

100
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

(5)

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

ORDER SHEET

Org. App./Misc Petn/Cont. Petn/Rev. Appl. 267/04.....
 In O.A.....
 Name of the Applicant(s) R.K. Sinha.....
 Name of the Respondent(s) No. 1 and 2.....
 Advocate for the Applicant N.N. Seal.....
 Counsel for the Railway/CGSC..... CGSC.....

ORDER OF THE TRIBUNAL

OFFICE NOTE

DATE

24.11.2004

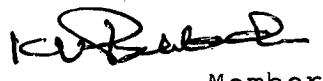
Heard Mr. A. Ahmed, learned counsel for the applicant. Mr. A. K. Chaudhuri, learned Addl. C.G.S. C. was present on behalf of the respondents.

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

List the matter before the Division Bench on 4.1.2005 for further orders.

Notice & order
dt. 24/11/04, sent
to D/ Section I.C.
issuing to DESP.
Nos. 1 to 4, by
regd. A/D POST.
(C)
14/12/05

bb
64.01.05
List the matter before the next
Division Bench for further orders.


Member


Member

10.03.2005. Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman

10.03.2005 present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman

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

NO W/S has been filed -

10.03.2005

At the request of Ms. U. Das, learned Addl. C.G.S.C. for the respondents, the case is adjourned. List on 04.04.2005. In the meantime, the respondents may file written statement, if any.

K. Prahладan
Member (A)

Vice-Chairman

8-4-05. ab

NO W/S has been filed

4.4.05

Post the matter on 11.4.05
before the Division Bench.

lm

Vice-Chairman

11.04.2005 Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl.C.G.S.C. for the respondents.

Order is reserved.

K. Prahладan

Member

Vice-Chairman

bb

7 3
O.A. 267/2004

Office Notes	Date	Order of the Tribunal
<p>Reed copy of PAK Chm 15/6/05</p>	09.06.2005	<p>Judgment delivered in open Court, kept in separate sheets. The application is disposed of.</p>
<p>A 2 P 1st order Shows its not available in the file and Shows a no receipt from the Honorable court.</p> <p>N J 15.6.05</p>	mb	<p>KV Member</p> <p>E. J. Jacob Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXXX No. 267 of 2005

DATE OF DECISION 9-6-2005

Shri Radha Kanta Sinha APPLICANT(S)

Mr A. Ahemd ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

The Union of India and others RESPONDENT(S)

Mr A.K. Chaudhuri, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other benches ?

Judgment delivered by Hon'ble Vice-Chairman

Q.P.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.267 of 2003

Date of decision: This the 9th day of June 2005

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

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Radha Kanta Sinha,
MES No.265091,
Assistant Engineer (Civil),
AGE B/R-1,
Office of the Garrison Engineer, Umroi,
Umroi Military Station,
Barapani, Shillong, Meghalaya.Applicant
By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, 101 South Block, New Delhi.
2. The Chief Engineer, HQ, Shillong Zone, Spread Eagle Falls Camp, Shillong.
3. The Garrison Engineer, Umroi, Umroi Military Station, P.O.-- Barapani, Shillong, Meghalaya.
4. The Area Accounts Officer, Ministry of Defence, Bivar Road, P.O.-Shillong, Meghalaya.Respondents
By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E R

SIVARAJAN. J. (V.C.)

The applicant, an Assistant Engineer (Civil) under the Ministry of Defence posted at Umroi (Meghalaya) under the respondent No.3 has filed this application seeking for direction to the respondents to pay Special (Duty) Allowance (SDA for short). According to him he was originally appointed in the North Eastern Region; he is saddled with All India India Transfer liability and All India common seniority in terms of his offer of appointment which was accepted by him; he was transferred

9/2/

from North Eastern Region to outside the region and from outside region he was retransferred to the North Eastern Region, i.e. he was transferred from the Office of the Garrison Engineer (I) (Navy)(Maint) Minnie Bay, Post Blair to the Office of the Garrison Engineer, Umroi, Barapani, Shillong on 25.1.2002. According to the applicant an employee hailing from North Eastern Region initially, but subsequently transferred out of North Eastern Region and reposted to North Eastern Region would be entitled to SDA. He, in support, relied on the decision of this Tribunal in O.A.No.56 of 2000 and O.A.No.301/2003, besides other cases.

2. We have heard Mr A. Ahmed, learned counsel for the applicant and Mr A.K. Chaudhuri, learned Addl. C.G.S.C. appearing for the respondents.

3. The question regarding the admissibility to SDA to Central Government Civilian employees was considered by this Bench in a batch of cases and in the judgment dated 31.05.2005 in O.A.No.170 of 1999 and connected cases, the governing principles regarding the grant of SDA was stated as follows:

"52. The position as it obtained on 5.10.2001 by virtue of the Supreme Court decisions and the 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 510.2001 will be waived."

9/2

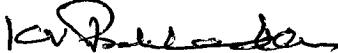
4. The applicant has stated that he is a resident of North Eastern Region and his original appointment which was in the North Eastern Region with All India Transfer liability and All India Common Seniority as part of the service conditions; that pursuant to this liability he had been transferred from North Eastern Region to Port Blair and from there he was retransferred to the North Eastern Region and therefore, he is entitled to the grant of SDA.

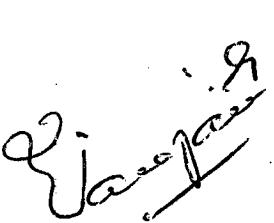
5. Since this matter was taken up for orders at the admission stage itself the respondents did not get an opportunity to file their written statement.

6. In the circumstances it is necessary for the respondents to verify the correctness of the factual details stated by the applicant to decide as to whether the applicant would fall within the governing principles stated in the common order of this Tribunal mentioned above. Accordingly we direct the respondent No.2 to consider the claim of the applicant for grant of SDA in the light of the governing principles stated by this Tribunal in the common order dated 31.5.2005 in O.A.No.170 of 1999 and connected cases after ascertaining the factual details and to take a decision in the matter within a period of two months from the date of receipt of this order. The decision so taken will be communicated to the applicant immediately thereafter.

7. The applicant will produce this order before the respondent No.2 for compliance.

The application is accordingly disposed of. No order as to costs.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE-CHAIRMAN

68 23 NOV 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 267 OF 2004.

BETWEEN

Shri Radha Kanta Sinha,

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS:

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

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

Annexure-C is the photocopy of the Office Order MES/12/2002 Dated 25th January 2002.

Annexure-D is the photocopy of Letter No.20-12-19999-EA-1-1799 Dated 02-05-2000.

Annexure E, F & G are the photocopies of the Judgment and Order dated 19-03-2001, 25-04-2003 and 17-02-2004 in O.A.Nos.56/2000, 11/2003, 30/2003 and O.A.No.301/2003 respectively passed by this Hon'ble Tribunal.

This application is not made against any particular order but praying for a direction from this Hon'ble Tribunal to the Respondents for payment of Special Duty Allowance to the Applicant as per Government of India, Cabinet Secretariat Letter No.20-12-1999-EA-1-1789 dated 02-

Radha Kanta Sinha

05-2003 and also as per other similar judgments passed by this Hon'ble Tribunal in O.A.No.56 of 2000, O.A.No.11 of 2003, O.A.No.30 of 2003 and O.A.No.301 of 2003.

RELIEF PRAYED FOR:

That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the Special Duty Allowance to the Applicant.

To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

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

Radhika Lata

23 NOV 2004

सामाजिक व्यापारित
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 267 OF 2004.

BETWEEN

Shri Radha Kanta Sinha,
MES No.265091,
Assistant Engineer (Civil),
AGE B/R-1,
Office of the Garrison Engineer,
Umroi, Umroi Military Station,
P.O.-Barapani, Shillong, Meghalaya,
Pin-793103.

...Applicant

-AND-

1. The Union of India represented by the Secretary to the Government of India, Ministry of Defence, 101 South Block, New Delhi-1.
2. The Chief Engineer,
HQ, Shillong Zone, Spread Eagle Falls Camp, Shillong-793001.
3. The Garrison Engineer,
Umroi, Umroi Military Station,
P.O.-Barapani, Shillong, Meghalaya,
Pin-793103.
4. The Area Accounts Officer,
Ministry of Defence, Bivar Road,
P.O.-Shillong, Meghalaya.

...Respondents

filed by
Shri Radha Kanta Sinha
Applicant
through []
(Advocate)
Advocate

Radha Kanta Sinha

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

This application is not made against any particular order but praying for a direction from this Hon'ble Tribunal to the Respondents for payment of Special Duty Allowance to the Applicant as per Government of India, Cabinet Secretariat Letter No.20-12-1999-EA-1-1789 dated 02-05-2003 and also as per other similar judgments passed by this Hon'ble Tribunal in O.A.No.56 of 2000, O.A.No.11 of 2003, O.A.No.30 of 2003 and O.A.No.301 of 2003.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

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

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

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

4.2) That your Applicant begs to state that he is working as an Assistant Engineer (Civil) under Ministry of Defence. He is a Defence Civilian Employee and belongs to Group B Category and he is now posted at Umroi (Meghalaya) under the Office of the Respondent No.3.

4.3) That your Applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure granted certain

Radhakali Sar

improvements and facilities to the Central Government Civilian Employees of the Central Government serving in the States and Union Territories of North Eastern Region vide Office Memorandum No.20014/3/83-IV dated 14-12-1983. In clause II of the said Office Memorandum Special (Duty) Allowance was granted to Central Government Civilian Employees, who have All India Transfer liability at the rate of Rs.25% of the basic pay subject to ceiling of Rs.400/- (Rupees Four Hundred) per month on posting to any station in the North Eastern Region. The relevant portion of the Office Memorandum dated 14.12.1983 is quoted below:

(iii) Special (Duty) Allowance: -

“Central Government Civilian employee who have All India Transfer liability will be granted a Special (Duty) Allowance at the rate of Rs.25% of basic pay subject to a ceiling of Rs.400/- (Rupees Four Hundred) only per month on posting to any station in the North East Region. Such of these employees who are exempted from payment of Income Tax, will however not be eligible for the Special (Duty) Allowance, Special (Duty) Allowance will be in addition to any Special Pay and for allowances already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Deputation (Duty) Allowance will not exceed Rs.400/- (Rupees Four Hundred) only per month. Special Allowance like Special Compensatory (Remote) Locality Allowance, Construction Allowance and Project Allowance and Project Allowance will be drawn separately.”

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

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

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

Rachhela Lata

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

4.5) That your Applicant begs to state that he is saddled with All India Transfer Liability in terms of their offer of Appointment and with the said liabilities he has accepted the transfer order of posting from North Eastern Region to outside of this region and also from outside of this region to the North Eastern Region. He was transferred from the Office of the Office of the Garrison Engineer (1) (Navy) (Maint.) Minnie Bay, Port Blair to the Office of the Garrison Engineer Umroi, Umroi Military Station, Barapani, Shillong vide Office Order MES/12/2002 Dated 25th January 2002. Therefore, the Applicant in practice saddled with All India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 and he is legally entitled for grant of Special (Duty) Allowances.

Annexure-C is the photocopy of the Office Order MES/12/2002 Dated 25th January 2002.

4.6) That your Applicant begs to state that as per Cabinet Secretariat Letter No.20-12-1999-EA-1-1799 dated 02-05-2000 it has been clearly stated that an employee hailing from NE Region, posted to NE Region from outside will also be entitled for Special Duty Allowance.

Annexure-D is the photocopy of Letter No.20-12-1999-EA-1-1799 Dated 02-05-2000.

4.7) That your Applicant begs to state that similarly situated persons have earlier approached this Hon'ble Tribunal by filing O.A.No.56/2000 and this Hon'ble Tribunal vide its Judgment dated 19-03-01 in the said case has stated that an employee hailing from NE Region initially but subsequently transferred out of NE Region but reposted to NE Region would also be entitled to S.D.A. and similar other copy of judgment passed by this Hon'ble Tribunal is also annexed herewith for ready reference of this Hon'ble Tribunal.

Rachna Kaur

It is worth to mention here that similarly situated person who is working under the same Ministry has already given the similar relief by this Hon'ble Tribunal in O.A.No.301 of 2003.

Annexure E, F & G are the photocopies of the Judgment and Order dated 19-03-2001, 25-04-2003 and 17-02-2004 in O.A.Nos.56/2000, 11/2003, 30/2003 and O.A.No.301/2003 respectively passed by this Hon'ble Tribunal.

4.8) That your Applicant begs to state that after posting at Umroi Military Station, Barapani, Shillong from Port Blair he had submitted a Bill before the Respondent No.4 for payment of Special Duty Allowance to him as per Cabinet Secretariat Letter No.20/12/99-EA-1-1799 Dated 02-05-2000. But the Respondent No.4 refused to pay the Special Duty Allowance to him. He has also send a Legal Notice to the Respondent No.4 with copy to Respondent No.2 But till today the Respondents have not taken any steps in this matter. As such finding no other alternative your Applicant is compelled to approach this Hon'ble Tribunal by filing this Original Application for seeking Justice in this matter.

4.9) That your Applicant begs to state that he has fulfilled all the criteria laid down in the aforesaid Memorandum regarding payment of Special Duty Allowance, hence the Respondents can not deny the same to the Applicant without any justification.

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

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

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

Rashna Kaur

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

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

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

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

5.4) For that, similarly situated persons have already granted this relief by this Hon'ble Tribunal in O.A.No.30 of 2003 and in O.A.301 of 2003.

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

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

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

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

Rachna Kader Patel

6) DETAILS OF REMEDIES EXHAUSTED:

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

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

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

8) RELIEF PRAYED FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the Special Duty Allowance to the Applicant.

8.2) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

Radhakanta Sahu

9. INTERIM ORDER PRAYED FOR:

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

10. APPLICATION IS FILED THROUGH ADVOCATE.

11. PARTICULARS OF L.P.O.

I.P.O. No. :- 206 - 110403
 Date of Issue :- 16-11-04
 Issued from :-
 Payable at :- A.P.O. -

Garwal

12. LIST OF ENCLOSURES:

As stated in Index.

Verification...

Radhakanta Sahu

VERIFICATION

I, Shri Radha Kanta Sinha, MES No.265091, Assistant Engineer (Civil), AGE B/R-1, Office of the Garrison Engineer, Umroi, Umroi Military Station, P.O.-Barapani, Shillong, Meghalaya, Pin-793103 do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.8, 4.9, 4.10 are true to my knowledge, those made in paragraph nos. 4.4, 4.5, 4.6, 4.7 are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 21st day of November, 2004
at Guwahati.

Radha Kanta Sinha

22
-12- Annexure A'

Annexure A

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

New Delhi, the 14th Dec'83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the State of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Control Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) 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

*Attef
Advocate*

considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

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

xx

iii) Special (Duty) Allowance:

Central Government civilian employees who have all India Transfer Liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of Income Tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre-Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special pay/deputation (Duty) Allowance will not exceed Rs.400/- P.M. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

Sd/ S.C. MAHALIK
Joint Secretary to the Government
of India

Abdul
Khan

14

Now Delhi, Dated July 22, 1990.

OFFICE MEMORANDUM

A/ Annexure - B

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands -- Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) ibid. were also to apply mutatis mutandis to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/BG/E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North-Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows:

(I) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(II) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(III) Special [Duty] Allowance

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special [Duty] Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different, specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/BG-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

[Handwritten signatures and initials]

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Special Compensatory Allowances

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

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

(v) Travelling Allowance on First Appointment

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

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

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

(vii) Leave Travel Concession

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

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

OR

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

These special provisions shall continue to be applicable.

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

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

A. H. Patel
A. H. Patel

16/20-20/22

(viii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/2/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt.(Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs. 100 and Rs. 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees in Occupation of their Private Accommodation

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1998, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting

As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1998, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependents of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.

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

6. Hindi version will follow.

N. Sunder Rajan

(N.SUNDER RAJAN)
Joint Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

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

A. K. Singh

Tele : 3019620

Coord & Pers Director
Engineer-in-Chief's Branch
Kashmir House
Army Headquarters
DHQ PO New Delhi-11

MES/ 12/2002

25 Jan 2002

Chief Engineer

Southern Command, Pune
Eastern Command, Calcutta
Western Command, Chandigarh
Central Command, Lucknow
Northern Command, C/O 56 APO

POSTING : OFFICERS

1. The following posting are hereby approved in the interest of states :-

SLNo. MES.No Name & Desig From To Remarks

(a)	MES-127610	Shri MN Shiva Kumar, AE B/R	GE Ahmednagar	SO-3, CE (AF) Bangalore	E.V
(b)	MES-304383	Shri Duya Nand, AE B/R	GE (P) (NW) Nowi	AGE (T) GE (AF) Sirsa	On or after 01 May 2002
(c)	MES-159501	Shri PD Mehla, AE B/R	AGE (I) Bhusawal	AGE (T) GE(N) Pune	on or after 01 Apr 2002
(d)	MES-201594	Shri DK Sen, AE B/R	GE (Army) Jamaranagar	SO-3, CE East Comd	E.V
(e)	MES-123633	Shri Thomas JP, AE E/M	GE Bharatpur	AGE E/M, GE(E) (P) Ezimgala	E.V
(f)	MES-310457	Shri Bansi Lal, AE E/M	GE (AF) Nalnya	SO-3, CE (AF) Udaipur	E.V

Lt Col
GSO1 Engrs Pers

Cont'd... 2/2

After Ed
J.S. - 2/2

MES/12/2002 Dated 25 Jan 2002

4. Move of officers will be implemented by 11 Mar 2002

(Manoj Kichita)

Lt Col

GSO1 Engrs Pers EIB

For Engineer-in-Chief

Copy to :-

CE (I) Hyderabad, CE (AF) Ahmedabad, CE (A) Bangalore, CE Siliguri Zone, CE (AF) Shillong Zone, CE (Navy) Port Blair, CE (AF) Allahabad, CE Pathankot Zone, CE SE Faiz Shillong, CE Pune Zone, CE (AF) Bangalore, CE (Navy) Mumbai, CE (AF) WAC Palam, CE Jaipur Zone, CE (I) Kochi, CE (AF) Udhampur, CE Bhatinda Zone, CE Delhi Zone, CE Udhampur Zone, CE Jatavdar Zone, CE Bareilly Zone, CE Lucknow Zone, CE Chandigarh Zone, CE Jabalpur Zone, CWE Calcutta, CW (AF) Secunderabad, CWE Delhi Cantt, CWE Shillong, CWL Secunderabad, CWL (AF) Borjar, CWL (AF) Chakeri, CWE (AF) Chandigarh, CWE Deolali, CWE (NW) Mumbai, CWE (AF) Bikaner, CWE Tezpur, CWE (AF) Jodhpur, CWE (AF) Trivendrum, CWE Meerut, GE (P) (I) Fy Bhusaval, CWL Pune, CWL Jamnagar, CWL Jaipur, CWE (Naval Academy) Ezimala, CWL (AF) Bhuj, CWE (P) Bhatinda, CWE Ganganager, HQ 138 WE, CWE Bareilly, CWE Kanpur, CWE Chandimandir, CWE Ambala, CWE Ranchi, CWE (Sops) Barrackpur, CWE (AF) Maharajpur, CWL (U) Delhi Cantt, CWE (AF) Ramraoli, CWE Allahabad, CWE Udhampur, CWE Pathankot, CWE Jhansi, CWE Bengaluru, GE Ahmednagar, GE (NW) Nofra, GE (AF) Sitsa, GE (N) Pune, GE (A) Jamnagar, GE Bharatpur, GE (E/M) (I) Ezimala, GE (AF) Nalia, GE (P) (S) Phatinda, GE (P) Lalgarh Jatian, GE Kalochak, GE Sri Ganganagar, GE (P) (I) Kanpur, GE Chandimandir, GE (N) Ambala, GE Ranchi, GE Panagarh, GE (E/M) Kheria, GE (U) E/M Delhi Cantt, GE (AF) Gorakhpur, GE (E) Allahabad, GE (A) Dhar Road, GE (W) Pathankot, GE (I) (P) Teliamura, GE Binaguri, GE (AF) Shillong, AGC (I) Mamora, GE (AF) Chandigarh, 866 EWS, GE (AF) Secunderabad, GE (I) (N) (M) Haddo Port Blair, GE (W) Delhi, GE (I) (N) Minibay, GE Umroi, GE (EP) Jodhpur, GE Golconda, GE Jammu, GE (I) (P) Chandigarh, 839 EWS, CE Gopalpur-on-Sea, CE (I) (A) Port Blair, GE (I) (M) Barmer, AGC (I) Chemney Dilla Jalalpur, GE (N) Bareilly, GE (S) Meerut, GE (I) (W) Calcutta, AGC (I) Shahjahanpur.

INTERNAL

TS to DG (Pers), TS to DCGW, DDCG (Pers), AG, MS-12, EIR (O), MIS (AFB), MIS (CTV), EIR Cadre, E Coord I, Master Folder and Cntra file

Abdul
Jaffar
Sohail

S/INST 2/2002 Dated 25 Jan 2002

Sl No.	MES No. Name & Design	From	To	Remarks
(s)	MES-446284 Shri Rathula Khan, AE B/R	GE (I) (N)(M) Haddo I	AGE B/R, GE (W) Delli	E.V
(w)	MES-265091 Shri RK Sinha, AE B/R	GE(I) (Navy) Mumbai	AGE B/R GE Umroi	E.V
(x)	MES- 169264 Shri PR Asari, AE E/M	GE (I) (P) Teliamura	AGE E/M GE EP Jodhpur	E.V
(y)	MES-127049 Shri M Balaram, AE B/R	GE(I)(P) Teliamura	AGE B/R GE Golconda	E.V
(z)	MES-811454 Shri Arora SP, AE E/M	GE Jammu	AGE E/M, GE (I) (P) Chandigarh	E.V
(aa)	MES-181877 Shri Mithy DS, AE B/R	859 Engr Wks Section	AGE B/R GE Gopalpur-on-sea	E.V
(ab)	MES-264978 Shri Ittayachan MC, AE B/R	GE (I) (Army) Port Blair	SO-3, CE (N) Mumbai	E.V
(ac)	MES-144918 Shri Raju AM, AE B/R	GE (AF) Bojdar	AGE B/R, AGE (I) Chinniye Hills	E.V
(ad)	MES-436385 Shri RPS Baroria, AE E/M	GE (North) Bareilly	AGE 'T', GE (S) Meerut	On or after 01.03.2002
(ae)	MES-157059 Shri TS Balwant, AE E/M	GE Fort William	GE(P) (I) Teliamura as AGE E/M	E.V
(af)	MES- NYA Shri Raj Narayan, AEE E/M	SO 3 E/M CE Jalandhar Zone	AGE (I) Shahjahanpur	E.V

2. Departure/arrival of the offrs will be reported to this HQ EID/MIS, ADIV/MIS Civ by telex signal by the relieving/receiving units on the day of their SOS/ROS.

3. ACR of the offrs will be initiated soon after their SOS dates, if they have completed three months or more in the current ACR year under any initiating officer.

L.C.B.
Lt Col
GSO1 Engrs Pts 'B'

Abu
J.J. *Don't*

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COURT CASE

MOST IMMEDIATE

Cabinet Secretariat
(E.A. Section)

Subject: Special (Duty) Allowance for Civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region regarding.

- SSB Directorate may kindly refer to their UO No. 42/SSB/AT/99(18)- 2369 dated 31.03.2000 on the subject mentioned above.
- The points of doubt raised by SSB in their UO No. 42/SSB/AT/99(18) - 5282 dated 12.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department of Expenditure) and clarification to the points of doubt is given under for information, guidance and necessary action :

i)	The Hon'ble Supreme Court in their Judgment delivered on 26.11.96 in Writ Petition No. 794 of 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. Region from outside the region and in the following situation whether a Central Government employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their UO No. 11(3)/95.E.II(B) dated 7.5.97	
a)	A person belongs to outside N.E. Region but he is appointed and on first appointment posted in the N.E. Region after selection through direct recruitment based on the recruitment made on all India basis and having a common/centralised seniority list and All India Transfer Liability.	No
b)	An employee hailing from the N.E. Region selection on the basis of an All India recruitment test and borne on the Centralised cadre/service common seniority on first appointment and posted in the N.E. Region. He has also All India Transfer Liability.	No
ii)	An employee belongs to N.E. Region was appointed as Group "C" or "D" employee based	No

*Ans. 1st
Ans. 2nd
Ans. 3rd*

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	on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance OM No. 20014/2/83-E.IV dated 14.12.1983 and 20.4.87 read with O.M. 20014/16/86E.II(B) dated 1.12.1988), but subsequently the post/cadre was centralised with common seniority list/promotion/All India Transfer Liability etc. on his continuing in the N.E/Region though they can be transferred out to any place outside the NE Region having All India Transfer Liability.	
iii)	An employee belongs to N.E.Region and subsequently posted outside N.E.Region, whether he will be eligible for SDA if posted/transferred to N.E.Region. He is also having a common All India seniority and All India Transfer Liability	YES
iv)	An employee hailing from NE Region, posted to NE region initially but subsequently transferred out of NE Region but reposted to NE Region after sometime serving in non NE Region	YES
v)	The MOF. Deptt. Of Expdr. Vide their UO No. 11(3)/95-E.II(B) dated 7.6.97 have clarified that a mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty Allowance. For determination of the admissibility of the SDA to any Central Govt. Civilian employees having All India Transfer Liability will be by applying tests (a) whether recruitment to the Service/Cadre/Post has been made on All India basis (b) whether promotion is also done on the basis of All India Zone of promotion based on common seniority for the service/cadre/post as a whole (c) in the case of SSB/DGS, there is a common recruitment system made on All India basis and promotions are also done on the basis of All India Common Seniority. Based on the above criteria/tests, all employees recruited on the All India basis and having a common seniority list of All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from N.E.Region or posted to N.E.Region from outside the N.E.Region	In case the employee hailing from NE region is posted within NE Region he is not entitled to SDA till he is once transferred out of that Region
vi)	Based on point (iv) above, some of the units of SSB/DGS have authorised payment of SDA to other employees hailing from NE Region and posted within the N.E.Region while in the case of others, the DACS have objected payment of SDA	It has already been clarified by MOF that clause in the appointment order regarding All India

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	to employees hailing from NE Region and posted within the NE Region irrespective of the fact that their transfer liability is All India Transfer Liability or otherwise. In such cases what should be the norm for payment of SDA i.e. on fulfilling the criteria of All India Recruitment Test & to promotion of All India Common Seniority basis having been satisfied are all the employees Eligible for the grant of SDA	transfer Liability does not make him eligible for grant of SDA
vii)	Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20.9.1994 i.e. the date of decision of the Hon'ble Supreme Court and/or whether the payment of SDA should be allowed to all employees including those hailing from N.E. Region with effect from the date of their appointment if they have All India Transfer Liability and are promoted on the basis of All India Common Seniority List.	The payment made to employees hailing from NE Region & Posted in NE Region be reverred from the date of its payment. It may also be added that the payment made to the ineligible employee hailing from NE Region and posted in NE region be recovered from the date of payment or after 20th Sept., 94 whichever is later.

3. This issues with the concurrence of the Finance Division, Cabinet Secretariat vide Dy. No. 1349 dated 11.10.1999 and Ministry of Finance (Expenditure)'s I.D. No. 1204/E.II(B) dated 30.3.2000.

Sd/-
Illegible
(P.N. THAKUR)
DIRECTOR(SR)

1. Shri R.S.Bedi, Director ARC
2. Shri R.P. Kureel, Director, SSB
3. Birg.(Retd)G.S.Uban, IG,SFF
4. Shri S.R.Mehra, JD(P&C), DGS
5. Shri Ashok Chaturvedi, JS(Pers),R&AW,
6. Shri B.S.Gill, Director of Accounts, DACS
7. Shri J.M.Menon, Director Finance(S), Cab. Sectt.
8. Col. K.L. Jaspal, CIOA, CIA

Cab. Sectt. U.O. No. 20/12/99-EA-1-1799 dated 2.5.2000.

Herbal
J.S. *Amrit*

Original Application No. 56 of 2000

Date of decision : This the 19th day of March, 2001.

Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K. Sharma, Member (A).

Shri Manoj Kumar
Lower Division Clerk
Office of the Deputy Director,
Subsidiary Intelligence Bureau,
Basistha Road, Guwahati-28 & 167 Ors.

By Advocate Mr. A. Ahmed.

Applicants

-versus-

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, North Block, New Delhi.
2. The Director, Intelligence Bureau, North Block, New Delhi.
3. The Deputy Director, Subsidiary Intelligence Bureau, Basistha Road, Guwahati-28.

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

Respondents

ORDER (ORAL)

DAN CHOWDHURY J. (V.C.)

The applicants are one hundred and sixty eight in number serving under the Deputy Director, Subsidiary Intelligence Bureau, in different capacities, like Lower Division Clerk, Assistant, Stenographer, Security Assistant, ACIO-I/G, P.S., JJO-II/G, Section Officer, Upper Division Clerk etc. Their grievance is common in nature claiming Special Duty Allowance (hereinafter referred to as SDA) payable to the Central Government employees serving in the North Eastern Region. By now the issue is involved is settled on the basis of numerous decision of the Supreme

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(Signature)

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Court subsequently clarified by the department. Cabinet

Secretariat (EA.I Section) clarified the matter by a Notification dated 2.5.2000. The civilian employees who have all India transferability are entitled for grant of SDA on being posting to any station in the NE Region from outside the Region. An employee hailing from the North Eastern Region selected on the basis of all India recruitment test and borne on the centralised cadre/service, common seniority on first appointment and posted in the N.E. region per se is not entitled for the SDA. He or she would be entitled to SDA only if posted outside NE Region on transfer. An employee hailing from NE Region initially but subsequently transferred out of the NE Region but reposed to NE Region would also be entitled to SDA.

From the materials made available in this application, it is difficult for the Tribunal to determine/evaluate as to nature of posting of each individual applicant.

In the circumstances upon hearing the learned counsel Mr. A. Ahmed for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. we are of the view that ends of justice will be met if a direction is issued to the applicant to submit individual representation before the concerned authority narrating the factual position. Accordingly, we direct the applicants to make individual representations within a period of one month from the date of receipt of certified copy of this order. The respondents on receipt of such application consider the same in the light of the OM issued from time to time more particularly on the basis of the Clarification issued by the Director(SK), Cabinet Secretariat dated 2.5.2000 with the concurrence of the Finance Division as early as possible at any rate within the

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Attn
JL
Ans

25-3-2005
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period of two months from the date of receipt of individual representation from the applicants.

The application is disposed of accordingly. There shall however, no order as to costs.

SD/ VICE CHAIRMAN

SD/ MEMBER (Adm)

Certified to be true Copy

প্রাপ্তি প্রতিপাদিত

31.7.2005

Dection Officer (J)

গুৱাহাটী অধিদফতর (সাধারণ রাজ্য)
Central Administrative Tribunal

গুৱাহাটী পৰিষদ, গুৱাহাটী-৮
পৰিষদ পথ, গুৱাহাটী, পৰ্যায়কলা

8/3/05

Arif
JL
Anita

ORDINARIES

Original Application No: 44/03
Misc. Petition No: _____
Contempt Petition No: _____
Review Application No: _____

Applicant(s): Manish Sengupta

- vs -

Respondent(s): M.C.T. 90/01

Advocate for the Applicant(s): Adil Ahmed

Advocate for the Respondent(s): C.A.S.C.

Name of the Registry

Date

Order of the Tribunal

25.4.2003, Heard Mr. A. Ahmed, learned
counsel for the applicant and also Mr.
A. Deb Roy, learned Sr. C.C.S.C. for the
respondents.

The controversy pertains to granting
of Special Duty Allowance (SDA) to
the applicant. The respondents in its
written statement contended that SDA is
admissible only to the Civilian Employ-
ees posted from outside the region and
not to others. Admittedly, the applicant
who belongs to North East Region was
initially posted at Siliguri and by
order dated 8.3.1995 the applicant was
re-posted at Guwahati from Siliguri.
Therefore, as per memorandum issued by
the Cabinet Secretariat an employee
hailing from N.E. Region, posted to
N.E. Region initially but subsequently,
transferred out N.E. Region after some-
time serving in non N.E. Region is
entitled SDA. As a matter of fact the
respondent admitted the same in the
written statement and asserted that in
terms of the memorandum of the Cabinet
Secretariat the respondents continued
to pay the SDA to the applicant from
28.2.2001. However, the same was stopped
later on in the light of the observation
made in the Swamynews in terms of the
Supreme Court judgment. The aforesaid
considerations are totally irrelev-
ant on the facts situations in the
context of the decisions of the Central
Govt. The impugned action of the
respondents in withholding the SDA due
to the applicant and consequent recovery
of the same is thus unsustainable in
law.

In the circumstances and in the
light of the decision rendered by the
Tribunal, the impugned office order
No.AIR/CCWSE-CH/2(2)/2002-A/6330-34
dated 09.12.2002 issued by the respond-
ent No.4 is thus set aside and quashed

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ANNEXURE - ~~A~~ ~~F~~

Annexure F.



Contd/-

A. Ahmed
S. Deb Roy

27/04/2003
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25.4.2003, and the respondents are directed to pay the SDA to the applicant forthwith.

The application is allowed
No order as to costs.

Sd/VICE CHAIRMAN

Verified to be true Copy

महाराजा नवाजियर
प्राधानिक नियन्त्रण बोर्ड
मुख्यमन्त्री कार्यालय
प्राधानिक नियन्त्रण बोर्ड
गोविन्दपुरा, बिहार
संसदीय भवन, लखनऊ

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Original Application No. 90/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Ramgopal Bhattacharya

Respondent(s) h. m. g. arm.

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

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

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

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

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

According to the applicants, they were paid SDA in terms of memorandum dated 14.12.1983, 1.12.1986 and 22.7.1990 and the same was sought to be stopped whereupon the applicants moved this Tribunal by the O.A.

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

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

Contd/-

Appled
Smt

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

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

Accordingly, the application is allowed in the light of the decision of this Bench in O.A. No. 58/2001 disposed on 12.9.2001.

The application is allowed.
No order as to costs.

SD/VICE CHAIRMAN

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23.12.03
Section Officer (J)
C.A.T. GUWAHATI N.C.H.
Guwahati 781005

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FROM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:ORDER SHEET

Original Application No: - 301/103

Misc Petition No: -

Contempt Petition No: -

Review Application No: -

Name of the Applicant(s): K R Dasmuni

Name of the Respondent(s): CGSC

Advocate for the Applicant: - Mr. A. Ahmed

Advocate for the Respondent: - CGSC

Notes of the Registry | date | Order of the Tribunal

17.2.2004 Present: Hon'ble Mr K.V. Prahladan,
Administrative Member

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

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

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

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

The O.A. is accordingly disposed of.

(K. V. PRAHLADAN)
Administrative Member

Section Officer (J)

C.A.T. GUWAHATI BENCH

Guwahati-781005

20/2/04 nkm

Attended
J. J. S.
Date