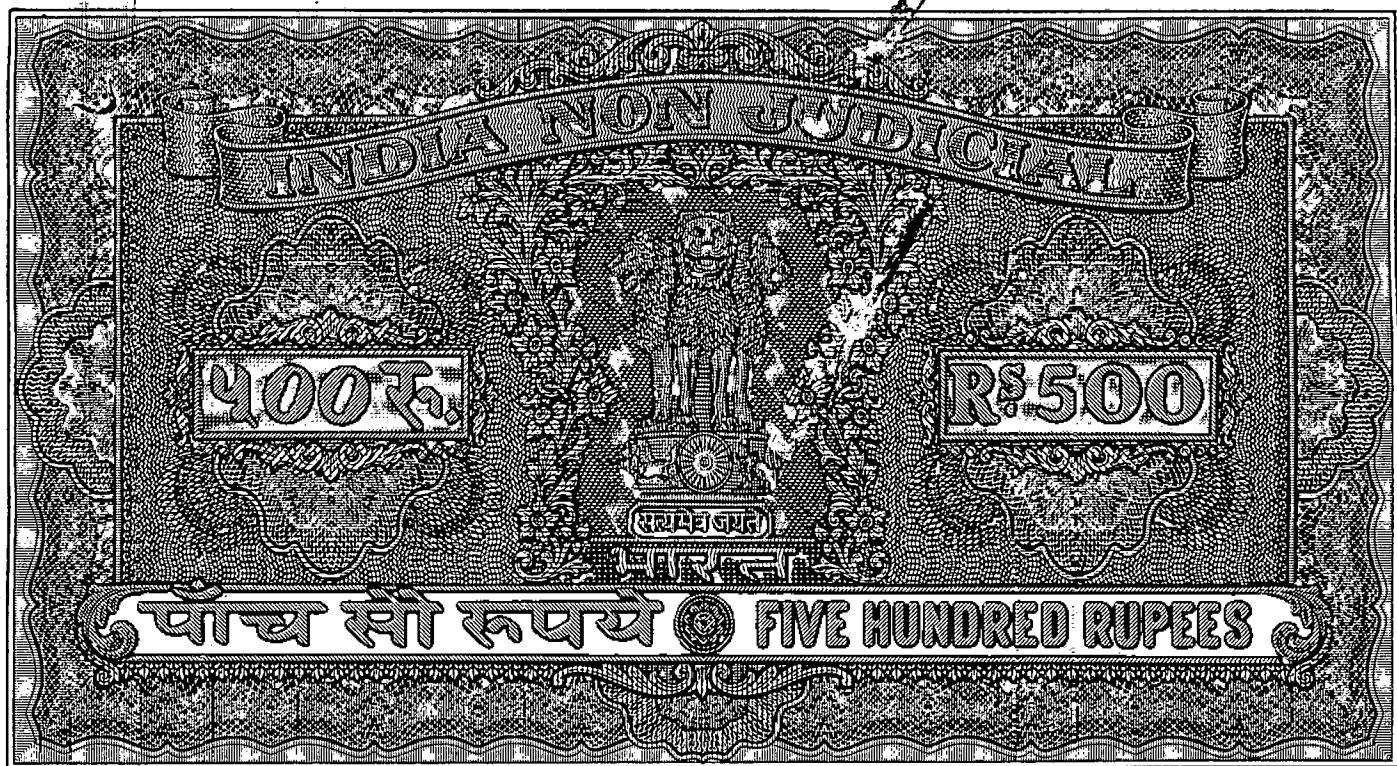
Assistant Director (E)

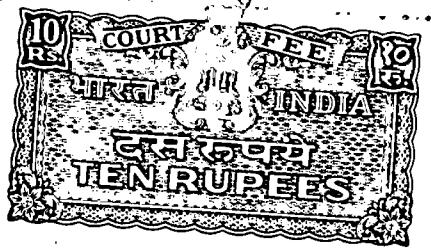
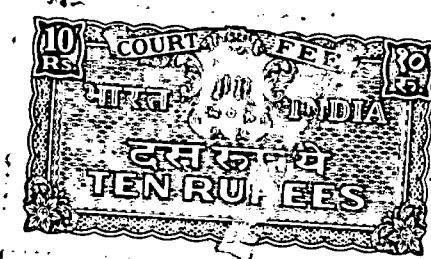
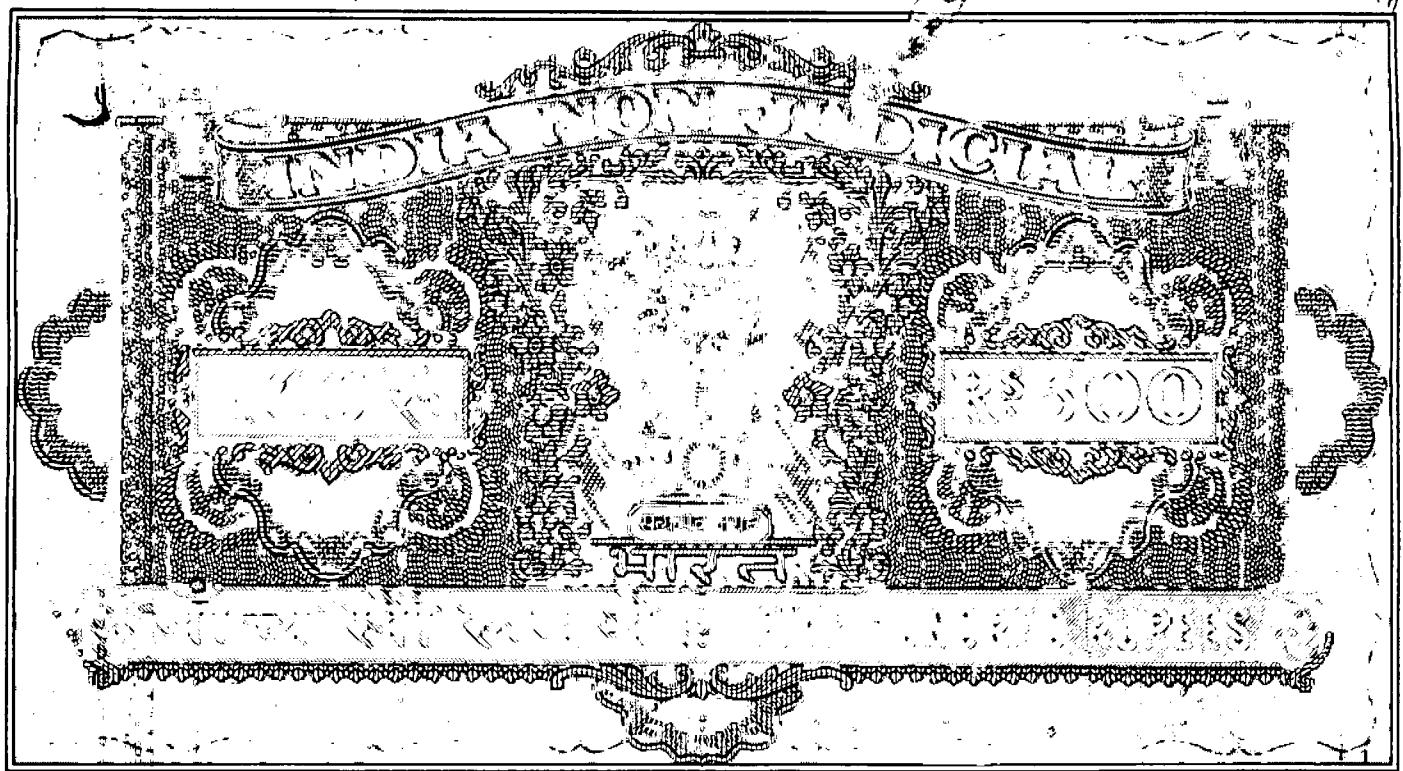
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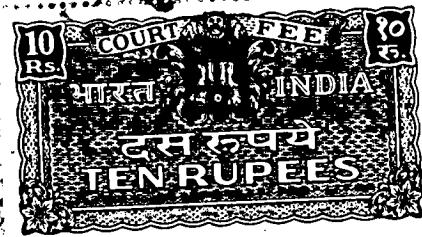
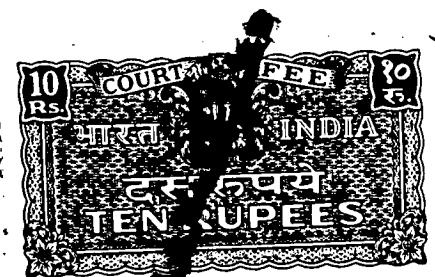
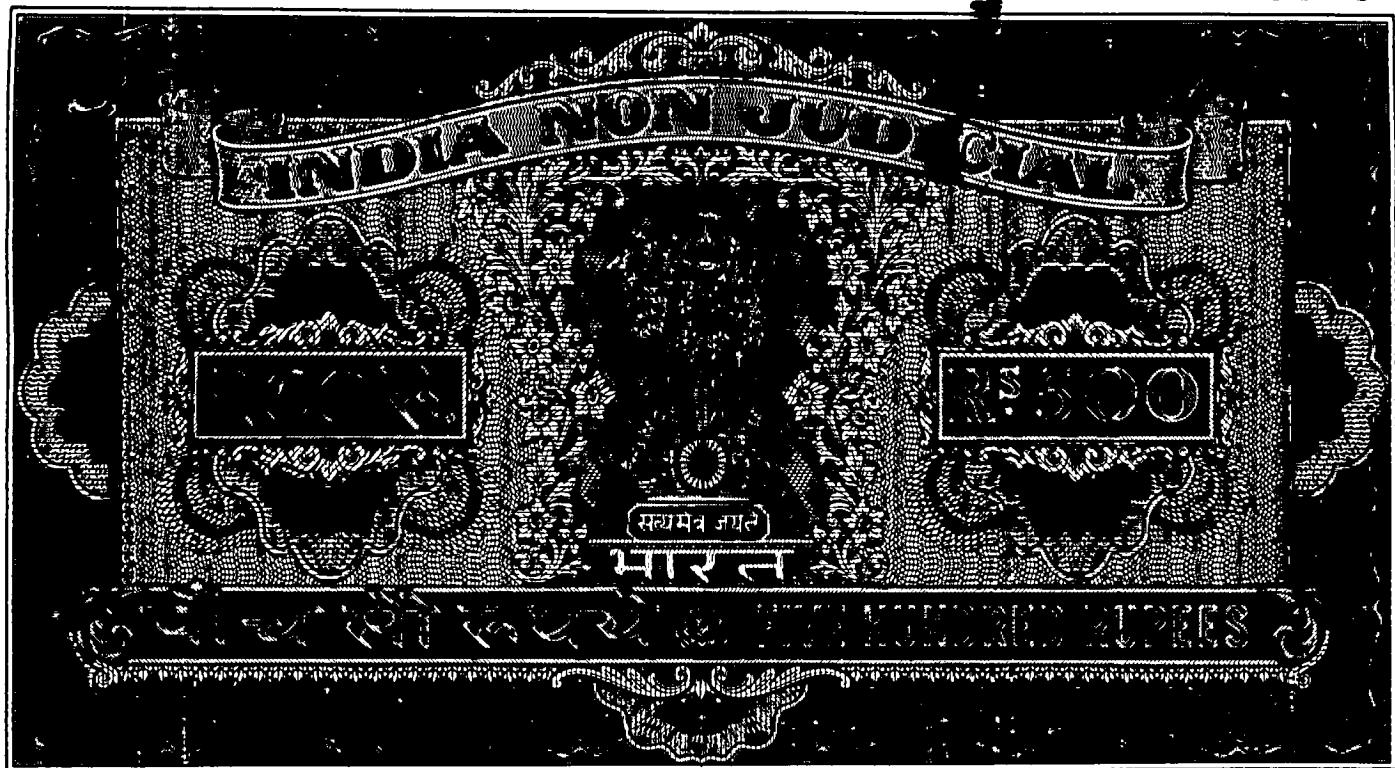
The Jt. Asstt. Director (K),  
SIB, Kohima.

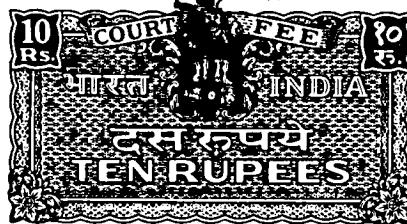
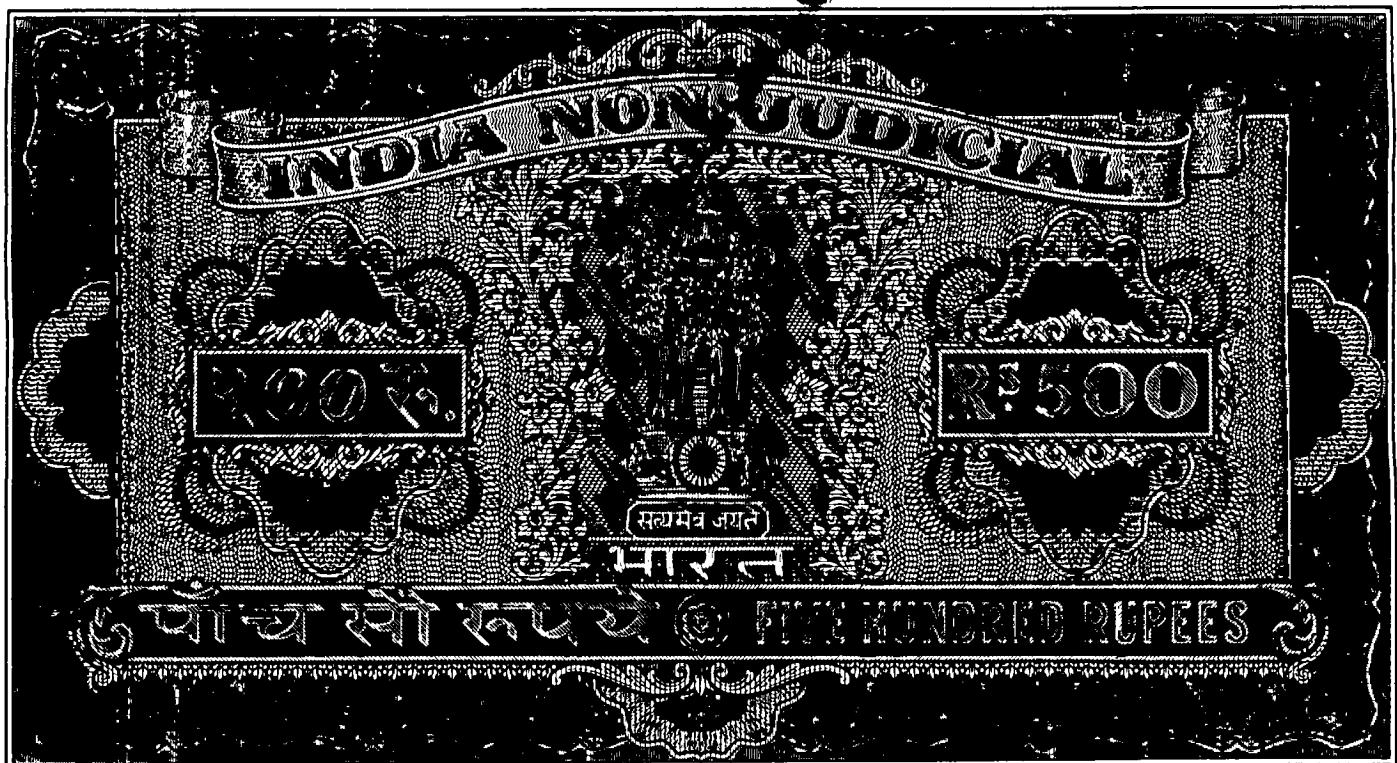
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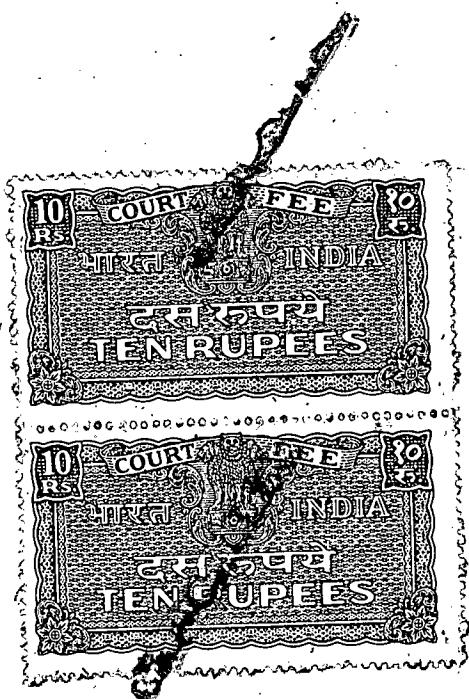






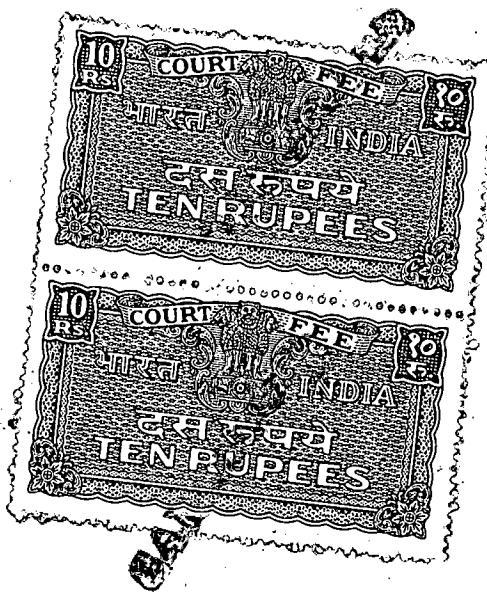


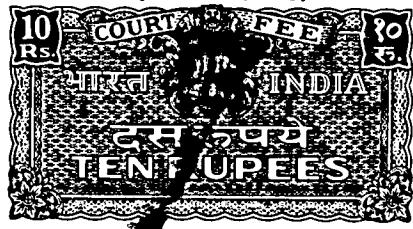
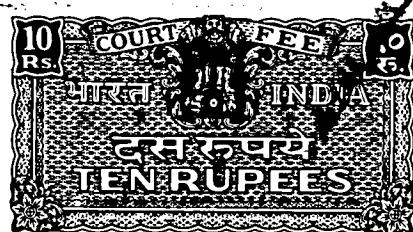




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# INDIA COURT FEE

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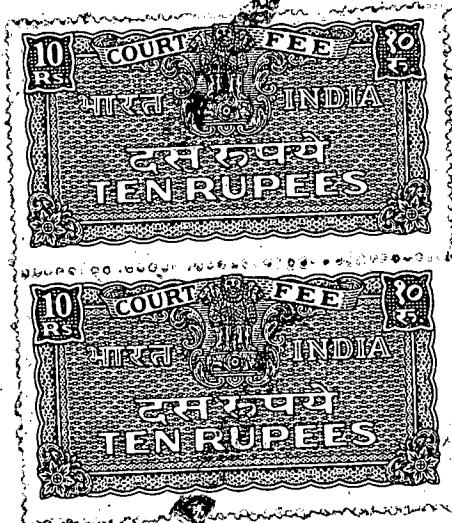
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## सत्यमेव जयते

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# THIRTY RUPEES

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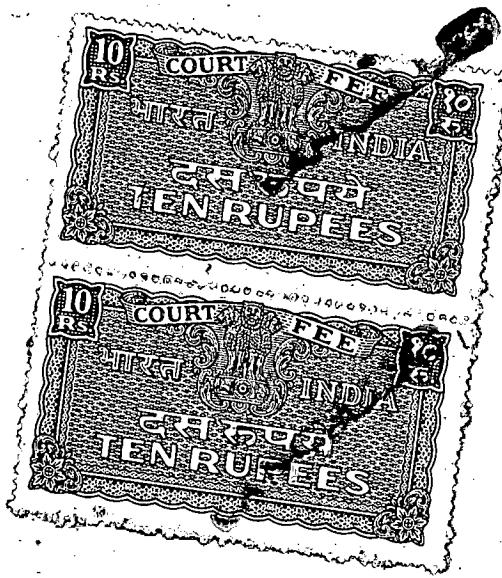
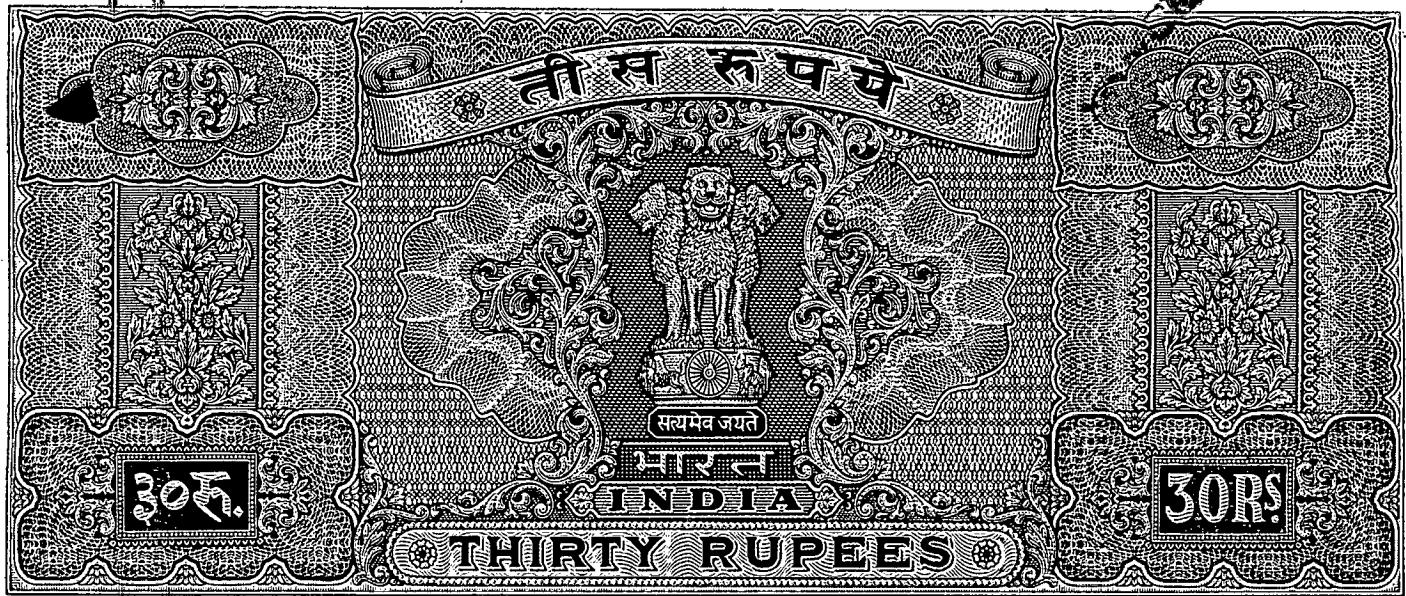


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INDIA COURT FEE

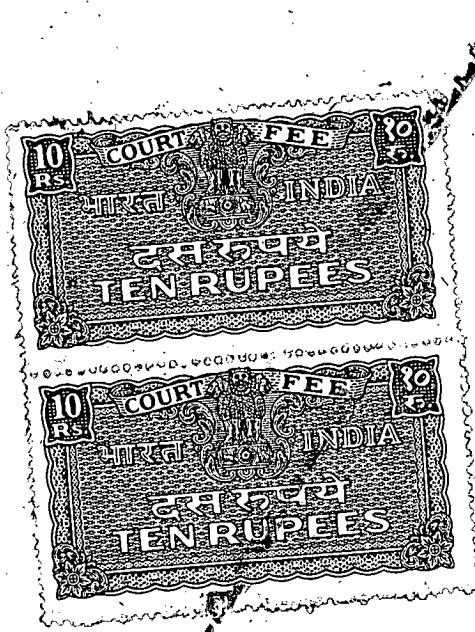
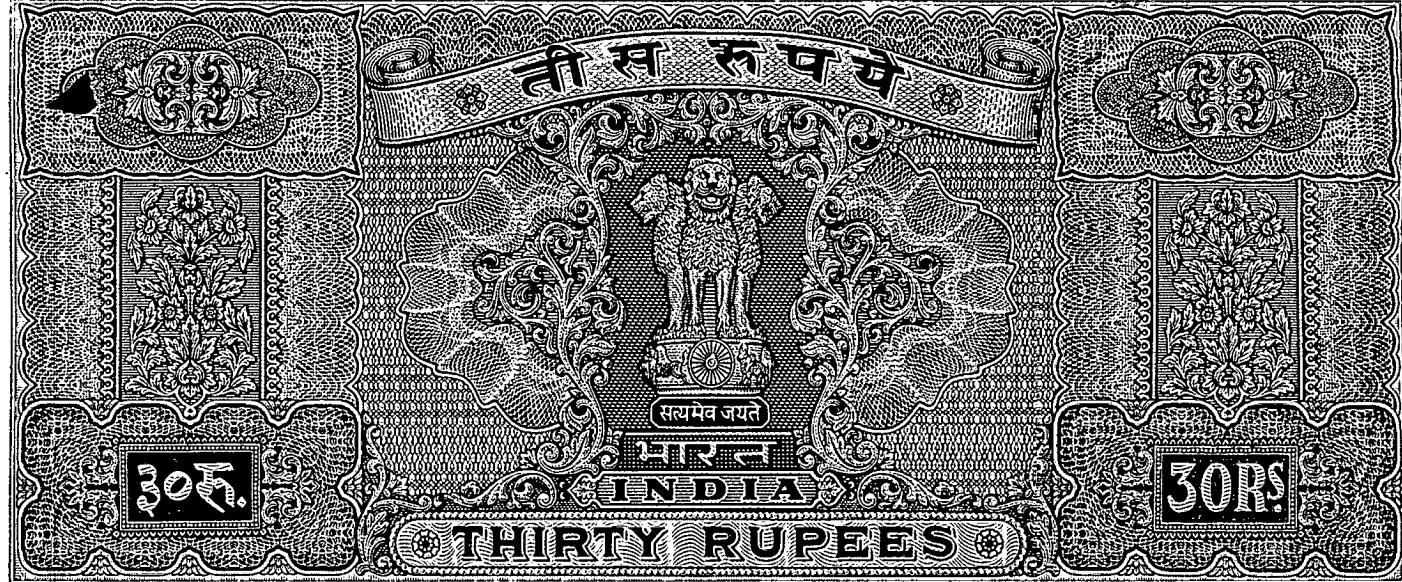
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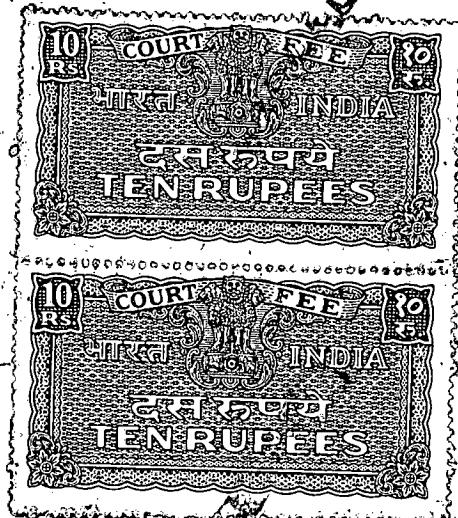
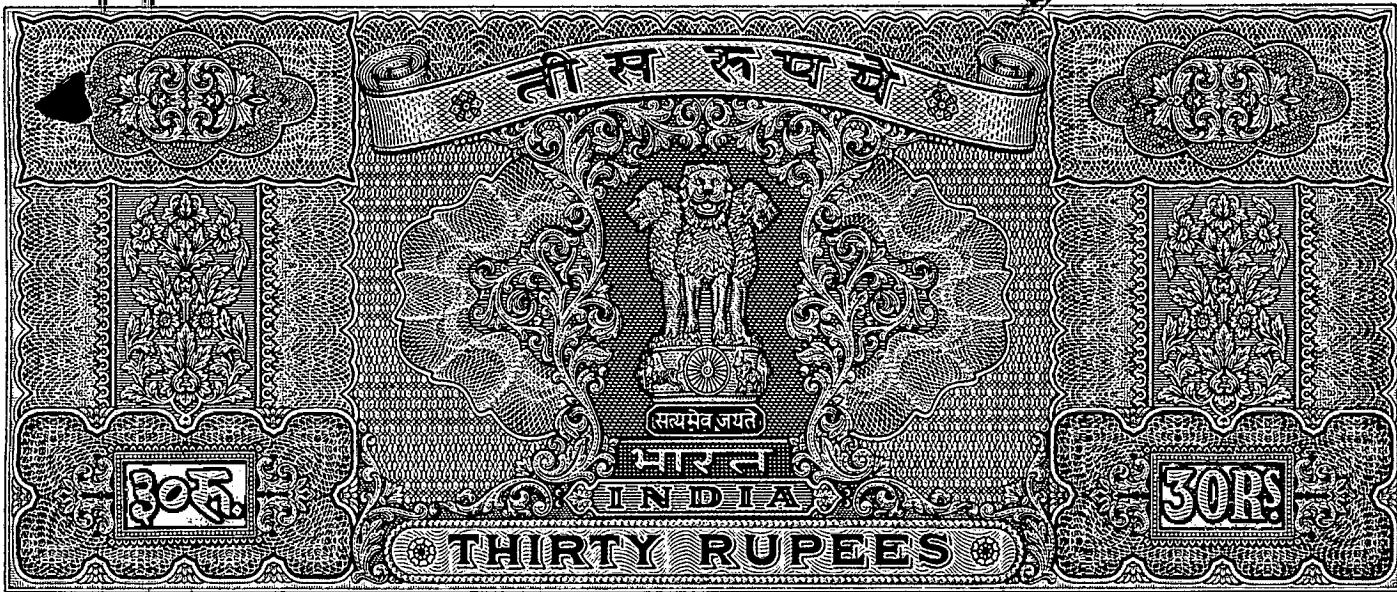
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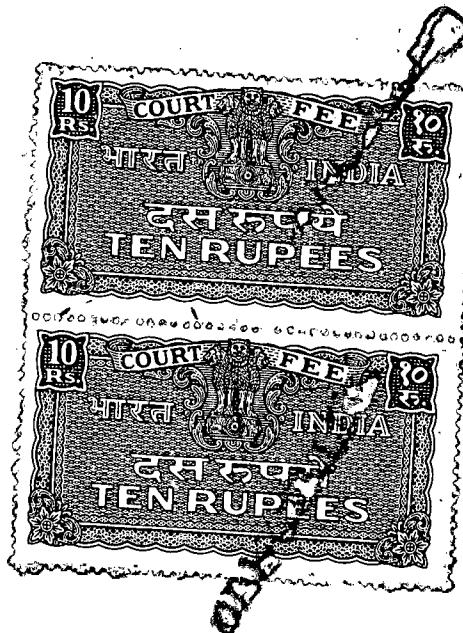
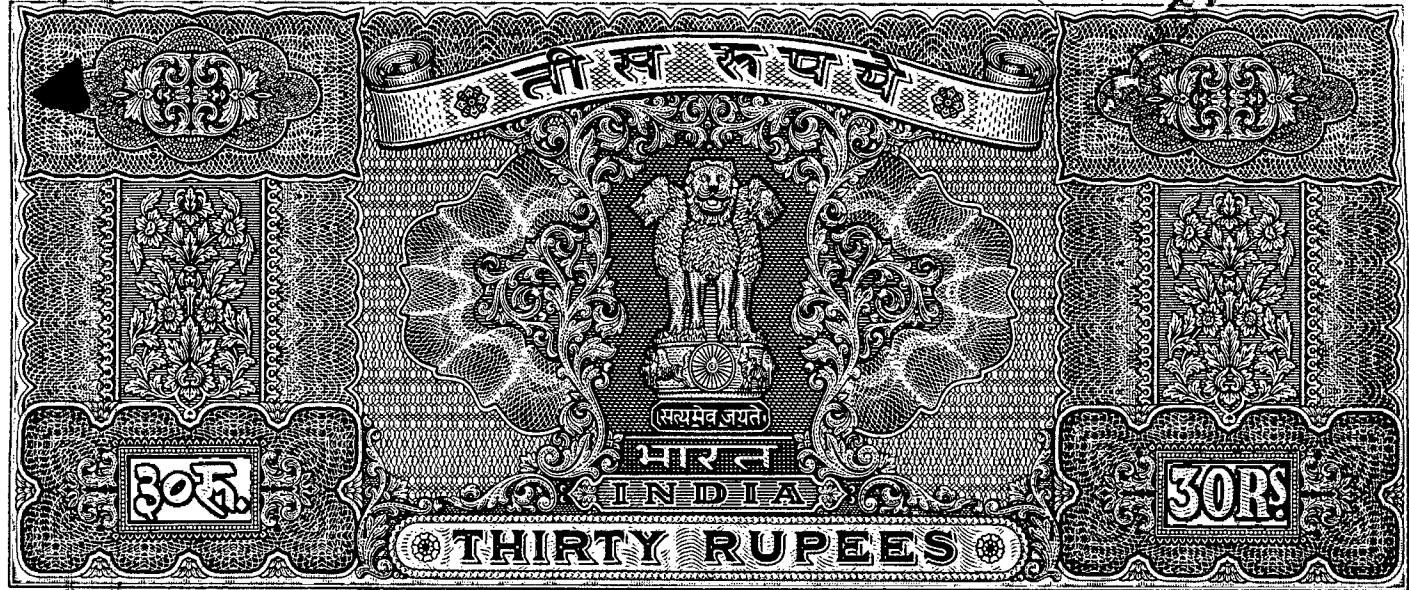
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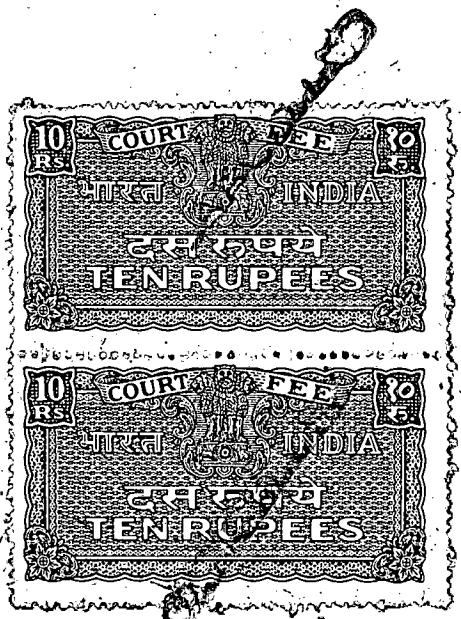
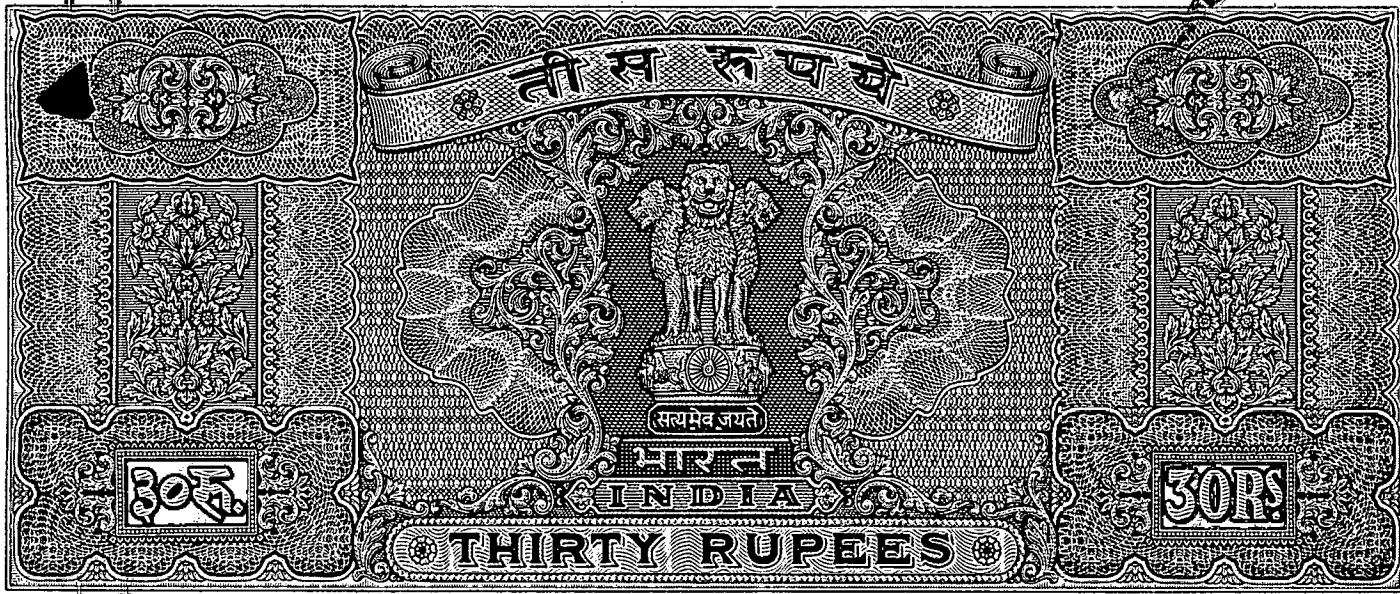
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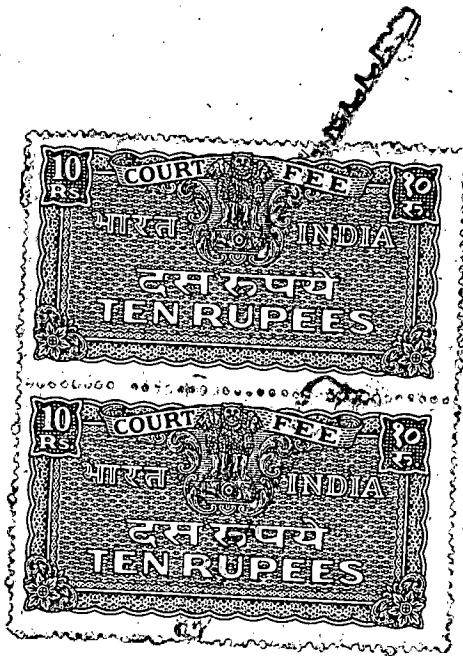
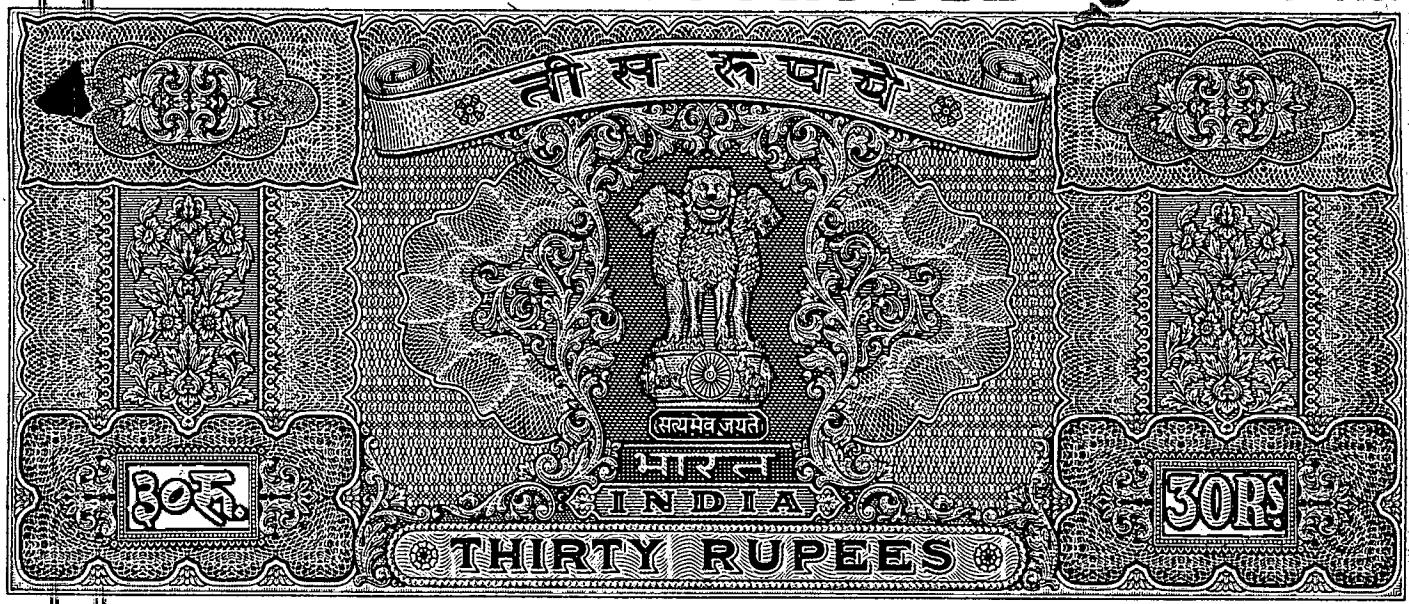


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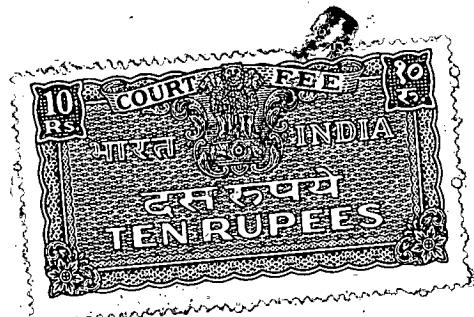
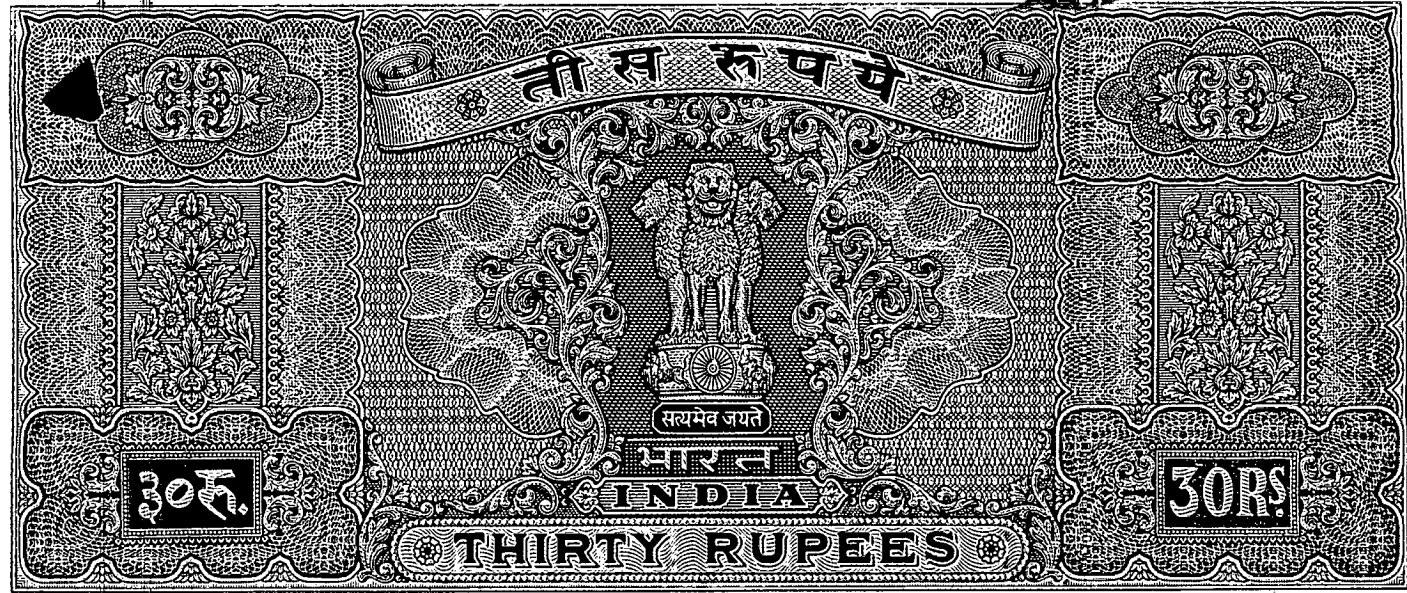
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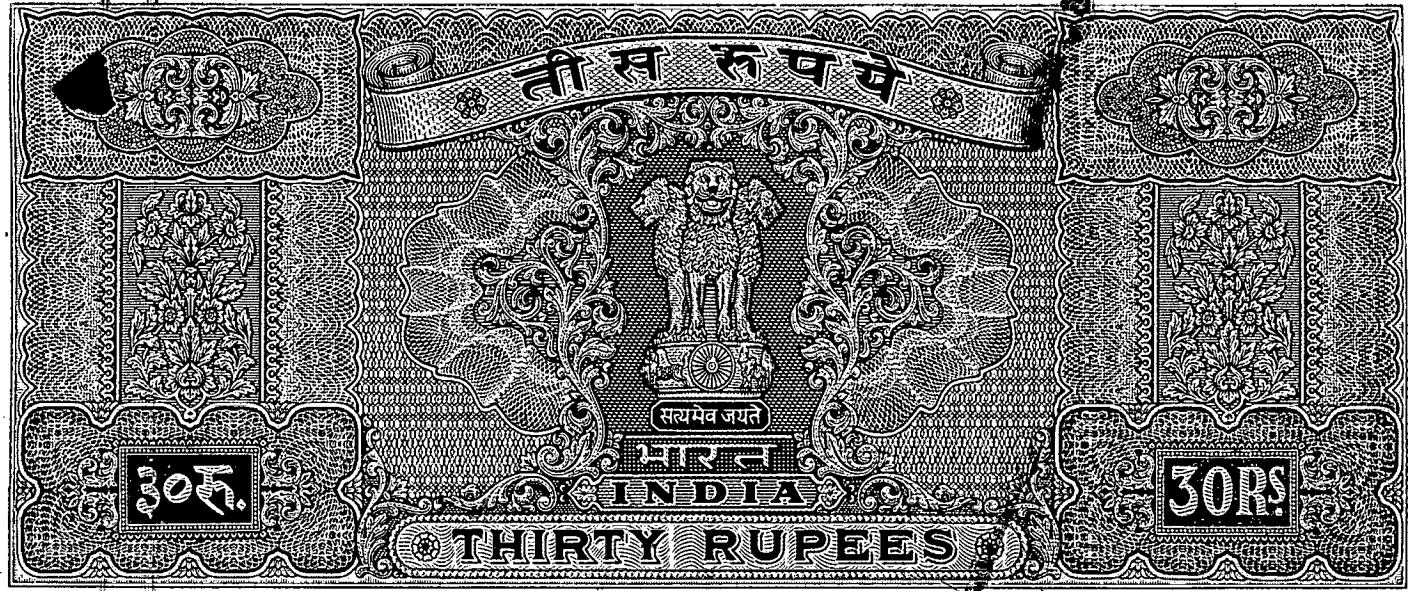
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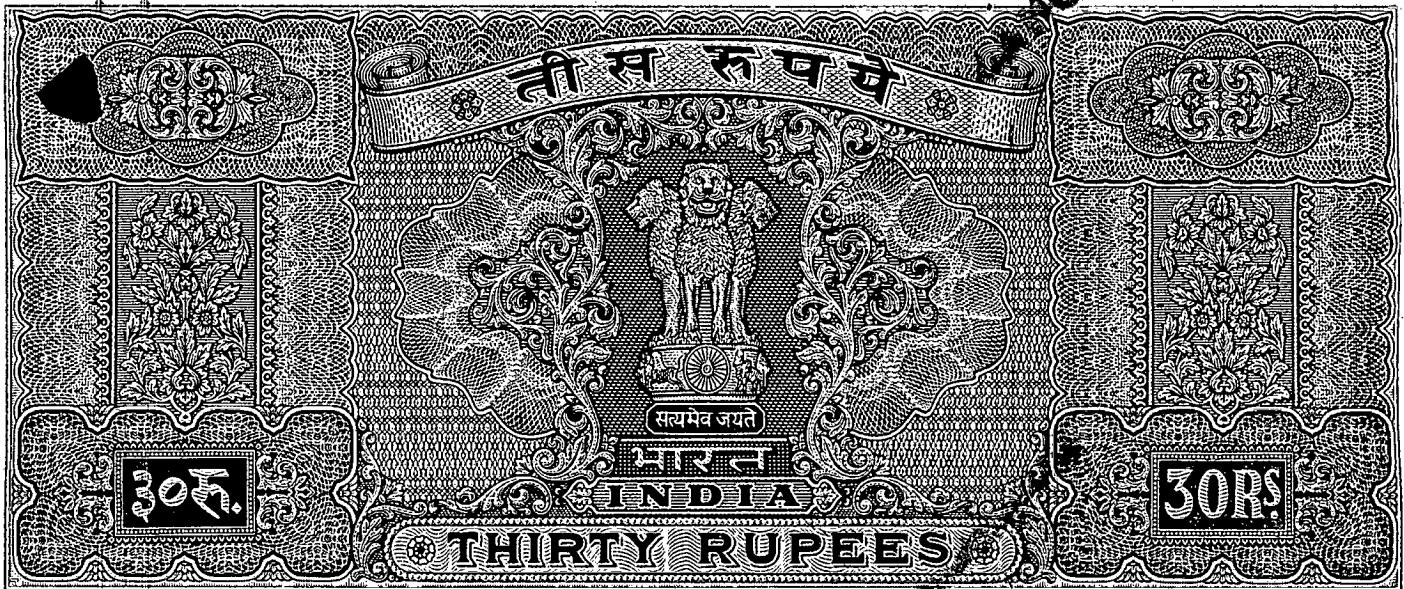
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IN THE GAUHATI HIGH COURT.

THE HIGH COURT OF ASSAM: NAGALAND:MEGHALAYA:MANIPUR

TRIPURA: MIZORAM AND ARUNACHAL PRADESH

Filed Before  
M. Chacko  
Chief, N. R.H.  
Addl. C.G.S.

KOHIMA BENCH

CIVIL EXTRA ORDINARY JURISDICTION

W.P.© NO.37(K) OF 2002.

To

The Hon'ble Shri P.P. Naolekar, B.Sc., L.L.B, the Chief Justice of the Gauhati High Court and His Lordship's other companion Justices of the said Hon'ble Court.

IN THE MATTER OF

Counter affidavit on behalf of the

Respondent Nos. 1 to 5.

AND

IN THE MATTER OF

Shri Tapan Dutta and 76 others

.....petitioners

vs

The Union of India and 4 others

.....Respondents

15-  
21/1/02

Counter affidavit on behalf of all the Respondents:

I.....S.K. Sarmah.....S/o.....Late Shri Shankar Sarmah  
aged about .....53 yrs.....presently serving as ...Asstt. Director, SAB <sup>Kohima</sup>  
hereby solemnly state and affirm as under :-

1. That I being the .....Assistant Director, SAB Kohima..... am well acquainted with the facts and circumstances of the case and hence I am competent to depose and affirm this counter affidavit on behalf of all the respondents.
2. That save and except what is being specifically admitted in this affidavit all other statements as contained in the petition which are contrary to and inconsistent with what is being admitted hereinafter are deemed to have been denied *seriatim*.
3. That the contents of paras 1 to 3 needs no comments being the facts on record.
4. In reply to para 4 of the petition it is submitted that some incentives and facilities for Central Government employees serving in Union Territories and States of the North East Region were granted vide Ministry of Finance OM No.20014/3/83-E.IV dated 14.12.83. This also includes admissibility of Special Duty Allowance @ 25% and not 12.5% as mentioned in the petition of the basic pay, subject to a ceiling of Rs.400/- per month to Central Government Employees who have All India Transfer Liability etc. on posting to any station in North Eastern Region from outside the region. These rates were

later modified vide Ministry of Finance OM No.20014/16/86-E.IV(B) dated 1.12.88 to @ 12.5% of basic pay subject to a ceiling of Rs.1000/- per month. The ceiling of Rs.1000/- was removed after implementation of the recommendations of the 5<sup>th</sup> Central Pay Commission.

A copy of Ministry of Finance OM No.20014/ 16/86-E.IV(B) dated 1.12.88 is attached herewith at Annexure-A.

5. The eligibility condition for grant of Special Duty Allowance were further clarified pursuant of the orders dated 29/9/94 of the Hon'ble Supreme Court of India in Civil Appeal No.3251 of 1993, wherein it was clearly mentioned that "Central Government civilian employees who have all India transfer liability are entitled to the grant of Special duty Allowance, on being posted to any station in the NE region from outside the region and Special Duty Allowance 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.

6. That in reply to the contents of para 6 of the petition, it is submitted that Intelligence Bureau(IB) Hqrs. vide its Memo. No.10/SO(C)/86(3) dated 07/10/87 and not dated as 'NIL' as mentioned in the petition, having clarified the position about the admissibility of SDA to employees having All India Transfer Liability etc., further clarified vide Memo. No.10/SO(C)/98(6)-617 dated 23/4/99 that SA/Peon/Mali/Sweeper etc. even posted to NE Region are not entitled for the grant of SDA as they do not fulfil the conditions of Ministry of Finance OM No.11(3)/95-E.II-B dated 12/1/96 as their recruitment to these posts are done on decentralized basis.

Copies of Memo. No.10/SO(C)/98(6)-617 dated 23/4/99 and MoF OM No.11(3)/95-E.II-B dated 12/1/96 are annexed herewith as Annexures- B I and B II respectively.

7. That in reply to the contents of para 7 of the petition, it is submitted that All India Transfer Liability has been established in respect of employees of IB owing to the fact that recruitment/promotions etc. are done on All India basis and Common Seniority List are maintained except for the posts of SA and Group 'D' staff.

8. That in reply to para 8 and 8A of the petition, it is submitted that the then Joint Director, SIB Kohima as Head of the Office of the SIB, had written to the then Addl. Director for getting the matter examined further in view of the prevailing situations in Nagaland as a welfare measure since the payment of SDA was stopped in the light of the decision of the Apex Court which had caused a demoralizing effect on majority of the

staff members. That the same request was repeated as a welfare measure by the then Joint Director, SIB Kohima vide DO letter dated 16/9/98. That it is not correct to say that the request was rejected by the IB Hqrs. However, as a matter of fact, IB Hqrs. quoting the reference of MoF OM dated 22/7/98 clarified the position vide DO letter dated 7/10/98 that only the ceiling of Rs.1000/- p.m. for payment of SDA was removed and all other conditions and stipulations of MoF holds good even after the issuance of the above OM.

9. For the purpose of sanctioning Special Duty Allowance, the All India transfer liability of the member of any service/cadre or incumbents of any posts/group of posts has to be determined by applying tests of recruitment zone, promotion zone, etc., i.e. whether recruitment to the service/cadre/posts has been made on all-India basis and whether promotion is also done on the basis of the all-India zone of promotion based on Common Seniority for the service/cadre/posts as a whole. Mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for grant of Special (Duty) Allowance. This position was clarified by MoF OM No.11(3)/95.E(B) dated 12/1/96 which was issued in pursuance of the order of the Supreme Court of India in Civil Appeal No.3251 of 1993.

10. That in reply to para 9 of the petition, it is submitted that it is a fact that IB Hqrs. vide its memo. Dated 4/2/99 had just clarified the position already explained in the earlier

memoranda regarding payment of SDA based on MoF OM dated 12/1/96 that any central government employee on being posted to NE Region from outside the region is entitled to the grant of SDA without any condition of domicile whether local or non local, provided he fulfils the conditions of All India Transfer Liability laid down in MoF OM No 20014/3/83-E(IV) dated 20/4/87 which means any IB employee whether local or non-local and whether joining the NE Region either on first appointment or otherwise on transfer is entitled to SDA provided they are posted to NE Region from outside the region. However, the petitioners have failed to mention about subsequent CAT judgement in OA No. 56/2000 dated 19/3/01 on the basis of which MoF had clarified that employees who have initially been appointed in NE Region and have remained posted there are not entitled to SDA.

11. That in reply to para 10 of the petition, the averments therein are denied because the petitioners do not come under the category of combatised personnel. That the facility of ration money to non-gazetted staff and 50% concession by Indian Airlines have been extended to IB on special considerations and not on the basis of treating the IB as a CPMF.

12. That in reply to para 11 of the petition, it is submitted that IPS officers are taken on deputation in IB as per Recruitment Rules approved by the Government.

13. Special Duty Allowance is granted to all those Central Government employees who are posted in North Eastern Region and fulfil the eligibility condition laid down in Ministry of Finance OM No.20014/3/83-E.IV dated 20/4/87 and subsequent order issued from time to time.

14. The judgement dated 19/12/2000 of the Guwahati Bench of CAT in the matter of Special Duty Allowance to Assam Rifles, was challenged in the Hon'ble Guwahati High Court. The High Court had after hearing, stayed the execution of the judgement dated 19/12/2000 ibid. While granting the stay the court had ordered that the amount of Special Duty Allowance already paid to the petitioners may be waived. Final orders of the court are awaited in this case. Also MHA who are the principal respondents in the case have been asked to take action to contest the interim order of waiver of the recovered amount. The judgement dated 22/11/99 of the Guwahati Bench, not Aizwal, in Writ Petition (C)No.115/99 in the matter of Basant Kumar EE(C) and others, it is clarified that it has been decided to file an SLP against the judgement of the court and obtain a stay order pending completion of procedural formalities the principal party i.e., Ministry of Defence had been advised to implement the judgement only in respect of the petitioner only to avoid contempt of the court.

15. That the averments in para 14 of the petition are hereby denied in view of the Supreme Court judgement and subsequent judgement of the CAT, Guwahati Bench dated 28/9/99. That regarding denial of SDA to petitioners No.71, one Smt. V. Surenderan, it

may be mentioned that Ms. Vasumathy M.N. was offered appointment to the post of Steno-III vide IB Hqrs. Memo. No.79/Estt(G)/87-10478 dated 2/11/87 wherein she had given her address as C/o Vasudevan M.N. , P.W.D., South Division No.III, Kohima, Nagaland. That further, she being appointed initially in Nagaland, i.e., NE Region and subsequently promoted to PA in NE region is not entitled to SDA though she has All India Transfer Liability. That MoF has also clarified based on CAT judgement that employees who have initially been appointed in NE region and have remained posted there are not entitled to SDA.

A copy of IB Hqrs. Memo No.79/Estt(G)/87-10478 dated 2/11/87 is annexed herewith as Annexure-C.

16. That the averments in para 15 of the petition are not accepted in view of the Supreme Court and subsequent CAT judgement which are quite clear and that there are no ambiguity in the order.

17. That the averments made by the petitioners in para 16 of the petition are denied. That it is submitted that the judgement dated 20/9/94 of the Apex Court is applicable in the case of petitioners. That the grievances of the petitioners in the present case for grant of SDA are covered under the principle laid down in SC judgement as conveyed by MoF and hence there is no violation of equal pay doctrine and discrimination against the petitioners. That it has also not violated Article 14 of the Constitution as already clarified

by Hon'ble Supreme Court in their judgement. The respondents may be allowed to produce the relevant judgements at the time of hearing.

18. That in reply to para 17 of the petition, it is submitted that the petitioners claim for grant of SDA on the ground that they fulfil eligibility criteria of All India Transfer Liability and posted to NE region is not correct. That it may be reiterated here that the Hon'ble CAT in its recent judgement clarified that employees hailing from NE region initially but subsequently transferred out of NE region and re-posted to NE region are entitled to SDA. However, employees who have initially been appointed in NE region and have remained posted in NE region are not entitled to SDA. In view of the position of the petitioners that though they may have all India transfer liability but either they belong to NE region or they have been recruited or have joined here on initial appointment and as such are not entitled for grant of SDA.

19. That in reply to para 18 of the petition, it is humbly submitted that no parallel can be drawn between employees of IB and the CPMF in the grant of SDA. That however, the applicants eligibility for grant of SDA was duly considered in the Deptt. but the benefit cannot be extended to these employees as they are not found eligible as per conditions laid down in MoF OM dated 12/1/96.

20. That in reply in para 19 of the petition, it is submitted that the orders contained in MoF OM dated 12/1/96 are based on the Supreme Court judgement and it covers the

present case squarely. That as such these orders are not found illegal, arbitrary, unfair and they do not suffer from any error or infirmity.

21. That in reply in para 20 of the petition, it is reiterated that no parallel can be drawn between IB employees and the CPMF personnel in this regard.

22. That it is submitted that the petitioners have no legal ground to claim benefit as per the MoF OM dated 12/1/96 which was issued to implement the judgement of Apex Court.

23. That the averments in para 23 of the petition are wrong and baseless. That the petitioners may be entitled to SDA as per MoF OM dated 14/12/83 and 1/12/88 but they are not eligible for this facility in terms of OM dated 12/1/96 issued in pursuance of the judgement of Hon'ble Supreme Court.

24. That the applicants are not entitled to any relief and their application may be dismissed. That it may be mentioned that all the employees were paid SDA in the light of MoF OM dated 14/12/83 followed by subsequent orders of the Hon'ble CAT for admissibility of the same in view of their appointment letter carrying the clause of all India transfer liability. Subsequently, Hon'ble Supreme Court in its judgement on a leave petition filed by some Ministries/Departments against the order of CAT made clear about the admissibility of SDA on being posted to NE region from outside the region and

would not be payable merely because of insertion of clause of all India transfer liability in their appointment letter. That it may be mentioned that the petitioners in their Writ Petition have omitted to mention the subsequent judgement of the Hon'ble CAT where 101 petitioners of SIB Guwahati have filed Writ Petition for grant of SDA wherein the judgement of the Hon'ble Supreme Court delivered earlier was upheld.

25. That in view of the comments stated in the above paras, the petitioner are not entitled to any relief. That the respondents action is not illegal, arbitrary and it very well stands the scrutiny of law, and therefore the petition having no merit is liable to be dismissed.

26. That the statements made in paras 1, 16, 17, 18, 20, 21, 22, 23, 25 are true to my knowledge and those in paras 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 are true facts based on 14, 15, 19, 24 records of the case and the rest are my humble submission.

S. K. Sharma  
Deponent  
(S. K. Sharma)

Identified by :



21/1/03

Advocate :

Assistant Director  
Subsidiary Intelligence Bureau  
(MHA), Govt. of India  
Nohim, Nagaland

Substantially correct as far as  
Memorandum to Dr. Phetho  
Addl. CGSC  
d. from No. 3 The declarant  
certify that I read over and explained the  
declaration and that the declarant  
perfectly understand. (Signature) 21/1/03  
COMMISSIONER OF AFFIDAVITS  
GAUHATI HIGH COURT  
NORIBA BANERJEE

F.NO.20014/16/86/E.IV/E.II(B)

Government of India

Ministry of Finance

Department of Expenditure

\*\*\*\*\*

New Delhi, the 1st December, 1988.

OFFICE MEMORANDUM

Subject:- Improvement in facilities for Civilian employees of the Central Govt. serving in the States of North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep.

• • • • •

The undersigned is directed to refer to this Ministry's O.M. No.20014/3/83-E.IV dt.14th December, 1983 and 30th March 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Govt. employees posted in North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the President is now pleased to decide as follows:-

(i) Tenure of posting/deputation.

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(ii) Weightage for Central deputation and training abroad: Special mention in confidential records:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue. Cadre authorities are advised to give due weightage for satisfactory performance of duties for the prescribed tenure in the North-East in the matter of promotion in the cadre posts, deputation to Central tenure post and courses of training abroad.

(iii) Special (Duty) Allowance:-

Central Govt. Civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 12½% of basic pay subject to a ceiling of Rs.1000/- per month on posting to any station in the North-Eastern Region. Special (Duty) Allowance will be 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 plus Special Pay/Deputation (Duty) Allowance will not exceed Rs.1000/- p.m. Special allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

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*(55)* *(66)*  
The Central Govt. Civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant of Special (Duty) Allowance under this para and are exempted from payment of Income Tax under the Income-Tax Act will also draw Special (Duty) Allowance.

(iv) Special Compensatory Allowance:-

The recommendations of the 4th Pay Commission have been accepted by the Govt. and Special Compensatory Allowance at the revised rates have been made effective from 1.10.86.

(v) Travelling Allowance on First appointment:-

*p. 4/1 C*  
The present concessions as contained in this Ministry's O.M. dt. 14.12.83 will continue with the liberalisation that on first appointment T.A. should be admissible for the total distance instead of for the distance in excess of first 400 Kms. only.

(vi) Travelling Allowance for journey on transfer:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(vii) Road mileage for transportation of personal effect on transfer:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(viii) Joining time with leave:-

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(ix) Leave Travel Concession:-

The existing concession as contained in this Ministry's O.M. dated 14.12.83 will continue.

*A*  
Officers drawing pay of Rs.5100/- or above, and their families i.e. spouse and two dependent children (Upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala/Aizwal/Lilabari and Calcutta and vice-versa; between Portblair and Calcutta/Madras and vice-versa in case of postings in A & N Islands; and between Kavaratti and Cochin and vice-versa in case of postings in Lakshadweep.

(x) Children Education Allowance/Hostel subsidy:-

Where the children do not accompany the Government servant to the North-Eastern Region, Children Education Allowance upto class XII will be admissible in respect of children studying at the last station of posting of the employees concerned.

•••3/-

or any other station where the children reside. If children studying in schools are put in Hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

The rates of Children Education Allowance/Hostel Subsidy will be as in the DOP&T, O.M. 18011/1/87-Estt.(Allowances) dt. 31.12.87, as amended from time to time.

(xi) Concession regarding grant of House Rent Allowance to officers posted in the States of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands:

The present concession as contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dt. 29.3.84 as amended from time to time will continue to be applicable.

(xii) Telephone facilities:-

The officers who are eligible to have residential telephone may be allowed to retain their telephone at their residences in their last place of the posting subject to the condition that the rental and all other charges are paid by such officers.

2. The above orders will also apply mutatis-mutandis to the Central Govt. employees posted in Andaman & Nicobar Islands and Lakshadweep Island. These orders will also apply mutatis-mutandis to officers posted to N.E. Council, when they are stationed in the N.E. Region.

3. These orders will take effect from the date of issue.

4. In so far as the persons serving the Indian Audit & Accounts Deptt. are concerned these orders issue after consultation with the Comptroller & Auditor General of India.

5. Hindi version of this Memorandum is attached.

Sd/-

(A. JAYARAMAN)

JOINT SECRETARY TO THE GOVT. OF INDIA.

No. 10/SO(C)/98(6)- 617  
Intelligence Bureau  
Ministry of Home Affairs,  
Government of India,  
New Delhi.

Dated, the,.....  
23 April 1999

MEMORANDUM //

SIB, Shillong may please refer to their endorsement No. Admn-20/99(1)-221-1861 dated April 7, 1999 conveying the sanction of SDA in respect of certain officials.

2. It has been observed that the list includes a number of Security Assistants, Sweepers, Malies Peons who have been sanctioned SDA. In this connection attention of SIB is invited to MOF OM NO. 11(3)/95-E.II(B) dated Jan. 12, 1996 circulated vide our memo no. 10/SO(C)/95(2) dated August 17, 1996. It has been clearly stated in the OM of Ministry of Finance that only those Central Govt. 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. It has been further stated that the criteria of all India transfer would be determined by applying the yardstick of recruitment zone, promotion zone etc. i.e. whether recruitment to the 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. Under these circumstances even if the SA/Peon/Mali/Sweeper has been posted to a station in NE region from outside the region, they are not entitled for the grant of SDA as they do not fulfill the other conditions laid down in the above mentioned office memorandum of MOF. SIB Shillong is well aware that the recruitment to these posts, is done on decentralised basis.

3. In the light of the position discussed above, we may please be informed of the circumstances under which SDA has been sanctioned to these category of employees.

( P.V.Karunakaran )  
Assistant Director

To  
The Assistant Director,  
SIB, Shillong.

Copy to SIBx.: Guwahati, Itanagar, Agartala, Imphal, Kohima, Dibrugarh, Aizawl and Gangtok. It may please be ensured that the SDA is sanctioned strictly in accordance with the revised guidelines issued by the MOF vide their OM No. 11(3)/95-E.II(B) dated 12.1.96 forwarded vide our circular No. 10/SO(c)/95(2) dated 17.8.96.

*meat*  
Assistant Director

5798

No.10/SO(C)95(2)  
INTELLIGENCE BUREAU  
(MINISTRY OF HOME AFFAIRS)  
GOVERNMENT OF INDIA

522  
New Delhi, the 17 MAY 1996

MEMORANDUM

Subject: Special Duty Allowance for civilian employees of the Central Govt. serving in the State and Union Territories of North Eastern Region- regarding.

A copy of Ministry of Finance Deptt. of Expenditure OM No.11(3)/95-II(B) dated 12.1.1996 on the above subject is forwarded for information and necessary action.

✓  
( P.S. Chugh )  
Section Officer

To

1. All outstation officer.
2. AD Accounts, AD Budget.
3. Accounts Officer E/M.
4. SQs. CII, CIV, CV, CVI, Cash I, Cash II, Cash III, Budget and Finance Cell at IB Hqrs.
5. Shri Barman Asstt C Branch.

To

DRS/CS  
D. A. S. C.

-16-

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

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's OM No. 20014/3/83-L.IV dated 14.12.83 and 20.4.1987 read with OM No. 20014/16/86-L.II(B) dt 1-12-88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM dt. 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE 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 dt. 20.4.1987 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 the 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 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 judgement delivered on 20.9.94 ( in Civil Appeal no. 3251 of 1993 ) upheld the submissions 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 NL Region from outside the region and SDA would not be payable merely because of the clauses 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 judgement of the Hon'ble Supreme Court, the matter has been examined in consultation with the Ministry of Law and the following decisions 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 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 Indian 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 the Govt. of India etc.

Copy (with spare copies) to C&AG, UPSC etc. as per standard endorsement list.

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IMMEDIATE/REGISTERED,A.D.

No. 79/EST(G)/87-10478  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India

New Delhi, the  
2 NOV 1987.

MEMORANDUM

The undersigned hereby offers Shri/Smt./Kum.  
VASUMATHY M.N.  
a temporary post of Stenographer Grade III in this Bureau on a pay  
of Rs. 1200/- in the pay scale of Rs. 1200-30-1560-EB-40-2040. 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.

2. The terms of appointment are as follows:

- i) The appointment is temporary. His/Her 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 on him/her 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/her of a sum equivalent  
to the pay and allowances for the period of notice or the unexpired  
portion thereof.
- iii) The appointment carries with it the liability to serve in  
any part of India.
- iv) 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 Civil Surgeon  
in the enclosed forms, at his/her own cost. He/She should get  
himself/herself medically examined from the nearest Civil Surgeon  
from whom a covering Memorandum (which may be completed by the  
candidate) is attached with this offer. He/She will not be  
allowed to join unless he/she produced this certificate.

Contd.....2/-

2. Submission of a declaration in the form enclosed that he/she has not got more than one wife/husband living, or being not married to a person having more than one wife living, unless exempted from the enforcement of the requirement in this behalf.

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

iv) Production of the following original certificates:-

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

b) Certificate of age.

c) Character certificates from two Gazetted Officers

d) Certificate in the prescribed form in support of candidates claim to belong to a reserved or Anglo-Indian Community.

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

f) Any other documents (to be specified)

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

5. If Shri/Smt./Kumari Vasumathy M.N. accepts the offer on the above terms, he/she should report for duty to the DDI SIB, Kohima, P.O. Kohima

NAGALAND - 796001

on or before the

23/11/87 If he/she fails to report for duty by the prescribed date, the offer will be treated as cancelled.

6. Within 7 days of his/her joining he/she would be required to apply for Government accommodation (where applicable).

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

8. The seniority of candidates being recruited in this batch will be according to the merit list, irrespective of their date of joining.

Contd.....3/-

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

10. He/She is further directed to let the undersigned know, in the enclosed proforma, within 7 days from the date of issue of this letter whether he/she is willing to join the Bureau on this post subject to his/her being found medically fit. In case the willingness of the candidate is not received within the stipulated time it will be presumed that he/she is not interested and his/her case will be closed at our end.

T.N. Gopalan

(T.N. Gopalan)  
Assistant Director

To

Shri/amt./Kumari VASUMATI M:N

C/o. VASUDEVAN M:N. P.I.O.D. SOUTH Sub-DIV.

NO-III - KOKILMA, P.O -

NAGALAND

N. 1019/03/102  
Filed on 10. 9. 03  
the serial has been  
checked and found  
correct

**IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM : NAGALAND :  
MEGHALAYA : MANIPUR : TRIPURA : MIZORAM  
AND ARUNACHAL PRADESH)**

**KOHIMA BENCH**

**CIVIL EXTRAORDINARY JURISDICTION**

**IN THE MATTER OF :**

W.P.(C) NO. 37(K) OF 2002

Shri Tapan Dutta and ors.

.....Petitioners

- Versus -

The Union of India and ors.

.....Respondants

- AND -

**IN THE MATTER OF :**

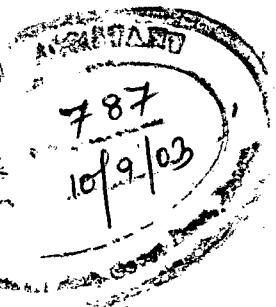
An affidavit-in-reply by the  
petitioners to the affidavit-in-  
opposition filed by the  
respondants

**AFFIDAVIT - IN - REPLY**

I, Shri Tapan Dutta, S/O late N.C. Dutta, aged about 43  
years do hereby solemnly affirm and state as follows :

1. That I am presently serving as Upper Division Clerk in  
the office of the Subsidiary Intelligence Bureau, Ministry of  
Home Affairs, Government of India, Kohima, Nagaland. I

...../-



have received a copy of the affidavit-in-opposition filed by the respondents, I have gone through the same and understood the contents made therein. I am conversant with the facts and circumstances of the case. I have been authorised by the other petitioners to swear this affidavit on their behalf as well as of my own and I am competent to do so.

2. That save and except what has been specifically admitted hereinafter all other averments made in the affidavit-in-opposition which are contrary to and inconsistent with what has been stated herein and the writ petition shall be deemed to have been denied.
3. That as regards paras 1, 2 and 3 of the affidavit-in-opposition, I have nothing to say.
4. That the statements made in para 4 of the affidavit-in-opposition are admitted to the extent borne out by records.
5. That as regards para 5 of the affidavit-in-opposition, I say that the respondents have confused themselves while interpreting the judgement of the Apex Court. The judgement of the Apex Court pertains to Central Government Civilian employees and not the present petitioners. Further, the Ministry of Home Affairs, Intelligence Bureau was not a party to the said appeal before the Apex Court as the same was concerning the Postal and Telegraph employees.
6. That the statements made in paras 6 and 7 of the affidavit-in-opposition are admitted to the extent borne out by records. However, I say that even the Security Assistants has all India transfer liability. It is categorically stated herein

...../-

that there are cases where Security Assistants were transferred from Kohima outside the region and vice versa. I crave leave of this Hon'ble Court to produce and rely upon the same at the time of hearing.

7. That as regards para 8, 10 and 13 of the affidavit-in-opposition, while re-iterating the statements made in paras 8 and 8A of the writ petition I also say that the very fact that the respondents are not paying the Special Duty Allowance to the petitioners is proof that the letter dated 16.9.98 written by the Joint Director, SIB, Kohima was rejected. It may further be clarified here that the letter was not a request for welfare measure but the same was written asserting the rightful claim of the petitioners. Further, the memorandum dated 4.2.99 (Annexure - 7 to the writ petition) is by itself self explanatory which has clarified the confusion of the respondents. However, the same is being ignored by the respondents for reasons which is obvious.

8. That as regards para 9 of the affidavit-in-opposition, I say that the respondents have already admitted the All India Transfer Liability of the petitioners in para 7 of their affidavit-in-opposition and as such no further clarification are required in this issue.

9. That the statements made in para 11, 19 and 21 of the affidavit-in-opposition are denied. I say that the petitioners belong to the Central Police Organisation/Central Para Military Force. This is further proved by letter No. PAD/9/27/98/IA/BSF/PF-I/571 dated 26<sup>th</sup> September, 2000 written by the Desk Officer, Ministry of Home Affairs, Government of India conveying the sanction of the President for Ration Money allowance to the IB employees. Again the petitioners are awarded the Police (Antrik Suraksha Seva)

...../-

Padak which are not awarded to civilians. The same is shown by Memorandum No. III-5(1)/2002(4) dated 9.7.2002 issued by the Ministry of Home Affairs, Intelligence Bureau, Government of India. Till recently, vide Memorandum No. III-5(1)/2002(2)-1681 dated 25<sup>th</sup> January, 2003 issued by the Ministry of Home Affairs, Intelligence Bureau, Government of India, President's Police Medal were awarded to the officers of the Intelligence Bureau on the occasion of Republic Day, 2003.

Again, there is reservation of Medical/Dental seats in the Medical/Dental Colleges in respect of wards of IB employees vide Memorandum No. K-9/Estd/2002(26)-1780 dated 5.6.2002 issued by the Subsidiary Intelligence Bureau (MHA) Government of India, Kohima. Apart from these, the MHA UO No. 27011/33/99-PF.I/261 dated 9.5.2000 and Letter No. 25/25/97-works dated 15.9.2000 written by the Executive Engineer (MIS), Office of the Chief Engineer (NEZ), Central Public Works Department, Dhankheti, Cleve Colony are ample proof that the petitioners belong to the CPO/CPMF.

It is worth mentioning here that the petitioners are governed by the Intelligence Organisation (Restriction of Rights) Rules, 1998 whereby the petitioners are barred to participate in, or address any meeting, or take part in any demonstration. The same was notified in the Gazette of India on 27<sup>th</sup> June, 1998. Such restrictions are applicable only to members of the CPO/CPMF only.

Another pertinent point of note is that when the petitioners are posted outside they can be directly posted either to the Special Protection Group or the Indo Tibetan Border Force. These Special Protection Group and the Indo Tibetan Border Force are all members of the CPO/CPMF. An example is the case of one Shri. Imtilepzung Yaden who was posted to the Indo Tibetan Border Force and was later

...../-

transferred back. As such, the statement that the facilities have been extended to the IB on special considerations is misleading and the respondents are put to the strict proof thereof.

Photostat copies of the aforementioned letter dated 26.9.2000, memorandum dated 9.7.2002, memorandum dated 25.1.03, memorandum dated 5.6.02, MHA UO dated 9.5.2000, letter dated 15.9.2000, Gazette of India notification dated 27.6.98 and last pay certificate of Imtilepzung are annexed herewith and marked as Annexures – 1, 2, 3, 4, 5, 6, 7 and 8 respectively hereof.

10. That as regards para 12 of the affidavit-in-opposition, the statements of the respondents clearly shows that the petitioners belong to the CPMF and I re-iterate the statements made in paras 10 and 11 of the writ petition.

11. That as regards para 14 of the affidavit-in-opposition, I say that the statements of the respondents have to be supported by documentary proof which they have failed to do so and as such they are put to the strict thereof.

12. That as regards para 15 of the affidavit-in-opposition, I say that the address given by Ms. Vasumathy is totally immaterial. The very fact that the respondents are allowing her Leave Travelling Concession to her home State Kerala speaks for itself. As such, the respondents are only attempting to mislead this Hon'ble Court.

...../-

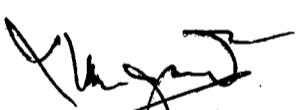
13. That the statements made in para 16 of the affidavit-in-opposition are denied and I re-iterate the statements made in para 15 of the writ petition.

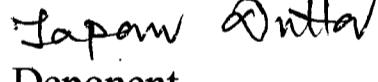
14. That the statements made in para 17, 18, 20, 22, 23 and 24 of the affidavit-in-opposition are denied. I state that the judgement of the Apex Court does not cover the case of the petitioners and further state that the respondents are mis-interpreting the same.

15. That I say that the respondents have clearly failed to make out a case in their defence and therefore the instant writ petition deserves to be allowed with cost.

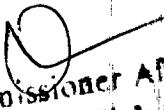
16. That the statements made in paras 1-8, 10-15 are true to my knowledge, those made in paras 9 are informations derived from records and the rest are my humble submissions before this Hon'ble Court.

Identified by :

  
L.S. Jamin  
Advocate.

  
Tapan Dutta  
Deponent

*Deponent affirms that the above statement is true to my knowledge*  
10  
*of Smt. B.... The declarant is*  
*fully aware of the contents of the statement and that he has read over and explained the same to the declarant and that the declarant has understood the same perfectly to understand.*  
  
109  
COMMISSIONER OF AFFIDAVITS  
GAGARIN HIGH COURT  
KALYANI BENGAL

  
Commissioner of Affidavits  
GAGARIN HIGH COURT  
KALYANI BENGAL

ANNEXURE-1

-7-

No. PAD/9/27/98/IA/BSF/II-I/571  
Government of India  
Ministry of Home Affairs

New Delhi, the 26th Sept. 2000

To,

The Director,  
Intelligence Bureau,  
New Delhi.

Sub : Ration Money Allowance to personnel of Central Para Military Forces.

Sir,

In continuation of this Ministry's letter No.PAD/9/27/98/IA/BSF/II/716-1020 dated 9.3.2000 on the subject cited above, I am directed to convey the sanction of the President to the Government contribution towards ration money allowance payable to combatised non-gazetted personnel of BSF, CRPF, ITBP, CISF based on daily requirement of 3850 calories as applicable to ARMY personnel when they are deployed alongside the Army/ ahead of the Army on International border on the line of actual control/under Ops control of the Army, being fixed at Rs. 892/- (Rupees Eight hundred ninety two only) per month w.e.f. 1.4.2000 till further orders.

2. Ration Money Allowance based on daily requirement of 2900 calories is being fixed at Rs. 655/- (Rupees six hundred fifty five only) per month to all the non-gazetted CRPF personnel deployed on duties as laid down in the existing instructions. The expenditure shall be met by the CRPF from out of respective budget grant. All other conditions will remain unchanged.

3. These orders shall mutatis mutandis be applicable to Delhi Police personnel. The expenditure of Delhi Police will be met out of the Delhi Police budget.

4. This issues with the concurrence of IFD vide their Dy. No. 2024/Fin.III/2000 dated 25.9.2000.

Yours faithfully,

Sd/-  
(Arun Sharma)  
Desk Officer

No. III-5(1)/2002(4)-  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India

New Delhi, dated the - 0

MEMORANDUM

Please refer to our memoranda Nos. III-5(1)/2000(4) dated 19.12.2000 and 7.2.2001 regarding award of Police (Antrik Suraksha Seva) Padak.

2. It is requested that particulars of the officers/officials who have rendered two years service from 1.1.1989 to 30.6.2002 in the notified states/districts, irrespective of the cadre and rank, and not recommended earlier, may please be sent to us in the prescribed proforma (copy enclosed) latest by 31.7.2002 to enable us to take up their case with the Ministry of Home Affairs for the award of the Padak. The notified states/districts are mentioned below for ready reference:-

States :- Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Nagaland and Tripura.

Districts:- Warangal, Karimnagar, Adilabad, Khamam, Medak and Nalgonda districts of Andhra Pradesh; Aurangabad, Gaya, Jehanabad, Rohtas, Nalanda, Patna and Bhojpur districts of Bihar; Bastar, Dantewada, Kanker, Rajnandgaon and Kaverdha districts of Chattisgarh; Palamu, Chatra and Garhwa districts of Jharkhand; Balaghat and Dindori districts of Madhya Pradesh; Gadchiroli, Chandrapur and Bhandara districts of Maharashtra; and Gajapati, Ganjam, Koraput, Malkangiri and Rayagadh districts of Orissa.

3. A person who dies in service or is evacuated as a result of wounds or other disabilities attributable to service in any of the operations or a person who is awarded a gallantry medal in the course of his service in the above mentioned states/districts shall be eligible for the award notwithstanding that he has not completed the minimum period of qualifying service for the award.

4. We are pleased to inform you that the Government of India have approved the Padak to all eligible officers/officials recommended earlier by us.

*K. Sankaranarayanan - 8/7/02*  
(K.S. Sankaranarayanan)  
Joint Director

SIBx

SDx : Mumbai and Srinagar.

*Recd from 14/6/02 - 16.6.02*

9-

Recommendations for the award of  
Police (Antrik Suraksha Seva) Padak

1. Name	<u>Surname</u>	<u>Middle Name</u>	<u>First Name</u>	
2. Date of Birth	<u>Day</u>	<u>Month</u>	<u>Year</u>	
3. Initial appointment	<u>Year</u>	<u>Rank</u>	<u>Service</u>	<u>Cadre</u>
4. Present Posting	<u>Designation</u>	<u>Place</u>	<u>Date</u>	
5. Place and period of qualifying areas	<u>Place</u>	<u>Period</u>	<u>From</u> <u>To</u>	
6. Details of Gallantry Medal	<u>Medal</u>	<u>Action</u>	<u>Notification</u>	
7. Punishment	<u>Date</u>	<u>Place</u>	<u>No.</u> <u>Date</u>	
8. Details of disciplinary proceedings pending/ contemplated against the recommendee, if any	<u>Details of penalty</u>	<u>Year(s)</u>		
9. Details of court cases	<u>Year</u>	<u>Nature of allegation</u>	<u>Present Status</u>	
10. Integrity	<u>Details of charge</u>	<u>Present Status</u>		

Signature of Recommending Authority  
Name :  
Designation :  
Date :

Confidential

No. III-5(1)/2002(2)- 168/  
Intelligence Bureau  
(Ministry of Home Affairs)  
Government of India

\*\*\*\*

New Delhi, dated the 25 JAN 2003

MEMORANDUM

The President has approved the award of President's Police Medal for distinguished service and Police Medal for meritorious service to the following officers of the Intelligence Bureau on the occasion of Republic Day, 2003:-

PRESIDENT'S POLICE MEDAL

S/Shri

1. Rajiv Kapoor (IPS-1978), JD, IB Hqrs.
2. Yogendra Jha, AD, IB Hqrs.
3. K. Jayanand, AD, IB Hqrs.
4. S.B. Bhatt, DCIO, Ahmedabad
5. V. Karthikeyan, DCIO, Chennai
6. P.C. Tiwari, ACIO-I/WT, IB Hqrs
7. R.K. Qazi, ACIO-I/G, Srinagar
8. N. Murugesan, ACIO-II/G, Chennai

POLICE MEDAL

S/Shri

1. Ms. Neelmani N. Raju (IPS-1981), DD, Bangalore
2. Arvinda Kumar (IPS-1984), DD, IB Delhi
3. S.K. Bansal (IPS-1987), DD, Jaipur
4. V.K. Singh (IPS-1987), DD, Shillong
5. P.K. Bhardwaj (IPS-1987), DD, IB Hqrs.
6. A.K. Mishra (IPS-1987), DD, Ranchi
7. P.K. Bhattacharjee, AD (Min.), IB Hqrs.
8. Kuldeep Singh, AD (Exe.), Srinagar
9. B.V. Singh, DCIO, Bhopal
10. K.P. Singh, DCIO, Mumbai
11. G.P. Sreedharan Nair, DCIO, Patna
12. Murari Lal, DCIO, IB Hqrs.
13. P.V. Babu, DCIO, Nagpur
14. U.N. Verma, ACIO-I/WT, Patna
15. V.K. Srivastava, ACIO-I/G, Lucknow
16. Narain Singh, ACIO-I/G, Chandigarh
17. G. Raj Kumar, ACIO-I/G, Chennai

18. Sham Singh, ACIO-I/G, Srinagar
19. K.T. Bankapur, ACIO-I/G, Bangalore
20. Maan Chand, ACIO-II/G, Srinagar
21. D.R. Choudhury, ACIO-II/G, Kolkata

21. D.R.C. Choudhury, A.C.I.C. 25-2-1  
2. This may please be brought to the notice of officers working under your charge.

(K.S.Sankaranarayanan)  
Joint Director

(K.S.Sankaranarayanan)  
Joint Director

SIBx

## Mumbai.

SD

Hydeabad Fa  
Shillong is a from.

## DDs

Aizawl, Bangalore, Bhopal, Amritsar, Bhubaneswar, Itanagar, Jammu, Mumbai, Raipur, Ranchi, Shimla, Siliguri, Srinagar and Shivpuri.

AL10s/JDDs/  
C10s/ADs

Aligarh, Aga.  
Adhpur, Kai.  
S. Ichhar, Var.

... Dibrugh, Dimapur, Gangtok, Imphal  
etc., veterit, Mokokchung, Naga Pung,  
Vijaygarh.

CHIO

Chennai.

DDs IR Hairs.

A, A1, B, C  
VS(A) VS(I) 1, Imm., IS, K, MM-Ops, P, Q, Q1, R,  
W, Z Tech(Ops), Tech(Z-MNT) and Civics

ADDS IR Hops

CEP 4000-100

JDDS AL.  
IB Hars

A, A1, A2, An., Admin., B, B1, B2, B3, B4, B5, B6(C), B6, B7, B8, B9, B10, BD, CP, C, CC, CII, Computer Cell, D, EP, F, G, Imm., IS, J, JA, JB, K, L, L&O, Q, Q1, LK, MP, N, Plan, R, S, SS, SES-V, Stores, SB, TP, Trg., U, U1, U2, V, VS, W, WO, WT, X, Y and Z.

Confidential

## Annexure - 4

No. K-9/Ett/2002(26)-1780  
Subsidiary Intelligence Bureau  
(MHA) Govt of India  
Kohima

Dated the 5/6/02  
Memorandum

Sub:- Reservation of Medical/Dental seats against the Government of India reserved seats in the Medical/Dental Colleges during the session 2002-2003 in respect of wards of IB employees.

\*\*\*\*\*

As is aware, the applications from eligible and interested children of Paramilitary Forces personnel including Intelligence Bureau are to be considered for nomination to the Medical /Dental colleges against the reserved seats for the year 2002-2003.

2. As the applications for nomination are invited at short notice, by the Dte. General of Health Services/IB it is being requested by way of an advance intimation that all concerned may be advised to complete the formalities for submission of application forms, in advance to avoid last minute hassles. The prescribed proforma of application was circulated vide our Memo of even number dated 7.6.2001.

*J. N. K. J. S. / J. S. / J. S.*  
Assistant Director/S

To

All branches at Hqrs and outstaion units.

MINISTRY OF HOME AFFAIRS  
(Police Division)

\* \* \*

Subject : Delegation of Enhanced Financial Powers

The financial powers to the Directors General of Central Police Organisations (CPOs) had been enhanced vide this Ministry's letter No.27011/33/99-PF-I dated 29th December, 1999.

2. Subsequently, some of the CPOs had again requested for further enhancement of financial powers for minor works, special repairs and major works as follows :

- a) To revise the financial powers under 'Minor Works' from Rs.5 lakhs to Rs.10 lakhs.
- b) To have full powers for 'Repairs' including 'Special Repairs'.
- c) To enhance powers for 'Major Works' from Rs.1.5 crores to Rs.2.5/3.0 crores.

3. This matter has been examined in this Ministry in consultation with Ministry of Finance (Department of Expenditure).

4. The Department of Expenditure has intimated that a Task Force has been set up for review of Delegation of Financial Powers Rules (DFPR). They have also observed that the proposed delegation of powers to Directors General is exceeding the powers available to the Department of Central Government as per DFPR. Hence, they have advised that it would not be possible to further enhance powers delegated to Directors General till such time a revision of DFPR takes place subsequent to recommendations of the Task Force set up for this purpose.

Sd/-

( Rakesh K. Gupta)  
Dy. Secretary (PF)  
Tel: 301-1795

DIRECTORS GENERAL-BSF, CRPF, ITBP, NSG, CISF, AI (Through LOAR)  
DIRECTORS-IB, BPR&D, New Delhi & NPA, Hyderabad  
MHA UO No.27011/33/99-PF.I/261 dated the 9th May 2000

No. 25/25/97-Works  
Government of India  
Office of the Chief Engineer (NEZ)  
Central Public Works Department  
Dhankheti, Cleve Colony,

Dated Shillong the September 15, 2000.

To,

The Director of Works (PM),  
C.P.W.D., Nirman Bhawan,  
New Delhi - 110 011.

Sub: Monthly Progress Reports in respect of Central Police Organization for Rs. 10 Lakhs & above for the month of August, 2000.  
Sir,

I am to furnish herewith the Monthly Progress Report in respect of Central Police Organization for Rs. 10 Lakhs & above for the month of August, 2000 for your kind information please.

Enclo: As Above.

Yours faithfully,

(J.B. GHOSH),  
EXECUTIVE ENGINEER (MIS).

Copy to:-

1. Additional Director General (ER), CPWD, 234/4 Acharya, A.J.C. Bose Road, Nizam Palace, Calcutta-20.
2. Director General Assam Rifles, Shillong - 793011. Progress Report for the month of August, 2000 in respect of Assam Rifles works is enclosed herewith for information please.
3. Director General, C.R.P.F., C.G.O. Complex, Lodhi Road, New Delhi - 110 011. Progress Report for the month of August, 2000 in respect of C.R.P.F. works is enclosed herewith for information please.
4. Director General B.S.F., C.G.O. Complex, Lodhi Road, New Delhi - 110 011. Progress Report for the month of August, 2000 in respect of B.S.F. works is enclosed herewith for information please.
5. Regional Director, S.I.B., Kench Trace, Shillong - 793 004. Progress Report for the month of August, 2000 in respect of S.I.B. works is enclosed herewith for information please.
6. Officer-in-Charge, Wireless Monitoring Station, Lapalang, Rynjah, Shillong - 793 006. Progress Report for the month of August, 2000 in respect of I.S.P.W. works is enclosed herewith for information please.
7. All Superintending Engineers(C)
8. Superintending Engineer (P), CPWD, Shillong.

(J.B. GHOSH),  
EXECUTIVE ENGINEER (MIS)



# भारत का जातियां The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

नई दिल्ली, शनिवार, जून 27, 1998/ आषाढ ६, 192८

सं १ २४]

NEW DELHI, SATURDAY, JUNE 27, 1998/ASADHA 6, 1920

No. 24]

NEW DELHI, SATURDAY, JUNE 27, 1998/ASADHA 6, 1920

इस भाग में भिन्न दृष्ट व्याख्या यी आदी हैं जिसमें कि यह भवत भंकपन के काम में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

माग ॥—खल ३—उप-खण्ड (i)

**PART II—Section 3—Sub-section (i)**

शास्त्र मंत्रालय (रक्षा मंत्रालय की ओँडकर) और केंद्रीय व्यविधालयों (संघ राज्य क्षेत्र, प्रशासनों को ओँडकर) द्वारा विभिन्न के व्यवस्थाएँ और जारी किए गए साधारण संविधान नियम (जिनमें साधारण प्रकार के आदेश, उप नियम आदि सम्मिलित हैं) General Statutory Rules (including Orders, Bye-laws etc. of a general character) issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities ; (other than the Administration of Union-Territories).

गद्य मंत्रालय

नई दिल्ली, 28 मई, 1998

मा. का. नि. 112.—केन्द्रीय सरकार, ग्राम्यभवा गंगगढ़ (अधिकार निर्वन्धन) अधिनियम, 1985 (1985 का 58) की धारा 3 की उपधारा (2) और पाया—7 वी उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, पर्याप्ति :—

## १. गंधित नाम और प्रारम्भ :—

(1) इन नियमों का संक्षिप्त नाम आयूर्वदा संगठन ( अधिकार निर्बन्धन ) नियम, 1998 है।

(2) ये राजपद में प्रकाशन की तारीख को प्रवृत्त होगी।

2. इन कियमों में, जब तक कि गंदर्म रो आयथा अप्पा-  
यथा न हो, "प्रविनियम" रो आगुणा समठन (प्रविनिय-  
मांस्यम) प्रविनियम, 1985 (1985 का प्रविनियम  
पृ. 58) अधिष्ठेत ३।

3. अतिरिक्त प्रयोजन जिनके लिए आमूचना संगठन का कोई सदस्य किसी अधिवेशन आदि में सम्मिलित होता या उसको संबोधित न करता—आमूचना संगठन का कोई सदस्य व्यक्तियों के किसी निकाय द्वारा निम्नलिखित जिए आयोजित किसी अधिवेशन में सम्मिलित नहीं होता या उसको संबोधित नहीं करेगा, या किसी प्रदर्शन में भाग नहीं लेगा—-

(क) इस अधिनियम या अधिनियम के अधीन बनाए गए इन नियमों या किन्हीं अन्य नियमों के किन्हीं अन्य उपबंधों के विरुद्ध अभावति करते के प्रयोगनार्थ, या

(४) उसके विषद्व या आमूर्चना संगठन के किसी अन्य सदस्य या सदस्यों के विषद्व नियम या विधि अन्य के नियमान्वयित्वा विभिन्न प्रस्तुतान्वयित्वा कारंयाद्व के विषद्व या विधिविभिन्न विधिविभिन्न प्रस्तुतान्वयित्वा

(ग) उसके पारिश्रमिक या गोया की प्रत्य शर्तों पर उसके कार्य की परिस्थितियां अथवा आयुर्वगा संगठन के किसी अन्य मद्दत्य या सदस्यों के पारिश्रमिक सेवा की अन्य शर्तों, कार्य की परिस्थितियां या जीवन की परिस्थितियों से संबंधित किसी विषय से सम्बद्ध किसी प्रयोजनार्थ।

[फा. स. — 28/पा. (सी)/87 (6)-व्य-1]

मु. वि. नांगिया, ग्रवर सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 28th May, 1998

G.S.R. 112.—In exercise of the powers conferred by sub-section (2) of section 3 and sub-section (1) of Section (7) of the Intelligence Organisations (Restriction of Rights) Act, 1985 (58 of 1985) the Central Government hereby makes the following rules, namely :

1. Short title and commencement : (1) These Rules may be called the Intelligence Organisations (Restriction of Rights) Rules, 1998.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In these rules unless the context otherwise requires "the Act" means the intelligence Organisations (Restriction of Rights) Act, 1985 (Act No. 58 of 1985).

3. Additional purposes for which a member of an Intelligence Organisation not to participate in, or address any meeting, etc.—No member of an Intelligence Organisation shall participate in, or address, any meeting, or take part in any demonstration organised by any body of persons—

(a) for the purpose of protesting against any of the provisions of the Act or these rules or any other rules made under the Act; or

(b) for the purpose of protesting against any disciplinary action taken or proposed to be taken against him or against any other member or members of an Intelligence Organisation; or

(c) for any purpose connected with any matter pertaining to his remuneration or other conditions of service or his conditions of work or his living conditions, or the remuneration, other conditions of service, conditions of work or living conditions of any other member or members of an Intelligence Organisation.

[F. No. 28/Admn(C)/87(6)-Per. II]

U. C. NANGIA, Under Secy.

ANNEXURE-8

-19- 12

No.8/ITBF-ACCTTS/02-03(12)-  
Indo Tibetan Border Force,  
C/O 56 APO.

3347

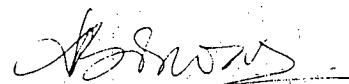
3 JUL 2002

Dated, the

MEMORANDUM

Enclosed please find the LAST PAY CERTIFICATE in respect of Shri Tmtilepung Yaden, A1/G, PIS No. 12A683 who proceeded on transfer to SIB, Kothima W.E.F. 30.06.2002 (AN).

2. Kindly acknowledge receipt.



**Drawing & Disbursing Officer**  
**DRAWING AND DISBURSING OFFICER**

To

The Section Offices /A,  
SIB, Kothima.

Encl.: As above.

Copy to : The S.O./E, ITBF, Leh for information, please.

Shri T. Yaden, A1/G, for information,  
through SCA, SIB, Kothima.

**DRAWING AND DISBURSING OFFICER**

\*\*\*

18

LAST PAY CERTIFICATE

SEE CLAUSE II(4) OF CENTRAL GOVERNMENT ACCOUNT RECEIPTS AND PAYMENTS RULES, 1983.)

- LAST PAY CERTIFICATE in respect of Shri Pratilipi Singh Yadav, ACDO-IB/CF, PIS No. 104683 of the office of the Deputy Director, Indo-Tibetan Border Force c/o 56 APO, who proceeded on transfer to SI B, Kachin is as under :-
- He has been paid upto 30-06-2002 at the following rates:-

Admissible	Paid	DEDUCTION (made upto <u>30-06-2002</u> )
Basic Pay :	Rs. 5,850/-00	GPF Subs. : Rs. 3,000/-00
Pers. Pay :	Rs. —	GPF Refund : Rs. —
DA :	Rs. 2,867/-00	CGEGIS : Rs. 300/-00
HSA :	Rs. 731/-00	Festival Advance : Rs.
SCA :	Rs. 777/-00	Scooter Advance : Rs.
RGA :	Rs. 130/-00	H.B.A INT. : Rs.
DHRA :	Rs. 243/-00	R.O.P : Rs.
Dep. All. :	Rs.	
TPA :	Rs.	
CEA :	Rs.	
<b>TOTAL</b> :	<b>Rs. 10,571/-00</b>	<b>TOTAL</b> : <b>Rs. 4,200/-00</b>

- His GPF Account No. ND-IB-94613 is maintained by the P&AO, IB (MHA), NEW DELHI.
- He made over charge of the Deputy Director, ITB Force, c/o 56 A.P.O. on 30-06-2002 (A/N -F/N).
- IBRF deduction is made upto 30-06-2002.
- Service period from 11-10-2002 to 30-06-2002 during his stay in this office has been verified.
- The details of payment made and amounts recovered from the officer upto date from the beginning of the current financial year are noted at Page No. 2.

*AB*

*Drawing & Disbursing Officer*  
**DRAWING & DISBURSEMENT OFFICER**

He took Rs. 7A Advance for Rs. 7500/- which may be adjusted against his 7A Till Claim.

He took Pay Advance of Rs. .... which may be recovered from him in three equal monthly instalments.

He has been overpaid Pay and allowances for the period from ..... to ..... amounting to Rs. .... which may be recovered from him in one instalment.

He took ... Advance of Rs. .... recoverable in ... instalment(s) of Rs. .... p.m. out of which Rs. .... has been recovered and Rs. .... is still outstanding which is to be recovered from him in ... monthly instalment(s) of Rs. .... each.

He took ... Advance of Rs. .... recoverable in ... instalment(s) of Rs. .... p.m. out of which Rs. .... has been recovered and Rs. .... is still outstanding which is to be recovered from him in ... monthly instalment(s) of Rs. .... each.

He took Festival Advance of Rs. .... recoverable in ... instalment(s) of Rs. .... p.m. out of which Rs. .... has been recovered. The balance amount of Rs. .... may be recovered in ... instalment(s) of Rs. .... each followed by the interest due.

#### DETAILS OF RECOVERIES

MONTH	GROSS AMOUNT	GPF SHRS.	GPF REF.	CBEIS	ITAX	RPF
MARCH 2002	9972-00	3000-00	-	30-00	-	64-00
APRIL 2002	10,266-00	3000-00	-	30-00	-	-
MAY 2002	10,571-00	3000-00	-	30-00	-	-
JUNE 2002	10,571-00	3000-00	-	30-00	-	-

JULY

AUG.

SEPT.

OCT.

NOV.

DEC.

JAN.

FEB.

1. PAY ARRIARS Rs. 702-00
2. CASH COMP. Rs. 8,313-00 (2001-02)
3. PAYMENT OF RAJAR 7A Rs. 196-00
4. Cash Recd. Rs. 700-00

*AS*  
Drawing & Cashiering Officer  
DRAWING 7A B. PAY C/0 56 APO 11000

20  
C 125

\*\*\*\*\*  
JT 1994 (6) S.C. 443

Union of India and others

v

S. Vijayakumar and others

Civil Appeal No.3251 of 1993

[with Civil Appeal Nos 6163-81 of 1994 (arising out of SLP(C) Nos. 18794/91, 10078-79/93, 16480-93/93, 18461/93, 9248/94)].

KULDIP SINGH &  
B.L. HANSARIA, JJ.

Dt. 20-09-1994.

## SERVICE AND LABOUR LAW

Special Duty allowance for posting in North Eastern Region - Posts with All India Transfer Liability - Office Memorandum dated 14.12.1983 and dated 20.4.1987 - Held - 1987 Memorandum clearly states that allowance would not become payable merely because of the clause in appointment order relating to All India Transfer Liability - Denial of allowance would not violate equal pay doctrine of Article 14 - Respondents held not entitled to allowance - Appeals allowed.

## HELD

We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri Tulsi for two reasons. The first is that a close perusal of the two aforesaid memoranda, alongwith what was stated in the memorandum dated 29.10.1986 which has been quoted in the memorandum of 20.4.1987, clearly shows that allowance in question was meant to attract persons outside the North Eastern Region to work in the Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. The 1986 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the office memoranda of 1983 the subject was mentioned as quoted above is not be enough to concede to the submission of Dr. Ghosh. [Para 4]

In view of the above, we hold that the

respondents were not entitled to the allowance and the impugned Judgments of the Tribunal are, therefore, set aside. Even so, in view of the fair stand taken by the Additional Solicitor General we state that whatever amount has been paid to the respondents, or for that matter to other similarly situated employees, would not be recoverable from them in so far as the allowance is concerned. [Para 6]

## Constitution of India, 1950:

Article 14 - Denial of special allowance to the residents would not violate the equal pay doctrine of Article 14.

The submission of Dr. Ghosh that the denial of the allowance to the residents would violate the equal pay doctrine is adequately met by what was held in Reserve Bank of India v. Reserve Bank of India Staff Officers Association and others, JT 1991 (3) SC 579, to which an attention has been invited by the learned Additional Solicitor General. [Para 5]

## Case Referred:

Reserve Bank of India v. Reserve Bank of India Staff Officers Association and others, JT 1991 (3) SC 579 = 1991 (4) SCC 132. [Para 5]

## HANSARIA, J.:

1. The point for determination in this appeal and in the special leave petitions (which have our leave) is whether the respondents are entitled to special duty allowance (hereinafter referred to as 'the allowance'), even though they are residents of North-Eastern Region merely because of the posts to which they were appointed were of "All India Transfer Liability". The Tribunal has answered the question in affirmative. These appeals have been preferred by the Union of India.

Union of India and others v. S. Vijayakumar and others [B.L. Hansaria, J.] S.C. 445

2. The Tribunal took the aforesaid view because the Office Memorandum dated 14.12.1983 which is on the subject of "Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of the North-Eastern Region-Improvement thereof" had stated that allowance shall be payable if the posts be those which have "All India Transfer Liability". The stand of the Union of India, however, is that this office memorandum, if it is read along with what was stated subsequently in office memorandum dated 20.4.1987, it would become clear that the allowance was required to be paid to those incumbents who had been posted in North-Eastern Region carrying the aforesaid service condition and not to those who were residents of this Region. The office memorandum of 1987 has clearly stated that the allowance would not become payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India.

3. Dr. Ghosh appearing for the respondents contends that the office memorandum of 1983 having not stated what is contained in the memorandum 1987, a rider cannot be added to the former that the allowance could be payable only to those who had been given posting in the North-Eastern Region, and not to those who were residents of this Region. It is also contended that denial of the allowance to the residents, while permitting the same to the non-residents, would be violative of doctrine of equal pay for equal work and as such of Articles 14 and 16 of the Constitution.

4. We have duly considered the rival submissions and are inclined to agree with

the contention advanced by the learned Additional Solicitor General, Shri Tulsi for two reasons. The first is that a close perusal of the two aforesaid memoranda, alongwith what was stated in the memorandum dated 29.10.1986 which has been quoted in the memorandum of 20.4.1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern Region to work in the Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2/3 years to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the office memoranda of 1983 the subject was mentioned as quoted above is not be enough to concede to the submission of Dr. Ghosh.

5. The submission of Dr. Ghosh that

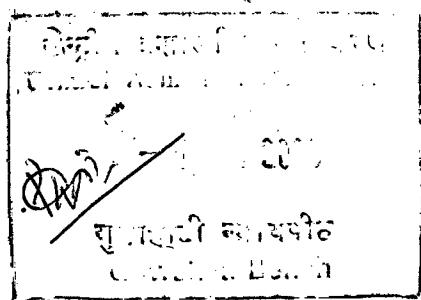
the denial of the allowance to the residents would violate the equal pay doctrine is adequately met by what was held in *Reserve Bank of India V Reserve Bank of India Staff Officers Association and others*, 1991 (4) SCC 132, to which an attention has been invited by the learned Additional Solicitor General, in which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution.

6. In view of the above, we hold that the respondents were not entitled to the allowance and the impugned Judgments of the Tribunal are, therefore, set aside. Even so, in view of the fair stand taken by the Additional Solicitor General we state that whatever amount has been paid to the respondents, or for that matter to other similarly situated employees, would not be recovered from them in so far as the allowance is concerned.

7. The appeals are allowed accordingly. There will be no order as to costs.

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- 1 -  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH



O.A. No. 229/2004  
M.P. No. 89/2005  
(W.P.(C) No. 37(K)/2002)

IN THE MATTERS OF:

Sri Tapan Dutta & Ors.

...Applicants

-Versus-

Union of India & Ors.

...Respondents

-AND-

IN THE MATTER OF:

Written statement submitted by  
the Respondent Nos 1 to 5

WRITTEN STATEMENT

The humble answering respondent  
submits their written statement as  
follows:

1.(a) That I am the Assistant Director, SIB (MHA), Govt. of India Kohima and the Respondent No. 5 in the above case. I am acquainted with the facts and circumstances of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement, the contentions and statement made in the application may deem to have been denied. I am competent and authorized to file the written statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on facts and in law.

(c) The application is bad for non-joinder of necessary parties and mis-joinder of un-necessary parties.

(d) That the application is also hit by the principles of waiver, estoppel and acquiescence and liable to be dismissed.

  
सहायक निदेशक,  
Assistant Director,  
सहायक आसूदना ब्युरो,  
Subsidiary Intelligence Bureau,  
(गृह मंत्रालय) नायत सरकार,  
(M.H.A.) Govt. of India,  
कोहिमा/KOHIMA.

M. A. Ahmed  
Addl. C. S. & S.

2. That with regard to the statements made in paragraphs 1,2 and 3 of the application, this respondent has no comments which are based on record and the applicant is put for strictest proof thereof.

3. That with regard to the statements made in paragraph 4, the answering respondent submits that Ministry of Finance vide their O.M. No. 20014/3/830-E(IV) dated 14.12.83 granted some incentive and facilities for Civilian employees serving in Union Territories and state of North Eastern Region which also include admissibility of SDA @ 25% of Basic Pay subject to a ceiling of Rs. 400/- per month at that time, to Central Government Employees who have All India transfer liability on posting to any station in N.E. Region. It has further been added that those employees who are exempted from payment of Income Tax will, however, not be eligible for this SDA. Ministry of Finance vide their O.M. No. 20014/16/86-E(IV)(B) dated 01.12.88 modified the admissibility of SDA & 12½ % of Basic Pay subject to a ceiling of Rs. 1000/- per month and also admissibility of the same to Civilian employees who are member of Scheduled Tribes and are eligible for the grant of SDA and those who are exempted from Income Tax under the Income Tax Act. will also draw SDA. The ceiling of Rs. 1000/- was subsequently removed after implementation of Vth Pay Commission recommendation (Para 55 of the summary of the Vth Pay Commission recommendation).

4. That against the paragraph 5 of the application, the answering respondent begs to submit that the Ministry of Finance further clarified vide their rmemo No. 11(5)/95-E(II)(B) dated 12.01.96 that SDA is admissible to those Central Government Civilian employees who have All India Transfer liability and this is to be determined by applying the test for recruitment zone, promotion zone etc. i.e., whether promotion is also done on the basis of an All India common seniority list for the service/cadre/post as a whole. It was also added that 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. Some employees working in the N.E., Region approached to this Hon'ble Tribunal praying for the grant of SDA and the Hon'ble Tribunal upheld the prayers of the petitioners and directed payment of SDA as their appointment letters carried the clause of All India Transfer Liability. Further the Hon'ble Supreme Court against the special leave petitions filed by some Ministries/Departments against the Judgment of this Tribunal had upheld the

लक्ष्मीनाथ,  
Assistant Director,  
सहाय्य आयुक्त अधिकारी,  
Subsidiary Intelligence Bureau,  
(मुख्य संचालक) राज्य सरकार,  
(M.H.A.) Govt. of India,  
कोलकाता/KOLKATA.

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 N.E. 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 SDA to the officers transferred from outside the region to NE region would not be violative of the provision contained in Article 14 of the constitution as well as the equal pay doctrine. The Hon'ble Court also directed that the amount so paid on account of SDA to the respondents or for that matter from them and accordingly the Ministry of Finance after consultation with the Ministry of Law conveyed that the amount paid on account of SDA to the ineligible persons on or before 20.09.94, will be waived and SDA paid subsequently after 20.09.1994 would be recovered. IB memo No. 10/SO(C)/96(J)-1056 dated 05.10.96 simply clarified the position contained in Ministry of Finance O.M. dated 12.01.96, referred to above, with suggestions of taking up the matter regarding recovering of SDA paid to the ineligible persons for the period from 20.09.94 to 12.01.96 with the Government of India.

5. That with regard to the statements made in paragraph 6 of the application, the answering respondent begs to state that IB Hqrs. vide memo No. 10/SO(C)/86(3) dated 07.10.87 and not dated nil, as mentioned in the petition had clarified that the position about the admissibility of SDA to Central Government Employees having All India Transfer Liability in addition to their memo dated 24.06.87 about the position of Gr. C and D employees in their rank of SA(G) and JIO-II/G who are all decentralized cadre and their recruitment is made on zonal basis and transferred out of zone is made on in exigency of public service. The para does not include the further clarification made by IB Hqrs. vide their memo No. 10/SO(C)/98(G)-617 dated 23.04.99 clearly mentioning that SA/Peon/Mali/Sweeper even if posted to N.E. region from outside the region are not entitled for the grant of SDA as they do not fulfill the conditions of Ministry of Finance O.M. No. 11(3)/95-E(II)-(B) dated 12.01.1996 as their recruitment to these posts is done on decentralized basis.

6. That with regard to the statements made in paragraph 7 of the application, it is submitted by the respondent that all the applicants though have All India

ASSTT. REC'D.  
Assistant Secy.

RECORDED  
RECORDED  
RECORDED

Transfer liability are not fulfilling the conditions of posting from outside the region and they belonged to N.E. Region or got appointment on the basis of address furnished of N.E. Region. 12

7. That with regard to the statements made in paragraph 8 and 8 A of the application, the answering respondent begs to state that the then JD, SIB Kohima as Head of the Office of the SIB had written a D.O. letter No. 36/Estt/SE/87(2)/718 dated 15.10.96 to the then Additional Director, Shri Ratan Saigal for getting the mater examined further in view of the prevailing situation in Nagaland as a welfare measure, since the payment of SDA was stopped in the light of decision of the Apex Court which had caused a demoralizing effect on majority of the staff members. The same request was again repeated, as welfare measure, by the then, JD, SIB Kohima to JD/E vide D.O. letter dated 16.09.1998.

8. That with regard to the statement made in paragraph 9 of the application, it is submitted by the Respondent that IB Hqrs. has clarified the position vide their D.O. letter dated 07.10.1998. It is a fact that IB Hqrs. vide their memo dated 04.02.99 had clarified about the admissibility of SDA to Central Government Civilian employees posted N.E. Region from outside the region irrespective of the fact whether it is their initial appointment or otherwise are entitled to SDA, however, the applicants have failed to mention about the subsequent memo No. 20/Adm(C)-2000(1)-1369 dated 08.10.2001 clearly mentioning on the basis of direction of the Hon'ble Tribunal's judgment dated 19.03.2001 in O.A. No. 56/2000 that as clarified by Ministry of Finance, IB employees who have initially been appointed in N.E. and remained posted in N.E. region are not entitled to SDA.

9. That the statements made in paragraph 10 of the application, the answering respondent denied the same and states that IB is a Civilian department and not a part of Central Para Military Force as mentioned by the applicants and concessions/facilities provided to CPMF is not automatically applicable to IB Civilian employees until and unless it is specifically clarified/mentioned by the Government of India. The contention that the facilities like admissibility of Ration Money, Concessional Air Fare (50%) admissible to CPMF is not being enjoyed by other Civilian employees of the Central

12  
Substantiated by  
; 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 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Government is not tenable so far IB/SIB Civilian employees are concerned as Ration Money is admissible to Non-Gazetted employees of SIB, Kohima as well as in other states of N.E. region, which is presently @ Rs. 665/- Indian Airlines have also provided facilities of 50% concession in ticket to IB/SIB employed vide their memo No. 18/Adm(C)/2001(2)-829 dated 15.06.2001.

10. That with regard to the statements made in paragraph 11 and 12 of the application, the answering respondent submits that in view of the sensitive nature of work being handled by IB, IPS Officers are taken on deputation as per rules & conditions laid down by MHA.

It may be mentioned that the personnel of CRPF, BSF, BREF etc. are drawing SDA as they falls under CPMF and cannot be equated with the other Civilian Central Govt. Employees and hence the contentions of the paragraph 12 is not tenable.

11. That with regard to the statements made in paragraph 13 of the application, the applicants are strictest proof thereof. It may, however, be mentioned that 101 applicants of SIB Guwahati had approached this Tribunal vide O.A. No. 140/1997. The Hon'ble Tribunal had upheld the decision of the Supreme Court that those persons who belong to N.E. Region would not be entitled to SDA. However, it was further added that the amount already paid to the applicants would not be recovered following the spirit and ratio of the Apex Court decision.

12. That the statements made in paragraph 14 of the application is not tenable in the eye of law in view of the judgment of the Supreme Court and subsequent judgment of this Tribunal dated 28.09.1999. Regarding denial of SDA to the applicants No. 71 Smt. V. Surendran, it may be mentioned that she was offered appointment to the post of Stenographer III vide IB Hqrs. memo No. 79/Estt(8)/87-10478 dated 02.11.1987 wherein she had given her address as C/o Vasudanan M.N. P.W.D., South Sub division No. III, Kohima, Nagaland which clearly indicate that she is recruited on the basis of her address in Nagaland and as such for all purposes she is a local candidate. Further in light of IB memo No. 20/Admn(C)-2000(1)-1369 dated 08.10.2001, she being appointed initially in Nagaland i.e. N.E. region and subsequently promoted to PA in NE region is not



entitled to SDA though she has all India Transfer liability. This is also in conformity with the Supreme Court decision that only those civilian employees who are posted to N.E. region from outside the region are entitled to SDA and because of her local address she cannot be construed as posted from outside the N.E. region.

13. That with regard to the statements made in paragraphs 15 and 16 of the application, the answering respondent denied the same. The judgment of the Supreme Court and subsequent judgement of this tribunal is quite clear and there is no ambiguity in the order.

In view of the position explained in the preceding paragraph, it is also not violated Article 14 as already clarified by the Hon'ble Supreme Court in their judgment delivered on 20.09.1994.

14. That with regard to the statements made in paragraph 17, 18, 19 and 20 of the application, the answering respondent denied the same and it is submitted that in view of the position explained in the preceding paragraph, though the applicants may have All India Transfer Liability, but either they belong to N.E. region or they have been recruited here on initial appointment and as such are not entitled or grant of SDA.

Further, IB is a Civilian Department and not a part of the CPMF. The decision of the Hon'ble Supreme Court and Subsequent judgment of this Tribunal is quite clear and does not contain any ambiguity.

15. That with regard to the statements made in paragraph 21 and 22 of the application, the answering respondent not admitted the same and submits that applicants were initially paid the SDA in the light of the Ministry of Finance O.M. dated 14.12.1983 and its payment stopped only on the decision of the Hon'ble Supreme Court and this Tribunal and recovery was also made in the light of the judgment conveyed by the Hon'ble Court.

16. That with regard to the statements made in paragraph 23 of the application, the answering respondent submits that it may be mentioned that all



the employees were paid SDA in the light of the Ministry of Finance O.M. dated 14.12.1983 followed by subsequent orders by this Hon'ble Tribunal for admissibility of the same in view of their appointment letter carrying the clause of All India Transfer Liability. Subsequently, the Hon'ble Supreme Court in their judgment delivered on 20.09.1994 on the leave petition filed by some Ministries/Departments against the order of the CAT, Guwahati Bench made clear about the admissibility of SDA on being posted to NE region from outside the region and would not be payable merely (repeat merely) because of insertion of clause of All India Transfer Liability in their appointment letter. Incidentally, it may be mentioned that the applicants in their writ petition No. 37/K of 2002 have omitted the subsequent judgment of Hon'ble CAT, Guwahati Bench where 101 applicants of SIB, Guwahati had filed a writ petition No. 140/97 for grant of SDA, who had upheld the judgment of the Supreme Court delivered on 20.09.1994. It is thus prayed that Hon'ble Court may kindly dismiss the present petition on the basis of the judgement of the Hon'ble Supreme Court which clear about the admissibility of SDA for only those Civilian employees who have been posted to N.E. region from outside the region and not merely because of clause in the appointment order relating to All India Transfer Liability.

17. That the answering respondent submits that the application is devoid of merit and as such the same is liable to be dismissed.

18. That this written statement is made bona-fide and for the ends of justice and equity.

सहायक निदेशक,  
Assistant Inspector  
सहायक अ. नि.  
Subsidiary Inspector  
(गृह मंत्रालय)  
(M.H.) Co  
कोट्टिलाल

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VERIFICATION

I, Shri M. BalasubRAMAN & S/o S/o A. Mehadew  
Do hereby solemnly affirm, declare and verify that the statements made herein  
above are true to my knowledge, belief and information and nothing being  
suppressed.

I, sign this verification on this 29/12 day of Aug, 2005 at  
Kohima.



SIGNATURE

मुख्य निदेशक,  
Assistant Director,  
मुख्य अधिकारी दल,  
Subsidiary Intelligence Bureau  
(मुख्य संचार) भारत सरकार,  
(M.H.A.) Govt. of India,  
कोहिमा / KOHIMA.