

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 34/2007

R.A/C.P No.

✓
E.P/M.A No. 113/2007

1. Orders Sheet..... PAPg. 1.....to 5.....
MP 113/07 order sheetPg. 1.....to 2 Allowed 11.12.07
2. Judgment/Order dtd. 14.12.2007Pg. 1.....to 2 Dismissed with reasons.
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 34/2007Pg. 1.....to 24.....
5. ✓ E.P/M.P. 113/2007Pg. 1.....to 5.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
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.....

SECTION OFFICER (Judl.)

Sahita
21.9.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No. 34 /2007
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Sri H. Rajbanshi VS Union of India & Ors

Advocate for the Applicant(S) Mr. A. Ahmed
Ms. S. Bhattacharyya

Advocate for the Respondant(S) Adv. CGSC H. L. Ahmed

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

This application is in form
is filed in Form No. 50/-
d-100
No. 346-650464
Dated 7-2-2007

H. L. Ahmed
Dy. Registrar

AS
7-2-07

8.2.07

The claim of the applicant is that he is a Group B officer having all India transfer liability and he has been granted Special Duty Allowance but all of a sudden on the ground of alleged excess payment to the tune of Rs. 68,752/- recovery order has been issued by the respondents. Aggrieved by the said action of the respondents he has filed this O.A for setting aside the impugned recovery order dated 5.2.07 and to continue the payment of SDA to the applicant.

2-34/2007

Notice & order sent to
D/Section for issuing
to R-1 to 3 by
regd. post and another
R-4 sent to received
by hand.

~~19/2/07~~ D/No-197, 221, 222, 223
21/2/07, 26/2/07.

Notice duly served
on R-4.

~~6/3/07~~

No Wks has been
biled.

22.3.07.

order dt. 23/3/07
issuing to learned
advocate's for both
the parties.

lm

30.4.2007

No Wks has been
biled.

27.4.07.

order dt. 30/4/07 issuing to
learned advocate's for
both the parties.

/bb

No Wks has been
biled.

21.5.07.

Heard Mr A. Ahnmed, learned counsel for
the applicant and Mr M.U. Ahmed,
learned Addl.C.G.S.C for the
respondents.

Considering the issue
involved the O.A is admitted. Issue
notice to the respondents.

Post on 23.3.07 for order.

By way of interim order the
recovery sought to be made as per
order dated 5.2.07 shall be kept in
abeyance.

Vice-Chairman

pg

23.3.07.

No written statement has
been filed. post the matter on
30.4.07 for filing of written
statement and further orders.
Interim order shall continue.

Member

Vice-Chairman

Mr. M. U. Ahmed, learned Addl.
C.G.S.C. prays for further time to file reply
statement. Post the case after four weeks
for filing of reply statement.

Interim order shall continue till such
time.

Vice-Chairman

O.A-34/07

Order dt. 22/5/07
issuing to learned
advocate's for both
the parties.

23/5/07.

22.5.07. Registry is directed to fix the matter
alongwith SDA matters, which are put on
hearing list. In the meantime, respondents
may file reply statement. Post the matter
on 30.5.07. Interim order shall continue.

Vice-Chairman

Lm

No Wls has been
biked.

1.6.07.

5.6.2007

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

Vice-Chairman

No Wls has been
biked.

/bb/

12.06.07

13.6.2007

At the request for the Applicant the
case is adjourned and posted on 2.7.2007
for hearing. In the meantime Respondents
are at liberty to file reply statement.

Vice-Chairman

/bb/

Wls not biked.

2.7.2007

12.7.07.

The case is delinked and
Respondents are granted three weeks time
to file reply statement as requested by
Mr.M.U.Ahmed, learned Addl. C.G.S.C.

Post the case on 13.7.2007.

Vice-Chairman

/bb/

DA 34/02 - Bp

13.7.07. Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 6.8.07.

W/S not filed.

ms
21.8.07.

Lm.

Vice-Chairman

22.8.2007

Post the matter on 17.9.2007 granting further time to the Respondents to file reply statement as a matter of last chance. Since many of the SDA matters are disposed of Respondents are directed to expedite for filing reply statement by the next date. If not, the matter will be proceeded accordingly.

Vice-Chairman

/bb/

17.9.07

At the request of learned counsel for the Respondents four weeks further time is granted to file written statement. Post the matter on 8.11.07.

W/S not filed.

ms
7.11.07.

Vice-Chairman

lm

08.11.2007

Mr.A.Ahmed learned counsel for the Applicant has filed letter of absence. Mr.M.U.Ahmed, learned Addl.C.G.S.C. for the Respondents undertakes to file written statement within the next date. Call this matter on 11.12.2007.

W/S not filed.

ms
10.12.07.

Member(A)

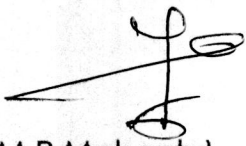
Lm

4

11.12.2007

The O.A. is dismissed being withdrawn in terms of the order passed separately.


(Gautam Ray)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

18.3.08
Indst issued
vide D/Nos 2611
to 2015 dt
28.12.07.
Hm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.34 of 2007 & M.P.113 of 2007

DATE OF DECISION: 11.12.2007

Shri H.Rajbonshi

.....Applicant/s

Mr.A.Ahmed

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

- Versus -

U.O.I. & Ors

.....Respondent/s

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

..... Advocate for the
Respondents

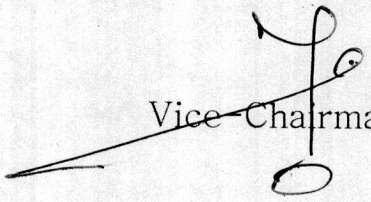
CORAM

THE HON'BLE MR. M.R. MOHANTY, VICE CHAIRMAN

THE HON'BLE MR GAUTAM RAY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No ✓
2. Whether to be referred to the Reporter or not? Yes/No ✓
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No ✓

Judgment delivered by


Vice Chairman/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 34 of 2007

and

Misc. Application No.113 of 2007

Date of Order: This, the 11th Day of December, 2007

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI GAUTAM RAY, ADMINISTRATIVE MEMBER

Shri Harmohan Rajbonshi
Son of Late Khargeswar Rajbonshi
Labour and Enforcement Officer (Central)
Office of the Regional Labour Commissioner (Central)
Zoo Road Tiniali, Saptrishi Path
Guwahati-781 024 (Assam).

..... Applicant.

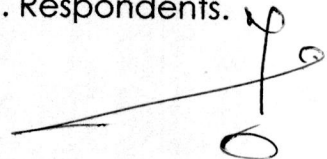
By Advocates Mr.A.Ahmed & Ms.S.Bhattacharjee.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Labour & Employment
Shram Shakti Bhawan, Rafi Marg
New Delhi - 1.
2. The Chief Labour Commissioner (Central)
Shram Shakti Bhawan
Rafi Marg
New Delhi -1.
3. The Controller of Accounts
Internal Audit Organisation (HQ)
Shram Shakti Bhawan
Rafi Marg, New Delhi-1.
4. The Regional Labour Commissioner (Central)
Office of the Regional Labour Commissioner (Central)
Zoo Road Tiniali, Saptrishi Path
Guwahati -781 024 (Assam).

..... Respondents.

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



ORDER (ORAL)**M.R.MOHANTY, (V.C.):**

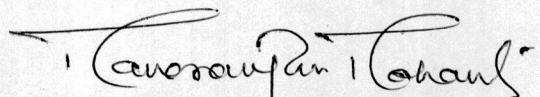
Heard Mr.A.Ahmed, learned counsel appearing for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing counsel for the Respondents Department.

2. By an order dated 05.02.2007 payment of Special Duty Allowances to the Applicant was denied, for which he has filed the present Original Application No.34 of 2007 under Section 19 of the Administrative Tribunals Act, 1985. During pendency of this case, the Respondents have passed an order dated 07.09.2007 restoring Special Duty Allowances in favour of the Applicant and, in the said premises, the Applicant has filed the Misc. Application No.113 of 2007 seeking permission to withdraw the present Original Application.

3. Having heard the learned counsel appearing for both the parties, this Misc. Application No.113 of 2007 is allowed and the Original Application No. 34 of 2007 is permitted to be withdrawn.

4. As a consequence, Original Application No.34 of 2007 stands dismissed being withdrawn. No costs.


(GAUTAM RAY)
MEMBER (A)


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/

7-2-07

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 34 OF 2007.

Shri Harmohan Rajbonshi

...Applicant

- Versus -

The Union of India & Others

...Respondents

INDEX

Sl. No.	Annexure	Particulars	Page No.
1	...	Application	1 to 10
2	...	Verification	11
3	A	The photocopy of the Office Order No.30 of 1992.	12
4	B	The photocopy of the Office Order No.3 of 1998.	13
5	C	The photocopy of extract of Office Memorandum dated 14-12-1983.	14-15
6	D	The photocopy of Office Memorandum No.F.No.11 (2)/97-E-II (B) dated 22-07-1998.	16-21
7	E	The photocopy of Letter No.20-12-1999-EA-1-1799 dated 02-05-2000.	22-24
8	F	The photocopy of Office Order No.80(1)/2000-Adm.II dated 5 th February 2007.	25.

Date: 7-2-2007

Filed By:

Smita Bhattacharjee

Advocate

12

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.**

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

ORIGINAL APPLICATION NO. 34 OF 2007.

Shri Harmohan Rajbonshi

...Applicant

- Versus -

The Union of India & Others

...Respondents

LIST OF DATES / SYNOPSIS

- | | |
|------------|--|
| 1971 | The Applicant was appointed as Lower Division Clerk in the Office of the Assistant Labour Commissioner (Central) Guwahati. |
| 1982 | The Applicant was promoted to the post of Upper Division Clerk and posted at Regional Labour Commissioner (Central) Guwahati. |
| 14.12.1983 | Office Memorandum issued by the Govt. Of India, Ministry of Finance, Department Of Expenditure for granting Special Duty Allowance to the Central Government Civilian Employees serving in North Eastern Region. |
| 02.07.1992 | The Applicant was promoted to the post of Office Superintendent and posted to Ahmedabad at the office of the Regional Labour Commissioner (Central), Ahmedabad from Guwahati. |
| 1996 | The Applicant was transferred from Ahmedabad to Guwahati. |
| 27.01.1998 | The Applicant was promoted to the post of Labour Enforcement Officer (Central) and was transferred from Guwahati to Tezpur. |
| 22.07.1998 | Office Memorandum issued by the Govt. Of India, Ministry of Finance, Department Of Expenditure for granting Special Duty Allowance to the Central |

H. Rajbonshi

Government Civilian Employees serving in North Eastern Region.

- 02.05.2000 Cabinet Secretariat clarification regarding payment of Special Duty Allowance to Central Government Employees posted at North Eastern Region Vide Circular No.20-12-1999-EA-1-1799.
- 06.04.2002 The Applicant was transferred from Tezpur to Lumding.
- 2006 The Applicant was transferred from Lumding to Guwahati.
- 05.02.2007 Recovery of Special Duty Allowance from the Applicant vide letter No.80(1)/2000-Adm.II whereby the Applicant was directed to deposit the SDA amount of Rs.68,752/- by the Respondent No.4.

Hence this Original Application filed before this Hon'ble Tribunal for seeking justice in to this matter.

V

H. Rajbongshi

FILED BY

Shri Harmohan Rajbonshi

... Applicant

Through - Smita Bhattacharjee
(Advocate)

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 34 OF 2007.

BETWEEN

Shri Harmohan Rajbonshi
Son of Late Khargeswar Rajbonshi
Labour and Enforcement Officer
(Central), Office of the Regional
Labour Commissioner (Central)
Zoo Road Tiniali, Saptrishi Path,
Guwahati-781024 (Assam)
...Applicant

- AND -

1. The Union of India represented by the Secretary to the Government of India, Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi-1.
2. The Chief Labour Commissioner (Central), Shram Shakti Bhawan, Rafi Marg, New Delhi-1.
3. The Controller of Accounts Internal Audit Organisation (HQ) Shram Shakti Bhawan, Rafi Marg, New Delhi-1.
4. The Regional Labour Commissioner (Central), Office of the Regional Labour Commissioner (Central), Zoo Road Tiniali, Saptrishi Path, Guwahati-781024 (Assam).

...Respondents

DETAILS OF THE APPLICATION

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

This application is made against the impugned office order No. 80 (1)/2000-Admn.II dated 5th February 2007 issued by the Respondent No.4 wherein it is directed to the

H. Rajbonshi

Applicant to deposit amount of Rs.68,752/- within the month of February 2007 in reference to excess payment of SDA.

2. **JURISDICTION OF THE TRIBUNAL :**

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

3. **LIMITATION :**

The Applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. **FACTS OF THE CASE :**

Facts of the case in brief are given below:

4.1 That your humble Applicant is Indian Citizen by birth and as such he is entitled to get all the rights and privileges guaranteed under the Constitution of India.

4.2 That your Applicant begs to state that he belongs to the North Eastern Region and was recruited as Lower Division Clerk in the year 1971 at the office of the Assistant Labour Commissioner (Central), Ministry of Labour, Government of India at Guwahati. He was promoted to the post of UDC in the year 1982 and he was posted at Regional Labour Commissioner (Central), Ministry of Labour, Government of India at Guwahati. He was promoted to the post of Office Superintendent vide Office Order No.30/1992 dated 2nd July 1992 and he was transferred and posted to Regional Labour Commissioner (Central), Ministry of Labour, Government of India, Ahmedabad, Gujrat from Guwahati. He was transferred to Guwahati from Ahmedabad in the year 1996. He was promoted to the post of Labour Enforcement Officer (Central) vide Office Order No.3 of 1998 dated

H. Rajbongshi

27.01.98 and he was transferred from Guwahati to Tezpur. In the year 2002 he was transferred from Tezpur to Lumding. Lastly in the year 2006 he was transferred from Lumding to Guwahati. Now he has been posted as Labour Enforcement Officer (Central) under the Respondent No.2.

The photocopy of the Office Order No.30 of 1992 is annexed hereunto and marked as **ANNEXURE-A.**

The photocopy of the Office Order No.3 of 1998 is annexed hereunto and marked as **ANNEXURE-B.**

4.3 That your Applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure granted certain improvements and facilities to the Central Government Civilian Employees of the Central Government serving in the States and Union Territories of North Eastern Region vide Office Memorandum No.20014/3/83-IV dated 14-12-1983. In clause II of the said Office Memorandum Special (Duty) Allowance was granted to Central Government Civilian Employees, who have All India Transfer liability at the rate of Rs.25% of the basic pay subject to ceiling of Rs.400/- (Rupees Four Hundred) only per month on posting to any station in the North Eastern Region. The relevant portion of the Office Memorandum dated 14.12.1983 is quoted below:

(iii) **Special (Duty) Allowance: -**

"Central Government Civilian employee who have All India Transfer liability will be granted a Special (Duty) Allowance at the rate of Rs.25% of basic pay subject to a ceiling of Rs.400/- (Rupees Four Hundred) only per month on posting to any station in the North East Region. Such of these employees who are exempted from payment of Income Tax, will however not be

H. Rajbongshi

eligible for the Special (Duty) Allowance, Special (Duty) Allowance will be in addition to any Special Pay and for allowances already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Deputation (Duty) Allowance will not exceed Rs.400/- (Rupees Four Hundred) only per month. Special Allowance like Special Compensatory (Remote) Locality Allowance, Construction Allowance and Project Allowance and Project Allowance will be drawn separately."

The Govt. of India, Ministry of Finance, Department of Expenditure vide its Office Memorandum No.F.No.11 (2)/97-E-II (B) dated 22-07-1998 continued the said facilities as per recommendation of the Fifth Central Pay Commission.

The photocopy of extract of Office Memorandum dated 14-12-1983 is annexed hereunto and marked as **ANNEXURE-C.**

The photocopy of Office Memorandum No.F.No.11 (2)/97-E-II (B) dated 22-07-1998 is annexed hereunto and marked as **ANNEXURE-D.**

4.4 That your Applicant begs to state that he is saddled with All India Transfer liability in terms of his offer of appointment and with the said liabilities he has accepted for All India Transfer liability as per their appointment letter. It is worth to mention here that as per the said All India Transfer Liability he was transferred to Ahmedabad, Gujrat from North Eastern Region and he was reposted to North Eastern Region from outside of North Eastern Region. Therefore, the Applicant is in practice saddled with All India Transfer Liability and in terms of Office Memorandum dated 14-12-1983 and he is legally entitled for grant of Special

H. Rijbongshi

(Duty) Allowances. Moreover, he is also having common All India Seniority. Accordingly the applicant was paid Special Duty Allowance without any interruption by the Respondents themselves as he has fulfilled all the criteria laid down in the aforesaid Office Memorandum for payment of Special Duty Allowance.

4.5 That your Applicant begs to state that as per Cabinet Secretariat Letter No.20-12-1999-EA-1-1799 dated 02-05-2000 it has been further clarified that an employee belongs to NE Region and subsequently posted to outside of NE Region and reposted from outside of NE Region to NE Region will be entitled for Special Duty Allowance.

The photocopy of Letter No.20-12-1999-EA-1-1799 dated 02-05-2000 is annexed hereunto and marked as **ANNEXURE-E**.

4.6 That most surprisingly the Respondent No.4 vide his impugned office order No.80 (1) /2000-Adm.II dated 5th February 2007 wherein it is directed to recover Special Duty Allowance of Rs.68,752/- from the applicant and further directed him to deposit such amount of Rs.68,752/- within the month of February 2007. Hence finding no other alternative your Applicant is compelled to approach this Hon'ble Tribunal for seeking justice into this matter.

The photocopy of Office Order No.80(1)/2000-Adm.II dated 5th February 2007 issued by the Respondent No.4 is annexed hereunto and marked as **ANNEXURE-F**.

4.7 That your applicant begs to state that the Special Duty Allowance paid to the applicant by the respondents authorities itself after full satisfaction of criteria laid down in different memorandum regarding payment of Special Duty Allowance. After receiving the same the applicant spent the

H. Rajbongshi

said allowance in maintaining his dependent family members. He has not obtained the said allowance by way of fraud rather the allowance was duly paid to him by the respondents themselves. Hence your applicant cannot be held responsible for the mistake committed by the respondent authorities. Therefore, the applicant cannot be held responsible since he has no hands in the matter of sanction or discontinuation of Special Duty Allowance, when the authority paid the Special Duty Allowance to the applicant and he has spent the same as such question of recovery does not arise for no fault of applicant. Moreover, it will cause great financial hardship to the applicant if the same is allowed to recover from the applicant. The applicant has not committed any fraud in receiving the Special Duty Allowance. Therefore, the impugned order is not sustainable in the eye of law and may be set aside and quashed by this Hon'ble Tribunal.

It is further submitted that the applicant is also legally entitled for continuous payment of Special Duty Allowance as he has fulfilled all the criteria laid down in various office memorandums regarding payment of Special Duty Allowance to the Central Government employee and also by various Hon'ble Tribunal's Judgments.

4.8. That your Applicant begs to state that this Hon'ble Tribunal vide its Judgment and order dated 31.05.2005 passed in O.A. No. 170/1999 and other series of cases held that an employee belongs to N.E. Region and subsequently posted to outside the North Eastern Region and again he is reposted to North Eastern Region, he will be entitled for payment of Special Duty Allowance.

The Applicant craves leave of this Hon'ble Tribunal to refer to and rely upon a copy of the said Judgment at the time of hearing of the instant case.

H. Rajbongshi

4.9 That your Applicant begs to submit that he has fulfilled all the criterion laid down in the aforesaid Memorandum regarding payment of Special Duty Allowance, hence the Respondents cannot deny the same to the Applicants without any justification. *Shetty*

4.10 That your Applicant begs to submit that similarly situated persons are enjoying the same benefit without any interruption, as such the action of the Respondents is arbitrary, malafide, whimsical and also not sustainable in the eye of law as well as on facts. *Shetty*

4.11 That your Applicant demanded justice and the same has been denied.

4.12 That this application is filed bonafide and for the cause of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, due to the above reasons and facts, which are narrated in details, the action of the Respondents is prima facie illegal, malafide, arbitrary and without justification. As such the impugned order dated 5th February 2007 is liable to be set aside and quashed.

5.2 For that, the Applicant is practically having All India Transfer liability and as such, he is legally entitled to draw Special Duty Allowance as per various office memorandums in this regard. Moreover, the Applicant is having All India Seniority and Promotion. As such the impugned order dated 5th February 2007 is liable to be set aside and quashed.

5.3 For that, the Respondents particularly Respondent No.4 direction to deposit huge amount of Rs.73,079/- within the month of February 2007 is unjust and also whimsical. The actions of the Respondents are bad in the eye of law and

H. Rajbongshi

also not maintainable. As such the impugned order dated 5th February 2007 is liable to be set aside and quashed.

5.4 For that, similarly situated persons have already granted this relief by this Hon'ble Tribunal. As such the Respondent cannot deny the same relief to the Applicant.

5.5 For that, being a model employer the Respondents cannot deny the same benefits to the instant Applicant, which have been granted to the other similarly ^{situated} persons. The Respondents should extend this benefit to the Instant Applicant without approaching this Hon'ble Tribunal. As such the impugned order dated 5th February 2007 is liable to be set aside and quashed. *ghatta*

5.6 For that, it is unjust to discriminate among the Central Government Employees who are similarly situated and also it is not proper to insist on every aggrieved employee to approach the court of law when the cause of action is identical. As such the impugned order dated 5th February 2007 is liable to be set aside and quashed.

5.7 For that, in receiving the Special Duty Allowance the applicant did not commit any fraud or misrepresentations and as such he is not responsible for grant of the Special Duty Allowance by the authorities.

5.8 For that, applicant is legally entitled to payment of Special Duty Allowance in terms of the various judgments of this Hon'ble Tribunal.

5.9 For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The Applicant crave leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

H. Rajbongshi

6. DETAILS OF REMEDIES EXHAUSTED :

That there is no other alternative and efficacious and remedy available to the Applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

8. RELIEF PRAYED FOR :

Under the facts and circumstances stated above, the Applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relief (s) : -

8.1 That the Hon'ble Tribunal may be pleased to set aside the impugned office order No.80 (1)/2000-Adm.II dated 5th February 2007 (at ANNEXURE-F).

8.2 That the Hon'ble Tribunal may be pleased to direct the respondents to continue the payment of Special Duty Allowance to the applicant.

8.3 To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by this Hon'ble Tribunal.

8.4 To pay the costs of the application.

H. Rybongdin

9. INTERIM ORDER PRAYED FOR :

During the pendency of this application, the applicant most respectfully pray for the following relief : -

9.1 That the Hon'ble Tribunal may be pleased to stay the operation of the impugned order issued under office order No. 80 (1)/2000-Adm.II dated 5th February 2007 (at ANNEXURE-F) till disposal of this Original Application.

10. THIS APPLICATION IS FILED THROUGH ADVOCATE.

11. PARTICULARS OF I.P.O.

I.P.O. No. :-

Date of Issue :-

Issued from :-

Payable at :-

12. LIST OF ENCLOSURES:

As stated in Index.

Verification

H. Rajbongshi

V E R I F I C A T I O N

I, Shri Harmohan Rajbonshi, Son of Late Khargeswar Rajbonshi, aged about 56 years, working as Labour and Enforcement Officer (Central), Office of the Regional Labour Commissioner (Central), Zoo Road Tiniali, Saptrishi Path, Guwahati-781024 (Assam) do hereby solemnly verify that the statements made in paragraph 4.1, 4.4, 4.7, 4.8 ————— are true to my knowledge, those made in paragraph Nos. 4.2, 4.3, 4.5, 4.6 ————— are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 7th day of February February 2007 at Guwahati.

M. Rajbonshi

D E C L A R A N T

No. Adm.II/2(8)/92
Government of India
Ministry of Labour
OFFICE OF THE CHIEF LABOUR COMMISSIONER(CENTRAL)
NEW DELHI.

ANNEXURE--A

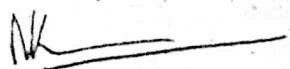
Dated the 2nd July, 1992.

OFFICE ORDER NO. 30/1992.

On the recommendations of the DPC, the following persons are promoted on regular basis as O.S. Gr. II in the scale of Rs. 1400-40-1800-EB-50-2300 with immediate effect and they are posted as follows :-

Sl. No.	Name	Present Hqrs.	Hqrs. where to be posted
1.	Shri S. Bora, UDC	RLC Office Guwahati	Dy. CLC(C), Bombay
✓ 2.	Shri ^S SL Raj Bongshi U.D.C.	RLC Office Guwahati	RLC Office Ahmedabad
3.	Shri B.S. Raju Stano	RLC Office Hyderabad	RLC Office Madras

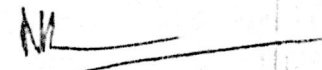
They are directed to report for duty to the places where they are posted and they should join the new post within one month of receipt of this order failing which offer of appointment will be cancelled and they will be debarred from promotion to this post for a period of one year as per Rules. Any requests for changing the place of posting shall not be entertained.


(N.K. VERMA)
Administrative Officer

Copy to :

1. *Persons concerned.
2. RLCs(C), Ahmedabad/Madras - (3 copies) / ALC, Vijaywada.
3. Dy. CLCs, Bombay/Bangalore/Dhanbad
4. Office Order Bundle

By
Regd.
Post


(N.K. VERMA)
Administrative Officer

ATTESTED


ADVOCATE

8.7.92
H. Raj Bongshi

- 13 -
No. Adm. 1/4(19)/97
Government of India
Ministry of Labour
Office of the Chief Labour Commissioner (C)
NEW DELHI

Specimen 1287

ANNEXURE-13

Date : 27.1.98

OFFICE ORDER NO. 3 OF 1998

On the recommendations of the Departmental Promotion Committee for Labour Enforcement Officers(Central) held on 9.1.98, Chief Labour Commissioner(Central) has ordered the promotion of following officers for appointment as Labour Enforcement Officer(Central) in the pay scale of Rs.6500-200-10500/- on regular basis w.e.f. the date they take over the charge of the new post.

SL.No.	Name and Designation	Presently working at	Place where posted on promotion
1.	Sh. S.C. Thakur, OS, Gr. I	Mumbai	Patna
2.	Sh. R.B. Sahay, OS, Gr. I	Dhanbad	Giridih
3.	Sh. D.C. Mandal, OS, Gr. I	Kanpur	Asansol
4.	Sh. H.M. Rajbongshi, OS Gr. I	Guwahati	Tezpur

The above officers will be on probation for a period of two years.

CLC
(CHARANJIT LAL)
Administrative Officer

Copy to:-

1. The persons concerned.
2. All concerned RLCs(C) with the request to relieve above mentioned officers immediately to enable them to join as LEO(C).
3. All PAOs.
4. All Dy. CLCs(C)/RLCs(C).
5. Adm. II section (10 copies)/ SE section (5 copies).
6. PS to CLC(C).
7. All officers/Sections in the CLC(C) Hqrs.
8. Personal file of the officer.
9. Office Order folder.
10. Spare 40 copies.

✓ RLC (C) Guwahati

R.S. Samyal
(R.S. SAMYAL)
Section Officer

ATTESTED

Bhatia
ADVOCATE

0/c
- 15 -
- 14 -
(Typed Copy)
Relevant portion

31
ANNEXURE - C

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

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in this Region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is not pleased to decide as follows:-

i) Tenure of posting/deputation

There will be a fixed tenure posting of 3 years at a time for Officers with service of 10 years or less and of 2 years at a time for Officers with more than 10 years of service, periods of leave, Training etc. in the excess of 15 days per year will be excluded in counting the tenure period of 2 / 3 years. Officer 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 station / 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

ATTESTED

Bhatto
ADVOCATE

- 15 -

when the employee concern in prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

- ii) Weightage for Central deputation / training abroad and special mention in confidential records.

XXX

- iii) Central Government Civilian employees who have all India transfer liability will be granted a special (Duty) Allowance at the rate of 25 percent of basic pay subject to any ceiling of Rs. 400/- per month on postings to any station in the North Eastern Region. Such of those employees who are exempted from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/deputation (Duty) Allowance will not exceed Rs. 400/- p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

Sd/- eligible

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

ATTESTED

S. Shatta
ADVOCATE

- 16 -

(Typed Copy)
Relevant portion

ANNEXURE - 'D'

Government of India
Ministry of Finance
Department of Expenditure
New Delhi dated July, 22, 1998

OFFICE MEMORANDUM

Subject : Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North Eastern Region and in the Andaman and Nicobar and Lakshadweep Groups of Island - Recommendation of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for serving in the North Eastern Region, comprising of the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid* were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalized in this Ministry's O.M. No. 20014/16/86/E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North Eastern Region.

2. The Fifth Central pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services posted in the North Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the

ATTESTED

S. Bhatta
ADVOCATE

-18-

34

Commission have been considered by the Government and the President is now pleased to decide as follows: -

(i) Tenure of Posting/Deputation]

The provisions in regard to tenure posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.II(8) dated December 1, 1988, shall continue to be applicable.

(ii) Weightage for Central Deputation/Training Abroad and Special Mention in Confidential Records. The provisions contained in this Ministry's O.M. No. 200014/3/83.E.IV date December 14, 1983, read with O.M. No. 20013/16/86-E.II(B) dated December 1, 1988 shall continue to be applicable.

(iii) Special (Duty) Allowance

Central Government Civilian Employees having an "All India Transfer Liability" and posted to the specified Territories in the North Eastern Region shall be granted the Special (Duty) Allowance at the rate of 12.5 percent of their Basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988 but without any ceiling on its quantum. In other words, the ceiling of Rs. 1,000 per month currently in force shall no longer be applicable and 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. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders in this Ministry's O.M. No. 20022/2/88.E.II(B) dated May 24, 1989, Central Government Civilian employees having an All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special

ATTESTED

S. Bhatia
ADVOCATE

Allowance at varying rates in lieu of the Special (Duty) Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(8) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

XX
XX
XXXXXXXXXXXX3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North - Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government Employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.
5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issued after consultation with the Comptroller and Auditor General of India.
6. Hindi version will follow.

Sd/-
(N. SUNDER RAJAN)
Joint Secretary to the Government of
India

ATTESTED
S. Shatta
ADVOCATE

New Delhi, Dated July 22, 1998

OFFICE MEMORANDUM

Subject: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands — Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid.* were also to apply mutatis mutandis to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86-E IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North-Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows:

(i) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(ii) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E IV dated December 14, 1983, read with O.M. No. 20014/16/86-E IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(iii) Special [Duty] Allowance

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special [Duty] Allowance at the rate of 12.5 per cent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum. In other words, the ceiling of Rs 1,000 per month currently in force shall no longer be applicable and 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. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E II(B) dated May 24, 1989, Central Government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special Allowance at varying rates in lieu of the Special [Duty] Allowance admissible in the North-Eastern Region. This Allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) Allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North-Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands.

ATTENDED

Bhatte

ADVOCATE

37

Special Compensatory Allowances
 Orders in regard to revision of the rates of various Special Compensatory Allowances, such as Remote Locality Allowance, Bad Climate Allowance, Tribal Area Allowance, Composite Hill Compensatory Allowance, etc., which are location-specific, have either been separately issued or are under issue based on the Government decisions on the recommendations of the Fifth Central Pay Commission relating to these allowances. These orders shall apply to the eligible Central Government employees posted in the specified localities in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands, depending on the area(s) of their posting and subject to the observance of the terms and conditions specified therein. Such of those employees who are entitled to the Special [Duty] Allowance or the Island [Special Duty] Allowance shall also be entitled, in addition, to the Special Compensatory Allowance(s) as admissible to them in terms of these separate orders.

Central Government employees entitled to Special Compensatory Allowances, separate orders in respect of which are yet to be issued, will continue to draw such allowances at the existing rates with reference to the 'national' pay which they would have drawn in the applicable pre-revised scales of pay but for the introduction of the corresponding revised scales till the revised orders are issued on the basis of the recommendations of the Fifth Central Pay Commission and the Government decisions thereon.

(v) Travelling Allowance on First Appointment
 The existing concessions as provided in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 and further liberalised in O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(vi) Travelling Allowance for Journeys on Transfer; Road Mileage for Transportation of Personal Effects on Transfer; Joining Time with Leave
 The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable.

(vii) Leave Travel Concession
 In terms of the existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, the following options are available to a government servant who leaves his family behind at the old headquarters or another selected place of residence, and who has not availed of transfer travelling allowance for the family :

(a) the government servant can avail of the leave travel concession for journey to the Home Town once in a block period of two years under the normal Leave Travel Concession Rules;

OR

(b) in lieu thereof, the government servant can avail of the facility for himself/herself to travel once a year from the station of posting to the Home Town or the place where the family is residing and for the family [restricted only to the spouse and two dependent children of age up to 18 years in respect of sons and up to 24 years in respect of daughters] also to travel once a year to visit the government servant at the station of posting.

These special provisions shall continue to be applicable.

In addition, Central Government employees and their families posted in these territories shall be entitled to avail of the Leave Travel Concession, in emergencies, on two additional occasions during their entire service career. This shall be termed as "Emergency Passage Concession" and is intended to enable the Central Government employees and/or their families [spouse and two dependent children] to travel either to the home town or the station of posting in an emergency. This shall be over and above the normal entitlements of the employees in terms of the O.M. dated December 14, 1983, and the two additional passages under the Emergency Passage Concession shall be availed of by the entitled mode and class of travel as admissible under the normal Leave Travel Concession Rules.

Further, in modification of the orders contained in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Officers drawing pay of Rs 13,500 and above and their families, i.e. spouse and two dependent children [up to 18 years in respect of sons and up to 24 years in respect of daughters] will be permitted to travel by air on Leave Travel Concession between Agartala/Aizawl/Imphal/Litlabari/Silchar in the North East and Calcutta and vice versa; between Port Blair in the Andaman & Nicobar Islands and Calcutta/Madras and vice versa; and between Kavaratti in the Lakshadweep Islands and Cochin and vice versa.

ATTESTED

Bhatta

ADVOCATE

-24- -22- ✓

(viii) Children Education Allowance and Hostel Subsidy

The existing provisions as contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable. The rates of Children Education Allowance and Hostel Subsidy having been revised in the Department of Personnel & Training O.M. No. 21017/1/97-Estt. (Allowances) dated June 12, 1998, the Allowance and Subsidy shall be payable at the revised monthly rates of Rs 100 and Rs 300 respectively per child.

(ix) Retention of Government Accommodation at the Last Station of Posting

The facility of retention of Government accommodation at the last station of posting by the Central Government employees posted to the specified territories and whose families continue to stay at that station is available in terms of the orders contained in the erstwhile Ministry of Works & Housing O.M. No. 12035/24/77-Vol. VI dated February 12, 1984, as amended from time to time. This facility shall continue to be available to the eligible Central Government employees posted in the North-Eastern Region, Andaman & Nicobar Islands and Lakshadweep Islands. In partial modification of these orders, Licence Fee for the accommodation so retained will be recoverable at the applicable normal rates in cases where the accommodation is below the type to which the employee is entitled to and at one and a half times the applicable normal rates in cases where the entitled type of accommodation has been retained. The facility of retention of Government accommodation at the last station of posting will also be admissible for a period of three years beyond the normal permissible period for retention of Government accommodation prescribed in the Rules.

(x) House Rent Allowance for Employees in Occupation of Hired Private Accommodation

The orders contained in this Ministry's O.M. No. 11016/1/E.II(B)/84 dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

(xi) Retention of Telephone Facility at the Last Station of Posting

As provided in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, Central Government employees who are eligible for residential telephones may be permitted to retain their residential telephone at their last station of posting, provided the rental and all other charges are paid by the concerned employees themselves.

(xii) Medical Facilities

Families and the eligible dependants of Central Government employees who stay behind at the previous stations of posting on the employees being posted to the specified territories shall continue to be eligible to avail of CGHS facilities at stations where such facilities are available. Detailed orders in this regard will be issued by the Ministry of Health & Family Welfare.

3. The President is also pleased to decide that these orders, in so far as they relate to the Central Government employees posted in the North-Eastern Region, shall also be applicable *mutatis mutandis* to the Civilian Central Government employees, including Officers of the All India Services, posted to Sikkim.

4. These orders will take effect from August 1, 1997.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

6. Hindi version will follow.

N. Sunder Rajan

(N.SUNDER RAJAN)

Joint Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

Copy also forwarded to Chief Secretary, Andaman & Nicobar Islands and Administrator, Lakshadweep.

TESTED

Bhette
ADVOCATE

COURT CASE

MOST IMMEDIATEANNEXURE - ECabinet Secretariat
(E.A. Section)

Subject: Special (Duty) Allowance for Civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region - regarding.

1. SSB Directorate may kindly refer to their UO No. 42/SSB/AT/99(18)- 2369 dated 31.03.2000 on the subject mentioned above.
2. The points of doubt raised by SSB in their UN No. 42/SSB/AT/99(18) - 5282 dated 2.9.1999 have been examined in consultation with our Integrated Finance and Ministry of Finance (Department of Expenditure) and clarification to the points doubt is given under for information, guidance and necessary action :

i)	The Hon'ble Supreme Court in their Judgment delivered on 26.11.96 in Writ Petition No. 794 of 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. Region from outside the region and in the following situation whether a Central Government employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their uO No. 11(3)/95.E.II(B) dated 7.5.97	
a)	A person belongs to outside N.E. Region but he is appointed and on first appointment posted in the N.E. Region after selection through direct recruitment based on the recruitment made on all India basis and having a common/centralised seniority list and All India Transfer Liability.	No
b)	An employee hailing from the N.E. Region selection on the basis of an All India recruitment test and borne on the Centralised cadre/service common seniority on first appointment and posted in the N.E. Region. He has also All India Transfer Liability.	No
ii)	An employee belongs to N.E. Region was appointed as Group "C" or "D" employee based	No

Attested for Advocate

ATTESTED

S. Shetty
ADVOCATE

	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 14.12.1983 and 20.4.87 read with O.M. 20014/16/86E.II(B) dated 1.12.1988) but subsequently the post/cadre was centralised with common seniority list/promotion/All India Transfer Liability etc. on his continuing in the N.E.Region though they can be transferred out to any place outside the NE Region having All India Transfer Liability.	
iii)	An employee belongs to N.E.Region and subsequently posted outside N.E.Region, whether he will be eligible for SDA if posted/transferred to N.E.Region. He is also having a common All India seniority and All India Transfer Liability	YES
iv)	An employee hailing from NE Region, posted to NE region initially but subsequently transferred out of NE Region but reposted to NE Region after sometime serving in non NE Region	YES
v)	The MOF. Deptt. Of Expdr. Vide their UO No. 11(3)/95-E.II(B) dated 7.6.97 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. For determination of the admissibility of the SDA to any Central Govt. Civilian employees having All India Transfer Liability will be by applying tests (a) whether recruitment to the Service/Cadre/Post has been made on All India basis (b) whether promotion is also done on the basis of All India Zone of promotion based on common seniority for the service/cadre/post as a whole (c) in the case of SSB/DGS, there is a common recruitment system made on All India basis and promotions are also one on the basis of All India Common Seniority. Based on the above criteria/tests all employees recruited on the All India basis and having a common seniority list of All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from N.E.Region or posted to N.E.Region from outside the N.E.Region	In case the employee hailing from NE region is posted within NE Region he is not entitled to SDA till he is once transferred out of that Region
vi)	Based on point (iv) above, some of the units of SSB/DGS have authorised payment of SDA to othe employees hailing from NE Region and posted within the N.E.Region while in the case of others, the DACS have objected payment of SDA	It has already been clarified by MOF that clause in the appointment order regarding All India

ATTESTED

S Bhatta
ADVOCATE

	to employees hailing from NE Region and posted within the NE Region irrespective of the fact that their transfer liability is All India Transfer Liability or otherwise. In such cases what should be the norm for payment of SDA i.e. on fulfilling the criteria of All India Recruitment Test & -to promotion of All India Common Seniority basis having been satisfied are all the employees Eligible for the grant of SDA	transfer Liability does not make him eligible for grant of SDA
vii)	Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20.9.1994 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 N.E.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 payment made to employees hailing from NE Region & posted in NE Region be recovered from the date of its payment. It may also be added that the payment made to the ineligible employee hailing from NE Region and posted in NE region be recovered from the date of payment or after 20th Sept., 94 whichever is later.

3. This issues with the concurrence of the Finance Division, Cabinet Secretariat vide Dy. No. 1349 dated 11.10.1999 and Ministry of Finance (Expenditure)'s I.D. No. 1204/E.II(B) dated 30.3.2000.

Sd/-
Illegible
(P.N.THAKUR)
DIRECTOR(SR)

1. Shri R.S.Bedl, Director ARC
2. Shri R.P. Kureel, Director, SSB
3. Birg.(Reld)G.S.Uban, IG,SFF
4. Shri S.R.Mehra, JD(P&C), DGS
5. Shri Ashok Chaturvedi, JS(Pers),R&AW,
6. Shri B.S.Gill, Director of Accounts, DACS
7. Shri J.M.Menon, Director Finance(S),Cab. Sectt.
8. Col. K.L. Jaspal, CIOA, CIA

Cab. Sectt. UO. No. 20/12/99-EA-1-1799 dated 2.5.2000.

ATTESTED

S. Bhatta
ADVOCATE

BY HAND/SPEED POST.

GOVERNMENT OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT
OFFICE OF THE REGIONAL LABOUR COMMISSIONER (CENTRAL)
ZOO ROAD TINIALI, SAPTRISHI PATH, GUWAHATI- 781024 (ASSAM)

No. 80 (1)/2000-Adm.II

Date: -

- 5 FEB 2007

To
✓ Shri H. Rajbongshi, LEO(C)
O/O the R.L.C.(C),
Guwahati.

Subject: - Excess payment of SDA of Rs. 68,752/-

The Internal Audit Party, Ministry of Labour & Employment, New Delhi during their inspection in the month of August, 2006 had detected excess payment of SDA of Rs. 68752/- (Rupees sixty eight thousand seven hundred fifty two). The said excess payment has been highlighted at Para No. 01 of Audit Report vide their letter No.IA-LAB/RLC-Guwahati/06-07/493; dt.22-11-2006.

Accordingly as per audit objection & directives, you are informed to deposit such amount of Rs.68752/- within the month of February, 2007 to this office. A copy of the Audit Objection is enclosed.

Enclo. :- As stated.

Young
02/02
Regional Labour Commissioner (Central)
Guwahati.

- Copy to
- (1) Adm. III Section for necessary action.
 - (2) the Accounts Officer(I.A.), O/O the Dy. Controller of Accounts, Internal Audit Organisation, Shram Shakti Bhawan, New Delhi.
 - (3) the C.L.C.(C), New Delhi.

Regional Labour Commissioner (Central)
Guwahati.

grp B'

ATTESTED
Bhalla
ADVOCATE