

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

Execution Petition No. 5/2009

1. Original Application No: 25/2006

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Shri Biplab Roy Choudhury

Respondant(s) Union of India & Ors.

Advocate for the Applicant(s): Mr. M. Chandra

Mr. S. Nath

Mr. G.N. Chakraborty & Mrs. U. S.

Advocate for the Respondant(s): Mr. M. U. Ahmed

Adv. CGSC

Notes of the Registrar	Date	Order of the Tribunal
<p>12.6.2009</p> <p>This Execution Petition has been filed by the Applicant through their Advocate an application under Rule 24 of CAT (Procedure) Rule 1982 with a prayer for issue a direction upon the Respondents for implementation of the judgment and order dtd 1.8.2007 passed in O.A No. 25/2006.</p> <p>Copy served. 7 copies of application received. Memo of appearance filed by Mr. M. U. Ahmed, Adv. CGSC.</p> <p><i>[Signature]</i> Section Officer(3) 12/6/09</p> <p>Send copies of this order to the Respondents.</p> <p><i>[Signature]</i> 12/6/09</p>	<p>15.06.2009</p>	<p>Issue notice to the Respondents requiring them to put up their reply by 04.08.2009.</p> <p>Pendency of this case shall not stand on the way of the Respondents to comply the order dated 01.08.2007 of this Tribunal rendered in O.A.No.25/2006.</p> <p>Call this matter on 04.08.2009.</p> <p>Send copies of this order to the Respondents alongwith copy of the E.P.No.05/2009.</p> <p><i>[Signature]</i> (M.R. Mohanty) Vice-Chairman</p>

nkmm

Copies of notices along with order dated 15/6/09 send to D/Sec. for issuing to respondents by regd. A/D post.

04.08.2009

Cas D/No - 3523
9/6/09 - Dt = 24.6.09

① Service report awaited.

3
3.8.09

5.8.09

Reply/written statement has been filed by the Respondent through Mr. M.U. Ahmed, A/D, CSOC. Copy sent.

5/8/09

Copies of order dated 4/8/2009 send to D/Sec. for issuing to respondents by post.

D/No - 9523 - 9528

Cas Dt = 18/8/09
13/8/09
14/08/09 w/s filed.

Notice served for Respdt No. 2 & 7
14/8/09 w/s filed.
27.10.09

Reply filed in Court by the Respondents through Mr. M.U. Ahmed, learned Addl. Standing counsel. Mr. M. Chanda, learned counsel for the Applicants, seeks some time to take instruction from the Applicants.

Call this matter on 07.09.2009, for orders on the request of Mr. M. Chanda.

Notwithstanding pendency of this E.P.5/2009, the Respondents shall remain free to consider the representations of the Applicants; even if they were submitted after the time fixed by this Tribunal.

Send copies of this order to the Respondents in the address given in the E.P.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

07.09.2009

On the prayer of counsel for both the parties, call this matter on 13.10.2009.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

13.10.2009

On the prayer of counsel for both the parties, call this matter on 28.10.2009.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

E.P.M. 05/2119

3

5

28.10.2009

On the request of proxy counsel for the Respondents the case is adjourned to 05.11.2009.

Reply filed.

3
4.11.09.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

05.11.2009

Vide present E.P. Applicants seek enforcement of common order dated 01.08.2007 vide which five O.A.s, namely, 48, 25, 207, 216 and 229 of 2006 were disposed of by holding that : "the applicants are entitled to the said benefit". However, a rider was made to state that Applicants should made individual representation to the concerned Respondent narrating their period of posting in the N.E.Region within time frame prescribed therein. On receipt of such representations, Respondents were directed to grant benefit to each of them within a period of three months thereafter. The contention raised by the Applicants, vide paragraph 2 of present application is that they had submitted similar representations narrating the period of their stay in N.E.Region of the country, followed by legal notice on 10.07.2008, but Respondents have not taken any action so far.

In reply, the Respondents have stated that none of the Applicants have submitted individual representation except the 1st Applicant, who had submitted such representation that too much belatedly on 31.03.2008, received by Respondents only on 15.04.2008 that was after 8 months and 15 days. Vide paragraph 4 of reply it has been further stated that: "Thus payment of SDA as prayed for by the Applicant do not stand to logic". Shri M.U.Ahmed, learned Addl C.G.S.C. appearing for Respondents states

Contd..

EP 5/09 (SA-25/06)

-4-

Contd.

05.11.2009

that Respondents are not averse to grant benefit of SDA to the Applicants, as ordered by this Tribunal, but they want the Applicants to comply with the directions issued to them to submit individual representation.

On examination of the matter, since we find that only representation made by the 1st Applicant has been placed on record and no details have been specifically provided by the Applicants regarding their period of postings in N.E. Region in present E.P., we dispose of present E.P. with specific direction to each of the Applicants to make individual representation to the concerned authority with specific details of their period of stay in N.E. Region within a period of one month from today and on receipt of same, Respondents shall disburse necessary allowances to Applicants within a period of three months thereafter.

It is made clear that neither any application for extension of time by the Respondents will be entertained, nor any further excuse on this account will be accepted.

E.P. is disposed of accordingly.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

Received
12/11/09
Dutta

/bb/c

153

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

(An application under Rule 24 of Central Administrative Tribunal
(Procedure) Rule 1987)

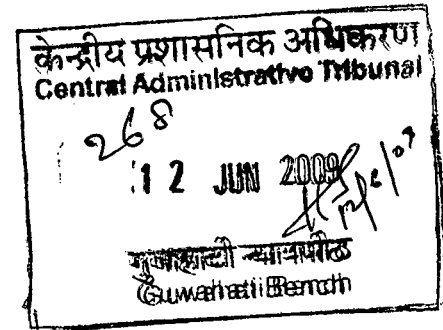
E. P No. 5 /2009

In O.A No. 25 /2006

Shri Biplab Roy Choudhury & Ors.

-Versus-

Union of India & Ors.



INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-4
2.	---	Verification	-5-
3.	I	Copy of the judgment and order dated 01.08.2007.	6-23
4.	II (Series)	Copy of the representations dated 31.03.08,	24-25
5.	III (Series)	Copy of the representations dated 15.05.08	26-29
6.	IV	Copy of Lawyers' notice dated 10.07.08	30-32

Date: - 09.06.09

Filed By:

Dutta
Advocate

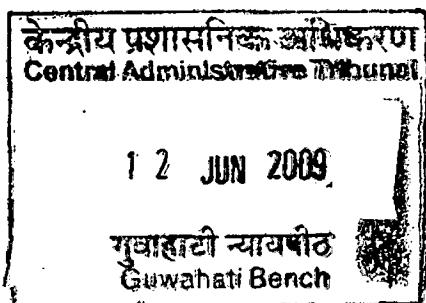
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Rule 24 of Central Administrative Tribunal
(Procedure) Rule 1987)

E. P No. 5/2009

In O.A No. 25/2006



In the matter of:

E. P No. 5/2009

In O. A. No. 25/2006

Shri Biplab Roy Choudhury

..... Applicants.

-Vs-

Union of India and Others.

..... Respondents.

-And-

In the matter of:

Non-compliance of Hon'ble Tribunal's
judgment and order dated 01.08.2007
passed in O. A. No. 25/2006.

-And-

In the matter of:

An application under Rule 24 of Central
Administrative Tribunal (Procedure) Rule
1987, praying for a direction upon the
Respondents for implementation of the
judgment and order dated 01.08.2007
passed in O. A. No. 25/2006.

-And-

In the matter of:

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

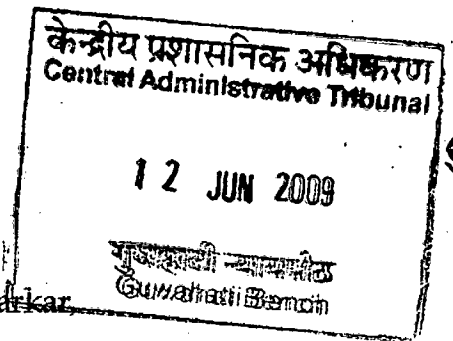
Office of Garrison Engineer,

Sewak Road, P.O- Salugara,

Dist- Jalpaiguri, W.B, PIN- 735101.

Biplab Roy Choudhury

Filed by the applicant
U. Dutta, Advocate
through on 12.06.09



2. Shri Pranab Sarkar
U.D.C
OIC- 585 Engineer Sub Part
C/O- 99 APO,
Begdubi, Dist- Jalpaiguri,
West Bengal, Pin- 734424
3. Shri Mridul Kanti Sen,
U.D.C
Office HQ Chief Enginner, Siliguri Zone
Sewak Road, P.O- Salugara,
Dist- Jalpaiguri, W.B, PIN- 735101.
4. Shri Pranab Kumar Sarkar,
U.D.C.
Office HQ Chief Enginner, Siliguri Zone
Sewak Road, P.O- Salugara,
Dist- Jalpaiguri, W.B, PIN- 735101.

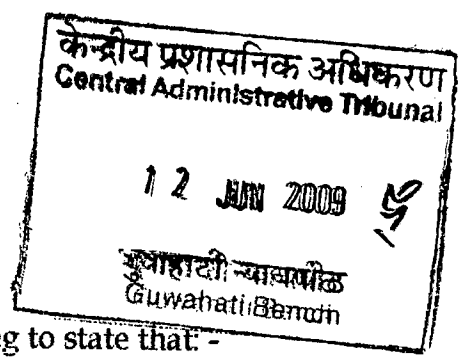
... Applicants.

-Versus-

1. Union of India,
Represented by the Secretary to the
Govt. of India,
Ministry of Defence
New Delhi- 110011.
2. E-in-C's Branch,
Army Headquarter,
Kashmir House,
DHQ Post, New Delhi- 110011.
3. Chief Engineer,
Eastern Command,
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- 27.
7. Garrison Engineer, Guwahati,
Guwahati- 1.

... Respondents.

Diplob Roy Choudhary



The applicants above named most respectfully beg to state that: -

1. That the applicants being aggrieved with the discontinuation of payment of Special Duty Allowance as well as order of recovery of payment of SDA issued vide order dated 06.03.2003, dated 29.03.2004 and letter dated 04.06.2003, 03.10.2003, 30.01.2004 approached the Hon'ble Tribunal through O.A. No. 25/2006. However, the Hon'ble Tribunal on perusal of materials on record and after hearing the Counsel of the parties was pleased to allow the O.A. No. 25/2006 vide common judgment and order dated 01.08.2007 with the direction as follows:

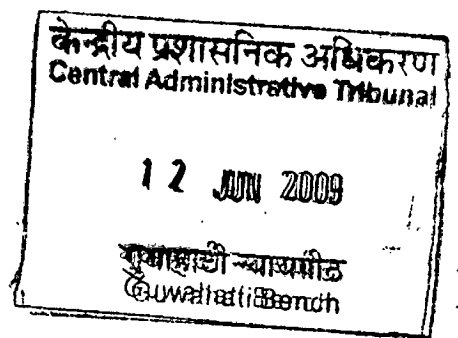
"21. In the conspectus of the facts and circumstances of the case, I direct the applicants to make individual representation to the concerned respondent, narrating their period of posting in N.E Region, within a time-frame of one month from the date of receipt of copy of this order, and on receipt of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

Copy of the judgment and order dated 01.08.2007 is enclosed herewith and marked as Annexure- I.

2. That the applicant No. 1 after receipt of the judgment and order dated 01.08.2007 passed in O.A No. 25/2006 submitted representations on 31.03.2008, 15.05.08 and 06.03.2009 addressed to the respondents for payment of arrear SDA. In his representations dated 31.03.2008, applicant No. 1 specifically stated that he is entitled for payment of SDA during the period from June, 2003 to January, 2006 when he was posted in the office of GE, Narangi, Guwahati. All the applicants submitted similar representations stating there period of posting in N.E. Region and for payment of SDA for the said period when they were posted in NE Region. Similarly, Lawyer of the applicants submitted a notice on 10.07.2008 addressed to the respondent No. 1 and 2 for implementation of the

Rajesh Roy Chowdhury



judgment and order dated 01.08.2007 passed in O.A No. 25 of 2006. But to no result.

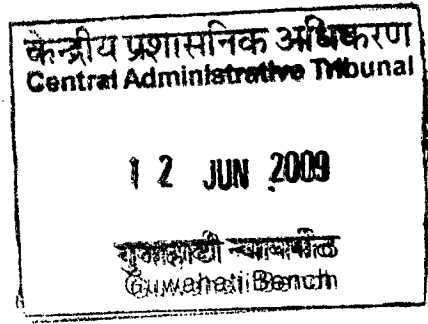
Copy of the representations dated 31.03.08, 15.08.09 and Lawyers' notice dated 10.07.08 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- II (Series), III (Series) and IV respectively.

4. That the Hon'ble Tribunal allowed the O.A. No. 25/2006 on 01.08.2007 with a direction to the applicant to submit individual representation narrating their period of posting in N.E Region, within a time-frame of one month from the date of receipt of copy of the order, and on receipt of such representations, the respondents shall grant benefit to the applicants within a time-frame of three months thereafter. But after elapse of more than one year from the date of submission of representations by the applicants, the respondents have not paid the arrear SDA to the applicants and such action of the respondents is deliberate and willful violation of the direction passed by this Hon'ble Tribunal in O.A No. 25/2006. Therefore, finding no other alternative the applicants are approaching before this Hon'ble Tribunal for further direction upon the respondents under Rule 24 of Central Administrative Tribunal (Procedure) Rule, 1987 for compliance of the judgment and order dated 01.08.2007 passed in O.A. No. 25/2006 of the Hon'ble Tribunal.
5. That this application is made bonafide and for the ends of justice.

Under the facts and circumstances stated above the Hon'ble Tribunal be pleased to direct the respondents to implement the judgment and order dated 01.08.2007 passed in O.A. No. 25/2006 with immediate effect and further be pleased to pass such other order or order (s) as deem fit and proper by the Hon'ble Tribunal.

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

Rajesh Roy Chowdhury



VERIFICATION

I, Shri Biplab Roy Choudhury, MES/214524, UDC, son of Late Phani Bhusan Roy Choudhury, aged about 50 years, presently posted at GE Sevoke Road, Siliguri, West Bengal, applicant No. 1 in the Execution Petition, duly authorized by the others to verify the statements made in the petition, do hereby verify that the statements made in Paragraph 1 to 5 of this Execution Petition are true to my knowledge and rest are my humble prayer before the Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 25th day of May, 2009.

Biplab Roy Choudhury,

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

O.A.No.48 of 2006

With

O.A.25 of 2006 ✓

With

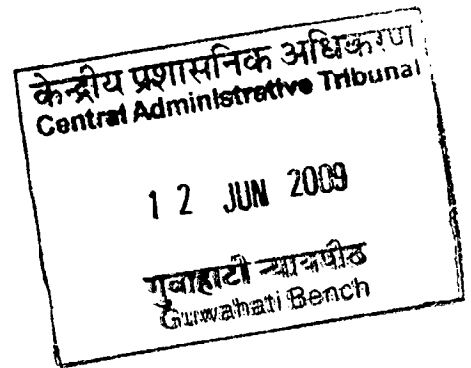
O.A. No. 207 of 2006

With

O.A.No.216 of 2006

With

O.A.No.229 of 2006



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

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

O.A.No.48 of 2006



Shri Akan Kumar Dutta
Son of Late Sistu Ram Dutta
Draftsman, Grade -1
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,

Affected
Dutta
Adu

h

Shillong-3.

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

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

Respondents

O.A.No. 25 of 2006

June 2003 - Jan 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.

By Advocate: Mr. M. Chandra

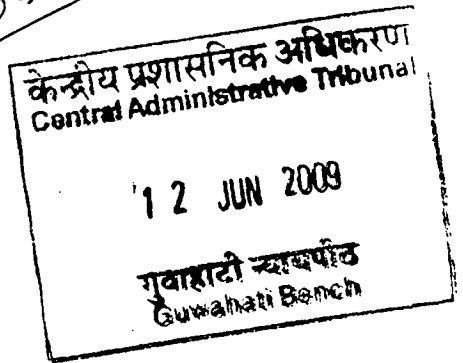
Applicants

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,



3
- 8-
Kolkata-21.

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

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

6. GE, Narangi,
Narangi, Guwahati.

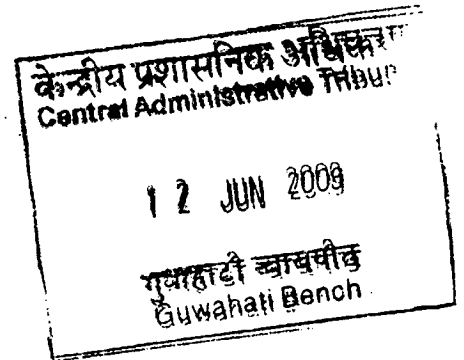
7. GE Guwahati.
Guwahati.

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

Respondents



O.A.No. 207 of 2006



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

Applicant

By Advocate: Mr. M. Chandra


Versus

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

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

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

4. The Joint Director [Legal],



-9-

O/o the Regional Director (Eastern Region),
Ministry of Company Affairs,
Nizam Palace, 11th MSO Building, 3rd Floor,
23/4, AIC Bose Road, Kolkata-700 020.

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

Respondents

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

O.A.No.216 of 2006

Shri Avanindra Chaudhary,
Son of Late Lakhon 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.

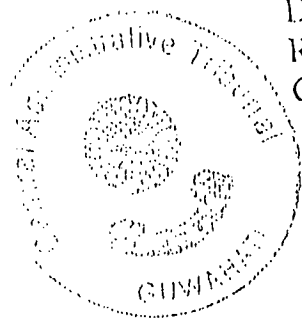
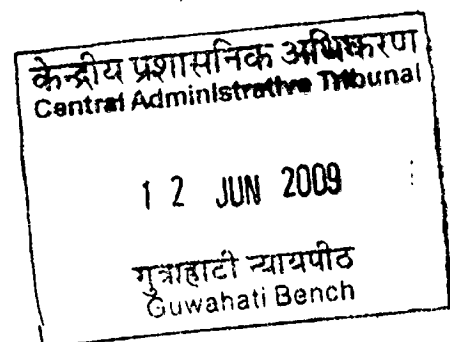
2. The Director General
All India Radio, Sansad Marg,
New Delhi-110 001

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.

163

O.A. No.229 of 2006

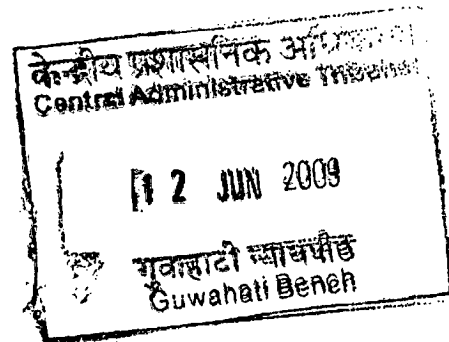
1. Shri Asoke Kr. De,
Working as Sr. Engineering Assistant,
S/o Sri Kanai Lal De,
Office of the Director
Doordarshan Kendra,
Guwahati-781 024.
2. Sanjit Kr. Saha,
Working as Sr. Engineering Assistant,
Office of the Director,
DDK, Guwahati-24.
3. Susovan Hazra,
Working as Assistant Engineer,
Son of Sachipali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

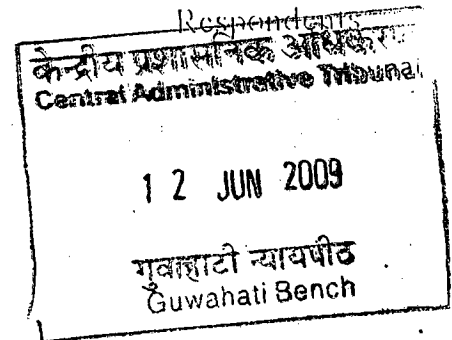


6, - 11-
R.G.B.Road, Guwahati-781 024.

5.The Deputy Director General [NER],
Office of the Deputy Director General.
Doordarshan,
R.G.B.Road, Guwahati-781 024.
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/JDC 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-

L

12 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

165

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 1.10.1999. 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.

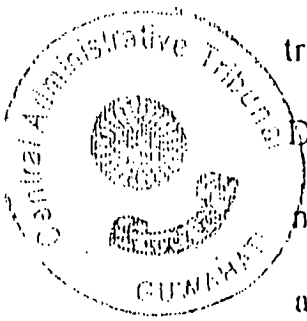
12 JUN 200

गुवाहाटी न्यायधीन
Guwahati Bench

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

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

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



[Handwritten signature]

the N.E. Region or appointed in other Regions, transferred to N.E. Region.

again transferred to other Regions and retransferred to N.E. Region. Most of

the applicants are not the permanent residents of N.E. Region. They have

been transferred and posted to N.E. Region from outside Region and they

are saddled with all India transfer liability in practice.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

12 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

12 JUN 2009

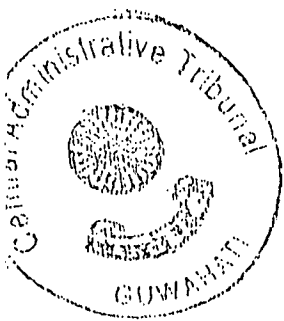
गुजराती न्यायाधीश
Gujarati Bench



12 JUN 2009

गुवाहाटी ब्याचपीट
Guwahati Bench

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 14.12.1988. 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:

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

12 JUN 2009

गुवाहाटी बेंच
Guwahati Bench

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

15. But so far as these cases are concerned, the applicants were either working in other Regions, transferred to N. E.Region. Some were initially appointed in N.E.Region, transferred to other Region and retransferred to N.E.Region. Many modifications and clarifications were issued by the Government of India taking confidence of the rulings of the various courts including the Apex Court. The Hon'ble Supreme Court in the case of Union of India and others vs.S.Vijaya Kumar and others reported in 1995 SCC [L&S] 189, upheld the provisions of the OM 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.

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."

केन्द्रीय प्रशासनिक आर्
Central Administrative T

12 12 JUN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

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

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

SCC 757, the Apex Court held that the spirit of the O.M. dated

14.12.1983 is to attract and retain the services of competent officers from

outside and posted in the North Eastern Region which does not apply to

the officers belonging to N.E.Region. The question of attracting and

retaining the services of the competent officers who belong to North Eastern

Region itself would not arise. Therefore, the incentives granted by the said

O.M. is meant for the persons posted from outside to the North Eastern

Region and not for the local residents of the region. Thereafter, the

Government of India, Ministry of Finance, Department of Expenditure

issued O.M. dated 13.6.2001 regarding admissibility of SDA to the Postal

Department employees on their posting in the North Eastern Region. In the

said O.M. it was clarified that there is no bar in eligibility of SDA for the

officers belonging to the North Eastern Region, if they satisfy the criteria

that their appointment in service/post is made on All India basis and

the promotion is also done on the basis of All Indian Common Seniority

However, it will be admissible when then are posted in the North Eastern



[Handwritten signature]

Region from outside the region. Another O.M. dated 29.5.2002 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.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

12 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.JC 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

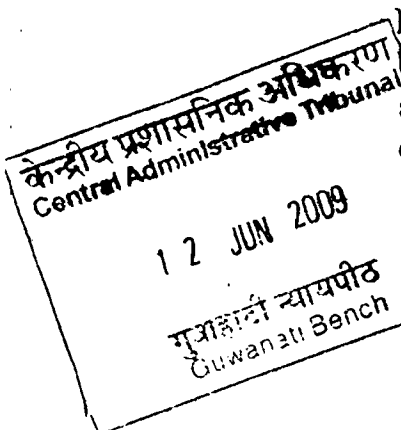
subject to the inter party judgment and order that have been passed by any competent Court or Tribunal, which have attained its finality."

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



[Handwritten signature]

145

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.

केन्द्रीय प्रशासनिक आर्
Central Administrative

12 JUN 2009

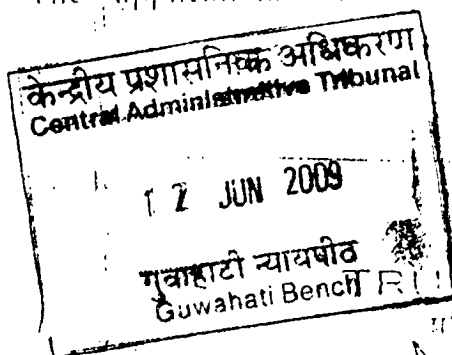
गुवाहाटी ब्याच
Guwahati Bench

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.



Sd/ VICE CHAIRMAN

Affected
Date
#24

Central Administrative Tribunal

10/8/07

To
Headquarters
Chief Engineer
Shillong Zone,
Shillong-11

Sir,

This is in compliance with the judgment and order passed by the Hon'ble Central Administrative Tribunal Guwahati Bench, Guwahati in connection with CA No 25 of 2006.

That the Special Duty Allowance payable to me by my employer Ministry of Defence, when I was posted as UDC at the office of the GE Narangi, Guwahati Assam during June 2003 to January 2006.

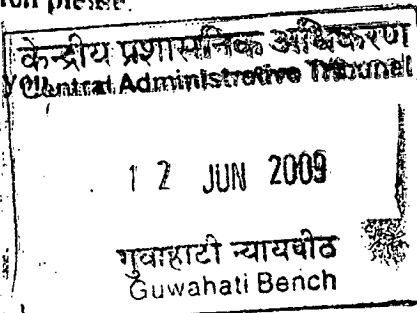
That competent authority represented by the Government of India Ministry of Law and Justice, Department of Legal Affairs, Branch Secretariat Kolkata has also instructed the concerned department to implement the Hon'ble CAT's order instantly but you are unnecessarily dragging the same which is motivated un constitutional and bad in Law.

That at present I am posted at GE Sevoke Road as UDC w.e.f February 2006.

That the payment against SDA in connection with the order of the Hon'ble CAT, Guwahati Bench should be released within one month from the date of my submission failing which I shall be compelled to move in the appropriate court for contempt against you.

Copy of Hon'ble CAT's order, and relevant documents are enclosed for your perusal and necessary action please.

Thanking you



Yours faithfully

Biplab Roy Chowdhury
(BIPLAB ROY CHOWDHURY)

MES/214524

UDC

C/O GE Sevoke Road

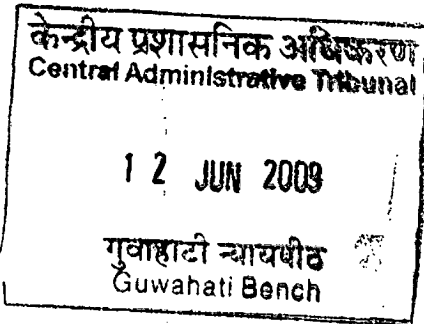
Encls: As above

Dated: 21 Mar 2008

Attached
Mulla
Adv

To

E-in-C's Branch,
Army Headquarter
Kashmir House
New Delhi-11



Sir,

This is in compliance with the judgment and order passed by the Hon'ble Central Administrative Tribunal Guwahati Bench, Guwahati in connection with O.A No 25 of 2006.

That the Special Duty Allowance payable to me by my employer Ministry of Defence, when I was posted as UDC at the office of the GE Narangi, Guwahati, Assam during June 2003 to January 2006.

That competent authority represented by the Government of India Ministry of Law and Justice, Department of Legal Affairs, Branch Secretariat Kolkata has also instructed the concerned department to implement the Hon'ble CAT's order instantly but you are unnecessarily dragging the same which is motivated un constitutional and bad in Law.

That at present I am posted at GE Sevoke Road as UDC w.e.f February 2006.

That the payment against SDA in connection with the order of the Hon'ble CAT, Guwahati Bench should be released within one month from the date of my submission failing which I shall be compelled to move in the appropriate court for contempt against you.

Copy of Hon'ble CAT's order, and relevant documents are enclosed for your perusal and necessary action please.

Thanking you

Yours faithfully

Encls: As above

Dated : 3 / Mar 2008

Diplab Roy Chowdhury
(DIPLOM ROY CHOWDHURY)
MES/214524
UDC
C/O GE, Sevoke Road

*Attested
Dutta
Ash*

- 26 -

To
The Union of India,
Represented by the Secretary to the
Govt. Of India
Ministry of Defence
New Delhi -110001

ANNEXURE-III (Series)

(Through proper channel)

**IMPLEMENTATION OF HON'BLE CAT GUWAHATI
VERDICT IN OA NO.25 OF 2006**

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Respected Sir,

I have the honour to enclose copy of verdict dated 01 Aug 2007 passed by honorable CAT Guwahati bench on an appeal filed by me alongwith for others. The CAT has categorically made it clear that during my tenure in GE Narangi (North East Region) w.e.f. Jun 2003 to Jan 2006 (Now I am posted out to GE Sevoke Road), I am entitled to SIDA as per prescribed rules.

The CAT order also directed me to approach respondents for making me payment of dues and for which I was directed to prefer representation.

Accordingly, I have submitted representation to

- (a) E-n-C's Branch, Army Headquarters, Kashmir House, New Delhi.
- (b) Chief Engineer, Eastern Command, Engineer's Branch, Fort William, Kolkata-21
- (c) Chief Engineer, Sillong Zone, SE Falls, Shillong -11
- (d) CWE, Shillong, SE Falls, Shillong -11
- (e) GE Narangi, Guwahati -27

(Copy of representation attached for ready reference), but without any out come.

I, therefore, pray before your gracious honour to pay me my entitled SIDA w.e.f. Jun 2003 to Jan 2006 within a period of 03 (three) months, else I shall be forced to approach court of law for redress of grievances at the cost of state.

Copy of Hon'ble CAT's order, and relevant document (opinion of Ministry of Law and Justice), Department of Legal Affairs Bench Secretariat Kolkata MOL/DO No1317/07 Adv(Kol) dated 05 Oct 2007 are enclosed for your perusal and necessary action please.

Thanking you.

Yours faithfully

Encls : As above

Dated : 15 May 2008

Biplob Roy Chowdhury
(BIPLOB ROY CHOWDHURY)

MES/214524

UDC

C/O GE Sevoke Road

*Attended
With
Adv*

To
The E-n-C's Branch,
Army Headquarters,
Kashmir House,
New Delhi -110011

(Through proper channel)

IMPLEMENTATION OF HON'BLE CAT GUWAHATI
VERDICT IN OA NO.25 OF 2006

Respected Sir,

I have the honour to enclose copy of verdict dated 01 Aug 2007 passed by honorable CAT Guwahati bench on an appeal filed by me alongwith for others. The CAT has categorically made it clear that during my tenure in GE Narangi (North East Region) w.e.f. Jun 2003 to Jan 2006 (Now I am posted out to GE Sevoke Road), I am entitled to SDA as per prescribed rules.

The CAT order also directed me to approach respondents for making me payment of dues and for which I was directed to prefer representation.

Accordingly, I have submitted representation to

- (a) The Union of India, Represented by the Secretary to the Govt, MolD, New Delhi -1
- (b) Chief Engineer, Eastern Command, Engineer's Branch, Fort William, Kolkata-21
- (c) Chief Engineer, Shillong Zone, SE Falls, Shillong -11
- (d) CWO, Shillong, SE Falls, Shillong -11
- (e) GE Narangi, Guwahati -27

(Copy of representation attached for ready reference), but without any out come.

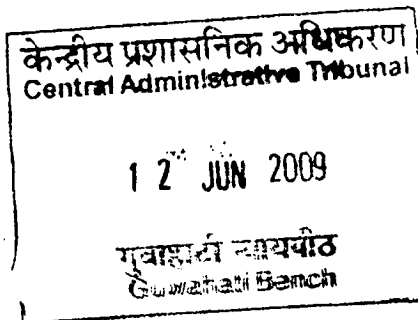
I, therefore, pray before your gracious honour to pay me my entitled SDA w.e.f. Jun 2003 to Jan 2006 within a period of 03 (three) months, else I shall be forced to approach court of law for redress of grievances at the cost of state.

Copy of Hon'ble CAT's order, and relevant document (opinion of Ministry of Law and Justice), Department of Legal Affairs Bench Secretariat Kolkata MOL UO No1317/07-Adv(Kol) dated 05 Oct 2007 are enclosed for your perusal and necessary action please.

Thanking you.

Encls : As above

Dated : 15 May 2008



Yours faithfully

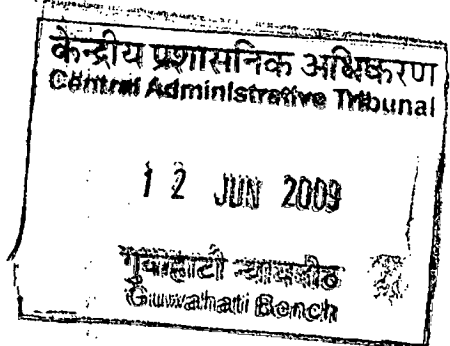
Binlob Roy Chowdhury
(BINLOB ROY CHOWDHURY)
MES/214524
UDC
C/O GE Sevoke Road

*Attested
Dutta
Adv*

- 28 -

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

(Through proper channel)



**IMPLEMENTATION OF HON'BLE CAT GUWAHATI
VERDICT IN OA NO.25 OF 2006**

Respected Sir,

I have the honour to enclose copy of verdict dated 01 Aug 2007 passed by honorable CAT Guwahati bench on an appeal filed by me alongwith four others. The CAT has categorically made it clear that during my tenure in GE Narangi (North East Region) w.e.f. Jun 2003 to Jan 2006 (Now I am posted out to GE Sevoke Road), I am entitled to SDA as per prescribed rules.

The CAT order also directed me to approach respondents for making me payment of dues and for which I was directed to prefer representation.

Accordingly, I have submitted representation to

- (a) The Union of India, Represented by the Secretary to the GoI, MoD, New Delhi -1
- (b) E-n-C's Branch, Army Headquarters, Kashmir House, New Delhi.
- (c) Chief Engineer, Sillong Zone, SE Falls, Shillong -11
- (d) CWE, Shillong, SE Falls, Shillong -11
- (e) GE Narangi, Guwahati -27

(Copy of representation attached for ready reference), but without any out come.

I, therefore, pray before your gracious honour to pay me my entitled SDA w.e.f. Jun 2003 to Jan 2006 within a period of 03 (three) months, else I shall be forced to approach court of law for redress of grievances at the cost of state.

Copy of Hon'ble CAT's order, and relevant document (opinion of Ministry of Law and Justice), Department of Legal Affairs Bench Secretariat Kolkata MOL UO No1317/07-Adv(Kol) dated 05 Oct 2007 are enclosed for your perusal and necessary action please.

Thanking you.

Encls : As above

Dated : 15 May 2008

*Attended
M. K. Ash*

Yours faithfully

Biplot Roy Chowdhury
(BILOB ROY CHOWDHURY)
MES/214524
UDC
C/O GE Sevoke Road

To
Chief Engineer,
Sillong Zone,
SE Falls,
Shillong -11

(Through proper channel)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

IMPLEMENTATION OF HON'BLE CAT GUWAHATI
VERDICT IN OA NO.25 OF 2006

Respected Sir,

I have the honour to enclose copy of verdict dated 01 Aug 2007 passed by honorable CAT Guwahati bench on an appeal filed by me alongwith four others. The CAT has categorically made it clear that during my tenure in GE Narangi (North East Region) w.e.f. Jun 2003 to Jan 2006 (Now I am posted out to GE Sevoke Road), I am entitled to SDA as per prescribed rules.

The CAT order also directed me to approach respondents for making me payment of dues and for which I was directed to prefer representation.

Accordingly, I have submitted representation to

- (a) The Union of India, Represented by the Secretary to the GoI, MoD, New Delhi -1
- (b) E-n-C's Branch, Army Headquarters, Kashmir House, New Delhi.
- (c) Chief Engineer, Eastern Command, Engineer's Branch, Fort William, Kolkata-21
- (d) CWE, Shillong, SE Falls, Shillong -11
- (e) GE Narangi, Guwahati -27

(Copy of representation attached for ready reference), but without any outcome

I, therefore, pray before your gracious honour to pay me my entitled SDA w.e.f. Jun 2003 to Jan 2006 within a period of 03 (three) months, else I shall be forced to approach court of law for redress of grievances at the cost of state.

Copy of Hon'ble CAT's order, and relevant document (opinion of Ministry of Law and Justice), Department of Legal Affairs Bench Secretariat Kolkata MOL UO No1317/07 Adv(Kol) dated 05 Oct 2007 are enclosed for your perusal and necessary action please.

Thanking you.

Encls : As above

Dated : 15 May 2008

Yours faithfully

(BIPLOB ROY CHOWDHURY)

MES/214524

UDC

C/O GE Sevoke Road

Sheeted
Date
Adm

Drabir Kumar Sikdar

B. Com., LL. B.
Advocate

Party's copy

- 30 -

ANNEXURE - IV

Cham. : 2533517
Resi. : 2641812
Bar : 2435091

"MATRIBHUMI"

22, PANCHANAN SARANI
Ashrampara, Siliguri
Darjeeling, Pin-734401

Ref. No.....

Date...12...7...2006.....

REGISTERED WITH A/D

To,
The Secretary,
Ministry of Defence,
Government of India,
New Delhi - 110-001.

Sir,

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 JUN 2009

गुवाहाटी बेंच
Gwahati Bench

Under instructions from and on behalf of my clients 1) Sri Biplab Roy Chowdhury, Son of Late Phani Bhushan Roy Chowdhury, now posted at Garrison Engineer, Sevoke Road, Siliguri, 2) Sri Pranab Sarkar, Son of Sri Anath Bandha Sarkar, now posted at 585, Engineer Sub-Park, C/O. 99 APO, 3) Sri Mridul Kanti Sen, Son of Late Nimal Chandra Sen and 4) Sri Pranab Kumar Sarkar, Son of Late Nagendra Chandra Sarkar - both are now posted at Head Quarter, Chief Engineer, Siliguri Zone, Sevoke Road, Siliguri all are Upper Division Clerk I beg to inform you as follows :

This is to inform you that my clients jointly filed and moved an appeal before the Hon'ble Central Administrative Tribunal Gwahati Bench, Gwahati being OA No. 25 of 2006 and the Hon'ble Bench on hearing the parties has been pleased to pass an order on 01/08/2007 in favour of my clients.

That in the said Judgement passed by the Hon'ble Gwahati Bench has been pleased to quote several judgment of Hon'ble High Courts in India and also the Judgement of Hon'ble Apex Court i.e. Hon'ble Supreme Court of India and after considering of all judgments and considering the case of my clients has been pleased to allow the said application and hold that the Officers and employees who belongs to the Region other than the any Region will be entitled to SDA. The Hon'ble Bench after considering the circumstances of the case directed my clients to make individual



Drabir Kumar Sikdar
18/7/08

*Accepted
Dutta
Adv*

Prabir Kumar Sikdar

B. Com., LL. B.
Advocate

- 91-

Cham. : 2533517
Resl. : 2641812
Bar : 2435091

"MATRIBHUMI"
22, PANCHANAN SARANI
Ashrampara, Siliguri
Darjeeling, Pin-734401

Ref. No.....

Date.....

representation to the concerned authorities i.e. the Respondents in the said case narrating their period of posting in the N.E. Region within a period of one month from the date of receipt of the copy of the said order and also further pleased to direct the Respondent in the above case that on receiving such representation, the Respondents shall grant benefit to my clients within a time framed of three months thereafter.

That thereafter my clients on receiving the copy of the said order have made representation to the respective Respondents in the said case in writing but inspite of such representation you have not complied the direction of the Hon'ble CAT, Guwahati Bench.

That thereafter it is come to the knowledge of my clients that the matter was referred to the Ministry of Law and Justice, Department of Legal Affairs Branch, Secretariate Kolkata and the Deputy Government Counsel Mr. Kanti Deo has opined that the order of the Hon'ble CAT, Guwahati Bench, Guwahati may be implemented accordingly.

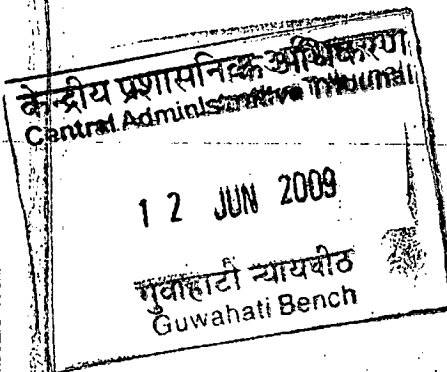
That my clients have instructed me to write that inspite of such opinion submitted by the Ld. Counsel, the authorities including yourselves did not comply the direction/order passed by the Hon'ble CAT, Guwahati Bench in connection with OA No. 25 of 2006.

Notice is, therefore, given to you for and on behalf of my clients to implement the direction of the Hon'ble CAT of Guwahati Bench passed on 01/08/2007 in connection with OA No. 25 of 2006 and direct the disbursing authority to remit the respective SIDA of my client above named within 15 (fifteen) days from the date of receipt of this notice failing which my clients shall take legal steps before the said Hon'ble Bench for violation of the aforesaid order



Prabir
Adv
10/7/08

Collected
With
Adv



Prabir Kumar Sikdar
B. Com., LL. B.
Advocate

- 32 -

Cham. : 2533517
Resi. : 2641812
Bar : 2435091

"MATRIBHUMI"
22, PANCHANAN SARANI
Ashrampara, Siliguri
Darjeeling, Pin-734401

Ref. No.....

Date.....

and in that case you shall be further liable for all costs and compensation.

Thanking you.

Yours faithfully,
(Signature)
(Su Prabir Kumar Sikdar)
Advocate, Siliguri.

COPY TO :

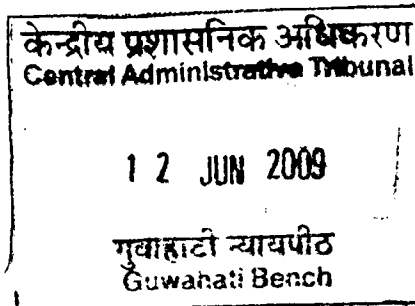
Su Prabir Kumar Sikdar
Advocate Siliguri



The Engineer in Chief Branch,
Army Head Quarter,
Kashmir House,
Delhi Head Quarter,
New Delhi - 110 011

-for information and taking necessary action please.

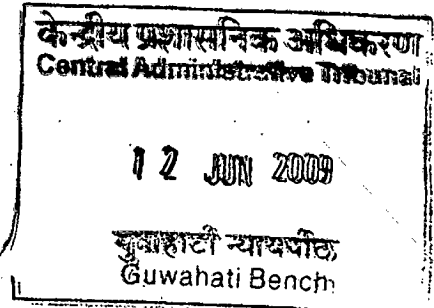
*Attended
With
H/W*



NOTICE

From

U. Dutta
Advocate



To

Mr. M. U. Ahmed

Addl. C.G.S.C

Sir,

Please find herewith a copy of the Execution Petition, E.P. NO. ____/2009, in O.A. NO. 25/2006, Shri Biplab Roy Choudhury & ors, -VS- Union of India & ors, which is being filed today. Kindly acknowledge.

Received

29/6/09

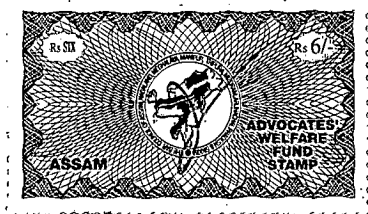
(M. U. Ahmed)

Thanking you,

U. Dutta

MEMORANDUM OF APPEARANCE

Date : 12/16/09



To,

The Registrar

Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

E. p - No. 5 of 2009

Sri Biplab Roy Chowdhury & ors

----- 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. _____ 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, GUWAHATI.
U/R 24 of the CAT (Procedure) Rule 1987.

E.P. 5 of 2009

Arising out of O.A. No. 25/06

In the matter of :

Sri Biplab Roy Choudhury & Ors.

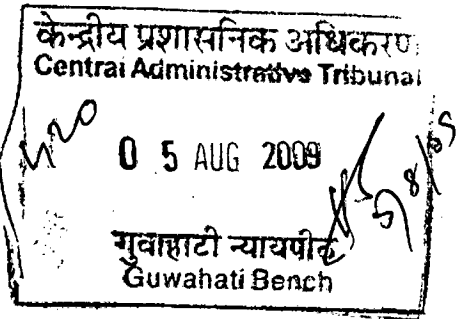
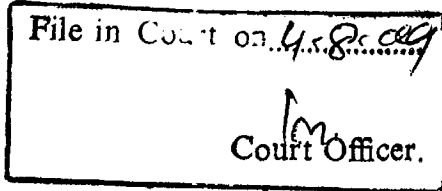
-Vs-

Union of India & Ors.

-AND -

In the matter of :

Reply/Written statement for & on
behalf of the Respondents.



The Respondents in the instant case Most Respectfully beg to
submit as follows :

1. That the applicants approached the Hon'ble Tribunal for the discontinuation of payment of SDA as well as recovery of payment of SDA issued by the Respondents vide Orders dated 6.3.03 dated 29.3.04 and letter dated 4.6.03, 3.10.03 and 30.01.04 and being aggrieved with the discontinuation and order agitated the same by way of O.A.25/06.
2. That the Hon'ble Tribunal on perusal of the records and after hearing the counsel of the parties was pleased to pass a common judgment and order dated 01.08.07 with the direction as follows :

"I direct the applicants to make individual representation to the concerned respondent, narrating their period of posting in N.E.Region, within a time frame of one month from the date of

(P K Goel)
EE (SG)
Garrison Engineer

(P K Goel)
EE (SG)
Garrison Engineer
M. N. Ahmed
Through

4/8/09

Received
Dutta
04/08/09

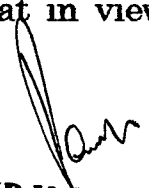
receipt of copy of this order, and on receipt of such representation, the respondents shall grant benefit to the applicants within a time frame of three months thereafter.

3. That with regard to the statements made in para 1 of the application the answering respondents do not admit anything which is beyond the records of the case and the applicants are put to strict proof thereof.

4. That with regard to the statements made in para 2 of the application the answering respondents beg to state that none of the applicants had submitted individual representation to concerned respondent narrating his period of posting in NE Region within a time frame of one month from the date of receipt of copy of the judgment. Applicant No.1 had submitted his representation only on 31st March 2008 (received in this office on 15th April 2008) which was after 8 months and 15 days. Thus payment of SDA as preyed by the applicant do not stand to logic and it is clear violation of court order.

5. That with regard to the statements made in para 4 of the application the answering respondents beg to state that the applicants did not honour the 'Court's order by submitting the representation within the time frame of one month nor they prayed for extension of time to file their representation. Non consideration of their representation even after elapse of one year as stated by the applicants is baseless and imaginary. The contention of the petitioner is devoid of merit and therefore, liable to be set aside.

6. That with regard to the statements made in para 5 of the application the answering respondents beg to state that in view of

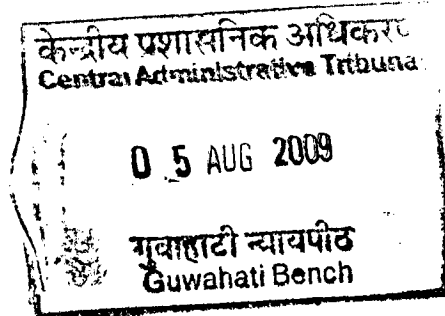

(P K Goel)
EE (SG)
Garrison Engineer

submission made in opposition in preceding paragraphs, the answering respondents beg to deny the relief sought for, being fabricated and imaginary attitude by the applicants. They have not followed Hon'ble Tribunal's order. The contention of the applicants is devoid of merit and therefore, liable to be set aside.

7. That the applicants has flouted the direction of this Hon'ble Tribunal, which amount to treat the judgment as innocuous, erroneous or mistaken for which they do not have the authority to do the same. The applicant is bound to honour the aforesaid direction and a wrong done cannot take advantage out of his own wrong doing.

Further, now the applicants have no any legitimate expectations of justice, except the legitimate expectation barred on dishonouring the said judgment/order which requires a clear judicial statementship from the Hon'ble Tribunal for the reckless disobedience of the Court's order.

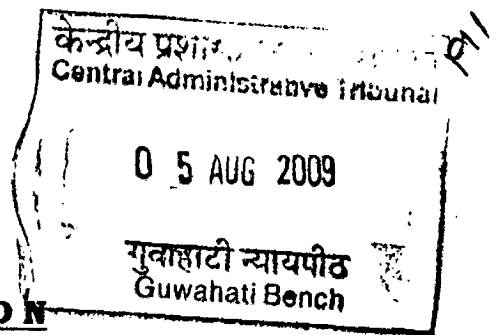
9. This petition is filed bonafide and for ends of justice.



It is therefore humbly prayed before this Hon'ble Tribunal that the present application filed by the applicant may be dismissed with cost.

And for this act of kindness your humble petitioners shall ever pray.

(P K Goel)
EE (SG)
Garrison Engineer



VERIFICATION


I PARESH KUMAR GOEL, son of
Shri R.K. GOEL, aged about 42 years, presently
working as GARRISON ENGINEER

say that I have been authorized by the other respondents of the O.A to
verify and sign this verification on their behalf which I do accordingly. I
do hereby verify that the statements made in paragraphs to of the
Execution Petition are true to my knowledge and belief. I have not
suppressed any material facts.

And I sign this verification on this 03 day of August,
2009 at Guwahati.

Date : 03 Aug 09

Place : GUWAHATI


(P K Goel)
EE (SG)
Garrison Engineer
Signature