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3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A.T.A No. 54/95

R.A/C.P No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

O.A.No.

54/95

Misc.Petn.

C.P. No.

R.Appl:

A.C. Sarna

.....APPLICANT'S

frs

J.O.I 90W

Mr. K. Bhattacharya

Mr. T.C. Khera

.....RESPONDENT'S

.....FOR THE APPLICANTS

Mr. A.K. Choudhury

.....FOR THE RESPONDENTS

OFFICE NOTE

DATE

ORDER

24-4-95

It is a S.D.A. matter. Issue notice to the respondents to show cause as to why the application may not be admitted, returnable no 17-5-95.

This application is in form and within time

F. of Rs. 50/-

deposited vide

IPO/PO No. 88.2565

Dated 6-3-95

[Signature]

Vice-Chairman

Member

lm

[Signature]
[Signature]

17.5.95

At the request of Mr A.K. Choudhury adjourned to 3.7.1995.

Requisites are
made & returned
V. no. 188602-25/95

17/5

Member

[Signature]

Vice-Chairman

O.A. No. 54/95. ✓

3.7.95

None present for the applicants.

Heard Mr A.K.Choudhury, Addl.C.G.

S.C on behalf of the respondents.

The application is dismissed.

No order as to costs.

23.8.95
 copy of Indg. Order
 dtd. 3.7.95 issued
 to all concerned
 alongwith OA. 47/95.

g/b.


 Member


 Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A.NO. 54 of 1995.

DATE OF DECISION 3-7-1995.

Sri Ananda Ch. Sharma & 23 Ors.

(PETITIONERS)

None present for the applicant.

ADVOCATE FOR THE
PETITIONERS.

VERSUS

Union of India & Ors.

RESPONDENTS.

Mr A.K.Choudhury, Addl.C.G.S.C

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN.

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

yes

no

Judgment delivered by Hon'ble Vice-Chairman.

W. S. Choudhary

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 54 of 1995.

Date of Order : This the 3rd Day of July, 1995.

Justice Shri M.G. Chaudhari, Vice-Chairman.

Shri G.L. Sanglyine, Member (Administrative)

Sri Ananda Ch. Sharma & 23 Ors.

All the applicants are employed in Chindit
Top B/R under the Garrison Engineer,
859 Engineer Works Section C/O 99 A.P.O.

. . . Applicants.

None present for the applicants.

- Versus -

Union of India & Ors.

. . . Respondents

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

(FOR ADMISSION)

CHAUDHARI J. (V.C)

The applicants who are all civilian and Defence employees of Military Engineering Services department posted at different stations in N.E. Region have filed this application claiming payment of Special (Duty) Allowance in accordance with the office Memoranda dated 14.12.83 and 1.12.88 issued by the Central Government with effect from the due dates therein together with interest and costs.

2. All the applicants have stated in the application that they are employed under the respondents and posted to work in N.E. Region (mostly Arunachal Pradesh).

3. Reliance is placed on the judgment and order of Gauhati High Court in Civil Rule No. 543/1989 decided on 4.1.94 whereunder one Krishnan Raman was held entitled to get the SDA.

contd... 2/-

hull

4. The question of eligibility for payment of SDA to the employees posted in North Eastern Region by virtue of the O.M. dated 14.12.83 and O.M. dated 1.12.88 is no longer res-integra in view of the decisions of the Hon'ble Supreme Court in the following cases :-

(i) Chief General Manager(Telecom) vs. S.Rajender Ch. Bhattacharjee & Ors. J.T. 1995 (i) SC 440.

(ii) Union of India vs. S.Vijaya Kumar & Ors. J.T. 1994(6) 443 and

(iii) Union of India & Ors. vs. Executive Officers' Association Group 'C' (Inspectors of Customs and Central Excise) Civil Appeal No.3034/95 decided on 23.2.95. It has been laid down that the memoranda dated 14.12.83 and 1.12.88 are meant for attracting and retaining the services of competent officers posted in the North Eastern Region, ^{are} from other parts of the country and not applicable to the persons belonging to that region where they are appointed and posted. Since it appears that the applicants have been appointed and posted in the North Eastern Region their claim does not survive in view of the aforesaid decisions of the Supreme Court. The O.A. is therefore liable to be rejected as it does not disclose any grievance that can be redressed under the provisions of the Administrative Tribunals Act. We however make it clear that if any of the applicants happens to be a person appointed outside the North Eastern Region but is posted in N.E. Region, the respondents may deal with his case in accordance with the above mentioned decisions of the Supreme Court. Such person

contd... 3/-

hwa

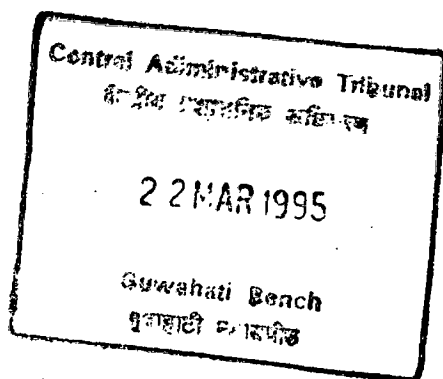
would be eligible to get the SDA. Such scrutiny may be made notwithstanding this order when applied for by the eligible applicant.

5. It is true that the order of the High Court in C.R.No. 543/89 may prevail unless the same has been carried to the Supreme Court by the respondents and has been reversed and consequently the applicant may continue to get the benefit of SDA but even though in that event the applicants will be treated differently yet in view of the decisions of the Supreme Court having been rendered prior to filing of the instant O.As we cannot grant relief to the applicants on the strength of the order of the High Court in the aforesaid case to which the applicants were not parties.

6. Consequently the O.A. is formally admitted and as Mr A.K. Choudhury, the learned Addl.C.G.S.C waived notice on behalf of the respondents it is finally disposed of. The application is dismissed. No order as to costs.


(G.L.SANGLYINE)
MEMBER (A)


(M.G.CHAUDHARI)
VICE-CHAIRMAN



Signature of first Applicant

Ananda Ch. Sharma

Applicants through

Tihum Chandra Khandari

6/3/95

Advocate for Applicants

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH:
GAUHATI:

Original Application No. 54 of 1995.

In the matter of :-

Sri Ananda Ch. Sharma & Ors... Applicants
-Versus-

Union of India & Ors. .. Respondents.

It is respectfully submitted for the applicants -

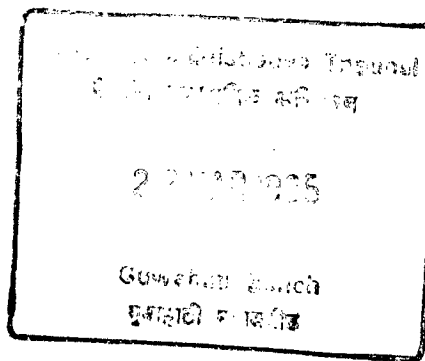
1. That the applicants have submitted a joint petition seeking relief of payment of allowances and service benefits as admissible to civilian central government employees in terms of office memoranda dated 14-12-83 and 1-12-88 of the Ministry of Finance (Deptt. of Expenditure) of Govt. of India.

2. That the cases of the applicants were jointly processed by the departmental authorities on having been initiated as such by the respondent No.3 and the case has now been resubmitted on a joint cause by the C.W.E., Tezpur for consideration afresh by higher authorities as desired.

3. That from facts of the case, it would be clear that all the applicants have a common cause and interest in it and as such the joint application deserves to be entertained as provided by Rule 4(5) of the Procedure Rules.

In these premises it is prayed that the Hon'ble Tribunal may be graciously pleased to permit filing of single application by all the applicants jointly for ends of justice.

Dated: the 27-2-95:



APPENDIX A:

FORMS:

FORM I:

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT: 1985:

Title of the Case: Sri Ananda Ch.Sharma & Ors.
..Applicants

-Versus-

Union of India & Ors. . Respondents:

I N D E X :

Sl.No.	Description of documents relied upon	Page No.
1.	Application:	1-8
2.	Annexure A: Copy of Memo dt.14-12-83:	9-10
3.	Annexure B: Copy of Memo dt.1-12-88:	11-12
4.	Annexure C: Letter dt.28-3-94 of Resp.No.3:	13
5.	Annexure D: Statement of case annexed to above letter of Resp.No.3:	14-15.
6.	Annexure E:Representation dt.7-12-94:	16
7.	Annexure F: Judgment of High Court:	17-19

Note: Other documents referred to in the application
are seized and possessed and happen to be in the
control, custody and power of respondents being
correspondence exchanged in official channel and
may be required to be produced by respondents.

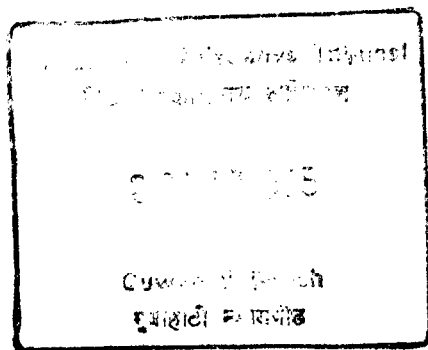
*Recd copy
Atk Chandra Sekh
Hdld C of SC
7/3/95*

Ananda Ch Sharma
SIGNATURE OF APPLICANT:
Tilak Chandra Kanti
6/12/95
Advocate

FOR USE IN TRIBUNAL'S OFFICE: Through
DATE OF FILING:

SIGNATURE:

FOR REGISTRAR:



Signature of first Applicant
Ananda Ch Sharma
Applicants through
Tikha Chandra Bahadur
Ananda Ch Sharma

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GAUHATI BENCH:

- (1) Sri Ananda Ch. Sharma son of Sri Prasab Sharma,
- (2) Sri A. Chowdhury son of Sri Nani Gopal Chowdhury,
- (3) Sri D.P. Bhattacharjee son of Late Digendra Ch. Bhattacharjee,
- (4) Sri Dil Kumar son of Sri Sher Bahadur,
- (5) Sri Ram Pal son of Sri Moti Ram,
- (6) Sri B.C. Nath son of Sri Sumeshor Nath,
- (7) Sri ~~BxEx~~ Dhan Bahadur son of Late Tikha Bahadur,
- (8) Sri A. Haque son of Late Md. Faudhi,
- (9) Sri A. Miya son of Late Ikbai Miya,
- (10) Sri R.P. Rai son of Late Babulal Rai,
- (11) Sri Bikram Sharma son of Sri Surjuk Sharma,
- (12) Sri K. Bahadur son of Mr. Bahadur,
- (13) Sri G.D. Singh son of Late Ramgati Singh,
- (14) Sri Anil Das son of Late Sanatan Das,
- (15) Sri G. Musahari son of Sri Lakhi Ram Musahari,
- (16) Sri Ram Bahadur son of Sri Chandra Bahadur,
- (17) Sri Lal Bahadur son of Mr. Bahadur,
- (18) Sri R.S. Ram son of Late Bhagan Ram,
- (19) Sri Prem Bahadur son of Sri Chandra Bahadur,
- (20) Sri Gopal Bahadur son of Sri Soma Bahadur,
- (21) Sri Bhim Bahadur son of Mr. Bahadur,
- (22) Sri Suresh Mongar son of Late Krishna Bahadur Mongar,
- (23) Sri B. Paswan son of Late Ramphal Paswan,
- (24) Sri Ranjit Kumar son of Sri Kharka Kumar,

... all employed in Chindit Top B/R,
under the -

.. under the Garrison Engineer,
859 Engineer Works Section C/o.99 A.P.O.

.. APPLICANTS:

-VERSUS-

- (1) Union of India represented by the Secretary to the Government of India, Ministry of Defence (Engineer-in-Chief's Branch, Army Head Quarters), New Delhi.
- (2) The Chief Engineer, Eastern Command, H.Q., Calcutta
- (3) Garrison Engineer, 859 Engineer Works Section C/o.99 A.P.O.

... .. RESPONDENTS:

DETAILS OF APPLICATION:

1. Particulars of order against which the application is made -

HQ CE SZ Letter No.70414/2/3627/Eica(3) dated 19.12.94 containing information of E.in-C's Branch, Army Headquarters, New Delhi letter No.79850/SDA/NER/EIC(3) dated 19.10.94 received under HQ CEEC Calcutta letter No.131728/2/805/Engr/EIC(3) dated 9.12.94 to the effect that CGDA in consultation with Ministry of Defence confirmed that special duty allowance along-with field service concession and to the locally recruited/directly recruited employees is not admissible to civilian employees posted at NER and further HQ CE SZ letter No.70414/2/3629/EIC(3) dated 23.12.94 requiring to re-submit connected papers/documents alongwith specific recommendations and resubmission of applications accordingly through HQ CWE, Tezpur under their letter No.1352/SDA/B/EIC(3) dated 17.1.95 alongwith recommendation slip.

2. Jurisdiction of the Tribunal:

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

3. Limitation:

The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case:

- 1) That the applicants are civilian defence employees of Military Engineer Services Department employed under the respondents and as such the applicants are posted to work at high altitudes of Arunachal Pradesh, a hard, remote and costly area where necessities and essential services of life are very scarce and are available only on paying abnormally high prices.
- 2) That the Central Government ordered for payment of special duty and special compensatory (Remote locality) allowances to its employees posted in the North-eastern Region of the country to attract postings to this remote and costly locality. The field service concessions were extended to the civilians by the Government of India, Ministry of Defence vide their letter dated 25.1.64 as amended from time to time. The applicants are in receipt of Modified field service concessions. Similar concessions are also being paid to GREF staff posted to this area.
- 3) That the need for attracting and retaining the services of competent staff for service in the North Eastern Region comprising the seven States including Arunachal Pradesh was engaging attention of the Government and with a view to review the existing allowances and service benefits to employees posted in this region, a committee under the Chairmanship of Secretary, Department of Personnel & Administrative Reforms was appointed and after considering carefully the recommendations of the Committee, the President of India was pleased to decide in favour of allowances and benefits being continued as modified by Government of India Office Memorandum No. 20014/2/83-E.IV of Ministry of Finance (Department of Expenditure) issued on 14.12.83. Subsequent thereafter -

another office Memorandum being No. F.No.20014/16/86/E.IV/E. II(B) dated 1.12.88 was issued making some improvements in allowances and facilities to employees posted in this region.

4) That such allowances and facilities were admitted by the audit authorities in the past. Reference in this connection may be made to letter No.1350/A/2623/EIC(3) dated 20.2.87 of the C.W.E.Tezpur whereby Ministry of Finance, Department of Expenditure Office Memorandum No.200414/3/83-EIV dated 29.10.86 sent under CE;SZ, was forwarded to the respondent No.3. Reference in this connection may also be made to the Ministry of Finance, Department of Expenditure office Memorandum No.20014/4/86-E-IV, dated 23.9.86 making special mention of the employees posted in Arunachal Pradesh and to letter No.Pay/24/IV/PC dated 20.2.87 of the C.D.A.Gauhati.

5) That, however, in so far as special duty allowance is concerned, the C.D.A.Gauhati as per its letter No. Pay/01-VII dated 24.9.91 referring to Ministry of Finance, Department of Expenditure communication dated 21.1.85 received by the said office as per CGDA's confidential No.AT/II/2366-Vol-XIV dated 23.1.89 stated that where field service concessions are enjoyed, SDA would not be admissible there even though the GREF personnel posted to work in the same area and receiving similar field service concessions were enjoying the benefit of special duty allowance in terms of office Memoranda dated 14.12.83 and 1.12.88 referred to above.

6) That the respondent No.3 wrote letters Nos.1000/P/678/E1P dated 7.10.91 and 1000/P/687/E1P dated 15.10.91 to the CDA, Gauhati to clarify the position as to why the civilian defence personnel of M.E.S. were not entitled to claim similar allowances and service benefits as the GREF personnel posted at the same place and working shoulder to shoulder with the applicants were having the said allowances and benefits and by letter No. Pay/01-VIII dated 12.3.92, the C.D.A.Gauhati informed that the matter was taken up with Ministry of Defence/ D(CIV-I) by Army Headquarters DAAG Org.4(Civ)(d) and a

- 7) That it was further intimated by the CCDA, New Delhi office circular dated 9.10.92 that defence civilian employees, who have "All India Transfer Liability" will be granted special duty allowance and in as much as in the case of the applicants, service condition/s specifically provides -
"He/she will be required to serve any where in India and will be subject to civilians in Defence Service (Field Service Liability) Rules, 1957".
- 8) That the applicants, therefore, submitted applications on 5.1.94 requesting for payment of all allowances and service benefits including special duty allowance in terms of office memorandum dated 1.12.88 referred to above and the respondent No.3 forwarded all such applications to the HQ CWE under his office letter No.1000/P/793/E-1P dated 28.3.94 alongwith a statement of case justifying and recommending for payment of all allowances and service benefits in terms of office memoranda dated 14.12.83 and 1.12.88 referred to above.
Copies of office memoranda dated 14.12.83 and 1.12.88 and copy of letter dated 28.3.94 forwarding applications dated 5.1.94 of applicants with statement of case as stated above are annexed hereto as Annexures A, B, C and D respectively.
- 9) That Sri Krishnan Raman, A GREF employees being not satisfied about the orders sanctioning special duty allowances only in terms of office memoranda dated 14.12.83 and 1.12.88 from 21.3.89 and not paying other allowances and service benefits to GREF employees filed an application for appropriate writ before the Hon'ble Gauhati High Court and in Civil Rule No.543/1989 arising from the said application, the Hon'ble High Court by its judgement dated 4.1.94 directed for payment of all such allowances and service benefits with effect from 1.12.83 as it was done in the case of other central government civilian employees.

10) That the applicants having come to know about the judgement of the Hon'ble High Court once again made representations and submitted applications accordingly to the respondent No.3 on 7.12.94 therein referring to the judgement.

A copy of the representation and the judgement of the Hon'ble High Court are annexed hereto as Annexures E and F respectively.

11) That even though the case was resubmitted by the CWE, Tezpur on 17.1.95 as referred to above with specific recommendations for payment of all allowances and service benefits with effect from 1.12.93 as ordered by the Hon'ble High Court in Krishnan's case (Supra), the respondents Nos.1 and 2 have been keeping quiet over the matter and have not paid the genuine and legitimate dues to the applicants in terms of office memoranda dated 14.12.83 and 1.12.88 referred to above and as such this case.

5. Grounds for relief with legal provisions:

(I) For that the applicants are entitled to allowances and service benefits as per office memoranda dated 14.12.83 and 1.12.88 in as much as the said memoranda have been made applicable to all civilian central government employees and merely because they are employed in M.E.S./Defence department, they cannot be discriminated against.

(II) For that the applicants are entitled to such allowances and service benefits on the sound principle of equal pay packet for equal work in as much as similarly situated employees of other departments including even GREF personnel, who have been held to be integral part of the Armed forces of the Union being a civilian construction agency as per Apex Court's decision in Viswan's case (AIR 1983 SC 658), have been held to be entitled to such allowances and benefits with effect from 1.12.83 as per decision of Gauhati High Court in its judgement dated 4.1.94 passed in Civil Rule No.543/89 (Krishnan's case).

(III) For that notwithstanding ~~payment of field service~~ concessions to the GREF personnel, they being entitled to allowances and benefits under office memoranda dated 14.12.83 and 1.12.88 also, the applicants are also entitled to such allowances and benefits effective from 1.12.83.

(IV) For that the departmental authorities have been seized of the matter since after 0-12-83, initially by making payments in accordance with the office memorandum dated 14.12.83, thereafter by making orders stopping such payments and directing for recovery of amounts already paid and further by continuing correspondences in official channel with a view to justify and/or recommend payment to applicants and M.E.S. personnel in view of the transferability of their service throughout India as appearing from service conditions.

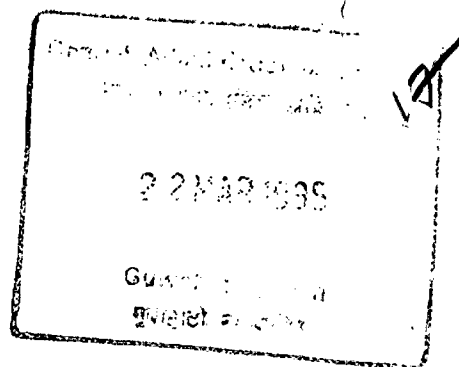
(V) For that the applicants being posted to high altitudes of Arunachal Pradesh, the necessities and essential services of life are scarce at such places and are available only on payment of abnormally high prices which is for what unless the applicants are compensated by making payments of allowances and service benefits as per office memoranda dated 14.12.83 and 1.12.88, they shall have to face grave injustice and serious injury that deserves to be remedied by protecting them from the vice of discrimination that is guaranteed to them as citizens/public employees under Articles 14/16 of the Constitution.

6. Details of remedies exhausted:

The applicants declare that they have availed of all the remedies available to them under the relevant service rules, etc. as would be revealed from paragraphs 4 and 5 above.

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

The applicants further declare that they have 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



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writ petition or suit is pending before any of them.

8. Reliefs sought:

In view of the facts mentioned in para 6 above, the applicants pray for the following reliefs:-

The respondents may be ordered and directed to pay to applicants all allowances and service benefits in accordance with office memoranda dated 14-12-83 and 1-12-88 of the Central Government as referred to above with interest and costs as may be deemed proper.

9. Interim order, if any prayed for - No -

10. In the event of application being sent by registered post etc. - Not applicable.

11. Particulars of Bank draft/postal order filed in respect of application fee:

Postal order being No. B03/283570 dated 6-3-95 for Rs. 50/- issued by ^{Gauhati} Tezpur Head Post Office payable at Gauhati is annexed hereto.

12. List of enclosures: Annexures A, B, C, D, E and F as mentioned in para 4 above.

VERIFICATION:

I Sri Ananda Ch. Sharma son of Sri Prashab Sharma, employed under the Garrison Engineer, 859 Engr. Wks. Sec. C/o. 99 A.P.O. do hereby verify that the contents of paras 1, 4, 6, 7, 11 and 12 of the application are true to my personal knowledge and paras 2, 3 & 5 are believed to be true on legal advice and that I have not suppressed any material fact.

SIGNATURE OF APPLICANT:

Ananda Ch Sharma

(ANANDA CH SHARMA)

Dated: 27-2-95:

Place: Tezpur.

~~Spec Copy of Gandy letter~~ -13-
Annexure C

Attested
Tihau Choudhary
27/2
Advoc

Tele Mil : 490

REGISTERED
Garrison Engineer
859 Engr Wks Sec
C/O 99 APO

1000/P/ 793 /E-1P

28 Mar '94

HQ CWE
Tezpur

noted OP
Jasoyak

SPECIAL DUTY ALLOWANCE TO CIVILIAN EMPLOYEES
IN NORTH EASTERN REGION

1. Applications dated 05 Jan '94 for the subject Allowance, addressed to E-in-C's Branch, received from the individuals as listed in Appendix 'A' attached, are forwarded herewith duly recommended in quadruplicate, together with statement of case in quintuplicate for your further necessary action please.

WJG-59
Sc/c XXX
~~XXXXXXXXXXXXXXXXXXXX~~

///

Encls : As above.

(M Arumugam)
Major
Garrison Engineer

-14- Annexure D
All. Sted
T. J. S. Choudhury
27/2/93
Advocate

STATEMENT OF CASE ON ACCOUNT OF PAYMENT OF
SPECIAL DUTY ALLOWANCE TO CIVILIAN PERSONNEL
POSTED IN GARRISON ENGINEER 859 ENGINEER
WORKS SECTION, C/O 99 APO SITUATED IN NER

INTRODUCTION

1. The Special Duty Allowance @ 12.5% of Basic Pay was ordered by the Govt of India, Min of Fin (Deptt of Expenditure) O.M. No 20014/16/86/E-IV/E-II(B) dated 01 Dec 88, circulated under E-in-Cs Branch letter No 79859/MISC/EIC(3) dated 09 Feb 89. The order clarifies that the Special Duty Allowance will be in addition to any Special Pay and/or Deputation (Duty) allowance already being drawn subject to the condition that the total of such allowance will not exceed Rs 1000/- per month (Para (iii) of the above Govt order refers). But the CGDA New Delhi under their Confidential No AT/II/2366-Vol-XIV as intimated by CDA Guwahati vide their letter No Pay/01-VII dated 24-9-91 has directed that "Where Field Service Concessions are enjoyed SDA would not be admissible there".

PROPOSAL

2. It is proposed to take up the case with Govt of India, Min of Finance for clear clarification through departmental channel to boost up the morale of civilian employees of this Works Section in view of the allowances in question applicable to other Central Government Employees posted in this area.

JUSTIFICATION

3. On perusal of our old records, it is revealed that the civilian employees of this Works Section were granted Special Duty Allowance with effect from Nov 83 and continued to draw the same upto Dec 84 vide Govt of India, Min of Fin (Deptt of Expdr) O.M. No 20014/3/83-E. IV dated 14 Dec 83. But the allowance was disallowed by the audit authorities with effect from Jan 85 on the plea that the personnel already in receipt of Field Service concession are not entitled for Special Duty Allowance.

4. It is submitted that the matter regarding grant of Special Duty Allowance was again taken up with CDA Guwahati in terms of Govt of India, Min of Fin (Deptt of Expdr) O.M. No as mentioned in 'Introduction' above, vide this office letter No 1000/P/636/EIP dated 16 Jul 91 (copy enclosed for ready reference please). In response to our above quoted letter it was intimated by CDA Guwahati under their letter No Pay/01-VII dated 24 Sep 91 (copy enclosed for ready reference please) that, where Field Service Concession (FSC) is enjoyed by the Civilian Employees, Special Duty Allowance would not be admissible to them. After that a lot of protracted correspondence was exchanged between this office and CDA Guwahati. It was finally intimated by CDA Guwahati vide their letter No Pay/01/VIII dt 12 Mar 92 (Copy enclosed) that the matter was taken up by the CGDA New Delhi with the Min of Def but though a reasonable period has so far been elapsed, no fruitful reply has been received as yet inspite of repeated reminders to CDA Guwahati.

-15-

FINANCIAL EFFECT

5. Financial effect to the tune of Rs. 33.00 Lakhs with effect from 01 Dec 88 to 31 Dec 93 is involved.

SUMMARY

6. Since the employees of this Works Section are deployed in North-Eastern Region of Arunachal Pradesh and are required to work under stress and strain ~~the~~ to achieve the target to keep up the requisite standard of this organisation, it is recommended that the employees of this Works Section may be allowed to draw the Special Duty Allowance as admissible to the civilian employees applicable to other Central Government Employees in this area to avoid disparity amongst the Central Government Civilian Employees.

///

Sd/- xxx xxx xxx
(M Arumugam)
Major
Garrison Engineer

(D. V. S. Rayudu)
AE E/R
AGE (F)
For Garrison Engineer

-16-

ANNEXURE E:

ATTESTED:

Tikam Chand Khatri

27-2-95

ADVOCATE

To:

The Garrison Engineer 859 EWS,
C/o.99 APO

(Through proper channel):

Sub: PAYMENT OF SDA/SCA: IMPLEMENTATION OF COURT JUDGMENT:
Sir,

I have the honour to draw your kind attention to the Historic judgment passed by Justice Shri J.N.Sarma of Gauhati High Court in Civil Rule No.343/89 on 04-1-94, protecting the rights of the service men in our region and directed the authorities to pay all the benefits as described in Government memorandum dated 14-12-83 and 01-12-88 and to stop the discrimination between the workers.

I, therefore, most respectfully urge before your honour to immediately give effect to the verdict from the date of 01-12-83 as ordered by the Hon'ble High Court without any more delay.

Thanking you,

Yours faithfully,

SES

Name

Designation

Station:Field:

Dated the 7th.December,1994.

17-
Annexure F
Attested
Tikam Chand Pandey
27/2/95
Advocate

2 2 2 X

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANI PUR: TRIPURA:

MIZORAM & ARUNACHAL PRADESH)

CIVIL RULE NO. 543/1989

G/34504 A Shri Krishnan Raman

S/O Late Sankaran, employed as

UDC at Headquarters-Office of the

Chief Engineer (Project) Vartak

C/o .99 A.P.O.

... Petitioner

-Vs-

Union of India represented by the
Secy. to the Govt. of India,
Ministry of Transport, Deptt of Surface Transport
(Boarder Roads Development Board) B-Sing 45 h
floor, Sena Bhavan, New -Delhi-110011.

2. The Director General,
Border Roads, Kashmir House, DHQ P.O. New Delhi-110011.

3. The Chief Engineer (Project), Vartak, C/O 99 A.P.O.

... Respondents

P R E S E N T

THE HON'BLE MR. JUSTICE J.N.SARMA

For the petitioner : Mr. T.C. Khetri
Mr. K.K. Bhatra, Advocates

For the respondents: Mr. R.P. Kakati, C.G.S.C.

Date of hearing and
Judgment. .. 4-1-94

JUDGMENT AND ORDER (ORAL)

This application under Article 226 of the Constitution of India has been filed praying the following reliefs:-

1) to direct the respondents to pay all allowances/and benefits as per office Memorandum dated 14.12.83 and 1.12.88 of the Government of India to the petitioner.

2. The brief facts are as follows:-

In February, 1960 the Government of India decided to set up Border Roads Development Board and Board was formed for expeditious construction of the roads in the North and North eastern Border areas of the Country. The petitioner was

Contd.....2

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appointed in GREF service on 9.7.62. On 20.11.69 the Government of India issued a Circular laying down the terms and conditions of services of members of GREF. On 14.12.83 the Ministry of Finance (Department of Expenditure) issued Govt of India's decisions relating to tenure of posting/deputation, weightage for Central deputation/training abroad and special mention in confidential records, special (duty) allowances, leave travel concession, special compensatory allowances, travelling allowances and other related matters considering the needs for attracting and retaining the services of personnel in the North Eastern region and this memorandum was framed. Thereafter, another Circular was issued on 29.11.84. The petitioner filed a representation for granting all benefits and concessions as per memorandum of the Government of India. The said representation was forwarded by the Authority and on 21.3.89 the Authority issued an order granting only the special duty allowance to GREF personnel and that too from 21.3.89 only and not from the date as mentioned in the office memorandum dated 14.12.83 and 1.12.88.

3. The grievance of the writ petitioner is that the petitioner and other employees in the service of GREF have been discriminated in not granting all the benefits and concessions as per office memorandum dated 14-12-83 and 1.12.88 and these Central Government of India and as such, the petitioner is also entitled to get these benefits. An affidavit-in-opposition has been filed on behalf of respondents No. 1, 2 and 3 and in this affidavit-in-opposition in paragraph 8 it has been stated that the petitioner's case for re-consideration acceptance of the benefits w.e.f. 1st. Nov. 1993 has been recommended and it is lying with the Government of India. This recommendation was not on 4.5.89. More than ~~43~~ 4 1/2 years have been elapsed but nothing has been done by the Government of India.

4. I have heard Mr. T.C. Khetri, learned counsel for the petitioner and Mr. R.P. Kakati, learned Central Govt. Standing counsel for respondents No. 1, 2 and 3.

5. Mr. Khetri has rightly contended that this is sad story of discrimination on the basis of the records. If the employees are civilian employee they are also entitled to get all benefits as being enjoyed by a civilian central Government employee and if the employees are governed by the Army act they are also entitled to get all benefits as given by the Army personnel but the Authority has not given the benefits to the petitioner either as a civilian employee or the benefits as an Army personee. This cannot be allowed to.

6. In that view of the matter on the ground of discrimination alone I allow the writ application directing the respondents No. 1, 2 and 3 to pay the petitioners all the benefits available to him in the Circular dated 14.12.83 and 1.12.88 w.e.f. 1.12.83. The calculation shall be made by the Authority within a period of 2 months from today and thereafter the payment shall be made to the petitioner. The petitioner has already retired from service and as such the benefits would be paid to him ~~not~~ within the period as mentioned above.

With the above direction, the writ petition is disposed of.

///

Sd/- J.H. Sarma
Judge

G.T.C.

D.V. Subbarayudu
(D. V. S. Rayudu)
AE B/R
AGE (T)
For Garrison Engineer