

got 100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No..... 306/06

R.A/C.P No.....

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SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

1. Original Application No. 306 /2006
2. Mice Petition No.
3. Contempt Petition No. b
4. Review Application No.

Applicant(s) MR M.C. Dolley

Respondent(s) W.C. J. & A.N.S.

Mr J. Payong, M. Bario, B. Saikia

Advocate for the Applicant(s) ES-L. Bannik

Advocate for the Respondent(s)..... Counsel:.....

20.12.06. The applicant is an Grade IV employee in the post office and got retirement from his service on 30.6.96. His claim is that during the service report, the applicant served special duties for which he had to pay for Special Duty Allowance. But his special duty allowance for the period of 162 months has not been paid to him. But some similarly situated persons got their Special Duty Allowances.

I have heard Mr. M. Boro learned, counsel for the applicant and Mr. M.U.Ahmed learned Addl.C.G.S.C for the respondents.

Considering the facts and circumstances I am of the view that the application has to be admitted.

Application is admitted. Issue notice on the respondents. Post the matter on 6.2.07.

Vice-Chairman

lm

5-2-07

Service report awaited

by

6.3.07 Counsel for the respondent wanted to file written statement. Let it be done.
6.2.07 Counsel for the respondents prays for two weeks time to file written statement. Let it be done. Post the matter on 6.3.07.

Vice-Chairman

✓

Vice-Chairman

lm
lm

6.3.07 Counsel for the respondent wanted to file written statement. Let it be done.
Post the matter on 13.3.07

Vice-Chairman

✓

No W.B has been
billed:

29
16.3.07.

lm

Notice duly served
on R-3. 29.3.07
no W.S. served.

30.3.07.

Counsel for the respondents want time to file written statement. Let it be done. Post the matter on 4.5.07.

No Wks have been filed.

3
3.5.07.

1m

Vice-Chairman

4.5.07.

At the request of learned counsel for the respondents four weeks time is granted to file written statement. Post the matter on 7.6.07.

No Wks have been filed.

3
1m

Vice-Chairman

3
6.6.07.

7.6.2007

No reply statement has been filed.

Three weeks further time is granted.

Post the case on 26.6.2007.

No Wks filed.

3
25.6.07.

/bb/

Vice-Chairman

26.6.2007

Three weeks further time granted to file written statement as sought for by the respondents.

Post on 16.7.07 for order.

Wks not filed.

3
13.7.07.

/pg/

Vice-Chairman

17.7.2007

Post the case on 1.8.2007. In the meantime Respondents are at liberty to file reply statement.

Wks not filed.

3
31.7.07.

/bb/

Vice-Chairman

1.8.07.

Post the matter on 24.8.07 for filing
reply statement.

Wts not filed

Vice-Chairman

lm

23.8.07

24.8.07. Counsel for the respondents wanted
time to file written statement. Let it be
done. Post the matter on 7.9.07.

Wts not filed.

Vice-Chairman

23.8.07

lm

7.9.2007

No reply filed. Four weeks time is
granted to the Respondents to file reply
statement.

Post the case on 8.10.2007.

5-10-07

no adj set

Vice-Chairman

08.10.07. Despite 10 adjournments no written statement has
yet been filed.

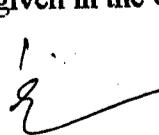
Call this matter 30.11.2007 expecting written
statement from the Respondents.

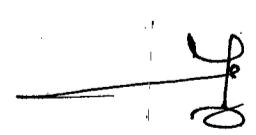
With filing written statement, respondents should
cause production of OM. No. 11(5)97.E.II(B) dated
29.05.2002, ^{of} Department of Expenditure, issued in the light
of the Supreme Court of India Judgment dated 05.10.2001
^{observations of} and ^{rendered} observed by the CAT/ Guwahati Bench in the orders
dated 18.3.2002, in O.A.No.303 of 2001 (as stated in
Annexure- E to the O.A) for effective adjudication.

Send copies of this order to the Respondents in the
address given in the O.A.

8.10.07

P1. Send order copies
to the Respondents
order dt. 8/10/07 sent to D/Section
for issuing to respondents.
D/ No. 1269 to 1213
Dt = 13/11/07


(Khushiram)
Member(A)


(Monoranjan Mohanty)
Vice-Chairman

lm

30.11.2007

No one is present for the Applicant.

① W/s not filed.

29.11.07

Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India stated that pleadings are complete and the matter is ready for hearing.

7.12.07

Call this matter for hearing on 13.12.2007.

W/s submitted
by the Repdt. No. 4,
Copy not served

/bb/

30.11.07
(Khushiram)
Member (A)

① W/s filed.

② Repointer not filed.

12.12.07

7.12.07

On the request of Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, call this matter on 14.12.2007.

G.R.
(Gautam Ray)
Member (A)

M.R.
(M.R.Mohanty)
Vice-Chairman

/bb/

14.12.07 None appears for the Applicant nor the Applicant is present. Mr M.U.Ahmed, learned Addl. Central Government Standing Counsel for the Respondents is, however, present.

Call this matter on 31.12.2008 for hearing.

G.R.
(G. Ray)
Member(A)

M.R.
(M. R. Mohanty)
Vice-Chairman

pg

PTO

31.12.2007

None appears for the Applicant nor the Applicant is present. However, Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, appearing for the Respondents, is present.

By our order dated 08.10.2007, Respondents were called upon to produce certain materials for effective adjudication of the case but the same have not yet been produced by the Respondents.

Call this matter on 28.01.2008 for hearing. Respondents should cause production of O.M. No.11(5)97.E.II(B) dated 29.05.2002 of the Department of Expenditure issued in the light of the Supreme Court judgment dated 05.10.2001 and observations of CAT, Guwahati Bench in the order dated 18.03.2002 rendered in O.A. No.303/2001 (as stated in Annexure-E to the O.A.) for effective adjudication of this case.

Applicant should take step to prosecute this case at the next date for hearing.

Send copy of this order (along with a copy of the written statement filed by the Respondents) to the Applicant in the address given in the Original Application. Free copies of this order be handed over to Mr.M.U.Ahmed, learned Addl. Standing counsel; who should produce the Govt. order/circular on the next date.

for
(M.R.Mohanty)
Vice-Chairman

Pl. send order copies & a copy of W.S. to the Applicant. Free copies of this order be handed over to Mr.M.U.Ahmed, learned Addl. Standing counsel.

order dt. 31/12/07 along with a copy of W.S.

Sent to D/Section for issuing to applicant by post and another order

copy issuing to Mr. M.U. Ahmed, Addl. C.C.S.C, /bb/ CAT, Gauhati-5.

D/No-16,17

DT= 21/108.

① W.S. filed.

② Rejoinder not filed.

25/108.

O.A. 306 of 2006

28.01.2008

On the prayer of Mr. J. Payong, learned counsel appearing for the Applicant (on whom a copy of the written statement has already been served) this case stands adjourned to 14th February, 2008.

① Writ filed by R.No. 4.
② Respondents No-1, 2,
3 & 5 from availed.

DR
13.2.08.

Call this matter on 14th February, 2008.

DR
(Khushiram)
Member(A)

MRM
(M. R. Mohanty)
Vice-Chairman

lm

14.02.2008

DR. Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed. No costs.

DR
(Khushiram)
Member(A)

MRM
(M. R. Mohanty)
Vice-Chairman

lm

26.3.08
Copy of the writ
sent to the office
for issuing the
same to the parties
alongwith the copy to
the a/sdvs for the
parties.

21.4.08
Bench issued
writ of Nos. 1530
to 1535 dt 31.3.08
wth.

~~Max kindly be seen at
filed 'S'~~

~~It is a letter dated
24.05.08 from Sri Nithi
Ch. Doley, which was on
applicant's original application
No. 306/06. The original application
disposed of on 14.2.08.~~

May kindly be seen
at flag 'A'.

It is an application
from Sri Muhi Ch. Doley,
an applicant of C.A 306/08.

The original application
was disposed of on 14.2.08.

The applicant submitted
this application dt. 24.05.08
for review the Judgement
and order dated 14.02.08.

Laid before the
Hon'ble V.C. for further
order.

S.B (S)
Handed over

Pass.
24.2.08

REGISTRAR

To,

**The Hon'ble Vice chairman,
Central Administrative Tribunal, Guwahati Bench.**

Dated-Jonai the 20th may 2008

Sub: -prayer for review the Judgment against my application no. 306 of 2006
data of order the 14th Feb. 2008

Jonai 21-05-08

Hon'ble sir,

With reference to the subject cited above I have the honour to lay before you the following few lines for favour of your kind consideration and review the order against my original application No. 306 Dtd. 14th Feb. 2008.

That sir I have been working as a temporary extra departmental delivery agent cum **E.D.B.** post master since 14th November 1954 to 1968 the inception of the Jonai E.D.B. post office estd. After the destroyed of the Murkong Selek Sub-Post office by the devastating earthquake and flood of Assam 1950.

That during this period I had been given no chance for depttl. Promotion examination by the authority all though the personal interfere of the supdt. Of post offices, Dibrugarh **Mr. T P. Basu** in his visit to Jonai in the last part 1968 directed and arranged for me depttl. Exam and accordingly I was posted at North Lakhimpur post office on 6th January 1969 and respectively I was rendering my service at Dhemaji, Silapathar and Jonai Post Office till my retirement from service on July 1996.

That Sir, after the struggle for 19/20 years by the postal employees union, the Central Govt. announced for special duty allowance (**S.D.A.**) to the employee of the central Govt. Serving in the North Eastern region of Assam Circle w.e.f 1st January 1983 and onward and avails the same **S.D.A.** by the working employees up to 2001.

And accordingly I was also applied for the said **S.D.A** for my Service period i.e. from 1st January/1983 to July/1996 vide my application dated on 2nd Nov/2000 addressed to the post master North Lakhimpur H/Q and the supdt of post Offices, Dibrugarh. But unfortunately received no fruit till date although Thousand of Employees under this deptt. Drawn the said **S.D.A** for the said period except me.

That Sir, " If there is a prevailing rule of the govt. for an Employee to get **S.D.A** that one should be posted in N.E region on transfer from out side state of N.E region" then how could the following employees cum my same colleague (1) Sri **Amulya Konwor** (2) Sri **Tara Pd. Gohain** (3) Sri **Kirthi Nath Kuli** and other drawn the **S.D.A** for the said period and who were appointed posted and Serving there duties under the said Inspector of post offices, North Lakhimpur throughout there Service carrier in the same post and places till now.

Moreover I have the honour to draw your kind attention that I applied for the S.D.A on 22nd November 2000 before the Judgment made by the hon'ble just of the Central administrative Tribunal, Guwahati Bench on 5th Oct.2001.

Again I beg to draw your personal attention that why did the judgment ignore regarding the paid out S.D.A cases of the employees as stated whether it was directed to return back the S.D.A from the said employees by the Govt. or not.

Considering the above circumstances I therefore feel my self that the judgment given by the hon'ble judges of Central administrative Tribunal Guwahati bench against my application is deemed to be not justified for me and prayed for review the same.

Yours Faithfully

Shri Mohi Chandan Doley.

(MUHI CH. DOLEY)

With P.O. Ratnapur via Jorai

Copy to: -

1. The hon'ble Minister for communication D.O. New Delhi for his kind information and necessary action.
2. The Secretary, Ministry for communication D.O. post New Delhi-1 for information.
3. The chief Post master General, Assam Meghdot Bhawan, Guwahati-1.
4. The Post master General, Dibrugarh region Dibrugarh.
5. The Supdt. Of post offices, Dibrugarh Division, Dibrugarh-1.
6. The post master (HSC-1) North Lakhimpur.

Registered (A.D)



To,
THE HON'BLE VICE CHAIRMAN,
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI, BENCH.

Ratnapur B.P.
R.L. 64/5/68
21/11/68

From -

SRI Muhi Ch. Doley
Vill & P.O Ratnapur
District Dhemaji (Assam).

126

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No 306 of 2006

DATE OF DECISION: 14.02.2008

Mr.M.C.Doley

.....Applicant/

Mr.J.Payong

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

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

..... Advocate for the
Respondents

CORAM

THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN
THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

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 their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 306 of 2006

Date of order: This the 14th Day of February, 2008

**HON'BLE MR.MONORANJAN MOHANTY, VICE-CHAIRMAN
HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER**

Mr.J.Payong, Mr.M.Boro, Mr.B.Saikia, Mr.B.L.Banik

-Versus-

1. The Union of India, represented by the Secy., Ministry of Communication, D.O.Post, New Delhi-1.
2. The Chief Post Master General, Assam, Meghdoott Bhawan, Guwahati.
3. The Post Master General, Dibrugarh Region, Dibrugarh-1
4. Superintendent of post office, Dibrugarh Division, Dibrugarh-786001
5. Post Master (HSG-1)
North Lakhimpur-787001.

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

ORDER (ORAL)

M.R.MOHANTY, V.C:

Heard Mr. J. Payang learned counsel appearing for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents department.

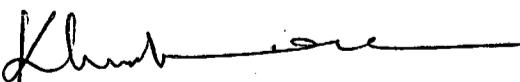
2. Claiming Special Duty Allowance the Applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act 1985. By filing the written statement the

Respondents have disclosed that the Applicant has never posted/served/Transferred outside the N.E. Region, nor he was even promoted by maintaining any all India Common Seniority and that also there were no All India Transfer liability in the conditions of his services. Respondents have also disclosed that the Applicant joined as Group D Staff on 06.01.1969 and, then, transferred to Jonai (Murkong Selek), Silapathar, Dhemaji. It has been disclosed that lastly, the Applicant retired from service on 30.06.1996 from Dhemaji as Group 'D' staff and that he completed entire service period under the Unit of Inspector Posts, Dhemaji. The Respondents further disclosed that the Applicant never fulfilled the condition/ingredient for the entitlement of SDA such as All India Transfer liability, was in the Common Seniority List and serving outside N.E.Region. They also further disclosed that the promotion/transfer of the Applicant was restricted to N.E.Region/Assam only and not on All India basis.

3. To get Special Duty Allowance, one should be posted in N.E.Region; on transfer from outside the N.E. Region. Since the Applicant was appointed in N.E.Region and continued all throughout his service carrier in the N.E.Region from 1969 to 1996, he was never entitled to get the Special Duty Allowances.

4. In the aforesaid premises, the O.A., apart from being grossly barred by limitation, is devoid of any merit.

5. This case is accordingly, dismissed. No costs.


(KHUSHIRAM)

ADMINISTRATIVE MEMBER


14/02/08
(M.R.MOHANTY)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPELATION NO.

306/06

1. a) Name of the Applicat:- M.C. Doley .
b) Respondants:- Union of India & Ors
c) No. of Applicant(S) :- one

2. Is the application is the proper form:- Yes/No.

3. Whether name & desription and address of the all papers been furnished in cause title :- Yes/ No.

4. Has the application been duly signed and varified :- 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 ducuments in the Language : Yes/No.

9. Is the application is in time :- Yes/No.

10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:-Yes/No.

11. Is the application by IFO/BD/For Rs: 5/- 286932890 dtd 1/12/06

12. Has the application is maitanable :- Yes/No.

13. Has the Impugned order original duly attested been filed : Yes/No.

14. Has the ligible copies of the annexures duly attested filed:-Yes/No.

15. Has the Index of ducuments 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 the interim relief is prayed for :- Yes/ No.

20. In 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:-
This application is in form
Address of 2 is encaptelt
Date 15/12/06

15.12.06
SECTION OFFICER(J)

DEPUTY REGISTRAR

15 DEC 2007

গুৱাহাটী আদায়কৰণ
Guwahati Bench

DIST: DHEMAJI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO. 306 /2006

Sri Moli Chandra Doley

-Vs-

The Union of India and Ors.

SYNOPSIS

The applicant was a Grade IV employee in Post Office and got retirement from his service on 30.6.96. During the service report he served special duties for which he had to pay for Special duty allowances. But his Special duty allowances for the period of 162 months has not been paid to him. But some similarly situated persons got their Special Duty allowances. Regarding the same he approached the concerned Authorities but they denied to pay at that moment. Now by its letter dated 23.9.04 the Assistant Post Master General (Estt), Assam Circle said that he is not entitled to get the Special Duty Allowances. Hence this petition before this Hon'ble Tribunal.

Filed by

Deben Panyag.

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH.

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

O.A.NO. 306 /2006

Shri Mohi Chandra Doley

...Applicant.

-Versus-

The Union of India and Ors.

I N D E X

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| 3. | Annexure-A | ... 10 |
| 4. | Annexure-B | ... 11-15 |
| 5. | Annexure-C | ... 16 |
| 6. | Annexure-D | ... 17 |
| 7. | Annexure-E | ... 18 |

Filed by

Am Paying
Advocate.

19
Filed by the
Applicant
through my legal
representative.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BRANCH

(An Application Under Section 19 of the Administrative
Tribunal Act. 1985)

O.A. No. 306 /2006

BETWEEN

Shri Mohichandra Doley

S/O Lt. Tabar Doley

Vill.-Ratanpur P.O.-Motonpur

P.S.-Jonai,

Dist.-Dhemaji, Assam.

.... Applicant.

-VERSUS-

1. The Union of India represented by
the Secy. Ministry of Communication, D.O. Post
New Delhi. 1.

2. The Chief Post Master General

Assam, Meghdoott Bhawan, Guwahati.

3. The Post Master General,

Dibrugarh Region, Dibrugarh-1.

4. Superintendent of Post office,

Dibrugarh Division, Dibrugarh-786001.

5. Post Master (HSG-I)

North Lakhimpur-787001.

.... RESPONDENTS

A) Particulars of orders/against which the Application is
made -

I) The order dated 15-11-2000 passed by the Post Master
(HSGI) North Lakhimpur whereby he denied that there was no
legal Govt. order for which no special Duty allowances can
be drawn.

Contd. 2/-

M. Doley.

(2)

2. That the order dated 6.1.03 passed by Superintendent of post Offices, Dibrugarh District Division, Dibrugarh being letter No. B-2/Staff/Corr/Part-IV, wherein it is denied that special duty allowances of the applicant can be paid because there is no any order from the competent authority to draw the same.

3. The order dated 23.09.04 being No. EST/15-4/2002/Rlg/Pt-1, passed by Asstt. Post Master General (Estt) for Chief Postmaster General, Assam Circle, Guwahati whereby it is informed that the applicant is not entitled to payment of Special duty allowances in terms of Department of Expenditure.

B) JURISDICTION OF THE TRIBUNAL :

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

C) LIMITATION :

The applicant submits that though the Limitation of filing the application is passed but due to the ~~six~~ old age and various illness he could not come to file the case at proper time. Moreover, he approached the pension Adalat of the postal Department held on 28.7.05 by a representative and hence the Limitation of filing the case may be condoned.

Contd. 3/-

M. Doley -

(3)

D) FACTS OF THE CASE :

- I) That the applicant is a citizen of India and is a permanent resident of village Rotonpur P.O.-Rotonpur P.S.-Johai, District Dhemaji, Assam and as such is entitled to the rights and privileges as guaranteed under the Constitution of India and the rules framed thereunder.
- 2) That the applicant was a Group 'D' employee in the postal Department and got retirement from his service on 30th day of June, 1996 from Dhemaji post office.

A letter showing the retirement of the applicant is annexed as Annexure-A

3. That, the applicant has been getting his pensionary benefit now and running his family somehow but his "Special Duty Allowances (SDA) for the periods of 1-1-83 to 29.6.96 (Total of 162 months) which he was entitled to get is not paid to him.
4. That, regarding the Special duty allowances the applicant made a lots of representations to the concerned authorities of the postal Department.

Some copies of representations are annexed as Annexure- B series.

Contd....4/-

M. Doley

(4)

5. That, on receiving such representations the post Master (HSGI) North Lakhimpur on 15.11.2000 informed the applicant by a letter that there is no Government order for giving special Duty allowance.

The letter is annexed as Annexure-C

6. That, similarly on 6.1.03 the superintendent of Post Offices, Dibrugarh Division informed the applicant by a letter that his SDA cannot be paid as because there is no any order from the competent authority.

The letter is annexed as Annexure-D

7. That at last on 23.9.04 the Asstt. post Master, General (Estt), Assam Circle, Guwahati, informed the applicant that the applicant is not entitled to get special Duty allowances in terms of Department of Expenditure.

The letter is annexed herewith and marked as Annexure-E.

8. That the applicant states that he approached the concerned authorities by filing lots of representations but his SDA is not paid to him. Even the applicant brought the same matter to the Postal Pension

Contd....5/-

M. Doley

(5)

Adalat which were held on 27.7.2004 and on 28.7.2005 at the conference Hall, in the office of the Chief Postmaster General, Assam circle Meghdoott Bhawan, Guwahati, but no settlement was done and the applicant is deprived from his special Duty allowances which he entitled to get.

E) GROUND FOR RELIEF :

- 1) For that, the applicant is denied from his legal due which he must get for his duty done in excess of his duty period. It is the duty of the concern authority to pay the special duty Allowances to those person who did the special duty in addition to their own duty, By not paying the special duty allowances to the applicant the authority has violated the fundamental rights of the applicant.
- 2) For that, the "Special Duty Allowances, were awarded to the postal employees of Assam circle with effect from 1.1.83 and it was continuing till 30th July, 2000 The applicant being a postal employee and working as a Group 'D' employee got retirement on 30.6.1996 and hence he is entitled to get the same benefit of getting the 'Special Duty Allowances' for his special Duty of 162 months.
- 3) For that, till 1999 similarly situated persons were given their special Duty allowances but the applicants

Contd....6/-

M. Doley.

(6)

duty allowances were denied to pay by the authority even after his repeated representations.

4) For that, in its letter, dated 23.9.04 by the Assistant Post Master General (Estt) Assam, Circle, Guwahati issued to the applicant it is said that the applicant is not entitled to get the 'Special Duty Allowances' as per terms of Department of Expenditure, O.M.No.11(5) 97.E.11(B) dated 29.5.02 issued in lights of the supreme Court of India Judgement dated 05.10.2001. But in the instant case the applicant & donot come under this because he got retirement in the year 1996 and the judgement is passed on 05-10-2002 and it can't have retrospective effect to deprive the legal due of the applicant.

5) For, that the denials of the respondent authorities donot contain the details as to why the applicants Duty Allowances cannot be paid. In the Ist two letters simply said that he is not entitled to get as because there is no order from the Govt. But if no such order was available how could other similarly situated persons could draw the 'Special Duty Allowances'.

6) For that the action of the respondent authorities not paying the special Duty Allowances to the applicant is a total violation of Principle of natural Justice,

Contd..... 7/-

M. Doley

(7)

administrative fairplay and against the Principle of law and violation of fundamental rights guaranteed under Article 14 and 21 of the Constitution of India. And hence he is entitled to get the Special Duty Allowances for his special Duty Provided to the Department.

F) DETAILS OF THE REMEDIES EXHAUSTED :

The applicant begs to state that he has no other alternative remedy other than approaching this Hon'ble Tribunal by way of filing this application under the relevant provisions of law.

G) MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant has not filed any other case/application in any other court/Tribunal.

H) RELIFF SOUGHT :

Under the facts and circumstances it is therefore prayed that your Honour may be kind enough ; -

- i) To admit the application, call for the records.
- ii) To issue notice to show cause as to why a direction should not be issued directing the respondent to pay the

Contd....8/-

H. Doley

(8)

Special Duty Allowances of the applicant immediately.

And after hearing the parties and going through the show cause filed if any your Honour may pleased make the direction absolute/ and/or pass any other order/orders or direction as your Honour may deem fit and proper.

And for this act of kindness the applicant as in duty bound shall ever pray.

I) Particulars of Postel Order :

- i) L.P.O NO.- 28G 932890
- ii) Date of Issue - 11/12/06
- iii) Payable at - Guwahati

J) LIST OF ENCLOSERS :

As stated in the INDEX .

Contd.. Verification... 9/-

M. Doley.

(9)

VERIFICATION

I Shri Mohi Chandra Doley, Son of Late Tabach Doley, aged about 70 years, resident of village- Ratanpur, P.O.- Rotonpur P.S.- Jonai, District- Dhemaji, Assam, do hereby verify that the statements made in paragraphs A, B, C, D₁, D₂, D₃, D₈ to G₂ are true to my knowledge and those made in paragraphs D₁, D₄, D₅ - D₆ - D₇ - — true to the records and submissions made therein are believed to be true on legal advise and that I have not suppressed any material facts.

Date : 6-12-08

Place : Guwahati

Shri Mohi Chandra Doley

Signature of the Applicant

M. Doley.

प्रेषक
Fromइकाइ (एम. एम. ऑ. १)
नार्थ लक्ष्मीपुर-७८७००१
POST MASTER (HSG 1)
North Lakhimpur - 787 001

क्रम संख्या

No. C-2 / Pension / M.C. Doley Dated at NL the 20-7-96

सेवा में

To, Sri. Mohick. Doley.

Ex- Group 'D' (Packerman, Dhenuai,
Ratanpur, Jonai,

Df. Dhenuai

दिनांक

Dated at NL the 20-7-96

विषय

Subject: - Settlement of the fi-
of Service from 2-6-96 to 2-
1/96 to Sri M.C. Doley, Ex. Gr 'D'
as Postman, Jonai, who recd.
Supr. Pension on 30-6-96 (1)

If appears from this office record
you were on leave up to 1.6.96 qtdl vide A.S.P.O.S, NL
No: B-2/M. Doley / Gr 'D' / 96 dttd 31-5-96. Acco,
you were due to join in the Post on 2-6-96
without any charge report of assumption of charge
any application (SR-1) for extension of leave &
received till this date. As per charge report
you assumed as Packerman, Dhenuai on 29.6.
(A/N) as Supr. Pension.

Due to non-settlement of the above
your final L.P.C, M.R.C, L.A.C etc. relating to Re-
payments could not be submitted to the S.
and the same is really delayed.

Please find enclosed a blank SR
for your early submission of the same to
SDI (P), Dhenuai early treating the case as mcs.

Encd: - SR. 1 (1).

प्रमाणपत्र संन्त/ MGIP (F U) Sant-1 Postal/96 (SFS)/S-1/5/10 Pt-II 16-3-95-12-4-95-2,00,000/-

इकाइ (एम. एम. ऑ. १)
नार्थ लक्ष्मीपुर-७८७००१
POST MASTER
North Lakhimpur

Certified to be

1/8/83 July 1996

True copy
for Paying
purpose

15
29
The Superintendent of Post Officer,
Dibrugarh Division,
Dibrugarh.

Through the postmaster North Lakhimpur the Head Post Office.

Dated North Lakhimpur, the 28th February, 1985.

Sub: Payment of Overtime-Allowance for extra working-hours
in respect of Travelling Mail Peons.
Ref.: Your File - No. D-1/OMA/Corr/Ch II dated 6-7-1984.

1. In inviting a reference to your memo No. and dated on the subject mentioned above, we have the honour to inform you that we the undersigned Travelling Mail Peons have been serving at North Lakhimpur since long back giving proper satisfaction to our superiors. Our duty is to receive the mail bags inside the railway compartment from the Mail Motor contractors and to handover the mailbags to the M.M.C.s of different railway stations. The Mail Motor Contractors, after receiving the Mail bags from the ~~22~~ T.M.P.s from the railway mail compartment of the railway stations, have to handover the mailbags to R.M.S. Office. This has been the usual procedure followed by all T.M.Peons in all post offices. According to rules, outstation allowance for absence in duty from headquarters exceeding six hours is allowed to be drawn by the T.M.Peons.

2. In this connection, we are to inform you that the Mail Motor Contractor of North Lakhimpur failed to receive the mailbags from us at the Railway Station, North Lakhimpur during the period when the railway mail would ~~be~~ ^{not} received. The failure of the M.M.Contractor to receive the mailbags from us at the Railway Station, North Lakhimpur compelled us to remain watching and guarding the mailbags of the Railway station N/Lakhimpur, during the whole night from 7 or 8 p.m. to 6 or 7 A.M. of the other day. We had to undergo serious troubles in the activity for the entire 5(five) months from September, 1983 to January, 1984. We submitted reports and representations to all postal authorities and other district civil authorities regarding future possible danger of that time. But no one replied to our report and no sympathy was shown. We had, in such manner, to serve 11 or 12 hours at ~~an~~ everyday, in addition to our ~~normal~~ normal working hours. The main reason for this sort of unusual situation was that the R.M.S. Office of North Lakhimpur had been kept closed at the night time from September/1983 to January, 1984 due mainly to non-payment of overtime allowance to the staff of the R.M.S. Office, N.Lakhimpur. The M.M.Contractor therefore did not turn up to receive the mailbags from us. Consequently, we the poorly paid fourth grade T.M.Peons had to remain watching of guarding the mail bags without sleeping and without food in time during the entire five months mentioned above.

3. We the undersigned T.M.Peons therefore submitted overtime bills for the above mentioned five months so that the postal authorities would be kind enough to compensate the loss sustained by us by working more than the usual working hours in a most unusual situation. But your honour has vide your above letter returned our overtime bills and thereby completely neglected the valuable service rendered by us in the interest of public service. This has completely upset our minds and we are quite at a loss as to what to do now.

4. In view of the facts stated above, we again like to submit ~~now~~ our O.T.A. Bills earnestly requesting your kind honour to reconsider our case of overtime allowance and to allow us to draw the allowance so that we may enthusiastically devote to our official

Contd. page No. - 2 -

certified to be
true copy.
Mr. Parag
Advocate

- 2 -

duties for the utmost satisfaction to your kind honour and in the interest of welfare public service.

Yours faithfully,

Encle:- 5 months overtime
Bills in triplicate.

1. (Mohi Chandra Doley)

2. (Bhadreswar Dutta)

3. (Tara Prasad Gohain)

4. (Khagen Kouwar)

5. (Ghans Kantu Borai)

Copy to the Post Master General, North-Eastern Circle,
Shillong for favour of his kind information and necessary action.

1. Mohi Chandra Doley
2. Tara Prasad Gohain
3. Bhadreswar Dutta
4. Sri Khagen Kouwar 2/12/85
5. Ghans Kantu Borai
6. Phelim Hazarika

Annexure - B₂

The Post Master, North Lakhimpur Head Post Office.

Dated Ratanpur the 1st Oct 1970.

Sub:- Reminder for "Non receipt of special duty allowance".

Sir,

With reference to the subject cited above I have the honour to remind your kind attention for the reply of my letter dated on 17-4-1970 and again a letter was sent to you on 4-9-1970 with registered post regarding the subject and content of the "Non receipt of special duty allowance", but no any reply has been received till date.

That Sir, I am very much sorry and shy that I am so much neglected and deprived being a retired person of the department for a ~~long~~ reply.

I, therefore lastly request your honour may kindly to make a reply for the same, whether it is justified to me or not to stop for further correspondence.

Meji Lakhimpur
Ex-Grade Divisional Officer

Vill. + P.O. Ratanpur (Jorai) •
Pin - 787013/11/1970

Copy to ~~the~~ - 1) The Superintendent of Posts, Dibrugarh Division, Dibrugarh.
2) The Chief Post Master General, Assam. Mehdoot Bhawali, Guwahati-1
for favour of kind information...

Carried out by
Anup Singh.

San. Singh

1. 100/-

To:

N.C. P.D. 26/8
11/12/2002Annexure B3

The Hon'ble superintendent of post office,
Dibrugarh Division, Dibrugarh-786001.
Dated Ratnpur Jonai dated 11-12-2002

Sub:- S.D.A.

Sir,

After a long intervals of time as your ex-subordinate I like to remember my part golden service life.

I learnt that a special duty allowances was awarded to the postal employees of Assam circle with effect from 1-1-83 to July 2000. In this regard a huge amount of arrear was also given to the employees in the month of July 1999.

As I was retired on 30.6.96 as group D from Silapather subpost office. So, I bound to approach your honour for the arrear with effect from 1-1-83 to 29-6-96 as I was on full fledged worker of your department and I am liable to get the special duty allowance as our arrear and you cannot throw me out of the point.

If the said S.D.A was disturbed beyond the legal order of the Govt. why this cannot be applicable for my those service periods.

In this case I am writing to claim and the lines of rules also cannot neglect my step.

Your final and deep attentionly reply with a fresh mind is awaited for my ultimate Deception for you.

Yours faithfully

(Sri Muhi ch. Doley)
Retired fellow of pos ts.)

Vill- P.O. Ratnpur via- Jonai in
the District of Dhemaji. (Assam)

certified to be
true copy
for Parvez
Asso. Secy.

DDA/D = 12/2/03

- 15 -

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Mr. M. Ch. Doley

Annexe-B2

The Chief Post Master General, Assam Circle
Meghdeet Bhawan, Guwahati- 1.

Dated Jenai the 20th Sept 2003.

Sub:- Prayer for release of special duty allowance.

Hon'ble Sir,

After a long interval of time as your Ex-subordinate I like to remember my past golden service life.

As I learnt that a special duty allowances was awarded to the postal employees of Assam Circle w.e.f. 1-1-83 to 30th July/2000. In this regard a huge amount of arrear was also given to the employees in the month of July/1999. As I was retired on 30-06-96 as Group-'D' employee from ~~Silapathar~~ ^{Dist. Dhemaji} Sub-Post office, for which I bound to approach your honour for the arrear w.e.f. 1-1-83 to 29-6-96 as I was on full fledged worker of your department and I am liable to get the special duty allowances as an arrear and you can not throw me out of the point.

If the said S.D.A. was disbursed beyond the legal order of the Govt. why this can not be applicable for my these service periods.

In this case I am wright to claim and the lines of rules also can not be neglected my step.

Your final and deep attentionaly reply with a fresh mind is awaited for my ultimate decession for forward movement.

in closed pm & Sp. letter,

Yours faithfully,

Muhi Ch. Doley
(MUHI CH. DOLEY)

(Retired fellow of Posts)

VIII. & P.O. Ratanpur
Via. Jenai, pin. 787060
Dist. Dhemaji (Assam)

*certified to
be true copy
Mr. Parley
Advocate*

Dept of post, India Annexure-C

26

Received
0/0/1980

ग्राम पाल (एस.एस.जी. १)
नार्थ लक्ष्मीपुर-७८७००१
POST MASTER (HSG 1)

NO. १०३२/८८/८८/१९८०

dated at North Lakhimpur

on 15-11-2k

Sub:- ~~Re~~ Regarding Non- Receipt of special
duty allowance

Re your letter on the above subject it is to
intimate you that there was no any legal

Govt order 80 no SPA can drawn.

This is for your kind information.

ग्राम पाल (एस.एस.जी. १)
नार्थ लक्ष्मीपुर-७८७००१
POST MASTER (HSG 1)
North Lakhimpur-787001

Certified to
be true copy
for Post
above date

Answe - D

09/03/03

Deptt of Posts: INDIA

sto. अधिकारी दिल्ली एवं
 नियम विभाग - 786 001
 Superintendent of Post Offices
 Dibrugarh Dist. Dibrugarh - 786 001

To

Sri Mukti Ch. Doley
 Village P.O - Ratnghar
 via Jonai

Re - B-2/Staff/Complaint dated 01/1/03

Sub - SDA

Reff - Your application dated 11/1/02

Special duty allowance
 cannot be paid to you as SDA was
 not drawn as per the order of competent
 authority and there is ^{also} no order
 from the competent authority to draw
 the same.

(By: C. Hazarika)

प्रधान अधिकारी एवं
 Superintendent of Post Offices
 Dibrugarh Dist. Dibrugarh - 786 001

Certified to
 be true

Copy : Dr. Payal
 Post Officer

Annexure - E

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE,
GUWAHATI - 781001

Rego

No:- EST/15-4/2002/Rlg/Pt-I Dated at Guwahati the 23-09-04

To

Shri Mohi Chandra Dolay
Vill & PO- Ratanpur,
Jonai

Sub:- Regarding arrear payment of Special Duty Allowance.

Ref- Your representation dated 15-09-04 a.

With reference to your representation cited above, I am directed to inform you that you are not entitled for payment of special duty allowance in terms of Department of Expenditure, OM No. 11 (5) 97.E. II (B) dated 29-05-2002 issued in the light of Supreme Court of India judgment dated 05-10-2001 and observed by the CAT, Guwahati Bench as settled law, in the orders dated 18-03-2002 in respect of OA No. 303 / 2001.

(Som Kamei)
A.P.M.G. (Estt),
For Chief Postmaster General,
Assam Circle, Guwahati - 781001

*Certified to be true copy
Dr. P. Sengupta
Advocate.*

10 DEC 2007

~~Guwahati~~ गुवाहाटी न्यायपाठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Guwahati 32
अधीक्षक डाक घर
दिब्रुगढ़ मंडल, डिब्रुगढ़ - 786001
Superintendent of Post Offices
Dibrugarh Dist., Dibrugarh - 786001
M. W. - Phm. 2007-01-01

IN THE MATTER OF :

O.A. No.306 of 2006

Shri Mohit Chandra Doley Applicant

- Versus -

Union of India & Ors. Respondents

- AND -

IN THE MATTER OF :

Written statement submitted by the Respondent
Nos.

WRITTEN STATEMENT

The humble answering respondents submit their
written statement as follows:

1. (a) That I am Sri Guwahati
Supdt. of P.O. S/o Late Mezia Doley,
and Respondents No. 4 in the above case
and 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 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.

(c) 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, 2 and 3 of the application, the answering respondents do not admit anything except those based on record.

3. That with regard to the statements made in paragraphs 4 to 7 of the application, the answering respondents beg to state that as per instructions of the Ministry of Finance, Department of Expenditure, New Delhi memo no. F. No. 11(5)/97-E.II.(B) dated 29.05.2002 which conveyed the criteria of admissibility of entitlement of SDA as upheld by the Hon'ble Supreme Court, the applicant is not entitled to Special (Duty) Allowance (SDA) since the applicant never served / transferred outside the N.E. Region, nor he was even promoted maintaining any Common Seniority List, and also there was no All India Transfer liability in the conditions of his service.

7 DEC 2002

गुवाहाटी न्यायपीठ
Guwahati Bench

3

(Copy of Ministry of Finance Memo no. F. No. 11(5)/97-E.II.(B) dated 29.05.2002 is enclosed).

Further, a copy of Hon'ble High Court judgement dated 04.01.2006 in the same context on judgement is also enclosed.

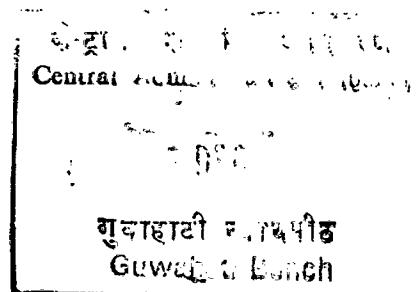
He joined in the year 06-01-1969 as Group 'D' then transferred to Jonai (Murkong Selek), Silapathar, Dhemaji. Lastly, he retired from service on 30.06.1996 from Dhemaji as Group 'D'. He completed his entire service period under the unit of Inspector Post, Dhemaji.

4. That with regard to the statements made in paragraph 8 of the application, the answering respondents beg to submit that the applicant does not fulfill the condition/ ingredient for the entitlement of SDA such as All India Transfer liability, maintaining of Common Seniority List, serving outside N.E. Region etc.

5. That with regard to the statements made in paragraphs E(1) to 6, F, G, H (i), (ii) of the application, the answering respondents beg to submit that all the statements made in these paragraphs are repetition of the claim of SDA, without fulfilling the criteria/ ingredient of entitlement of SDA. The promotion and transfer of the applicant is restricted to N.E.Region / Assam only and not on All India basis. Posting liabilities within the state do not confer All India Service liability, which is one of the most important criteria for the entitlement of SDA.

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Gopal Bora
Postmaster, Dibrugarh - 786 001
Superintendent of Post Offices
Dibrugarh Distt. - Dibrugarh - 786 001

That no discrimination has been made with the applicant. The decision taken by the respondents is according to the Government of India's order and the Hon'ble Central Administrative Tribunal judgments, and as such the enrichment is not due to him legally.



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Gopal Dhar

अपीलक डाक घर
डिब्रुगढ़ मंडल, डिब्रुगढ़ - 786001
Superintendent of Post Offices
Dibrugarh Dist., Dibrugarh - 786001

VERIFICATION

I,

Sri Gopal Deka _____, aged about 53 years
at present working as ~~supdtl post office~~ Post office Dibrugarh,
 being duly authorized and competent to sign this
 verification, do hereby solemnly affirm and verify that
 the statements made in Paras 4 & 5 _____ are true to
 my knowledge, belief and information and those made in
 Paras 3 _____ are derived from the records/facts
 etc, and the rest are humble submissions before the
 Hon'ble Court and I have not suppressed any material
 facts.

And I sign this verification on this the 15th
 day of Nov 2007 at Gauhati.

Gopal Deka
 Signature
 अधिकारीक डाक घर
 डिब्रुगढ़ मंडल, डिब्रुगढ़ - 786001
 Superintendent of Post Offices
 Dibrugarh Dist., Dibrugarh - 786001