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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 311/2005

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-311/2005Pg. 1to.....
2. Judgment/Order dtd. 22/12/2005Pg. 1to 4 *Disposed*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 311/2005Pg. 1to 36.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. @
(See Rule 42.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 311/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) P. R. Kalita

Respondent(s) H. O. I. Army

Advocate for the Applicants U. K. Nair, B. Sarma

Advocate for the Respondent(s) Ms. U. Das CGSC

Rly. St. Counsel

Notes of the Registry | Date | Order of the Tribunal

The application is in form
is filed/C.F. for Rs. 10/-
deposited vide P.O. No. 266318585
Dated 5.10.05

[Signature]
Dy. Registrar
[Signature]

NS
15.12.05

mb

Steps not taken

[Signature]

22.12.2005

The application is disposed of
at the admission stage itself in terms
of the order passed in separate sheets.

[Signature]

Vice-Chairman

5.1.2006
Copy has been collected
by the Advocate for the
applicant and a copy of
the indent alongwith copy
of this application has been
sent to the office for
staying the rule to Respond
now. by post.
MSA CGSC has also
collected copy of the indent
on 4.1.06.

3

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.**

O.A. No. 311/2005

DATE OF DECISION: 22.12.2005.

Sri P.R. Kalita

APPLICANT(S)

Mr. U.K. Nair, Mr. B. Sarma

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Others

RESPONDENT(S)

Mr. A.K. Chaudhuri, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment?
 2. To be referred to the Reporter or not?
 3. Whether their Lordships wish to see the fair copy of the judgment?
 4. Whether the judgment is to be circulated to the other Benches?
- } 20

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivarajan

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 311/2005.

Date of Order : This the 22nd December 2005.

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

Sri Pranjai Raj Kalita,
Son of late A.R. Kalita,
Inspector, Central Excise (Service Tax Cell),
Jorhat Division.

... Applicant

By Advocates Mr. U.K. Nair and Mr. B. Sharma

- Versus -

1. The Union of India,
represented by the Secretary, Ministry of Finance
(Department of Economic Affairs), New Delhi - 110 001.
 2. The Union of India, represented by the Secretary,
Ministry of Finance (Department of Revenue)
New Delhi - 110 001.
 3. The Commissioner, National Savings Organisation, 4th Floor
CGO Complex, A block, Seminary Hills, Nagpur - 440 006.
 4. The Regional Director, National Savings Organisation, Assam
Region, R.G. Baruah Road, Guwahati - 24.
 5. The Chief Commissioner Customs and Central Excise, N.E.
Region, 3rd Floor, Cresens Building, M.G. Road, Shillong.
 6. The Commissioner Central Excise, Dibrugarh Commissionerate
Milan Nagar, Lane - F, Dibrugarh.
 7. The Deputy Commissioner, Central Excise Division, Jorhat.
... Respondents.
- By Mr. A. K. Chaudhuri, Addl. C.G.S.C.

.....

ORDER (ORAL)

SIVARAJAN. I. (V.C.)

The applicant is presently working as Inspector in the Central Excise (Service Tax Cell), Jorhat Division. He is a resident of North Eastern Region. He was transferred outside the North Eastern Region, namely Ernakulam in the State of Kerala. After completion of tenure period, he was transferred back to the North Eastern Region, namely Dibrugarh. The applicant was getting Special Duty Allowance from the date of his joining at Dibrugarh. It so happened, the applicant was found to be surplus in the department in which he was working. The applicant was redeployed and he was posted on transfer as Inspector in the Central Excise Commissionerate at Dibrugarh. The applicant's grievance is that after his posting in the Central Excise Department as Inspector, he has not been paid Special Duty Allowance.

2. Mr. U.K. Nair, learned counsel for the applicant submits that the applicant made many representations (Annexures - 7 series) before the Secretary to the Government of India, Ministry of Finance, Department of Expenditure, New Delhi. Counsel submits that the said authority has not taken any decision in the matter so far.

3. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents submits that the question regarding admissibility of Special Duty Allowance has been considered by a Division Bench of this Tribunal in the order dated 31.05.2005 in O.A. No. 170/1999 and connected cases and certain principles regarding grant of Special Duty Allowance are stated in paragraphs 52 and 53 of the said order. Standing counsel submits that if the representations (Annexures - 7

gnt

series) alleged to have been sent by the applicant has not so far been disposed of, the same will be disposed of in the light of the aforesaid decision.

4. I find merit in the said submission of the standing counsel for the respondents. A Division Bench of this Tribunal in O.A. 170/1999 and connected cases has decided the question of admissibility of Special Duty Allowance to Central Government employees in its order dated 31.05.2005. Paragraphs 52 and 53 of the said order read thus: -

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

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

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

Since the applicant states that his representations (Annexures - 7 series) are pending before the Secretary to the Government of India, Ministry of Defence, Department of Expenditure, New Delhi, I am of the view that this application can be disposed of by directing the 2nd respondent herein to dispose of said representations, if the same has

not already been disposed of. In the circumstances, there will be a direction to the 2nd respondent to dispose of the annexures - 7 series representations stated to have been filed by the applicant within a period of four months from the date of receipt of this order in the light of the governing principles laid down in paragraph 52 extracted herein above and any other subsequent government orders by a reasoned order and communicate the same to the applicant immediately thereafter.

The application is disposed of as above at the admission stage itself. The applicant will produce a certify copy of this order alongwith a copy of the O.A. to the 2nd respondent for compliance.



(G. SIVARAJAN)
VICE CHAIRMAN

/mb/

15 DEC 2005

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

ORIGINAL APPLICATION NO. 311 /2005.

Sri Pranjal Raj Kalita.

...Applicant.

VERSUS

The Union of India & Ors.

...Respondents.

SYNOPSIS

That the applicant has by way of this application assailed the inaction on the part of the respondent authorities in not releasing to him the Special Duty Allowance (SDA) admissible to him in respect of the services being rendered by him under the respondent authorities. The applicant was initially appointed as a District Savings Officer in the National Savings Organisation at Guwahati. Thereafter vide an order dated 12.09.1997 the applicant was promoted to the cadre of Deputy Regional Director, National Savings Organisation and posted outside the North Eastern Region at Ernakulam, Kerela .On completion of his tenure of posting at Kerela, he was again vide order dated 27.10.2000 transferred in the same capacity and posted at Dibrugarh, Assam. Consequent upon his transfer to Dibrugarh, Assam, the applicant having become eligible as per the policy decision adopted by the Government of India vide the office memorandum dated 14.12.2003 for receipt of Special Duty Allowance (SDA)the same was granted to him. Subsequently the applicant was declared to be surplus staff and was vide order-dated 21.03.2005 posted on redeployment in the office of the Excise Commissionerate at Dibrugarh. The grievance in the instant application is in respect of the illegal, arbitrary and discriminatory action on the respondent's part in not releasing the said Special Duty Allowance (SDA)as is admissible to the applicant since the date of his joining the instant department. It may be mentioned here that the applicant had joined the Excise Department in continuation of his earlier service in the National Savings Organisation and he was brought over to the Excise Department on transfer. Representations were preferred by the applicant ventilating his grievance before the competent authorities but to no avail. Hence the instant application.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUMHATI BENCH: AT GUMHATI:

ORIGINAL APPLICATION NO. 311 /2003.

Sri Pranjal Raj Kalita.

...Applicant.

VERSUS

The Union of India & Ors.

...Respondents.

INDEX

Sl. No.	Particulars of case	Page
1.	Original Application	1 - 16
2.	Verification	17
3.	Annexure- 1	18-19
4.	Annexure- 2	20
5.	Annexure- 3	21-22
6.	Annexure- 4	23-26
7.	Annexure- 5	27-28
8.	Annexure- 6	29-30
9.	Annexure- 7 series	31-36

Filed by:

Bharna

(B. Bharna)
Advocate.

9
Filed by:- the applicant
through → Brijesh Sharma,
Advocate.

~~BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL~~
~~GUWAHATI BENCH AT GUWAHATI~~

(An application under section 19 of the Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. /2885.

BETWEEN

Sri Pranjal Raj Kalita son of Late
A.R. Kalita, Inspector, Central
Excise (Service Tax Cell), Jorhat
Division.

...Applicant.

VERSUS

1. The Union of India, represented
by the Secretary, Ministry of
Finance, (Department of Economic
Affairs), New Delhi - 110001.
2. The Union of India, represented
by the Secretary, Ministry of
Finance (Department of Revenues)
New Delhi - 110001.
3. The Commissioner, National
Savings Organisation, 4th floor,
CGO Complex, A Block, Seminary
Hills, Nagpur - 440006.
4. The Regional Director, National
Savings Organisation, Assam Region
R.G. Baruah Road, Guwahati - 24.

Filed by:- the applicant
through → Bijayesh Sharma
Advocate

5. The Chief Commissioner Customs and Central Excise, N.E. Region, 3rd Floor, Cresens Building, M.G. Road Shillong.

6. The Commissioner Central Excise, Dibrugarh Commissionrate Milan Nagar, Lane - F, Dibrugarh.

7. The Deputy Commissioner Central Excise Division, Jorhat.

Respondents.

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This instant application is not direct against any particular order passed by any authority but, has been preferred against the arbitrary, illegal, malafide and discriminatory action/ inaction on the part of the respondent authorities in not releasing to the applicant, from the month of April, 2005 onwards, the "Special Duty Allowance" (SDA) which he is legally entitled to in respect of the services being rendered by him.

2. JURISDICTION:

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

3. LIMITATIONS

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

4.1 That the applicant is a citizen of India by birth and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and Rules framed there under.

4.2 That the applicant states that pursuant to his selection in a recruitment process, he was initially appointed as a District Savings Officer in the National Savings Organisation at Guwahati. As per the relevant service rules, the conditions governing his service such as promotion, transfer, etc. were also subject to assessment on All India Basis.

4.3 That the applicant states that vide order dated 02.09.97 he was promoted to the cadre of Deputy Regional Director, National Savings, in the scale of pay of Rs.2000-3500 (pre-revised) and was posted to Chandigarh, Punjab. Thereafter vide an order dated 12.09.97 the posting of the applicant to Chandigarh was modified and he was posted on his promotion to the cadre of Deputy, Regional Director, to Ernakulam,

Kerala.

Copies of the orders dated 02.09.97 and 12.09.97 are annexed as ~~ANNEXURE~~ = 1 & 2 respectively.

4.4 That the applicant states that in terms of the order dated 12.09.97, the applicant proceeded to assume the responsibilities of the promoted post of Deputy Regional Director at Ernakulam, Kerala on 16.03.97 and discharged therein his duties to the best of his abilities and without any blemish to any quarter.

4.5 That your applicant states that on completion of his tenure at Kerala, he was vide communication bearing No. 20304- 32/ TRFR/ 6-1/ 90-1 dated 27.10.00 issued by the Commissioner, National Savings Organisation, transferred and posted a Deputy Regional Director at Dibrugarh, Assam. In pursuance to the said communication the Regional Director, National Savings Organisation vide his order dated 14.12.00 released the petitioner from Kerala to facilitate his joining at Dibrugarh. Accordingly, the applicant joined as Deputy Regional Director at Dibrugarh in the month of January, 2001

4.6 That the applicant states that the Government of India in the Ministry of Finance, Department of Expenditure, in view of the need for attracting and retaining the services of competent officers for service in the North Eastern Region adopted a policy

decision vide an Office Memorandum dated 14.12.83 towards extending certain incentives to Central Government civilian employees posted to the North Eastern Region. One such incentive was the grant of "Special Duty Allowance" (SDA) to those employees who have "All India Transfer Liability" and posted at North Eastern Region. Subsequently, confusions arose from time to time as regards determining the eligibility of a candidate for the grant of the said "Special Duty Allowance" (SDA) inasmuch as persons ineligible were extended with the benefits of grant of "Special Duty Allowance" (SDA). Therefore necessary clarifications were issued in this respect vide different Office Memorandums clarifying the position as regards determining the eligibility of a candidate for extending the said benefit of "Special Duty Allowance" (SDA). The Office Memorandum dated 29.05.02 contained the final clarifications issued by the Government of India in this regard and laid to rest all the controversies regarding determination of eligibility of a candidate towards extending the benefit of "Special Duty Allowance" (SDA). It was clarified therein that only those employees whose recruitments were effected on All India Basis and subject to the further conditions of promotion and transfer being also affected on All India Basis are eligible for the grant of the said "Special Duty Allowance" (SDA). To the said Office Memorandum dated 29.05.02, was appended also a statement clarifying the points of doubt regarding

admissibility of "Special Duty Allowance" (SDA) to employees of the Central Government. The clarification No. 4 (four) and clarification No. 5 (five) attracts attention in the instant case inasmuch as it determines the eligibility of the applicant as regards grant of "Special Duty Allowance" (SDA) to him.

Copies of the Office Memorandums dated 14.12.83 and 29.05.02 are annexed as **Annexure - 3 & 4** respectively.

4.7 That the applicant states his case is squarely covered by the policy decision adopted by the Government of India vide the said Office Memorandums dated 14.12.83 and 29.05.02 towards grant of "Special Duty Allowance" (SDA) to Central Government civilian employees posted at North Eastern Region. The applicant was promoted to the Cadre of Deputy Regional Director vide issuance of the order dated 02.09.97 and the very manner in which the promotion and posting of the applicant on his such promotion was effected clearly indicates that the promotion to the cadre of Deputy Regional Director were effected on All India Basis and the incumbents in the said post were settled with All India Transfer liability. The seniority of the incumbents in the cadre of Deputy Regional Director were determined on All India Basis. Accordingly, on his re-posting to the N.E. Region, the applicant, in terms of the extent instruction being entitled to "SDA" w.e.f. January, 2001 i.e. w.e.f. the date he had assumed the charge of the post of Deputy Regional

Director National Savings Organisation at Dibrugarh.

4.8 That the applicant states that while he was discharging his duties as the Deputy Regional Director in the office of the National Savings Organisation at Dibrugarh, he was declared to be surplus and redeployed and posted on transfer as Inspector in the Central Excise Commissionerate at Dibrugarh. consequently vide an order dated 21.03.05, the Deputy Regional Director, (i/c) National Savings, Guwahati relieved the applicant from his duties in the National Savings Organisation thereby enabling him to report at the new place of posting in the Central Excise Commissionerate at Dibrugarh.

A copy of the relieving order dated

21.03.05 is annexed as ~~Annexure - 3.~~

4.9 That the applicant states that he joined his duties as an Inspector, Central Excise Commissionerate, Dibrugarh, Assam on 23.03.05 on transfer from the National Saving Organisation (Ministry of Finance), Government of India, Department of Economic Affairs as redeployed by the Central Surplus Cell (DOPT) as per revised scheme for redeployment of Surplus Staff Rules, 1989 under Govt of India, Department of Per & Trg Office Memorandum No. 1/ 18/88 - CS. III dated 01.04.89. It is pertinent to quote here the relevant paragraphs 11.2 and 11.4 of the said Revised Scheme for Redeployment of Surplus Staff Rules, 1989, under Govt of India, Department of Per and Trg. Office Memorandum

No. 1/ 18/ 88 - CS .III dated 01.04.89.

Paragraph = 11.2

"As at present the surplus employees will be treated to have been appointed by transfer in public interest in the matter of admissibility of joining time, joining time pay and transfer T.A. for moving to the new post located in a Central Government Department."

Paragraph = 11.4

"In other service matters, they will be treated as appointed by transfer."

As per the provisions of the paragraph 11.2 and paragraph 11.4 of the said Office Memorandum dated 01.04.89, the redeployed surplus staff who are permanent employees are treated to have been appointed on transfer in respect of matters regarding admissibility of joining time, joining time pay and transfer T.A. including also matters pertaining to other service conditions. The applicant prior to his posting on transfer in the Office of the Central Excise Commissionerate was being paid "Special Duty Allowance" (SDA) as admissible to Central Government civilian employees posted at North Eastern region. The applicant on being transferred to the office of the Central Excise Commissionerate, Dibrugarh would also be entitled for the grant of the "Special Duty Allowance" (SDA) as per the provisions governing the service conditions of transferred employees and also in view of

17

the fact of the applicant's case being squarely covered by the provisions as contained in the Office Memorandum dated 14.12.83, 29.05.02 and 01.04.89. In this connection the "Last Pay Certificate" issued by the Deputy Regional Director, National Savings, Guwahati clearly indicated the grant of "Special Duty Allowance" (SDA) to the applicant and the same is also payable to him on being posted on transfer to the office of the Central Excise Commissionerate, Dibrugarh. The respondent authorities now cannot deny to the applicant the payment of the "Special Duty Allowance" (SDA) in blatant violation of the existing provisions governing the field.

A copy of the last pay certificate dated

21.03.05 is annexed as ~~Annexure - 6~~

4.10 That the applicant states that again in the month of June vide an order dated 15.06.05, he was transferred in the same grade of Inspector from the Office of the Central Excise Commissionerate, Dibrugarh and posted at the Service Tax Cell, Central Excise, Jorhat Division. The applicant is continuing to discharge his duties in the Jorhat Division of the Central Excise Department till this very date but, the "Special Duty Allowance" (SDA), as is admissible, is not being paid to him w.e.f. April, 2005. Being aggrieved the applicant preferred several

representations being representations dated 09.05.05, 24.06.05, 24.08.05 and 30.09.05 highlighting therein his grievance as regards not payment of the "Special Duty Allowance" (SDA) to which he is legally entitled and being due in respect of the services being rendered by him in the department concerned. The said representations having failed to evoke any response and the applicant being deprived of his genuine and legitimate dues, has approached this Hon'ble Tribunal praying for immediate and urgent relief/ relief's failing which, the applicant tends to suffer irreparable loss and injury.

Copies of the said representations dated 09.05.05, 24.06.05, 24.08.05 and 30.09.05 are annexed as Annexure - B series.

4.11 That our applicant states that he on being released from the National Savings Organisation, w.e.f. 21.03.05 proceeded to join against the post under the respondent no, 6 to which he was posted on transfer, on 23.03.05. The petitioner was paid his salaries for the month of March, 2005 by the Central Excise department in terms of the (Annexure - 6) last pay certificate and he was also paid SDA even for the period he had worked under the respondent no. 6. Thereafter w.e.f. April, 2005, the SDA receivable by the applicant has been held up. It is pertinent to mention here that no order was issued towards withholding of the SDA receivable by the applicant and the same was so withhold in colorable

exercise of the powers rested in the authorities.

19

4.12 That your applicant states that his appointment as Inspector Customs and Central Excise was in continuation of his earlier service as Deputy Regional Director, National Savings Organisation. As per the extent instructions, an employee declared to be surplus on his re-deployment is treated to have assumed the charge of the post against which he is so re-deployed, by way of transfer. Accordingly all benefits accruing to the employee by virtue of the service rendered by him against the post from which he was declared to be surplus, is also required to be extended to the said appointment in re-deployment by treating his service to be continuous.

4.13 That the applicant states that his case is squarely covered by the policy decision adopted by the Government of India towards grant of "Special Duty Allowance" (SDA) to Central Government employees posted to the North Eastern Region. Also the provisions of the Office Memorandum dated 01.04.89 pertaining to redeployed surplus staff of the Central Government Organisations being treated as transferred employees in matters regarding grant and accrual of service benefits to such employees renders the applicant eligible for receipt of "Special Duty Allowance" (SDA). The respondent authorities being "Model Employees" cannot now act in violation of the said policy decisions and provisions governing the service conditions of the

employees and deny to the applicant his genuine and legitimate due towards receipt of "Special Duty Allowance" (SDA) in respect of the service being rendered by him.

4.14 That the applicant states that the action/inaction on the part of the respondent authorities in not releasing to him the "Special Duty Allowance" (SDA) is arbitrary, illegal and discriminatory and cannot stand the scrutiny of law. The respondents are duty bound to issue appropriate orders towards facilitating release of the "Special Duty Allowance" (SDA) to the applicant inasmuch as non-releasing of the same has resulted in the applicant being meted out with hostile discrimination.

4.15 That the applicant states that the action/inaction on the part of the respondent authorities in denying/ not releasing to him his genuine and legitimate due towards receipt of "Special Duty Allowance" (SDA) is in clear violation of the principles of Natural Justice and Administrative fair play and invites interference towards the issuance of appropriate orders upon the respondent authorities directing release of the "Special Duty Allowance" (SDA) to the applicant.

4.16 That the applicant demanded justice but the same has been denied to him.

4.17 That this application has been filed bonafide and to secure ends of justice.

5. **GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that in any view of the matter the action/inaction on the part of the respondent authorities in denying to the applicant his due SDA is not sustainable and requires interference by this Hon'ble Tribunal in the matter.

5.2 For that the promotion of the applicant to the cadre of Deputy Regional Director and his posting to Kerala clearly reflect that the promotions and postings of the incumbents in the cadre of Deputy Regional Director are effected on All India Basis and the incumbents have All India Seniority/ All India Transfer Liability. Accordingly on his re-posting to the N.E. Region, the applicant is entitled to SDA.

5.3 For that the appointment of the applicant as Inspector, Custom & Central Excise being effected by way of transfer and in continuation of the service being rendered by him as Deputy Regional Director, All Service benefits including SDA enjoyed by the applicant in the post of Deputy Regional Director, National Savings Organisation are also liable to be extended to him in his current place at posting.

5.4 For that, the action/inaction on the part of the respondent authorities in denying/ not releasing the "Special Duty Allowance" (SDA) as is admissible to

him under the relevant provision of law, in addition to being in violation of principles of Natural Justice is also in blatant violation of the established procedure of law.

5.5 For that, the eligibility of the applicant having already been determined towards payment of the "Special Duty Allowance" (SDA) and that he having been paid the same in the erstwhile department, it cannot be denied to him now on his transfer to another department.

5.6 For that, the action on the part of the respondent authorities in denying/ non releasing to him the "Special Duty Allowance" (SDA) is arbitrary, illegal, mala fide and discriminatory and invites interference from this Hon'ble Tribunal towards the issuance of appropriate order/ orders upon the respondent authorities directing release of the "Special Duty Allowance" (SDA) admissible to the applicant.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. ~~DETAILS OF THE REMEDIES EXHAUSTED:~~

That the applicant declares that he has exhausted all the remedies available to him and there is no other

equally efficacious alternative remedy available to them.

7. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that he has not filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other court or any other bench of this Tribunal or any other authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prays that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following relief's to the applicant:

8.1 To pay to the applicant the SDA w.e.f. April, 2005 in terms of the payments of SDA being made to the applicant before April, 2005.

8.2 To direct the respondent to release to the applicant, arrear of "Special Duty Allowance" (SDA) accruing to him in respect of the service rendered by him in the present department.

8.3 Cost of the application.

8.4 Any other relief/ relief's that the applicant may be entitled to.

~~9. INTERIM ORDER PRAYED FOR~~

Under the facts and circumstances of the case your applicant prays that your lordships would be pleased to direct the respondent authorities to release to the applicant the current SDA.

10.

~~11. PARTICULARS OF THE POSTAL ORDER~~

- i) IPO No. - 26 A 318585
- ii) Issued from - S.10x05
- iii) Payable at - Guwahati.

~~12. DETAILS OF INDEX~~

An Index showing the particulars of documents is enclosed

~~13. LIST OF ENCLOSURE~~

As per Index.

23/

- VERIFICATION -

I, Sri Pranjali Raj Kalita Son of Late
A. P. Kalita, aged about years, working
as Inspector, Central Excise (Service Tax Cell),
Jorhat Division, do hereby solemnly affirm and
verify that the Statements made in paragraphs
1,2,3,4 (1,2,6,7,8,9,10,11 to 17) ^{5 to 12} are true to my
knowledge; those made in paragraphs 4 (3,4,5,)
are true to my information derived from
records and the rests are my humble submissions
before the Hon'ble Tribunal.

And I sign this Verification on this 7th day
of December, 2005.

Pranjali Raj Kalita

Deponent.

2P
47/97-18

ANNEXURE - 1
SPEED POST

GOVERNMENT OF INDIA : MINISTRY OF FINANCE
OFFICE OF THE REGIONAL DIRECTOR : NATIONAL SAVINGS
ASSAM REGION : R.G. BORUAH ROAD : GUWAHATI-24

ORDER

The National Savings Commissioner, Nagpur has appointed the undermentioned District Savings Officers of Assam region as Deputy Regional Directors, National Savings, in the pay scale of Rs. 2000-60-2300-ES-75-3200-100-3500/- on officiating basis with effect from the date they take over charge. Place of posting is as under :

Sl. no.	Name of officer	Place/ region of posting	
		From	to
1.	Shri. P. B. Sen.	Itanagar (Arunachal Pradesh)	Quilon (Kerala region)
2.	Shri. P. R. Kalita.	Guwahati (Assam)	Chandigarh (Punjab region)

Shri. P. B. Sen shall hand over his charges to his Dy. R. D. and proceed to his new place of posting with immediate effect.

Shri. P. R. Kalita, shall hand over his charges to Shri. K. K. Pradhan and Shri. B. C. Talukdar, DSO's, Guwahati and proceed to his new place of posting with immediate effect.

B/ Shri. K. Pradhan and B. C. Talukdar shall take over additional charge from Shri. P. R. Kalita with immediate effect without any extra remuneration until further orders.

(K. Hazarika.)
Dy. Regional Director,
I/c O/o the Regional Director,
Assam, Guwahati.
No. 5714-21 / 1/RD.ASM/RRF(F.O.) 89-II. Dated: 02-9-97.

Copy to :

- 1) The National Savings Commissioner, Nagpur for favour of information w.r.t. his order no. 15626-633/DJC/13-5/96, Dated: 1-9-97.
- 2) The P.A.O., N.S., Nagpur for favour of information.
- 3) The Dy. Regional Director, S.S., Itanagar, Arunachal Pradesh for information and he is advised to release Shri. P. B. Sen immediately, to enable him to join his new place of posting at the earliest.
- 4) The Dy. Regional Director, N.S., Guwahati for info. and he is advised to receive Shri. P. R. Kalita immediately and hand over his charges to the other two DSO's satisfactorily.

Handwritten signatures and initials:
A. Hazarika
P. B. Sen
K. K. Pradhan

(2)

By Air
book
direct
message

- 5) S/Shri. P.B. Sen and S.R. Kalita, D.S.O. Itanagar and Guwahati respectively for information/necessary action, along with a copy of N.S.C's order meant for them. They may apply for T.T.A. advance accordingly.
- 6) The Regional Director, Karak for information w.r.t N.S.C's 15626-633/DK/13-5/96. Dated: 1-9-97.
- 7) The Regional Director, Punjab for information w.r.t N.S.C's order no. mentioned above.
- 8) Account Sec for info 9/7/97.

[Handwritten Signature]
2-9-97

(K. Ilagarika.)
Dy. Regional Director,
i/c o/o the Regional Director,
National Savings
Assam, Guwahati.

GOVERNMENT OF INDIA : MINISTRY OF FINANCE
OFFICE OF THE REGIONAL DIRECTOR : NATIONAL SAVINGS
ASSAM REGION : R.G.BORUAH ROAD : GUWAHATI-24

ORDER

IN partial modification of this office
Order no.4714-21/1/RD.ASM/TRF(F.O)89-II. Dated the
2nd Sept/97 and the N.S.C's, Nagpur order no.15626-633/
DPC/13-5/96 Dated :9-9-1997, the place of posting of
Shri.P.R.Kalita, District Savings Officer, Guwahati,
in Assam Region and promotee Dy.Regional Director,
National Savings, has been modified as indicated below :-

Shri.P.R.Kalita, DSO promoted as Dy.Regional Director, National Savings earlier posted to Chandigarh(Punjab) Posted as Dy.Regional Director, National Savings on promotion at Ernakulam (Kerala Region) with immediate effect.

Other terms and conditions mentioned in the above office order will remain the same.

(K.Hazarika.)
Dy.Regional Director,
I/c O/o the Regional Director, N.S.
Assam, Guwahati.

No. 4867-76/1/RD.ASM/TRF(F.O)89-II. Dated the 12th Sept/97.
Copy to :

- 1) The National Savings Commissioner, Nagpur for favour of information w.r.t his order no.16276-80/DPC/13-5/96. Dated:9-9-97.
- 2) The Pay and Accounts Officer, N.S, Nagpur for favour of information.
- 3) The Dy.Regional Director, N.S, Guwahati for info. and he is advised to relieve Shri.P.R.Kalita immediately.
- 4) Shri.P.R.Kalita, Promotee Dy.R.D.N.S. for info. & n/a.

[Signature]
Dy.Regional Director,
I/c O/o the Regional Director, N.S.
Assam, Guwahati.

Attended
R
Advocate

- 21 -

29

Annexure → 3

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 Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :-

i) (i) Tenure of posting/deputation :-

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

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to

Time slip
 Advise Code

Audit has objected the payment of SDA to the applicant without consulting/examining the

Attested
 Advocate

R-560/FI/21

13/6/2002

A M. N. K. S. + 114

31

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

New Delhi, dated the 29th 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

True copy
M. N. K. S.
Advocate

Attended
B
Advocate

9, 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.

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."

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.

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

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.

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

These orders will be applicable *mutatis mutandis* for regulating the claims of Andaman & Nicobar 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.

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

N.P. Singh

(N.P. Singh)

Under Secretary to the Government of India.

Ministries/Departments of the Government of India, etc.

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

Points of Doubts	Whether SDA will be admissible or not
(i) Whether SDA will be admissible to:- 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	No
(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.	No
(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.20014/16/80-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.	No
(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.	Yes
(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.	Yes
(vi) The MoF, Deptt. of Expenditure, vide their UO No.11(3)/95-E.II(B) dated 7.0.97 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.	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.

34

Points of Doubts	Whether SDA will be admissible or not
<p>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?</p>	<p>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.</p>
<p>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.</p>	<p>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 repaid. 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.</p>

GOVERNMENT OF INDIA : MINISTRY OF FINANCE
OFFICE OF THE REGIONAL DIRECTOR : NATIONAL SAVINGS
ASSAM REGION : R.G.BORUAH ROAD : GUWAHATI

4

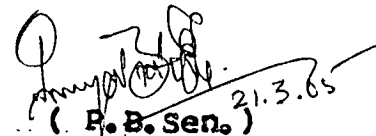
RELEASE ORDER

gazetted

Consequent upon redeployment of the following group 'B' official in the o/o the Additional Commissioner, (P&V), Customs and Central Excise, Shillong, he is relieved from his duties from this department w.e.f 21.3.2005 (A.No.) to enable him to report at the new place of posting.

<u>Sl. no.</u>	<u>Name</u>	<u>Post & Place of posting</u>
1.	Shri.P.R.Kalita.	Inspector, Additional Commissioner, (P&V) Customs and Central Excise, Shillong.

He is directed to report to the Additional Commissioner(P&V), Customs and Central Excise, Shillong.


(P. B. Sen.)
Deputy Regional Director, 1/c
National Savings,
Guwahati-24

Memo no. 785-90 /1/ASM/NSI/Redeploy/03 Dated: 21.3.2005

Copy to :


✓ 1. Shri.P.R.Kalita, Dy.Regional Director, N.S., Dibrugarh for information and necessary action.

2. The Additional Commissioner, (P&V), Customs and Central Excise, Morello Compound, M.G.Road, Shillong for favour of information w.r.t their endorsement no.C.No.II (32)1/ET.II/200448046-50 dtd: 11.3.2005 along with a copy of his L.P.C and Service Book.

3. The Under Secretary, Ministry of Finance, Govt. of India Budget Division, New Delhi for fav. of information w.r.t their let.no.2/2/2003/NS-I dtd: 7/6/04.

Contd....2/...

Attested


Advocate.

(2)

36

4. The Under Secretary, Ministry of Personal, Public Grievances and Pensions, Department of Personal & Training, Lok Nayak Bhavan, Khan Market, New Delhi - 110003 for fav. of information w.r.t their let no. 4/17/2003-CS-III dtd: 25.5.2004

5. The Dy. National Savings Commissioner, N.S.I, Nagpur for fav. of information w.r.t their let. no. 4618 - 14/HRD/8-2/2004 dtd: 9.6.2004

6. The Pay and Accounts Officer, N.S, Nagpur for fav. of information.

P. B. Sen
21.3.05

(P. B. Sen.)
Deputy Regional Director, i/c
National Savings,
Guwahati-24

A.A.R. 2

LAST PAY CERTIFICATE

[See Rules 11 (4) and 80 of Central Government Account, Receipts & Payments Rules, 1983]

1. Last Pay Certificate of Shri/Smt./MS. P.R. Kalita, Dy. Regional Director of Ministry/ Department/Office MOF/DEA/RONS, Assam proceeding on Redeployment

2. He/She has been paid up to and at the following rates: Shall be paid upto 21st March on

Entitlement	(Monthly) upto 21-3-05	Amount
1. Pay	8750.00	59276.00
2. Special Pay D.P.	4275.00	29640.00
3. DA	1838.00	12453.00
4. CCA	200.00	1350.00
5. A.D.A. S.D.A.	1641.00	11120.00
6. HRA	984.00	6670.00
	<u>17,788.00</u>	<u>12,050.00</u>

37 April/05

Deduction	Amount
1. Income Tax	-
2. GPF Subs.	1000.00
3. GPF Adv.	2204.00
4. Festival Adv.	-
5. MCA/OMCA/Cycle Adv.	-
6. HBA	-
7. CGEGIS Cont.	60.00
8. Licence Fee	-
9. CGHS Cont.	-
10. PLI	-

His/Her PF Account No. PAO/NS/NP/1122 is maintained by P.A.C. 326400 N.S.I. Nagpur

He/She made over charge of the office/post of Relieved on 21-3-05 (Afternoon) on the forenoon/afternoon of

- 5. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.
- 6. He/She is also entitled to joining time for 01-04-04 days.
- 7. He/She has been sanctioned leave preceding joining time for 01-04-04 days.
- 8. * [Redundant - Not printed]
- 9. Details for PLI recovery through pay bill.
- 10. Details of Income Tax recovered up to the date from the beginning of the current financial year are noted on the reverse.
- 11. Service for the period from 01-04-04 to 21-03-05 (during his stay in this office) has been verified. A copy of LPC has been given to the Government servant.

Date 21/3/05

Signature [Signature] 21-3-05
Designation Deputy Regional Director
National Savings, (Govt. of India)

*Relates to Insurance Policies financed from GPF.

Attested
[Signature]
Advocate

Details of recoveries

1. **GPF advance:** Rs. 79,344.00 / drawn in 15-10-04 recoverable in 36
 Instalments of Rs. 2204.00 each. Rs. 11,020.00 has been
 recovered up to March/05 5 (Five) instalments
 of Rs. 2204.00 each. Balance Rs. 58,312.00 is to be recovered in 31
 instalments of Rs. 2204.00 Per month
2. **MCA/OMCA/Cycle advance/Festival advance:** Rs. _____ drawn in _____
 is recoverable in _____ instalments of
 Rs. _____ each. Rs. _____ has been recovered up to
 _____ in _____ instalments of Rs. _____ each. Balance
 Rs. _____ is to be recovered in _____ instalments of Rs. _____ each.
3. **House Building Advance:** Rs. _____ drawn in two/three instalments of
 Rs. _____, Rs. _____ and Rs. _____, recoverable in _____
 instalments of Rs. _____, each. Rs. _____ has been recovered
 up to _____ in _____ instalments of Rs. _____ each.
 Balance of Rs. _____ is to be recovered in _____ instalments of
 Rs. _____ each plus interest @ Rs. _____
4. **Pay Advance** 00.00
5. **T.A. Advance** _____

DETAILS FOR INCOME TAX

Name of month (paid months)	Pay & Allow.	GPF Cont.	CGEGIS	Income Tax	Surcharge	Remarks
April, 2004	32789.00	2000.00	120.00			
May, "	16903.00	1000.00	60.00			
June, "	16903.00	1000.00	60.00			
July, "	16903.00	1000.00	60.00			
Aug., "	16903.00	1000.00	60.00			
Sep., "	16903.00	1000.00	60.00			
Oct., "	18431.00	1000.00	60.00			
Nov., "	17788.00	1000.00	60.00			
Dec., "	17788.00	1000.00	60.00	7000.00		
Jan., 2005	17788.00	1000.00	60.00	7000.00		
Feb., "	17788.00	1000.00	60.00	6156.00	403.00	
Mar., "	12050.00	1000.00	60.00			

N.B. Pay & allowances of April/04 includes the Pay & allowances of March/04 paid in April/04.



Supplied by SWAMY PUBLISHERS (P) LTD., Division: Gitanjali Forms & Registers
 164, R. K. Mutt Road, Chennai-600 028

To
The Commissioner
Central Excise
Dibrugarh
Assam.

- 31 -

Annexure - 7 (series) Central
Dibrugarh
39

Madam,

Sub:- Special Duty Allowance- regarding.

With due respect and humble submission, I like to lay the following facts for your kind perusal, favourable consideration and suitable action in the matter.

1. That Madam, I have joined as Inspector, Central Excise on 23.03.2005 in the Central Excise Commissionerate, Dibrugarh on transfer from NSO, Ministry of Finance (Govt. of India) redeployed by the Central surplus cell(DOPT) as per revised scheme for redeployment of surplus staff Rules, 1989 under G.I. Dept. of Per. & Trg. O.M. No.1/18/88-CS.III dated 1st April 1989.
2. That in my parent department i.e., NSO, I was a Group 'B' gazetted officer (in the post of Dy. Regional Director) and was posted out the N.E. Region to Kerela state in the year 1997. In the year 2001, I was transferred from Kerela to N.E. Region (Assam) and since then I am enjoying the SDA (Special Duty Allowance) sanctioned by my authority as per provision of the existing CCS Rules till my transfer to the department of Central Excise, under Redeployment by DOPT, and it is worth mentioning that my recruitment to the service/cadre/post had been made on all India basis and my promotion was also done on the basis of an all India common seniority list.
3. That Madam, in my LPC, from my parent department the entitlement of the SDA due to me was also clearly mentioned. But unfortunate that the SDA due to me has been stopped from the salary for April 2005 from your end without assigning any reason.

And

4. In this connection the office memorandum under F.No.11(3)/2000 E.II(B) dated 13th June, 2001 and No.11(3)/95-E.II(B) dated 12th January, 1996 of the Ministry of Finance, Department of Expenditure, Govt. of India, New Delhi may kindly be referred to which clearly speak about the entitlement of the SDA(copy enclosed for ready reference). The last paragraph of the office memorandum under F.No.11(3)/2000 E.II(B) dated New Delhi dated 13th June 2001 clarifies the point of entitlement of the SDA to the officers belonging to the N.E. Region posted in N.E. Region from outside the region.

Code " It is further clarified that there is no bar in eligibility of Special Duty Allowance for the officers belonging to the N.E. 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 from outside the region."

Under the above circumstances I like to request you kindly to consider for

NOT INSURED

Amount of Stamps affixed Rs. 22/-

Received a Registered Letter

The Secy, Ministry of Finance

Dept of Expenditure

New Delhi

Signature of Receiving Officer

No. 4151

Date Stamp

Yours faithfully,

P.R. Kalita
09/5/05

(P.R. Kalita)
Inspector, Central Excise
Central Excise Commissionerate
Dibrugarh, Assam.

Copy for information and necessary action to:-

- The Secretary, Ministry of Finance (GOI), New Dehi.
- The Director, National Savings Institute, CGO complex, 4th Floor, Seminary Hills, Nagpur-440006.
- The Regional Director, National Savings Institute (Govt. of India), R.G. Barooah Raod, Uday path, Guwahati-24.

3488
10/5/05
3487
10/5/05

R.L. No. 4151
02/06/05

Attested
Advocate

P.R. Kalita
09/5/05
(P.R. Kalita)
Inspector, Central Excise
Central Excise Commissionerate
Dibrugarh, Assam.

MP

To,

The Secretary to the Government of India,
Ministry of Finance,
Department of Expenditure,
New Delhi.

(Through the Commissioner, Central Excise, Dibrugarh, Assam).

Dated Dibrugarh the 24th of June, 2005.

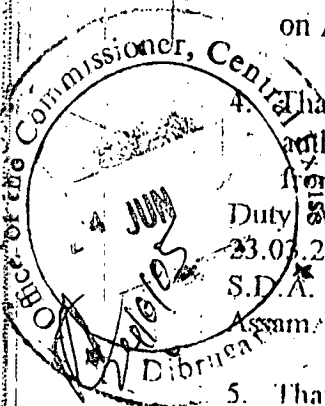
Sub: - Special duty allowance - reg.

Ref:- My letter dated Dibrugarh the 9th May, 2005 addressed to the Commissioner, Central Excise, Dibrugarh.

Sir/madam,

With due deference and humble submission, I like to lay the following facts for favour of your kind perusal, favourable consideration and suitable action please.

1. That Sir/madam, I have joined as Inspector, Central Excise, in the Central Excise Commissionerate, Dibrugarh, Assam on 23.03.2005 on transfer from National Savings Organisation (Ministry of Finance), Govt. of India, Deptt. of Economic Affairs, as redeployed by the Central Surplus Cell (DOPT) as per revised scheme for redeployment of surplus staff Rules, 1989 under G.I. Deptt. of Per. & Trg. O.M. No:- 1/18/88-CS.III dated 01.04.1989.
2. It is worth mentioning that as per the Revised Scheme for Redeployment of Surplus Staff Rules, 1989, under G.I. Deptt. of Per. & Trg. O.M. No:- 1/18/88-CS.III dated 01.04.1989, the surplus employee who is permanent is treated to have been appointed by transfer,
Para 11.2 code "As at present the surplus employees will be treated to have been appointed by transfer in public interest in the matter of admissibility of Joining Time, Joining Time pay and Transfer T.A. for moving to the new post located in a Central Gov. Deptt".
Para 11.4 code " In other service matters, they will be treated as appointed by transfer".
3. That in my parent Deptt. i.e N.S.O., I was a group "B" gazetted officer (in the post of Deputy Regional Director) and was posted out to Kerala region from N.E. region being promoted on the basis of All India Common Seniority. It is worth mentioning that my recruitment to the service/cadre/post had been made on All India basis.
4. That I was transferred from Kerala region to N.E. region (Assam) by the authorities of my parent Deptt. (N.S.O.) in 2001. And that since my transfer from Kerala region to N.E. region (Assam) in 2001, I am enjoying the Special Duty Allowance (S.D.A.) till I have joined the Central Excise Department on 23.03.2005. And that, from the month of April, 2005, I have not been paid my due S.D.A. by my authorities of the Central Excise Commissionerate, Dibrugarh, Assam.
5. That in my I.P.C. (Last pay Certificate) from my parent Deptt., the entitlement of the S.D.A. due to me was also clearly mentioned.
6. That in this connection the O.M. under F.No:- 11(3)/2000-E.II(B) dated 13-06-2001 and F.No:- 11(3)/95-E.II(B) dated 12-01-1996 of the Ministry of Finance, Deptt. of Expenditure, Govt. of India, New-Delhi may kindly be referred to which clearly speak about my entitlement of my S.D.A. The last



Approved
Associate

paragraph of the O.M. under F.No:- 11(3)/2000-E.II(B) dated New Delhi, the 13th June, 2001 clarifies the point of entitlement of the S.D.A. to the officers belonging to the N.E. region posted in N.E. region from outside the N.E. region.

Code "It is further clarified that there is no bar in eligibility of S.D.A. for the officers belonging to N.E. 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 from outside the region"

And it is worth mentioning that all the above required criterias were fulfilled in my case. And that your honour will definitely appreciate that due to my redeployment on transfer basis from my parent Deptt. i.e H.S.O by the Bureau Cell (D.O.P.T.) in the lower post of Inspector, in the Central Excise Deptt.

I ~~cannot~~ ^{should not} be deprived from getting the S.D.A. which was also been clearly mentioned in the Last Pay Certificate by the National Savings Organisation (Regional Directorate, N.S.O., Guwahati, Assam)

7. That I represented to my Commissioner, Central Excise, Dibrugarh through the letter cited above under reference on the matter on 09-05-2005 endorsing copies to you and others. But unfortunate that I have not yet received any reply from any corner.

Under the above facts and circumstances, a favourable and suitable action is highly solicited as early as possible from your magnanimous self, being the concerned authorities issuing the circulars dated 13-06-2001 and dated 12-01-1996 mentioned above and for which act of your kindness I shall remain ever grateful to you Sir/Madam.

- Enclosures:-
1. Copy of the representation dated 09-05-2005.
 2. Copy of the Last Pay Certificate.

Yours faithfully.

P. Kalita
24/6/05

(P.R. KALITA),
INSPECTOR, CENTRAL EXCISE,
CENTRAL EXCISE COMMISSIONERATE
DIBRUGARH

Copy for favour of information and necessary action to :-

1. The Chairman & Special Secretary, Central Board of Excise & Customs, North Block, New Delhi - 110002.
2. The Secretary, Ministry of Finance, Deptt. of Revenue, North Block, New Delhi - 110002
3. The Director, Deptt. of Personnel & Training, Lok Nayak Bhavan, New Delhi - 110003.
4. The Secretary to the Govt. of India, Ministry of Finance, Deptt. of Expenditure, New Delhi. *in advance.*

RLD 67
01/7/05
RLD 68
01/7/05
RL 2839
27/6/05
RL 2838
27/6/05

P. Kalita
24/6/05

(P.R. KALITA),
INSPECTOR, CENTRAL EXCISE,
CENTRAL EXCISE COMMISSIONERATE
DIBRUGARH

To

The Commissioner, Central Excise
Dibrugarh

(Through Proper Channel)

Madam,

Sub: Special Duty Allowance.

Ref. My letter dtd 09th May, 2005 ^{- regarding -} addressed
to you and my letter dtd 24th June 2005
addressed to the Secretary to the Govt. of
India, Ministry of Finance, Deptt. of
Expenditure, New-Delhi (Thro proper
Channel).

Kindly refer to my above cited letters
under reference on the subject cited above.

I submit that I have not yet
received my due Special Duty Allowance
since April 2005 till date. And that I ^{against}
have also not yet received any reply ~~to~~
my above cited letter neither from you nor
from other concerned authorities in the matter.

That madam, I was paid Special
Duty Allowance since January 2001 to
March 2005 as per existing provisions of Rules.
But suddenly stopped payment of the due
SDA to me from April, 2005 from your end
without assigning any reason in the
matter.

That the due SDA was also mentioned
in the LPC issued by my parent department.

That I joined the Central Excise
Deptt. under transfer as redeployed by
the DOPT, New-Delhi. and am entitled for the
SDA.

Attested

D/
Advocate.

P.T.O.

Received
On 1.8.05
By M. J. Barua, Dy. Commr.
Central Excise, Jorhat

Under the above facts and circumstances I like to request you kindly to arrange payment of my due SDA since April, 2005 onwards as early as possible and that if it is not possible to consider for payment of the SDA to me I may kindly be informed of the reason thereof, as early as possible for my record and future guidance.

yours faithfully

[Signature]
21/8/05

(P. R. KALITA)

Inspector, Service Tax Cell,
Central Excise Division,
Jorhat.

Dated Jorhat
the 21st August, 2005.

To,

The Secretary to the Government of India,
Ministry of Finance,
Department of Expenditure,
New Delhi,

(Through proper channel)

Dated Jorhat the 30th Sept/2005.

Subject :- Special Duty Allowance - Reg.

Ref. :- My letter dated Dibrugarh the 24th June 2005 addressed to you (through proper channel) and copies endorsed to others.

Sir/Madam,

With due deference and humble submission I like to state that three months already elapsed and I have neither received my due Special Duty Allowance nor received any clarification from any corner in the matter.

I would therefore, request your magnanimous self to allow me to take help of the Ho'nble High Court at Guwahati for legal justice in the matter.

Yours faithfully,

P. Kalita
30/9/05
(P.R. Kalita)

Inspector, Service Tax Cell,
Central Excise, Jorhat Division.
Jorhat - 785001, Assam

SIGN. P. Bhowmik 30/9/05
O/S, The Asst. Deputy Comm.
Central Excise, Jorhat

Registered with A/D
RL No. 5001

Copy for favour of information and necessary action in advance to :-

The Secretary to the Govt. of India, Ministry of Finance, Deptt. of Expenditure, North Block,
New Delhi.

P. Kalita
03/10/05
75

(P.R. Kalita)
Inspector, Service Tax Cell,
Central Excise, Jorhat Division.
Jorhat - 785001, Assam

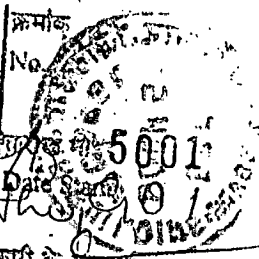
बीमा नहीं NOT INSURED

जमाये गये डाक टिकटों का मूल्य रु.
Amount of Stamps affixed Re. 25/-

एक रजिस्ट्रि*
Received a Registered*

पानेवाले का नाम
Addressed to

The Secretary to the Govt. of India,
New Delhi



पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

Attested
P
Advocate