

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 77/2004.....

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
SPECIAL BENCH.

ORDER SHEET

Ord. App/ Misc. Petn/ Rev. Appl.

10 C.A. 77/2004

Respondent(s) Sri N. Ch. Dm & Ors.

Respondent(s) C.O.F. & Ors.

Counsel for the Applicant Mr. A. Ahmed

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

DATE	ORDER OF THE TRIBUNAL
26.3.2004	<p>Heard Mr. A. Ahmed, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records, Issue notice to the parties. Returnable by four weeks.</p> <p>List on 29.4.2004 for orders.</p> <p><i>K. V. Bhatnagar</i> Member (A)</p>
mb 29.4.2004	<p>Four weeks time is given to the respondents to file written statement. List on 1.6.2004 for orders.</p> <p><i>K. V. Bhatnagar</i> Member (A)</p>
mb	

Steps taken by the Applicant.

24
25.3.04

Notice & order dt: 26/3/04 sent to D/section for issuing to respondent nos. 1 to 4.

24
24/04

(2)

O.A. 77/2004

1.6.2004

Four weeks time is given to the respondents to file written statement. List on 7.7.2004 for orders.


Member (A)

mb

No. W/S has been
filed.

21
31.5.04

A/D card return
from respondent
No = 4, 1,

10/6/04

23.8.04

W/S submitted
by the respondents.

Ro

23-8-04

Notar duly served
on A. No. 1, 1

W/S for A. No. 1, 1

Ro

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

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

Heard learned counsel for the parties.

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

K.V. Prahladan
Member

D.C. Verma
Vice-Chairman

25.11.04 Present: The Hon'ble Mr. Justice K.R. Bhatta, Vice-Chairman.

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

We are informed that a number of SDA cases are pending. All of them be grouped together by the Office and the case be listed alongwith this case on 15.12.2004.

K.R. Bhatta
Member (V)

K.V. Prahladan
Vice-Chairman

hb

13.12.04. Let this case be listed alongwith other S.D.A. matters on 2.2.05 before Division Bench.

K.V. Prahladan
Vice-Chairman

lm

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

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

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

Hearing concluded. Judgment reserved.

2.11.04

Written Statement has been filed by the Respondents.

To verify the total SDA cases as per Court's order dated 3/11/04.

22-3-05


W/S has been filed.

lm

23.3.2005 Present : The Hon'ble Mr. Justice
Sivarajan, Vice-Chairman
The Hon'ble Mr. K. V.
Prahlan, Member (A).

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

Hearing concluded. Orders
reserved.


Member (A)


Vice-Chairman

mb

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


Member


Vice-Chairman

lm

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

25 MAR 2004

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. 77 OF 2004.

B E T W E E N

Sri Nomal Chandra Das

And Others

-Applicants

-Versus-

The Union of India

And Others

-Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A is the Photocopy of the Office Memorandum issued by the Govt. of India, Ministry of Finance, Department of Expenditure vide O.M. No. 20014/3/83-4 dated 14-12-1983 by which the Govt. of India Granted certain improvements and facilities including the Special Duty Allowance to the Central

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. Government Civilian Employees
serving in North Eastern Region.

Annexure-B is the Photocopy of Office Memo.
No. F. No. 11(2)/97-E -11(B) dated
22-07-1998 issued by the Govern-
ment of India, Ministry of
Finance, Department of Expenditure
for continuation of the above said
facilities including Special Duty
Allowances as per recommendation
of fifth Central Pay Commission.

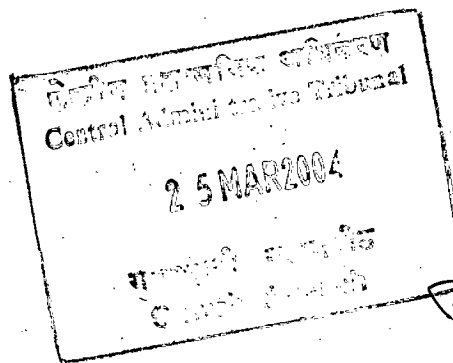
Annexure-C Photocopy of Cabinet Secretariat
letter No. 20-12-1999-EA-1-1799
dated 02-05-2000.

Annexure-D Photocopy of letter No. DPD/0020/
22/Est/1593 dated 03rd March 2003.

Annexure-E, Photocopies of Judgment and orders
F & G dtd 19-03-2001 and 25-04-2003 in
OA Nos. 56/2000, 11/2003 and OA
No.30/2003 dated 03-06-2003 respec-
tively passed by this Hon'ble
Tribunal.

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This Original application is made for seeking a direction from this Hon'ble Tribunal to the Respondents to pay Special Duty Allowance to the applicants as per Govt. of India Cabinet Secretariat letter No. 20-12-1999-EA-1-1799 dated 02-05-2000 and also as per other similar judgments passed by this Hon'ble Tribunal in OA No. 56 of 2000, OA No. 11 of 2003, OA No. 30/2003 and in O.A. No. 301 of 2003. The applicants are Group-C and D employee working under the Ministry of Defence. They were posted out from North Eastern Region and also reposted from out side North Eastern Region to North Eastern Region. As per Government of India, Cabinet Secretariat decision dated 02-05-2000 the applicants are entitled for Special Duty Allowance. Hence, applicants have filed this Original Application for seeking a direction from this Hon'ble Tribunal to the Respondents for payment of Special Duty Allowance to the applicant as per direction of the Cabinet Secretariat. Moreover, similar judgments have been passed by this Hon'ble Tribunal in similarly situated cases regarding payment of Special Duty Allowance.



Filed by

Sri Nomal Chandra Das

Applicant No. 1

through J.L.

(ADV. AMED)

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. ~~77~~ OF 2004.

B E T W E E N

1] Sri Nomal Chandra Das,
P. No. 3190 ,

2] Sri K.L. Debnath,
P No. 3886,

3] Sri A. Dev,
P. No. 1243,

4] Sri J. Rohidas,
P No. 6011,

5] Sri Vijay Kumar,
P.No. 5315,

The applicants No. 1, 2, 4 and 5 are working under the Office of the Area Manager, Canteen Store Department, Army Supply Depot Road, P.O.- Dimapur, Nagaland; the applicant No. 3 is ex-Superintendent, who worked under the Area Manager, Canteen Store Department, Army Supply Depot Road, P.O.- Dimapur, Nagaland.

-Applicants.

-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 General Manager, Canteen Store Department, 'ADELPHI' 119 Maharshi Karve Road, Mumbai-400020.

3] The Regional Manager (East),
Canteen Store Department,
P.O.- Satgaon, Narengi,
Guwahati-781027.

4] The Area Manager,
Canteen Store Department,
Army Supply Depot Road,
P.O.- Dimapur, Nagaland
-Respondents.

DETAILS OF THE APPLICATION:

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

The application is not made against any particular order but praying for a direction from this Hon'ble Tribunal to the Respondents to pay the Special Duty Allowance to the applicants 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

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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 applicants declare that the Subject matter of the instant application is within the jurisdiction of this Hon'ble.

3) LIMITATION:

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4) FACTS OF THE CASE:

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

4.2] That your applicants beg to state that they are working under the Ministry of Defence. They are all Group-C and D employees. Now they are posted at Dimapur (Nagaland) and working under the Office of the Respondent Nos. 3 & 4.

4.3] That your applicants beg to state that as the grievances and reliefs prayed in this application are common, therefore, they pray for grant of permission under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

4.4] That the applicants beg to state that the Government of India, Ministry of Finance, Department of Expenditure granted certain improvements and facilities to the Central Government Civilian Employees of the Central Government serving in the States and Union Territories of North Eastern Region vide Office Memorandum No. 20014/3/83-IV dated 14-12-1983. In Clause II of the said office memorandum Special (Duty) Allowance was granted to Central Government Civilian Employees, who have all India Transfer Liability at the rate of Rs. 25%

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of the basic pay subject to ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region The relevant portion of the office Memorandum dated 14.12.1983 is quoted below:

(iii) Special (Duty) Allowance:

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

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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.

An Extract of Office Memorandum dated 14-12-1983 is annexed hereto and marked as Annexure-A.

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

4.5] That your applicants beg to state that they have All India Transfer liability and their seniority are fixed on All India Basis. The Applicants No. 1, 2, 3, 4 and 5 were posted to the North Eastern Region from different places like, Lucknow, Madhya Pradesh (Mahum Station), Jaipur, Bagdogra and Ahmadabag respectively. Accordingly, they were transferred from outside to North Eastern Region.

4.6 That your applicant begs to state that they are saddled with All India Transfer Liability in terms of their offer of appointment and with the said liabilities they accepted the transfer order of posting from North Easter Region to outside of this region and also from outside of this region to the North Eastern Region. Therefore, the applicants are in practice saddled with all India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 they are legally entitled for grant of Special (Duty) Allowances.

4.7 That your applicants beg 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 N E Region, posted to N E Region from outside will also be entitled for Special Duty Allowance.

Annexure-C is the photocopy of letter No. 20-12-1999-EA-1-1799 dt 2-5-2000.

4.8] That the applicants beg to state that all the applicants are entitled for payment of Special Duty Allowance as per Annexure-C and

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accordingly, the Office of the Respondent No. 4 issued a letter No. DPD/0020/22/Est/1593 dated 03rd March 2003 for payment of Special Duty Allowance to the instant applicants as they have fulfilled criteria of the above said Office Memorandum at Annexure-C.

Annexure-D is the photocopy letter No. No. DPD/0020/22/Est/1593 dated 03rd March 2003.

4.9 That the applicants beg 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 19-3-01 in the said case has stated that an employee hailing from N E Region initially but subsequently transferred out of NE Region but reposted to N E 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 Court.

It is worth to mention here that similarly situated person who is working under

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the same Ministry and same office of the applicants has already been given the similar relief by this Hon'ble Tribunal in OA No. 30 of 2003 and in O.A. No. 301 of 2003.

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

4.10] That your applicants state that they have 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 applicants without any justification.

4.11] That your applicants beg to state that similarly situated persons have already been granted the said benefit as such the action of the Respondents is arbitrary, malafide, whimsical and also not sustainable in the eye of law as well as on facts.

4.12] That your applicants submit that there is no other alternative remedy and the remedy sought for if granted would be just, adequate and proper.

4.13] That this application is filed bona fide and for the cause of justice.

5.) GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1] For that on the reason and facts which are narrated above the action of the Respondents is prima facie illegal and without jurisdiction.

5.2] For that the action of the Respondents are mala fide and illegal and with a motive behind.

5.3] For that the applicants are practically having all India Transfer liability and they have been transferred to outside of the North Eastern Region and also from outside of North

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Eastern Region to North Eastern Region.

5.4] For that that the applicants are having All India Seniority. As such, they are legally entitled to draw the Special (Duty) Allowance as per Office Memorandum dated 14-12-83, 01-12-88 and 22-07-1998.

5.5] For that there is no justification in denying the said benefit to the applicants and denial has resulted in violation of Articles 14 and 16 of the Constitution of India.

5.6] For that similarly situated persons who are working under various Ministry of Government of India have already been given the reliefs but the Respondents are not giving the same reliefs to the instant applicants. As such, the action of the Respondents are bad in the eye of law and also not maintainable.

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5.7] For that similarly situated persons who are working with the applicants have already been granted this relief by this Hon'ble Tribunal in OA No. 30 of 2003 and in O.A. No. 301 of 2003.

5.8] For that being a model employer the Respondents can not deny the same benefits to the instant applicants which have been granted to other similarly situated persons. As such, the Respondents should extend this benefit to the instant applicants without approaching this Hon'ble Tribunal.

5.8] For that in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of instant application.

6) DETAIL REMEDY EXHAUSTED:

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

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

The applicants further declares that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority or any other bench of this Hon'ble Tribunal 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 your Lordships may be pleased to admit this petition, call for the records of the case, issue

notice to the Respondents as to why the relief and reliefs sought for by the applicants may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be please to direct the Respondents to give the following reliefs:

8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to Grant the Special Duty Allowance to the Applicants.

8.2 That the Hon'ble Tribunal may be pleased to pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.3 Cost of the application.

9) INTERIM ORDER PRAYED FOR:

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

10] APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O./BANK DRAFT

I.P.O.No./Bank Draft:

Date of Issue :

Issued from :

Payable at :

12) LIST OF ENCLOSURES:

As stated in index.

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Verification

I, Sri Nomal Chandra Das, working in the office of the Area Manager, Canteen Store Department, Army Supply Depot Road, PO-Dimapur, Nagaland I am one of the applicants of the instant application; the other applicants have authorized me to sign this verification on their behalf. I do hereby verify the statements made in accompanying application and in paragraphs 4.1 to 4.3, 4.5, 4.6, 4.10, 4.11 —

_____ are true to my knowledge and those made in paragraphs 4.4, 4.7, 4.8, 4.9 —
_____ are true to my information being matter of records and which I believe to be true and those made in paragraph 5 are true to my legal advise and I have not suppressed any material facts.

And I signed this verification on this day 28th of March 2004 at Guwahati.

Nomal Ch. Das

Declarent.

1: 8 - 20 - 25 - 46 - 18 - 11 ANNEXURE - 6
Annexure-1 (Extract)
No. 20014/2/83/E.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 States of Assam, Nagaland, Manipur, Meghalaya 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 Staff Administrative Reforms, to review the existing allowances & Administrative Refers, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) Tenure of posting/deputation.

x x x x x x x

ii) Weight-age for Central deputation/training abroad and special mention in confidential Record.

x x x x x x x

iii) Special (Duty) Allowance :

Central Government civilian employees who have All India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not

Contd..

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.

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

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.

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SO/- S.C. KARNALIK
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

Attended
J. L. /
Private

Contd..

OFFICE MEMORANDUM,

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

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid*, were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North-Eastern Council when stationed in the North-Eastern Region.

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

- (I) Tenure of Posting/Deputation
The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.
- (II) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records
The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

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

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

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

Attest-
[Signature]
[Signature]

79-2-21-23-30 ✓

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/Lillabari/Silchar and 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.

M. A. C. / 1 / 1

20-20-201-23- ✓

(viii) Children Education Allowance and Hostel Subsidy
The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt. (Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 200 respectively per child.

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

(x) House Rent Allowance for Employees in Occupation of Hired Private Accommodation
The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting
As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

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

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

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

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issued for 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

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.

Attested
J.S. [Signature]
[Signature]

34-8-28-
-24-
CULT CASE
POST IMMEDIATE
ANNEXURE-10

Cabinet Secretariat
(E.A.I. Section)

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

SSB Directorate may kindly refer to their letter No. 12/99/AT/99(10)-2369 dated 31.3.2000 on the subject mentioned above.

2. The points of doubt raised by SSB in their letter No. 12/99/AT/99(10)-5282 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department 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 judgement 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 Govt. employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their letter No. 11(3)/95.3/IT(B) dated 1.5.97.
 - 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.
 - b) An employee hailing from the NE Region selected 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.
 - ii) An employee belongs to N.E. Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of the order by Ministry of Finance on 13.2.2001/3/93-3.12 dated 14.12.99 and 20.4.97) read with

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A. S. S. /
A. S. S. /

35-25-9-26-
ON 20014/16/06 E.T.I.(D) dated 1.12.00 but subsequently the post/cadre was centralised with common seniority list/promotion/All India Transfer Liability etc. on his continuing in the NE Region though they can be transferred out to any place outside the NE Region having All India Transfer Liability.

iii) An employee belongs to NE Region and subsequently posted outside NE Region. Whether he will be eligible for SDA if posted/transferred to NE 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 re-posted to NE Region after sometime serving in non-NE Region. ✓ YES

v) The MOP, Deptt. of Expt. vide their 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 SDA/DGS, there is a common recruitment system based on All India basis and promotion is also done on the basis of All India common seniority basis. 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 NE Region or posted to NE Region from outside the NE Region.

In case the employee hailing from NE Region is posted within NE Region he is not eligible for SDA E.I.I. once transferred out of that Region

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Admission

Admission

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vi) Based on point (iv) above, some of the units of SSB/DGS have authorised payment of SDA to the employees hailing from NE Region and posted within the NE Region while in the case of others, the DACS have objected payment of SDA 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.

It has already been clarified by HOF that a clause in the appointment order regarding All India 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 20/4/1991 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 NE 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 recovered from the date of its payment. It may also be added that the payment made to the ineligible employees hailing from NE Region & posted in NE Region be recovered from the date of payment or after 20th Sep 94 whichever is later.

3. This issues with the concurrence of the Finance Division Cabinet Secretariat vide Dy.No.1349 dated 11.10.99 and Ministry of Finance (Expenditure)'s I.D.No.1204/E-II(B)/99 dated 30.3.2000.

Sd/-
(P.H. THAKUR)
DIRECTOR (CR)

1. Shri R.S. Bedi, Director, ARC
2. Shri R.P. Kureel, Director, SSB
3. Brig (Retd) G.S. Udani, IG, SFF
4. Shri S.R. Mehra, JD (P&C), DCS
5. Shri Ashok Chaturvedi, JS (Pers), R&W
6. Shri B.S. Gill, Director of Accounts, DACS
7. Smt. J.H. Menon, Director-Finance (S), Cab. Secy.
8. Col. K.L. Jaspal, CMA, CTA

Cabinet Secretariat No. 20/12/99-En

Abhishek
Q.L.
Sumit

Atul
18
Pravil

C S D. DEPOT
Dibrugarh

THE R M (East)
C S D Complex
Naranyi

DPD/0020/22/EST/1593

03 Dec'05

SUB : PAYMENT OF SDA

Reference our letter No-DPD/0020/22/EST/1241
dtd 26th Sept'03 on the above subject.

H O have released the payment of SDA for some of the
staffs whose SDA was stopped vide HO letter No-6D/ES/Pay-
sheet/DPD dtd Nov'03 after signing the undertaking. But
some of the staff are still not getting the SDA as per
above referred letter.

The name of the individuals are as under :-

S.No.	P.No.	Name	Design
1.	1743	Shri R.K.Chakrabarty,	Accd.
2.	1243	.. A. Deb,	Supdt (P.C.)
3.	3190	.. N.C.Das,	Datta
4.	3886	.. K. L. Deb Nath,	Capt
5.	4798	.. Bhaj Bahadur,	W/Off
6.	6011	.. J. Bhidas	Cleaner
7.	6005	.. B. C. Baruah	W/Man
8.	5315	.. Vijay Kumar	..

Encl :- A/A

(D. H. SARKAR)
AREA MANAGER

CC : THE EGN (F & A)
CSD HO
KJMSAI

:- For information please. Ref letter
No-6D/ES/Paysheet/DPD/ dtd Nov'03.

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Adm

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.

...Respondents

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

ORDER (ORAL)

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-1/G, P.S., JIO-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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- 29 -

Court subsequently clarified by the department.

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 reposted 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(SR), 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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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)

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प्रमाणित प्रतिलिपि

Section Officer (J)

জাতীয় প্রশাসনিক (সিনিয়র) বিভাগ
Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক, গুৱাহাটী-৪
Guwahati Bench, Guwahati-4

গুৱাহাটী : বঙ্গবন্ধু, গুৱাহাটী-৪

K 3/9/2017

Attested
[Signature]

ORDER SHEET

Original Application No : 11/03
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

ANNEXURE - 111

Applicant(s): Manik Sengupta

- Vs. -

Respondent(s): U. C. T. (Govt)

Advocate for the Applicant(s): Adil Ahmed

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

Name of the Registry	Date	Order of the Tribunal
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25.4.2003 . . Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.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 Employees 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 aforementioned considerations are totally irrelevant 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/COMSE-GR/2(2)/2002-A/6830-34 dated 09.12.2002 issued by the respondent No.4 is thus set aside and quashed.

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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

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অর্থিক প্রশাসনিক আদালত
Tribunal Officer (Jr)
অর্থিক প্রশাসনিক আদালত
Tribunal Officer (Jr)
অর্থিক প্রশাসনিক আদালত
Tribunal Officer (Jr)
অর্থিক প্রশাসনিক আদালত
Tribunal Officer (Jr)

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Original Application No : 80/07
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) Ranjit Subrahman

Respondent (s) H. O. E. Ann.

Advocate for the Applicant (s) M. Chandra G. N. Chakraborty
Mr. A. S. Ray

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

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, Missamari save and except applicant No.9 who was posted at Port Blair Canteen Store Department at the time of filing this application.

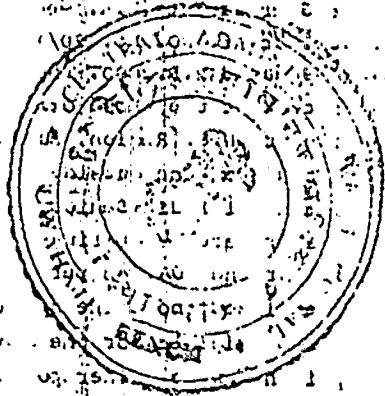
Considering the nature of the cause of action and relief sought for, the applicants were allowed to espouse their cause in a single application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1985.

According to the applicants, they were paid SDA in terms of memorandum dated 14.12.1933, 1.12.1936 and 22.7.1978 and the same was sought to be stopped whereupon the applicants moved this Tribunal by the O.A.

The respondents submitted written statement and contended that in view of the decision rendered by the Supreme Court in S. Vijaya Kumar and Ors. and like cases the Ministry of Finance issued appropriate direction for taking appropriate measure in regards payment of SDA vide communication dated 29.5.2002. According to the respondents SDA is admissible only to civilian employees posted from the outside region and not others. The decision of the Supreme Court in U.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

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J. S. [Signature]
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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 Cab. Sectt. UO. No. 20/12/99- EA-1-1799 dated 2.5.2000. There is no dispute that the those officers who belong to N.E. Region, subsequently posted from the outside region have common All India Seniority and All India Transfer Liability are eligible for the SDA. As per memorandum mentioned above the applicants are also eligible for the SDA. The applicants were either posted North East on public interest or transferred out from North East and posted out who were subsequently reposted in N.E. Region. The above communication clarified and resolved the issues in favour of these applicants. In the circumstances, it would not be appropriate to deny the claim of the applicants.

Accordingly, the application is allowed in the light of the decision of this Bench in U.A. No. 38/2001 disposed on 12.9.2001.

The application is allowed.
No order as to costs.

SC/VICE CHAIRMAN

(CERTIFIED) TRUE COPY

Section Officer (J)
C.A.T. GUWAHATI Bench
Guwahati 781 015

Attest
J.S. Dwyer

ANNEXURE - H

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- 301/03

Misc Petition No: /

Contempt Petition No: /

Review Application No: /

Name of the Applicant(s): K R Das & an.

Name of the Respondant(s): us 9 & an.

Advocate for the Applicant:- Mr. A. Ahmed

Advocate for the Respondat:- CS SC.

Dates of the Registry Y date X Order of the Tribunal

17.2.2004

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

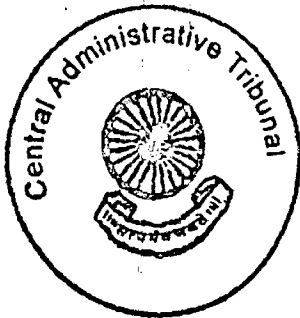
By this application the applicants have claimed Special (Duty) Allowance (SDA for short) on the strength of the Circular No. 20-12-1999-EA-1-1789 dated 2.5.2003 of the Cabinet Secretariat.

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 J.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.



*Certified to be true Copy:

প্রমাণিত প্রতিলিপি

Section Officer (J)

C.A.T. GUWAHATI BANCH

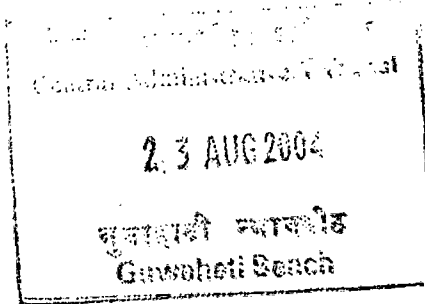
Guwahati-781005

20/2/04

nk

(K. V. PRAHLADAN)
Administrative Member

Att. Secy



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

O.A. NO. 77 OF 2004

Shri N.C. Das

- Vs -

Union of India & Ors.

In the matter of :

Written Statement submitted by
the respondents.

The humble respondents beg to submit the parawise
written statement as follows :-

1. That with regard to the statement made in
para 1, of the application the respondents beg to state
that the Department of Expenditure, Ministry of Finance,
Govt. of India issued an office memorandum F. No. 11(5) /
97-E-1 1(B) dated 29.05.2002 wherein the Ministry gave
various eligibility criteria for Special Duty Allowance
as upheld by the supreme Court of India.

A photo sheet copy of said office memorandum
dated 29.05.02 issued by Ministry of Finance,
Govt of India is annexed herewith and marked
as Annexure - R-1.

A Clarification published at Sl. No. 130 of
Swamy's News for the month to Sept 2002 at
page 75 to 78 are enclosed herewith and

marked as Annexure R-2.

It is further submitted that the Special Duty Allowance in the North East can be paid to those only who are posted there from outside and not to those locally posted.

Photo Copies of Judgements dated 20.09.94, 23.02.95 and 25.10.96 of Hon'ble Supreme Court are enclosed herewith and marked as Annexures- R-3, R-4, and R-5 respectively.

As regards Judgements passed by this Hon'ble Tribunal in O.A. No. 301/2003 and O.A. No. 30/2003 are concerned, the respondents have already challenged the impugned orders passed by the Hon'ble CAT Guwahati by way of filing Appeal in Hon'ble High Court, Guwahati. Hence, it is submitted that the O.A. Be dismissed on merit.

2. That with regard to paras 2, 3, and 4.1, of the application the respondents beg to offer no comments.

3. That with regard to para 4.2, of the application the respondents beg to state that it is correct that the applicants are working in CSD Depot Dimapur.

4. That with regard to para 4.3, of the application the respondents beg to offer no comments.

Contd.....

5. That with regard to the statement made in para 4.4, of the application the respondents beg to state that so far as admissibility of Special Duty Allowance to the applicants in terms of OM dated 14 Dec 1983, and 22nd July 1998 is concerned, Respondents submit that an Appeal filed by Telecom Department (Civil-Appeal No. 7000 of 2001 arising out of SLP No. 5455 of 1997, Hon'ble Supreme Court of India has ordered on 05 Oct 2001 that this Appeal is covered by the Judgement of this Court in the case of UOI & Others - Vs- S Vijay-Kumar reported as 1994 (Supp-3) SCC, 649 and followed in the case of UOI & Others. Executive Officers Association, Group 'C' 1995 (Supp-1) SCC 757. Therefore, this appeal is to be allowed in favour of UOI. In view of the aforesaid Judgement, the criteria for payment of Special Duty Allowance, as upheld by the Supreme Court is reproduced as under.

✓ "The Special Duty Allowance shall be admissible to Central Govt. employees having All India Liability on posting to North Eastern Region (including Sikkim) from out-side the region".

Consequent to the Hon'ble Supreme Court Judgement UOI, Ministry of Finance, Deptt. of Expenditure has issued OM No. F. No. 11(5)/97-E-11(B) dated 29.05.02 (Annexure-R-1).

✓ Respondents further beg to state that Special Duty Allowances are being provided to those persons from outside the North Eastern Region to work in the North -

North Eastern Region atleast for two to three years of tenure posting.

6. That with regard to the statement made in paras 4.5 & 4.6, of the application the respondents beg to state that repeat and reiterate what is stated above. Further, respondent beg to state that the Government of India has issued latest OM No. F.No. 11(5)/97-E-11(B) dated 29.05.02 based on Hon'ble Supreme Court Judgement and the OM dated 14.12.1983 is superseded in view of latest GOI, Ministry of Finance, Department of Expenditure dated 29.05.02.

7. That with regard to the statement made in paras 4.7, 4.8 & 4.9, of the application the respondents beg to state that subsequent to the issue of OM No. F. No. 11(5)/97-E-11(B) dated 29.05.2002 by Govt. of India, Department of Expenditure, Ministry of Finance, payment of SDA has been clarified. Hence, the applicants are not eligible to get Special Duty Allowance as they are from North Eastern Region. Further it is submitted that Special Duty Allowance were paid to some of the applicants in O.A. No. 30/2003 in view of Judgement dated 03.06.2003 in O.A. No. 30/2003 of Hon'ble CAT, Guwahati after obtaining an undertaking from all concerned that the amount so paid will be refunded in full in case Govt. decision is contrast. It is further submitted that the respondents have already filed Writ Petition in Hon'ble High Court, Guwahati against impugned order passed in OA No. 30/2003 and 301/2003.

8. That with regard to the statement made in para 4.10, of the application the respondents beg to state that the applicants are Defence Civil Employees from the North Eastern Region. The grievances of the Applicants that they are eligible to get Special Duty Allowance though the applicants are from North Eastern Region working in North Eastern Region of India is against the Judgement passed by the Hon'ble Supreme Court and also latest GOI Ministry of Expenditure OM dated 29.05.2002.

9. That with regard to the statement made in para 4.11, of the application the respondents beg to state that repeat and reiterate what is stated at paras 4.8 & 4.9 above.

10. That with regard to para 4.12, of the application the respondents beg to offer no comment.


11. That with regard to paras 4.13 to 5.8, of the application the respondents beg to state that repeat and reiterate what is stated above.

Verification.....

V E R I F I C A T I O N

I, Vinod Kumar, Regional
Manager (East), Cantonment Stn Spt, Guwahati, do
hereby verify that the statements made in paragraphs 2,
to // of the written statement are true to
my knowledge, those made in paragraphs / being
matter of records are true to my information derived
therefrom which I believe to be true and those made in
the rest are humble submissions before the Hon'ble Tribunal.
I have not suppressed any material fact.

And I signed this verification on this th
day of , 2004.


Dependent
VINOD KUMAR
Regional Manager (East)