

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 268/2009-2008
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

1. Order Sheets..... 01..... pg..... 01..... to..... 02 ✓
2. Judgment/ order dtd. 4.2.2009 pg..... to.....
(in order sheet)
3. Judgment & Order dtd..... received from H.C. /Supreme Court.
4. O.A. 268/09 page..... 01 to..... 46 ✓
5. E.P/M.P. page..... to.....
6. R.A./C.P. page..... to.....
7. W.S. Page..... to.....
8. Rejoinder..... page..... to.....
9. Reply page..... to.....
10. Any other papers page..... to.....
11. Memo of Appearance pg - 01 to 01 ✓

SECTION OFFICER (JUDL.)

17.7.2015

BDR
20.7.2015 ✓

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

1. ORIGINAL APPLICATION No : 268 / 2009

2. Transfer Application No : ----- / 2009 in O.A. No. -----

3. Misc. Petition No : ----- / 2009 in O.A. No. -----

4. Contempt Petition No : ----- / 2009 in O.A. No. -----

5. Review Application No : ----- / 2009 in O.A. No. -----

6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Shri Swadesh Kumar Das

Respondent (S) : Union of India & ors.

Advocate for the : Mr. M. Chanda, Mr. S. Nath
(Applicant (S)) & Ms. S. Dutta

Advocate for the : C.G.S.C.
(Respondent (S))

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed in P. for Rs. 50/- deposited in the sum of Rs. 50/- No. <u>396 443495</u> Date <u>16/12/09</u></p> <p><i>J. Bhattacharya 17/12/09 S. Registrar 17/12/09</i></p>	<u>18.12.2009</u>	<p>Since similar and common questions of law, mainly entitlement of Special Duty Allowance and contention raised is that they were entitled to said benefit but it had not been released. Representation made on the subject remains unconsidered. In view of the above it is further contended that similarly situated employees were granted the said benefit as detailed in para 4.12 of the O.A.</p> <p>In the circumstances Admit. Mr K.Das, learned Addl.C.G.S.C accepts notice on behalf of the respondents of O.A.267/09 and <u>Mr. M. K. Boro</u> <u>Mr. M. Das</u>, learned Addl.C.G.S.C accepts notice on behalf of respondents of O.A.268/09. Thus service is complete. Formal notice need not be issued. Respondents are granted 6 weeks time to file reply.</p>
<p><u>5 (Five) copies of</u> <u>application with envelope</u> <u>received for issue notices</u> <u>to the Respondents. Copy served</u></p> <p><u>17/12/09</u></p> <p><u>No w/s filed.</u></p> <p><i>M. Chanda 3.2.2010</i></p>		<p>List on 4.2.2010.</p>

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

O.A. 268 of 2009

4.2.2010

O.A.267 and 268 of 2009 have been filed by Shri K. M. Rabha and S. K. Das, respectively claiming Special Duty Allowance, for the period narrated therein. Mr.K.Das and Mr. M. K. Boro, learned Addl. Standing Counsel appearing for the Respondents respectively state that Hon'ble Chairman of Central Administrative Tribunal, Principal Bench, on the administrative side has granted desired relief to them vide Communication dated 04.2.2010, and communication relating to this aspects, was placed on record.

In the circumstances claim had been rendered infructuous and O.As are accordingly disposed of as infructuous.

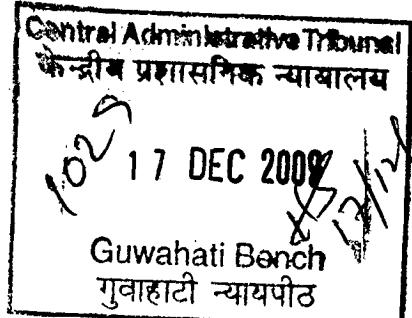
Noticed
(Madan Kumar Chaturvedi)
Member (A)

Noticed
(Mukesh Kumar Gupta)
Member (J)

lm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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



O. A. No. 268 /2009

Shri Swadesh Kumar Das
-Vs-
Union of India and Others.

SYNOPSIS OF THE APPLICATION

Applicant is serving as Section Officer in the office of Central Administrative Tribunal, Guwahati Bench, Guwahati. He was initially appointed through Staff Selection Commission as Lower Division Clerk (for short LDC) in the year 1983 and posted at Air Force Headquarters at New Delhi. Subsequently he joined as LDC on deputation basis in the Central Administrative Tribunal, Guwahati Bench on 13.11.1985 and absorbed permanently in the Central Administrative Tribunal in the year 1989. Govt. of India, Ministry of Finance issued O.M dated 14.12.1983 for payment of Special Duty Allowance (in short SDA) to the Civilian Central Govt. employees on their posting to N.E. Region. Applicant was paid Special Duty Allowance up to November, 1989. However, payment of SDA was stopped to him without any reason. It is relevant to mention here that seniority of the applicant is maintained on all India basis. Be it stated that applicant was transferred from Guwahati to Kolkata on 18.11.2005 and transferred back to Guwahati on 05.04.2006. After his joining at Guwahati he is drawing SDA. Applicant submitted several representations for payment of SDA in term of the Govt. of India O.M dated 14.12.1983 and subsequent clarifications issued by the Govt. of India, Ministry of Finance. Respondents did not furnish any reply to the applicant. Situated thus applicant submitted a representation on 05.02.2009 for payment of SDA with effect from 01.11.1989 to 17.11.2005. Representation dated 05.02.09 of the applicant was forwarded by the respondent No. 4 to the respondent No. 5 on 06.05.09 for getting clearance for payment of arrear SDA. But to no result.

S. K. Das.

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

LIST OF DATES

30.03.1983- Applicant was initially appointed as Lower Division Clerk (for short LDC) and posted at Air Force Headquarters at New Delhi.

14.12.1983- Govt. of India issued office memorandum for grant of Special (Duty) Allowance (in short SDA) to such central Govt. employees who are saddled with all India transfer liability. (Annexure- 1)

13.11.1985- Applicant joined as LDC on deputation basis in the Central Administrative Tribunal, Guwahati Bench. (Annexure- 2)

01.11.1989- Applicant was absorbed permanently in the Central Administrative Tribunal.

November, 1985- Applicant was paid SDA after joining at Guwahati, however, payment of SDA stopped to the applicant

02.05.2000- Govt. of India, Cabinet Secretariat, issued some clarification regarding grant of SDA to the civilian employees. In terms of para 2 (iii) of the said letter employees of NE Region are entitled to SDA on their posting/transferred to NE Region. (Annexure- 3)

08.02.2001- Applicant submitted representation for payment of SDA. (Annexure- 4)

05.03.2001/06.07.2001- Representations submitted by the applicant for payment of SDA was forwarded by the respondent No. 5 to the respondent No. 4, but to no avail. [Annexure- 5 (series)]

29.05.2002- Govt. of India, Ministry of Finance issued clarificatory memorandum stating therein that Central Govt. employees on their posting to NE Region are entitled to payment of SDA. (Annexure- 6)

05.11.2003- Seniority list in the grade of UDC was published. Seniority of the applicant is maintained on all India basis. (Annexure- 7)

18.11.2005- Applicant was transferred from CAT, Guwahati Bench to CAT, Calcutta Bench.

24.03.2006- Applicant was again transferred back to CAT, Guwahati Bench on 24.03.2006.

05.04.2006- Applicant is drawing SDA w.e.f. 05.04.2006.

13/17.04.2006- Seniority list of Assistants was published. Seniority of the applicant is maintained on all India basis. (Annexure- 8)

05.02.2009- Applicant submitted representation addressed to the respondent No. 5 praying for arrear SDA 01.11.1989 to 17.11.2005. (Annexure- 9)

S. K. Das.

06.05.2009- Respondent No. 5 forwarded representation of the applicant to the respondent No. 4. But to no result. (Annexure- 10)

29.01.2009- Hon'ble Tribunal pleased to allow OA No. 33/2007 with the direction to the respondents for payment of SDA to that applicant from the date of his posting in NE Region. (Annexure- 11)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA with effect from 01.11.1989 to 17.11.2005 in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002.
2. That the Hon'ble Tribunal be pleased to direct the respondents to pay arrear SDA with effect from 01.11.1989 to 17.11.2005 to the applicant.
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.

S. K. Das.

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. 268 /2009

Shri Swadesh Kumar Das. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-10
2.	---	Verification	-11-
3.	1	Copy of the order dated 18.11.85	12 - 13
4.	2	Copy of the O.M dated 14.12.83	14 - 15
5.	3	Copy of the clarification letter dated 02.05.2000	16 - 19
6.	4	Copy of representation dated 08.02.01.	20 - 22
7.	5 (series)	Copy of the letter dated 05.03.2001 and 06.07.01	23 - 24
7.	6	Copy of the O.M dated 29.05.02	25 - 26
8.	7	Copy of the seniority list published on 05.11.03.	27 - 29
9.	8	Copy of the seniority list published on 13/17.04.2006	30 - 32
10.	9	Copy of the representation dated 05.02.09	33 - 34
11.	10	Copy of the forwarding letter dated 06.05.2009	35 - 36
12.	11	Copy of the judgment and order dated 29.01.09	37 - 46

Filed By:

Mutta

Advocate

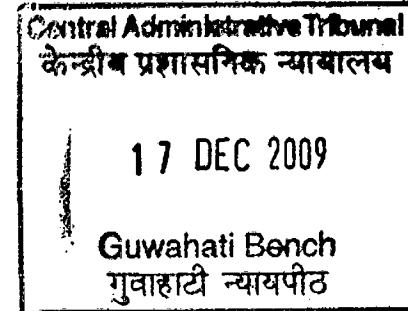
Date: - 17.12.09

S. K. Das.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A No. 268 /2009

BETWEEN:

Shri Swadesh Kumar Das
S/o- Late Balahari Das,
Working as Section Officer
O/o- The Central Administrative Tribunal,
Guwahati Bench, Rajgarh Road,
Bhāngagārh, Guwahati- 5.

.....Applicant.

-And-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances and Pensions
New Delhi- 110001.
2. The Union of India
Represented by the Secretary to the
Government of India, Ministry of Finance
Department of Revenue, New Delhi-110 001.
3. The Principal Registrar
Central Administrative Tribunal
Principal Bench, 61/35
Copernicus Marg, New Delhi-110001.
4. Deputy Registrar (Estt.)
Central Administrative Tribunal
Principal Bench, 61/35
Copernicus Marg, New Delhi-110001.
5. The Deputy Registrar
Central Administrative Tribunal.
Guwahati Bench,
Rajgarh Road, Bhāngagārh, Guwahati- 5.

..... Respondents.

S. K. D.

Filed by the applicant
through L. Dutt, advocate
on 17/12/09

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ**DETAILS OF THE APPLICATION****1. Particulars of the order against which the application is made:**

The instant application is made not against any impugned order but praying for a direction upon the respondents for payment of arrear Special Duty Allowance (for short S.D.A) to the applicant with effect from 01.11.1989 to 17.11.2005 in the light of the Office Memorandum dated 14.12.1983, 01.12.1999, 22.07.1998, 22.03.1999 and 29.05.2002 issued by the Govt. of India, Ministry of Finance, Department of expenditure, with arrear monetary benefits.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

4.1 That your applicant is a citizen of India and as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. Applicant is a permanent resident of N.E. Region of India and serving as Section Officer in the office of Central Administrative Tribunal, Guwahati Bench, Guwahati.

4.2 That the applicant states that pursuant to his selection in the Clerk's Grade Examination 1983 through Staff Selection Commission he was initially appointed as Lower Division Clerk (for short LDC) in the year 1983 and posted at Air Force Headquarters at New Delhi. In Clause No. 2 (iv) of the offer of appointment dated 30.03.1983 of the applicant there is a specific clause that the appointment carries with it the liability to service in any part of India. Be it stated that after serving for a period of 2 ½ years at New Delhi applicant joined as LDC on deputation basis in the Central Administrative Tribunal, Guwahati Bench on 13.11.1985 vide order bearing

S. K. Das.

17 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

No. 1/15/85-Estt. dated 18.11.1985. However, applicant was absorbed permanently in the Central Administrative Tribunal in the year 1989.

Copy of the order dated 18.11.85 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-1.

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

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

(iii) Special Duty Allowance

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

S. K. Das.

17 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

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

Copy of the O.M dated 14.12.83 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

4.4 That after his transfer and posting at Guwahati from New Delhi, the applicant has become entitled to draw SDA in terms of the O.M dated 14.12.83 and all other memorandum issued subsequent thereto on the subject. Accordingly, the applicant was paid SDA w.e.f. November, 1985. However, payment of SDA was stopped to the applicant from the month of November, 1985 without any reason.

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

4.6 That it is stated that the Cabinet Secretariat, Govt. of India vide U.O. No. 20/12/99-EA-1-1799 dated 02.05.2000 issued some clarification regarding grant of SDA to the civilian employees. In para 2 (iii) of the said letter it has been specifically stated that an employee belongs to N.E Region and subsequently posted outside N.E. Region is entitled to SDA if posted/transferred to NE Region.

Copy of the clarificatory letter dated 02.05.2000 is enclosed herewith and marked as Annexure- 3.

4.7 That the applicant finding no response from the authority regarding payment of SDA further submitted representation on 05.03.2001 addressed to the respondent No. 5 praying for payment of SDA, said representation was forwarded to the respondent No. 4 by the respondent No. 5 vide his letter bearing No. OA 111/98/Estt dated 05.03.2001, but to no avail.

S. K. Das -

17 DEC 2009

5

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Copy of the representation dated 08.02.01, letter dated 05.03.2001 and 06.07.01 are annexed herewith for perusal of Hon'ble Tribunal as Annexure- 4 and 5 (series).

4.8 That the applicant further begs to state that Govt. of India, Ministry of Finance have been issuing clarificatory memorandum from time to time emphasizing the entitlement of persons, who have come on posting to N.E. Region from outside, to receive SDA. In this connection O.M issued by the Ministry of Finance, Govt. of India, Department of Expenditure bearing No. F. No. 11 (5) 97-E. II (B) dated 29.05.2002 and O.M bearing No. 20/Admn (C)/2000 (1)-423 dated 14.05.2003 issued by the Intelligence Bureau, Ministry of Home Affairs are worthy of mention. In view of the clause 5 of the O.M dated 29.05.2002 the case of the applicant is squarely covered for payment of SDA.

Copy of the O.M dated 29.05.02 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 6.

4.9 That the applicant states that by the passage of time he has promoted to the rank of Section Officer and at present is posted to the office of Central Administrative Tribunal, Guwahati Bench, Guwahati. It is relevant to mention here that applicant was transferred from CAT, Guwahati Bench to CAT, Calcutta Bench on 18.11.2005. He joined at CAT, Calcutta Bench on 21.11.2005. He was again transferred back to CAT, Guwahati Bench on 24.03.2006 and joined back at Guwahati on 05.04.2006. It is stated that after his transfer from Kolkata (outside N.E Region) to Guwahati (N.E. Region) he is drawing SDA w.e.f. 05.04.2006.

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

S. K. Das -

Copy of the seniority list published on 05.11.03 and 13/17.04.2006 are annexed herewith for perusal of Hon'ble Tribunal as Annexure- 7 and 8.

4.11 That being aggrieved with the non-payment of SDA, the applicant submitted a detail representation on 05.02.2009 addressed to the respondent No. 5 praying for arrear SDA 01.11.1989 to 17.11.2005. The representation dated 05.02.2009 submitted by the applicant to the respondent No. 5 was forwarded to the respondent No. 4 vide letter bearing No. PF-B/KMR/86/Estt/309 dated 06.05.2009. In his letter dated 06.05.2009 the respondent No. 5 stated that the applicant although entitled to the benefit of SDA for the period 01.11.1989 to 17.11.2005 but the said benefit has not been paid to him. Therefore the respondent No. 5 urged to the respondent No. 4 that on getting clearance from his end the benefit of SDA can only be released to the applicant.

Copy of the representation dated 05.02.09 and forwarding letter dated 06.05.2009 are enclosed herewith and marked as Annexure- 9 and 10 respectively.

4.12 That the applicant states that similarly situated employee of the Central Administrative Tribunal, Guwahati Bench, Sri J.C. Mohan, Section Officer who is a resident of NE Region, went on transfer to Bangalore Bench on 03.07.2001 and came back to Guwahati Bench at his own request on 15.12.2003 and after his joining at Guwahati Shri Mohan is getting SDA. Similarly, Shri Asish Chakraborty, LDC-cum-Cashier, went on deputation to the office of Human Rights Commission, New Delhi in the year 1998 and after completion of deputation period he was repatriated back to the Guwahati Bench of the CAT, after his joining at Guwahati he was not paid SDA initially but subsequently he has been paid arrear of SDA w.e.f. 04.09.1998 to 31.05.2006. The present applicant also came from New Delhi to join at CAT Guwahati on deputation basis, subsequently he was absorbed, however, in spite of his repeated representations he has not been paid SDA from 04.10.1985 to 31.05.2006, although he is entitled to payment of SDA in terms of O.M dated 14.12.1983 and subsequent clarification

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

issued by the Ministry of Finance, as such non payment of SDA to the applicant is highly arbitrary and discriminatory. Therefore the Hon'ble Tribunal be pleased to direct the respondents to pay arrear SDA to the applicant from 04.10.1985 to 31.05.2006.

4.13 That it is stated that one Sri Monoranjan Das, Junior Accounts Officer of Central Board of Excise and Customs had approached this Hon'ble Tribunal through O.A No. 33/2007, praying for direction upon the respondents for payment of SDA as admissible to him since his joining in N.E. Region on transfer from New Delhi. The Hon'ble Tribunal was pleased to allow the O.A. No. 33/2007 on 29.01.2009 with the direction to the respondents to pay SDA to that applicant from the date of his initial reporting/joining in N.E. Region from New Delhi. Be it stated that the present applicant is similarly situated like the applicant of OA No. 33/2007 as because he was transferred from the office of Air Force Headquarters at New Delhi to join in the office of CAT, Guwahati Bench in the year 1985, as such he is also entitled for payment of SDA from the date of discontinuation i.e. with effect from 01.11.1989.

Copy of the judgment and order dated 29.01.09 is enclosed herewith and marked as Annexure- 11.

✓4.14 That it is stated that in spite of submitting repeated representations to the respondents applicant has not been paid SDA from 01.11.1989 to 17.11.2005. As such finding no other alternative he is approaching before this Hon'ble Tribunal for a direction upon the respondent to grant arrear SDA to the applicant from the date of discontinuation i.e. with effect from 01.11.1989 to 17.11.2005.

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

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

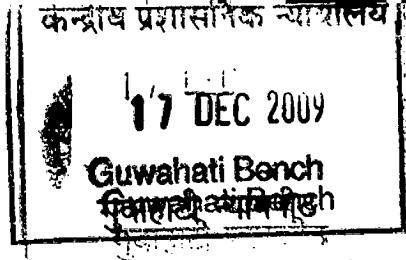
5.1 For that the applicant has joined at Guwahati on his transfer from New Delhi and his recruitment zone, seniority and promotion are maintained on all India basis as such he is entitled to payment of arrear SDA w.e.f.

S. K. Das -

01.11.1989 to 17.11.2005 in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002.

- 5.2 For that it is specifically clarified vide O.M dated 02.05.2002, that SDA is admissible to the Govt. employees on their posting to NE Region from outside the region which supports the case of the applicant and on that score alone the applicant is entitled to payment of arrear SDA with effect from 01.11.1989 to 17.11.2005.
- 5.3 For that the action of the respondents in not paying SDA to the applicant w.e.f. 01.11.1989 to 17.11.2005 in spite of his eligibility is highly arbitrary, unreasonable and unfair.
- 5.4 For that the O.M dated 29.05.2002 clearly recognizes the entitlement of the applicant to receive SDA and as such the respondents are duty bound to pay him arrear SDA from 01.11.1989 to 17.11.2005.
- 5.5 For that refusal of the SDA from 01.11.1989 to 17.11.2005 to the applicant has caused deprivation to the applicant to his legitimate dues and, as such, the deprivation of the applicant of SDA is highly arbitrary and illegal and not sustainable in the eye of law.
- 5.6 For that that in any view of the matter non payment of SDA to the applicant is illegal, highly discriminatory and as such the respondents are liable to pay SDA to the applicant for the period w.e.f. 01.11.1989 to 17.11.2005.
- 5.7 For that in spite of repeated representations and recommendation from the lower formation, no decision was taken by the higher authority for payment of arrear SDA to the applicant with effect from 01.11.1989 to 17.11.2005.
- 5.8 For that, similarly situated two employees working in the office of the applicant has been paid SDA after their joining on transfer from outside the NE Region. As such applicant is also entitled for payment of arrear SDA with effect from 01.11.1989 to 17.11.2005 on his transfer and posting to CAT, Guwahati from New Delhi.

S. K. Das .



5.9 For that applicant is entitled for payment of arrear SDA in the light of the judgment and order dated 29.01.2009 passed in OA No. 33/2007.

6. **Details of the remedies exhausted:**

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

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

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

8. **Reliefs sought for:**

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

8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to payment of SDA with effect from 01.11.1989 to 17.11.2005 in terms of the O.M dated 14.12.83, 01.12.88, 12.01.96, 22.07.98, 22.03.99 and 29.05.2002.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to pay arrear SDA with effect from 01.11.1989 to 17.11.2005 to the applicant in the light of the judgment and order dated 29.01.2009 passed in OA No. 33/2007.

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.

S. K. Das

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ9. Interim order prayed for:

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

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

10.

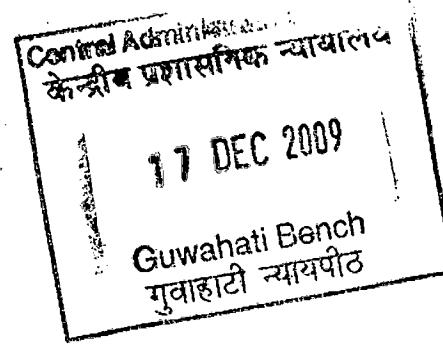
11. Particulars of the I.P.O

i)	I.P.O No.	: 396443495
ii)	Date of issue	: 16.12.2009.
iii)	Issued from	: G.P.O, Guwahati
iv)	Payable at	: G.P.O, Guwahati

12. List of enclosures:

As given in the index.

S. K. Das.



VERIFICATION

I, Shri Swadesh Kumar Das, S/o- Late Balahari Das, aged about 53 years, working as Section Officer, office of the Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati- 5, applicant in the instant original application, do hereby verify that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and paragraph 5 is true as per my legal advise and I have not suppressed any material fact.

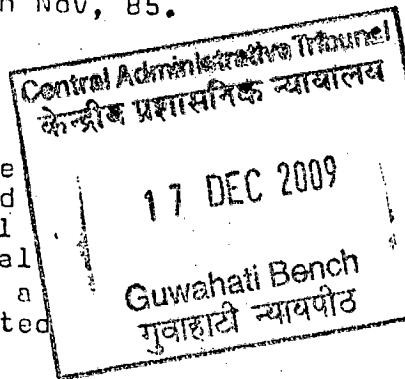
And I sign this verification on the 17 day of December 2009.

S. K. Das
(SWADESH KUMAR DAS)

FARIDKOT HOUSE, NEW DELHI
DATED : The 18th Nov, 85.

OFFICE ORDER

The following LDCs borne on the Cadre indicated against their names are appointed as Lower Divisions Clerks in the Additional Bench of the Central Administrative Tribunal Guwahati on the usual deputation terms for a period of one year w.e.f. the dates indicated against each :-



S. NO.	Name	Cadre from which transferred	Date of relief	Date of Joining
--------	------	------------------------------	----------------	-----------------

1.	Sh Kamini Mohan - M/O I&B Rabha.	-	27-9-85 (A/N)	4-10-85 (F/N)
2.	Sh Swadesh Kumar - A.F. Hqr Das	-	31-10-85 (A/N)	13-11-85 (F/N)

2. The above mentioned officers will be treated as on deputation and will be governed by the terms & conditions laid down in the Ministry of Finance (Department of Expenditure) O.M. NO. F. 10(24)E. III/60 dated 4-5-61 as amended from time to time. The above mentioned officers are allowed to draw their Grade Pay as L.D.C. in their parent Department plus 20% thereof as Deputation (Duty) Allowance.


(O.P. KHOKHA)
DEPUTY REGISTRAR

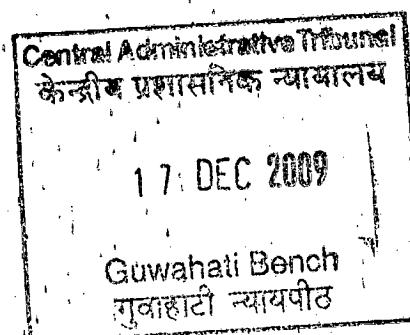
Copy to :-

1. Pay & Accounts Office, Department of Personnel & Training, Nirwachan Sadan.
2. Cash, Accounts & Budget Section (with 2 spare copies).
3. Dy Registrar, Addl Bench Guwahati, Central Administrative Tribunal.
4. Senior Administrative Officer, CAO/P-1, C-II Hutsments, Dalhousie Road, New Delhi.
5. Shri S.D. Kumar, Under Secretary, Ministry of I&B, Shashtri Bhawan, New Delhi.
6. Persons Concerned. S. No. 7.

Affested
Dutta
Adv

7. Personal File/ S. Book.
8. Office Order Register.
9. Spare Copies (15).

O.P. KHOKHA
(O.P. KHOKHA)
DEPUTY REGISTRAR



17 DEC 1983

Guwahati Branch

Annexure - 2

(Typed True copy)

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 of 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 as when the employee concerned is prepared to stay

Attested
Dutta
Adv

17 DEC 2009

Guwahati Bench গুৱাহাটী ন্যায়পীঠ

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:

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

COURT CASE
MOST IMMEDIATE

Cabinet Secretariat
(EA. I Section)

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

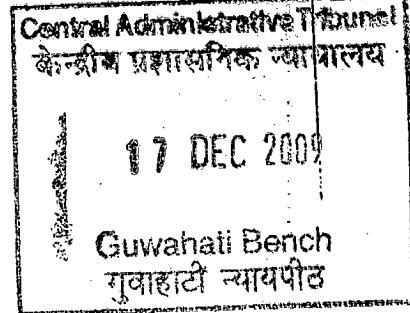
1. SSB Directorate may kindly refer to their UO No.42/SSB/AT/99(18) - 2369 dated 31.03.2000 on the subject mentioned above,

2. The points of doubt raised by SSB in their UN No.42/SSB/AT/99(18) - 5282 dated 2.9.1999 have been examined in consultation with our Intengrated Finance and Ministry of Finance (Department of Expenditure) and clarification to the points of doubt is given under for information, guidance and necessary action :

i) The Hon'ble Supreme Court in their Judgement delivered on 26.11.96 in Writ Petition No. 794 of 1996 held that civilian employees who have All India transfer liability are entitled to the grant of SDA on being posted to any station in the N.E. region from outside the region and in the following situation whether a Central Government employee would be eligible for the grant of SDA keeping in view the clarifications issued by the Ministry of Finance vide their UO No.11(3)/95.E.II(B) dated 7.5.97.

a) A person belongs to outside N.E. region but he is appointed and on first appointment posted in the N.E. Region after selection through direct recruitment based on the recruitment made on all India basis and having a common/centralised seniority list and All India Transfer Liability.

b) An employee hailing from the N.E. Region selection on the basis of an All India recruitment test and borne on the Centralised cadre / service common seniority on first appointment and posted in the N.E. Region. He has also All India Transfer Liability.



NO

Contd - 2/

Attested
Mutta
Adw

: 2 :

ii) An employee belongs to NE Region was appointed as Group 'C' or 'D' employee based on local recruitment when there were no cadre rules for the post (prior to grant of SDA vide Ministry of Finance OM. No. 20014/2/83- E. IV dated 14.12.83 and 20.4.87 read with OM 20014/16/86 E.II (B) dated 1.12.88) but subsequently the post / cadre was centralised with common seniority list / promotion / All India Transfer Liability etc. on his continuing in the N.E. Region though they can be transferred out to any place outside the NE Region having All India Transfer Liability.

iii) An employee belongs to N.E. Region and subsequently posted outside N.E. Region, whether he will be eligible for SDA if posted/transferred to NE Region. He is also having a common All India seniority and All India Transfer Liability.

iv) An employee hailing from NE Region, posted to NE region initially but subsequently transferred out of NE Region but re-posted to NE Region after sometime serving in non NE Region.

v) The MOF, Deptt. of Exdr. Vide their UO No.11(3)/95-E.II(B) dated 7.6.97 have clarified that a mere clause in the appointment order to the effect that the person concerned is liable to be transferred anywhere in India does not make him eligible for the grant of Special Duty allowance. For determination of the admissibility of the SDA to any Central Govt. Civilian employees having All India Transfer Liability will be by applying tests (a) whether recruitment to the Service/Cadre/Post has been made on All India basis (b) whether promotion is also done on the basis of All India Zone of promotion based on common seniority for the service / Cadre / Post as a whole. In the case of SSB/ DGS, there is a common recruitment system made on All India basis and promotions are also done on the basis of All India Common Seniority basis. Based on the above criteria / tests all employees recruited on the All India basis and having a common seniority list of All India basis for promotion etc. are eligible for the grant of SDA irrespective of the fact that the employee hails from NE Region or posted to NE Region from outside the NE Region.

Central Administrative Tribunal
केंद्रीय प्रशासनिक न्यायपीठ
17 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

NO

YES

YES

In case the employee hailing from NE Region is posted within NE Region he is not entitled to SDA till he is once transferred out of that Region

Contd 3/-

17 DEC 2000

Guwahati Benih
গুৱাহাটী ব্যায়পত্র

vi) Based on point (iv) above, some of the units of SSB/DGS have authorised payment of SDA to the employees hailing from NE Region and posted within the NE Region while in the case of others, the DACS have objected payment of SDA to employees hailing from NE Region and posted within the NE Region irrespective of the fact that their transfer liability is All India Transfer Liability or otherwise. In such cases what should be the norm for payment of SDA i.e. on fulfilling the criterial of All India Recruitment Test & to promotion of All India Common Seniority basis having been satisfied are all the employees Eligible for the grant of SDA.

vii) Whether the payment made to some employees hailing from NE Region and posted in NE Region be recovered after 20-9-1994 i.e. the date of decision of the Hon'ble Supreme Court and/or whether the payment of SDA should be allowed to all employees including those hailing from N.E. Region with effect from the date of their appointment if they have All India Transfer Liability and are promoted on the basis of All India Common Seniority List.

It has already been clarified by MOF that clause in the appointment order regarding All India transfer Liability does not make him eligible for grant of SDA

The payment made to employees hailing from NE Region & Posted in NE Region be recovered from the date of its payment. It may also be added that the payment made to the ineligible employee hailing from NE Region and posted in NE Region be recovered from the Date of payment Or after 20th Sept, 94 whichever is later.

Contd 3/-

This issues with the concurrence of the Finance Division, Cabinet Secretariat vide Dy. No.1349 dated 11.10.99 and Ministry of Finance (Expenditure)'s I.D. No.1204/E.II(B) dated 30.3.2000.

Sd/-

(P.N. THAKUR)
DIRECTOR(SR)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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

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

(237)

Central Administrative Tribunal Guwahati Bench Guwahati.	202 - 202 Guwahati P. T. গুৱাহাটী ২৪১২৪৮
--	---

ANNEXURE-4

17 DEC 2009

Central Administrative Tribunal কেন্দ্ৰীয় প্ৰশাসনিক ন্যায়াল	Guwahati Bench গুৱাহাটী ন্যায়পোঠ
--	--------------------------------------

To
The Deputy Registrar
Central Administrative Tribunal
Guwahati Bench
Guwahati.

Dated, Guwahati, the 8th Feb' 2001

Sub: Prayer for payment of SDA in terms of O.M. dated 14.12.83, 1.12.88, 22.7.98 and also in term of clarification issued by the Cabinet Secretariat (E.A.I. Section) New Delhi, in consultation with the department of expenditure, Ministry of Finance while points of doubt raised by SSP in their letter dated 2.1.99.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the undersigned was initially appointed as LDC in the year 1983 at AirForce Headquarters at New Delhi under Government of India, Ministry of Defence, New Delhi through open market competition i.e. through Staff Selection Commission. I have served in the Air Force Headquarters at New Delhi for about 2 1/2 years and thereafter the undersigned initially joined on Deputation basis in the Central Administrative Tribunal, Guwahati Bench, Guwahati in the month of Nov'1985. I have been paid SDA since my joining in this office on deputation basis till November, 1989 in this connection it is relevant to mention here that earlier the undersigned is found ~~ineligible~~ eligible for grant of SDA by the authority but surprisingly the payment of SDA has been stopped from the date of my absorption in this office for the reasons best known to the authorities.

It is relevant to mention here that in the memorandum of offer of appointment letter under the Ministry of Defence it is categorically stated that the appointment carries with it

Attested
Binita
Adv

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

-21-

-2-

the liability to serve in any part of India and accordingly the undersigned was initially posted at New Delhi. It is also relevant to mention here that even after my absorption in this office on permanent basis the liability to serve in any part of India i.e. in the otherward the condition of All India Transfer Liability still continues, in this connection I beg to state that the seniority as well as promotion both the in the Cadre of LDC and UDC are being maintained on All India basis, I also beg to state that it would be evident from the offer of promotion order issued under letter No. PB/1/77/91-Eatt.11/ dated 6.3.96 that the undersigned was considered for promotion to the cadre of Assistant on All India basis and posting order was issued to the promotional post at Ahmedabad, however the undersigned could not joined at Ahmedabad due to Health ground (copy enclosed).

I beg to further state that after stoppage of my SDA i represented before the competent authorities for payment of SDA, at that relevant point of time clarification was sought from the Ministry of Defence i.e. from my parent office whether LDC in the Ministry of Defence carries all India liabilities or not, it would be evident from the letter bearing no. Air H/ 22940/5103/11/TC-2 dated 11.4.91 that the undersigned while serving as LDC in the Ministry of Defence, New Delhi was saddled with All India Transfer Liability as such undersigned is ~~ineligible~~ eligible for grant of SDA even after my absorption in the present Department, more so in view of the recent clarification issued by the Cabinet Secretariat regarding entitlement of SDA in respect of permanent resident of this region after

details consultations with the Department of expenditure, Ministry of Finance New Delhi while points of doubts raised by the SSB vide their letter dated 2.9.99 and the said clarification regarding entitlement of SDA for Civilian Employees of the Central Government serving in the State of N.E. Region has been clarified and the said clarification was circulated vide memorandum dated 8.5.2000 by the office of the DG of security SSB New Delhi.

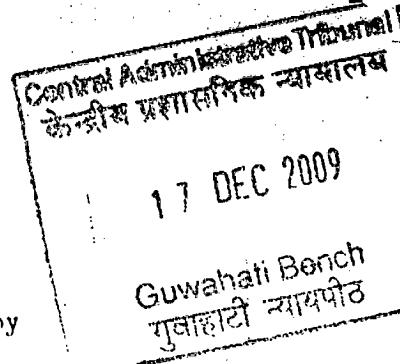
In view of the aforesaid clarification issued by the Cabinet Secretariat the undersigned is eligible for grant of SDA in terms of memorandum dated 14.12.83, & 1.12.88 and O.M. dated 22.7.98, therefore you are requested to arrange payment of SDA to the undersigned for the current month and also arrange to pay my arrear SDA from the date of my absorption in the present Department. All & relevant documents/letters stated above are enclosed for your kind perusal. Kindly intimate your decision to the undersigned regarding payment of SDA to the undersigned as early as possible.

Thanking you,

Yours faithfully,

Swarup Das
(SWADESH K. DAS)

Care Taker
Central Administrative -
Tribunal, Guwahati Bench.





(36)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

To

The Deputy Registrar (Rules),
Central Administrative Tribunal,
Principal Bench, Karikot House,
Copernicus Marg, New Delhi-01.

S. No. OA 111/98/Ett/5

केन्द्रीय प्रशासनिक अधिकरण,
गुवाहाटी न्यायपीठ, गुवाहाटी,
राजगढ़ रोड, गुवाहाटी-५

Central Administrative Tribunal
Guwahati Bench,
Rajgarh Road, Bhongagarh,
GUWAHATI-781 005

दिनांक/Date 05-03-01

Sub: Grant of Special Duty Allowance to Sri K.M. Rabha,
and Shri S.K. Das, Care-taker, reg.

Sir,

With reference to the above, I am directed to forward herewith the self contained application Sri K.M. Rabha, Assistant and S.K. Das, Care-taker of this Bench seeking grant of Special Duty Allowance. In this connection I am directed to say that both the officials initially joined this Bench on deputation from the Ministry of Information & Broadcasting & Ministry of Defence, Air Force Headquarters, New Delhi respectively. Subsequently, they were absorbed in this Bench and are continuing as such till date. After the introduction of the All India Seniority List the officials have claimed Special Duty Allowance. The copies of the office notes in that regard are enclosed for kind perusal.

Accordingly, I am directed to request that necessary instruction regarding grant of Special Duty Allowance to the above officials may kindly be issued for further action at this end.

Yours faithfully,

MD. ABDUL
(MD. ABDUL) 513709
DEPUTY REGISTRAR

Enclo: 1. Representation in original---4 sheets.
2. Copies of Office note ---4 sheets.

*Submitted
Dutta
Adv*

-24-

F.No.17/18/99/E-II | 4456/A

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

प्रधान न्यायपीठ, नई दिल्ली

Principal Bench, New Delhi

Faridkot House, Copernicus Marg,
New Delhi - 110 001

REMINDER-I

17 DE

Guwahati
গুৱাহাটী

Dated: -06.7.2001.

Shri B.S.A. Padmanabha,
Under Secretary to Govt. of India,
Min. of Personnel, Public Grievances & Pensions,
Dept. of Personnel & Training,
North Block,
New Delhi.

Subject: - Grant of Spl. Duty Allowance to Sh. K.M.
Rabha and Shri S.K. Das, Caretaker-reg.

Sir,

I am directed to refer to this office of even number dated 09.5.2001 on the subject cited above and to enclose herewith a copy of Memorandum dated 02.5.2000 issued by the Cabinet Secretariate, with the request that the decision taken in the matter may please be intimated at an early date as the officials are pressing very hard.

Yours faithfully,

so/
(ANIL SRIVASTAVA)
DEPUTY REGISTRAR (E)

Copy to:-

✓ The Deputy Registrar, CAT, Guwahati Bench, Guwahati w.r.t. their letter No.OA./111/98/Estt. dated 11.5.01 for information.

Anil Srivastava
(ANIL SRIVASTAVA)
DEPUTY REGISTRAR (E)

(D/E)

17/7/01

Attested
Dutta
Adv

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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

New Delhi, dated the 29th May, 2002.OFFICE MEMORANDUM

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

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

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

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

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

Collected
by
Rita
Raw

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

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

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

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

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

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

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

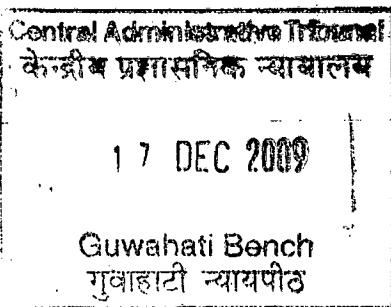
8. In their application to employees of Indian Audit & Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

APR

(N.P. Singh)
Under Secretary to the Government of India.

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

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



1099

12 NOV

76

PB/15/1/2000-Estt. II
ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCHCopernicus Marg
New Delhi-110001
Dated :05.11.2003The Registrar/Dy. Registrar
Central Administrative Tribunal
All Outlying Benches.Sub: FINAL SENIORITY LIST IN THE GRADE OF UPPER DIVISIONAL CLERK
IN C.A.T. ON CENTRALISED BASIS AS ON 01.11.1989.

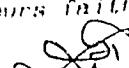
Sir,

I am directed to refer to this office letter of even number dated 31.12.2002 on the above mentioned subject and to say that all objections received on the subject have been considered and necessary corrections required under the rules have been made on the basis of the information sent by the concerned Benches after verifying the particulars from the entries made in the service book of each official. The remaining objections which have no merit have been rejected by the orders of the Hon'ble Chairman. No separate intimation about the rejection of the representations shall be sent to representationists.

2. The seniority list is being issued in implementation of Court order dated 18.04.2001 and 02.09.2002 passed by the Hon'ble Ernakulam Bench of the Central Administrative Tribunal in OA 160/2000 and MA No. 632/2002 respectively in the matter of M.K. Balachandran Pillai Vs. CAT, PB & Ors. The seniority list has been prepared in terms of the directions of the Hon'ble Tribunal's orders in the aforesaid case read with the decision of Hon'ble Supreme Court in the matter C.A. No. 2704/97 M. Ramachandran Vs. Govind Ballabh & Ors and Govt. of India instructions on the subject issued from time to time. A copy of the seniority list is sent herewith for circulation amongst the concerned UDCs/officials. It is being made clear that this is subject to the outcome of the decision of the Hon'ble Andhra Pradesh High Court in W.P. No. 25280/2002 and any other Court case pending, if any, on the issue.

3. A file in confirmation of the seniority list having been circulated to all concerned may be sent to us for our records.

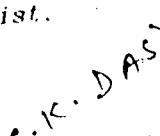
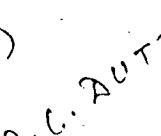
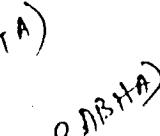
Yours faithfully,


 (GAUTAM RAY)
 PRINCIPAL REGISTRAR

Copy to :

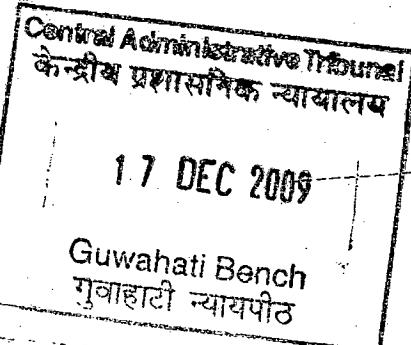
1. The Registrar, CAT, Ernakulam Bench - with the request to apprise the Hon'ble CAT, Ernakulam Bench about the implementation of its Order dated 02.09.2002.
2. Rule Section, CAT, Principal Bench, New Delhi - for information and further necessary action.
3. All UDCs/officials in the Principal Bench whose names are appearing in the Final Seniority List.
4. Guard file.


 Attested
 Putta
 Ray


 (S.K. DAS)

 (P.C. PUTTA)

 (K.M. RABHA)

FINAL SENIORITY LIST OF U.D.CS. ON ALL INDIA BASIS APPOINTED/ABSORBED/REGULARISED/TRANSITED
AS ON 01.11.1989 IN CENTRAL ADMINISTRATIVE TRIBUNAL

1 Name of the Officer and Qualification	2 Date of Birth	3 SC/ST	4 Whether	5 Name of the Parent/Post held in Department	6 Parent Deptt. on regular basis with date & scale of pay	7 Post and joining date of CAT	8 Date of Absorption in the grade of UDC	9 Name of Branch where the individual is posted	10 Remarks
1. / Sh. Satyender Prasad / B.A., B.L.	10.11.44	No	/	DoT Telecom, Bihar	UDC 07.01.1977 330-560/-	UDC 19.05.87 / UDC	01.11.89 / Absorbed in UDC	Patna	Regular S.O. w.e.f. 6.4.98
2. / Smt. Bimla Devi / BA	09.09.45	SC	/	Postal Staff College P & T	U.D.C. 23.11.77 330-560/-	U.D.C. / UDC	01.11.89 / Absorbed in UDC	Principal Bench	Regular S.O. w.e.f. 6.4.98
3. / Sh. H. Kunhikannan / S.S.L.C.	10.01.46	No	/	M/o Defence A.T.H.Q.	UDC-30.7.66 UDC-31.3.80 330 - 560	UDC / UDC	01.11.89 / Absorbed in UDC	Bangalore	Adhoc S.O. w.e.f. 27.3.98 Vol. Retired on 31.07.2003
4. / Sh. Uday Pal Singh / BA, LLB	15.04.49	No	/	M/o Defence (AFHQ)	U.D.C. 23.10.80 330-560/-	U.D.C. / UDC	01.11.89 / Absorbed in UDC	Jodhpur	Regular S.O. w.e.f. 6.4.98 Absorbed in DRAT w.e.f. June, 2002
5. / Sh. K.K. Narayanan / SSLC	01.06.46	ODC	/	Home Guard M.P.	UDC 18.03.81 330-560/-	AS UDC / UDC	01.11.89 / Absorbed in UDC	Ernakulam	Regular S.O. w.e.f. 6.4.98
6. / Sh. M.O. Eapen / M.A.	13.02.51	No	/	C.R.F.F. MHA	UDC-22.12.71 UDC-23.5.81 330-560/-	UDC / UDC	01.11.89 / Absorbed in UDC	Bangalore	Adhoc S.O. w.e.f. 11.6.98
7. / Sh. Tharpy Abram / B.A.	12.04.50	No	/	M/o Defence A.T.H.Q.	UDC-31.7.72 UDC-6.11.81 330-560/-	UDC / UDC	01.11.89 / Absorbed in UDC	Bangalore	Adhoc S.O. w.e.f. 13.03.1996 Voluntary Retired w.e.f. 30-6-2002



Attested
Rita
Adv

Ans

2	3	4	5	6	7	8	9	10
1. V.K. Sharma	10.04.56	No	Distt. Court Amritala	Copies Rs. 400-600 01.06.81	11.03.86 As UDC 9.5.89 UDC	01.11.89 Absorbed as UDC	Chandigarh	Absorbed as Asstt in D.R.T on 23.7.03 23.07.2003
2. Sh. K.M. Rabha B.A.	01.01.61	No	S/o Information & Broadcasting	1983 260-400/-	18.12.1986 As UDC	01.11.89 Absorbed As UDC	Gauhati	Regular Assistant w.e.f. 30.06.99
3. Sh. S.K. Das Pre. University	16.01.56	SC	AFCB	LDC 20.04.83 260-400	13.11.85 As LDC	01.11.89 Absorbed As UDC	Gauhati	
4. Sh. R.N. Singh I.Sc.	17.05.60	No	Postal Deptt.	Clerk 01.07.83 975-1660	12.12.86 As LDC 15.3.88, UDC	01.11.89 Absorbed as UDC	Cuttack	
5. Sh. P.K. Mishra B.Com., LL.B.	03.02.52	No	High Court of Grisa	Jr. Asst. 2.7.84 780-1160	04.08.86 As UDC	01.11.89 Absorbed as UDC	Cuttack	
6. Sh. H.B. Nanjrekar SSC	02.03.51	No	CPWD	L.D.C. 16.03.1974 260-400	04.03.1986 As UDC	01.11.89 Absorbed As UDC *	Mumbai	Regular Assistant w.e.f. 30.6.99
7. Sh. Hari Singh Kaushal Matric	01.01.51	-	Distt. & Session Court Delhi	LDC-25.2.75 260-400	21.05.87 UDC	01.11.89 Absorbed as UDC *	Principal	Regular Assistant w.e.f. 6.9.95
8. Sh. K.C. Mishra H.S.C.	19.10.53	No	Postal Deptt.	Clerk 01.07.83 975-1660	13.11.86 As UDC	01.11.89 Absorbed as UDC *	Cuttack	
9. Sh. B.D. Behera I.A.	09.01.52	SC	Dept. of Posts	Postal Asst. 01.01.86 975-1670	14.11.86 UDC	1.11.89 Absorbed as UDC *	Cuttack	Adhoc S.C. w.e.f. 19.8.2002
10. Sh. K.M. Patel M. Com., LL.B	23.03.61	No	-	-	12.09.86 As UDC	01.11.89 Regular UDC	Ahmedabad	

Note : * Sl. No. 33 to 40 & 55 to 58 were appointed/absorbed in relaxation of Educational Qualification.

Gautam Ray
GAUTAM RAY
PRINCIPAL REGISTRAR

Central Administrative
केन्द्रीय प्रशासनिक विभाग
17 DEC 2003

Guwahati Bench
गুৱাহাটী বৰাগৰি



केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
प्रधान न्यायपीठ, नई दिल्ली
Principal Bench, New Delhi

No.PB/1/27/2005-Estt.II

To

The Registrar/Deputy Registrar
Central Administrative Tribunal
Outlying Benches

Sub: Revised Draft Final Seniority Lists of Assistants as on 1st January 1991, 1992, 1993, 1994, 1995 and 1996 in respect of those who were absorbed/regularized/appointed/promoted as Assistants in the Central Administrative Tribunal, on All-India basis Reg.

Ref: 1) This office Letters No.PB/7/4/92-Estt.II dated 19.4.1994 & 17.4.2000.
2) Orders dated 6/20.1.2005 of Hon'ble High Court of Madras in W.P.No 11256/2003 (V.P. Kamalamma Vs. UOI & Ors.)

Sir,

In continuation of this office letters cited above forwarding therewith the Final Seniority Lists of Assistants as on 1.11.1989 and 31.1.1999, I am directed to say that in compliance of orders of the Hon'ble Benches of Central Administrative Tribunal and High Courts in various court cases and keeping in view of the Judgment dated 6/20.1.2005 of Hon'ble High Court of Madras in W.P. No.11256/2003 (V.P. Kamalamma Vs. UOI & Ors.), the Revised Year-Wise Draft Seniority Lists of Assistants as on 1st January 1991, 1992, 1993, 1994, 1995 & 1996 have been prepared and are forwarded herewith for circulation among the officials concerned.

The objections, if any, received from the officials concerned may please be sent to this office within thirty (30) days from the date of receipt of this letter.

Please acknowledge the receipt of this letter.

Yours faithfully,

S.N. SHARMA
(S.N. SHARMA)
Deputy Registrar (Estt.)

Encls:As above.

Copies may be given to all the concerned officials under dated acknowledgement

Se (EM)

Attested
Dutta
Adw

21/4/06

**REVISED DRAFT SENIORITY LIST OF ASSISTANTS AS ON 1.1.1996 (IN RESPECT OF OFFICIALS
WHO HAVE BEEN ABSORBED/REGULARISED/APPOINTED/PROMOTED ON REGULAR BASIS IN
THE GRADE OF ASSISTANTS) ON CENTRALISED BASIS IN CENTRAL ADMINISTRATIVE
TRIBUNAL DURING THE PERIOD FROM 2.11.1989 TO 31.12.1995.**

Sl. No.	Name of the official and qualification	Date of Birth	Whether SC/ ST	Post held in parent dept., on regular basis and scale of pay	Date of appointment in the Grade of UDC in C.A.T.	Date of regular appointment/ promotion as Assistant	Name of Bench where the individual is posted.	Remarks (Regarding subsequent promotion with date/regularisation transfer/repatriation & other information, if any)
1	2	3	4	5	6	7	8	9
X 1	Satyender Prasad B.A., B.L.	10.11.1944	No	UDC 7.1.1977 330-560	6.4.1988	1.10.1990	Patna	Regular S.O. w.e.f.6.4.1998. Retired on 30.11.2004
X 2	Bimla Devi B.A.	9.9.1945	SC	UDC 23.11.1977 330-560	19.5.1987	1.10.1990	P.B.	Regular S.O. w.e.f. 6.4.1998 Retired on 30.9.2005
X 3	Uday Pal Singh B.A., LL.B.	15.04.1949	No	UDC 23.10.1980 330-560	25.02.1987	1.10.1990	---	Regular S.O. w.e.f. 6.4.1998. Absorbed in DRAT w.e.f. 26.6.2002
X 4	M.O. Eapen, M.A.	13.02.1951	No	UDC 23.5.1981 330-560	08.08.1986	1.10.1990	Ermakulam	Regular S.O. w.e.f. 19.12.2003.
X 5	Thampy Abraham B.A.	12.04.1950	No	UDC 6.11.1981 330-560	29.09.1986	1.10.1990	Bangalore	Adhoc SO w.e.f.13.3.1996. Vol. Retired on 30.6.2002
X 6	N. Ravindran Pillai B.Com.	26.02.1949	No	UDC 17.12.1981 330-560	11.08.1986	1.10.1990	Ermakulam	Regular S.O. w.e.f.19.12.2003

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17

Guwahati Bench
गুৱাহাটী

Attested
Bhutta
Adv.

= contd.

17 DEC 2005

Guwahati Bench
গুৱাহাটী ন্যায়পৌর

- 32 -

- 7 -

49	K.Selvaraji B.Sc.	5.6.1955	No	LDC 20.1.1981 UDC 10.2.1987 (NBR)	1.10.1985 LDC 1.11.89 UDC (Absorption)	1.10.1995	Chennai	Adhoc SO w.e.f. 5.10.05
50	N.K. Saha B.Com.	2.4.1955	SC	UDC 1.11.1989 1200-2040	3.10.1985 LDC 1-11-89 UDC (absorption)	1.10.1995	Calcutta	Regular SO w.e.f. 22.12.2003
51	K.M. Rabha* BA	1.1.1961	ST	LDC 18.04.1983 260-400	18.12.1986 UDC 1.11.89 UDC (Absorption)	1.10.1995	Guwahati	Adhoc SO w.e.f. 5.10.2005(AN)
52	S.K. Das* PUC	16.1.1956	SC	LDC 20.4.1983 260-400	13.11.1985 LDC 1.11.89 UDC (Absorption)	1.10.1995	Calcutta	
53	B.D. Behra* I.A.	9.1.1952	SC	Postal Assit. 1.1.1986 975-1660	14.11.1986 UDC 1.11.1989 UDC (Absorption)	1.10.1995	Cuttack	Regular SO w.e.f. 19.12.2003
54	Arun Kumar* B.A.	27.09.1969	SC	Direct Recrt.	21.5.1990 UDC	1.10.1995	Jaipur	
55	Bandi Bhagat* B.A. (Hon)	1.1.1964	ST	Direct Recrt.	20.8.1990 UDC	1.10.1995	Patna	Adhoc SO w.e.f. 5.10.2005

* Placement given due to accelerated promotion under SC/ST quota and extended zone of consideration.

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Order, Guwahati, 17-02-2009

To

The Deputy Registrar
Central Administrative Tribunal,
Guwahati Bench
Guwahati.

Sub: Prayer for payment of SDA interims of O.M. dated 14.12.83, 12.96, 22.7.98 and also interim of clarification issued by the Cabinet Secretariat (E.A.I Section) New Delhi in consultation with the department of expenditure, Ministry of Finance.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the undersigned was initially appointed as LDC in the year 1983 at Air Force Headquarters at New Delhi through open market competition i.e. through Staff Selection Commission. I have served in the Air Force Headquarters at New Delhi for about 2 ½ years and thereafter the undersigned initially joined on deputation basis in the Central Administrative Tribunal, Guwahati Bench, in the month of Nov 1985. I have been paid SDA since my joining in this office on deputation basis till November, 1989 in this connection it is relevant to mention here that earlier the undersigned is found eligible for grant of SDA has been stopped from the date of my absorption in this office for the reasons best known to the authorities.

It is also relevant to mention here that in the memorandum of offer of appointment letter under the Ministry of Defense it is categorically stated that the appointment carries with it the liability to serve any part of India and accordingly the undersigned was initially posted at New Delhi. It is also relevant to mention here that even after my absorption his office on permanent basis the liability to serve in any part of India i.e. in the other ward the condition of All India Transfer Liability still continues, in this connection, I beg to state that the seniority as well as promotion both in the cadre of LDC, UDC and Asst. Are being maintain on All India Basis, I beg to state that it would be evident from the offer of promotion order issued under letter No. PB/1/16/2005/Estt.II dated 05.10.2005 that the undersigned was considered for promotion to the cadre of Assistant on All India basis and posting order was issued to the promotional post at Calcutta Bench, Kolkata, however the undersigned I joined at Kolkata on the month of 21st November, 2005 and again come back to Guwahati Bench and joined on 9.3.206. It is also relevant to mention here that the matter was referred to the Ministry by the Principle

Attested
Bouta
d/w

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Bench as informed by the office the reply is still awaited represented are enclosed herewith.

In view of the aforesaid clarification issued by the Cabinet Secretariat the undersigned is eligible for grant of SDA in terms of memorandum dated 14.12.83, 12.1.96 and OM dated 22.7.98. Therefore you are requested to arrange payment of SDA to the undersigned and also arrange to pay my arrear SDA from the date of my absorption in the present department. All relevant documents letters stated above are enclosed for your kind perusal.

Enclo : As stated

Yours faithfully,


(SWADESH KUMAR DAS)
SECTION OFFICER



४५
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ

Guwahati Bench, Guwahati - 5

No.PF-B/KMR/86/Estt

✓ No.PF-B/SKD/86/Estt / 308 309

To

The Registrar,
Central Administrative Tribunal,
Principal Bench,
61/35, Copernicus Marg,
New Delhi - 0001

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

06.05.2009

ANNEXURE - 10

Phone No. : 0361-2529294

Fax No. : 0361-2529056

Rajgarh Road, Bhangagarh,
Guwahati - 781 005

Sub: Prayer [for Payment of Special Duty Allowance] made by Shri S.K.Das,
Section Officer, and Shri K.M. Rabha, Court Officer, of CAT/Guwahati
Bench.

Sir,

I am directed to forward herewith the representations of Shri S.K.Das, Section Officer, and Shri K. M. Rabha, Court Officer, of CAT/Guwahati Bench; wherein they have prayed for payment of arrears of Special Duty Allowance with effect from 01.11.1989 to 17.11.2005 and with effect from 04.10.1985 to 31.05.2006, respectively.

2. Provision for payment of Special Duty Allowances [in short 'SDA'] were introduced to attract such of citizens of India [who were in Central Government Services and posted in other parts of India] to be posted in North Eastern Region of India. It has also been clarified by the Govt. of India that on a posting [even on request transfer from outside N.E. Region] in N.E. Region, one is also entitled to SDA benefits.

3. Shri S. K.Das came from New Delhi [while serving with all India transfer liability, in Air Headquarters/New Delhi/in Ministry of Defence of Govt. of India] initially on deputation basis during 1985 [and, later, absorbed during 1989] to CAT/Guwahati Bench. He joined CAT/Guwahati Bench on 13th November 1985 and, accordingly, he was, rightly, given Special Duty Allowances w.e.f. from November 1985. Payment of the same [SDA] was discontinued with effect from November 1989; apparently under a wrong notion that, on absorption in CAT, he no more remained with all India transfer liability. However, no material is available on records of this CAT/Guwahati Bench to show the reason of discontinuance of SDA to said Shri S.K.Das of CAT/Guwahati Bench.

4. Later, said Sri S.K. Das, was transferred from CAT/Guwahati Bench to CAT/Calcutta Bench on 18.11.2005. He joined CAT/Calcutta Bench on 21.11.2005. He was again, transferred back to CAT/Guwahati Bench on 24.03.2006 and joined back at Guwahati Bench/at Guwahati on 05.04.2006 and, on his transfer from Kolkata [outside N.E. Region], to Guwahati [in N.E. Region]; said Sri S.K.Das was, again, entitled to SDA w.e.f. 05.04.2006 and, as such, he is continuing to enjoy the said SDA benefit[even now] w.e.f. 05.04.2006.

Attested
M. Dutta
A.D.

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

5. Thus, SDA benefit for the period 01.11.1989 to 17.11.2005 have not been paid to Shri S.K.Das; although he was entitled for the same

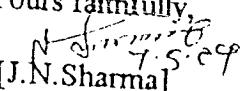
6. In his present representation [copy enclosed] Shri S.K.Das has prayed to grant him arrear SDA from 01.11.1989 to 17.11.2005. A rough calculation goes to show that he [Shri S.K.Das] is claiming approx. Rs.43,000/- as arrear SDA for the period from 01.11.1989 to 17.11.2005.

7. Shri K.M.Rabha [present C.O. of CAT/Guwahati Bench] came on deputation from New Delhi [while serving the Ministry of Information & Broadcasting in [CSCS Cadre] on 04.10.1985 and, subsequently, absorbed in CAT/Guwahati Bench with effect from 01.11.1989 but he has not been paid Special Duty Allowance [SDA] at all w.e.f. his date of joining i.e. 04.10.1985. SDA benefit for the period 04.10.1985 to 31.05.2006 have not been paid to Shri K.M. Rabha although he was entitled for the same. However, he is continuing to get SDA from 01.06.2006. In the said premises, he has submitted the enclosed representation.

8. It appears from records that in order to restore payments of SDA to said Sri S.K.Das and for payment of SDA to Shri K.M.Rabha, a reference was made to CAT/PB and [from CAT/PB] to DOPT during the past. It is seen that CAT/Guwahati Bench wrote a letter to CAT/PB, on 05.03.2001, to release SDA in favour of Sri S.K.Das and Shri K.M.Rabha and, on 09.05.2001, CAT/PB wrote a letter to DOPT. CAT/Guwahati Bench issued a reminder on 11.05.2001 and CAT/PB issued a reminder [to DOPT] on 06.07.2001. CAT/Guwahati, thereafter, issued 2 reminders on 01.03.2002 and on 08.07.2002.

9. No materials are available with CAT/Guwahati Bench to show as to the outcome of the above said reference.

10. On getting clearance from your end, SDA benefits for the above period can only be released in favour of Shri S.K.Das, Section Officer and Shri K.M.Rabha, Court Officer of this CAT/Guwahati Bench.

Yours faithfully,

 [J.N. Sharma]
 Deputy Registrar

Encl: Representation dated 05.02.2009 of Shri S.K.Das
 Representation dated 23.03.2009 of Shri K.M.Rabha

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-11

Original Application No.33 of 2007

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

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

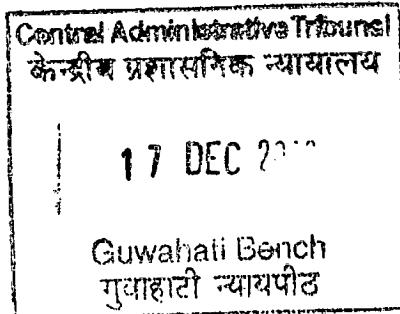
Sri Manoranjan Das
S/o Sri Haripada Das
Working Junior Accounts Officer
Office of the Pay and Accounts Officer
Central Board of Excise and Customs
Crescens Building, Shillong-793 001
(Meghalaya)

...../ applicant

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

-Vs-

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



Attested
Dutta
gdn

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

7. The Pay and Accounts Officer
Central Board of Excise and Customs
Ministry of Finance, M.G.Road
Shillong-793 001.

8. The Secretary, Govt. of India
Ministry of Home Affairs
North Block
New Delhi - 110 001.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

...Respondents.

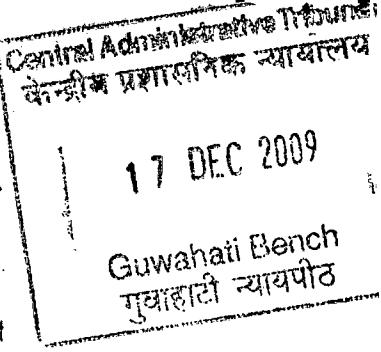
Mrs. Manjula Das, Addl. C.G.S.C.

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

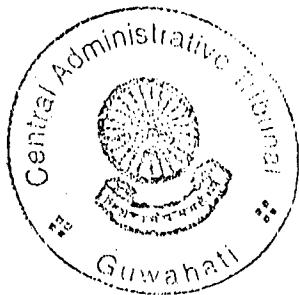
MANORANJAN MOHANTY, VICE-CHAIRMAN :-

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

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



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



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

/ S.D.

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



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

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

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

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

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

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

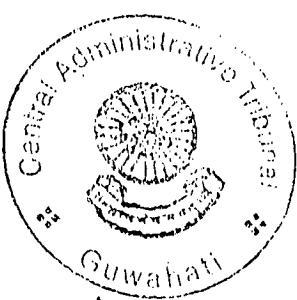
Guwahati Bench
गुवाहाटी न्यायपीठ

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

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

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

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



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

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

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

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

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

Sir,

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

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

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

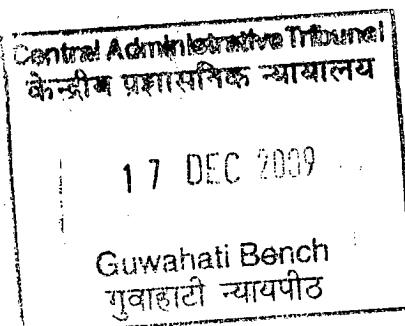
Dated 3rd April, 84.

Copy forwarded to:-

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

17 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ



17 DEC 1985

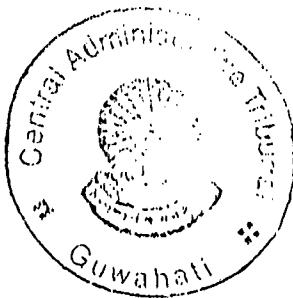
Guwahati Bench
गुवाहाटी न्यायालय

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

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

OFFICE ORDER

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



Sd/-illegible

(T.K.RAVINDRANATH)

UNDER SECRETARY TO THE GOVT. OF INDIA

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

Dated the 8.8.85

Copy forwarded to:-

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

17 DEC 2009

- 44 -

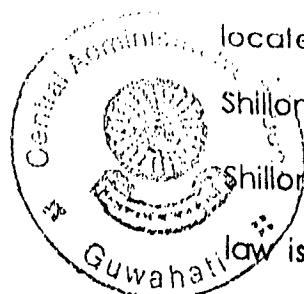
Service Book/Leave Account/E.L.&R.H. account of Shri Manoranjan Das, LDC may please be sent to pay & A.O. Assam Rifles, Shillong direct.

Guwahati Bench
गुवाहाटी न्यायपीठ

5. Pr.A.O./MHA, North Block, New Delhi.
6. Pay & Accounts Office, Assam Rifles, Shillong with reference to their letter No.PAO/Ar/Estt/PF/MD/84-85/24, dated 17.4.1994 with one spare copy for Shri Das, LDC
7. Shri A.S.Panwar, Ad.I(B) Section, MHA, New Delhi.
8. Spare Copies 5.

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

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



17 DEC 2009

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

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

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

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

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



Sd/- Illegible
(R.Prem Anand)

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

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

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

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

17 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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

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

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

Sd/-
M.R. MOHANTY
VICE CHAIRMAN

TRUE COPY

16/6/09
Section Officer (Jew)
Central Administrative Tribunal
Guwahati Bench
16/6/09