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3
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

(1) M.P. 244/97 and its page -
(2) M.P. 84/97 and its page - 182
(3) M.P. 35/97 and its page 182
(4) O.P. 199/96 and its page 182

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R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (JUDI.)

Eahitz
6.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO.	176	OF 1995
TRANSFER APPLN. NO.		OF 1995
CONT EMPT APPLN. NO.		OF 1995 (IN NO.)
REVIEW APPLN. NO.		OF 1995 (IN NO.)
MISC. PETITION NO.		OF 1995 (IN NO.)

..... *Minal Kanti Das* APPLICANT(S)
and others

-vs-

..... *N. D. Doss* RESPONDENT(S)

For the Applicant(s) ... Mr. *D. K. Biswas*

Mr.

Mr.

Mr.

For the Respondent(s) Mr. *S. Ali, Sr. C.S.C.*

OFFICE NOTE	DATE	ORDER
This application is in form and within time C. F. of Rs. 50/- deposited vide IPO/BID No. S2.6671 Dated 29-6-95 <i>Minal</i> <i>By Registrar on 13/9</i> <i>RD</i>	15-9-95	Received by post. Agartala matter. Mr. S. Ali, Sr.C.G.S.C for the respondents. Applicants seek benefit of order in O.A. 49/89 in respect of SDA. Issue notice to the respondents to show cause as to why the application be not admitted. Returnable on 16-10-95. Inform applicant's advocate.
Order d. 15-9-95. Required info to submit regiments v. no 4245 as 22-9-95 <i>21/9</i>	17.10.95	The applicants are from Agartala. Advocate not present. The question relates to SDA. Application admitted. Issue notice to the respondents. 8 Weeks for written statement. Adjourned to 13.12.1995. Mr S. Ali, Sr.C.G.S.C appears for respondents.
Order d. 17-10-95 v. no 4533 as 20/12/95 <i>21/9</i>		<i>62</i> Member Vice-Chairman (contd. to Page No. 2)

(2) OA/TA/GP/RA/MP No. 176 of 1995

OFFICE NOTE

DATE

ORDER

13-12-95

Requisites issued
& issued notice no. 4872
D. 14.11.95

Mr. S. Ali Sr. C.G.S.C. for the
respondents. As per request of the
applicant's advocate vide his letter
to be listed for hearing on 11-1-96.
Inform applicant's advocate

Member

Vice-Chairman

lm

Notice issued on
R. no. 162.

W/12

11.1.1996

Mr D.K. Biswas for the applicant.

Mr. S. Ali, Sr. C.G.S.C., for the
respondents.

Arguments concluded. Judgment
delivered. The application is allowed. No order
as to costs.

This order is confined in this O.A.
only to applicant, Mrinal Kanti Das.

Vice-Chairman

60
Member

Order d. 13.12.95
issued v. no. 5279
D. 15/12/95 -

nkm

W/12

1) Notice served on Replat
No. 2
2) W/ Statement by Sub
B.W.

W/11

7/6

copy of order d.d.
11.1.96 issued to
the parties along with
the parties' counsel
W.D. no. 1284 to 1286
67-10.6.96
yours
7/6/96

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 176 of 1995
T.A. NO.

DATE OF DECISION 11.1.1996

Shri Mrinal Kanti Das

(PETITIONER(S))

Shri D.K. Biswas

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Shri S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN
THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A)

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

M.G. Chaudhuri

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.176 of 1995

Date of decision: This the 11th day of January 1996

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative)

Shri Mrinal Kanti Das,
FGM, MES No.242727 and 65 others,
Office of the Garrison Engineer (P),
872, Engineering Works Section,
99 A.P.O.

.....Applicants

By Advocate Shri D.K. Biswas.

- versus -

1. Union of India India represented by the
Secretary to the Government of India,
Ministry of Defence,
New Delhi.

2. The Garrison Engineer (P),
872, Engineering Works Section,
99 A.P.O.

.....Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

.....
O_R_D_E_R

CHAUDHARI.J. V.C.

Mr D.K. Biswas for the applicant.

Mr S. Ali, Sr. C.G.S.C., for the respondents.

Although this application is purported to be filed by 66 Civilian Defence employees posted in the Field Area under respondent No.2 from various dates claiming Special (Duty) Allowance (SDA) on the strength of the earlier decision of this Tribunal in O.A.No.48/89 dated 29.3.1994, the application can proceed only to the extent of the applicant whose name appears in the title, i.e. Mrinal Kanti Das and the other 65 persons cannot be granted relief on this application. That is because although it is stated in the title ~~the name~~ Mrinal Kanti Das and 65 others the application is signed only by Mrinal Kanti Das purportedly on behalf of the remaining persons also. The Vakalatnama has also been



signed only by Mrinal Kanti Das for self and other 64. A list of the names of the 66 persons who are supposed to be the applicants is annexed to the O.A., but it is type-written list and there are no signatures of the persons who appear in the list. It is not stated in the application that the 66 persons have justification for joining in a single application. Neither any application has been filed under Rule 5(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, to join together and file a single application nor such leave has been obtained from this Tribunal. In the absence of the signatures of the remaining 65 persons on the O.A. or on the Vakalatnama and in the absence of any letter of authority signed by them in favour of Mrinal Kanti Das to file the application on their behalf the O.A. cannot be considered in law as a legally constituted application on behalf of the remaining 65 persons and we cannot, therefore, exercise our jurisdiction in law. It appears that this aspect lost sight of the learned counsel for the applicant inadvertently, but since the irregularity goes to the root of jurisdiction and competency of the application we regret that we have to confine this order only to applicant, Mrinal Kanti Das and leave the remaining 65 applicants to file a proper application in accordance with law and the rules in which case the question of extending the benefit of this judgment to them will be open to be considered.

2. The applicant, Mrinal Kanti Das, who is a civilian Defence employee posted in the Field Area under respondent No.2 makes a grievance that the respondents ought to have given him the benefit of the judgment and order of this Tribunal in O.A.No.49/89 and to have paid him SDA which is not being paid. He, therefore, seeks a direction to the respondents to allow SDA to him consistently with the ^{said} judgment. It is contended that he is a similarly situated employee. Reliance is placed upon the office Memorandum No.4(19)85/D(Civ-I) dated 11.1.1984 issued by the Ministry of Defence, Government of India.

3. The respondents resist the application. They contend that under the O.M. relied upon by the applicant only the civilian employees posted to N.E. Region from other parts of the country and have All

India Service liability are entitled for SDA and the locally recruited employees are not entitled to the same. Secondly, they contend that the civilian employees of the unit in which the applicant is posted being in receipt of Field Service Concession (FSC) were not entitled to get SDA till 31.10.1995. They point out that the unit has been declared a Modified Field Area with effect from 1.11.1995 and as per Ministry of Defence O.M.No.B/37269/AG/PS-3(a)/1862/D(Pay)/Services dated 12.9.1995 since Field Concessions are withdrawn the employees will be entitled to get due concessions and the respondents are willing to pay them the same, but they are not ready to pay any arrears.

4. The claim of the applicant, therefore, would fall in two parts. First, relating to the period prior to 1.11.1995 and the second from 1.11.1995 onwards. Although the unit where the applicant is posted has been brought under the purview of 'Modified Field Areas' ^{in that} Tripura there cannot be denying the fact ^{in that} the applicant was employed in the Field Unit as it existed. During that period according to the respondents since he was entitled to get FSC he was not eligible to claim SDA.

5. The contention of the respondents as above was not accepted by this Tribunal in the judgment on O.A.No.49/89 and the respondents were directed to pay SDA with effect from the date of enforcing the revised pay scale of 1986.

6. This Bench took similar view in the case of S.C. Omar, AGE -vs- Garrison Engineer and another reported in SLJ 1995(1) CAT (Guwahati Bench) 74. However, the Hon'ble Supreme Court has now held that the benefit of SDA under O.M. dated 14.12.1984 and the subsequent O.M.s is available only to such employees who are appointed outside N.E. Region, but are posted in N.E. Region on tenure basis. The position, therefore, is that notwithstanding the fact that the applicant may have been receiving FSC prior to 1.11.1995 if he satisfies the requirement of having been appointed outside N.E. Region and has been posted in that region he will be entitled to get SDA at the prescribed rate with effect from 1.12.1988 or from the actual date of posting

in N.E. Region thereafter. This date is specified in the light of O.M. No.20014/10/86-E-II(B) dated 1.12.1988.

7. As for the subsequent period from 1.11.1995 ~~is concerned~~ the respondents have stated in paragraph 10. of the written statement that the Field Concessions of free ration, free single accommodation, transport facilities, postal, etc. have been stopped from 1.11.1995 and they are willing to pay the due concession having come under the purview of Modified Field Area provided such a direction is given. The orders dated 31.3.1995, Annexure-4, convey the sanction of the President to the FSC to be given to Defence civilians in the newly defined Field Areas and Modified Field Areas. Para 1(ii) of that letter is in following terms:

"(ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians as per the existing instructions issued by this Ministry from time to time."

These orders came into force with effect from 1.4.1993. The respondents have not mentioned about the payment of SDA even after 1.11.1995 and they have used the expression "due concessions". Since it has already been held by the Tribunal that even during the earlier period notwithstanding the Field Concessions SDA was payable the respondents cannot deny the payment of the same after 1.11.1995 consequent upon the unit being brought under the Modified Field Area Tripura.

8. We, therefore, hold that for the period from 1.12.1988 to 31.10.1995 if the applicant was appointed outside N.E. Region, but is posted in the N.E. Region he shall be entitled to be paid the SDA at the prescribed rate per month. We further declare that with effect from 1.11.1995 if the applicant is eligible as mentioned above he shall be entitled to be paid SDA at the prescribed rate.

9. In the result following order is passed:

i) It is declared that if the applicant was appointed outside the N.E. Region, but is posted in the N.E. Region he shall be entitled to get SDA at the rate prescribed by the Government of India from time.....

W.M.

time to time with effect from 1.12.1988 or from the date of actual posting (whichever is later) upto date and to continue to get the same in future till the concession is not withdrawn.

ii) The respondents are directed to pay to the applicant, if he is found eligible, the arrears of SDA from the date of actual posting in Tripura on or after 1.12.1988 as the case may be and continue to pay the same so long the concession is admissible.

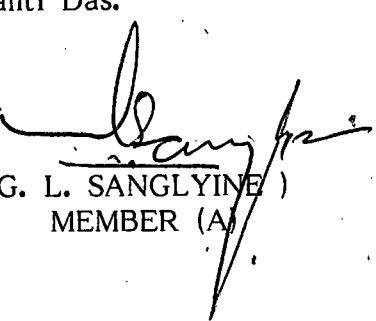
iii) The respondents are directed to examine the case of the applicant for determining his eligibility and act consistently therewith for the aforesaid purpose.

iv) The arrears from the date of actual posting in Tripura on or after 1.12.1988 upto date to be paid within three months from the date of receipt of the copy of this order.

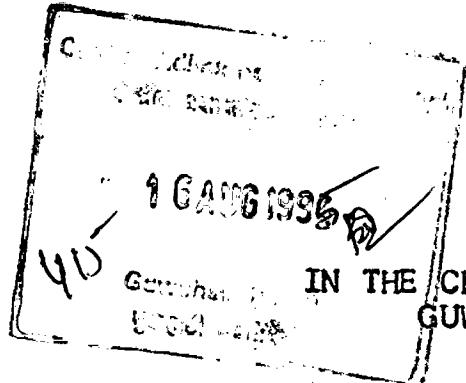
v) The respondents are directed to continue to pay the SDA per month hereafter till the allowance continues to be admissible.

10. The original application is allowed in terms of the aforesaid order. No order as to costs.

11. This order is confined in this O.A. only to applicant, Mrinal Kanti Das.


(G. L. SANGLYINE)
MEMBER (A)


(M. G. CHAUDHARI)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Case No.O.A 176 of 1995.

10
Mininal Kanti Das
IN
N
SHOWN
APPLICANTS
ENCLOSED
LIST.
FOR
THE
44
54
by

Shri Mininal Kanti Das
FGM, MES No.242727 and 65 others
Office of the Garrison Engineer(P)
872, Engineering Works Section
99 A.P.O

....Applicants

Versus

1. Union of India
Represented by the
Secretary to the Government
Ministry of Defence,
New Delhi.
2. Garrison Engineer(P)
872, Engineering Works Section
99 A.P.O

.....Respondents

Particulars of Respondents

1. Secretary to the
Government of India
Ministry of Defence,
Controlling Ministry of the
R-2 and its establishment.
2. Garrison Engineer
872 EWS, under the control of
the Ministry of Defence and
Head of the Office and establishment
in which the applicants are posted

Received copy
S. S. G. S.
6/9/95

Contd....Page-2

Minal Kamath D/o

Govt of
India
Minal Kamath D/o

Particulars of the orders against
which the application is made.

The application is directed against the non-implementation of Government of India, Ministry of Finance (Department of Expenditure) O.M No.20014/10/86-E-IV dated 23-9-86, and denial of Special Duty Allowance by the Respondents even after the judgement of this Hon'ble Tribunal in O.A 49/89 passed on 29-3-94, and implemented by the Respondents in respect of all the 149 applicants passed in the same establishment and similarly situated as the applicants here.

Jurisdiction of the Tribunal

The applicants are civilian defence employees posted in the field area under Respondent No.2 from various dates indicated in the list of applicants enclosed to this application. The subject matter of the application and the redressal prayed for are within the jurisdiction of this Tribunal. The applicants declare that the application is within the limitation.

Facts of the case

12
Minal Kanth DWD
J. D. D.

1. All the 65 applicants are civilian employees working in various posts described in detail in the list of names annexed to this petition, are all posted in the establishment of Respondent No.2 from different dates indicated in the said list of names.
2. Special Duty Allowance is admissible to all Central Government employees under the defence, posted in the North Eastern Region including the places where the applicants are posted. The applicability of the said Special Duty Allowance in the Defence Department was approved by ministry of Defence Office Memo No.4(2 19)85/D(Cive-I) dated 11-1-84

A copy of the said Memo dated 11-1-84 is annexed hereto and marked as, Annexure-1.

3. That consequent on the recommendation of the 4th Pay Commission the Government of India decided and the President of India accorded approval to Special Duty Allowance payable to employees posted in the North Eastern States.
4. The applicants here, by virtue of the said Memo dated 11-1-84 are entitle to the Special Duty Allowance w.e.f. the date on which the individual

Minnal Kant Singh
Date

applicants assumed their duties under Respondent No.2.

5. That as many as 149 employees posted in the same establishment of Respondent No.2 filed an application before this Hon'ble Tribunal challenging the non-implementation of this allowance, and this Hon'ble tribunal after having examined all the relevant records and hearing all necessary parties decided the case finally on 29-3-94, directing the Respondents to implement the Office Memo No.20014/9/86-E-IV dated 23-9-86 and accordingly the Respondents have already implemented the order of this Hon'ble Tribunal and have cleared all arrears w.e.f. 1-10-86.

9. That the applicants here are posted in the same Department and establishment as 149 applicants in O.A 48/89 and being similarly situated naturally legitimately expected that they would not be discriminated and the Special Duty Allowance would be paid to all employees on the same footing. But the applicants here observed that the Respondents have been discriminating the present applicants and the allowances is not being paid to them though it has been effected in the case of all the 149 employees in whose favour

14
Minal Kant (Sd)

this Hon'ble Tribunal passed the order. On such eventuality the applicants served demand notice dated 24-4-95 through their counsel to both the Respondents by registered post.

A copy of the judgement of this Hon'ble Tribunal dated 29-3-94 in O.A 49/89 and the Demand Notice dated 24-4-95 are annexed herewith and marked as Annexure-2 & 3 respectively.

10. That the Government of India, Ministry of Defence letter No.B/37269/AG/PS/3(Q)/165/D(Pay / services) dated 31-1-95 was circulated in March'95 under which the civilian employees under the Defence Ministry posted in the newly defined field areas were declared entitled to Special Compensatory(RL) allowance and other allowances as admissible to Defence Civilian with effect from 1-4-93. The establishment of the Respdt. No.2 in which applicants are posted, is a field area declared since its inception and as such the applicants here are entitled to this allowance(SDA) from such date, after 1968 from which each individual applicants are posted in this establishment.

A copy of the said circular communicating the decision of the Defence Ministry dated 31-1-95 is annexed hereto and marked as Annexure-4.

5
Minoo Kantilal Dev
Guru Nanak Dev

11. That the applicants here are entitled to the Special Duty Allowance on the basis of the judgement of this Hon'ble Tribunal passed in O.A 49/89 and which has been already implemented by the Respondents.

12. That the applicants here reasonably expected that the notice demanding justice dated 24-4-95 would bring forth the desired result, but the Respondents appear to be negligent / nonchalant to the lawful claim of the petitioners. The applicants as such have been compelled to file this application for appropriate orders of this Hon'ble Tribunal to set right the unfair and illegal discrimination in violation of Article-14 of the Constitution of India.

Relief Sought

The judgement and order of this Hon'ble Tribunal in O.A 49/89 having been implemented by the Respondents the applicants here have become automatically entitled to the similar relief. This Hon'ble Tribunal would therefore be kind enough to pass appropriate directions to the Respondents to allow Special Duty Allowances in the same manner as has been directed in the judgement of this Hon'ble Tribunal dated 29-4-94 (Annexure-2)

Mineral Kontidou
16
Gopu Datta

This Hon'ble Tribunal would also pass order as to cost of the proceeding and such compensation as may be deemed fit and proper for delaying /denying the payment of the allowance which the applicants are lawfully entitled to.

Number of the Indian Postal Order.

06: 52 6671 Dt. 29.6.95.

List of Enclosures

1. The application in Original.
2. Application - 2 spare copies.
3. Annexure-1
4. Annexure-2 (judgement and order under O.A49/89)
5. Annexure-3 (Demand Notice)
6. Annexure-4 (Circular of the Ministry of Defence)
7. Indian Postal Order.
8. List of names of the candidates.
9. VAKALAT NAMA.

Mrinal Kanti Das
Apna Dama

9. Vokalatnama (4 sheets)

VERIFICATION

I Shri Mrinal Kanti Das S/O
FMG, MES No.242727 in the establishment of Garrison
Engineer(P) 872 Engineering Working Section 99 A.P.O
resident of Agartala town do hereby verify the contents
of the application above which are true to my knowle-
dge and in which I have not suppressed any material
facts.

ON BEHALF OF 66 APPLICANTS
SHOWN IN LIST.

Mrinal Kanti Das

8
ANNEXURE
9

No. 4 (19) 85/D(Civ-I)

Government of India

Ministry of Defence

New Delhi the 11th Jan 1984

OFFICE MEMORANDUM

Subject:- Allowances and facilities for civilian employees of the Central Government serving in the states and union Territories of North Eastern Region Improvements Thereof:

*Attn: Dr. K. Biswas
Advocate
High Court Bar, Agartala*

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 Territories of Arunachal Pradesh and Nagaland has been engaging the attention of the Government for some times. 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 this region and to suggest suitable improvement. The recommendations of the Committee have been carefully considered by the

Government and the president is now pleased to decide as follows :-

(i) Tenure of posting/deputation:-

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

The period of deputation of the central government employees to the States Union Territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Lightage for central deputation/training abroad and special mention in confidential reports:-

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, 400/- p.m. special Allowance and project Allowance like special Compensatory (Remote Locality) allowance, Construction allowance and project allowance will be drawn separately.

(iv) Special Compensatory Allowance

The rate of the allowance will be 5% of basic pay subject to a maximum of Rs 50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 17.1982 in the case of Assam.

2. Manipur

The rate of allowance will be as follows for the whole of Manipur pay upto Rs 230/- Rs 40/- p.m. pay above Rs 260/- p.m. 15% of basic pay subject to a maximum of Rs 150/- p.m.

3. Tripura

The rates of the allowance will be as follows:-

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

(b) Other Areas

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

pay above RS 260/- RS 15% of basic pay

subject to a maximum of

RS 150/- p.m.

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

(v) Travelling allowance on first appointment

In relaxation of the present rules (S.R. 1051) that travelling allowance is not admissible for journey undertaken in connection with initial appointment in case of journeys for taking up initial appointment to a post in the North Eastern region, travelling allowance limited to ordinary fare second class rail fare for road/rail journey in excess of first 400 kms for the Government servant himself and his family will be admissible.

(vi) Travelling allowance for journey on transfer

In relaxation of orders below S.R. 116 if on transfer to a station in the North-Eastern region, the family of the Government Servant does not accompany him, the Government Servant will be paid travelling allowances on tour for self only for transit period to join the post and will will be permitted to carry personal effects upto 1/3rd of his entitlement at Government cost or have a case equivalent of carrying 1/3rd of his entitlement or the difference in weight of the personal effects he is actually carrying and 1/3rd of his entitlement as the case may be in lieu of the cost of transportation of baggage. In case the family accompanies the Government servant on transfer, the Government servant will be entitled to the existing admissible travelling allowance including the cost of transportation of the admissible weight of personal effects according to the grade to which the officer belongs, irrespective of the weight of the baggage carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

vii) Road Release for transportation of personal effects on transfer

In relaxation of orders below S.R. 116 for transportation of personal effects on transfer between two different stations in the North-Eastern region, higher rate of allowance admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Government servant will be admissible.

(viii) Joining time with-leave:-

In case of Government servants proceeding on leave from a place of posting in North Eastern region, the period of travel in excess of two days from the station of posting to outside that region will be treated as joining time. The same concession will be admissible on return from leave.

(ix) Leave Travel Concessions:-

A Government servant who leaves his family behind at the old duty station or another selected place of residence and has not availed of the transfer travelling allowance for the family will have the option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North East to his home town or place where the family is residing and in addition the facility for the family (restricted to his/her spouse and two dependent children only)

also to travel once a year to visit the employee at at the station of posting in the North Eastern Region. In case the option is for the latter alternative, the cost of travel for the initial distance (400 kms/160 Mms) will not be borne by the officer.

Officers drawing pay of Rs 2250/- or above and their families i.e. spouse and two dependent children (not: 18 years for boys and 21 years for girls) will be allowed air travel between Imphay Silchar/Agartala and Calcutta and vice-versa, while performing journeys mentioned in the preceding paragraph.

(x) Children Education Allowance/Hostal Subsidy:-

Where the children do not accompany the Government servant to the North Eastern Region, Children Education Allowance up to class XII will be admissible in respect of children studying at the last station of posting of the employee concerned or any other station where the children reside, without any restriction of pay drawn by the Government servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Government

concerned, will be given hostel subsidy without other restrictions.

2. The above orders except in sub-para (iv) will also mutatis mutandis apply to Central Government employees posted to Andaman and Nicobar Islands.

3. These orders will take effect from 1st November, 1983 and will remain in force for a period of three years upto 31st October, 1986.

4. All existing special allowance facilities and concession extended by any special order by this Ministry to Defence Civilian in the North Eastern region will be withdrawn from the date of effect of the orders contained in this office Memorandum.

5. This issues with the concurrence of Ministry of Defence (Min/ AG) vide their U.O.No. 49 PB of 1983.

(Based on Ministry of Finance Deptt of Ex.O.H. 20014/3/83/E.IV. dt. 14th Dec 1983).

SS/-

(S. Prasad)

Under Secretary to the Government of India

SDA

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 49(G) of 1989

Date of decision: This the 29th day of March 1994

Hon'ble Justice Shri S. Haque, Vice-Chairman

Hon'ble Shri G.L. Sangliyine, Member (Administrative)

Shri D.B. Sonar and 148 others,
Working in the Estt. of G.E. 872
WES, 99 - A.P.O.

.... Applicants

By Advocate Shri D.K. Biswas

Versus

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, New Delhi
2. The Controller General of Defence Accounts, New Delhi
3. The Controller of Defence Accounts, Guwahati
4. The Garrison Engineer (P), 872, WES 99 - A.P.O.

.... Respondents

By Advocate Shri G. Sarma, Addl. C.G.S.C.

Attested
D. K. Biswas
ADVOCATE,
High Court Bar, Agartala.

ORDER

✓ 22 S. HAQUE

149 (one hundred forty nine) civilian employees in the establishment of the GC 872 WES, C/o 99 APD, Agartala have filed this application under Section 19 of the Administrative Tribunals Act 1985 complaining non-implementation of the Office Memorandum No. 2001A/16/86/E-IV/E-II(B) dated 1.12.1986 of the Ministry of Finance, Department of Expenditure and refusal to pay Special (Duty) Allowance (SDA) since revision of pay scale in 1986.

2. The Respondent No.1 issued O.M.No.4(19)83/D(Civ-I) dated 11.1.1984 (Annexure-I) conveying sanction of the President of India to the admissibility of SDA for the Central Government Civilian Employees posted in the N.E. Region including Tripura having All India Transfer liability. The applicants were receiving the said SDA but the respondents stopped the allowance since 1986 pay revision. Subsequent to the pay revision in 1986, vide O.M.No.20014/16/86 E-IV/E-II(B) dated 1.12.1986 the rate of SDA was revised to 12 $\frac{1}{2}$ % of the basic pay. The applicants complained that the respondents have illegally stopped the SDA since pay revision of 1986 and prays for direction on the respondents to pay SDA to them since 1986. They claim entitlement of SDA having All India Transfer liability.

3. It is an admitted fact that the applicants have All India Transfer liability and received SDA regularly

on.....

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on the strength of O.M. No.4(19)83/U(Civ-I) dated 11.1.1984 till pay revision of 1986.

4. The Respondent No.4, Garrison Engineer, GE(P) 872 Engr. Work Sec, C/o 99 APO by his written statement admitted that the applicants are entitled to the SDA and received the same upto April 1986, but the Area Accounts Officer, Shillong stopped the same since introduction of the revised pay in 1986. According to respondent No.4, the SDA was regularly claimed in the pay bill of the unit including the applicants on the strength of the O.M. dated 1.12.1988, but the respondent No.3 and his junior officer, namely, AAO, Shillong did not pass/allow the same on the ground that in the field station the SDA is not admissible. It was also stated by Respondent No.4 that inspite of repeated correspondence with the Audit authorities, the claim has not been sorted out. In the additional written statement at paragraph 13, the respondent No.4 states that because of a decision of the Ministry of Defence (Finance), the respondents could not make payment of SDA to applicants.

5. The respondents No.1, 2 and 3 (Union of India and Audit authorities) did not contest by filing written statement inspite of clear service of notice on them. Neither the respondent No.4 nor the other respondents (1, 2 and 3) could produce any decision of the Ministry of Defence/Finance empowering the Audit Authorities not to allow SDA to the applicants. No decision of Government of India non-entitling applicants to SDA since introduction of the Revised Pay of 1986 could be shown. No order, circular or decision could be shown that SDA was not admissible at field station. The Addl. C.G.S.C. Mr G. Sarma has pointed out to one annotation passage in the

"file....."

file of the Department of Expenditure wherein it was suggested that those drawing field service concession may not be permitted to draw Special Compensatory (RL) Allowance. This annotation has no relevance as the claim in the case is for SDA. Such annotation was not a decision of the Government of India even with regard to Special Compensatory (RL) Allowance which was claimed by those applicants in another O.A.No.48(G) of 1989. The respondents No.2, 3 or the Area Accounts Officer, Shillong had no justification to disallow the claim of SDA of the applicants submitted through bills by the office of the Respondent No.4. Legal presumption for non-contest by respondents No.1, 2 and 3 shall be that they admit the claims of the applicants. We hold and decide that the applicant are entitled to receive SDA pursuant to O.M. No.20014/16/86/E.IV/E-II(B) dated 1.12.1988 with effect from the date of enforcing revised pay scale of 1986.

6. In the result this application under Section 19 of the Administrative Tribunals Act, 1985 is allowed. All the respondents including the Area Accounts Officer, Shillong are directed to pay Special (Duty) Allowance to the applicants pursuant to the Office Memorandum No.20014/10/86-E-II(B) dated 1.12.1988 with effect from the date of enforcing the revised pay scale of 1986. The respondents are further directed to pay all arrears of SDA within four months from the date of receipt copy of the judgment/order and shall also continue to pay current SDA regularly with salary from the month of June 1994 (payable on the last day of June or 1st day of July 1994).

7. We make no order as to costs.

TRUE COPY

S. HAQUE
S. L. SANGLYING
S. L. SANGLYING (J)
S. L. SANGLYING (J)
S. L. SANGLYING (J)

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- S. L. SANGLYING
MEMBER (ADMN)

ANNEXURE 3

DEEPAK K. BISWAS

Resi. : Ramnagar Road-2
AGARTALA-799002
Phone : 226586

ADVOCATE
GUAHATI HIGH COURT
Agartala Bench

AGARTALA - 24-4-95
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To
The Secretary to the
Government of India,
Ministry of Defence,
Central Secretariate,
New Delhi.

Garrison Engineer(P)
872 Engineering Works Sec.
99 A.P.O.

Subject: Notice demanding justice on implementation of:-

i. Special Compensatory Allowance ii. House
Rent Allowance and iii. Special Duty Allowance
- in respect of the applicants consequent on the
decision of the Hon'ble Central Administrative
Tribunal, Guwahati Bench passed on 29-3-94 in
O.A 48/89, O.A 49/89, and O.A 50/89.

Sirs,

Under instructions of my clients numbering 63
who are named in the annexed list I am to state as follows:-

1. That all my clients are posted in the establishment
of the Garrison Engineer(P), 872 EWS 99 A.P.O with effect
from various dates indicated in the list against each name.
It was reasonably expected by my clients that the illegal
and unjust denial of the three allowances viz. SCA, SDA and
HRA, if set aside by judicial order of the Hon'ble Central
Administrative Tribunal and thereafter such decision is im-
plemented by the government none would be discriminated. But
ultimately it is found that the benefit of the orders passed
by the Ld. Tribunal have been extended only to the applicants
who were about 150 numbers working in the same establishment
as the present applicants are.

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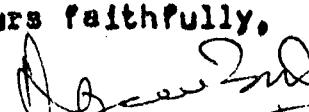
attest
D. K. Biswas
D. K. BISWAS
ADVOCATE,
High Court Bar, Agartala.

2. That being a similarly situated under the identical service conditions the present applicants are also entitled to the relief allowed by the government consequent on the judgement and orders dated 29-3-94 passed by the Ld. C.A. Tribunal.

In the above circumstances my clients being disappointed on being discriminated sought legal advice and accordingly on their instructions I address this notice calling upon you to implement the benefits of the orders as stated above and the decision of the government in respect of the present applicants and allow all the three allowances with effect from such date after 1986, as indicated in the list against each name. Unless the said benefit is allowed to my clients within a period of 30 days my clients would left with other alternative but to approach the appropriate legal forum for an appropriate remedy and at such event my clients would be presumed to have been forced to litigation and accordingly you would be responsible for the consequences for such litigation.

Expecting a reply within 30(thirty) days.

Yours faithfully,


(D.K. Siswani)
Advocate

टीमा नहीं NOT INSURED

स्टाम्प लगाने का इकट्ठो का मूल्य	Rs. 7/- P.
Amount of Stamps affixed	Rs. 7/- P.
एक रजिस्टर्ड	
Received a Registered	
पानेवाले का नाम	
Addressed to	Government, Noida

2641

सारीख मोहर
Date Stamp

पानेवाले अधिकारी के इस्तमाल
Signature of Receiving Officer

टीमा नहीं NOT INSURED

स्टाम्प लगाने का इकट्ठो का मूल्य	Rs. 7/- P.
Amount of Stamps affixed	Rs. 7/- P.
एक रजिस्टर्ड	
Received a Registered	
पानेवाले का नाम	
Addressed to	Government, Noida

2642

सारीख मोहर
Date Stamp

पानेवाले अधिकारी के इस्तमाल
Signature of Receiving Officer

HQ 3 Corps (A)
C/o 99 APO

06 Mar 95

6037/R/A2

Lst/A, B, C, E & F

ANNEXURE-4

FIELD SERVICE CONCESSIONS TO DEFENCE CIVILIANS
SERVING IN THE NEWLY DEFINED FIELD AREAS

A copy of Govt of India, Min of Def letter No B/37269/AG/PS 3 (a)/165/D (Pay/Services) dated 31 Jan 95 is fwd herewith for your info and necessary action please.

9-R / P-R
(ESY)

(D. Obhrai)
Major
DAAG
for COS

Nair/*

Copy of above quoted letter.

AS ABOVE

Sir,

1. I am directed to refer to para 13 of Govt letter No 37269/AG/PS3(a)/D(Pay/Services) dated 13.1.1994 and to convey the sanction of the President to the following Field Services Concessions to Defence Civilians in the newly defined Field Areas and Modified Field Areas as defined in the above mentioned letter :-

(i) Defence Civilian employees serving in the newly defined Field Areas will continue to be extended the concessions enumerated in Annexure 'C' to Govt letter No A/02584/AG/PS 3 (a)/97-S/D(Pay/Services) dated 25.1.1964. Defence Civilian employees serving in newly defined Modified Field Areas will continue to be extended the concessions enumerated in Appx 'B' to Govt letter No A/25761/AG/PS3(b)/146-S/2/D (Pay/Services) dated 2nd March 1968.

(ii) In addition to above, the Defence Civilian employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians as per the existing instructions issued by the Ministry from time to time.

2. These orders will come into force wef 1st April 95.

3. This issues with the concurrence of Finance Division of this Min vide their UO No 5(1)/85-AG(14-PA) dated 9.1.1995.

Yours faithfully,

Sd/- x x x x x
(L.T. Tluanga)

Under Secretary to the Govt of India

After
Above dated
22/3/95
D. K. BISWAS
ADVOCATE
High Court Bar, Agartala

S. D. A.
S. C. A.

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LIST OF APPLICANTS
(Office of the G.E.(P)872, Engg. Works Sec)

Sl.	M.E.S.No.	NAME	DESIGNATION	POSTED SINCE
1.	242727	Shri Mrinal Kanti Das	FGM	17-2-1994
2.	243682	" Sudip Sutradhar	"	4-2-1991
3.	220317	" KPGK Nair	"	20-4-1992
4.	228341	" Sirajuddin Barbhuiya	"	July 1992
5.	237946	" Ashok Kr. Das	"	May 1992
6.	243368	" Mohan Bhuiya	"(SK)	1988
7.	108945	" N. Nateshan	"	Sept 1994
8.	234055	" M.C.Chakravarty	P/Fitter HS-II	2-5-1990
9.	228324	" Bomkesh Dutta	P/Fitter SK	10-6-1992
10.	228860	" Slimuddin	"	July 1993
11.	203528	" Supratish Sarker	V/Man	25-10-1994
12.	238373	" Dhanai Yadav	"	14-12-1994
13.	237926	" Bikram Yadav	MATE	15-4-1992
14.	233843	" V.Margabandhu	"	Mat 1991
15.	243445	" Kush Bahadur Soner	"	3-6-1992
16.	243464	" Hari Prasad Pradhan	"	22-9-1994
17.	243825	" Sankar Purkayastha	"	13-4-1992
18.	T/1306	" Benu Tanti	Mazdur	June 1993
19.	245915	" Pradip Kalita	Chowk.	July 1994
20.	243385	" Ram Chandra	Carpenter	April 1993
21.	228237	" Satyendra Suklabadya	Mason	Sept 1993
22.	228353	" Suresh Ch. Rai	"	6-9-1993
23.	238433	" Ramkrishna Harijan	Mate	June 1992
24.	243634	" Ramakant Harijan	Mazdur	11-2-1992
25.	243786	" Ashok Kr. Balmiki	S/Walla	26-11-1992
26.	220304	" Prabhu Dayal	Carpenter	14-9-1994
27.	228901	" Surendra Ch. Suklabadya	"	July 1992
28.	243875	" Nanda Kishore Thakur	Mazdur	Nov. 1991
29.	14117066	" Puran	Mate	Aug 1983
30.	201685	" M.C. Das	A.E.B/R	1-12-1990

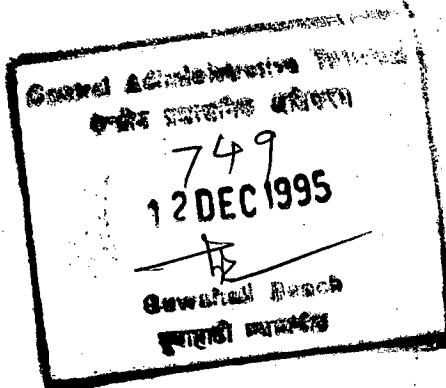
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31.	450430	Shri S.K.Gangopadhyaya	A.E.B/R	Dec-1990
32.	265108	" Arjun Kr. Roy	Supdt.B/R-I	Dec-1990
33.	450179	" Sukhbir Prasad Jain	850	1-3-1994
34.	224044	" Nitish Ranjan Kar	A.E.B/R	4-2-1994
35.	288168	" Dilip Kumar Saha	S.A -I	Feb.1992
36.	206835	" Swapna Choudhuri	Supdt.B/R-I	6-12-1991
37.	242597	" Pradyumna Kr. Dutta	"	23-1-1995
38.	220006	" Sujit Kr. Banerjee	Supvr.B/S-II	11-8-1993
39.	232981	" Bhabananda Das	S.A.-II	29-7-1992
40.	243572	" Prabal Jyoti Deb	Supvr.B/S-II	9-6-1993
41.	264692	" Rattan Deb	D/Man - II	Feb.1993
42.	267001	" Sibendra Nath Chaki	Supdt.B/R-II	27-12-1993
43.	211010	" A.K.Nandi	S.K-I	1-10-1993
44.	242844	" George Mathai	S.K-II	28-12-1994
45.	232222	" B.K.Deb	U.D.C.	14-5-1993
46.	243372	" T.K.Bhattacherjee	L.D.C.	30-6-1992
47.	273706	" D.K. Singha	"	31-12-1989
48.	232126	" Suran Chandra Bora	F/Printer	Dec. 1990
49.	238286	" A.G.Guha	B/R,Gr-II	25-5-1991
50.	265005	" Kanulal Sukladas	Office Supdt.	2-12-1999
51.	237601	" N.D.Pow	" "	5-7-1989
52.	225399	Dharenidhar Das	L.D.C.	25-6-1992
53.	201358	" Radhaballav Deb Nath	Supdt.E/M-I	7-7-1989
54.	216097	" A.K. Mitra	S.K.-I	7-8-1990
55.	228327	" Rasik Chandra Paul	Elec.H.S.-I	9-5-1994
56.	228863	" Ajoy Dutta	" "	10-9-1993
57.	228775	" H.M. Naug	Elec.H.S.-II	13-7-1992
58.	228773	" M.R.Choudhuri	Elec.S.K.	June 1992
59.	243449	" Dipak Ranjan Das	"	7-2-1994
60.	228345	" Nripendra Ch. Paul	"	1-7-1992
61.	228625	" Chaturgen Hazam	"	10-4-1991
62.	430125	" S.M.S. Naqvi	A.E.,B/R	25-2-1994
63.	243450	" Gamaliddin Barbfuya	Elec(SK)	JUNE - 92
64.	265055	" P.C.Sukladas	F.G.M.	11 - 2 - 89
65.	237933	" C. Mani	MATE	1 - 9. 88
66.	237933	" Ram Bilash Yadav.	"	— —

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 Shukla
 12/12/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI.



In the matter of :

O.A. NO. 176/95

Shri Mrinal Kanti Das & Ors.

... Applicants

-Vs-

Union of India & Ors.

... Respondents.

AND

In the matter of :

Written statement submitted by the
Respondents No.1 & 2.

Written Statements

The humble Respondents submit their written statements as follows :

1. That with regard to the statements made regarding the particulars of orders against which the application is made by the applicants, the Respondents have no comments.
2. That with regard to statements made in para 1 of the application the Respondents beg to state that all the 65 applicants are not presently working in this unit. Out of 65 applicants only 51 are presently serving in this unit and 14 other have already been posted out to different other formations.
3. That with regard to statements made in paras 2 and 3 of the application the Respondents beg to state

that all the applicants are not entitled SDA in terms of Ministry of Defence O.M.No.4(19)85/D (Civ-I) dated 11.1.84. As per this Memo those civilian employees posted to NE Region from other parts of the country and have all India service liability only they are entitled for SDA. The locally recruited individuals are not entitled for the same. Moreover the civilian employees of this unit are in receipt of Field Service Concessions as such they are not entitled for SDA. This unit loc has been declared modified field w.e.f.1.4.93 and as per Ministry of Defence O.M.No.B/37269/AG/PS-3(a)/1862/D (Pay)/Services dated 12th September, 1995 SDA will be admissible to the entitled personnel w.e.f.31.1.95 since in modified field service concessions are not admissible.

4. That with regard to statements made in paras 5 and 6 of the application, the Respondents beg to state that the 149 applicants of O.A.49/89 have been provisionally as per judgment dated 29.3.94 to avoid the contempt of the court after obtaining undertaking that if the judgment on SLP submitted to Hon'ble Supreme Court goes in favour of the department, the applicants have to pay back the amount of SDA. Later on the Hon'ble Supreme Court on the hearing of SLP on 10th February, 1995 directed the department to file review petition to the Hon'ble Central Administrative Tribunal, Guwahati Bench on 2.3.95. The hearing of review petition was held on 16th and 17th November, 1995. The judgment is awaited. Moreover the benefit of otherwise of Case No.O.A.49/89 is not applicable to the applicants of this petition.

5. That with regard to statements made in paras 7 and 8 of the application, the Respondents beg to state that Govt. of India, Ministry of Defence letter No.B/37269/AG/PS/3(a)/165/D(Pay)Services) dated 31.1.95 has been amended vide their letter Nos.B/37169/AG/PS3(a)/730/D(Pay)/Services dated 17.4.95 and B/37269/AG/PS3(a)/1862(Pa) Services dated 12.9.95 in which in modified field, field concessions are not admissible and SDA is effective w.e.f. 31.1.95 to entitle employees and this unit is not located in newly defined field. In newly defined field, field concessions are admissible and other allowances are not admissible. As such the applicants cannot demand SDA since its inception or from the date of their posting to this unit. It will be admissible w.e.f. 31.1.95 to those applicants who are not locally recruited and have all India service ~~xxxxxx~~ liability.

6. That with regard to statements made in para 9 of the application, the Respondents beg to state that the claim of the applicants is not lawful and the respondents are not liable to fulfil their unlawful demand. As such no discrimination has been done to the applicants.

7. That with regard to statements made in para 10 of the application the Respondents beg to state that the judgment and order of CAT, Guwahati Bench in O.A.No.49/89 is not applicable to the applicants and as such they are not entitled for similar relief and they are not entitled for SDA.

8. That with regard to statements made in para 11 of the application the Respondents beg to state that since the claim of the applicants is not genuine the respondents

are not liable to pay the cost of proceedings or any such compensation.

9. That with regard to the statements made in para 12 of the application, the Respondents beg to state that as there is no order or direction to the Respondents to pay the relief sought for in this application before filing the present application so, the respondents did pay the same. It is not correct that the respondents were negligent.

10. That regarding relief sought for, the Respondents beg to state that earlier before October, 1995, the applicants were paid free ration, free single accommodation transport facilities, postal etc. This was stopped on 1.11.95. From this date of 1.11.95, the Respondents are ready to pay their due concession having come under the purview of "Modified Field Areas" Tripura provided the Hon'ble Tribunal directs the Respondents. The Respondents are not ready to pay the arrears.

V E R I F I C A T I O N

I, Capt. P.T. Peethamber, working under GE 872 EWS, c/o 99 APO as Asstt. Garrison Engineer as authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information and I ~~sign~~ sign the verification on this 12th Day of December, 1995 at Guwahati.


Capt. P.T. Peethamber

Declarant.

Capt. P.T. Peethamber
PAGE -