

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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13/07/2015  
SECTION OFFICER (JUDL.)

FORM NO. 4  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :  
ORDERSHEET

1. Original Application No : 124 / 2009
2. Misc. Petition No : ----- in O.A. No.-----
3. Contempt Petition No : ----- in O.A. No.-----
4. Review Application No : ----- in O.A. No.-----
5. Execution Petition No : ----- in O.A. No.-----

Applicant (S) : Sri Prafulla Ch. Das

Respondent (S) : Union of India & ors.

Advocate for the {Applicant (S)} : Mr. M. Chanda,  
Mr. S. Nath & Mrs. U. Dutta

Advocate for the {Respondent (S)} : Mrs. M. Das,  
Adv. CGSC.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. <u>396/409/24</u> Dated <u>28.5.09</u></p> <p><u>26.6.09</u></p> <p><u>4 (Four) copies of application with envelopes received for issue notices to the Respondents no. 1 to 4. Copy served.</u></p> <p><u>2.7.09</u></p> <p><u>order dt. 30.6.09 with notice send to D/S for issue to the Respondents. vide no. 3704 to dt. 2.7.09</u></p>	<p>30.06.2009</p> <p>/bb/</p> <p>19.08.2009</p>	<p>Issue notice to the Respondents requiring them to file their counter by 19.08.2009.</p> <p>Call this matter on 19.08.2009.</p> <p>(M.R. Mohanty) Vice-Chairman</p> <p>Mrs. U. Dutta, learned counsel for the Applicant is present. No written statement has been filed by the Respondents. On behalf of Mrs. M. Das, learned Addl. Standing counsel appearing for the Respondents, a prayer is made to give some more time to file written statement.</p> <p>Call this matter on 05.10.2009 awaiting written statement from the Respondents.</p> <p>Send copies of this order to the Respondents in the address <u>contd/-&gt;</u></p>

O.A. 124 of 2009

① No Hice duly served  
on R. No. 3 & 4.

① Service report  
awaited from  
R. No. 1 & 2.  
18.8.09.

Contd/-

19.08.2009 given in the O.A.

(M.K. Chaturvedi)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

/lm/

05.10.2009

On the prayer of Mrs. M. Das,  
learned Addl. Standing counsel, call this  
matter on 20.11.2009 awaiting written  
statement from the Respondents.

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

20/8/09

/bb/

(M.R. Mohanty)  
Vice-Chairman

Copies of order  
dated 19/8/2009  
send to D/Sec. for  
issuing to respondents  
by post.

20.11.2009

No written statement has yet been  
filed by the Respondents.

Call this matter on 08.12.2009 awaiting  
written statement from the Respondent.

(Madan Kumar Chaturvedi)  
Member (A)

/bb/

① Service report  
awaited.

1.10.09

19.11.09  
no W/S filed

No W/S filed

7.12.09

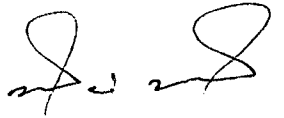
Regd. P.T.O.  
08/12/09

O.A. No.124 of 2009

08.12.2009

Mrs. M. Das, learned Sr. CGSC for Central Government has produced communication dated 18<sup>th</sup> September, 2009 emanated from Ministry of Finance (PF.IV Desk) whereby the Central Government has allowed officer of Assam Rifles the claim regarding Special Duty Allowance (SDA) w.e.f. 03.09.2001 or the date of appointment, which even is later, without any interest. Said order ultimately culminated in formal order dated 29<sup>th</sup> September 2009 issued by Director General of Assam Rifles, DGAR (HQ), Shillong - 793011. Applicant's name appears at Serial No. 75. In this view of the matter, the learned counsel for applicant agree that the applicants claim seeking payment of Special Duty Allowance (SDA) has been satisfied. Accordingly O.A. is disposed of at the admission stage. No costs.

Copies of said communications have been taken on record.

  
(Mukesh Kumar Gupta)  
Member (J)

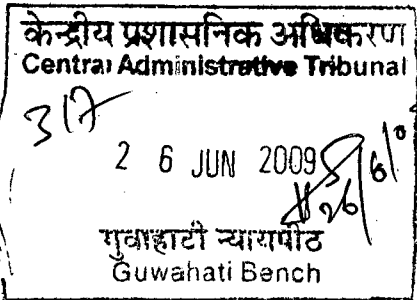
/pb/

24-12-09Judgment/Final

order dated 8/12/09  
sent to the D/Sdcm  
for issuing the order  
subscribed by Post  
and by hand received  
both the advocates  
vide No - 12976 to  
22979  
dated - 24-12-09

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

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



O. A. No. 124 /2009

Shri Prafulla Chandra Das.

-Vs-

Union of India and Others.

**SYNOPSIS OF THE APPLICATION**

Applicant is a Senior Accountant (Retired) of Assam Rifles. He approached this Hon'ble Tribunal along with others through O.A No. 40/2008 against the impugned letter dated 27.11.2007 whereby payment of SDA denied to the staffs of Assam Rifles who are not applicants of OA No. 203/1998. It was also prayed in the said O.A for a direction upon the respondents for payment of SDA in terms of the Presidential order dated 02.02.1989 as well as in terms of the judgment and order 19.12.2000 passed in O.A. No. 203/1998, which was upheld by the Hon'ble Gauhati High Court in W.P No. 195 (SH)/2001 and further upheld by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. (s) 2962/2007. Hon'ble Tribunal disposed of the O.A No. 40/08 on 03.03.2008 with the direction to the applicants to submit individual representation before the competent authority to seek relief as was granted to similarly situated persons and if such representations are filed, the Respondents were directed to pass reasoned order within a period of 3 months from the date of receipt of the representations. Accordingly applicant submitted representation claiming arrear of SDA to him. However, the DGAR vide impugned letter dated 15.12.2008 (Annexure- Q) rejected claim of the applicant for payment of arrear SDA only on the ground that he has retired on superannuation whereas the DGAR extended payment of SDA to all other applicants of O.A No. 40/2008. Hence this Original application claiming payment of arrear of SDA to the applicant.

**LISTS OF DATES**

- 14.12.1983- Govt. of India issued O.M granting Special (Duty) Allowance to the Central Govt. civilian employees having all India Transfer Liability.  
(Annexure- A)
- 03.03.1986- Ministry of Home Affairs issued a letter to the DGAR, informing that the personnel in battalions of Assam Rifles and Assam Rifles

personnel and civilians non-combatised officers/employees are not entitled to SDA as envisaged in the O.M dated 14.12.1983.

(Annexure- B)

- 02.02.1989- The President of India accorded sanction of some allowances to Assam Rifles employees, and SDA is one of such allowances sanctioned by the President.  
(Annexure- C)
- 12.01.1996- Govt. of India, Ministry of Finance issued O.M. clarifying payment of SDA to the central Govt. employees.  
(Annexure- D)
- 06.06.1998- DGAR, Shillong in his letter to the Joint Secretary, Ministry of Home Affairs explained the entitlement of SDA to civilian employees of Assam Rifles.  
(Annexure- E)
- 09.07.1998- Ministry of Home Affairs informed that Ministry has not been agreed for continuation of payment of SDA to the Assam Rifles employees in view of the orders of the Ministry of Finance dated 12.01.1996.  
(Annexure- F)
- 21.07.1998- DGAR forwarded a copy of the letter dated 09.07.98 to the Pay and Accounts Office, Assam Rifles.  
(Annexure- G)
- 04.08.1998- DGAR in his letter to the Pay and Accounts Office, Assam Rifles, Shillong explained the details of entitlement of SDA to the civilian employees of the Assam Rifles.  
(Annexure- I)
- 19.12.2000- This Hon'ble Tribunal vide common judgment and order dated 19.12.2000 allowed the OA No. 203/1998 and series of cases with the direction/declaration of entitlement of SDA to the similarly situated employees of Assam Rifles.  
(Annexure- J)
- 2001- Respondents filed W.P. No. 195 (SH)/2001 before Hon'ble Gauhati High Court against the judgment and order dated 19.12.2000 in O.A. No. 203/1998.
- 24.07.2006- Hon'ble Gauhati High Court dismissed W.P. No. 195 (SH)/2001.  
(Annexure- K)
- 30.09.2006- Applicant retired on superannuation.
- 2007- Respondents preferred SLP (C) No. (s) 2962/2007 before Hon'ble Apex Court against the judgment and order dated 24.07.06 in WP (C) No. 195 (SH)/2001.
- 26.02.2007- Hon'ble Supreme Court dismissed the SLP (C) No. (s) 2962/2007.  
(Annexure- L)
- 23.07.2007/24.07.07- DGAR HQ confined payment of SDA only to the respective applicants of the O.A. who approached the learned Tribunal.  
(Annexure- M, N)

27.11.2007- DGAR, Shillong vide impugned letter dated 27.11.07 informed that the Ministry has rejected grant of SDA to the non-petitioners staff of Assam Rifles. (Annexure- O)

Applicant along with others approached Hon'ble Tribunal through OA No. 40/2008 against the impugned letter dated 27.11.07 and also praying for a direction for payment of SDA.

03.03.2008- Hon'ble Tribunal disposed of the O.A No. 40/08 with the direction to the applicants to submit individual representation before the competent authority to seek relief as was granted to similarly situated persons and if such representations are filed, the Respondents were directed to pass reasoned order within a period of 3 months from the date of receipt of the representations. (Annexure- P)

27.11.2008- Applicant submitted application for payment of arrear SDA.

15.12.2008- Respondent No. 2 vide his impugned letter dated 15.12.08 rejected claim of the applicant for grant of arrear of SDA only on the ground that the applicant has superannuated w.e.f. 30.09.2006. However, the respondent No. 2 granted payment of SDA to all other applicants of O.A No. 40/2008 except the present applicant. (Annexure- Q)

### PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. A/Pers-0859/2007 dated 27.11.2007 (Annexure- O) impugned letter No. A/Pers-0859/08 dated 15.12.2008 (Annexure- Q).
2. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of arrear SDA in terms of the Presidential order dated 02.02.1989 as well as in terms of the judgment and order 19.12.2000 passed in O.A. No. 203/1998, which was upheld by the Hon'ble Gauhati High Court in W.P No. 195 (SH)/2001 and further upheld by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. (s) 2962/2007.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

### Interim order prayed for:

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

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

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

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

**Title of the case** : O.A. No. 124 /2009

**Shri Prafulla Chandra Das.** : Applicant.

**-Versus-**  
**Union of India & Ors.** : Respondents.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

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Date: - 23.06.09

Filed By:

*Uutta*

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O.A. No. /24 /2009

BETWEEN:

**Shri Prafulla Chandra Das,**

Senior Accountant (Retired)  
Village- Bamun Baradi  
P.O- Barpeta, Dist- Barpeta,  
Assam, Pin- 781 301.

Filed by: - *ie applicant*  
Through: - *U. Datta*  
Advocate *En*  
23.06.09

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-----Applicant.

-AND-

1. The Union of India,  
Represented by Secretary to the  
Govt. of India, Ministry of Home Affairs  
Room No. 113, North Block, New Delhi- 110001.
2. The Secretary, Finance and Expenditure to the Govt. of India.  
Ministry of Finance,  
North Block, Lok Nayak Bhawan, New Delhi- 110001.
3. The Director General, Assam Rifles,  
DCAR (HQ), Shillong- 793011.
4. Dy. Controller of Accounts (Home)  
Pay and Accounts Office  
Assam Rifles, Laitumkhrah, Shillong- 793003.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned letter No. A/Pers-0859/2007 dated 27.11.2007 (Annexure- O) whereby Director General of Assam Rifles, Shillong rejected payment of SDA to the non-petitioners of O.A. No. 203/1998 and also against the impugned letter No. A/Pers-0859/08 dated 15.12.2008 (Annexure- Q) whereby Director General of Assam Rifles rejected payment of arrear Special Duty Allowance (for short SDA) to the applicant, only on the ground that the applicant has retired on

*Prafulla ch Das*

superannuation, and further praying for a direction upon the respondents to pay arrear SDA to the applicant in terms of Govt. of India, Ministry of Home Affairs order dated 02.02.1989 and also praying for extension of benefit of judgment and order dated 19.12.2000 passed in OA No. 203/1999 and other series cases by the learned CAT, Guwahati Bench, which was further confirmed by the Hon'ble Gauhati High Court (Shillong Bench) in W.P (C) No. 195 (SH)/2001 vide judgment and order dated 24.07.2006 and subsequent confirmation of said judgment by Hon'ble Supreme Court in SLP (Civil) No. 2982 of 2007.

**2. Jurisdiction of the Tribunal:**

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

**3. Limitation:**

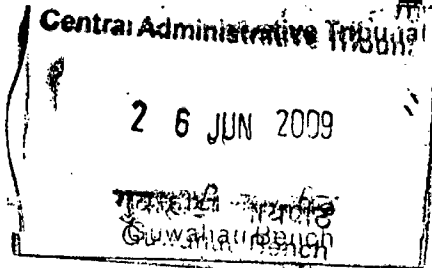
The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

**4. Facts of the case:**

**4.1** That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. He has retired on superannuation as Senior Accountant from the Office of Assam Rifles and Training Centre and School, Dimapur on 30.09.2006.

**4.2** That the Government of India has decided to give some incentive to the Civilian employees working in the States and Union Territories of North Eastern Region. The scheme amongst others granted Special (Duty) Allowance (for short SDA) to the employees having all India Transfer Liability. The original scheme was issued under Ministry of Finance, O.M. No. II 20014/3/82/E.IV dated 14.12.1983. Those who are covered by the scheme dated 14.12.1983 were given SDA w.e.f. 01.09.1983 Para 3 of the said O.M. The period and rate of payment was subsequently modified from time

*Portulke on Des*



to time. The Central Government civilian employees posted in North Eastern Region covered by the said O.M dated 14.12.1983 were paid SDA in terms of the said O.M. It is stated that there were employees who were not given SDA and who approached the Hon'ble Central Administrative Tribunal got SDA. Thereafter the same was taken up to the Hon'ble Supreme Court in a number of cases. The Hon'ble Supreme Court decided on the entitlement of SDA as laid down in the O.M dated 14.12.1983.

An extract of the O.M dated 14.12.1983 is annexed hereto and the same is marked as Annexure- A.

- 4.3 That the Ministry of Home Affairs issued a letter to the Director General, Assam Rifles under No. II 11011/1/84-FF.IV dated 03.03.1986 informing that the personnel in battalions of Assam Rifles and Assam Rifles personnel and civilians non-combatised officers/employees are not entitled to SDA as envisaged in the O.M dated 14.12.1983. Therefore, the applicants were not paid SDA in terms of the O.M dated 14.12.1983.

Copy of the O.M dated 03.03.1986 is enclosed herewith and marked as Annexure- B.

- 4.4 That the Govt. of India, Ministry of Home Affairs was seized with the matter of improving the conditions of services of the Assam Rifles personnel particularly in the matter of grant of SDA and Special Compensatory (Remote Locality) Allowance to Assam Rifles personnel posted in the states and Union Territories of North Eastern Region, Andaman & Nicobar Islands and Lakshadweep- Grant of Sikkim compensatory Allowance. The President of India considering the peculiar conditions of service of Assam Rifles employees accorded sanction of some allowances, and SDA is one of such allowances sanctioned by the President. Other allowances sanctioned by the President are Special Compensatory Allowance (also called Special Compensatory (Remote Locality) Allowances and Sikkim Compensatory Allowance). These allowances to the Assam Rifles Personnel were granted by the President of India with effect from 07.11.1988. As regards the non-

*Pratulla Ch Das*

combatised civilian employees, the sanction of the President indicated as under. The employees fall in this category.

Category of personnel Entitled to allowances.	Particulars of O.Ms regulating the allowances.
i) <u>Special (Duty) Allowance</u> Combatised personnel (including cadre officers) in battalions of Assam Rifle and the combatised personnel (including Cadre Officers) in Static formations (such as Offices of DG, IGP, DIGs, Range Hqrs. 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 14.12.1983 as amended from time to time, read with their O.M No. II 20014/3/83 E.IV dated 29.10.86 and their O.M No. F.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) dtd. 1.12.88. This is in modification of sanction issued in MHA letter No. II.27012/31/85-PP.II dated 06.04.87.
(ii) Non-combatised civilian Personnel (including Officers) in battalions of Assam Rifles and static Formations (such as officers of DG, IGP, DIGs, Range Hqrs., Training Centre etc.) and other units (Maintenance Groups, Workshop etc) of Assam Rifles.	Same as above. (This is in modification of the sanction issued vide item (3) of para 1 of MHA letter No. 11011/1/84-PP.IV dated 03.03.86)

This letter dated 02.02.1989 stipulates improvement in the condition of service of Assam Rifles employees and this decision is a clear and considered decisions modifying earlier order by which your humble applicants were not given the said SDA. The decision to grant SDA to the applicants as sanctioned by the President of India communicated to the Director General, Assam Rifles, Shillong by circulated dated 02.02.1989 is a distinct decision as regards the Assam Rifles employees and as such this is a special provision as regards the Assam Rifles only as distinguished from other Central Govt. civilian employees. Your humble applicant beg to state that this distinction has always been maintained and as such while SDA was paid to the other Central Government employees by the O.M dated 14.12.1983 Assam Rifles employees were not embraced by the said O.M. It is only with the sanction of the President of India as a peculiar case of the Assam Rifles that the employees of the Assam Rifles are being paid SDA under the circular dated 02.02.1989. In this connection it is also pertinent to mention that while the other Civilian Central Government employees were

Pratulla Ch Das

paid SDA with effect from 01.11.1983, your applicant have been granted SDA for Assam Rifles w.e.f. 07.11.1988.

Copy of the circular dated 02.02.1989 is annexed hereto as Annexure- C.

- 4.5 That after judgment of the Hon'ble Supreme Court, the Government of India, Ministry of Finance issued O.M No. II (3)/95-E/II (B) dated 12.01.96 by which the payment of SDA has been regulated in the manner indicated in para 6 of the O.M referred above.

Copy of the memorandum dated 12.01.1996 is annexed hereto as Annexure- D.

- 4.6 That the Pay and Accounts Office, Assam Rifles, Shillong was raising questions regarding payment of SDA to employees of Assam Rifles. They were confused for the O.M dated 12.01.1996 issued by the Ministry of Finance by which the SDA of the other Central Government employees were regulated. A communication was made from the Director General, Assam Rifles, Shillong to the Joint Secretary, Ministry of Home Affairs explaining the entitlement of SDA to civilian employees of Director General, Assam Rifles, Shillong under No. A/I-A/242/98 dated 06.06.1998. This letter discussed in detail the entitlement of SDA to the civilian employees of Director General, Assam Rifles and also the matter of objection by the Pay and Accounts Officer, Assam Rifles and come to the following view:

"6. In view of the position explained above, this Directorate is of the opinion that the concern of the Pay & Accounts Office (Assam Rifles) about the eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong is not premised on the logical interpretation of extant Govt. orders cited above, which provide for a special dispensation to the non-combatised civilian personnel (including officers) in units as well as static formations including this Directorate. This Directorate therefore maintains that drawl of SDA by the civilian employees of DGAR, Shillong is in order."

Pratulla Ch Das

Copy of the letter dated 06.06.1998 is annexed hereto and marked as Annexure- E.

- 4.7 That the Ministry of Home Affairs under their letter dated 09.07.88 to Director General, Assam Rifles, Shillong in reply to his letter dated 06.06.98 informed that the proposal has been considered in the Ministry but the same has not been agreed to in view of the orders of the Ministry of Finance dated 12.01.1996. Thereafter the Director General Assam Rifles under his letter dated 21.07.98 forwarded a copy of the said letter dated 09.07.98 to the Pay and Accounts Office, Assam Rifles for information and necessary action. This was followed by letter dated 29.07.98 to the Pay and Accounts Office, Assam Rifles from the Director General, Assam Rifles.

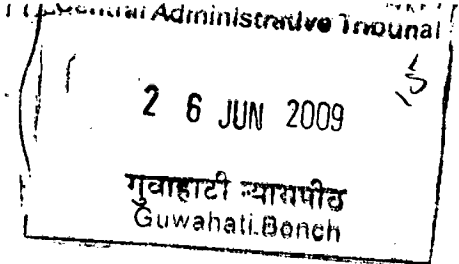
Copies of the letter dated 09.07.98, 21.07.98 and 29.07.98 are annexed hereto and marked as Annexures- F, G and H respectively.

- 4.8 That the Director General of Assam Rifles wrote a letter dated 04.08.98 to the Pay and Accounts Office, Assam Rifles, Shillong explaining the details of entitlement of SDA to the civilian employees of the Director General, Assam Rifles. This letter also narrated the fact of grant of SDA to the applicants by Memo dated 02.02.1989 and from 07.11.88. This letter also clarified that unless Govt. of India's order dated 02.02.1989 sanctioning SDA with effect from 07.11.88 was modified or cancelled or superseded the civilian employees of the Director General, Assam Rifles would be entitled to draw SDA.

Copy of the letter dated 04.08.98 is annexed hereto as Annexure- I.

- 4.9 That thereafter similarly situated employees working in Assam Rifles had approached this Hon'ble Tribunal by filing Original Applications under Section 19 of the Administrative Tribunals Act 1985 which were registered as O.A. Nos. 203/1998, 207/1998, 222/1998, 225/1999, 268/1999, 312/1999, 372/1999, 144/1999, 194/1999, 285/1999, 379/1999, 442/1999, 129/2000,

*Foratulla ch Das*



166/2000, 168/2000, 284/1999, 109/2000, 341/2000, 345/2000, 425/2000 and 429/2000.

However, this Hon'ble Tribunal after examining the records was pleased to pass common judgment and order dated 19.12.2000 and allowed the OA No. 203/1998 and series of cases with the direction/declaration of entitlement of SDA to the applicants and also to refund the recovered amount, if any.

Copy of the judgment and order dated 19.12.2000 is enclosed herewith and marked as Annexure- I.

- 4.10 That the respondents Union of India being aggrieved with the judgment and order dated 19.12.2000 passed by this Hon'ble Tribunal preferred W.P. No. 195 (SH)/2001 before the Hon'ble Gauhati High Court (Shillong Bench). However, the Hon'ble Gauhati High Court (Shillong Bench) vide judgment and order dated 24.07.2006 in W.P No. 195 (SH)/2001 upheld the judgment and order dated 19.12.2000 in O.A. No. 203/1998 and Series passed by this Hon'ble Tribunal and dismissed the W.P. No. 195 (SH)/2001 preferred by the respondent Union of India and Ors.

In the judgment and order dated 24.07.2006 the Hon'ble Gauhati High Court (Shillong Bench) very categorically observed as follows:

"3. We have examined the notifications dated 14.12.1983, 03.03.1986, 02.02.1989 and 12.01.1996 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- Vijay 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-combatant civilian employees of the Assam Rifles. The notification dated 2<sup>nd</sup> February, 1989 was issued with sanction of the President of India granting payment of Special Duty Allowance with effect from 7.11.1988. The notification dated 2<sup>nd</sup> February, 1989 appears to be a

*Pratulla Ch Das*

26 JUN 2009

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Guwahati Bench

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 which 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 reflects independent policy decision of the Union and, hence, it shall hold the field unless modified by the competent authority as indicated hereinabove. We find no ground for interference with the Judgment and order of the learned Tribunal.

4. In the result the Writ Petition is dismissed."

Copy of the judgment and order dated 24.07.06 passed in W.P No. 195 (SH)/2001 is enclosed herewith and marked as Annexure- K.

4.11 That the respondents Union of India being aggrieved with the judgment and order dated 24.07.06 passed in W.P No. 195 (SH)/2001 by the Hon'ble Gauhati High Court (Shillong Bench) preferred a Special Leave to Appeal

Pratulla Ch Das



(Civil) No. (s)/ 2962/2007 before the Hon'ble Supreme Court. However, the said Special Leave to Appeal (Civil) No (s). 2962/2007 was dismissed by the Hon'ble Supreme Court on 26.02.2007 and upheld the decision of the learned Tribunal as well as Hon'ble High Court regarding entitlement of SDA to the applicants in No. 203/1998 and series.

A copy of the Hon'ble Apex Court's order dated 26.02.07 is enclosed herewith as Annexure- L.

4.12 That the applicants of O.A. No. 203/1998 preferred C.P No. 9/2007 before this Hon'ble Tribunal for implementation of the judgment and order dated 19.12.2000 since the said judgment and order dated 19.12.2000 has already been upheld by the Hon'ble Gauhati High Court as well as Hon'ble Apex Court. This Hon'ble Tribunal was pleased to issue notice in C.P. No. 9/2007 and after receipt of the notice from this Hon'ble Tribunal the respondents Union of India has implemented the judgment and order dated 19.12.2000 passed in O.A. No. 203/1998 and series and the applicants of those Original Applications are now enjoying the payment of Special Duty Allowance.

4.13 That it is stated HQ vide letter No. I 36011/A II/SDA/Civic Staff/2007 dated 24.07.07 quoting the reference of letter No. I.11018/89/2001-Law/223 dated 23.07.07 wherein it is stated that judgment for grant of SDA shall be confined only to the respective applicants of the O.A. who approached the learned Tribunal. In other words payment of SDA to other similarly situated non-applicants have been denied.

It is relevant to mention here that DGAR, vide impugned letter No. A/Pers-0859/2007 dated 27.11.2007 informed that a case was taken up with MHA for granting SDA to the non-petitioners staff of Assam Rifles but the same has been rejected by the Ministry. It is further directed by the DGAR that all the civilian staff may be informed accordingly i.e. the decision of the Home Affairs. It is quite clear from the impugned letter dated 27.11.07 whereby it has been decided by the highest authority i.e. MHA, Govt. of India that non-petitioner civilian employees of Assam Rifles shall not be entitled to SDA since they are not applicants in the earlier cases where many of the civilian employees approached the learned CAT claiming SDA and

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Guwahati Bench

got order in their favour for entitlement of SDA. Be it stated that once the Court order has been implemented in favour of the similarly situated applicants therefore there cannot be any valid reasons to deny the same benefit to the other civilian employees of the Assam Rifles, those who are not applicant in the earlier cases.

Copy of the letter dated 23.07.07, letter dated 24.07.07, impugned letter dated 27.11.07 are enclosed herewith and marked as Annexures- M, N and O respectively.

- 4.14 That the present applicant who was a similarly situated civilian employees like those applicants of O.A. No. 203/1998 and series and he was working in the Assam Rifles in the N.E Region under the administrative control of DGAR, Shillong and performing the similar duties and responsibilities prior to his retirement on superannuation like those of the applicants in O.A. No. 203/1998 and his service conditions were also same to those applicants of O.A. No. 203/1998. Situated thus applicant along with others had approached this Hon'ble Tribunal through O.A. No. 40 of 2008 (Shri T.G. Nair & Ors. -Vs- U.O.I & Ors.). Be it stated that name of the present applicant appeared at Sl. No. 75 of the O.A No. 40 of 2008. However, Hon'ble Tribunal disposed of O.A No. 40 of 2008 on 03.03.2008 with the direction to the applicants to submit individual representation before the competent authority to seek relief as was granted to similarly situated persons and if such representations are filed, the Respondents were directed to pass reasoned order within a period of 3 months from the date of receipt of the representations.

Copy of the judgment and order dated 03.03.2008 is enclosed herewith and marked as Annexure- P.

- 4.15 That the applicant states that he has submitted an application on 27.11.2008 in terms with the direction passed by this Hon'ble Tribunal in O.A No. 40/2008, praying for grant of arrear of SDA to him.
- 4.16 That the respondent No. 2 vide his impugned letter bearing No. A/Pers-0859/08 dated 15.12.2008 rejected claim of the applicant for grant of arrear of

Postulla Ch Das

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গুৱাহাটী আৰক্ষী  
Guwahati Bench

SDA only on the ground that the applicant has superannuated w.e.f. 30.09.2006. However, the respondent No. 2 granted payment of SDA to all other applicants of O.A No. 40/2008 except the present applicant. As such the impugned order dated 15.12.2008 is arbitrary, illegal and the same is liable to be set aside and quashed.

Copy of impugned letter dated 15.12.2008 is enclosed herewith and marked as Annexure- Q.

4.17 That the applicant is legally entitled to the benefit of the SDA in terms of the notification dated 02.02.1989 issued with the sanction of the President of India granting payment of Special Duty Allowance w.e.f. 07.11.1988 as well as in terms of the judgment and order dated 19.12.2000 passed in O.A. No. 203/1998 and series, which was upheld by the Hon'ble Gauhati High Court as well as by the Hon'ble Supreme Court. As such denial of the benefit of arrear SDA to the applicant, who was a similarly situated employee with same service condition like those applicants of O.A. No. 203/1998 and series working in Assam Rifles. More so in view of the fact that the judgment dated 19.12.2000 in O.A. No. 203/1998 and series has already been implemented by the respondents, as such denial of arrear of SDA to the present applicant only on the ground that he has retired on superannuation is highly arbitrary, illegal and violative of Article 14 and 16 of the Constitution of India. Therefore the Hon'ble Tribunal be pleased to set aside and quash the impugned order dated 15.12.2008 and further be pleased to direct the respondents to extend the benefit of judgment and order dated 19.12.2000 passed in O.A. No. 203/1998, which was upheld by the Hon'ble Gauhati High Court in W.P No. 195 (SH)/2001 and further upheld by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. (s) 2962/2007 to the present applicant and to pay arrear of SDA to the applicant.

4.18 That the applicant states that he has no other alternative than to approach this Hon'ble Tribunal for a direction upon the respondents to grant the applicant arrear SDA in the light of the direction passed by this Hon'ble Tribunal in judgment and order dated 19.12.2000 passed in O.A. No. 203/1998, which was upheld by the Hon'ble Gauhati High Court in W.P No.

Pratulla ch Das

195 (SH)/2001 and further upheld by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. (s) 2962/2007.

4.19 That the applicant states that he was similarly situated employee having same service conditions in the same department like that of applicants of O.A. No. 203/1998 and series, as such denial of payment of arrear SDA to the present applicant in the light of the judgment and order dated 19.12.2000 passed in O.A. No. 203/1998, which was upheld by the Hon'ble Gauhati High Court in W.P No. 195 (SH)/2001 and further upheld by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No (s). 2962/2007 is violative of Article 14 and 16 of the Constitution of India. It is also stated that the law laid down in judgment and order dated 19.12.2000 in O.A. No. 203/1998 and series declaring entitlement of SDA in respect of Gr. 'C' and 'D' civilian employees of Assam Rifles is a judgment not in personem but it is a judgment in rem, as such the present applicant being similarly situated employee of Assam Rifles is entitled to receive arrear SDA in the light of the judgment and order dated 19.12.2000 passed in O.A. No. 203/98 and series.

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

5. Grounds for relief (s) with legal provisions:

5.1 For that, the impugned letter dated 27.11.07 is highly discriminatory and the decision of the MHA, Govt. of India, not to extend the benefit to the non-petitioners is highly arbitrary, illegal, unfair and opposed to public policy and on that score alone the impugned order dated 27.11.07 is liable to be set aside and quashed.

5.2 For that, the impugned letter dated 15.12.2008 is highly discriminatory and the decision of the DGAR not to pay arrear SDA to the applicant on the ground that he has retired on superannuation is highly arbitrary, illegal, unfair and opposed to public policy and on that score alone the impugned order dated 15.12.2008 is liable to be set aside and quashed.

5.3 For that, the DGAR has extended benefit of SDA to all the applicants of O.A. No. O.A No. 40/2008 except the present applicant, as such the

Profulla Ch Das

impugned letter dated 15.12.2008 is highly discriminatory, arbitrary, illegal and the same is liable to be set aside and quashed.

- 5.4 For that denial of arrear SDA to the applicant only on the ground that the applicant has retired on superannuation is highly arbitrary, illegal and as such the impugned letter dated 15.12.2008 is liable to be set aside and quashed.
- 5.5 For that, the present applicant was similarly situated employee having same service condition of the Assam Rifles like those applicants of O.A. No. 203/1998 and series which was decided on 19.12.2000 whereby the Hon'ble Tribunal granted the benefit of SDA to those applicants in terms of notification dated 02.02.1989. As such the present applicant is entitled to the benefit of the judgment and order dated 19.12.2000 which was confirmed by the Hon'ble Gauhati High Court in WP (C) No. 195 (SH)/2001 as well as by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. (s)/2962/2007.
- 5.6 For that, the applicant is entitled to arrear SDA by virtue of the Presidential order dated 02.02.1989 which has not been cancelled or modified.
- 5.7 For that, the Office memorandum dated 12.01.1996 and subsequent O.M dated 29.05.02 has no application in the instant case of the applicant.
- 5.8 For that, the department of Assam Rifles under the Govt. of India, Ministry of Home Affairs being a model employer cannot deny the benefit of SDA to a section of employees of Assam Rifles following the judgment and order dated 19.12.2000 in O.A. No. No. 203/1998 and series.
- 5.9 For that, the benefit of SDA have already been extended to the similarly situated employees who were working along with the present applicant under the Director General of Assam Rifles, Shillong, as such denial of the benefit granted under Presidential order dated 02.02.1989 is violative of Article 14 and 16 of the Constitution of India.

Pratulla Ch Das

26 JUN 2009

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Guwahati Bench

5.10 For that denial of benefit of arrear SDA to the present applicant while the same benefit already granted to other similarly situated employees who approached this Hon'ble Tribunal in O.A. No. 203/1998 and series and O.A No. 40/2008 working in the same establishment is violative of Article 14 and 16 of the Constitution.

5.11 For that, the applicant is legally entitled for payment of arrear SDA by virtue of the Presidential order dated 02.02.1989 and also in terms of judgment and order dated 19.12.2000 in O.A. No. No. 203/1998 and series, as such denial of payment of arrear SDA to him on the ground that he has retired on superannuation is arbitrary, illegal and the said ground is liable to be rejected.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

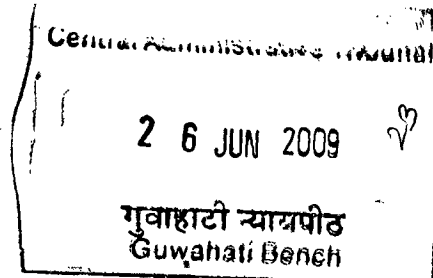
The applicant further declares, that saves and except filing of O.A No. 40/2008 he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. A/Pers-0859/2007 dated 27.11.2007 (Annexure- O) impugned letter No. A/Pers-0859/08 dated 15.12.2008 (Annexure- Q).

Pratulla Ch Das



8.2 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of arrear SDA in terms of the Presidential order dated 02.02.1989 as well as in terms of the judgment and order 19.12.2000 passed in O.A. No. 203/1998, which was upheld by the Hon'ble Gauhati High Court in W.P No. 195 (SH)/2001 and further upheld by the Hon'ble Apex Court in Special Leave to Appeal (Civil) No. (s) 2962/2007.

8.3 Costs of the application.

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

9. Interim order prayed for:

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

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

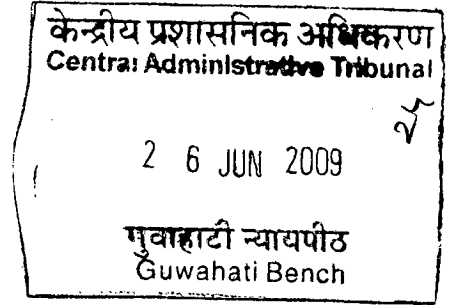
11. Particulars of the I.P.O

- |      |               |                     |
|------|---------------|---------------------|
| i)   | I.P.O No.     | : 396 409124.       |
| ii)  | Date of issue | : 28.5.09.          |
| iii) | Issued from   | : G.P.O., Guwahati. |
| iv)  | Payable at    | : G.P.O., Guwahati. |

12. List of enclosures:

As given in the index.

Pratulla Ch Das



### VERIFICATION

I, Shri Prafulla Chandra Das, age about 62 years, Senior Accountant (Retired), resident of Village- Bamun Baradi, P.O- Barpeta, Dist- Barpeta, Assam, Pin- 781 301, applicant in the instant original application do hereby that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 14<sup>th</sup> day of June 2009.

*Prafulla ch Das*



ANNEXURE- A

(Extract)

(Typed True copy)

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

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

New Delhi, the 14th Dec'83

OFFICE MEMORANDUM

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the State 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 Control 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 now pleased to decide as follows: -

i) Tenure of posting/deputation :-

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

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well

Attested  
Banta  
H.W.

26 JUN 2009

गुवाहाटी व्यापक  
Guwahati Bench

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

ii) Weightage for Central deputation/training abroad and Special mention in confidential Records:

xx

ii) Special (Duty) Allowance :

Central Government civilian employees who have all India Transfer Liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are 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/ S.C. MAHALIK

Joint Secretary to the Government of India

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

- 19 -

(Typed true copy)  
(Extract)

ANNEXURE- B

No.II.11011/1/81-PP.IV

Government of India/Bharat Sarkar  
Ministry of Home Affairs/Girh Mantralaya

New Delhi, the 3-3-86

To,

The Director General,  
Assam Rifles.

Sub:- Allowance and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Regions- Improvement thereof.

Sir,

I am directed to refer to the correspondence resting with your letter No. A/IV- (C)/1-64/8 dated 8<sup>th</sup> November 1985 on the subject noted above and to say that the matter has been examined in detail in consultation with the Ministry of Finance. The following have been taken:-

1. The Personnel in Bns. of Assam Rifles will not be entitled to the concessions envisaged in the Ministry of Finance (Deptt. of Expr.) O.M. No. 20014/3/83-E-IV dated 14.12.1983 as they move in organized group and have back-up support.
2. The Assam Rifles personnel of Civilian non-combatised Officers/employees of Assam Rifles do not have All India Transfer liability and as soon, the question of grant of special (duty) allowances even in the case of civilian non-combatised officers/employees does not arise.
3. Non-combatised civilian staff of static formations such as offices of DG, IGP, DIGs and Range Headquarters of Assam Rifles may be allowed concessions envisaged in the Ministry of Finance O.M. dated 14.12.83 referred to above (except special (duty) allowance) subject to the condition that they move as individuals and do not have back-up support.
4. This issues with the concurrence of the integrated Finance Division vide their Dy. No. 705/86-Fin.III, D.I. dated 21.02.1986.

Yours faithfully  
Sd/-

(P.VIJAYARAGHAVAN)  
DEPUTY SECY. TO THE GOVT. OF INDIA.

No.II.11011/1/81-PP.IV

New Delhi, the 3-3-86

.....2/-

Attested  
Dulla  
Adv

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Copy to:-

1. Pay & Accounts Office, Assam Rifles, Shillong.
2. A.G., Assam, Meghalaya etc. Shillong.
3. Finance III, Ministry of Home Affairs.
4. Ministry of Finance, Deptt. of Expenditure (E.IV Branch)
5. Liason Officer of Assam Rifles, New Delhi.
6. 10 spare copies.

Sd/-

(P.VIJAYARAGHAVAN)  
DEPUTY SECY. TO THE GOVT. OF INDIA.

/ COPY /

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

ANNEXURE-C

2nd  
New Delhi, dated the 1st Feb 1989

To,

The Director General  
Assam Rifles  
Shillong - 793011

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी बेंच  
Guwahati Bench

Subject : Grant of Special (Duty Allowance and Special  
Compensatory (Remote Locality) Allowance to  
Assam Rifles personnel posted in the States  
and Union Territories of north eastern region,  
Andaman & Nicobar Islands and Lakshadweep -  
Grant of Sikkim Compensatory Allowance -  
Sanction 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 :-

Category of personnel  
entitled to allowance  
(1)

Particulars of O.Ms regulating  
the allowance  
(2)

(1) Special (Duty) Allowance

(i) Combatized personnel (including Cadre officers) in battalions of Assam Rifles and the combatized personnel (including Cadre officers) in static formations (such as offices of DG, IGP, DIGs, Range HQs, Training Centre etc.) and other units (Maintenance Groups, workshops etc.) of Assam Rifles.

Item (111) 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 dated 29.10.85 and their O.M. No.11.20014/3/83-E.IV dated 15.7.88 and Min of Fin. O.M. No.F.20014/16/86.E.IV/E-II(B) dated 1.12.88. (This is in modification of sanction issued in MHA letter No.II.27012/31/85-FP.II dated 6.4.87).

(ii) Non-combatized civilian personnel (including officers) in battalions of Assam Rifles and in static formations (such as offices of DG, IGP, DIGs, Range HQs, Training Centre etc.) and other units (Maintenance Groups, workshops etc.) of Assam Rifles

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).

Attested  
Dulla  
Adv

Category of personnel  
entitled to allowance

(1)

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

Category of personnel as  
mentioned against item  
1(1).

Particulars of O.M. regulating  
the allowance

(2)

केंद्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

28 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Same as indicated against item 1(1)  
above. Ministry of Finance O.Ms  
No. 20014/6/86-E.IV dated 23.9.86  
and 27.4.87 (Meghalaya); No. 20014/  
7/86-E.IV dated 23.9.86 and 27.4.87  
(Assam); No. 20014/10/86-E.IV dated  
23.9.86 and 22.4.87 (Tripura); No.  
20014/2/86-E.IV dated 23.9.86 and  
16.4.87 (Mizoram); No. 20014/9/86-  
E.IV dated 23.9.86 and 22.4.87  
(Nagaland); No. 20014/11/86-E.IV  
dated 23.9.86 and 16.4.87 (Manipur);  
No. 20014/4/86-E.IV dated 23.9.86  
and 22.4.87 (Arunachal Pradesh)  
also refer. (This is in modification  
of MHA letter No. 27012/31/85-TP-II  
dated 6.4.87).

(3) Sikkim Compensatory  
Allowance

Combatized as well as  
non-combatized 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 7.11.1988, the Assam Rifles personnel  
who were in receipt of Special Compensatory Field Area Allowance  
(as in the Army) will cease to draw the same.

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

First Sign: DAB

आचार्य शर्मा

A Branch

नि. नि. / DGAR

नि. नि. / DDGAR

नि. नि. (प्रशासन) / Director (Adm.)

नि. नि. (प्रशासन) / AD (A)

नि. नि. सह: नि. / JAD (A)

(प्रशासन)

नि. नि. नि. नि. / (A)

Hand date 6  
02 Feb 89

Central Administrative Tribunal

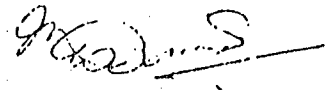
26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-3-

4. This issue with the concurrence of the Ministry of Finance vide their I.D. No. 5(72)E.III/88 dated 7.11.88 and F.89/AS(E)/89 dated 13.1.89 and the Integrated Finance Division of this Ministry vide their Dy. No. 4744/FA(II)/88 dated 7.12.88.

Yours faithfully,



(M.M. Sharma)

Deputy Secretary to the Government of India

No. 11011/1/84-FP.IV Dated New Delhi, the 1st February, 1989.

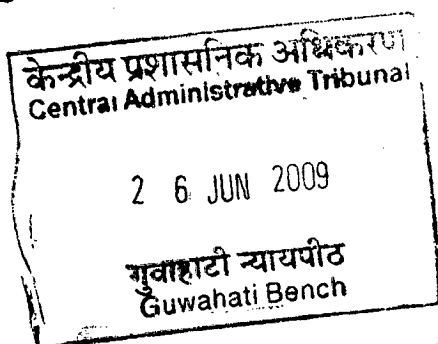
Copy to :-

1. The Pay & Accounts Office, Assam Rifles, Shillong.
2. The Accountant General, Assam, Meghalaya, 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.



(M.M. Sharma)

Deputy Secretary to the Government of India

ANNEXURE- D

(Extract)  
(Typed True Copy)  
No. 11(3)/95-E. II (B)  
Government of India  
Ministry of Finance

Department of Expenditure

New Delhi, the 12th Jan 1996

OFFICE ORDER

Sub: Special Duty Allowances for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region-regarding.

1. The undersigned is directed to refer to this Department's O.M. No. 20014/3/83-EIV dated 14.12.1983 and 20.4.87 read with O.M. No. 20014/16/86 E.IV/E. II (B) dated 1.12.88 on the subject mentioned above.
2. The Government of India vide the above mentioned OM dated 14.12.83 granted certain incentives to the Central Government civilian employees posted to the N.E. region. One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have 'All India Transfer Liability'.
3. It was clarified vide the above mentioned OM dated 20.4.87 that for the purpose of sanctioning "Special Duty Allowance" the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the person concerned is liable to be transferred anywhere in India, did not make him eligible for the grant of SDA.
4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and, accordingly, directed payment of SDA to them.

Attested  
Dutta  
Adw



26 JUN 2009

गुवाहाटी न्यायाधीश  
Guwahati Bench

37

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministries/Departments against the orders of the CAT.

6. The Hon'ble Supreme Court in their judgment delivered on 20.9.94 (in Civil appeal No. 3251 of 1993) upheld the submission of the Government of India that Central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to all India Transfer Liability. The apex Court further added that the grant of this allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

7. In view of the above judgment of the Hon'ble Supreme Court, the matter has been examined in consultation with the Ministry of law and the following decision have been taken:

- i. the amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
  - ii. the amount paid on account of SDA to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.94 but payments were made after this date i.e. 20.9.94) will be recovered.
8. All the Ministries/Departments etc. are requested to keep the above instructions in view for strict compliance.
  9. In their application to employees of India Audit and Accounts Department, these orders issue in consultation with the comptroller and Auditor General of India.
  10. Hindi version of this OM is enclosed.

Sd/- xxxxxx

(C. Balachandran)

Under Secy to the Govt. of India

All Ministries/Departments of Govt. of India, etc.

26 JUN 2009

গুৱাহাটী ন্যায়পীঠ  
Guwahati BenchANNEXURE- E(Typed true copy)  
(Extract)Government of India,  
Ministry of Home Affairs,  
Directorate General Assam Rifles,  
Shillong- 793011.No. A/1-A/242/93  
Shri O.P. Orya,  
Joint Secretary (P)  
North Block,  
Ministry of Home Affairs,  
New Delhi.

Dated: 6 June, 98

ENTITLEMENT OF SPECIAL DUTY ALLOWNACE TO  
CIVILIAN EMPLOYEES OF DGAR, SHILLONG.

Sir,

1. I am directed to state that Special Duty Allowance (SDA) is one of the ten concessions/facilities extended to the Central Govt. civilian employees serving in North Eastern Region with effect from 01 Nov '83 sanctioned under Ministry of Finance OM No. 20014/3/93 E.IV dated 14.12.83 enclosed at Annexure 1. Subsequently, consequent to 4<sup>th</sup> Central Pay Commission recommendation, above concession/facilities were modified and two more concessions were given with effect from 01 Dec. '88 under Ministry of Finance OM No. 20014/16/86/E.IV/E.II (B) dated 01 Dec, 88 attached as Annexure II.

2. The Assam Rifles projected to the Ministry of Home Affairs for extension of the above concession/facilities including SDA to the combatant and civilian employees of Assam Rifles on the analogy that all those concessions including SDA were available to the employees of other COPs like BSF, CRPF etc. similarly situated in the North Eastern Region. While grant of the above concessions to the combatant employees were turned down, all these concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General Assam Rifles, Inspector General Assam Rifles (North), Range HQrs. and Assam Rifles Training Centre and School with effect from 3 March 86 under Ministry of Home Affairs letter No. II.11011/1/84 PP 4 dated 3 March '86 (Annexure III attached) copy enclosed along with others to Pay and Accounts Office (Assam Rifles), Shillong and Ministry of Finance, Deptt. of Expenditure (E.IV). Subsequently, all those concessions except SDA were also extended in the combatant employees of Assam Rifles with effect from 01 Nov '86 under Ministry of Home Affairs letter No. II.27012/31/86/PP.II dated 04 April '87 (Annexure-IV).

3. Consequent to change over of pay structure of Assam Rifles personnel from Army pattern to CPO, pattern from 01 Jan 86 following Fourth Central Pay Commission recommendations. SDA on the analogy of other CPOs like BSF, CRPF etc. was also extended to both combatant and civilian employees of Assam Rifles with effect from 07 Nov. 88 (with categorical sanction of the civilian staff and officers of all static formations of Assam Rifles including Directorate General Assam Rifles) under Ministry of Home Affairs letter No. 11011/1/84-PP.IV dated

Attested  
10/06/98  
dsw

12 6 JUN 2009

গুৱাহাটী ন্যাশনাল  
Guwahati Bench

02 Feb 89 (attached as Annexure- V). Para 4 of the said letter lays down that the sanction of SDA for the combatant and civilian employees of Assam Rifles was duly concurred by the concerned departments of the Ministry of Finance Viz. P.III and AS (F) Branches. Copy of the above original sanctioning letter of Ministry of Home Affairs was also endorsed to Pay and Accounts Office (Assam Rifles), Shillong and also to Ministry of Finance, Department of Expenditure, E.III and E.IV Branches.

4. The Pay & Accounts Officer (AR) has, therefore, been obligatory passing the monthly bills of the civilian employees of Directorate General Assam Rifles, Shillong without any objection right from the time of sanction of SDA to Assam Rifles. However, in end April '98, Pay & Accounts Officer (Assam Rifles), Shillong has intimated that SDA is not entitled to the civilian employees of DGAR, Shillong citing Ministry of Finance (Department of Expenditure) OM No. 11 (3) 95-E. II (B) dated 12 Jun '96 (Annexure- V).

5. The judgment of the Apex Court regarding non-entitlement of SDA to certain category of civilian personnel is based on the general order sanctioning the ten concessions/facilities including SDA to civilian serving in the North eastern region, vide Ministry of Finance OM No. 20014/3/93-E.IV dated 14 Dec '83 (Annexure I) refers), and its subsequent modification. SDA was sanctioned to the combatant and civilian employees of Assam Rifles on CPO analogy and that too, from a such later date (07 Nov '88) when the Pay pattern of Assam Rifles personnel was made on the lines of CPO pattern after Fourth Central Pay Commission recommendations. It may also be appreciated that the Ministry of Home Affairs as well as Ministry of Finance were fully aware of the general eligibility criteria of SDA vis-à-vis the conditions of appointments, posting, transfer, retention, exigency of service etc. of the civilian employees of static formations of Assam Rifles like DGAR, IGAR, Range HQs. and Training Centre. Keeping all these factors in view, a separate and exclusive sanction was accorded by the Ministry of Home Affairs for grant of SDA to the combatant and civilian employees of Assam Rifles (Annexure- V refers).

6. In view of the position explained above, this Directorate is of the opinion that the concern of Pay & Accounts Office (Assam Rifles) about the eligibility of SDA to civilian employees of Directorate General Assam Rifles, Shillong is not premised on a logical interpretation of extant Govt. orders cited above which provided for a special dispensation to the non-combated civilian personnel (including officers) in units as well as static formations including this Directorate. This Directorate therefore, maintains that drawl of SDA by the civilian employees of DGAR, Shillong is in order.

7. The above proposal/reference has been vetted by the Financial Adviser, North Eastern Council.

8. The Ministry is requested to kindly issue a clarification on the subject.

Yours faithfully

Sd/-

(S J R Sharma)

Dy. Director General Assam Rifles  
For Director General.

Encl: As above.

28-  
No. IL-22013/2/98-Pr.V  
Government of India  
Ministry of Home Affairs  
\*\*\*\*\*

ANNEXURE-F

New Delhi, dated 9-7-98

To

Director General,  
Assam Rifles,  
Shillong - 793011  
-----

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Subject : Entitlement of Special Duty Allowance to  
Civilian employees of DGAR Shillong.

Sir,

I am directed to refer to your letter No. A/LA/242/98  
dt 6.6.98 on the above mentioned subject and to say that the  
proposal has been considered in the Ministry, but the same has  
not been agreed to in view of the orders of Ministry of  
Finance dated 12.2.96. (12.1.96).

Yours faithfully,

Sd/-xx  
(Mirmala Dev )  
Desk Officer

Copy to LOAR, North Block, New Delhi.

Accepted  
Mirmala Dev  
Asst

No. 170-7076

29  
Hiral Sarker  
Government of India  
C&H Mantralaya  
Ministry of Home Affairs  
Mehpiddoohalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong - 793011

ANNEXURE-G

37

A/LA/242/98

21 Jul 98

The Pay and Accounts Office  
Assam Rifles  
Government of India  
Ministry of Home Affairs  
Laitumkhrah, Shillong-3

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF DGAR SHILLONG

1. Inclosed please find herewith photo copy of MW  
letter No. II.22013/2/98-PF.V dated 09 Jul 98 on the  
subject cited above, for info and necessary action.

SD/- xx  
( H S Rowat )  
Lt Col  
AD(A)  
for DG Assam Rifles

Encl : 01

Copy to :-

Estt Branch (Internal)

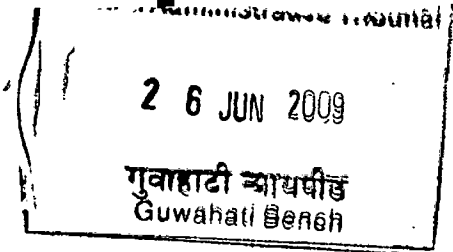
Finance Branch

- for info and necessary action  
alongwith a copy of MW letter No.  
II.22013/2/98-PF.V dated 09 Jul 98.

-do-

20 PAVAN KUMAR  
LHC LHC

Affected  
Date  
Adv

ANNEXURE- H

(Typed true copy)

Tele No. : 706075

Mahanideshalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong- 793011.

A/1-A/242-88/98/

29 Jul 98

Pay and Accounts Office  
Assam Rifles  
Laitumkhrah  
Shillong- 3.

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF DGAR, SHILLONG

1. Reference our letter No. A/I-A/242/98 dated 21 Jul 98.
2. Consequent to the issue of Ministry of Finance (Department of Expenditure) OM No. II (3)/95-E.II (B) dated 12 Jan 96 and the observations raised by your office regarding payment of SDA to civilian employees of DGAR, Shillong. A case taken up with the Ministry for clarification of entitlement of SDA to civilian employees of DGAR, Shillong. The Ministry of Home Affairs has intimated, vide their letter No. IL 22013/2/98-PF.V dated 09 Jul 98 (copy enclosed) that the civilian employees of DGAR, Shillong are not entitled for SDA in view of Ministry of Finance letter dated 12 Jan 96.
3. The above is for information and necessary action.

Yours faithfully

Sd/-

(R S Dhull)

Col.

For DG Assam Rifles.

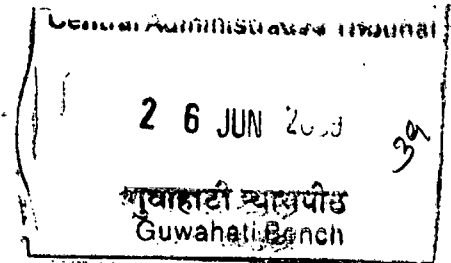
Encls: As above.

N.O.O

Copy to :-

1. OC AMPO - for information and necessary action along with copies of following letters:-
  - (a) MOF letter No. 11 (3)/95-E.II (B) dated 12 Jan 96.
  - (b) DGAR letter No. A/1-A/242/93 Dated: 6 June, 98
  - (c) MHA letter No. IL 22013/2/98-PF.V dated 09 Jul 98.
2. ESTT Br. -do- (your IL.11015/5/98-Est (B) dt 21 Jul 98 letters).

*Handwritten signature:*  
R S Dhull  
Add



ANNEXURE- I

(Typed true copy)

Tele No. : 5021

Mahanideshalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong- 793011.

A/1-A/242-88/98/

04 Aug 98

Pay and Accounts Office  
Assam Rifles  
Laitumkhrah  
Shillong- 3.

ENTITLEMENT OF SPECIAL DUTY ALLOWANCE TO  
CIVILIAN EMPLOYEES OF DGAR, SHILLONG

1. Reference this Directorate letter No. A/I-A/242/98 dated 21 Jul 1998 and No. A/1-A/242-88/98 dated 29 Jul 1998.
2. The Photostat copies of the following letters are sent herewith :-
  - (a) Ministry of Home Affairs New Delhi letter No. II.11011/1/84-FP.IV dated 3.3.1986.
  - (b) Ministry of Home Affairs New Delhi letter No. II.11011/1/84-FP.IV dated 1<sup>st</sup>/2<sup>nd</sup> Feb 1989.
  - (c) Ministry of Finance Department of Expenditure letter No. II (3)/95-E.II (B) dated 12<sup>th</sup> Jan 1996.
3. While allowing various concessions as envisaged in the Ministry of Finance O.M dated 14-12-1983 to the civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region, except "Special (Duty) Allowance" to the non combatised civilian staff of static formations such as offices of DG, IGP, DIGs and Range HQs of Assam Rifles was not agreed to by the Ministry as communicated under their letter No. II.11011/1/84-PP.IV dated 03-3-1986.
4. The Government of India, Ministry of Home Affairs while conveyed the sanction of Special (duty) allowance vide No. 11011/1/84-PP.IV dated 1<sup>st</sup>/2<sup>nd</sup> Feb 1989, it may be perused from para 1 (ii) of the above sanctioning order that the sanction to the grant of special (duty) allowance to the non-combatised civilian personnel (including officers) in Battalion of Assam Rifles and in static formations (such as offices of DC, IGP, DIGs, Range HQs, Training Centre etc.) and other Units (Maintenance Groups, Workshops etc.) of Assam Rifles was made in modification of the sanction issued vide item (3) of the Ministry of Home Affairs order No. II. 11011/1/84-PP.IV dated 03 Mar 1986.
5. It appears from the O.M No. 11 (3)/95-E. II (B) dated 12-1-96 issued by the Ministry of Finance, Department of Expenditure that the Government of India vide O.M Nos. mentioned in Para 1 of the aforesaid letter had ceased special (duty) allowance to the civilian employees of the Central Government serving in

Accepted  
Dutta  
Sh

26 JUN 2000

গুৱাহাটী আঞ্চলিক  
Guwahati Branch

the state and Union Territories of North Eastern Region giving effect from 20-9-1994 but in the aforesaid order, there was no reference quoted of the Ministry of Home Affairs Order No. 11011/1/84-FP-IV dated 1<sup>st</sup>/2<sup>nd</sup> Feb 1989 with a view that the special (duty) allowance to the civilian employees of the Central Government serving in the state and Union Territories of North Eastern Region was granted from the year 1983 onwards whereas the civilian employees of the Directorate General of Assam Rifles was granted special (duty) allowance from 7-11-1988 onwards and hence the order of the Ministry of Finance letter dated 12-1-06 was not being made operative till date.

6. Since the Ministry of Finance, Department of Expenditure in their O.M No. 11 (3)/95-E. II (B) dated 12<sup>th</sup> Jan 1996 had not made any reference of MHA's order dated 1<sup>st</sup>/2<sup>nd</sup> Feb 1989, it is felt that the contention made in MHA's letter No. H.22013/2/98-P.F.V dated 09-7-1998 forwarded to you under this Directorate letter No. A/1-A/242/98 dated 21 Jul 1998 need to be examined at your end for admissibility of special (duty) allowance in regard to civilian employees of the Directorate General of Assam Rifles, Shillong before ceasing the said allowance. The special (duty) allowance in regard was discontinued from 20-9-1994 for those who were in receipt of said allowance from 1983 onwards and was not effective to those who were receiving the said allowance from 7-11-1988 to till date. Nevertheless the Government of India, MHA modify/cancel or supersede the provision contained in para 1 (ii) of order No. 11011/1-81-FP.I dated 1<sup>st</sup>/2<sup>nd</sup> Feb 1989, the civilian employees of the Directorate General Assam Rifles, Shillong would be entitled to draw the special (duty) allowance.

7. In view of the above, you are requested to examine this matter and let this Directorate know immediately about the correct interpretation of the Government orders to enable this Directorate to take up the matter with the appropriate authority.

8. Pending clarification from your end as well as final decision is received from the competent authority, no deduction/recovery of special (duty) allowance of civilian employees of the Directorate General Assam Rifles, Shillong may please be made.

9. An early clarification on this matter is requested.

Sd/-

(Mandhata Singh)

Brig.

Director (Adm)

for DC Assam Rifles.

N.O.O

Copy to:-

1. OC, AMIO, H/Valley, Shillong.

2. Est Branch

DGAR, Shillong

for information and necessary action.

you are requested to continue drawl of SDA till such time clarification is received from PAO (AR), Shillong. Further direction on this matter will be given on receipt of reply from PAO (AR), Shillong.

3. Fin Branch

DGAR, Shillong.



ANNEXURE J

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

केन्द्रीय प्रशासनिक आ-  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Original Application No.203 of 1998 and series

Date of decision: This the 19th day of December 2000

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr M.P. Singh, Administrative Member

1. O.A.No.203/1998

Shri R.S. Pathak and 423 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mrs S. Deka.

- versus -

Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

2. O.A.No.207/1998

Shri Hemendra Nath Sharma and 24 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mrs S. Deka.

- versus -

The Union of India and others

....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

3. O.A.No.222/1998

Shri Bimal Kumar Chatterjee and 31 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mr S. Mukherjee.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

4. O.A.No.225/1999

Shri Subrata Kumar Dhar and 23 others

.....Applicants

By Advocates Mr M. Chanda, Mrs U. Dutta and  
Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

Attested  
Dutta  
A.S.W.

*[Handwritten signature]*

- 34 -

: 2 :

5. O.A.No.268/1999

Shri V.S. Sarma and 86 others  
By Advocates Mr B.K. Sharma and Mr S. Sarma.

.....Applicants

- versus -

The Union of India and Others  
By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

.....Respondents

6. O.A.No.312/1999

Shri Keshab Choudhury and 67 others  
By Advocates Mr D.K. Mishra, Mr A. Dutta and  
Mr R. Agarwal.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....Respondents

7. O.A.No.372/1999

Smt Sunita Devi Bhuyan and 41 others  
By Advocates Mr J.L. Sarkar and Mrs S. Deka.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

.....Respondents

8. O.A.No.144/1999

Shri Arun Chandra Chanda and 19 others  
By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mrs U. Dutta.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, SR. C.G.S.C.

.....Respondents

9. O.A.No.294/1999 OA 294/99 ৬৪২৩/৯৯

Shri Bidhan Chandra Roy and 20 others  
By Advocates Mr J.L. Sarkar, Mr M. Chanda,  
Mrs U. Dutta and Mr G.N. Chakrabarty.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

10. O.A.No.285/1999

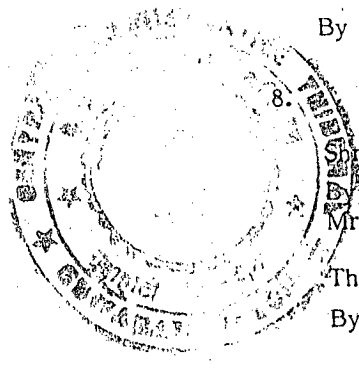
Shri Samir Ch. Kar and 9 others  
By Advocates Mr J.L. Sarkar, Mr M. Chanda,  
Mrs N.D. Goswami and Mr G.N. Chakrabarty.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents



26 JUN 2009

গুৱাহাটী ন্যায়পীঠ  
Guwahati Bench

11.

O.A.No.379/1999

Shri M.R. Chakraborty and 78 others  
By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mrs N.D. Goswami.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

12.

O.A.No.442/1999

Shri A. Mahendra Kumar and 5 others  
By Advocates Mr M. Chanda and N.D. Goswami.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

13.

O.A.No.129/2000

Shri K. Bayan and 154 others  
By Advocates Mr J.L. Sarkar, Mr M. Chanda,  
Mrs N.D. Goswami and Mr G.N. Chakrabarty.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

14.

O.A.No.166/2000

Shri Bhabendra Nath Deka and 5 others  
By Advocates Mr J.L. Sarkar and Mrs S. Deka.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

15.

O.A.No.168/2000

Dr Ajit Bora  
By Advocates Mr B.K. Sharma and Mr S. Sarma.

.....Applicant

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

: 4 :

16.

O.A.No.284/1999

Shri Gaj Bahadur Singh Thapa and 98 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda,  
Mrs N.D. Goswami and Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

17.

O.A.No.109/2000

Dr Priya Kumar Singh and 6 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda,  
Mrs N.D. Goswami and Mr G.N. Chakrabarty.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

18.

O.A.No.341/2000

Shri Pulak Chakraborty and 5 others

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

19.

O.A.No.345/2000

Dr Basab Ghosh and 2 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mr S. Ghosh.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

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: 5 :

20. O.A.No.425/2000

Dr Songkhongam Dimngel and 12 others  
By Advocates Mr J.L. Sarkar, Mrs S. Deka and  
Ms T. Das.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

21. O.A.No.429/2000

Shri Bhupendra Nath Talukdar and 16 others  
By Advocates Mr M. Chanda, Mrs N.D. Goswami and  
Mr G.N. Chakrabarty.

.....Applicants

- versus -

The Union of India and others  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The admissibility of Special (Duty) Allowance is the main question in all these applications, and therefore, all these applications were taken up together for consideration. For the purpose of adjudication of this proceeding, however, we shall mainly refer to O.A.No.203 of 1998 as the lead case.

2. All the applicants are working in different capacities under the Director General, Assam Rifles. The applicants are civilian employees working under the Central Government. The Union Government, with a view to provide some incentives to the civilian employees of the Central Government in the States and Union Territories of the North Eastern Region, amongst others, granted Special (Duty) Allowance (SDA for short) to the employees having All India Transfer liability. The original scheme was introduced by O.M.No.II.20014/3/83/E.IV dated 14.12.1983. The Government of India by letter No.II.11011/1/84-FP.IV dated 3.3.1986

clarified the Government policy and accordingly the Director General, Assam Rifles, was informed by the aforesaid letter that personnel in Battalions of Assam Rifles would not be entitled to the concessions envisaged in the Ministry of Finance (Department of Expenditure) O.M. NO.20014/3/83-E-IV dated 14.12.1983. It also indicated that Assam Rifles personnel and civilian non-combatised officers/employees of Assam Rifles did not have All India Transfer liability and as such, the question of grant of SDA even in the case of civilian non-combatised officers/employees did not arise. It further mentioned that non-combatised civilian staff of Static formations such as officers of DG, IGP, DIGs and Range Headquarters of Assam Rifles would be allowed concessions as envisaged in the O.M. dated 14.12.1983 except SDA. The Government of India again had to deal with the matter pertaining to grant of SDA and Special Compensatory (Remote Locality) Allowance to the Assam Rifles personnel posted in the States and Union Territories of the North Eastern Region, Andaman and Nicobar Islands and Lakshadweep. Considering the subject the Government of India decided to sanction grant of certain allowances like SDA, Special Compensatory (Remote Locality) Allowance (SCA(RL) for short), etc. By order No.11011/1/84-FP.IV dated 2.2.1989, Annexure D, the sanction of the President granting the following allowances were indicated. The relevant part of the Notification is reproduced hereinbelow:

<u>Category of personnel entitled to allowance</u>	<u>Particulars of O.M.s regulating the allowance</u>
(1)	(2)
1) <u>Special (Duty) Allowance</u>	
1) Combatised personnel (including Cadre officer) in battalions of Assam Rifles and the combatised personnel (including Cadre officers) in static formations (such as officers of DG, IGP, DIGs, Range HQrs, Training Centre etc.) and other units (Maintenance Groups, Workshops etc.) of Assam Rifles.	Item (iii) in para 1 of Ministry E.IV dated 14.12.83 as amended from time to time, read with their O.M.No.II.20014/3/83-E.IV dated 29.10.86 and 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 1.12.88. (This is in modification of sanction issued in MHA letter No.II.27012/31/85-FP.II dated 6.4.87).

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(1)

(2)

ii) Non-combatant civilian personnel (including officers) in battalions of Assam Rifles and static formations (such as offices of DG, IGP, DIGs, Range HQrs., Training Centre etc.) and other Groups (Maintenance Groups, Workshops etc.) of Assam Rifles.

Same as above. (This is in modification of the sanction issued vide item (3) of MHA Letter No.11011/1/84-FP.IV dated 3.3.86).

(2) .....

(3) ....."

The above communication also indicated that the above allowances were not applicable to Army Officers/personnel on deputation to Assam Rifles. In pursuance to the aforesaid Government order the applicants were paid the SDA with effect from 7.11.1988. When the matter rested at this stage situation the Supreme Court rendered its decision in Civil Appeal No.3251 of 1993 alongwith analogous appeals on 20.9.1994, known as Union of India and others vs. S. Vijay Kumar and others reported in (1994) 281 ATC 598. In the said decision, the Supreme Court had the occasion to deal with the O.M.s dated 14.12.1983, 29.10.1986 and 20.4.1987 pertaining to grant of SDA to the Central Government employees working in the North Eastern Region having All India Transfer liability. The Supreme Court, in the aforesaid decision, held that the aforesaid three Notifications were applicable only to the persons specified therein, namely those persons who have All India Transfer liability on being posted to any station of the North Eastern Region from outside the region. Referring to the Notification dated 20.4.1987 the Supreme Court made the position clear that the allowance should not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. In the light of the above decision of the Supreme Court, the O.M.No.11(3)/95-E.II(B) dated 12.1.1996 clarified that the Central Government civilian employees who have All India Transfer Liability were entitled to SDA on being posted to any station in N.E. Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer liability. The aforesaid communication created some misgivings and in order to avoid the misgivings.....

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Guwahati Bench

misgivings, the Director General, Assam Rifles, the respondent No.3 herein, issued the Memorandum dated 6.6.1998, Annexure E. By the aforementioned communication the Ministry of Home Affairs was informed that SDA was one of the ten concessions/facilities extended to the Central Government civilian employees serving in the N.E. Region with effect from 1.11.1983 sanctioned under Ministry of Finance O.M. dated 14.12.1983. Subsequently, consequent to Fourth Central Pay Commission recommendations, the above concessions/facilities were modified and two more concessions were given with effect from 1.12.1988. It also mentioned that the Assam Rifles projected to the Ministry of Home Affairs for extension of the above concessions/facilities including SDA to the combatant and civilian employees of Assam Rifles on the analogy that all those concessions including SDA were available to the employees of other CPOs like BSF, CRPF etc. similarly situated in the N.E. Region. While grant of the above concessions to the combatant employees were turned down, all the concessions except SDA were sanctioned for civilian employees of Assam Rifles posted in static formations like Directorate General, Assam Rifles, Inspector General, Assam Rifles (North), Range Headquarters and Assam Rifles Training Centre and School with effect from 3.3.1986 under Ministry of Home Affairs letter No.11.11011/1/84PP 4 dated 3.3.1986, copy of which was endorsed, alongwith others, to the Pay and Accounts Office, Assam Rifles, Shillong and Ministry of Finance, Department of Expenditure (E.IV). Subsequently, all these concessions except SDA were also extended to the combatant employees of Assam Rifles with effect from 1.11.1986 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 1.1.1986 following Fourth Central Pay Commission recommendations. SDA on the analogy of other CPOs 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. Para 4 of the letter dated 2.2.1989 laid down that the sanction of SDA for the.....

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the combatant and civilian employees of Assam Rifles was duly concurred by the concerned departments of the Ministry of Finance. The Pay and Accounts Officer, Assam Rifles, was passing the monthly bills of the civilian employees of Directorate General, Assam Rifles without any objection right from the time of sanction of SDA to Assam Rifles. However in the end of April 1998, the Pay and Accounts Officer, Assam Rifles, Shillong, intimated that SDA was not applicable to the civilian employees of DGAR, Shillong as per the Ministry of Finance O.M.No.11(3)95-E.II(B) dated 12.1.1996. The communication also clarified that the judgment of the Apex Court regarding non-entitlement of SDA to certain category of civilian employees was based on the general order sanctioning the ten concessions/facilities including SDA to civilians serving in the N.E. Region. SDA was sanctioned to the combatant and civilian employees of Assam Rifles on CPO analogy and that too, from a much later date, 7.11.1988, when the pay pattern of Assam Rifles personnel was made on the lines of CPO pattern after the Fourth Central Pay Commission recommendations. It was also mentioned in the communication dated 6.6.1998 that the Ministry of Home Affairs and the Ministry of Finance were fully aware of the general eligibility criteria for SDA, namely, the conditions of appointments, posting, transfer, retention, exigency of service etc. of the civilian employees of static formations of Assam Rifles like DGAR, IGAR, etc. Keeping all these aspects in view, a separate and exclusive sanction was accorded by the Ministry of Home Affairs for grant of SDA to the combatant and civilian employees of Assam Rifles as mentioned earlier. The Director General accordingly intimated the view about the eligibility of SDA to the civilian employees of the Directorate General, Assam Rifles.

3. The above communication was, however, turned down by the Ministry of Home Affairs, by its communication dated 9.7.1998. The Association represented the matter to the Home Ministry by representation dated 13.8.1998, but the Ministry turned down the same. The Directorate General, Assam Rifles, by its communication dated 18.8.1998 informed that the Pay and Accounts Officer, Assam Rifles, advised for discontinuance

of.....

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of SDA from the pay of August 1998 in respect of all the civilian employees of DGAR and further advised that the SDA drawn from 20.9.1994 to till date was also to be recovered. Hence this application before this Tribunal challenging the legitimacy of the action taken by the respondents.

4. The respondents submitted their written statement and in their written statement, the respondents have not disputed about the Presidential order granting SDA with effect from 7.11.1988. It was also stated that in the written statement that the employees of the Central Government having All India Transfer liability serving in the States and Union Territories of the N.E. Region were granted SDA from 1983 onwards vide Government of India O.M. dated 14.12.1983. The orders of the President granting SDA to Assam Rifles with effect from 7.11.1988 was a distinct and a special order for Assam Rifles which was issued after a lapse of almost five years and after considering all the pros and cons of the eligibility criteria. The respondents further stated that the civilian employees of Assam Rifles were granted SCA from 1988 through a special order vide Government of India, Ministry of Home Affairs letter No.11011/1/84-FP.IV dated 2.2.1989. The O.M. dated 12.1.1996 was made operative till July 1988 and pay bill were duly passed by the Audit authorities, namely Pay and Accounts Office, Assam Rifles, Ministry of Home Affairs. In August 1998, the Pay and Accounts Officer, Assam Rifles intimated that SDA was not applicable to the civilian employees of the Directorate General, Assam Rifles as per Ministry of Finance O.M. dated 12.1.1996. The respondents also stated that the O.M. dated 12.1.1996 was applicable to civilian employees of Assam Rifles as per Ministry of Home Affairs letter dated 9.7.1998.

5. From the facts enumerated above it thus emerges that the Assam Rifles personnel were not covered by the O.M. dated 14.12.1983 and the subsequent O.M.s dated 29.10.1986 and 20.4.1987. By communication dated 3.3.1986 the Ministry of Home Affairs in clear terms stated that

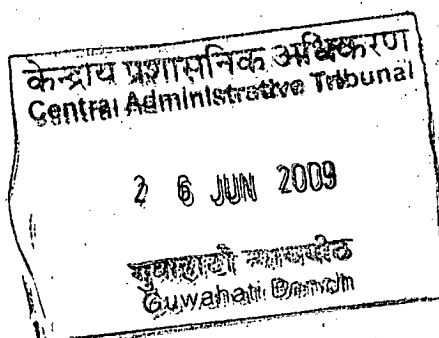
Assam.....

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गुवाहाटी बेंच  
Guwahati Bench

Assam Rifles personnel and civilian non-combatised officers of Assam Rifles did not have All India Transfer liability and as such question of grant of SDA even in the case of civilian non-combatised officers/employees did not arise. The aforesaid communication was considered by the Ministry while taking a decision for grant of SDA, SCA(RL) to the Assam Rifles personnel posted in the States and Union Territories of N.E. Region, Andaman and Nicobar Islands and Lakshadweep. Conveying the sanction of the President for grant of the allowances to the personnel of Assam Rifles with effect from 7.11.1988, the Ministry took note of the earlier O.M.s dated 14.12.1983, 29.10.1986 and 1.12.1988. The O.M. dated 1.12.1988 was made in modification of the sanction issued by MHA letter No.II.27012/31/85-FP.II dated 6.4.1987. It thus appears that while granting SDA to the non-combatised civilian staff of the static formation of the Assam Rifles, the Ministry took note of its earlier O.M.s. The orders of the President granting SDA to Assam Rifles with effect from 7.11.1988 was mentioned as a distinct order. A <sup>conscious decision</sup> consensus was taken by the respondents by considering the service conditions of the personnel serving in the Assam Rifles. This order granting SDA is not relatable to the O.M.s dated 14.12.1983, 29.10.1986 and 20.4.87. The competent authority felt it appropriate for granting SDA knowing it that such civilian non-combatised officers and personnel of the Assam Rifles did not have All India Transfer liability, notwithstanding, the Government thought it wise to grant the same. The aforesaid direction of the authority has been passed in absolute terms and in the absence of any modification of the said order the respondents were not justified to refuse the benefit of the order dated 2.2.1989. The order dated 2.2.1989 was not the subject matter of the decision rendered by the Supreme Court in Vijay Kumar (Supra). In the circumstances, we do not find any justification on the part of the respondents for refusing to grant SDA to the applicants which was earlier granted. Accordingly all such actions of the respondents refusing SDA to the applicants are quashed and set aside. In view of our decision we hold that the steps for recovery are also unjustified.



6. The application is accordingly allowed. If any recovery has already been made by virtue of the earlier action, the respondents are directed to refund the same forthwith to the applicants after examining the records.

No order as to costs.

Sd/-VICECHAIRMAN  
Sd/MEMBER (A)



TRUE COPY  
प्रतिलिपि

Deputy Registrar (D)  
Central Administrative Tribunal,  
Guwahati Bench

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27/4/07

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<p>1. Date used for notifying the requisite number of stamps and folios.</p> <p>27/7/06</p>	<p>2. Date of delivery of the requisite stamp and folios.</p> <p>27/7/06</p>	<p>3. Date on which the copy was ready for delivery.</p> <p>27/7/06</p>	<p>4. Date of making over the copy to the applicant.</p> <p>27/7/06</p>
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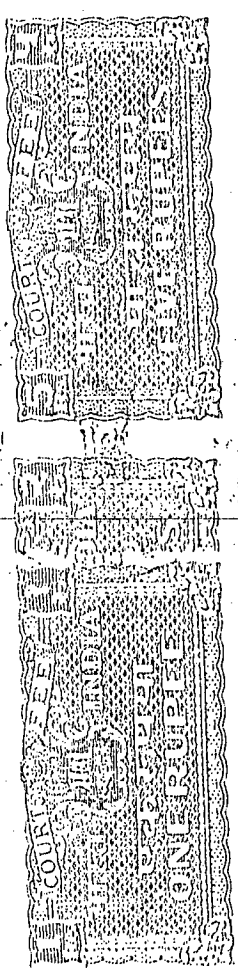
- 45 -

ANNEXURE-K

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

(SHILLONG BENCH)

WRIT PETITION NO. 195 (SH) OF 2001



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.

*Collected  
 Dutta  
 Adv*

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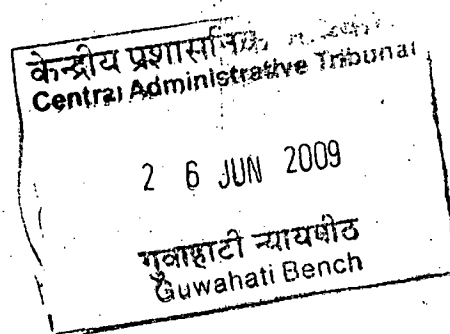
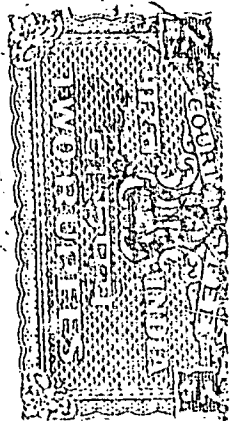
Date of Hearing : 24.07.2006

Date of Judgment and Order : 24.07.2006

**JUDGMENT AND ORDER**

By D. Biswas, J.

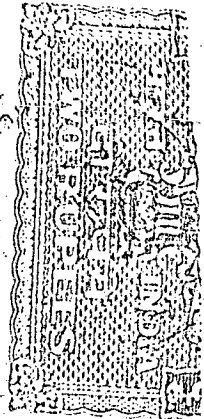
This writ petition is directed against the common Judgment and order dated 19.12.2000 passed by the Central Administrative Tribunal, Guwahati Bench in O.A. Nos.203, 207, 222 of 1998, 225, 268, 012, 372, 144, 194, 285, 379 and 442 of 1999. The respondents have been working as non-combatised civilian employees 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-combatised civilian personnel including officers under the Battalion of Assam Rifles and static formation (such as offices of DG, IGP, DIGs, Range Hqrs. 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 14<sup>th</sup> 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-combatized 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-combatised civilian personnel of the Assam Rifles. The benefit given



by 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 14.12.1983, 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.- Vijay 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 2<sup>nd</sup> February, 1989 was issued with sanction of the President of India granting payment of Special Duty Allowance with effect from



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7.11.1988. The notification dated 2<sup>nd</sup> 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 reflects 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.

Sd/- *[Signature]*  
JUDGE

Sd/- *[Signature]*  
JUDGE

*Collected  
Mulla  
Sd/-*

Typed By *[Signature]*  
Read By *[Signature]*  
Compared By *[Signature]*

Certified To Be True Copy
<i>[Signature]</i>
Superintendent (Judicial)
Chief Justice
Delhi Bench

केन्द्रीय प्रशासनिक आयोग Central Administrative Tribunal
26 JUN 2009
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ITEM NO.18

COURT NO.5

SECTION XIV

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

045849

Petition(s) for Special Leave to Appeal (Civil) No(s).2962/2007

(From the judgement and order dated 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

Certified to be true copy

3.4.07

For Petitioner(s)

Mr. R. Mohan, ASG  
Mrs. Binu Tanta, Adv.  
Mrs. B. Sunita Rao, Adv.  
Mr. Shanti Bhushan Chaubey, Adv.  
Ms. Sushma Suri, Adv.

For Respondent(s)

Mr. N.R. Choudhury, Adv.  
Mr. Sonnath Mukherjee, Adv.

UPON hearing counsel the Court made the following  
O R D E R

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

( Ravi P. Verma )  
Court Master

( Anand Singh )  
Court Master

Collected  
Dutta  
26/2

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Supreme Court of India  
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Section Officer  
Supreme Court of India

WITNESSED IN MY PRESENCE

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

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Guwahati Bench

ANNEXURE-M

1.11018/89/2001-Law/237

Dated 23 Jul 2007

LAW BRANCH

GRANT OF SPECIAL DUTY ALLOWANCE(SDA) TO CIVILIAN  
EMPLOYEES OF ASSAM RIFLES IN VIEW OF CAT, GUWAHATI  
ORDER DATED 19.12.2000 IN OA NO. 203/98- R S PATHAK &  
OTHERS AND THE SERIES

1. Ref your ION No. 1.36011/A-II/SDA/(Civ Staff)/2007 dated 19.07.2007.
2. It is intimated that MHA vide its letter UO No. 27013/04/2007-PF.IV dated 03.07.2007 directed to implement the CAT orders dated 19.12.2000 in respect of the petitioners only.
3. 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 (Srl No.2)       |
| (b) | O.A. No. 222/1998 | - Shri B K Chatterjee & 31 Others (Srl No.3)   |
| (c) | O.A. No. 225/1999 | - Shri S K Dhar & 23 Others (Srl 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 A C 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 B N 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 G B 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 herewith for information and necessary action.

5. Please ack.

*(Signature)*

( S Salooja)  
Lt Colonel  
Dy Chief Law Officer  
For Chief Law Officer

Encl: As stated above.

A BRANCH

Sn/

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal  
26 JUN 2009  
गुवाहाटी न्यायपीठ  
Guwahati Bench

*Collected  
10/11/09  
H/W*

FIW

- 52 -

60

ANNEXURE-N

No 0364-2705076  
FAX No 0364-2705080  
0364-2230146

Government of India

गृह मंत्रालय

Ministry of Home Affairs

Directorate General Assam Rifles

Shillong - 793011.

HD ISAS (S)

136011/A-II/SDA/CN/Staff/2007

24 Jul 2007

List 'A' 'B' & E

GRANT OF SDA TO CIVILIAN EMPLOYEES  
OF ASSAM RIFLES

1. Reference this Dte letter No 36011/A-II/SDA/Civ/Staff/2007 dated 09 Jul 2007.
2. A copy of this Dte Law Branch ION No. I.11019/89-Law/233 dated 23 Jul 07 along with list of petitioners. It your necessary action please.
3. Please circulate the above list of petitioners to the units under your comd for immediate drawal of SDA by the effected pers.

Encl: \_\_\_\_\_ Sheets.

Rifles.

Copy to:-

List :-

for info please.

(SS. Saharan)

Lt Col.

SO 1 (A)

For DG Assam Rifles

17 4012 dt 14 Sep 2007

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

File No : 0364-2705076  
FAX No : 0364-2705080  
0364-2230146  
e-mail : dgar\_abranch@yahoo.co.in

भारत सरकार  
Government of India  
गृह मंत्रालय  
Ministry of Home Affairs  
महानिदेशालय असम राइफल्स  
Directorate General Assam Rifles  
शिलांग - ७९३ ०११  
Shillong - 793011

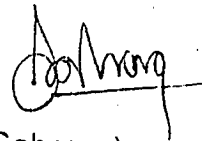
A/Pers-0859/2007

27 Nov 2007

List 'A' & 'B'

**REGARDING GRANT OF SDA TO CIVILIAN EMPLOYEE WHO ARE NOT PETITIONERS IN THE COURT CASE INITIATED IN THE CAT, GUWAHATI.**

1. Ref our letter No I.36011/A II/SDA/uv/Staff/2007 dated 24 Jul 2007.
2. Case was taken up with MHA for granting SDA to the non-petitioner civ staff of Assam Rifles but the same has been rejected by the Ministry.
3. Concerned civil staff may please be informed accordingly.



(S S Saharan)  
Lt Col  
Staff Office -1 (A)  
for DG Assam Rifles

**Copy to :-**

List 'C'

ARASU

AR Sig Unit

NO 1 Constn & M. Coy

Estt (Bill Sec) Br, 4-8 D GAR

*Attested  
Dy. Secy  
Adm*

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

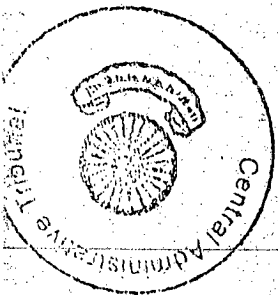
## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.40 of 2008.

Date of Order : This the 3rd Day of March, 2008.

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Shri T.C.Nair  
Senior Accountant  
Working at HQ, I.G.Assam Rifles (North)  
Kohima, C/O 99 APO
2. Smt Anjali Topno,  
Staff Nurse, 30 AR.
3. Smt Anita Deka,  
Aya, 34 AR.
4. Shri Ashu Sunar  
Aya, 34 AR
5. Shri Agostina Minj  
Staff Nurse, 45 AR.
6. Shri Anod Kumar Akela  
Hindi Typist 26 AR.
7. Smt Anita Pun  
Female Attendant, ARTC & S
8. Smt Bijaya Devi  
Staff Nurse, 32 AR.
9. Smt Bharti Gurung,  
Aya, 36 AR.
10. Smt Bimala Devi  
Female Safai, 36 AR
11. Smti Bency John  
Staff Nurse, 37 AR
12. Shri Bhaishree Sunare  
Female Attendant, 30 AR
13. Shri Bikash Roy Choudhury,  
Assistant, DGAR
14. Shri Chandrashekhar Paswan  
Hindi Typist, 32 AR
15. Smt Chandrakala,  
Female Attendant, 32 AR
16. Shri C.K.Kadu,  
Veterinary Field Assistant 3 MGAR



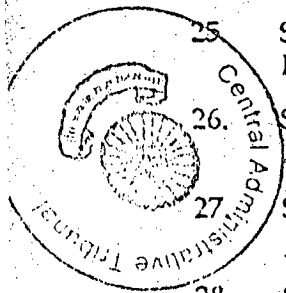
Collected  
Dutta  
Adv

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी बेंच  
Guwahati Bench

17. Mrs. Durga Chhetri,  
Jr. Teacher, 27 AR.
18. Smti. Chaitali Chakraborty,  
Staff Nurse, ARTC & S, Diphu.
19. Shri Debaslus Kar  
Jr. Teacher 10 AR.
20. Shri Devendra Singh  
Hindi Translator, 37 AR.
21. Smti. Esther Issac,  
Sister, ARTC & S.
22. Smti Gyan Maya Gurung,  
Female Attendant, 32 AR.
23. Smti Geeta Devi,  
Female Attendant, 32 AR.
24. Shri Cauri Shankar Singh  
Hindi Teacher, 27 AR.
25. Shri Canydring,  
Female Attendant, 34 AR.
26. Shri Hoikholing, Vaiphei  
Aya, 39 AR.
27. Shri Hiramoni Borah  
Jr. Teacher, 33 AR.
28. Shri Hem Kala Gurung,  
Female Attendant, Happy Valley, Assam Rifles.
29. Smti Hari Kala Devi  
Female Attendant, 46 AR.
30. Smti Joyeeta Deb,  
Jr. Teacher, 33 AR.
31. Smti Jamuna Deb Barma (Chakraborty)  
Female Safai, 36 AR.
32. Shri Jogot Dewri,  
Jr. Teacher 21 AR.
33. Shri Jai Prakash Yadav,  
Hindi Teacher, 21 AR.
34. Smti July Thomas,  
Staff Nurse, 30 AR.
35. Shri Jadumani Barik  
Hindi Translator, 30 AR.
36. Smti K Renubala Devi  
Staff Nurse, 19 AR.

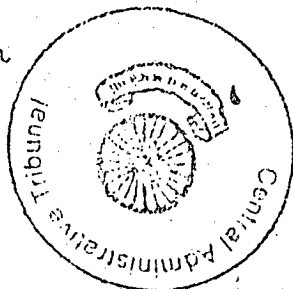


केन्द्रीय प्रशासनिक  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

37. Shri K Romeshor Singh  
Senior Teacher, 13 AR.
38. Smti. K H Thanoi,  
Female Attendant, 39 AR.
39. Smti Kushna Devi  
Female Attendant, 19 AR.
40. Smti Kalyani Chhetri  
Female Attendant, 21 AR.
41. Smti Kanta Devi,  
Female, Safai, 21 AR.
42. Shri Kanchan Kumar Singh  
Hindi Teacher, 33 AR.
43. Smti Kalawati Devi  
Aya, 45 AR.
44. Smti Kiran Shakya  
Hindi Teacher, 33 AR.
45. Smti Lainmayum Bina Devi,  
Staff Nurse, 36 AR.
46. Smti Lmingboi Sithlou,  
Staff Nurse, 34 AR.
47. Smti L Jomibinata Devi  
Jr. Teacher, 34 AR.
48. Smti Mohamaya Devi  
Female Attendant, 19 AR.
49. Smti Moirangthem Menu Devi  
Female Safai, 5 Dental Unit AR.
50. Smti Martha Lamkang,  
Female Safai, 39 AR.
51. Smti Mohini Devi  
Female Attendant, 32 AR.
52. Smti Mutum Tombisana Devi  
Aya, 21 AR.
53. Mrs. Marimma Thankachan  
Sister, ARTC & S.
54. Smti Mala Thapa.  
Aya, 15 AR.
55. Smti Mlatli Devi,  
Female, Safai, 15 AR.
56. Smti Madhuri Begum  
Female Safai, 37 AR.



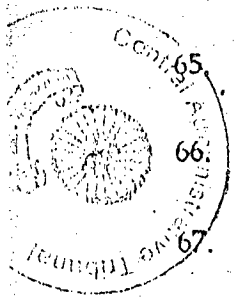
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायापीठ  
Guwahati Bench



- 57-
57. Smti Mehurunesa,  
Female Satai, 37 AR.
58. Smti Mala Dami,  
Female Attendant, 2 MGAR.
59. Smti Maya Dutta,  
Female Attendant, 45 AR.
60. Smti Munni Devi,  
Aya, 46 AR.
61. Shri Mohit Bhattacharjee,  
Senior Accountant, 26 AR.
62. Smti Man Mohan Devi,  
Female Safai, ARTC & S, Diphu.
63. Shri Nizu Barman,  
Hindi Typist, 19 AR.
64. Shri Naresh Choudhury,  
Hindi Teacher 32 AR.
65. Smti Naorem Roma Devi,  
Staff Nurse, 21 AR.
66. Smti. Ngathem Aruna Devi,  
Staff Nurse, 27 AR.
67. Shri N.K. Pandey,  
Hindi Teacher, 27 AR.
68. Smti Narmada Thapa,  
Female Attendant, 15 AR.
69. Smti Njailungle Newhe,  
Female Safai, 45 AR.
70. Shri PKS Rathore,  
Hindi Translator, 19 AR.
71. Shri P DebRoy,  
Hindi Teacher, 32 AR.
72. Smti P Marie,  
Aya, 36 AR.
73. Smti Purnawati Chhetri,  
Staff Nurse, ARTC & S.
74. Shri P Chandrahas Singh,  
Hindi Teacher, 21 AR.
- ✓ 75. Shri P C Das,  
Senior Accountant, ARTC & S, Dimapur.
76. Mrs. P Haokip,  
ANM, 21 AR.

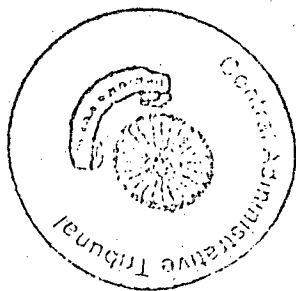


केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

77. Mrs. P. Prina Jaishi  
Aya, 21 AR.
78. Mrs. Paduni Das,  
Sr. Teacher, 27 AR.
79. Mr. Prasanta Biswas,  
Jr. Teacher, 24 AR.
80. Miss. Parvati Pyngrote,  
Hindi Translator, 39 AR.
81. Smti Rita Jha  
Female Attendant, 5 Dental Unit, AR.
82. Shri Room Singh  
Hindi Translator, HQ, 9 Sector AR.
83. Shri Ramakanta Ray,  
Hindi Typist, HQ 9 Sector, AR.
84. Shri Rakesh Bengalia,  
Hindi Translator, 32 AR.
85. Shri Rajesh Kumar,  
Hindi Teacher, 8 AR.
86. Shri/Rajeshwar Rajak,  
Hindi Teacher, 19 AR.
87. Shri Ranjeet Kumar,  
Hindi Teacher, 13 AR.
88. Shri Rajesh Kumar Pandit  
Hindi Teacher 34 AR.
89. Shri Ranjit Kumar,  
Hindi Typist, 34 AR.
90. Smti Rupa Paswan,  
Female Safai, 25 AR.
91. Smti Sarda Chanda,  
Junior Teacher, 32 AR.
92. Smti Shanti Shahi,  
Female Safai, 32 AR.
93. Smti Sagolsem Sharmila  
Female Attendant, 36 AR.
94. Shri Sandeep Kumar Dwivedi  
Hindi Typist, 27 AR.
95. Smti. Sifali Copinathan,  
Sr. Teacher, 17 AR.
96. Smti Sumitra Devi,  
Female Safai, 37 AR.

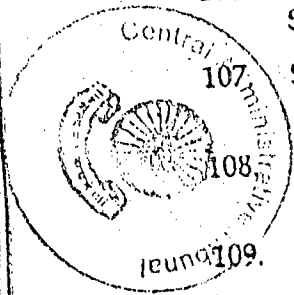


केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

97. Shri Sat Narain.  
Hindi Teacher, 13 AR.
98. Smti Shulabati Devi.  
Staff Nurse, 34 AR.
99. Shri Sanjeev Paul.  
Hindi Translator, 34 AR.
100. Shri Surendra Thakur.  
Sr. Teacher, 33 AR.
101. Smti Santi Rana,  
Aya, 45 AR.
102. Smti Shanti Rawat.  
Female Attendant, ARTC & S.
103. Smti Savita Devi,  
Female Safai, 45 AR.
104. Smti Sakina Khatun.  
Female Attendant, ARTC & S.
105. Shri Santosh Kumar.  
Hindi Typist, 26 AR.
106. Smti Sudha Gurung,  
Staff Nurse, ARTC & S.
107. Smti Sarita Kumari Bansfar.  
Female Safai, 25 AR.
108. Smti Tiaenla,  
Female Attendant, 39 AR.
109. Smti Tulu Paul.  
Female Safai, 36 AR.
110. Smti TH Gambhini Devi.  
Staff Nurse, 21 AR.
111. Shri T.N. Sharma.  
Sr. Teacher, DGAR.
112. Smti Uma Gurung.  
Female Safai, 36 AR.
113. Smti Uma Chettri.  
Aya, 15 AR.
114. Shri Vinood Kumar.  
Veterinary Field Assistant, 6 AR.
115. Shri Vijay Kumar.  
Hindi Translator, 10 Sector AR.
116. Smti V. Scallanall.  
Female Safai, 30 AR.



केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN

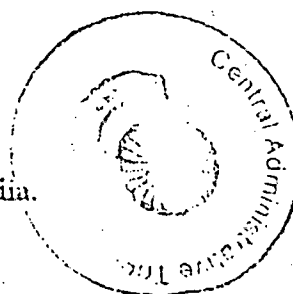
गुवाहाटी न्यायपीठ  
Guwahati Bench

117. Shri Vinod Kumar,  
Hindi Translator, 1<sup>st</sup> AR.
118. Smti Waheeda Begum  
Staff Nurse, AR Adam Support Unit (ARSU).
119. Shri Y Narayan Babu Meitei  
Veterinary Field Assistant, 3 Maintenance Group AR (MGAR).
120. Smti Zohmingliani,  
Female Safai, 21 AR.
121. Md. Zalani  
Peon, DGAR.
122. Md. Zulfikar Ali  
Peon, DGAR.
123. Md. Zulfikar,  
Messenger, DGAR.

BY Advocate Mr M. Chanda  
-AND-

-----Applicants.

1. The Union of India,  
Represented by Secretary to the  
Govt. of India, Ministry of Home Affairs  
Room No. 113, North Block, New Delhi- 110001.
2. The Secretary, Finance and Expenditure to the Govt. of India,  
Ministry of Finance,  
North Block, Lok Nayak Bhawan, New Delhi- 110001.
3. The Director General, Assam Rifles,  
DGAR (HQ), Shillong- 793011.
4. Dy. Controller of Accounts (Home)  
Pay and Accounts Office  
Assam Rifles, Laitumkhrah, Shillong- 793003.



..... Respondents.

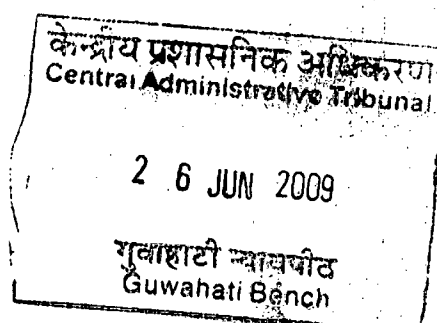
By Mrs M. Das, Addl. C.G.S.C.

ORDER

KHUSHIRAM, MEMBER(A)

All the Applicants in the instant case are non combatant civilian employees of Assam Rifles under Director General of Assam Rifles, Shillong. They are posted in different field offices of North

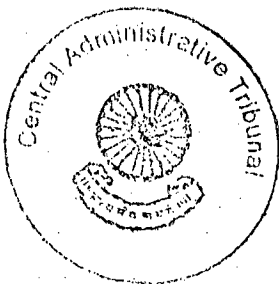
*[Signature]*



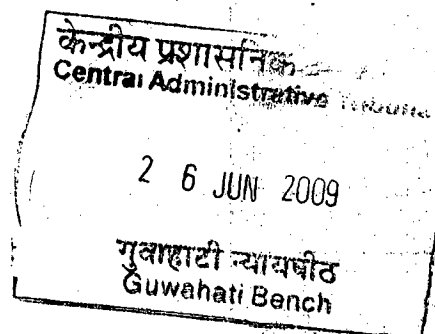
Eastern Region. In the instant application they have prayed for payment of Special Duty Allowance (SDA) in terms of Govt. of India, Ministry of Home Affairs letter dated 02.02.1989 (Annexure-C). By the impugned letter dated 27.11.2007 the claim of the non petitioners who did not approach this Tribunal was rejected by the Respondents. Hence the present application.

2. Heard Mr M.Chanda, learned counsel appearing for the Applicants and Mrs M. Das, learned Addl.C.G.S.C for the Respondents. Mr Chanda submits that the applicants are similarly situated persons like the applicants of O.A.203/98 and other connected cases who have been granted SDA following the decision of this Tribunal. Mr Chanda also referred a decision of the Hon'ble Supreme Court in the case of K.T.Veerappa & Ors. Vs. State of Karnataka & Ors., reported in 2006(2) SCSLJ 49 wherein it was held that :

"The defence of the State Government that as the appellants were not the petitioners in the writ petition filed by 23 employees of the respondent - University to whom the benefit of revised pay scales was granted by the Court, the appellants are estopped from raising their claim of revised pay scales in the year 1992-94, is wholly unjustified, patently irrational, arbitrary and discriminatory. As noticed in the earlier part of this judgment, revised pay scales were given to those 23 employees in the year 1991 when the contempt proceedings were initiated against the vice-Chancellor and the Registrar of the University of Mysore. The benefits having been given to 23 employees of the university in compliance with the decision dated 21.6.1989 recorded by the learned Single Judge in W.P.Nos.21487-21506/1982, it was expected that without resorting to any of the methods the other employees incidentally placed, including the appellants, would have been given the same benefits, which would have avoided not only unnecessary litigation but also the movement of files and papers which only waster public time."



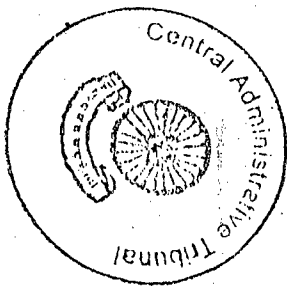
Mrs Das, learned Addl.C.G.S.C for the Respondents



pleaded to seek instruction from the respondents. Since a similar matter has been disposed of by this Tribunal in O.A.1/2008 on 8.1.2008, it would be appropriate to pass similar order in the instant case. The Applicants are accordingly directed to submit individual representation before the competent authority to seek relief as was granted to similarly situated persons and if such representations are filed, the Respondents are also directed to pass reasoned order within a period of 3 months from the date of receipt of the representations.

Original Application is accordingly disposed of at admission stage without any order as to costs.

Copy of this order along with the copy of this Original application be sent to all the Respondents and free copies of this order be also handed over to the learned counsel for both sides.



//pg//

*Attested  
Data  
Adw*

Sd/-  
Khushiram  
Member (A)

TRUE COPY

प्रतिनिधि

अनुसार अधिकारी

Section 41

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

GUWAHATI BENCH

गुवाहाटी/Guwahati-5

केन्द्रीय प्रशासनिक आ  
Central Administrative Tribunal  
26 JUN 2009  
गुवाहाटी न्यायपीठ  
Guwahati Bench

Tele No : 0364-2705076  
FAX No : 0364-2705080  
0364-2230146  
e-mail : dgar\_abranch@yahoo.co.in

भारत सरकार  
Government of India  
गृह मंत्रालय  
Ministry of Home Affairs  
महानिदेशालय असम राइफल्स  
Directorate General Assam Rifles  
पिशांग - 793011  
Shillong - 793011

A/Pers-0859/08

15 Dec 2008

Shri P. C Das, Ex-SA  
Vill - Bamun Baradi  
P.O. Barpeta  
Dist - Barpeta  
Assam  
Pin - 781301

NON RECEIPT OF SDA

1. Ref your application dated 27 Nov 2008.
2. It is intimated that, MHA has granted restoration of SDA in respect of left out civil staff (those who were not enlisted and covered vide CAT order 19/2000 and 20/2000) wef 02 Jul 2007. Thus claim for drawal of arrear SDA is not applicable as you have superannuated wef 30 Sep 2006.

affected  
Outta  
Adv

What is the nexus?  
any w.e.f. 02/07/2007

(Rajeev Kumar)  
Lieutenant Colonel  
Staff Office -1 (A)  
for DG Assam Rifles

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
26 JUN 2009  
गुवाहाटी शाखा  
Guwahati Branch