

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

ORDER SHEET

Original Application No. 25/06
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) B.R. Chandley 90M
Respondent(S) U.O.I 90M

Advocate for the Applicants M. Chanda, G.N. Chakravarty
S. Nath

Advocate for the Respondent(S) M. U. Ahmed CGSC Addl.
Plt. St. Counsel

Notes of the Registry Date 31.01.2006 Order of the Tribunal

The application is a form
is filed/C.F. No. 30
C.P. No. 266-312925
Dated 12.1.06

He Dy. Registrar
27.1.06

Steps not taken

Pl. comply order dated
31.1.06

NS
31.1.06

Steps taken on 15/2/06.
15/2/06

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

Mr. M. Chanda, learned counsel
for the applicants and Mr. M.U. Ahmed,
learned Addl. C.G.S.C. for the
respondents were present.

This application has been filed by
the applicants for non payment of
Special Duty Allowance. This is second
round of litigation. By impugned order
dated 11.05.2005, the claim of the
applicants for grant of Special Duty
Allowance has been rejected.

Let notice be issued to the
respondents.

In the interest of justice, this
Court directs the respondents not to
make any further recovery on account of
Special Duty Allowance from the pay and
allowances of the applicants.

Post on 17.03.2006.

Vice-Chairman

17.03.2006

When the matter came up for hearing on behalf of the learned counsel for the respondents submits that further time may be granted to file reply statement. Let it be done.

The application is admitted. Interim order dated 31.01.2006 shall continue till the next date. Post on 01.05.2006.

Vice-Chairman

1.5.2006

Four weeks further time is granted to the respondents to file reply statement. Post on 5.6.2006.

Interim order shall continue till the next date.

Vice-Chairman

bb

05.06.2006

Learned counsel for the respondents sought for four weeks time to file reply statement.

Interim order shall continue till the next date.

Post on 05.07.2006.

Vice-Chairman

mb

Notice & order sent to D/section for issuing to resp-nos. f to f by regd-A / D post.

15/2/06 - D/No=212 to 218
Dt=17/2/06.

16-3-06

① Service report awaited

② No Reply has been filed.

fl. comply order dated

17.3.06

N.S.
20.3.06.

Order dt-17/3/06 issuing to learned advocates for both the parties.

21/3
28-4-06

① Service report awaited.

② No wk has been filed.

fl. comply order dated

1.5.06.

N.S.
1.5.06

Order dt-1/5/06 issuing to learned advocates for both the parties.

fl. Now wk has been filed. 2.6.06

0A-25/06

-3-

Notes of the Registry	Date	Order of the Tribunal
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order dt. 5/6/06
issuing to learned
advocate's for both
the parties.

6/6/06.

13-7-06

No WTs has been
filed.

my

order dt. 14/7/06
issuing to learned
advocate's for both
the parties.

17/7/06.

No WTs has been
filed.

16.8.06.

No WTs has been
filed.

8.9.06

order dt. 11/9/06 issuing
to learned advocate's
for both the parties.

11/9/06.

25-9-06

WTS filed in the

Regt. No. 6. Pr 7

14.7.2006

Further three weeks time is granted
to the respondents to file written state-
ment. Post on 11.8.2006.

Interim order will continue till the
next date.

Vice-Chairman

bb

11.08.2006

Post on 11.09.2006. Interim order
shall continue till the next date.

Member

Vice-Chairman

mb

11.9.06

Learned counsel for the respondents
wanted to file written statement. Let it
be done. Post the matter on 15.10.06.
Interim order will continue till the
next date.

Vice-Chairman

lm

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

Learned Counsel for the Applicant
wanted to file rejoinder. Let it be done.

Post on 06.11.2006. Interim order
shall continue till the next date.

Vice-Chairman

/mb/

2.11.06.

The counsel for the Respondents
have filed their written statement.
The counsel for the applicant would
like to file rejoinder. Post the
matter on 24.11.06.

Vice-Chairman

lm

O.A. 25/2006

Order dt. 23/10/06
issuing to learned
advocates for both
the parties.

COA
6/10/06.

16.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Written statement has already
been filed. The Applicant may file rejoinder,
if any. Post on 30.11.2006.



Vice-Chairman

① W/S filed on behalf
of R. No - 6, other
respondants not yet
filed.

/mb/

30.11.2006

Mr. S. Nath, learned counsel for
the applicant seeks time to file
rejoinder. Let it be done.

post the matter on 18.12.2006.
Interim order will continue till such
time.



Vice-Chairman

bb

11.12.06.

The issue is involved in SDA.
Post the matter on 18.1.07.

Vice-Chairman

lm

8.1.07.

Post the matter on 9.2.07.

Vice-Chairman

lm

9.2.07

Post the matter after four weeks.

Vice-Chairman

Order dt. 30/11/06
issuing to both
the parties.

COA
11/12/06.

No rejoinder has
been filed.

lm

COA
8.12.06.

No rejoinder has
been filed.

COA
5.1.07

No rejoinder has
been filed.

COA
8.2.07.

- 5 -
6.A25/06

13.2.07

3.4.07.

Counsel for the respondents prays for time to file written statement. Let it be done. Post the matter on 7.5.07. Interim order shall continue.

Rejoinder submitted
by the Applicant. page
1 to 4.

Vice-Chairman

AP

lm

3.4.07.

Post the matter on 7.5.07. Interim order shall continue.

Vice-Chairman

order dt. 3/4/07
issuing to learned
advocate's bar
both the parties.

lm

CLP
3/4/07.

7.5.2007

Mr M.U.ahmed, learned
Addl.C.G.S.C has filed letter of
absence.

Post the matter on 5.6.07
for hearing.

Vice-Chairman

Wks and rejoinder
has been filed.

my
4.5.07.

/pg/

The case is ready
for hearing.

5.6.2007

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

Vice-Chairman

The case is ready
for hearing.

2
12.6.07

/bb/

13.6.2007

At the request for the Applicant the
case is adjourned and posted on 2.7.2007
for hearing.

Vice-Chairman

/bb/

0.11.25/06

02.07.07.

Post the matter on 17.7.07. for hearing.

lm

Vice-Chairman

17.7.2007

Part

heard.

Post

on

18.7.2007.

The case is ready
for hearing.

22/07

16.7.07.

pg

Vice-Chairman

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

18.07.

Judgment pronounce in open Court.

**Kept in separate sheets. Application is
allowed. No costs.**

24.07.2007

Heard Mr M. Chanda, learned
counsel for the applicant M.U.
Ahmed, learned Addl. C.G.S.C. Hearing
concluded. Judgment reserved.

lm

Vice-Chairman

nkm

O.A. 25/06


1.8.07.

Judgment pronounce in open Court.

Kept in separate sheets. Application is
allowed. No costs.


Vice-Chairman

lm


Advocate for Applicant
10/08/07

2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
OA 48/06, OA 25/06, OA 207/06, OA 216/06 and OA 229/06

Date of decision: the 1st August, 2007

Shri Akan Kumar Dutta & others..
By Advocates Mr.M. Chandra and Mr.A. Ahmed

Applicants

Versus

The Union of India & others..
By Advocate :Mr.G.Baishya, Sr. C.G.S.C. and Mr.
M.U.Ahmed, Addl.C.G.S.C.

Respondents

CORAM The Hon'ble Shri K.V. Sachidanandan, V.C.

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

Vice-Chairman

11/8/07

01

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

2007

Date of order: This the 1st Day of August

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 1
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,



Shillong-3.

4. The Superintending Engineer

Assam Central Circle 1,
Central Public Works
Department, Bamunimaidan,
Guwahati.

Respondents

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

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,



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.

.Respondents

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

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, Hind MSO Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata-700 020.

4.The Joint Director [Legal],



O/o the Regional Director [Eastern Region],
Ministry of Company Affairs,
Nizam Palace, IInd MSO Building, 3rd Floor,
23/4, AJC 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.

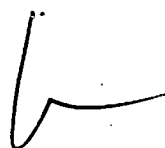
2. The Director General
All India Radio, Sansad Marg,
New Delhi-110 001

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



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,

L

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-

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.



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



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



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



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



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.Vijoya 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

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 s 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 then are posted in the North Eastern



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



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



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.



[K.V.Sachidanandan]
Vice-Chairman

cm

Original Application No. 25/06

1. a) Name of the Applicant:- B.R. Chaudhary & Ors
b) Respondants:- Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application in the proper form:- Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed :- Yes / No.
7. Whether all the annexure ~~parties~~ are impleaded :- Yes / No.
8. Whether ~~English~~ translation of documents in the Language:- Yes / No.
9. Has the application is in time :- Yes / No.
10. Has the Vakalatnama/Memo of appearance /Authorisation is filed:- Yes / No.
11. Is the application by IPO/BO/for Rs.50/- 266313925
12. Has the application is maintainable : Yes / No.
13. Has the Impugned order original duly attested been filed:- Yes / No.
14. Has the legible copies of the annexures duly attested filed:- Yes / No.
15. Has the Index of the documents been filed all available :- Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes / No.
17. Has the declaration as required by item 17 of the form:- Yes / No.
18. Whether the relief sought for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for :- Yes / No.
20. Is case of Condonation of delay is filed is it Supported :- Yes / No.
21. Whether this Case can be heard by ~~Single Bench~~/Division Bench:
22. Any other point :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:

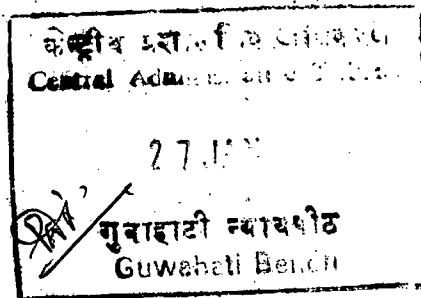
The application is in order

SECTION OFFICER(J)

N. J. S. 27.1.06
DEPUTY REGISTRAR

Defects

Page 24, 32 not legible.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 25 /2006

Sri Biplab Roy Choudhury & Ors.

-vs.-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

08.04.82, 25.03.84 Applicants were appointed as UDC/LDC in the state of West Bengal.

(Annexure-1(series))

14.12.1983- Govt. of India, issued O.M. No. 20014/2/83/ F.IV introducing Special (Duty) Allowance (SDA) for the civilian employees of the central Government posted in the N.E. Region from outside the region, who are saddled with all India Transfer Liability. (Annexure-2)

20.07.1987- Ministry of Finance, Government of India issued further order in respect of entitlement of SDA.

12.01.1988- Government of India issued O.M enhancing the permissible limit of SDA of Rs. 400/- followed by further order dated 22.07.1998.

01.12.2001 to 30.12.2003- All the applicants were posted on different dates to G.E, Narangi and G.E, Shillong during the period and were granted SDA w.e.f their respective dates of joining by the respondents as their own, on being satisfied about the eligibility of the applicants. The said SDA was paid to them

till November 2002. Suddenly payment of SDA to the applicants were discontinued from March, 2004 without prior notice or without any valid reason.

06.03.2003-

Chief Engineer, HQ, Eastern Command, Kolkata vide letter bearing No. 131900/238/PMK/159/Engrs/E-I (legal) dated 6.3.03 informed the Chief Engineer, Shillong that the post of BS-II, B/R Gde II and LDC/UDC have not been found eligible for grant of SDA but no reason is assigned as to why the posts of LDC or UDC did not having all India transfer liability. (Annexure-3)

29.03.2004-

CWE, Shillong vide his letter bearing No. 1151/Policy/Gen/92/E-I (legal) dated 29.03.04 informed that GEs of this area have been directed to initiate action to effect the recovery of payment of SDA made to ineligible person w.e.f. 06.10.01 and afterwards.

(Annexure-4)

28.02.2002-

It would be evident from the letter bearing No. A/41205/EIR (SUB) dated 28.02.02 wherein panel of U.D.C/Steno Grade-III for promotion to the cadre of Assistant for the year 2001 and 2002 have been prepared on all India basis.

(Annexure-5)

29.05.2002-

Govt. of India vide O.M dated 29.05.02 made it clear that the an employee having all India transfer liability on his posting to N.E. Region from outside the region is entitled to payment of SDA. (Annexure- 8)

30.01.2004-

HQ, Chief Engineer, Shillong vide his letter dated 30.1.04 stated that Central Govt. employees who have All India transfer liability are entitled to SDA on their

transfer/posting in North Eastern Region from outside the region. (Annexure-7)

02.06.2005 That the applicant approached the Hon'ble Tribunal by an O.A claiming continuation of the SDA which was registered aO.A.117 of 2004 and the said O.A was disposed of by the learned Tribunal on 2.6.2005 with the direction to the consider the claim of the applicants for entitlement of SDA.

(Annexure-9)

25.05.2005 It is evident from the seniority list dated 25.5.05 that the seniority of the cadre of UDC are being maintained on all India basis for the purpose of promotion to the cadre of Assistant. (Annexure-10)

11.08.2005 By the impugned letter dated 11.5.05, the claim of the applicant for grant of SDA has been rejected mechanically without proper scrutiny of the relevant memorandums, documents, records and factual position.

Hence this application before this Hon'ble Tribunal.

PRAYERS

Relief(s) sought for:

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

- 3
1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No.131900/238/2000/PMK/159/Engrs/E-I (legal) dated 06.03.2003 (Annexure-3), 1151/Policy/Gen/92/EI (legal) dated 29.03.04 (Annexure-4) and letter dated 04.06.2003 and 03.10.2003 communicated vide letter dated 30.01.2004 as well as the impugned letter dated 11.08.2005 (Annexure-7 and 12).
 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 O.M dated 29.05.02 with arrear monetary benefits.
 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.
 9. Interim order prayed for.

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

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to make any recovery on account of SDA all ready paid to the applicants till disposal of the application.

32

1

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. 25 /2006

Shri Biplab Roy Choudhury & Ors. : Applicants.

- Versus -

Union of India & Others : Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	---	Application	2-20
02.	----	Verification	- 21 -
03.	1 (Series)	Copies of appointment letter dated 8.4.82 and 25.03.84.	22 - 27
04.	2	An extract copy of the O.M dated 14.12.1983.	28 - 29
05.	3	Copy of the impugned letter dated 06.03.2003.	- 30 -
06.	4	Copy of the impugned order dated 29.03.2004.	31 - 32
07.	5	Copy of the letter dated 28.02.2002.	33 - 39
08.	6 (Series)	Copies of documents relating appointment, posting & transfer.	40 - 56
09.	7	Copy of the impugned letter dated 30.01.04.	57 - 58
10.	8	Copy of the O.M dated 29.5.2002.	59 - 60
11.	9	Copy of the judgment and order dated 02.06.2005.	61 - 64
12.	10 & 11	Copy of the all India seniority list dated 25.05.2005 & representation dtd. 27.07.05	65 - 73
13.	12	Copy of the impugned letter dated 11.08.2005.	74 - 75

Date: 25/1/06

Filed by
Subrata Nath
Advocate

Biplab Roy Choudhury

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

1985)

O. A. No. 25 /2006

BETWEEN:

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.
Assistant.

...Applicants.

All the applicants are working in the cadre of Group-'C'

In the office of the G.E. Narangi/G.E. Guwahati.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Defense,
New Delhi- 110001.
2. E-in-C's Branch,
Army Headquarter,
Kashmir House,
DHQ Post, New Delhi-11.
3. Chief Engineer,

33
Filed by the applicants
George Subrata Nath
Advocate
25/1/06

Biplab Roy Choudhury

Eastern command Engineer's Branch,
Fort William,
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.

... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing letter no. 131900/238/2000/PMK/159/ENGRS/E-I (legal) dated 6.3.2003, 1151/policy/Gen/92/E I (Legal) dated 29.03.2004, letter dated 31.01.2004 and against the impugned order issued under letter no. 70222/OA 117/2004/61/E I (legal) dated 11.08.2005 and also praying for a direction upon the respondents to continue to make payment of the Special (Duty) Allowance to the applicants in terms of O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998^{and 29.5.2002} and also against the order of recovery of Special (Duty) Allowance from the pay bill of May, 2004 without any notice to the applicants and also with a prayer for declaration that the applicants are entitled to the payment SDA.

2. Jurisdiction of the Tribunal:

Biplab Roy Chowdhury

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

3. Limitation.

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

4. Facts of the Case.

- 4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicants pray for permission to move this application jointly in a single application under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1985 as the reliefs sought for in this application by the applicants are common. Therefore the applicants pray before the Hon'ble Tribunal for permission to move this application jointly.
- 4.3 That all the applicants while working as Upper Division Clerk/Lower Division Clerk in the state of West Bengal outside the Northeastern Region under the administrative control of different GE under the Eastern Command, Kolkata, they were transferred and posted on different dates under the GE, Narangi and GE, Guwahati in public interest. Be it stated that the applicants while appointed as L.D.C a specific clause was there in the appointment letter that the applicants are liable to serve in anywhere in India and will be subject to civilian in Defense Service Rule, 1957. All the applicants accepted the said clause of all India transfer liability and appointed to the post of L.D.C.

Biplab Roy Chowdhury

36
5

A few copies of appointment letter are enclosed for perusal of Hon'ble Tribunal. Copies of appointment letter dated 08.04.82 and 25.03.84 are enclosed as Annexure-1 (Series).

4.4 That it is state that all the applicants were initially appointed in different places outside the North Eastern Region and they are not the permanent residents of NE Region. The detail particulars of their posting in NE Region and the initial place of posting are furnished here under:-

Ser No	MES/Army No, Name and Designation	Date of Appointment With Formation	Present formation with date
1	2	5	6
1.	A/No.9498053 Shri Satya Ranjan Ghosh, UDC	22 Aug 1979 to 13 Oct 1980 11 GRRC (Darjeeling) I.DC.	GE Narangi 01 Dec 2001 ✓
2.	MES/213951 Shri Pranab Sarkar, UDC	20 mar 1987 585 Engr sub park, C/o 99 APO (Bengdubi) LDC	GE Narangi 15 Jun 2003 ✓
3.	MES/214524 Shri Biplob Roy Choudhury, UDC	03 Aug 1979 GE Kaprail LDC	GE Narangi 06 May 2003
4.	MES/266002 Shri Pranab Kumar Sarkar, UDC	15 Jan 1983 HQ CE, Siliguri Zone. LDC	GE Narangi ✓
5.	MES/203271 Shri Shyamal Mazumdar, UDC	28 Feb 1981 GE(P) Calcutta, LDC,	GE Guwahati 03 Jul 2003 ✓
6.	MES/105481 Shri Mridul Kanti Sen, UDC	08 Apr 1982 GE Khaprail, LDC	GE Guwahati 30 Dec 2003
7.	MES/266021 Shri Rama Prasad Sarkar, LDC	30 Mar 1984 HQ CE Siliguri Zone, LDC	GE Guwahati 15 Jun 2003
8.	MES/260142 Shri Niranjan Prasad Singh, Asstt.	05 May 1965 ASC Supply C/O 99 APO CEEC Kolkata, LDC	GE Narangi 26.12.2000

All Done

Biplob Roy Choudhury

It is quite clear from the above that the applicants have been transferred and posted to this region from outside the region and they are saddled with all India transfer liability in practice.

4.5 That your applicants state that by the O.M. No. 20014/2/83/B.IV dated 14.12.1983 Special (Duty) Allowance (for short SDA) was introduced by the Govt. of India, and thereby it was decided to provide incentive to the civilian employees working in the States and Union Territories of the N.E. Region. The said allowances were granted with a maximum limit of Rs. 400 per month. It was also decided under the said memorandum that the SDA would be granted to the Central Government Civilian Employees (who are saddled with all India Transfer liability) on being posted to N.E. Region. The rate of SDA Rs. 400 was however, subsequently revised from time to time by the Government of India vide O.M. dated 14.12.1983, 1.12.1988 and O.M. dated 22.07.1998.

4.6 That the applicants state that they being the civilian Central Government employees having all India Transfer liability were granted SDA by the respondents themselves, in terms of O.M. dated 14.12.1983. Be it stated that the applicants have been continuously working in the N.E. Region from their date of joining with all India transfer liability and all of them are from outside the North Eastern Region. As per the said O.M. dated 14.12.1983 Special (Duty) Allowance are granted to such civilian employees of the Central Government who are saddled with All India Transfer liability. The relevant portion of the O.M. dated 14.12.1983 is quoted below:

"The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, and Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some time. The

Bepleb Roy Chowdhury

38
7

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 Allowances like Special Compensatory (Remote Locality) allowance, Construction Allowance and Project Allowance will be drawn separately."

An extract copy of the O.M. dated 14.12.1983 is annexed hereto and marked as Annexure-2.

- 4.7 That it is stated that all the present applicants are entitled to payment of SDA in terms of O.M dated 14.12.1983, 12.01.1988 and also in terms of O.M dated 22.07.1998. All the applicants fulfilled the requirements of aforesaid O.M for entitlement of payment of SDA, as because they have posted here on transfer from outside the region and the applicants are saddled with all India transfer liability. The cases of the present applicants

Biplab Roy Chowdhury

are also covered following the decision of Supreme Court of India in the case of Union of India and ors. Vs. S. Vijayakumar and Ors. reported in 1994 Supp (3) SCC 649. Moreover, the decision of this Hon'ble Tribunal in the of O.A. No. 136/2000 decided on 20.12.2000 in the case of Santosh Kr. N.V. Vs. Union of India and Ors. and in the case of O.A. No. 8/2003 decided on 13.02.2003 in the case of Mrs. Santosh Raina Walli Vs. Union of India and Ors. and also in O.A. No. 187/2001 decided on 05.03.2001 in the case of Shri Apurba Ghosh & ors. Vs. Union of India & Ors. The applicants urge to produce the aforesaid decisions at the time of hearing.

4.8 That it is stated, that after their posting at GE, Narangi and at GE, Guwahati respondents on their own granted Special (Duty) Allowances to the applicants after being found eligible for payment of SDA. But most surprisingly the respondents without any prior notice to the applicants all of a sudden, discontinued/stopped the payment of Special (Duty) allowance from the month of March, 2004. It is a settled principle of law that any pay and allowances cannot be reduced without prior notice and on that score alone the action of the respondents are liable to be declared void ab initio.

4.9 That it is stated that the applicants on an enquiry came to learn from a reliable source that Chief Engineer, HQ, Eastern Command, Kolkata vide letter No. 131900/238/2000/PMK/159/Engrs/E-I (legal) dated 06.03.2003 informed the Chief Engineer, Shillong that the post of BS-II, B/R Gde II and LDC/UDC have not been found eligible for grant of SDA as the said posts are not considered having all India transfer liability by the MOD, and asked the authority to take action on the subject matter. However no reason is assigned as to why the posts of LDC or UDC did not adjudged having all India transfer liability, whereas basic condition in the memorandum is that civilian central Govt. employees on posting to NE Region having all India transfer liability are entitled to payment of SDA.

Biplab Roy Chowdhury

The applicants fulfill such criteria as such they are entitled to payment of SDA. The impugned letter dated 06.03.2003 is a cryptic and non-speaking order, as such the same is liable to be set aside and quashed. as the said the payment of SDA has been discontinued

A copy of the impugned letter dated 06.03.2003 is enclosed hereto for the perusal of the Hon'ble Tribunal and marked as Annexure-3.

- 4.10 That it is stated that the CWE, Shillong vide his letter bearing No. 1151/Policy/Gen/92/E-I (legal) dated 29.03.2004 informed that GEs of this area have been directed to initiate action to effect the recovery of payment of SDA made to ineligible person w.e.f. 06.10.2001 and afterwards. On receipt of the said impugned letter the GE, Narangi/GE Guwahati now decided to proceed with the recovery of the amount on account of SDA already paid to the applicants. In fact GE has instructed to made recovery from April, 2004, however recovery is now going to be effected from the pay bill of May, 2004 without prior notice and on that score alone the impugned order of recovery dated 29.03.2004 is liable to be set aside and quashed.

A copy of the impugned order dated 29.03.2004 is annexed hereto for the perusal of the Hon'ble Tribunal and marked as Annexure-4.

- 4.11 That it is stated that recruitment and promotion of the applicants are being made on all India basis, which would be evident from the letter bearing No. A/41205/EIR (SUB) dated 28.02.2002 wherein panel of U.D.C/Steno Grade-III for promotion to the cadre of Assistant for the year 2001 and 2002 have been prepared on all India basis.

Copy of the letter dated 28.02.02 is enclosed hereto for the perusal of Hon'ble Tribunal as Annexure-5.

Bipalab Roy Chowdhury

4.12 That it would also be evident from the various documents relating to appointment, posting, transfer of the applicants issued on different dates by the competent authorities that they are saddled with all India transfer liabilities. Those documents have been annexed hereto for the perusal of the Hon'ble Tribunal and marked as Annexure-6 (Series).

4.13 That it is stated that by the order bearing letter No. 77551/90/Policy/SDA/57/EI (legal) dated 30.01.2004 issued by the HQ, Chief Engineer, Shillong to the CWE, Shillong informed that the post of UDC and LDC are not covered for the grant of SDA. As per para 6(ii) of the Govt. of India, Ministry of Finance O.M dated 29.05.02 but surprisingly para 6 (ii) of O.M dated 29.05.02 does not speak about any condition which is adverse to the interest of the applicants, rather clause 5 of the said O.M dated 29.05.02 in fact support the case of the applicants, wherein it is specifically state that central Govt. employees having all India transfer liability on posting to NE Region from outside the region is entitled to payment of SDA. No reason has been assigned for exclusion of the category of LDC and UDC more particularly who are posted from outside the region for denial of SDA in the impugned letter dated 30.01.04 and on that score alone the impugned letter dated 30.01.04 is liable to be set aside and quashed.

In the facts and circumstances stated above the applicants are saddled with all India transfer liability and as such they are entitled to payment of SDA.

A copy of the impugned letter dated 30.01.2004 and a copy of the O.M dated 29.05.02 are enclosed herewith for the perusal of the Hon'ble Tribunal and marked as Annexure-7 & 8 respectively.

4.14 That it is stated that the respondents have already started the process of recovery of SDA without issuing any notice from the applicants from the

Biplob Ray Chowdhury

pay bill of May, 2004, therefore the Hon'ble Tribunal be pleased to restrain them by passing an appropriate interim order and also be pleased to declare that the applicants are entitled to payment of SDA with arrear monetary benefits. There is no opportunity on the part of the applicants to submit representation for stoppage and recovery of SDA at this stage and therefore approaching this Hon'ble Tribunal in the compelling circumstances for grant of immediate reliefs to the applicants by passing an interim order.

- 4.15 That your applicants being aggrieved for discontinuation of the SDA as well as for the impugned order of recoveries of SDA from the pay bill of May 2004, the present applicants approached this Hon'ble Tribunal through 117/2004 (B.Roychoudhury and Ors. -vs- U.O.1 and Ors.). The said O.A was disposed of by the learned Tribunal on 02.06.2005.

The Hon'ble Tribunal in paragraph 2 and 3 of the judgment, it is specifically held that special duty allowance (SDA) are admissible to the Central Govt. employees having all India Transfer liability on posting to N.E. Region from outside the region. Moreover, in paragraph 4 and 5 of the judgment of the learned Tribunal specifically stated that in view of the governing principles quoted in paragraph 2 of the judgment dated 31.05.2005 in O.A.No. 170/99, if the applicants satisfy those criteria then they are entitled to SDA, however, satisfaction of the governing principles is laid down in the matter required to be verified by the competent authority and in such circumstances this Hon'ble Tribunal directed the 3rd respondent to consider the claim of the applicants to grant of SDA in the light of the governing principles stated in the judgment, after ascertaining the factual position. There was a further direction of the Hon'ble Tribunal that the said exercise should be done within 2 months from the receipt of this order and the order must be speaking one.

Be it stated that applicants after receipt of the judgment dated 02.06.05 submitted representations to the authority on 07.07.05 praying for payment of SDA and also for implementation of the judgment dated 02.06.05.

Justice Swamy
Bipal Roy Choudhury

A Copy of the judgment and order dated 02.06.2005 is enclosed as Annexure-9.

4.16 That your applicants further beg to say that the Chief Engineer, HQ office, Shillong vide impugned order bearing letter no. 70222/OA 117/61/E I (legal) dated 11.08.2005 have considered the case of the applicant without taking into account the factual position and relevant documents rejected the claim of the applicant for payment of SDA that too in a very cryptic manner without application of mind and also without considering the relevant documents relied on by the applicants in their O.A i.e in O.A no. 117/2004. In the said impugned order the Chief Engineer has specifically stated that grant of SDA or payment of SDA is governed by the existing policy/instruction formulated by the Ministry of Finance, Deptt. of Expenditure in pursuant to the Hon'ble Supreme Court's judgment and order dated 05.10.2001 delivered in the appeal of Telecom Department, again Chief Engineer further relied upon the O.M dated 29.05.2002 issued by the Ministry of Finance, Govt. of India, it is further stated in paragraph 3 of the impugned letter dated 11.08.2005 that H.Q., Engineering Crafts Branch has drawn up of a list of categories of staffs in MES, who found to have been fulfilled the criteria of All India Transfer liability and all India common seniority list for the purpose of SDA on their posting/re-posting to N.E. Region irrespective of the fact whether applicants are initially recruited in N.E. Region or outside the region.

On a careful reading of the O.M dated 29.05.2002, which is relied on by the respondents specially supported the case of the present applicants, the relevant portion of paragraph 4 and 5 are quoted under for perusal of the Hon'ble Court.

"4. In a recent appeal filed by Telecom Department (Civil Appeal no. 7000 arising out of SLP No. 5455 of 1999),

Biplob Roy Chowdhury

Supreme Court of India has ordered on 05.10.2001 that this appeal is covered by the judgment of this court, in the case of U.O.I and others -vs- S.Vijoy Kumar and others. (reported as 1994 (Supp. 3) SCC, 619) and followed in the case of U.O.I and Others -vs- Executive officers Association Group "C" [1995 (Supp-1) SCC, 757]. Therefore, this appeal is to be allowed in favour of the U.O.I. The Hon'ble Supreme Court further ordered that whatever amount has been paid to the employee 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 judgments, 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 regularised strictly in accordance with the above-mentioned criteria".

It is quite clear from the O.M dated 29.05.2002 that the SDA shall be admissible to Central Govt. employees having all India transfer liability on posting to N.E. Region to outside the region, even the condition of all India seniority has not been mentioned in one of the condition precedent as one of the SDA in paragraph 5 of the O.M dated 29.05.2002, in paragraph 4 of the memorandum the Govt. of India have referred the judgment of the Hon'ble Supreme Court passed in the case of U.O.I and ors. -vs- S.Vijoy Kumar and ors. Reported in 1994 Suppli

Biplob Roy Chowdhury

(3) page- 649. In paragraph 5 it has been specifically stated that the SDA shall be admissible to Central Govt. employees having all India Transfer liability on posting to N.E. Region from outside the region. The relevant portion of paragraph 5 of the of the O.M dated 29.05.2002 is quoted below:-

"5. In view of the aforesaid judgments, 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 regularised strictly in accordance with the above-mentioned criteria".

It is quite clear from paragraph 5 of the clarificatory O.M dated 29.05.2002 that Central Govt. civilian employees posted to N.E. Region from outside the region shall be entitled to SDA provided they have all India transfer liability and it has been directed by the Govt. of India to grant S.D.A strictly in accordance with the above mentioned criteria, therefore case of the present applicants are squarely covered by the clarificatory O.M dated 29.05.2002 and as such the said memorandum cannot be used as an instrument against the applicants while deciding the issue of entitlement of SDA in respect of present applicants since the applicants are not the permanent resident of N.E. Region and they have been posted to N.E. Region from outside the region. The contention raised in para 4 of the impugned letter dated 11.08.2005, wherein, it is stated that in view of the present policy of Engineer-in-Chiefs Branch letter no. 90237/7521/E I

Be'plab Roy Chowdhury

(legal) dated 04.06.2003 and amended vide 03rd Oct 2003. As such applicants are not entitled to payment of SDA, at this stage it may be stated herein in para 4 of the impugned letter dated 04.06.2003 amended vide 03rd October, 2003 communicated through letter dated 30.01.2004 is contrary to the criteria laid down in clarificatory O.M dated 29.05.2002 as well as law laid down by the Hon'ble Tribunal in the judgment and order dated 20.12.2000 in O.A no. 136/2000 and also in O.A no. 8/2002 decided on 13.02.2003, the case of the applicant also covered by the decision rendered in the Hon'ble Gauhati High Court in WP (C) No. 7057 (U.O.I and Others -vs- Apurba Kumar Ghosh and Others) decided on 04.01.2006. It is categorically submitted that the respondents themselves have admitted in their written statement. More particularly, in paragraph 1 (m) filed in O.A.No. 117/2004 that the applicants have All India transfer liability and all India common seniority. The relevant portion of the written statement of paragraph 1 (m) is quoted below:-

" Therefore preparation of seniority list of UDC's/Steno-III (clerical optee) for the purpose of promotion to the post of Assistant having all India liability and All India common seniority list does not mean the incumbents of posts of UDC's/Steno-III (clerical optee) are covered by the criteria of "All India Transfer liability " and "All India common seniority list" for the purpose of payment of SDA on the posting of incumbents to N.E.Region from outside the NER".

It is quite clear from the written statement that the present applicants are saddled with all India transfer liability and all India seniority. The clause of all India transfer liability was specifically laid down in the offer of appointment letter of the individual applicants and the applicants accepting the aforesaid clause joined the services under the respondents

Biplob Roy Chowdhury

and as such denial of benefit of SDA on the alleged ground that the applicants are not saddled with all India transfer liability is highly arbitrary, unfair and illegal. Moreover, it would be evident for the ENC's branch letter no. 41269/EIDPC dated 25.02.2005, whereby, seniority of the UDC is maintained on all India basis for the purpose of promotion has been published. As such contention of the respondents that seniority of the applicants are being maintained only for the purpose of promotion to the cadre of assistant from the cadre of UDC but all India seniority is not maintained for grant of SDA is highly arbitrary and contrary to the criteria laid down for grant of SDA. Moreover in paragraph 5 of the impugned letter dated 11.08.2005, it has been taken up by the Chief Engineer, H.Q. Eastern Command with Engineer-in-chief's branch for inclusion of left over categories of subordinate staffs who are posted to N.E. Region from outside on tenure posting in whose case all India seniority list is not maintained for the purpose of payment of SDA and the decision is still awaited from higher H.Q. therefore it is not understood when a case has been taken up and the same is pending in the Engineer-in-Chief's branch, how the claim of the applicants has been ejected and it is also not understood how the all India seniority is required to be maintained for payment of SDA. Therefore contention raised in the impugned letter dated 11.08.2005 is irrelevant, incorrect and contrary to the factual position and as such the impugned letter dated 11.08.2005 is liable to set aside and quashed.

Bipalab Roy Chowdhury

(A Copy of the All India seniority list dated 25.05.2005, ^{Representation} and ¹¹ dated 07.07.05 and impugned letter dated 11.08.2005 is enclosed as Annexure-10 and ¹² H1).

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

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

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

5.2 For that, the applicants are posted at Guwahati from outside the N.E. Region, and they are not the permanent residents of N.E. Region.

5.3 For that, the applicants had been directed to move to N.E. Region for their posting at Guwahati, in public interest.

5.4 For that, the applicants are saddled with all India Transfer liability as per condition stipulated in their offer of appointment letters.

5.5 For that discontinuation of payment of SDA has been made in total violation of principle of natural justice, without any show cause or notice.

5.6 For that recovery and discontinuation of payment of SDA has been made in total violation of principles natural justice.

5.7 For that issues involved in the instant case has already been settled by this Hon'ble Tribunal in a series of cases of similar nature.

5.8 For that the case of the applicants are squarely covered following the clarificatory order contained in the O.M. dated 29.05.2002 issued by the

Biplab Roy Chowdhury

Govt. of India, Ministry of Finance. More particularly in view of the clause 5 of the aforesaid memorandum.

- 5.9 For that decision rendered by this Hon'ble Tribunal on 20.12.2000 in O.A.No.136/2000 and in O.A. No.8/2002 decided on 13.02.2003 also gain support the contention raised by the present applicants in the instant proceeding.
- 5.10 For that the contention raised in letter dated 11.08.2005 is contrary to the criteria laid down for payment of SDA by the Govt. of India in their O.M dated 29.05.2002 and on that score alone impugned letter dated 11.08.2005 is liable to be set aside and quashed.
- 5.11 For that applicants are saddled with all India transfer liability as per condition laid down in their offer of appointment letter. Moreover the seniority are maintained on all India basis for promotion to the cadre of Assistant from UDC. Which is admitted by the respondents in their written statements in O.A.No. 117/2004.
- 5.12 For that the decision of the Engineer-in-Chief's branch contained in the impugned letter dated 04.06.2003, amended vide letter dated 03.10.2003 and communicated through letter dated 30.01.2004 are contrary to the criteria laid down in the Govt. O.M dated 29.05.2002 as well as decision rendered by the Hon'ble Tribunal, High Court's as well as the decision of the Hon'ble Supreme Court in Vijoy Kumar's case.
- 5.13 For that non-payment of S.D.A to the present applicants is in violation of Article 14 of the Constitution of India.
6. Details of remedies exhausted.
Remedies available to the applicants have already been exhausted.
7. Matters not previously filed or pending with any other Court.

Bijlab Roy Chowdhury

The applicants further declare that they had not previously filed the original application no. 117/2004, but the same is already disposed.

8. Relief(s) sought for:

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

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No.131900/238/2000/PMK/159/Engrs/E-I (legal) dated 06.03.2003 (Annexure-3), 1151/Policy/Gen/92/EI (legal) dated 29.03.04 (Annexure-4) and letter dated 04.06.2003 and 03.10.2003 communicated vide letter dated 30.01.2004 as well as the impugned letter dated 11.08.2005. (Annexure-7 & 12).

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.

8.3 Costs of the application.

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

9. Interim order prayed for.

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

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to make any recovery on account of SDA all ready paid to the applicants till disposal of the application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | |
|------|---------------|---------------|
| i) | I. P. O. No. | : 269 317925 |
| ii) | Date of Issue | : 12.07.05 |
| iii) | Issued from | : G.P.O, Ghy. |
| iv) | Payable at | : G.P.O, Ghy. |

12. List of enclosures.

As given in the index.

Biplab Roy Chowdhury

VERIFICATION

I, Shri Biplab Roy Choudhury, Son of Late Phani Bhusan Roy Choudhury, aged about 47 years, working U.D.C. in G.E. Narangi, one of the applicants in the instant application and duly authorized by the other applicants to verify the statements made in this application and to sign this verification. Accordingly I declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 22nd day of January, 2006.

Biplab Roy Choudhury

1

Headquarters
135 Works Engineers
C/O 99 AFO

08 Apr '82

108/08/EIA

MS-1081

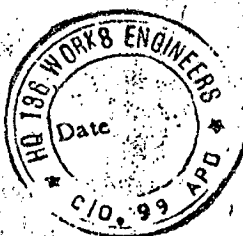
SIR NEEL KANTI SIR, Harbour Q/TO

APPOINTMENT ORDER

Dear Sir,

1. You have been selected and appointed for the post of Lower Divn Clerk the scale of Rs. 260-6-290-11-6-326-8-346-11-6-390-10-600/- alongwith other allowance as admissible from time to time as per Central Government rules and posted to GE Chaprai.
2. Your appointment is subject to the condition as mentioned in the attached appendix 'A'.
3. You will be on probation for a period of two years from the date of appointment, which may be extended at the discretion of the appointing authority.
4. Further annual increment will be granted as and when due.
5. You are requested to report 15 APR 82 to GE Chaprai for assuming Lower Division Clerk appointment in the existing vacancy on or before 15 APR 82, otherwise this offer of appointment stands cancelled.
6. Please note that no TA/DA will be paid for the journey.
7. Please acknowledge receipt.

Authority :- GE HQ EG Calcutta letter No 131301/1/490/Engrs/XIC(1)
Dated 02 Feb 82.



(Signature)
(S R Iyengar)
Lt Col
Cdr Works Engineers

Copy to :-

1. Chief Engineer Eastern Command Calcutta
 2. Chief Engineer Bengal Zone Calcutta
 3. Cdr Patna
 4. DDA (Area Account Office) Siliguri
 5. GE Chaprai
 6. GE Chaprai
- MS Shan*

alongwith police verification.
GE report and conduct in
original.

(Handwritten signature)
Advocate

Appendix 'A'

TERMS AND CONDITIONS OF SERVICE FOR APPOINTMENT

Late Himel Chandra Sen

1. The appointment shall be for a period of one year, which may be extended for a further period of one year, but the total period of service shall not exceed two years. The appointee shall be liable to discharge from service at any time.

2. The appointment may be terminated at any time on the month's notice given by either side viz. the appointee or the appointing authority without assigning any reasons. The appointing authority however, reserves the right of terminating the services of the appointee at any time before the expiry of the stipulated period of notice by making payment to him of a sum of equivalent to the pay and allowances for the period of the notice or the un-expired portion thereof.

3. He shall be required to serve anywhere in India and will be subject to Civil Defence Service (Disability Rules) 1967.

4. No TA/DA will be admissible to join the first appointment.

5. He will be required to take oath/affirmation on the following form :-

I do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the constitution of India as by law established and that I will uphold to sovereignty and integrity of India and that I will carry out the duties of my office loyally, honestly and with impartiality.

6. This offer of appointment is subject to the condition that he does not have more than one wife living as per Central/Civil Service (Conduct) Rules 1964 and declaration to this effect will be produced while reporting for duty.

7. He will be subject to conditions of service as applicable to Temporary Civilian Govt. servants paid from Defence Service Estimates in accordance with the orders issued by the Govt. of India from time to time.

8. The following will be produced to the authority to whom he is directed to report for duty :-

- (a) Educational certificate in original in proof of his date of birth.
- (b) Since you are an Ex-Serviceman discharged from Army certificate of fitness for Civil job as shown in Discharged certificate/Medical Report on fitness of civilians for field service (Schedule - III).
- (c) Declaration to the effect that he does not have more than one wife living.
- (d) Those who belong to SC/ST they must produce Caste certificate from the Deputy Commissioner.

.....P/2

5

After submission of the documents mentioned above, the appointee will be required to submit the following documents:

- (a) Declaration of oath/affirmation regarding his allegiance to the Government of India.
- (b) Declaration of movable and immovable property held by him.

If any declaration given or information furnished by him proves to be false, or if he is found to have furnished false or material information, he will be liable for punishment under the provisions of the departmental regulations and may be dismissed from service.

SR Iyengar

(SR Iyengar)
Lt Col
Commander Works Engineers

(SR Iyengar)

After submission of the documents mentioned above, the appointee will be required to submit the following documents:

Tel: ML 2/253

Registered Ack Due

Office of the Chief Engineer
Siliguri Zone
Bengdubi Post
Darjeeling Dist (W.B)

95 Mar 84

1004/10/ 93 AK(1)

Shri Kanchan Chatterjee
C/O Shri Kanchan Chatterjee
1004/10/ 93 AK(1)
Bengdubi Post, Darjeeling (W.B)

APPOINTMENT ORDER

1. You have been appointed as Assistant Engineer in the scale of Rs. 1000-1500 along with other allowances as admissible for time to time General Govt Rules and posted to ...
2. Your appointment is subject to the conditions as mentioned in the attached Appendix 'A'.
3. You will be on probation for a period of two years from the date of appointment, which may be extended at the discretion of the appointing authority.
4. Further annual increment will be granted as and when due.
5. You are requested to report to ... for assuming appointment in the existing vacancy on or before 10 Apr 84 otherwise this offer of appointment will be cancelled.
6. Please note that No TA/DA will be paid for the journey.
7. Please acknowledge receipt.

Authority: By G.S. AC Calcutta letter No 131303/1/292/Agrs/AK(1) dt 02 Mar 83 and 131303/1/1417/Agrs/AK(1) dt 22 Feb 84.

AS/-

Copy to :-

24 Eastern Command
Agre Branch (AK(1))
Fort William
Calcutta - 71.

(SR Gupta)
Adm Offr I
for Chief Engineer

Contd 1... 2/-

Attest
Mr. Advocate

Internal

CONFIDENTIAL

✓ 4.7 Section - Alongwith CV Roll in respect of the candidate verified by State Police and CBI authorities for documentation. Please intimate the date of assumption or otherwise of the individual to all concerned. ~~For information of the concerned authorities~~



Please get.

Encls: (11)

1. He will be on probation for a period of two years from the date of appointment which may be extended at the discretion of the appointing authority. Failing to complete the period of probation to the satisfaction of competent authority will render him liable to discharge from service.
2. The appointment may be terminated at any time on the basis of the report given by the appointing authority.

- Michael
J. Advocate

Annexure - 2

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

Handwritten signature and initials
Advocate

Telo : Mil -2449

2 MAR 2003

Annexure 3

Chief Engineer
HQ Eastern Command
Fort William
Kolkata -21

131900/238/2000/PMK/159/Engre/E1(Legal)

06 Mar 03

Chief Engineer
Shillong Zone
SE Falls
Shillong -793011

(For Personal perusal of GE)

IMPLEMENTATION OF CAT GUWAHATI JUDGMENT
DATED 25 SEP 01 IN OA NO 238/2000 FILED
BY SHRI P M KITTAN AND 2 OTHERS

1. Reference HQ E-in-C's Branch letter No 90237/7521/
E1C(Legal-C) dt 24 Feb 03.
2. Please take immediate action to initiate Charged
Expenditure in respect of Shri B B Das, BSO and Shri
A K Bhattacharjee, AE. Contempt petition is already pending
against Doptt in the subject case. Also confirm that
speaking order has since been served to Shri B B Das, BSO
and Shri P M Kittan, UDC by GE Dibrugarh and GE Tezpur
respectively. Please forward copy of receipt for onward
transmission to HQ E-in-C's Branch.
3. From perusal of speaking orders, it is observed that
post of BS-II, B/R Gds II and LOC/UDC have not been found
eligible for grant of SDA bds as posts are not considered
having All India Transfer Liability by MOD. As per
information of this HQ, all the individuals (Posted in NER)
who were not recruited in NER are receiving SDA on regular
basis irrespective of posts they are holding. Please look
into the matter and take immediate corrective action on the
subject matter. Also forward list of categories of Govt
Servants who are in receipt of SDA as per pay bill of Feb 03.

Copy to :-
CE (AF)
Shillong Zone

Internal

EIC (3) Sec

- For information and similar action on
para 3 above. Copies of speaking
orders is enclosed.

- For information and necessary action.
Necessary clarification/direction be
issued on the subject matter. Concur

(AOR) 13
(Ajay Kumar)
SE
SO-1(Legal)
for Chief Engineer

Alfred
R.C.
Advocate

Tele : 5045(Milly)

C/O Commander Works Engineer
Spread Eagle Falls
Shillong- 793011

1151/Policy/Gen/ 92 /EI(Legal) 29 Mar 2004

HQ CK Shillong Zone
Spread Eagle Falls
Shillong- 793011

PAYMENT OF SDA TO MES EMPLOYEES

1. Reference your HQ letter No. 77551/93/Policy/SDA/57/
EI(Legal) dated 30 Jan 2004.
2. Details of ineligible personnel those who have been
paid SDA after 05 Oct 2001 alongwith financial effect indicat-
ed against the name of each individual is fwd herewith as per
proforma attached in duplicate.
3. In spite of repeated reminders inclusive of LD letter
from CME, the subject report in respect of GR Umroi is still
awaited. The same will be fwd on receipt.
4. GR Shillong has submitted Nil report stating therein
that there is no one who is involved for payment of SDA wof
05 Oct 01 till date as per regular pay bills except one Shri
Susovan Ghosh, JR(E/A) who has posted in from Kolkata.
5. GEs of this area have been directed to initiate action
to effect the recovery of payment of SDA made to ineligible
personnel wof 05 Oct 2001. Ineligible personnel include those
who have been paid posted out wof 05 Oct 2001 and after wards.

(V Dhar)
Addl SA Asstt Director(Adm)
For CME Shillong

Encls :- As above

Copy to :-

GR Umroi - In spite of repeated reminders, the subject
report as called for and due to reach this office
latest by 29 Feb 2004 has not yet been recol-
ved. Please expedite the same with explanation
for inordinate delay.

GE Narangi
GE Guwahati
GR 583 Engrs Park
C/O 99 APC

For information and necessary administrative
action as per para 5 above.

Handwritten signature
Handwritten signature

EIE

2
01/04

432

3/2

08

Start recovery from lay - bill of
Apr 2004 onwards.

Q

2/4

Tele : 3019687

Chief & Pers Directorate/EIR(SUB)
Engineer-in-Chief's Branch
Army HQ, DHQ, PO
New Delhi - 110 001

28 Feb 2002

A/41205/EIR(SUB)

All CEs Command
(List 'A')

PANEL OF UDCs/STENO GDE III(CIK OPTEE) FOR PROMOTION
TO THE GRADE OF ASSISTANT IN MES, MIN OF DEF

1. A panel of 780 UDCs/Steno Gde III(Cik Optee) including extended panel, enclosed as Appx 'A' have been approved for promotion to the grade of Assistant in Military Engineer Services, Min. of Def.
2. The above mentioned panel will be operative upto and including 26 Feb 2003 unless reviewed earlier by the Departmental Promotion committee or specifically extended beyond this date by the competent authority.
3. Actual appointment of Assistant included in the panel will be made in the order shown therein subject to the availability of the vacancies and issue of the order of promotion by the competent authority.
4. Power to accept the refusal of promotion has been delegated to CEs Command by this HQ. Therefore it may kept in view that no representation regarding refusal of promotion shall be entertained unless representation is preferred within 45(Forty five) days from the date of communication of order. After acceptance of refusal a list of individuals who refused their regular promotion may please be submitted to this HQ by 31 Oct 2002.
5. In case of ACP, individuals who will refuse regular promotion, their case may be dealt in accordance with instructions issued vide this HQ letter No 79812/ACP/11/EIC(1) dt 08 Aug 2000 and AG's Br AHQ letter No 15575/CP-4(Civ)(a) dt 25 Jul 2000.
6. Instruction contained in Para 4 and 5 quoted above may please be brought to the notice of the affected individuals.
7. Before placing in position on promotion, it should be ensured by the concerned CE Comd that the individuals are not involved in any disp/SPE cases.
8. Although every care has been taken by this HQ as well as DPC for verification of service records, the same may please be checked from relevant documents by respective CEs Comd before placed in position.

(Ak Gago padhay)
PAO
SO IL(Pers)
for Engineer-in-Chief

Encl: As above

Copy to:-

1. List 'B'

2. DGND Mumbai

3. DGND Vishakhapatnam

4. CME Pune - 31,

INTERNAL - EIC & E Coord 1

Allesha
for
signature

34- 5

Appendix 'A'

(Refers to P-in-C's Branch letter No.
41205/DIR(Sub) dated Feb 2002)

PANEL OF UDCs/STENO GDE-III (CLK OPTEE) FOR PROMOTION
TO ASSISTANT IN THE MES FOR THE YEAR 2001-02

Sl No	MES No & Name	Design	Whether SC/ST	Date of Birth	Command
1	2	3	4	5	6
1.	224511 Sh. GR Pillai	Steno	U B	26-12-46	SC
2.	408692 Sh. K. Bhaskaran Nair	Steno	-do-	03-11-46	CC
3.	242154 Sh. Suresh Kumar Soni	Steno	-do-	15-6-43	WC
4.	157855 Sh. PG Thite	UDC	-do-	01-11-44	SC
5.	154007 Sh. Srikant Shakar Panas	UDC	-do-	01-8-44	SC
6.	465519 Sh. Surendra Kumar Karan	Steno	-do-	29-1-47	CC
7.	243013 Sh Swapan Kumar Deb	Steno	-do-	01-1-47	EC
8.	263290 Sh.. CR Menon	Steno	-do-	15-3-49	SC
9.	439022 Sh. G Sukumaran Pillai	Steno	-do-	28-6-47	CC
10.	238019 Sh. VS Gopinathan	Steno	-do-	31-10-48	SC
11.	116382 Sh. A Ramachandran	Steno	-do-	26-5-49	SC
12.	405288 Sh. PV Chandran	Steno	-do-	07-6-51	SC
13.	125249 Smt. Gomati Krishnan	Steno	-do-	04-1-48	SC
14.	238021 Sh. M Mukundan	Steno	-do-	14-4-47	SC
15.	310783 Smt Suman Sikka	Steno	-do-	20-10-52	WC
16.	4665536 Sh. Jata Shankar Prasad	Steno	-do-	02-7-47	CC
17.	460070 Sh Nand Kishore	UDC	-do-	02-11-43	CC
18.	232961 Sh. Tarak Nath Mukhopadhyaya	Steno	-do-	04-10-48	EC
19.	202426 Sh. Tara Pada Ghosh	Steno	-do-	05-9-47	EC
20.	467663 Sh Ashok Kumar Verma	Steno	-do-	07-7-52	CC
21.	169570 Sh. Amar Jit Singh	Steno	-do-	01-5-50	WC

.....2/-

-2- -35-

1	2	3	4	5	
22.	419797 Sh. Jose KS	Steno	-do-	04-4-48	
23.	418502 Smt Valsamma John	Steno	-do-	06-11-43	SC
24.	455200 Sh P Ali	Steno	-do-	24-9-49	SC
25.	311124 Smt Meena Rani	Steno	-do-	13-1-51	WC
26.	311071 Smt Charanjit Kaur	Steno	-do-	18-6-51	WC
27.	439523 Sh Ramesh Chandra Srivastava	Steno	-do-	28-1-49	CC
28.	311430 Sh Satish Kumar Selgal	Steno	-do-	08-4-53	WC
29.	265237 Sh PK Jayaraj	Steno	-do-	23-3-49	SC
30.	439015 Sh. Birendra Nath Choubey	Steno	-do-	21-1-54	CC
31.	439524 Sh. Sosamma Joseph	Steno	-do-	16-5-51	CC
32.	312334 Sh Vinod Kumar	Steno	-do-	06-1-50	SC
33.	312410 Sh. Jasbir Singh	Steno	-do-	02-2-52	WC
34.	312363 Smt Ajit Kaur	Steno	-do-	09-3-52	WC
35.	312411 Sh Jagdish Singh Bhandari	Steno	-do-	30-12-53	CC
36.	312212 Sh. AC Malik	Steno	-do-	26-11-53	WC
37.	430362 Sh. Jeardhan Trivedi	UDC	-do-	02-10-42	CC
38.	450083 Sh. Inder Lal Maawani	UDC	-do-	14-10-41	CC
39.	502019 Sh. Dharam Bir	Steno	-do-	15-10-55	WC
40.	312386 Sh. RK Pillai MN	Steno	-do-	12-12-54	SC
41.	312371 Sh. VJ Chacko	Steno	-do-	23-5-51	WC
42.	311417 Sh. KP Ravi	Steno	-do-	10-6-51	SC
43.	312378 Sh SS Nair	Steno	-do-	10-2-50	SC
44.	312399 Sh Surendra Kumar Arora	Steno	-do-	01-1-47	CC
45.	465531 Sh Dineswar Prasad Singh	UDC	-do-	23-6-43	CC
46.	440630 Sh. Vishwa Bandhu Rastogi	UDC	-do-	07-6-42	CC
47.	167360 Sk KV Pitambaran	Steno	-do-	10-12-51	SC
48.	312473 Sh Pramod Kumar Khera	Steno	-do-	27-4-53	WC
49.	A/8003865 Sh. Prayag Datt Kandpal	UDC	-do-	20-5-41	CC
50.	101732 Sh. M Sreeramulu	UDC	-do-	05-7-42	SC
51.	455407 Sh Hari Dutt Upadhyay	UDC	-do-	10-1-42	CC
52.	137055 Sh. DJ Devanbu	UDC	-do-	14-4-42	SC

3/-

1	2	3	4	5	6
482	455439 Sh Kunwar Ram Arya	UDC	S/C	13-1-45	CC
483	440682 Sh Nand Ram	UDC	S/C	01-7-42	CC
484	406090 Sh BD Dongare	UDC	S/C	21-7-43	CC
485	237545 Sh MS Ghodeswar	UDC	S/C	09-9-43	SC
486	A/6427429 Sh Jaswant Singh	UDC	U/R	01-8-42	WC
487	113098 Smt KP Nair	UDC	U/R	10-5-41	WC
488	502335 Sh Hans Raj	UDC	S/C	07-5-55	NC
489	303474 Sh Hari Chand	UDC	U/R	02-1-42	WC
490	50232339 Sh Mohinder Kaur	UDC	S/C	01-10-50	NC
491	303913 Sh Arjundev Kakar	UDC	U/R	05-3-42	WC
492	308284 Sh VM Mohan	UDC	U/R	03-4-45	WC
493	305369 Sh Dhian Singh	UDC	U/R	01-10-42	WC
494	303915 Sh KL Ratra	UDC	U/R	01-4-44	WC
495	304441 Kuldip Singh	UDC	U/R	04-10-41	WC
496	304160 Sh Virendera Pratap	UDC	U/R	17-10-42	WC
497	232221 Sh Sobha Ram Deka	UDC	U/R	01-9-41	EC
498	206222 Sh Sudhansu Kumar Ghosh	UDC	U/R	22-3-44	EC
499	223421 Sh Subal Chandra Dutta	UDC	U/R	01-3-44	EC
500	224061 Sh N Babu Rao	UDC	U/R	31-1-42	EC
501	201102 Sh Basudeb Samanta	UDC	U/R	21-5-44	EC
502	312033 Sh Rameshwar Singh	UDC	U/R	13-12-44	EC
503	210234 Sh Mihir Kanti Rudra	UDC	U/R	01-01-44	EC
504	224061 Sh Tanin Chandra Banerjee	UDC	U/R	01-02-44	EC
505	210232 Sh Bimalendu Das Gupta	UDC	U/R	09-2-43	EC
506	216107 Sh Sridam Chandra Paul	UDC	U/R	02-12-44	EC
507	242164 Sh Binanda Chandra Dutta	UDC	U/R	01-10-43	EC
508	242090 Sh Khirod Chandra Bora	UDC	U/R	01-2-45	EC
509	246435 Sh Chittaranjan Dutta	UDC	U/R	15-2-42	EC
510	224195 Sh Promod Chandra De	UDC	U/R	01-4-42	EC
511	206520 Smt Rekha Gulia	UDC	U/R	24-1-44	EC
512	242159 Sh Hemanta Kumar Dutta	UDC	U/R	01-3-42	EC

..... 16/-

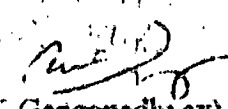
1	2	3	4	5	6
513	232155 Sh Gouri Sankar Chakraborty	UDC	U/R	01-6-43	EC
514	216106 Sh Tarapada Ghosh	UDC	U/R	01-1-46	EC
515	210241 Smt Surama Das	UDC	U/R	19-3-43	EC
516	263022 Sh Krishna Chandra Sarkar	UDC	U/R	03-1-42	EC
517	224240 Sh Rajat Kanti Dev	UDC	U/R	01-8-43	EC
518	210619 Sh Narendra Nath Das	UDC	U/R	02-1-46	EC
519	237535 Sh Dharma Kanta Phukan	UDC	U/R	01-6-43	EC
520	260144 Sh Panchanan Ghosh	UDC	U/R	01-9-44	EC
521	263113 Sh P J Mathai	UDC	U/R	31-7-42	EC
522	260130 Sh R Aravindakshan	UDC	U/R	14-11-45	EC
523	237268 Sh Nirmai Kumar Chakraborty	UDC	U/R	05-7-43	EC
524	246558 Sh Anil Krishna Roy	UDC	U/R	31-3-44	EC
525	253091 Sh Tara Das Banerjee	UDC	U/R	10-4-43	EC
526	400431 Sh Nirmalendu Chakraborty	UDC	U/R	01-2-44	EC
527	264003 Sh Balai Chandra Basu	UDC	U/R	01-5-43	EC
528	264045 Sh Ajodhya Prasad Sen	UDC	U/R	01-4-42	EC
529	A/9920294 Sh OP Sharma	UDC	U/R	13-10-45	WC
530	140012 Sh L Raghupathi	UDC	U/R	14-1-45	SC
531	113220 Sh A C Mathai	UDC	U/R	08-5-41	SC
532	148231 Sh V N Chengal Varayan	UDC	U/R	22-7-43	SC
533	154065 Smt Sarala P Patni	UDC	U/R	06-1-45	SC
534	151941 T Sankunny	UDC	U/R	01-3-42	SC
535	113232 Km Usha H Shahani	UDC	U/R	27-10-44	SC
536	153067 Sh VD Gabhane	UDC	U/R	01-3-45	SC
537	103359 Smt Lata S Varavdakar	UDC	U/R	26-2-44	SC
538	105409 Sh D V Likhitar	UDC	U/R	05-5-43	SC
539	141063 Sh M Gopal Krishna	UDC	U/R	13-2-43	SC
540	1055402 Sh S A Sayyed	UDC	U/R	27-7-44	SC
541	305534 Sh P Madhawan	UDC	U/R	08-9-45	SC
542	129252 Smt A Varghese	UDC	U/R	29-4-42	SC
543	100951 Sh A R Deshpande	UDC	U/R	01-10-44	SC

/.....17/-

1	2	3	4	5	6
726	425030 Sh U K Mullick	UDC	U/R	08-5-41	CC
727	305320 Sh Ajaib Ali Khan	UDC	U/R	11-8-43	CC
728	445019 Sh Tilak Raj	UDC	U/R	15-10-41	CC
729	440653 Sh L K Saxena	UDC	U/R	08-1-44	CC
730	253920 Sh Girdhari Lal Goel	UDC	U/R	05-1-45	CC
731	430535 Sh S D Banerjee	UDC	U/R	01-7-41	CC
732	445085 Sh Gopal Kishan	UDC	U/R	07-3-44	CC
733	460570 Sh Harish Chandra	UDC	U/R	05-12-44	CC
734	446619 Sh Surendera Kumar	UDC	U/R	10-6-41	CC
735	460765 Sh R K Kurcel	UDC	S/C	01-1-45	CC
736	450467 Sh Kalu Ram Dhanuk	UDC	S/C	07-3-42	CC
737	504120 Sh Lal Singh	UDC	S/C	14-4-93	NC
738	312290 Sh Shankar Dass	UDC	U/R	01-6-92	NC
739	312357 Sh Maddan Lal Kanotra	UDC	U/R	11-10-42	NC
740	2656 Sh PG Soman	UDC	U/R	20-1-52	SC
741	312358 Sh Rajinder Kumar	UDC	U/R	12-1-52	NC
742	8057183 Sh Sukumaran Nair	UDC	U/R	08-11-55	SC
743	232255 Sh Rabindra Nath Bose	UDC	U/R	01-5-42	EC
744	263026 Smt Renuka Biswas	UDC	U/R	18-4-45	EC
745	206048 Smt Anita Das	UDC	U/R	16-12-43	EC
746	242150 Smt Safali Dey	UDC	U/R	11-4-43	EC
747	201125 Smt Anita Dhar	UDC	U/R	28-1-42	EC
748	201117 Smt Anjali Sarbadhikary	UDC	U/R	04-11-42	EC
749	465537 Smt Dipali Dey	UDC	S/C	10-10-53	EC
750	202633 Smt Anjali Mondal	UDC	S/C	01-1-55	EC
* 751A 751	A/8053319 Sh Som Nath Belhera	UDC	S/C	02-4-52	EC
752	460697 Sh SP Verma	UDC	U/R	12-2-42	CC
753	303777 Sh D S Uniyal	UDC	U/R	25-7-42	CC
754	242168 Sh. Chandra Kant Mishra	UDC	U/R	22-3-44	CC
755	400358 Sh Brij Mohan Gola	UDC	U/R	06-4-44	CC
756	412114 Sh R S Tewari	UDC	U/R	20-6-42	CC
* 751A	400155 Smt Avinash Bafai	UDC	U/R	20-12-44	CC

1	2	3	4	5	6
757	201215 Sh Banarsi Lal	UDC	U/R	08-8-44	CC
758	430012 Sh A H Khan	UDC	U/R	04-10-41	CC
759	466227 Sh B D Prasad	UDC	U/R	03-1-43	CC
760	450379 Sh Dauji	UDC	U/R	01-8-44	CC
761	312638 Sh Dharam Beer	UDC	U/R	15-2-57	WC
762	305790 Sh Jit Ram	UDC	S/C	20-10-41	WC
763	306841 Smt Leela Rani	UDC	U/R	15-7-42	WC
764	430878 Sh P C Sharma	UDC	U/R	20-11-44	CC
765	430485 Sh Chhiter Mal	UDC	U/R	15-1-45	CC
766	455443 Sh K C Thomas	UDC	U/R	20-5-41	CC
767	430625 Sh T N Agarwal	UDC	U/R	15-10-42	CC
768	400325 Sh M L Sah	UDC	U/R	06-2-42	CC
769	430877 Sh OP Agarwal	UDC	U/R	20-11-42	CC
770	408281 Sh J P Mishra	UDC	U/R	25-2-45	CC
771	305399 Sh Shanti Swaroop	UDC	U/R	10-8-43	WC
772	303987 Sh Baldev Raj Batra	UDC	U/R	10-2-44	WC
773	309649 Sh Devki Nandan	UDC	U/R	05-7-42	WC
774	308915 Sh Gurbir Singh	UDC	U/R	12-11-42	WC
775	307757 Sh SD Mehta	UDC	U/R	08-2-43	WC
776	306842 Sh M M Bajaj	UDC	U/R	01-3-42	WC
777	305661 Sh Madan Lal Gakhar	UDC	U/R	10-3-43	WC
778	308311 Sh Roop Ram	UDC	S/C	20-11-41	WC
779	216348 Sh Ajit Singh	UDC	S/C	01-1-43	CC
780	400248 Sh Ram Chandra	UDC	S/C	06-6-43	CC

(Total seven hundred eighty names only)


 A K Gangopadhyay)
 PAO
 SO I Engrs (Pers)/EIR
 For Engineer-in-Chief

11037/532

/LJA

REGISTERED
Headquarters
136 Works Engineers
C/O 33 A.O.

11 Jan '83

Shri Pranab Kumar Sarkar
Village E. Bairagi Para
Post, Sevoke Road, Dist DarjeelingAPPOINTMENT ORDER

Sir,

You have been selected and appointed for the post of LDC in the scale of Rs 200-220-240-260-280-300-320-340-360-380-400/- alongwith other allowances as admissible from time to time as per Central Government rules and posted to CE Bengdubi Zone, Bengdubi.

2. Your appointment is subject to the condition as mentioned in the attached Appendix 'A'.

3. You will be on probation for a period of two years from the date of appointment, which may be extended at the discretion of the appointing authority.

4. Further annual increment will be granted as and when due.

5. You are requested to report to CE Bengdubi Zone, Bengdubi for assuming Lower Division Clerk appointment in the existing vacancy on or before 20 Jan '83 otherwise this offer of appointment stands cancelled.

6. Please note that no TA/DA will be paid for the journey.

7. Please acknowledge receipt.

Authority: CE HQ EC Calcutta letter No 131303/1/554/Engrs/EIC(1) dated 20 April 82 and 131303/1/201/Engrs/EIC(1) dated 13 Dec 82.



Date: 11 Jan 1983

(Signature)
Lt Col

Comdr Works Engrs

Copy to :-

1. CHC Calcutta - 21

2. CE Bengdubi Zone, Bengdubi - alongwith Police Verification, CR report and medical in original.

Attested
for Advocate

L. report

Appendix 'A'

TERMS AND CONDITIONS OF SERVICE FOR APPOINTMENT
AS IN THE DEFENCE SERVICE RULES

1. Shri Pranab Kr Sarkar S/O Shri Harindra Chandra Sarkar
will be on probation for a period of two years from the date of appointment which may be extended at the discretion of the appointing authority.
Failure to complete the period of probation to the satisfaction of the appointing authority will render him liable to discharge from service.
2. The appointment may be terminated at any time on the month's notice given by either side viz the appointee or the appointing authority without assigning any reasons. The appointing authority however, reserve the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to him of a sum of equivalent to the pay and allowances for the period of the notice of the un-expired portion thereof.
3. He will be required to serve any where in India and will be subject to Civil Defence Services (Field Service Liability Rules) 1967.
4. No BA/DA will be admissible to join the first appointment.
5. He will be required to take oath/affirmation on the following form :-
"I do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the constitution of India as by law established and that I will uphold to sovereignty and integrity of India and that will carry out the duties of my office loyally, honestly and with impartiality. (SO GOD HELP ME)".
6. This offer of appointment is subject to the condition that he does not have more than one wife living as per Central/Civil Service (Conduct) Rule 1964 and declaration to this effect will be produced while reporting for duty.
7. He will be subject to conditions of service as applicable to Temporal Civilian Govt services paid from Defence Service Estimates in accordance with the orders issued by the Govt of India from time to time.
8. The following will be produced to the authority to whom he is directed to report for duty :-
(a) Educational certificate in original in proof of his date of birth
(b) Since you are Ex-Serviceman discharged from Army, certificate of fitness for civil job, as shown in discharged certificate/Medical Report on fitness of civilians for civil service (Schedule -I) and declaration to the effect that he does not have more than one

9. After submission of the documents mentioned above, the appointee will be required to sign the following documents :-

- (a) Declaration of oath/Affirmation regarding allegiance to the Constitution of India.
- (b) Declaration of movable/Immovable property held by him.

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


(J S Dal)
Lt Col

Commander Works Engineers

rk/*

- 34 - 43 -

SOS

Naranggi

File : 6060

004/S.B/FW/1638/EIC(I)

9498053
Shri Satya Ranjan Ghosh, LDC
(Through E5 Sec)

GE (Fort William) Kol
No 4 R.R. Camp
Fort William Kol-21
Oct 2001

POSTING /TRANSFER ON PROMOTION : LDC

You are hereby ~~permanently~~ transferred to GE Naranggi in the next state to take up the appointment of UDC.

(Authy : CE HQ Eastern Command FW Kol-21 letter No 131841/11/5309/Engrs/EID dated 10.0.2001)

You will be relieved of your duties from this office on 01 Dec 2001 and will report to your new formation after availing usual joining time/journey period.

TA/DA may be had on application

You will submit the following before leaving this office

- a) Departure Report b) Clearance Certificate c) Identity Card to be surrendered to your new formation d) CGHS Card if any

Please note that your pay and allces for the month of Oct 2001 will be paid by this office and pay/allces from Nov 2001 onwards will be paid by your new formation only after reporting there for duty.

The individual is not involved in any disc/SPE/C of I case.

Distributions:-

- CE HQ EC Fort William Kol-21
- CE Kol Zone Kol-19
- CWE Kolkata-27
- CDA Patna
- AAO (PC) Kolkata-17
- GE Naranggi
- CE Shillong Zone
- CWE Shillong
- CDA Gauhati
- AAO Shillong
- JCDA (Fund) Meerut
- Secretary MES Co-Operative Credit Society

(Lalit Kumar)
EE IDSE
Garrison Engineer

Details of Pay/Allces

Basic Pay :	4700/-
DA :	2115/-
TA :	100/-
HRA :	1410/-
CCA :	200/-

DEDUCTIONS

GPF : 2000/- (A/C No 949381)

CGEGIS : 30/- P/Tax : 90/-

Rs 1500/- paid on a/c of Dussehra Festival Adv to be recovered in 10 monthly instalments @ Rs 150/-IM

CL 08 RH 02 stand at credit

DNI of Aug 2002 DOB 03.02.1955

Alister
for

- 44 -

25

MOVEMENT ORDER

Tolo Milly 2/6258

585 Engr Sub Park
C/O 99 APO

1028/50/EIA

// Mar 2003

MES-214524 Slti
Biplab Ray Chowdhury,
UDC

POSTING/TRANSFER ON TENURE TURN OVER THIS

You are hereby permanently posted to GE Narungi in the interest of service.

Authority: Headquarters Chief Engineers, Eastern Command, Kolkata Letter No
131322/2/7D/12/Engg/EIC(1) Dated 07 Oct 2002.

2. You will be relieved from your duties on 19 Apr 2003 (AN) and will report to your New Duty Station/Formation after availing usual joining/joining time as applicable for same station.

3. Advance of CA/IA may be had on application.

4. You will submit the following documents before leaving this Station.

(a) Departure Report
Continuation Card if any.

(b) Clearance Certificate.

5. Identity Card issued by this office be surrendered at your New Formation for further action.

6. Please note that your pay and allowance for the month May 2003 onward will be claimed by your New Formation only after Physically Reporting for duty there.

7. Certified that this individual is not involved in any Disciplinary Case/Court of inquiry/ROB case.

(Naelamber Jha)

Major

Officer-in-Charge

585 Engr Sub Park

Contd. ...P.T.

DISTRIBUTERS:

- | | |
|---------------------------------------|---------------------------------------|
| 1. HQ CE Eastern Command, Kolkata -21 | 2. HQ CE Siliguri Zone, Sevoke Road, |
| 3. HQ CE 31 Corps, C/O 99 APO | 4. HQ CE Shillong Zone, Shillong-11 |
| 5. HQ 136 Works Egnr, C/O 99 APO | 6. CWE Shillong |
| 7. CDA Bonga Pura -19 | 8. JCDA (H) Meerut |
| 9. CDA Guwahati | 10. AAO Siliguri, Sevoke Road |
| 11. AAO Shillong | 12. AAO 585 Engr Sub Park, C/O 99 APO |
| 13. CE Narnaul | 14. |

INTERNAL:

- | | | |
|--------------------|---------------------|---------------------|
| 1. ID Section | 2. EI (Pay) Section | 3. EI (Com) Section |
| 4. TR Section | 5. Traffic Section | 6. Security Section |
| 7. IS & ES Section | 8. I2, E3 & E4 Sec | 9. |

Date of Birth	06 Sep 1957
Date of Allot	01 Aug 1979
Date of Increment	Aug 2003
Balance of ID upto Jun 2003	300 + 15 Days
Balance of TR upto Jun 2003	378 Days
Balance of IS	10 Days
Balance of RI	02 Days

DR. GE. NABANGLONIA:

Pay and allowance for the month of Apr 2003 in respect of the individual will be paid by this office at the following rates:

BASIC PAY:

DA @ 52%	Rs. 4,800.00
HRA @ 5%	Rs. 2,400.00
FIA	Rs. 2,400.00
T	Rs. 100.00
	Rs.

DEDUCTION:

GPF Account No.	9475451
GPF Subscription	Rs. 300.00
GPF Advance Recovery	Rs. 1,000.00 PM (12/18 th Inst. Bal. Rs. 0.000/-)
COECS	Rs. 50.00
Personal Advance	Rs. 1,500.00
Personal Advance Recovery	Rs. 150.00 PM (07/10 th Insts. Bal. Rs. 150/-)

(Neehanter Jha)
Major
Officer-in-Charge
585 Engr Sub Park

*Attested
Advocate*

File No. 1524

46

17 Apr 1967

POSING/TRANS OF TITLES OVER : EDE

Reference this office Government Order No. 1035/17011

The following amendment is made in our order

(a) Para 2 of clause 1 of the order

FCR : Date of Birth : 26 Sep 1907

REID : Date of Birth : 10 Sep 1907

All other entries shall remain unchanged.

Distribution:

(Major Jha)
Major
Officer-in-Charge

- | | |
|--|-------------------------------|
| 1. H2 CB Eastern Command, Kolkata - 21 | 2. H2 CB Shillong Zone |
| 3. H2 CB 33 Corps, C/O GS 100 | 4. H2 CB Shillong Zone |
| 5. H2 136 Tps Engrs, C/O SG 100 | 6. C/T Shillong |
| 6. CDA Patna, Patna - 19 | 8. JODI (P) Secy |
| 9. CDA Guwahati | 10. IAO Shillong, Sanook Road |
| 11. IAO Shillong | 12. IAO 585 Engr Sub Fwd |
| 13. GB Nataraj | 13. C/O SG 100 |

Inform:

31(c) Secy, BI (P), Secy

Handwritten signature
Admiral

GE Khapraail Spl PTO No. 1/Spl/79 dated 30 Aug 79

Part I (b) NYL
Part II/Ex III

MES/NYA Shri K.B. Choudhury Chow 02 Aug 79
(Ty) (FN)
(Now LDC)
(Prob)

Having been found suitable for appointment as LDC, is hereby appointed to the post of LDC on Rs. 260/- pm plus usual allowances as admissible from time to time in the scale of Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400/-

probation for 2 yrs

Certified that the individual has been appointed as LDC after passing the prescribed typing Test (30 W pm)

EDUCATIONAL QUALIFICATION

Passed H.S. Exm. in 1972 from BIHAR School Exm. Board.

Date of birth
5 Jul 1954

Medical officer
Incharge

Medically examined by M. Magara, P. Centre and declared fit for general and field service. Having been found suitable for appointment as LDC, is hereby appointed to the post of LDC on Rs. 260/- pm plus usual allowances as admissible from time to time in the scale of Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400/-

MES/NYA Shri Biplab Roy Choudhury

Maz 03 Aug 79
(Ty) (FN)
(Now LDC)
(Prob)

probation for 2 yrs

for GE

Contd....

Attested
Advocate

MOVEMENT ORDER

Garrison Engineer Sevoke Road
PC : Salugara, Dt : Jalpaiguri

File No: 6060

1018/197/EIG

20 Mar 2003

15/266021

R P Sarkar, LDC

(Through AGE B/R II Sevoke Road)

POSTING/TRANSFER : LDC

1. You are hereby permanently transferred to GE Guwahati in the interest of state.

Authy : HQ GE Eastern Command letter No 131322/2/7D/105/Engrs/EIC(I) dated 06 Aug 2002 & amendment letter No 131322/2/7D/99/Engrs/EIC(I) dated 28 Dec 2002.

2. You will be relieved from your duties from this office on 12 May 2003 (A/N) and will report to your new formation after availing of usual joining/journey period as admissible.

3. Advance of TA/DA may be had on application.

4. You will submit the following before leaving this office.

- (a) Departure report
- (b) Clearance certificate from all concerned.
- (c) Ration Card if any.

5. Identity Card may be surrendered at new formation.

Please note that your pay & allowances for the month of May 2003 will be claimed by this office and Jan 2003 onward will be claimed by your new formation on your physical reporting at new formation.

Service Book of the individual is centralised.

(R K Dubey)
Major
Garrison Engineer

DISTRIBUTIONS :-

1. HQ CEEC Kolkata-21
2. HQ CEEC Sevoke Road
3. HQ CE Shillong Zone
4. HQ CWD Bengdubi
5. HQ CWD Guwahati
6. GE Guwahati
7. CDA Parna
8. W JCDA (Fund) Meerut
9. AAO Siliguri
10. AAO GE Sevoke Road
11. All Sub Divisions
12. All Sections

Recovery of F/Adv

6/10 instalment @ Rs.150/-

on a/c of F/Adv to be

recovered upto 5/2003 by

office. Bal Rs.450/- to be recovered by GE Guwahati.

PAY DETAILS FOR THE MONTH OF MAR 2003
IS AS UNDER (FOR GE HUMANITY ONLY)

Basic Pay	= Rs.4600/-
DA 52%	= Rs.2392/-
H R A	= Rs.345/-
TA	= Rs. 75/-

DEDUCTIONS :-

GPF Subs	= 500/-
(A/C No 1 0 7 8 9 8 7 Y)	
CCEGIS	= Rs.30/-

LEAVE DETAILS

E/L = 300 + 15(Upto 5/2003)	
C/L = 8 Days	
HPL = 233 Days	D N I = 01-03-2003
R/H = 2 Days	D O B = 01-11-1950

*affested
Advocate*

17

May 2003

Sevoke Road)

AGENDUM/AMENDMENT TO MOVEMENT ORDER IN RESPECT
IES/236021 SHRI R P SARKAR, ITC

Reference our movement order No. 1018/147/EIG dtd 20 Mar 2003,

The following agenda/amendment may please be made to our above movement order:-

(a) Para-2: The individual will be relieved from this office

FOR : 19 May 2003 (A/N)

READ : 14 June 2003 (A/N)

Para-6

FOR

Please note that your pay & allowances for the month of May 2003 will be claimed by this office and Jun 2003 onward will be claimed by your new formation on your physical reporting at new formation.

READ

Please note that your pay & allowances for the month of Jun 2003 will be claimed by this office and July 2003 onwards will be claimed by your new formation on your physical reporting at your New formation.

This individual is not involved in any disciplinary/S&E/ Court Cases.

FOR

Pay details for the month of Mar 2003.

READ

Pay details for the month of May 2003.

FOR

D A 52% = Rs. 2392.00

READ

D A 55% = Rs. 2530.00

RECOVERY OF FESTIVAL ADVANCE

FOR

8/10 instalments @ Rs. 150/- P M on a/c of Festival Advance to be recovered upto 5/2003 by this office. Balance of Rs. 450/- to be recovered by GE Guwahati.

READ

8/10 instalments @ Rs. 150/- P M on a/c of Festival Advance to be recovered upto 5/2003 by this office. Balance of Rs. 300/- to be recovered by GE Guwahati.

All other entries will remain unchanged please.

(R K Dubey)

Major

Garrison Engineer

Distributions:-

1. HQ CSE Kolkata-21

2. HQ CSE Sevoke Road

3. HQ CE Shillong Zone

4. HQ CE Bongaibi

5. HQ CSE Guwahati

6. GE Guwahati

7. CDA Patna

8. JODA (FUND) Meerut

9. AAO Siliguri

10. AAO CE Sevoke Road

11. All Sub-divns

12. All Sections

*Attested
Joint
Advocate*

Telephone : 24791280

Garrison Engineer Alipore
Military Engineer Services
1, National Library Avenue
Alipore : Kolkata-700027

1006/3/1795/E1A

16 May 2003.

MES/203271

Shri Shyamal Mazumdar, UDC

POSTING/TRANSFER ON TENURE TURN OVER : UDC

1. You are hereby permanently transferred to GE Guwahati in the interest of state.

Authy : HQ Eastern Command, Engineers Branch letter No.131322/2/7B/70/Engrs/EIC(I) dated 26 Apr'2003.

2. You will be relieved of your duties from this office on 30 June 2003(AN) and will report to your new duty station after availing usual journey/joining period.

3. You will submit the following before leaving this Office :-

(a) Clearance Certificate (b) Departure Report.

4. You will surrender your identity card to your new formation after reporting for duty there.

5. Please note that your pay and allowances for the month of July 2003 and onwards will be claimed by your new formation after reporting for duty there.

6. Advance of TA/DA may be had on application.

7. Certified that the above named individual is not involved in any C of I/disciplinary/SPE cases.

(Suman Kumar, IDSE)

EE

Garrison Engineer.

D i s t r i b u t i o n

1. HQ CEEC Kolkata
2. CE Kolkata Zone
3. CE Shillong Zone
4. CWE Kolkata
5. CWE Shillong

DETAILS FOR PAY AND ALLOWANCES

<u>B/Pay</u>	<u>DA</u>	<u>HRA</u>	<u>CCA</u>	<u>TA</u>
Rs.4800/-	2640/-	1440/-	200/-	100/-

GPF Account No. 1053920 P

DEDUCTION

- | | <u>GPF Subs</u> | <u>CGEGIS</u> | <u>CGHS</u> | <u>P/Tax</u> |
|--|-----------------|--|-------------|--------------|
| 6. GE Guwahati | Rs. 1225/- | 30/- | 40/- | 110/- |
| 7. CDA Patna | | | | |
| 8. CDA Guwahati | | | | |
| 9. AAO Pay Cell Kolkata | | | | |
| 10. AAO Pay Cell Shillong. | | | | |
| 11. JCDA(Funds) Meerut Cantt | Rs. 700/- | Recovered on a/c of GPF Adv of | | |
| 12. DDP Cell CDA Patna | Rs.25000/- | by 9/36 Instt. Bal Rs.18700/- | | |
| 13. MES Employees Co-Operative Credit Society Ltd. | | to be recovered. | | |
| 4. Red Road Camp.F.W.Kolkata-21 | Rs.150/- | Recovered on a/c of Fes Adv of Rs.1500/- by 8/10 Instt Balance | | |
| | Rs.300/- | to be recovered. | | |

Internal

E-1(Pay), E-1(Records), E-1(Con).

DOB : 29 Nov 1960, DNI : 01 FEB 2004

DETAILS OF LEAVE BALANCE (NO OF DAYS)

EL : 300+15 HPL -272. CL-8, RH-2

Attested from advocate

47-51-
✓

POSTING ORDER NO. 09/2003

Tele : 2222 2700

Mukhyalaya Purvi Kaman
H. Eastern Command
Abhinanta Shakra
Engineers Branch
Fort William
Kolkata- 21

30 Apr 2003

131322/2/7B/ 70 /Engra/EIC(I)

CE Kolkata Zone

CE Siliguri Zone

CE Shillong Zone

CE(AF) Shillong Zone

POSTING/TRANSFER ON TENURE TURN OVER 1 UDC

The following posting/transfer, are hereby ordered in the
int rest of state :-

Ser No	MES No, Name	From	Posted To	Move date	Remarks
(a)	(b)	(c)	(d)	(e)	(f)
1.	MES-232967 Shri Tilak Chandra Kalita, UDC	CE Silchar	CE Tezpur	Forthwith	
2.	MES-420034 Shri Indrajit Roy, UDC	CE Dinjan	GE(A) Kol.	-do-	
3.	MES-214706 Shri HS Pasi, UDC	CE(AF) Shillong Zone	CE Siliguri Zone	-do-	
4.	MES-268285 Shri MK Mazumdar, UDC	CE(AF) Shillong Zone	GE(S) Binnaguri	-do-	
5.	MES-265589 Shri DC Saikia, UDC	GE Dinjan,	GE Tezpur	-do-	
6.	MES-268305 Shri Rajendra Baraik, UDC	GE(I) R&D Chandipur	GE(South) Binnaguri	-do-	
7.	MES-203732 Shri Mohan Ram, UDC	GE(I) R&D Chandipur	GE(C) Kolkata	-do-	
8.	MES-209767 Shri Nagiri Dakshina Rao, UDC	GE Guwahati	GE(AF) Kalaikunda	-do-	

...1...P/2

Handwritten signature
A. K. Saha
for

	(b)	(c)	(d)	(e)	(f)
11	MS-23826 Shri Suren Medhi, UDC	CWE Tezpur	CWE Dinjan	Forthwith	
12	MS-203271 Shri Suyamal Mazumdar,	GE(A) Kol	GE Guwahati	-do-	
13	MS-238656 Shri Soren Sonwal, UDC	AGE(I) Lekhapani	GE Dinjan	-do-	
14	MS-105481 Shri MK Sen, ULC	CWE Bengdubi	GE Guwahati GE I, RED Chandipur	-do-	
15	MS-208010 Shri AK Chatterjee, UDC	GE(C) Kol	GE I, RED Chandipur	-do-	
16	MS-209472 Shri SK Chakraborty,	GE(AF) Kalakunda	GE Silchar	-do-	

amended vide HQ CEEC Kolkata letter No 131322/2/76/120/Engg/EIC (1)
dated 23 Aug 2003.

(fourteen indls only)

Your attention is drawn to this HQ letter No 131306/1/9/
dated 20 Dec 2001 for strict compliance. All
concerned may be informed accordingly.

The posting order to be implemented within 60 days of
the indicated. The concerned unit will also forward
completion report, indicating the date of SOS within the same
time.

Failing of above will be seriously viewed and will be
treated as insubordination of the order of CE Eastern Command.

(Achintha Dass)
Lt Col
Offg Col(Pers)
for Chief Engineer

Copy to: CEE Dinjan, CEE Kolkata, CEE Bengdubi, HQ 136 WE,
HQ 137 WE, CEE Tezpur, CEE(AF) Borjar,
CEE(AF) Kalakunda, CEE(AF) Jorhat, GE Silchar, GE Dinjan,
GE I, RED Chandipur, GE Guwahati, GE(A) Kolkata, GE(C) Kolkata,
GE(AF) Kalakunda, AGE(I) Lekhapani, GE(South) Binnaguri, GE Tezpur

EDP Cell, M/file, Office copy,

Sukna/6060

MOVEMENT ORDER

Garrison Engineer
Khapraill
PO : Matigara - 734 428
Dist : Darjeeling (W/S)

20 Nov 2003

614

84

100/15

TO 2399/E1

MES-269002

Shri Pranab Kumar Sarkar, LDC

You are hereby permanently transferred to GE Narangi in the interest of state on promotion to UDC.

Authority : HQ CE EC Kolkata posting order No. 13134/1/1/5595/Engrs/EID dated 10 Apr 2003.

2. You will be relieved of your duties from this office on 20 Dec 2003 (AK) and will report to your new unit/formation immediately.

3. TA/DA, journey/joining time is admissible.

4. You will submit the following documents before leaving this office:

(a) Clearance Certificate (b) Departure Report

5. Identity Card issued to you by this office be surrendered to your new unit/formation for their necessary action.

6. Please note that your Pay & Allowances for the month of Dec 2003 will be claimed by this office and Jan 2004 onwards will be claimed by your new unit/formation after reporting for duty.

Certified that the indl is not involved in any disciplinary/Court of Inquiry and SPE cases.

(V Samuel Prakash)
Major
Garrison Engineer

Distribution

1. HQ Eastern Command, Kolkata-21
2. HQ CE Siliguri Zone: Siliguri
3. HQ CE Shillong Zone
4. CWE Shillong
5. HQ 136 Wks Engrs, C/O 99 AFC
6. GE Narangi
7. JCDA (Funds) Meerut
8. CDA Patna-19
9. CDA Guwahati
10. AAO Siliguri
11. AAO Shillong
12. AAO GE Narangi
13. AAO GE Khapraill
14. AGE B/R-I Khapraill
15. AGE B/R-II Khapraill
16. AGE E/M Sukna
17. BSO Khapraill

DETAILS OF PAY & ALLOWANCES

Basic Pay = Rs 4,700/-
D.A. (56%) = Rs 2773/-

Deduction :-

GPF Subscription = Rs 2500/-
CGEIS = Rs 30/-
House Rent (7.5%) = Rs 353/-
Fixed Med Allow = Rs 100/-
TPT Allow = Rs 75/-

GPF ACCOUNT NUMBER : 1067397 W

Balance of Leave upto Dec 2003

SL = 300 + 15 days days
HPL = 361 days
CLRH = 07 days/02 days

Date of Birth : 20 May 1958
DNI : 01 Aug 2004

Internal

E-1 Sec, E-1(P), E-1(R), E-5(B), E-5(C), E-2,
E-3, E-4, E-6, E-8, R&D Sec

RESTRICTED

Attest
Advocate

1102/1/ 2129 /EIC(I)

02 Dec 2003

MES/105481 ~
Shri : M K Son
UDC

POSTING/TRANSFER ON TENURE TURN OVER : UDC

1. You are hereby permanently transferred to SE Guwahati in the interest of State.

Authority :- HQ CEEC Engr Branch Fort William Kolkata
Posting Order No. 131322/2/7B/70/Engrs/
EIC(I) dated 26 April 2003 and amendment
letter No. 131322/2/7B/130/Engrs/EIC(I)
dated 27 Aug 2003.

2. You will be relieved from your duties from this office on 20 Dec 2003 (A/W) and will report to your new formation after availing of usual joining/journey period as admissible.

3. Advance of TA/DA may be had on application.

4. You will submit the following before leaving this office.

- (a) Departure Report (b) Clearance Certificate from all Concerned.
(c) Ration Card if any.

5. Identity Card may be surrendered at new formation.

6. Please note that your pay & allowances for the month of Dec 2003 will be claimed by this office and Jan 2004 onward will be claimed by your new formation on your physical reporting at new formation.

7. Service Book of the individual is Centralised.

(K S Roy, Benguru)
SBSO
For CWC Bengaluru

Distributions :-

- | | |
|--|------------------------------|
| 1. HQ CE EC Engr Branch
Fort William Kolkata=21 | 5. CDA Patna 67 CDA Guwahati |
| 2. HQ CE Shillong Zone | 7. JCDA(Funds) H-rut |
| 3. CWC Shillong | 8. AAO Shillong |
| 4. CE Guwahati | 9. AAO Shillong |
| 4A. HQ CE Shillong Zone | 10. Steno to CWC |
| | 11. EIC(3) Sec JCL EID Sec |
| | 13. EID Sec |

Advocate

MOVEMENT ORDER (CONTD)

For GE Guwahati Only : The individual is not involved in any disciplinary C of I/SPR Cases.

The pay and allowances in respect of MES/195481 Shri : M.R. Son, UDC is as under :-

PAY DETAILS

1.	Basic Pay	:	Rs. 4,700.00
2.	DA @ 50%	:	Rs. 2,773.00
3.	HRA @ 5%	:	Rs. 235.00
4.	F M A	:	Rs. 100.00

DEDUCTION

1.	G P F Subr	:	Rs. 1000.00 P.M.
2.	G P F A/C No.	:	9 3 6 3 8 2 W
3.	CGCIS	:	Rs. 30.00
4.	F/Advance	:	Rs. 150.00

LEAVE DETAILS

1.	Earned Leave	:	300 Days (Max)
2.	V P L	:	204 Days
3.	Date of Apptt	:	08-10-1971
4.	Date of Birth	:	01-02-1951
5.	Date of Superannuation	:	31-01-2011
6.	Date of Next Increment	:	01 - 08 - 2004

Note :-

3-10 Instalments @ Rs. 150.00 PM on account of Festival advance (Durga Puja) to be recovered upto Dec 2003 by this office, vide pay bill Vr. No. 06/ dated Dec 2003. Balance Rs. 1050.00 to be recovered by GE Guwahati.

(K S Roy Hongrum)
SISO
For CWF Dנגদুৰি

*Accepted
Jm.
Advocate*

Office of the GB (AF) Bagdogra
Post : Bagdogra Airport
Dist : Darjeeling (W.H)
PIN : 734 421

23/ 604 /SIC (I)

03 Dec 2002

ES/213951

Shri Pranab Sarkar, UDC

POSTING/TRANSFER ON TENURE TURN OVER : UDC

You are hereby permanently transferred to GB Narangi in the interest of State.

Auth : HQ CBEO, Kolkatta letter No 13/322/2/78/22/Engrs/EIC (i) dt 13 Apr 2002.

You will be relieved of your duties from this office on 14 Dec 2002 (AN) and will report to your new formation after availing usual joining/journey period as per existing rules.

TADA is admissible as per existing rules and may be had on application.

You will surrender your identity card to your New Station.

You will submit the following before leaving this station:-

- (a) Departure Report (b) Clearance Certificate
(c) Handing/Taking Over Notes (d) Ration Card if any issued by HQ 20 Wing (AF)

Your Pay & Allowance for the month of Dec 2002 onward will be claimed by your new Formation Unit after you have reported physically there on duty.

Certified that the Individual is not involved in any disciplinary case.

(Subash Chandra Goyal, ID3E)
EE (SG)
GE (AF) Bagdogra

Contribution :-

HQ CE EC, FW, Kolkatta-21
HQ CE (AF) Shillong Zone
HQ CWE (AF) Kalaikunda
JCDA (Funds) Meerut (U.P)
CDA Patna-19
AAO Shillong
AAO Siliguri
AAO GE (AF) Bagdogra
AAO GE Narangi
MES Co-op credit Society
Bagdogra
GB Narangi

FOR GENARANGI

Details of Pay & Allowances in No MES/213951
Shri Pranab Sarkar, UDC

Basic Pay	-	Rs. 4,300/-
TDA @ 52 %	-	Rs. 2,236/-
HRA	-	Rs. 323/-
Tptl Allow	-	Rs. 75/-

Details of Deductions :-

GPF	-	Rs. 1,425/- pm
-----	---	----------------

A/C No 1089416 L

CGEGIS	-	Rs. 30/- pm
--------	---	-------------

Festival Adv.	-	Rs. 150/-
---------------	---	-----------

Details of Leave

EI - 300 + 02 days	-	HPL - 223 days
--------------------	---	----------------

CL - 02 days	-	RH - 01 day
--------------	---	-------------

Bal : Rs. 1350/-

Personal :-

Service : E1 P Sec, E-5 (C), E1 Con.

Date of Birth : 28-01-1959

Joining : 01-08-2003

*Attested
for
Advocate*

File 5032

ANNEXURE-7

Headquarters
Chief Engineer
Shillong Zone
SE Falls
Shillong - 11

77551/90/Policy/SDA/ 67 /E1 (Legal)

30

Jan 2004

Col JK Satpathy

CWI

HQ 137 Works Engrs

C/O 99 APO

Col SK Pathak

CWE Tezpur

Shri GC Jain, SE

CWE Dinjan

Shri RK Pandey, SE

CWI Shillong

PAYMENT OF SDA TO MES EMPLOYEES

1. Reference is made to the following letters :-

(a) Dte Gen of Pers/EIC (Legal), E-in-C's Branch letter No 90237/7521/EIC (Legal-C) dt 04 Jun 2003 and even No dt 03 Oct 03 (copies att).

(b) This HQ letter No 77551/90/Policy/SDA/07/E1 (Legal) dt 01 Jul 2003, 77551/90/Policy/SDA/09/E1 (Legal) dt 11 Jul 2003, 77551/90/Policy/SDA/13/E1 (Legal) dt 29 Jul 2003.

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

Contd...2/

M. K. Advocate

3. The following categories of MES employees are covered by the criteria of all India Transfer Liability and hence considered for grant of SDA on their posting to NE Region from outside the region:-

Gmp/E All Gp 'A', 'B' officers; Erstwhile Supdt B/R Gde I (now redesignated JE), Supvr B/S Gde I, D'Man Gde I, Steno Gde I and Asstts"

4. All other categories, such as Supvr B/S II, SK I & II, Steno Gde II & III, UDC, LDC, D'man Gde II, Peon, Chowkidar, all industrial staff are not covered for grant of SDA and hence as per Para 6 (ii) of Govt of India, Ministry of Finance, Department of Expenditure OM NO 11(5)/97-EII(B) dt 29 May 02 (copy att), the amount paid on account of SDA to ineligible persons after 05 Oct 2001 is to be recovered.

5. In view of above, you are requested to take all corrective actions stipulated above. Non-adherence of above policy and for any financial irregularities/overpayments, your office will be held responsible.

✓ 6. Please also intimate details of ineligible pers who were paid SDA after 05 Oct 2001 alongwith financial effect. In this connection please refer our letter No. 7551/90/Policy/SDA/52/E1 (Legal) dt 13 Jan 2004.

ML Das
(ML Das)
Dy Dir (B/S)
for Chief Engineer

Copy to :

All GES/GE (I) & AGE (I) FILE NO 1004.2

AAO Shillong - alongwith above policy letters.

Internal

E7 Sec - for information and necessary action please.

-59-

Annexure - 8

ANNEXURE

90

Annexure - 8

Swamysnews

17

July, 2002

108

G.I., M.P., O.M. No. 11 (3)/97-E. II (B), dated 29-5-2002

Special Duty Allowance to civilian employees posted from outside the region only

The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-E. IV, dated 14-12-1983 and 20-4-1987 read with O.M. No. 20014/16/86-E. IV/E. II (B), dated 1-12-1988 and O.M. No. 11 (3)/95-E. II (B), dated 12-1-1996 (Sl. Nos. 214 and 103 of Swamy's Annual, 1988 and 1996 respectively) on the subject mentioned above.

2. Certain incentives were granted to Central Government employees posted in N-E. region vide OM, dated 14-12-1983. 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, dated 20-4-1987, 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 N-E. 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 judgment delivered on 20-9-1994 (in Civil Appeal No. 3251 of 1993) in the case of UoI and Others v. Sh. S. Vyaya Kumar and Others have upheld the submissions of the Government of India that Central Government civilian employees who have All India Transfer Liability are entitled to the grant of 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.

SN-2

Advocate

July, 2002

18

Swamysnews

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 judgment of this Court, in the case of *Uol and Others v. S. Vijayakumar and Others*, [reported as 1994 (Supp. 3) SCC, 649] and followed in the case of *Uol and Others v. Executive Officers' Association Group 'C'* [1995 (Supp. 1) SCC, 757]. Therefore, this appeal is to be allowed in favour of the Uol. 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 judgments, 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 judgment 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 and Nicobar and Lakshadweep Groups of Islands.

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

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original application No.117 of 2004

Date of Order : This the 2nd day of June, 2005.

HON'BLE MR. JUSTICE G. SIVARAJAN, VICE-CHAIRMAN
HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER

1. Shri Biplab Roy Choudhury,
U.D.C.
2. Shri Pranab Sarkar,
U.D.C.
3. Shri Shyamal Mazumdar,
U.D.C.
4. Shri Satya Ranjan Ghosh
U.D.C.
5. Shri Mridul Kanti Sen
U.D.C.
6. Shri Pranab Chandra Sarkar
U.D.C.
7. Shri Niranjana Prasad Singh
Assistant.
8. Shri Roma Prasad Sarkar.
L.D.C.

Applicants

All the applicants are working in the cadre of Group 'C' in the
Office of the G.E. Narangi/GE, Guwahati.

By Advocate Mr. M. Chanda, Mr. G. N. Chakraborty, Mr. S. Nath.,
Mr. S. Choudhury

-Versus-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Defence.
New Delhi-110001.
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,
Kolkata-21.

M. Chanda
Advocate

-62- 2

93

4. Chief Engineer,
Shillong Zone.
S.E.Falls, Shillong-11.

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

6. GE, Narangi.
Narangi, Guwahati.

7. GE, Guwahati.
Guwahati

Respondents.

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

ORDER(ORAL)

SIVARAJANJ.(VC)

There are 8 applicants. All of them jointly filed this application seeking for grant of SDA. According to them they have satisfied all the requirements for grant of SDA being posted in the N. E. Region and that on finding them eligible SDA was granted to them. However, this was discontinued with effect from 29.3.2004.

The applicants are aggrieved by this order.

2. We have heard Mr.M.Chanda learned counsel for the Applicant and Mr.M.U.Ahmed learned Addl.C.G.S.C. for the Respondents. The communication dated 29.3.04 (Annexure-4) only says that any payment made to ineligible persons after 5.10.01 must be recovered. This is on the basis that the Government has issued a communication with reference to the Supreme Court decision that unless the Central Government Civilian employees satisfy the requirement for grant of SDA as per decision by the Supreme Court and the orders issued by the Government of India in implementation thereof they are not entitled to get SDA from 5.10.01. We had occasion to consider the question regarding the admissibility of SDA in the case of Central Government civilian employees working in the N.E region in our judgment dated 31.5.2005 in O.A.No.170 of 99

[Signature]

-83- 3

94

and connected cases wherein we have set out the governing principles regarding to grant of SDA as follows:

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

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

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

3. In the instant case Mr.M.Chanda learned counsel for the applicant submits that all the applicants belong to outside the N. E. Region, that they were transferred to the N. E. Region under all India Transfer liability and they are also governed by all India seniority which is not denied in the written statement filed by the Respondents. The counsel accordingly submitted that by applying the governing principles stated in the common order the applicants are entitled to get SDA. Mr. M. U. Ahmed, Addl. CGSC submits that as per government policy (Annexure 1) the applicants did not satisfy the requirements.

4. We do not think that it is necessary to go into this matter in this application. We have considered all the government orders relating to grant of SDA, the decision by the Supreme Court and the High Court in that regard. We have deduced the governing principles from this and have set out as above in the common order dated 31.5.05. In the circumstances, notwithstanding the submission of Mr.M.Chanda, counsel for the applicant that all the applicants have satisfied all the requirements, we are of the view that the satisfaction of the

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-64-

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governing principles stated above is a matter to be verified by the competent authority among the respondents herein.

5. In the circumstances, we dispose of this application with direction to the 3rd respondent to consider the claim of the applicant for the grant of SDA in the light of the governing principle stated by us herein above after ascertaining the factual situation. This will be done within two months from the date of receipt of this order. The order must be a speaking one.

The O.A. is disposed of as above. The applicant will produce this order before the 3rd respondents for compliance.

SO/ VICE CHAIRMAN

SO/ MEMBER (A)



TRUE COPY
सिफारी

[Signature]
13.6.05
Section Officer
C.A.T. Gurgaon
Gurgaon
17/6

Refer Appx 'A' to in-C's Branch letter
No 41269/EIDPC dated 25 Feb 2005

ALL INDIA SENIORITY LIST OF UDCs (GENERAL WITH SC/ST)

SL NO	MEES NO. & Name	Whether belongs to SC/ST, if not say neither	Date of birth	Date of seniority in the grade	Permanent appointment in the Gde	LDC Appnt date	Command	Remarks
1	2	3	4	5	6	7	8	9
1.	455462 Mahesh Chandra Gupta	UR	12-12-43	30.06.71	UDC Pt 01.04.73	09.08.63	CC	
2.	A/1000499 Hans Raj Agnihotri	UR	01.10.43	22.11.77	UDC Pt 01.04.81	10.11.61	NC	
3.	237050 Toni Dutta	UR	01.03.44	17.06.78	UDC Pt 01.04.82	01.01.63	EC	
4.	201126 Smt Manju Sarkar	SC	01.10.44	13.02.80	LDC Pt 01.04.66	04.11.63	EC	
5.	306859 VB Goswami	UR	17.06.43	04.08.80	UDC Pt	18.04.63	WC	
6.	309561 Kishan Chandra	UR	01.01.44	14.10.80	UDC Pt 01.04.84	18.06.63	WC	
7.	306389 Hans Raj Thakur	UR	27.05.43	01.01.81	UDC Pt 01.04.81	31.08.63	NC	
8.	445256 Munshi Ram	SC	06.02.44	05.02.81		28.08.63	WC	
9.	A/2449024 Satyandra Kumar Gupta	UR	05.12.43	27.02.81	LDC Pt 01.04.68	16.12.62	CC	
10.	237342 Bhola Nath Barua	UR	01.03.44	27.02.81	LDC Pt 01.04.71	09.09.63	EC	
11.	242160 Bishnu Ram Saikia	UR	01.02.44	27.02.81	LDC Pt 01.04.72	16.09.63	EC	

Handwritten signature/initials

-66-

1	2	3	4	5	6	7	8	9
12	307237	UR	13.02.44	27.02.81	LDC Pt	27.12.63	WC	
	Hari Krishan Bhat				01.04.81			
13	305088	UR	14.10.44	27.02.81	UDC Pt	06.02.64	NC	
	Sansar Chand				01.04.81			
14	306332	UR	10.4.45	27.02.81	UDC Pt	25.02.64	NC	
	Bishan Dass				01.04.81			
15	445331	UR	09.03.45	27.02.81	UDC Pt	23.03.64	NC	
	Sukh Dev Singh				01.04.81			
16	304762	UR	10.05.43	27.02.81	UDC Pt	16.04.64	NC	
	Jagan Nath				01.04.81			
17	308369	UR	24.05.44	27.02.81	UDC	05.06.64	NC	
	Mohan Lal Sharma				01.04.81			
18	305344	UR	08.07.45	27.02.81	UDC Pt	01.06.64	NC	
	Babu Ram Sharma				01.04.81			
19	304850	UR	20.06.43	27.02.81	UDC Pt	25.06.64	NC	
	Mohan Lal Raina				01.04.81			
20	A/13799891	UR	13.01.44	27.02.81	UDC Pt	01.01.65	NC	
	Sukesh Chand Katoch				01.04.81			
21	308369	UR	11.02.44	27.02.81	UDC Pt	02.01.65	NC	
	Sant Ram Sharma				01.04.81			
22	224235	S/C	13.10.44	27.02.81	LDC pt	10.06.65	EC	
	Binode Chandra Mal				01.04.67			
23	134256 Smt	S/C	16.01.52	27.02.81		14.06.76	SC	
	S Radhakrishnan							
24	207607	SC	02.06.56	30.06.81	LDC Pt	14.03.77	EC	
	Jatindra Nath Mitra				14.03.77			
25	A/1091043	UR	15.03.44	01.03.82	LDC Pt	22.04.69	NC	
	Shri Harman Singh				01.04.81			

051

1	2	3	4	5	6	7	8	9
26	311116 Jagdish Prasad	UR	07.09.52	01.04.82	LDC Pt 01.04.81	20.07.72	NC	
27	310413 Sukhdev Raj	UR	12.01.47	01.04.82	LDC Pt 01.04.81	15.01.73	NC	
28	364795 Banarsi Lal	SC	04.10.46	01.06.82	LDC Pt 01.04.81	11.09.76	NC	
29	105363 VZ Deshmukh	UR	01.07.43	30.06.82		28.10.63	SC	
30	125118 T Deivanayagam	UR	20.04.43	30.06.82	LDC	04.11.63	SC	
31	100039 HB Motey	UR	08.04.44	30.06.82		29.11.63	SC	
32	406083 K Narayana	UR	21.05.43	30.06.82	LDC	03.12.63	SC	
33	101592 KN Gopinathan	UR	25.07.45	30.06.82	LDC Pt 24.04.75	05.12.63	SC	
34	152967 R Mani	UR	01.07.43	30.06.82	08.07.72 LDC Pt	11.12.63	SC	
35	140010 AA Joseph	UR	14.04.44	30.06.82		08.01.64	SC	

-68-

1	2	3	4	5	6	7	8	9
1260	411022 Inderjit Singh	U/R	19-07-46	14.05.96			29-11-76	WC
1261	310112 D.K. Thapa	U/R	28-10-51	14.05.96			01-12-76	WC
1262	312613 Govind Ram	U/R	12-10-57	14.05.96			04-12-76	WC
1263	312623 Noreen James	U/R	15-6-51	14.05.96			17-12-76	WC
1264	A/4127070 S.L. Aggarwal	U/R	06-01-55	14.05.96			26.04.76	WC
1265	312493 Ramesh K. Kathuria	U/R	5-12-52	14.05.96			27-12-76	WC
1266	312498 R.S. Bedi	U/R	3-6-58	14.05.96			28-12-76	WC
1267	312942 Smt. Saroj Devi	U/R	29-5-56	14.05.96			6-1-77	WC
1268	312524 Ramesh Kumar	U/R	20-5-55	14.05.96			8-1-77	WC
1269	312537 Bhuvan Mohan	U/R	13-2-52	14.05.96			10-1-77	WC
1270	312495 A K. Bhatnagar	U/R	29-7-55	14.05.96			10-1-77	WC
1271	312539 Hari Mohan	UR	04.10.54	14.05.96			11.01.77	WC
1272	362411 Harish Chander	U/R	15-11-58	14.05.96			14-1-77	WC
1273	6896758 Parshotam Kumar	UR	30.03.49	14.05.96			20.01.77	WC

1	2	3	4	5	6	7	8	9
1274	307985 Tulsi Ram	U/R	13-6-42	14.05.96			25-1-77	WC
1275	312612 Sukhdev Sharma	U/R	12-11-52	14.05.96			29-1-77	WC
1276	362731 Ramesh Kumar	U/R	16-8-53	14.05.96			27-1-77	WC
1277	363740 Sukhdev Raj	U/R	5-9-53	14.05.96			27-1-77	WC
1278	312751 Ram Parkash	UR	03.05.53	14.05.96			28.1.77	WC
1279	363512 Satish Chawla	U/R	31-3-52	14.05.96			29-1-77	WC
1280	312621 Neeta Chopra	U/R	05.09.53	14.05.96			29.01.77	WC
1281	312494 Smt. Amarjeet Kaur	U/R	17-12-53	14.05.96			27-01-77	WC
1282	312622 Manju Sharma	U/R	30-05-55	14.05.96			31-01-77	WC
1283	312620 Smt Banti Devi	U/R	01-11-55	14.05.96			?	WC
1284	362403 Davinder Kumar	U/R	01-11-47	14.05.96			05-02-77	WC
1285	312625 Smt. Rajeshwari Gupta	U/R	15-04-52	14.05.96			07-02-77	WC
1286	312619 Smt. Madhu Bala	U/R	28-05-56	14.05.96			07-02-77	WC
1287	359700 Ashok Kumar	UR	01.08.50	14.05.96			09.02.77	WC

1	2	3	4	5	6	7	8	9
1288	312582 Smt. Surinder Rani	U/R	14-07-59	14.05.96			10-02-77	WC
1289	312648 Balbir Singh Sandhu	UR	12-03-53	14.05.96			11-02-77	WC
1290	312508 Smt. Sushma Joshi	U/R	04-07-56	14.05.96			16-02-77	WC
1291	312534 Dharam Singh	UR	09-03-51	14.05.96			26-02-77	WC
1292	366059 Surjeet Singh	U/R	04-08-50	14.05.96			04-03-77	WC
1293	311410 Hardit Singh	U/R	17-02-51	14.05.96			08-03-77	WC
1294	360543 Vikram Parkash	U/R	15-03-46	14.05.96			05-03-65	WC
1295	362613 Raj Kumar	UR	14.07.50	14.05.96			09.03.77	WC
1296	312523 Suman Kapoor	U/R	05-02-56	14.05.96			09-03-77	WC
1297	363807 Ashok Kumar	U/R	01-04-53	14.05.96			18-03-77	WC
1298	312527 Ramesh Kumar Aggarwal	U/R	12-10-55	14.05.96			24-03-77	WC
1299	312528 Madan Lal Gulati	U/R	19-09-52	14.05.96			31-03-77	WC
1300	312552 Satpal Singh	U/R	07-03-55	14.05.96			01-04-77	WC
1301	363140 Dalip Singh	SC	05-07-52	14.05.96			21-10-78	WC

1	2	3	4	5	6	7	8	9
1302	313047 Ratan Kumar	SC	28-08-55	14.05.96			23-10-78	WC
1303	313048 Kulwant Singh	SC	13-01-53	14.05.96			03-11-78	WC
1304	313067 Smt. Santosh Kumari	SC	16-06-56	14.05.96			22-11-78	WC
1305	313081 Baldev Singh	SC	02-01-60	14.05.96			05-12-78	WC
1306	313102 Ratan Chand	SC	06-04-58	14.05.96			24-01-79	WC
1307	313096 Smt. Padma Vati	SC	01-08-57	14.05.96			27-02-69	WC
1308	313138 S. L. Manji	SC	05-01-51	14.05.96			09-08-79	WC
1309	313143 Rajinder Singh	SC	05-04-56	14.05.96			13-09-79	WC
1310	313146 Smt Narinder Kaur	SC	06.11.51	14.05.96			27.09.79	WC
1311	619642 Ramkishan	SC	06.10.43	14.05.96			24.12.79	WC
1312	313300 Balkar Singh	SC	12-01-51	14.05.96			30-04-81	WC
1313	313367 Udai Singh	SC	01-12-58	14.05.96			31-10-81	WC

Station : New Delhi-11

Date : 25 Feb 2005

(Signature)

(SC Jadhav)
AO-I
Asstt Dir(Adm)

*Mustafa
Jit
Shrivastava*

To,

The Chief Engineer,
Eastern Command Engineer's Branch,
Fort William,
Kolkata-21

There is no litigation on the part of the authority concerned.
(Through proper channel)

For release of SDA with immediate effect.

Sub: Prayer for immediate implementation of the judgment and order dated 2.6.2005 passed in O.A.No 117/2004 (Shri B.Roy Choudhury and seven others -vs- Union of India and others).

Dated 02.06.2005.

Respected Sir,

Enclosed please find herewith a copy of the judgment and order dated 02.06.2005 passed in O.A.No 117 of 2004, wherein the Hon'ble Tribunal directed to consider the entitlement of the applicant in the light of the governing principle contained in para 2 of the judgment and order dated 2.06.2005. It is pertinent to mention here that the undersigned is saddled with all India transfer liability having seniority maintained on all India basis for the purpose of promotion. Moreover, the undersigned is not a resident of N.E.Region but posted on transfer in N.E.Region from outside the N.E.Region in public interest. As such the undersigned is entitled to payment of SDA as per criteria laid down by the Hon'ble Tribunal in para 2 of the Judgment. Therefore, the undersigned fall within the said criteria and as such entitled to SDA from the date of initial posting in N.E.Region. I, therefore request, you to release my arrear SDA as well as current payment of SDA with immediate effect in light of the direction contained in judgment and order dated 2.6.2005 passed in O.A.No.171 of 2004.

Attested
by
Advocate

- 73 -

104

A Copy of the judgment and order dated 2.6.2005 is enclosed for your ready reference for release of arrear SDA as well as current SDA with immediate effect. It is relevant to mention here that all the relevant documents including the copy of the offer of appointment order are available in the office record. Therefore there is no difficulty on the part of the authority to consider my case for release of SDA with immediate effect.

Enclosure:- Copy of the Judgment

Dated 02.06.2005.

Yours Faithfully

Biplob Roy Chowdhury

(Biplob Roy Chowdhury)

MES-214524

U D C

C/O G E Narangi

Station : Narangi

Dated : 04 Jul 05



Tele: 5052 (Mil)
 Fax: 0364-2537640
 Email: cesz@sancharnet.in

REGD POST/SDS
 HQ Chief Engineer
 Shillong Zone
 Spread Eagle Falls
 Shillong - 11

70222/OA-117/2004/ 61 /EI(Legal)

11 Aug 2005

A/No.9498053
 Shri Satya Tanjan Ghose, UDC
 GE Narangi

MES/213951
 Shri Pranab Sarkar, UDC
 GE Narangi

MES/214524
 Shri Biplob Roy Choudhury, UDC
 GE Narangi

MES/266002
 Shri Pranab Kumar Sarkar, UDC
 GE Narangi

MES/203271
 Shri Shyamal Mazumdar, UDC
 GE Guwahati

MES/105481
 Shri Aridul Kanti Sen, UDC
 GE Guwahati

MES/266021
 Shri Rama Prasad Sarkar, LDC
 GE Guwahati

MES/260141
 Shri Niranjan Prasad Singh, Asstt.
 GE Narangi

**ORIGINAL APPLICATION NO 117 OF 2004 FILED BY SHRI B ROY
 CHOUDHURY AND OTHERS VS UNION OF INDIA AND OTHERS**

1. Reference Honorable CAT Guwahati Judgement order dated 2nd day of Jun 2005 on the above Original Application filed by you and others regarding grant of special duty allowances.

2. In the above Judgement the Honorable CAT Guwahati directed that :-

" In the circumstances, we dispose of this application with direction to the 3rd respondent ie Chief Engineer, HQ Eastern Command to consider the claim of the applicant for the grant of special duty allowances in the light of the governing principal stated by us herein above after ascertaining the factual situation".

*Merfio
 Advocate*

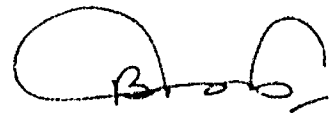
Grant of special duty allowances or payment of special duty allowances in respect of central Government employees on their posting/re-posting to NE Region from outside region is governed by the existing policy of Instructions formulated by Min of Finance, Department of Expenditure in pursuant to Hon'ble Supreme Court Judgement order dated 05 Oct 2001 delivered in the appeal of Telecom department. In pursuant to Ministry of Finance, Department of Expenditure OM dated 29 May 2002, AHQ Engineer-in-Chief's Branch has drawn up a list of categories of staff in MES who are found to have fulfilled the criteria of all India Transfer Liability and All India common seniority list for the purpose of SDA on their posting/re-posting to NE Region irrespective of fact whether you are initially recruited in NE region or outside region.

4. In the light of above policy of Engineer-in-Chief's Branch letter No 90237/7521/EI(Legal) dated 04 Jun 2003 and amended vide 03 Oct 2003, in this behalf, payment of special duty allowances is not applicable in your case as you do not come under the categories which are decided by Engineer-in-Chief's Branch.

5. CE HQ EC has taken up a case with Engineer-in-Chief's Branch for inclusion of certain left over categories of subordinate staff who are posted to NE Region from outside on tenure posting, but their all India Seniority list is not maintained, for the purposed of payment of SDA. Decision of which is awaited from Higher HQ.

6. This speaking order has got the approval of CE HQ EC, Fort William, Kolkata.

7. With the issuance of this speaking order by the respondents the directions of the Hon'ble CAT Guwahati Judgement order dated 02 Jun 2005 in Original Application No 117 of 2004 stand disposed of.



(B P Singh)
Lt Col
SO-1(Pers & Legal)
for Chief Engineer

Copy to :-

Dte Gen/EIC (Legal-C)
Engineer-in-Chief's Branch
Army Headquarters
Kashmir House, DHQ PO
New Delhi - 110 011

Chief Engineer
HQ Eastern Command
Fort William
Kolkata - 21

CWE Shillong

GE Guwahati

GE Narangi

Mr Motin Ud-Din Ahmed, Advocate
Addl C. G.S.C.
Lakhimi Nagar, Hatigaon Road
Dispur, Guwahati - 781011.

VAKALATNAMA
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 25 /2006

Sri Biplob Roy Choudhury & ors. ...Applicant(s)

-Vs-

Union of India & others

...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri G.N. Chakraborty and Sri S. Nath, Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all such acts to be mine/our for all intends and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 25th day of January 2006.

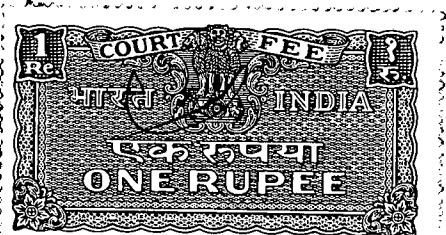
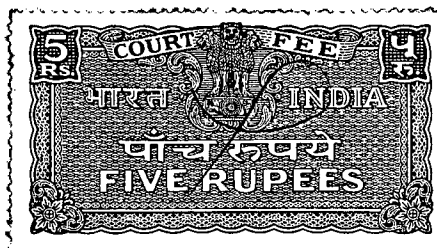
Received from the Executant, Mr. S. Nath satisfied and accepted.

And accepted
Senior Advocate will lead me/us in the case.

S. Nath
Advocate

Manik Chanda
Advocate

G.N. Chakraborty
Advocate



102
1. Biplob Roy Choudhury
2. Manik Chanda
3. Niranjan P Singh
4. Pranab Sarker

5. Sant Kumar Sarker

NOTICE

From S. Nath.
Advocate

To, G. Baishya,
Sr. C.G.S.C.

Subj: - G.A. NO. 25/06 (Shri B. Roy Choudhury &
Or. - Ms. V.O. & Lrs.)

Sir, find please enclosed herewith a copy of the
G.A. This is for your information and necessary
action.

Received

Alsha Das.
Addl Chs C.
For (G. Baishya)
Sr. Chs C.

25/1/06

Yours Sincerely

Subrata Nath
Advocate.
25/1

- M. A. S. D.

MEMORANDUM OF APPEARANCE

109

Date : ...1/2/06...

To,

The Registrar

Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

O.A. No. 25 of 2006

Sri Biplab Roy Chowdhury

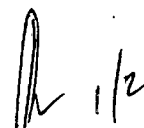
----- Applicant

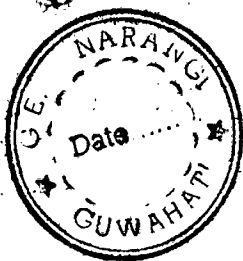
- Vs -

Union of India & Others

----- Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 167 in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.


(Motin Ud-Din Ahmed)
Addl. C.G.S.C.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH

(Shirish Sharma, IDSE)
EE
Garrison Engineer
Narangi Division

IN THE MATTER OF:

O.A.No. 25/2006

Shri B.R. Choudhury

..... Applicant

- Versus -

Union of India & Others.

..... Respondents

- AND -

IN THE MATTER OF:

Written statement submitted by the

Respondents No.

WRITTEN STATEMENT

The humble answering respondents

submit their written statements as

follows:

1.(a) That I am the Garrison Engineer, IDSE,
working at Narangi, Guwahati and

Respondents No. 6 in the case. I have gone through a copy of the application
served on me and have understood the contents thereof. Save and except
whatever is specifically admitted in the written statement, the contentions and

110
Motin Ud-Din Akhter, B.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench.
14/9/06

statements made in the application may be deemed to have been denied. I am competent and authorized to file the statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on facts and in law.

© That the application is bad for non joinder of necessary parties and misjoinder of unnecessary parties.

(d) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

2. That with regard to the statements made in paragraphs 1 to 4.3 of the application, the answering respondents beg to submit that they do not admit anything except those are based on record and with rational foundation and the applicant is put to strictest proof thereof.

3. That with regard to the statements made in paragraphs 4.4 to 4.15 of the application, the answering respondents beg to submit that all the applicants in the instant case had earlier filed similar petition before this Hon'ble Tribunal vide O.A.No.117/2004. Hon'ble Tribunal at that time was pleased to admit their petition and after hearing both the parties, Hon'ble Tribunal was pleased to direct respondent No.4 to issue speaking order after satisfying governing principles for grant of SDA as set out by various judgments of this Tribunal as well as apex Court. Accordingly.

respondent No.4 duly complying with the order of this Tribunal dated 2nd June 2005 and duly satisfying all governing principles came to the conclusion that applicants were not eligible for grant of SDA as prayed for. As such speaking order bearing No.70222/OA/117/2004/61/E1 (Legal) dated 11.8.2005 was issued to all applicants rejecting their claim. Now again applicants have filed this instant petition praying for grant of SDA and, therefore, answering respondents again beg to state as follows.

The answering respondents beg to state that the applicants of instant O.A are not entitled for grant of SDA on their posting to NE 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 Govt. of India, Ministry of Finance, Department of Expenditure vide O.M. dated 29.5.2002 and adopted by the highest authority of the respondents i.e. AHQ E-in-C's Branch for execution/implementation by all subordinates Units/Formations under its territorial jurisdiction vide letter No.90237/7521/EIC(Legal-C) dated 4.6.2003 as amended vide even No. dated 3.10.2003. Therefore, filing of the instant petition vide O.A No.117/2004 by the petitioners seeking Court's direction upon the respondent authority to make continue payment of SDA to them in terms of Office Memorandum dated 14.12.1983, 1.12.1998 and 22.7.1998 is ultra motive to extract something which is otherwise not eligible to them as Policies formulated by the authority at Ministry level at different point of time and adopted by the department concerned for their execution/implementation on ground are subject to further

revision/modification/alteration and issuance of such policies by the Ministry always take precedence over former policies even though a word specific to supercession of such policies formerly formulated may not be found mentioning while formulating new policies on the same subject time and again. But the fact on ground that formulation of such policies time and again not only take precedence over formerly formulated policies but also meant for their strict implementation on ground. As such the contention of the petitioner that they should be allowed to continue payment of SDA through judicial intervention is devoid of merit of the issue in question and therefore the petition is liable to be rejected and quashed in toto.

4. That the answering respondents beg to submit that the petitioners of the above O.A are not entitled for grant of SDA on their posting to NE Region as they do not fulfill the eligibility criteria of All India Transfer liability and All India Common Seniority List in accordance with latest policy of instructions issued by Govt. of India, Ministry of Finance vide OM dated 29.5.02 and AHQ E-in-C's Branch policy letter dated 04.06.03 as amended vide No dated 3.10.2003. On perusal of the Ministry of Finance, Department of Expenditure recent OM dated 29.5.2002 it may be seen that the Hon'ble Supreme Court in response to recent 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 Telecom Department is converted by the Judgment delivered by the Hon'ble Supreme Court in the case of UOI and ors. vs. S.Vijaykumar and ors.

reported in 1994 (Supp.3) SCC 649 and followed in the case of UOI and Ors. vs. Executive Officers Association Group 'C' 1995 (Supp.I) SCC 757. Therefore, the appeal of the Telecom Department was allowed by the Hon'ble Supreme Court with the direction to authority concerned not to recover whatever amount of SDA has been paid inspite of the fact that appeal of the Telecom department was allowed. The Hon'ble Supreme Court in its judgment delivered on 20.9.94 in the case of UOI and ors. vs. S.Vijaykumar and Ors. held that mere clause of all India Transfer Liability in the appointment letter does not qualify employees the payment of SDA. It was on the bases of Hon'ble Supreme Court's order dated 5.10.2001 in the case of appeal by Telecom Department, the Ministry of Finance, Department of Expenditure vide OM dated 29.5.02 introduced policy on SDA whereby Special Duty Allowance has been allowed to Central Govt. employees posted to NE Region (including Sikkim) from outside NE Region and accordingly E-in-C's Branch AHQ the highest respondent authority had classified/categorized the staff working under its various subordinates establishment as having all India Transfer liability and All India Common Seniority List by applying the recruitment and promotional zone to determine whether recruitment/transfer to any service/cadre/posts has been made all India transfer liability and All India common seniority list for the purpose of grant of SDA on their posting/re-posting to NE Region from outside the Region. Based on the criteria of recruitment as well as promotional zone, the following categories of staff in MES under Ministry of Defence have been found having all India

transfer liability and all India common seniority list for acquiring the eligibility for grant of SDA on their posting/re-posting to NE Region from outside NE Region :

(a) Erstwhile Superintendent Gr. I (Now redesignated JEs),

Supervisor B/s Gr.I, Draftsman Gr.I, Assistant and Steno Gr.I.

(b) All Group 'A' & 'B' Officers.

As per the recent policy of instructions on SDA formulated by the highest decision making body of respondents authority i.e. C-in-Cs Branch, all other categories of staff other than these specifically specified in letter of policy dated 4.6.2003 as amended vide No dated 3.10.2003 do not fulfill the criteria of "All India Transfer Liability" and "All India Common Seniority List" for the purpose of SDA on their posting/re-posting to NE Region from outside NE Region. The posts held by all the Petitioners do not come under the eligibility criteria of "All India Transfer Liability" and "All India Common Seniority List" for grant of SDA on posting/re-posting to NE Region from outside NE Region. Hence payment of SDA to all the applicants had been stopped as a matter of right and corrective action in accordance with policy in vogue. Therefore, contention of the petitioner is devoid of merit and therefore liable to be set aside, since they do not fulfill the criteria and ingredient laid down by the Hon'ble Court for the entitlement of SDA.

5. The humble respondents beg to submit that once the applicants are not entitled to the amount which they have received, naturally, the competent authority will take step to recover the same and it is needless to

submit that the applicants are also aware of the same. Therefore, action on the part of the respondents authority to enforce recovery of already paid SDA to the applicants in contravention to recent policy of instructions is in accordance with law and cannot and ought not be declared as void as a matter of right or remedy on the mere plea of the applicants.

6. The humble respondents further beg to submit that grant of SDA in respect of Central Govt. employees on their posting/re-posting to NE Region from outside NE Region is governed by the recent policy of instructions formulated by Ministry of Finance, Department of Expenditure in pursuant to Hon'ble Supreme Court order/judgment dated 5.10.2001 delivered in the appeal of Telecom Department. In pursuant to Ministry of Finance, Department of expenditure OM dated 29.5.2002, AHQ E-in-C's Branch has drawn up a list of categories of staff in MES who are found to have fulfilled the criteria of All India Transfer liability and All India Common Seniority list for the purpose of SDA on their posting/re-posting to NE Region irrespective of the fact whether they are initially recruited in NE Region or outside NE Region. The following categories of staff in MES under Ministry of Defence are fulfilling the eligibility criteria of SDA on the basis of "All India Transfer Liability" and "All India Common Seniority List" on their posting/re-posting to NE Region from outside NE Region :-

"Erstwhile Superintendent Gr.I (Now JEs, Supervisor B/S-I, D'Man Gd-I and Steno Gd-I".

It was on the basis of recent policy formulated by the highest decision making body of the respondent authority, the applicants of above OA were found ineligible for grant of SDA on their posting to NE Region. Thus the letter emanating from HQ CEEC Kolkata (respondent No.3) to HQ CE Shillong zone (respondent No.4) in the form of directive was valid, correct and no way can be declared as void.

The respondents authority further beg to state that the letter 1151/Policy/Gen/92/E1(Legal) dated 29.3.2004 emanating from Commander Works Engineer, Shillong (respondent No.5) to all lower formations under its jurisdiction directing them to initiate recovery action was in accordance with the policy of instructions received from the highest authorities of the respondents as it is imperative and obligatory for all formations to follow and implement the executive orders issued by highest decision making body of the respondent authority. Thus the contention of the petitioners that this letter of respondent No.5 to be declared as void is baseless, concocted and imaginary, self manifest having no material facts on ground and therefore shall not be taken cognizance of.

7. That with regard to the statements made in para 4.16 of the application the answering respondents beg to submit that Engineer-in-Chief's Branch had formulated amended policy of granting SDA vide No. 90237/7521/E1 (legal) dated 4.6.2003 strictly following governing principles as set out by Hon'ble Apex Court vis-à-vis various other judgments delivered by High Court and this Hon'ble Tribunal. Accordingly, after thorough perusal of all documents/guidelines/factual

position etc., necessary speaking order No.70222/OA/117/2004/61/E1 (Legal) dated 11.8.2005 was issued to the applicant as per directive of this Hon'ble Tribunal. Therefore, contention of the applicants that speaking order was issued without application of mind is baseless.

Copy of letter No.90237/7521/E1 (legal) dated 4.6.2003 annexed as Annexure-A.

8. That with regard to the statements made in para 4.17 to 5.13 of the application the answering respondents beg to submit that in view of submission made in reply to para 4.3 to 4.16, it is very clear that applicants are not entitled for grant of SDA and therefore, the instant O.A is liable to be dismissed in limine.

9. That with regard to the statements made in para 6 & 7 the respondents beg to offer no comments being matter of records.

10. In view of the submission made in opposition in preceding paras, the application of the applicants seeking redressal of the issue which has otherwise been decided in principle by the latest policy of instructions through judicial intervention is devoid of merit and therefore liable to be set aside.

11. In view of the above submissions the relief sought for vide para 8.1 to 9.1 of the application, the answering respondents beg to deny the same being false, fabricated, imaginary and therefore liable to be set aside with cost.

12. That the respondents beg to submit that the application is devoid of merit and as such same is liable to be dismissed.

9. 13. That this written statement is made bonafide and for the ends of justice & equity.

Under the above circumstances, Your Lordship would be pleased to dismiss the application filed by the applicant for the ends of justice.


VERIFICATION

I, Shri Shirish Sharma, Executive Engineer, Garrison Engineer, Narangi, aged about 35 years being competent and authorised officer of the answering respondents, do hereby verify that the statements made in paragraph 2, 4, to 7 are true to my knowledge and those of the paragraphs 3 & 6 being matter of record are true to my information derived there from which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 14th day of August 2006

at Guwahati.




(Shirish Sharma, IDSE)
Signature
Garrison Engineer
Narangi Division

Dir. Gen of Pers. EIC (Legal),
 Military Engineer Service
 Engineer in Chief's Branch
 Army Headquarters
 Kashmir House
 DIIQ PO New Delhi-110011.

No. 90237 7521 EIC (Legal-C)

04 Jun 2003

CE Eastern Command
 Kolkata-21.

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

Reference this HQ Letter of even number dated 24 Feb 2003.

We had vide our above mentioned letter forwarded copies of four MOD letters No. PC 90237 7521 EIC (Legal-C) 89-EC/2 (Civ-I)/2003 dated 21 Feb 2003 containing MOD decision regarding grant of SDA to applicants of OA No. 238/2000 filed by Shri PM Kuttan and two others in CAT Guwahati. The decision of MOD in the ibid case arrived in consultation with Ministry of Finance will apply to all cases relating to grant of SDA. It is accordingly advised that eligibility of all individuals including applicants of the various Court/CAT cases on SDA filed in different CATs/higher Courts may be examined based on the following criteria reproduced from Min of Finance (D/Exp) OM No. 11(5)/97 E-II(B) dated 29 May 02 (copy enclosed) :-

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

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

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

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

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

.....2/-

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 26
 175

122
-13-
2.
✓(a) Copies of orders regarding recruitment or promotion to one of the grades mentioned at Para 3(a) and (b) above and the relevant Part II order regarding assumption of an appointment in that grade.

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

After identifying the applicants found eligible for grant of SDA, their cases accompanied with proofs as indicated at Para 4. (a) & (b) above, should be sent to concerned Audit Office for making the payment. In case of Court judgements, sanction of competent authority for incurring charged expenditure would be required. It is possible that out of the applicants found eligible for grant of SDA, some might have already been paid the SDA for some time but the same was stopped afterwards. In case of such employees the payment should continue from the date it was stopped till the period they continued to be posted in North Eastern Region.

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

You are requested to forward a completion report separately from each OA by 30

July 03.

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

Encls : As above

Copy to :-

Shillong Zone :

CGDA (AT)

Min of Def/D (Civ-I) :

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

EIC

for info and necessary action.

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

for info wrt Note 34 dated 27 May 03 recorded on our PC No. 90237/7521/EIC (Legal-C).

for info alongwith a copy each of all relevant enclosures and the refs quoted in para 1 above.

: You are requested to issue appropriate instructions for payment of SDA to non applicants in the light of clarification issued vide Min of Fin M No. 11 (5)/97/E II (B) dated 29 May 02 and their ID No. 25(4)/E II(B)/2001 dt. 19 Feb 03 (copies enclosed).

BR

PA

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9.2.07

गुवाहाटी न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHA

123
Filed by the applicants
through: S. Nath
Advocate
09.02.2007.

In the matter of: -

O.A. No. 25 of 2006

Shri Biplab Roy Choudhury & Ors.

.... Applicants.

-Versus-

Union of India & Ors.

.....Respondents.

-And-

In the matter of: -

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

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

1. That the applicants categorically deny the statements made in Paragraphs 1 (a), (b), (c), (d), and (e) of the written statements save and except which are borne out of record and further begs to state that the application is filed bonafide and for the ends of justice.
2. That with regard to the statements made in para 2, 3, 4, and 5 of the written statement, the applicants categorically deny the same save and except which are borne out of record and further beg to state that they were initially appointed with a specific clause of all India transfer liability in their appointment letter and while working as Upper Division

Clerk/Lower Division Clerk in the State of West Bengal, outside the North Easter Region under the administrative control of different GE under the Eastern Command, Kolkata, they have been transferred and posted on different dates under the C.E. Narangi and CE, Guwahati in public interest. As such they are entitled to Special Duty Allowance (SDA) in terms of Govt. of India, O.M dated 14.12.1983, 01.12.1988, 22.07.1998 and 29.05.2002 from the date they have posted in N.E Region. Therefore, the contention of the respondents that the applicants do not fulfill the criteria of "All India transfer liability" and "All India Common seniority list" in accordance with recent policy of instructions issued by Govt. of India, Ministry of Finance, Department of Expenditure is not correct and the same is misleading statement. It is categorically submitted that the applicants fulfill the criteria laid down in Paragraph 5 of the O.M dated 29.05.2002 (Annexure- 8 of the O.A) as such they are entitled to SDA in terms of O.M dated 29.05.02. Moreover, the recruitment and promotion of the applicants are being made on All India basis, which would be evident from the letter bearing No. A/41205/EIR (SUB) dated 28.02.2002 (Annexure- 5 of the O.A.), as such they fulfill all the criteria for payment SDA. Therefore, the statements made in paragraph 4 of the written statement to the extent that the applicants are not entitled to SDA on their posting to NE Region as they do not fulfill the eligibility criteria of All India Transfer liability and All India Common seniority in accordance with latest policy decision issued by Govt. of India, Ministry of Finance vide OM dated 29.05.02 is illegal, malafide and the same is liable to be rejected by the Hon'ble Tribunal.

3. That the applicants categorically deny the statements made in paragraphs 6, 7, 8, 9, 10, 11, 12 and 13 of the written statement save and except which are borne out of record and further beg to state that they fulfill all the criteria laid down in Govt. of India, Ministry of Finance O.M dated 14.12.1983, 01.12.1988, 22.07.1998 and 29.05.2002 for payment of SDA. It is

further submitted that all the applicants are permanent resident of outside of N.E. Region and they have been transferred and posted in N.E. Region and the recruitment zone, seniority and promotion of the applicants are maintained in all India basis therefore denial of payment of SDA to the applicants is illegal, arbitrary and oppose to the Govt. of India's instruction issued vide O.M dated 14.12.1983, 01.12.1988, 22.07.1998 and 29.05.2002.

4. That in the facts and circumstances stated above, the applicants most respectfully submit that they are entitled to the reliefs prayed for and the original application deserves to be allowed with cost.

VERIFICATION

I, Shri Biplab Roy Choudhury, son of Late Phani Bhusan Roy Choudhury, aged about 48 years, applicant No. 1 in the instant original application, duly authorized by the others to verify the statements made in Original Application, do hereby verify that the statements made in paragraph 1 to 7 of the rejoinder are true to my knowledge and belief and I have not suppressed any material facts.

And I sign this verification on the 4th day of February 2007.

Biplab Roy Choudhury

NOTICE

from:-

S. Nakh.
Advocate

To. Mr. M. V. Ahmed,
Adv. C.G.S.C.

Sub: Rejoinder in O.A. No. 25/2006 (B. Roy Chowdhury &
as. - vs - U.P. & others)

Sir,

find please enclosed herewith a copy of
the rejoinder, which is being filed on today.
This is for your information and necessary action.
Please acknowledge receipt.

Received



(M. V. Ahmed)

Adv. C.G.S.C.

Yours Sincerely

S. Nakh.
Advocate
9/2

128
Filed by the applicants
for: Sri Asoke
25/7/07.

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

In the matter of: -

O.A. No. 25/2006

B.R. Choudhury & Ors.

-Versus-

Union of India & Ors.

O.A. No. 207/2006

Sri A.K. Singh

-Versus-

Union of India & Ors.

O.A. No. 229 of 2006

Shri Asoke Kumar De & Ors.

-Versus-

Union of India & Ors.

The applicants above named rely on the following judgments in support of their contention in the respective Original Applications.

1. Judgment and order dated 03.06.2003 passed in OA No. 30/2003 by the Hon'ble CAT, Guwahati Bench.
2. Judgment and order dated 05.03.2001 passed in OA No. 187/2000 by the Hon'ble CAT, Guwahati Bench.
3. Judgment and order dated 04.01.2006 passed in W.P (C) No. 7057/2001 by the Hon'ble Gauhati High Court.

ORDER SHEET

Annexure - 1

129

Original Application No : 30/03
 Misc. Petition No. _____
 Contempt Petition No. _____
 Revision Application No. _____

Applicant (s) Ranjit Sukrachar

Respondent (s) U.O. 1 Doreen

Advocate for the Applicant (s) M. Chandan, G. M. Chakraborty
M. A. J. R. R.

Advocate for the Respondent(s) Sr. Chatter

3.6.2003 . Present : The Hon'ble Mr. Justice
 D.N. Chowdhury, Vice-Chairman.

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

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

According to the applicants, they were paid SDA in terms of memorandum dated 14.12.1983, 1.12.1988 and 22.7.1998 and the same was sought to be stopped whereupon the applicants moved this Tribunal by the O.A.

The respondents submitted written statement and contended that in view of the decision rendered by the Supreme Court in S. Vijaya Kumar and Ors. and like cases the Ministry of Finance issued appropriate direction for taking appropriate measure in regards payment of SDA vide communication dated 29.5.2002. According to the respondents SDA is admissible only to civilian employees posted from the outside region and not others. The decision of the Supreme Court in U.O. 1. A Ors. Vs. Sh. S. Vijaya Kumar & Ors. has clarified the same. It was also mentioned that SDA would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

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



3.6.2003

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

130

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

Accordingly, the application is allowed in the light of the decision of this Bench in O.A. No. 38/2001 disposed on 12.2.2001.

The application is allowed.
No order as to costs.



Memo No. 17/15

Copy for information and necessary action to

- 1) Mr. Ranjit Sutarachan (8012) LDC(S)
Canteen Store Department at Missionary, Aram
- 2) Mr. A. Deb Roy, Sr. C.G.S.C., CAT

Sd/VICE CHAIRMAN

22.11.13

Proctor Officer (2)
10/6/16

~~ANNEXURE F~~
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 187 of 2000.

Date of order : This the 5th day of March, 2001.

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

1. Sri Apurba Kumar Ghosh
Son of Shri Amrendra Narayan Ghosh
Senior Engineering Assistant
All India Radio, Guwahati
resident of village Gangamia
P.O. Kuleynia, Satgachia
P.S. Monteswar,
District Burdwan, West Bengal.

2. Sri Sujit Kumar Soan
Senior Engineering Assistant
All India Radio, Guwahati
Resident of village Hairagram
P.O. Batgobindapur,
District-Burdwan,
West Bengal

Applicants

By Advocate Mr. M.Chanda.

-versus-

1. The Union of India
Represented through the Secretary
to the Government of India,
Ministry of Information and Broadcasting,
New Delhi.

2. The Director General
All India Radio
New Delhi.

3. The Chief Engineer(EZ),
All India Radio & television
Akashvani Bhawan, Eden Garden,
Calcutta.

4. The Station Director,
All India Radio,
Guwahati.

5. The Deputy Director
All India Radio,
Guwahati.

6. The Administrative Officer,
All India Radio,
Station Guwahati,
Guwahati.

...Respondents

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

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ORDER (ORAL)

CHOWDHURY J. (V.C.)

The admissibility of Special Duty Allowance these two applicants is the issue involved in this application. The applicants are working as Senior Engineering Assistants in the All India Radio, Guwahati. Both of them hail from district Burdwan, West Bengal. The applicant No. 1 was initially appointed as Engineering Assistant in All India Radio, Station Guwahati vide order dated 21.7.1988. He worked in Guwahati upto 7.6.1993 in Doordarshan Kendra thereafter he was transferred to Doordarshan Kendra, Murshidabad, Behrampore, West Bengal. While the applicant was posted in Guwahati he found to be eligible for SDA under the Scheme of 1983 and revised scheme of 1988 and he was paid SDA upto 31.5.1993. The applicant no.1 was thereafter transferred to Murshidabad in the month of June 1993 and continued to work at Murshidabad till September 1997. He was transferred from Murshidabad to All India Radio, Guwahati on 13.10.1997 and he joined at Guwahati accordingly thereafter. The applicant No.2 was initially posted at Ranchi, All India Radio, as Engineering Assistant. He was transferred and posted from All India Ranchi to All India Radio, Shillong in the year 1988 and accordingly he reported for duty at Shillong on 16.12.1988 and continued thereat Shillong upto 26.12.1993. During the said period of stay at Shillong the applicant was declared eligible for Special Duty Allowance and he was paid SDA. Subsequently in the last part of 1993 he was ordered for posting in AIR, Calcutta and accordingly he joined thereat Calcutta on 4.1.1994. By the order dated 12.1.98 he was again ordered for posting at Guwahati, All India Radio and the applicant joined the AIR, Guwahati on 7.4.1998. Both the applicants

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their second stint at North Eastern Region have not been paid SDA as was paid earlier. The applicants submitted representation praying for grant of SDA. By orders dated 18.5.99 and 25.11.99 the respondents turned down their claim. According to the respondents since their transfer and posting was limited to North Eastern Region are not entitled to SDA. The respondents further intimated by the said letter that only those employees who have All India transfer liability on posting to NER are eligible for grant of SDA as per Ministry of Finance, Department of Expenditure O.M. dated 22.7.98. The applicants does not have All India transfer liability as they are transferable only in a particular zone. In the circumstances the claim of the applicants for grant of SDA was turned down by the respondents.

2. Admittedly these two applicants do not belong to North Eastern Region. They belong to Burdwan, West Bengal and came from the state of West Bengal. These two applicants were posted in North Eastern Region from Murshidabad, West Bengal and Ranchi, Bihar. The N.E. Region is indicated in the O.M. dated 14.12.1983 comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura and the then Union Territory of ARunachal Pradesh and Mizoram. The Memorandum granting SDA used the expression attracting and retaining in services. In Union of India vs. Executive Officer's Association Group C reported in (1995) 29 ATC 517, the Supreme Court observed as follows :

"..... The intention of the Government and spirit behind the office memorandum is to provide an incentive and attraction to the competent officers belonging to a region other than the North Eastern Region to come and serve in the North Eastern Region. It can hardly be disputed that the geographical, climatic, living and food conditions of people living in North Eastern Region and the States comprising therein are different from other regions of the country. The

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North Eastern Region is considered to be "hard zone" for various reasons and it appears that it is for these reasons that the Government provided certain extra allowances, benefits and other facilities to attract competent officers in the North Eastern Region at least for two to three years of tenure posting. The Ministry's Office Memorandum in question came up for consideration before this Court in Chief General Manager (Telecom) v. Rajendra Ch. Bhattacharjee which was decided by us by judgement dated 18.1.1995 in which this Court took this view that the said office memoranda are meant for attracting and retaining the services of competent officers in the North Eastern Region, from other parts of the country and not the person belonging to the region where they were appointed and posted. This was also the view expressed by this Court in yet another case reported in Union of India Vs. Vijaykumar. In Vijaykumar the point for consideration was exactly identical, with regard to the entitlement to Special Duty Allowance to those employees/officers who are residents of North Eastern Region itself. After considering the Memorandum dated 14.12.1983 and other related office memorandums indicated above, it was held that the purpose of the allowance was to attract persons from outside the North Eastern Region to work in the North Eastern Region because of inaccessibility and difficult terrain."

3. Mr. A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents submitted that these two applicants belong to North Eastern Region and their transfer and posting is always been confined within eastern region including N.E. Region, therefore in the appointment though mentioned All India Transfer Liability but their transfer and posting always confined to Eastern Region. Mr. M.Chanda learned counsel for the applicant on the other hand stated that the terms and conditions shows that they have All India Transfer Liability and that their inter se seniority etc. and promotion are made on the basis of All India Seniority.

4. From the facts enumerated above it is clear that these two applicants have come from outside the N.E. Region and posted in N.E. Region. Their appointment letter carries all India transfer liability. The SDA introduced by the Central Government by the O.M. dated 1.12.83 for the

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Civilian employees serving in the States and Union Territories of North Eastern Region. Thus the applicants cannot be disentitled SDA solely on the statement of the respondents that the transfer and posting of the applicants is confined to a particular zone.

5. In the circumstances and on consideration on the rival submissions I am of the view that these two applicants are entitled to SDA and the decision of the respondents to deny the benefit of SDA to these applicants are not justified. The respondents are therefore directed to pay SDA to the applicants from the date of their subsequent posting in N.E. Region. The Respondents are also directed to pay the arrears SDA within six months from the date of receipt of a certified copy of this order.

6. The application is accordingly allowed. There shall however, be no order as to costs.

Sd/VICE CHAIRMAN

TRUE COPY
attested

NS-4
22/3/2011

SECRETARY
Central Board of Secondary Education
New Delhi
22/3/2011

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प्रतिवादी को नोटिफिकेशन देने की तारीख Date of notification for the copy.	रटाम आर फालोआ का अपाक्षर संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपक्षर रटाम आर फालोआ देने की तारीख Date of delivery of the requisite stamps and folios.	सामग्री, गुवाहाटी देने की तारीख प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	अपक्षर रटाम आर फालोआ देने की तारीख Date of making over the copy to the applicant.
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**IN THE GAUHATI HIGH COURT
THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA
MANIPUR TRIPURA MIZORAM AND ARUNACHAL PRADESH.**

**PRESENT
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.P.KATAKEY**

W.P.(C) No. 5087/1999 ✓

1 The Regional Director
Employees State Insurance Corporation
N.E. Region
Bamunimaidan
Guwahati 781 021 and others Petitioners

VERSUS

1 The Secretary
Employees State Insurance Corporation
Employees Union, N.E. Region
Bamunimaidan, Guwahati 781021 and others Proforma
Respondents.

For the Petitioner Mr. B.R. Dey,
Mr K.K.Nandi
Mr H. Talukdar
Mr A.K. Choudhury
Advocates.

For the Respondents Mr. D.S. Bhattacharyya
Mr. K.K. Goswami,
Advocates.

W.P.(C) No. 3009/2001

The Union of India and others Petitioners

Versus

Shri Aravand Pall and others. Respondents

For the Petitioner : Mr. K.K.Mahanta
Advocate

For the Respondents Mr. APK Joseph

Mr A. Ahmed, Adv.

✓ W.P.(C) No. 7057/2001

Union of India and others

Petitioners

Versus

✓ Shri Apurba Kumar Ghosh and others

Respondents

For the petitioner

Mr. G.P.Bhowmick
Advocate.

For the Respondent

Mr M. Chanda
Mr S. Ghosh
Mr S. Dutta
Advocates.

W.P.(C) No. 7324/2001

The Union of India and others

Petitioners

VERSUS

Sri Sailendra Kr Sarma

Respondents

For the Petitioner

Mr. S. Kalita
Mr D. Saikia
Mr C. Baishya
Advocates.

For the Respondents

Mr B.K.Sarma
Mr U.K.Nair
Mr R.K. Vothra
Advocates

W.P.(C) No. 3000/2001

The Union of India and others

Petitioners

VERSUS

Sri Chandra Kanta Sinha
Deputy Commissioner of
Income Tax, Jorhat Circle
Jorhat.

Respondent

For the Petitioner

Mr. G.P. Bhowmick

Advocate.

For the Respondents Mr. J.L.Sarkar
 Mr N. Choudhury
 Ms S. Deka
 Mr A. Choudhury
 Advocates.

W.P.(C) No. 3280/2001

The Union of India and others Petitioners

VERSUS

Income tax Gazetted Service Federation
North Eastern Region Unit
Aayakar Bhawan, Uzanbazar Guwahati
Through the President of the Service
Federation and others Respondents.

For the Petitioner Mr. G.P.Bhowmick
 Advocate

For the Respondents Mr. J.L.Sarkar.
 Advocate.

W.P.(C) No. 2771/2004.

Union of India
Through the Director General of
Posts, Department of Posts
Represented by the Chief Postmaster
General of Posts, Assam Circle
Meghdoot Bhawan, Guwahati Petitioner

VERSUS

Shri Bangshidhar Boro
Circle Secretary, National
Federation of Postal Employees
Assam Circle, Guwahati and others. Respondents.

For the Petitioner : Mr. Bipul Sarma
 Advocate

For the Respondents : None appears.

Date of Hearing : 19.12.05

Date of Judgment : 04.01.06

JUDGMENT AND ORDER

(Katakey,J)

By this batch of Writ Petitions, the petitioners have challenged the judgments and orders passed by the learned Administrative Tribunal, Guwahati Bench regarding the grant of Special Duty Allowance(for short "SDA") to the employees under them.

2 In WP(C) No.5087/99 the petitioners, Regional Director, E.S.I. Corporation and another have challenged the order dated 17.2.99 passed by the learned Tribunal setting aside the order dated 12.6.96 issued by the petitioner No.1 and directing that the employees of the Corporation will continue to receive the SDA in terms of the order dated 28.2.90 passed in O.A.No. 130(G)89. An application being O.A.No.103/96 was filed by the Respondent Nos 1 and 2 herein challenging the order issued by the Regional Director, ESI Corporation dated 12.6.96, whereby the SDA directed to be paid by the learned Tribunal vide order dated 28.2.90 in O.A. No. 130(G)/89 was sought to be recovered with effect from 20.9.94 and also deciding not to pay the said allowances to the members of the Respondent No.1 Association, though the learned Tribunal by the aforesaid order dated 28.2.90 has held that the Members of the petitioners' association are entitled to such SDA.

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3 WP(C) No. 3009/2001 is filed by the Union of India challenging the order dated 20.12.2000 passed by the learned Tribunal in O.A. No.306/99 filed by the applicants therein, who are the respondents before this court, to pay the SDA in terms of the officer memorandums dated 14.12.83 and 1.12.88 for the period of their posting in North Eastern Region. The said Original Application was filed by the respondents herein claiming the said allowances in terms of the judgment passed by the Apex court in Union of India and others Vs B.Prasad B.S.D. and others, reported in (1997) 4 SCC 189 and also in terms of the office memorandums dated 14.12.83 and 1.12.88 claiming that they have fulfilled all the conditions for grant of such SDA.

4 Writ Petition (C) No. 7057/2001 is directed against the order dated 5.3.2001 passed by the learned Tribunal holding that the applicants (respondent herein) are entitled to SDA and directing the writ petitioners to pay the said allowances from the date of their subsequent posting in N.E Region. The Original Application was filed by the respondents herein claiming that though they were initially recruited in the North Eastern Region they were transferred to places out side the said Region and re-transferred to the North Eastern Region and as such they are entitled to the SDA.

5 The Union of India and others, in Writ Petition (C) No. 7324/2001 have challenged the order dated 19.12.2000 passed by the learned Tribunal directing the petitioners to give effect to the earlier order dated 28.2.90

W. J.

passed by the learned Tribunal in O.A. No.130(G)/89 and 130/96.

6 Writ Petition(C) No. 3000/2001 and 3280 of 2001 have been filed by the Union of India and others challenging the common order dated 19.12.2000 passed by the learned Tribunal in O.A. No. 268/ 2000 and O.A.No. 293/1999 filed by the present respondents, setting aside the order dated 12.7.2000, 14.7.2000 and 25.8.2000 , whereby the writ petitioners have decided to discontinue the payment of SDA and to recover the amount already paid and directing the writ petitioners to comply with the judgment and order passed on 31.8.90 in O.A. No.80/99, wherein the learned Tribunal declared that the respondents are entitled to SDA under the various office memorandums issued by the Government of India in that regard.

7 In Writ Petition(C) No. 2771/04 the Union of India has challenged the common order dated 12.3.03 passed by the learned Tribunal in O.A. No.249/2002 and other Original Applications, directing the petitioners not to make any further recovery of the SDA already paid to the respondents herein, while rejecting the claim of the respondents herein for grant of SDA. The said Original Application was filed before the Tribunal assailing the action of the respondents as regards the recovery of the SDA so far paid to the applicants — respondents herein.

8 We have heard Mr. Dey, learned Senior counsel and Mr H. Rahman, learned Assistant Solicitor General for the writ petitioners in the aforesaid writ petitions and Mr. J.L. Sarkar and Mr M. Chanda learned counsel for the respondents.

9 The Government of India, Ministry of Finance, upon consideration of the recommendation of the Committee appointed by it to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in the North Eastern Region, comprising the State of Assam, Meghalaya, Manipur, Nagaland, Tripura and erstwhile Union Territories of Arunachal Pradesh and Mizoram and to suggest suitable improvement, has decided to grant the Special Duty Allowances to the Central Government Civilian employees, who have All India transfer liability, on their posting from any region in to the North Eastern Region. It is evident from the said office memorandum that the intention of the Government and the spirit behind issuance of such office memorandum is to provide incentive and attraction to the officers belonging to the region other than the North Eastern Region to come and serve in the said region.

10 The learned counsel for the petitioners have submitted that the issue relating to the entitlement of SDA by the employees/officers of the Central Government has already been decided by the Apex Court in S. Vijaykumar's case. Therefore, according to the learned counsel, the employees/officers, who are not entitled to such allowance, in view of the said decision of the Apex court, cannot be paid

142

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such allowance, even if the cases filed by them were heard and disposed of in their favour before the said decision of the Apex court, by the learned Tribunal or by the High Court in a petition challenging such decision of the learned Tribunal.

11 The learned counsel for the respondents, agreeing with the submissions of the learned counsel for the petitioners relating to the decision of the Apex court regarding the entitlement of SDA, in S. Vijaykumar's case, have however submitted that the said decision of the Apex court will not effect the decisions of the learned Tribunal, rendered prior to the said judgment of the Apex court, which have attained finality, either because of not challenging the same before the Higher Court or if challenged, were rejected.

12 In Union of India and others Vs S. Vijayakumar and others, reported in 1994 Supp (3) SCC 649, the Apex court by taking into account the purpose for which the office memorandums dated 14.12.83, 29.10.86 and 20.4.87 were issued, has held that such allowances was meant to attract persons out side the North Eastern Region to work in that Region because of inaccessibility and difficult terrain and with a view to attract and retain the services of the competent officers for service in North Eastern Region. It has further been held that the Central Government Civilian employees who have All India Transfer Liability would be granted the allowances on posting to any Station in the North Eastern Region and such employees would not become entitle to such allowances merely because of the Clause in the appointment order relating to All India Transfer Liability. However, the Apex court, on the basis

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of the concession given by the learned Additional Solicitor General, has directed that the amount already drawn by the ineligible employees/officers, towards SDA shall not be recovered from them. The Apex court in Chief General Management (Telecom), N.E. Telecom Circle and another Vs Rajendra Ch. Bhattacharjee and others, reported in AIR 1995 SC 813 has also reiterated the said position.

13 The Apex court in Union of India and others Vs Executive Officers Association Group C , reported in 1995 Supp.(1) SCC 757; upon consideration of the object behind issuance of the various office memorandums issued by the Government of India regarding entitlement of Special Duty Allowance, has held that as the North Eastern Region was considered to be 'hard zone' for various reasons, the Government has issued the said office memorandums providing certain extra allowances , benefits and other facilities to attract competent officers in the North Eastern Region at least for 2 to 3 years of tenure posting. Referring to Rajendra Ch. Bhattacharjee case, the Apex Court has further held that such benefits shall not be available to the persons belonging to the N.E. Region, where they were appointed and posted. The decision of the Apex court in Union of India & Ors etc Vs B. Prasad, B.S.D. & Ors, etc(supra) being related to the entitlement of SDA as well as Field area Special compensatory(Remote Locality) Allowance, of the defence civilian personnel, is not applicable in the present writ petitions as the said issue has not arisen in this batch of writ petitions.

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145

14 From the aforesaid decisions of the Apex court, it is, therefore, evident that the SDA is payable to the civilian employees of the Government of India who were initially appointed and posted outside the North Eastern Region but subsequently posted in the North Eastern Region. The benefit of such allowance is also not available to the employees/officers belonging to North Eastern Region and to such officers/ persons who were appointed and posted in the said region .

15 The Government of India, Ministry of Finance (Department of Expenditure) thereafter issued an office memorandum dated 13.6.2001 regarding admissibility of SDA of postal employees in their posting in N.E Region. In the said office memorandum it has been clarified that there is no bar in eligibility of SDA for the officers belonging to North Eastern Region, if they satisfy the criteria that their appointment in service/post is made on All India basis and the promotion is also done on the basis of All India common seniority. However, it has been made clear that they will be entitled to the same , if they are posted in N.E. Region from outside the region.

16 The learned Assistant Solicitor General, during the course of argument, has placed on record another office memorandum dated 29.5.2002 issued by the Government of India, Ministry of Finance (Department of Expenditure) wherein it is stipulated that the SDA shall be admissible to the Central Government employees having All India Transfer Liability on their posting to the North Eastern Region, including Sikkim, from outside the region. Referring to the



decision of the Apex court dated 5.10.2001 in Civil Appeal No. 7000/2001, the Ministry in the said office memorandum has also decided that the amount already paid on account of SDA to the ineligible persons not qualified to such allowances on or before 5.10.2001 will be waived . However, the recoveries , if any, already made, need not be refunded and the amount paid on account of such allowances after 5.10.2001 will be recovered.

17 It appears from the said office memorandum dated 29.5.2002 that the admissibility of SDA of the postal employees belonging to the North Eastern Region upon posting in the said region on the basis of the promotion pursuant to the All India common seniority and on their posting to N.E. region from outside the region, has not been dealt with.

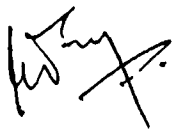
18 Let us now consider the submission of the learned counsel for the parties on the point whether the aforesaid decision of the Apex court will any way effect the rights of the employees/officers already accrued to them , prior to the said decisions of the Apex court, by virtue of the decisions given by the learned Tribunal in the applications where they were parties.

19 Doctrine of finality of judgment or the principles of res judicata are founded on the basic principle that when a court of competent jurisdiction renders any judgment, the same ought not to be allowed to be agitated again and again. The judgment which attained finality cannot be re-opened and the benefit occurred therein cannot be taken away by the

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authority by issuing any order or office memorandum, which is contrary to such decision, on the ground that the position of law has been changed because of the subsequent decision of the Apex court,, unless of course the Apex Court directs otherwise or such decisions of the competent court/tribunal is challenged and set aside. Such decision would operate as res judicata between the parties to such decision. Therefore, the rights of the employees/officers accrued under the order of the learned Tribunal, which attained finality, cannot be taken away because of the subsequent decision of the Apex court in S. Vijayakumar case. The learned counsel for the petitioners also could not place any direction of the Apex court that the said decision shall effect all the judgments already rendered by any competent court/tribunal.

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



148

paid upto 5.10.2001 towards SDA shall not be recovered. However, the recoveries, if any already been made, need not be refunded. This is also subject to the inter party judgment and order that have been passed by any competent Court or Tribunal, which have attained its finality.

21 The writ petitioners in view of our aforesaid decision, are directed to scrutinize each of the claim of the officers/employees for SDA and pass necessary orders in that regard. However, the authority cannot re-open and stop payment of SDA or recover such allowances from such officers/employees, whose cases have already been decided by the learned Tribunal, prior to S. Vijayakumar's case, declaring that they are entitled to such allowances, if the said decisions have not been assailed and set aside by the Higher court.

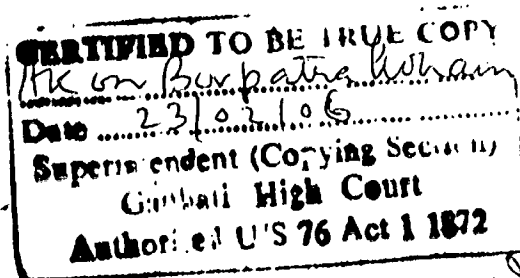
22 The judgments and orders passed by the learned Tribunal are accordingly modified to the extent indicated above. The writ petitions are accordingly disposed of. No order as to cost.

Sd/- B. P. Katakey
Judge

Sd/- B. S. Reddy
Chief Justice

P/No:- 48744

dttd 23/2/06



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