

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Bahar
02/11/17

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 79/05

Misc. Petition No. _____

Cobtempt petition No. _____

Review Application No. _____

Applicants. M. Mazumdar Jons.

Respondents. U.O.I Jons.

Advocates for the Applicant. A. Ahmed

Advocates of the Respondents. Cable. Md. M.U. Ahmed.

Notes of the Registry	Dated	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/BD No. <u>209/116898</u> Dated <u>18.3.05</u> <i>He Dy. Registrar</i> <u>22.3.05</u> 1) Steps Taken with Envelops. 2) Papers has been filed. <u>22.3.05</u>	23.03.2005	Present: The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman. The Hon'ble Mr. K.V. Prahladan, Member (A). Heard Mr. A. Ahmed, learned counsel for the applicants and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents. Since the applicants have submitted representations (Annexure-E & F) to the Engineer-in-Chief's Branch, Army HQs, New Delhi & to the Garrison Engineer (A/F) Berjar and since the Additional Assistant Director (Adm) for CWE Shillong had recommended the case of the applicants for grant of SDA, it is for the Chief Engineer, Shillong Zone to pass appropriate orders in the matter of granting SDA. Since the recommendation of the Additional Assistant Director (Adm) for CWE Shillong (Annexure-F) is dated 6.10.2004, the said Chief Engineer ought to have taken a decision within a reasonable time. Mr. M.U. Ahmed, learned Addl. C.G.S.C. will ascertain from

Contd.

2
O.A.79/2005

Contd.

23.3.2005 the respondents as to what transpired thereon and report.

Contd.

23.3.2005 the respondents as to what transpired thereon and report before this Tribunal on 12.4.2005.

Issue a copy of this order to the learned counsel for the parties.

Member

Vice-Chairman

bb

12.4.2005 At the request of Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents the case is adjourned to 12.5.2005. Applicant should see that whether notice has been served or not. Written statement, if any, be filed.

Member (A)

Vice-Chairman

mb

12.5.2005 Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents seeks four weeks time to give proper reply in the matter. Post on 14.6.2005.

Member

Vice-Chairman

mb

14.6.2005 Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets. The O.A. is disposed of in terms of the order.

Member

Vice-Chairman

bb

28.6.05

Copy of the order has been sent to the office for filing the same to the respondents Nos 1 to 5 on 7.7.10 by speed post at the cost of the applicant.

Notice & order

sent to D/section for issuing to resp. Nos 1 to 10 by regd A/D post by 05. D/No-525 to 535
28/6/05 DT=29/3/05.

11-4-05

S/2-aaa-rdd

Notice duly

served on

resp. No-8

11-5-05

① Notice duly sent on 8.

② others awaited...

③ no reply filed

11-5-05

24/6/05

13.6.05

no W/S filed

mb

CENTRAL ADMINISTRATIVE TRIBUNAL :::GUWAHATI BENCH.

O.A. No 79 of 2005.

DATE OF DECISION: 14.06.2005.

Shri Manik Mazumdar & Six Others

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U. O. I. & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

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

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

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

Judgment delivered by Hon'ble Vice-Chairman.

4

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 79 of 2005.

Date of Order: This, the 14th Day of June, 2005.

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

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

1. Shri Manik Mazumdar
MES No.264690
Junior Engineer (QS&C)
Office of the Garrison Engineer, Guwahati
Satgaon, P.O: Satgaon, Guwahati-27.
2. Shri Pradip Chandra Das
MES No.243448
Junior Engineer (QS&C)
Office of the Garrison Engineer, Guwahati
Satgaon, P.O: Satgaon, Guwahati-27.
3. Shri Pran Gopal Nath
MES No.243447
Junior Engineer (QS&C)
Office of the Garrison Engineer (I), Rangia
P.O: Rangia.
4. Shri Prabin Chandra Saikia
MES No.238699
Draftsman Grade-I
Office of the Garrison Engineer (A/F)
Borjhar, Guwahati-15.
5. Shri Biswanath Roy
MES No.238682
Draftsman Grade-I
Office of the Chief Engineer, Shillong Zone
Spread Eagle Falls Camp
Shillong- 793 001.
6. Shri Pratul Sharma Khound
Junior Engineer, B/R
Office of the Garrison Engineer
Narangi, P.O: Satgaon, Guwahati-27.
7. Shri Suren Chandra Kalita
Assistant Engineer (AGE B/R)
Office of the Garrison Engineer
Borjhar, Guwahati-15.

..Applicants.

By Advocate Mr. A. Ahmed.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence, 101 South Block
New Delhi - 1.
2. The Engineer in Chief's Branch
Army Head Quarters
Kashmir House
DHO PO, New Delhi - 110 011.
3. The Chief Engineer
HQ, Shillong Zone
Spread Eagle Falls Camp
Shillong - 793 001.
4. The Chief Engineer
Air Force, Elephant Falls
Shillong, Meghalaya.
5. The Chief Engineer
HQ, Eastern Command
Fort William, Kolkata - 700 021.
6. The Garrison Engineer
Guwahati, P.O: Satgaon
Guwahati-27.
7. The Garrison Engineer
868 EWS, C/o 99 APO.
8. The Garrison Engineer
Narangi, P.O: Satgaon
Guwahati-27.
9. The Controller of Defence Account (CDA)
Udayan Vihar, Narangi
Guwahati- 781 171.
10. The Area Accounts Officer
Ministry of Defence, Bivar Road
Shillong-1, Meghalaya.

... Respondents.

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

ORDER (ORAL)

SIVARAJAN, J.(V.C.) :

The applicants seven in number are working in the different capacities - Junior Engineer, Draftsman Grade, Assistant Engineer etc. under the respondents 3 to 8. They have filed this

for

application seeking for direction to the respondents to pay Special Duty Allowance (SDA in short) to them. It is stated that the applicants are entitled to SDA for working in the N. E. Region as per Office Memorandums dated 14.12.1983 and 22.7.1998 issued by the Govt. of India, Ministry of Finance, Department of Expenditure. Their grievance is that in spite of satisfying the requirements of all India transfer liability and all India common seniority list and though they were transferred from N. E. Region to outside region and re-transferred therefrom to N. E. Region which would satisfy the requirement for grant of SDA, respondents are not paying SDA to them.

2. We have heard Mr. A. Ahmed, learned counsel for the applicants and Mr. M. U. Ahmed, learned Addl. C. G. S. C. for the respondents. We had occasion to consider the question regarding the admissibility of SDA in the case of Central Govt. civilian employees working in N. E. Region in our judgment and order dated 31.5.2005 in O.A. Nos.170/1999 and connected cases and had summarized the legal position with reference to the various Government orders and the decisions of the Hon'ble Supreme Court in paragraphs 52 and 53 of the said judgment as follows:-

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

Special Duty Allowance is admissible to Central Government employees having All India Transfer liability on posting to North Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E. Region if he is retransferred to N.E. Region he will also be entitled to grant of SDA provided he is also having promotional avenues bases 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

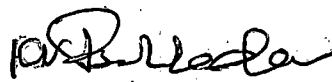
Ans

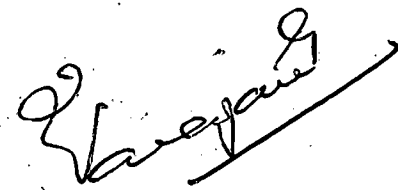
Region by virtue of the All India Transfer liability provided the promotions are also based on an All India Common Seniority.

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

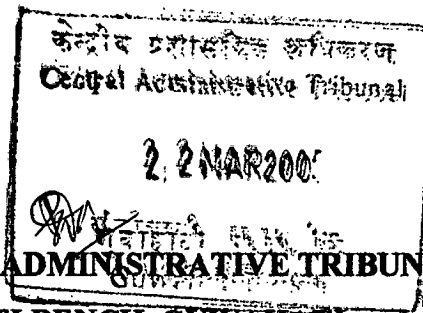
3. Though the applicants have stated that they satisfy all the requirements stated in the said decision, in the absence of positive materials we are of the view that the concerned respondent must be directed to consider their claim and pass appropriate orders in the matter. In the circumstances, we direct the respondent no.9 to consider the claim of the applicants herein in the light of the governing principles stated in paragraphs 52 and 53 of the common judgment extracted hereinabove after ascertaining the factual situation of each of the applicants and to take a decision within a period of three months from the date of receipt of copy of this order.

The Original Application is disposed of as above. The applicants will produce this order before the concerned respondent for compliance.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE CHAIRMAN

BB



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 79 OF 2005.

BETWEEN

Shri Manik Mazumdar & Others

... Applicants

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS:

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

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

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

Annexure-D is the photocopy of letter No.90237/752/EIC(Legal-C) Dated 4th June 2003.

Annexure-E & E1 are some of the representations filed by the Applicants.

✓ Annexure-F is one of the recommendations of the authority concerned for payment of Special Duty Allowance to the Applicants.

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

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

RELIEF PRAYED FOR:

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

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

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

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

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

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

ORIGINAL APPLICATION NO. 79 OF 2005.

BETWEEN

1. Shri Manik Mazumdar
MES No.264690,
Junior Engineer (QS&C),
Office of the Garrison Engineer, Guwahati
Satgaon, P.O.-Satgaon, Guwahati-27.
2. Shri Pradip Chandra Das
MES No.243448,
Junior Engineer (QS&C),
Office of the Garrison Engineer, Guwahati
Satgaon, P.O.-Satgaon, Guwahati-27.
3. Shri Pran Gopal Nath
MES No.243447,
Junior Engineer (QS&C),
Office of the Assistant Garrison Engineer (I),
Rangia, P.O.-Rangia.
4. Shri Prabin Chandra Saikia
MES No.238699,
Draftsman Grade-I,
Office of the Garrison Engineer (A/F),
Borjhar, Guwahati-15.
5. Shri Biswanath Roy,
MES No.264682,
Draftsman Grade-I,
Office of the Chief Engineer, Shillong Zone,

Filed by
Shri Manik Mazumdar
Applicant No.1
[Signature]
(ADIL AHMED)
Dated

Spread Eagle Falls Camp, Shillong-793001.

6. Shri Pratul Sharma Khound
Junior Engineer, B/R,
Office of the Garrison Engineer,
Narangi, P.O.-Satgaon, Guwahati-27.
7. Shri Suren Chandra Kalita
Assistant Engineer (AGE B/R),
Office of the Garrison Engineer,
Borjhar, Guwahati-15.

... Applicants

-AND-

1. The Union of India represented by the
Secretary to the Government of India,
Ministry of Defence, 101 South Block, New
Delhi-1.
2. The Engineer in Chief's Branch
Army Head Quarters,
Kashmir House
DHO PO, New Delhi-110011.
3. The Chief Engineer,
HQ, Shillong Zone, Spread Eagle Falls
Camp, Shillong-793001.
4. The Chief Engineer,
Air Force, Elephant Falls, Shillong,
Meghalaya.
5. The Chief Engineer,
HQ, Eastern Command,
Fort William, Kolkata-700021.

6. The Garrison Engineer,
Guwahati, P.O.-Satgaon, Guwahati-27.
7. The Garrison Engineer,
868 EWS, C/o 99 APO.
8. The Garrison Engineer,
Narangi, P.O.-Satgaon, Guwahati-27.
9. The Controller of Defence Account (CDA)
UDHYAN VIHAR, Narangi, Guwahati-
781171.
10. The Area Accounts Officer,
Ministry of Defence, Bivar Road,
Shiillong-1, Meghalaya.

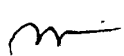
... Respondents

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

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

2) JURISDICTION OF THE TRIBUNAL:

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



3) LIMITATION:

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

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicants are the citizens of India and as such they are entitled to all rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicants beg to state that they are working in the post of Junior Engineer/Draftsman Grade-I/Assistant Engineer at North Eastern Region respectively as stated above under Ministry of Defence. The Applicants are Defence Civilian Employee.

4.3) That your Applicants beg to state that they have not common grievances, common cause of action and the nature of relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend prefer this application jointly and accordingly they pray for grant of permission under Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules 1987 to move this application jointly.

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

(iii) **Special (Duty) Allowance: -**

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

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

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

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

4.4) That your Applicants beg to state that they are saddled with All India Transfer liability and seniority in terms of their offer of appointment and with the said liabilities they have accepted for All India Transfer liability as per their appointment letter.

4.5) That your Applicants beg to state that they are saddled with All India Transfer Liability in terms of their offer of Appointment and with the said liabilities they have accepted the transfer order of posting from North Eastern Region to outside of this region and also from outside of this region to the North Eastern Region. They were transferred from Srinagar, Siliguri, Bangdubi, Kolkata, Alipur, Gangtk etc. to the North Eastern Region.

Therefore, the Applicants are in practice saddled with All India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 and they ✓ are legally entitled for grant of Special (Duty) Allowances.

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

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

4.7) That your Applicants beg to state that the Respondent No.2 vide his letter No.90237/752/EIC(Legal-C) Dated 4th June 2003 also clarified regarding payment of Special Duty Allowance payable to MES Employees relating to Court Cases. In the said Letter it has been stated "SDA is admissible to the Central Government Employees who have All India Transfer Liability on their posting to NE Region from outside region. No restriction is made to the effect that the residents of NE Region shall not be entitled to SDA when they fulfill the criteria of All India Transfer Liability and are transferred/posted in NE region from outside the region". The Applicants have also filed representation to the authority concerned for payment of Special Duty Allowance but in spite of this the Respondent No.9 & 10 has not paid the Special Duty Allowance to the Applicants although Respondent No.2 to 8 has strongly recommended the case of the Applicants and forwarded the said Special Duty Allowance Payment Bill to the Respondent No.9 & 10. Hence finding no other alternative the Applicants are compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Annexure-D is the photocopy of letter No.90237/752/EIC(Legal-C) Dated 4th June 2003.

Annexure-E & E1 are some of the representations filed by the Applicants.

m

Annexure-F is one of the recommendations of the authority concerned for payment of Special Duty Allowance to the Applicants.

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

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

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

4.8) That your Applicants beg to state that they have fulfilled all the criteria laid down in the aforesaid Memorandum regarding payment of Special Duty Allowance, hence the Respondents can not deny the same to the Applicants without any justification.

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

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

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

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

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

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

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

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

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

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

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

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicants except the invoking the jurisdiction of this

Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

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

8) RELIEF PRAYED FOR:

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

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

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

8.3) To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR:

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

10. APPLICATION IS FILED THROUGH ADVOCATE.

11. PARTICULARS OF I.P.O.

I.P.O. No. :-

Date of Issue :-

Issued from :-

Payable at :-

12. LIST OF ENCLOSURES:

As stated in Index.

Verification...



- 13 -

21

VERIFICATION

I, Shri Manik Mazumdar, Junior Engineer(QS&C), Son of Shri S.N.Mazumdar, Office of the Garrison Engineer, Satgaon, P.O.-Satgaon, Guwahati-27, District-Kamrup(Metro), Assam do hereby solemnly verify that I am the Applicant No.1 of the instant application and also I am authorized by the other Applicants to sign this Verification on their behalf. That the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.4(A), 4.5, ~~4.6~~ 4.8,

are true to my knowledge, those made in paragraph

nos. ~~4.4~~ 4.4, 4.6, 4.7(A), 4.7

are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 22nd day of March 2005 at Guwahati.

Manik Mazumdar

345
14
Annexure A
22
Annexure A
No. 20014/2/83/B.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the State of Assam Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian 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

Approved
J. P. [Signature]
Attache
J. P. [Signature]

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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 recognition of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

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

xx

iii) Special (Duty) Allowance :

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

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

Attest
Sd/-
T. S. S.

New Delhi, Dated July 22, 1990.

OFFICE MEMORANDUM

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

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

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

(I) Tenure of Posting/Deputation

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

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

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

(III) Special (Duty) Allowance

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

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

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/98-E.II(B) dated January 12, 1998, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

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

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

(v) Travelling Allowance on First Appointment

The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/16/88-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

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

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

(vii) Leave Travel Concession

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

- (a) the government servant can avail of the leave travel concession for journey to the Home Town once in a block period of two years under the normal Leave Travel Concession Rules;
- OR
- (b) in lieu thereof, the government servant can avail of the facility for himself/herself to travel once a year from the station of posting to the Home Town or the place where the family is residing and for the family (restricted only to the spouse and two dependant children of age up to 18 years in respect of sons and up to 24 years in respect of daughters) also to travel once a year to visit the government servant at the station of posting.

These special provisions shall continue to be applicable.

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

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/88-E.IV/E.II(B) dated December 1, 1988, Officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependant children (up to 18 years in respect of sons and up to 24 years in respect of daughters) will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Dispur/Silchar in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Madras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

Attest
[Signature]
[Signature]

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CA-19

Annexure 1

Annexure-1

COURT CASE

MOST IMMEDIATE

Cabinet Secretariat
(E.A. Section)

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

1. SSB Directorate may kindly refer to their UO No. 42/SSB/AT/99(18)- 2369 dated 31.03.2000 on the subject mentioned above.
2. The points of doubt raised by SSB in their UN No. 42/SSB/AT/99(18) - 5282 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department of Expenditure) and clarification to the points doubt is given under for information, guidance and necessary action :

i)	The Hon'ble Supreme Court in their Judgment delivered on 26.11.96 in Writ Petition No. 794 of 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. Region from outside the region and in the following situation whether a Central Government employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their no. No. 11(3)/95.L.I.(13) dated 7.5.97	
a)	A person belongs to outside N.E. Region but he is appointed and on first appointment posted in the N.E. Region - after - selection through direct recruitment based on the recruitment made on all India basis and having a common/centralised seniority list and All India Transfer Liability.	No
b)	An employee hailing from the N.E. Region selection on the basis of an All India recruitment test and borne on the Centralised cadre/service common seniority on first appointment and posted in the N.E. Region. He has also All India Transfer Liability.	No
ii)	An employee belongs to N.E. Region was appointed as Group "C" or "D" employee based	No

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

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

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

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

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

Cab. Secit. UO. No. 20/12/99-EA-1-1799 dated 2.5.2000.

[Handwritten signature]
Amen

Tele : 23019376

E-1 Legal

Die Gen of Pers/EIC (Legal)
Military Engineer Service
Engineer in Chief's Branch
Army Headquarters
Kashmir House
DHQ PO New Delhi 110011.

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Annexure - D
16 JUN 2003

No. 90237/7521/EIC (Legal-C)

CE Eastern Command
Kolkata-21.

04 Jun 2003

DISPOSAL OF ALL COURT CASES ON PAYMENT
OF SDA TO MES EMPLOYEES

1. Reference this HQ letter of even number dated 24 Feb 2003.
2. We had vide our above mentioned letter forwarded copies of four MOD letters No. PC-90237/7521/EIC(Legal-C)/89-LC/D(Civ-I)/2003 dated 24 Feb 2003 containing MOD decision regarding grant of SDA to applicants of OA No. 238/2000 filed by Shri PM Kittan and two others in CAT Guwahati. The decision of MOD in the ibid case arrived in consultation with Ministry of Finance will apply to all cases relating to grant of SDA. It is accordingly advised that eligibility of all individuals including applicants of the various Court/CAT cases on SDA filed in different CATs/higher Courts may be examined based on the following criteria as reproduced from Min of Finance (D/Exp) OM No. 11(5)/97-E-II (B) dated 29 May 02 (copy enclosed) :-

SDA is admissible to the Central Govt employees who have All India Transfer Liability on their posting to NE region from outside the region. No restriction is made to the effect that the residents of NE region shall not be entitled to SDA when they fulfil the criteria of All India Transfer Liability and are transferred/posted in NE region from outside the region. ✓

3. The Ministry of Finance vide Para 2 of their OM No. 11 (5)/97-E-II(B) dated 29 May 2002 referred above has clarified the concept of all India Transfer Liability. Particular attention may be given to this para 2 of Ministry of Finance OM ibid while deciding the eligibility of applicants for grant of SDA. Going by the stipulations laid down in ibid Para 2, the following categories of MES employees are covered by the criteria of all India Transfer Liability and hence may be considered for grant of SDA :-

(a) Basic Subordinate Categories - Erstwhile Supdt Gde I (now re-designated JE) Supvr B/S I, D'Man Gde I and Asstts.

(b) Officers - All Gp 'B' & Gp 'A'

4. For deciding the eligibility of the applicants of various Court/CAT cases, data may be compiled at your HQ separately for each OA as per format enclosed as Appx 'A' to this letter. Proof for deciding the eligibility will comprise the following :-

(a) Copies of orders regarding recruitment or promotion to one of the grades mentioned at Para 3(a) and (b) above and the relevant Part II order regarding assumption of an appointment in that grade. ✓

....2/-

Attended
J. S. /
Sharma

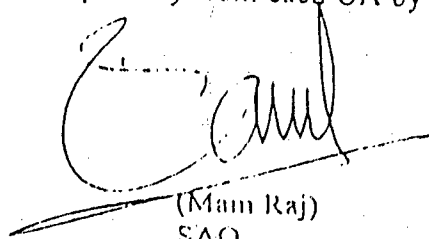
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(b) Copies of orders pending the eligible officer to an Unit/Establishment in North East and the relevant TOS Part II Order issued by the receiving Unit.

5. After identifying the applicants found eligible for grant of SDA, their cases accompanied with proofs as indicated at Para (a) & (b) above, should be sent to concerned Audit Office for making the payment. In case of Court judgements, sanction of competent authority for incurring charged expenditure would be required. It is possible that out of the applicants found eligible for grant of SDA, some might have already been paid the SDA for some time but the same was stopped afterwards. In case of such employees the payment should continue from the date it was stopped till the period they continued to be posted in North Eastern Region.

6. In the case of applicants of CAT/Court cases are found ineligible for payment of SDA, necessary Speaking Orders be issued to them.

7. You are requested to forward a completion report separately from each OA by 30 July 03.



(Mam Raj)
SAO
Offg SO I (Legal)
For E-in-C

Encls : As above

Copy to:-

✓ Shillong Zone :

✓ for info and necessary action.

CGDA (AT)

for info and necessary action. You are requested to issue necessary instructions to your subordinate offices in this matter and forward a copy for our information and record.

Mln of Def/D (Civ-I) :

for info wrt Note dated 27 May 03 recorded on our PC No. 90237/7521/E (Legal C).

E-in-C's Br/E-5 (Budget) :

for info along with copies of all relevant enclosures and the refs quoted in para 5 above.

EIC

You are requested to issue appropriate instructions for payment of SDA to the applicants in the light of clarifications issued vide Mln of Fin I No. 11 (5)/97/E II (B) dated 29 May 02 and the ID No. 4/E II (B)/2001 dt. 19 Feb 03 (copies enclosed)

Attnl
JL / fute

From

MES 243448 Smt
P.C. Das (SA Gde - I)
(Now JE Q&C)
C/O Garrison Engineer Guwahati
Post : Salgaon Dist Kamrup
Guwahati-781 027

To

Engineer-in-Chief's Branch
Army Headquarters
Kashmir House
DHO PO, New Delhi-110 011
(Through Proper Channel)

PAYMENT OF SDA TO MES EMPLOYEES

Sir,

1. Reference GE Guwahati letter No 1215/SDA/215/E1P dated 12 Jul 2004 and CWE Shillong letter No 1005/SDA/05/E1A dated 29 Jul 2004 addressed to Area Account Office Shillong with a copy endorsed to CDA Guwahati.

2. With due respect, I beg to submit that on receipt of E-in-C's Branch, Army HQ New Delhi letter No 90237/7521/EIC (Legal -C) dated 04 Jun 2003 as amended vide even No dated 03 Oct 2003 regarding eligibility criteria on payment of SDA, GE Guwahati has forwarded my arrears of SDA to AAO Shillong through Sy Bill bearing Vr No 8405/Cash/114 dated 14 Oct 2003 for the period from Jun 2002 to Sep 2003. SDA for the remaining period from Oct 2003 to till date has been claimed in my regular pay bill every month. But it is regretted to pointout that despite categorical clarifications and confirmation given to AAO Shillong several times by GE Guwahati and CWE Shillong on the subject matter to admit payment of SDA as per eligibility fixed in terms of aforesaid E-in-C's Branch letter, AAO Shillong has not admitted the payment of SDA claimed in regular pay bills from Oct 2003 onwards and disallowed the same without giving any cogent reason for non admittance. The Sy bill for arrears of SDA as mentioned above has also not yet been passed and retained by AAO Shillong since Oct 2003, the reason of which is not understood.

3. My arrears of SDA for the period served in GE 868 EWS, C/O 99 APO from Nov 98 to May 2002 bearing Vr No 00/CV/168 dated 08 Jan 2004 has been resubmitted to AAO Shillong by GE 868 EWS vide their letter No 1006/2142/E1pay dated 24 Aug 2004 but the same is also not yet passed and paid.

4. In this connection, it is highlighted that I was posted to GE (P) Srinagar (GE 970 EWS, C/O 56 APO, J&K under Northern Command on promotion as SA Gde I (Now JE Q&C) from GE (AF) Tezpur vide GE (AF) Tezpur movement order No 1003/BR/AF/3353/EIC dated 23 July 1992. On completion of tenure, I was transferred to Chief Engineer (AF) Shillong Zone, Shillong vide GE 970 EWS, C/O 56 APO movement order No 1026/45/E1B dated 24 Aug 95. I was taken on the strength of CE (AF) Shillong Zone vide their P.T.O. No 38 dated 18 Sep 95 on permanent posting to NE Region from outside NER. Though I am NER recruit but since I have physically performed the All India Transfer Liability and also come under All India Common Seniority List and thereby I have fulfilled the laid down conditions for grant of SDA. Therefore, I am rightfully entitled for SDA.

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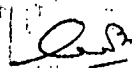
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:2:

5. It is brought out that the above E-In-C's Branch letter has been issued with a intention for disposal of all court cases on payment of SDA to eligible MES employees but action on the part of audit authority by disallowing payment of SDA till date will lead to fresh court case. In my case, I am facing financial hardship and mentally demoralised due to inordinate delay made by audit authority in admitting the payment of SDA since considerable time has been elapsed after issue of said E-In-C's branch letter and thereafter submission of bills for SDA to AAO Shillong. I like to submit here that if my bonafide and legitimate payment of SDA as decided in term of E-In-C's Branch letter mentioned above is delayed unnecessary by audit authority and not paid within 60 (Sixty) days of my request, then I will have no other alternative but to take the shelter of law for justice in the matter.

6. In view of the foregoing, I am earnestly requesting your honor to kindly intervene in the matter and suitable advice may please be issued to concerned audit authority for early admitting payment of SDA.

7. An early action in the matter is highly solicited please.

Yours faithfully,



(MES-243440, Shri PC Das)
SA Gde - I
(Now JE QS&C)

Station Guwahati -27

Dated : 13 Sep 2004

Received please
13/9/04

Atty
Lil
Shri

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ANNEXURE - E. 34

To

The Garrison Engineer (A/F) Borjar
Guwahati- 15 (Assam)
Dated: 10 Mar'04

PAYMENT OF SDA TO MES EMPLOYEES

Respected Sir,

1. Most Humbly and respectfully, I like to submit the following few lines for your kind consideration and favorable action please :-
2. That Sir, I have been posted from CE Siliguri Zone and reported to this Office on 13 Sep'03 as per the causally published vide CE (A/F) Borjar Part II Order No. 09 dated 16-9-03. As per AHQ, E-in-C's Branch letter No. 90257/7521/EI(C) dated 04 Jun'03, the post of Drafts Man Gde-I is entitled for SDA even in the resident of said individual in NE Region. In the Regular Sy pay bill for the months of Sep 03, the SDA has been claimed by this Office, but disallowed by AAO Shillong without giving any reason. Then after, no SDA is claiming by this office till date.
3. In this connection the above E-in-C's Branch letter no cited above has circulated by HQ, CE Shillong Zone vide their letter No. 77551/90/Policy/SDA/57/EI (Legal) dated 30 Jan'04 is enclosed herewith for your kind perusal please..
4. Therefore, now I request your kind honors to look in to the matter and requested to claim the SDA through regular Pay bill again and take up the case with AAO Shillong to admit the same in audit as per above E-in-C's Br. Letter

Thanking you,

Yours faithfully,

P. C. Saikia

(P.C. Saikia)
D'Man- (4de-1)
MES/238699

Encls : (Two sheet)

me
19/3

Attch
1
Sumit

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248
A. B. K. M. F.

Tele : 5048 (Mily)

Commander Works Engineer
Spread Eagle Falls
Shillong- 793011

1005/SDA/ 16 /EIA

06 Oct 04

HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong- 793011

PAYMENT OF SDA TO MES EMPLOYEES

1. An application dated 13 Sep 04 (addressed to Engineer-in-Chief's Branch HQ New Delhi) submitted by MES/243443 Shri PC Das, th then SA Gao-I (New Jn(QS&C)) of GE Guwahati requesting for early payment of SDA on attaining the eligibility criteria on the basis of "All India Transfer Liability" (and "All India Common Seniority list" in terms of E-in-C's Branch HQ New Delhi letter No. 90237/7521/KIC(Legal-C) dated 04 Jun 2003 as amended vide Even No dated 03 Oct 2003, is fwd herewith for your further necessary action, please.
2. In this connection it is submitted that Sy bill on account of SDA to eligible personnel of MES especially those ~~xxxxxx~~ who attained eligibility for grant of SDA on their posting/re-posting to NE Region ~~xxxx~~ from outside NE Region and covered under HQ E-in-C's Branch above quoted letter have been initiated and fwd to AAO Shillong for their admittance and passing of payment order. But inspite of repeated persuasion/correspondence made both from GE as well/this office AAO Shillong has neither admitted the bill in question for necessary payment order nor given any response. In this connection a reference is invited to GE Guwahati letter No. 1215/SDA/151/KIP dated 17 May 2004, this office letter No. 1105/SDA/02/EIA dated 25 May 04, GE Guwahati letter No. 1215/SDA/215/KIP dated 12 Jul 04 and this office letter No. 1005/SDA/05/EIA dated 29 Jul 04 (copies enclosed).
3. In view of above, it is requested to process the application of the individual to HQ E-in-C's Branch for necessary action in the matter since the grievances putforth by the individual in his application are genuine requiring their re-dressal at the earliest so as to obviate another litigation on account of SDA. It is also requested to take up the matter with AAO Shillong at your end please.

[Signature]
(V Dkhar)
Addl Asstt Dir (Adm)
For CWE Shillong

Copy to :-

GE Guwahati- For information wrt their letter No. 1215/SDA/243/KIP dated 27 Sep 2004.

[Signature]
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Original Application No. 56 of 2000
Date of ...

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

Hon'ble Mr. Justice, D.N. Chowdhury, Vice-Chairman.
Hon'ble Mr. K.K. Sharma, Member (A)

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

Shri Manoj Kumar

Lower Division Clerk

Subsidiary Intelligence Director

Baridhata Road, Guwahati-28 & 167 Ors.

By Advocate Mr. A. Ahmed.

Applicant's

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

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

• • • Respondents

ORDER (ORAL)

CHOWDHURY J. (V.C.)

The applicants are one hundred and sixty eight in number serving under the Deputy Director, Subsidiary Intelligence Bureau, in different capacities, like Lower Division Clerk, Assistant, Stenographer, Security Assistant, ACIO-1/C, P.S., JIO-11/C, Section Officer, Upper Division Clerk etc. Their grievance is common in nature claiming Special Duty Allowance (hereinafter referred to as SDA) payable to the Central Government employees serving in the North Eastern Region. By now the issue is involved is settled on the basis of numerous decision of the Supreme Court..

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Court subsequently clarified by the department. Cabinet Secretariat (EA.1 Section) clarified the matter by a Notification dated 2.5.2000. The civilian employees who have all India transferability are entitled for grant of SDA on being posted to any station in the NE Region from outside the Region. An employee hailing from the North Eastern Region selected on the basis of all India recruitment test and borne on the centralized cadre/service, common seniority on first appointment and posted in the N.E. region per se is not entitled for the SDA. He or she would be entitled to SDA only if posted outside NE Region on transfer. An employee hailing from NE Region initially but subsequently transferred out of the NE Region but reported to NE Region would also be entitled to SDA.

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

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

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period of two months from the date of receipt of individual representation from the applicants.

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (J)
आयुक्त (अधीनस्थ शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-8
गुवाहाटी बेंच, गुवाहाटी-८

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

ANNEXURE ~~A~~ ~~F~~
Annexure H

Applicant(s): Narish Saengyuan
 Respondent(s): M. C. I. Jomvi
 Advocate for the applicant(s): Abdul Ahmed
 Advocate for the respondent(s): C.A.C.

Name of the Registry Date Order of the Tribunal

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

The controversy pertains to granting of Special Duty Allowance (SDA) to the applicant. The respondents in its written statement contended that SDA is admissible only to the Civilian Employees posted from outside the region and not to others. Admittedly, the applicant who belongs to North East Region was initially posted at Siliguri and by order dated 8.3.1995 the applicant was re-posted at Guwahati from Siliguri. Therefore, as per memorandum issued by the Cabinet Secretariat an employee hailing from N.E. Region, posted to N.E. Region initially but subsequently transferred out N.E. Region after some time serving in non N.E. Region is entitled SDA. As a matter of fact the respondent admitted the same in the written statement and asserted that in terms of the memorandum of the Cabinet Secretariat the respondents continued to pay the SDA to the applicant from 20.2.2001. However, the same was stopped later on in the light of the observation made in the Swamyappa in terms of the Supreme Court judgment. The aforementioned considerations are totally irrelevant on the facts situations in the context of the decisions of the Central Govt. The impugned action of the respondents in withholding the SDA due to the applicant and consequent recovery of the same is thus unsustainable in law.

In the circumstances and in the light of the decision rendered by the Tribunal, the impugned office order No. AIR/COMSE-GH/2(2)/2002-A/6330-34 dated 07.12.2002 issued by the respondent No.4 is thus set aside and quashed.

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25.4.2003 and the respondents are directed to pay the SDA to the applicant forthwith.

The application is allowed
No order as to costs.

SD/VICE CHAIRMAN

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Original Application No. : 30/01
Misc. Petition No. :
Contempt Petition No. :
Review Application No. :

Applicant (s) : Ranjit Subudhara

Respondent (s) : K. S. G. Ganga

Advocate for the Applicant (s) : M. Chandan G. M. Chakraborty
Advocate for the Respondent(s) : Dr. C. A. B. C.

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

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

Considering the nature of the cause of action and relief sought for, the applicants were allowed to espouse their cause in a single application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1905.

According to the applicants, they were paid SDA in terms of memorandum dated 14.11.1993, 1.12.1993 and 22.7.1998 and the same was sought to be stopped whereupon the applicants moved this Tribunal by the O.A.

The respondents submitted written statement and contended that in view of the decision rendered by the Supreme Court in S. Vijaya Kumar and Ors. and like cases the Ministry of Finance issued appropriate direction for taking appropriate measure in regards payment of SDA vide communication dated 29.1.2002. According to the respondents, SDA is admissible only to civilian employees posted from the outside region and not others. The decision of the Supreme Court in U.C.I. & Ors. vs. Sh. S. Vijaya Kumar & Ors. has clarified the same. It was also mentioned that SDA would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

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

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

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

Accordingly, the application is allowed in the light of the decision of this Bench in O.A. No. 30/2001 disposed on 12.9.2001.

The application is allowed.
No order as to costs.

22/VICE CHAIRMAN

CERTIFIED TRUE COPY

[Signature]
23.12.03

Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati 781 005

Attended
[Signature]

[Faint administrative text and stamps on the left margin, including a circular stamp with the text 'ADAR' and '1977']

FROM No. 41
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No:- 301/03

Misc Petition No: /

Contempt Petition No: /

Review Application No: /

Name of the Applicant(s): K R Datta & Co.

Name of the Respondent(s): 409 & Co.

Advocate for the Applicant:- Mr. A. Ahmed

Advocate for the Respondent:- C3 SC

Notes of the Registry & date 17.2.2004

Order of the Tribunal

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

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

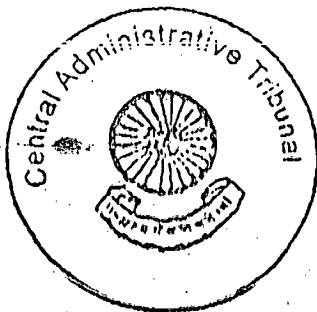
Heard Mr A. Ahmed, learned counsel for the applicants and also perused the application. On hearing the learned counsel for the applicants and on perusal of the application, I dispose of the application with the following direction:

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

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

The O.A. is accordingly disposed of.

(K. V. PRAHLADAN)
Administrative Member



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प्रमाणित प्रतिलिपि

20/2/04
Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

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