

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 207 of 1994.  
T.A. NO.

DATE OF DECISION 27.08.1996

Shri Bhargab Sarma & 37 others.

(PETITIONER(S))

Shri B.K.Sharma.

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India & Ors.

(RESPONDENT (S))

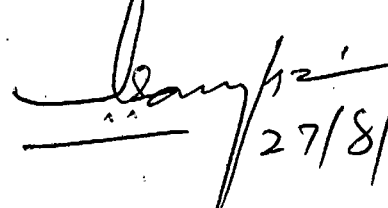
Shri S.Ali, Sr.C.G.S.C &  
Shri A.K.Choudhury, Addl.C.G.S.C.

ADVOCATE FOR THE  
RESPONDENT (S)

THE HON'BLE **SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.**  
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ? **Yes**
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? **NO.**
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble **Administrative Member.**

  
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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 207 of 1994.

Date of Order : This the 27<sup>th</sup> Day of August, 1996.

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Shri Bhargab Sarma & 37 others.

. . . Applicants.

By Advocate Shri B.K.Sharma.

- Versus -

1. Union of India  
represented by the Secretary,  
Ministry of Information & Broadcasting,  
New Delhi.
2. The Deputy Secretary to the Govt. of India,  
Ministry of Information & Broadcasting,  
New Delhi.
3. Director General, Doordarshan,  
Mandi House, Copernicus Marg,  
New Delhi-110001.
4. The Director General,  
All India Radio,  
Akashbani Bhawan, Parliament Street,  
New Delhi-110001.

. . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C &  
Shri A.K.Choudhury, Addl.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER,

In This application under Section 19 of the Administrative Tribunals Act 1985 was submitted by 38 applicants on 28.10.94. These applicants are employees in the Doordarshan Kendra and All India Radio in various stations of North Eastern Region. Their contentions in this application relate to payment of Special(Duty) Allowance.

2. The Government of India, Ministry of Information & Broadcasting, New Delhi issued a letter dated

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29.10.93 stating that it has been decided in pursuance of the directions dated 26.3.93 of the Hon'ble Central Administrative Tribunal, Cuttack Bench to grant Special Duty Allowance to all such employees of All India Radio/Doordarshan posted in the North East Region who have all India transfer liability as a condition in their appointment letters. However, the payment is subject to submission of an undertaking by the employee concerned. The payment is also subject to the final judgment in the various litigation cases pending in various Courts/Central Administrative Tribunal Benches etc. as also general instructions, if any issued by the Ministry of Finance on the subject. The format of the undertaking is as below :

"I, Shri. . . . . hereby agree to the following :

- (a) Any amount paid to me as Special Duty Allowance under the Ministry of Finance O.M.No.20014/3/83/E.IV dated 14.12.1983 will be refunded by me to Government, if the Govt. of India decided that I am not entitled to the same.
- (b) I also hereby give an undertaking that I agree to abide by all India transfer liability and in the event of my being transferred and posted to any place in India, I shall not protest - even though any seniority is on a regional basis and my lien is retained in the regional list.
- (c) I also hereby agree that to get the Special Duty Allowance w.e.f. the date of issue of Ministry's latest orders and that I shall not claim the benefit of Special Duty Allowance from a retrospective date."

The applicants submitted the undertakings and after submission of the undertakings they were paid their current Special Duty Allowances.

3. In this application they claimed that they are entitled to Special Duty Allowance with effect from the

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date of issue of Office Memorandum No.20014/2/83-E.IV dated 14.12.1983 and that they are entitled to the arrear benefit of 25% Special(Duty) Allowance in terms of the aforesaid Office Memorandum and Office Memorandum No.20014/16/86/E. II(B) dated 1.12.1988. They also contend that the aforesaid order dated 29.10.1993 is liable to be quashed as it is discriminatory against the applicants and that the respondents may be directed to continue payment of current SDA to the applicants without any undertaking. The learned counsel for the respondents have submitted that the applicants are not entitled to Special Duty Allowance and have relied on the judgment of the Hon'ble Supreme Court in Union of India & Ors. Vs. S.Vijayakumar & Ors. reported in JT 1994 (6) S.C. 443 as enclosed as Annexure-A to the written statement. They also content that the order dated 29.10.93 is neither discriminatory nor arbitrary.

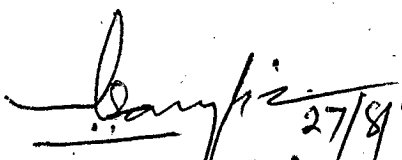
4. The matter regarding eligibility of payment of SDA had already been decided by the Hon'ble Supreme Court on 20.9.1994 in the case of Union of India & Ors. Vs. S. Vijayakumar & Ors. mentioned above. The issue that was for consideration was whether the respondents in that case who were residents of North Eastern Region are entitled to SDA merely because of the posts to which they were appointed were of all India transfer liability. The Hon'ble Supreme Court had held that they were not entitled to the allowance. In the instant case it has not been clarified by either side whether any of the applicants is not resident of North Eastern Region. Therefore the respondents are directed to scrutinize and ascertain how many of the applicants are

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residents of North Eastern Region and how many are not. Thereafter they will allow or disallow SDA, as the case may be, in accordance with the law.

5. The main contention of the applicants against the order dated 29.10.93 is that it is discriminatory inasmuch as they were to receive SDA only after signing undertakings whereas other employees were allowed SDA without such undertaking having been made. I however find that this contention has not substance. The order dated 29.10.93 itself says that the payment and conditions are applicable to all employees of All India Radio/Doordarshan posted in the North Eastern Region as stated therein. Moreover, the applicants can no longer contest against this order after they have signed the undertakings and received the payment of SDA in pursuance of the terms and conditions laid down in the undertaking. The contention in this regard is rejected.

The application is disposed of as above. No order as to costs.

  
( G.L. SANGLYINE )  
ADMINISTRATIVE MEMBER