

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓  
O.A/T.A No. 35/2007.....

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

E.P/M.A No. 109/2007 (Ex 35/07)

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SECTION OFFICER (Judl.)

*Abul*  
21.9.17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 35 /2007
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Sri S. J. Majumdar VS Union of India & Ors

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

Advocate for the Respondent(s) CASC

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/ F.T. is 30/- deposit No. <u>980502</u> Dated <u>6-1-2007</u>		<p>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. 73,079/- 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.</p>

Dy. Registrar

1-2-07

2  
35/07

Notice & order sent to  
D/Section for issuing  
to R-1 to 3 by registered  
A/D post another set to be hand.

D/No - 218 to 220

(ccs) 19/2/07. No - 26/2/07.

Heard Mr. A. Ahmed, learned  
counsel for the applicant and Mr. G.  
Baishya, learned Sr.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.

Notice duly served  
on R-4.

pg

No W/S has been  
filed. Post the matter on 30.4.06  
for filing written statement and  
further orders. Post the matter on  
30.4.07. Interim order shall continue.

Member

Vice-Chairman

order dt - issuing to  
learned advocate for  
both the parties. 30.4.2007

Mr. G. Baishya, learned Sr.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

(ccs) 26/3/07  
No W/S has been  
filed.  
27.4.07. /bb

order dt. 30/4/07. issuing  
to learned advocate for  
both the parties - No W/S has been  
filed. 21.5.07

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 Wb's has been  
filed.

23  
11.6.07

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 Wb's has been  
filed.

23  
12.6.07

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/

2.7.2007

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

Post the case on 13.7.2007.

Vice-Chairman

/bb/

Wb's not filed.

23  
12.7.07

85.  $\alpha$ -Bpppxp $\beta$ pCpIwx'888

88ppp

8.c

368 790000 870 765000

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

is not likely.

By  
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

/b b/

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.

It is not listed.

*My*  
7.11.07

### **Vice-Chairman**

1m

08.11.07.

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.

lm

  
 Member(A)

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  
 Discont'd  
 made of Nos 2016  
 to 2019 dd 28.12.07  
 JK

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No.35 of 2007 & M.P.109 of 2007

DATE OF DECISION: 11.12.2007

Shri Subhra Jyoti Mazumdar

.....Applicant/s

Mr.A.Ahmed

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr. G. Baishya, Sr. C.G.S.C.

.....Advocate for the  
Respondents

CORAM

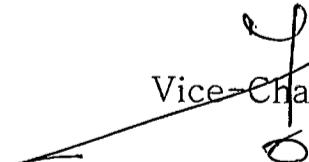
THE HON'BLE MR. M.R. MOHANTY, VICE CHAIRMAN

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)



4

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**

Original Application No. 35 of 2007

and

Misc. Application No.109 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 Subhra Jyoti Mazumdar  
Son of Late Ratna Mazumdar  
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.
3. The Regional Labour Commissioner (Central)  
Office of the Regional Labour Commissioner (Central)  
Zoo Road Tiniali, Saptrishi Path  
Guwahati -781 024 (Assam).

..... Respondents.

By Mr.G.Baishya, Sr. C.G.S.C.

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

Heard Mr.A.Ahmed, learned counsel appearing for the Applicant and Mr.G.Baishya, learned Sr. 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. 35 of 2007 under Section 19 of the Administrative Tribunals Act, 1985. During pendency of this case, the Respondents have passed an order dated 06.08.2007 restoring Special Duty Allowances in favour of the Applicant and, in the said premises, the Applicant has filed the Misc. Application No.109 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.109 of 2007 is allowed and the Original Application No. 35 of 2007 is permitted to be withdrawn.
4. As a consequence, Original Application No. 35 of 2007 stands dismissed being withdrawn. No costs.

  
(GAUTAM RAY)  
MEMBER (A)

  
(MANORANJAN MOHANTY)  
VICE-CHAIRMAN

/bb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 35 OF 2007.

Shri Subhra Jyoti Mazumdar

..... Applicant.

- Versus -

The Union of India & Others

..... Respondents.

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Date: 7-20-2007

Filed by

Smita Bhattacharjee

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 35 OF 2007.

Shri Subhra Jyoti Mazumdar

...Applicant

- Versus -

The Union of India & Others

...Respondents

LIST OF DATES / SYNOPSIS

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.

19.10.1994 The Applicant was appointed as Labour Enforcement Officer (Central) on the recommendation of Union Public Service Commission.

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 Government Civilian Employees serving in North Eastern Region.

05.04.1999 The Applicant was transferred to Darjeeling from Guwahati.

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.

18.01.2001 The post of the Applicant in the Grade of Labour Enforcement Officer (Central) was confirmed w.e.f. 22.06.1999.

09.05.2005 The Applicant was transferred from Dibrugarh to Shillong with Head Quarter at 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.73,079/- by the Respondent No.4.

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

*Subhra Jyoti Mazumdar*

FILED BY

Shri Subhra Jyoti Mazumdar  
...Applicant  
Through- Smita Chatterjee  
(Advocate)  
7/8.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 35 OF 2007.

BETWEEN

Shri Subhra Jyoti Mazumdar  
Son of Late Ratna Mazumdar  
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 5<sup>th</sup> February 2007 issued by the Respondent No.4 wherein it is directed to the

Subhra Jyoti Mazumdar

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Applicant to deposit amount of Rs.73,079/- 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 Labour Enforcement Officer (Central) in the Office of the Chief Labour Commissioner (Central), Ministry of Labour, Government of India through Union Public Service Commission. He was posted and joined in Guwahati Office in the month of June 1995. Thereafter, he was transferred to Darjeeling (West Bengal) as Labour Enforcement Officer (Central) vide Office Order No.6 of 1999 dated 05.04.1999 issued by the Office of the Respondent No.2. His post was confirmed in the Grade of Labour Enforcement Officer (Central) w.e.f. 22.06.1997 vide Office Order No.2 of 2001 dated 18.01.2001 issued by the Office of the Respondent No.2. He was transferred from Darjeeling to Dibrugarh in the month of April 2001. He was again transferred to Shillong

*Subrata Negi*

with Head Quarter at Guwahati in the Office of the Regional Labour Commissioner (Central), Guwahati vide Office Order No.12 of 2005 dated 09.05.2005.

The photocopy of Office Memorandum of appointment of the Applicant as Labour Enforcement Officer (Central) on the recommendation of Union Public Service Commission is annexed hereunto and marked as **ANNEXURE-A**.

The photocopy of Office Order No.6 of 99 issued by the Office of the Respondent No.2 is annexed hereunto and marked as **ANNEXURE-B**.

The photocopy of Office Order No.2 of 2001 issued by the Office of the Respondent No.2 is annexed hereunto and marked as **ANNEXURE-C**.

The photocopy of Office Order No.12 of 2005 issued by the Office of the Respondent No.2 is annexed hereunto and marked as **ANNEXURE-D**.

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

*Subhrajit Makhanda*

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 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-E**.

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-F**.

*Subhrajit Mehlal*

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 Darjeeling (West Bengal) 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 (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 G**.

4.6 That most surprisingly the Respondent No.4 vide his impugned office order No.80 (1) /2000-Adm.II dated 5<sup>th</sup> February 2007 wherein it is directed to recover Special Duty Allowance of Rs.73,079/- from the applicant and further directed him to deposit such amount of Rs.73,079/- 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.

*Subhayan's memorandum*

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

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 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.

*Subrata Majumdar*

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.

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.

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.

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

4.12 That this application is filed bona fide 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 5<sup>th</sup> February 2007 is liable to be set aside and quashed.

*Sukhrishi Mehandi*

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 5<sup>th</sup> 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 also not maintainable. As such the impugned order dated 5<sup>th</sup> 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 persons. The Respondents should extend this benefit to the Instant Applicant without approaching this Hon'ble Tribunal. As such the impugned order dated 5<sup>th</sup> February 2007 is liable to be set aside and quashed.

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 5<sup>th</sup> 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.

*Subrata Majumder*

5.2. For that the Applicat is prosecut by paring All India  
Tribunal Happia and as such he is legally entitled to draw  
Special Duty Allowance as per action of the Government  
in this regard. Moreover, the Applicat is paring All India  
Goveria and Promotion. As such the impuding order dated  
26 February 2003 is liable to be set aside and dispensed.

5.3. For that the Respondent is liable to be set aside and dispensed  
No.4. concession of deposit sum of Rs.73,075/- within  
the month of February 2003 is liable and also withdraw  
The credit of the Respondent the bed is the eye of law and  
also for punishment. As such the impuding order dated 26  
February 2003 is liable to be set aside and dispensed.

5.4. For that similarly interest because base salary  
being paid by this Hon'ble Tribunal. As such the  
Respondent cannot deny the same right of the Applicat.

5.5. For that, being a model employee the Respondent  
cannot deny the same benefit to the instant Applicat  
which paid him benefit to the other similarly person. The  
Respondent should extend this benefit to the instant  
Applicat without distinction. As such the impuding order  
dated 26 February 2003 is liable to  
be set aside and dispensed.

5.6. For that, it is unfair to discriminate among the  
Central Government Employee who are similarly situated  
and also it is not proper to discriminate on the basis of  
employment as apposed the court of law upon the cause of  
action is instruct. As such the impuding order dated 26  
February 2003 is liable to be set aside and dispensed.

5.7. For that in receiving the Special Duty Allowance the  
Applicat did not count the benefit of intercession  
and as such he is not liable to the benefit of the Special  
Duty Allowance for the purpose.

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.

**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 or 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) :-

Subhrajit Majumdar

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

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.

**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 5<sup>th</sup> 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. :- 28 Gr 980502

Date of Issue :- 6-1-2007

Issued from :- Guwahati GPO

Payable at :- Guwahati GPO.

**12. LIST OF ENCLOSURES:**

As stated in Index.

Verification .....

Subhajit Bhattacharya

## VERIFICATION

I, Shri Subhra Jyoti Mazumdar, Son of Late Ratna Mazumdar, aged about 40 years, 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 7<sup>th</sup> day of February 2007 at Guwahati.

Subhra Jyoti Mazumdar  
D E C L A R A N T

ANNEXURE-A

REGISTERED POST

NO. F.1 / -R-IV/Roll No. 2157  
UNION PUBLIC SERVICE COMMISSION.  
DHOLPUR HOUSE, SHAHJAHAN ROAD,  
NEW DELHI-110 011.

the 19 10. '93

To

2387. Mr. Subhra Jyoti Mazumdar,  
Basisi Thopur-1, P.O. Assam  
Sachivalaya, Dispur, Guwahati.  
pin-781 006. (Assam).

Subject:- Recruitment of 24 Labour Enforcement Officer (Central) in the  
office of the chief labour commissioner (C), Ministry of Labour.

Sir/Madam,

With reference to your application for the above recruitment,  
I am directed to say that you have been recommended to the Ministry/  
Department of

Ministry of Labour.  
for appointment to the post mentioned above.

Further correspondence, if any in this regard may be addressed  
to that Ministry/Department. I am, however, to clarify that the offer  
of appointment will be made to you only after the Government have  
satisfied themselves after such enquiry as may be considered necessary  
that you are suitable in all respects for appointment to the service  
and that you are in good mental and bodily health and free from any  
physical defects likely to interfere with the discharge of your duties.  
The offer of appointment will also be subject to such other conditions,  
as are applicable to all such appointment under the Central Government.

The receipt of this letter may kindly be acknowledged.

Yours faithfully,

*R. Mukherjee*  
( SUDHESH KUMAR )  
( UNDER SECRETARY )  
UNION PUBLIC SERVICE COMMISSION.

H  
17.3.93

ATTESTED

*A. Shatto*  
ADVOCATE

No. Adm. 1/4(5)/99  
Government of India  
Ministry of Labour  
Office of the Chief Labour Commissioner (C)  
NEW DELHI

ANNEXURE-- B

Date: 5.4.99

OFFICE ORDER NO. 6 OF 1999

Chief Labour Commissioner (Central) has ordered the following postings/transfers of Labour Enforcement Officers (Central) with immediate effect:-

B/NO. SE NAME OF OFFICER PRESENT PLACE PLACE TO WHICH  
OF POSTING TRANSFERRED

8/SH/8MT

1.	S. RAMAN.	CHENNAI	PONDICHERRY
2.	M.M. MISHRA	NEAMATPUR	DEHRI-ON-SONE
3.	R.K. MALLICK	BHUBANESWAR	ASANSOL
4.	S.K. MOHANTY	CALCUTTA	BHUBANESWAR
5.	SMT. ROOPA BHARAT	NEW DELHI	CLC(C) HQRS
6.	R.K. AGARWAL	NEW DELHI	RAJKOT
7.	A.C. TRIPATHI	HAZARIBAGH	KANPUR
8.	S.S. CHAUHAN	RAJKOT	BHILWARA
9.	S.J. MAJUMDAR	GUWAHATI	DARJEELING
10.	S. BAMPATH KUMAR	HYDERABAD	KOTHAGUDAM
11.	G. JHA	JHANSI	BAREILLY
12.	SHRINIVAS SHETTY	MUMBAI	MANGALORE
13.	M.S. RAJASEKHARAN	SOLAPUR	MUMBAI
14.	S. CHALAS S. S. MURALI	HOSTEL	CHANDRAPUR
15.	S. K. KHAN	CALCUTTA	KATIPUR
16.	S. L. MEHA	DEHRI-ON-SONE	KOTA

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B. Shatto  
ADVOCATE

CONT'D. 2/2

17.	N.K. SRIVASTAVA	CLC(C) HQRS	NEW DELHI
18.	S.K. GANGULY	RANIGANJ	CHIRKUNDA
19.	M.D. SREEKANTACHARY	BELLARY	CHITRADURGA
20.	L.VENKATASUBRAMANIAM	HUBLI	BELLARY

2. Shri S. Raman will assume the charge of LEO(C) Pondicherry vice Shri N.M. Kaarthigeyan subject to latter's promotion to Gr.V of CLS, which is supposedly due shortly.

3. Shri Shrinivas Shetty will assume the charge of LEO(C) Mangalore vice Shri P.K. Lukas subject to latter's promotion to Gr.V of CLS, which is supposedly due shortly.

4. The officers at S.No. 13, 16, 19 and 20 are not entitled to TA/DA and joining time.

*(Chancery)*  
(CHARANJIT LAL)  
ADMINISTRATIVE OFFICER

**COPY TO:-**

1. Persons concerned.
2. All RLCs(C) with the request to relieve the concerned officers immediately and report compliance.
3. Dy CLC(C), Mumbai/Bangalore/Dhanbad.
4. PAO(CLC), New Delhi: PAO, DGET-II, Chennai; PAO, DGM&S, Dhanbad; PAO, DGFASLI, Mumbai.
5. All officers/sections in CLC(C) Hqrs.
6. PS to CLC(C)/Jt. CLC(C).
7. S.E. Section.
8. Personal files of the officers concerned.
9. Office Order Bundle.

*(Chancery)*  
(CHARANJIT LAL)  
ADMINISTRATIVE OFFICER

**ATTESTED**

*Bhatte*  
ADVOCATE

Office of the Chief Labour Commissioner (Central)  
New Delhi

Dated: 18.1.2001

OFFICE ORDER NO. 2 OF 2001

On the recommendation of Departmental Promotion Committee, in exercise of powers conferred vide D.O.P.T's instructions contained in O.M.No. 18011/1/86-Lstt. Dated 28.3.1988, the following officers are declared confirmed in the grade of LEO with effect from the dates mentioned against their names:-

S.NO.	NAME OF LEO	DATE OF CONFIRMATION	OFFICE WHERE PRESENTLY POSTED
1.	Shri M.A. Khan LEO	13.11.97	Jhansi
2.	Shri Dinesh Narayan LEO	16.6.97	Jalandhar
3.	Shri Maqood A.Khan LEO	15.5.97	Ranpur
4.	Shri S.Sampath Kumar LEO	16.5.97	Kothagudam
5.	Shri Lingaraj Hota LEO	9.2.98	Bhubaneswar
6.	Shri J.N.S. Chaudhary LEO	12.5.97	Faridabad
7.	Shri N.M. Kaarthigeyan ALCO	12.5.97	Chennai
8.	Shri P.S. Karmase LEO	4.12.97	Mumbai
9.	Shri S.K. Mohanty LEO	19.6.97	Bhubaneswar
✓10.	Shri Subhra J.Majumdar LEO	22.6.97	Darjeeling
11.	Shri Gautam Moitra LEO	20.11.97	Indore
12.	Shri Giriraj Verma LEO	21.12.97	Jodhpur
13.	Shri Vishal K.Khare LEO	30.6.97	Bilaspur
14.	Shri Satish K.Tyagi LEO	30.6.97	Katrasgarh
15.	Shri Srinivasa Shetty LEO	12.6.97	Mangalore
16.	Shri Ratan Lal Saha LEO	6.12.97	Kota
17.	Shri V.M.Hallur LEO	27.9.97	Gulbarga
18.	Shri S.Antony Adimai LEO	14.7.97	Madurai
19.	Shri Bhangu S.Rathore LEO	22.5.97	Bikaner
20.	Shri J.B. Mohanty LEO	27.12.97	Kharagpur
21.	Shri Durgadas S.Hire LEO	29.9.97	Sangli
22.	Shri S.Raman LEO	15.5.97	Pondicherry
23.	Shri Hemant Singh LEO	14.8.97	Karnal
24.	Ms. N.S. Meera LEO	4.12.97	On Deputation to NCTE
25.	Shri D.Srinivasulu LEO	13.11.97	Bangalore
26.	Smt. E.D. Shobha LEO	6.12.97	Vijayawada
27.	Shri M.D. Sreekantachari LEO	7.12.97	Hyderabad
28.	Shri V.K. Rajan LEO	7.12.97	Chitradurga
29.	Shri P.D. Sunny LEO	5.12.97	Hyderabad
30.	Shri M.S. Rajashekharan LEO	4.12.97	Nasik
31.	Shri L.Venkatasubramaniam LEO	4.12.97	Mumbai
32.	Shri R.K. Mandal LEO	1.1.98	Bellary
			Dibrugarh

(CHARAN LAL)  
ADMINISTRATIVE OFFICER  
Contd... 2/..

**ATTESTED**

Bhatter  
ADVOCATE

Distribution:

1. All RLCs C (with 5 spare copies) Dy C.L.Cs C.
2. C.I.S.I, Ministry of Labour.
3. Officers concerned.
4. Personal files of the officers concerned.
5. Deputy Secretary, National Council for Teacher Education, C-2/10, Safdarjung Development Area, New Delhi-110016.
6. Office Order Bundle.

*Ramch Samyal*  
(R.S. SAMYAL)  
SECTION OFFICER

**ATTESTED**

*Abhaya*  
**ADVOCATE**

No. Adm.I/4(4)/2005  
Government of India  
Ministry of Labour and Employment  
Office of the Chief Labour Commissioner (C)  
New Delhi

Dated : 9.5.2005

OFFICE ORDER NO. 12 of 2005

Following postings/transfers in the grade of LEOs(C) in  
relation are ordered with immediate effect.

	Name of the Officer	Present Place of Posting	Place to which Transferred
1.	S/Shri		
	P. Laxman	Hyderabad	Mancherial
	Srinivas Shetty	Bangalore	Hyderabad
2.	S.J. Majumdar	Dibrugarh	Shillong
	H. Dangal	Shillong	Guwahati
3.	R.K. Mandal	Guwahati	Dibrugarh
	S.C. Banik	Raniganj at Durgapur	Kolkata
		Rourkela	Angul
7.	R.K. Purohit	Ranchi	Port Blair
8.	Sushil Kumar	Shahdol	Pakur
9.	B.B. Rath	Bhubaneswar	Barbil
10.	A.K. Mahanta	Mumbai	Nasik
11.	S. Gunahari	Angul	Bhubaneswar
12.	D. Garnaik	Pune	Shahdol
13.	Ramesh Sinha	Bankura	Asansol
14.	J.K. Bhattacharya	Indore	Paradip
15.	Sanjib Swain	Mumbai	Chaibasa
16.	P.K. Ray		

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*Bhattacharya*  
ADVOCATE

17.	Bemant Singh	Under <sup>order</sup> posting to Jalandhar Chabasa	CLC(C) Hqrs.
18.	M.S. Nizami	Barbil	Indore
19.	U.C. Mishra	Allahabad	Rourkela
20.	Abhijeet Kumar	Pakur	Satna
21.	Anand Kumar	Paradip	Patna
22.	P.K. Beura	CLC(C) Hqrs.	Ranchi
23.	C.S. Mawri	New Delhi	Jalandhar
24.	Prince Grover	Trichy	Jammu
25.	Antony Adimai	Mumbai	Pondicherry
26.	P.S. Kaçmase	Jodhpur	Pune
27.	K.K. Mallik	Bikaner	Bikaner
28.	B.V.S. Rathore	Satna	Jodhpur
29.	M.K. Dixit	Patna	Allahabad
30.	S.K. Roy	Ponda	Chandrapur
31.	P.D. Sunny	Coimbatore	Mumbai
32.	M. Selvam	Jabalpur	Trichy
33.	M.A. Khan	Pondicherry	Bhubaneswar
34.	A. Pondurai		Chennai

The Officers mentioned at Sl. No. 32, 33 & 34 will not be entitled for TA/DA and joining time since their transfers have been ordered at their request

This issues with the approval of CLC(C).

*Jain*  
( A.R. JAIN )  
ADMINISTRATIVE OFFICER

**ATTESTED**

*Abhijeta*  
**ADVOCATE**

Distribution :

1. Persons concerned
2. All RLC(C)s with the request to relieve the concerned officers immediately and report compliance.
3. All Dy. CLC(C)s
4. DAO CLC(C), New Delhi/DGMS Dhanbad/DG FASLI Mumbai/LB Chandigarh/DGCT-I I Chennai
5. PG to CLC(C)/CALW
6. SE/Vig Section
7. Personal Files of the officers
8. Office Order Bundle

P.S. for it Friday  
by 2.4.3 above

Riday  
09/05/

**ATTESTED**

*M. H. Patel*  
**ADVOCATE**

(Typed Copy)  
Relevant portion

ANNEXURE - E

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

New Delhi, the 14<sup>th</sup> 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 therof.

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 decides 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 of 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**

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ADVOCATE

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 records.

XX

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

*Shatto*  
ADVOCATE

(Typed Copy)  
Relevant portion

ANNEXURE - F

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  
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ADVOCATE

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**

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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.

Xxx

Xxx

xxxxxxxxxx3. 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**

*Bhatte*  
**ADVOCATE**

New Delhi, Dated July 22, 1990

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)y98-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, 1995, 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.

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ADVOCATE

### 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 :

- 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

- 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/Lilabari/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  
N. Shatto  
ADVOCATE

(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-Estl.(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) dated March 29, 1984, and extended in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1990, 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. 20014/16/83-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.

**ATTESTED**

*Sharma*  
ADVOCATE

COURT CASE  
MOST IMMEDIATE

Cabinet 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 UO 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 of 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

*Abhishek  
Abhishek  
Abhishek*

**ATTESTED**

*Abhishek*  
**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 N.E. 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 reported to NE Region after sometime serving in non NE Region	YES
v)	The MOF, Dep't. 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 done 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 the 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

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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 reverred 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/-  
Ineligible  
(P.N.THIKUR)  
DIRECTOR(SR)

1. Shri R.S.Bedi, Director ARK
2. Shri R.P. Kureel, Director, SSB
3. Birg.(Reid)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. U.O. No. 20/12/99-EA-1-1799 dated 2.5.2000.

**ATTESTED**

*Bhatter*  
ADVOCATE

BY HAND/SPEED POST.

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**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: -

To,

✓ Shri S.J. Maajumder, LEO(C)  
O/O the R.L.C.(C),  
Guwahati.

- 5 FEB 2007

RECOVERED

Subject: - Excess payment of SDA of Rs. 73,079/-

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. 73,079/-/- (Rupees, seventy-three thousand seventy nine). 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. 73,079/- within the month of February, 2007 to this office. A copy of the Audit Objection is enclosed.

Enclo. :- As stated.

Dated  
02/02/07

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.

**ATTESTED**

*M. Bhattacharya*  
ADVOCATE

Regional Labour Commissioner (Central)  
Guwahati.