

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No...57/95.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI, 5

O.A.No. 57/95

Misc.Petn.

C.P. No.

R.Appl:

..... P.K. Baisoya APPLICANT'S
frs.

..... U.C.I. Tew RESPONDENT'S
Mr. K. Bhattacherjee FOR THE APPLICANTS
Mr. T.C. Khetri

.....
Mr. A.K. Choudhury FOR THE RESPONDENTS
Add Chd

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 on 17-5-95.

This application is in
form and within time.

C. F. of Rs. 50/-

described vide

IPO/ED No. 883522

Dated 6.3.95

1m

hell
Vice-Chairman
62
Member

Requis'ls are
Searched & Found
V.W.181-63 D.25/8/95

17.5.95 At the request of Mr A.K. Choudhury
adjourned to 3.6.1995.

62
Member

hell
Vice-Chairman

Some reports are
still awaited

pg

3

✓

O.A. No. 57/95.

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 Judg./Order
dtd. 3.7.95 issued
to all concerned
alongwith OA. 47/95.

JK

62
Member

JK
Vice-Chairman

PG

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

O.A.NO. 57 of 1995.

DATE OF DECISION 3-7-1995.

Sri Prem Kumar Baisya

(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 ? yes
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 ?

Judgment delivered by Hon'ble Vice-Chairman.

Mr. B. K. Choudhury

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 57 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 Prem Kumar Baisya & 22 Ors.

All the applicants are employed in Rupa E/M
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.

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, from other parts of the country and are 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

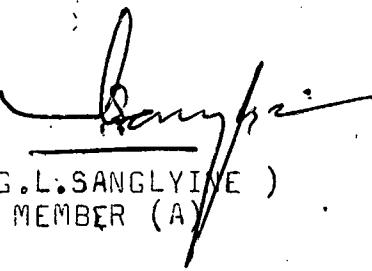
contd... 3/-

JKR

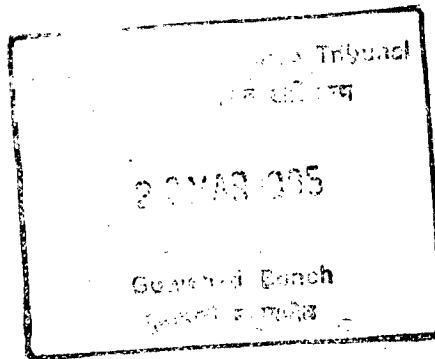
would be eligible to get the SDA. Such scrutiny may be made notwithstanding this order when applied for by the eligible applicant.

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 waives 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 Joint Applicants
Prem Kumar Baisya
Abdul Majeed Khan
Tikam Chand Khan
Dulal Chandra Deka
Dulal Chandra Deka

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH:
GAUHATI:

Original Application No. 57 of 1995.

In the matter of :

Sri Prem Kumar Baisya and others:Applicants:
-Versus-

Union of India and others: .. 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(Dept. 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 2-3-95.

APPENDIX A:
FORMS:
FORM I:
APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT: 1985:

Title of the Case: Sri Prem Kumar Baisya & Ors.
.. APPLICANTS:

Title of the Case: Sri Prem Kumar Baisya & Ors.

.. APPLICANTS:

-VERSUS-

Union of India & Ors: RESPONDENTS:

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Note: Other documents referred to in the application are seized and possessed by 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:

Rec'd. copy
A. H. Marshall
7/3/95

Prem Kr. Balsia
Guru

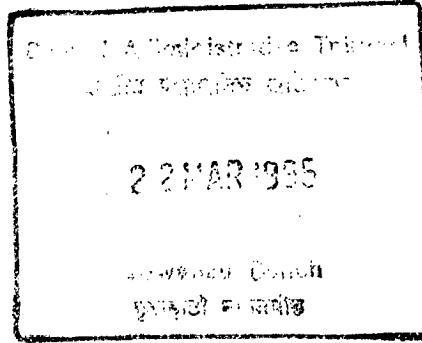
SIGNATURE OF APPLICANT: *John L. Keeler*

FOR USE IN TRIBUNAL'S OFFICE:

6/13/95

DATE OF FILING:

SIGNATURE
FOR REGISTRAR:



Date of first Appearance
 Sign
 Prem Kumar Baisya
 & co-plaintiffs through
 T. Hem Chandra Chettri
 612 P.M.
 Afternoon Appearances

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH:

- (1) Sri Prem Kumar Baisya son of Late T.S.Baisya,
- (2) Sri B.M.Pathak son of Late S.N.Pathak,
- (3) Sri Bijay Mala Das son of Sri K.C.Das,
- (4) Sri Chandreswar Prasad son of Sri P.P.Sah,
- (5) Sri Dili Ram son of Late C.Prasad,
- (6) Sri Ram Nath Ram son of Late S.D.Ram,
- (7) Sri B.R.Basumatary son of Late L.R.Basumatari,
- (8) Sri Krishno Mahato son of Sri G.Mahato,
- (9) Sri Ram Babu Rai son of Sri B.D.Rai,
- (10) Sri Jiten Kalita son of Late G.K.Kalita,
- (11) Sri S.R.Rava son of Late D.Rava,
- (12) Sri R.Chowdhary son of Late G.B.Chowdhary,
- (13) Sri R.N.Singh son of Late D.Singh,
- (14) Sri T.K.Baisya son of Late Harmohan Baisya,
- (15) Sri Sahab Rai son of Harihar Rai,
- (16) Sri Bhikam Gowala son of Late Ram Awadh,
- (17) Sri Shyam Kishore Singh son of Sri Goli Singh,
- (18) Sri G.R.Gogoi son of D.N.Gogoi,
- (19) Sri N.R.Thapa son of Dhan Bahadur,
- (20) Sri J.Kisku son of Khala Kisku Bilbuni,
- (21) Sri Boglu Rai son of Bihari Rai,
- (22) Sri Dilip Belong son of Late Lal Mohan Belong,
- (23) Sri B.K.Nath son of Trilochan Nath,

... all employed in
 Rupa E/M
 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 -

H.Q. C.E. S.Z. 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 SX 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.E.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 CREF 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 CREF 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

22 MAR 1995

7) That it was further intimated by the CGDA, 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 allowances 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 CREF 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 condition/s.

(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.

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

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. Bo3/2335 dated 6-3-95 for Rs. 50/- issued by 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 Prem Kumar Baisya son of Late T.S. Baisya, employed under the Garrison Engineer, 859 Engineer Works Section, 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:

Prem Baisya

(PREM KUMAR BAISYA):

Dated 2-3-95:

Place: Tezpur.

No. 20014/2/83-E.IV
 GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 DEPARTMENT OF EXPENDITURE

Annexure A

Attested

Tibau Chand Lalit
 27/12/95

Advocate

NEW DELHI, the 14th
 DECEMBER 1983

OFFICIAL MEMORANDUM

Subject :- ALLOWANCES AND FACILITIES FOR CIVILIAN EMPLOYEES OF THE CENTRAL GOVERNMENT SERVING IN THE STATES AND UNION TERRITORIES OF NORTH EASTERN REGION IMPROVEMENT THEREOF

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, Nagaland and Tripura and the Union Territories of Arunachal Pradesh 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 & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving the this region & to suggest suitable improvements. The recommendation of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows:-

(i) Tenure of posting/deputation:

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc. in excess of 15 day per year will be excluding 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. Satisfactory performance of duties for the prescribed tenure in the North East shall be given due recognition in the case of eligible officers in the matter of:-

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 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.

- (a) Promotion in cadre posts;
- (b) deputation to central tenure posts; and
- (c) course of training abroad.

The general requirement of at least three years service in a cadre post between to Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

Contd.....2

◆ A specific entry shall be made in the C.R. of all employees who rendered in full tenure of service in the North Eastern Region to that effect.

(iii) 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 the any station in the North Eastern Region. Such of those employees who are except 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/or 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 Allowance will be drawn separately.

(iv) Special Compensatory Allowance :-

1. Assam and Meghalaya

The rate of the allowance will be 5% of basic pay subject to maximum of Rs. 50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1-7-1982 in the case of Assam.

-----.

2. Manipur

The rate of Allowance will be as follows for the whole of Manipur :-

Pay upto Rs. 260/-
pay above Rs. 260/-

Rs. 40/- p.m.
15% of basic pay subject to maximum of Rs. 150/- p.m.

3. Tripura

The rates of the allowance will be as follows:-

(a) Difficult areas - 25% of pay subject to minimum of Rs. 50/- and maximum of Rs. 150/- p.m.

(b) Other areas

pay upto Rs. 260/- Rs. 40/- p.m.

pay above Rs. 260/- 15% of basic pay subject to a maximum of Rs. 150/- p.m.

There will be no change in the existing rate of Special Compensatory Allowance admissible in Arunachal Pradesh, Nagaland and Mizoram and the existing rate of Disturbance Allowance admissible in specified areas of Mizoram.

Sd/- xx xx xx xx
Under Secretary to the Govt of India

G.T.G

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

1
COPY

Annexure B
Attested
T. K. Chaudhury
27/12/95
Advocate

F. No. 20014/16/86/E.IV/E.II(B)
Govt of India, Ministry of Finance
Department of Expenditure

New Delhi, the 1 Dec 1988

OFFICE MEMORANDUM

Subject : IMPROVEMENT IN FACILITIES FOR CIVILIAN EMPLOYEES OF THE CENTRAL GOVT. SERVING IN THE STATES OF NORTH EASTERN REGION ANDAMAN NICKOBAR ISLANDS AND LAKSHADWEEP

The undersigned is directed to refer to this Ministry's O.M. No. 20014/3/83-E.IV dated 14th December, 1983 and 30th March, 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Govt. employees posted in North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the President is now pleased to decide as follows:-

(i) Tenure of posting/deputation

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue.

(ii) Weightage for Central deputation and training abroad:-
special mention in confidential records:

The existing provisions as contained in this Ministry's O.M. dated 14.12.83 will continue. Cadre authorities are advised to give due weightage for satisfactory performance of duties for the prescribed tenure in the North-East in the matter of promotion in the cadre posts, deputation to Central tenure post and courses of training abroad.

(iii) Special (Duty) Allowance:-

Central Govt. Civilian employees who have All India transfer liability will be granted special (Duty) Allowance at the rate of 12% of basic pay subject to ceiling of Rs. 1000/- per month on posting to any station in the North-Eastern Region. 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/- p.m. Special allowances like special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

The Central Govt. Civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant special (Duty) Allowance under this para and are exempted from payment of Income-Tax under the Income-Tax Act will also draw special (Duty) Allowance.

iv) Special Compensatory Allowance:-

The recommendations of the 4th pay Commission have been accepted by the Govt. and Special Compensatory Allowance at the revised have been made effective from 1-10-86 (1-10-86).

Contd.....Page-2

(v) to (xii) - Not applicable.

2. The above orders will also apply mutatis-mutandis to the Central Govt. employees posted in Andaman & Nicobar Islands and Lakshadweep Island. These order will also apply mutatis-mutandis to officers posted to N.E. Council, when they are stationed in the N.E. Region.

3. These orders will take effect from the date of issue.

4. In so far as the persons serving the Indian Audit & Accounts Deptt. are concerned these orders issue after consultation with the Comptroller & Auditor General of India.

5. Hindi version of this Memorandum is attached.

Sd/- XXX XXX XXX
(A JAYARAMAN)
Joint Secretary to the Govt of India.

G.T.G.

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

10/1

Tele Mil : 490

Specie copy of
Gandji letter

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

Annexure C
Attestation
Tihau Chowdchow
21/2/95
Advocate

1000/P/ 793/E-1P

28 Mar '94

HQ. CWE
Tezpur

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, togetherwith statement of case in quintuplicate for your further necessary action please.

WJD-57
Self/XXX

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Encls : As above.

(M Arunugam)
Major
Garrison Engineer

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 (Dept 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 (Dept 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 (Dept of Expdr) O.M. No as mentioned in 'Introduction' above, vide this office letter No 1000/P/636/E1P 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.

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 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

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

ANNEXURE E:

ATTESTED:

Tikam Chand Khatua
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.

Attested
Tibau Chaudhuri
27/2/95
Advocate

C O P Y

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGALAND:MEGHALAYA:MANIPUR: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
(Border Roads Development Board) B-Sing 45 h
floor, Sena Bhavan, New -Delhi-110011.

2. The Director General,
Border Roads, Kashmir House, NHQ 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

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 ~~more than~~ 4½ years have been elapsed but nothing has been done by the Government of India.

- 3 -

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 personnel. 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 petitioner 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. N. Sharma
Judge

C. T. S.

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