

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

31.7.2015

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application NO. 1 / 08

2. MIs Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(S) Jaydeep Das & Ors VS Union of India & Ors

Advocate for the Applicants H. G. Baruah

Advocate for the Respondant(S) Case

Notes of the Registry

Date

Order of the Tribunal

08.01.2008

Heard learned counsels for the parties.

Application is in form
is filed/C.F. for Rs 10/-

deposited vide P/L/MD

No. 705 049612 66F869022

Dated 3.1.08 66F869023

For the reasons recorded separately, this

Q.A. is dismissed proposedly.

Registar

Khushiram
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

Petitioner's Gp's for
issue notices and
received with envelopes
copy served.

31/1/08

received m. behave of
H. G. Baruah, Advocate
Deka
9.1.08

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.1 of 2008

DATE OF DECISION:08.01.2008

Mr.Joydeep Das & 83 Others

.....Applicant/s

Mr. H.G.Baruah

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Ms. Usha Das, Addl.C,G,S,C

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

- | | | |
|----|-------------------------------------------------------------------------------------------------------|----------------------|
| 4. | Whether reporters of local newspapers may be allowed to see the Judgment? | Yes /No ✓ |
| 5. | Whether to be referred to the Reporter or not? | Yes /No ✓ |
| 6. | Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? | Yes /No ✓ |
| 7. | Whether their Lordships wish to see the fair copy of the Judgment? | Yes /No ✓ |

Vice-Chairman/Member (A)

b

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

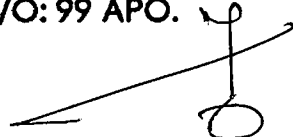
Original Application No. 1 of 2008

Date of Order: This, the 08th Day of January, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

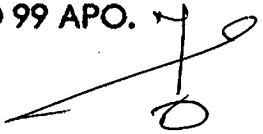
THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER


1. Mr. Joydeep Das
S/o Mr. Jogot Moy Das
Hindi Typist
O/A 4 Assam Rifles
C/o 99 APO.
2. Mr. N. Ingochaoba Singh
S/O Mr. N. Rashmon Singh
Veterinary Field Assistant
O/A 4 Assam Rifles
C/o 99 APO.
3. Mr. Manoj Kr. Pandey
S/O: Mr. Ashok Kr. Pandey
Hindi Typist
O/A: 25 Assam Rifles
C/O 99 APO.
4. Mr. Ajoy Roy
S/O Mr. Niren Ch. Roy
Hindi Teacher
O/A 25 Assam Rifles
C/O 99 APO.
5. Mr. Ratindra Dey
S/O: Mr. Rasharaj Dey
Jr. Teacher
O/A: 25 Assam Rifles
C/O: 99 APO.
6. Mr. Dipak Nunia
S/o: Mr. Ravi Nunia
Hindi Teacher
O/A: 25 Assam Rifles
C/O: 99 APO.
7. Mrs. Shobhra Dhar
W/O: Mr. Ranjeet Debnath
Senior Teacher
O/A: 35 Assam Rifles
C/O: 99 APO.



8. Mrs. Sushmitha K.
W/O: Mr. M.J.Prakash
Jr. Teacher
O/A: 35 Assam Rifles
C/O: 99 APO.
9. Mr Hemant Kumar Roshan
S/O: Mr. Jagdev Prasad
Hindi Typist
O/A: 39 Assam Rifles
C/O: 99 APO.
10. Mr. Hare Krishna Singh
S/O: Mr. Dhananjay Singh
Hindi Typist
O/A: 28 Assam Rifles
C/O: 99 APO.
11. Mr. Rajani Lama
W/O: Mr. John Lama
Sister
O/A: 40 Assam Rifles
C/O: 99 APO.
12. Mrs. Dil Kumari Thakur
W/O: Late Ramnath Thakur
Aya
O/A: 33 Assam Rifles
C/O: 99 APO.
13. Mrs. Dilu Debbarman
W/O: Mr. Sayam Rai
Staff Nurse
O/A: 33 Assam Rifles
C/O: 99 APO.
14. Miss Sabita Das
D/O: Late Manoranjan Das
Aya
O/A: 33 Assam Rifles
C/O: 99 APO.
15. Mr. Laxman Lal Ravidas
S/O: Mr. Raghu Nath Ravidas
Hindi Typist
O/A: 33 Assam Rifles
C/O 99 APO.
16. Mrs. Sini Binu
W/O: Mr. Binu Cheriyan
Staff Nurse
O/A: 13 Assam Rifles
C/O: 99 APO.



17. Mrs. Chitrakala Thapa
W/O: Mr. Vilakule Repre-O
Staff Nurse
O/A: 35 Assam Rifles
C/O: 99 APO.
18. Mrs. Suchitra Thapa
W/O Mr. Surjai B. Thapa
Aya
O/A: 35 Assam Rifles
C/O: 99 APO.
19. Mrs. Anita Purkayastha
W/O: Mr. Rabindra N. Purkayastha
Female Attendant
O/A: 35 Assam Rifles
C/O 99 APO.
20. Mrs. Janki Devi
W/O: Mr. Anandi Das
Female Safai
O/A: 14 Assam Rifles
C/O 99 APO.
21. Mrs. Hira Doley
W/O: Mr. Nikiram Pegu
Jr. Teacher
O/A: 43 Assam Rifles
C/O 99 APO.
22. Mr. Anil Kr. Baruah
S/O: Mr. Keshab Ch. Baruah
Hindi Teacher
O/A: 22 Assam Rifles
C/O 99 APO.
23. Mr. Sudhakar
S/O: Mr. Kameswar Singh
Hindi Teacher
O/A: 22 Assam Rifles
C/O 99 APO.
24. Mrs. Pushpa Singh
W/O: Mr. Ashutosh Kr. Singh
Senior Teacher
O/A: 22 Assam Rifles
C/O 99 APO.
25. Miss Moni Kumari
D/O: Late R.S. Sukla Baidya
Jr. Teacher
O/A: 22 Assam Rifles
C/O 99 APO.
- 

26. Mrs. Babita Prasad
W/O: Mr. Montu Sarma
Staff Nurse
O/A: 22 Assam Rifles
C/O: 99 APO.
27. Mrs. Noya Konyak
W/O: Mr. Amir Khan
Female Attendant
O/A: 22 Assam Rifles
C/O: 99 APO.
28. Mr. Chhatrapal
S/O: Late Balbir Singh
Hindi Translator
O/A: 22 Assam Rifles
C/O: 99 APO.
29. Mr. Bhagwan Singh
S/O: Mr. Sandhu Singh
Hindi Typist
O/A: 22 Assam Rifles
C/O: 99 APO.
30. Mr. Arbind Kumar
S/O: Late Balbir Singh
Hindi Teacher
O/A: 30 Assam Rifles
C/O: 99 APO.
31. Mrs. Bharati Barik
W/O: Mr. Sunil Kr. Swain
Hindi Typist
O/A: 43 Assam Rifles
C/O: 99 APO.
32. Mrs Golmei M.K.
W/O: Late Francis P.H.
Staff Nurse
O/A: 13 Assam Rifles
C/O: 99 APO.
33. Mrs. S. Neeta Devi
W/O: Late Bina Ch. Singh
Female Attendant
O/A: 13 Assam Rifles
C/O: 99 APO.
34. Mrs. Rina Bora
W/O: Mr. Jiwan Bora
Aya
O/A: 13 Assam Rifles
C/O: 99 APO.
- 

35. Mrs. Lushion-L. A. Zingkai
W/O: Late Ngairapam
Female Safai
O/A: 13 Assam Rifles
C/O: 99 APO.

36. Mrs. Uma Devi
W/O: Mr. Govind Singh Gusain
Aya
O/A: 13 Assam Rifles
C/O: 99 APO.

37. Mrs. Usha Baban Gaikwad
W/O: Mr. Baban Gaikwad
Aya
O/A: 13 Assam Rifles
C/O: 99 APO.

38. Mrs Deepa Devi
W/O: Mr. Chandra Kiran B.
Female Attendant
O/A: 13 Assam Rifles
C/O: 99 APO.

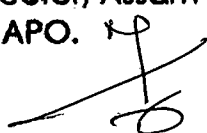
39. Mrs. Tainla AO
W/O: Mr. Ranbir Singh
Female Safai
O/A: 4 Assam Rifles
C/O: 99 APO.

40. Mr Dileep Kr. Oraon
S/O: Late Chorwa Oraon
Hindi Typist
O/A: 35 Assam Rifles
C/O: 99 APO.

41. Mrs. Manju Hari Kumar
W/O: Mr. Hari Kumar
Staff Nurse
O/A: 26 Assam Rifles
C/O: 99 APO.

42. Mrs. Sreejanani M.
W/O: Mr. Shri Santosh
Hindi Typist
HQ: DGAR, Shillong
C/O: 99 APO.

43. Mr. Ram Prakash
S/O: Mr. Sahab Singh
Hindi Typist
HQ. 25 Sector, Assam Rifles
C/O: 99 APO.



44. Mr. Biman Bhattacharjee
S/O: Mr.B.B.Bhattacharjee
Civil Peon
HQ. 25 Sector, Assam Rifles
C/O: 99 APO.
45. Mr. Deepak Prasad
S/O: Mr. K.N. Bhatt
Hindi Typist
HQ, 5 Sector, Assam Rifles
C/O: 99 APO.
46. Mr. S.D. Mishra
S/O: Mr. Viveka Nand Mishra
Hindi Translator
O/A: 46 Assam Rifles
C/O: 99 APO.
47. Mrs. Shafeil Khatun
W/O: Indra Kumar
Female Attendant
O/A: Assam Rifles
C/O: 99 APO.
48. Mr. Anil Joseph Barla
S/O: Mr. R.R. Barla
Hindi Teacher
O/A: 41 Assam Rifles
C/O: 99 APO.
49. Mr. Mitra Raj Chhetry
S/O: Mr. Ripu Mardan Chhetry
Hindi Teacher
O/A: 41 Assam Rifles
C/O: 99 APO.
50. Mr. Naresh Kr. Mishra
S/O: Mr. Lalan Kr. Mishra
Hindi Typist
O/A: 41 Assam Rifles
C/O: 99 APO.
51. Mrs. Chongneihtai Gangte
W/O: Mr. Soimingon
ANM
O/A: 26 Assam Rifles
C/O: 99 APO.
52. Mrs. Meena Devi
W/O: Mr. Shiv Bahadur Darji
Aya
O/A: 26 Assam Rifles
C/O: 99 APO.



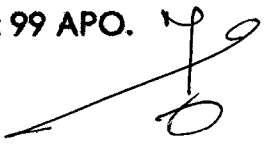
53. Mrs. Neelu Thapa
W/O: Late Raju Thapa
Female Attendant
O/A: 26 Assam Rifles
C/O: 99 APO.
54. Miss Sumitra Chhetri
D/O: Late Ram B. Chhetri
Aya
O/A: 26 Assam Rifles
C/O: 99 APO.
55. Mrs. Nirmala Kaur
W/O: Late Laxman Singh
AYA
O/A: 26 Assam Rifles
C/O: 99 APO.
56. Mrs. Ajitha I
W/O: Mr. Shaji K.
Jr. Teacher
O/A: 46 Assam Rifles
C/O: 99 APO.
57. Mr. A.K. Singh
S/O: Mr. Sukhdev Singh
Hindi Typist
O/A: 46 Assam Rifles
C/O: 99 APO.
58. Mrs. Meguosieu Medom
W/O: Dr. Seyiekhrietuo John
Staff Nurse
Hq. IGAR (North) Assam Rifles
C/O: 99 APO.
59. Mr. Ombir Singh
S/O: Mr. Sukhbir Singh
Hindi Translator
Hq. IGAR, Assam Rifles
Hindi Section
C/O: 99 APO.
60. Mr. Sandeep Dhyani
S/O: Mr. Murlidhar Dhyani
Hindi Typist
Hq. IGAR, Assam Rifles
Hindi Section
C/O: 99 APO.
61. Miss Guddi Kumari
D/O: Mr. Ram Narayan Prasad
Hindi Typist



HQ. DGAR, Assam Rifles
Hindi Section
C/O: 99 APO.

62. Mr. Deshraj
S/O: Mr. Jaswant Singh
Hindi Translator
O/A: 16 Assam Rifles
C/O: 99 APO.
63. Mr. Mahesh Thakur
S/O: Mr. Krishna Dev Thakur
Hindi Typist
O/A: 16 Assam Rifles
C/O: 99 APO.
64. Mr. Bhaskar Jyoti Deka
S/O: Mr. Someswar Deka
Jr. Teacher
O/A: 16 Assam Rifles
C/O: 99 APO.
65. Mr. Rang Bahadur Yadav
S/O: Mr. Kodai Yadav
Hindi Typist
O/A: 45 Assam Rifles
C/O: 99 APO.
66. Miss Dipali Teron
D/O: Late Khim Ram Teron
Hindi Typist
HQ. 23 Sector, Assam Rifles
C/O: 99 APO.
67. Mr. H.R. Mishael
S/O: Mr. H. R. Wilson
Hindi Translator
O/A: 35 Assam Rifles
C/O: 99 APO.
68. Mr. Anil Kumar Singh
S/O: Mr. Charan Singh
Jr. Teacher
O/A: 35 Assam Rifles
C/O: 99 APO.
69. Mr. Atul Kumar
S/O: Mr. Surender Pal Singh
Hindi Typist
O/A: 38 Assam Rifles
C/O: 99 APO.



70. Miss Raj Shree Singha
D/O: Late Balram Singha
Hindi Typist
HQ. 21 Sector, Assam Rifles
C/O: 99 APO.
71. Mr. Udai Ram
S/O: Mr. Rameshwar Dayal
Hindi Teacher
O/A: 1 Assam Rifles
C/O: 99 APO.
72. Mr. Devasish Roy
S/O: Mr. A.K.Roy
Hindi Teacher
O/A: 1 Assam Rifles
C/O: 99 APO.
73. Mr. Ajoy Ram
S/O: Mr. J.B.Lama
Jr. Teacher
O/A: 1 Assam Rifles
C/O: 99 APO.
74. Mr. T. M. Naskar
S/O: Mr. R.C. Naskar
UDA
O/A: 1 Assam Rifles
C/O: 99 APO.
75. Mr. Vindo Kumar
S/O: Late Rajender Singh
Hindi Translator
O/A: 1 Assam Rifles
C/O: 99 APO.
76. Mr. Bikash Verma
S/O: Mr. B.P.Verma
Hindi Typist
O/A: 1 Assam Rifles
C/O: 99 APO.
77. Miss Basanti Dev Wagle
S/O: Mr. Rudra Lal Wagle
Staff Nurse
O/A: 1 Assam Rifles
C/O: 99 APO.
78. Mrs. Helen Basumatari
W/O: Mr. Smuel Basumatari
Staff Nurse
O/A: 1 Assam Rifles
C/O: 99 APO.
- 

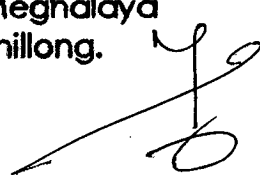
79. Mrs. Puathaihi Lushai
W/O: Mr. Thangpuia
Female Safai
O/A: 1 Assam Rifles
C/O: 99 APO.
80. Mrs. Laltiakliani Lushai
W/O: Mr. Ralliana
Female Safai
O/A: 1 Assam Rifles
C/O: 99 APO.
81. Miss Bishnu Maya Damai
D/O: Mr. Bhim Bahadur Damai
Aya
O/A: 1 Assam Rifles
C/O: 99 APO.
82. Miss Sukla Das
D/O: Mr. Pramud Das
Aya
O/A: 1 Assam Rifles
C/O: 99 APO.
83. Md. Sakir Ahmed Khan
Hindi Translator
O/A: 24 Assam Rifles
C/O: 99 APO.
84. Mr. N.S. Karki
Hindi Typist
O/A: 24 Assam Rifles
C/O: 99 APO.

..... Applicants.

By Advocate Mr.H.G.Baruah.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Home Affairs
North Block, New Delhi.
2. The Secretary to the Govt. of India
Ministry of Finance
New Delhi.
3. The Director General of Assam Rifles
Meghalaya
Shillong.



4. The Inspector General of Assam Rifles (North)
Zakhama, Kohima
Nagaland.
5. The Commandant
O/A: 1 Assam Rifles
C/O: 99 APO.
6. The Commandant
O/A: 4 Assam Rifles
C/O: 99 APO.
7. The Commandant
O/A: 13 Assam Rifles
C/O: 99 APO.
8. The Commandant
O/A: 14 Assam Rifles
C/O: 99 APO.
9. The Commandant
O/A: 16 Assam Rifles
C/O: 99 APO.
10. The Commandant
O/A: 22 Assam Rifles
C/O: 99 APO.
11. The Commandant
O/A: 24 Assam Rifles
C/O: 99 APO.
12. The Commandant
O/A: 25 Assam Rifles
C/O: 99 APO.
13. The Commandant
O/A: 26 Assam Rifles
C/O: 99 APO.
14. The Commandant
O/A: 28 Assam Rifles
C/O: 99 APO.
15. The Commandant
O/A: 30 Assam Rifles
C/O: 99 APO.
16. The Commandant
O/A: 33 Assam Rifles
C/O: 99 APO.
17. The Commandant

A handwritten signature in black ink, consisting of a stylized 'Y' shape with a loop at the bottom and a horizontal line extending to the left.

O/A: 35 Assam Rifles
C/O: 99 APO.

18. The Commandant
O/A: 38 Assam Rifles
C/O: 99 APO.

19. The Commandant
O/A: 39 Assam Rifles
C/O: 99 APO.

20. The Commandant
O/A: 41 Assam Rifles
C/O: 99 APO.

21. The Commandant
O/A: 43 Assam Rifles
C/O: 99 APO.

22. The Commandant
O/A: 45 Assam Rifles
C/O: 99 APO.

23. The Commandant
O/A: 46 Assam Rifles
C/O: 99 APO.

..... Respondents.

By Ms.U.Das, Addl. C.G.S.C.

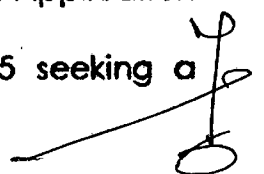
ORDER (ORAL)

08.01.2008

MANORANJAN MOHANTY, (V.C.)

Heard Mr.H.G.Baruah, learned counsel appearing for the Applicants and Ms. U. Das, learned Addl. Standing counsel for the Union of India; to whom a copy of this Original Application has already been served and perused the materials placed on record.

2. Applicants (84 in number) have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking a

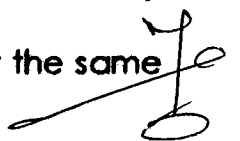


direction to the Respondents to grant them (Applicants) Special Duty Allowances for the reasons of certain Govt. instructions and judicial pronouncements.

3. There are no materials placed on record to show that, before approaching this Tribunal, the Applicants ever represented their authorities for grant of any such relief. The Advocate appearing for the Applicants is also not in a position to state as to whether any individual Applicant ever approached the Respondents to grant Special Duty Allowance to them.

4. For the reason of the provisions under Section 20 of the Administrative Tribunals Act, 1985, the Applicants ought to have approached their authorities; before approaching this Tribunal. That apart, mere existence of a grievance/right is not enough to rush to the Court/Tribunal to get the relief. One should approach the competent authorities, at the earliest opportunity, for redressal of the grievances and only in the event of negligence or refusal to grant the relief, one should approach the Court or Tribunal.


5. In the present case, as there are no materials placed on record to show that any of the Applicants had, at any point of time, individually represented to the Respondents to get the relief (which has been asked for in the present Original Application) this Original Application is, hereby, disposed of by granting liberty to the Applicants to individually represent their grievances before the authorities/Respondents by the end of January, 2008 and, if any such representations are made by the present Applicants, then, the Respondents should consider the same



and pass reasoned orders, as due and admissible under the Rules, by end of April 2008.

6. Send copies of this order to the Respondents (along with copies of this Original Application) in the addresses given in the Original Application. While considering the representations of the Applicants, the Respondents should take into consideration the submissions made in this Original Application and the documents annexed thereto.

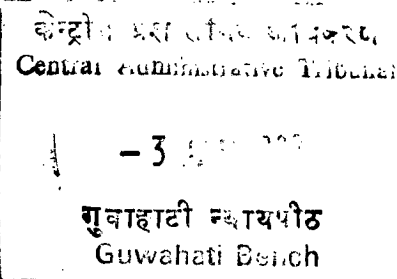
7. Free copies of this order be supplied to all the Applicants and to learned counsels appearing for the parties.


(KHUSHIRAM)
MEMBER (A)


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/

Dist. Sherchip & Ors.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

ORIGINAL APPLICATION NO. 1 /08

Mr. Joydeep Das & Ors.

.....Applicants.

-Vs-

The Union of India & Ors.

.....Respondents.

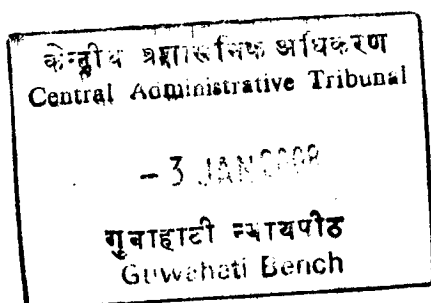
SYNOPSIS

All the applicants are working in different companies under the Director General of Assam Rifles as Non-combatised employees. The Union Govt., with a view to provide some incentives to the Combatised/Non Combatised personnel of the Assam Rifles those who posted in the states of the North-Eastern Regions amongst other granted special (duty) allowance w.e.f. 7/11/1988. The original scheme was introduced by office Memorandum No. 11.20044/3/83/E.IV dated 14/12/1983. Considering the demand of the employees and other relevant aspect Govt. of India decided to sanction grant of special (duty) allowances to the non-combatised personnel by an order dated 2/2/89 vide order No. 11011/1/84/FP.IV along with combatised personnel. This order of president of India granting special (duty) allowances to non-combatised personnel is very distinct. That was a special order issued after considering all the pros and cons and eligibility criteria. Special duty allowances is admissible to the applicants at 12.5% against the basic pay. But said special duty allowance has not been paid to the



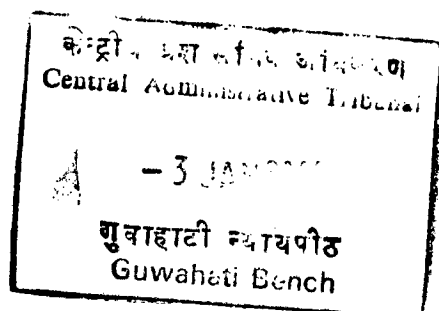
36

applicants by the respondents. The Govt. of India through the Ministry of Home Affairs by his office Memorandum dated 3rd August 2005 clarified it to the Director General of Assam Rifles vide Memo No. A-1-3/INST-ACCTS-3PP III that all the allowances and facilities for civilian employees of the Central Govt. Serving in the NE Region is admissible only the personnel who are actually working in the NE Region. The Division Bench of the Hon'ble Gauhati High Court (Shillong, in the writ petition No. 195 (SH) of 2001 vide his Judgement and order dated 24/7/2006 dismissing the writ petition filed by the Union of India held that the order of granting SDA to Assam Rifles employees w.e.f. 7/11/1988 is a distinct and special order for Assam Rifles which was issued after a lapse of almost five years and after considering all pros and cons of re eligibility criteria. But the other A.R. personnels has been drawing/getting the said allowance and it is denied to the applicants. Therefore violent discrimination has been made out to the applicants. The respondents cannot refuse the said benefits of the order dated 2nd Feb, 1989 to applicants, whereas other A.R. personnels are enjoying the said benefits. The respondents stopped the said benefits to the applicants without any authority of law. Hence this instant application.



Filed by
Hara Gobinda Boruah
Hara Gobinda Boruah
Advocate.

Dist. Sherchip & Ors.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:GUWAHATI

ORIGINAL APPLICATION NO. 1 /08

Mr. Joydeep Das & Ors.

.....Applicants.

-Vs-

The Union of India & Ors.

.....Respondents.

LIST OF DATES.

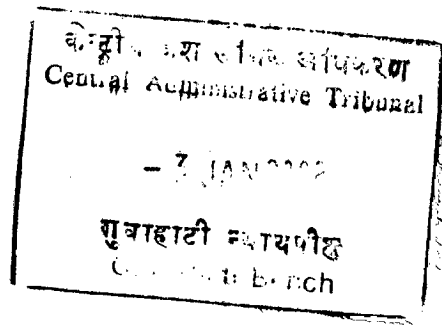
| Sl. No. | Annexure page | contents. |
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| 2. | Annexure-B 3/8/2005 | Office Memorandum dated 3/8/05 issued vide Memo NO. A-1-3/INST- ACCTS-3/PP-III |
| 3. | Annexure-C. 24/7/06 | Judgement and order dated 24/7/06 passed by the Division Bench of the Hon'ble Gauhati High Court in writ petition No. 195 (SH) of 2001. |
| 4. | Annexure-D 26/2/2007 | Order dated 26/2/2007 passed by the Hon'ble Supreme in SLP (Civil) NO. (9) 2962/07 |
| 5. | Annexure-E 20/7/2007 | Order dated 20/7/2007 issued vide Memo No. 1.11018/89/ 2000/Law. |

Filed by

H. G. Boruah

Hara Gobinda Boruah
Advocate.

Dist. Sherchip & Ors.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

ORIGINAL APPLICATION NO. 1 /02

Mr. Joydeep Das & Ors.

.....Applicants.

-Vs-

The Union of India & Ors.

.....Respondents

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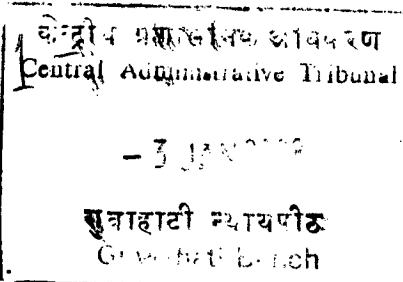
Filed by

Hara Gobinda Boruah

Hara Gobinda Boruah

Advocate.

Dist: Sherchip & Ors.



Filed by the
applicants no 1
Joydeep Das
through

HE
Haren Gribinda Boruah
Advocate
3/1/2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.
ORIGINAL APPLICATION NO. 1 /08

1.Mr. Joydeep Das
S/O. Mr. Jogot Moy Das
Hindi Typist
O/A: 4 Assam Rifles
C/O: 99 APO

2.Mr. N. Ingochaoba Singh
S/O. Mr. N. Rashmon Singh
Veterinary Field Assistant
O/A: 4 Assam Rifles
C/O: 99 APO

3.Mr. Manoj Kr. Pandey
S/O: Mr. Ashok Kr. Pandey
Hindi Typist
O/A: 25 Assam Rifles
C/O: 99 APO

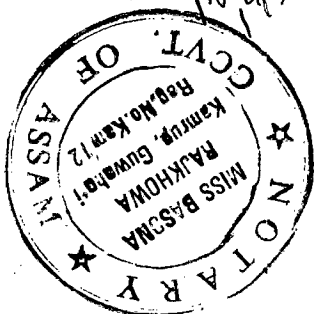
4.Mr. Ajoy Roy
S/O:Mr. Niren Ch. Roy
Hindi Teacher
O/A: 25 Assam Rifles
C/O: 99 APO

5.Mr. Ratindra Dey
S/O: Mr. Rasharaj Dey
Jr. Teacher
O/A: 25 Assam Rifles
C/O: 99 APO

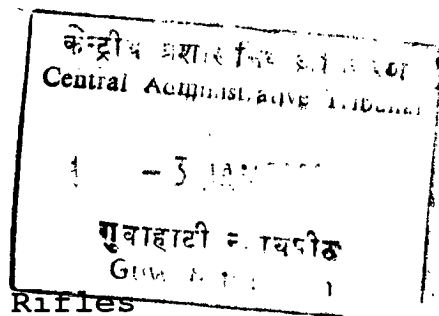
6.Mr. Dipak Nunia
S/O: Mr. Ravi Nunia
Hindi Teacher
O/A: 25 Assam Rifles
C/O: 99 APO

7.Mrs. Shobhra Dhar
W/O: Mr. Ranjeet Debnath
Senior Teacher
O/A: 35 Assam Rifles
C/O: 99 APO

8.Mrs. Susmitha K.
W/O: Mr. M.J. Prakash



- 2 -



20

Jr. Teacher
O/A: 35 Assam Rifles
C/O: 99 APO

9.Mr. Hemant Kumar Roshan
S/O: Mr. Jagdev Prasad
Hindi Typist
O/A: 39 Assam Rifles
C/O: 99 APO

10.Mr. Hare Krishna Singh
S/O: Mr. Dhananjay Singh
Hindi Typist
O/A: 28 Assam Rifles
C/O: 99 APO

11.Mr. Rajani Lama
W/O: Mr. John Lama
Sister
O/A: 33 Assam Rifles
C/O: 99 APO

12. Mrs. Dil Kumari Thakur
W/O: Late Ramnath Thakur
Aya
O/A: 33 Assam Rifles
C/O: 99 APO

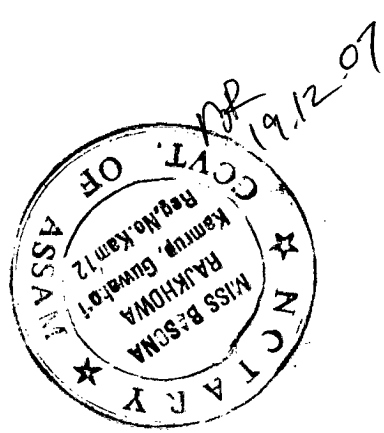
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W/O: Mr. Sayam Rai
Staff Nurse
O/A: 33 Assam Rifles
C/O: 99 APO

14.Miss Sabita Das
D/O Late Manoranjan Das
Aya
O/A: 33 Assam Rifles
C/O: 99 APO

15. Mr. Laxman Lal Ravidas
S/O: Mr. Raghu Nath Ravidas
Hindi Typist
O/A: 33 Assam Rifles
C/O: 99 APO

16.Mrs. Sini Binu
W/O: Mr. Binu Cheriyan
Staff Nurse
O/A: 13 Assam Rifles
C/O: 99 APO

Jaydeep Das



- 3 -

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

- 3 -

गुवाहाटी न्यायपीठ
Guwahati Bench

17. Mrs. Chitrakala Thapa
W/O: Mr. Vilakule Rupre-O
Staff Nurse
O/A: 35 Assam Rifles
C/O: 99 APO

18. Mrs. Suchitra Thapa
W/O: Mr. Surjai B. Thapa
Aya
O/A: 35 Assam Rifles
C/O: 99 APO

19. Mrs. Anita Purkayastha
W/O: Mr. Rabindra N. Purkayastha
Female Attendant
O/A: 35 Assam Rifles
C/O: 99 APO

20. Mrs. Janki Devi
W/O: Mr. Anandi Das
Female Safai
O/A: 14 Assam Rifles
C/O: 99 APO

21. Mrs. Hira Doley
W/O: Mr. Nikiram Pegu
Jr. Teacher
O/A: 43 Assam Rifles
C/O: 99 APO

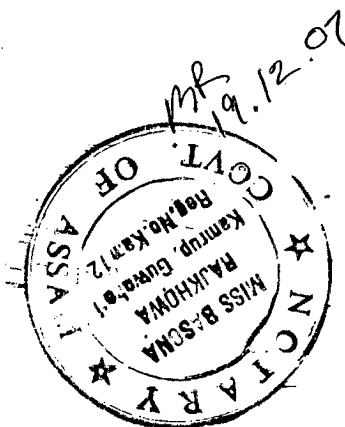
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S/O: Mr. Keshab Ch. Baruah
Hindi Teacher
O/A: 22 Assam Rifles
C/O: 99 APO

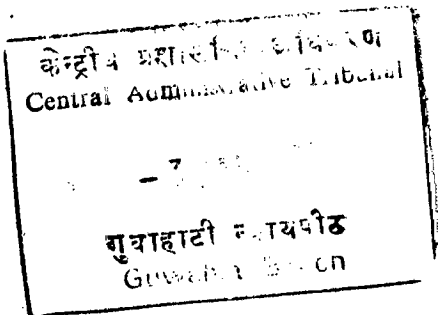
23. Mr. Sudhakar
S/O: Mr. Kameshwar Singh
Hindi Teacher
O/A: 22 Assam Rifles
C/O: 99 APO

24. Mrs. Pushpa Singh
W/O: Mr. Ashutosh Kr. Singh
Senior Teacher
O/A: 22 Assam Rifles
C/O: 99 APO

25. Miss Moni Kumari
D/O: Late R.S. Sukla Baidya
Jr. Teacher

Joydeep Das





O/A: 22 Assam Rifles
C/O: 99 APO

26. Mrs. Babita Prasad
W/O: Mr. Montu Sarma
Staff Nurse
O/A: 22 Assam Rifles
C/O: 99 APO

27. Mrs. Noya Konyak
W/O: Mr. Amir Khan
Female Attendant
O/A: 22 Assam Rifles
C/O: 99 APO

28. Mr. Chhatrapal
S/O: Late Balbir Singh
Hindi Translator
O/A: 22 Assam Rifles
C/O: 99 APO

29. Mr. Bhagwan Singh
S/O: Mr. Sadhu Singh
Hindi Typist
O/A: 22 Assam Rifles
C/O: 99 APO

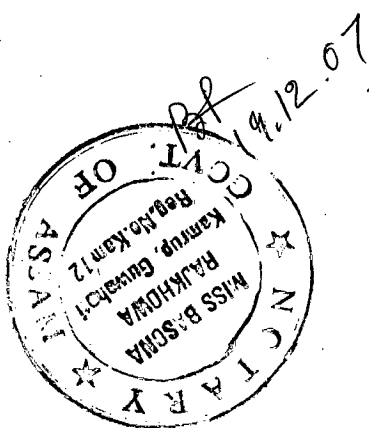
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S/O: Late Balbir Singh
Hindi Teacher
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C/O: 99 APO

31. Mrs. Bharati Barik
W/O: Mr. Sunil Kr. Swain
Hindi Typist
O/A: 43 Assam Rifles
C/O: 99 APO

32. Mrs. Golmei M.K.
W/O: Late Francis P.H.
Staff Nurse
O/A: 13 Assam Rifles
C/O: 99 APO

33. Mrs. S. Neeta Devi
W/O: Late Bina Ch. Singh
Female Attendant
O/A: 13 Assam Rifles
C/O: 99 APO

Joydip Das



34. Mrs. Rina Bora
W/O: Mr. Jiwan Bora
Aya
O/A: 13 Assam Rifles
C/O: 99 APO

35. Mrs. Lushion- L. A. Zingkai
W/O: Late Ngairapam
Female Safai
O/A: 13 Assam Rifles
C/O: 99 APO

36. Mrs. Uma Devi
W/O: Mr. Govind Singh Gusain
Aya
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C/O: 99 APO

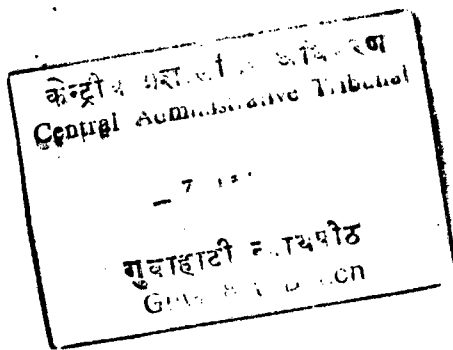
37. Mrs. Usha Baban Gaikwad
W/O: Mr. Baban Gaikwad
Aya
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C/O: 99 APO

38. Mrs. Deepa Devi
W.O: Mr. Chandra Kiran. B.
Female Attendant
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C/O: 99 APO

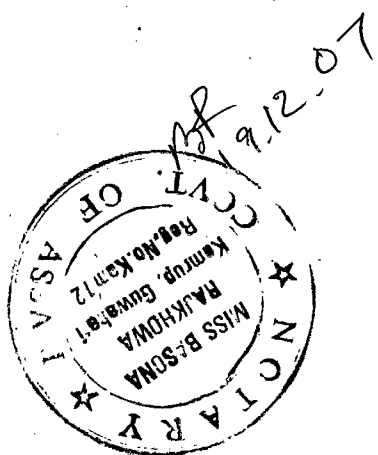
39. Mrs. Tainla AO
W/O: Mr. Ranbir Singh
Female Safai
O/A: 4 Assam Rifles
C/O: 99 APO

40. Mr. Dileep Kr. Oraon
S/O: Late Chorwa Oraon
Hindi Typist
O/A: 35 Assam Rifles
C/O: 99 APO

41. Mrs. Manju Hari Kumar
W/O: Mr. Hari Kumar
Staff Nurse
O/A: 26 Assam Rifles
C/O: 99 APO



Deepa Devi



42. Mrs. Sreejanani M.
W/O: Mr. Shri Santosh
Hindi Typist
HQ: DGAR, Shillong
C/O: 99 APO

43. Mr. Ram Prakash
S/O: Mr. Sahab Singh
Hindi Typist
HQ. 25 Sector, Assam Rifles
C/O: 99 APO

44. Mr. Biman Bhattacharjee
S/O: Mr. B. B. Bhattacharjee
Civil Peon
HQ. 25 Sector, Assam Rifles
C/O: 99 APO

45. Mr. Deepak Prasad
S/O: Mr. K.N. Bhatt
Hindi Typist
HQ. 5 Sector, Assam Rifles
C/O: 99 APO

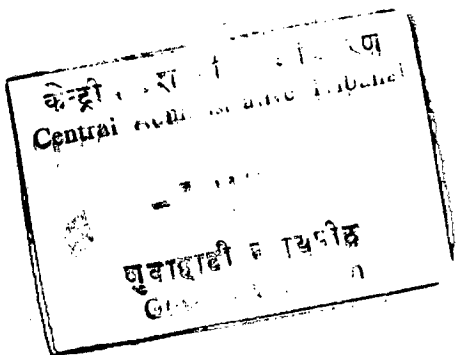
46. Mr. S.D. Mishra
S/O: Mr. Viveka Nand Mishra
Hindi Translator
O/A: 46 Assam Rifles
C/O: 99 APO

47. Mrs. Shafiel Khatun
W/O: Md. Jamal Uddin
Female Safai
O/A: 4 Assam Rifles
C/O: 99 APO

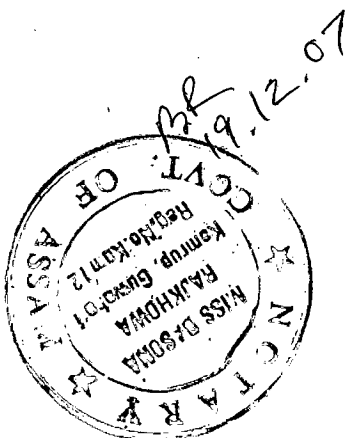
48. Mr. Anil Joseph Barla
S/O: Mr. P.R. Barla
Hindi Teacher
O/A: 41 Assam Rifles
C/O: 99 APO

49. Mr. Mitra Raj Chhetry
S/O: Mr. Ripu Mardan Chhetry
Hindi Teacher
O/A: 41 Assam Rifles
C/O: 99 APO

50. Mr. Naresh Kr. Mishra
S/O: Mr. Lalan Kr. Mishra
Hindi Typist



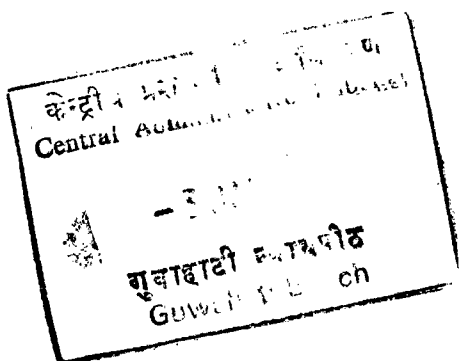
Deep Foc



- 7 -
O/A: 41 Assam Rifles
C/O: 99 APO

51. Mrs. Chongneihtai Gangte
W/O: Mr. Soimington
ANM
O/A: 26 Assam Rifles
C/O: 99 APO

52. Mrs. Meena Devi
W/O: Mr. Shiv Bahadur Darji
Aya
O/A: 26 Assam Rifles
C/O: 99 APO



53. Mrs. Neelu Thapa
W/O: Late Raju Thapa
Female Attendant
O/A: 26 Assam Rifles
C/O: 99 APO

54. Miss Sumitra Chhetri
D/O: Late Ram B. Chhetri
Aya
O/A: 26 Assam Rifles
C/O: 99 APO

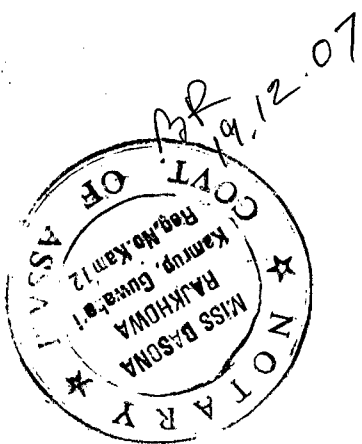
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W/O: Late Laxman Singh
Aya O/A: 26 Assam Rifles
C/O: 99 APO

56. Mrs. Ajitha I
W/O: Mr. Shaji K.
Jr. Teacher
O/A: 46 Assam Rifles
C/O: 99 APO

57. Mr. A.K. Singh
S/O: Mr. Sukhdev Singh
Hindi Typist
O/A: 46 Assam Rifles
C/O: 99 APO

58. Mrs. Meguosieu Medom
W/O: Dr. Seyiekhrietuo John
Staff Nurse
HQ. IGAR (North) Assam Rifles
C/O: 99 APO

59. Mr. Ombir Singh
S/O: Mr. Sukhbir Singh

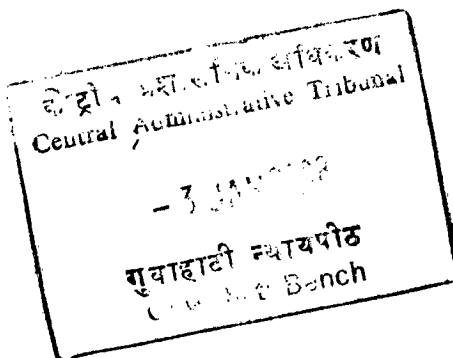


Drop for

Hindi Translator
HQ. DGAR, Assam Rifles
Hindi Section
C/O: 99 APO

60. Mr. Sandeep Dhyani
S/O: Mr. Murlidhar Dhyani
Hindi Typist

HQ. DGAR, Assam Rifles
Hindi Section
C/O: 99 APO



61. Miss Guddi Kumari
D/O: Mr. Ram Narayan Prasad
Hindi Typist
HQ. DGAR, Assam Rifles
Hindi Section
C/O: 99 APO

62. Mr. Deshraj
S/O: Mr. Jaswant Singh
Hindi Translator
O/A: 16 Assam Rifles
C/O: 99 APO

63. Mr. Mahesh Thakur
S/O: Mr. Krishna Dev Thakur
Hindi Typist
O/A: 16 Assam Rifles
C/O: 99 APO

64. Mr. Bhaskar Jyoti Deka
S/O: Mr. Someswar Deka
Jr. Teacher
O/A: 16 Assam Rifles
C/O: 99 APO

65. Mr. Rang Bahadur Yadav
S/O: Mr. Kodai Yadav
Hindi Typist
O/A: 45 Assam Rifles
C/O: 99 APO

66. Miss Dipali Teron
D/O: Late Khim Ram Teron
Hindi Typist
HQ. 23 Sector, Assam Rifles
C/O: 99 APO

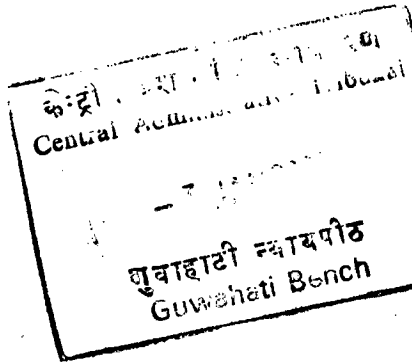
67. Mr. H.R. Mishael
S/O: Mr. H.R. Wilson



Sandeep Dhyani

Hindi Translator
O/A: 35 Assam Rifles
C/O: 99 APO

68. Mr. Anil Kumar Singh
S/O: Mr. Charan Singh
Jr. Teacher
O/A: 35 Assam Rifles
C/O: 99 APO



69. Mr. Atul Kumar
S/O: Mr. Surender Pal Singh
Hindi Typist
O/A: 38 Assam Rifles
C/O: 99 APO

70. Miss Raj Shree Singha
D/O: Late Balram Singha
Hindi Typist
HQ. 21 Sector, Assam Rifles
C/O: 99 APO

71. Mr. Udai Ram
S/O: Mr. Rameshwar Dayal
Hindi Teacher
O/A: 1 Assam Rifles
C/O: 99 APO

72. Mr. Devasish Roy
S/O: Mr. A.K. Roy
Hindi Teacher
O/A: 1 Assam Rifles
C/O: 99 APO

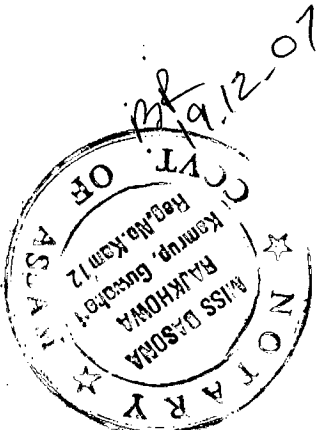
73. Mr. Ajoy Lama
S/O: Mr. J.B. Lama
Jr. Teacher
O/A: 1 Assam Rifles
C/O: 99 APO

74. Mr. T.M. Naskar
S/O: Mr. R.C. Naskar
UDA
O/A: 1 Assam Rifles
C/O: 99 APO

75. Mr. Vindo Kumar
S/O: Late Rajender Singh
Hindi Translator
O/A: 1 Assam Rifles
C/O: 99 APO

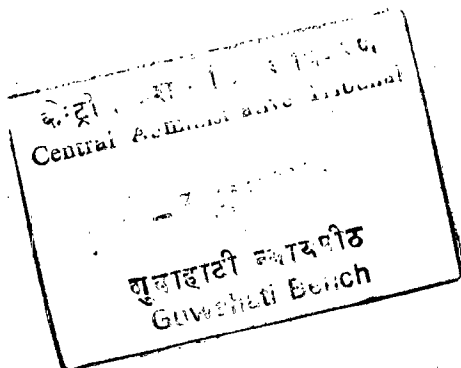
76. Mr. Bikash Verma

800 drop for



S/O: Mr. B.P. Verma
Hindi Typist
O/A: 1 Assam Rifles
C/O: 99 APO

77. Miss Basanti Dev Wagle
D/O: Mr. Rudra Lal Wagle
Staff Nurse
O/A: 1 Assam Rifles
C/O: 99 APO



78. Mrs. Helen Basmutari
W/O: Mr. Smuel Basmutari
Staff Nurse
O/A: 1 Assam Rifles
C/O: 99 APO

79. Mrs. Puathaihi Lushai
W/O: Mr. Thangpuia
Female Safai
O/A: 1 Assam Rifles
C/O: 99 APO

80. Mrs. Laltiakliani Lushai
W/O: Mr. Ralliana
Female Safai
O/A: 1 Assam Rifles
C/O: 99 APO

81. Miss Bishnu Maya Damai
D/O: Mr. Bhim Bahadur Damai
Aya
O/A: 1 Assam Rifles
C/O: 99 APO

82. Miss Sukla Das
D/O: Mr. Pramud Das
Aya
O/A: 1 Assam Rifles
C/O: 99 APO

83. Md. Sakir Ahmed Khan
Hindi Translator
O/A: 24 Assam Rifles
C/O: 99 APO

84. Mr. N.S. Karki
Hindi Typist
O/A: 36 Assam Rifles
C/O: 99 APO

(Same Cause Action)

.....Applicants

Dr. Deep Loo



-Vs-

1. The Union of India
Represented by the Secretary to
the Govt. of India, Ministry of
Home Affairs, North Block, New
Delhi.

2. The Secretary to the Govt. of
India, Ministry of Finance, New
Delhi.

3. The Director General of Assam
Rifles, Mahanideshalaya,
Shillong.

4. The Inspector General of Assam
Rifles (North) Zakhama, Kohima,
Nagaland.

5. The Commandant
O/A: 1 Assam Rifles
C/O: 99 APO

6. The Commandant
O/A: 4 Assam Rifles
C/O: 99 APO

7. The Commandant
O/A: 13 Assam Rifles
C/O: 99 APO

8. The Commandant
O/A: 14 Assam Rifles
C/O: 99 APO

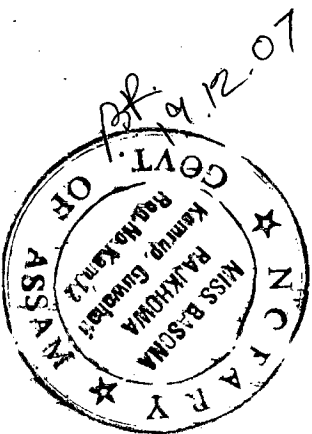
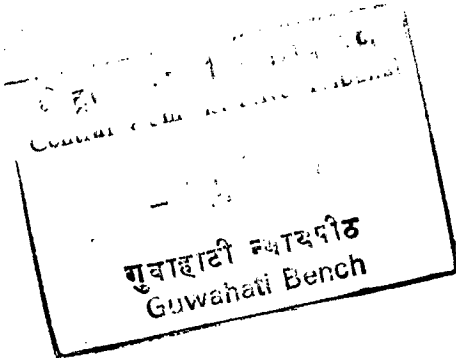
9. The Commandant
O/A: 16 Assam Rifles
C/O: 99 APO

10. The Commandant
O/A: 22 Assam Rifles
C/O: 99 APO

11. The Commandant
O/A: 24 Assam Rifles
C/O: 99 APO

12. The Commandant
O/A: 25 Assam Rifles
C/O: 99 APO

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13. The Commandant
O/A: 26 Assam Rifles
C/O: 99 APO

14. The Commandant
O/A: 28 Assam Rifles
C/O: 99 APO

15. The Commandant
O/A: 30 Assam Rifles
C/O: 99 APO

16. The Commandant
O/A: 33 Assam Rifles
C/O: 99 APO

17. The Commandant
O/A: 35 Assam Rifles
C/O: 99 APO

18. The Commandant
O/A: 38 Assam Rifles
C/O: 99 APO

19. The Commandant
O/A: 39 Assam Rifles
C/O: 99 APO

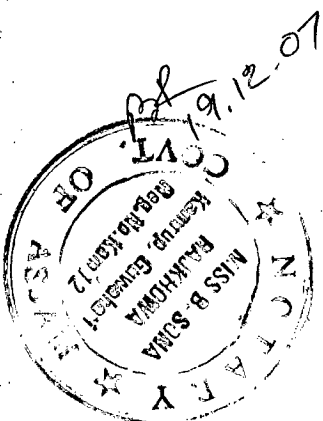
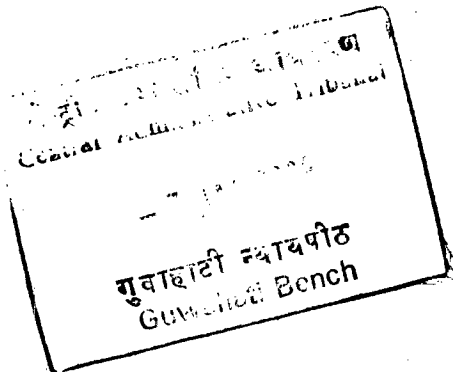
20. The Commandant
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C/O: 99 APO

21. The Commandant
O/A: 43 Assam Rifles
C/O: 99 APO

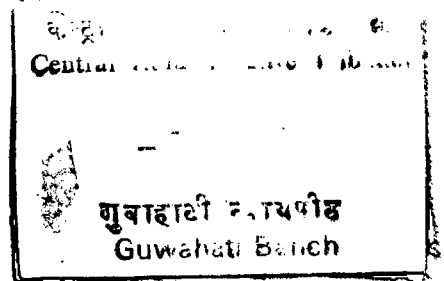
22. The Commandant
O/A: 45 Assam Rifles
C/O: 99 APO

23. The Commandant
O/A: 46 Assam Rifles
C/O: 99 APO

..... Respondents



Joydeep Deb



1. PARTICULARS AGAINST WHICH THE APPLICATION IS MADE:

3.1 The Union of India, with a view to provide some incentives to the combatised/Non-combatised personnel of the Assam Rifles those who posted in the states of the North-Eastern region amongst other granted special (duty) allowance w.e.f. 7/11/1988, which was introduced by office Memorandum No. 11.20044/3/83/E.IV dated 14/12/1983 is denied to the applicants.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declares that subject matter of the case against which they wants redressal is within the Jurisdiction of the Tribunal.

3. LIMITATION:

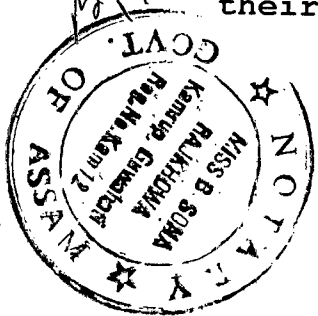
The applicants further declares that this application it filed within the period of limitation as prescribed under section 21 of the Administrative tribunal Act 1985.

4. FACT OF THE CASE:

The facts of the case are given below:

1. That all the applicants are citizen of India by birth and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India and the laws framed thereunder.

2. That all the applicants are working in different companies under the Director General, Assam Rifles. The applicants are non-combatised employees working under the Respondent No.3. The name of the applicants and their date of appointments are shown as below:



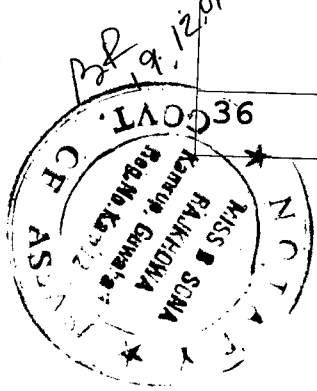
5
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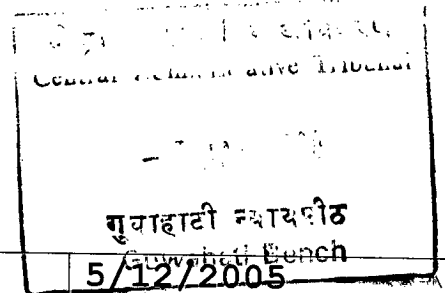
गुवाहाटी न्यायपीठ
Guwahati Bench

Dates of appointments

| | | |
|----|-----------------------------|------------|
| 1 | Mr. Joydeep Das | 8/7/2001 |
| 2 | Mr. N. Ingochaoba Singh | 26/9/1980 |
| 3 | Mr. Manoj Kr. Pandey | 17/5/2001 |
| 4 | Mr. Ajoy Roy | 27/3/2001 |
| 5 | Mr. Ratindra Dey | 7/5/2005 |
| 6 | Mr. Dipak Nunia | 7/2/2002 |
| 7 | Mrs. Shobhra Dhar | 10/2/2005 |
| 8 | Mrs. Susmitha K. | 15/2/2002 |
| 9 | Mr. Hemant Kumar Roshan | 26/6/2005 |
| 10 | Mr. Hare Krishna Singh | 22/6/2000 |
| 11 | Mr. Rajani Lama | 22/10/1983 |
| 12 | Mrs. Dil Kumari Thakur | 18/3/2002 |
| 13 | Mrs. Dilu Debbarmen | 13/7/2001 |
| 14 | Miss Sabita Das | 20/12/2005 |
| 15 | Mr. Laxman Lal Ravidas | 4/7/2000 |
| 16 | Mrs. Sini Binu | 3/10/2000 |
| 17 | Mrs. Chitrakala Thapa | 7/3/2002 |
| 18 | Mrs. Suchitra Thapa | 19/7/2002 |
| 19 | Mrs. Anita Purkayastha | 28/4/1983 |
| 20 | Mrs. Janki Devi | 1/1/2004 |
| 21 | Mrs. Hira Doley | 3/2/2005 |
| 22 | Mr. Anil Kr. Baruah | 22/11/2000 |
| 23 | Mr. Sudhakar | 28/3/2003 |
| 24 | Mrs. Pushpa Singh | 13/2/2002 |
| 25 | Miss Moni Kumari | 11/2/2005 |
| 26 | Mrs. Babita Prasad | 4/4/2001 |
| 27 | Mrs. Noya Konyak | 30/7/1993 |
| 28 | Mr. Chhatrapal | 5/6/2000 |
| 29 | Mr. Bhagwan Singh | 6/7/2000 |
| 30 | Mr. Arbind Kumar | 7/2/2005 |
| 31 | Mrs. Bharati Barik | 14/7/2005 |
| 32 | Mrs. Golmei M.K. | 8/1/1992 |
| 33 | Mrs. S. Neeta Devi | 27/8/2001 |
| 34 | Mrs. Rina Bora | 17/9/1993 |
| 35 | Mrs. Lushion- L. A. Zingkai | 5/1/2002 |
| 36 | Mrs. Uma Devi | 15/10/1985 |

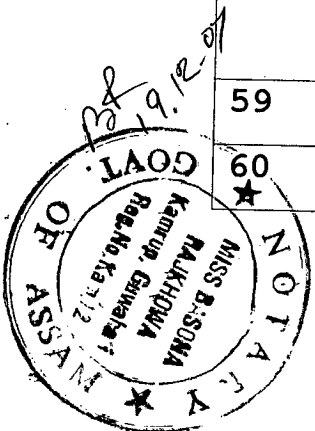
Joydeep Das



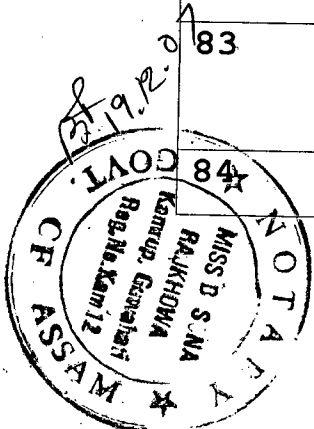


| | | |
|----|-----------------------------|------------|
| 37 | Mrs. Usha Baban Gaikwad | 5/12/2005 |
| 38 | Mrs. Deepa Devi | 21/12/1987 |
| 39 | Mrs. Tainla AO | 26/9/2001 |
| 40 | Mr. Dileep Kr. Oraon | 19/8/2003 |
| 41 | Mrs. Manju Hari Kumar | 18/10/2001 |
| 42 | Mrs. Sreejanani M. | 21/8/2003 |
| 43 | Mr. Ram Prakash | 26/6/2000 |
| 44 | Mr. Biman Bhattacharjee | 27/4/1987 |
| 45 | Mr. Deepak Prasad | 30/6/2000 |
| 46 | Mr. S.D. Mishra | 8/6/2000 |
| 47 | Mrs. Shafiel Khatun | 1/7/2001 |
| 48 | Mr. Anil Joseph Barla | 7/8/1991 |
| 49 | Mr. Mitra Raj Chhetry | 19/2/2004 |
| 50 | Mr. Naresh Kr. Mishra | 4/7/2005 |
| 51 | Mrs. Chongneihtai Gangte | 7/5/1993 |
| 52 | Mrs. Meena Devi | 14/1/1993 |
| 53 | Mrs. Neelu Thapa | 24/6/2002 |
| 54 | Miss Sumitra Chhetri | 7/12/2005 |
| 55 | Mrs. Nirmala Kaur | 22/12/2005 |
| 56 | Mrs. Ajitha I | 9/2/2005 |
| 57 | Mr. A.K. Singh | 16/12/1999 |
| 58 | Mrs. Meguosieu Medom | 4/4/2001 |
| 59 | Mr. Ombir Singh | 7/1/2000 |
| 60 | Mr. Sandeep Dhyani | 29/1/2000 |

Deep Das



| | | |
|----|-----------------------------|------------|
| 61 | Miss Guddi Kumari | 3/10/2005 |
| 62 | Mr. Deshraj | 26/11/1999 |
| 63 | Mr. Mahesh Thakur | 29/1/2001 |
| 64 | Mr. Bhaskar Jyoti Deka | 16/2/2005 |
| 65 | Mr. Rang Bahadur Yadav | 13/7/2005 |
| 66 | Miss Dipali Teron | 11/7/2005 |
| 67 | Mr. H.R. Mishael | 18/7/2005 |
| 68 | Mr. Anil Kumar Singh | 9/4/2003 |
| 69 | Mr. Atul Kumar | 14/7/2005 |
| 70 | Miss Raj Shree Singha | 7/7/2005 |
| 71 | Mr. Udai Ram | 17/4/2004 |
| 72 | Mr. Devasish Roy | 17/8/1989 |
| 73 | Mr. Ajoy Lama | 3/2/2005 |
| 74 | Mr. T.M.Naskar | 21/7/1989 |
| 75 | Mr. Vindo Kumar | 20/12/1999 |
| 76 | Mr. Bikash Verma | 10/7/2000 |
| 77 | Miss Basanti Dev Wagle | 3/5/1999 |
| 78 | Mrs. Helen Basmutari | 17/10/1996 |
| 79 | Mrs. Puathaihi Lushai | 18/4/1997 |
| 80 | Mrs. Laltiakliani Lushai | 28/10/2002 |
| 81 | Miss Bishnu Maya Damai | 16/12/2005 |
| 82 | Miss Sukla Das | 1/3/2006 |
| 83 | Md. Sakir Ahmed Khan | |
| 84 | Mr. N.S. Karki | |

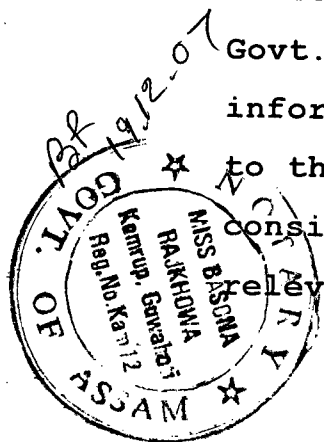


Red Deep Noe

The applicants craves leaves of the Hon'ble CAT to produce the appointment letters at the time of hearing.

3. That the Assam Rifles is directly under the General Superintendence and Control of the Central Government as per provisions of the Assam Rifles Act 1941. Under the provision of the said Act, the Central Govt. is authorised to appoint such person or authority in the Assam Rifles. The office of the Director General is held by a person who is an active member of the Indian armed forces and he is an officer generally above the rank of Brigadier in the Indian Army. The Assam Rifles is Created under the above referred Statute and function directly under the control of the Central Govt. For all purposes the members are treated as soldiers of the Assam Rifles. Section 5 of the Assam Rifles Act 1941, Specifies the classes and ranks in the Assam Rifles. The service condition, pay, allowances is governed by various Rules and orders passed by the Central Govt.

4. That the applicants beg to state that the union Government, with a view to provide some incentives to the Non-Combatised/Combatised personnel of the Assam Rifles those who posted in the States of the North-eastern regions, amongst other granted special (Duty) allowance. The original scheme was introduced by Office Memorandum No. 11/20044/3/83/E.IV dated 14/12/1983. The Govt. of India by his letter dated No. 11011/1/84-FP.IV dated 3/3/86 clarified the Govt. Policy and accordingly respondent No. 3 was informed by the said letter that SDA is not admissible to the civilian Non-Combatised officers /employees. But considering the demand of the employees and other relevant aspect the Govt. of India decided to Sanction

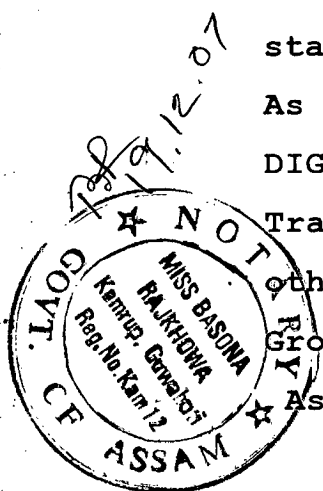


grant of certain allowances VIZ. SDA, special
compendatory (Remote locality) Allowances VIZ. ISCA
(RL) by an order No. 11011/1/84FP IV dated 2/2/89.

The relevant portion of the notification is shown
below:

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(1) Combatised personnel (including Cadre Officers) in battalions of Assam rifles and the combatised personnel (including Cadre Officers) in static Formations (such as offices Of DG, IGP, DIGS, Range Hors. Training Centre etc.) and other units (Maintenance Groups, workshops etc.) of Assam Rifles.</p> | <p>Item (iii) in para 1 of Ministry of Finance O.M. No.11/20014/3/83-E-IV dated 14/12/83 as amended from time to time, read with their O.M. No.20014 3/83-E-IV/II dated 29/10/86 their O.M No.II.20014/3/83- E.IV dated 15/7/88 and Min of Fin. O.M. No.F.20014/16 86.E.IV/E-II(B) dated 1/12/08. (This is in modification of Sanction issued in MHA letter No.II 27012/31/85-FP.II dated 6/4/87)</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(ii) Non combatised civilian personnel personnel ((including officers) in battalions of Assam rifles and in static formations (such As officers of DG, IGP, DIGs, R Range Hors, Training Centre etc) and other units (Maintenance Group, workshops etc) of Assam Rifles.</p> | <p>Same as above (This is in Modification of the sanction issued vide item (3) of para-1 of MHA letter No. 11011/1/84-FP. IV dated 3/3/86).</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|



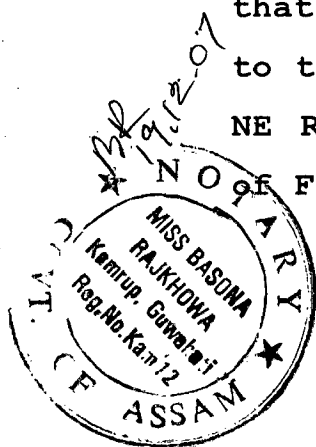
Soydeep Das

The type copies of the said order is annexed herewith and marked as Annexure-A.

5. That the applicants beg to state that order dated 2nd Feb, 89 vide No. 11011/1/84/FP IV was issued with the concurrence of the ministry of finance vide MOD No. 5(72) E dated 7/11/88 and F.89/AS(E)/89 dated 13/1/89 and integrated Finance Division of this ministry vide their Dy. No.4744/(Ho/88) dated 7/12/88.

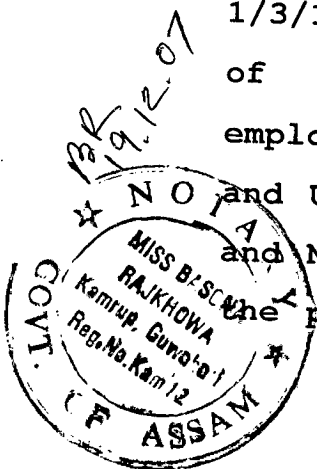
6. That the applicants beg to state that the Government of India granted certain incentives to the Central Civilian employees appointed in the North Eastern Region. One of the incentives was payment of SDA. The applicants are bound to served any where in India where Assam Rifles units are located. It was specifically mentioned in their appointment letters that they are liable to serve any where in India where Assam Rifles Units exist. Though the applicants are the Non-combatised employees they are the part and parcel of the Assam Rifles organization. They are liable to serve in hard/soft/insurgency/remote/difficulty arrears in North Easter State and NE Council and have to stay with the combatised personnel.

7. That the applicants beg to state that the Director General of Assam Rifles issued a Memorandum dated 6/6/98 whereby he inform the Ministry of Home affairs that SDA is one of the concession/facilities extended to the Non-combatised civilian employees serving in the NE Region w.e.f. 1/11/1983 sanctioned by the Ministry of Finance Vide Office Memorandum dated 14/12/1983.



8. That subsequently, consequent to Fourth Central Pay Commission recommendations, the above concessions/facilities were modified and two more concessions were given with effect from 1/12/1983. It is pertinent to mention that the Assam Rifles projected to the Ministry of Home Affairs for extension of the above concessions/facilities including SDA to the combatised/non-combatised civilian personnel of Assam Rifles on the analogy that all these concessions including SDA were available to the employees of other CPOs like BSF, CRPF, etc. similarly situated in the NE Region. Subsequently, all these concessions except SDA were also extended to the combatant employees of Assam Rifles with effect from 1/11/1980 vide Ministry of Home Affairs letter dated 4/4/1987. The communication further mentioned that consequent to change over of pay structure of Assam Rifles personnel from Army pattern to CPO pattern from 1/1/1988 following Fourth Central Pay Commission recommendations, SDA on the analogy of other CPO like BSF, CRPF etc. was also extended to both combatant and civilian employees of Assam Rifles with effect from 7/11/1988, with categorical mention of the civilian staff and officers of all static formations of Assam Rifles including Directorate General, Assam Rifles, vide Ministry of Home Affairs letter dated 2/2/1989.

9. That the applicants beg to state that Govt. of India, through the Ministry of Home Affairs by office memorandum dated 3rd August, 2005 vide Memo No. A-1/3/INST-ACCTS-3/PP-III, clarified it to the D.G.A.R. of that allowances and facilities for Civilian employees of the Central Govt. serving in the States and Union Territories of North-Eastern Region, Andaman and Nikobar Islands and Lakshadweep would be admissible to the personnel who were actually working in the North-



Eastern Region. This office memorandum was issued with the concurrence of Ministry of finance, Department of Expenditure-E-II(B) Branch vide the UONO NO. 315/05 dated 10/6/2005 and integrated Finance Division of that Ministry vide their Dy. NO. 748/Fin.II/05 dated 3/8/2005.

A type copy of the said office memorandum is annexed herewith and marked as Annexure-B.

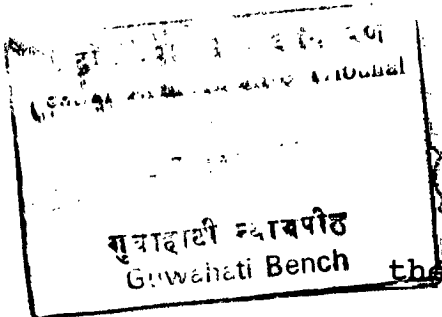
10. That the applicants beg to state that respondent No. 3 disputed HIS EXCELLENCY'S Hon'ble PRESIDENT OF INDIA'S order granting SDA dtd. 2nd, Feb, 1989 by not paying the same to the applicants. The SDA is admissible to the applicants at 12.5% of the basic pay. But the combatised personnels are drawing SDA which is denied to the applicants. Hence violent discrimination has been made out to the applicants. Thus the applicants rights to equal treatments as guaranteed under Article 14,16 of the Constitution of India has been clearly infringed and violated.

11. That the applicants beg to state that orders of the HIS EXCELLENCY'S granting SDA to Assam Rifles Non-combaties personnel w.e.f. 7/11/88 is distinct. That is a special order issued after considering all the pros and cons of the eligibility criteria and respondents are not justified to refuse the benefit of the order dated 2nd Feb, 1989.

12. That the applicants beg to state that the applicants approached Jointly and personally the respondent No. 3 in many occasions, but it is of no response.



Deep Das



- 22 -

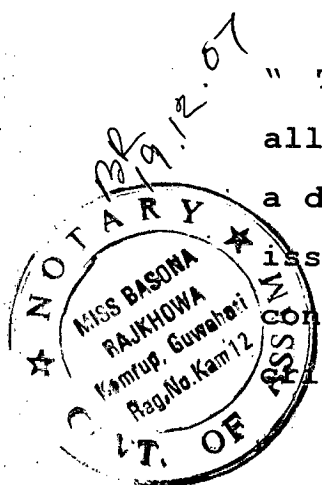
The applicants crave leaves of the Hon'ble Tribunal to produced the copy the said applicants as and when called for.

13. That the applicants beg to state that non-payment and discontinuation of the SDA to the applicants is violative of Article 14, 16 and 21 of the Constitution of India whereas respondents paying it to the combatised personal depriving the applicants and said arrear due to applicants constitute property within the meaning of Article 300A of the Constitution of India. The respondents are denying the SDA to the applicants without authority of law as has been done in the instant case.

14. That the applicants beg to submit that it is settle principles that in cases of non-payment of arrear due to the persons the liability of the Govt. to pay interest at market rates commence from the date of non-payment and any capable delay in settlement and disbursement thereof, the party responsible must be visited with penalty of payment or payments in interest at the current market rate till actual payments.

15 That the applicants beg to state that the Hon'ble Gauhati High Court dismissed the writ petition No. 195(SH) of 2001 filed the Govt. of India with the following observation:

" The orders of the President granting special Duty allowance to Assam Rifles with effect from 7.11.1988 is a distinct and special order for Assam Rifles which was issued after a lapse of almost five years and after considering all pros and cons of the eligibility criteria. For that reason we are of the view that the



Day deep Das

decision of the Hon'ble supreme Court in Vijay Kumar (Supra) cannot be a sound basis for withdrawing the benefit given to the non-combatised civilian employees with the sanction of the President. It is more so because this notification was not under consideration of the Hon'ble Supreme Court in Vijay Kumar (Supra). The notification reflects independent policy decision of the Union and, hence, it shall hold the field unless modified by the competent authority".

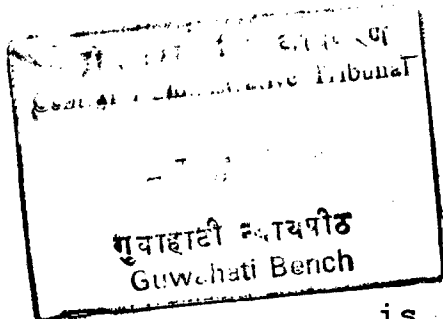
A photo copy of the said Judgment and order dated 24/7/06 passed by the Hon'ble Gauhati High Court is annexed herewith and marked as Annexure-C.

16. That the Applicants beg to state that challenging the said judgement and order dated 24/7/06 the Union of India filed a special leave petition before the Hon'ble Apex Court invoking the jurisdiction under Article 136 of the Constitution of India assailing the legality of the said judgement but by his order dated 26/2/07 Division Bench of the Hon'ble Apex Court dismissed the said Special leave petition.

A type copy of the said order is annexed herewith and marked as Annexure-D.

17. That the applicants beg to state that by an order dated 20july 2007 1.11018/89/2000 law, the respondents granted special duty allowance to civilian employees of Assam Rifles in view of the CAT, Guwahati High Court order dtd. 19/12/2000 in O.A. NO. 2003/98.





24-

62

Type copy of the said order is annexed herewith with and marked as Annexure-E.

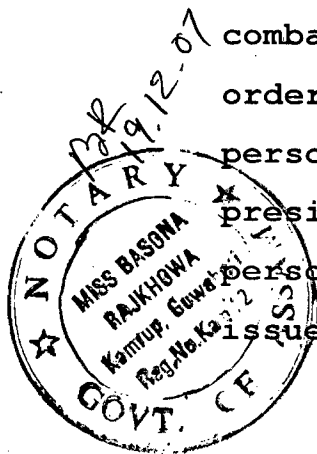
18. That the applicants submit that it is settled principles of law that when an amount legally due to the party was not paid, the party responsible for with holding it must pay interest at the rate considered reasonable as such respondent are liable to pay interest on the outstanding amount at the current market rate.

19. That it is fit case for interference of the Hon'ble Tribunal and the applicants are entitled to a direction from this Hon'ble Tribunal to the respondents for release the said arrears of SDA and to continue to the same.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

1. The Union of India, with a view to provide some incentives to the combatised/Non-combatised personnel of the Assam Rifles those who posted in the states of the North-Eastern region amongst other granted special (duty) allowance w.e.f. 7/11/1988, which was introduced by office Memorandum No. 11.20044/3/83/E.IV dated 14/12/1983 is denied to the applicants.

2. Considering the demand of the employees and other relevant aspect Govt. of India decided to Sanction grant of Special (Duty) allowances to the Non-combatised personnel by an order dated 2/2/89 vide order No. 11011/1/84/FP. IV along with the combatised personnel and this order of HIS EXCELLENCY the president of India granting SDA to Non-combatised personnel is very distinct. That was a special order issued after considering all the pros and cons and



Joydeep Das

eligibility criteria, which is admissible to the applicants at 12.5% against the basic pay.

3. The Govt. of India through the Ministry of Home affairs by office Memorandum dated 3rd August 2005 clarified it to the D.G.A.R vide Memo No. A-1-3/inst-ACCTS-3PP/III that all the allowances and facilities for civilian employees of the central Govt. serving in the NE region is admissible to the personnel who are actually working in the NE Region. But the Combatised personnel has been drawing/getting the said allowance and it is denied to the petitioners which is a hostile discrimination.

4. That the Division Bench of the Hon'ble Gauhati High Court (Shillong) Bench in writ petition No. 195 (SH) OF 2001 by his Judgement and order dated 24/7/2006 dismissing the writ petition filed by the Union of India held that the order of the President of India granting SDA to AR employees w.e.f. 7.11.1988 is a distinct and special order for Assam Rifles which was issued after a lapse of almost five years and after considering all the pros and cons and eligibility criteria.

6. DETAILS OF REMEDIES EXHAUSTED :

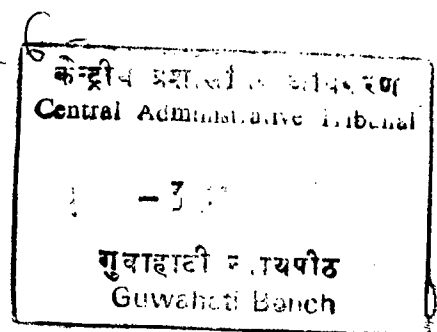
That the applicants declares that they have avail all the remedies available to them.

7. MATTER NOT PENDING WITH ANY OTHER COURT ETC.

That the applicants declares that the matter regarding in which the application have been made is not pending before any courts of law, any other authority or any other branch of the Tribunal.



8. PRAYER.

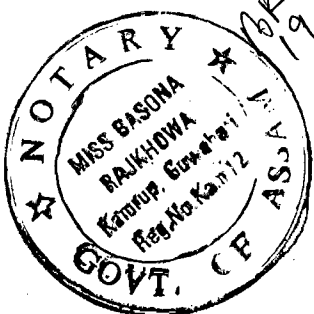


In the premises aforesaid, it is prayed that Your Lordship would graciously be pleased to admit this application, issue Rule/Notice call for the entire records of the case, asked the respondents to show cause as to why direction shall not be given to release and to pay the special (duty) allowance to the applicants/the arrears of special (duty) allowance alongwith interest at the current market rate from the date of due till realization and to continue the same as introduced by the Govt. of India and after perusing the case record, and the causes shown, if any and hearing the parties make the Rule absolute directing the respondents to release all the special (duty) allowance along with interest and/or pass such order/orders as Your Lordships deem fit and proper in the facts and circumstances of the case.

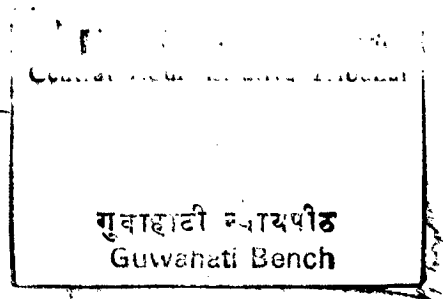
And for this act of kindness the applicants as in duty bound shall ever pray.

9. INTERIM ORDER:

Pending final decision, in the facts and circumstances as of the case, it is prayed to pass an interim order as Your Lordship deem fit and proper.



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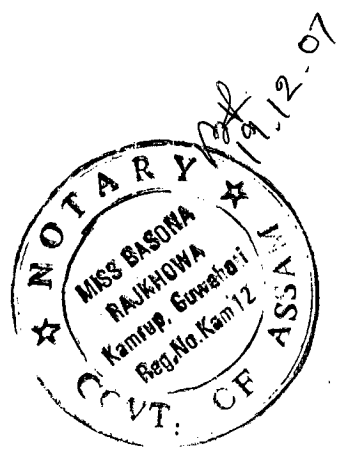
For Deposee

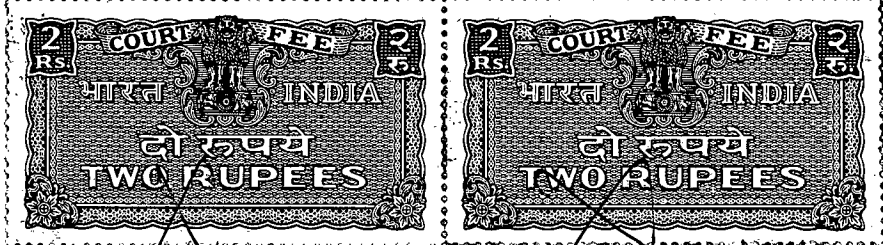
10. PARTICULARS OF THE BANK DRAFT/POSTAL ORDER IN RESPECT OF THE APPLICATION FEE.

- i. I.P.O. No. ~~70E049617~~, 66F869022, 66F869023
ii. Date of Issue dated 3.1.08
iii. Issued by G.P.O

11. LIST OF ENCLOSURES:

As stated in the Index/List of dates





- 28 - 66

VERIFICATION

I Mr. Joydeep Das S/O Late Mr. Jogot Moy Das, aged about-29 years, 4, Assam Rifles, C/O 99 APO District: Sherchip do hereby state that I am one of the applicants of the accompanying application and I am well conversant with the facts of the case and for myself and on behalf other applicants duly authorised by them to hereby verify that the contents of paragraphs - 1 to 3, 6 to 11 are true to my personal knowledge and those in paragraphs 4,

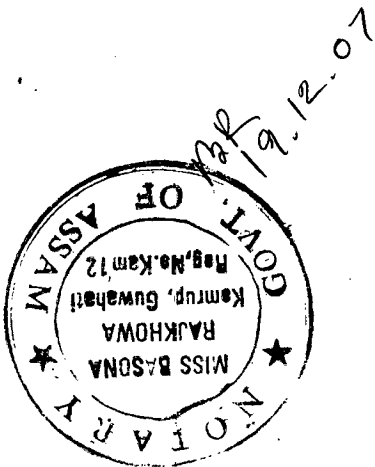
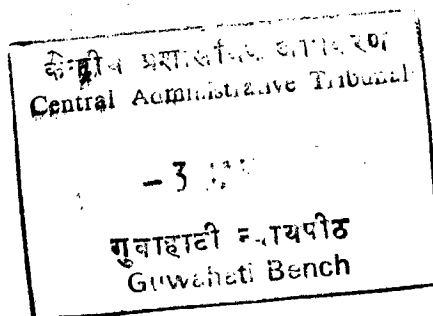
are believed true to be true and as per record and I have not suppressed any material facts.

Joydeep Das

Signature of the applicant

Place: Guwahati

Date: 3.1.08

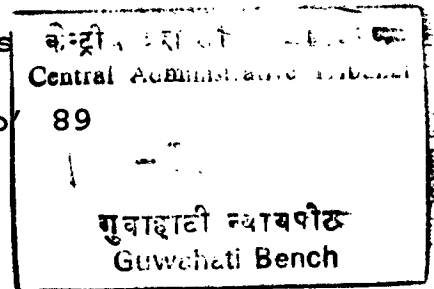


ANNEXURE-A

COPY

No. 11011/1/84-FP.IV
Government of India
Ministry of Home Affairs

New Delhi, dated the 2nd Feb 89



To,
The Director General
Assam Rifles
Shilling-7930011.

Subject: Grant of Special (Duty Allowance and Special Compensatory (Remote Locality) Allowances to Assam Rifles personnel posted in the States and Union Territories of North Eastern Region, Andaman and Nicobar island and Lakshadweep- Grant of Sikkim Compensatory Allowances sanctioned regarding.

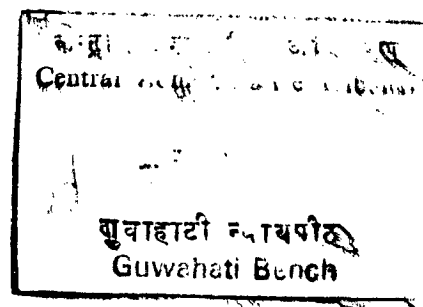
Sir,

I am directed to convey the sanction of the President to the grant of the following allowances to the personnel in Assam Rifles with effect from 7.11.1988:

| <u>Category of personnel</u> <u>Entitled to allowance</u> | <u>particulars of O.MS regulating</u> <u>the allowance</u> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) Combatised personnel (including Cadre Officers) in battalions of Assam rifles and the combatised personnel (including Cadre Officers) in static formations (such as offices of DG, IGP, DIGS, Range Hors. Training Centre etc.) and Other units (Maintenance Groups, workshops etc.) of Assam Rifles. | Item (iii) in para 1 of Ministry of Finance O.M. No.II-20014/3/83-E-IV dated 14/12/83 as amended from time to time, read with their O.M. NO. 20014/3/83-E-IV/II dated 29/10/86 Their O.M. No.II, 20014/3/83-E-IV dated 15/7/88 and Min of Fin. O.M. No.F.20014 16/86,E.IV/E-II(B) dated 1/12/08. (This is in modification of sanction issued in MHA letter No.II 27012/31/85-FP.II dated 6/4/87) |
| (ii) Non combatised personnel (including officers) in battalions of Assam Rifles and in static formations (such as offices of DG, IGP, | Same as above (This is in Modification of the sanction issued vide item (3) of para 1 of MHA letter No. 11011/1/84-FP. IV dated 3/3/86). |

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He Jenuah
Advocate

DIGs, Range Hors,
Training Centre etc)
and other units
(Maintenance Group,
workshops etc.) of
Assam Rifles.



(2) Special Compensatory
Allowance (Also called
as Special Compensatory
(Remote Locality)
Allowance

Category of personnel as
Mentioned against item(i)

Same as indicated against
items 1(i) above Ministry
of Finance O.Ms.No.
20014/6/86-F.IV dated
23/9/86 and 27/4/87
(Meghalaya) No. 20014/7/
(Assam) NO. 20014/10/86-
E.IV dt. 23/9/86 and
22/4/87 (Tripura)
NO.20014/2/86-E.V dated
23/9/86 and 16/4/8
(Mizoram) No. 20014/9/86-
E.IV dt. 23/9/86 and
22/4/87 (Nagaland) and
16/4/87 (Manipur) No.
20014/4/86-E.IV dt. 23/9/86
and 22/4/87 (Arunachal
Pradesh) also refer. (This
is in modification of MHA
letter No. 27012/31/85-
FP.II dt. 6/4/87).

(3) Sikkim Compensatory
Allowance

Combatised as well as
Non-combatised personnel
(including officers) in
Assam Rifles posted in
Sikkim.

Ministry of Finance O.M.
No.20014/8/86-E.IV dated
23/9/86 and 22/4/87.

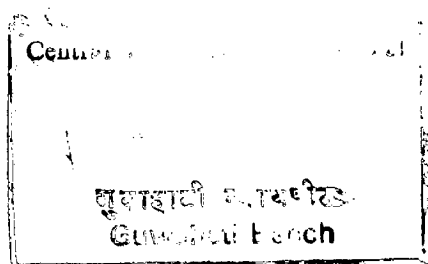
2. With effect from 7/11/88, the Assam Rifles
personnel who were in receipt of special compensatory
Filed Area Allowance (as in the Army) will cause to
draw the same..

3. The above sanctions are not applicable to Army
Officers/personnel; on deputation to Assam Rifles.

4. This issue with the concurrence of the Ministry of
Finance Vide MOD NO. 5(72)E. dated 7/11/88 and

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H. E. Bonuah
Advocate



F.89/AS(E)/89 dated 13/1/89 and Integrated Finance Division of this Ministry vide their Dy.No. 4744/(HO/88) dated 7/12/88.

Yours faithfully

S/D

(M.M. Sharma)

Deputy Secretary to the Government of India.

No. 11011/1/84-FP.IV dated New Delhi, the 2nd Feb. 89.

Copy to:

1. The pay & Account Officer, Assam rifles, Shillong.
2. The Accountant General, Assam, Meghalays, etc. Shillong.
3. Finance-III, Ministry of Home Affairs.
4. Ministry of Finance, Deptt. of Expenditure (E.III Branch).
5. Ministry of Finance, Deptt. of Expenditure (E.IV Branch).
6. Liaison Officer, Assam Rifles, New Delhi.
7. 20 Spare copies.

Sd/-

(MM Sharma)

Deputy Secretary to the Government of India.

Certified to be true copy

H. E. Bonuah
Advocate

- 32 -

| |
|--------------------------------------|
| Central Government Guwahati Bench |
| ANNEKURE-B |

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

Memo No.A-1-3/INST-ACCTS-3/PP-III

North Block, New Delhi
Dated, the 3rd August, 2005.

OFFICE MEMORANDUM

Sub: Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region, Andaman and Nicobar Islands and Lakshadweep.

I am directed to refer to this Ministry's letter No. II-27012/31/85-FP.II dated 31/3/1987 vide which the CPF Personnel posted in the North-Eastern Region and not having their head quarter in the N.E. Region were not getting special (duty) allowance because of the condition that the Hqrs of such personnel should also be in North-East.

2. The matter has since been examined in consultation with Ministry of Finance and it has been decided to consider and allow the claim of CPF Personnel deployed in N.E. Region whose Headquarter is located outside the N.E. Region in the light of criteria laid down in Finance Ministry's O.M.NO.20014/3/83-F.IV dated 14/12/1983 read with O.M. NO. 11(5) 87-E dated 29/5/2002. It is also clarified that this allowance would be admissible only to the personnel who are actually working in the N.E. Region.

3. This issues with the concurrence of Ministry of Finance, Department of Expenditure, E-II(B) Branch vide

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He Guwahati

Advocate

गुवाहाटी न्यायपीठ
Guwahati Bench

their UO NO. 315/05 dated 10/6/2005 and Integrated Finance Division of this Ministry vide their Dy. No.748/Fin. II/05 dated 3/8/2005.

Sd/- Illegable

(Renjanesh Sahal)

Director (Police Finance)

Tel.No. 2309-2123

DG of Assam Rifles, BSF, CISF, CRPF, ITBP and SSB Shillong (Meghalaya)/New Delhi

Copy to:

1. (Sic)

(Meghalaya)/New Delhi

2. FA, Assam Rifles, BSF, CISF, CRPF, ITBP and SSB Shillong (Meghalaya) /New Delhi.

3. PPS to JS(P) for information of JS(P)

4. IFD (Fin. II), MHA

5. PFI/II/V/V Desks, MHA

6. Guard File (PF. III Desk), MHA.

Sd/- Illegible

(M.S. Kalania)

Under Secretary to the Govt. of India

Tel. No. 23092214

Certified to be true copy
He Boruah
Advocate

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram and Arunachal Pradesh)

(SHILLONG BENCH)

WRIT PETITION NO. 195 (SH) OF 2001

ANNEXURE - C

গুৱাহাটী ন্যায়পীঠ
Shillong Bench

1. The Union of India, represented by
the Secretary, Ministry of Home Affairs,
Govt. of India, North Block, New Delhi.
2. The Secretary to the Govt. of India,
Ministry of Finance (Department of
Expenditure), New Delhi.
3. The Director General,
Assam Rifles, Shillong.
4. Deputy Controller,
Pay & Accounts Officer (Assam Rifles)
Ministry of Home Affairs,
Laitumkhrah, Shillong.

..... PETITIONERS

-Versus-

1. Shri R.S. Pathak and others.
2. The Central Administrative Tribunal,
Guwahati.

..... RESPONDENTS

P R E S E N T
THE HON'BLE MR. JUSTICE D. BISWAS
THE HON'BLE MR. JUSTICE T. VAIPHEI

For the petitioner

Mr. S.C. Shyam,
C.G.C.

For the respondent

Mr. B.C. Das, Sr. Advocate
Mr. B.N. Dutta, Advocate

Certified to be true copy
The Bench

Advocate

Certified to be true copy
The Bench
Advocate

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Date of Hearing : 24.07.2006
Date of Judgment and Order : 24.07.2006

JUDGMENT AND ORDER

By D. Biswas, J.

This writ petition is directed against the common judgment and order dated 19.12.2000 passed by the Central Administrative Tribunal, Guwahati Bench in O.A. Nos.203, 207, 222 of 1998, 225, 268, 012, 372, 144, 194, 285, 379 and 442 of 1999. The respondents have been working as non-combatant civilian employees in different capacities under the Director General of Assam Rifles. Dispute arose with regard to payment of Special Duty Allowance (SDA) which was paid to them in pursuance of the notification dated 2.2.1989 issued by the Ministry of Home Affairs. By this notification, the Government of India permitted payment of Special Duty Allowance to non-combatant civilian personnel including officers under the Battalion of Assam Rifles and static formation (such as offices of DC, IGP, DIGs, Range Hqs. Training Centre etc.). Accordingly, the respondents were paid special duty allowance. It may be mentioned here that the concept of payment of Special Duty Allowance was first introduced by the Government of India by the notification dated 14th December, 1983. Proposals for payment of the allowance to the civilian employees of the Assam Rifles was initially turned down by the Ministry of Home Affairs, Government of India vide letter dated 3.3.1986 on the ground that the Assam Rifles personnel and civilian non-combatant officers/employees do not have all India transfer liability. Thereafter, the Ministry of Home Affairs, Government of India with concurrence of the Ministry of Finance issued the notification dated 2.2.1989 permitting payment of Special Duty Allowance to the non-combatant civilian personnel of the Assam Rifles. The benefit given

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The Bench

Advocate

- 303 - 146 - 36 -



This notification was withdrawn by the notification dated 12.1.1996 with direction for recovery of the allowance paid to them after 20.9.1994. The learned Tribunal held that the office memorandum dated 2.2.1989, whereby the civilian combatised employees have been granted the allowance, is a distinct and independent policy decision of the Government of India and the decision to pay has been taken irrespective of all India transfer liability. The Tribunal set aside the impugned notification holding inter alia that refusal to grant Special Duty Allowance to the applicants is without justification and the steps taken for recovery of the amount already paid is unjustified. Further direction has been given to the authority to refund the amount, if any, already recovered in pursuance of the impugned notification dated 12.1.1996.

2. We have heard Mr. S.C. Shyam, learned Central Government Counsel for the petitioners. Also heard Mr. B.C. Das, learned senior counsel for the respondents as well as Mr. BN. Dutta, learned counsel.

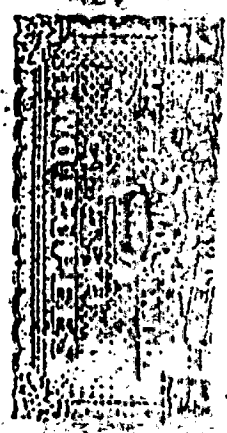
3. We have examined the notifications dated 4.12.1983, 3.3.1986, 2.2.1989 and 12.1.1996 issued by the Government of India from time to time. We have also considered the decision of the Hon'ble Supreme Court in Union of India and others -Vs.- V. Jay Kumar and others, reported in 1994 Supp (3) SCC 649. We find no reason to disagree with the view expressed by the learned Tribunal that while granting Special Duty Allowance to the non-combatant civilian employees of the static formation of the Assam Rifles, the Ministry took note of all its earlier office memoranda and took a conscious decision to pay Special Duty Allowance to the non-combatised civilian employees of the Assam Rifles. The notification dated 2nd February, 1989 was issued with sanction of the President of India granting payment of Special Duty Allowance with effect from

Confirmed
He Senuah

51-17

Central 37
गुवाहाटी न्यायपीठ
Guwahati Bench

11.1988. The notification dated 2nd February, 1989 appears to be a conscious decision of the Union Government taken after consideration of all material factors including service conditions of the employees serving in the Assam Rifles. The authority allowed payment of the allowance knowing fully well that such civilian non-combatant officers and personnel of Assam Rifles do not have all India transfer liability. Therefore, the notification issued by the Government of India granting Special Duty Allowance is not relatable to the earlier office memoranda. The decision reflected in this notification is distinct and independent of the earlier decision. This view finds support from the averments of the writ petitioners in their written statement submitted before the Tribunal in O.A. No.207/1998. In para-3 of the said written statement, it is submitted that the orders of the President granting Special Duty Allowance to Assam Rifles with effect from 7.11.1988 is a distinct and special order for Assam Rifles which was issued after a lapse of almost five years and after considering all pros and cons of the eligibility criteria. For this reason we are of the view that the decision of the Hon'ble Supreme Court in Vijay Kumar (supra) cannot be a sound basis for withdrawing the benefit given to the non-combatant civilian employees with the sanction of the President. It is more so because this notification was not under consideration of the Hon'ble Supreme Court in Vijay Kumar (supra). The notification effects independent policy decision of the Union and, hence, it shall hold the field unless modified by the competent authority as indicated hereinbefore. We find no ground for interference with the judgment and order of the learned Tribunal.



4. In the result, the writ petition is dismissed.

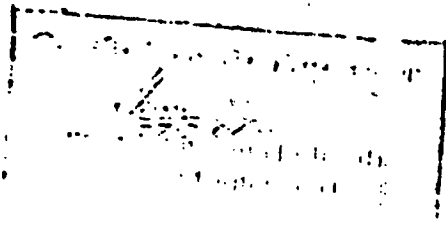
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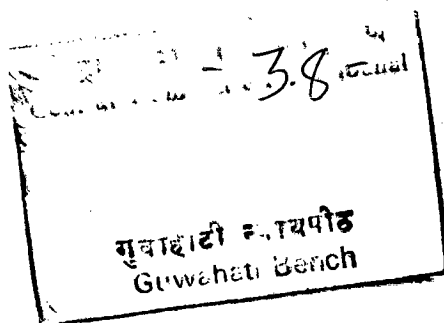
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the Journal

Advocate

Read By: [Signature]
Compared By: [Signature]





ANNEXURE-D

COURT NO. 5

Section XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petitioners(s) for Special Leave to Appeal (Civil)
NO.(s).2962/2007

(From the judgement and order 24/07/2006 in WP No.
195/2001 of the High Court of Guwahati, Assam)

Union of India & Ors.

Petitioner(s)

Versus

R.S. Pathak & Ors

Respondent(s)

Date; 26/02/2007 This petition was called on for
hearing today

CORAM:

Hon'ble Mr. Justice H.K Sema

Hon'ble Mr. Justice D.K. Jain

For petitioner(s) Mr. R. Mohan, ASG
Mrs.Binu Tamta, Adv.
Mrs. B. Sunita Rao, Adv.
Mr. Shanti Bhushan Chaubey, Adv.
Ms. Sushma Suri, Adv.

For Respondent(s) Mr. N.R. Choudhry, Adv.
Mr. Somnath Mukherjee, Adv.

Upon hearing counsel the Court made the following

ORDER

We see no reasons to interfere. The Special Leave
petition is dismissed.

S/D

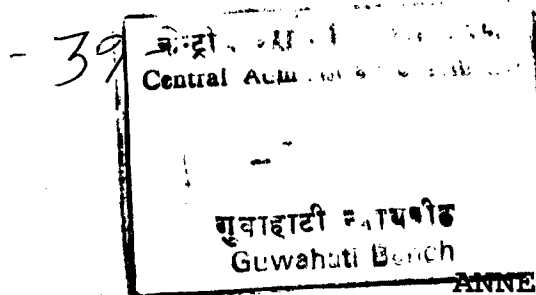
(Ravi P. Verma)
Court Master

S/D

(Anand Singh)
Court Master

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He Bonua

Advocate



ANNEXURE-E

Tele No.2705016

By SDS

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong-793011

1.11018/89/2001-law

20 July 2007

Headquarters

Inspector General Assam Rifles (North)

C/O 99 APO.

GRANT OF SPECIAL DUTY ALLOWANCES (SDA) TO CIVILIAN
EMPLOYEES OF ASSAM RIFLES IN VIEW OF CAT, GUWAHATI
ORDER DATED 19,12.2000 IN OA NO 203/98-RS PATHAK &
OTHERS AND THE SERIES

Ref your Sig A 6844 dated 17.07.2007.

It is intimated that MHA vide its letter UO NO. 27013/04/2007-PF.IV dated 13.07.2007 directed to implement the CAT orders dated 19.12.2000 in respect of the petitioner only.

It is further intimated that vide the said order dated 19 Dec 2000 the CAT, Guwahati also considered & disposed of the following Original Applications:

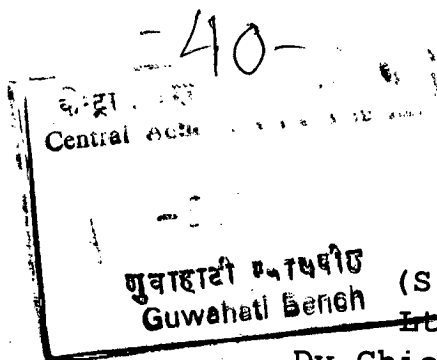
- | | |
|-----------------------|-----------------------------------------------|
| (a) O.A. NO. 207/1998 | Shri H.N.Sharma & 24 Others (Sri No.2) |
| (b) O.A. No. 222/1998 | Shri B.K. Chatterjee & 31 Others (Srl.No.2.) |
| (c) O.A. NO.225/1999 | Shri S.K. Dhar & 23 Others (Sri No.4) |
| (d) O.A. NO.268/1999 | Shri V.S. Sarma & 86 Others (Srl No.5) |
| (e) O.A. NO.312/1999 | Shri K. Choudhury & 67 Others (Srl No.6) |
| (f) O.A. NO.372/1999 | Shri S.D.Bhuyan & 41 Others (Srl NO.7) |
| (g) O.A. NO.144/1999 | Shri AC Chanda & 19 Others (Srl No.8) |
| (h) O.A. NO.194/1999 | Shri B.C.Roy & 20 Others (Srl No.9) |
| (i) O.A. NO.285/1999 | Shri S.C. Kar & 09 Others (Srl NO.10) |
| (j) O.A. NO.379/1999 | Shri M.R. Chakraborty & 78 Others (Srl No.11) |
| (k) O.A. NO.442/1999 | Shri A.M.Kumar & 5 Others (Srl. No.12) |
| (l) O.A. NO.129/2000 | Shri K Bayan & 154 Others (Srl No.13) |
| (m) O.A. NO.166/2000 | Shri BN Deka & 05 Others (Srl No.14) |
| (n) O.A. NO.168/2000 | Shri Dr. Ajit Bora (Srl No.15) |
| (o) O.A. NO.284/1999 | Shri GB Singh & 98 Others (Srl No. 16) |
| (p) O.A. NO.109/2000 | Dr. P.K. Singh & 06 Others (Srl No.17) |
| (q) O.A. NO.341/2000 | Shri P. Chakraborty & 05 Others (Srl No.18) |
| (r) O.A. NO.345/2000 | Dr. B. Ghosh & 02 Others (Srl NO. 19) |
| (s) O.A. NO.425/2000 | Dr.S. Dimngel & 12 Others (Srl No. 20) |
| (t) O.A. NO.429/2000 | Shri B.N. Talukdar & 16 Others (Srl No. 21) |

4. In view of above, list of the petitioners as per records available in respect of above mentioned cases along with copy of CAT order dated 19.12.2000 are forwarded as desired please. The same may please be disseminated to all concerned Sector HQRS/Units under your command.

*Certified to be true copy
The General*

Advocate

5. Please ack.



Dy Chief Law Officer
For Chief Law Officer

Encl: As stated above

Copy to:

Headquarters :Ref your Signal No. A 6468 dated
IGAR(S) 16.07.2007. Complete list of
C/O: 99 APO. Petitioners along with copy of CAT
order dated 19.12.2000 is forwarded
herewith for similar action as
stated above.

Headquarters : -do-
21 Sector Assam Rifles
C/O: 99 APO

Headquarters
23 Sector Assam Rifles : -do-
C/O 99 APO.

Headquarters
25 Sector Assam Rifles : -do-
C/O 99 APO.

Assam Rifles Signal Unit: Ref your letter No.
Shillong-II II.17017/Fin/2007/342 dated
17.07.2007. It is requested to
dispatch a competent Clerk well
conversant with the case to East
Branch this Directorate since a list
of petitioners being fwd to them.

Assam Rifles :Ref your letter No. Fin/4101/28/
Adm Support Unit 2007/637 dated 16.07.2007. it is
Happy Valley, requested to dispatch a competent
Shillong-07 clerk well conversant with the case
East Branch this Directorate since a
list of petitioners being fwd to
them.

Est Branch (Bill Sec): Complete list of the petitioners
HQ DGAR, Shillong-II along with copy of CAT order
(Internal) dated 19.12.2000 for your
further necessary action.

*Certified to be true copy
the Bonuash*

Advocate