

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 207/2006

R.A/C.P No.

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SECTION OFFICER (Judl.)

Kalish
25/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 207/06
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) A.K. Singh

Respondant(S) U.O. R. Jenu

Advocate for the Applicant(S) M. Chanda, S. Nath
G.M. Chakraborty, Sub. U. Day

Advocate for the Respondant(S) COSE

Notes of the Registry	Date	Order of the Tribunal
	18.8.2006	Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.

This application is in form
is filed/C.F. Rs. 20/-
deposited vide P.D.
No. 264325957
Dated 9.8.06

Heeth
Dy. Registrar

Ph

NS
17.8.06

Slips not taken

Dr.

Amud
admission
release

Notice & order sent
to D/Section for
issuing to resp. nos
1 to 5 by regd. A/P
post. D/No-940 to 944

30/8/06 Dated: - 8/9/06

bb

The claim of the applicant is for non-payment of Special Duty Allowance (SDA in short). The applicant contends that he is an outsider who has been transferred to N. E. Region and hence entitled to SDA. He submitted representations for payment of SDA. But vide orders dated 25.10.2005 (Annexure-X) and 17.3.2006 (Annexure-XII) his claim for payment of SDA was rejected. Hence, this O.A.

I have heard Mr.M.Chanda, learned counsel for the applicant. Mr.G.Baishya learned Sr.C.G.S.C. representing the respondents submitted that notice may be issued to the respondents. Let it be done.

Post the matter on 23.10.2006. Respondents' counsel is directed to take instruction as to whether this is a covered matter or not.

Vice-Chairman

O.A. 207/2006

23.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

18.10.06
Notice issued.
No reply filed.
by

The matter pertains to grant of Special Duty Allowance. Vide order dated 18.08.2006, this Tribunal made it clear that it is a covered matter pertaining to non payment of Special Duty Allowance. Identical matters are pending before this Tribunal. Notice has already been issued. Considering the issue involved, I am of the view that the O.A. to be admitted. Admit.

Post on 04.12.2006. In the meantime, the Respondents are liberty to file reply statement.


Vice-Chairman

/mb/


No W/s has been
filed.

23
1.12.06.

4.12.06

Learned Sr. C.G.S.C for the respondents seeks four weeks time to file written statement. Prayer allowed.

Post on 4.1.07 for order.


Vice-Chairman

No W/s has been
filed.

23
19.1.07.

pg

14.2.07

No W/s filed.
by

22.12.2007

Let the case be posted on 15.2.2007 for filing of written statement.


Vice-Chairman

26.2.07
W/s submitted
by the Respondents.
page - 1 to 11.

11 /bb/

15.2.07

Written statement filed and copy received by the counsel for the applicant. Counsel for the applicant prays for time to file rejoinder.

Post on 15.3.07 for order.


Vice-Chairman

No rejoinder has
been filed.

23
14.3.07.

pg

15.3.07.

At the request of learned counsel for the applicant two weeks time is granted to file rejoinder. Post the matter on 3.4.07.


Member


Vice-Chairman

2-4-07
No rejoinder filed. lm
lm

3.4.07.

At the request of learned counsel for the applicant further three weeks time is granted to file rejoinder. Post the matter on 3.5.07.


Vice-Chairman


1-5-07
No rejoinder filed. lm
lm

3.5.2007

Three weeks' further time is allowed to the learned counsel for the Applicant to file rejoinder, if any.

Post on 25.05.2007.

No rejoinder has been filed.


Vice-Chairman

24.5.07


/bb/

29.5.07

25.5.2007

Rejoinder is said to have filed. Let it be brought on record.

Post on 18.6.2007. In the meantime Respondents are at liberty to take instruction, if any, on the rejoinder.


Vice-Chairman

Wks and rejoinder has been filed.

15.6.07

/bb/

18.6.07.

Counsel for the respondents wanted time to get instructions for filing reply to the rejoinder. Post the matter on 3.7.07.


Vice-Chairman

Wks and rejoinder filed by the parties. lm
2.7.07

PA-207/06-4-

3.7.2007

It is submitted that pleadings are complete in the matter. Let the case be posted on 17.7.2007 along with other SDA matters.

Vice-Chairman

/bb/

3.7.07.

Pl. comply

↓

The case is ready for hearing.

16.7.07.

17.7.2007

Part

heard.

Post

on

18.7.2007.

Vice-Chairman

pg

18.7.2007

Heard in part. List the case on 23.07.2007 for further hearing.

Vice-Chairman

/bb/

23.7.07.

Pass over for the day.

Vice-Chairman

lm

24.07.2007

Heard Mr M. Chanda, learned counsel for the applicant and Mr G. Baishya, learned Sr. C.G.S.C. Hearing concluded. Judgment reserved.

Vice-Chairman

nkm

0. A. 207

5

1.8.07.

Judgment pronounce in open Court.
Kept in separate sheets. Application is
allowed. No costs.



Vice-Chairman

lm

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No.48 of 2006

With

O.A.25 of 2006

With

O.A. No. 207 of 2006

With

O.A.No.216 of 2006

With

O.A.No.229 of 2006

Date of order: This the 1st Day of August 2007

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

O.A.No.48 of 2006

Shri Akan Kumar Dutta
Son of Late Sistu Ram Dutta
Draftsman, Grade -I
Office of the Superintending
Engineer,
Assam Central Circle I
Central Public works
Department, Guwahati-21.
By Advocate: Mr. A. Ahmed

Applicant.

Versus

1. The Union of India represented
by the Secretary to the
Government of India, Ministry
Of Urban Affairs, Nirman
Bhawan, New Delhi-110 011.

2. The Director General Works,
Central Public Works
Department, 118-A, Nirman
Bhawan, New Delhi-110 011.

3. The Chief Engineer [NEZ]
Central Public Works
Department,
Cleves Colony, Dhankheti,



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8
2
Shillong-3.

4. The Superintending Engineer
Assam Central Circle 1,
Central Public Works
Department, Bamunimaidan,
Guwahati.

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

Respondents

O.A.No. 25 of 2006

1. Shri Biplab Roy Choudhury,
U.D.C.

2. Shri Pranab Sarkar,
U.D.C.

3. Shri Mridul Kanti Sen,
U.D.C.

4. Shri Pranab Kumar Sarkar,
U.D.C.

5. Shri Niranjana Prasad Singh,
U.D.C.

All are working in the cadre of Group 'C' in the office of
G.E.Narangi/G.E.Guwahati.

Applicants

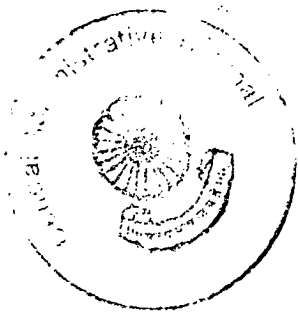
By Advocate: Mr. M. Chandra

Versus

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Defence,
New Delhi-110 001

2. E-in-C's Branch,
Army Headquarter,
Kashmir House,
DHQ Post, New Delhi-11.

3. Chief Engineer,
Eastern Command Engineer's Branch,
Fort William,



-10- 3 9

Kolkata-21.

4. Chief Engineer,
Shillong Zone,
SE Falls, Shillong-11

5. CWE, Shillong,
SE Falls, Shillong-11.

6. GE, Narangi,
Narangi, Guwahati.

7. GE Guwahati,
Guwahati.

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

Respondents

O.A.No. 207 of 2006

Sri Ajit Kumar Singh
S/o Sri Indra Daman Singh
Company Prosecutor,
Office of the Registrar of Companies, NE Region,
Shillong-793 001 [Meghalaya].

Applicant

By Advocate: Mr. M. Chandra

Versus

1. The Union of India
represented by the Secretary to the
Government of India,
Ministry of Personnel, Public Grievances and Pensions,
Gate No.-4, North Block
New Delhi-110 001.

2. The Secretary to the Govt. of India,
Ministry of Company Affairs,
Shastri Bahwan, A-Wing, 5th floor,
Dr. Rajendra Prasad Road,
New Delhi-110 001.

3. The Regional Director [Eastern Region],
Ministry of Company Affairs,
Nizam Palace, IInd MSO Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata-700 020.

4. The Joint Director [Legal],



[Handwritten signature]

O/o the Regional Director [Eastern Region],
Ministry of Company Affairs,
Nizam Palace, IInd MSO Building, 3rd Floor,
23/4, AIC Bose Road, Kolkata-700 020.

5. The Registrar of Companies, N.E. Region,
Morella Building, Ground Floor,
Kachari Road, Shillong-793 001 [Meghalaya]....

Respondents

By Advocate: Mr. G. Baishya, Senior C.G.S.C.

O.A.No.216 of 2006

Shri Avanindra Chaudhary,
Son of Late Lakhan Lal Chaudhary
Engineering Assistant
Doordarshan Kendra, Guwahati,
R.G. Baruah Road
Guwahati-781 024. Assam....

Applicant

By Advocate: Mr. A. Ahmed

Versus

1. The Union of India represented by the
Secretary to the Government of India,
Ministry of Information & Broadcasting,
A Wing, Sashtri Bhawan, New Delhi-1.

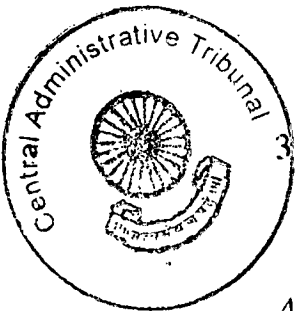
2. The Director General
All India Radio, Sansad Marg,
New Delhi-110 001

3. The Director General,
Doordarshan, Copernicus Marg
Mandi House-110 001.

4. The Director
Doordarshan Kendra, R.G. Baruah Road,
Guwahati-24.

5. The Chief Engineer [NEZ]
All India Radio & Doordarshan
Dr. P. Kakoti Building
Near Ganeshguri Flyover
Ganeshguri, Guwahati-6.

Respondents



12-

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

O.A. No.229 of 2006

1. Shri Asoke Kr. De,
Working as Sr. Engineering Assistant,
S/o Sri Kanai Lal De,
Office of the Director
Doordarshan Kendra,
Guwahati-781 024.
2. Sanjit Kr. Saha,
Working as Sr. Engineering Assistant,
Office of the Director,
DDK, Guwahati-24.
3. Susovan Hazra,
Working as Assistant Engineer,
Son of Sachipali Hazra,
Office of the Director, DDK, Guwahati-24...

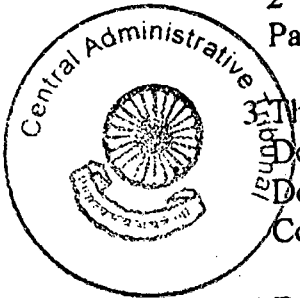
Applicants

By Advocate: Mr. M. Chandra

versus

1. The Union of India.
Represented by Secretary to the
Government of India,
Ministry of Information and Broadcasting,
Shastri Bhawan 'A' Wing,
New Delhi-1100 01.
2. Prasar Bharati Broadcasting Corporation of India,
represented by the Chief Executive Officer,
Prasar Bharati Secretariat
2nd Floor, PTI, Building,
Parliament Street, New Delhi-110 001.
3. The Director General,
Doordarshan,
Doordarshan Bhawan, Mandi House,
Copernicus Marg, New Delhi-1101 001.

4. Director,
Doordarshan Kendra,



12
R.G.B.Road. Guwahati-781 024.

5. The Deputy Director General [NER],
Office of the Deputy Director General,
Doordarshan.

R.G.B.Road. Guwahati-781 024.

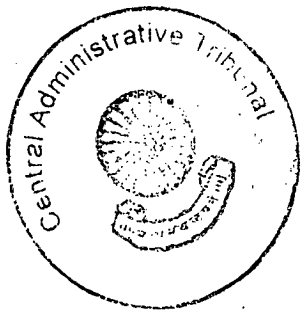
Respondents

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

ORDER

K.V.Sachidanandan, Vice-Chairman:

There are five applicants in OA 25 of 2006. All the applicants were appointed as Lower Division Clerks/Upper Division Clerks in the State of West Bengal vide appointment letters dated 8.4.1982 and 25.3.1984 [Annexure- 1 series]. While the applicants were so working as LDC/UDC in the State of West Bengal, they were transferred and posted in N.E.Region on different dates in between the period 1.12.2001 to 30.12.2003. At present, applicant nos.1 to 4 are working as UDCs and applicant no.5 is working as Assistant in the office of the G.E.Narangi/G.E., Guwahati in the N.E. Region.



2. The applicant in OA 48/06 belongs to N.E. Region. He was appointed as Draftsman Grade II on 16.7.1966. He was transferred from Superintending Engineer, Assam, Central Circle 1, CPWD, Guwahati, on deputation. to the office of the Chief Engineer, Salal Hydro Electrical Project, Jyotipuram [Raisi] in J&K vide order dated 7.4.1975. He was transferred from Salal Hydro electrical Project, J&K to Assam Central Circle 1, CPWD, Guwahati vide order dated 24.4.1979. He was promoted to the post of Draftsman Grade-I on 22.2.1992 in the pay scale of Rs.5500-

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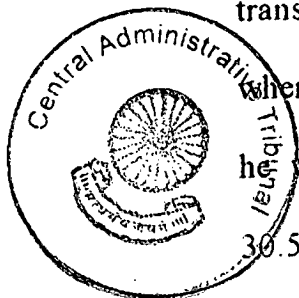
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175-9000/-. He was again transferred to Malda Central Circle, West Bengal vide order dated 18.5.1993, and after serving at Malda Central Circle, West Bengal, the applicant was transferred to N.E. Region, Guwahati Central Division in the year 1994. The applicant has retired from service in the month of February 2006, during the pendency of the OA.

3. The applicant in OA 207/06 was initially appointed to the post of Company Prosecutor Grade III in the Department of Company Affairs vide order dated 8.3.2000 and the applicant joined service on 31.8.2000 in the office of the Registrar of Companies, Shillong. The applicant was transferred from Shillong to the office of the Official Liquidator, Patna [Bihar] and he joined at Patna on 6.6.2001. The applicant was again transferred from the office of the Official Liquidator to the office of the Registrar of Companies, Patna and he joined at the office of the Registrar of Companies, Patna, on 1.5.2002. The applicant was again transferred from the office of the Registrar of Companies, Patna [Bihar] to the registrar of Companies, Shillong where he joined on 14.3.2005, where he is at present working.

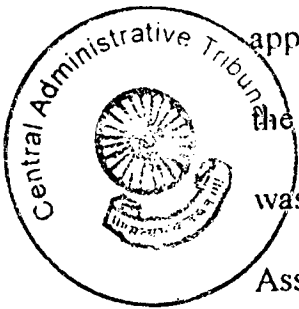
4. The applicant in OA 216/06 joined as Engineering Assistant in the All India Radio, Tezu, Arunachal Pradesh in the year 1996. The applicant was transferred to Doordarshan Kendra, Kolkata vide order dated 20.8.1999 where he joined on 4.10.1999. After serving at Kolkata Doordarshan Kendra, he was transferred to Doordarshan Kendra, Guwahati vide order dated 30.5.2001 where he joined on 22.6.2001. Now, he is serving as Engineering Assistant at Doordarshan Kendra, Guwahati.



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5. There are three applicants in OA 229/06. Applicant no.1 was initially appointed on 11.1.1988 as Engineering Assistant at DDK, Kolkata. He was transferred and posted at DDK, Tura in N.E.Region where he joined on 11.2.1994. However, he was again transferred back to DDK, Kolkata where he joined on 2.3.1998. The applicant was transferred and posted vide order dated 3.7.2002 to DDK, Guwahati. He joined DDK, Guwahati on 5.8.2002. Applicant no.2 was initially appointed as Engineering Assistant on 30.1.1986 and posted at Darbhanga in Bihar. The applicant was transferred to AIR, Tura on 16.10.1986. He was transferred to AIR, Kolkata on 10.4.1989. He was promoted as Sr.E.A. in the year 1990. The applicant was transferred to DDK, Tura on 8.4.1994. He was again transferred to AIR, Kolkata on 9.10.1998. Thereafter, he was transferred to DDK, Guwahati on 17.3.2003, where he is working as Sr.E.A. Applicant no.3 was initially appointed as E.A. on 9.11.1990 at AIR, Kolkata. The applicant was transferred to AIR, Silchar on 20.5.1995 in N.E.Region. The applicant was again transferred to DDK, Kolkata on 1.8.1998. Thereafter, the applicant was transferred to DDK, Guwahati on 3.9.2002. The applicant was promoted as Sr.E.A. on 10.4.2003. He was promoted to the post of Assistant Engineer on 28.1.2006 and posted at DDK, Guwahati.



6. Since the issues in all these OAs and the grievances are common, with the consent of the parties, these OAs are being disposed of by this common order.

7. All the applicants in these OAs are claiming Special Duty Allowance [in short "SDA"] for the period they have served or being served in the N.E. Region. The applicants were initially appointed at different places of

[Handwritten signature]

the N.E. Region or appointed in other Regions, transferred to N.E. Region, again transferred to other Regions and retransferred to N.E. Region. Most of the applicants are not the permanent residents of N.E. Region. They have been transferred and posted to N.E. Region from outside Region and they are saddled with all India transfer liability in practice.

8. Aggrieved by the non-grant of Special Duty Allowance, the applicants have filed these OAs, seeking identical prayers which are as follows:

"8.2. That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to payment of SDA in terms of O.M. dated 14.12.1983, 01.12.1988 and also in terms of O.M. dated 22.07.98 and 29.05.02 with arrear monetary benefits."

The applicants have also requested to quash the respective impugned orders annexed in the respective OAs.

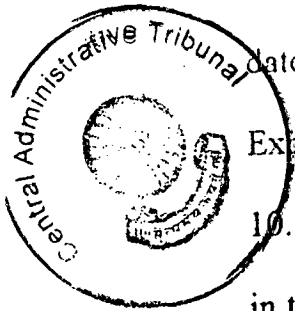
9. The respondents have filed separate reply statements in all the OAs contending that some of the applicants had earlier filed similar petition before the Tribunal, wherein this Tribunal directed the respondents to pass speaking orders after satisfying governing principles for grant of SDA as set out by various judgments of the Tribunal as well as the Apex Court. Therefore, the respondents duly complying with the order of this Tribunal and duly satisfying all governing principles came to the conclusion that the applicants are not eligible for grant of SDA, as prayed for. They have contended that the applicants are not entitled for grant of SDA on their posting to N.E. Region as they do not fulfill the eligibility criteria of "All India Transfer Liability" and "All India Common Seniority List" in accordance with recent policy of instructions issued by the Government of



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India, Ministry of Finance, Department of Expenditure vide O.M. dated 29.5.2002. In accordance with the said O.M. dated 29.5.2002, it may be seen that the Hon'ble Apex court in an appeal filed by the Telecom Department [Civil Appeal No.7000 of 2001 arising out of SLP No.5455 of 1999] has ordered on 5.10.2001 that this appeal of the Telecom Department is converted by the judgment delivered by the Hon'ble supreme Court in the case of Union of India and others vs. s.Vijaykumar and others. The appeal of the Telecom Department was allowed by the Hon'ble Supreme Court with a direction to the authority concerned not to recover whatever amount of SDA has been paid in spite of the fact that the appeal of the Telecom Department was allowed. The Hon'ble Apex court held that mere clause of "all India Transfer Liability" in the appointment letter does not qualify employees payment of SDA. Special Duty Allowance in respect of Central Government employees on their posting or reposting in N.E. Region from outside the N.E. Region is governed by the recent policy/instructions dated 29.5.2005 issued by the Ministry of Finance, Department of Expenditure, in pursuance of the order of the Hon'ble Apex court.



10. The applicants have also filed rejoinder reiterating their contention in the OAs and have further added that the respondents' contention that the applicants do not fulfill the criteria of "all India Transfer Liability" and "All India Common Seniority List" is not correct.

11. Mr. M. Chandra and Mr. A. Ahmed appeared for the applicants and Mr.G. Baishya and Mr. M.U.Ahmed appeared for the respondents. Their names, appearing in each case, have been given in the cost title. The learned

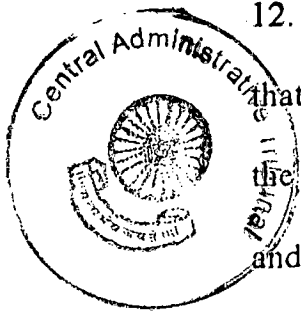
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counsel appearing for the parties have taken me to various evidence and materials placed on record. The learned counsel for the applicants would argue that all the applicants either came to N.E. Region on transfer from other Regions and/or retransferred to N.E. Region from other Regions and are saddled with "All India Transfer Liability". The Central Government employees having All India Transfer Liability have already been granted SDA vide O.M. dated 14.12.1983. SDA was granted to the Central Government civilian employees who are saddled with All India Transfer Liability. The applicants were paid SDA. The respondents started recovery but further recovery was stopped, as per the interim order of the Tribunal passed in OA 25/06.

12. The learned counsel for the respondents, on the other hand, submitted that though some Departments have given SDA which was stopped as per the O.M. dated 14.12.1983 and O.M. dated 1.12.1988. There is no illegality and, therefore, the applicants are not entitled for payment of SDA.

13. I have given due consideration to the arguments, pleadings and materials placed on record. It is borne out from the records that the applicants are working and some have retired. Either the applicants have been transferred from other Regions to N.E. Region and/or retransferred to N.E. Region and some have been retransferred and working in other Regions. The claim of the applicants for payment of SDA is for the period the applicants had worked in the N.E. Region and/or being working in the N.E. Region. The details of their initial appointment, transfer and present status have been given in the preceding paragraphs. As per the O.M. dated 14.12.1983, SDA was granted to such civilian employees of the

h



Central Government who are saddled with All Indian Transfer Liability.

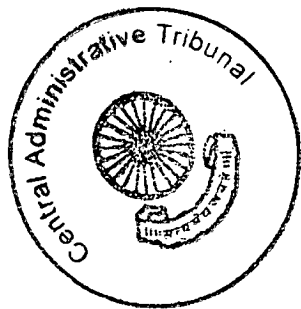
The very purpose for granting SDA was for encouraging the employees to retain their services in N.E. Region, which is called to be hard area. This incentive was granted so that the employees will have desire to work in this Region and present a good administration in this Region. Therefore, with that noble idea, this allowance was granted to those employees who are working in the N.E. Region. For better elucidation, the relevant portion of the O.M. dated 14.12.1983 is reproduced below:-

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

[iii] Special Duty Allowance

Central Government civilian employees who have All India transfer liability will be granted Special [Duty] Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax, will, however, not be eligible in addition to any special pay and/or Deputation [duty] Allowance already being drawn subject to the condition that the total of such Special [duty] Allowance will not exceed Rs.4000/- P.M. Special Allowance like Special Compensatory [Remote Locality] allowance, Construction allowance and Project allowance will be drawn separately."

14. This was followed by O.M. dated 1.12.1988. This O.M. categorically states that the employees who were initially appointed outside the region and subsequently transferred to the North Eastern



Region cannot be denied the payment of SDA. This issue was dealt with by this Court in O.A.No.118 of 2004, and the said OA was disposed of with the following observations:

"We have considered the submissions of the learned counsel for the parties. According to the applicants they were first appointed outside the NER-at Delhi and Madhya Pradesh and later transferred to NER. Annexure-IV communication purport to state that at Delhi and DRTC Shivpuri there was only induction training and not posting. It is in the realm of dispute question of facts, which have to be gone into by the respondents on the basis of the service records of the applicants. Accordingly, we direct the applicants to submit proper representation containing the facts situation and also enclosing copies of the relevant circulars and the three judgments [O.A.No.56/2000 dated 19.03.2001, O.A.No.237/2000 and O.A.No. 30/2003] relied on by the applicants within a period of one month from the date of receipt of copy of this order, if such a representation is filed by the applicants, the Respondent No.2 will consider the same after giving opportunity of personal hearing to the applicants and pass a reasoned order within a period of two months from the date of receipt of the representation. It is further ordered that the interim order passed on 14.5.2004 in this proceedings with regard to recovery will continue till orders are passed on the representation to be filed by the applicants as directed hereinabove. A copy of this order will also be produced along with the representation for compliance."

15. But so far as these cases are concerned, the applicants were either working in other Regions, transferred to N. E.Region. Some were initially appointed in N.E.Region, transferred to other Region and retransferred to N.E.Region. Many modifications and clarifications were issued by the Government of India taking confidence of the rulings of the various courts including the Apex Court. The Hon'ble Supreme Court in the case of Union of India and others vs.S.Vijaya Kumar and others reported in 1995 SCC [L&S] 189, upheld the provisions of the O.M. dated 20.4.1987 and also made it clear that only those employees who were posted outside the North Eastern Region and subsequently transferred to the North Eastern Region would be entitled to the grant of SDA. Such SDA

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was not available to the local residents of the North Eastern Region. The

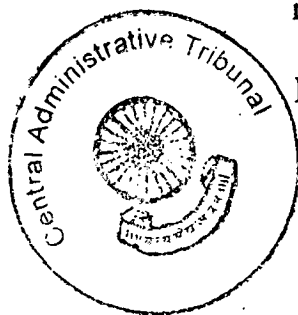
Hon'ble Supreme Court held as follows:

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

16. In the subsequent decision in 1995 Union of India and others vs.

Executive Officers Association Group-C, reported in 1995 [Supp.I]

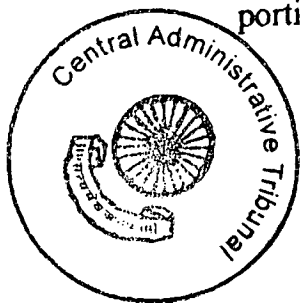
SCC 757, the Apex Court held that the spirit of the O.M. dated 14.12.1983 is to attract and retain the services of competent officers from outside and posted in the North Eastern Region which does not apply to the officers belonging to N.E.Region. The question of attracting and retaining the services of the competent officers who belong to North Eastern Region itself would not arise. Therefore, the incentives granted by the said O.M. is meant for the persons posted from outside to the North Eastern Region and not for the local residents of the region. Thereafter, the Government of India, Ministry of Finance, Department of Expenditure issued O.M. dated 13.6.2001 regarding admissibility of SDA to the Postal Department employees on their posting in the North Eastern Region. In the said O.M. it was clarified that there is no bar in eligibility of SDA for the officers belonging to the North Eastern Region, if they satisfy the criteria that their appointment in service/post is made on All India basis and the promotion is also done on the basis of All Indian Common Seniority. However, it will be admissible when they are posted in the North Eastern



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Region from outside the region. Another O.M. dated 29.5.23002 was issued by the Government of India, Ministry of Finance, Department of Expenditure clarifying that SDA shall be admissible to Central Government employees having All India Transfer Liability on posting to the North Eastern Region from outside region.

17. On going through the reply statement, discussing various judgments of the Hon'ble Supreme Court and also the OMs, that Central Government civilian employees who have got all India Transfer Liability are entitled for the grant of SDA if they are posted to the North Eastern region on their transfer from outside the North Eastern Region even if they are residents of the North Eastern Region. In other words, their initial appointment/posting must be outside the North Eastern Region and they should come on transfer to the North Eastern Region. The concept has also been accepted by the Honble Gauhati High Court in W.P.(C) No. 5087/1999 and series of cases by order dated 23.2.2006, the operative portion of which is reproduced below:



"In view of the law laid down by the Apex Court, as discussed above and also in view of the discussion relating to the finality of judgment, we hold that the officers and employees, who belongs to the region other than the N.E. Region, will be entitled to SDA. The persons belonging to the other parts of the country other than the N.E. Region, if initially appointed and posted in N.E. Region shall not be entitled to such allowance. The Postal employees belonging to N.E. Region but posted in the said Region from outside the region on their promotion on the basis of the All India Common Seniority List shall also be entitled to SDA from the date of such posting. The employees and officers, other than the employees and the officers mentioned above, shall not be entitled to SDA and the authorities shall be entitled to recover SDA already paid to them after 5.20.2001 in terms of the office memorandum dated 29.5.2002 and the amount already paid up to 5.10.2001 towards SDA shall not be recovered. However, the recoveries, if any already made, need not be refunded. This is also

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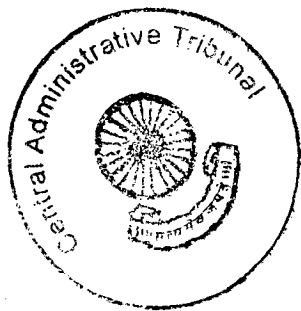
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subject to the inter party judgment and order that have been passed by any competent Court or Tribunal, which have attained its finality."

18. Therefore, it is now settled law that a resident of the North Eastern Region appointed outside the North Eastern Region and then transferred to the North Eastern Region would be entitled to the grant of SDA. This was upheld by this Tribunal in O.A. No.116 of 2004 by order dated 12.8.2005.

The operative portion of the said order is reproduced below

"In para 52 we have clearly stated that SDA is admissible to Central Government civilian employees having All India Transfer liability on posting to North Eastern Region from outside the Region. We had not made any distinction in that regard with reference to Central Government Civilian employees transferred from outside the region and those posted for the first time from outside the region. According to us SDA is admissible to both categories of employees mentioned above. Though the applicants have clearly stated that they satisfy all the aforesaid conditions, we are of the view that an opportunity must be given to the respondents to verify as to whether the aforesaid conditions are satisfied. We note that the respondents in the impugned communication did not give any reason as to why the applicants are not entitled to SDA. For the said reason we quash the impugned communication at Annexure-VII series and direct the respondent nos. 2 and 3 to verify as to whether the applicants are permanent residents of outside North Eastern Region, whether they are posted from outside the North Eastern Region to North Eastern Region on the basis of All India Selection by the Union Public Service Commission, as to whether their promotions are based on All India Common Seniority list. If all the above circumstances are satisfied in view of our decision contained in para 52 of the order dated 31.5.2005 in O.A.No.170/1999 and connected cases extracted hereinabove, the applicants will be entitled to the grant of SDA. In such event the applicants will be entitled to all consequential benefits flowing therefrom. The respondents will pass a reasoned order and communicate the same to the applicants within four months from the date of receipt of this order."

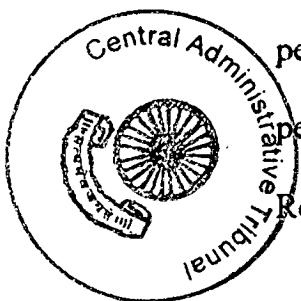


19. The applicants have produced offer of appointment letters where All India Transfer Liability has been specifically prescribed, but the respondents would argue that mere mentioning in the appointment letters that the employees have All India Transfer Liability does not ipso facto

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mean that the applicants are liable to be transferred on All India basis. But the materials placed on record will show that subsequently also an All India Seniority List has been drawn by the respondents of these employees, which is a clear indication that the applicants do have All India Transfer Liability. Their contention that the transfer is now restricted to Zonal basis, which consists West Bengal, J&K and N.E.Region as a Zone, and even if their transfers have been made within this Zone, and SDA cannot be allowed to the applicants, cannot be accepted. This probably may be only to circumvent to grant the benefit to the applicants, even if it is Zonal transfer. A person transferred from other State to North Eastern Region has the same difficulty as that of the persons coming on All India Transfer. The hardship that one has to undergo in the N.E.Region cannot be alleviated by stating that they do not have All India Transfer Liability but only Zonal Transfer Liability. Therefore, it will not stand to logic to deny the benefit under the plea that they are coming from the neighbouring States to the N.E.Region which forms a Zone. However, without entering into the merit of that aspect, on the basis of the materials placed on record, I find that all the applicants in these OAs do have an All India Transfer Liability when they were initially appointed and any change in rule cannot have a retrospective effect. Therefore, they are entitled to get the benefit.

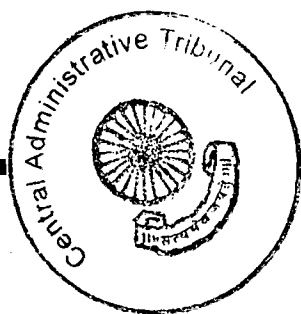
20. From the legal position, as discussed above, it is clear that if a person is posted in other region and transferred to N. E.Region and a person who has been originally posted in N.E.Region, transferred to other Region and retransferred to N.E.Region, and a person who belongs to



N.E.Region, originally appointed in N.E.Region and transferred to other region and retransferred to N.E.Region, all are entitled to get the benefit of SDA. On the scrutiny of the evidence available on record, it is clear that the applicants will come under one of the above categories and they are all entitled to get the benefit of SDA since this Court has found that they are having All India Transfer Liability for the period they have actually worked in the N.E.Region, which has to be worked out separately. This Court had occasion to consider this issue in O.A. 294 of 2005, which was allowed vide order dated 2.7.2007. Therefore, I declare that the applicants are entitled to the said benefit, as above.

21. In the conspectus of the facts and circumstances of the case, I direct the applicants to make individual representation to the concerned respondent, narrating their period of posting in the N.E. Region, within a time-frame of one month from the date of receipt of copy of this order, and on receipt of such representations, the respondents shall grant benefit to the applicants within a time-frame of three months thereafter.

22. The applications are allowed. In the circumstances, no order as to costs.

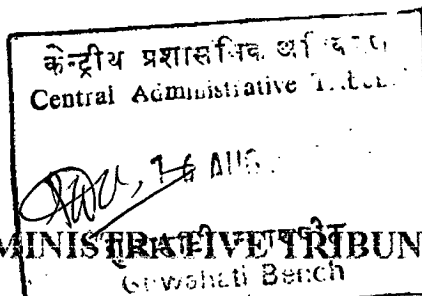


54/ VICE CHAIRMAN

TRUE COPY

प्रतिनिधि

28/11/07
 Section (Office Secy)
 Central Administrative Tribunal
 गुवाहाटी दफतरी
 GUWAHATI OFFICE
 गुवाहाटी दफतरी



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 207/2006

Shri Ajit Kumar Singh

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 08.03.2000- Applicant was initially appointed to the post of Company Prosecutor, Gr. III in the department of Company Affairs vide appointment order dated 08.03.2000. In the said offer of appointment letter in Clause No. 5 it is stated that appointment carries with the liability to serve in any part of India or outside. Accordingly, he joined in service on 31.08.2000 in the office of Registrar of Companies, Shillong. (Annexure- II)
- 02.05.2001- Applicant was transferred from Shillong to the office of Official Liquidator, Patna (Bihar) and he joined at Patna on 06.06.2001. (Annexure- III)
- 12.04.2002- Applicant was again transferred from office of the Official Liquidator to the office of the Registrar of Companies, Patna, accordingly he joined at office of the Registrar of Companies, Patna on 01.05.02. (Annexure- IV)
- 31.08.2002- Applicant was made permanent employee of the Ministry of Company Affairs, as Company Prosecutor Grade- III. (Annexure- V)
- 17.08.2004- Applicant was transferred from the office of the Registrar of Companies, Bihar at Patna to Registrar of Companies, Shillong, accordingly he joined at Shillong on 14.03.05. (Annexure- VI)
- 14.03.2005- Applicant submitted a representation to the Respondent No. 3 praying for Special Duty Allowance. (Annexure- VII)
- 11.05.2005- Applicant submitted another representation addressed to the Respondent No. 5, praying for SDA. (Annexure- VIII)

Ajit Kumar Singh

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- September/October 2005- Applicant was paid SDA for the month of September and October 2005. However, the release of the said SDA was once again stopped w.e.f. October 2005. (Annexure- IX Series)
- 25.10.2005- Respondent No. 4 vide his impugned letter dated 25.10.05 rejected the prayer of the applicant for payment of SDA. (Annexure- X)
- 31.10.2006- Applicant submitted another representation for payment of SDA. (Annexure- XI)
- 17.03.2006- Respondent No. 4 vide his impugned letter dated 17.03.06 again rejected prayer of the applicant for payment of SDA. (Annexure- XII)
- 12.01.1996- Govt. of India, Ministry of Finance, issued O.M dated 12.01.96, wherein it is stated that for payment of SDA central govt. employee must be saddled with all India transfer liability. (Annexure- XIII)
- 29.05.2002- Govt. of India, Ministry of Finance, issued O.M dated 29.05.02. In view of the clause 5 of the said O.M the applicant is entitled for payment of SDA as because applicant is transferred from outside the NE Region on transfer and his recruitment zone and promotion zone has been made on all India basis. (Annexure- XIV)
- 23/26.06.2006- Office of the Respondent No. 3 circulated a provisional combined seniority list of Company Prosecutor Grade- III/Legal Assistant/Inspectors as on 01.01.06. In the said seniority list applicant has been placed at Sl. No. 22. (Annexure- XV)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order No. RD/CLA/1/45-AS (Vol. IV-2004)/3750 dated 25.10.2005 (Annexure- X) and Order No. RD/ CLA/1/1150/05-06/6369 dated 17.03.2006 (Annexure- XII).
2. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, and 29.05.2002 and further be pleased to direct the respondents to pay SDA to the applicant with arrear monetary benefits.

Ajit Kumar Singh

3. Costs of the application.

4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

Ajit Kumar Singh

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गुवाहाटी न्यायपीठ
GUWAHATI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 207 /2006

Shri Ajit Kumar Singh. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

[Signature]

Advocate

Date: - 14.08.2006

Ajit Kumar Singh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A No. 207 /2006

BETWEEN:

Sri Ajit Kumar Singh
S/o Sri Indra Daman Singh
Company Prosecutor,
Office of the Registrar of Companies, N. E. Region.
Shillong -793 001 [Meghalaya].

.....Applicant.

-And-

1. The Union of India
Represented by the Secretary to the
Government of India,
Ministry of Personnel, Public Grievances and Pensions,
Gate No.-4, North Block,
New Delhi-110 001.
2. The Secretary to the Govt. of India,
Ministry of Company Affairs,
Shastri Bhawan, A-Wing, 5th Floor,
Dr. Rajendra Prasad Road,
New Delhi-110 001.
3. The Regional Director (Eastern Region),
Ministry of Company Affairs,
Nizam Palace, IInd MSO Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata - 700020.
4. The Joint Director (Legal),
O/o- The Regional Director (Eastern Region),
Ministry of Company Affairs,
Nizam Palace, IInd MSO Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata - 700020.
5. The Registrar of Companies, N.E. Region,
Morello Building, Ground Floor,
Kachari Road, Shillong-793001 [Meghalaya].

.....Respondents.

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Filed by me applicant
through: S. N. K.
Advocate.
14.08.2006

Ajit Kumar Singh

DETAILS OF THE APPLICATION

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

The instant application is made against the impugned Order No. RD/CLA/1/45-AS (Vol-IV-2004)/3750 Dated 25.10.2005 (Annexure- X) as well as against the impugned letter No. RD/CLA/1/1150/05-06/6369 dated 17.03.2006 (Annexure- XII) issued by the Joint Director (Legal) whereby payment of Special Duty Allowance has been denied to the applicant and further praying for a direction upon the respondents to continue payment of Special Duty Allowance to the applicant in the light of the Office Memorandum dated 14.12.1983, 01.12.1999, 22.07.1998 and 29.05.2002 with arrear monetary benefits.

2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION:

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

4.1 That your applicant is a citizen of India and permanent resident of Mohanlalpur, Dist Gorakhpur in the state of Uttar Pradesh and as such he is entitled to all the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicant has been working as Company Prosecutor, Grade-III (hereinafter referred to as CP-III in short) in the office of the Registrar of Companies, N. E. Region, Shillong.

Ajit Kumar Singh

- 4.3 That it is stated that the Govt. of India, vide office memorandum dated 14.12.1983, granted Special (Duty) Allowance to such central Govt. employees who are saddled with all India transfer liability. The relevant portion of the O.M dated 14.12.1983 is quoted below:

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

(iii) Special Duty Allowance

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

Agit Kumar Saha

The O.M dated 14.12.1983 was subsequently extended by the O.M dated 01.12.1988, 12.01.96, 22.07.98. All the applicants are eligible for grant of SDA in terms of the aforesaid Office Memorandum issued by the Govt. of India.

Copy of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I.

- 4.4 That the Respondent No. 3 vide an appointment letter bearing No. RD/CLA/I/864/90/Rect dated 08.03.2000, offered the applicant appointment to the post of company prosecutor, Grade-III in the scale of pay of Rs. 5,500/-175-9000/-. In the said appointment letter dated 08.03.2000 amongst others contains Clause 5 by virtue of which transfer was made a condition of service to the effect stipulating that the appointment carries with the liability to serve in any part of India or outside.

A copy of the said appointment letter dated 08.03.2000 is annexed herewith for perusal of Hon'ble Tribunal as Annexure - II.

- 4.5 That the applicant initially joined his service as a company Prosecutor, Grade III on 31.08.2000 in the office of Registrar of Companies, Shillong and the applicant had continued to serve at the said post till 31.05.2001 to the satisfaction of all concerned.

- 4.6 That in course of his service, the Respondent No. 3 vide an office order No. RD/CLA/1789/ Part- IV dated 02.05.2001, transferred the applicant from the office of Registrar of Companies Shillong to the office of the Official liquidator, Patna (Bihar) and accordingly the applicant handed over his charge on 31.05.2001 (afternoon).

A copy of the said Order dated 02.05.2001 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- III.

Agst Kumar Singh

4.7 The applicant accordingly joined his new place and office of posting in the office of official liquidator, Patna (Bihar) on 06.06.2001.

4.8 That thereafter vide office Order No. RD/CLA/11-89/Part IV dated 12.04.2002, the Respondent No. 3 again transferred the applicant from his posting at the office of the Official liquidator (O.L, Patna) to the Office of the Registrar of Companies, (H.O.C) Patna (Bihar) and, accordingly the applicant handed over his charge on 30.04.2002 and took over the charge of on 01.05.2002 at H.O.C Patna.

A copy of the said Order dated 12.04.2002 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- IV.

4.9 That in view of his satisfactory performance, the service of the applicant was duly confirmed by the respondent No. 3 vide Order No. RD/CLA/1/292 (Part-II) dated 20.10.2003, by virtue of which the applicant was made a permanent employee of the Ministry of Company Affairs, Govt. of India as Company Prosecutor Grade -III, w. e. f. 31.08.2002.

A copy of the confirmation Order dated 20.10.2003 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- V.

4.10 That thereafter vide Office Order No. RD/CLA/1/89/03 (Vol. V-2004)/1987 dated 17.08.2004 under the signatures of Joint Director (Legal) and subsequent Order No. RD/CLA/1/89/03/Vol.V-2004/2061 dated 24.08.2004 the applicant was transferred from his posting in the office of Registrar of Companies, Bihar at Patna to Registrar of Companies, Shillong, Vice Sri S. M. A. Mikail, Company Prosecutor, Grade-III and accordingly, the applicant handed over his charge on 28.02.2005 and joined his new place of posting at Shillong on 14.03.2005.

Agst / am Sub

A copy of the office Order dated 17.08.2004 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- VI.

- 4.11 That upon joining his posting on transfer as Company Prosecutor-Grade-III, in the office of the Registrar of Companies, Shillong, the applicant preferred a representation before the Respondent No. 3 through proper channel, inter-alia praying for grant of Special Duty Allowance (hereinafter referred to as SDA for short).
- 4.12 That in the said representation the applicant had pointed out before the Respondent No. 3 that his appointment had the 'All India Transfer Liability' and, the pay scale of Rs. 5500/-175-9000/- of Company Prosecutor Grade-III comes under the Group B services as per Part C of First schedule to Central Civil Services Revised/ Pay Rules, 1997 for Department of Company Affairs, Ministry of Law, Justice & Company Affairs. It was also stated therein that as per the concerned Govt. Notification MF. OM. No. 11 (2) / 97-F, II (B) dated 17.07.1998 and 22.07.1998 and Govt. Notification MF. OM.11 (5) / 97-E. II (B) dated 29.05.2002, the applicant is entitled for SDA (Special Duty Allowance).

A copy of the representation dated 14.03.2005 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- VII.

- 4.13 That the applicant had stated in his above referred representation dated 14.03.2005 (Annexure- VII) that as his posting at Shillong is 1300 KM away from his home town, the applicant is facing severe hardship in Shillong. As Shillong is more costlier than Patna, for which the applicant claimed his entitlement for SDA.
- 4.14 That as the said representation was not disposed off, the applicant vide a representation dated 11.05.2005 requested the Respondent No. 5 to allow the applicant to withdraw his SDA and, the applicant further by an

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undertaking dated 11.05.2005, undertook to repay SDA amount of any decision against his claim was made.

A copy of the representation dated 11.05.2005 along with undertaking dated 11.05.2005 are annexed herewith for perusal of Hon'ble Tribunal as Annexure- VIII.

- 4.15 That the applicant states that pursuant to his aforesaid representation and undertaking dated 11.05.2005, the applicant received his SDA for the month of September, 2005 amounting Rs. 1195/-. However, the release of the said SDA was once again stopped w. e. f. the month of October 2005.

A typed copy of the payslip for the month of September 2005 and October 2005 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- IX (Series).

- 4.16 That the applicant states that the Joint Director (Legal) i.e. Respondent No 4 vide his impugned Order No. RD/CIA/1/45-AS (Vol. IV-2004) / 3750 dated 25.10.2005 rejected the representation of the applicant, which was forwarded by the Respondent No. 5 vide letter No. ROC/SH/Estt. P.AKS/37-40 dated 04.04.2005. In the said impugned letter it is stated that the Directorate was unable to accord sanction for grant of SDA to the applicant, inter-alia, on the grounds that recruitment to service/cadre/post has not been made on All India basis. Promotion is also not due on the basis of an All India Common Seniority list for the service/cadre/post as a whole and it is further alleged that a mere Clause in the appointment letter to the effect that the persons concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty Allowance.

A copy of the impugned letter dated 25.10.2005 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- X.

Asst Comm Secy

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4.17 That in view of the above referred order dated 25.10.2005 (Annexure-X), the applicant vide his second representation dated 31.01.2006 to the Respondent No. 3 through proper channel, once again prayed for grant of SDA. Be it stated that the said representation was submitted to the office of the Respondent No. 5 vide diary No. 3110 dated 31.01.2006, wherein it was specifically represented that the appointment of the applicant is on an All India basis and he is not a original resident of North Eastern State, as he was neither born in any of the North Eastern State nor he was residing permanently in any of the North Eastern States. The applicant also pointed out that the applicant was not qualified to own property in many States including Meghalaya the applicant had further stated that even as per ratio of the case of "Union of India and others - VS - S. Vijay Kumar & others" as reported in (1994) Supp (3) SCC 649 (i.e. Civil Appeal No. 3251/93 and Civil Appeal Nos. 6163-81 of 1994), this applicant is entitled to SDA. It was stated that once the Respondents had taken advantage of the 'all India transfer liability' clause in his appointment letter to transfer the applicant from Patna to Shillong, and vice versa, it is not open for the Respondents to deny the applicant his SDA to which he is definitely entitled to. In his said representation, the applicant relied on the three judgments of Hon'ble Supreme Court of India as reported in -

- i) (1994) Supp (3) SCC 649
- ii) (1995) Supp (1) SCC 757
- iii) (1995) 2 SCC 532.

A copy of the representation dated 31.01.2006 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- XI.

4.18 The applicant states that the aforesaid representation dated 31.01.2006 was forwarded by the Respondent No. 5 vide letter No. ROC/SH/ESTT/P-AKS/4370 dated 02.02.2006 and same was disposed off by the Respondent No. 4 vide his impugned letter No. RD/CLA/1/1150/05-06/6369 dated 17.03.2006 on the ground that the matter had already been dealt by the

Agit Kumar Singh

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said Directorate vide Order dated 25.10.2005 (Annexure- 10) wherein it had been spell out the reasons for not according any sanction therefore, the Directorate has no action on the above issue further more.

A copy of the said letter dated 17.03.2006 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- XII.

- 4.19 That the applicant further begs to state that he is also entitled to payment of SDA in view of the O.M issued by the Govt. of India, Ministry of Finance bearing letter No. 11 (3) 95-II (B) dated 12.01.1996 as well in view of the O.M bearing No. F. No. 11 (5) 97-E. II (B) dated 29.05.2002. As per the aforesaid O.Ms the applicant must be saddled with all India transfer liability and vide O.M dated 20.04.1987 it has been laid 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 test of recruitment zone, promotion zone etc. and a mere clause in the appointment letter to the effect that the person concerned are liable to be transferred in any where in India did not make him eligible for grant of SDA. In view of the clause 5 of the O.M dated 29.05.2002 the applicant is posted from outside the NE Region on transfer and his recruitment zone and promotion zone has been made on all India basis as stated in the preceeding paragraphs. It is categorically submitted that the recruitment zone and promotion of the applicant is made on all India basis.

Copy of the O.M dated 12.01.96 and O.M dated 29.05.02 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- XIII and XIV respectively.

- 4.20 That the applicant states that the office of the Respondent No. 3 vide letter No. RD/CLA/1/966 (Vol. IV- 2006)/1996 dated 23/26.06.2006 had circulated a provisional combined seniority list of Company Prosecutor Grade- III/Legal Assistant/Inspectors as on 01.01.2006 prepared by Department of Company Affairs on all India basis and such a combined

Ajit Kumar Singh

Seniority list is the basis for the departmental promotion committee (DPC for short) to consider selection of candidates for promotion of CP Grade-III (scale Rs. 5500/-to Rs. 9000/-) to CP Grade-II (Company Prosecutor Grade-II) in scale of Rs. 6,500 /-to 10,500/- which is gazetted scale. In the said seniority list applicant is placed at Sl. No. 22. It is stated that the aforesaid promotion from CP-III to CP-II is always made on All India basis at the All India Level. Be it stated from the above mentioned seniority list it is clear that seniority of the applicant is also maintained on all India basis as such he fulfils the criteria of all India common seniority for payment of SDA. The respondent No. 4 while issued the impugned letter dated 25.10.05 and letter dated 17.03.06 lost sight of the fact that the seniority of the applicant is maintained on all India basis and he is a resident of Uttar Pradesh and posted at Shillong in the NE Region as such he carried out all India transfer liability and on that score alone the impugned letter dated 25.10.06 and 17.03.06 are liable to be set aside and quashed.

Copy of combined seniority list dated as on 01.01.2006 published vide letter dated 23/26.06.06 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- XV.

- 4.21 That the applicant states that notwithstanding whether this post of CP-III carries with it a All India Combined Seniority list, the fact of transfer of the applicant from Patna to Shillong would by no stretch of imagination could be denied as on All India Transfer Liability merely for the fact that his appointment is under the same Regional Directorate for Patna and Shillong and his place of first posting was at Shillong.
- 4.22 That further the grievance of the applicant is that in variance of the order dated 20.04.1998 of the Ministry of Personnel, Public Grievances and Pensions vide File no. 13012/1/98-Estt (D) Which has following the recommendation of 5th Pay Commission placed the scale of pay with a

Ajit Kumar Singh

maximum of not less than Rs. 9000/- but less than Rs. 13500/- under Group B, but the applicant having scale of pay of Rs. 5000/-to-9000/- is placed under Group C by the Ministry of Company Affairs. The applicant craves leave of this Hon'ble Tribunal to produce copies of advertisements of other Ministries who have placed Scale of pay Rs. 5500/-to 9000/- under Group B, at the time of hearing if necessary.

A copy of said order dated 20.04.1998 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- XVI.

4.23 That it is stated that the applicant is saddled with all India transfer liability as well as his recruitment, seniority, promotion are made on all India basis under the absolute administrative control of Ministry of Company Affairs, New Delhi. The applicant is a permanent resident of Dist Gorakhpur in the state of Uttar Pradesh i.e. outside the NE Region and he was initially appointed to the post of CP Grade III having all India transfer liability in his appointment letter and posted at Shillong, thereafter he was transferred and posted to Patna in the State of Bihar and again transferred at Shillong thereby he has carried all India transfer liability incorporated in his appointment letter. As such the applicant is entitled to SDA in terms of Govt. of India's O.M dated 14.12.1983, 01.12.88, 22.11.97, as well as in terms of O.M dated 29.05.2002. It is specifically clarified vide O.M dated 29.05.2002, that SDA is admissible to the Govt. employees on their posting to NE Region from outside the region which supports the case of the applicant and on that score alone the impugned letter dated 25.10.2005 as well as the impugned letter dated 17.03.2006 are liable to be set aside and quashed.

4.24 That being highly aggrieved by and dissatisfied with the impugned order dated 25.10.2005 and order dated 17.03.2006, passed by the Respondent No. 4 under the Directorate of Respondent No. 3 by virtue of which the

Ajit Kumar Singh

applicant was found disentitled to SDA, the humble applicant has preferred this case, amongst others, on the following:

5. GROUND(S) FOR RELIEF (S) WITH LEGAL PROVISIONS:

- 5.1 For that the applicant is a permanent resident of Uttar Pradesh and his recruitment zone, seniority and promotion are maintained on all India basis as such he is entitled to payment of SDA as provided by the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, and 29.05.2002.
- 5.2 For that it is specifically clarified vide O.M dated 29.05.2002, that SDA is admissible to the Govt. employees on their posting to NE Region from outside the region which supports the case of the applicant and on that score alone the impugned letter dated 25.10.2005 as well as the impugned letter dated 17.03.2006 are liable to be set aside and quashed.
- 5.3 For that the Respondents had not given any reason as to why the applicant could be considered ineligible for grant of SDA despite the fact that he is not born nor resident of any N. E. States.
- 5.4 For that the Respondent No. 4 has passed the impugned orders mechanically without any application of mind and, without considering the various circulars and office Memoranda on SDA.
- 5.5 For that the Respondents have given no reason as to why Clause 5 of the applicant, appointment letter dated 08.03.2000 which can be invoked for imposing all India transfer liability was not enough to consider the posting and transfer of the applicant to Shillong as an All India Transfer and deprive him to which the applicant is otherwise entitled to.
- 5.6 For that the refusal of the SDA to the applicant has caused deprivation to the applicant to his legitimate dues and, as such, the deprivation of the

Agil Kumar Sach

applicant of SDA is arbitrary and illegal and not sustainable in the eye of law.

- 5.7 For that the Respondent No. 3 and 4 while passing the impugned orders did not at all take into considerations as cited in paragraph 4.17 above.
- 5.8 For that the applicant's Service ought to be considered to be a Group-B category as per the recommendation of the 5th pay commission and the relevant notification of Ministry of Personnel, Public Grievances and Pensions.
- 5.9 For that in any view of the matter the applicant has a right for being allowed SDA and, the deprivation thereof to the applicant is wrongful and such refusal is liable to be set aside.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has exhausted all the remedies available to him under the relevant service rules.

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

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

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on

Ajit Kumar Singh

perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order No. RD/CLA/1/45-AS (Vol. IV-2004)/3750 dated 25.10.2005 (Annexure- X) and Order No. RD/ CLA/1/1150/05-06/6369 dated 17.03.2006 (Annexure- XII).
- 8.2 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, and 29.05.2002 and further be pleased to direct the respondents to pay SDA to the applicant with arrear monetary benefits.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

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

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the I.P.O

- i) I.P.O No. : 26G 325957
- ii) Date of issue : 9.8.06
- iii) Issued from : G.P.O. Guwahati
- iv) Payable at : G.P.O. Guwahati

12. List of enclosures:

As given in the index.

Ajit Kumar Smit

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VERIFICATION

I, Shri Ajit Kumar Singh S/o Shri Indra Daman Singh, aged about 35 years presently working as Company Prosecutor, Grade- III in the office of Registrar of Companies, Morello Building, Ground Floor, Shillong- 793001 do hereby verify that the statements made in paragraph 1 to 4, 6, 7, 8 and 9 are true to my knowledge and paragraph 5 is true as per my legal advise and I have not suppressed any material fact.

And I sign this verification on the 12th day of August-2006.

Ajit Kumar Singh

(Typed True copy)

Annexure - I

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

New Delhi, the 14th Dec'83

OFFICE MEMORANDUM

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

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

i) Tenure of posting/deputation:-

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

Attested
Advocate

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

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

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- ii) Special (Duty) Allowance:

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

Sd/ S.C. MAHALIK

Joint Secretary to the Government of India

No. RD/CLA/I/864/90/Rectt.
GOVERNMENT OF INDIA
Department of Company Affairs
Office of the Regional Director, E. Region
NIZAM PALACE, II MSO Building, 3rd floor
234/4, Acharya J. C. Bose Road

Calcutta-20 the ..8...3...2000

To
Shri Ajit Kumar Singh,
Mohanlalpur,
P.S. Tewaripur,
Dist. Gorakhpur, U.P. 273001.

~~IN-273001~~

Sir, Sub: Offer of appointment to the post of Company
Prosecutor, Grade-III.

I am to say that on the recommendation of the Staff Selection Commission the Regional Director is pleased to offer you the post of Co. Prosecutor, Gr. III in this Department on the following terms -

1. The scale of pay of the post is Rs. 5,500-175-9,000/- and your initial pay will be fixed according to rules. You will also be entitled to draw Dearness and other allowances at the rates and subject to the conditions laid down in the Rules and orders governing the grant of such allowances.
- 2) The appointment is temporary but likely to continue indefinitely. The question of your confirmation will be considered in accordance with the Rules at the appropriate stage.
- 3) You will be on probation for a period of two years. The period of probation may be extended or curtailed at the discretion of the competent authority. If, however, your work or conduct is not found satisfactory during the period of probation, your services are liable to be terminated without notice.
- 4) Subject to what has been stated at (3) above, the appointment may be terminated at any time by a months notice given by either side viz., the appointee or the appointing authority without assigning any reason. The appointing authority, however reserves the right of terminating your service forthwith or before the expiry of the stipulated period of notice by making payment to you of a sum equivalent to the pay and allowances for the period of notice or an unexpired portion thereof.
- 5) The appointment carries with the liability to serve in any part of India or outside.
- 6) No travelling allowances will be allowed for joining duty in pursuance of this offer, and no such travelling allowance is otherwise admissible according to the existing rules.

..... (2)

Attested
Advocate

7) The other conditions of service will be governed by the relevant rules and orders in force from time to time.

II. The appointment will be further subject to -

- a) Production of the certificate of fitness from the competent Medical Authority viz., Chief Medical Officer Civil Surgeon of the District.
- b) Submission of a declaration in the prescribed form and in the event of your having more than one wife living the appointment will be subject to your being exempted from the endorsement of the requirement in this behalf.
- c) Taking of an oath and allegiance/fithfulness to the Constitution of India;
- d) You will have to produce two character certificates from the Gazetted Officers of the Central/State Government or the stipendary Magistrate in the prescribed form;
- e) You will have to produce all the Certificates viz., educational qualification and other certificates in original;

III. The appointment will be treated as provisional till the conditions mentioned in paragraph II above are complied with. The appointment will stand cancel in the event of non-compliance of any of these conditions.

IV. If any declaration given or information furnished by you proves to be false or if you are found to have wilfully suppressed material information, you will be liable to remove from service and such other action as the Government may consider necessary.

V. If you accept the offer on the terms mentioned above, you are requested to communicate your acceptance to the undersigned within 15 days from the date of issue of this letter. If no reply is received within this period, it will be assumed that you are not interested in the offer and it will be treated as cancelled.

VI. The appointment is subject to verification of character and antecedents by the competent authority.

Encls:

1. Medical Examination Forms &
2. Attestation forms regarding verification of character & antecedents.

(C. D. PAIK)
Regional Director, (CR)
Department of Company Affairs
Calcutta.

11/11/11

Rc/.xii

-20-

Admin (98) Vol 10 / Annexure-III

GOVERNMENT OF INDIA
DEPARTMENT OF COMPANY AFFAIRS
OFFICE OF THE REGIONAL DIRECTOR, (E.R.),
'Nizam Palace', 2nd MSO Bldg. 2nd Floor,
234/4, A.J.C. Bose Road, Calcutta-700 020.

No. RD/CLA/1789 (Part-IV)

Dated the 28 May, 2001.

OFFICE ORDER

Following transfers of Company Prosecutor-III
are hereby ordered with immediate effect :

N a m e	From	To
1. Shri Lalji Tripathy, C.P.-III	O/o.O.L., Patna	R.O.C, W.B. vice Shri Mondal
2. " S.A. Mikail, C.P.-III	O/o.ROC, Patna	O/o.R.O.C., Shillong vice Sri Singh.
3. " S.C. Mondal, -do-	O/o.ROC, Calcutta.	O/o.R.O.C., Patna, vice Shri Mikail.
4. " S. Singh -do-	O/o.ROC, Calcutta.	O/o.O.L., Calcutta vice Shri Das.
5. " B.K. Das, -do-	O/o.O.L., Calcutta.	O/o.R.O.C., Calcutta vice Shri Singh.
6. " A.K. Singh -do-	O/o.R.O.C., Shillong	O/o.O.L., Patna, vice Shri Tripathy.

Shri Singh, C.P.-III is not entitled for transfer T.A./D.A. as he has been transferred at his own request.

(C. D. Paik)
Regional Director.

Copy to :

- Persons concerned,
- ROC, Calcutta/ROC, Patna/ROC, Shillong
OL, Calcutta/OL, Patna
PAO, Calcutta
- Hindi Cell
- Spare copy.

(C. D. Paik)
Regional Director.

Attested
Advocate.

GOVERNMENT OF INDIA
DEPARTMENT OF COMPANY AFFAIRS
Office of the Regional Director (E.R.)
'Nizam' Palace, 11 MSO Bldg. 3rd Floor
234/4, A.J.C Bose Road, Kolkata.

Dated --- 12th April, 2002.

OFFICE ORDER

The following transfers are hereby ordered

with immediate effect:

	<u>From:</u>	<u>To:</u>
1. Shri S. C. Mondol, C.P.-III	ROC, Patna	- ROC, West Bengal,
2. " A.K. Singh, C.P.-III	O.L., Patna	- ROC, Patna.
3. " H.H. Behera, Suptd. Grade-II	O.L., Cuttack	- O.L. Kolkata as Inspector.
4. " G.S. Sah, JTA	ROC, W.B.	- O.L. Patna

(The vacant post of JTA in the
O/o ROC, Patna is transferred
to the O/o O.L., Patna
temporarily).

5. " Sanjoy Chottapadhyay, JTA	- ROC, W.B.	- O.L., Kolkata
6. " H. Chatterjee, UDC	O.L., Kolkata	- ROC, West Bengal.
7. Smt. Subhasree Chowdhury, UDC	ROC, W.B.	- O.L., Kolkata.
8. Shri A.B. Mitra, UDC	O.L., Kolkata	- ROC, West Bengal.
9. " S.K. Das (1), UDC	ROC, W.B.	- O.L., Kolkata.
10. " A.K. Dutta, UDC	O.L., Kolkata	- ROC, W.B.
11. " Sibaji Mukherjee, UDC	ROC, W.B.	- O.L., Kolkata.
12. " R. Kundu, LDC	O.L., Kolkata	- ROC, W.B.
13. " Subhasree Chowdhury, LDC	ROC, W.B.	- O.L., Kolkata.
14. " Tulsi Das Sengupta, LDC	O.L. Kolkata	- ROC, W.B.
15. " Ganan Choudh	, LDC ROC, W.B.	- O.L., Kolkata.

P.T.O.

*Attested
Sub.
Advocate*

From:

To:

16. Shri Sukumar Das, LDC - O.L. Kolkata - ROC, West Bengal.
17. " Gautam Dutta, LDC - ROC, W.B. - O.L., Kolkata.
18. " Ramjiban Dutta, JTA - O.L., Kolkata - R.O.C., West Bengal.

N.B. Shri S.C. Mondol, C.P. III and Shri G.S. Sah, JTA
are not entitled for transfer TA/DA as they
are transferred at their own request.

(C. D. Paik)
Regional Director.

Copy to :

- (1) The Registrar of Companies, West Bengal,
- (2) The Registrar of Companies, Patna,
- (3) The Registrar of Companies, Orissa, Cuttack.
- (4) The Official Liquidator, High Court, Calcutta,
Cuttack/Patna.
- (5) The Pay & Accounts Officer,
Department of Company Affairs, Kolkata,
- (6) Person concerned,
- (7) Spare Copy.
- (8) Hindi Cell.

(C. D. Paik)
Regional Director.

Annexure-V

No.RD/CLA/1/292(Pt.II)

Government of India
Office of the Regional Director
(Eastern Region)
Department of Company Affairs
K o l k a t a.

Dated :- 20-10-2003.

ORDER

Pursuant to the recommendation of the Departmental Promotion Committee the following officials are hereby appointed in substantive capacity in the post shown against each w.e.f. the date mentioned at the respective column :-

Sl.No.	Name & Designation	Date of effect of appointment in substantive capacity.
1.	Shri Bavisetty Sridhar, CP-III	28.04.2002
2.	Shri Ajit Kumar Singh, CP-III	31.08.2002
3.	Smt. Krishna Chon (Mukherjee), Steno-III	30.11.2002
4.	Shri Arjay Kumar, Steno-III	02.12.1996
5.	Shri Mahesh Kumar, L.D.C.	04.09.1998
6.	Shri Manish Kumar Sinha, L.D.C.	09.09.1998
7.	Shri Swapan Halder, L.D.C.	16.02.2002
8.	Shri Goutam Pal, L.D.C.	15.02.2002
9.	Shri Lakhai Hansda, L.D.C.	22.05.2002
10.	Shri Thangbawi Naulak, L.D.C.	27.06.2002
11.	Shri Debopam Bhattacharya, L.D.C.	05.02.2003
12.	Shri Swapan Biswas, L.D.C.	17.09.2000

Attested
Advocate

...../2

GROUP - 'D'

13.	Shri Debasish Barai, Peon	20.07.1998
14.	Shri Raj Kumar Basu, Peon	01.10.1998
15.	Shri Rabindra Nath Nayak, Peon	14.02.1999
16.	Shri J. N. Prasad, Peon	07.1998
17.	Shri Patar Teta, Peon	07.1998
18.	Miss Bishnupriya Kar, Peon	20.07.1999
19.	Shri Manindra Sardar, Peon	26.06.2000
20.	Shri Sanjay Basumatari, Peon	17.05.2002
21.	Shri Chhoton Das, Sweeper	02.1999
22.	Shri Nil Bahadur Chetri, Night Watchman	10.10.1996

(UJJWAL ROY)
Joint Director (Legal).

Copy forwarded for information to :-

- 1) Registrar of Companies, West Bengal, Bihar, Shillong
 - 2) Official Liquidator, Patna.
 - 3) The Pay & Accounts Officer, Department of Company Affairs, Kolkata.
 - 4) Persons concerned.
 - 5) Establishment section.
 - 6) Hindi Cell.
- Spare.

(UJJWAL ROY)
Joint Director (Legal).

BY FAX/SPEED POST

GOVERNMENT OF INDIA
Ministry of Company Affairs
Office of the Regional Director, Eastern Region
"Nizam Palace" 2nd MSO Building, 3rd Floor,
234/4, A.J.C. Bose, Road, Kolkata - 700 020

RD/CLA/1/89/03(Vol.V-2004) /1877

Dated the 17th August, 2004

OFFICE ORDER

Following transfers are ordered with immediate effect :-

Sl.No.	Name & Designation	Present Office	Transferred to	Remarks
1.	*Shri S.M.A. Mikail, CP Gr.III	ROC/Shillong	ROC/Bihar	Vice Shri Ajit Kr. Singh
2.	Shri Ajit Kr. Singh, CP Gr.III	ROC/Bihar	ROC/Shillong	Vice Shri S.M.A. Mikail
3.	* Shri Ashis Chatterjee, JTA	OL/Cuttack	OL/Calcutta	Against vacant post
4.	*Shri G.C. Nath, JTA	ROC/Orissa	ROC/WB	Against vacant post
5.	Shri Anup Bhaduri, JTA	ROC/WB	ROC/Orissa	Against vacant post
6.	Shri S.L. Chakraborty, JTA	ROC/WB	OL/Calcutta	Against vacant post
7.	Shri T. K. Nandi, JTA	ROC/WB	OL/Calcutta	Against vacant post
8.	Shri N. C. Muni, Steno.Gr.I	ROC/WB	OL/Calcutta	Against vacant post
9.	Smt. Swapna Chatterjee, Steno.Gr.I	RD/Kolkata	ROC/WB	Vice Shri N.C.Muni
10.	Shri P. K. Sahoo, Steno.Gr.II	ROC/Orissa	OL/Cuttack	Vice Shri J.S.Samanta
11.	Shri J. S. Samanta, Steno.Gr.II	OL/Cuttack	ROC/Orissa	Vice Shri P.K.Sahoo
12.	Shri Tapan Kumar Mukherjee, UDC	ROC/WB	OL/Calcutta	Against vacant post of JTA

Attended
Advocate

This order is issued under the approval of the Regional Director, Kolkata.

*No TA/DA will be allowed to S/Shri S.M.A. Mikail, CP Gr.III, Ashia Chatterjee, JTA and G.C. Nath, JTA as they are transferred on their own request.

Sd/
(Ujjwal Das)
Joint Director (Legal)

Copy forwarded for favour of information to :-

- 1) The Registrar of Companies, West Bengal
- 2) The Registrar of Companies, Orissa
- 3) The Registrar of Companies, Shillong
- 4) The Official Liquidator, High Court, Calcutta
- 5) The Official Liquidator, High Court, Cuttack
- 6) The Pay & Accounts Officer, Ministry of Company Affairs, Kolkata
- ✓ 7) Persons concerned
- 8) Hindi Cell
- 9) Establishment Section
- 10) Spare.

(Ujjwal Das)
Joint Director (Legal)

8
~~Annexure-VI~~
Annexure-VII

Government of India
Ministry of Company Affairs
Department/Office of Registrar of Companies, N.E. Region, Shillong

Dated 14-03-2005

To
The Regional Director (ER),
Ministry of Company Affairs
'Nizam Palace' 2nd MSO Building, 3rd Floor
234/4, A.J.C. Bose Road, Kolkata-700020

Through Proper Channel.

Sub: Sanction for grant of Special (Duty) allowance for Ajit Kumar Singh, CP-III transferred from O/o ROC, Bihar to O/o ROC, Shillong (N.E. Region) regd.

Sir,

With reference to the subject cited above I am to say that I have been transferred from O/o ROC, Bihar to O/o ROC, Shillong vide Directorate's letter No. RD/CLA/1/89/03 (Vol.V-2004)²⁰⁶¹ dated 24.08.2004 (copy enclosed) and I have joined O/o ROC, Shillong on 14th March 2005. Since my posting / transfer falls under the North Eastern Region i.e. Meghalaya and Para 5 of the Directorate's Letter No. RD/CLA/1/864/90/Rectt. Dated 08.03.2000, (Copy enclosed) subject to my offer of appointment to the post of Company Prosecutor, Grade -III reg, clearly states that "The appointment carries with the liability to serve in any part of India or out side." The pay scale Rs.5500-175-9000 of Company Prosecutor, Grade -III comes under the Group "B" Service as per the part C of first Schedule to CCS (Revised Pay) Rules, 1997 for Department of Company Affairs, Ministry of Law, Justice & Company Affairs. (copy enclosed). In this regard I invite your kind attention to the Govt. Notification MF.OM. No.11(2)/97-E. II(B). dated 17.07.1998 & 22.07.1998 and MF.OM No. 11(5)/97-E II(B) dated 29.05.2002 for entitlement to the Special (Duty) Allowance. The extracts of the said Notification (copy enclosed) are as under-

Attested
Advocate

1. Special (Duty) Allowances is granted to civilian employees having all India transfer liability and posted in North Eastern Region (Assam, Maghalaya, Manipur, Nagaland, Tripura, Arunanchal Pradesh and Mizoram) and Sikkim.
2. From 05.10.2001 this allowance shall be allowed only to those eligible employees who are posted from outside the North Eastern Region.
3. Rate of Allowance is 12.5% of Basic Pay plus SI plus Dearness pay plus NPA.

Since I am low salary paid staff and Shillong is more expensive city than Patna and this is my second posting at Shillong as I had joined this office earlier in first appointment on 31.08.2000 and have been sent back again this office 1300 km away from my home town causes me great hardship and severe economic crisis. Further I am fulfilling all the criteria mentioned above therefore a sanction for grant of Rs. 1163/- (one thousand one hundred sixty three only) which is a entitlement in my case, may kindly be approved as "Special (Duty) Allowance" since my joining to the O/o ROC, Shillong so that I can get it immediately after joining this office i.e. alongwith the salary of March 2005 and onwards . (A copy of Last Pay Certificate for the salary drawn for February 2005 is enclosed for your ready reference)

It may be treated as MOST URGENT

Encl :- As stated above.

Yours faithfully,

Ajit Kumar Singh
(AJIT KUMAR SINGH)
CP-III

O/o ROC, Shillong, (N.E.Region)

Copy forwarded for favour of information & necessary action:-

1. The Pay & Accounts officer, Ministry of Company Affairs, Kolkata.

SP
(AJIT KUMAR SINGH)
CP-III

O/o ROC, Shillong, (N.E.Region)

To,
The Registrar of Companies
N.E. Region, Shillong

In view of the undertaking
given, calculate the SDA
and incorporate in the
current month's bill. ^{11/5/05}

Subject: Sanction for grant of Special (Duty) Allowance
in favour of Ajit Kr. Singh, CP-III, transferred
from o/o ROC Patna (Bihar) to o/o ROC, Shillong
(N.E. Region) - reg.

Sir,

With reference to the subject cited above and
my representation dated 14.03.2005 (copy enclosed)
I am to say that I had joined this office on
14.03.2005 under transfer and claimed for my
entitlement of S.D.A. but the same has not been
given me till now.

Since I am fulfilling all the criteria mentioned
for the said allowance and further AROC & ROC
of this office who has transferred from Kolkata
(i.e. outside the N.E. Region) to this office is withdraw-
ing the said allowance since their joining. Therefore
in the same way I should not be restricted for this.

However Registrar of Companies (ROC) being the head of
the office having Drawing & Disbursing Authority (D.D.O.)
is empowered to do the needful at his end and it has
already been delayed for more than two months. You
are therefore requested to pass an order immediately
for withdrawal of my SDA since my joining of this
office, i.e. alongwith salary of March 2005 and onwards.

It may be treated as MOST URGENT

Dated 11.5.05

Yours faithfully
Ajit Kumar Singh
(Ajit Kumar Singh)
CP-III
o/o ROC, Shillong

Attested
Ajit
Advocate

A

To,

The ROC

N.E. Region, Shillong

Subject: Undertaking in respect of sanction for Special (Duty) allowance for Ajit K. Singh, CP-III - Reg,

Sir

With reference to the subject cited above I undertake that I have claimed for said allowance and request to ROC to make the payment immediately. However if any decision comes against the said matter as per the rule I will be bound to repay the same.

Yours faithfully,

11.5.05

Ajit Kumar Singh

(AJIT KUMAR SINGH)

CP-III

% ROC, Shillong

Attested
Sd/-
Advocate

Pay Slip for the month of September-2005**Registrar of Companies, N.E.Region , Shillong**

Employee No. 2 Name-Ajit Kr Singh, Company Prosecutor, Grade-III

P.F. A/C No.724

DUES**DEDUCTIONS**

<u>Description</u>	<u>Amount</u>	<u>Description</u>	<u>Amount</u>
i) Basic Pay	6375.00	P.F.Contribution	2000.00
ii) Dearness Pay	3188.00	C.G.H.S.	70.00
iii) Dearness Allowance	1626.00	C.G.E.I.S.	30.00
iv) House Rent Allowance	2868.00	Income Tax	00.00
v) Hill Compensatory Allowance	300.00		<u>2100.00</u>
vi) Transportation Allowance	75.00		
vii) S.D.A.	<u>1195.00</u>		
	<u>15627.00</u>		

Net Pay :13527.00

Pay Slip for the month of October-2005**Registrar of Companies, N.E.Region , Shillong**

Employee No. 2 Name-Ajit Kr Singh, Company Prosecutor, Grade-III

P.F. A/C No.724

DUES**DEDUCTIONS**

<u>Description</u>	<u>Amount</u>	<u>Description</u>	<u>Amount</u>
i) Basic Pay	6375.00	P.F.Contribution	2000.00
ii) Dearness Pay	3188.00	C.G.H.S.	70.00
iii) Dearness Allowance	1626.00	C.G.E.I.S.	30.00
iv) House Rent Allowance	2868.00	Income Tax	00.00
v) Hill Compensatory Allowance	300.00		<u>2100.00</u>
vi) Transportation Allowance	<u>75.00</u>		
	<u>14432.00</u>		

NET PAY : 12232.00

Attested
Advocate

BY SPEED POST

Telegram : COMPLYADIR
Fax : 031-2287-0958
E-mail : rdcast@sb.nic.in
rdcast@wb.nic.in

Telephone : { 2247-7380
2247-3156
2287-3404



GOVERNMENT OF INDIA
Ministry of Company Affairs
Office of the Regional Director, Eastern Region
"Nizam Palace", 2nd M. S. O. Building, 3rd Floor
234/4, Acharya J. C. Bose Road, Kolkata - 700 020

No.RD/CLA/1/45-AS(Vol.IV-2004)/3750

Dated October 25, 2005

To
The Registrar of Companies,
Shillong.

Sub: Sanction for grant of Special (Duty) Allowance prayed by Shri Ajit Kumar Singh, CP Gr.III transferred from the office of the Registrar of Companies, Bihar & Jharkhand to ROC, Shillong.

Sir,

27/10/05 With reference to your letter No.ROC/SH/Estt/P-AKS/37-40 dated 04.04.2005 on the above subject, I am directed to say that in view of guidelines issued by the Ministry of Finance OM dated 20.04.1987, Shri Ajit Kumar Singh, CP Gr.III of your office is not eligible for Special (Duty) Allowance for posting in North East Region on the following grounds:-

- (i) The recruitment to Service /Cadre/Post has not been made on all India basis.
- (ii) Promotion is also not due on the basis of an All India Common Seniority list for the Service/Cadre/Post as a whole.
- (iii) A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred any where in India does not make him eligible for the grant of Special (Duty) Allowance.

In view of above, the Directorate is unable to accord any sanction on the above subject as sought for in your letter under reference.

Yours faithfully,

(Ujjwal Roy)
Joint Director (Legal)

Attested
Lawyer
Advocate

Dated:- 31.01.2006

To,
The Regional Director (Eastern Region),
Ministry of Companies Affairs,
Nizam palace Ind MSO Building, 3rd floor
234/4, AJC Bose Road,
Kolkata-700020.

Through proper channel

Subject:- Grant of special (Duty) Allowances- reconsideration thereto

Reference:- (i) Directorate's letter No.RD/CLA/1/45 AS (Vol-IV-2004)/3750 dated 25.10.2005
(ii) Ministry of Finance OM No. 11(3) / 95-E. II (B) dt.12.01.1996

Sir,

Directorate is aware that I was appointed vide the appointment letter No.RD/CLA/1/864/90/Recd dated 08.03.2000 as Company Prosecutor Grade III and initially posted at Shillong (North-Eastern Region). The said appointment letter carried the all India Transfer liability. It may be stated here that my prayer for grant of SDA was rejected vide reference (i) above on the following grounds:-

- (i) *The recruitment to Service/Cadre/Post has not been made on all India basis.*
- (ii) *Promotion is also not due on the basis of an all India Common Seniority list for the Service /cadre /Post as a whole.*
- (iii) *A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred any where in India does not make him eligible for the grant of Special (Duty) Allowance.*

In this regard I respectfully submit (above point wise) as follows:-

A) Sir, the text of my appointment dated 08.03.2000 indeed carries an all India Transfer liability which is one of the major grounds for grant a SDA particularly when I held from the outside of the N.E. Region, (Original resident of U.P and brought from Bihar). It is correct that my appointment was done by Staff Selection Commission, Eastern Region, Kolkata for posting in the different offices of Ministry of Company Affairs, located at Kolkata, Patna, Cuttack and Shillong within Eastern Region but the CP III who are working in different Offices of Eastern Region i.e.- Kolkata, Cuttack, Patna and Shillong are hailing from outside the Eastern Region and even some of them are resident of Northern Region and Southern Region therefore the recruitment of CP III are not confined with the

Attested
Date
Authority

Note: Submitted to o/o ROC, Shillong vide Jany No - 3110 dt 31.01-2006.

-2-

employees hailing from / resident of Eastern Region but also from outside the Eastern Region therefore it cannot be said that recruitment of CP III has not been made on all India basis. Hence it is incorrect to conclude that my recruitment was not made on all India basis.

B) Sir, promotion of CP-III to the next is CP-II in the scale of pay of Rs. 6500/- to 10,500/- is also due and based on the all India combined seniority list of CP III for which Ministry of Company Affairs vide its letter No. A-32011/12/94-ADM II dated 18.10.1995 issued the relevant combined seniority list of CP III as on 18.10.1995 hence the ground of refusal stated in para (II) of Directorate's letter dated 25.10.2005 is totally incorrect.

Sir, However the question of promotion on the basis of all India Common Seniority list is not a ground for refusal of SDA to me especially when such a condition has not been imposed in the aforesaid office memorandum. In any case, if no all India Common seniority list is prepared governing my service condition notwithstanding my all India Transfer liability, the same can not be attributed to me so as to deprive me of the benefit of SDA even the Apex Court Judgement dated 20.09.1994 in the Civil Appeal No.3251 of 1993 and 6163-81 of 1994 held that SDA is not payable to such employees who are original residents of N.E. Region despite a clause in their appointment letter specify them that they are having all India Transfer liability. Although my case is distinguishable for I am not born nor a resident of N.E.Region and hence is outside the cited case. Less said I am not entitled to even acquire any house property in this state. Directorate has referred to the Ministry of Finance O.M. dated 20-04-1987 which was put to question before Honable Supreme Court in Civil Appeal No.3251 of 1993 referred above. Subsequently Ministry of Finance vide O.M. dt-12-01-1996 referred to the cited judgement, which pertains to depriving SDA/Allowances to local residents of N.E.Region. As such, the above point is not relevant to the grant of SDA to me therefore deserves to be reconsidered.

C) That so far the clause of the all India transfer liability in the appointment letter is concern, I respectfully state that it was not a mere clause in my appointment

-3-

letter so as to make me ineligible for grant of SDA. On the contrary the said clause in my case was indeed made inoperative in as much as, I was picked-up from U.P. and posted at Shillong, then transferred to Bihar and again now transferred to Shillong based on All India Transfer liability. While it may be true in case of local resident of North Eastern Region that mere appearance of the said Clause in the appointment letter would not make them eligible for SDA, my case can not be interpreted on the same footing, mainly because I am not a local resident of N.E. Region but a U.P. resident brought from Bihar with an all India transfer liability to serve in the North Eastern Region. Therefore my case is not covered by the Apex Court decision and hence outside the scope of Ministry of Finance O.M. dt. 20-04-1987 and 12-01-1996. I truly agree at the time of 1st appointment posting at Shillong in year 2000 neither did I claim nor paid SDA. Two more Hon'ble Supreme Court Citations are enclosed which fortifies my contention for eligibility, since, I am not born nor permanent resident of the N.E. Region.

D) Under the facts and circumstances, I most humbly request you to reconsider my case and pass necessary order for granting me the said SDA for the period for which I served /have been serving for in the N.E. Region.

I hope and trust that you would be pleased to reconsidered the matter in right prospective so as to not deprive me of the said SDA as prayed for. I may also be permitted to indicate that in the event of not receiving any positive reply from your end, I shall have no option but to take recourse to law for redressal of my grievances. For the purpose of Directorate's kind perusal copies of Ministry of Finance O.M. dt 12-01-1996 and Supreme Court Judgement (as reported in Supreme Court Cases) are enclosed.

- Encl:- 1) Copy of M.F. O.M. No. 11(3) / 95-E. II (B) dt. 12.01.1996
2) Copy of S.C. Judgement vide citation no. 1994 Supp (3) Supreme Court Cases 649
3) Copy of S.C. Judgement vide citation no. 1995 Supp (1) Supreme Court Cases 757
4) Copy of S.C. Judgement vide citation no. (1995) 2 Supreme Court Cases 532
5) Copy of letter No- A-32011/12/94-ADM II dt- 18-10-1995

Yours faithfully,

[Ajit Kr. Singh]

Company Prosecutor, Grade III
O/o ROC, Shillong

Telegram:COMPYLADIR
Fax :033-2287-0958.
E-mail : rdeast@sb.nic.in
rdeast@wb.nic.in



Telephone : 2287-7390
2287-3156
2287-3404

GOVERNMENT OF INDIA
Ministry of Company Affairs
Office of the Regional Director, Eastern Region
"Nizam Palace", 2nd M. S. O. Building, 3rd Floor
234/4, Acharya J. C. Bose Road, Kolkata - 700 020

Pl. inform him accordingly
[Signature]
20/3/06

No.:RD/CLA/1/1150/05-06/6369

Date: The 17th March, 2006.

[Signature]

To
The Registrar of Companies,
Shillong.

Sub: A representation from Shri Ajit Kr. Singh, CP-III, Office of the Registrar
Of Companies, Shillong, in respect of Grant of Special (Duty) Allowance
Reconsideration thereto - reg.

Sir,

I am directed to refer your letter No.ROC/SH/Estt/P-AKS/3470 dated 02-02-06 on the
above subject and to say that the matter was dealt with by this Directorate vide its letter
No.Rd/CLA/1/45/As (Vol-IV-2004) 3750 dated 25-10-2005 wherein the Directorate has spelt out the
reasons clearly as to why this Directorate is unable to accord any sanction. Therefore, the Directorate
has no action on the above issue further more.

Yours faithfully,

[Signature]
(UJWAL ROY)
Joint Director,(Legal)

Attested
[Signature]
Advocate

Dy-30765
20/13/02

(Extract)

66

(Typed True Copy)

Annexure-XIII

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

New Delhi, the 12th Jan 1996

OFFICE ORDER

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

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

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

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

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this

Attested
Sain
Advocate

allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

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

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

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

- i. the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
- ii. the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was

pertaining to the period prior to 20.9.94 but payments were made after this date i.e. 20.9.94) will be recovered.

8. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance.
9. In their application to employees of India Audit and Accounts Department, these orders issue in consultation with the comptroller and Auditor General of India.
10. Hindi version of this OM is enclosed.

Sd/- xxxxxx

(C. Balachandran)

Under Secy to the Govt. of India

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

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

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

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

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

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

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

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

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

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

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

N.P.S.

(N.P. Singh)

Under Secretary to the Government of India.

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

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





By Speed Post

Telegram : COMPLYADIR
Fax : 033-2287-0958
E-mail : rdecast@sb.nic.in
rdecast@wb.nic.in



Telephone : { 2287-7390
2287-3156
2287-3404

GOVERNMENT OF INDIA
Ministry of Company Affairs
Office of the Regional Director, Eastern Region
"Nizam Palace", 2nd M. S. O. Building, 3rd Floor
234/4, Acharya J. C. Bose Road, Kolkata - 700 020

No.RD/CLA/1/966(Vol.IV-2006)/1996

Dated June 23, 2006

To

The Registrar of Companies,
West Bengal/Bihar & Jharkhand/Orissa/Shillong;

The Bench Officer,
Company Law Board,
Eastern Region Bench,
Kolkata.

*Pl. Show to cl
Report -
29/6/06*

Ujjwal

Sub : Provisional Seniority List of C.P.III/LAs/Inspectors.

Sir,

I am directed to enclose herewith the Provisional Seniority List of C.P.III/LA/Inspectors as on 01.01.2006 received from the Ministry of Company Affairs, New Delhi with the instruction to circulate the aforesaid seniority list amongst the concerned officials for their perusal and if any discrepancy is detected may be informed to this Directorate immediately so that the same may be communicated to the Ministry for necessary rectification. You are therefore, requested to circulate the said seniority list to the concerned officials of your office for necessary compliance.

Encl : As stated.

Yours faithfully,

*Attended
Advocate*

(Ujjwal Roy)
Joint Director (Legal)

PROVISIONAL SENIORITY LIST OF CP-III/LA/INSPECTORS as on 01.01.2006

No	Name & Designation (S/Sh.)	Designation	Educational Qualification	Date of Birth	Date of entry into Govt. Service	Date of Joining in the Grade	Date of Superannua- tion	Whether DR	Whether SC/S T/ OBC	Place Posting	Remarks
	Ms.M.K Vijayalakshmi	CP-III	B.Com/LLB	30.05.1951	22.01.1973	04.10.1976	31.05.2011	DR		ROC, Bangalore	
	Lalji Tripathi	CP-III	B.A/LLB	30.01.1954	19.10.1979	19.10.1979	31.01.2011	DR		ROC, WB	
	R.N. Banerjee	CP-III	B.Sc./LLB	25.07.1951	06.10.1971	17.02.1983	31.07.2011	DR		CLB, Kolkata	
	Syed Md. Athar Mikail	CP-III	B.A/LLB	01.01.1956	14.08.1984	14.08.1984	31.12.2015	DR		ROC Shillong	
	Ms. R.A. Mehta	CP-III	B.Com/LLB Dip. In Banking Management	02.03.1953	05.11.1977	13.04.1987	31.03.2013	DR		OL (A)	
	S.C. Mondal	CP-III	B.A/LLB	01.06.1949	20.12.1971	11.06.1987	31.05.2009	DR	SC	ROC, WB	
	N. Chandrasekar		B.A/BL	15.03.1955	29.09.1989	29.09.1989	31.03.2015	DR		ROC, Coimbatore	
	Rakesh Tiwari	CP-III	B.Com./LLB/ LLM	14.03.1967	10.09.1992	10.09.1992	31.03.2027	DR		ROC, Delhi	
	V.T. Sajevar		B.A/LLB	20.05.1963	01.10.1992	01.10.1992	31.05.2023	DR		OL, Kerala	
	Vinod Sharma	CP-III	B.Com./LLB/ LLM	23.01.1969	25.01.1993	25.01.1993	31.01.2029	DR		OL, Allahabad	
	Pankaj Srivastava	CP-III	B.Sc./LLB	29.05.1968	29.03.1993	29.03.1993	31.03.2028	DR		ROC, Delhi	

*Attested
Sub
Advocate*

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S No	Name & Designation (S/Sh.)	Designation	Educational Qualification	Date of Birth	Date of entry into Govt. Service	Date of Joining in the Grade	Date of Superannuation	Whether DR/DP	Whether SC/ST/OBC	Place of Posting	Remarks
12.	Ashok Kr. Mahapatra.	CP-III	B.Com.(H)/L LB	04.04.1966	04.04.1994	04.04.1994	30.04.2026	DR		ROC, Orissa	
13.	C. Kerketta	CP-III	M.A/LLB	04.03.1962	24.05.1994	24.05.1994	31.03.2022	DR	ST	ROC, Gwalior	
14.	Brijesh Kr. Kain	CP-III	B.A/LLB/LL M (1 st Semester)	10.10.1968	17.07.1995	17.07.1995	31.10.2028	DR	SC	RD, Kolkata	
15.	B. Ambili		P.D.C/LLM	12.03.1967	01.08.1995	01.03.1995	31.03.2027	DR		ROC, Kerala	
16.	P K. Kale.	Inspector	S.S.C	28.09.1946	21.07.1967	09.07.1999	30.09.2006	DP		OL, Mumbai	
17.	M.C. Mistry	CP-III	B.Com./LLB	30.01.1956	14.01.2000	14.01.2000	31.01.2016	DR	OBC	ROC, Mumbai	
18.	Shiv Pal Singh,	Inspector	B.A/LLB	18.02.1969	25.02.2000	25.02.2000	28.02.2029	DR		OL, Delhi	
19.	A.P. Babu		B.A/BL	25.05.1963	06.03.2000	06.03.2000	31.05.2023	DR		ROC, Chennai	
20.	M. Yadhubushana Rao		B.Com./LLB	01.04.1968	02.03.2000	02.03.2000	31.03.2028	DR		OL, Bangalore	
21.	Bavisetty Sridhar.	CP-III	B.Com./LLB	06.06.1972	28.04.2000	05.04.2000	30.06.2032	DR		ROC, WB	
22.	Ajit Kr. Singh.	CP-III	B.Sc./LLB	05.01.1971	31.08.2000	31.08.2000	31.01.2031	DR		ROC, Bihar	Posted ROC, Shillong
23.	Hari Hara Behera	Inspector	H.S.C.	27.12.1946	10.08.1970	05.02.1999	31.12.2006	DP	SC	OL, Cuttack	W.E.F. 14-3-06
24.	B. Ramesh		B.L.	03.04.1965	12.02.2001	12.02.2001	30.04.2025	DR		OL, Chennai	

S.No.	Name & Designation (S/Sh.)	Designation	Educational Qualification	Date of Birth	Date of entry into Govt. Service	Date of Joining in the Grade	Date of Superannuation	Whether DR/DP	Whether SC/ST/OBC	Place Posting	Remarks
25	Mangra Kr. Sahu.	CP-III	B.Com./LLB/LLM	02.03.1971	20.06.2001	20.06.2001	31.03.2031	DR		ROC (A)	
26	Neelambuj.	CP-III	B.A LLB/ ACD Export. PGD Sem./ MBA (Sem I&II)	28.12.1969	04.06.2001	04.06.2001	31.12.2029	DR		ROC. Mumbai	
27	Arun Kumar Singh.	CP-III	B.Com./M.Com LLB/PGD in Labour Law & Ind Relation	28.02.1970	13.06.2001	13.06.2001	28.02.2030	DR		ROC. Pune	

THE GAZETTE OF INDIA : EXTRAORDINARY

[PART II—Sec. 3(ii)]

नमः । इस आदेश के प्रयोग से—

(1) "सेतन" का अर्थ अग्रिम है जो इसे मूल नियम 9 (21) (क) (1) में प्रदत्त है ;

(2) किसी पद के संबंध में "सेतन" का अर्थ "सेतन" से, केन्द्रीय सिविल सेवा (संशोधित सेतन) नियम, 1977 के अंतर्गत निर्धारित पद का सेतन अथवा सेतनमान अग्रिम है ।

[सं. 13012/1/98-समाप्ति (प)]

हरिद्वार, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

ORDER

New Delhi, the 20th April, 1998

S.O. 332 (E).—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution read with rule 6 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and in supersession of paragraph 2 of the notification of the Government of India in the Department of Personnel and Administrative Reforms number S.O. 5041 dated the 11th November, 1975, as amended by the notification of Ministry of Personnel Public Grievances and Pensions (Department of Personnel and Training) number S.O. 1752 dated the 30th June, 1987, and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby directs that with effect from the date of publication of this order in the Official Gazette, all civil posts under the Union shall be classified as follows :—

Sl. No.	Description of Posts	Classification of posts
1.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs. 13,500	—Group A
2.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs. 9,000 but less than Rs. 13,500	—Group B ✓
3.	A Central Civil post carrying a pay or a scale of pay with a maximum of over Rs. 4,000 but less than Rs. 9,000	—Group C
4.	A Central Civil post carrying a pay or a scale of pay the maximum of which is Rs. 4,000 or less	—Group D

Explanation :—For the purpose of this order—

(i) "Pay" has the same meaning as assigned to it in F.R. 9(21) (a) (i) ;

(ii) "Pay or scale of pay", in relation to a post, means the pay or the scale of pay of the post prescribed under the Central Civil Services (Revised Pay) Rules, 1997.

[F. No. 13012/1/98-Edit (D)]

HARINDER SINGH, Jr. Secy.

Attended
Advocate

[Handwritten signature]
SECRETARY GENERAL
UNITED NATIONS

Filed by
the respondents
through C. L. B. H. H.

.... Applicant.

Union of India & Ors.

The written objection on behalf of the Respondents abovenamed.

1. That with regards to the statement made in paragraph 1 of the instant application the answering respondents beg to state that these are the matter of records and the respondents do not admit anything which are not borne out of records.

Contd. . . . P/

X
X

[2]

3. That with regards to the statement made in paragraph 4.1 of the instant application the answering respondents have no comment.

4. That with regards to the statement made in paragraph 4.2 of the instant application the answering respondent begs to state that those are matter of record and the respondent do not admit anything which is not borne out of record.

5. That with regards to the statement made in paragraph 4.3 of the instant application the answering respondent beg to state that the Central Govt. Civilian Employees who have all India Transfer Liability will be granted SDA. In this context it is to state that the Company Prosecutor Grade-III is a Group-C post and the appointing authority for a Company Prosecutor Grade-III is the Regional Director and further to state that the recruitment to this service/Cadre/Post has not been made on all India basis. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred any where in India does not make him eligible for the grant of special (Duty) Allowance.

A copy of the notification dated 2nd January 2001 is annexed herewith and marked as ANNEXURE-'A'.

6. That with regards to the statement made in paragraph 4.4 of the instant application the answering respondents beg to state that these are the matter of

Contd....P/

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[3]

records and the respondents do not admit anything which are not borne out of records.

7. That with regards to the statement made in paragraph 4.5. to 4.20 of the instant application the answering respondents beg to state that these are the matter of records and the respondents do not admit anything which are not borne out of records.

8. That with regards to the statement made in paragraph 4.21 of the instant application the respondent beg to state that those are matter of record. Statements contrary to the records are hereby denied and further it is to state that the appointment of a Company Prosecutor Grade-III is only meant for Region and the Regional Director of the region is the appointing authority and he can transfer an official to any place in the particular region only.

9. That with regards to the statement made in the paragraph 4.22 of the instant application the answering respondents beg to state that those are matter of record. Statement contrary to the records are hereby denied and it is to state that the applicant at the time of accepting the appointment letter which was offered in pursuant to the advertisement did not raise the objectives regarding the classification of the post as Group-C. Hence the allegations made in the paragraph are not tenable..

Contd....P/

[4]

10. That with regards to the statement made in paragraph 4.23 of the instant application the answering respondents beg to state that those are false, concocted and untrue and hence denied and the applicant may be put to strict proof of the same. It is further stated in the context that the applicant in the post of Company Prosecutor Grade-III will come under the control of the Regional Director, Eastern Region and the Regional Director Eastern region can post him anywhere in the Eastern Region and mere mentioning of the clause for anywhere in India shall not give right to claim the SDA.

11. That with regards to the statement made in paragraph 4.24 of the instant application the answering respondents beg to state that these are the matter of records and the respondents do not admit anything which are not borne out of records.

12. That with regards to the statement made in paragraph 5.1 of the instant application the answering respondent beg to state that those are matter of record. The applicant may be put to strict proof of the same for the satisfaction of the Hon'ble Court. It is further stated that the appointment is as per the service rules for the post of Company Prosecutor Grade-III.

13. That with regards to the statement made in the paragraph 5.2 of the instant application the answering respondent beg to state that at para 5 of the OM dated 29/5/2002 says that "The Special Duty Allowance shall be admissible to the Central Government Employees having

Contd....P/

all India transfer liability on posting to North Eastern Region (Including Sikkim) from outside the region.

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

Where as the post of a Company Prosecutor Grade-III is in pursuant to the Section 624A of The Company Act, 1954 and it comes under Group ~~C~~ as per the Annexure-A and moreover there is no All India Transfer liability. Hence the claim of the applicant is not tenable as per the recruitment rules as mentioned above. A copy of an extract containing the allowances and other concessions for posting in North East Region Sikkim, Andaman & Nicobar, Lakshdweep and Jammu & Kashmir is Annexure as-B and mere mentioning of liability to serve in any part of India, in the letter of offer for the appointment, does not give entitlement to the SDA, in contrary to the recruitment rules.

14. That with regards to the statement made in paragraph 5.3 of the instant application the answering respondent begs to state that these are matter of record and the respondents do admit anything which is not borne out of record. The Respondents further begs to state that the grounds set forth in the application are not good grounds and not tenable in the eye of law, hence the application is liable to be dismissed.

Contd....P/

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[6]

15. That with regard to the statement made in paragraphs 6 & 7 of the instant application the respondent begs to state that those are within specific knowledge of the applicant and the respondent can not admit or deny the same.

16. That with regards to the statement made in paragraphs 8 & 9 of the instant application the respondents beg to state that the claim of the applicant is illegal and ill founded and the applicant is not entitled to get any interim relief.

17. That the respondents submit that the application has no merit and as such the same are liable to be dismissed.

Contd.....P/

VERIFICATION

I, KORADA ANANDA RAO.....

being authorised to hereby verify and declare that the statement made in this reply of contempt petition in para 1 to 4, 6 to 16 are true in my knowledge, these made in para 5 being matter of records are true to my information and believe and I have not suppressed any material fact.

And I sign this verification on this 07/11 day of February....., 2007.

Anand Rao
DEPONENT
कम्पनी रजिस्ट्रार
Registrar of Companies
उत्तर पूर्व क्षेत्र, शिलांग
North East Region, Shillong

भारत का राजपत्र

The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1]
No. 1]

नई दिल्ली, मंगलवार, जनवरी 2, 2001/पाँच 11, 1922
NEW DELHI, TUESDAY, JANUARY 2, 2001/PAUSA 12, 1922

विधि, न्याय और कंपनी कार्य मंत्रालय

(कंपनी कार्य विभाग)

अधिसूचना

नई दिल्ली, 2 जनवरी, 2001

सा.का.नि. 1(अ).—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और कंपनी विधि प्रशासन विभाग (समूह क, ख और ग पद) भर्ती नियम, 1962 को, जहाँ तक उनका संबंध कंपनी अभियोजक श्रेणी III/विधि सहायक/कनिष्ठ निरीक्षक के पदों से है, उन पदों के सिवाय अधिकृत करते हुए जिन्हें ऐसे आधिकार्य से पहले किया गया है या करने से सौन किया गया है, कंपनी भर्ती विभाग में क्षेत्रीय निदेशक, कंपनी रजिस्ट्रार और शासकीय परिसमापक के कार्यालयों में कंपनी अभियोजक श्रेणी III/विधि सहायक/कनिष्ठ निरीक्षक के पद पर भर्ती की पद्धति का विनियमन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. संक्षिप्त नाम और प्रारम्भ: (1) इन नियमों का संक्षिप्त नाम कंपनी कार्य विभाग, क्षेत्रीय निदेशक, कंपनी रजिस्ट्रार और शासकीय परिसमापक के कार्यालय (कंपनी अभियोजक में श्रेणी III/विधि सहायक/कनिष्ठ निरीक्षक) भर्ती नियम, 2000 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. पद संख्या, वर्गीकरण और वेतनमान: उक्त पद की संख्या, उसका वर्गीकरण और उसका वेतनमान यह होगा, जो इन नियमों से उपान्त अनुसूची के साम्य 2 से साम्य 4 में विनिर्दिष्ट हैं।

3. भर्ती की पद्धति, आयु-सीमा और अन्य अर्हताएं: उक्त पद/पदों पर भर्ती की पद्धति, आयु-सीमा, अर्हताएं और उससे संबंधित अन्य बातें ये होंगी जो उक्त अनुसूची के साम्य 5 से साम्य 14 में विनिर्दिष्ट हैं।

4. निरहता: यह व्यक्ति:—

(क) जिसने ऐसे व्यक्ति से जिसका पति या जिसकी पत्नी जीवित है, विवाह किया है, या

(ख) जिसने अपने पति या अपनी पत्नी के जीवित रहते हुए किसी व्यक्ति से विवाह किया है,

उक्त पद पर नियुक्ति का पात्र नहीं होगा।

परन्तु यदि केन्द्रीय सरकार का यह समाधान हो जाता है कि ऐसा विवाह ऐसे व्यक्ति और विवाह के अन्य पक्षकार को लागू स्थान विधि के अधीन अनुज्ञेय है और ऐसा करने के लिए अन्य आधार हैं तो वह किसी व्यक्ति को इस नियम के प्रवर्तन से छूट दे सकेगी।

13.01.2001

(1)

True Copy
Person
Adv.

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1. क्षेत्र का क्षेत्रीय विदेशक— अध्यक्ष
2. कंपनी रजिस्ट्रार/शासकीय परिष्कारक
(कनिष्ठ प्रशासनिक श्रेणी के स्तर का) — सदस्य
3. अवर सचिव, कंपनी कार्य विभाग — सदस्य
4. अनुसूचित व्यक्ति/अनुसूचित जनजाति प्रणाली का एक अधिकारी, जो अवर सचिव की श्रेणी के स्तर से नीचे के स्तर का पद हो — सदस्य

ए. गुप्तास्वामी, संयुक्त सचिव

(Department of Company Affairs)

NOTIFICATION

New Delhi, the 2nd January, 2001

G.S.R. 1(E).—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of Department of Company Law Administration (Group 'A', 'B' & 'C') Recruitment Rules, 1962, in so far as they relate to the post of Company Prosecutor Grade-III/Legal Assistants/Junior Inspectors except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the post of Company Prosecutor Grade-III/Legal Assistants/Junior Inspectors in the Offices of the Regional Directors, Registrar of Companies and Official Liquidator in the Department of Company Affairs, namely:—

1. Short title and commencement :—(1) These rules may be called the Department of Company Affairs, Offices of the Regional Directors, Registrars of Companies and Official Liquidator (Company Prosecutor Grade-III/Legal Assistants/Junior Inspectors) Recruitment Rules, 2000.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Number of post, classification and scale of pay :—The number of post, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit and other qualifications :—The method of recruitment to the said post, age limit, qualifications and other matters relating thereto shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualification : No person :—

(a) who has entered into or contracted a marriage with a person having a spouse living; or

(b) who, having a spouse living, has entered into or contracted a marriage with any person;

all be eligible for appointment to the said post.

Provided that the Central Government may, if satisfied that such marriage is permissible under the law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax:—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, and for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving:—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of post	Number of posts	Classification	Scale of pay	Whether selection by merit or selection by seniority or non-selection post	Whether benefit of added years of service admissible under Rule 30 of the Central Services (Pension) Rules, 1972
1	2	3	4	5	6
Company Prosecutor Grade III/Legal Assistants/Junior Inspectors	53* (2000) *Subject to variation depending on workload.	General Central Service, Group 'C' Non-Gazetted, Ministerial	Rs. 5500-175-9000	Not applicable	Not applicable

Age limit for direct recruits	Educational and other qualifications required for direct recruits.	Whether age and educational qualification prescribed for direct recruits will apply in the case of promotees	Period of probation, if any
7	8	9	10
Not exceeding 35 years (relaxable for Government servants upto five years in accordance with the instructions or orders issued by the Central Government). Note: The crucial date of determining the age limit shall be the closing date for receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir, Lahaul and Spiti District and Pangi Sub-Division of Chamba District of Himachal Pradesh, Union Territory of Andaman and Nicobar Islands or Lakshadweep).	Essential: (1) Degree in Law from a recognised University or equivalent. (2) Three years' experience of conducting cases in the Court of Law on behalf of Government Departments. Note: The qualifications regarding experience are relaxable at the discretion of the Staff Selection Commission for reasons to be recorded in writing in the case of candidates belonging to Scheduled Castes and the Scheduled Tribes if at any stage of selection the Staff Selection Commission is of the opinion that sufficient number of candidates possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.	Not applicable	Two years.

Method of recruitment whether by direct recruitment or by promotion or by deputation/absorption and percentage of the posts to be filled by various methods

In case of recruitment by promotion/deputation/absorption, grades from which promotion/deputation/absorption to be made

If a Departmental Promotion Committee exists, what is its composition

Circumstances in which Union Public Service Commission is to be consulted in making recruitment

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12

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14

By direct recruitment through Staff Selection Commission.

Not applicable

Group 'C' Departmental Promotion Committee (for confirmation) consisting :

Not applicable

Note : Vacancies caused by the incumbent being away on deputation or long illness or study leave or under other circumstances for a duration of one year or more may be filled by deputation from officers of Central Government :—

- (a) holding analogous posts on regular basis; and
- (b) possessing the qualifications and experience prescribed for direct recruits under Column 8.

1. Regional Director of the Region—Chairman
2. Registrar of Companies/ Official Liquidator (Junior Administrative Grade level)—Member
3. Under Secretary, Department of Company Affairs—Member
4. An Officer belonging to Scheduled Caste/Scheduled Tribe category not below the level of Under Secretary to the Govt. of India—Member

[No. A-26011/2/98-AD.II]

A RAMASWAMY, Jr. Secy.

15/11/2001-2

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal

25 MAY 2007

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

Filed by me applicant -
through: S. Nath.
Advocate
25/5/2007

In the matter of:-

O.A. 207 of 2006

Sri Ajit kr. Singh

.....Applicant.

-Versus-

Union of India and Others.

..... Respondents.

-And-

In the matter of: -

~~Rejoinder~~ submitted by the applicant
against the additional written statement
filed by the respondents.

The applicant above named most respectfully begs to state as follows: -

1. That with regards to the statement made in para 1 of the objection petition the applicant need not to make any comments as the same is admitted by the Respondents.
2. That with regards to the statement made in para 2 of the objection petition the applicant need not to make any comments as the same is admitted by the Respondents.

3. That with regards to the statement made in para 3 of the objection petition the applicant need not to make any comments as the same is admitted by the Respondents.
4. That with regards to the statement made in para 4 of the objection petition the applicant need not to make any comments as the same is admitted by the Respondents.
5. That with regards to the statement made in para 5 of the objection petition of the Respondents the Applicant begs to state that it is correct to say that the appointing authority for Company Prosecutor -Grade III is the Regional Director but denied the fact that the post of Company Prosecutor -Grade -III (in short C.P. III) having the pay scale of Rs. 5500-175-9000 comes under Group 'C' and same is explained in para 4.12 and para 4.22 of the instant application. However other Ministry/Department has classified the said scale in Group 'B'.

A copy of advertisement of the scale of Rs. 5500-175-9000 in the Department of Personal & Training classified in Group 'B' is enclosed and marked as Annexure-1.

Further it is strongly denied the statement of Respondent that the recruitment of Applicant to the service/cadre/post has not been made on all India basis. In fact the recruitment of Applicant is made on all India basis and the same is explained in para 4.17, 4.19 and 4.23 of the instant application. Moreover appointment of C.P. III is always made through Direct & Common Recruitment System based on the recruitment made on all India basis by publishing the vacancy of C.P. III in Employment News Paper

A Copy of advertisement of vacancy of C.P. III published in Employment News Paper is enclosed and marked as Annexure- 2.

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6. That with regards to the statement made in para 6 of the objection petition the Applicant need not to make any comments as the same is admitted by the Respondents.
7. That with regards to the statement made in para 7 of the objection petition the Applicant need not to make any comments as the same is admitted by the Respondents.
8. That with regards to the statement made in para 8 of the written statement the Applicant begs to state that the transfer of Applicant within particular Region by his appointing authority Respondent No. 3 for the Offices of Respondent No. 5 situated at Patna, Kolkata, Shillong & Cuttack. It cannot be said that the Applicant is not having all India transfer liability as the aforesaid offices except the office of Respondents No. 5 at Shillong is situated out of N.E. Region and the official transferred from one State of outside of N.E. Region to any state in N.E. Region involving inter-state transfer is said to be all India transfer.

However, in the office of Respondents No. 5 the officers who are classified in Group "A" and Group "B" on being transferred/posted to N.E. Region from outside the N.E. Region under the same jurisdiction of Respondents No. 3 are being treated as all India transfer liability and withdrawing the S.D.A but the discrimination is made only for the Applicant who has wrongly classified in Group "C" category for depriving him for payment of S.D.A.

9. That with regards to the statement made in para 9 of the instant objection petition filed by the Respondents the Applicant begs to state that in the appointment letter of the Applicant as per Annexure II in the instant application, no where it is mentioned that the applicant has been classified in Group "C". It has come to the knowledge of the applicant only after joining his post that he has wrongly placed in Group "C" instead of

Group "B" by over sighting the order dated 20th April 1998 of the Ministry of Personal, Public Grievances and pension as per Annexure XVI of the application.

10. That with regards to the statement made in para 10 of the instant objection petition filed by the Respondents the Applicant begs to state that since Applicant is not the bonafide resident of N.E. Region, he has joined the office of Respondents No. 5 at Shillong from outside the N.E. Region under transfer from Patna (Bihar) which makes him entitle for grant of SDA and same is explained in para 4.23 of the application.
11. That with regards to the statement made in para 11 of the objection petition the Applicant need not to make any comments as the same is admitted by the Respondents.
12. That with regards to the statement made in para 12 of the objection petition the Applicant begs to state that these are the admitted facts by the Respondents pursuant to different Office Memorandum issued by Ministry of Finance dated 14.12.1983, 01.12.1999, 22.07.1998 and 29.05.2002 in respect of granting SDA to the eligible central Govt. Employees, which is already explained in the instant application.
13. That with regard to the statement made in para 13 of the objection petition the Applicant begs to state that the reason has been explained in the aforesaid paragraphs for payment of SDA to the Applicant as the transfer/posting of Applicant from outside region to N.E. Region shall be treated as all India transfer liability.
14. That with regards to the statement made in para 14 of the objection petition filed by the Respondent the Applicant submits that the grounds made in the instant application for payment of SDA is bonafide and genuine is compliance of the concerned Govt. Notification M.F. O.M. No. 11 (5)/97-

E-II (B) dated 29.05.2002 and Applicant fulfilling all the criteria which makes him entitle for payment of SDA.

Under the facts and circumstances it is therefore prayed that the Hon'ble Tribunal be pleased to declare that the applicant is entitled for payment of SDA and further be pleased to direct the Respondent to realize the payment of SDA to the Applicant with all monetary benefits with immediate effects from the date of passing of the order of Hon'ble Tribunal in this instant application.

VERIFICATION

I, Shri Ajit Kumar Singh, S/o Shri Indra Daman Singh, aged about 35 years presently working as Company Prosecutor, Grade- III in the office of Registrar of Companies, Morello Building, Ground Floor, Shillong-793001, applicant in the instant original application, do hereby verify that the statements made in paragraph 1 to 14 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on the 24th day of May 2007.

Ajit Kumar Singh

No. A/2026/6/2005-ISTM

Annexure-A

Government of India

Institute of Secretariat Training & Management

(Department of Personnel and Training)

Administrative Block, JNU (Old) Campus, New Delhi-110067

Subject : Filling up one post of Training Associate (Rs. 5500-175-9000/-) Group 'B' (Non-Gazetted) in the Institute of Secretariat Training and Management, New Delhi on deputation basis.

Services of suitable officers holding analogous post on regular basis or 5 years regular service in the post in the scale of Rs. 5000-8000 or equivalent are required for appointment to one post of Training Associate in the scale of Rs. 5500-175-9000/- (Group 'B' Non-Gazetted) in this Institute on transfer on deputation basis. The terms and conditions of appointment will be in accordance with the Department of Personnel & Training O.M. No. 2/29/91-Estt. (Pay-II) dated 05-01-94.

2. The qualifications and experience required and other details of the post are given in Annexure-I.

3. The officers who volunteer for the post will not be permitted to withdraw their candidature later. Only such application, which is accompanied by the requisite personal data (in triplicate) as per Annexure-II, will be considered.

4. It is requested that this may please be given wide publicity and the application of suitable officers who are eligible and willing and can be spared immediately may be forwarded along with their up-to-date Annual Confidential Reports (or attested photocopies thereof) and vigilance clearance certificate so as to reach the Director, Institute of Secretariat Training and Management, Administrative Block, JNU (Old) Campus, Old Palme Marg, New Delhi-110067 with 45 days from the date of publication of this advt. in the Employment News.

(P.K. Sachdev)

Deputy Director (Admn.)

Tele : 26104038

Annexure-I

1. Name of the post : Training Associate, Institute of Secretariat Training and Management.

2. Number of vacancy : 1 (One)

3. Scale of pay : Rs. 5500-175-9000/-

4. Classification : General Central Service, Group 'B' Non-Gazetted, Non-Ministerial.

5. Eligibility conditions, such as qualification and experience prescribed for the post : Officers of the Central Government -

- (a) (i) holding analogous posts on regular basis; or (ii) with five years' regular service in posts in the scale of Rs. 5000-8000/- or equivalent and (b) possessing of the following qualifications and experience :-

Essential :

(i) a degree from a recognised University or equivalent.

(ii) Experience of

(A) Secretariat office procedure

(B) Collection, compilation and analysis of data.

(C) Preparation of reports and/or training materials.

Desirable :

(i) Skill in preparation of charts/calligraphy

(ii) Familiarity with audio-visual aids in training.

(iii) Undergone foundational/refresher/specialized training programme conducted by ISTM or any other Central Government Institute.

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May 2006



STAFF SELECTION

(CENTRAL
ALLAHABAD)

ADVERTISEMENT NO. CR-1/2006

Applications are invited for the following posts in the format given at Appendix -I of this Advertisement.

Last date for receipt of the application is 19.05.2006. Applications received after the closing date will not be entertained.

CAT-1: One Store Keeper in O/o Ordnance Equipment Factory, Kanpur.

Vacancy : UR-01

Age : 18-27 years

i. Relaxation provided up to 40 years of age (45 years for SC/ST) for Departmental candidates with three years continuous service in same line or allied cadre.

ii. For Central Govt. Employees: Total period of service rendered under Govt. of India

Pay Scale: Rs. 3050-75-3950-80-4590

E.O.: 10+2

D.O: Basic knowledge of computer applications, having 'O' Level certificate as per Deptt. of Electronics Accreditation Committee (DOEACC).

I.P.: Kanpur (U.P) with All-India Service Liability.

J.R.: Duties related to Stores.

CAT-2 : One Junior Technical Assistant in O/o the Regional Director (NR), Min. of Company Affairs, Noida (U.P.).

Vacancy : ST-01

Age : 18-27 years (Relaxable for 5 years for SCs/STs & 5 years for Govt. Servants)

Pay Scale : Rs. 5000-150-8000

E.O.: M.Com or B. Com with Degree in Law.

I.P.: At any one of the following places: Noida, Kanpur, Allahabad (U.P.) with All India Service Liability.

J.R.: To deal with matters under the Companies Act, 1956.

CAT-3 : One Company Prosecutor Grade III in O/o the Regional Director (NR), Min. of Company Affairs, Noida (U.P.).

Vacancy : UR-01

Age : Not exceeding 36 years (Relaxable for 5 years for SCs/STs, 3 years for OBCs & 5 years for Govt. Servants).

Pay Scale : Rs. 5500-75-8000

E.O.: I. Degree in Law from a recognized University.

II. Three years experience of conducting cases in Court on behalf of Govt. Deptt.

D.O.: ---

I.P. : At any one of the following places- Kanpur, Allahabad, Noida, with All-India Service Liability.

J.R.: To deal with Legal matters relating to the Companies Act, 1956 & other allied Laws.

CAT-4: One Statistical Investigator Grade III in O/o Director of Census Operations, Patna (Bihar)

Vacancy : SC-01

Age : 18-25 years (Relaxable for 5 years for SC/STs, 10 years for PH/HH, 5 years for Govt. Servants as per Rules)

Attested
Signature
Admission