

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Kalish  
27.11.17

FORM NO. @  
(See Rule 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 294/05

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) K-N. Sogor Jans

Respondent(S) H.O.P. Jans

Advocate for the Applicants M. Chanda, G.R. Chakraborty  
S. Nath

Advocate for the Respondent(S) G. Bishnaya CGSC  
Rly St. Counsel

Notes of the Registry	Date	Order of the Tribunal
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29.11.2005

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

Admit. Issue notice to the respondents. Written statement, if any, within six weeks.

There will be a interim direction not to recover any excess payment already made from the applicant till their next posting.

Post on 12.1.2006.

*[Signature]*  
Vice-Ch

bb

Notice & order sent to D/section for issuing to resp. Nos. 1, 2 & 3 by regd. A/D post.

*[Initials]* D/No = 1669 to 1671  
Dt = 8/12/05.

Contd.....

20.01.2006 Present : Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

19-1-06  
Notice issued to  
all respondents.  
Service awaited.  
bm

Ms. U. Das, learned Addl. C.G.S.C. for the respondents wanted further time to file reply statement. Let it be done.

Post on 23.2.2006. Interim order dated 29.11.2005 shall continue till the next date.

Pl. comply. order dated 20.1.2006.  
MS 20.1.06.

Vice-Chairman

Order dt. 20/01/06  
issuing to learned  
advocate's for both  
the parties.

23.02.06.

When the matter came up for hearing Ms. U. Das learned Addl. C.G.S.C. wanted further time to file written statement. Let it be done.

Post the matter on 24.3.06. Interim order dated 29.11.05 shall continue till the next date.

Vice-Chairman

The learned counsel appearing for the respondents has submitted that he would like to have some more time to file written statement. Let it be done. Post the matter on 28.4.06.

Vice-Chairman

Ms. Das, learned Addl. C.G.S.C. submits that reply statement has been filed. Let it be brought on record, if it is otherwise on record. Applicant is at liberty to file rejoinder, if any within 3 weeks. Post on 31.5.2006.

Interim order to continue till the next date.

Vice-Chairman

comply order dated 06.06.

received a copy of  
order dt. 23/2/06  
Lisha Das  
Addl. C.S.C.  
24/2/06.

28.4.2006

3-3-06

Wks have been filed.

Wks have been filed.

bb

27.4.06

O.A 294/2005

Notes of the Registry	Date	Order of the Tribunal
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1.5.06  
W/S Submitted  
by the Respondents.

*[Signature]*

Order dt 28/4/06  
issuing to learned  
advocate's for both  
the parties.

2/5/06  
30-5-06

No rejoinder has  
been filed.

*[Signature]*

Order dt-01/5/06  
issuing to learned  
advocate's for both  
the parties.

11/6/06

21-6-06

No rejoinder has  
been filed.

*[Signature]*

Order dt- 22/6/06  
issuing to learned  
advocate's for both  
the parties.

23/6/06

No rejoinder has  
been filed.

28.06.

31.5.2006

Mr.M.Chanda, learned counsel for the  
applicant ~~xxxx~~ requests for time to file  
rejoinder. Let it be done. Post on 22.6.06.  
Interim order shall continue till the  
next date.

Vice-Chairman

bb

22.6.2006

Learned counsel for the applicant  
wanted ~~ka~~ time to file rejoinder. Let it  
be done.

Post on 10.07.2006. Interim order  
will continue till the next date.

Vice-Chairman

mb

10.07.2006

Learned counsel for the applicant  
wanted time to file rejoinder.

Post on 28.08.2006. Interim order  
will continue till the next date.

Vice-Chairman

mb

28.7.2006

The learned counsel for the  
applicant submits that the pleadings  
are complete and the case may be posted  
for hearing before the Division. In the

Post the matter for hearing on  
8.8.06. In the meantime the applicant  
may file rejoinder, if any. the interim  
order will continue till the next date.

Vice-Chairman

nkm



Notes of the Registry

Date

Order of the Tribunal

08.08.2006

order dt. 10/7/06  
issuing to learned  
advocate's for both  
the parties.

Learned counsel for the applicant  
submitted that he is not ready in the  
matter and sought for adjournment.

Post on 24.08.2006. Interim order  
will continue till the next date.


  
Member

  
Vice-Chairman

mb

24.08.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Ms U. Das, learned Addl.  
C.G.S.C. for the Respondents submitted  
that she may be granted some time. Let  
the case be posted on 06.09.2006. Interim  
order will continue till the next date.

  
Vice-Chairman

/mb/

order dt. 8/8/06  
issuing to learned  
advocate's for both  
the parties.

① Wks has been  
filed.

② No Reply has  
been filed.

23.8.06

order dt. 24/8/06  
issuing to learned  
advocate's for both the  
parties.

25/8/06

06.09.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Mr M. Chanda, learned Counsel for the Applicant submits that he has filed rejoinder. Let it be brought on record, if it is otherwise in order. Ms. U. Das, learned Addl. C.G.S.C. for the Respondents wants time to take instruction. Let it be done.

Mr Chanda, learned Counsel for the Applicant submits that the para 4 of the earlier decision passed by this Tribunal was for consideration of the representation on the basis of record. But the Respondents did not look into the service records and passed the order without application of mind. Therefore, the Respondents may be directed to produce the records.

Ms. U. Das, learned Addl. C.G.S.C. for the Respondents persuasively and vehemently argued that the pleadings of the written statement have been filed on the basis of records available. Therefore, no record is necessary.

Considering the arguments made by the learned Counsel for the parties, I am of the view that this Court need not wait for hearing for production of records. However, the Respondents' counsel is directed to keep in readiness the records on the next date of hearing so that the matter may not be adjourned further.

Post on 21.09.2006.

L

Vice-Chairman

/mb/

7.9.06

Rejoinder submitted  
by the Applicant.

Hi:

Received

Chm

11/9/06

(C.D. Kumar)  
Assistant

The case is ready  
for hearing.

20.9.06

21.9.2006

Ms.U.Das, learned Addl.C.G.S.C. has produced the records (6 Registers that had been directed to be produced Registry is directed to put the same in sealed cover and keep in safe custody and produce the same in the next date.

post on 3.11.2006. Interim order shall continue till the next date.

Vice-Chairman

bb

3.11.06

After hearing the parties for some time the counsel for the respondents wanted to produce the posting order of the employees.

post on 11.12.06 for hearing.

Registry is directed to combine all the identical and similar matters pertaining to SDA and post those cases on the same date, wherever pleadings are complete. Wherever pleadings are not complete those matters are to be posted on a nearer date of 11.12.06.

Vice-Chairman

pg

11.12.06.

Since this is a SDA matter, Registry is directed to post the matter for hearing alongwith other SDA matters.

Vice-Chairman

lm

8.1.07.

Post the matter on 18.1.07.

Vice-Chairman

lm

20.1.07

Document Submitted in support of the claim of Applicants. Page 1 to 4.

Rev.

order dt. 21/9/06 issuing to learned advocates for both the parties.

22/9/06.

Received

Chm

(C.D. Kumar)  
313, office  
26/09/06

The case is ready for hearing.

21.11.06.

The case is ready for hearing.

8.12.06.

The case is ready for hearing.

17.1.07

OA: 294/2005

18.1.2007

Mr.M.Chanda, learned counsel for the Applicant submitted a set of documents on which Ms.U.Das, learned Addl.C.G.S.C. wanted to get instruction. Let it be done.

Registry will received the same if it is otherwise in order. Post the matter on 5.2.2007.

Vice-Chairman

/bb/

5.2.2007

Post on 28.02.2007. The matter will be de-linked from the part heard list and will be listed afresh for hearing.

In the meantime, the Respondents may file additional affidavit.

Vice-Chairman

/bb/

29.3.07. Counsel for the respondents is permitted to take Xerox copy of the records, which is produced, before this Court. Since they wanted to settle the dues. Post the matter on 1.5.07.

Vice-Chairman

lm

1.5.07

Counsel for the applicant has submitted that Gauhati High Court, Shillong Bench has issued identical matter recently. He will be produced the same before this Court. Post the mater on 7.5.07.

Vice-Chairman

15.2.07

Reply filed by  
The Respondents in connection  
Respondent  
page No. 1 to 17.

Ans:

The case is ready  
for hearing.

M  
28.3.07.

The case is ready  
for hearing.

M  
30.4.07.

OA-294/05  
-85

7.5.2007 Other similar/identical matters are posted for hearing on 5.6.07.

Post this matter also on 5.6.07 for hearing.

  
Vice-Chairman

/pg/

5.6.2007 This is a SDA matter. At the request of the learned counsel for the Respondents post the case on 13.6.2007 for hearing.

  
Vice-Chairman

/bb/


13.6.2007 Heard Mr.M.Chanda, learned counsel for the Applicant and Ms. Usha Das, learned Addl. C.G.S.C. for the Respondents.

Hearing concluded. Judgment reserved.

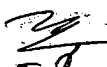
  
Vice-Chairman

/bb/

The case is ready for hearing.

  
11.6.07


The case is ready for hearing.

  
5.6.08

9 -  
OA. 294/2005

2.7.2007

Judgment pronounced in open Court,  
kept in separate sheets. The O.A. is  
allowed in terms of the Order. No costs.

  
Vice-Chairman

/bb/

Service books in  
Original and 1 photocopy

Received  
Alsha Das  
Addl CHSC  
05/7/07

2nd Copy of the Order

Alsha Das  
Addl CHSC  
05/7/07

Received  
copy of the order  
Duttar  
12/07/07

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.294 of 2005

DATE OF DECISION: 02.07.2007

Shri Khagendra Nath Gogoi and 5 others

.....APPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty  
and Mr S. Nath.

ADVOCATE(S) FOR THE  
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

Miss U. Das, Addl. C.G.S.C.

ADVOCATE(S) FOR THE  
RESPONDENT(S)

CORAM:

The Hon'ble Mr. K.V.Sachidanandan, Vice-Chairman

- |    |  |        |
|----|--|--------|
| 1. | Whether reporters of local newspapers may be allowed to see the Judgment ?                             | Yes/No |
| 2. | Whether to be referred to the Reporter or not?   | Yes/No |
| 3. | Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench and other Benches? | Yes/No |
| 4. | Whether their Lordships wish to see the fair copy of the Judgment ?                                    | Yes/No |

Vice-Chairman

.....

4/7/07

R

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 294 of 2005

Date of Order: This the 2<sup>nd</sup> day of July 2007.

The Hon'ble Shri K. V. Sachidanandan, Vice-Chairman.

1. Shri Khagendra Nath Gogoi,  
S/o of Late Dondeswar Gogoi,  
Assistant Central Intelligence Officer, Grade-I,  
SIB Office, Bhabendra Bhawan,  
Beltola Road, Guwahati-28.
  2. Shri Ajoy Kumar Dey,  
S/o of Late A.K. Dey,  
Assistant Central Intelligence Officer, Grade-I,  
SIB Office, Gongotri,  
P.O. Beltola, Guwahati-28.
  3. Shri Sanjit Kumar Nath  
Assistant Central Intelligence Officer, Grade-I,  
Bhabendra Bhawan,  
Beltola, Guwahati-28.
  4. Shri Nar Bahadur Chetri  
S/o of Shri Sal Bahadur Chetri,  
Assistant Central Intelligence Officer, Grade-I,  
Subsidiary Intelligence Bureau (MHA),  
Government of India,  
Udalguri, P.O. Udalguri,  
Distt.- Udalguri (Assam).
  5. Mrs Banani Bera Das,  
D/o Late Nemai Chandra Bera,  
Assistant Central Intelligence Officer, Grade-II,  
SIB Office, Gongotri,  
P.O. Beltola, Guwahati-28.
- ✓



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

.....Applicants

By Advocates Mr M. Chanda, Mr G.N. Chakraborty  
and Mr S. Nath.

- versus -

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

.....Respondents

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

.....


### ORDER

#### K.V. SACHIDANANDAN (VICE-CHAIRMAN)

There are six applicants in the O.A., out which it is said that applicant Nos.1, 2 and 3 have already retired. At the time of filing of the O.A. the applicants were working in the Department of Subsidiary Intelligence Bureau under the Ministry of Home Affairs, Government of India and belonged to the Group 'B' category officers of the Central Government. All the applicants are residents of North Eastern Region, who applied for the post of Assistant Intelligence Officer, Grade II pursuant to an advertisement published by the Government of India on all India basis and got selected on different

✓

dates. Annexure-I series are some of the appointment letters, which say that the applicants are liable to serve anywhere in India. The applicants were initially posted at New Delhi/Madhya Pradesh and then transferred and posted to the North Eastern Region and are saddled with All India Transfer liability in practice. The applicant No.3 was initially appointed on 08.02.1973 and posted at New Delhi and thereafter transferred to Subsidiary Intelligence Bureau (SIB for short), Shillong vide transfer order dated 02.03.1974 and all the other applicants were initially appointed either at New Delhi or Madhya Pradesh and subsequently posted to the North Eastern Region. The seniority of the applicants are maintained on All India basis by the Ministry of Home Affairs, Government of India and therefore it is clear that recruitment, promotion and seniority of the applicants are maintained on All India basis (Annexure-III). The Central Government employees having All India Transfer liability were granted Special (Duty) Allowance (SDA for short) vide O.M.No.20014/2/83/B.IV dated 14.12.1983 and SDA was granted to such Central Government civilian employees who are saddled with All India Transfer liability. The applicants were found eligible and the authorities started paying SDA to the applicants as per terms and conditions of O.M.s dated 14.12.1983, 01.12.1988 and also in terms of O.M. dated 22.07.1998. The payment was suddenly stopped without issuing any notice. Some of the applicants were paid SDA upto April 2004 and the others were paid till January 2004. The respondents have already started recovery of SDA with effect from 06.10.2001 in respect of applicant Nos.2, 3 and 4 and now decided to make recovery from the other applicants as well. No show cause notice was issued which is under challenge



before this Tribunal. Aggrieved by the said action of the respondents the applicants have filed this application seeking the following reliefs:


"8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order issued under letter No.E-26/NEA/84(5)/4493 dated 23.04.2004 (Annexure-IV) as well as impugned order dated 27.06.2005 (Annexure-IX Series) and further be pleased to declare that all the applicants are entitled to payment of SDA in terms of O.M. dated 14.12.1983, 01.12.1988, 22.07.1998 and also in terms of clarificatory O.M. dated 12.01.1996 and dated 29.05.2002.

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

2. The respondents have filed a detailed written statement contending that vide O.M. dated 14.12.1983, Government of India brought out a scheme extending certain facilities and allowances including SDA for the civilian employees of the Central Government serving in the North Eastern Region. This was done to attract and retain the services of officers coming from outside the North Eastern Region due to inaccessibility and difficult terrain. A reading of the provisions of the said O.M. will make it clear that these facilities and allowances have been made available only to those employees who are posted in the North Eastern Region from outside the region on transfer. By way of clarification the Government issued another O.M. dated 20.4.1987 (Annexure-R/2). Another O.M. dated 01.12.1988 was issued by the Government of India by way of clarification (R/3). In several cases the Tribunal refused to interfere in the said matter. The

incentives granted by the Scheme are meant for persons posted to the North Eastern Region from outside and not for the local people residing in the North Eastern Region. The Government of India issued several clarifications and finally it was clarified that an employee belonging to the North Eastern Region, posted in the North Eastern Region having All India Transfer liability as a condition of service, shall not be entitled to grant of SDA. But, if such employee is transferred out of the North Eastern Region as reposted to the North Eastern Region on transfer from outside, in that case such employee would be entitled to SDA. The applicants, therefore, have no cause of action to agitate before this Tribunal. Mere stipulation of transfer liability in the appointment letters will not be enough to justify the grant of SDA. Posting of the incumbents to the North Eastern Region after induction training at IBCTS, New Delhi, DRTC Shivpuri (M.P.) etc. are their initial appointments, as the induction training to all Direct Recruit JIOs/ACIOs is prerequisite for appointment to the post of Direct Recruit JIOs/ACIOs in the Intelligence Bureau. Thus the applicants are not eligible for the facilities and allowances including the SDA in terms of the Ministry of Finance O.M. dated 14.12.1983 as the applicants are not posted to the North Eastern Region on their transfers from outside the North Eastern Region. Various Court judgments also justify the recovery of the excess amount paid to the applicants.

3. The applicants have filed a rejoinder reiterating the contentions and further contended that the offer of appointment was already made before sending the applicants for induction training and it was specifically laid down in the offer of appointment that in the event of failing to report for duty the offer of appointment would be



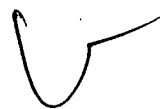
treated as cancelled. Therefore, the induction training has no relevance with the offer of appointment.

4. The respondents have filed additional reply statement enclosing certain documents to support their claim. The respondents in support of their case have also filed M.P.No.132 of 2006 producing the posting orders of the applicants.

5. I have heard Mr M. Chanda, learned counsel for the applicants and Ms U. Das, learned Addl. C.G.C.S. appearing on behalf of the respondents. The learned counsel for the parties have taken my attention to the various pleadings, evidence and materials placed on record.

6. The learned counsel for the applicant argued that the applicants have been selected for the post in the 1970s, much before the scheme for grant of SDA came into force and the applicants were directed to join on duty at New Delhi/Shivpuri wherein certain training was imparted. Thereafter, the applicants were transferred to the North Eastern Region with all attending benefits. The appointment letters and other records would reveal that the placement of the applicants to the North Eastern Region was transfer and not a posting and nowhere it is stipulated that the training is condition precedent. Therefore, the applicants are entitled to get the benefit of SDA.

7. The learned Addl. C.G.S.C., on the other hand, persuasively argued that it is indeed a condition precedent that the appointees should undertake the training, which is a condition precedent, and thereafter the applicants were posted to the North



Eastern Region. Therefore, it is a first posting and are designated as posting in the North Eastern Region and in that event the applicants are not entitled to the benefit of SDA.

8. I have given due consideration to the arguments, pleadings and materials placed on record. The learned counsel for the respondents was good enough to produce the service books of the applicants for the perusal of the court and I have given due consideration to all the documents including the service books produced by the respondents. Certain benefits were initially introduced by the Government of India vide O.M. dated 14.12.1983. Among other benefits SDA was also granted to such civilian employees of the Central Government who are saddled with All India Transfer liability. The relevant portion of the O.M. dated 14.12.1983 is reproduced as under:

"The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur and Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some time. The Government has appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in the region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows:


(iii) Special Duty Allowance

Central Government civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax, will however, not be eligible in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance

will not exceed Rs.400/- P.M. Special Allowance like Special Compensatory (Remote Locality) allowance, Construction Allowance and Project Allowance will be drawn separately."

9. It is also an admitted fact that the applicants were paid SDA upto January/April 2004 and by a subsequent impugned memorandum dated 23.04.2004 (Annexure-IV) recovery of the same was ordered. It is the case of both the parties that by virtue of O.M.s dated 14.12.1983 and 01.12.1988, it is categorically stated that employees who were initially appointed outside the region and subsequently transferred to the North Eastern Region cannot be denied the payment of SDA. The case of the applicants is that though the applicants belong to the North Eastern they were initially posted outside the region and then transferred to the North Eastern Region. Before filing this O.A. the applicants approached this Tribunal by filing O.A.No.118 of 2004 and by order dated 24.03.2005 this court disposed of the O.A. with the following observations:

"We have considered the submissions of the learned counsel for the parties. According to the applicants they were first appointed outside the NER - at Delhi and Madhya Pradesh and later transferred to NER. Annexure-IV communication purport to state that at Delhi and DRTC Shivpuri there was only induction training and not posting. It is in the realm of dispute question of facts, which have to be gone into by the respondents on the basis of the service records of the applicants. Accordingly, we direct the applicants to submit proper representation containing the facts situation and also enclosing copies of the relevant circulars and the three judgments (O.A.No.56/2000 dated 19.03,2001, O.A.No.237/2000 and O.A.No.30/2003) relied on by the applicants within a period of one month from the date of receipt of copy of this order, if such a representation is filed by the applicants, the Respondent No.2 will consider the same after giving opportunity of personal hearing to the applicants and pass a reasoned order within a period of two months from the date of receipt of the representation. It is further ordered that the interim order passed on 14.05.2004 in this proceedings with regard to recovery will continue till orders are passed on the representation to be filed by the applicants as directed hereinabove. A




copy of this order will also be produced alongwith the representation for compliance."

10. Thereafter, in furtherance of this order the impugned order rejecting the claim of the applicants was passed by the respondents, which is under challenge. So many modifications and clarifications were issued by the Government of India taking confidence of the rulings of the various courts including the Apex Court. The Hon'ble Supreme Court in the case of Union of India and others Vs. S. Vijaya Kumar and others reported in 1995 SCC (L&S) 189, upheld the provisions of the O.M. dated 20.04.1987 and also made it clear that only those employees who were posted outside the North Eastern Region and subsequently transferred to the North Eastern Region would be entitled to the grant of SDA. Such SDA was not available to the local residents of the North Eastern Region. The Hon'ble Supreme Court held as follows:

"The 1986 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station in the North Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the office memorandum of 1983 the subject was mentioned as quoted above is not enough to concede to the submission of Dr. Ghosh."


11. In a subsequent decision in Union of India and others Vs. Executive Officers Association Group-C, reported in 1995 (Supp.I) SCC 757, the Apex Court held that the spirit of the O.M. dated 14.12.1983 is to attract and retain the services of competent officers from outside and posted in the North Eastern Region which does not apply to the officers belonging to the N.E. Region. The question of attracting and retaining the services of the competent





officers who belong to North-Eastern Region itself would not arise. Therefore, the incentives granted by the said O.M. is meant for the persons posted from outside to the North Eastern Region and not for the local residents of the region. Thereafter, the Government of India, Ministry of Finance, Department of Expenditure issued O.M. dated 13.06.2001 regarding admissibility of SDA to Postal Department employees on their posting in the North Eastern Region. In the said O.M. it was clarified that there is no bar in eligibility of SDA for the officers belonging to the North Eastern Region, if they satisfy the criteria that their appointment in service/post is made on All India basis and the promotion is also done on the basis of All India Common seniority. However, it will be admissible when they are posted in the North Eastern Region from outside the region. Another O.M. dated 29.05.2002 was issued by the Government of India, Ministry of Finance, Department of Expenditure clarifying that SDA shall be admissible to Central Government employees having All India Transfer Liability on posting to the North Eastern Region from outside the region.

12. It is also an admitted fact of the respondents in the reply statement, discussing various judgments of the Hon'ble Supreme Court and also the O.M.s, that Central Government civilian employees who have got All India Transfer liability are entitled for the grant of SDA is they are posted to the North Eastern Region on their transfer from outside the North Eastern Region even if they are residents of the North Eastern Region. In other words their initial appointment/posting must be outside the North Eastern Region and they should come on transfer to the North Eastern Region. The concept has also been accepted by the Hon'ble Gauhati High Court in




W.P.(C) No.5087/1999 and series of cases by order dated 23.02.2006, the operative portion of which is reproduced below:

"In view of the law laid down by the Apex Court, as discussed above and also in view of the discussion relating to the finality of judgment, we hold that the officers and employees, who belongs to the region other than the N.E. Region, will be entitled to SDA. The persons belonging to the other parts of the country other than the N.E. Region, if initially appointed and posted in N.E. Region shall not be entitled to such allowance. The Postal employees belonging to N.E. Region but posted in the said Region from out side the region on their promotion on the basis of the All India Common Seniority List shall also be entitled to SDA from the date of such posting. The employees and officers, other than, the employees and officers mentioned above, shall not be entitled to SDA and the authorities shall be entitled to recover SDA already paid to them after 5.10.2001 in terms of the office memorandum dated 29.5.2002 and the amount already paid upto 5.10.2001 towards SDA shall not be recovered. However, the recoveries, if any already been made, need not be refunded. This is also subject to the inter party judgment and order that have been passed by any competent Court or Tribunal, which have attained its finality."

13. Now, since the legal position is very settled that a resident of the North Eastern Region appointed outside the North Eastern Region and then transferred to the North Eastern Region would be entitled to the grant of SDA. This was also upheld by this Tribunal in O.A.No.116 of 2004 by order dated 12.08.2005. The operative portion of the said order is reproduced as under:

"In para 52 we have clearly stated that SDA is admissible to Central Government Civilian employees having All India Transfer liability on posting to North Eastern Region from outside the Region. We had not made any distinction in that regard with reference to Central Government Civilian employees transferred from outside the region and those posted for the first time from outside the region. According to us SDA is admissible to both categories of employees mentioned above. Though the applicants have clearly stated that they satisfy all the aforesaid conditions, we are of the view that an opportunity must be given to the respondents to verify as to whether the aforesaid conditions are satisfied. We note that the respondents in the impugned communication did not give any reason as to why the applicants are not entitled to SDA. For the said reason we quash the




impugned communication at Annexure-VII series and direct the respondent Nos.2 and 3 to verify as to whether the applicants are permanent residents of outside North Eastern Region, whether they are posted from outside the North Eastern Region to North Eastern Region on the basis on All India Selection by the Union Public Service Commission, as to whether the applicants have All India Transfer liability and as to whether their promotions are based on All India Common Seniority list. If all the above circumstances are satisfied in view of our decision contained in para 52 of the order dated 31.5.2005 in O.A.No.170/1999 and connected cases extracted hereinabove, the applicants will be entitled to the grant of SDA. In such event the applicants shall be entitled to all consequential benefits flowing therefrom. The respondents will pass a reasoned order and communicate the same to the applicants within four months from the date of receipt of this order."

14. It is an admitted fact that the applicants are residents of North Eastern Region. The question revolves round only to the point whether the applicants have been initially posted elsewhere and then transferred to the North Eastern Region or their appointment was initially in the North Eastern Region. Admittedly, the applicants have been appointed much earlier to the implementation of the Scheme. The applicants have produced the offer of appointment letters (Annexure-I series) dated 27.01.1973. Clauses 4 and 6 of one such letter is reproduced below:

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


6. If Shri Sanjib Kumar Nandy accepts the offer on the above terms, he should report to G. Branch, Level VII East Block 8, R.K. Puram, New Delhi-22 for duty positively on 5.2.73. If he fails to report for duty by the prescribed date, the offer will be treated as cancelled. He should go through the instructions attached with the offer for compliance. He should inform us immediately by telegram on or before \_\_\_\_\_ of his willingness or otherwise to accept the post of Junior Intelligence Officer and join us on 8.2.73."



15. On a reading of the said offer of appointment letter it is clear that the post is temporary for a specified pay scale and on joining the incumbent will be required to enroll as a member of the Intelligence Bureau Relief Fund and should report to New Delhi for duty positively on the prescribed date and if he fails to report for duty by the prescribed date the offer of appointment will be treated as cancelled. Further, it is stated in the Memorandum dated 21.03.1972, produced by the applicants, as follows:

"In pursuance to transfer order No.8/TP (CI)/71 (7) dated 22.2.72, the following JIOs of XXV Batch are relieved of their duties at I.B. Hqrs. with effect from 21.3.72 (A.N.) with instructions to report for duty at the places mentioned against their names, after availing of usual joining time."

16. The above memorandum clearly shows that the persons mentioned therein have been transferred to the North Eastern Region after permitting them to avail usual joining time and they have been relieved of their duties from the I.B. Headquarters. It is very specific that this is in pursuance to transfer order No.8/TP (CI) 71 (7) dated 22.02.1972. Therefore, it is quite evident that the persons mentioned therein have been initially appointed outside the North Eastern Region - Delhi etc. and thereafter posted to the North Eastern Region. The Service Books that have been produced by the respondents will also reveal that this was a transfer of the applicants to the North Eastern Region and they have been relieved of their duties from the Headquarters. It is also borne out that when they were working in the other regions they have been paid full pay and other attending benefits and on transfer to the North Eastern Region they have been given joining time as well. Nowhere in the Service Books of the applicants it is mentioned that the training that has been imparted




was a condition precedent. Discussing the maintenance of Service Book Form F.R.10, Swamy's Compilation of F.R.S.R. states as follows:

"A service book in Form F.R.10 should be maintained for every non-Gazetted Government servant for whom it is prescribed under the orders of the Government in this book every step in the Government servant's official life should be recorded and each entry should be attested by such superior officer as may be prescribed by the State Government.

If a Government servant is transferred to foreign service, the Audit Officer referred to in paragraph 5 above will, on receipt of the service book from the head of the office or department concerned, note in it, under his signature the order sanctioning the transfer, the effect of the transfer in regard to leave admissible during foreign service and any other particulars which he may consider to be necessary, and return the same to the officer from whom he received it. On the Government servant's re-transfer to Government service, the Audit Officer will again note in the service book, under his signature, all necessary particulars concerned with the foreign service. All entries relating to the time spent in foreign service should be attested by the Audit Officer."

17. The learned counsel for the respondents next made an attempt for producing certain documents to establish that it was not a transfer but only a posting and the learned Addl. C.G.S.C. quoted a decision of the Hon'ble Supreme Court distinguishing what is posting and what is transfer. But the learned counsel for the applicants has quoted a decision of the Hon'ble Supreme Court in Commissioner of Police, Bombay Vs. Gordhandas Bhanji, reported in AIR (39) 1952 SC 16 and argued that once an entry is made in a public document like Service Book, it cannot be overdone by subsequent explanation. The relevant portion of the judgment is quoted below:

"..... We are clear that public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanation subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed



objectively with reference to the language used in the order itself."

18. After the case was reserved for orders on 13.06.2007, the learned counsel for the respondents produced a copy of the judgment of the Hon'ble Gauhati High Court in W.P.(C) No.1965 of 2003 and therefore the O.A. was placed as "To be Spoken To" and thereafter the matter was heard again on 20.06.2007. The learned counsel for the respondents argued that this judgment of the Hon'ble Gauhati High Court which was filed against the orders of the Tribunal in O.A.Nos.63 of 2002 and 71 of 2002 is squarely applicable in the present case. The learned counsel for the applicants, on the other hand, submitted that the said judgment is not covering on the point in question and it squarely dealt with the question of recovery of the SDA paid in excess to the applicants in O.A.Nos.63 and 71 of 2002. The applicants therein were originally appointed in the North Eastern Region and they were granted the benefit of SDA by mistake, which was sought to be recovered by the respondents, which was interfered with by this Tribunal. Thereafter appeal was filed before the Hon'ble Gauhati High Court. After considering various judgments on the question of recovery, the court observed that SDA is to be granted to the officers transferred from outside to the North Eastern Region and those officers originally appointed in the North Eastern Region are not entitled to the same and quoting a judgment of the Hon'ble Supreme Court in Chandigarh Administration and others Vs. Naurang Singh and others, reported in (1997) 2 SLR 230, the Hon'ble High Court observed that it was a mistake of granting the excess amount to the applicants therein and "an evident mistake cannot constitute a valid basis for compelling the administration to keep on

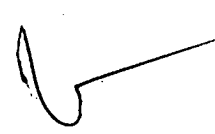


repeating that mistake". Therefore, the point in issue that is adjudicated in the matter is whether the excess amount paid by mistake to the applicants therein could be recovered or not. In other words the court has adjudicated on an issue of recovery, but with a clear observation that those officers transferred from outside to the North Eastern Region are entitled to SDA.

19. Therefore, I am of the opinion that this judgment is on a different issue and not applicable in the present case and the ratio of granting the benefit to the officers who were transferred from outside to the North Eastern Region is also to be borne in mind. Therefore, this judgment will not help the respondents in emphasizing their contention.

20. I am fully convinced by the documents placed before me and a perusal of the service books will show that the placement of the applicants to the North Eastern Region cannot be treated as a posting but a transfer and transfer alone. Therefore, the denial of the benefit of SDA to the applicants is unjustified.

21. In the conspectus of the facts and circumstances of the case I allow the applications and direct the respondents to grant the benefit of SDA to the applicants since the applicants are found eligible for the same. Recovery, if any, made will also be refunded to the applicants and all arrears will be paid to the applicants as expeditiously as possible, in any case within three months from the



date of receipt of this order. However, the applicants will not be entitled to any interest. Since some of the applicants have already retired the matter will be expedited.

The O.A. is allowed. In the circumstances no order as to costs.

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'C' shape with a horizontal line extending to the right.

( K. V. SACHIDANANDAN )  
VICE-CHAIRMAN

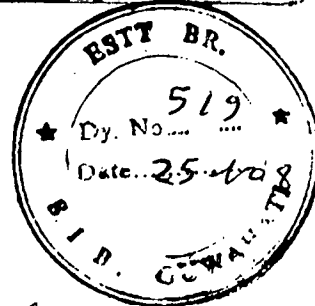
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22 - Annex - 2

स्टाम्प और फोलियो की अपेक्षित रक़मा सुचित करने की तिथि Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आपेक्षक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
21/1/08	21/1/08	23/1/08	23/1/08

**THE GAUHATI HIGH COURT**  
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)  
**CIVIL APPELLATE SIDE**



Appeal from  
Civil Rule

W.A.C. No. 6006 of 2007

Appellant  
Petitioner

The Union of India & Ors

Versus

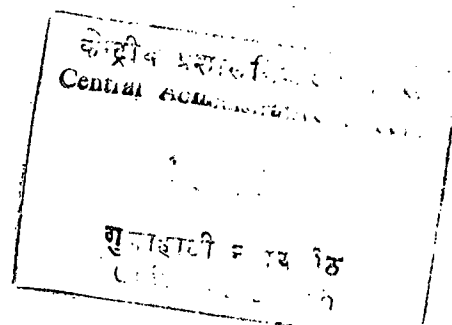
Shri Khagendra Nath Gogoi & 5 Others

Respondent  
Opposite Party

Appellant  
For Mr. K. Paul, Advocate, (C.G.C.)  
Petitioner

Respondent  
For  
Opposite Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports orders or proceedings
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Attested  
[Signature]  
Section Officer  
S.I.B. (MHA)  
Govt. of India  
Guwahati.

Attested  
[Signature]  
Section Officer  
S.I.B. (MHA)  
Govt. of India  
Guwahati.

**IN THE MATTER OF :-**

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

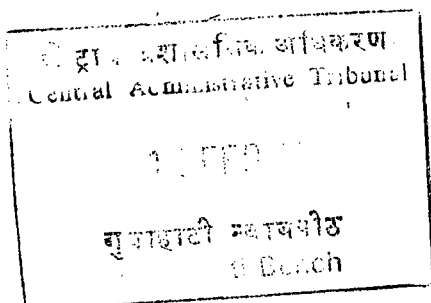
2. The Director,  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi.

3. The Assistant Director,  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
Beltola, Guwahati - 28.

..... **PETITIONERS.**

**-VERSUS-**

1. Shri Khagendra Nath Gogoi,  
S/o Late Dondeswar Gogoi,



Assistant Central Intelligence Officer,  
Grade-I, SIB Office, Bhabendra Bhawan,  
Beltola Road, Guwahati-28.

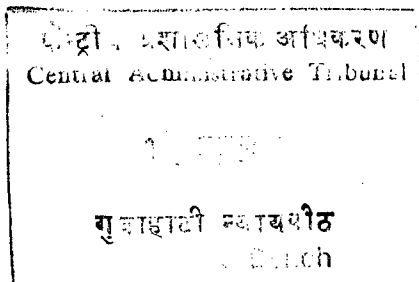
2. Shri Ajoy Kumar Dey,  
S/o Late A.K. Dey,  
Assistant Central Intelligence Officer,  
Grade-I, Bhabendra Bhawan, Beltola,  
Guwahati-28.

3. Shri Sanjit Kumar Nath  
Assistant Central Intelligence Officer,  
Grade-I, Bhabendra Bhawan, Beltola,  
Guwahati-28.

4. Shri Nar Bahadur Chetri,  
S/o Shri Sal Bahadur Chetri,  
Assistant Central Intelligence Officer,  
Grade-I, Subsidiary Intelligence Bureau  
(MHA), Government of India, Udalguri,  
P.O. Udalguri, Dist. Udalguri (Assam).

5. Mrs Banani Bera Das,  
D/o Late Nemai Chandra Bera,  
Assistant Central Intelligence Officer,  
Grade-II, SIB Office, Gongotri,  
P.O. Beltola, Guwahati-28.

6. Shri Gabriel Kisku



26

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

..... **RESPONDENTS/ Applicants.**

केन्द्रीय प्रशासक विभाग  
Central Administrative Department  
गुवाहाटी न्यायेपीठ  
Guwahati Bench

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	W.P. NO.6006/2007	4

BEFORE  
HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR  
HON'BLE MR. JUSTICE B.P.KATAKEY

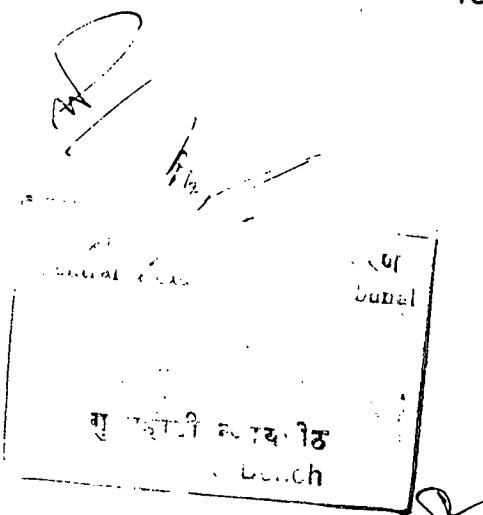
07.12.2007

(Chelameswar, CJ)

Aggrieved by the order dated 02.07.2007 of the Central Administrative Tribunal in Original Application No.296 of 2005 the Respondents therein preferred the present writ petition.

The Respondents herein filed the abovementioned original application before the Central Administrative Tribunal challenging the decision of the petitioners herein to stop the benefit of Special Duty Allowance and also proposal for recovery of the amount already paid by the petitioners under the abovementioned Special Duty Allowance. The original application came to be allowed by the Tribunal. The operative portion of the order reads as follows -

"21. In the conspectus of the facts and circumstances of the case I allow the applications and direct the respondents to grant the benefit of SDA to the applicants since the applicants are found eligible for the same. Recovery, if any, made will also be refunded in the applicants and all arrears will be paid to the applicants as expeditious as possible, in any case within three months from the date of receipt of this order. However, the applicants will not be entitled to any interest. Since some of the applicants have already retired the matter will be expedited."



1201/7

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4 <del>Nothing is brought to our notice to demonstrate the</del> order under challenge is erroneous in law.  The learned counsel has made a vague statement that similar matter was considered by the Supreme Court and has placed before us an order of the Supreme Court dated September 7, 1995 in Civil Appeal No.8208-8213 of 1995. It is a short order, which considered its earlier order in <b>Union of India &amp; Others v S.Vijay Kumar &amp; Others, 1994 (3) SCC 649</b> while setting aside the order of the appellants. However, the Supreme Court directed that the appellant will not be entitled to recover any part of payment of Special Duty Allowance already made to the concerned employees.  The Administrative Tribunal by the order under challenge considered the merits of the case and came to the conclusion that the applicants/respondents are entitled to the relief claimed for. Obviously an attempt before the Tribunal was made to show that because of an erroneous understanding of law the payment was made, which submission was rejected. In the circumstances, we do not see any merit in this petition. The petition is accordingly dismissed.

সি.এস.এ. ২০১৪/১৪  
উচ্চ আদালত

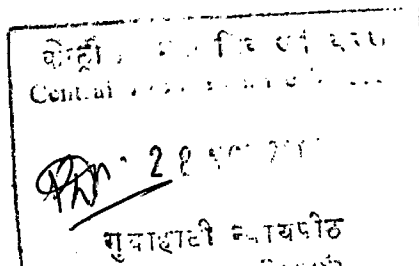
সি.এ. ১২ প.নাকালী

জাজ

সি.এ. ১২ প.নাকালী  
Chief Justice

প.নাকালী ৫৭৫৫৬

CERTIFIED TO BE TRUE COPY  
Nripen Palhak  
Date 23/01/08  
Superintendent (Copying Section)  
Gauhati High Court.  
Authorised U/S 78, Act 1, 1872



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

O.A. No. 294 /2005

Sri Khangendra Nath Gogoi & Ors.

-Vs.-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 14.12.1983- Govt. of India, issued O.M. No. 20014/2/83/ E.IV introducing Special (Duty) Allowance (SDA) for the civilian employees of the central Government posted in the N.E. Region from outside who are saddled with all India Transfer Liability. (Annexure-VI)
- 20.07.1987- Ministry of Finance, Government of India issued further order in respect of entitlement of SDA.
- 01.12.1988- Government of India issued O.M enhancing the permissible limit of SDA of Rs. 400/- followed by further order dated 22.07.1998.
- 12.01.1996- Govt. of India issued clarificatory order specifying that those civilian employees who are saddled with all India Transfer Liability and posted in N.E. Region are entitled to SDA provided their recruitment, promotion and seniority are being maintained on All India basis. (Annexure-V)
- 08.02.1973- All the applicants were initially posted at New Delhi or Madhya Pradesh, one of the applicant Shri Sanjib Kr. Nandy, who was initially appointed and posted at New Delhi following the appointment order dated 21.01.73.
- 02.03.1974- Applicant was transferred and posted at Shillong S.I.B. The applicants who were initially posted either at New Delhi or Madhya Pradesh they were transferred and posted at N.E. Region.
- 22.12.2000- This Hon'ble Tribunal in O.A. No. 237/2000 passed judgment and order. Case of the Present applicants are covered by the order dated 22.12.2000. (Annexure-XI)

Khangendra Nath Gogoi

- 13.06.2001- Govt. of India, Ministry of Finance, issued O.M dated 13.06.01.  
(Annexure- X)
- 17.07.2003- Seniority of the applicants are being maintained on all India basis, it would be evident from the letter bearing No. 2/Seniority (CC)/2001 (12)-11-3191, so there recruitment promotion and seniority is being maintained on all India basis and they were granted SDA by the respondents.
- Jan/ April, 2004- Some of the applicants paid SDA till January 2004 whereas some of the applicants paid SDA till April, 2004.
- 06.10.2001- Respondents have started to recovery of SDA from some of the applicants w.e.f. 06.10.2001.
- 23.04.2004- Respondent department have also decided to make recovery from some of the other applicants which would be evident from the impugned O.M No. E-26/NEA/84 (5) 4493. (Annexure- IV)
- 24.03.2005- Applicants approached this Hon'ble Tribunal through O.A. No. 118/2004, which was disposed of the direction to the applicants to submit representations within a period of 1 months from the date of receipt of the order and the respondents were directed to pass a reasoned order within a period of 2 months from the date of receipt of the representations after giving opportunity of personal hearing the applicants. Applicants submitted representations in compliance with the order of the Hon'ble Tribunal. (Annexure-VIII)
- 27.06.2005- Respondents rejected representations of the applicant and issued impugned order dated 27.06.05, wherein the applicants have been declared ineligible for grant of SDA and further directed to recover alleged excess amount paid as SDA. (Annexure-IX Series)

Hence this Original Application.

### P R A Y E R S

#### Relief(s) sought for:

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

*Ichagandan Nalla*



1. That the Hon'ble Tribunal be pleased to set aside and quashed the impugned order issued under letter No. E-26/NFA/84(5)/4493 dated 23.04.2004 as well as impugned order dated 27.06.2005, and further be pleased to declare that all the applicants are entitled to payment of S.D.A in terms of O.M. dated 14.12.1983, 01.12.1988, 22.07.1998 and also in terms of clarificatory O.M. dated 12.01.1996 and dated 29.05.2002.
2. That the Hon'ble Tribunal be pleased to direct that the respondents are not entitled to make any recovery of the amount already paid to the applicants on account of S.D.A and the amount already recovered be refunded to the applicants.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

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

Khargendra Nath Gogoi

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## GUWAHATI BENCH: GUWAHATI

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

Title of the case

: O. A. No. 294 /2005

Sri Khagendra Nath Gogoi and Ors:

Applicants.

-Versus -

Union of India & Others.

:

Respondents.

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Date:

Filed by

*Subrata Das*  
Advocate

*Khagendra Nath Gogoi*

94  
Filed by the applicant  
through Sri S. Nathu -  
Advocate.  
28/11/05. Sub

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

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

O. A. No. 298 /2005

**BETWEEN**

1. Sri Khagendra Nath Gogoi.

Son of Late Dondeswar Gogoi.  
Assistant Central Intelligence Officer, Grade-I  
SIB Office, Bhabendra Bhawan.  
Beltola Road, Guwahati-28.

2. Sri Ajoy Kumar Dey.

Son of Late A.K. Dey.  
Assistant Central Intelligence Officer, Grade-I,  
SIB Office, Gongotri,  
P.O.-Beltola, Guwahati-28.

3. Sri Sanjit Kumar Nandy.

Assistant Central Intelligence Officer, Grade-I  
Bhabendra Bhawan,  
Beltola, Guwahati-28.

4. Sri Nar Bahadur Chetri.

Son of Sri Sal Bahadur Chetri.  
Asstt. Central Intelligence Officer, Grade-I,  
Subsidiary Intelligence Bureau (MHA),  
Govt. of India,  
Udalguri, P.O. Udalguri,  
Dist- Udalguri (Assam).

5. Mrs. Banani Bera Das.

D/O Late Nemai Chandra Bera.  
Assistant Central Intelligence Officer, Grade-II  
SIB Office, Gongotri,  
P.O. Beltola, Guwahati-28.

6. Shri Gabriel Kisku.

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

.....Applicants.

Khagendra Nath Gogoi

-AND-

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Home Affairs,  
New Delhi.
2. Director,  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Govt. of India,  
North Block,  
New Delhi.
3. Assistant Director,  
Subsidiary Intelligence Bureau,  
(MHA), Govt. of India.  
Guwahati- 28.

..Respondents.

#### DETAILS OF THE APPLICATION

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

This application is made against the impugned order dated 27.06.2005, whereby claim of the applicants for continuation of Special Duty Allowance (for short SDA) has been rejected in a arbitrary manner without proper examination of the cases of the applicants and further directed to make recovery of the excess payment made after 05.10.2001 subject to vacation of the stay order by the Hon'ble Tribunal.

Hence this Original Application.

2. jurisdiction of the Tribunal.

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

3. Limitation.

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

#### 4. Facts of the Case.

- 4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 The applicants pray for permission to move this application jointly in a single application under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1985 as the reliefs sought for in this application by the applicants are common, therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That the applicants are working in the Department of subsidiary Intelligence Bureau under the Ministry of Home Affairs, Govt. of India. They belong to Group "B" category officers of the Central Government. All the applicants are residents of N.E. Region. But they have applied for the post of Assistant Central Intelligence officers grade II pursuant to an advertisement issued by the Govt. of India, Ministry of Home Affairs on all India basis, accordingly they have applied and got selected on different dates. Be it stated that the advertisements and the interviews were issued and conducted on different occasions by the Ministry of Home Affairs. A few offer of appointment letters are enclosed as Annexure-I (Series) for perusal of the Hon'ble Tribunal. It would be evident from the offer of appointment order that the specific clause was stipulated in the individual order to the effect that applicants are liable to serve in anywhere in India. Moreover a mere perusal of offer of appointment letter it would be evident that all the applicants were initially posted for duty at new Delhi/ Madhya Pradesh and there after they are transferred and posted to N.E.

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Region. Therefore it is quite clear that all the applicants are saddled with all India transfer liability in practise.

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

- 4.4 That it is stated that Sri Sanjib kumar Nandy applicant No. 3 initially appointed on 08.02.1973 and posted at New Delhi following the appointment order dated 27.01.1973. However he was transferred and posted to S.I.B Shillong vide transfer order dated 02.03.1974 at S.I.B. Shillong, similarly all the applicants were initially posted either at New Delhi or in the state of Madhya Pradesh and subsequently they were also transferred and posted to this Region. The aforesaid fact would be evident from the memorandum no. 2/TRG(AP)/73(3) dated nil issued by the Joint Assistant Director. Therefore it is quite clear that all the applicants after their initial posting either at N.Delhi or Shivpura(M.P) transferred and posted back to N.E.Region on different dates and since then they are working in this region.

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

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

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

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

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

(iii) Special Duty Allowance

Central Government civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax, will however, not be eligible in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance will not

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exceed Rs. 400/- P.M. Special Allowances like Special Compensatory (Remote Locality) allowance, Construction Allowance and Project Allowance will be drawn separately."

- 4.7 That after issuance of the aforesaid circulars for payment of S.D.A. the applicants were found eligible by the respondents themselves and accordingly they are started paying the S.D.A to all the applicants as per the terms and conditions of the O.M. dated 14.12.1983, 01.12.1988 and also in terms of O.M. dated 22.07.1998. But most surprisingly the said payment of S.D.A was stopped in respect of the applicants without issuing any notice and also in violation of principles of natural justice. Be it stated that out of the 7 (seven) applicants 4 (four) were paid S.D.A upto April'2004 and another 3 (three) were paid till January'2004. However, the respondents have already started recovery of S.D.A w.e.f 06.10.2001 in respect of the applicant No. 2, 3 and 4 and also now decided to make recovery in respect of applicant No. 1, 5, 6 and 7 from the pay-bill of May' 2004 as communicated vide impugned memorandum No. E-26/NEA/84(5)4493 dated 23.04.2004, no show cause or notice was issued prior to issuance of the aforesaid impugned memorandum and on that score alone the impugned action of the respondents as well as the memorandum dated 23.04.2004 are liable to be set aside and quashed.

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

- 4.8 That it is stated that Govt. of India, Ministry of Finance issued a clarificatory memorandum vide letter No. 11(3)/95-E.II (8) dated 12.01.1996, wherein it is categorically stated the Civilian central govt. employees having all India transfer liability who were recruited on all India basis and who's promotion, seniority are maintained on all India basis are entitled to payment of S.D.A. The cases of the applicants are squarely covered following the memorandum dated 12.01.1996 and in

*Shagunika Nath Gogoi*



terms of O.M. dated 14.12.1983 and 22.07.1998. It is categorically submitted that applicants were initially appointed and posted outside N.E. Region and subsequently transferred and posted to N.E. Region. Therefore they cannot be denied the payment of S.D.A, on the alleged grounds raised in the Memorandum dated 23.04.2004 for denial of S.D.A cannot be sustained in the eye of law. The posting of the applicant in N.E. Region cannot be treated as initial posting hence the memorandum dated 23.04.2004 is liable to be set aside and quashed.

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

- 4.9 That it is stated that the cases of the present applicants are covered following the O.M. F.No. 11(3)/2000-E-II(B), dated 13.06.2001, wherein it is stated that the residents of N.E. Region are entitled to payment of S.D.A if they satisfy the criteria that their appointment in service/post is made on All India basis and the promotion is also done on the basis of All India common seniority. However, it will be admissible when they are posted in N.E. Region from outside the region. The case of the present applicants are also covered by the aforesaid O.M. dated 13.06.2001. Hence the applicants are entitled to payment of S.D.A with arrear monetary benefit.

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

- 4.10 That it is stated that the cases of the applicants are squarely covered following the series of judgments passed by this Hon'ble Tribunal. Therefore the Hon'ble Tribunal be pleased to pass necessary order directing the respondents to continue the payment of S.D.A and also to pay arrear monetary benefit and further be pleased to pass an interim order restraining the respondents to make any recovery of the alleged excess payment on account of S.D.A.

K. Jagendra Nath Jaiswal

4.11 That your applicants being highly aggrieved with the impugned order dated 23.4.2005, all the applicants approached this Hon'ble Tribunal by filing an O.A. No. 118/2004 (K.N. Gogoi and others -Vs- U.O.I and others), whereby the applicants has challenged the validity and legality of the impugned memorandum dated 23.4.2004. However, the official respondents contested the said O.A before the learned Tribunal by filing a written statement and the said O.A finally decided by the Hon'ble Tribunal on 24.3.2005, with the direction to the applicants to submit representations containing the facts and situations and also enclosing the copies of the relevant circular and copies of the judgments passed in O.A. No. 56/2000, 237/2000, 30/2003, which are relied on by the applicants, within a period of 1 month from the date of receipt of the order and the respondents were further directed to pass a reasoned order within a period of 2 months from the date of receipt of the representation after giving opportunity to personal hearing to the applicants. However, the applicants in terms of the Hon'ble Tribunals order dated 24.3.2005 submitted representations along with the relevant documents to the authority and the authority after receipt of the representations, rejected the said representations vide order bearing letter No. 20/Admn (C)/2004 (1)-625 dated 27.06.2005, wherein the respondents declared ineligible for grant of SDA to all the individual applicants on the alleged ground that their initial posting for induction training at Intelligence Bureau Training School (IBCTS), New Delhi and direct recruit training center (DRTC), Shivpuri, Madhya Pradesh cannot be construed as posting for outside the N.E. Region and on that ground the respondents declared all the applicants ineligible for grant of S.D.A. The said contention of the respondents is contrary to the settled position of law, posting is a posting either it may be initial posting or may be subsequent posting. The respondents in their own statement in the earlier impugned order dated 23.04.2004 specifically stated that posting of direct recruitment officers at

Khagen Das Nath Gogoi

IBTCS (New Delhi) or at DRTC (Shivpuri, M.P) are to be treated as their initial posting, if that is so in that event the further posting of the applicants in NE Region has to be treated as subsequent posting as per respondents O.M dated 23.04.2004 and as such all the applicants are entitled to grant of SDA. The cases of the applicants are also covered by the Ministry of Finance, O.M bearing No. F. No. 11 (3)/2000-E-II (B) dated 13.06.2001, wherein the Govt. of India, Ministry of Finance categorically stated as follows:

"... It is further clarified that there is no bar in eligibility of Special Duty Allowance for the officers belonging to the NE Region. If they satisfy the criteria that their appointment in service/post is made on All India basis and the promotion is also done on the basis of All India Common Seniority. However, it will be admissible when they are posted in NE Region from outside the region."

It is categorically submitted that all the applicants fulfill the eligibility criteria laid down in the O.M dated 14.12.1983, as well as O.M dated 13.06.2001 and also the O.M dated 29.05.02. In view of the memorandum dated 13.06.01 the present applicants are entitled to payment of SDA and as such question of recovery or excess payment so alleged in the impugned order dated 27.06.2005 does not arise at all. Be it stated that all the applicants were initially posted outside the NE Region and subsequently they have been transferred to NE Region in public interest from outside the NE Region on different dates and as such they have acquired legal and valuable right for continuation of payment of SDA. However, it is stated that the applicant No. 1 has already retired from service on superannuation. In the impugned order dated 27.06.2005 the respondents have further issued direction to recover the alleged excess amount paid after 05.10.2001, in this connection it is further stated that since the applicants are eligible for payment of SDA as such question of recovery of excess amount paid to the applicants cannot be sustained in

Khagendra Nath Jaiswal

the eye of law and on that score alone the impugned order dated 27.06.05 are liable to be set aside and quashed. It is stated that contents of all the orders issued on 27.06.05 are exactly same and similar and as such those orders are liable to be set aside and quashed. It is stated that impugned order dated 27.06.05 issued to the applicant No. 4 and 6 have been misplaced but contents of them are same, therefore applicant No. 4 and 6 urge to produce the orders dated 27.06.05 at the time of hearing.

Copy of the judgment and order dated 24.03.05, impugned orders dated and 27.06.05 are enclosed herewith and marked as Annexure- VIII and IX (Series) respectively.

- 4.12 That it is stated that the case of the present applicants are also covered following the decision rendered on 22.12.2000 passed in O.A. No. 237/2000 (Shri Paban Chandra Paul -Vs- U.O.I & Ors.) which was further confirmed by the Hon'ble High Court in W.P (C) No. 107/2000 on 05.03.2001. In this connection it is stated that the learned Tribunal also relied on the judgment while deciding O.A. No. 237/2000 in fact relied upon the O.M dated 12.01.1996 as well as judgment dated 20.09.94 passed in the case of Union of India & Ors. -Vs- S. Vijayakumar & Ors. In view of the decision rendered by the Hon'ble Tribunal particularly in O.A. No. 56/2000 (Manoj Kumar -Vs- U.O.I & Ors.), O.A. No. 30/2003 (R. Sutradhar & Ors. -Vs- U.O.I & Ors.) and also in view of the decision rendered in Paban Chandra Paul's case, the case of the present applicants are also deserves to be allowed since the applicants are also similarly situated like the applicants in O.As indicated above.

Copy of the judgment and order dated 22.12.2000, dated 05.03.01 and O.M dated 29.05.02 are enclosed herewith and marked as Annexure- X, XI & XII respectively.

Kragendra Nath Gogoi

- 4.13 That it is stated that as per order of the I.B HQ, New Delhi, issued vide their memorandum dated 14.10.03, it has been clarified that official belong to NE Region coming on transfer to NE Region from outside the region is admissible with effect from the date of Supreme Court Judgment i.e. 05.10.2001 or the date of their joining at SIBX in NE Region from outside the region whichever is later.

In view of the aforesaid clarification that was communicated through letter No. E-26/NEA/85 (5)/15/659 dated 10.11.2003, the present applicants are entitled to SDA in terms of O.M dated 14.12.83 as well as in terms of O.M dated 29.05.2002.

It is submitted that the applicants have been recruited through all India recruitment zone, their seniority and promotions are also made on all India basis, moreover, they are saddled with all India transfer liability as per the clause of their appointment letter, apart from that all the applicants have been posted to NE Region from outside the NE Region on transfer which would be evident from their service books. As such the Hon'ble Court be pleased to direct the respondents to produce service books of all the applicants to ascertain in the factual position.

In the facts and circumstances the applicants are entitled to SDA as per relevant office memorandum.

Copy of the order dated 10.11.2003 is enclosed herewith and marked as Annexure- XIII.

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

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

- 5.1 For that, the applicants have fulfilled all the conditions/criteria laid down in the Memorandum dated 14.12.1983, 01.12.1988 and also in O.M. dated 12.01.96, 22.07.1998 as well as O.M dated 29.05.02 as such they are entitled to payment of SDA in the terms of the O.M. referred to above.

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- 5.2 For that, the applicants are posted at Guwahati from outside the N.E. Region, and they are not the permanent residents of N.E. Region.
- 5.3 For that, the applicants had been directed to move to N.E. Region for their posting at Guwahati.
- 5.4 For that, the applicants are saddled with all India Transfer liability as per condition stipulated in their offer of appointment orders.
- 5.5 For that, the impugned order dated 27.06.2005 (Annexure- VIII Series) are contrary to the clarification given by the Govt. of India, Ministry of Finance in their O.M dated 13.06.2001 and also in I.B, Headquarter Memo dated 14.10.03, as such the impugned orders dated 27.06.2005 are not sustainable in the eye of law.
- 5.6 For that discontinuation of payment of SDA has been made in total violation of Principles of natural justice.
- 5.7 For that recovery and discontinuation of payment of SDA has been made in total violation of principles natural justice and the action is contrary to the policy decision of the Govt. of India.
- 5.8 For that issues involved in the instant case has already been settled by this Hon'ble Tribunal in a series of cases of the similar nature.
- 5.9 For that the cases of the applicants are squarely covered following the clarificatory order contained in the O.M. dated 12.01.1996 and O.M. dated 29.05.2002 issued by the Govt. of India, Ministry of Finance. More particularly in view of the clause 5 of the memorandum dated 29.05.2002.
- 5.10 For that decision rendered by this Hon'ble Tribunal on 20.12.2000 in O.A.No.136/2000 and in O.A. No.8/2002 decided on 13.02.2003 also gain support of the contention raised by the present applicants in the instant proceeding.

*Khagen S. Nath Gogoi*

5.11 For that case of the applicants are squarely covered by the judgment and order dated 19.03.2001 passed in O.A. No. 56/2000 (Manoj Kumar -Vs- U.O.I & Ors.), judgment dated 20.12.2000 passed in O.A. No. 237/2000 (Paban Chandra Paul -Vs- U.O.I & Ors.) which is further confirmed by the Hon'ble Gauhati High Court in W.P (C) No. 107/2000 decided on 05.03.2001.

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

6. Details of remedies exhausted.

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

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

The applicants further declare that save and except filing of the O.A. No. 118/2004 they had not previously filed any application. However, no application, is pending before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

Khagendra Nath Gogoi

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quashed the impugned order issued under letter No. E-26/NEA/84(5)/4493 dated 23.04.2004 (Annexure-IV) as well as impugned order dated 27.06.2005 (Annexure- IX Series), and further be pleased to declare that all the applicants are entitled to payment of S.D.A in terms of O.M. dated 14.12.1983, 01.12.1988, 22.07.1998 and also in terms of clarificatory O.M. dated 12.01.1996 and dated 29.05.2002.
- 8.2 That the Hon'ble Tribunal be pleased to direct that the respondents are not entitled to make any recovery of the amount already paid to the applicants on account of S.D.A and the amount already recovered be refunded to the applicants.
- 8.3 Costs of the application.
- 8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.
9. Interim order prayed for.
- During pendency of this application, the applicant prays for the following relief: -
- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to make any recovery of the amount already paid to the applicants till the disposal of the Original Application.
10. ....  
This application is filed through Advocates.
11. Particulars of the I.P.O.
- |      |               |   |             |
|------|---------------|---|-------------|
| i)   | I. P. O. No.  | : | 26 G 318988 |
| ii)  | Date of Issue | : | 11-2005     |
| iii) | Issued from   | : | G.P.O, Ghy  |
| iv)  | Payable at    | : | G.P.O, Ghy  |
12. List of enclosures.  
As given in the index.

Khagenendra Nath Jyoti



VERIFICATION

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

And I sign this verification on this the 28<sup>th</sup> day of November, 2005.

*Khagendra Nath Gogoi*

Immediate/Registered AD

No. 54/Est(C)/72(JIO)  
Intelligence Bureau  
(M.H.A.), Govt. of India

New Delhi, the

MEMORANDUM

The under signed hereby offers Shri Kumar Nandy a temporary post of Junior Intelligence Officer in this Bureau in the pay scale of Rs. 150-5-160-8-246. The appointee will also be entitled to draw dearness and other allowances at the rates admissible under rules and orders governing the grant of such allowances in force from time to time, and subject to the conditions laid down therein. He will be required to undergo training at the place or places selected by the Director, Intelligence Bureau.

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

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

All info  
copy @ JIO

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

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

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

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

3. The appointment will be further subject to:

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

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

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

iv) Production of the following original certificates:-

- a) Certificate of educational and other technical qualifications (with one attested copy each).
- b) Certificate of age.
- c) Character certificates from two gazetted officers.

- d) Certificates in the prescribed form in support of candidate's claims to belong to a Scheduled Caste or Scheduled Tribe or Anglo-Indian Community.
- e) Discharge certificates in the prescribed form of previous employment, if any.
- f) Any other documents (to be specified).
- g) While serving in this office, he will not be allowed to apply for posts elsewhere.

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

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

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

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

V. S. S. S. S.  
Assistant Director

Shri Sanjiv Kumar Nandy  
c/o Late Sachindra Lal Nandy  
Kalibari Road, P.O. - Sripura  
Tinsukia, Assam  
N/25572

Copy to:-

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

(K.N. SINGH)  
ASSISTANT DIRECTOR.

- 19 - 20 -

Annexure - I  
63

RECEIVED  
.....  
No. 56, ESTT(C)/96(1)-Aptt. 6308  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India,

NEW DELHI, THE  
... : : : : ...

M E M O R A N D U M  
.....

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

a temporary post of Assistant Central Intelligence Officer, Grade-II (General) in this Bureau on a pay of Rs. 1640/- in the scale of Rs. 1140-10-2500-EB-75-2900. The appointee will also be entitled to draw the dearness and other allowances at the rates admissible under rules and orders governing the grant of such allowances in force from time to time and subject to the conditions laid down therein. He will be required to undergo training successfully at the place/places selected by the Director, Intelligence Bureau.

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

- (i) The appointment is temporary. His appointment to the post in permanent capacity will, however, depend on various factors governing permanent appointment in such posts.
- (ii) The appointment may be terminated at any time by a month's notice given by either side, viz. the appointee or the appointing authority, without assigning any reason. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him a sum equivalent to the pay and allowances for the period of notice of the unexpired portion thereof.
- (iii) He will have to serve for a minimum period of five years from the date of completion of his training as ACIO-II/G, unless his services are disposed within the exigencies of service or otherwise. In the event of his resigning or leaving the service while in training or before completing 5 years of satisfactory service after training, he and/or his surety will be liable to pay the Govt. of India a sum of Rs. 6,000/- (Rs. six thousand only) together with interest at the Govt. rates for the time being in force from the date of demand by the Intelligence Bureau. He will have to execute a surety bond to this effect to join the Bureau as ACIO-II/G. The Bond (form enclosed) is to be executed on plain paper and no registration is necessary.

TS/-\*

....2/-....

(iv) He should start within one month of his joining the IB. He shall be barred for any post in other Govt. Departments or Public Sector Undertakings.

(v) During training period, he will have to undergo P.T. drill and such other physical activity as directed by the officer-in-charge of the Training Centre.

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

(vii) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:-

(i) Production of a certificate of fitness from the Civil Surgeon(Gr.I) in the enclosed forms at candidate's own cost. He should get himself medically examined from the nearest Civil Surgeon Grade-I for whom a covering Memorandum (which may be completed by the candidate) is attached with this certificate or a provisional certificate of medical fitness which may be obtained from Medical authority at the time of his Medical examination.

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

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

(iv) Production of the following original certificates and mark sheets:-

(a) Certificate of age (with one attested copy).

(b) Certificate of educational or other technical qualification (with one attested copy each).

(c) Character certificates from two gazetted officers (forms attached).

(d) Certificate in the prescribed form in support of candidate's claim to being to a Scheduled Caste/ Scheduled Tribe or OBC (form enclosed).

(e) Discharge certificate of previous employment, if any.

(f) Any other documents (to be specified).

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

TS/-\*

....3/-....

---3---

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

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

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

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

8. If ~~Shri~~/Ms. BANANI BERA accept the offer on the terms and conditions mentioned above, he/she should report to the Assistant Director, DRTC, Madhav Vilas Palace, Shivpuri (MP) Pin: 473551 on 20-1-87. If he/she fails to report for duty by the prescribed date, the offer will be treated as cancelled. He/She should inform the undersigned immediately by telegram on or before 25-1-86 of his/her willingness to accept the post otherwise it will be treated that he/she is not willing to join.

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

TS/-

.....4/-.....



-:4:-

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

*aman*  
ASSISTANT DIRECTOR

To

✓ Shri/Ms. BANANI BERA  
53, P.P. ROAD,  
REHABARI  
KAMRUP, Pin: 781008.  
GUWAHATI (Assam)

Encl: As above.

Copy forwarded to Assistant Director(E), IB Hqs., New Delhi for information.

/  
ASSISTANT DIRECTOR

Tarief/-\*

++++++

## 5. CLOTHING & EQUIPMENT

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

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

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

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

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

## 6. MESS SECURITY ADVANCE

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

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

Total Rs.2000=00

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

TS/-\*

-28-  
~~SECRET~~

67

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

1. ARRIVAL AND REPORTING

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

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

2. ACCOMMODATION

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

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

3. MESSING

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

4. PAY & ALLOWANCES

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

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

TS/-\*

....2/-....

SECRET/IMMEDIATE

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

New Delhi, the

Memorandum

In pursuance of transfer order No. 8/TP(01)/74(1) dated 2.3.74, the following J.I.Os of 29th batch have been relieved of their duties at I.B. Hqrs. w.e.f 7th March, 1974 (Afternoon) with the instructions that they should report to S.I.B. Shillong after availing the usual joining time and the Earned leaves as shown against their names. The casual leave availed by them have also been shown against their names:-

Names	Casual leave taken	Earned Leave with permission to prefix 8-10th March, 1974
1. Sh. K.L. Raina	-	19 days (11.374 to 29th March, 1974)
2. Sh. R.V. Mandhotra	2 days	-do-
3. Sh. P. Swaminathan	-	-do-
4. Sh. K. Krupanandam	-	Nil
5. Sh. K.K. Krishnavataram	-	-
6. Sh. A.K. Sundararajan	-	-
7. Sh. P. Krishnan	-	-
8. Sh. S.K. Luxmikanta	-	-
9. Sh. L.V. Vishwanathan	-	-
10. Sh. H.V.L. Subramanyam	3 days	-
11. Sh. S.K. Nandya	-	-
12. Sh. Manmohan Pal Sharma	-	-

( J.F. Sant )  
Jt. Assistant Director

To

Each individual officer

Copy forwarded for information to:-

1. D.D., S.I.B., Shillong.
2. S.O., Cash-I Hq. J.B. Hqrs.
3. S.O., Cash-II -do-
4. S.O., C-I -do-

( J.F. Sant )  
Jt. Assistant Director

LCS: 17 cc des.

-27-



No.2/Seniority(CC)/2001(12)-II-319/  
**Intelligence Bureau**  
**(Ministry of Home Affairs)**  
**Government of India**

New Delhi, the **17 JUL 2003**

**MEMORANDUM**

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

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

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

Contd.....

*Handwritten signature/initials*  
*Adv.*

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

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

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

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

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

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

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

*[Signature]*  
ASSISTANT DIRECTOR(CC).

To

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

Copy for information to:

1. \_\_\_\_\_ through \_\_\_\_\_

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

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

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

5. AD's folder.

*[Signature]*  
ASSISTANT DIRECTOR(CC)

Seniority List of ACIOs-I(G)

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

*Handwritten signature and initials*

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\* 10's Home:  
L.H. 5.304



Seniority List of ACIOs-I(G)

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

Seniority List of ACIOs-I(G)

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

-33- ANNEXURE - IV 26  
4493  
No. E-26/MEA/84(5)/  
Subsidiary Intelligence Bureau,  
(MHA), Govt. of India,  
Guwahati.

Date: the 23 APR 2004

Memorandum

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

S/Sr1

- |    |                                   |
|----|-----------------------------------|
| 1. | U.G. Hazarika, ACIO-I(G), Jorhat. |
| 2. | K.H. Gogoi, " Guwahati            |
| 3. | N.B. Chetoi, " Udaiguri           |
| 4. | G. Kinku, " Guwahati.             |

Assistant Director/A

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

23/4/04  
Attested by  
W. Lila  
Sd/-  
may 15 2004  
pi 8/10/04  
admission

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Annexure-V

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

New Delhi, the 12th Jan 1996

**OFFICE ORDER**

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

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

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

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

Approved  
C. L. D.  
Adv.

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

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministries/Departments against the orders of the CAT.

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

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

- i. the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &

*[Handwritten signature]*

*Local hand not mentioned*

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- ii. the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.94 but payments were made after this date i.e. 20.9.94) will be recovered.
8. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance.
9. In their application to employees of India Audit and Accounts Department, these orders issue in consultation with the comptroller and Auditor General of India.
10. Hindi version of this OM is enclosed.

Sd/- xxxxxx

(C. Balachandran)

Under Secy to the Govt. of India

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

*Bare*  
*Memorandum*

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 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

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31

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

ii) Special (Duty) Allowance :

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

Sd/ S.C. MAHALIK

Joint Secretary to the Government of India



6. The action taken by the Administrative Committee cannot be considered to be in accordance with the basic principles and instructions regarding observance of proper procedure are followed by all concerned in letter and spirit and avoid recurrence of such incidents as reported by the Privilege Committee by careful approach and restraint on such occasions.

[66]

Copy of O.M. No. 3/452/2000-JCA, dated 9.7.2001, Government of India (Department of Personnel and Training).

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

The undersigned is directed to refer the instructions issued by this Department vide their O.M. No. 19/197-JCA dated 5.11.1998: (Published in Services Law Journal of Feb. 1999 as SL No. 13), wherein it was inter-alia provided that the Departmental Anomaly Committees may be constituted by nominating staff side representatives on such Committees by the Secretary, Staff Side of the respective councils from amongst the members of the Departmental Council only as it existed as on 4.5.1995. In terms of Rule 4 of the CCS (RSA) Rules, 1963, Service Associations or Federations which were recognised before commencement of these rules were allowed to continue to be so recognised for a period of one year, later extended by six months upto 4.5.1995 to enable them to seek recognition afresh under the said rules. Pending the said process to be completed, the Departmental Councils were allowed to function on the basis of nominations as on 4.5.1995.

2. It has come to notice that Departmental Councils in certain Departments were not functioning as on 4.5.1995 for various reasons and hence the Departmental Anomaly Committees could not be constituted. In such cases it has been decided as per decision in the meeting of the Standing Committee of the National Council (JCN) held on 6.2.2001 that ad-hoc Departmental Anomaly Committees may be set up to look into the pay related anomalies in terms of this Department's O.M. No. 19/197-JCA dated 6.2.1998: (Published in Services Law Journal of March, 1998 as SL No. 38) by co-opting Financial Advisor, representatives of Ministry of Finance and Department of Personnel and Training and six Staff Side members to be nominated by Secretary, Staff Side National Council (JCN) Shri U.M. Purohit, 13-C, Ferozeshah Road, New Delhi, from amongst members of the National Council (JCN).

3. Ministries/Departments may take action accordingly.

[67]

Copy of O.M. F. No. 11(3)/2000-E-III(5), dated 13.6.2001, Government of India, Ministry of Finance (Department of Expenditure).

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

The undersigned is directed to refer to your D.O. letter No. 5-298-PAP III dated 10.4.2001 and D.O. letter No. 5-298-Vol. III dated 17.4.2001 and to say that Special Duty Allowance is granted to the Central Government Employees having 'All India Transfer Liability' as clarified in Finance Ministry O.M. No. 11(3)/95-E-III(5), dated 12.1.1996 on their posting to N.E. Region from outside the region. Since Special Duty Allowance is given as an incentive to attract talented officers to serve in N.E. Region from outside the region, it cannot be granted to Group A&S officers belonging to NE and posted in NE

Region.

As regards judgment dated 22.11.1993 of worker and Postal employees and of Special Duty Allowance till 3.11.1993, the Government has already been seized of decision of CAT Guwahati Bench for of Posts, it is seen that the payment of November, 1993 has not been made. Special Duty Allowance to ineligible employees, so, it is totally against the orders in directions of the Apex Court in judgment of Posts have already advised their respective Governments against the CAT Judgment dated 22.11.1993. Therefore, Department of Posts is advised to vigorously follow up the orders of the Court may be drawn to the Supreme Court judgment dated 22.9.1994 and the orders issued by Ministry of Finance on 13.6.2001 in that judgment of Supreme Court.

It is further clarified that there is no eligibility of Special Duty Allowance for the officers belonging to the NE Region. It is equally the emolument that their appointment in service/post is made on All India basis and promotion is also done on the basis of All India Common Seniority. However, it will be admissible when they are posted in NE Region from outside the region.

[68]

Copy of O.M. No. 36035/12-90-Ex. (Res.), dated 13.9.2001, Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training).

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

The undersigned is directed to invite reference to this Department's O.M. No. 36035/1785-Ex. (SCT) dated 1.4.1986 and O.M. No. 36035/1691-Ex. (SCT) dated 18.2.1997 (Published in Services Law Journal of August, 1997 as SL No. 59), wherein the procedure for maintaining a separate 100 point register for implementation of 3% reservation for persons with disabilities has been prescribed.

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

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

Annexure VI

- 40 -

(1)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 118/2004

Date of Order : This the 24<sup>th</sup> day of March, 2005

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

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

1. Sri Khagendra Nath Gogoi,  
Son of Late Dondeswar Gogoi  
Assistant Central Intelligence Officer Grade - I  
SIB Office, Bhabendra Bhawan,  
Beltola Road, Guwahati - 28.

2. Sri A.K. Dey,  
Son of Late A.K. Dey,  
Assistant Central Intelligence Officer Grade - I  
SIB Office, Gongotri,  
P.O. - Beltola, Guwahati - 28.

3. Sri S.K. Dey,  
Assistant Central Intelligence Officer Grade - I  
Bhabendra Bhawan  
Beltola, Guwahati - 28

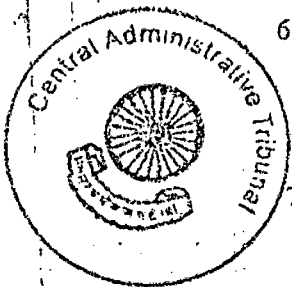
4. Sri Mr. Banadur Chetri,  
Son of Sri Lal Bahadur Chetri,  
Assistant Central Intelligence Officer Grade - I,  
Subsidiary Intelligence Bureau (MHA),  
Govt. of India,  
Udaiguri, P.O. Udaiguri,  
District Udaiguri (Assam).

5. Mrs. Banani Bera Das,  
D/O Late Nirmal Chandra Bera  
Assistant Central Intelligence Officer Grade - I  
SIB Office, Gongotri,  
P.O. Beltola, Guwahati - 28.

6. Shri G.K. Kichko,  
Assistant Central Intelligence Officer Grade - I  
SIB Office, Gongotri,  
P.O. - Beltola, Guwahati - 28.

7. Shri U.C. Hazarika,  
SIB, Jorhat.

... Applicants.



*Attested*  
*[Signature]*  
*[Signature]*

2 - 41 - 84  
②  
By Advocates Mr. M. Chanda, Mr. G.N. Chakrabarty,  
Mr. S. Choudhury, Mr. S. Nath.

- Versus -

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

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

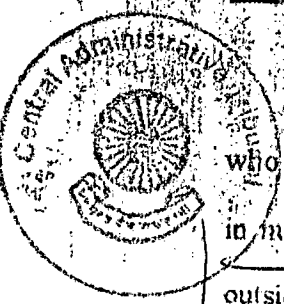
3. Assistant Director,  
Subsidiary Intelligence Bureau,  
(MHA), Govt. of India,  
Guwahati.

... Respondents.

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

ORDER (O.A.)

SIVARAJAN, J (V.C.):



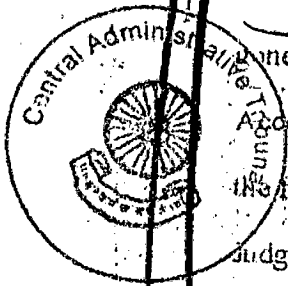
The matter relates to grant of Special Duty Allowance to the applicants, who are serving in North Eastern Region (NER in short). The applicants are seven in numbers and belong to NER. According to them, they were initially posted outside the region namely, New Delhi and Madhya Pradesh and then they were posted to the NER and they are continuing as such. It is stated that the applicants have been given Special Duty Allowance since they are transferred to NER and it has been taken away by a cryptic order dated 25.04.2004 (Annexure - IV) without affording any opportunity to the applicants.

*[Signature]*

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

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

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



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

The application is disposed of as above.

sd/ VICE CHAIRMAN

sd/ MEMBER (A)



TRUE COPY

प्रतिनिधि

20-4-05  
Section Officer (J)

C.A.T. GUWAHATI BRANCH

Guwahati-781005

44-

Annexure - <sup>88</sup>~~8~~ (Sess. 11.13)

**NO.E-26/NEA/84(5)- 74 70**  
Subidiary Intelligence Bureau,  
(MHA), Government of India,  
Guwahati.

Dated the, 04 JUL 2005

MEMORANDUM

Please refer to our Fax Msg No.383 dated 15.06.2005 issued from file of even No. dated 15.06.2005 regarding appearance before the DIB on June 23, 2005 in connection with OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench for grant of Special Duty Allowance.

2. Enclosed please find IB Hqrs Memo No.20/Adm(C)/2004(1) dated June 27,2005 for information and necessary action.

*Del 02/7/05*  
Section Officer/G

To

S/Shri

- 01.G. Kisku, DCIO, SIB, Bongaigaon.
- 02.N.B. Chetri, DCIO, Udalguri.
- 03.S.K. Nandi, ACIO-I/G, "K" Br., SIB, Ghy.
- 04.A.K. Dey, ACIO-I/G, MAG, Br., SIB, Ghy.
- 05.Mrs. B.B. Das, ACIO-II/G, MAG Br., SIB, Ghy.
- ✓ 06.K.N. Gogoi, ACIO-I/G (Retired), Japarigog, Guwahati-05 (Assam).

45-  
No.E-26/NEA/84(5)- 7470  
Subdidiary Intelligence Bureau,  
(MHA), Government of India,  
Guwahati.

Dated the, 04 JUL 2005

MEMORANDUM

Please refer to our Fax Msg No.383 dated 15.06.2005 issued from file of even No. dated 15.06.2005 regarding appearance before the DIB on June 23, 2005 in connection with OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench for grant of Special Duty Allowance.

2. Enclosed please find IB Hqrs Memo No.20/Adm(C)/2004(1) dated June 27,2005 for information and necessary action.

Adl 02/7/05  
Section Officer/G

To

S/Shri

- 01.G. Kisku, DCIO, SIB, Bongaigaon.
- 02.N.B. Chetri, DCIO, Udalguri.
- 03.S.K. Nandi, ACIO-I/G, "K" Br., SIB, Ghy.
- 04.A.K. Dey, ACIO-I/G, MAG, Br., SIB, Ghy.
- 05.Mrs. B.B. Das, ACIO-II/G, MAG Br., SIB, Ghy.
- ✓06.K.N. Gogoi, ACIO-I/G (Retired), Japarigog, Guwahati-05 (Assam).



No.20/Adm(C)/2004(1) - 622  
**Intelligence Bureau**  
(Ministry of Home Affairs)  
Government of India

New Delhi, the

**ORDER** 2 JUN 2005

**Subject: OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench regarding sanction of Special Duty Allowance(SDA).**

In compliance with the order dated 24.03.2005 of the Hon'ble Central Administrative Tribunal, Guwahati Bench in OA No.118/2004 filed by Shri K.N. Gogoi and 5 others Vs. Union of India and others, the Director, Intelligence Bureau granted an opportunity of personal hearing to Shri K.N. Gogoi, Ex-ACIO-I/G on 23.06.2005 at 1600 hours, which he failed to avail. The representation of Shri Gogoi dated 11.04.2005 has also been considered.

2. The undersigned is directed to say that the case of Shri Gogoi for grant of Special Duty Allowance has been considered having due regard to the following :-

(i) The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North-Eastern region (including Sikkim) from outside the region.

(ii) Shri Gogoi is ineligible being posted to NE region after completion of his induction training at Intelligence Bureau Central Training School (IBCTS), New Delhi and Direct Recruit Training Central (DRTC), Shivpuri on his initial appointment which cannot be construed as posting from outside the NE region in terms of Point No.(i) and (ii) of clarification dated 14.05.2003 issued in consultation with Ministry of Finance (MoF).

(iii) MoF clarification dated 29.05.2002 has reiterated/clarified the condition for admissibility of SDA and stipulates that the amount already paid on account of SDA to the ineligible persons not qualifying the criteria on or before 05.10.2001, which is the date of the Supreme Court judgement, will be waived. However, recoveries, if any, already made need not be refunded. The amount paid on account of SDA to ineligible persons after 05.10.2001 will be recovered.

(iv) Accordingly, the payment on account of SDA made to the applicant upto 05.10.2001 has already been waived and the amount not due to the applicant from 06.10.2001 onwards has to be recovered.

3. Having considered all the factors regarding grant of Special Duty Allowance, it has not been found possible to agree to the request of Shri Gogoi. Hence, the excess payment made after 05.10.2001 will be recovered subject to the vacation of stay granted by the Hon'ble CAT in that regard.

Shri K.N. Gogoi, Ex-ACIO-I/G  
Through JD, SIB Guwahati.

(R.N. Gupta)  
Joint Director



47 -

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**No.E-26/NEA/84(5)- 7468**  
**Subdiary Intelligence Bureau,**  
**(MIA), Government of India,**  
**Guwahati.**

Dated the, **04 JUL 2005**

**MEMORANDUM**

Please refer to our Fax Msg No.383 dated 15.06.2005 issued from file of even No. dated 15.06.2005 regarding appearance before the DIB on June 23, 2005 in connection with OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench for grant of Special Duty Allowance.

2. Enclosed please find IB Hqrs Memo No.20/Adm(C)/2004(1) dated June 27,2005 for information and necessary action.

*Done 02/7/05*  
Section Officer/G

To

S/Shri

- 01.G. Kisku, DCIO, SIB, Bongaigaon.
- 02.N.B. Chetri, DCIO, Udalguri.
- 03.S.K. Nandi, ACIO-I/G, "K" Br., SIB, Ghy.
- ✓ 04.A.K. Dey, ACIO-I/G, MAG, Br., SIB, Ghy.
- 05.Mrs. B.B. Das, ACIO-II/G, MAG Br., SIB, Ghy.
- 06.K.N. Gogoi, ACIO-I/G (Retired), Japarigog, Guwahati-05 (Assam).



No.20/Adm(C)/2004(1) 62>  
**Intelligence Bureau**  
(Ministry of Home Affairs)  
Government of India

New Delhi, the

**ORDER 27 JUN 2005**

**Subject: OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench regarding sanction of Special Duty Allowance(SDA).**

In compliance with the order dated 24.03.2005 of the Hon'ble Central Administrative Tribunal, Guwahati Bench in OA No.118/2004 filed by Shri K.N. Gogoi and 5 others Vs. Union of India and others, the Director, Intelligence Bureau granted an opportunity of personal hearing to Shri A.K. Dey, ACIO-I/G on 23.06.2005 at 1600 hours, which he failed to avail. The representation of Shri Dey dated 11.04.2005 has also been considered.

2. The undersigned is directed to say that the case of Shri Dey for grant of Special Duty Allowance has been considered having due regard to the following :-

- JD  
Rd/A*
- (i) The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North-Eastern region (including Sikkim) from outside the region.
  - (ii) Shri Dey is ineligible being posted to NE region after completion of his induction training at Intelligence Bureau Central Training School(IBCTS), New Delhi and Direct Recruit Training Central(DRTC), Shivpuri on his initial appointment which cannot be construed as posting from outside the NE region in terms of Point No.(i) and (ii) of clarification dated 14.05.2003 issued in consultation with Ministry of Finance(MoF).
  - (iii) MoF clarification dated 29.05.2002 has reiterated/clarified the condition for admissibility of SDA and stipulates that the amount already paid on account of SDA to the ineligible persons not qualifying the criteria on or before 05.10.2001, which is the date of the Supreme Court judgement, will be waived. However, recoveries, if any, already made need not be refunded. The amount paid on account of SDA to ineligible persons after 05.10.2001 will be recovered.
  - (iv) Accordingly, the payment on account of SDA made to the applicant upto 05.10.2001 has already been waived and the amount not due to the applicant from 06.10.2001 onwards has to be recovered.

3. Having considered all the factors regarding grant of Special Duty Allowance, it has not been found possible to agree to the request of Shri Dey. Hence, the excess payment made after 05.10.2001 will be recovered subject to the vacation of stay granted by the Hon'ble CAT in that regard.

*R.N. Gupta*  
(R.N. Gupta)  
Joint Director

Shri A.K. Dey, ACIO-I/G  
Through JD, SIB Guwahati.

*A. H. ...*

49 -  
No.E-26/NEA/84(5)- 7467  
Subdiary Intelligence Bureau,  
(MHA), Government of India,  
Guwahati.

Dated the, 04 JUL 2005

MEMORANDUM

Please refer to our Fax Msg No.383 dated 15.06.2005 issued from file of even No. dated 15.06.2005 regarding appearance before the DIB on June 23, 2005 in connection with OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench for grant of Special Duty Allowance.

2. Enclosed please find IB Hqrs Memo No.20/Adm(C)/2004(1) dated June 27,2005 for information and necessary action.

  
Section Officer/G

To

Delhi

S/Shri

Term

01.G. Kisku, DCIO, SIB, Bongaigaon.

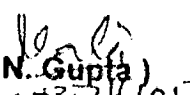
02.N.B. Chetri, DCIO, Udalguri.

03.S.K. Nandi, ACIO-I/G, "K" Br., SIB, Ghy.

04.A.K. Dey, ACIO-I/G, MAG, Br., SIB, Ghy.

05.Mrs. B.B. Das, ACIO-II/G, MAG Br., SIB, Ghy.

06.K.N. Gogoi, ACIO-I/G (Retired), Japarigog, Guwahati-05  
(Assam).

  
( R.N. Gupta )  
Joint Director

Shri S.K. Nandi, ACIO-I/G  
Through JD, SIB Guwahati.

03664-230451



No.20/Adm(C)/2004(1)-624  
**Intelligence Bureau**  
(Ministry of Home Affairs)  
Government of India

New Delhi, the

**ORDER** 27 JUN 2005

**Subject:** OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench regarding sanction of Special Duty Allowance(SDA).

In compliance with the order dated 24.03.2005 of the Hon'ble Central Administrative Tribunal, Guwahati Bench in OA No.118/2004 filed by Shri K.N. Gogoi and 5 others Vs. Union of India and others, the Director, Intelligence Bureau granted an opportunity of personal hearing to Shri S.K. Nandi, ACIO-I/G on 23.06.2005 at 1600 hours, which he failed to avail. The representation of Shri Nandi dated 11.04.2005 has also been considered.

2. The undersigned is directed to say that the case of Shri Nandi for grant of Special Duty Allowance has been considered having due regard to the following :-

- 30  
AD/A
- (i) The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North-Eastern region (including Sikkim) from outside the region.
  - (ii) Shri Nandi is ineligible being posted to NE region after completion of his induction training at Intelligence Bureau Central Training School(IBCTS), New Delhi and Direct Recruit Training Central(DRTC), Shivpuri on his initial appointment which cannot be construed as posting from outside the NE region in terms of Point No.(i) and (ii) of clarification dated 14.05.2003 issued in consultation with Ministry of Finance(MoF).
  - (iii) MoF clarification dated 29.05.2002 has reiterated/clarified the condition for admissibility of SDA and stipulates that the amount already paid on account of SDA to the ineligible persons not qualifying the criteria on or before 05.10.2001, which is the date of the Supreme Court judgement, will be waived. However, recoveries, if any, already made need not be refunded. The amount paid on account of SDA to ineligible persons after 05.10.2001 will be recovered.
  - (iv) Accordingly, the payment on account of SDA made to the applicant upto 05.10.2001 has already been waived and the amount not due to the applicant from 06.10.2001 onwards has to be recovered.

3. Having considered all the factors regarding grant of Special Duty Allowance, it has not been found possible to agree to the request of Shri Nandi. Hence, the excess payment made after 05.10.2001 will be recovered subject to the vacation of stay granted by the Hon'ble CAT in that regard.

( R.N. Gupta )  
Joint Director

Shri S.K. Nandi, ACIO-I/G  
Through JD, SIB Guwahati.

*Handwritten signature and initials.*

51- 94  
No.E-26/NEA/84(5)- 7469  
Subdidiary Intelligence Bureau,  
(MIA), Government of India,  
Guwahati.

Dated the, 04 JUL 2005

MEMORANDUM

Please refer to our Fax Msg No.383 dated 15.06.2005 issued from file of even No. dated 15.06.2005 regarding appearance before the DIB on June 23, 2005 in connection with OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench for grant of Special Duty Allowance.

2. Enclosed please find IB Hqrs Memo No.20/Adm(C)/2004(1) dated June 27,2005 for information and necessary action.

*[Signature]* 02/7/05  
Section Officer/G

To  
S/Shri

- 01.G. Kisku, DCIO, SIB, Bongaigaon.
- 02.N.B. Chetri, DCIO, Udalguri.
- 03.S.K. Nandi, ACIO-I/G, "K" Br., SIB, Ghy.
- 04.A.K. Dey, ACIO-I/G, MAG, Br., SIB, Ghy.
- ✓ 05.Mrs. B.B. Das, ACIO-II/G, MAG Br., SIB, Ghy.
- 06.K.N. Gogoi, ACIO-I/G (Retired), Japarigog, Guwahati-05 (Assam).

*[Signature]*  
Adv.



No.20/Admn(C)/2004(1)-625  
**Intelligence Bureau**  
(Ministry of Home Affairs)  
Government of India

New Delhi, the

**ORDER** 2 JUN 2005

**Subject: OA No.118/2004 filed by Shri K.N. Gogoi and others in CAT, Guwahati Bench regarding sanction of Special Duty Allowance(SDA).**

In compliance with the order dated 24.03.2005 of the Hon'ble Central Administrative Tribunal, Guwahati Bench in OA No.118/2004 filed by Shri K.N. Gogoi and 5 others Vs. Union of India and others, the Director, Intelligence Bureau granted personal hearing to Ms. B.B. Das, ACIO-II/G on 23.06.2005 at 1600 hours. The representation of Ms. Das dated 11.04.2005 has also been considered.

2. The undersigned is directed to say that the case of Ms. Das for grant of Special Duty Allowance has been considered having due regard to the following :-

- SB  
ADIA
- (i) The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North-Eastern region (including Sikkim) from outside the region.
  - (ii) Ms. Das is ineligible being posted to NE region after completion of his induction training at Intelligence Bureau Central Training School (IBCTS), New Delhi and Direct Recruit Training Central (DRTC), Shivpuri on his initial appointment which cannot be construed as posting from outside the NE region in terms of Point No.(i) and (ii) of clarification dated 14.05.2003 issued in consultation with Ministry of Finance (MoF).
  - (iii) MoF clarification dated 29.05.2002 has reiterated/clarified the condition for admissibility of SDA and stipulates that the amount already paid on account of SDA to the ineligible persons not qualifying the criteria on or before 05.10.2001, which is the date of the Supreme Court judgement, will be waived. However, recoveries, if any, already made need not be refunded. The amount paid on account of SDA to ineligible persons after 05.10.2001 will be recovered.
  - (iv) Accordingly, the payment on account of SDA made to the applicant upto 05.10.2001 has already been waived and the amount not due to the applicant from 06.10.2001 onwards has to be recovered.

3. Having considered all the factors regarding grant of Special Duty Allowance, it has not been found possible to agree to the request of Ms. Das. Hence, the excess payment made after 05.10.2001 will be recovered subject to the vacation of stay granted by the Hon'ble CAT in that regard.

✓ Ms. B.B. Das, ACIO-II/G  
Through JD, SIB Guwahati.

(R.N. Gupta)  
Joint Director

Att. fed  
[Signature]

-28- 53 - Annexure - 81b  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORIGINAL APPLICATION NO. 237 OF 2000.

Date of decision - December 22, 2000.

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. M.P. SINGH, ADMINISTRATIVE MEMBER.

Sri Paban Chandra Paul,  
Son of Late Santosh Ch. Paul,  
aged about 43 years,  
Resident of Dewal Road, Jorhat.

Working as JE (Presently Survey and  
Contract) in the office GE.(1)(P)  
Teliamura, C/O Ex-GE(P) Agartala,  
MES No. 238713,  
P.O. Salbagan, Agartala - 12.

- APPLICANT

By, Advocates Mr. M. Chanda, Mr. V.D. Goswami  
& Mr. G.N. Chakraborty.

- Versus -

1. Union of India,  
Through the Secretary to the  
Government of India, Ministry  
of Defence, New Delhi.
2. The Headquarter Chief Engineer,  
Eastern Command, Fort William,  
Calcutta.
3. The Chief Engineer,  
MES, Shillong Zone,  
S.E. Falls, Shillong.
4. The Area Accounts Officer,  
MES Shillong Zone, Shillong.
5. The Garrison Engineer(I)(P),  
Teliamura, C/O Ex-GE(P)  
Agartala, P.O. Salbagan,  
Agartala-12.

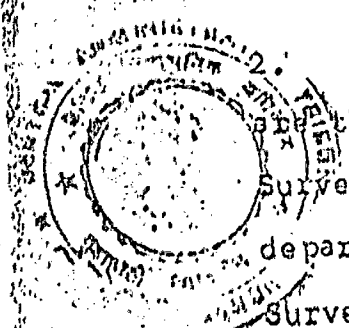
- RESPONDENTS

By Advocate Mr. B.S. Dasgupta, Addl. G.C.S.C.

JUDGMENT

M. P. SINCH, MEMBER (ADMN.) -

By filing the original application, the applicant has challenged the Office Memorandum dated 12th January, 1996 circulated by the Ministry of Defence under letter No.1(19)/83-D(Civ.I)Vol.II dated 18.1.1996. He has sought relief by praying for a direction to the respondents not to make any recovery of Special (Duty) Allowance (S.D.A. in short) already paid to the applicant and also for a direction to continue to pay S.D.A. to the applicant in terms of the Office Memorandum (O.M. in short) dated 14th December, 1983, 1st December, 1988 and 22nd July, 1998.



The facts of the case as stated by the applicant are that the applicant was initially appointed as a Surveyor Assistant Grade-II during the year 1980 in the department of M.E.S. The recruitment to the post of Surveyor Assistant Grade-II (S.A.II in short) is being made on All India basis and the seniority of the applicant in the cadre of S.A.II is being maintained on All India basis. As per condition laid down in the appointment order/recruitment rules, the applicant is liable to be transferred on all India basis.

4. The applicant was promoted to the post of Surveyor Grade-I in 1983. On his promotion, he was transferred to Mumbai under Southern Command, M.E.S. He stayed in Mumbai for about 3 years in the cadre of S.A. Gr.I. He was again

*[Handwritten signature]*

transferred ...



transferred to Jorhat in the year 1992 in the office of the C.W.E. Both the transfer and posting of the applicant were made in the public interest. He is presently posted as J.E. Quantity Survey and Contract in the office of the G.E. (I) (p) Teliamura, Agartala. The Government of India granted certain allowances and facilities to civilian Central Government employees vide Office Memorandum dated 14th December, 1983. One of such allowances granted vide the above stated O.M. to the civilian Central Government employees is called "Special Duty Allowance" (S.D.A. in short). The applicant was found eligible by the respondents for payment of S.D.A. in terms of the said O.M. and accordingly, they have started paying S.D.A. to the applicant since 1983 as per O.M. dated 14th December, 1983 except for the period during his stay at Bombay. However, in the month of May, 2000, the respondents stopped the payment of S.D.A. as well as recovered an amount at the rate of Rs.1,000/- from the pay bill of the applicant for the months of May and June, 2000. The applicant came to know that the stoppage and recovery of S.D.A. has been made following the order/direction contained in O.M. dated 12th January, 1996 circulated by the Ministry of Defence vide their letter dated 18th January, 1996 whereby it is directed that the locally recruited employees are not entitled to S.D.A. as such whatever payment is made after 20th September, 1994 should be recovered from the employees concerned. It is also mentioned therein that these instructions have been issued in pursuance of the decision of the Supreme Court dated 20th September, 1994 in Civil Appeal No.3251/1993. According to the judgment of the Hon'ble Supreme Court, the Central Government employees who have all India transfer

Liability...

liability are entitled to payment of S.D.A. on being posted to any station in the North Eastern Region from outside the region. A mere reading of the circular dated 12th January, 1996 makes it abundantly clear that the applicant fulfilled all the conditions laid down therein for grant of S.D.A. The applicant's recruitment zone, promotion zone and seniority of the cadre are being maintained on all India basis and the question of all India transfer liability is evident from his transfer and posting to Bombay during the year 1988 and as such, the applicant is entitled to S.D.A. in terms of the O.M. dated 14th December, 1983. Aggrieved by the action of the respondents to stop the payment of the S.D.A. to the applicant and issuing the order for recovery of the same, he has come before this Tribunal and sought the relief as mentioned in para-2 above.

5. The respondents have contested the case and have stated that as per O.M. dated 12th January, 1996 issued by the Ministry of Finance, mere clause in the appointment letter to the effect that persons concerned are liable to be transferred anywhere in India, did not make him eligible for the grant of S.D.A. Thus, the S.D.A. payable to the Central Government employees having all India transfer liability is stopped and recovery on account of S.D.A. paid after 20th September, 1994 was ordered. However, the respondents have not disputed the contention of the applicant made in para-4.2 about his transfer to Mumbai in the year 1988 and thereafter, he was transferred back to Jorhat in the year 1992. On perusal of the O.M. dated 12th January, 1996 issued by the Ministry of Finance, we find that the

Central ...

Central Government civilian employees who have all India transfer liability are entitled to the grant of S.D.A. on being posted to any station in the North Eastern Region from outside the region. Para-6 of the O.M. dated 12th January, 1996 issued by the Ministry of Finance states as follows :-

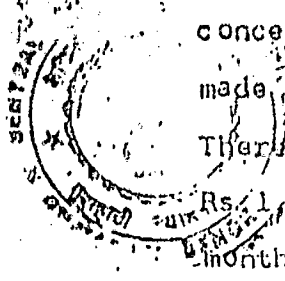
"The Hon'ble Supreme Court in their judgment delivered on 20.9.94 (in Civil Appeal No.3251 of 1993) upheld the submissions of the Government of India that Central Government Civilian employees who have all India transfer liability are entitled to the grant of S.D.A., on being posted to any station in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

6. Heard both the learned counsel for rival contesting parties and perused the records.

7. On perusal of records placed before us, we find that the applicant in this case has the transfer liability on all India basis. He has been recruited to the post of

S.A. General

S.A. Grade-II on all India basis and his seniority in the cadre is being maintained on all India basis. He has been transferred to North Eastern Region from outside in 1992. Keeping in view the criteria laid down in Ministry of Finance letter dated 12.1.1996, the applicant is entitled to the payment of S.D.A. As regards the recovery of the amount of S.D.A. already paid to the applicant, the Hon'ble Supreme Court in their judgment dated 20th September, 1994 in Union of India and others - Vs. - S. Vijayakumar and others (reported in 1994 Supp (3) SCC 649) has directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned. In this view of the matter, no recovery can be made from the amount of S.D.A. already paid to the applicant. Therefore, the amount already recovered at the rate of Rs. 1,000/- from the pay Bill of the applicant for the months of May and June, 2000 as stated in para-4.5 of the O.A. will have to be refunded to the applicant by the respondents.



8. In the light of the above discussion, the O.A. is allowed and the respondents are directed to continue to pay the S.D.A. to the applicant in terms of the O.M. dated 14th January, 1996. The respondents are further directed that no recovery would be made from the amount of S.D.A. already paid to the applicant. In case, any amount of S.D.A. already paid has been recovered by the respondents, the same shall be refunded to the applicant immediately. The above direction shall be complied with within a period of 2 (two) months from the date of receipt of a copy of this order.

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9. Application is disposed of with the above directions.  
No order as to costs.

Sd/ VICE CHAIRMAN  
Sd/MEMBER (Adm)



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प्रतिप्रत

mk

Deputy Registrar (D)  
Central Administrative Tribunal  
Government of Madhya Pradesh

17/11/2021  
17/11/2021

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Annexure-XI

W.P.(C) No.107 of 2000

p3

-3-

Serial No.	Date	Office notes, reports, orders or proceedings with signature
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BEFORE :

THE HON'BLE THE CHIEF JUSTICE  
THE HON'BLE MR. JUSTICE H.R. DEB

5-3-2001

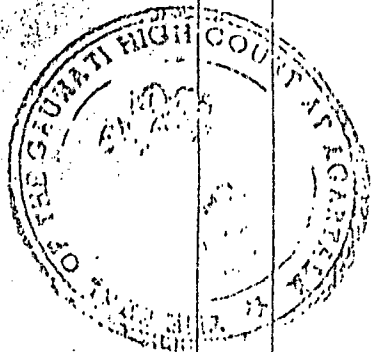
Heard Mr. P.K. Dhar, the learned Senior Central Government Standing Counsel for the petitioners

This writ petition, in our considered view, deserves to be dismissed in limine. The impugned judgment rendered by the Central Administrative Tribunal, Guwahati, on the basis of not only notification but a judgment of the Apex Court. We are in respectful agreement with the view taken by the Tribunal.

Finding no merit in the writ petition, the same is dismissed in limine.

Learned Tribunal in its previous decision granted 2 months' time. This would stand extended. The balance payment be now made within 2 (two) months from today.

Copy of the order be made available to the learned Senior Central Government Standing Counsel at the earliest.



TRUE COPY

Office Superintendent (Bench)  
Gauhati High Court,  
Agartala Bench.

4.1.02

50/30-2001

Attested  
by  
Adv

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Annexure XII 109

(8)

EX-117E 'A' TO CSD ORDER NO. 11/2002 DATED 19 JULY 2002

F No. 11(5)/97-E.II.(B)  
Government of India  
Ministry of Finance  
Department of Expenditure  
\*\*\*\*\*

New Delhi, dated the 29<sup>th</sup> May, 2002.

OFFICE MEMORANDUM

Subject: Special Duty Allowance for civilian employees of the Central Government Serving in the State and Union Territories of North Eastern Region including Sikkim.

The undersigned is directed to refer to this Department's OM No 20014/3/81-E.IV dated 14.12.83 and 20.4.1987 read with OM No.20014/16/86-E.IV/E.II.(B) dated 1.12.88, and OM No.11(3)/95-E.II.(B) dt. 12.1.1996 on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in NE region vide OM dt. 14.12.83. Special Duty Allowance (SDA) is one of the incentives granted to the Central Government employees having 'All India Transfer Liability'. The necessary clarification for determining the All India Transfer Liability was issued vide OM dt.20.4.87, laying down that the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc., i.e., whether recruitment to service/cadre/post has been made on All India basis and whether promotion is also done on the basis of an all-India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of Special Duty Allowance.

3. Some employees working in NE region who were not eligible for grant of Special Duty Allowance in accordance with the orders issued from time to time agitated the issue of payment of Special Duty Allowance to them before CAT, Guwahati Bench and in certain cases CAT upheld the prayer of employees. The Central Government filed appeals against CAT orders which have been decided by Supreme Court of India in favour of UOI. The Hon'ble Supreme Court in judgement delivered on 20.9.94 (in Civil Appeal No. 3251 of 1993 in the case of UOI and Ors V/ Sh. S. Vijaya Kumar and Ors) have upheld the submissions of the Government of India that C.G. civilian Employees who have All India Transfer Liability are entitled to the grant of Special Duty Allowance on being posted to any station in the North Eastern Region from outside the region and Special Duty Allowance would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

In a recent appeal filed by Telecom Department (Civil Appeal No.7000 of 2001 arising out of SLP No.5455 of 1999), Supreme Court of India has ordered on 10.2.02 that this appeal is covered by the judgement of this Court in the case of UOI Ors vs. S. Vijayakumar & Ors, reported as 1994 (Supp 3) SCC, 649 and followed in the case of UOI & Ors vs. Executive Officers' Association 'Group C' 1995

17/6

AH-  
Adv.

(Supp. I) SCC, 737. Therefore, this appeal is to be allowed in favour of the UOI. The Hon'ble Supreme Court further ordered that whatever amount has been paid to the employees by way of SDA will not, in any event, be recovered from them in spite of the fact that the appeal has been allowed.

5. In view of the aforesaid judgements, the criteria for payment of Special Duty Allowance, as upheld by the Supreme court, is reiterated as under:-

"The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North Eastern region (including Sikkim) from outside the region."

All cases for grant of Special Duty Allowance including those of All India Service Officers may be regulated strictly in accordance with the above mentioned criteria.

6. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance. Further, as per direction of Hon'ble Supreme Court, it has also been decided that -

(i) The amount already paid on account of Special Duty Allowance to the ineligible persons not qualifying the criteria mentioned in 5 above on or before 5.10.2001, which is the date of judgement of the Supreme Court, will be waived. However, recoveries, if any, already made need not be refunded.

(ii) The amount paid on account of Special Duty Allowance to ineligible persons after 5.10.2001 will be recovered.

7. These orders will be applicable *mutatis mutandis* for regulating the claims of Islands Special (Duty) Allowance which is payable on the analogy of Special (Duty) Allowance to Central Government Civilian employees serving in the Andaman & Nicobar and Lakshadweep Groups of Islands.

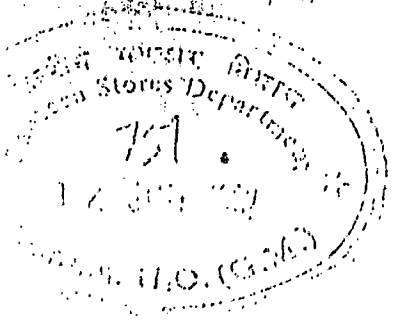
8. In their application to employees of Indian Audit & Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

N.P. Singh

Under Secretary to the Government of India.

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

Copy (with spare copies) to CGAG, JTEC etc. as per standard endorsement list.



mayar  
Petition for  
outside



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Annexure-XIII

SECRET/1 PT PLATE

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

New Delhi, the

Memorandum

In pursuance of transfer order No. 8/TP(11)/74(1) dated 2.3.74, the following J.I.s of 29th batch have been relieved of their duties at I.P. Hqrs. w.e.f 7th March, 1974 (Afternoon) with the instructions that they should report to S.I.O. Shillong after availing the usual joining time and the Earned leaves as shown against their names. The casual leave availed by them have also been shown against their names:-

Names	Casual leave taken	Earned Leave with permission to prefix 8-10th March, 1974
1. M.L.L. Naika	-	19 days (11.374 to 29th March, 1974)
2. M.V. Mandhokra	2 days	-do-
3. M.P. Swaminathan	-	-do-
4. M. K. Krupanandam	-	Nil
5. Sh. A.V. Krishnavataram	-	-
6. Sh. A.S. Sundararajan	-	-
7. Sh. P. Krishnan	-	-
8. Sh. S.L. Laxmikanta	-	-
9. Sh. M.V. Vishwanathan	-	-
10. Sh. H.V.L. Subramanyam	3 days	-
11. Sh. M.L. Pandey	-	-
12. Sh. Manmohan Pal Sharma	-	-

B.I.V

( S.P. Sant )  
Jt. Assistant Director

To

Each individual officer

Copy forwarded for information to:-

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

( S.P. Sant )  
Jt. Assistant Director

11.3.74 17 co 12.

A Harkel  
Chula  
Adv

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2. The recovery will commence from the pay of concerned officials from the month of November, 2000 in 21 (twenty one) equal monthly instalments.

Joint Director

15,659

Dated, the 10 NOV 2003

Copy to for information and necessary action to :-

1. The Section Officer(A), S.I.B. Gawanati.
2. All persons concerned. (11)

S.I.B. Gawanati.  
(Ch. M. Khaty, Date 26/03/20)

Assistant Director 11/1/52

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI  
BENCH GUWAHATI

OA NO. 294/2005

SHRI KHAGENRNDRA NATH GOGOI & ORS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT SUBMITTED BY THE RESPONDENTS

- 1) That the respondents have received the copy of the OA filed by the applicants and have gone through the same and have understood the contentions made thereof. Save and except the statements, which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records are also denied and the applicants are put to the strictest proof there of.
- 2) That before traversing various statements made in the application, the respondents would like to give a brief resume to the facts and circumstances of the case as under:
  - (a) That the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi vide Office Memorandum No. 20014/3/83-E.IV dated 14.12.1983 brought out a scheme thereby extending certain facilities and allowances including the Special Duty Allowance, hereinafter called SDA for the civilian employees of the Central Govt. serving in the North-Eastern States and Union Territories etc. This was done to attract and retain the services of officers coming from outside the N.E. Region due to inaccessibility and difficult terrain. A bare reading of the provisions of the said O.M. will clear that these facilities and allowances

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are made available only to those who are posted in the region from outside on transfer.

A true copy of the said O.M. dated 14.12.83 is annexed as Annexure-R1.


(b) That after some time, some departments sought certain clarification about the applicability of the said O.M. dated 14.12.1983. In response the Govt. of India issued another Office Memorandum vide No. 20014/3/83-E.IV dated 20.4.1987. The relevant portion of the said O.M. is quoted below :

"2. Instances have been brought to the notice of this Ministry where Special (Duty) Allowance has been allowed to Central Govt. Employees serving in the North East Region without the fulfillment of the condition of all India Transfer liability. This is against the spirit of the orders on the subject. For the purpose of sanctioning Special (Duty) Allowance, the all India transfer liability of the members of any service/cadre or incumbents of any posts/group of posts/group of posts has to be determined by applying the tests of recruitment zone, promotion zone, etc. i.e. whether recruitment to the service/cadre/posts has been made on all India basis and whether promotion is also done on the basis of all India zone of promotion based on common seniority for the service /cadre/posts as a whole. Mere clause in the appointment order ( as is done in the case of almost all posts in the Central Secretariat etc) to the effect that the person concerned is liable to be transferred any where in India, does not make him eligible for grant of Special (Duty) Allowance."

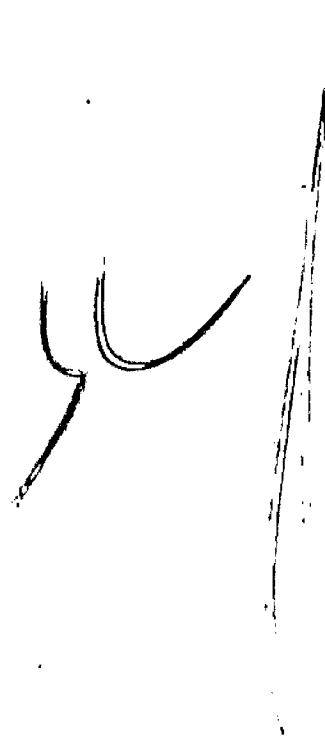
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A true copy of the said O.M. dated 20.04.87 is annexed herewith and marked as Annexure-R2.

 (c) That the Govt. of India again brought out another Office Memo. Vide F.No. 20014/16/86/E.IV/E.II(B) dated 01.12.88. By the said O.M., the Special (Duty) Allowance was further continued to the Central Govt. employees at the rate prescribed therein.

A true copy of the said O.M. dated 01.12.88 is annexed herewith and marked as Annexure-R3.

 (d) That in the meantime, several cases were filed in the Court/Tribunal challenging the refusal of grant of SDA and some of such cases went to the Hon'ble Supreme Court. The Hon'ble Supreme Court in Union of India & others -Vs- S. Vijoykumar & others (C.A. No. 3251/93) upheld the provisions of the O.M. dated 20.04.87 and also made it clear that only those employees who were posted on transfer from outside to the N.E. Region were entitled to grant of SDA on fulfilling the criteria as in O.M. dated 20.04.87. Such SDA was not available to the local residents of the N.E. Region. The Hon'ble Supreme Court also went in the object and spirit of the O.M. dated 14.12.83 as a whole.

A true copy of the said judgement dated 20.09.1994 is annexed herewith and marked as Annexure-R4.

(e) That the Hon'ble Supreme Court in another decision dated 23.02.1995, in CA No. 3034/95 (Union of India & ors. -Vs- Executive Officers

4- 11

Association Group-C) held that the spirit of the O.M. dated 14.12.83 is to attract and retain the services of the officers from outside and posted in the North Eastern Region which does not apply to the officers belonging to the N.E. Region. The question of attracting and retaining the services of the competent officers who belong to North-Eastern Region itself would not arise. Therefore, the incentives granted by the said O.M. is meant for the persons posted from outside to the North-Eastern Region, not for the local residents of the said defined reason. While passing the said judgement the Hon'ble Supreme Court referred to and relied upon its earlier decisions held in "Chief General Manager (Telecom) -Vs- Shri Rajendra Ch. Bhattacharjee & others and also the S. Vijay Kumar cases".

A true copy of the said O.M. dated 23.02.95 is annexed herewith and marked as Annexure-R5.

(f) That the Hon'ble Supreme Court in another judgement dated 07.09.95 passed in Union of India & others -Vs- Geological Survey of India Employees Association & others (CA No.8208-8213) held that the Group C and D employees who belong to the N.E. Region and whose transfer liability is restricted to their region only, they do not have All India transfer liability and consequently they are not entitled to grant of SDA.

A true copy of the said judgement dated 07.09.95 is annexed herewith and marked as Annexure-R6.

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(g) That after judgement of the Hon'ble Supreme Court, the Govt. of India brought yet another Office Memo Vide No. 11(3)95-E II(B) dated 12.01.96 and directed the departments to recover the amount paid to the ineligible employees after 20.09.94 as held by the Hon'ble Supreme Court.

A true copy of the said O.M. dated 12.01.96 is annexed herewith and marked as Annexure-R7.

(h) That in another case vide Writ Petition No. 794/1996 in Sadan Kumar Goswami & Others -Vs- Union of India & others, the Hon'ble Supreme Court again relied on their earlier decision as in S. Vijay Kumar case and held that the criteria required for grant of SDA is same for both Group A and B officers as in the case of Group C and D and there is no distinction. By the said judgement, the Hon'ble Court also held that the SDA paid to the ineligible employees after 20.09.94 be recovered as the Govt. of India has limited the recovery of SDA to the ineligible employees from the date of the judgement dated 20.09.94 passed in S. Vijay Kumar and in terms of the O.M. dated 12.01.96.

A true copy of the said judgement dated 25.10.96 is annexed herewith and marked as Annexure-R8.

(i) That the Ministry of Finance further, in connection with query made by the Directorate General of Security, New Delhi gave some clarification to the question raised by some employees regarding eligibility of SDA. This was

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done vide I.D. No. 1204/E-II(B)/99 and which as duly approved by the Cabinet Secretariat vide their U.O. No. 20/12/99-EA.I-1798 dated 02.05.2000. According to the clarification, an employee belonging to the N.E. Region, posted in the N.E. Region having all India transfer liability as a condition of service, shall not be entitled to grant of SDA. But if such employee is transferred out of the N.E. Region and reposted to N.E. Region on transfer from outside, in that case such employee would be entitled to SDA. Hence, the applicants in the instant case have no cause of action to agitate before the Hon'ble Tribunal.

A true copy of the said clarification of Cabinet Secretariat dated 02.05.2000 is annexed herewith and marked as Annexure-R9.

(j) That in a recent decision dated 05.10.2001, in Union of India & others -Vs- National Union of Telecom Engineering Employees Union & others (CA No. 7000/2001) the Hon'ble Supreme Court once again clinched on the vexed question of grant of SDA to the Central Govt. employees and by relying on the earlier decision of "S. Vijay Kumar" and the Executive Officers Association Group C" was pleased to allow the appeal in favour of the Union of India and held that the amount already paid to such ineligible employees should not be recovered.

A true copy of the judgement dated 05.10.2001 is annexed herewith and marked as Annexure-R10.



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(k) That pursuant to the said judgement passed in CA No. 7000/2001, the Govt. of India, Ministry of Finance, Department of Expenditure brought out another Office Memorandum No. 11(5)/97-E.II(B) dated 29.05.2002 and thereby directed all the departments to recover the amount of SDA already paid to such ineligible employees with effect from 06.10.2001 onwards and to waive the amount upto 05.10.2001 i.e. the date of the said judgement. That in another recent decision, the High Court (Division Bench) in WP(C) No. 2737/2000 held vide order dated 04.08.2003 that the SDA paid by misinterpretation of law to ineligible employees may be recovered.

The respondents further state that the issue raised by the applicants have already been settled by the Hon'ble Supreme Court as early as in 1991 while passing the judgement in Reserve Bank of India -Vs- Reserve Bank of India Staff Officers Association reported in (1991) 4 SCC 132/AIR 1992 485. The same matter has also been discussed in United Bank of India -Vs- Meenakshi Sundaram & others reported in (1998) 2 SCC 609 more particularly issued on transfer and posting. These issues being finally settled by the Apex Court of the Country and attaining finality cannot be otherwise interpreted unless such settled position is reviewed and overridden by the same court or by larger Bench of the Hon'ble Apex Court if to be followed by all its subordinate court as precedents. Now, the applicants cannot interpret the judgement of the Hon'ble Supreme Court as the same are not in favour under any provision of law.

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A true copy of the O.M. dated 29.05.2002 and order dated 04.08.2003 is annexed herewith and marked as Annexure-R11.

(I) That it is pertinent to mention here that under the settle provisions of law only the outsiders' transferred/posted in the N.E. Region (defined area) from outside the region would be eligible for the grant of SDA and the payment of SDA to the employees who are local residents of N.E. Region does not arise. Considering all the relevant laws and the situation of the case, the respondents have prepared a statement on a tabular form about the transfer and posting of all the applicants including their place and date of initial posting, place of residence etc. on the basis of their service books and personal files. The respondents crave the leave of this Hon'ble Tribunal to allow them to rely upon the said statements and also to consider as a part of this Written Statements.

The true copy of the said statement is annexed herewith and marked as Annexure-R12.

**Para-wise Reply:**

- (1) That with regard to the statements made in paragraph 1 of the application, the answering respondents beg to state that as stated herein above, the impugned order dated 27.06.2005 was issued after due consideration of various aspects governing grant of SDA mentioned in para-3(a) to 3(1) above to the Central Govt. employees who are the inhabitants of N.E. Region, and after giving opportunity to personal hearing by the Head of the Department i.e. Director, Intelligence Bureau in terms of

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Hon'ble Central Administrative Tribunal, Guwahati Bench order dated 24.03.2005. The applicants being the inhabitants of N.E. Region and being posted in N.E. Region SIBx directly after completion of induction training at IBCTS, New Delhi and DRTC Shivpuri (MP) do not fulfill the eligibility criteria relating to grant of SDA, as has been laid down in the aforementioned judgements of various courts of Law and orders issued by Govt. of India from time to time. The applicants are not coming within the scope of consideration for grant of SDA and this was clearly mentioned in the impugned order dated 27.06.2005. Thus, the contents of the Annexure-IX (series) (impugned order) are very much clear to that extent and as such the application is devoid of merit and the same is liable to be dismissed with cost.

- (2) Those with regard to the statements made in paragraph 2, 3, 4.1 and 4.2 of the application, the respondents have no comment to offer.
- (3) That with regard to the statement made in paragraph 4.3, the respondents beg to reiterate and reaffirm the foregoing statements and the related law as explained herein above, more particularly the law laid down by the Hon'ble Supreme Court that mere stipulation of transfer liability in the appointment letter will not be enough to justify the claim for grant of SDA.
- (4) That with regard to the statement made in paragraph 4.4, 4.5 and 4.6 of the application the respondents beg to state that the averments made in these paragraphs are not correct and the applicants have wrongly interpreted the same. It is very clear from the appointment letters

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that the appointments of the applicants are subject to undergoing induction training.

The applicants were accordingly given induction training at IBCTS, New Delhi / DRTC Shivpuri and were posted initially in the North Eastern Region. Posting of the incumbents to the N.E. Region after induction training at IBCTS, New Delhi, DRTC Shivpuri (MP) etc. are their initial appointments, as the induction training to all Direct Recruit (DR) JIOs/ACIOs is prerequisite for appointment to the post of DR JIOs/ACIOs in IB. Thus, they are not eligible for the facilities and allowances including the SDA in terms of MoF OM dated 14.12.83 as they are not posted to N.E. Region on their transfers from outside the N.E. Region. The facts have been endorsed in Apex Court judgements in various Civil Appeals and orders/clarifications issued by MoF and Cabinet Secretariat. In this connection, the respondents rely and refer upon the decision and the ratio laid down in United Bank of India -Vs- Meenakshi Sundram & ors. Reported in (1998) 2 SCC 609 and hence the applicants are not entitled to the grant of SDA.

- (5) That with regard to the statement made in paragraph 4.7, 4.8 and 4.9 of the OA, the respondents beg to state that the applicants were granted SDA by misinterpretation of the various office memorandum as stated herein above issued from time to time. However, when the law regulating the grant of SDA has clearly been laid down by the Hon'ble Supreme Court, the competent authority have followed the guidelines issued by the Govt. and accordingly passed the order dated 23.04.2004 which is in consonance with the order passed by the Govt. in pursuance of the observation made by the Apex Court.

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Law is also well settled that the benefit granted by the authority by misinterpretation of provisions of law cannot be allowed to perpetuate indefinitely. Law is also settled that the mistake committed by an officer cannot be legitimized by a court, hence, the applicants in the instant application are also not entitled to any benefit as such.

- (6) That with regard to the statement made in paragraph 4.10 of the OA, the respondents beg to state that the Hon'ble Supreme Court have already decided the issue. The Department has carried out the order issued by the Govt. vide OM dated 29.05.2002 based on the Hon'ble Supreme Court judgement dated 5.10.2001 in letter and spirit. Therefore, the OA is devoid of merit and deserves to be dismissed at admission stage with cost.
- (7) That with regard to the statement made in paragraph 4.11 and 4.12 of the OA, the respondents while denying the contentions made therein beg to rely and refer upon the statements made above. The interpretations made in this paragraph are wrong and misconceived. Appointment to a service and posting thereafter are two different issue. Mere perusal of the appointment letters of the applicants reveal that the appointment of the applicants are subject to undergoing induction training in the department, which is prerequisite for the appointment. The training centres of the department are located only in New Delhi and Shivpuri (MP) and accordingly they were given training in the said training centres. It is once again emphasized that postings of the incumbents to the N.E. Region after induction training at Intelligence Bureau Central Training School (IBCTS), New Delhi and Direct Recruit Training Centre (DRTC), Shivpuri (MP) are initial appointments as the induction training to all direct recruit

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JIO-I/G and ACIO-II/G is prerequisite for appointment to the post of Directly Recruited JIO-I/G and ACIO-II/G in IB and hence the applicants are not eligible for the SDA as they are not posted to N.E. Region on their transfers from outside the N.E. Region.

The respondents further submitted that the Hon'ble Supreme Court as early as in 1991 has already settled the issues raised by the applicants while passing the judgement in Reserve Bank of India -Vs- Reserve Bank of India Staff Officers Association referred in (1991) 4 SCC 132/AIR 1992 SC 485. The same matter has also been discussed in United Bank of India -Vs- Mennakshi Sundaram & others reported in (1998) 2 SCC 609 more particularly issued on transfer and posting. These issues being finally settled by the Apex Court of the country and attaining finality cannot be otherwise interpreted unless such settled position is reviewed and overridden by the same court or by a larger Bench of the Hon'ble said Court. The respondents also stated that in OA No. 237/2000, the judgement of which has been referred to by the applicants' deals with an applicant who was actually transferred to stations under North Eastern Region initially after completion of their induction training at New Delhi and Shivpuri. They were not transferred/posted to N.E. Region stations from outside the region and hence, the claim of the applicants are liable to be rejected.

The respondents further state that the order dated 27.06.2005 is very much clear to the extent that the averments made in this paragraph are not correct and the applicants have wrongly interpreted the same. The applicants are, therefore, not entitled to grant of SDA.

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- (8) That with regard to the statement made in paragraph 4.13 of the OA, the respondents beg to reiterate the foregoing statements and the relative law as explained herein above, more particularly the law laid down by the Hon'ble Supreme Court that mere stipulation of transfer liability in the appointment letter will not be enough to justify claim for grant of SDA.
- (9) That with regard to the statement made in paragraphs 5.1 to 5.12 of the OA, the respondents beg to reiterate and reaffirm the foregoing statements and state that the grounds shown by the applicants are not tenable in law and the applicants is liable to be dismissed with cost.
- (10) That with regard to the statement made in paragraph 6 and 7 of the application, the respondents have no comment to offer.
- (11) That with regard to the statement made in paragraph 8.1 to 8.4 including 9.1 of the application the answering respondents beg to submit that in any view of the method, facts and provisions of law, the applicants are not entitled to grant of SDA and the amount of SDA so far paid to them is liable to be recovered from them. That being the legal status, the applicant is devoid of any merit and the same is liable to be dismissed with cost.

In this connection, the respondents also beg to state that the Hon'ble Supreme Court in Sadhan Kumar Goswami -Vs- Union of India as explained above, clearly held that the amount paid as SDA to an ineligible employee is to be recovered. The Division Bench of the Hon'ble Guwahati High Court also in W.P. No. 237/2000 held vide order dated 04.08.2003 that if the applicants

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are not entitled to receive the SDA they are liable to pay back the amount so received and the Tribunal could not have issued direction for non-recovery of the amount, which has been received by some of the applicants without any authority of law. The Hon'ble High Court accordingly set aside the order of the Tribunal directing not to recover the amount of SDA and disposed of the case with direction. Hence, the application is liable to be dismissed with cost.

The respondents crave leave of this Hon'ble Tribunal to advance more submissions legal as well as factual at the time of hearing of the case.

- (14) That in the premises aforesaid, it is most respectfully prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to dismiss the application with cost.



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

I Shri SADHAN KUMAR NANDI, S/o. Late Manoranjan Nandi aged about 59 years 7 months at present working as Assistant Director who is one of the respondents and taking steps in this case, being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statement made in paragraph.....1 & 14..... are true to my knowledge and belief, those made in paragraph .....2 to 13.....being matter of records, are true to my information derived there from and the rest are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 25<sup>th</sup> day of April, 2006 at Guwahati.

Sadhana Kumar Nandi  
**DEPONENT**  
**Assistant Director**  
**S. I. B. (MHA)**  
**Govt. of India**  
**Guwahati.**

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Ann. R-1  
No. 20014/3/83-E.IV.  
Government of India/Eharat Sarker.  
Ministry of Finance  
Department of Expenditure.

New Delhi, the 14th December, 1983.

OFFICE MEMORANDUM

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

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

(1) Tenure of posting/deputation:-

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

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

(12) Weightage for Central deputation/training abroad and special pension in Confidential Records.

Satisfactory performance of duties for the

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

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

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

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

(iii) Special (Duty) Allowance :-

Central Government civilian employees who have All-India 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 exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

(iv) Special Compensatory Allowance :

1. Assam and Meghalaya.

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

2. Manipur

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

Pay upto Rs. 260/-  
Pay above Rs. 260/-

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

3. Tripura

The rates of the allowance will be as follows :-

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(a) Difficult Areas

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

(b) Other Areas

Pay upto Rs. 260/-  
Pay above Rs. 260/-

Rs. 40/- p.m.

15% of basic pay subject to a maximum of Rs. 150/- P.M.

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

(v) Travelling Allowance on first appointment :-

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

(vi) Travelling Allowance for journey on transfer :-

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

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

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

Attested  
Elsha Das  
Addl. Secy.

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(viii) Joining Time with leave :-

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

(ix) Leave Travel Concession :-

- A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North-East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North Eastern Region. In case the option is for the latter alternative the cost of travel for the initial distance (400 kms./150 kms.) will not be borne by the officer.
- 2.

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

(x) Children Education Allowance/Hostel Subsidy :-

When the children do not accompany the Government servant to the North-Eastern Region, Children Education Allowance upto Class XII will be admissible in respect of children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government servant concerned will be given hostel subsidy without other restrictions.

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

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Addl. Secy

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These orders will take effect from 1st November, 1983 and will remain in force for a period of three years up to 31st October, 1986.

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

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

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

( S. C. MAHALIK )  
Joint Secy. to the Govt. of India.

To

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

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

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Attested  
Addl C.S.C.

New Delhi, the 20th April, 1987.

OFFICE MEMORANDUM

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

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The undersigned is directed to refer to para 1(iii) of Ministry of Finance, Department of Expenditure O.M. No. 20014/3/83-E.IV dated 14th December 1983 as amended vide Office Memorandum of even number dated 29.10.1986 on the above subject, which is reproduced below:-

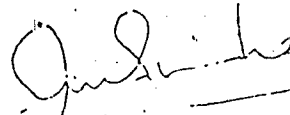
1(iii) "Special (Duty) Allowance".

"Central Government civilian employees who have all-India transfer liability will be granted a special (Duty) allowance at the rate of 25% of basic pay subject to a ceiling of Rs. 400/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like special compensatory (remote locality) allowance, construction allowance and Project Allowance will be drawn separately".

2. Instances have been brought to the notice of this Ministry where special (Duty) Allowance has been allowed to Central Government employees serving in North East Region without the fulfilment of the condition of all India transfer liability. This is against the spirit of orders on the subject. For the purpose of sanctioning special (Duty) allowance, the all India transfer liability of the members of any Service/Cadre of incumbents of any posts/group of posts has to be determined by applying tests of recruitment zone., promotion zone, etc. i.e. whether recruitment to the service/cadre/posts has been made on all-India basis and whether promotion is also done on the basis of the all-India Zone of promotion based on common seniority for the service/cadre/posts as a whole. Mere clause in the appointment order (as is done in the case of almost all posts in the Central Secretariat etc.) 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..

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3. Financial Advisers of the administrative Ministries/ Departments are requested to review all such cases where special (duty) allowance has been sanctioned to the Central Government employees serving in the various offices including those of autonomous organisations located in the North East Region which are under administrative control of their Ministries/Departments.

  
( A.N. SINHA )  
DIRECTOR (EG)  
TELE: 3011819

To

Financial Advisers of all Ministries/Departments.

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NO.20014/16/86/E.IV/E.II(B)  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi, the 1st December, 1988.

OFFICE MEMORANDUM

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

.....

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

(i) Tenure of posting/deputation.

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

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

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

iii) Special (Duty) Allowance:-

Central Govt. Civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of 12 1/2% of basic pay subject to a ceiling of Rs.1000/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation (duty) allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Pay/Deputation (Duty) Allowance will not exceed Rs.1000/- p.m. Special allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

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

(iv) Special Compensatory Allowance:-

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

(v) Travelling Allowance on First appointment:-

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

(vi) Travelling Allowance for journey on transfer:-

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

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

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

(viii) Joining time with leave:-

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

(ix) Leave Travel Concession:-

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

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

(x) Children Education Allowance/Hospital subsidy:-

Where the children do not accompany the Government servant to the North-Eastern Region, Children Education Allowance upto class XII will be admissible in respect of children studying at the last station of posting of the employees concerned. ...3/-

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

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

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

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

- (xii) Telephone facilities:-

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

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

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

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

5. Hindi version of this Memorandum is attached.

Sd/-

(A. JAYARAMAN)

JOINT SECRETARY TO THE GOVT. OF INDIA.

Ann-2-4

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1995 Supreme Court Cases (L&S) 189  
(BEFORE KULDIP SINGH AND B.L. HANSARIA, JJ.)

UNION OF INDIA AND OTHERS

Versus

S. VIJAYAKUMAR AND OTHERS

Appellants;

Respondents.

Civil Appeal No. 3251 of 1993 with Civil Appeal Nos. 6163-81 of 1994,  
decided on September 20, 1994

Allowances — Special duty allowance payable to Central Government employees appointed to posts of All India Transfer Liability in North-Eastern Region — Held, not payable to employees who were residents of that region — Subject of 1983 OM, not decisive of the question — But after held, denial of the allowance to such employees, did not violate Art. 14 — OMs dated 14-12-1983, 29-10-1986 and 20-4-1987 — Constitution of India, Arts. 14 and 16 — Pay — Equal for equal work

A close perusal of the Office Memoranda dated 14-12-1983, 20-4-1987 and 29-10-1986 clearly show that allowance in question was meant to attract persons outside the North-Eastern Region to the Khasi Region because of inaccessibility and difficult terrain. Even the 1983 memorandum starts by saying that the need for the allowance was felt for attracting and retaining the service of the competent officers for service in the North-Eastern Region. Mention about retention has been made because it was found that incumbents going to that Region on deputation used to come back after joining there by taking leave and therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2/3 years to claim the allowance depending upon the period of service of the incumbent. The 1986

From the Judgment and Order dated 29-5-1993 and 9-6-1992 of the Central Administrative Tribunal, Ernakulam Bench in R.A. No. 71 of 1992

...to any station to the North-Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability.

The contention that the denial of the allowance to the residents would violate the equal pay doctrine and Articles 14 and 16 of the Constitution is adequately met by the Supreme Court's decision in *Reserve Bank of India case*.

*Reserve Bank of India v. Reserve Bank of India Staff Officers Assn.*, (1991) 4 SCC 132: 1991 SCC (L&S) 1090: (1991) 17 ATC 295, followed.

#### Appeals allowed

Advocates who appeared in this case:

K.T.S. Tulsi, Additional Solicitor General, V.C. Mahajan, N.N. Goswami and Dr. Shankar Ghosh, Senior Advocates (C.V.S. Rao, M.S. A. Subhashini, Ms. Sushma Suri, Ms. Binu Tamta, S. Wasim A. Qadri, S.N. Terdal, P. Narasimhan, S.K. Nandy and D.S. Mahra, Advocates, with them) for the appearing parties.

Respondent in person in C.A. No. 3251 of 1993.

The Judgment of the Court was delivered by

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

2. The Tribunal took the aforesaid view because the Office Memorandum dated 14-12-1983 which is on the subject of "Allowances and facilities for civilain employees of the Central Government serving in the States and Union Territories of the North-Eastern Region — improvement thereof" had stated that allowance shall be payable if the posts be those which have "All India Transfer Liability". The stand of the Union of India, however, is that this office memorandum, if it is read along with what was stated subsequently in office memorandum dated 20-4-1987, it would become clear that the allowance was required to be paid to those incumbents who had been posted in North-Eastern Region carrying the aforesaid service condition and not to those who were residents of this region. The office memorandum of 1987 has clearly stated that the allowance would not become payable merely because of the clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India.

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

...1991  
...of Articles 14 and 16 of the Constitution

4. We have duly considered the rival submissions and are inclined to agree with the contention advanced by the learned Additional Solicitor General, Shri [Name], for two reasons. The first is that a close perusal of the two aforesaid memoranda, along with what was stated in the memorandum dated 29-10-1986 which has been quoted in the memorandum of 20-4-1987, clearly shows that allowance in question was meant to attract persons outside the North-Eastern Region to work in that Region because of inaccessibility and difficult terrain. We have said so because even the 1983 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers for service in the North-Eastern Region. Mention about Region on deputation used to come back after joining there by taking leave and, therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 20 years to claim the allowance depending upon the period of service of the incumbent. The 1986 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station to the North-Eastern Region". This aspect is made clear beyond doubt by the 1987 memorandum which stated that allowance would not become payable merely because of the clause in the appointment order relating to All India Transfer Liability. Merely because in the office memorandum of 1983 the subject was mentioned as quoted above is not enough to concede to the submission of Dr Ghosh.

5. The submission of Dr Ghosh that the denial of the allowance to the residents would violate the equal pay doctrine is adequately met by what was said in *Reserve Bank of India v. Reserve Bank of India Staff Officers Assn.*, to which our attention has been invited by the learned Additional Solicitor General, in which grant of special compensatory allowance or remote locality allowance only to the officers transferred from outside to Gauhati Unit of the Reserve Bank of India, while denying the same to the local officers posted at the Gauhati Unit, was not regarded as violative of Article 14 of the Constitution.

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

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

27-26-28-  
Ann. R. 5

Filed to be true copy  
S. A. S.  
Assistant Registrar (Judl.)  
11/3/55  
Supreme Court of India.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

579905

ANNEXURE: 5

ANNEXURE R5

CIVIL APPEAL NO. 3034 OF 1955  
(ARISING OUT OF S.L.P. (C) NO. 16717 OF 1954)

Union of India & Ors.

.....Appellants

vs.

Executive Officers Association  
Gorakhpur

.....Respondents

J U D G M E N T

Faizal Uddin.

1. Delay condoned.
2. Leave granted. The counsel for parties are heard.
3. This appeal has been directed by the appellants against the judgment dated May 20, 1955 passed by the Central Administrative Tribunal, Guwanati Bench (hereinafter referred to as Tribunal) in O.A. No.

of 1972. By the said judgment the Tribunal held that the respondents are entitled to Special Duty Allowance in terms of Office Memorandum dated December 14, 1983 with effect from the date specifically indicated in the said Office Memorandum and directed the respondents herein to pay and clear the Special Duty Allowance to the respondents herein within 90 days from the date of receipt of copy of the judgment in respect of the arrears due and to release the current Special Duty Allowance with effect from the month of June, 1983.

4. The respondent No. 1 is an Association of Group (C) Inspectors of Customs and Central Excise under the Collectorate of Customs and Central Excise, Shillong and respondent Nos. 2 and 3 are its President and General Secretary respectively. The respondents approached the Tribunal claiming Special Duty Allowance on the strength of Office Memorandum No. 20014/2/83-E.IV dated December 14, 1983 and the Office Memorandum No. 20014/16/86.IV/A.11(B) dated December 1, 1986 issued by the Ministry of Finance, Government of India. The respondent-Association claimed that its members have all India transfer liability under the Central Excise and Land Customs Department Group (C) Posts Recruitment Rules, 1979 which were applicable to its members and in pursuance of which three of its members had been



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(17)

transferred and one was a member of the family of the appellant. One of them was posted at Goa under the said Recruitment Rules and, therefore, they are eligible and entitled to claim Special Duty Allowance. The appellants herein opposed and contested the aforesaid claim of the respondents before the Tribunal. The appellants took the defence by stating that the Office Memorandum No. 20014/E/CS.E/IV dated April 20, 1987 had clarified that the Special Duty Allowance is payable only to those officers, incumbents of Group (C) of posts who are having all India transfer liability defined in the said Office Memorandum concerning in view the original Office Memorandum dated March 14, 1983 and that the conditions stipulated in the Recruitment Rules, 1974 referred to above cannot be taken as basis for granting the respondents or its members with all India transfer liability and consequent payment of Special Duty Allowance to them. The appellants also took the plea that all India transfer liability of the members of any service/cadre or incumbent of any posts/Group of posts is to be determined by applying the tests of recruitment to the service/cadre/post made on all India basis and that mere clause in the Recruitment Rules/Appointment Order stipulating all India transfer liability does not make him/them eligible for grant of Special Duty Allowance in terms of Office Memorandum dated December 14, 1983.



5. After considering the rival contentions the Tribunal observed that the contents of Office Memorandum dated April 12, 1964 as well as the letter No. 7/47/40.CA dated September 26, 1964 have been fully discussed by the Full Bench, Calcutta and held that the real test/criteria for determination is whether all India transfer liability exists and opined that without recalling the Office Memorandum issued in 1963 the concerned departments had no reason to deny the benefit of memorandum available to certain classes of employees and to withdraw its application to certain other classes. Relying on the same Bench decision of the Central Administrative Tribunal, Calcutta, the Tribunal allowed the application of the respondents by the impugned judgment and granted the relief as stated above against which this appeal has been preferred.

6. Learned counsel for the appellants submitted that the Tribunal has failed to appreciate the true meaning, intention and spirit behind the term 'all India transfer liability' which occurred in the Finance Ministry Office Memorandum referred to above and has thus seriously erred in holding that the members of the respondent-Association are entitled to the Special Duty Allowance. He further submitted that the package of incentives contained in the Ministry's Office Memorandum

dated December 14, 1982 (as amended) is based on the recommendations of the committee to review the facilities and allowance admissible to Central Government Employees in the North-Eastern Region and it was with a view to attract and retain competent officers service in the States and Union Territories in the North-Eastern Region that the Government of India on the recommendations of the committee made the provision for Special Duty Allowance to be paid to such officers who come on posting and deputation to North-Eastern Region from other regions. It was, therefore, submitted that since the members of the respondent-Association belonged to the North-Eastern Region itself who were recruited and posted in the same Region, they were not entitled for Special Duty Allowance.

7. The main source for claiming the Special Duty Allowance is the Office Memorandum dated December 14, 1982 the very first paragraph of which reads as under:-

"The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram have been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary Department of Personnel & Administrative Reforms to review the existing allowances and

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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."

.....

B. A careful perusal of the opening part of the Office Memorandum reproduced above would show that the Government had appointed a Committee under the Chairmanship of the Secretary Department of Personnel and Administrative Reforms to review the existing allowances and facilities admissible to the various categories of Civilian Central Government Employees serving in the North-Eastern Region so that competent officers may be attracted and retained in the North-Eastern Region States. The use of words attracting and retaining in service are very much significant which only suggest that it means the competent officers belonging to the Region other than the North-Eastern Region. The question of attracting and retaining the services of competent officers who belong to North-Eastern Region itself would not arise. The intention of the Government and spirit behind the Office Memorandum is to provide an incentive and attraction to the competent officers belonging to the Region other than

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P-18

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the North-Eastern region to come and serve in the North-Eastern Region. It can hardly be disputed that the geographical, climatic, living and food conditions of people living in North-Eastern Region and the States comprising therein are different from other Regions of the country. The North-Eastern Region is considered to be 'hard zone' for various reasons and it appears that it is for these reasons that the Government provided certain extra allowances, benefits and other facilities to attract competent officers in the North-Eastern Region at least for two to three years of tenure posting. The Ministry's Office Memorandum in question came up for consideration before this Court in Chief General Mangose (Telecom) Vs. S. Rajender S.H. Bhattacharjee & Ors. [JT 1995 (1) SC 420] which was decided by this Court by judgment dated January 10, 1995 in which this Court took the view that the said Office Memorandums are meant for attracting and retaining the services of competent officers in the North-Eastern Region from other parts of the country and not the persons belonging to that region, where they were appointed and posted. This was also the view expressed by this Court in yet another case reported in J.T. 1994 (6) 443 - Union of India Vs. S. Vinaya Kumar & Ors. In Vinaya Kumar (Suora) the point for consideration was exactly identical, with regard to the entitlement to Special Duty Allowance to those employees/officers who

are residents of North-Eastern Region itself. After considering the memorandum dated December 14, 1903 and other related Office memorandums indicated above, it was held that the purpose of the allowance was to attract persons from outside the North-Eastern Region to work in the North-Eastern Region because of inaccessibility and difficult terrain. In the facts and circumstances stated above the view taken by the Tribunal cannot be upheld and deserves to be set aside.

9. For the reasons stated above the appeal is allowed. The impugned order of the Tribunal is set aside and the application filed by the respondents before the Tribunal for grant of Special Duty Allowance to them is dismissed. In the facts and circumstances of the case, we make no order as to costs.

Sd/-  
(G.C. Agrawal)

Sd/-  
(Faiyaz Uddin)

New Delhi.

February 23, 1995.

Ann-R-6

C/3026

Ann-R-6

R6

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 24512 OF 1995  
(Arising out of S.L.P. No. 12450-55/92)

Union of India & Ors.

Appellants

versus

24512

Geological Survey of India  
Employees' Association & Ors.

Respondents

ORDER

Delay condoned.

Leave granted.

Filed in the copy  
of the Judgment (Judl.)  
19.5.1995  
Supreme Court of India

Mr. F.K. Gajwani, learned senior counsel appears for Geological Survey of India Employees' Association and Mr. J.K. Handu, advocate, appears for the other respondents in all the matters.

Heard learned counsel for the parties. It appears to us that although the employees of the Geological Survey of India were initially appointed with an all India transfer liability, subsequently Government of India framed a policy that Class C and Class D employees should not be transferred outside the region in which they are employed. Hence, all India transfer liability no longer continues in respect of group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such group C and group D employees of Geological Survey of India who are residents of the region in which they are posted. We may also indicate that such question has been considered by this Court in Union of India and

Othman Vs. S. Vijay Kumar & Others (1994 (3) SCC 649).

C/20,5 - 37 -

- 2 -

Accordingly, the impugned order is set aside. However, direct that the appellant will not be entitled to recover any part of payment of special duty allowance already made to the concerned employees. Appeals are accordingly disposed of.

Sd/-  
(S. B. Prasad)

New Delhi  
September 7, 1935

34-37-38 R-1  
C.A. - Special Allowance R-1  
Annex R-7 ANNEXURE: R-7

GOVERNMENT OF INDIA  
Ministry of Finance  
Department of Expenditure

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

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

The undersigned is directed to refer to this Department's OM No. 20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No. 20014/16/86-E.IV/E.II(B) dt. 1.12.88 on the subject mentioned above.

2. The Government of India vide the abovementioned OM dt. 14.12.83 granted certain incentives to the Central Government civilian employees posted to the NE Region. One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have 'All India Transfer Liability'.

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the 'All India Transfer Liability' of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment, zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.

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

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministers/Departments against the orders of the CAT.

PAO (Fees)  
PAO (PMS)  
2.2/1/96  
22/1  
22/1  
22/1



6. The Hon'ble Supreme Court in their judgement delivered on 20.9.94 in Civil Appeal no. 3251 of 1993 upheld the submissions of the Government of India that Central Government civilian employees who have all India Transfer Liability are entitled to the grant of SDA on being posted to any station in the NE Region from outside the region and SDA could not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 11 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

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

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

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

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

10. Hindi version of this OM is enclosed.

(C. Balachandran)

Under Secy to the Govt of India

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

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

Official communication should be sent to the Assistant Secretary, Government of India, North Block, New Delhi.  
Telegraphic address: "SUPREMACY"

Ann: R-8

ANNEXURE R-8  
SUPREME COURT  
INDIA  
25th November, 1956  
147

FROM: ASSISTANT REGISTRAR (JUDL)

ANNEXURE R-8

- TO:
1. The Union of India, represented by the Cabinet Secretary, Government of India, North Block, New Delhi.
  2. The Director, SSB, Office of the Director, SSB, East Block-V, R.K. Puram, New Delhi - 110 002
  3. The Divisional Officer, SSB Shillong Division, A.P. Secretariat Building, Shillong, Meghalaya.
  4. Commandant, Group Centre, SSB, Tripura, Calcutta, Teatalla, Tripura West.

Writ Petition No. 104 of 1956  
(Under Article 32 of the Constitution of India)

WITH  
TARE DITRORU APPLICATION No. 1  
(APPLICATION FOR STAY OF ORDER)

Sadan Kumar Goswami & Ors.

.. PETITIONERS

Union of India & Ors.

.. RESPONDENTS

SIR,  
I am directed to forward herewith for your information and necessary action a certified copy of the signed order dated the 25th October, 1956, of this Court passed in the writ petition and application for stay.  
Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR (JUDL)

2/11/56

104-1

41-  
CIVIL PETITION NO. 724 OF 1996  
IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
(Under Article 32 of the Constitution of India)  
Sub-Inspector Sadhan Kumar Goswami &  
ORS.  
v.  
The Union of India & ORS.  
Petitioners  
Respondents  
THE 25TH DAY OF OCTOBER, 1996  
Hon'ble Mr. Justice K. Ramaswami  
Hon'ble Mr. Justice S.P. Kurdukar  
Mr. Ghosh, Sr. Adv. and Anil Chandra, Adv. with him for  
Petitioners.  
O R D E R  
Following order of the Court was delivered:

133721

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION.  
Writ Petition No. 123 of 1996

Sub-Inspector Sadhan Kumar Goswami &  
Ors.

... Petitioners

The Union of India & Ors.

... Respondents

D E M O N S T R A T I O N

This writ petition under Article 32 is one of the series of cases we have come across to reopen the judgments/orders of this Court rendered under Article 136 of the Constitution of India after their becoming final.

The admitted facts are that the petitioners who joined service under the Special Security Bureau (SSB) in North Eastern Region of India, elapsed special duty allowances as per order of the Central Government. The question was considered by this Court in Union of India vs. Dr. Vijay Kumar (CA No. 325 of 93) decided on September 29, 1994; therein this Court had held thus:

"We have duly considered the rival submissions and are inclined to agree with the contention advanced by the

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20-1043-  
-41-42-  
learned Additional Solicitor General, Shri. Talsi for two reasons. The first is that a close perusal of the two above-mentioned memoranda, along with what was stated in the memorandum dated 28.10.1966 which has been quoted in the memorandum of 20.3.1967, clearly shows that allowance in question was granted to attract because of the North Eastern Region to work in that region because of inaccessibility and difficult terrain. We have said so because even the 1966 memorandum starts by saying that the need for the allowance was felt for "attracting and retaining" the service of the competent officers in service in the North-Eastern Region. Retention about retention has been made because it was found that incumbents going to that region on deputation used to come back after joining thereby taking leave etc. Therefore, the memorandum stated that this period of leave would be excluded while counting the period of tenure of posting which was required to be of 2 1/2 years to obtain the allowance depending upon the period of service of the incumbent. The 1966 memorandum makes this position clear by stating that Central Government civilian employees who have All India Transfer Liability would be granted the allowance "on posting to any station in the North-Eastern Region". This aspect is made clear beyond doubt by the 1967 memorandum which stated that allowance would not become payable merely because of the change in the appointment order relating to All India Transfer Liability. Merely because in the office memorandum of 1963 the subject was mentioned as quoted above it is not enough to concede to the submission of Mr. Ghosh.

The submission of Mr. Ghosh that the denial of the allowance to the residents would violate the equal pay doctrine is adequately met by what was held in

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Reserve Bank of India vs. Reserve Bank  
of India Staff Officers' Association &  
Ors. (1991) 4 SCC 1521 To which, an  
attention has been invited by the  
learned Additional Solicitor General, in  
which grant of special compensatory  
allowance or remote locality allowance  
only to the officers transferred from  
outside to Cachari Unit of the Reserve  
Bank of India, while denying the same to  
the local officers posted at the Cachari  
Unit, was not regarded as violative of  
Article 14 of the Constitution.

In view of the above, this Court allowed the  
appeals of the State and held that the respondents  
were not entitled to the allowances but whatever amount  
was paid upto the date of the judgment, was directed  
not to be recovered from them. The petitioners are  
relying upon the Office Memorandum dated July 11, 1996  
which provided that "it is not applicable from one  
station to another station within the region of Group A  
and B staff will further continue to get the  
facilities". They have filed this writ petition  
contending that while the Group C and D employees have  
been denied the benefit of the above judgment, special  
duty allowance benefit is being granted to Group A and  
B. It tantamounts to violation of Article 14 and,  
therefore, the writ petition should be allowed so as to  
give them the same benefit. Admittedly, the  
petitioners are Group C and D employees and are bound

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by the above declaration of law made by this Court merely because they were not parties to the judgment, they cannot file writ petition under Article 32. The contention that they are entitled to get the benefit at par with Group A and B officers, under the above Memorandum dated July 11, 1996, apart from the fact that Group A and B employees are entitled to special duty allowance contrary to the law declared by this Court in the above judgment, they too are bound by it. Whether or not they are entitled to the above benefit due to this Court's judgment, the petitioners are not entitled to the benefits of the allowances as claimed by them. The judgment of this Court would indicate that it did not make any distinction between Group C and B and Group A and B Officers. All are governed by the law under Article 141. The petitioners are not entitled to the payment of the special duty allowance irrespective of whether or not they were parties to the judgment rendered in Vijay Kumar's case (supra); they cannot be permitted to raise new grounds, though not raised or argued in earlier case, to canvass the correctness of the judgment by filing the writ petition under Article 32.

Of late, we have been coming across this type

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1 writ petitions filed by several parties. We are constrained to take the view that the learned counsel who are advising them to move this Court under Article 32 should certify to the Court that though they advised the petitioners that the judgment of this Court binds them and cannot convey its correctness and still, in spite of such advice, the party insisted upon filing the writ petition. It would then be for this Court to consider and deal with the case appropriately. Hereinafter, it would be necessary that the Advocate-on-Record should file, as part of the paper book of the writ petition filed under Article 32, a statement and certificate that the party concerned was advised that the matter is covered by the judgment of this Court and yet the writ petitioner insisted to file the same. Should such certification form part of the record of the petition, then only the Court would deal with the writ petition. In view of the fact that Class C and D employees are not entitled to special duty allowance as per the law already declared by this Court, the petitioners are not entitled to the benefit.

It is next contended that the Government is recovering as per Memorandum dated January 17, 1936 the amounts paid which is contrary to the direction issued



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14-

(101)

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by this Court in the above judgment. The petitioners are not right in their contentions. It is seen that the Government have limited the payments already made after the date of the judgment of this Court; payments made prior to that date are not being recovered.

Under those circumstances, we do not think that there will be any justification to direct the respondents not to recover the amount from the petitioner after the date of the judgment of this Court.

The writ petition is accordingly dismissed.

(K. A. N. S. R. A. I.)

REC'D DELHI  
OCTOBER 23, 1976

SEALED IN MY PRESENCE  
10/23/76



20.4.87 read with the 20014/10/46 P.11(1) dated 1.12.00) but subsequently the 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.

(ii) 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

(vi) 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 Expend. vide their UO No. 11(3)/95-E.11(1) dt. 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 S.D.A. 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/DJS, there is a common recruitment system made on All India basis and promotions are 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 entitled to SDA till he is once transferred out of that Region.

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vii) Based on point (iv) above, some of the units of DMU/DEU have authorized 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 bands having been satisfied are all the employees eligible for the grant of SDA.

It has already been clarified by MoF that a mere clause in the appointment order regarding All India Transfer Liability does not make him eligible for grant of SDA.

viii) Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20/9/1991 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 and posted in NE Region be recovered from the date of payment or after 20th Sept. 91 whichever is later.

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This issue with the concurrence of the Finance Division, Cabinet Secretariat vide Dy. No. 1249 dated 11.10.99 and Ministry of Finance (Expenditure) vide I.O. No. 1204/E-11(B)/99 dated 30.3.2000.

*P. H. Thakur*  
P. H. Thakur  
Director (SI)

- |                           |                             |             |
|---------------------------|-----------------------------|-------------|
| 1. Shri H.S. Modi,        | Director,                   | AIC.        |
| 2. Shri H.P. Kumar,       | Director,                   | SGU.        |
| 3. Shri (Ptd) G.S. Ushan, | IG,                         | ISF.        |
| 4. Shri S.D. Mehra,       | JO (PLC),                   | UGS.        |
| 5. Shri Ashok Chaturvedi, | JS (Perol),                 | R&AW.       |
| 6. Shri D.S. Gill,        | Director of Accounts, DACS, |             |
| 7. Smt. J.H. Menon,       | Director-Finance (SI),      | Cab. Sectt. |
| 8. Col. K.L. Jangal,      | CIA,                        | CIA.        |
- Cab. Sectt. VO NO.20/12/99-EA.1 - 1802 dated 02-5-2000

2 MAY 2000

Ann. R-10

ANNEXURE

R10  
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IN THE SUPREME COURT  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 1000 OF 1961  
FACULTY CODE OF S.L.P. (C) NO. 649 OF 1954

Submitted to the Court  
Assistant Registrar (Civil)  
Supreme Court of India

ANNEXURE

R10

544783

R10

Union of India & Anr.

versus

Appellants

National Union of Telecom Engineering  
Employees Union, Andhra Pradesh

Respondents

2005

Leave granted.

It is stated on behalf of the respondents that this appeal of the Union of India is covered by the judgment of this Court in the case of Union of India vs. Executive Officers' Association Group 'C' 1955 (Supp. 1) SCC 757. followed in the case of Union of India vs. Executive Officers' Association Group 'C' 1955 (Supp. 1) SCC 757.

Therefore, this appeal is to be allowed in favour of the Union of India. It is ordered accordingly.

It is, however, made clear that upon this appeal being allowed for admission on 13.1.2000, the learned Solicitor General gave an undertaking that whatever amount has been paid by the respondents by way of special duty allowance will not be any case or levied or recovered from them. It is made clear that delay was condoned. It is made clear.

the Union of India shall not be entitled to recover any  
paid as special duty allowance inspite of the fact  
at this appeal has been allowed.

(H. SANTOSH HEGDE)

(K.G. BALAKRISHNAH)

New Delhi,  
October 06, 2001

Ann-R-11

S.No. 11(5)

R-560/Fin-II  
13/6/2002

F.No.11(5)/97-E.II.(B)  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi, dated the 29<sup>th</sup> May, 2002.

OFFICE MEMORANDUM

Subject: Special Duty Allowance for civilian employees of the Central Government Serving in the State and Union Territories of North Eastern Region including Sikkim.

The undersigned is directed to refer to this Department's OM No.20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No.20014/16/86-E.IV/E.II.(B) dated 1.12.88, and OM No.11(3)/95-E.II.(B) dt. 12.1.1996 on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in NE region vide OM dt. 14.12.83. Special Duty Allowance (SDA) is one of the incentives granted to the Central Government employees having 'All India Transfer Liability'. The necessary clarification for determining the All India Transfer Liability was issued vide OM dt.20.4.87, laying down that the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc., i.e., whether recruitment to service/cadre/post has been made on All India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of Special Duty Allowance.

3. Some employees working in NE region who were not eligible for grant of Special Duty Allowance in accordance with the orders issued from time to time agitated the issue of payment of Special Duty Allowance to them before CAT, Guwahati Bench and in certain cases CAT upheld the prayer of employees. The Central Government filed appeals against CAT orders which have been decided by Supreme Court of India in favour of UOI. The Hon'ble Supreme Court in judgement delivered on 20.9.94 (in Civil Appeal No. 3251 of 1993 in the case of UOI and Ors V/s Sh. S. Vijaya Kumar and Ors) have upheld the submissions of the Government of India that C.G. civilian Employees who have All India Transfer Liability are entitled to the grant of Special Duty Allowance on being posted to any station in the North Eastern Region from outside the region and Special Duty Allowance would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

4. In a recent appeal filed by Telecom Department (Civil Appeal No.7000 of 2001 - arising out of SLP No.5455 of 1999), Supreme Court of India has ordered on 5.10.2001 that this appeal is covered by the judgement of this Court in the case of UOI & Ors. vs. S. Vijayakumar & Ors. reported as 1994 (Supp.3) SCC, 649 and followed in the case of UOI & Ors vs. Executive Officers' Association 'Group C' 1995



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-2-  
(Supp.1) SCC, 757. Therefore, this appeal is to be allowed in favour of the UOI. The Hon'ble Supreme Court further ordered that whatever amount has been paid to the employees by way of SDA will not, in any event, be recovered from them in spite of the fact that the appeal has been allowed.

5. In view of the aforesaid judgements, the criteria for payment of Special Duty Allowance, as upheld by the Supreme court, is reiterated as under:-

"The Special Duty Allowance shall be admissible to Central Government employees having All India Transfer Liability on posting to North Eastern region (including Sikkim) from outside the region."

All cases for grant of Special Duty Allowance including those of All India Service Officers may be regulated strictly in accordance with the above mentioned criteria.

6. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance. Further, as per direction of Hon'ble Supreme Court, it has also been decided that -

- (i) The amount already paid on account of Special Duty Allowance to the ineligible persons not qualifying the criteria mentioned in 5 above on or before 5.10.2001, which is the date of judgement of the Supreme Court, will be waived. However, recoveries, if any, already made need not be refunded.
- (ii) The amount paid on account of Special Duty Allowance to ineligible persons after 5.10.2001 will be recovered.

7. These orders will be applicable *mutatis mutandis* for regulating the claims of Islands Special (Duty) Allowance which is payable on the analogy of Special (Duty) Allowance to Central Government Civilian employees serving in the Andaman & Nicobar and Lakshadweep Groups of Islands.

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

*N.P.*  
(N.P. Singh)

Under Secretary to the Government of India.

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

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

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Points of Doubts	Whether SDA will be admissible or not
<p>Whether SDA will be admissible to:-</p> <p>A person belongs to outside NE Region but posted on first appointment in the NE Region after selection through direct recruitment based on the recruitment made on All India basis and having a common/centralized seniority list and All India Transfer Liability</p>	No
<p>(ii) An employee hailing from NE Region selected on the basis of an All India Recruitment Test and borne on the Centralised cadre/service having common seniority and All India Transfer Liability on first appointment and posted in NE Region.</p>	No
<p>✓ (iii) A person belongs to NE 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 SDA vide Ministry of Finance OM No.20014/2/83-E.IV dated 14.12.83 and 20.04.87 read with OM No.20014/16/86-E.II(B) dated 01.12.88) 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 he can be transferred out to any place outside the NE Region having All India Transfer Liability.</p>	No
<p>✓ (iv) An employee having a common All India seniority/All India Transfer Liability belongs to NE Region and subsequently posted outside NE Region; whether he will be eligible for SDA if posted/transferred to NE Region.</p>	Yes
<p>✓ (v) An employee, having All India Transfer Liability common All India seniority, hailing from NE Region, posted to NE Region initially but subsequently transferred out of NE Region and re-posted to NE Region after serving sometime in non-NE Region.</p>	Yes
<p>✓ (vi) The MoF, Deptt. of Expenditure, 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. Determination of the admissibility of the SDA to any Central Government Civilian employee having all India Transfer Liability will be by applying the criteria (a) whether recruitment to the Service/Cadre/Post has been made on All India basis and (b) whether promotion is also done on the basis of All India common seniority for the service/Cadre/Post as a whole. Based on the above criteria all employees recruited on the All India basis and having a common seniority list on 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 Region.</p>	In case the employee hailing from NE Region is posted initially within NE Region he is not entitled to SDA till he is transferred out of that Region and re-posted again.

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Points of Doubts		Whether SDA will be admissible or not
(vii)	What should be the norm for payment of SDA i.e. on fulfilling the criteria of All India Recruitment Test & promotion based on All India common seniority, having been satisfied, are all the employees eligible for the grant of SDA?	It has already been clarified by MoF that a mere clause in the appointment order regarding All India Transfer Liability does not make an employee eligible for grant of SDA.
(viii)	Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20.9.94 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 amount already paid on account of Special Duty Allowance to the ineligible persons not qualifying the criteria on or before 5.10.2001, which is the date of judgement of the Supreme Court, will be waived. <u>However recoveries, if any, already made need not be repeat NEED NOT BE refunded. The amount paid on account of Special Duty Allowance to ineligible persons after 5.10.2001 will be recovered.</u> A copy of MoF OM No.11(5)/97-E.II(B) dated 29.5.02 issued by the Govt. based on Supreme Court judgement dated 5.10.01 is also enclosed for information and further necessary action.

Ann. R-12

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Annexure

**Statement showing details of transfer postings etc. of Shri K.N.Gogoi, Ex-ACIO-I(G) and five others.**

Sl. No.	Name & Rank	Residential address	Date of appointment	Details of postings
1.	2.	3.	4.	6.
1.	Shri K.N.Gogoi, ACIO-I (Retd.)	Khelnagaon, PO-Cherekapar Dist&PS-Sivasagar, Assam.	18-04-70	18-04-70 to 05-09-71 IB Hqrs (Induction training) 6-09-71 to 07-10-73 Tezpur 8-10-73 to 31-07-79 Dibrugarh 1-08-79 to 08-02-80 Dibrugarh 09-02-80 to 11-10-82 Shillong.
2.	" A.K.Dey, ACIO-I(G)	C/O-Harendra Nath Dey, 10-11-70 PO-Sripuria via, Tinsukia Dist-Lakhimpur, Assam		10-11-70 to 21-03-72 IB Hqrs. (Induction training) 03-04-74 to 15-05-78 Tezpur 24-05-78 to 31-12-80 Shillong 05-01-81 to 17-06-83 Silchar 25-06-83 to 30-04-02 Guwahati 13-05-02 to 31-10-03 Shillong 11-11-03 till date Guwahati.
3.	" S.K.Nandy, ACIO-I(G)	South Basisthanagar Vivek Path, Guwhati-29 Assam	08-02-73	08-02-73 to 07-03-74 IB Hqrs.(Induction training) 08-03-74 to 18-02-84 Shillong 19-02-84 to 31-08-93 Guwahati 01-09-93 to 31-10-95 Tezpur 01-11-95 to 31-07-2000 Guwahati 01-08-2000 to 31-07-02 Shillong 12-08-02 till date Guwahati.
4.	" N.B.Chetri, DCIO	C/O-Salbahadur Chetri Vill-No.1 Bardikarni PO-Rangachakua, Dist-Darrang, Assam	17-09-74	17-04-74 to 07-06-76 IB Hqrs (Induction training) 08-06-76 to 31-03-82 Shillong 02-04-82 to 09-06-83 Aizwal 10-06-83 till date Guwahati
5.	" G.Kisku, DCIO	Vill-Bagapuri PO-Udalguri Dist-Darrang, Assam	16-08-84	16-08-84 to 18-04-85 Shivpuri (Induction training) 02-05-85 to 31-08-88 Kohima 08-09-88 to 31-03-99 Shillong 12-04-99 till date Guwahati.
6.	Smt.B.B.Das, ACIO-II(G)	C/O-Late N.C.Bera P.P.Road, Rehabari Guwahati-781008	20-01-97	i. 20-01-97 to 12-07-97-DRTC, Shivpuri - (Induction Training) ii. 14-07-97 to 13-01-98 IB Hqrs (do) iii. 19-01-98 till date-SIB Guwahati.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

*Filed by me Applicants  
through S. Nath.  
Delivered  
06.09.2007*

In the matter of: -

O.A. No. 294 of 2005

Sri Khagendra Nath Gogoi & Ors.

-Vs-

Union of India and Others.

-And-

In the matter of: -

Rejoinder submitted by the applicants in  
reply to the written statements  
submitted by the respondents.

The applicants above named most humbly and respectfully beg to state as  
under; -

1. That with regard to the statements made in Para 1 to 2 (a), 2 (b), (c), (d), (e), (f) and (g) the applicants deny the same except which are matters of records and further beg to state that the applicants were initially appointed and posted at New Delhi or at Shivpuri (in the State of Madhya Pradesh) and subsequently they were transferred and posted to N.E Region as such they are entitled for payment of Special Duty Allowance. The applicants in reply to the paragraph 2 (l) further beg to state that the case of the applicants are covered by the clarification contained in the Cabinet Secretariat letter dated 02.05.2000, the very contention of the

respondents that the applicants were posted either at New Delhi or at Shivpuri for the purpose of induction training and as such the said initial posting either at Shivpuri or at New Delhi will not be treated as initial posting is not factually correct. In the appointment letter itself it is specifically stated that applicants should report for duty by the prescribed date failing which the appointment would be treated as cancelled, therefore such posting or reporting for duty should be treated as initial posting. It would be evident from the Annexure- II of the O.A that said Shri S.K. Nandy after completion of his induction training, he was transferred and posted to SIB, Shillong after availing the usual joining time and the earned leaves, therefore the posting of the applicants at Shivpuri (Madhya Pradesh) or at New Delhi must be treated as initial posting of the applicants and this fact would be evident from the service books of the applicants. As such contention of the respondents that the posting at Shivpuri (Madhya Pradesh) or at New Delhi for the purpose of induction training is factually not correct even in service training is also counted towards the duty and the said posting is also treated as a posting. Therefore, production of service books of the applicants is necessary for proper adjudication of the case of the applicants for entitlement of payment of Special Duty Allowance, therefore the Hon'ble Court be pleased to direct the respondents to produce the Service Books of the applicants. Moreover, the O.M dated 29.05.2002 also specifically stated in Clause 5 that the employees on their posting in NE Region from outside the NE Region would be entitled to Special Duty Allowance, therefore in the instant case since the applicants have been posted from outside the NE Region as such they are entitled to SDA in terms of Clause No. 5 the OM dated 29.05.2002. Moreover, in terms of the order dated 10.11.2003 issued by the Joint Director, Govt. of India, Guwahati also held that officials on their posting from outside the NE Region on transfer also entitled to Special Duty Allowance even though they are resident of NE Region as

such the case of the applicants are also covered by the order dated 10.11.2003 issued by the Joint Director.

The judgment cited by the Respondents in the case of United Bank of India - Vs- Meenakshi Sundaram supports the case of the applicants so far the payment of SDA are concerned. Similarly, the contention raised by the respondents in paragraphs (j), (k) and (l) are also not factually correct. The Govt. of India, Ministry of Finance has clarified the position of entitlement of SDA so far permanent resident of NE Region are concerned in their O.M dated 13.06.2001 (Annexure- VII). The cases of the applicants are squarely covered by the said O.M dated 13.06.2001. The respondents in their written statement did not deny the contention of the applicants made in the Original Application in support of the O.M dated 13.06.2001 and that score alone the Original Application deserves to be allowed with costs.

2. That with regard to the statements made under Para-wise reply in paragraphs (1), (3), (4), (5), (6), (7), (8) and (9) of the written statements applicants categorically deny the statements of the respondents to the effect that the claim of the applicants regarding grant of SDA is very much legitimate and lawful and further beg to state that applicants were initially posted either at New Delhi or at Shivpuri (in the state of Madhya Pradesh) and that have been treated as their first posting and on completion of their duties even for induction training they have been transferred and posted to the NE Region which would be evident from their own records after granting normal joining time and the same would be evident from their service records also, therefore the Hon'ble Court may be pleased to direct the respondents to produce the Service Books of the applicants for proper adjudication of the original application. The O.M dated 29.05.2002 supports the cases of the applicants as because even the induction training is also treated as a part of the duty and posting, therefore the applicants are entitled to payment of SDA. Moreover, the statement made by the

respondents in paragraph (4) is false and misleading to the extent that the appointments of the applicants were subject to the induction training. The O.M dated 14.12.1983 is very much clear and all the applicants fulfilled all the criteria laid down in the O.M dated 14.12.83 and the O.M dated 13.06.2001 as well as the O.M dated 29.05.2002. The contention of the respondents raised in paragraph (7) that the induction training is a prerequisite for appointment is incorrect and contrary to their own records in view of the fact that the offer of appointment has already made before sending the applicants for induction training, it was specifically laid down in the offer of appointment that in the event of failing to report for duty the offer of appointment would be treated as cancelled, therefore, induction training has no relevancy with the offer of appointment. Ministry of Finance being the nodal Ministry has clarified the entitlement of SDA so far the residents of NE Region are concerned much after the decision of the Vijaykumar's case and Meenakshi Sundaram's case, as such the impugned orders issued by the respondents are contrary to the clarification given by the Govt. of India, Ministry of Finance as such they are liable to be set aside and quashed.

3. That with regard to the statements made in paragraphs (11) and (14) (there are no paragraphs 12 or 13), the applicants deny the correctness the same and reiterate the statements made in Original Application.

In the facts and circumstances the Original Application deserves to be allowed with costs.

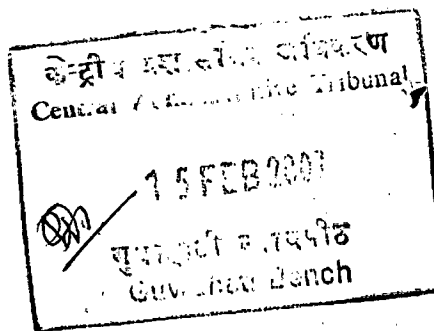


### VERIFICATION

I, Shri Khagendra Nath Saikia, Son of Late Shri Dondeswar Gogoi, aged about 60 years, Assistant Central Intelligence Officer (Retired), Subsidiary Intelligence Bureau, one of the applicants in the instant Original Application duly authorized by the others to verify the statements made in the rejoinder, do hereby verify that the statements made in paragraph 1 to 3 are true to my knowledge and I have not suppressed any material facts.

And I sign this verification on the 6<sup>th</sup> day of September 2006.

*Khagendra Nath Gogoi*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH GUWAHATI

OA NO. 294/2005

SHRI KHAGRNDRA NATH GOGOI & ORS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

Reply to the document submitted by the applicant in support of their claim.

- 1) That the respondents have received a copy of the document bearing No.2/Trg (APY72(2) dated 21.03.1972) submitted by the applicant in support of their claim for SDA before the Hon'ble Tribunal. After perusal of records it is found that no such reference/document/record is available with the respondents, hence burden lies on the applicants to prove the authenticity of the document before the Hon'ble Tribunal.
- 2) That it is further submitted that it is very clear that the applicants were after completion of the induction training initially posted in the N. E. Region. Copies of the initial posting orders are produced by way of filing MP No. 132/2006 before the Hon'ble Tribunal. As the induction training to all direct recruits (DR) /JIOs/ ACIOs is a pre-requisite for appointment to the respective posts and there are specific initial posting order after completion of the induction training against each of the applicant hence there is no dispute regarding initial posting of the applicant. The applicants were initially posted after completion of the induction training to the North Eastern Region were never posted outside North Eastern Region as per

Filed by  
the Respondents through  
Addl. Deputy Director  
Subsidiary Intelligence Bureau  
(MHA), Govt. of India.  
Guwahati.  
15/2/07

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the various circulars, OMs and judgments of Hon'ble Apex Court as well as Hon'ble Gauhati High Court, the applicant are not entitled for SDA.

Copies of the initial posting orders of the applicants are annexed herewith and marked as Annexure- P series

- 3) That it is submitted that appointment to a service and posting thereafter are two different concepts. In this context the respondents beg to rely and refer upon the Hon'ble Supreme Court Judgments passed in S. N. Dhingra and others Vs. Union of India and others (2001) 3 SCC 125 and also State of Assam Vs. Ranga Mahammad and others (1967) 1 SCR 454. The Hon'ble Supreme Court in the judgment it is also made clear that the very recruitment and the terms and conditions mentioned therein are of great significance.
- 4) That in view of the submissions made above as well as in the Written Statement and after production of the initial posting orders of the applicants, it is submitted before the Hon'ble Tribunal that the applicant do not fulfill the conditions for entitlement of SDA laid down by the Hon'ble Apex Court as well as the Hon'ble High Court hence the Hon'ble Tribunal may be pleased to dismiss the OA.

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Signature

Addl. Deputy Director  
Subsidiary Intelligence Bureau  
(GIA), Govt. of India.  
Gauhati.

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## VERIFICATION

*[Signature]*  
Addl. Deputy Director  
Subsidiary Intelligence Bureau  
(MHA), Govt. of India.  
Guwahati.

I Baidyanath Sen....., aged

about 54 years at present working as

Addl. Deputy Director, SIB Guwahati.

....., who is one of the respondents and taking steps in this case, being

duly authorized and competent to sign this verification for all respondents,

do hereby solemnly affirm and state that the statement made in paragraph

3, 4 are true

to my knowledge and belief, those made in paragraph

1, 2 being matter of records, are

true to my information derived there from and the rest are my humble

submission before this Humble Tribunal. I have not suppressed any material

fact.

And I sign this verification this 15th day of Feb 2007 at Guwahati

DEPONENT *[Signature]*  
Addl. Deputy Director  
Subsidiary Intelligence Bureau  
(MHA), Govt. of India.  
Guwahati.

# ORDER

SECRET  
IMMEDIATE

On completion of their training, the following JIOs of the 24th batch are posted to the places mentioned against their names:-

S.No.	Name	Place of posting
	S/Shri	
1.	Murari Singh	JAD, Gangtok.
2.	R.R. Sahai	-do-
3.	Manohar Singh Rashi	SIB, Tezpur/NEFA.
4.	A.L. Malhotra	-do-
5.	Indra Deo Narain	SIB, Tezpur/Assam-Bhutan Border
6.	Tarkeshwar Mishra	-do-
7.	A.K. Borah	-do-
8.	Mrinmoy Chakravarty	-do-
9.	D.D. Gogoi	-do-
10.	R.N. Mukherjee	-do-
11.	C.K. Talukdar	-do-
12.	K.N. Gogoi	-do-

(M.I.S. Iyer)  
Assistant Director

No.8/TP/CI/71(3)  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Govt. of India

New Delhi-1, the

Copy for information and necessary action to:-

- DDs, SIBx Calcutta and Tezpur.
- AD(T), IB Headquarters, New Delhi along with 12 copies for the JIOs concerned.
- JAD, Gangtok.
- JAD(CP). F.N.1/CPG/71(2) refers.
- C, CII, G, S.E., Cash-I, Cash-II and ACR Cell.
- Shri N.S. with 12 copies for the personal file of the JIOs concerned.

Assistant Director

Rawat(10.8.71)

5 -

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ORDER

SECRET

IMMEDIATE

On completion of their training, the following JIOs of 25th batch are posted to the places mentioned below against their names:-

S.No.	Name	Place of posting	Remarks
	S/Shri		
1.	Chand Singh.	A.D., Leh.	
2.	Jagdish Rai.	-do-	
3.	Ajit Singh.	-do-	
4.	D.M.Rao.	-do-	
5.	K.Ramakrishna	-do-	
6.	D.Prem Kumar.	-do-	
7.	Madan Lal.	-do-	
8.	Dilbinder Singh.	A.D., Simla.	
9.	H.K.Mishra.	-do-	
10.	B.Madhava Pushpakaran.	OSD(P) Gangtok.	
11.	Bijoy Kr.Lal Bimal.	-do-	
12.	Kedar Jha.	-do-	
13.	V.M.Rao.	SIB, Tezpur.	
14.	C.K.Balakrishnan.	-do-	
15.	V.Karthikeyan.	-do-	
16.	G.Sanmukhan.	-do-	
17.	Bhagwat Prasad.	-do-	
18.	Satrughna Singh.	-do-	
19.	Kumar Jit Singh Laur.	-do-	
20.	K.Ramchandran Nair.	-do-	
21.	K.Chandrasckhar Setty.	-do-	
22.	Sankar Dev Roy.	-do-	
23.	Ajoy Kumar Dey.	-do-	
24.	N.Vijyan.	-do-	
25.	Hari Bhushan.	-do-	
26.	R.K.Srivastava.	SIB, Lucknow.	For ITB Sector.
27.	Chandra Dev Yadev.	-do-	-do-
28.	S.K.Mishra.	-do-	-do-

2. The following JIOs who have completed tenure in difficult area, are transferred to the places as shown against their names:-

S.No.	Name	Present Posting	Place of Posting Ordered.
	S/Shri		
1.	K.S.Ahluwalia.	A.D., Leh.	SIB, Chandigarh.
2.	Y.K.Gupta.	-do-	IB Hqrs., New Delhi.
3.	B.L.Malik.	-do-	-do-
4.	M.S.Sekhawat.	-do-	-do-
5.	N.N.Mathur.	-do-	CIO, Jaipur.
6.	Yogendra Kumar.	-do-	-do-

cont'd .....2.

7. S.S.Lathor. A.D.Leh. SIB, Chandiga  
 8. J.C.Pathak. OSD(P), Gangtok. SIB, Lucknow.  
 9. G.N.Tripathi. SIB, Tezpur. SIB, Lucknow.  
 10. R.C.Bhatt. -do- -do-

( K.N.Singh )  
 Assistant Director.

No.8/TP/CI/71(7)  
 Intelligence Bureau,  
 Ministry of Home Affairs,  
 Government of India,

New Delhi-1, the 22, Feb., 1972

Copy forwarded for information and necessary action to:-

- (1) D.Ds., SIBx : Chandigarh, Lucknow & Tezpur.
- (2) A.Ds., : Leh, Simla.
- (3) OSD(P) II, : Gangtok.
- (4) CIO., : Jaipur.
- (5) AD(CP) with reference to his J.O. Note 1/CPG/71(2)F dated 31-1-72.
- (6) AD(T) alongwith 28 copies for the JIOs concerned.
- (7) SOs., : 'G' C-II, Cash-I, Cash-II, S.B.,  
 ACR Cell and Confirmation Cell.
- (8) Shri N.S. in C-I with 28 copies for the personal files of JIOs of 25th Batch.
- (9) S/Shri MLP, HR. SKS, SN in C-I Branch.

( K.N.Singh )  
 Assistant Director.

\*ASA\*  
 16-2-72.

ORDER

On completion of training, the following Junior Intelligence Officers (Genl) of the 2nd Batch are posted to the places as mentioned against their names :

S.No.	Name.	Place of posting	Remarks
1.	2.	3.	4.
1.	S/Shri Chandra Kant Dinkar Rao Jadhav.	SIB, Bombay.	
2.	V.M. Vasudevan.	SIB, Kohima.	
3.	R.L. Raina.	SIB, Shillong.	
4.	K. Krupanandam	-do-	
5.	A.K. Sundararejan	-do-	
6.	P. Krishnan.	-do-	
7.	B.T.V. Krishnavataram	-do-	
8.	R.V. Mandhotra	-do-	
9.	S.K. Luxmikanta.	-do-	
10.	T.M. Vishwanathan.	-do-	
11.	N.V.L. Subramanyam	-do-	
12.	P. Swaminathan.	-do-	
13.	S.K. Nandy.	-do-	
14.	Manmohan Pal Sharma.	-do-	

2. Consequent upon the above postings, the following transfers of JIOs are ordered :

3.No.	Name.	Present Place of posting	Place of posting
1.	2.	3.	4.
1.	S/Shri Hari Har Mallick.	SIB, Kohima	SIB, Bangalore
2.	F.C. Choudhury.	SIB, Shillong	SIB, Bangalore
3.	S.L. Dogi.	-do-	-do-
4.	Thomas Samuel	-do-	-do-
5.	L.N. Babat.	-do-	-do-
6.	S.N. Sharma.	-do-	-do-
7.	Shyamalendu Das.	-do-	-do-
8.	Amitab Deb.	-do-	-do-

connected 2/6



OFFICE ORDER NO....584-X/74. Dt. 27.3.74

Reference:- I.B's Order No.8/TF(CI)/74(1) dated 2.3.74

On completion of their training the undermentioned Junior Intelligence Officers of the 29th Batch have been or will be deemed to have been relieved from I.B. Hqrs. w.e.f. the dates and instructed to report to the Officers as shown against their names after availing of joining time permissible under rules.

S.No.	Name	Date of Relief	To whom
1.	Shri C.K. Dinkar Rao	7.3.74(AN)	DD, SIB, Bombay
2.	" K.L. Jadhav	29.3.74(AN)	DD, SIB, Shillong
3.	" R.S. Mandhotra	29.3.74(AN)	-do-
4.	" P. Swaminathan	29.3.74(AN)	-do-
5.	" K. Krupanandam	7.3.74(AN)	-do-
6.	" B.T.V. Krishnavatram	7.3.74(AN)	-do-
7.	" A.K. Sundararajan	7.3.74(AN)	-do-
8.	" P. Krishnan	7.3.74(AN)	-do-
9.	" S.K. Lakshminikanta	7.3.74(AN)	-do-
10.	" T.E. Vishwanathan	7.3.74(AN)	-do-
11.	" H.V.L. Subramanyam	7.3.74(AN)	-do-
12.	" S.K. Nandy	7.3.74(AN)	-do-
13.	" Manmohan Lal Sharma	16.3.74(AN)	-do-
14.	" Anil Kumar Aggarwal	7.3.74(AN)	I.B. Hqrs (A.P. Br.)

Sd/-  
(S.B. BHATNAGAR)  
ASSISTANT DIRECTOR

No.3/Trg(CI)/73(1)  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India  
New Delhi-110001

C Copy to:-

1. DL, SIBx. Bombay, Shillong.
2. I.B. Hqrs (Shri A.M.S.).
3. SD Section for O.O. Book.
4. Cash-II Branch for issue of L.P.C.s early.
5. C-II Branch/ G Branch.
6. Personal Files (14 copies).

(S.B. BHATNAGAR)  
ASSISTANT DIRECTOR

1. 2.  
S/Shri  
9. D.C. De.  
10. M.N. Ray.  
11. D. Chakravorty.  
12. S.K. Chakravorty.  
13. S.K. Singh.  
14. R.B. Singh.

SIB, Shillong. SIB, Calcutta.  
-do-  
-do-  
-do-  
-do-  
-do-

Sd/ (K. N. SINGH)  
Assistant Director

No.8/TP(CI)/74(1)  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India,  
...

NEW DELHI, the

Copy for information and n/action to :

1. DDs, SIBx: Bombay, Kohima, Shillong, Calcutta, Jaipur and Madras.
2. DD(CP), JDD(Trg), IB Hqrs.
3. CIOs: Bhubaneshwar, Jaipur, Trivandrum.
4. AD(G), JAD, SES-V, IB Hqrs.
5. JAD(Trg), IB Hqrs., w.r. to his note dated 21-12-73.
6. D(CP)/DCIO(CP), IB Hqrs., w.r. to their note No.1/CPG/74(2)-F-191 dated 28-2-74.
7. Shri N.K. Mendiratta, Asstt. CI Br. (15 copies).
8. S.Os: C, C.II, G, SB, NGO-I, NGO-II, NGO-III, ACR Cell, Conf. Cell, Cash-II Branches, IB Hqrs.
9. P.7s (S/Shri Madan Singh; SKS(Sr); TAS; WPC; SKM, Asstts. CI Branch, IB Hqrs.)

(K. N. SINGH)  
Assistant Director

Encls: nil.

(88)  
180

- 10 -

**SECRET**  
**IMMEDIATE**

ORDER

On completion of their training, the following ACIOs-II (Genl) of the 45th Batch are posted to the places as mentioned against their names :-

S.No.	Name	Place of posting
1	2	3
	S/Shri	A.D. Leh
1.	Om Prakash	-do-
2.	S.L. Shah	-do-
3.	R.P. Sharma	-do-
4.	U.S. Sajwan	-do-
5.	A.V. Jaharhar	-do-
6.	V.A. Chaudhri	-do-
7.	Joshy George	-do-
8.	T.B. Shah	-do-
9.	Ranga Rao Singh	-do-
10.	Kamal Pandey	-do-
11.	K.K. Saxena	A.D. Simla
12.	M.C. Joshi	-do-
13.	H.A. Shah	-do-
14.	A.K. Roy	-do-
15.	S. Das	-do-
16.	D.L. Arya	-do-
17.	S.S. Singh	-do-
18.	T.K. Dutta	-do-
19.	A.K. Chakraborty	A.D. Nainital
20.	G.K. Bhola	-do-
21.	S.N. Singh	-do-
22.	A. Suryanarayana	-do-
23.	S.P. Mehra	-do-
24.	C.K. Tyagi	SIB Tezpur
25.	P.N. Sharma	-do-
26.	Ram P. Prasad	-do-
27.	K. C. Joshi	-do-
28.	Gopal Malla	-do-
29.	Chhattar Pal	-do-
30.	V.P.V. Pillai	A.D. Dibrugarh
31.	R.J. Janardhana Rao	-do-
32.	M.M. Bhatta	-do-
33.	N.B. Chetri	-do-
34.	S.K. Mandal	-do-

2. Consequent upon the above postings, the under-mentioned ACIOs-II (Genl) who have completed their tenure in the difficult regions are transferred to the places as mentioned against their names :-

S.No.	Name	Present Place of posting	Posting on transfer
(1)	(2)	(3)	(4)
	S/Shri	A.D. Leh	IB Hqrs.
1.	Amarjeet Singh	-do-	-do-
2.	R.M. Dharwan		.... / p.2

ORDER

SECRET  
IMMEDIATE

On completion of their training, the following ACIOs-II (Genl) of the 45th Batch are posted to the places as mentioned against their names :-

S.No.	Name	Place of posting
1	2	3
	S/Shri	
1.	Om Prakash	A.D. Leh
2.	S.L. Shah	-do-
3.	R.P. Sharma	-do-
4.	U.S. Sajwan	-do-
5.	A.V. Jadhav	-do-
6.	V.A. Chaudhri	-do-
7.	Joshy George	-do-
8.	T.B. Shah	-do-
9.	Ranga Rao Singh	-do-
10.	Kamal Pandey	-do-
11.	K.K. Saxena	-do-
12.	M.C. Joshi	-do-
13.	H.A. Shah	-do-
14.	A.K. Roy	A.D. Simla
15.	S. Das	-do-
16.	D.L. Arya	-do-
17.	S.S. Singh	-do-
18.	T.K. Dutta	-do-
19.	A.K. Chakraborty	-do-
20.	G.K. Bhola	-do-
21.	S.N. Singh	A.D. Nainital
22.	A. Suryanarayana	-do-
23.	S.P. Mehra	-do-
24.	C.K. Tyagi	-do-
25.	P.N. Sharma	-do-
26.	Ram P. Prasad	-do-
27.	K. C. Joshi	SIB Tezpur
28.	Gopal Malla	-do-
29.	Chhattar Pal	-do-
30.	V.P.V. Pillai	-do-
31.	R.J. Janardhana Rao	-do-
32.	M.M. Bhatta	A.D. Dibrugarh
33.	N.B. Chetri	-do-
34.	S.K. Mandal	-do-

2. Consequent upon the above postings, the under-mentioned ACIOs-II (Genl) who have completed their tenure in the difficult regions are transferred to the places as mentioned against their names :-

S.No.	Name	Present Place of posting	Posting on transfer
(1)	(2)	(3)	(4)
	S/Shri		
1.	Amarjeet Singh	A.D. Leh	IB Hqrs.
2.	R.M. Dhawan	-do-	-do-

(57)

- 12 - -: 2 :-

(1)	(2)	(3)	(4)
3.	S/Shri Kishan Singh	A.D. Leh	IB Hqrs.
4.	V.K. Chawla	-do-	-do-
5.	Jitendra Kumar	-do-	-do-
6.	D.S. Rana	-do-	A.D. Nainital
7.	S.S. Sabharwal	-do-	IB Hqrs.
8.	Vijay Kumar	-do-	-do-
9.	S.K. Jacob	-do-	-do-
10.	Kuldip Singh	-do-	-do-
11.	Shree Ram Singh	-do-	SIB Lucknow
12.	P.S. Rana	-do-	A.D. Simla
13.	Prem Singh	A.D. Simla	IB Hqrs.
14.	R.P.S. Suri	-do-	-do-
15.	R.C. Joshi	A.D. Nainital	SIB Lucknow
16.	S.P. Singh	-do-	IB Hqrs.
17.	O.P. Singh	-do-	-do-
18.	J.M. Kapoor	-do-	-do-
19.	Darshan Singh	SIB Tezpur	-do-
20.	N.S. Fonia	-do-	SIB Lucknow
21.	N.P. Singh	-do-	IB Hqrs.
22.	P. Dutta	-do-	SIB Calcutta (vice Sh. R.K. Banerjee) DCIO
23.	R.S. Rai	A.D. Dibrugarh	SIB Lucknow
24.	A.N. Singh	-do-	-do-
25.	H.C. Joshi	-do-	-do-
26.	Ram Pratap	-do-	IB Hqrs.
27.	S.N. Mishra	-do-	-do-

Sd/-  
(I.J. Jachuck)  
Assistant Director

No. 8/TP(CI)/75(2)  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India

2nd May, 1975

Copy forwarded for information and necessary action to:-

1. DDs., SIBx : Chandigarh, Lucknow, Tezpur, Calcutta.
2. ADs. : Leh, Simla, Nainital, Dibrugarh.
3. DD(CP), AD(CP), DCIO (CR), IB Hqrs.
4. CDD(Trg); AD (Trg.) IB Hqrs. with reference to the Memo. No. 3/Trg(AP)/75(7)-240, dt. 26-2-75.
5. S.Os: CII, G, SB, ACR, Conf. Cell, NGO-I, NGO-II, NGO-III, Cash Cell Br. (2 copies) IB Hqrs.
6. PPS: (S Shri MIA (10) AMB, NKM (37))

(I.J. Jachuck)  
Assistant Director

13-  
183  
IMMEDIATE.

ORDER

On completion of their basic training, the following Assistant Central Intelligence Officers Grade II (General) of 51st batch are posted to border SIBx mentioned against their names for completion of their requisite border tenure in this rank-

S.No.	Name	Place of posting
	S/Shri	
1.	A.S.S.Prasad.	CIO Shimla.
2.	Balaji G.K.Rao.	SIB Ahmedabad.
3.	Gabrial Kisku.	SIB Kohima.
4.	Manoranjan Kumar.	S.I.B., Gangtok
5.	Arun Kumar.	S.I.B., Gangtok
6.	Prakash Chandra.	SIB Kohima.
7.	Ajit Kumar Pandey.	SIB Kohima.
8.	Manjit Singh Lochab.	SIB J&K
9.	Sunil Kumar Ranga.	SIB J&K
10.	Barhma Nand Sharma.	ITBF Leh.
11.	Bikram Jeet.	CIO Shimla.
12.	Pratap Chand Chauhan.	ITBF Leh.
13.	Gratian plus D'Silva.	SIB Ahmedabad.
14.	William Joseph.	SIB Ahmedabad.
15.	Navrang Gautam.	ITBF Leh.
16.	Karan Singh Chaudhry.	ITBF Leh.
17.	Kashinath Panda.	SIB Kalimpong.
18.	Shammi.	SIB J&K(Jammu)
19.	Pawan Kumar Medhar.	SIB J&K
20.	Naresh Kumar Chander.	SIB J&K(Jammu)

.....Contd...Page 2.

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- |                                |                |
|--------------------------------|----------------|
| 21. Hoshiar Singh.             | SIB J&K.       |
| 22. Prem Chand Meena.          | SIB J&K.       |
| 23. P.Dharma Rajan.            | SIB Ahmedabad. |
| 24. C.K. Alagunambi.           | SIB Ahmedabad. |
| 25. Rajender Kumar Arya.       | SIB Tezpur.    |
| 26. Bhup Narayan.              | SIB Shillong.  |
| 27. Iqbal Singh Gill.          | SIB J&K.       |
| 28. Trilok Nath Pandey.        | ITBF Leh.      |
| 29. Devendra Singh Garhia.     | SIB J&K.       |
| 30. Jitendra Shankar Misra.    | SIB J&K.       |
| 31. Krishna Chandra Upadhyaya. | SIB Ahmedabad. |
| 32. Rajesh Kumar Srivastava.   | SIB Ahmedabad. |
| 33. M.P. Tiwari.               | SIB J&K.       |
| 34. Debasish Ghosh.            | SIB Kalimpong. |
| 35. Deepinder Singh Kulakh.    | SIB J&K.       |
| 36. Pratindra Kumar.           | SIB J&K.       |

(Anjan Ghosh)  
Assistant Director  
No. 4/C-IV/85(14)/ - 9-8  
INTELLIGENCE BUREAU,  
(Ministry of Home Affairs),  
Government of India,

Copy forwarded to:-

New Delhi-1, the 13 MAR 1987

1. DO SIRx: Chandigarh/ Ahmedabad/ Kohima/ Calcutta/  
J&K(Srinagar)/ Jammu/ SIB(ITBF)Srinagar/  
Tezpur/ Shillong.
2. CIO/AD:- Shimla/ Gangtok/ ITBF Leh/ Kalimpong.
3. Deputy Director (Training), I.B.Hqrs, New Delhi.
4. The Principal, S.G.M.I., Gangtok.
5. S.Os ACR Cell, Conf Cell; G Branch, Cash-II,  
S.B.Section, Computer Cell, NGO-I, Trg. Br.
6. S.Os folder (2 copies). - 7- P.Fs of the ACIOs-II.

op

(Anjan Ghosh)  
Assistant Director

125

- 15 -

Restricted

# O R D E R

On completion of their training, the following directly recruited ACIOs-II/G of 7th batch are posted to places as mentioned against their names in column No. 4 for completion of effective border tenure.

2. They are initially posted to SIBx indicated at column No.3 for two months only prior to their final posting to border SIBx.

Sl. No.	Name	Place of posting for a period of <del>one</del> <sup>two</sup> months	Place of posting for completion of border tenure
1.	2.	3.	4.
1.	Km. Radhi M.R.	Trivandrum	Jaipur
2.	Km. Hema Verma	Patna	Jammu
3.	Km. Banani Bera	<u>Guwahati</u>	Guwahati
4.	Km. Lakshmi R. Pillai	Trivandrum	Guwahati
5.	Km. Retu Singh	Lucknow	Jammu
6.	Misihara, L.P.	Trivandrum	Guwahati
7.	S.P. Philimon	Imphal	Kohima
8.	P. Murli Krishna	Hyderabad	Guwahati
9.	Suhas Shambhu Sooda	Mumbai	Kohima
10.	Irfan Ahmed	Lucknow	J&K
11.	S. Naqarajan	Chennai	Kohima
12.	Neelesh Yadav	Bhopal	Itanagar
13.	Iqbal Ahmed	Lucknow	Guwahati
14.	Harish G.	Trivandrum	J&K
15.	Himanshu A Sutaria	Ahmedabad	Ahmedabad
16.	Gunajit Medhi	Guwahati	Imphal
17.	Vivek Awasthi	Lucknow	Imphal
18.	Arun Kumar Gupta	Patna	Shillong
19.	Sreekumar S.	Chennai	J&K
20.	Rastra Pal Singh Gusain	Lucknow	Aizawl
21.	Md. Javed Iqbal	Patna	Jaipur/J&K
22.	Satvendra Singh	Lucknow	Imphal
23.	Vishwanathan K. Iyer	Ahmedabad	Ahmedabad
24.	Dharmendra Puri	Jaipur	Ahmedabad
25.	Nagraj Jayaram Shetty	Mumbai	Kohima
26.	D.S. Raj	Chennai	Shillong
27.	Saliad Zahir	Bhubaneswar	Jaipur
28.	B. Krishnamurthy	Hyderabad	Itanagar
29.	Prem Sabu R.J.	Trivandrum	Imphal
30.	Vijayaraj J.	Chennai	J&K
31.	Rames Chandra Sarkar	Calcutta	Agartala
32.	Sunil K. Babu	Tvm (Resignation)	being processed
33.	Amanulla Ubedulla Khan	Mumbai	J&K
34.	Upender Chaudhary	Lucknow	J&K
35.	Tapan Kumar Biswas	Calcutta	Agartala
36.	Margoob Alam	Patna	Guwahati
37.	Dipankar Chakraborty	Agartala	Aizawl
38.	A. Ajay Kumar	Bangalore	Imphal
39.	S. Moorthy	Chennai	Guwahati
40.	Atanu Kumar Das	Calcutta	Agartala
41.	Hemant Kumar Singh	Bhopal	J&K



1.	2.	3.	4.
42.	Km. Radhika Gopalakrishnan	Mumbai	Guwahati
43.	Km. Daisen Murali	Trivandrum	Guwahati
44.	Km. Rukmani Sundram	Chennai	Jaipur
45.	Km. Seema Mahajan	Chandigarh	J&K
46.	Chetan Anand	Patna	J&K
47.	Amlendu Praonkar	Patna	J&K
48.	Ganesh P.V.	Ahmedabad	Imphal
49.	Kanak Chandra Basumatari	Guwahati	Leh
50.	A. Svam Prasad	Hyderabad	J&K
51.	Bhausar Kirit Hansmukh Lal	Ahmedabad	Ahmedabad
52.	Arun Kumar C.V.	Chennai	J&K
53.	Satish Kumar	Chandigarh	Leh
54.	Laxmikant Gopal Rao Dhoke	Mumbai	Itanagar
55.	Anil P. Johnson	Trivandrum	Itanagar
56.	Balkrishna T. Upadhyay	Lucknow	Aizawl
57.	Ajit T.S.	Trivandrum	Kohima/Imphal
58.	Kulbhushan Yadav	Bhopal	J&K
59.	Bhavesh Kr. H. Patel	Ahmedabad	Ahmedabad
60.	Vrishank Goswami	Lucknow	Itanagar
61.	Shailesh Kumar	Bhopal	J&K
62.	Paqare Surendra Waman	Mumbai	Imphal/Kohima
63.	Jobby Jose	Trivandrum	Shillong
64.	Sandeep Banerjee	Patna	Agartala
65.	M.C. Eugil	Bangalore	Kohima
66.	Lokesh Kumar	Bhopal	Guwahati
67.	Mittal Tushar Santosh Kumar	Ahmedabad	Ahmedabad
68.	Gunjan Sinha	Patna	Itanagar
69.	Siddharth Sah	Lucknow	Shillong
70.	Deepak Jha	Patna	Shillong
71.	Hasmukh Bhai Purushottam Bhai Parmar	Ahmedabad	Ahmedabad
72.	Dhirendra Pratap Singh	Bhopal	J&K
73.	Sheel Kant Harit	Delhi	J&K
74.	Ayyappa Pillai Sunil	Bangalore	Aizawl
75.	Byju Hameed	Chennai	J&K
76.	Subroto Banerjee	Calcutta	Agartala
77.	Nirmal Kumar Birua	Patna	Guwahati
78.	Rajesh Khapra	Chandigarh	Jaipur
79.	Neel Kamal Pathak	Bhopal	Itanagar

3. They stand relieved from the strength of IB Hqs. 13.1.98/AN to proceed to places of their posting for two as indicated in column No.3.

4. The ACIOs-II/G may further be relieved by the SIB mentioned in column No.3 for their final posting to border after completion of two months of their posting, under intimation to AD/E. The ACIOs-II/G who have been posted to SIB, J&K completion of border tenure, will report to DD/Trg., IB New Delhi for Cipher Training for two weeks before departure to report to DD, SIB J&K (at Jammu).

The above ACIOs-II/G are not entitled to joining time and transfer benefits like transfer grant, packing etc. at the time of their departure for initial places of posting. But they are entitled to actual journey time and Railway fare. However, they are entitled for all transfer benefits including joining time while proceeding to their final places of posting to border SIBX indicated in column No.4.

Sd/-  
(R.N. Gupta)  
Deputy Director

No.12/C-4/97(4)-76  
INTELLIGENCE BUREAU  
(Ministry of Home Affairs)  
Government of India

New Delhi, the  
6.1.98.

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1. Addl. Director, <sup>SIB</sup> Chandigarh.
2. JD/E. at IB Hqs., New Delhi.
3. JDs. SIBX: Delhi, Varanasi, Calcutta, Lucknow, Mumbai, Srinagar, Patna, Bangalore, Chennai, Jaipur, Kohima, Shillong Bhopal, Hyderabad, Guwahati.
4. DD/E & DD/Trg at IB Hqs., New Delhi.
5. DDs. SIBX: Calcutta, Guwahati, Ahmedabad, Srinagar (at Jammu) Itanagar, Agartala, Bhubaneswar.
6. AD/Trg., at IB Hqs., New Delhi.
7. ADs/CIOs : Imphal, Lucknow, Srinagar, Jammu, Itanagar, Calcutta, Trivandrum, Guwahati, Mumbai, Ahmedabad, Patna, Kohima, Bangalore, Chennai, Jaipur, Chandigarh, Aizawl, Agartala, Bhubaneswar, ITBF, Leh, Shillong, Bhopal, Hyderabad, Delhi.
8. SOs : Trg., Cash-II (2 copies), SB Sec. (2 copies), G-I, G-II, ACR Cell, Conf. Cell, GPF Cell, IB Hqs., ~~New Delhi~~.
9. TOB/SO's folder/PFs/Shri BK, C-4 Br., IB Hqs., New Delhi.

*R.N. Gupta*  
Deputy Director

7.1.98