

13

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T/A No. 33/2007
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet..... OAPg. 1..... to 12.....
 2. Judgment/Order dtd. 29.01.2009Pg. 1..... to 10 Allowed
 3. Judgment & Order dtd.....Received from H.C/Supreme Court
 4. O.A..... 33/2007Pg. 1..... to 40
 5. E.P/M.P.....Pg..... to.....
 6. R.A/C.P.....Pg..... to.....
 - ✓ 7. W.S. R/101 to 6Pg. 1..... to 7
 - ✓ 8. Rejoinder.....Pg. 1..... to 4
Add Rejoinder filed by applicant - Pg. 1 to 14
 9. Reply to the RejoinderPg. 1..... to 4
 10. Any other Papers.....Pg..... to.....
 11. Memo of Appearance.....
 12. Additional Affidavit.....
 13. Written Arguments.....
 14. Amendment Reply by Respondents.....
 15. Amendment Reply filed by the Applicant.....
 16. Counter Reply.....
- Memorandum page - 1 to 3

SECTION OFFICER (Judl.)

Salibi
21.9.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No. 33 / 2007
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) MR M. Das VS Union of India & Ors

Advocate for the Applicant(S) MR M. Chanda, S. Nath & Smt. U. Datta

Advocate for the Respondant(S) Adv. C. G. Das - M. Das

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

8.2.07

Claim pertains to the Special Duty Allowance. Learned counsel for the applicant has brought my notice to para 2 of the Annexure 15 letter dated 1.7.05, which is quoted below :

"In this context, I am to inform you that Shri Monoranjan Das Ex. Senior Accountant of this office had represented through proper channel to the Chief Controller of Accounts, Ministry of Home Affairs, New Delhi for granting the benefit of Special Duty Allowance with formal recommendation of Deputy Controller of Accounts, MHA, Shillong. It is noteworthy to mention that although Shri Monoranjan Das Senior

This application is in form is filed in the form of 10/- deposit.

No. 286981887

Date 17.1.07

gutta
Dy. Registrar

1) 6 (six) copies has been submitted for respondents without envelope.

2) 10/- not deposited. Done
7.2.07

Defect removed.

NT
7.2.07

Accountant had been representing to the authority through proper channel in several occasions, the decision of the authority had never been communicated to this office for reasons not known to this office."

It is pertinent to note that though it was promised to the applicant the same assurance was never materialized.

Heard Mr M.Chanda, learned counsel for the applicant and Mrs M.Das, learned Addl.C.G.S.C for the respondents. Learned counsel for the respondents submitted that she would like to take instruction.

Post on 9.3.07 for admission.

Vice-Chairman

pg

09.03.07. Counsel for the respondents prays for time to file written statement. Let it be done. post the matter on 10.4.07.

Vice-Chairman

lm

7.5.07.

Let the case be listed for filing of written statement. post the matter on 7.6.07.

Vice-Chairman

lm

order dated 8-2-07 received on behalf of Mrs M-Das, Addl. C.G.S.C.

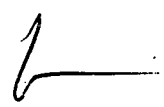
Received Human Deka 13-2-07

4.5.07

NO WS filed.

No WS has been filed.

6.6.07

Notes of the Registry	Date	Order of the Tribunal
<p>was not filed.</p> <p><u>9.7.07.</u></p> <p><u>10.7.07</u></p> <p>was filed by the Respondents. page 1 to 4 copy served.</p> <p><u>DD.</u></p>	<p>07.06.2007</p> <p>/bb/</p>	<p>Four weeks further time is granted to the Respondents to file reply statement.</p> <p>Post the case on 10.07.2007.</p> <p></p> <p>Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
<p><u>24.7.07</u></p> <p>No rejoinder filed.</p> <p>la</p>	10.7.2007	<p>Mrs. M. Das, learned Addl. C.G.S.C. has filed reply statement today. Let it brought on record if it is otherwise in order. Copy of the same is furnished to the Applicant's counsel.</p> <p>Post the case on 25.7.2007. In the meantime Applicant may file rejoinder, if any.</p> <p style="text-align: right;">Vice-Chairman</p>
	/bb/	
	24.7.07.	<p>Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 10.8.07. Interim order shall continue till the next date.</p> <p style="text-align: right;">Vice-Chairman</p>
	Lm	
<p>Rejoinder not filed.</p> <p><u>23.8.07.</u></p>	25.7.07.	<p>Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 7.8.07.</p> <p style="text-align: right;">Vice-Chairman</p>
	Lm	
<p><u>9-9-07</u></p> <p>No rejoinder filed.</p> <p>la</p>	24.8.07.	<p>Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 10.9.07.</p> <p style="text-align: right;">Vice-Chairman</p>
	lm	

CA 33/07

10.9.2007

Three weeks time is granted to the Applicant to file rejoinder. Post the case on 4.10.2007.

BB

/bb/

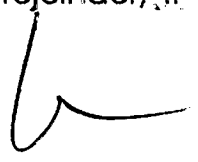
Vice-Chairman

Rejoinder not filed.

24
18.9.07.

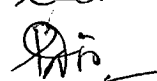
10.9.2007

Post the matter on 19.9.2007. In the meantime Applicant may file rejoinder, if any.



Vice-Chairman

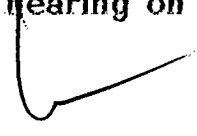
24.9.07

Rejoinder filed by the Applicant. Copy served. One copy filed. 

/bb/

19.9.2007

Rejoinder has been filed. The pleadings are over. The O.A. is admitted. The learned counsel for the parties submit that the case may be fixed for hearing. Post the matter for hearing on 11.10.07.



Vice-Chairman

The case is ready for hearing.

24
16.10.07.

nkm


11.10.2007

In this case, written statement and rejoinder have already been filed. It is stated by Mr.S.Nath, learned counsel for the Applicant that the matter is otherwise ready for hearing. Mrs.M.Das, learned Addl. Standing counsel for the Central Government undertakes to file her appearance memo in this case.

Call this matter on 28.11.2007 for hearing..

The case is ready for hearing.

24
27.11.07.


(Khushiram)
Member (A)

/bb/


(M.R.Mohanty)
Vice-Chairman

28.11.2007

On the request of learned counsel for the Applicant and the fact that the counsel for the Respondents is not present in the Court. Call this matter on 02.01.2008.

(Khushiram)
Member(A)

lm

02.01.2008.

Mrs. U. Dutta, learned counsel for the Applicant, by filing Memo, seeks adjournment of this ~~Part heard~~ case.

Call this matter on 8th January, 2008 for giving further hearing.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

Lm

08.01.2008

On the prayer of learned counsel appearing for both the parties, call this matter on 31.01.2008.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

31.01.2008

On the prayer of Mr.M.Chanda learned counsel appearing for the Applicant (made in presence of Mrs. M. Das, Addl. Standing counsel appearing for the Union of India) call this matter on 15th February, 2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

The case is ready
for hearing.

7.1.08

The case is ready
for hearing.

14.2.08

O.A. 33/07

15.02.2008

Call this matter on 28.03.2008 for hearing.

O.A. 170 of 07

(Khushiram)
Member(A)

M.R. Mohanty
Vice-Chairman

15.02.2008

On the prayer of Mr. K. D. Singha learned counsel appearing for the Applicant, this matter stands adjourned to 19.03.08.

Call this matter on 19.03.2008.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

15.02.2008

Call this matter on 28.03.2008 for hearing.

(Khushiram)
Member(A)

M.R. Mohanty
Vice-Chairman

lm

28.03.2008

On the prayer made on behalf of the counsel for the Applicant, hearing of this case adjourned to 21st April, 2008.

Respondent should cause production of materials to substantiate their stand that the Applicant on his own volition took transfer to be posted in N.E. Region.

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

(M.R. Mohanty)
Vice-Chairman

28.3.08

Pl. send copies of this order to the respondents in the addresses given in the O.A.

Order dt. 28/3/08. Send to D/Section for issuing to respondents by post.

D/No- 1666 to 1672
Dt. 8/4/08.

lm

The case is ready for hearing. 13.4.08.


21.04.2008

Call this matter on 02.05.2008.

24.4.08

Reply to the Rejoinder
filed by the
Respondents. Copy
served.

lm


(M.R. Mohanty)
Vice-Chairman

02.05.2008


Mr. M. Chanda learned counsel
appearing for the Applicant has filed a letter
of absence. No one for the Respondents.

Call this matter on 26.5.2008.

The case is ready
for hearing.

33
11.5.08

lm


(Khushiram)
Member(A)

26.05.2008

Mr. M. Chanda, learned counsel
appearing for the Applicant and Mrs. M. Das,
learned Addl. Standing counsel for the Union of
India are present.

The case is ready
for hearing.

23.5.08

Call this Single Judge matter on
29.05.2008 for hearing before the Hon'ble
Member.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

30.05.2008

Mr. M. Chanda, learned counsel
appearing for the Applicant and
Mr. M. U. Ahmed, learned Addl. Standing counsel
for the Union of India are present.

The case is ready
for hearing.

20.6.08

Call this matter on 23.06.2008 along with
other SDA matters.


(Khushiram)
Member (A)

/bb/

9 - O.A. NO. 33/2007

92

23.06.2008

Mr. M. Chandra, learned Counsel appearing for the Applicant is present.

Call this matter on 04.08.2008 for hearing, when Mrs. M. Das, learned Addl. Standing Counsel for the Union of India, shall cause production of the papers relating to the Applicant from the Ministry and also from the Headquarters of Assam Rifles.

Order dt 23.6.08

Received on behalf of

Mrs. Manjula Das

Addl. CGSC -

Monalisa Deka

26.6.08

A copy of this order be handed over to Mrs M. Das, who should also produce the Service Book of the Applicant, who is stated to be posted at Kolkata presently.

The case is ready for hearing.

nkm

(M.R. Mohanty)
Vice-Chairman

~~01.08.08, 04.08.2008~~

~~Mrs U. Dutta, learned Counsel appearing for the Applicant, is present. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, is also present.~~

~~Call this matter on 12.03.2008 for hearing.~~

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

nkm

04.08.2008

Heard in part.

Rejoinder filed on behalf of the applicants.

5.08.08

On the request of Mrs U. Dutta, learned Counsel appearing for the Applicant, call this part heard matter on 06.08.2008 for further hearing.

(M.R. Mohanty)
Vice-Chairman

nkm

06.08.2008

10

Heard Mr.M.Chanda, learned counsel appearing for the Applicant and Mrs.M.Das, learned Counsel for the Union of India.

2. In course of hearing, it appears that the Ministry of Home Affairs of Govt. of India, have not been made a party Respondent to this case; although it is claimed by the Applicant that he was initially appointed as Lower Division Clerk in the CSCS Cadre by the Ministry of Home Affairs and posted in MHA(P) Office on 19.03.1984 by an Order No.A.12025/10/82-Ad.I(B) dated 26.03.1984 of MHA. (pursuant to the offer No.A.12025/10/82-Ad.I(B) dated 09.02.1984) and, later on, he was given a posting, on transfer, in the Pay and Accounts Office of the Assam Rifles at Shillong, and that, therefore, he is/was entitled to Special Duty Allowances on his posting in North East Region of India.

3. In the aforesaid premises, Mr.M.Chanda, learned counsel appearing for the Applicant, prays to implead the Secretary to the Govt. of India in the Ministry of Home Affairs, North Block, New Delhi - 110 001, as party Respondent No.8 in the present case. Prayer is allowed. Mr. M. Chanda is permitted to make necessary endorsement in the cause title body of this O.A. (in presence of the Court Officer) and he undertakes to file an extra copy of the brief (containing the copy of O.A., Written Statement of the existing Respondents, both the Rejoinder(s) of the Applicant and the Reply of the Respondents filed in this case, along with the Annexures) by day after tomorrow.

Contd...

Contd
06.08.2008

Dt. 6-8-08

Pl. issue notices to the newly added Respondent No.8 at the cost of applicant.

Pl. send a copy of this order to notice to R-8.

12/8/08

Notice and order sent to D/Section for issuing to newly added resp.no-8, by speed post A/D at the cost of learned Counsel for applicant.

12/8/08 Cest D/No - 3514
Dt = 12/8/08.

The case is ready for hearing.

29.09.08

/bb/

4. Notice be issued to the newly added Respondent No.8 at the cost of the Applicant. Mr.M.Chanda undertakes to deposit required postages/cost of the postages by day after tomorrow, for issuance of notice to the newly added Respondent No.8 by Speed Post. In the notice, be it made clear that the newly added Respondent No.8 should file their Written Statement by 30th September, 2008; wherein it should clearly be stated as to whether the Applicant was posted in MHA Headquarters. (on his appointment as a Lower Division Clerk in CSCS Cadre) during March, 1984 and as to whether he was posted in Pay & Accounts Office of Assam Rifles (having Headquarters at Shillong/Meghalaya) on transfer from New Delhi.

5. Mrs.M.Das, learned Counsel appearing for the Union of India, should ensure filing of the Written Statement from the newly added Respondent No.8 well before the next date.

6. Send a copy of this order, along with the notice, to the Respondent No.8.

7. Call this matter before the Division Bench on 30th September 2008 for hearing.


(M.R.Mohanty)
Vice-Chairman

30.09.2008.

On the prayer of Mr.M.Chanda, learned counsel appearing for the Applicant (made in presence of Mrs. M.Das, learned Standing Counsel for the Union of India), call this matter on 01.12.2008.

She case is ready for hearing.

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

01.12.2008

Mr M. Chanda, learned Counsel appearing for the Applicant and Mrs M. Das, learned Standing Counsel for the Union of India, are present.

Call this matter on 20.01.2009.

(M.R. Mohanty)
Vice-Chairman

nkm

Notice duly served on R-1

20.1.09 Bench is not available. List on 28.1.09.

la/cv.

She case is ready for hearing.

28.01.2009

Call this matter for hearing on 29.01.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

/bb/

29.01.2009

Heard Mr.M.Chanda, learned counsel appearing for the Applicant and Mrs.M.Das, learned Addl. Standing counsel representing the Respondents.

For the reasons recorded separately this O.A. is allowed.

(M.R.Mohanty)

11.6.09

Copy of the order dated 29.1.09 send to the D/Sec. for PCMC. The same to the Applicant as well as to the Respondents No 1 to 8 by post. and free copy to the 2 Advocates for the parties.

11/6/09
Hund vide
D/O 3/02 to 3/12
D/O 11.6.09.
11/6/09

Received
Mulla
11/06/09

166/

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.33 of 2007

DATE OF DECISION: 29.01.2009

Sri Manoranjan Das

.....Applicant/s.

Mr. Manik Chanda

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

- Versus -

Union of India & Ors.

.....Respondent/s

Mrs. Manjula Das, Addl. C.G.S.C.

..... Advocate for the
Respondents

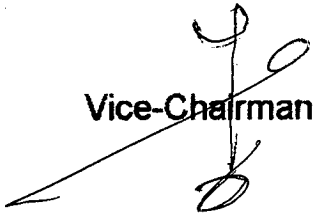
CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE CHAIRMAN

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No ☒ Yes
2. Whether to be referred to the Reporter or not? Yes/No ☒ Yes
3. Whether their Lordships wish to ^{Circulate} see the ~~fair~~ copy of the Judgment? Yes/No ☒ Yes
(Circulate to all benches of CAT)

Judgment delivered by

Vice-Chairman



15

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.33 of 2007

Date of Order: This, the 29th day of January, 2009.

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

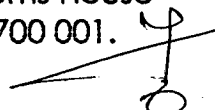
Sri Manoranjan Das
S/o Sri Haripada Das
Working Junior Accounts Officer
Office of the Pay and Accounts Officer
Central Board of Excise and Customs
Crescens Building, Shillong-793 001
(Meghalaya)

.....Applicant

By Advocates: Mr. Manik Chanda, Mr. Subrata Nath & Mrs. Urna Dutta.

-Vs-

1. Union of India
Represented by Secretary
to the Government of India
Ministry of Finance
Department of Revenue
New Delhi-110 001.
2. The Controller General of Accounts
Ministry of Finance
Department of Expenditure
Lok Nayak Bhavan, 7th Floor
Khan Market
New Delhi-110 003.
3. The Chief Controller of Accounts
Principal Accounts Office
Ministry of Home Affairs
North Block, Room No.217
New Delhi-110 001.
4. The Pr. Chief Controller of Accounts
Central Board of Excise and Customs
A.G.C.R. Building, 1st Floor
New Delhi - 110 002.
5. The Dy. Controller of Accounts
Office of the Dy. Controller of Accounts (IA)
Central Board of Excise and Customs
M.S.Building (6th floor), Customs House
15/1, Strand Road, Kolkata-700 001.



6. The Deputy Controller of Accounts
Ministry of Home Affairs
Shillong -793 003.
7. The Pay and Accounts Officer
Central Board of Excise and Customs
Ministry of Finance, M.G.Road
Shillong-793 001.
8. The Secretary, Govt. of India
Ministry of Home Affairs
North Block
New Delhi - 110 001.

...Respondents.

Mrs. Manjula Das, Addl. C.G.S.C.

O.A.93/2007
ORDER (ORAL)
29.01.2009

MANORANJAN MOHANTY, VICE-CHAIRMAN :-

Non-payment of Special Duty Allowances (in short 'SDA') to the Applicant is the subject matter of consideration in this case filed under Section 19 of the Administrative Tribunals Act, 1985.

2. It is the case of the Applicant, as disclosed in the Original Application, that he (a man from North East Region of India) was initially appointed as Lower Division Clerk in Central Secretariat and posted in the headquarters of Ministry of Home Affairs of Government of India at New Delhi with all India transfer liability and, later, posted, on transfer, in Pay and Accounts Office of Assam Rifles at Shillong (in the State of Meghalaya in N.E.Region of India), and that, by way of claiming SDA, (on strength of OMs dated 14.12.1983, 01.12.1988, 12.01.1996 and 22.07.1998 of Government of India) he represented on 04.09.1998; which was duly recommended by the Respondent No.6 on 18.09.1998. In the meantime,

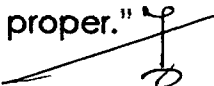
clarifications (pertaining to payment of SDA) were issued by the Government of India vide O.M. dated 22.03.1999 and 24.05.2000. Applicant submitted another representation on 01.09.2000. Government of India (Ministry of Finance) issued another O.M. dated 29.05.2002 pertaining to payment of SDA and it is the case of the Applicant that for the reason of Clause 5 of the said OM dated 29.05.2002 he is entitled to get SDA on his posting/transfer to N.E.Region of India. Applicant has pleaded that his name having been placed in the all India Seniority List (as on 08.07.2003) he is/was entitled to SDA and that rightly his case was recommended by the Respondent No.7, on 15.09.2005, for payment of SDA. The higher authorities were also reminded, on 01.07.2005, to take a decision in the matter of payment of SDA to the Applicant; who gave a declaration, on 16.11.2005, that he never gave any request to transfer/post him in N.E.Region of India. Applicant, after submitting another representation, on 08.02.2006, to grant him SDA, filed the present Original Application on 07.02.2007, with the following prayers:-

"8.1 That the Hon'ble Tribunal be pleased to declare that the Applicant is entitled to payment of SDA in terms of the O.M. dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002 and further be pleased to direct the respondents to pay SDA to the applicant with arrear monetary benefits.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to pay SDA to the applicant as admissible to him since his joining in N.E.Region on transfer from New Delhi with arrear monetary benefit as well as payment of current SDA.

8.3 Costs of the application

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



3. On 10.07.2007, the Deputy Controller of Accounts of Ministry of Home Affairs having headquarters at Shillong (in the State of Meghalaya) filed a written statement in this case; wherein it has been stated as under:-

"(3.) That Sri Monoranjan Das, the applicant, was initially appointed as Lower Division Clerk in the Central Secretariat Clerical Service (C.S.C.S.) cadre with effect from 19.03.84 and posted at Ministry of Home Affairs (P) until further order vide letter no.12025/10/82-Ad.1(B) dated 26.03.1984 as appears in Annexure 2 of the application. Thereafter vide letter dated 08.08.95 the Government of India issued an office order clearly stating that the service of the applicant has been placed at the disposal of the Pay and Account Officer, Assam Rifles, Shillong with effect from 16.04.84 in the same capacity. Hence it cannot be said that the applicant was transferred from New Delhi to Shillong. Further the applicant is a permanent resident of Tripura (West) which falls in the North Eastern Region.

(4.) That the appointment of Sri Manoranjan Das carries with the liability to service in any part of India and in pursuance to the offer of appointment dated 09.02.1984 he was appointed as L.D.C. So far the SDA for civilian employees of the Central Government serving in the state and union territories of North East region (including Sikkim) are concerned, the office memorandum dated 22.03.99 and subsequently 29.05.2002 issued by the Government of India clarified and the criteria for payment of SDA as follows:-

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

Thus, thereby the officers/employee those recruited/promoted within North-Eastern region are not entitled to get the benefit of SDA.

(5.) That in the instant case the applicant is a permanent resident of North Eastern region and being found fit of the results of the Clerk's Grade Examination 1981 he was appointed and was directed to report to Section Officer ADA(B)/Sec MHA, North Block, New Delhi for provisional temporary appointment as LDC in the CSCS cadre. Thereafter, he was appointed as LDC in the temporary capacity and until further order and

was directed to report to Pay and Accounts Office, Assam Rifles, MHA, Shillong without TA/DA. Further in office order dated 08.08.85 it has been clearly mentioned that the service of the applicant is placed at the disposal of the Pay and Accounts Officer, Assam Rifles, Shillong, with effect from 16.04.84 (FN) in the same capacity. Hence from the above it is crystal clear that the SDA is not admissible to the case of applicant."

4. By way of filing a rejoinder, the Applicant resisted the above stand of the Respondents and proceeded to say that, while continuing, with all India transfer liability, at New Delhi, he was asked to join in N.E.Region of India and, that, therefore, he was entitled to get SDA.

5. By filing a reply to the above rejoinder the Respondents disclosed as under:-

"...the applicant was initially appointed as LDC in Central Secretariat w.e.f. 19.3.84 and posted at Ministry of Home Affairs (P) vide letter dt.26.3.84 and thereafter his service was placed at the disposal of the Pay & Accounts Officer, Assam Rifles, Ministry of Home Affairs, Shillong w.e.f. 16.4.84 vide office order dt.28.6.84. The placing of the service of the applicant at the disposal of Pay & Accounts, Shillong cannot be interpreted as being transferred from New Delhi to Shillong."

6. Applicant also filed an additional rejoinder supporting his case.

7. Heard Mr. Manik Chanda, learned counsel for the Applicant and Mrs.Manjula Das, learned Addl. Standing counsel for the Government of India representing the Respondents and perused the materials placed on record.

8. It appears from Annexure-1 dated 09.02.1984 (issued by the Ministry of Home Affairs of Government of India) that the Applicant was

offered an appointment as LDC with a condition that "the appointment carries with it the liability to service in any part of India". It appears, in response to the above letter, the Applicant joined the duties at New Delhi (on his first posting) on 19.03.1984 and the formal posting orders were issued on 26.03.1984 (Annexure-2) posting the Applicant in MHA(P). Under Annexure-3 dated 03.04.1984 the Under Secretary to the Government of India in the Ministry of Home Affairs wrote a letter to Pay & Accounts Officer (Assam Rifles) of Ministry of Home Affairs at Shillong to the following effect:-

"Sub: Posting of Shri Manoranjan Das, LDC, of the CSCS, Cadre of the Ministry of Home Affairs in PAO (Assam Rifles), Shillong.

Sir,

I am directed to say that it has been decided to fill up one vacant post of Lower Division Clerk in Pay & Accounts Office (Assam Rifles), Shillong by posting of Shri Manoranjan Das, Lower Division Clerk of the CSCS Cadre of the Ministry of Home Affairs. Shri Manoranjan Das is being relieved and directed to report for duty in your office. His joining report may please be forwarded to this Ministry for further necessary action. He will not be entitled for any TA/DA."

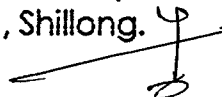
Copies of the above letter was also sent to Principal Accounts Officer & also Section Officer of Ministry of Home Affairs with the following notes:-

No.1-22015/17/84-Ad.I(B),

Dated 3rd April, 84.

Copy forwarded to:-

1. Principal Accounts Officer, M/Home Affairs, North Block, New Delhi with reference to their U.O.No.10-18/41/P&AB/MHA/84/686, dated 22.3.1984. Shri Manoranjan Das, LDC, is being directed to report for duty in Pay & Accounts Office (Assam Rifles), Shillong.



2. Section Officer, Ad.II. Section, MHA, New Delhi with one spare copy for Shri Manoranjan Das, LDC, Shri Manoranjan Das, LDC, may be relieved by 9th April, 84 with the directions to report to Pay & Accounts Officer (Assam Rifles), Shillong.
3. Ashri A.S. Panwar, Ad.I(B), MHA, New Delhi."

According to the above, the Applicant was relieved from Delhi Office of Ministry of Home Affairs on 09.04.1984 as is seen under Annexure-4. On 08.08.1985, a regular order, placing the services of the Applicant with the Pay & Accounts Officer (Assam Rifles) Shillong w.e.f. 16.04.1984 was issued by the Ministry of Home Affairs/New Delhi; a copy of which has been placed at Annexure-5. The said order dated 08.08.1985 reads as under:-

OFFICE ORDER

In supercession of this Ministry's office order of even number dated 28.06.1984, the services of Shri Manoranjan Das, a temporary Lower Division Clerk of the CSCS Cadre of the Ministry of Home Affairs are placed at the disposal of the Pay & Accounts Officer, Assam Rifles, Shillong with effect from the forenoon of 16.4.1984 in the same capacity.


Sd/-illegible
(T.K.RAVINDRANATH)
UNDER SECRETARY TO THE GOVT.OF INDIA

No.A.22015/17/84-Ad.I(B)

Dated the 8.8.85

Copy forwarded to:-

1. Pay & Accounts Office, MHA(Sectt.), New Delhi.
2. Cash I/Cash II/Section, MHA, New Delhi.
3. Ad.III/Ad.II/SSO/CR/MHA Library/CS Lib/.
4. Ad.II Section. MHA, New Delhi (with one spare copy).



- Service Book/Leave Account/E.L.&R.H. accounts. Etc. of Shri Manoranjan Das, LDC may please be sent to pay & A.O. Assam Rifles, Shillong direct.
5. Pr.A.O./MHA, North Block, New Delhi.
 6. Pay & Accounts Office, Assam Rifles, Shillong with reference to their letter No.PAO/Ar/Estt/PF/MD/84-85/24, dated 17.4.1994 with one spare copy for Shri Das, LDC
 7. Shri A.S.Panwar, Ad.I(B) Section, MHA, New Delhi.
 8. Spare Copies 5.

Sd.-illegible
(T.K.RAVINDRANATH)
UNDER SECRETARY TO THE GOVT.OF INDIA"

9. A close analysis of the above materials goes to show that the Applicant, an employee of the Ministry of Home Affairs with all India transfer liability, was relieved (after an administrative decision) to join the Pay & Accounts Office (meant for Assam Rifles) of the same Ministry located at Shillong and pursuant to said posting order he joined at Shillong Pay & Accounts office of the same Ministry. On his posting at Shillong (in N.E.Region of India) he was certainly entitled to get SDA; as law is, by now, well settled that a man of N.E.Region, on his posting in N.E.Region from outside that Region, is entitled to SDA benefits. Merely because the word 'transfer' has not been used and merely because no TA was paid to him (on his posting in N.E.Region, for New Delhi) it cannot be said that he did not face any transfer. At the hearing, taking a clue from "non-payment of TA," Mrs.Manjula Das, learned Addl. Standing counsel for the Respondents argued that apparently the Applicant opted to be placed at Shillong/N.E.Region and that was why he was posted in N.E.Region without grant of Traveling Allowances/TA; as it was not a transfer. Analysis of facts has already shown that it was a case of transfer; although the word 'transfer' has not been used. Now the question is as to whether the transfer was on a request and, if that is so, then as to whether

/

the Applicant was entitled to SDA? Mr. Manik Chanda, learned counsel appearing for the Applicant has placed on record a copy of the clarification of Government of India to show that even on a request transfer to/posting in N.E. Region, one is entitled to SDA benefits. Relevant portion of the said clarification of Government of India (placed on record as Annexure-A to additional rejoinder of Applicant) reads as under:-

" Ministry of Finance
Department of Expenditure
E-II(B) Branch

Sub: proposal seeking clarification as to whether the employees posted/transferred in N.E. Region, at their own request from outside the N.E. Region are eligible to get SDA.

Reference U.O. No. Admn. 1/(27)/Shillong/06-07/2412 of Office of Pr. Chief Controller of Accounts (Central Excise & Customs) on pre-page.

There is no restriction for grant of Special Duty Allowance to Central Govt. Employees if they are posted on their own request and are entitled to SDA as per criteria for payment of SDA as mentioned in para 5 of Finance Ministry's O.M. No. 11(5)/97-E.II(B) dated 29.5.2005 (copy enclosed). Office of Pr. Chief Controller of Accounts is advised to decide the cases of payment of SDA accordingly.

Sd/- Illegible
(R. Prem Anand)

Encl. as above Under Secretary to Govt. of India)

Shri Arvind Kumar, Controller of Accounts, O/o Pr. Chief Controller of Accounts, Central Excise & Customs, (1st Floor) A.G.C.R. Building, New Delhi.

M/o Fin.(Expdr.) U.O. No. 11(1)E.II(B)/07, dt. 26/2/07"

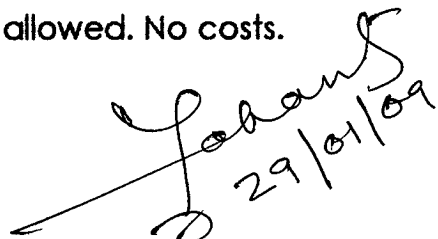
In view of the above clarification of the Government of India, even if on his request transfer to N.E. Region, the Applicant was entitled to SDA benefits.



10. In the backdrop of above analysis and discussion, it is, hereby, held that the Applicant, with all India transfer liability, came to be posted (from New Delhi main office of the Ministry of Home Affairs) at Pay & Accounts Office (for Assam Rifles) of the same Ministry located at Shillong/in the State of Meghalaya/in North Eastern Region of India (by the order/decision of the Government of India in the Ministry of Home Affairs) and, as such, he was entitled to get SDA on and from the date of his posting at Shillong Pay & Accounts Office (for Assam Rifles) of the Ministry of Home Affairs.

11. As a consequence, the Respondents are, hereby, asked to calculate and quantify the entire amount of SDA payable to the Applicant from the date of his initial reporting/joining in Pay & Accounts office (Assam Rifles) of MHA/Shillong (till he was transferred/posted out of N.E.Region) and disburse the same to the Applicant (in installments) within six months from the date of receipt of a copy of this order.

12. This case, accordingly, is allowed. No costs.


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/

2-2-07
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH GUWAHATI

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

O. A. No. 33 /2007

Shri Manoranjan Das

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- * 09.02.1984, 26.03.1984- Applicant was initially appointed as Lower Division Clerk in the Central Secretariat, Ministry of Home Affairs, New Delhi vide order dated 26.03.84, having clause of all India transfer liability in his offer of appointment dated 09.02.84. (Annexure- 1, 2)
- 16.04.1984- Applicant was transferred and posted at Pay and Accounts Office Shillong w.e.f. 16.04.84 and at present working as Junior Accounts Officer in the office of Pay and Accounts Officer, Customs and Central Excise, Shillong, he is a permanent resident of N.E. Region of India. (Annexure- 3, 4, 5)
- * 14.12.1983- Govt. of India issued O.M dated 14.12.83, granting Special Duty Allowance to the central Govt. civilian employees who are saddled with all India transfer liability on their posting to NE Region from outside of the NE Region, which supports case of the applicant for payment of SDA. The said O.M was subsequently extended by the O.M dated 01.12.88, 12.01.96 and 22.07.98. (Annexure- 5A)
- 04.09.1998- Applicant submitted a representation praying for Special Duty Allowance. (Annexure- 6)
- 18.09.1998- Respondent No. 6 vide his letter dated 18.09.98 recommended for payment of SDA to the applicant. (Annexure- 7)
- 22.03.1999- Govt. of India, issued O.M dated 22.03.99, clarifying that employees of Civil Accounts organization on their posting in N.E Region are entitled for payment of SDA, as such applicant is entitled for payment of SDA with arrear monetary benefits. (Annexure- 8)
- 24.05.2000- Asstt. Controller General of Accounts vide O.M dated 24.05.00 reiterated the criteria laid down in O.M dated 22.03.99 for payment

of SDA, as such denial of payment of SDA to the applicant is illegal and arbitrary. (Annexure- 9) // 2

- 01.09.2000- Applicant submitted another representation for payment of SDA. (Annexure- 10)
- 29.05.2002- Govt. of India, Ministry of Finance, issued O.M dated 29.05.02. Applicant is entitled for payment of SDA as per clause 5 of the said O.M, as because his recruitment zone and promotion zone has been made on all India basis. (Annexure- 11)
- 08.07.2003- Seniority of the applicant is maintained on all India bases, which is evident from seniority list as on 08.07.03. (Annexure- 13)
- 15.09.2005- Respondent No. 7 recommended for payment of SDA to the applicant. (Annexure- 14)
- 01.07.2005- Accounts officer, PAO, Assam Rifles, Shillong informed that in spite of repeated representations, the higher authority took no decision for payment of SDA to the applicant. (Annexure- 15)
- 16.11.2005- Applicant declared that at no point of time he made any request before the authority for posting at Shillong. (Annexure- 16)
- 20.03.2003- Applicant is saddled with all India transfer liability, which is evident from transfer policy dated 20.03.03. (Annexure- 17)
- 08.02.2006- Applicant made another representation praying for SDA, but to no avail. (Annexure- 18)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002 and further be pleased to direct the respondents to pay SDA to the applicant with arrear monetary benefits.
2. That the Hon'ble Tribunal be pleased to direct the respondents to pay SDA to the applicant as admissible to him since his joining in N.E. Region

on transfer from New Delhi with arrear monetary benefit as well as payment of current SDA.

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

Interim order prayed for:

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

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

28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 33 /2007

Shri Manoranjan Das. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-11
2.	---	Verification	-12-
3.	1	Copy of offer of appointment dated 09.02.84.	13 - 14
4.	2	Copy of appointment letter dated 26.03.84	-15 -
5.	3	Copy letter dated 03.04.84	-16 -
6.	4	Copy of release order dated 09.04.84.	-17 -
7.	5	Copy of order dated 08.08.85.	-18 -
8.	5A	Copy of O.M dated 14.12.83.	-19 -
9.	6	Copy of representation dated 04.09.98.	-20 -
10.	7	Copy of letter dated 18.09.98.	-21 -
11.	8	Copy of O.M dated 22.03.99.	22 - 23
12.	9	Copy of O.M dated 24.05.2000.	-24 -
13.	10	Copy of representation dated 01.09.2000.	-25 -
14.	11	Copy of O.M dated 29.05.02.	26 - 27
15.	12	Copy of O.M dated 14.05.03.	28 - 30
16.	13	Copy of seniority list as on 08.07.03	31 - 33
17.	14	Copy of letter dated 15.09.05.	-34 -
18.	15	Copy of letter dated 01.07.05.	-35 -
19.	16	Copy of declaration dated 26.11.05	-36 -
20.	17	Copy of transfer policy dated 20.03.03	37 - 39
21.	18	Copy of representation dated 08.02.06.	-40 -

Date: - 05/02/07.

Filed By:

S. Nath
Advocate

Manoranjan Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A No. 33/2007

BETWEEN:

Sri Manoranjan Das
S/o- Sri Haripada Das
Working Junior Accounts Officer
Office of the Pay and Accounts Officer,
Central Board of Excise and Customs,
Crescens Building, Shillong -793 001 [Meghalaya].

.....Applicant.

-And-

1. The Union of India
Represented by the Secretary to the
Government of India, Ministry of Finance
Department of Revenue, New Delhi-110 001.
2. The Controller General of Accounts
Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhavan, 7th Floor
Khan Market, New Delhi- 110003.
3. The Chief Controller of Accounts,
Principal Accounts Office,
Ministry of Home Affairs,
North Block, Room No. 217, New Delhi- 110001.
4. The Pr. Chief controller of Accounts,
Central Board of Excise and Customs,
A.G.C.R. Building, 1st floor, New Delhi- 110002.
5. The Dy. Controller of Accounts,
Office of the Dy. Controller of Accounts (IA),
Central Board of Excise and Customs,
M.S. Building (6th floor), Customs House,
15/1, Strand Road, Kolkata-700001.
6. The Deputy Controller of Accounts
Ministry of Home Affairs, Shillong- 793 003.
7. The Pay and Accounts Officer,

* 8. The Secretary, Govt. of India,
Ministry of Home Affairs, North Block,
New Delhi - 110001

"Impleaded as Resp. No-8, as per court
order dated 06/08/08."

8/8/08

Manoranjan Das

1
Filed by me applicant
through: S. N. D. 2
Advocate.
05/02/2007

Central Board of Excise and Customs,
Ministry of Finance, M.G. Road, Shillong-793001.

.....Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order against which the application is made:

The instant application is made not against any impugned order but praying for a direction upon the respondents for payment of Special Duty Allowance (for short S.D.A) to the applicant since his joining in N.E. Region in the light of the Office Memorandum dated 14.12.1983, 01.12.1999, 22.07.1998, 22.03.1999 and 29.05.2002 issued by the Govt. of India, Ministry of Finance, Department of expenditure, with arrear monetary benefits.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

- 4.1 That your applicant is a citizen of India and as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. He was initially appointed as Lower Division Clerk in the Central Secretariat, Ministry of Home Affairs, New Delhi and subsequently transferred at Pay and Accounts Office Shillong w.e.f. 16.04.1984 and at present working as Junior Accounts Officer in the office of Pay and Accounts Officer, Customs and Central Excise, Shillong, he is a permanent resident of N.E. Region of India.

Manoj Kumar

- 4.2 That the applicant states that pursuant to his selection in the Clerk's Grade Examination 1981 he was appointed as Lower Division Clerk in the Central Secretariat Clerical Service (CSCS) cadre of the Ministry of Home Affairs vide offer of appointment bearing letter No. A.12025/10/82-Ad.I (B) dated 09.02.1984. In Clause No. (iii) of the said offer of appointment there is a specific clause that the appointment carries with it the liability to service in any part of India and pursuant to the offer of appointment dated 09.02.84 applicant was appointed as L.D.C vide order dated 26.03.1984. However, applicant joined the service on 19.03.1984 in the office of Section Officer, Administrative I (B) Section, Ministry of Home Affairs, New Delhi.

Copy of the letter dated 09.02.84 and order dated 26.03.84 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1 and 2 respectively.

- 4.3 That vide letter-bearing No. A-22015/17/84-Ad. I (B) dated 03.04.1984, the respondents have decided to fill up one vacant post of LDC in the pay and Accounts Office (Assam Rifles) at Shillong, upon posting the applicant as against that post. Consequently on 09.04.1984, the applicant was released from New Delhi so as to enable him to join at Shillong. The applicant accordingly joined in the office of the Pay and Accounts Officer (Assam Rifles), Shillong on 16.04.1984, which fact would be evident from the office order dated 08.08.1985 issued by the Under Secretary to the Govt. of India, Ministry of Home Affairs.

Copy of letter dated 03.04.84, order dated 09.04.84 and 08.08.85 are annexed herewith as Annexure- 3, 4 and 5 respectively.

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

Manoranjana Das

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

(iii) Special Duty Allowance

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

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

Manojan

Copy of the O.M dated 14.12.83, 1.12.88, 12.1.96, 22.7.98 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5 A.

- 4.5 That since after his transfer and posting at Shillong from New Delhi, the applicant has become entitled to draw SDA in terms of the O.M dated 14.12.83 and all other memorandum issued subsequent thereto on the subject. The applicant thus made a claim in that regard before the respondents particularly before the Deputy Controller of Accounts, Ministry of Home Affairs at Shillong through representations, one of them being dated 04.09.98. Consequently the said representation was forwarded vide communication dated 18.08.98 to the Chief Controller of Accounts and the admissibility of the claim of the applicant was also made therein but to no result.

A copy of representation dated 04.09.98 and communication dated 18.08.98 are annexed herewith for perusal of Hon'ble Tribunal as Annexure - 6 and 7 respectively.

- 4.6 That it is stated that Govt. of India, Ministry of Finance, Department of Expenditure issued Office Memorandum bearing letter No. C.18014/2/90/(PF)/MF-CGA (A)/LC/223 dated 22.03.1999, laying down criteria for entitlement of SDA to the officers/employees of the Civil Accounts Organisation posted in North-Eastern Region. In paragraph 5 of the O.M dated 22.03.1999 it has been specifically clarified that Special (Duty) Allowance is admissible only in those cases where criterion of posting from outside to North-Eastern Region is satisfied, but not in the cases where officers/employees are recruited/promoted within the North-Eastern Region. Be it stated that applicant is a permanent resident of N.E. Region and after his appointment he was posted in the office of the Section Officer, Administrative I (B) Section, Ministry of Home Affairs, New Delhi and thereafter he was transferred and posted from New Delhi to the office of the Pay and Accounts Office (Assam Rifles) at Shillong, as

Manoj Kumar Das

such he has fulfilled the criteria laid down in O.M dated 22.03.99 and entitled to payment of SDA but the respondents most arbitrarily denied payment of SDA to the applicant.

Copy of the O.M dated 22.03.99 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8.

4.7 The applicant thereafter submitted series of representations to the respondents praying for payment of SDA in the light of the O.M dated 14.12.83, 1.12.88, 12.1.96, 22.7.98 and 22.03.99 but to no avail.

4.8 That it is stated that Govt. of India, Ministry of Finance, Department of Expenditure, Controller General of Accounts, New Delhi issued O.M bearing letter No. A-11019/25/98/MF-CGA (A)/1028 dated 24.05.2000 wherein the Asstt. Controller General of Accounts reiterated the criteria laid down in O.M dated 22.03.99 for payment of SDA. As such denial of payment of SDA to the applicant is illegal, arbitrary and also in violation of principle of natural justice.

A copy of the said O.M dated 24.05.2000 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- 9.

4.9 That the applicant finding no response from the authority regarding payment of SDA further submitted representation on 01.09.2000 addressed to the Deputy Controller of Accounts, Ministry of Home Affairs, Shillong praying for payment of SDA, but to no avail.

A copy of the representation dated 01.09.2000 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- 10.

4.10 That the applicant further begs to state that Govt. of India, Ministry of Finance have been issuing clarificatory memorandum from time to time emphasizing the entitlement of persons, who have come on posting to N.E. Region from outside, to receive SDA. In this connection O.M issued by the Ministry of Finance, Govt. of India, Department of Expenditure

Manoj Kumar

7
35

bearing No. F. No. 11 (5) 97-E. II (B) dated 29.05.2002 and O.M bearing No. 20/Admn (C)/2000 (1)-423 dated 14.05.2003 issued by the Intelligence Bureau, Ministry of Home Affairs are worthy of mention. In view of the clause 5 of the O.M dated 29.05.2002 the case of the applicant is squarely covered for payment of SDA.

Copy of the O.M dated 29.05.02 and 14.05.03 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 11 and 12 respectively.

4.11 That the applicant states that by the passage of time he has promoted to the rank of Junior Accounts Officer and at present is attached to the office of Pay and Accounts Officer, Central Board of Excise and Customs at Shillong.

4.12 That the applicant states that after his appointment he was initially posted at New Delhi i.e. outside the N.E. Region and by virtue of the clause of All India Transfer Liability in his offer of appointment, he has been transferred and posted to Shillong i.e. N.E. Region. It is stated that the recruitment zone, seniority and promotion zone of the applicant has been made on all India basis and therefore he satisfies all the criteria laid down in aforementioned Office memorandums so as to become entitled to receive SDA.

A copy of the seniority list published on 08.07.03 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- 13.

4.13 That it is stated that the Pay and Accounts Officer, Central Excise and Customs, Shillong vide his letter bearing No. PAO/CBEC/Estt./Staff Matter/SDA/715 dated 15.09.2005, addressed to Deputy Controller of Accounts (IA), Kolkata in para 1 of the said letter in fact recommended for grant of SDA to the applicant and also stated that there is no clear indication in the transfer order whether transfer is made on request or not. However, there is no favourable response from the higher authority.

Manirajadas

regarding payment of SDA. It would further be evident from letter bearing No. PAO/AR/Estt./PF/SDA/2005/135 dated 01.07.05, that the Accounts Officer in the said letter also stated that in spite of repeated representations, no decision was taken by the higher authority. It is relevant to mention that the applicant made a declaration in the office on 16.11.05 that at no point of time he made any request before the authority for his posting at Shillong. But in spite of such declaration, the respondents did not consider payment of SDA to the applicant. Therefore the applicant has no other alternative but to approach before this Hon'ble Tribunal for a direction upon the respondent to grant SDA to the applicant from the date he has joined in N.E. Region with arrear monetary benefit.

It is stated that non-payment of SDA is a continuous wrong and give rise to the cause of action each and everyday and as such the application is well within the prescribed period of limitation.

Copy of representation dated 15.09.05, letter dated 01.07.05 and declaration dated 16.11.05 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 14, 15 and 16 respectively.

- 4.14 That it is stated that it would be evident from the transfer policy dated 20.03.03, that the applicant is saddled with all India transfer liability and as such he is entitled to payment of SDA.

Copy of letter dated 20.03.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 17.

- 4.15 That the applicant states that he has represented to the respondents on several occasions seeking grant of SDA and the last of such representation was submitted on 08.02.2006 to the Pay and Accounts Officer, Customs and Central Excise, Shillong, but to no result.

Mansrayada

Copy of representation dated 08.02.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 18

4.16 That this application is made bonafide and for the cause of justice.

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

- 5.1 For that the applicant has joined at Shillong on his transfer from New Delhi and his recruitment zone, seniority and promotion are maintained on all India basis as such he is entitled to payment of SDA as provided by the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002 with arrear monetary benefit.
- 5.2 For that it is specifically clarified vide O.M dated 22.03.99 and 29.05.2002, that SDA is admissible to the Govt. employees on their posting to NE Region from outside the region which supports the case of the applicant and on that score alone the applicant is entitled to payment of SDA with arrear monetary benefit.
- 5.3 For that the action of the respondents in not paying SDA to the applicant in spite of his eligibility is highly arbitrary, unreasonable and unfair.
- 5.4 For that applicant has been transferred and posted in N.E. Region from outside the N.E. Region, as such he has fulfilled the criteria laid down in O.M dated 22.03.99 and 29.05.2002 and entitled for payment of SDA.
- 5.5 For that the O.M dated 22.03.99 and 29.05.2002 clearly recognizes the entitlement of the applicant to receive SDA and as such the respondents are duty bound to pay him SDA from the date of his posting in N.E. Region.
- 5.6 For that the refusal of the SDA to the applicant has caused deprivation to the applicant to his legitimate dues and, as such, the deprivation of the

Manoj Kumar Das

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

5.7 For that that in any view of the matter non payment of SDA to the applicant is illegal, highly discriminatory and as such the respondents are liable to pay SDA to the applicant.

5.8 For that non-payment of SDA to the applicant despite his entitlement thereto, has give rise to recurring cause of action and as such the applicant is entitled to the reliefs as have been prayed for in this application.

5.9 For that in spite of repeated representations and recommendation from the lower formation, no decision was taken by the higher authority for payment of SDA to the applicant.

6. Details of the remedies exhausted:

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

7. Matter not previously filed or pending with any other Court:

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

8. RELIEFS SOUGHT FOR:

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

Manoj Kumar Das

- 8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002 and further be pleased to direct the respondents to pay SDA to the applicant with arrear monetary benefits.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to pay SDA, to the applicant as admissible to him since his joining in N.E. Region on transfer from New Delhi with arrear monetary benefit as well as payment of current SDA.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

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

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

10.

11. Particulars of the I.P.O

- | | | |
|------|---------------|--------------------|
| i) | I.P.O No. | : 286981882 |
| ii) | Date of issue | : 17.01.07. |
| iii) | Issued from | : G.P.O. Buxarhali |
| iv) | Payable at | : G.P.O. Buxarhali |

12. List of enclosures:

As given in the index.

Manojkumar

VERIFICATION

I, Sri Manoranjan Das, S/o- Sri Haripada Das, aged about 48 years, Working Junior Accounts Officer in the Office of the Pay and Accounts Officer, Central Board of Excise and Customs, Crescens Building, Shillong, Meghalaya, applicant in the instant original application, do hereby verify that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and paragraph 5 is true as per my legal advise and I have not suppressed any material fact.

And I sign this verification on the 26th day of January 2007.

Manoranjan Das

MCE T. IMMEDIATE
REGISTERED A/DNo.A.12025/10/82 -Ad.I(B)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi:110 001, the 198

To,

- 9 FEB 1984

Shri/Smt/Km, Manoranjan Das
C/o. Shri Haripada Das
P.O. Khosai:733201
Tirupura (West)

Rank : 0725

Sub : Appointment of Lower Division Clerks in the CSCS Cadre
of the Ministry of Home Affairs on the results of the
Clerks' Grade Examination, 1981

Sir/Madam,

I am directed to say that on the results of the Clerks' Grade Examination, 1981, you are hereby offered a temporary appointment as Lower Division Clerk in the CSCS Cadre of the Ministry of Home Affairs on a pay of Rs.260/- in the scale of Rs.260-6-290-EB-6-326-8-366-EB-8-390-10-400. You will also be entitled to draw usual allowances at the rates admissible and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time.

2. The terms of your appointment are as follows :-

- (i) The appointment may be terminated at any time by one month's notice given by either side without assigning any reason. The Government, however, reserves the right of terminating your services forthwith or before the expiry of the stipulated period of the notice by making payment to you of a sum equivalent to the pay and allowances for the period of notice of the unexpired portion thereof.
- (ii) You will be on probation for two years, which period may be extended or curtailed at the discretion of the competent authority but the total period of extension of probation shall not save where it is necessary by reasons of any departmental or legal proceedings pending against the official, exceed one year. During the period of probation you may be required to undergo such training and to pass such tests as the Ministry of Home Affairs, from time to time prescribe.
- (iii) The appointment carries with it the liability to service in any part of India.
- (iv) Other conditions of service will be governed by the relevant rules and orders in force from time to time.
- (v) You will be required to undergo such training and take such departmental tests as the Government may prescribe.

Attested
Sub.
Adm.

- (vi) You will not be entitled to any travelling allowances for joining the appointment, unless you are holding substantively a permanent appointment under the Central Government or State Government or employed under the Central Government in a temporary capacity and hold a declaration of quasi-permanency under the provisions of the Central Civil Services (Temporary Service) Rules, 1965.

3. The appointment will further be subject to :

- (i) Submission of declaration in the prescribed form and in the event of the candidate having more than one wife/husband living, or being married to a person having more than one wife living, the appointment will be subject to your being exempted from the enforcement of the requirement in this behalf.
- (ii) Taking of an oath of allegiance/faithfulness to the constitution of India (Or taking of a solemn affirmation to that effect) in the prescribed form.
- (iii) You may be required to contribute compulsarily after completion of one year's service from the date of appointment to the G.P. Fund at such minimum rate as may be prescribed by the Government.

4. If any declaration given or information furnished by you proves to be false or if you are found to have wilfully suppresses any material information you will be liable to removal from service and such other action as the Government may prescribe.

5. If you are willing to accept the offer of appointment on the above terms and conditions you should communicate your acceptance by 15.2.84, at the latest. If no reply is received from you by the prescribed date, the offer will be treated as CANCELLED.

6. In case the offer of appointment is acceptable to you, you may report for duty immediately to the Section Officer, Ad.I(B) Section, Ministry of Home Affairs, Room later than No.96, North Block, New Delhi-110 001. You should further note that your appointment as Lower Division Clerk in the Ministry of Home Affairs is subject to your being found medically fit by the competent authority. Your appointment is liable to be cancelled if you are not found medically fit.

You are directed to furnish the enclosed proforma duly filled attested by SO or their superior officers at the time of joining. And you are directed to

Yours faithfully,

[Signature]

appear for medical examination on (T.K.)
10.2.84 to Govt. Hospital UNDER SECRETARY TO THE GOVT. OF INDIA
Khowd.

ray.

MOST IMMEDIATE

No. A. 12025/10/82-Ad.I(3)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi Dated 26 March, 1984

O R D E R

The Deputy Secretary (Administration) in the Ministry of Home Affairs hereby appoints provisionally the following candidate who has qualified in the Clerks Grade Examination, 1981 as Lower Division Clerk in the CSCS Cadre of the Ministry of Home Affairs in a temporary capacity in the pay scale of Rs. 260-6-290 EB-6-326-8-366-EB-8-390-10-400 with effect from the date posted in Column 4 until further orders and his posting is indicated in Column 5.

S.No.	Name	Rank	Date of appointment	Office where posted	Date of birth
1	2	3	4	5	6
1.	Shri Manoranjan Das	9725	19.3.84(FN)	MHA(P)	1.1.59

Decd (Hcy)
Exposure Bill
N.D.L.

2. The above mentioned Lower Division Clerk will be on probation for period of two years from the date of his appointment which will be subject to the terms and conditions of the appointment made to and accepted by him. His period of probation will be regulated by Rule 14(1) (3) and (4) and Rules 16(1) of the Central Secretariat Clerical Services Rules 1962. The appointment is liable to be terminated on one months' notice on either side without any reasons being assigned.

3. In accordance with the orders in force in regard to recruitment to service under the Government of India the candidate belonging to Scheduled Castes/Scheduled Tribes should inform about the change of their religion, if any, to their Appointing / Administrative Authority immediately after such a change has occurred.

4. The Examination Dossier of the above candidate is enclosed, and it is requested that the same may please be retained as part of his personal file. The Medical Examination in respect of the above has already been done by the Competent Authority and found fit. The marriage declaration may be obtained from the individual and added to the dossier.

(T.K. RAVINDRANATH)
UNDER SECY. TO THE GOVT. OF INDIA.

Attested
Sd/-
Advocate

No.A-22015/17/84-Ad.I(B)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya.

North Block, New Delhi,
Dated the 3rd April, 84.

To

The Pay & Accounts Officer,
(Assam Rifles),
Ministry of Home Affairs,
Near Laitun Kharh Market,
Shillong-793003.

Sub: Posting of Shri Manoranjan Das, LDC, of the CPCS, Cadre of the Ministry of Home Affairs in PAO (Assam Rifles), Shillong.

-. -

Sir,

I am directed to say that it has been decided to fill up one vacant post of Lower Division Clerk in Pay & Accounts Office (Assam Rifles), Shillong by posting of Shri Manoranjan Das, Lower Division Clerk of the CPCS Cadre of the Ministry of Home Affairs. Shri Manoranjan Das is being relieved and directed to report for duty in your office. His joining report may please be forwarded to this Ministry for further necessary action. **He will not be entitled for any**

MTV/DA.

Yours faithfully,

Sol/-

(T.K. RAVINDRANATH)
UNDER SECRETARY TO THE GOVT. OF INDIA

No.A-22015/17/84-Ad.I(B), Dated 3rd April, 84.

Copy forwarded to:-

1. Principal Accounts Officer, M/Home Affairs, North Block, New Delhi with reference to their U.O.No.10-18/41/P&AB/MHA/84/686, dated 22.3.1984. Shri Manoranjan Das, LDC, is being directed to report for duty in Pay & Accounts Office (Assam Rifles), Shillong.
2. Section Officer, Ad.II, Section, MHA, New Delhi, with one spare copy for Shri Manoranjan Das, LDC, Shri Manoranjan Das, LDC, may be relieved by 9th April, 84 with the directions to report to Pay & Accounts Officer (Assam Rifles), Shillong.
3. Ashri A.S. Panwar, Ad.I(B), MHA, New Delhi.

(T.K. RAVINDRANATH)

UNDER SECRETARY TO THE GOVT. OF INDIA

*Alister
Sant
Advocate*

No. VL-34012/1/84-DGCD(HG)
Government of India
Ministry of Home Affairs

.....

Express Building, NEW DELHI-2.

Dated the 09 April, 1984.

Subject:- Release of Shri Manoranjan Das, LDC.

Reference MHA note No. A. 20017/35/84-Ad. II dated 7th April, 1984 on the subject noted above. Shri Manoranjan Das, LDC is hereby released from DGCD(HG) Section in the afternoon of 9th April, 1984. An LDC having good speed in typing may please be posted immediately.

B.N. BOSE
(B.N. BOSE)
Jr. Staff Officer(HG)

Ad. II Section, MHA

*Attested
Jr. Secy.
Advocate*

No.A.22015/17/84-Ad.I(B)
 Government of India/Bharat Sarkar
 Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 8-8-85

OFFICE ORDER

In supersession of this Ministry's office order of even number dated ~~28.06.1984~~, the services of Shri Manoranjan Dass, a temporary Lower Division Clerk of the CSCS Cadre of the Ministry of Home Affairs are placed at the disposal of the Pay & Accounts Officer, Assam Rifles, Shillong with effect from the forenoon of 16.4.1984 in the same capacity.

[Signature]
 (T K RAVINDRANATH)

UNDER SECRETARY TO THE GOVT. OF INDIA

No.A.22015/17/84-Ad.I(B)

Dated the 8-8-85

Copy forwarded to:

1. Pay & Accounts Office, MHA (Sectt.), New Delhi.
2. Cash I/Cash II/Section, MHA, New Delhi.
3. Ad.III/Ad.II/SSO/CR/MHA Library/C S Lib/.
4. Ad.II Section, MHA, New Delhi (with one spare copy).
 Service Book Leave Account/E.L. & R.H. accounts. etc. of Shri Manoranjan Dass, LDC may please be sent to pay & A.O. Assam Rifles, Shillong direct.
5. Pr. A.O./MHA, North Block, New Delhi.
6. Pay & Accounts Office, Assam Rifles, Shillong with reference to their letter No.PAO/Ar/Estt/PF/MD/84-85/24, dated 17.4.1984 with one spare copy for Shri Dass, LDC
7. Shri A.S.Panwar, Ad.I(B) Section, MHA, New Delhi.
8. Spare Copies 5.

[Signature]
 (T K RAVINDRANATH)

UNDER SECY. TO THE GOVT. OF INDIA

*Attested
 J. S. Advani*

APPENDIX - 9

INCENTIVES FOR SERVING IN REMOTE AREAS

[G.I., M.F., O.M. No. 20014/3/83-E, IV, dated the 14th December, 1983, read with O.M. No. 20014/3/83-E, IV, dated the 30th March, 1984, 27th July, 1984, G.I., M.F., U.O. No. 3943-E, IV/84, dated the 17th October, 1984, O.M. No. F. 20014/3/83-E, IV, dated the 31st January, 1985, 25th September, 1985, U.O. No. 824-E, IV/86, dated the 1st April, 1986, O.M. No. 20014/3/83-E, IV, dated the 29th October, 1986, O.M. No. 20014/3/83-E, IV/E, II (B), dated the 11th May, 1987, 28th July, 1987, 15th July, 1988 and O.M. No. F. 20014/16/86-E, IV/E, II (B), dated the 1st December, 1988 and O.M. No. 11 (2)/97-E, II (B), dated the 22nd July, 1998.]

I

Allowances and facilities admissible to various categories of civilian Central Government employees serving in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram, Andaman and Nicobar Islands and Lakshadweep Islands. These orders also apply *mutatis mutandis* to officers posted to N-E Council, when they are stationed in the N-E Region and to the civilian Central Government employees including officers of All India Services posted to Sikkim.

(i) Tenure of posting/deputation:

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

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

(ii) Weightage for Central deputation/training abroad and special mention in Confidential Reports:

Satisfactory performance of duties for the prescribed tenure in the North-East shall be given due recognition in the case of eligible officers in the matter of—

- promotion in cadre posts;
- deputation to Central tenure posts; and
- courses of training abroad.

*Approved
G.I.
Retrospective*

The general requirement of at least three years service in a cadre post between two Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North-East.

A specific entry shall be made in the CR of all employees who rendered a full tenure of service in the North-Eastern Region to that effect.

Cadre authorities are advised to give due weightage for satisfactory performance of duties for the prescribed tenure in the North-East in the matter of promotion in the cadre posts, deputation to Central tenure post and courses of training abroad.

(iii) Special (Duty) Allowance:

Central Government civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of $12\frac{1}{2}\%$ of basic pay on posting to any station in the North-Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation (duty) allowance already being drawn without any ceiling on its quantum. The condition that the aggregate of the Special (Duty) Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs. 1,000 per month shall also be dispensed with from 1-8-1997. Special Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

The Central Government civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant of Special (Duty) Allowance under this para. and are exempted from payment of Income Tax under the Income Tax Act will also draw Special (Duty) Allowance.

NOTE 1.— Special duty allowance will not be admissible during periods of leave/training beyond 15 days at a time and beyond 30 days in a year. The allowance is also not admissible during suspension and joining time.

NOTE 2.— Central Government civilian employees, having 'All India Transfer Liability' on their posting to Andaman & Nicobar Islands and Lakshadweep Islands are, with effect from 24th May, 1989, granted 'Island Special Allowance' in lieu of 'Special (Duty) Allowance'. See Orders in Section V of this Appendix.

(iv) Special Compensatory Allowance:

The recommendations of the Fifth Pay Commission have been accepted by the Government and Special Compensatory Allowance at the revised rates have been made effective from 1-8-1997.

For orders regarding current rates of Special Compensatory allowance—See Part V of this Compilation - HRA and CCA

(v) Travelling Allowance on first appointment:

In relaxation of the present rules (SR 105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in

47

To
The Deputy Controller of Accounts,
Ministry of Home Affairs,
Shillong-793 003.

ANNEXURE-6

Sub: Prayer for grant of Special Duty Allowance.

Sir,


I beg most fervently to lay before you that I was appointed as L.D.C. in the C.S.C.S.Cadre of the Ministry of Home Affairs, New Delhi vide MHA letter No.A.12025/10/82-Ad.I(B) dated 9.2.84 and reported to join the Central Secretariat Service on 19.3.84(F.N.) to the Section Officer, Administrative I(B) Section, MHA, Room No.96, North Block, New Delhi.

After serving a few days in DGCD(HG)Section of MHA, New Delhi I was transferred and posted to PAO(Assam Rifles), Shillong vide MHA letter No.A-22015/17/84-Ad.I(B) dated 3.4.84. Accordingly I was relieved from Delhi office in the afternoon of 9.4.84 and joined this office at Shillong on 16.4.84(F.N.).

Since, I have been recruited in Delhi and subsequently transferred to this region, I pray to your kindness to extend the benefit of SDA in favour of me, as it was extended earlier in the cases of Shri P.G.Banai, JAO and Shri S.R.Thatham, JAO, and for this act of kindness, I shall remain ever grateful to you.

Dated Shillong
The 4th Sept., 1998.

Yours faithfully,


(Manoranjan Das, Sr.Acctt.)

*Attested
for
Advocate*



REGISTERED

- 21 -

Government Of India
Ministry Of Home Affairs
Pay & Accounts Office (Assam Rifles)
Shillong - 793003
☎ 226037

ANNEXURE - 7

Date 18/9/98

PAO/AR/Estt/PF/MRD/98-99/247

To

The Chief Controller of Accounts,
Principal Accounts Office,
Ministry of Home Affairs,
North Block, Room No.217,
NEW Delhi - 110001.

Subject: Entitlement of Special Duty Allowance in respect of Shri Manoranjan Das, Sr.Acctt. of PAO(AR),MHA,Shillong.

Sir,

In inviting a reference to the subject cited above, I am to forward herewith the Self-explanatory representation of Shri Manoranjan Das, Sr. Acctt. who has claimed Special Duty Allowance on the analogy that he had been posted outside North Eastern Region initially, i.e., in the office of DGCD(HG) section of MHA, New Delhi. He has further stated that he was transferred to PAO(AR),MHA,Shillong vide MHA letter No.A. 22015/17/84-Ad.I(B) dated 03.04.84(F/N).

Since, he was recruited outside N.E Region and subsequently posted in this office located in N.E.Region, his claim for Special Duty Allowance seems to be justified and in order in the light of Ministry of Finance order dated 12.01.96. Moreover, Shri P.G.Banai, JAO and Shri S.R.Thatham, JAO were granted Special Duty Allowance on their transfer from New Delhi to the RPAO(I.B.),MHA,Shillong. Hence, Shri M Das is equally placed with both Shri P.G.Banai and Shri S.R.Thatham as regards admissibility of S.D.A.

All the relevant documents as to his initial posting and transfer etc. have been enclosed in support of his claim for S.D.A.

- Encls: 1) No.A.12025/10/82-Ad.I(B)
dated 26.3.84
2) No.A.12025/10/82-Ad.I(B)
dated 24.3.85
3) No.A.22015/17/84-Ad.I(B)
dated 28.6.84
4) No.10-18/41/Pr.AO/MHA/84/1589
dated 05.07.84.
5)

Yours faithfully,

(Signature)
(Dr. G. Talukdar)

DEPUTY CONTROLLER OF ACCOUNTS

(Signature)
Kewade



- 22 -

ANNEXURE - 8

No. C. 18014/2/90/(PF)/MF-CGA(A)/LC/223

Government of India
Ministry of Finance
Department of Expenditure
Controller General of Accounts
Lok Nayak Bhawan, Khan Market
New Delhi - 110003

Dated : 22-3-1999

Office Memorandum

Subject : Special (Duty) Allowance to officers/employees of the Civil Accounts Organisation posted in North-Eastern Region

This office has received a number of representations regarding grant of Special (Duty) Allowance to the officers/employees of the Civil Accounts Organisation, posted in North-Eastern Region. Special (Duty) Allowance is being claimed on the premise that (i) officers/employees of the Civil Accounts Organisation are under all-India transfer liability either according to terms and conditions of their appointment or according to recruitment rules applicable to them, and (ii) there are similarly situated employees within the Civil Accounts Organisation, who are already getting Special (Duty) Allowance by virtue of judgments of the Hon'ble Central Administrative Tribunal in their favour.

2. Government has consistently held the view that mere existence of all-India transfer liability clause in appointment order or in recruitment rules does not in itself entitle an employee to Special (Duty) Allowance. This position holds good for officers/employees of the Civil Accounts Organisation also. However, during the period 1987 to 1990 and afterwards, several officers/employees filed applications before the Central Administrative Tribunal. The Tribunal held that the officers/employees of the Civil Accounts Organisation, who were applicants before it, were entitled to Special (Duty) Allowance because of existence of all-India transfer liability clause in the appointment orders/recruitment rules. In some of these cases, Government either did not file SLPs, or SLPs when filed, were dismissed *in limine* by the Hon'ble Supreme Court. Thereafter, the employees who were applicants in those case were granted Special (Duty) Allowance. However, in several subsequent cases of different Ministries/Department of the Central Government, including the cases of officers/employees belonging to the Civil Accounts Organisation, the Hon'ble Supreme Court upheld the contention of the Government that Special (Duty) Allowance is admissible only to those

24/3

24/3

Sh. Cheluvu
26/3/99

Sh. Sharma
26/3

26/3/99

Sh. Sharma
26/3/99

officers/employees who are posted from outside to North-Eastern Region. In this connection, the Supreme Court judgment dated 20-9-1994 in Civil Appeal No. 3251 of 1993 [*Union of India v. S. Vijayakumar*, (1994) 28 ATC 598], refers.

3. After taking into account the above judgment of the Supreme Court, Government of India has issued fresh instructions in O.M. No. 11(3)/95-E.II(B), dated 12-1-1996, *inter alia* stating that "Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of clause in the appointment order relating to All India Transfer Liability." Recently, the Government of India in its O.M. No. 11(2)/97-E.II(B), dated 22-7-1998 has again drawn attention to the O.M. dated 12-1-1996.

4. Effect of various court judgments and the above mentioned OMs has been examined in consultation with Establishment Division of this Ministry and Ministry of Law & Justice (Department of Legal Affairs). Government is of the view that the judgment dated 20-9-1994 in *Union of India v. S. Vijayakumar*, being a speaking judgment, is the law of the land under Article 141 of the Constitution. The O.M. dated 12-1-1996 in turn is based on this judgment and therefore grant of Special (Duty) Allowance is to be regulated according to this O.M., irrespective of the fact that there are a few C.A.T. judgments under which some of the employees have been paid the Allowance.

5. In view of the above, it is clarified that Special (Duty) Allowance is admissible only in those cases where criterion of posting from outside to North-Eastern Region is satisfied, but not in the cases where officers/employees are recruited/promoted within North-Eastern Region. Consequently, payment of Special (Duty) Allowance shall also be stopped forthwith in those cases where it has been paid by virtue of C.A.T. judgments against which either SLPs were not filed or SLPs were dismissed *in limine*. Government has however decided to waive of recovery of the amount already paid for the period upto 20-9-1994.

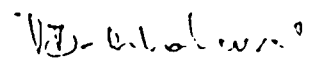

(S.N. Sahi)

Asstt. Controller General of Accounts

Principal Accounts Office (Admin)
Ministry of Home Affairs
North Block, New Delhi.

No. 10-64/PrAO/MHA/97/Cir/Deptt/2133 Dated: 3/7/99

Copy forwarded to all PAOs/RPAOs with the request to forward the names of actually willing and eligible officials immediately to this office. A certificate to the effect the particular of the applicants have been verified and applicants fulfil all the terms & conditions mentioned in the circular alongwith vigilance clearance certificate may also be furnished.


Asstt. Accounts Officer (Admin)

Copy to:

- PAO (Secy)
- PAO (IAW)
- PAO (P&M)
- PAO (ITRP)
- PAO (DCPW)
- PAO (CISF)
- PAO (NSG)
- PAO (IB)
- PAO (Census)
- RPAO (CISF) Calcutta
- RPAO (CISF) Madras
- RPAO (CISF) Ranchi
- RPAO (IB) Shg.
- PAO (AR) Shg.

No. A-11019/25/98/MF-CGA(A)/1028
 Government of India
 Ministry of Finance
 Department of Expenditure
 Controller General of Accounts
 Lok Nayak Bhawan (7th Floor)
 Khan Market
 New Delhi - 110003

24-5-2009

Office Memorandum

Subject : Special (Duty) Allowance to officers/employees of the Civil Accounts Organisation posted in North-Eastern Region

Reference is invited to this office O.M. No C.18014/2/90(PF)/MF-CGA(A)/LC, dated 22-3-1999 on the above subject, wherein it has *inter-alia* been clarified that Special (Duty) Allowance is admissible only to those employees of the Civil Accounts Organisation who are posted from outside to North-Eastern Region, and not to those who are recruited/promoted within that region. This O.M. was issued after consulting Establishment Division of this Ministry and Ministry of Law & Justice (Department of Legal Affairs), and also by taking into consideration general orders issued by Government of India in OMs Nos. 11(3)/95-E.II(B), dated 12-1-1996 and 11(2)/97-E.II(B), dated 22-7-1998, laying down criteria for admissibility of Special (Duty) Allowance.

2. It has been brought to the notice of this office that though employees of the Civil Accounts Organisation, posted in North-Eastern region are not getting Special (Duty) Allowance on account of the above mentioned instructions, yet the Pay & Accounts Offices in that region are coming across cases while passing bills, where Heads of Offices concerned are allowing Special (Duty) Allowance to their employees contrary to the instructions issued by Government of India in its OMs dated 12-1-1996 and 22-7-1998. Such wrong payments are resulting in disparity against employees of Civil Accounts Organisation vis-à-vis similarly situated employees in other offices. The Pay & Accounts Offices may bring such cases to the notice of their CCAs/CAs who may in turn take up the matter with the Financial Advisers for complete investigation and for affecting recovery of wrong payments.

Asstt. Controller General of Accounts
 Tel. & FAX: 4648061

To
 All CCAs/CAs/Dy CAs
 All Ministries/Departments

11.11.11

11.11

Attestd
 Smt. Acharya

114
 26/5/2009
 26/5

To

The Deputy Controller of Accounts,
Ministry of Home Affairs,
Shillong.

Subject: Claim for Special (Duty) Allowance.

Sir,

With due respect and humble submission I would like to draw your kind attention to para (iii) of Cabinet Secretariat U.O. No.20/12/99E.A.I-1802 dated 2nd May,2000 wherein it is exhaustively clarified that an employee belongs to N. E. Region and posted outside N. E. Region on first instance will be eligible for SDA if he/she posted/ transferred to N. E. Region later on. The same analogy was echoed in CGA's O.M. No.C.18014/2/90(PF)/MF-CGA(A)/LC/223 dated 23-3-1999 and O.M. No.A-11019/25/98/MF-CGA(A)/1028 dated 24-5-2000. It is, therefore, very clear that I am entitled to the said allowance, which I am being all along deprived of.

Before my posting here in Shillong my initial appointment was in Administrative I(B) Section of MHA, Central Secretariat, Room No.96, North Block, New Delhi. I worked there and drawn Pay and Allowance from Cash Section of MHA, North Block, New Delhi for that period.

I, therefore, once again appeal to your goodself kindly allow me to draw SDA on the above analogy and for that act of kindness I shall remain ever grateful to you.

Dated Shillong
The 1st September, 2000.

Yours faithfully,

Manoranjan Das

(Manoranjan Das)
Senior Accountant,
PAO(AR),Shillong.

Encl: Copy of

1. Cabinet Sectt.U.O.No.20/12/99-E.A.I-1802
Dated 2.5.2000.
2. CGA's O.M. No.C.18014/2/90/(PF)/MF-CGA(A)
/LC/223 dated 22-3-1999.
3. CGA's O.M. No.A-11019/25/98/MF-CGA(A)/1028-
dated 24-5-2000.



*Attested
Sub.
Revenue*

R-560/Fin II
13/6/2002

SN 124

F.No.11(5)/97-E II (B)
Government of India
Ministry of Finance
Department of Expenditure

ANNEXURE - II

New Delhi, dated the 29th May, 2002.

OFFICE MEMORANDUM

Subject: Special Duty Allowance for civilian employees of the Central Government Serving in the State and Union Territories of North Eastern Region including Sikkim.

The undersigned is directed to refer to this Department's OM No.20014/3/83-E.IV dated 14.12.83 and 20.4.1987 read with OM No.20014/16/86-E.IV/E.II.(B) dated 1.12.88, and OM No.11(3)/95-E.II.(B) dt. 12.1.1996 on the subject mentibned above.

2. Certain incentives were granted to Central Government employees posted in NE region vide OM dt. 14.12.83. Special Duty Allowance (SDA) is one of the incentives granted to the Central Government employees having 'All India Transfer Liability'. The necessary clarification for determining the All India Transfer Liability was issued vide OM dt.20.4.87, laying down that the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc., i.e., whether recruitment to service/cadre/post has been made on All India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of Special Duty Allowance.

3. Some employees working in NE region who were not eligible for grant of Special Duty Allowance in accordance with the orders issued from time to time agitated the issue of payment of Special Duty Allowance to them before CAT, Guwahati Bench and in certain cases CAT upheld the prayer of employees. The Central Government filed appeals against CAT orders which have been decided by Supreme Court of India in favour of UOI. The Hon'ble Supreme Court in judgement delivered on 20.9.94 (in Civil Appeal No. 3251 of 1993 in the case of UOI and Ors V/s Sh. S. Vijaya Kumar and Ors) have upheld the submissions of the Government of India that C.G. civilian Employees who have All India Transfer Liability are entitled to the grant of Special Duty Allowance on being posted to any station in the North Eastern Region from outside the region and Special Duty Allowance would not be payable merely because of a clause in the appointment order relating to All India Transfer Liability.

4. In a recent appeal filed by Telecom Department (Civil Appeal No.7000 of 2001. - arising out of SLP No.5455 of 1999), Supreme Court of India has ordered on 5.10.2001 that this appeal is covered by the judgement of this Court in the case of UOI & Ors. vs. S. Vijayakumar & Ors. reported as 1994 (Supp.3) SCC, 649 and followed in the case of UOI & Ors vs. Executive Officers' Association 'Group C' 1995

Advocate
Advocate
Advocate

Home Affairs
New Delhi
29.5.2002
R-560 B
Sd/-
Sd/-

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

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

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

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

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

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

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

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


(N.P. Singh)

Under Secretary to the Government of India.

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

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

New Delhi, the 14.05.2003

MEMORANDUM

Subject: Clarification on payment of Special Duty Allowance for civilian employees of the Central Government serving in the State and Union Territories of North-Eastern Region including Sikkim.

Certain points of doubt on admissibility of SDA to various categories of employees and the position clarified by Ministry of Finance vide their I.D. No.11(3)/02-E.II(B) dated 12.03.03 in view of the latest MoF OM No.11(5)/97-E.II(B) dated 29.05.02 are given in Annexure-I.

2. It is requested that SDA claims of individual employees may be processed, inter-alia, in the light of the given clarification.

(K.D. Prabhakar)
Assistant Director

At out-stations

1. JDs : Ahmedabad, Chandigarh, Chennai, Delhi, Guwahati, Hyderabad, Jaipur, Kohima, Kolkata, Itanagar, Lucknow, Nagpur, Patna, Shillong, Trivandrum
3. DDs: Alzawl, Bangalore, Bhopal, Bhubaneswar, Jammu, Raipur, Ranchi, Srinagar, Shimla, Varanasi, Shivpur
4. ADDs: Amritsar, Guwahati, Hyderabad, Jamshedpur, Kolkata, Meerut, Mumbai, Patna, Siliguri, Varanasi.
5. ~~JDDs~~ Agartala, Alzawl, Ahmedabad, Aligarh, Amritsar, Bareilly, Bangalore
ADs: Bhopal, Bhubaneswar, Chandigarh, Chennai, Dehradun, SIB Delhi, Dibrugarh, Gangtok, Hyderabad, Imphal, Itanagar, Jammu, Jaipur, Kalimpong, Kohima, Kolkata, Leh, Lucknow, Mumbai, Nagpur, Patna, Panaji, Pune, Shillong, Siliguri, Shimla, Srinagar (at Jammu), SC-Mumbai, SC-Kolkata, Trivandrum, Vijayawada.
6. CHIO, Chennai
7. FRROs: Delhi, Mumbai, Kolkata

Copy for information to:-

1. ADs: Accounts, Budget, CIII, CV, Cash-III, E, G, Trg. and Sr.AO at IB Hqrs.
2. SOs: CIV, CVI, Cash-I, Cash-II, Exam. Cell, G1, G2, Finance Cell & Pension Cell at IB Hqrs.

A.D/A
SD/Adl

Pl. bring the necessary documents *****
S.S.G. 24/5

Attested
J.D.
K.D. Prabhakar

Points of Doubts	Whether SDA will be admissible or not
(i) Whether SDA will be admissible to:- A person belongs to outside NE Region but posted on first appointment in the NE Region after selection through direct recruitment based on the recruitment made on All India basis and having a common/centralized seniority list and All India Transfer Liability	No
(ii) An employee hailing from NE Region selected on the basis of an All India Recruitment Test and borne on the Centralised cadre/service having common seniority and All India Transfer Liability on first appointment and posted in NE Region.	No
(iii) A person belongs to NE Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance OM No.20014/2/83-E.IV dated 14.12.83 and 20.04.87 read with OM No.20014/16/86-E.II(B) dated 01.12.88) but subsequently the post/cadre was centralised with Common Seniority List/Promotion/all India Transfer Liability etc. on his continuing in the NE Region though he can be transferred out to any place outside the NE Region having All India Transfer Liability.	No
(iv) An employee having a common All India seniority/All India Transfer Liability belongs to NE Region and subsequently posted outside NE Region; whether he will be eligible for SDA if posted/transferred to NE Region.	Yes
(v) An employee, having All India Transfer Liability common All India seniority, hailing from NE Region, posted to NE Region initially but subsequently transferred out of NE Region and re-posted to NE Region after serving sometime in non-NE Region.	Yes
(vi) The MoF, Deptt. of Expenditure, vide their UO No.11(3)/95-E.II(B) dated 7.8.97 have clarified that a mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty Allowance. Determination of the admissibility of the SDA to any Central Government Civilian employee having all India Transfer Liability will be by applying the criteria (a) whether recruitment to the Service/Cadre/Post has been made on All India basis and (b) whether promotion is also done on the basis of All India common seniority for the service/Cadre/Post as a whole. Based on the above criteria all employees recruited on the All India basis and having a common seniority list on All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from NE Region or posted to NE Region from outside the Region.	In case the employee hailing from NE Region is posted initially within NE Region he is not entitled to SDA till he is transferred out of that Region and re-posted again.

Points of Doubts		Whether SDA will be admissible or not
(vii)	What should be the norm for payment of SDA i.e. on fulfilling the criteria of All India Recruitment Test & promotion based on All India common seniority, having been satisfied, are all the employees eligible for the grant of SDA?	It has already been clarified by MoF that a mere clause in the appointment order regarding All India Transfer Liability does not make an employee eligible for grant of SDA.
(viii)	Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20.9.94 i.e. the date of decision of the Hon'ble Supreme Court and/or whether the payment of SDA should be allowed to all employees including those hailing from NE Region with effect from the date of their appointment if they have All India Transfer Liability and are promoted on the basis of All India Common Seniority List.	The amount already paid on account of Special Duty Allowance to the ineligible persons not qualifying the criteria on or before 5.10.2001, which is the date of judgement of the Supreme Court, will be waived. <u>However recoveries, if any, already made need not be repeat NEED NOT BE refunded.</u> The amount paid on account of Special Duty Allowance to ineligible persons after 5.10.2001 will be recovered. A copy of MoF OM No.11(5)/97-E.II(B) dated 29.5.02 issued by the Govt. based on Supreme Court judgement dated 5.10.01 is also enclosed for information and further necessary action.

A.23022/3/2002/MF.CGA(A)/C9L/ 499.
CONTROLLER GENERAL OF ACCOUNTS
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
LOK NAYAK BHAVAN
NEW DELHI

Dated 8 July 2003

To

The Pr.CCA, CCA, CA,
CBEC, CBDT, Agriculture, U.D., Health, I&B, Mines, Home,
Industry, Planning, & IT
New Delhi.

Sub: Combined Seniority List JAO(Civil)-2002 batch.

Sir/Madam,

I am directed to enclose the Combined Seniority List of JAO(Civil) qualified candidates of 2002 batch. You are kindly requested to go through the details therein and send in your confirmation of the data by 25-7-2003. Discrepancy, if any, may be pointed out immediately.

Yours faithfully,

(S.N.Sahi)

Assistant Controller General of Accounts

Encl: As Above

Attested
Sub.
Advocate

7-14-7

1/20/14
AA-0
2/18/7

2A/Kom/422
14/7

Project
2/12

53
22-7

COMBINED SENIORITY LIST OF JAO(C) PASSED OFFICIALS OF 2002 BATCH

S.R. NO	INDEX NO.	NAME S/SH.	DATE OF BIRTH	BATCH	DATE ENTRY AS LDC/ACCTT/DEO ETC	DATE OF RECOGNISING SENIORITY	MINISTRY/STATION OF PRESENT POSTING	STATIONS OPTED
1	2079	Dineshwar Prasad	28-Jan-61	2002	5.10/83(Acctt)	05-Oct-83	CBDT/Patna	Patna, Varanasi, Kolkata, Mumbai, Thane, Pune, Nagpur, Nasik
2	2045	Manoj Kumar	16-Mar-63	2002	7.10/15-88(Acctt)	12-Oct-88	CBDT/Patna	Patna, Varanasi, Kolkata, Mumbai, Thane, Pune, Nagpur, Nasik
3	2202	R.Raju(SC)	20-Apr-63	2002	31.7.89(Acctt)	31-Jul-89	Health/P'Cherry	
4	2224	Manorajan Das(SC)	01-Jan-59	2002	19.3.84(LDC)/ 25.12.89(Acctt)	26-Dec-89	Home/Shillong	Kolkata
5	2101	Narendra Kumar Verma	25-Sep-61	2002	12.2.90(Acctt)	12-Feb-90	CBEC/Patna	
6	2102	G.Kanaka Narendrudu(SC)	02-Jun-62	2002	25.3.90(Acctt)	26-Mar-90	CBEC/Guntur	
7	2154	Sukanta Saha(SC)	27-Mar-64	2002	31.8.92(Acctt)	31-Aug-92	IT/Delhi	
8	2030	T.Revathi	14-Jun-66	2002	12.10.1988(LDC)/ 15.1.93(Acctt)	15-Jan-93	CBDT/Hyderabad	
9	2288	K.M.Shaju	29-May-69	2002	1.2.93(Acctt)	01-Feb-93	I&B/Nagpur(GLC)	North East, Kolkata
10	2345	Bibhas Basak	21-Sep-67	2002	30.3.93(Acctt)	30-Mar-93	Mines/Shillong	CoochBehar, Siliguri, Ja'raiguri, Malda, Bolpur
11	2405	Subhas Chandra Das	10-Jul-69	2002	25.10.93(Acctt)	26-Oct-93	UD/Kolkata	
12	2108	Bibhash Kumar	14-Jun-68	2002	31.5.94(Acctt)	31-May-94	CBEC/Patna	
13	2058	Prashant Kumar	01-Mar-69	2002	24/3/95(Acctt)	24-Mar-95	CBDT/Allahabad	Delhi, Allahabad, Lucknow
14	2006	Rekha Dahiya(SC)	04-Jul-71	2002	15.8.95(Acctt)	16-Aug-95	Agriculture/Delhi	

*Attested
Dir.
Patna*

5	2243	Ajay Choudhary	18-Nov-69	2002	27/10/95(Acctt)	27-Oct-95	Home/Delhi	
16	2112	P. Mahesh Kumar	26-Dec-71	2002	5.2.95(Acctt)	05-Feb-96	CBEC/Vizag	
17	2252	M. Venkata Subramanyam	27-Jul-67	2002	01/05/1995(Acctt)	01-May-96	Industry/Chennai	
18	2110	Jesobhanta Swain	02-Mar-70	2002	23.12.96(Acctt)	23-Dec-96	CBEC/Kolkata	
19	2426	V. R. Vijayalakshmi	08-Jul-74	2002	8.5.95(LDC)/12.2.99(Acctt)	12-Feb-99	UD/Chennai	Chennai, Port Blair, Rangat Bay, Kar Nicobar
20	2294	V. Bhanu Prakash	19-Nov-73	2002	15.5.96(LDC)/1.3.2000(Acctt)	01-Mar-00	I&B/Delhi	
21	291	E. Soundra Pandian(SC)	21-May-71	2002	15.7.96(LDC)/22.3.2000(Acctt)	22-Mar-00	CBEC/Chennai	
22	2056	Jugjeev Kaur	15-Jan-74	2002	21.8.96(LDC)/10.4.2000(Acctt)	10-Apr-00	CBDT/Jalandhar	
23	2295	Umesh Chandra Srivastava	24-Jun-73	2002	17.7.96(LDC)/26.3.2001(Acctt)	26-Mar-01	I&B/Lucknow	
24	2362	M. R. Gokhe(ST)	14-Sep-74	2002	22.1.97(LDC)/25.2.2002(Acctt)	25-Feb-02	Planning/Nagpur	

Handwritten signature/initials
Handwritten text: Advocate

Government of India
Office of the Pay & Accounts Officer
CENTRAL EXCISE AND CUSTOMS
Crescens Building, M.G. Road
SHILLONG.

Annexure-14

No. PAO/CBEC/Est/Staff Matter/SDA/7/5

Dated, the 15th Sept., 2005

To

The Dy. Controller of Accounts(IA),
Central Board of Excise & Customs,
M.S. Building (6th Floor), Customs House,
15/1, Strand Road, Kolkata - 700 001.

Subject: Representations towards admissibility of Special Duty Allowance.

Sir,

Kindly refer to your letter No.DCA/IA/EZ/KOL/SDA/53/2005-06/70 dated 27th April, 2005. In this regard, I am to furnish below the points of clarification as was sought through your letter under reference:

1. Shri Manoranjan Das, JAO - The official was transferred as LDC from Central Secretariat, MHA(P), New Delhi to PAO (AR), Shillong w.e.f. 16.4.1984 (FN) vide G.O.I., MHA O.O. No.A.22015/17/84-Ad.I(B) dated 25.6.1984 and even No. dated 08.03.1985 (Copy enclosed). It may be seen that there is no clear indication on the transfer order as to whether the transfer was on request or a case of normal transfer. Further, on seeking clarification from PAO(AR), MHA, Shillong it has been intimated that Shri Manoranjan Das had on earlier occasions represented the request for drawal of SDA to CCA, MHA, New Delhi. However, as the decision of the competent authority was not communicated, the official was not allowed to draw SDA in PAO(AR), MHA, Shillong. In this regard a copy of PAO(AR), MHA, Shillong letter No.PAO/AP/Est/PE/SDA/20055/135 dated 01.7.2005 is enclosed herewith for your perusal.
2. Smt. J. Ningchen, Sr.Acctt. - The official was transferred from PAO, Agriculture, New Delhi to PAO, CBEC, Shillong vide Pr.CCA, CBEC, New Delhi O.O. No.200 (Admn/1(33)13/Vol.III/98-99/1469) dated 17.03.99 on her own request.
3. Smt. M.C. Lupheng, Sr.Acctt. - The official was transferred from PAO, Min. of ISB, New Delhi to PAO, CBEC, Shillong vide Pr.CCA, CBEC, New Delhi O.O. No.97 (Admn/1(33)13/92-93/995 dated 14.07.92 on her own request.

In this connection, it may be mentioned that the matter regarding admissibility of SDA is pending vide O.A. No.248/04 S. K. Das & Others Vs. Union of India in CAT, Guwahati. However, as the finalisation of the case is not expected at an early date, it may kindly be clarified as to whether the representations submitted by the officials be resubmitted at your end for further consideration.

Yours faithfully,

Encl:- As above.

(S. C. Singh)

Pay & Accounts Officer.

Attested
Sub.
Admn.



Annexure-15

Date 1/7/05

PAO/AR/Est/PF/SDA/2005/135

No.

To

The Senior Accounts Officer,
Pay & Accounts Office,
Customs & Central Excise,
MG Road, Shillong.

Subject :- Drawal of Special Duty Allowances in respect of Shri Monoranjan Das, Junior Accounts Officer.


Sir,

With reference to your letter No. PAO/CBEC/Est/Staff matters/SDA/5-06 dated 20.6.2005 On the subject cited above, I am to state that Shri Monoranjan Das, Senior Accountant of Pay And Accounts Office, Assam Rifles, MHA, Shillong was posted to this office on 16.4.1984 on transfer from Ministry of Home Affairs, North Block, New Delhi.

In this context, I am to inform you that Shri Monoranjan Das Ex. Senior Accountant of this office had represented through proper channel to the Chief Controller of Accounts, Ministry of Home Affairs, New-Delhi for granting the benefit of special duty allowance with formal recommendation of Deputy Controller of Accounts, MHA, Shillong. It is noteworthy to mention that although Shri Monoranjan Das, Senior Accountant had been representing to the authority through proper channel in several occasions, the decision of the authority had never been communicated to this office for reasons not known to this office.

This is for your information and further necessary action.

Yours faithfully,


(M. Chandra)
Accounts Officer.

M. Chandra
Accounts Officer

Annexure-16

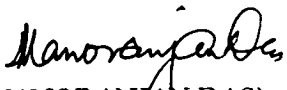
Declaration for SDA claim

This is to certify that I had been initially appointed as LDC in the Administrative I(B) Section of MHA(P), Central Secretariat, Room No.96, North Block, New Delhi on 19.3.1984 in pursuance to MHA O.O. No. A-1/025/10/82-Ad.I(B) dated 09.02.1984 and subsequently transferred to PAO(AR), Shillong vide MHA No.A-22015/17/84-Ad.I(B) dated 03.4.1984.

In this connection I hereby declare that at no point of time I had represented for transfer to Shillong or at any place located outside Delhi, which is also evident from the transfer order issued by the Ministry.

Hence, the transfer order was an administrative decision and the claim for my SDA is fully justified in the light of Hon'ble Supreme Court Judgement dated 05.10.2001 conveyed vide Ministry of Finance O.M. No.II(5)/97-E.II(B) dated 29.5.2002.

Dated, Shillong
the 16th November, 2005.


(MANORANTAN DAS)
JAO, PAO, CBEC, Shillong.

Manoranjan Das
16.11.05
Shillong



A-32014/1/2002/MF.CGA(A)/GR.B/Vol III/Policy/316
Government of India
Ministry of Finance, Department of Expenditure
Controller General Of Accounts
7th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi- 110003

Dated : 20th March, 2003

To

Shri / Ms. *[Name]*
Pr.CCA/CCA/CA.....
Ministry / Department
New Delhi.

Subject : Transfer policy of Jr.AOs/AOs/PAOs/Sr.AOs

As you are aware, the promotion and allocation orders to various Ministries/Departments as Jr. Accounts Officer and Pay and Accounts Officer are issued by this office after taking into account the options of the empanelled officials for their preferred stations of posting even though Recruitment Rules provide for All India Transfer Liability. All those who give their option for posting at a particular station(s) are not considered for promotion at any other station even though they are eligible for promotion on the basis of their position in the panel. The present practice of posting of JAOs/AOs and PAOs/Sr.AOs based on options given by the officers concerned has generated large number of administrative problems whereby considerable number of vacancies exist at different stations while qualified/ eligible persons are awaiting promotion at some stations because of their option for posting at a particular station. The problem has been engaging the attention of the Controller General of Accounts for quite some time. Considering

[Signature]
20/3/03

various aspects it has been decided to lay down a transfer policy which would be uniformly applicable. Therefore, the following decisions have been taken :

- (1) In respect of vacancies that are projected to arise during a given period an equal number of empanelled officials will be asked to give preferences for posting on promotion to any number of stations of their choice. In the absence of preference(s) an individual's willingness for posting to any station will be presumed. The concerned officials will be accommodated at one of the stations of their choice to the extent that is administratively possible. In case it is not possible to accommodate their preference they will be posted compulsorily at any station as per the administrative convenience under clause of All India Transfer Liability which is a condition of service in the Civil Accounts Organisation.
- (2) The promotions/transfers will be done strictly on the basis of seniority in the panel.
- (3) Refusal for promotion will be dealt in accordance with the DOPT instructions contained in office memorandum No. 22011/5/86-Estt(D) dated 10.4.89, as amended from time to time. These instructions inter-alia include enforcement of promotion/disciplinary action/debarment. Refusal of promotion should not be taken to mean that those refusing promotion cannot be posted by the CGA to any other station in their existing grade.
- (4) The tenure of posting will be 3 years [⊗] 4 years in all cadres i.e. JAO/AAO and PAO/Sr.AO. This will facilitate mobility for inter-station and inter-Ministry rotational transfers.
- (5) Three months before completion of tenure of 4 years a JAO/AAO or PAO/Sr.AO may, if he/she so wishes, send to this office preferences for transfer to any station(s). The preferences will be considered depending upon the availability of vacancy and in public interest.
- (6) In order to accommodate an officer at a place of his/her preference, who has completed his tenure of 4 years, the junior-most at such station amongst those who have not done outside posting, will be transferred to accommodate the official coming from outside. However, if any other officer is willing for posting to a given station he/she will be considered instead of the junior most. This will apply in the case of rotational transfers also. For this purpose the likely vacancies will be circulated by this office twice in a year i.e. three months before the rotational transfers falling on 1st June and 1st December each year.

⊗ A.32014/1/2002/
MF CGA(A)/Gr.B/Vol.III
/Policy/522 dt.30.4.04

- (7) All those posted in North-East and Andaman / Lakshadweep islands will be governed by the instructions of DOPT as contained in OM No. 20014/3/83-E-IV dated 14th December 1983, as amended from time to time. The tenure would be 2/3 years, as the case may be.
- (8) The period of leave, training etc in excess of 30 days per year will be excluded in counting the tenure.
- (9) Officials who are due to retire within 2 years will not be transferred. In case they want the station of choice for posting, efforts will be made to accommodate them at such a station based on their option.

The above mentioned transfer policy will be implemented from 1st April 2003.

It is requested that this may please be given wide publicity by bringing it to the notice of all concerned including those working against encadred posts or on deputation to outside offices.

Kindly acknowledge receipt.


(U.K. MAITRA)

Jt.. Controller General of Accounts

To

The Pay & Accounts Officer,
Customs & Central Excise,
Shillong.

Sub: Prayer of grant of Special (Duty) Allowance.

Sir,

I would like to reiterate my earlier representation dated 16th December'2004 for granting the benefit of SDA to me by virtue of Pr.A.O., CBEC, New Delhi O.M. No.Admn./1(27)/Shillong/04-05/1622 dated 02.02.2006.

(i) That Sir, hailing from N. E. Region I was appointed as LDC in the Central Secretariat, MHA, New Delhi and subsequently transferred to PAO (Assam Rifles), Shillong with effect from 16.4.1984. I fulfill the sole criterion as per aforesaid O.M.

(ii) That Sir, it is clearly stated in para 3 of the above O.M. that " The Competent Authority has ordered that those officers/officials of PAO (Shillong) CBEC, who fulfill the eligibility condition shall be entitled for grant of Special Duty Allowance."

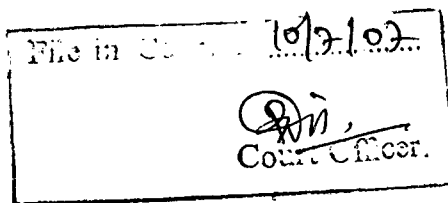
I, therefore, fervently appeal to your discretionary power kindly grant me the benefit of SDA as there has been no ambiguity regarding admissibility of SDA in my case what so ever.

Dated, Shillong
the 8th February'2006.

Yours faithfully,

Manoranjan Das
(MANORANJAN DAS)
JAO, CBEC, Shillong

*Affected
JAO
Shillong*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by :-
The respondent
Nos 1 to 6
Shreeyash
Manoranjan Das
Adm. C. S. C.
9/7/07
CAT 59

In the matter of:

O.A. no. 33/06

Monoranjan Das

...Applicant

-Vs-

Union of India and ors

...Respondents

-AND-

In the matter of:

Written statement on
behalf of respondents
no.1,2,3,4,5 and 6.

(WRITTEN STATEMENT ON BEHALF OF RESPONDENTS NO.1 TO 6)

I, Sri V.Fanai son of F. MALSAWMA..... presently working
as a Deputy Controller of Accounts, Ministry of Home Affairs, Shillong do
hereby solemnly affirm and state as follows :-

1. That I am the Deputy Controller of Accounts, Ministry of Home Affairs, Shillong. The copies of the aforesaid application have been served upon the respondent no.1 to 6. In the instant application I have been included as party respondent no.6. I have gone through the same and being the Deputy Controller of Accounts, have understood the contents thereof. I have been authorized to file this written statement on behalf of the respondents no.1 to 5.

2. I do not admit any of the averment except which are specifically admitted hereinafter and the same are deemed as denied.

3. That Sri Monoranjan Das, the applicant, was initially appointed as Lower Division Clerk in the Central Secretariat Clerical Service (C.S.C.S) cadre with effect from 19.03.84 and posted at Ministry of Home Affairs (P) until further order vide letter no. 12025/10/82-Ad.1(B) dated 26.03.1984 as appears in Annexure 2 of the application. Thereafter vide letter dated 08.08.95 the Government of India issued an office order clearly stating that the service of the applicant has been placed at the disposal of the Pay and Account Officer, Assam Rifles, Shillong with effect from 16.04.84 in the same capacity. Hence it cannot be said that the applicant was transferred from New Delhi to Shillong. Further the applicant is a permanent resident of Tripura (West) which falls in the North Eastern Region.

4. That the appointment of Sri Manoranjan Das carries with the liability to service in any part of India and in pursuance to the offer of appointment

dated 09.02.1984 he was appointed as L.D.C. So far the SDA for civilian employees of the Central Government serving in the state and union territories of North East region (including Sikkim) are concerned, the office memorandum dated 22.03.99 and subsequently 29.05.2002 issued by the Government of India clarified and the criteria for payment of SDA as follows:-

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

Thus, thereby the officers/employee those recruited/ promoted within North-Eastern region are not entitled to get the benefit of SDA.

5. That in the instant case the applicant is a permanent resident of North Eastern region and being found fit of the results of the Clerk's Grade Examination 1981 he was appointed and was directed to report to Section Officer ADI (B) /Sec MHA, North Block, New Delhi for provisional temporary appointment as LDC in the CSCS cadre. Thereafter, he was appointed as LDC in the temporary capacity and until further order and was directed to report to Pay and Accounts Office, Assam Rifles, MHA, Shillong without TA/DA. Further in office order dated 08.08.85 it has been clearly mentioned that the service of the applicant is placed at the disposal of the Pay and Accounts Officer, Assam Rifles, Shillong, with effect from 16.04.84 (FN) in the same capacity. Hence from the above it is crystal clear that the SDA is not admissible to the case of applicant.

6. Reply to the facts of the case:-

6.1 That with regard to the statements made in paragraph 4.1 the humble answering respondent begs to state that the applicant was initially appointed as Lower Divisional Assistant in the C.S.C.S cadre with effect from 19.03.84 (FN) and posted at Ministry of Home Affairs (P) New Delhi vide order dated 26.03.84. Thereafter another order was issued on 20.03.85 by the Government of India stating that the applicant would be on probation for 2 years from the date of his appointment.

Further in office order dated 08.08.85 under no.22015/17/84-AD.1 (B) says that the service of the applicant was placed at the disposal of Pay and Accounts officer, Assam Rifles, Shillong with effect from 16.04.84 in the same capacity. The applicant joined in his service in Shillong on 16.04.84. Further the applicant is a permanent resident of Tripura.

A copy of the joining report dated 16.04.84 is annexed herewith and marked as Annexure-A.

6.2 That with regard to the statements made in paragraph 4.2 of the application the humble answering respondent begs to state that the applicant carries with the liability to service in any part of India and vide appointment offer order dated 09.02.84 he was appointed as L.D.C. In this connection it is stated that the Government of India vide office memorandum

no.C18014/2/90(PF)/MF-CGA (A)/LC/223 dated 22.03.99 and subsequently 29.05.02 clarified as follows :-

“Central Government civilian employee who have All India Transfer Liability are entitled to the grant of SDA, on being posted to any station in the North-East region from outside the region and SDA would not be payable merely because of clause in the appointment on relating to All India Transfer Liability.”

Thus it is clarified that the SDA is admissible only in those cases where criteria of posting from outside to North-east region is satisfied but not in the cases where officers/employees are recruited/promoted within North East region.

6.3 That with regard to the statements made in paragraph 4.3 of the application the humble answering respondent begs to state that as per order of MHA dated 08.08.85 under A-22015/17/84-Ad 1(B) it has been revealed that the service of the applicant of C.S.C.S cadre are placed at the disposal of the Pay and Accounts Officer, Assam Rifles in the same capacity and he was posted to Pay and Accounts officer, Assam Rifles, Shillong without TA/DA vide letter dated 03.04.84 as appears in the Annexure 5 and 3 respectively of the Original Application.

6.4 That with regard to the statements made in paragraph 4.4 of the application the humble answering respondent begs to state that the criteria of All India Transfer Liability is not sufficient for grant of Special Duty Allowance. The Special Duty Allowance is admissible only in those cases where criterion of posting from outside to North East region is satisfied.

6.5 That with regard to the statements made in paragraph 4.5 of the application the humble answering respondent begs to state that the applicant was directed to report for duty in Ministry of Home Affairs, New Delhi and as per MHA letter no. A12025/10/82-Ad.1 (B) dated 26.03.84 he was posted vide date of appointment order i.e.19.03.84 (FN) until further orders. Accordingly he was further posted to Pay and Accounts Office, Assam Rifles, Shillong without TA/DA Ministry Home Affairs, under no.22015/17/84-Ad.1 (B) dated 05.04.84.

6.6 That with regard to the statements made in paragraph 4.6 of the application the humble answering respondent begs to state that the Office Memorandums dated 22.03.99 and 29.05.2002 clearly say that SDA will be admissible for the Central Employees only in those cases where criterion of posting from outside of North East region is satisfied. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India did not make him eligible for the grant of SDA.

In the instant case the applicant is the permanent resident of North East region being found fit on the results of Clerk Grade Examination, 1981, he was directed to report to the Section Officer, Ad.1 (B) Section, MHA, North Block, New Delhi, for provisional temporary appointment as L.D.C in

32

- 4 -

C.S.C.S. cadre of the MHA. Accordingly on his reporting he was appointed as a LDC in a temporary capacity and until further orders he was posted in MHA (P) thereafter he was directed to report to Pay and Accounts Office, Assam Rifles, MHA, Shillong without TA/DA as appears in Annexure-3 of the Original Application. Further as earlier stated in the order dated 08.08.85 it is also clear that the service of the applicant has been placed at the disposal of Pay and Accounts Officer, Assam Rifles, Shillong w.e.f 16.04.84 (FN) in the same capacity. (Annexure 5 to the Original Application).

6.7 That with regard to the statements made in paragraph 4.7 of the application the humble answering respondent begs to state that in reference to his representation praying for extending the benefit of SDA in fact was replied vide letter dated 19.07.2000 informing that he is not entitled for SDA as his services were placed at the disposal of Pay and Accounts Office, Assam Rifles, Shillong.

6.8 That with regard to the statements made in paragraph 4.8 and 4.9; I reiterate and reaffirm the statement made in paragraph 6.7 of this written statement. The humble answering respondent begs to state that as the applicant was appointed to fill up the vacant post of Lower Division Clerk and was placed under the disposal of Pay and Accounts Office, Assam Rifles, Shillong and is not transferred from New Delhi to Shillong, hence he is not fulfilling the criteria for admissibility of Special Duty Allowance.

6.9 That with regard to the statements made in paragraph 4.10 of the application the humble answering respondent begs to state that in the Office Memorandum dated 29.05.02 as appears in the Annexure-11 of the Original Application it is clearly mentioned that ,

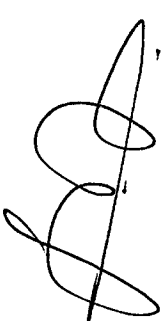
“A mere clause in the appointment letter to the effect that the person concern is liable to be transferred anywhere in India did not make him eligible for the grant of Special Duty Allowance.”

In the instant case the applicant having the All India Transfer Liability but his posting at Shillong in fact was not transferred.

6.10. That with regard to the statements made in paragraph 4.11 of the application the humble answering respondent has nothing to make comment on it. However he does not admit any statements which are contrary to records.

6.11 That with regard to the statements made in paragraph 4.12 of the application the humble answering respondent reiterate and reaffirm the statement made in paragraph 6.6 of this written statement.

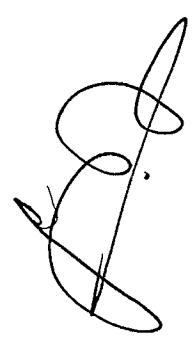
6.12 That with regard to the statements made in paragraph 4.13 of the application the humble answering respondent begs to state that regarding non-consideration of the applicant for grant of SDA was considered by the competent authority and accordingly was replied to that.



6.13 That with regard to the statements made in paragraph 4.14 of the application the humble answering respondent reiterate and reaffirm the statements made in paragraph 6.6 of the written statement.

6.14 That with regard to the statements made in paragraph 4.15 of the application the humble answering respondent begs to state that his earlier representation was disposed of and he was communicated accordingly.

6.15 That the answering respondent begs to submit that there is no merit at all and hence it is liable to be dismissed.

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'E' shape with a vertical line through it, located on the right side of the page.

24

- 6 -

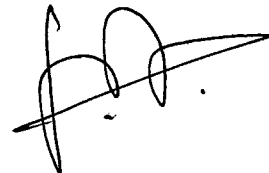
VERIFICATION.

I, Sri V.Fanai, son of F. MALSAWMA..... presently working as a Deputy Controller of Accounts, Ministry of Home Affairs, Shillong do hereby verify that the statements made in paragraphs 1, 2, 5, 6, 4, 6, 6, 7, 6, 14..... are true to my knowledge ; those made in paragraphs 3, 4, 6, 1, 6, 2, 6, 3 and 6, 5 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I have not suppressed any materials thereof.

And I sign this verification on^{7th}.....day of July, 2007.

DEPONENT.



Received W.S
Dutta
10/07/07

To,

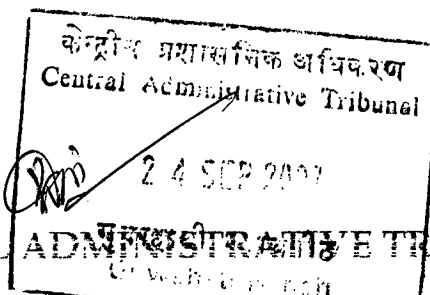
The Pay and Accounts Office
(Assam Rifles),
Ministry of Home Affairs,
Shillong - 793,003.

Sir,

In terms of G.I. order NO. A -
22015/17/84 - Ad.1 (B) dated The 3rd
April, 84 I beg to submit my joining
report this day on 16th April, 84 at
Forenoon.

Yours faithfully,
Manojan Das
(Manojan Das)
16/4/84
L.D.C. (CSCS Cadre)

certified to be true
M
9/17/03



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

Filed by the applicant
through U. Dutta, advocate
19.09.07

In the matter of: -

O.A. No. 33 of 2007

Shri Manoranjan Das.

.... Applicant.

-Versus-

Union of India & Ors.

..... Respondents.

-And-

In the matter of: -

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

The applicant above named most humbly and respectfully begs to state as
under: -

1. That with regard to the statements made in para 3, 4, and 5 of the written statement, the applicant categorically denies the same save and except which are borne out of record and further begs to state that he was initially appointed as LDC on 09.02.1984 in the office of the Central Secretariat, Ministry of Home Affairs, New Delhi having a specific clause of all India transfer liability in his letter of appointment (Annexure- 1 to the O.A.). Thereafter, while the applicant was serving in the office of the Central Secretariat, New Delhi he was transferred and posted in the office of the Pay and Accounts Officer (Assam Rifles), Shillong in the North Eastern Region vide order dated 03.04.1984. As such it is evident from the transfer and posting order dated 03.04.1984 (Annexure- 3 to the O.A) that the applicant was initially appointed and posted in the office of Secretariat, Ministry of Home Affairs, New Delhi i.e. outside the N.E

Region and subsequently he was transferred and posted at Shillong i.e. in the N.E. Region, therefore he is eligible for payment of Special Duty Allowance in terms of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, 01.12.1988, 12.01.96, 22.07.98 as well as in terms of O.M dated 29.05.2002. Moreover, in terms of clause 5 of the Govt. of India, Ministry of Finance O.M dated 29.05.2002 applicant is entitled to payment of SDA as because he has been transferred and posted from outside the NE Region to the NE Region. It is also stated that from the written statement submitted by the respondents it is also evident that applicant is a permanent resident of NE Region and he was initially appointed and posted at New Delhi and subsequently he was transferred and posted at Shillong and confirmation of service is a condition of service under the Govt. of India and it has no bearing with the payment of SDA, since as per Office memorandum dated 29.05.2002 issued by the Govt. of India, the SDA shall be admissible to the central Government employees having all India transfer liability on posting to North-Eastern Region from outside the region. It is categorically submitted that the applicant fulfills the criteria laid down in Paragraph 5 of the O.M dated 29.05.2002 (Annexure-11 to the O.A) as such he is entitled to SDA in terms of O.M dated 29.05.02. Moreover, the recruitment and promotion of the applicant is being made on all India basis, as such he fulfills all the criteria for payment SDA. Therefore, denial of payment of SDA to the applicant is illegal, mala fide and the Hon'ble Tribunal be pleased to direct the respondents to pay SDA to the applicant since his joining in N.E. Region on transfer from New Delhi with arrear monetary benefit as well as payment of current SDA.

3. That the with regard to the statement made in paragraph 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 of the written statement the applicant categorically denies the same save and except which are borne out of record and further begs to state that from the written statement it is evident that the applicant was initially appointed as LDA in the C.S.C.S cadre and he was posted at New Delhi and subsequently he was transferred from New Delhi and posted in the Office of Pay Accounts Officer, Assam Rifles, Shillong. As

such he fulfills the criteria of all India transfer liability in practice, as laid down in the appointment letter; therefore, denial of payment of SDA to the applicant is arbitrary and opposed to the condition laid down in the Govt. of India O.M dated 14.12.1983 as well as O.M dated 22.03.99 and O.M dated 29.05.2002. It is also stated that applicant was initially appointed on all India basis and his seniority, promotion is maintained on all India basis, therefore he fulfills all the criteria required for payment of SDA. Moreover, transfer and posting in the same capacity from outside the NE Region to the NE Region without TA/DA cannot be ground for denial of SDA to the applicant, as because these conditions are not condition precedent for payment of SDA as per Govt. of India's O.M dated 14.12.1983, 22.03.99 and 29.05.02. As such applicant categorically denies the statements made in paragraph 6.3, 6.5 and 6.6 and prays before the Hon'ble Tribunal for a direction upon the respondents to pay the applicant SDA from the date he was posted in NE Region with arrear and current payment of SDA.

4. That with regard to the statements made in paragraph 6.9, 6.10, 6.11, 6.12, 6.13, 6.14 and 6.15 the applicant denies the correctness of the same save and except which are borne out of record and further begs to state that they were initially appointed on all India basis with a specific clause of all India transfer liability in his offer of appointment and posted at New Delhi subsequently he was transferred and posted at Shillong, as such he fulfilled the criteria of all India transfer liability in practice and he is entitled to payment of SDA from the date when he was transferred and posted from New Delhi to Shillong i.e. from outside to the N.E. Region to the N.E. Region in terms of clause 5 of the O.M dated 29.05.2002 issued by the Govt. of India, Ministry of Finance.
5. That the applicant reiterates the statements made in Original application and in the facts and circumstances stated above, the applicant most respectfully submit that he is entitled to the reliefs prayed for and the original application deserves to be allowed with cost.

4

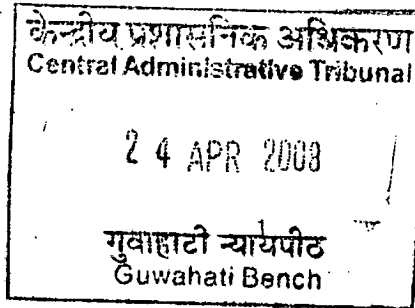
Ja

VERIFICATION

I, Sri Manoranjan Das, S/o- Sri Haripada Das, aged about 48 years, Working Junior Accounts Officer in the Office of the Pay and Accounts Officer, Central Board of Excise and Customs, Crescens Building, Shillong, Meghalaya, applicant in the instant original application, do hereby verify that the statements made in paragraph 1 to 5 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on the 9th day of September 2007.

Manoranjan Das



Filed by :-
The Respondents
Through
Manoj Kumar Das
Advocate
24/4/08

In the Central Administrative Tribunal

Guwahati Bench

In the matter of :

O.A. No.33/07

Sri Manoranjan Das

..... Applicant

-vs-

Union of India & ors.

..... Respondents

-And-

In the matter of :

Reply statement on behalf of the
respondents to the rejoinder filed by
the applicant.

[Signature]

(Reply statement on behalf of the Respondents)

I Sri V. Fanai, son of F. Malsawma, presently
working as Deputy Controller of Accounts, Ministry of
Home Affairs, Shillong, do hereby solemnly affirm and
state as follows:-

1. That I am the Deputy Controller of Accounts,
Ministry of Home Affairs, Shillong. The copies of the
rejoinder have been served upon the counsel representing
the respondents. I have gone through the same and have
understood the contents thereof.

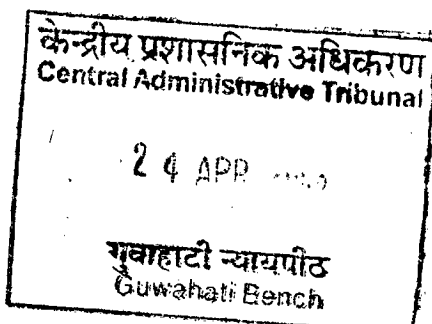
Received
24/04/08

2. That I do not admit any of the averment except which are specifically admitted and the same are deemed as denied.

3. That with regards to the statements made in paragraph 1 of the rejoinder the humble answering respondent begs to state that the applicant was initially appointed as LDC in Central Secretariat w.e.f. 19.3.84 and posted at Ministry of Home Affairs (P) vide letter dt.26.3.84 and thereafter his service was placed at the disposal of the Pay & Accounts Officer, Assam Rifles, Ministry of Home Affairs, Shillong w.e.f. 16.4.84 vide office order dt. 28.6.84. The placing of the service of the applicant at the disposal of Pay & Accounts, Shillong cannot be interpreted as being transferred from New Delhi to Shillong.

Apart from that the applicant is a permanent resident of Tripura, which is in North Eastern Region of India. Further in the Ministry of Finance, O/O the C.G.A O.M. dt. 22.3.99 it was mentioned that the "SDA" would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. And that the applicant is being treated as one of the recruitee from N.E. Region itself. Therefore, the applicant is not fit for granting of any SDA.

4. That with regards to the statement made in paragraph 3 of the rejoinder begs to state that as the service of the applicant was placed at the disposal of Pay &



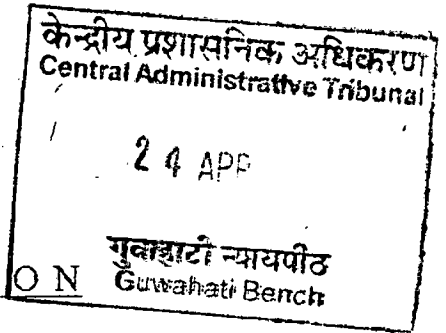
3

Accounts Officer, Assam Rifles, Shillong and that the applicant being a permanent resident of N.E. Region and recruited in the N.E. Region itself is not entitled to get the benefit of SDA. It can be mentioned here that the non-payment of SDA to the applicant is not arbitrary and opposed to the condition for payment of SDA.

Further as the applicant was not transferred from Delhi to Shillong he was not granted the TA/DA and he never sought for TA/DA as he was aware that he was posted at Shillong under the disposal of Pay & Accounts Officer, Assam Rifles, MES, Shillong which was not a transfer.

5. That with regard to the statement made in paragraph 4 of the rejoinder that the posting of the applicant New Delhi to Shillong was never been treated as transfer as he was placed at the disposal of the Pay & Accounts Officer, Shillong. Hence, the question of Special Duty Allowance does not arise. Further his case for granting of SDA does not covered under the office memorandum dt. 29.5.02.

.....verification.....



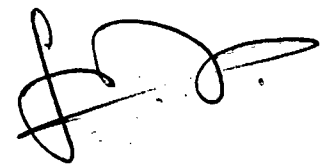
4

VERIFICATION

I Sri V. Fanai, son of F. Malsawma, presently working as a Deputy Controller of Accounts, Ministry of Home Affairs, Shillong, do hereby verify that the statements made in paragraphs 1, 2, 4 and 5 are true to my knowledge; those made in paragraphs 3 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I have not suppressed any materials thereof.

And I sign this verification on 24th day of April, 2008.



(VANLALDINA FANAI)

97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Additional Rejoinder in

O.A. No. 33/2007

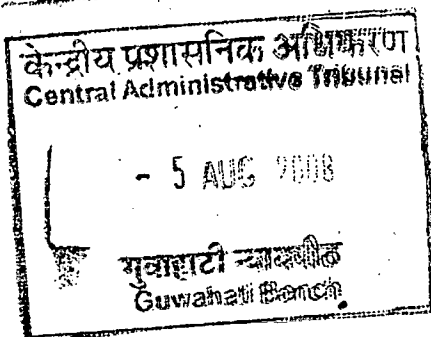
Shri Monaranjan Das

Applicant

-Versus-

Union of India & Others.

Respondents.



INDEX

SL. No.	Annexure	Particulars	Page No.
01.	----	Additional Rejoinder	1-3
02.	----	Verification	-4-
03.	A	Copy of the letter dated 26.02.07	-5-
04.	B	Copy of the order dated 28/29.04.08.	-6-
05.	C	Copy of order dated 23.05.2005.	-7-
06.	D	Copy of order dated 30.05.08	-8-
07.	E	Copy of the judgment dated 18.08.2005 in OA No. 250/2004.	9-14

Date: 05.08.08

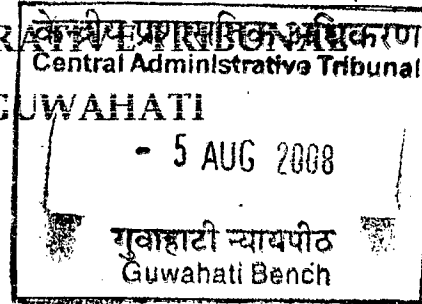
Filed by:

Butta
Advocate

Manoranjan Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI



Filed by the applicant
through U. Dutta, advocate
on 05/08/08 JS

In the matter of:-

O.A. No. 33 of 2007

Shri Manoranjan Das.

.... Applicant.

-Versus-

Union of India & Ors.

.....Respondents.

-And-

In the matter of:-

Additional rejoinder submitted by the applicant in reply to the reply statement filed by the respondents.

The applicant above named most humbly and respectfully begs to state as under:-

1. That with regard to the statements made in para 3 of the reply to the rejoinder applicant beg to state that from the posting order dated 03.04.1984 (Annexure- 3 of the O.A) it is evident that the applicant was posted from the office of the Secretariat, Ministry of Home Affairs, New Delhi to the Pay and Accounts Office (Assam Rifles) Shillong i.e. from outside the N.E Region to the N.E. Region. It is stated that cadre of the applicant has been changed to CCAS after two years of his service at Shillong and his service was not placed at the disposal of PAO (AR) Shillong before his joining in Central Govt. service. Moreover, service of the applicant is counted w.e.f. 19.03.1984 i.e. from his initial posting in the office of Secretariat, Ministry of Home Affairs, New Delhi, as such placing of the service of the applicant at the disposal of the Pay. and Accounts, Shillong cannot make him ineligible for payment of SDA as because

Manoranjan Das

service of the applicant in the office of the Secretariat, Ministry of Home Affairs, New Delhi is counted for all purposes. Therefore, benefit of services rendered by the applicant in the office of the Secretariat, Ministry of Home Affairs, New Delhi cannot be denied when the said service is counted for all purpose. Moreover, for the purpose of payment of SDA to a resident of N.E. Region it requires that he should be posted from outside of the N.E. Region to the N.E. Region. In the instant case applicant is a resident of N.E. Region and he was posted from outside of the N.E. Region to the N.E. Region vide order dated 03.04.1984. Therefore he is eligible for payment of Special Duty Allowance in terms of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, 01.12.1988, 12.01.96, 22.07.98 as well as in terms of O.M dated 29.05.2002. It is categorically stated that in terms of clause 5 of the Govt. of India, Ministry of Finance O.M dated 29.05.2002 (Annexure- 11 to the O.A) applicant is entitled to payment of SDA as because he has been posted from outside the NE Region to the NE Region. Moreover, the recruitment and promotion of the applicant is being made on all India basis, as such he fulfills all the criteria for payment SDA. Therefore, denial of payment of SDA to the applicant is illegal, malafide and the Hon'ble Tribunal be pleased to direct the respondents to pay SDA to the applicant since his joining in N.E. Region on transfer and posting from New Delhi with arrear monetary benefit as well as payment of current SDA.

2. That with regard to the statement made in para 4 of the reply to the rejoinder applicant begs to state that the Ministry of Finance, Department of Expenditure, E-II (B) Branch vide letter bearing U.No. 11 (1) E.II (B)/07 dated 26.02.2007 it is clarified that there is no restriction for grant of Special Duty Allowance to Central Govt. Employees if they are posted on their own request and are entitled to SDA as per criteria for payment of SDA is mentioned in para 5 of the Finance Ministry's O.M. No. 11 (5)/97-E.II (B) dated 29.5.2005. As such non-granting of TA/DA cannot be a ground of denial of payment of SDA to the applicant. As such applicant is entitled for payment of SDA in terms of the clarification of the Ministry of Finance issued vide letter dated 26.02.2007.

Manoj Kumar

- 5 AUG 2008

गुवाहाटी न्यायपीठ

Copy of the letter dated 26.02.07 is enclosed herewith
and marked as Annexure- A.

3. That it is stated that applicant in the meanwhile has been promoted to the post of Assistant Accounts Officer vide order bearing No. PAS/6(82)/2008-09/Part File I/263 dated 23.05.2008 while he was posted in the office of Pay and Accounts Office, CSI, Kolkata. Again vide office order No. PAS/6(82) 2008-09/Partfile I/109 dated 28/29.04.2008 applicant has been transferred and posted to the office of Executive Engineer, Ministry of Urban Development, C.P.W.D, Tripura Central Division, Agartala and he has reported for duty at Agartala on 30.05.2008 where he is posted now. As such it is very much evident that applicant also fulfils the criteria of All India transfer liability for payment of SDA.

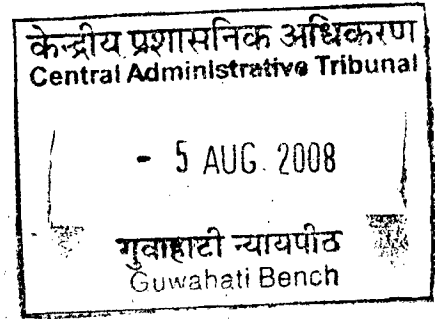
Copy of the order dated 28/29.04.08, 23.05.2005 and 30.05.08 are enclosed herewith and marked as Annexure- B, C and D respectively.

4. That similarly situated cases have earlier been dealt in by this Hon'ble Tribunal and vide judgment and order dated 18.08.2005 in O.A. No. 250/2004 (Shri Lienkhawthang Varte -Vs- U.O.I & Ors), this Hon'ble Tribunal has been pleased to pass appropriate directions upon the respondents therein for consideration of payment of SDA to the applicant in O.A. No. 250/2004.

Copy of the judgment and order dated 18.08.2005 in O.A No. 250/2004 is enclosed herewith and marked as Annexure- E.

5. That in the facts and circumstances as stated above the Original Application deserves to be allowed with cost.

Manojananda

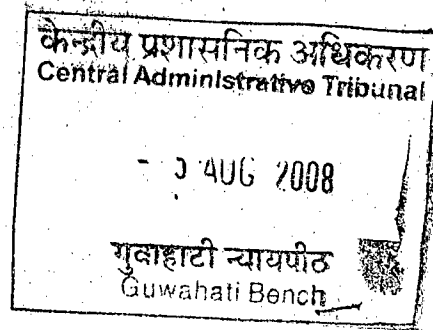


VERIFICATION

I, Sri Manoranjan Das, S/o- Sri Haripada Das, aged about 49 years, Working as Assistant Accounts Officer in the Office of the Executive Engineer, Ministry of Urban Development, C.P.W.D, Tripura Central Division, Agartala, applicant in the instant original application, do hereby verify that the statements made in paragraph 1 to 5 of the additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on the 2nd day of August 2008.

Manoranjan Das



Annexure-A *4241*

Ministry of Finance
Department of Expenditure
E-II (B) Branch

Sub: proposal seeking clarification as to whether the employees posted/transferred in N.E. Region, at their own request from outside the N.E. Region are eligible to get SDA.

Reference U.O.No.Admin./1(27)/Shillong/06-07/2412 of Office of Pr.Chief Controller of Accounts (Central Excise & Customs) on pre-page.

There is no restriction for grant of Special Duty Allowance to Central Govt. Employees if they are posted on their own request and are entitled to SDA as per criteria for payment of SDA as mentioned in para 5 of Finance Ministry's O.M.No.11(5)/97-E.II(B) dated 29.5.2005(copy enclosed). Office of Pr. Chief Controller of Accounts is advised to decide the cases of payment of SDA accordingly.

Encl. as above

R. Prem Anand
(R. Prem Anand)
Under Secretary to Govt. of India.

Shri Arvind Kumar, Controller of Accounts, O/o Pr. Chief Controller of Accounts, Central Excise & Customs, A.G.C.R. Building, New Delhi.
(15/02/07)

M/o Fin.(Expdr.) U.O.No.11(1)E.II(B)/07, dt. 26/2/07

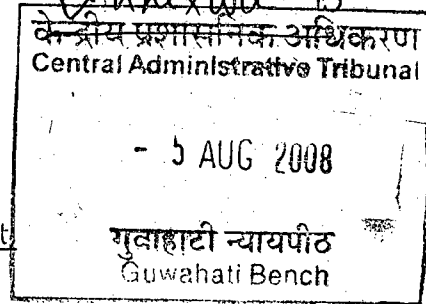
*Directed
Mulla
26/2*

*28/2/07
28/2/07
28/2/07
28/2/07*

-6-

15
Government of India
PRINCIPAL ACCOUNTS OFFICE
Ministry of Steel & Mines
Department of Mines
2nd Floor, Lok Nayak Bhawan, Khan Market
New Delhi-110003

Tel: 24698012 Telefax: 24615476



PAS/682)2008-09/Partfile I/109

Dated 28.04.2008

To Controller of Accounts,
Central Accounts Office,
Geological Survey of India,
Kolkata.

10-106
07.5.08

29/4/08

Subject: Reallocation of Junior/Assistant Accounts Officer.

Sir,

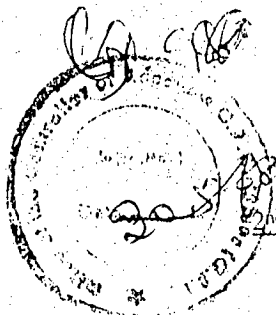
In pursuance of CGA's Office Memorandum No. A-22014/1/2007/MF.CGA/IMT/EZ/1059-62 dated 24.03.2008 on the subject cited above, vide which Sh. Manoranjan Das, JAO of your office has been transferred and posted in the same capacity to M/o Urban Development, Agartala, you are requested to relieve Sh. Manoranjan Das of his duties with immediate effect with instructions to report for duty at M/o Urban Development, Agartala.

This issues with the approval of the CCA (SEM).

Yours faithfully

m.m. 
Sr. Accounts Officer

Accepted
Muta
Ddv

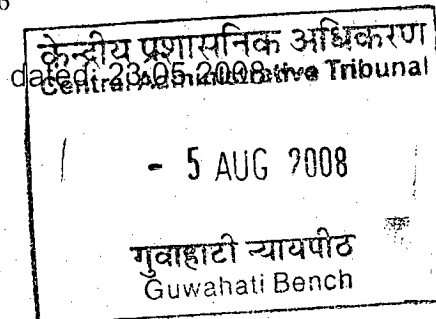


Government of India
PRINCIPAL ACCOUNTS OFFICE,
Ministry of Steel & Mines
Department of Mines
2nd Floor, Lok Nayak Bhawan, Khan Market,
New Delhi-110003

Tel: 24698012 Tele: 24615476
Fax No: 24645080

Annexure - C

PAS/6(82)/2008-09/Part File II/ 264



OFFICE-ORDER

In pursuance of CGA's OM No. A-32016/6/2008-09/MF.CGA/AAO/86 dated 24.04.2008, the following JAOs of Ministry of Mines are hereby promoted to the post of AAO in the Pay scale of Rs. 7450-225-11500 with effect from 01.04.2008:

<u>Sl. No.</u>	<u>Name of the Official</u>	<u>Office where posted</u>
1	Sh. Manoranjan Das	PAO, GSI, Kolkata
2	Sh. K. M. Shaju	PAO, GSI, Nagpur

This issues with the approval of Chief Controller of Accounts, Min. of Steel & Mines, New Delhi.

M.M. Kandwal
(M.M. Kandwal)
Sr. Accounts Officer

Copy for information & necessary action to:

1. The Accounts Officer, O/o the Controller General of Accounts, Min. of Finance, D/o Expenditure, New Delhi with reference to the said OM dated 24.04.2008.
2. Sh. Manoranjan Das, JAO of PAO, GSI, Kolkata.
3. Sh. K.M. Shaju, JAO of PAO, GSI, Nagpur.
4. The Accounts officer, Pay & Accounts Office, Geological Survey of India, Nagpur.
5. The Controller of Accounts, Central Accounts office, Geological Survey of India, Kolkata.
6. The Office Order Folder.

Sh. K.M. Shaju
#dv

- 8 -

92

Annexure-D

GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT

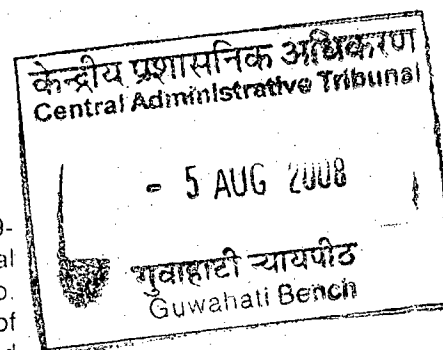
O/O THE EXECUTIVE ENGINEER
TRIPURA CENTRAL DIVISION- I
AGARTALA AIRFIELD
PH- (0381) 2342250

No:- 3(2)/TCD-I/AGT/2008/ 911

Dated:- 30 /05/08

OFFICE ORDER

In pursuance of CGA'S OM. No. A22014/1/2007/MF.CGA/IMT/EZ/1059-1062 dated 24.03.08 conveyed by Asstt. Controller of Accounts (Admn.) Principal Account's office, Ministry of Urban Development, New Delhi Office Order No. 477(A) 2008 dated 31.03.2008 and issued releived order by Controller of Accounts, Ministry of Mines Kolkata- 01 Office Order No. ESTT/13 dated 28.05.2008 Sri, Monoranjan Das, JAO. Has been reported for duty of this office. on 30.05.2008. (FN) as Divisional Accountant.



Executive Engineer
Tripura Central Division - I
CPWD, Agartala Airfield,

Copy forwarded for information please.

1. The Controller of Accounts, O/O the controller Accounts, Central Accounts office, Ministry of Mines, Geological Survey of India, 16 A, Brabourne road (7th floor), Kolkata - 700001.
2. The Sri, Accounts officer, O/O the controller General of Accounts Ministry of Finance, Department of Expenditure, Lok Nayak Bhawan, Khan Market, New Delhi - 110003.
3. The Principal chief Controller of Accounts, Ministry of Mines, Road no 299 C, Udyog Bhawan, New Delhi - 110011.
4. The Assistant Controller of Accounts (Admn), Principal Accounts Office, Ministry of Urban Development, New Delhi - 110011.
5. The Pay & Accounts officer, (NEZ), Ministry of Urban Development, CPWD, Shillong - 1.
6. The Chief Engineer (NEZ), CPWD, Shillong - 01.
7. The Supriending Engineer, SCC, Silchar - 03.
8. The Executive Engineer, Tripura Central Division - II, CPWD, Agartala Airfield, Agartala - 09.
9. The All Assistant Engineer, Tripura Central Division - I, CPWD, Agartala Airfield, Agartala - 09.
10. The Divisional Accountant / TCD-I, Agartala Airfield.
11. Head Clerk /TCD-I. Agartala Airfield.
12. Sri Monoranjan Das, Junior Accounts Officer.
13. Sri A.K. Dutta, (SDC of TCSD- I), Your additional charge of Divisional Accountant look after duty is hereby withdrawn, and directed to handed over the charge of divisional Accountant immediately.
14. Personal File of JAO.
15. The Bill Section/ TCD-I/AGT.

*Attended
Dutta
Aon*

EXECUTIVE ENGINEER

Annexure - E

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

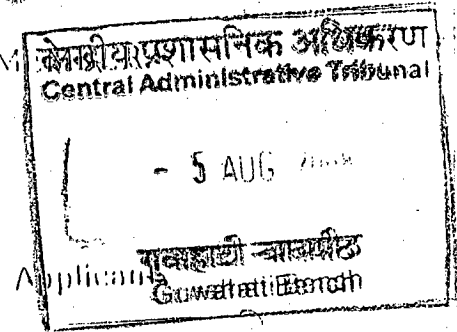
Original Application No.250 of 2004.

Date of order This, the 18th Day of August, 2005

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

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

Shri Lienkhawthang Varte.
Son of Sri H.V.Varte.
Rehabilitation Officer.
VRC for handicapped.
Rehabari, Guwahati-8.



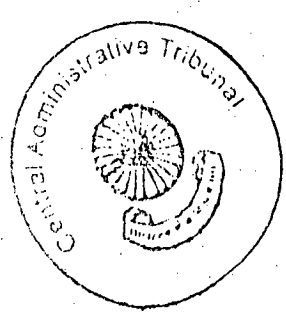
By Advocate Mr.M.Chanda, Mr.G.N.Chakraborty, Mr.S.Choudhury,
Mr.S.Nath.

Versus-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Labour
New Delhi-110001.
2. Deputy Secretary to the
Government of India
Ministry of Labour,
New Delhi-110001.
3. The Director General of Employment and Training.
Joint Secretary to the Govt. of India,
Ministry of Labour(DGE&T),
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001
4. The Dy. Director General (Employment)
Ministry of Labour (DGE&T),
Sharam Shakti Bhawan, Rafi Marg,
New Delhi-110001.
5. Assistant Director (Rehab)
V.R.C. for Handicapped.
Rehabari, Guwahati-8.

Respondents.

By Advocate Mr.A.K.Choudhury, Addl.C.G.S.C.



*Shrestha
Adv*

-10-

केंद्रिय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 5 AUG 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

ORDER

SIVARAJAN, J.V.C.:

The applicant is working as Rehabilitation Officer for handicapped at Guwahati under the 5th Respondent. He was initially appointed as UDC in the office of the Commissioner of Income Tax at Shillong. While so he was selected for the post of Assistant Grade through all India competition in the 1982 and he joined as Assistant Grade in the office of the U.P.S.C, New Delhi pursuant to appointment order dated 30.1.1984. The applicant while working as Assistant Grade at UPSC, New Delhi was again selected for appointment to the post of Rehabilitation Officer under the Government of India, Ministry of Labour in the Directorate of Employment and Training, V.R.C. for handicapped. He was given offer of appointment at V.R.C., Guwahati vide letter dated 10.3.1986. He accepted the said offer and joined at V.R.C, Guwahati on 25.3.1986 from New Delhi.

2. The grievance of the applicant is that though he was being paid Special Duty Allowance (for short SDA) since then under the various Government orders for grant of Special Duty Allowance to the Central Government employees working in the North Eastern Region the same was discontinued all of a sudden vide letter dated 25.10.04 issued by the 5th Respondent. It was further ordered in the said communication that as sum of Rs.86,428/- being excess payment made will be recovered from his salary @ Rs. 1,800/- p.m. in 48 installments with effect from November, 2004. It is stated that the said communication has been issued following Audit Report without providing any opportunity or show cause notice as required under law. It is further stated that on a mere reading of the Office Memorandum dated 12.1.1996 and 29.5.2002 issued by the

Spw

Government of India and Cabinet Secretariat U.O. letter dated - 5 AUG 2008

2.5.2000 it will be evident that a Civilian Central Government

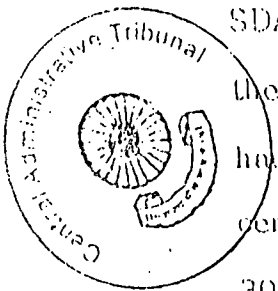
Employee on posting to N.E.Region from outside Region having All

गुवाहाटी न्यायपीठ
Guwahati Bench

India Transfer Liability and recruitment, promotion and seniority are also based on All India basis he is entitled to SDA. It is further stated that Cabinet Secretariat U.O. letter dated 2.5.2000 further makes it abundantly clear that even a resident of N.E.Region is also entitled to payment of SDA on his posting to N.E.Region from outside the N.E.Region provided employee concerned is saddled with all India Transfer Liability even on his first posting at N.E.Region from outside the N.E.Region. The applicant has also relied on the decision of this Tribunal in that regard. According to the applicant he is legally entitled to payment of SDA and the impugned office order dated 25.10.2004 is liable to set aside and quashed.

3. The Respondents have filed their detailed written statement and contended that only Central Government Civilian Employees transferred from outside Region to N.E.Region and having all India Transfer liability and all India common seniority are entitled to get SDA under the various Government orders and as per the decisions of the Supreme Court. The applicant has filed a rejoinder wherein he had reiterated the stand taken in the O.A. and he has also produced certain communications particularly the communication dated 30.1.2004 (Annexure B) issued by the Chief Engineer, Shillong where it is stated that all Group A & B officers of MES covered by the criteria of all India Transfer Liability are considered for grant of SDA on their posting to N.E.Region from outside Region.

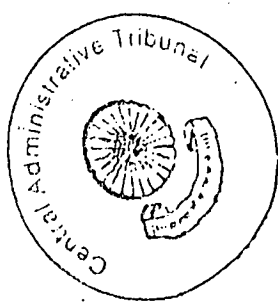
4. We have heard Mr.M.Chanda learned counsel appearing for the applicant and Mr.A.K.Choudhury, Addl.C.C.S.C for the Respondents.



9/10/2008

The applicant is a resident of N.E. Region. At the time of his appointment as Rehabilitation officer, V.R.C., Guwahati the applicant was employed as Assistant Grade in the UPSC, New Delhi. He was serving there for approximately two years. On his selection and appointment as Rehabilitation Officer he was relieved from the office of the UPSC, New Delhi, to take up the new assignment as Rehabilitation Officer at VRC, Guwahati retaining his view in the UPSC, New Delhi. In that sense the applicant was posted to the N.E. Region from outside Region namely; from New Delhi.

5. We have considered the question of admissibility of SDA to the Central Government Civilian Employees in our common order dated 31.5.05 in O.A.No.170 of 1999 and connected cases with reference to all the relevant Government orders including the government orders dated 12.1.1996, 2.5.2000 and 29.5.2002 and also the decisions of the Supreme Court and of this Tribunal. The principles deduced from the above, were summarized in paragraph 52 and 53 of the said common order which read thus:



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

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

9/8/08

-13-

(24)

57

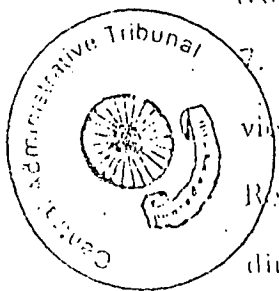
53. Further, payment of SDA, if any made to ineligible persons till 5.10.2001 will be waived."

5 AUG 2008

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

6. As per the above SDA is admissible to Central Government Employees having All India Transfer liability on posting to N.E. Region from outside Region. By virtue of Cabinet clarification dated 2.5.2000 an employee belonging to N.E. Region and subsequently posted to outside N.E. Region if he re-transferred to N.E. Region is also entitled to grant of SDA provided he is also having promotional avenues based on a common All India Seniority and All India Transfer Liability. Same is the position in the case of a resident of N.E. Region originally recruited from outside region and later transferred to N.E. Region by virtue of All India Transfer Liability provided the promotion are also based on All India common seniority. As already noted if we consider the case on hand based on the factual situation as it obtained it would appear that the case of the applicant would fall in the first category itself namely; Central Government Employees having All India Transfer Liability on posting to N.E. Region from outside the region. The only special feature is that the applicant is a resident of N.E. Region and that his posting in the N.E. Region is not by way of transfer from outside region.



7. Having considered the matter we are of the view, particularly in view of the special factual situation in this case the second Respondent - Deputy Secretary, Government of India, must be directed to consider the case of the applicant for continued payment of SDA. We accordingly, direct the applicant to make a detailed representation pointing out the special circumstances and to request for continued payment of SDA to the applicant within a period of two months from to-day. If the applicant makes such a representation as directed the 2nd respondent will consider the same.

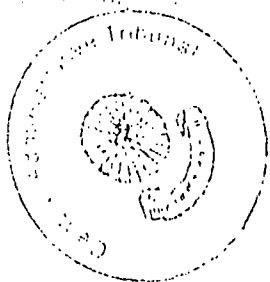
4/8/08

and pass appropriate orders in accordance with the law and in the light of the observations contained in this order and with reference to our decision in the common order dated 31.5.2005 and connected cases extracted above within a period of four months thereafter.

B. So far as ^{the} question of recovery of excess payment of SDA is concerned, since the applicant cannot ^{be} in any manner be held responsible for payment of excess amount by way of SDA the Respondents are not justified in recovering of such excess payment as ordered in the impugned order dated 25.10.2004. We accordingly, set aside the impugned order dated 25.10.04 in so far as it related to the recovery part and restrain the Respondents from recovering any amount from the applicant by way of excess amount paid to the applicant as SDA.

Application is disposed of as above. The applicant will produce a copy of this order, alongwith the representation to the 1st Respondent for compliance.

Y
Sd/- Vice Chairman
Sd/- Member (A)



Date of Application : 19.8.05
Date on which copy is ready : 19.8.05
Date on which copy is delivered : 19.8.05
Certified to be true copy

N. S. S. S. S.
19.8.05
Section Clerk (J.dh)
C. A. T. Guwahati Bench
Guwahati

29

NOTICE

From: Mrs. V. Dutta,
Advocate

To: Mrs. M. Das,
Addl. C.G.S.C.

Subj: Additional Refinder in O.A. No. 33/2007.

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

Received

(M. Das)
Addl. C.G.S.C.

Yours Sincerely
Dutta
(Mrs. V. Dutta)
Advocate

I undertake to serve a copy
to Mrs. M. Das, Addl. C.G.S.C.

Dutta
05/08/08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

In the matter of:-

O.A no.33/07

Sri Manoranjan Das

...Applicant

-Vs-

Union of India and ors.

...Respondents

MEMORANDUM

The counsel on behalf of the respondents begs to furnish the following document regarding payment of SDA to the applicant:

1. Letter dated 19-09-08 under No. A-48011/29/2008-Ad.VI issued by the Govt. of India, Ministry of Home Affairs, North Block, New Delhi.

Filed by:

Received
Date
01/12/08

11/12/08

Mrs. Manjula Das
Central Govt. Counsel,
CAT, Guwahati Bench.

File in Court on... 1/12/08
Court Officer.

MOST IMMEDIATE
COURT MATTER
OUT TODAY

No.A-48011/29/2008-Ad.VI
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

North Block, New Delhi
Dated:

19-9-2008

To

The Accounts Officer (Admn),
Principal Accounts Office (Admn),
Ministry of Home Affairs,
North Block,
New Delhi-110001.

Sub: O.A. No.33/2007 in the matter of Mr. M.Das (Applicant) Vs Union of India regarding payment of Special Duty Allowance to the applicant.

Sir,

I am directed to refer to O.A. No.33/2007 received from Central Administrative Tribunal, Guwahati Bench on the above subject and your letter No.300/Misc./CAT/MD/688 dated 24.4.2008 and to say that Shri Manoranjan Das had served in the Ministry of Home Affairs for less than a month as temporary Lower Division Clerk of Central Secretariat Clerical Service. Records of this case being more than twenty years old and having outlived the prescribed retention schedule of Government of India, are not available.

2. From the O.A. filed by Mr. M. Das and its enclosures, it is apparent that

- a. Shri Manoranjan Das was appointed as LDC of CPCS Cadre of Ministry of Home Affairs on 19.3.1984.
- b. He was relieved on 16.4.1984 to join PAO (Assam Rifles), Shillong with the stipulation that he will not be entitled for any TA/DA.

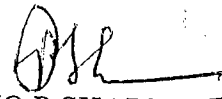
.....2/-

File in Court on 1/12/88
Court Officer.

3. As TA/DA is admissible only if the transfer is in the in public interest, in the absence of records, it can safely be concluded that he was not transferred in public interest. After his transfer, he was no more on the strength of CSCS Cadre of Ministry of Home Affairs as Office of Principal Accounts Office (Assam Rifles), Shillong is not a participating office.

4. The interest of Ministry of Home Affairs may also be taken care of by Principal Accounts Office and you are therefore requested to defend the case in the Central Administrative Tribunal accordingly.

Yours faithfully,



(O.P.SHARMA)

Under Secretary to the Government of India
Tel.No.23093666

Copy to:

1. Mrs. M. Das, Learned Counsel, Central Administrative Tribunal, Guwahati Bench, Guwahati for appropriate necessary action.