

50/100

3

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

- (1) MP 246/97 under H.O. Page - 1  
3, 10, 97
- (2) MP 201/96 under Page 1 & 2
- (3) MP 83/97 under Page - 1 & 2

✓  
O.A./T.A No. 178/95  
R.A/C.P No.  
E.P/M.A No.

1. Orders Sheet..... DA .....Pg. 1.....to 2.....
2. Judgment/Order dtd. 11.1.96 .....Pg. 1.....to 3 Allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 178/95 .....Pg. 1.....to 27
5. E.P/M.P MP 246/97 (178/95) .....Pg. 1.....to 27
- MP 83/97 .....Pg. 1.....to 27
6. R.A/C.P.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1.....to 4.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Kahli  
6.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 178 OF 1995  
 TRANSFER APPLN.NO. OF 1995  
 CONTEMPT APPLN.NO. OF 1995 (IN NO. )  
 REVIEW APPLN.NO. OF 1995 (IN NO. )  
 MISC.PETITION NO. OF 1995 (IN NO. )

..... *Munish Kant Dasg* APPLICANT(S)

..... *H.O.I. Dasg* -vs- RESPONDENT(S)

For the Applicant(s) ... Mr. D.K. Borah

Mr.

Mr.

Mr.

For the Respondent(s)

Mr. S. Ali, Sr.C.G.S.C

OFFICE NOTE

DATE

ORDER

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. 48/89 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.

This application is in form and within time. C. F. of Rs. 50/- deposited vide IPO/BI No. 526672 Dated 29-6-95

By Registrar (A) 13/9

Vice-Chairman

Member

17.10.95

The applicants are from Agartala. Advocate not present. The question relates to SCA. 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.

Member

Vice-Chairman

QA/TA/CP/RA/MP No. 178 of 1995

OFFICE NOTE

DATE

ORDER

Requisites are sent 13-12-95

e issued v.m. 4870-77

d. 14.11.95

3/11

Notice sent on

R. no. 2.

12/12

12/12/95

W/S on behalf of me  
Respts. filed at P. 28-31

12/12/95

Order d. 13.12.95  
e issued v.m. 178/95

12/12

7/6

Copy of order  
d. 11.1.96 issued  
to the parties along  
with the parties  
Counsel vide D.O.  
1289 to 1291 d. 10.6.96eh  
7/6Mr. S. Ali, Sr. C.G.S.C. for the  
respondents.As per request of the applicants'  
advocate vide his letter to be listed  
for hearing on 11-1-96. Inform advocate  
of applicant

Member

Vice-Chairman

in

11.1.96

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

Member

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI-5

O.A.No.178 of 1995

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 Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

*M. Chaudhary*

Judgement delivered by Hon'ble Vice-Chairman

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.178 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, 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 Compensatory (Remote Locality) Allowance (SCA(RL) for short) on the strength of the earlier decision of this Tribunal in O.A.No.49/89 decided on 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 titled as 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 a 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 <sup>was</sup> lost sight of the learned counsel for the applicants 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 claims SCA(RL) on the strength of the decision of this Tribunal in O.A.No.49/89 decided on 29.3.1994. By that order the respondents in that case were directed to allow the applicants therein to draw SCA(RL) with effect from 1.10.1986 in terms of O.M.No.20014/10/86-E-IV dated 23.9.1986 and continue to pay the same.

3. The claim is resisted by the respondents. They inter alia contend that as upto 1.11.1995 when the GE(P) 872 EWS was declared a Modified Field Area, service concessions were available to the civilian employees including the applicant, he is not entitled to claim SCA(RL) additionally. They, however, <sup>concede</sup> ~~consider~~ that under the Ministry of Defence letter No.B/37269/AG/PS-3(a)/165/G(Pay)/Services dated 31.1.1995 SCA(RL) would be payable and the payment is under scrutiny and the same will

be.....



be made with effect from 31.1.1995 after deducting the cost of field service entitlement. The question, therefore, that needs consideration is whether the SCA(RL) is admissible for the period prior to 31.1.1995, and if so, from what date? It is stated by the respondents that the applicant was enjoying field concession upto 30.10.1995. The contention that because the employees were drawing Field Service Concession they were not eligible to draw SCA(RL) was negatived by this Tribunal in O.A.No.48/89. That question was also considered by us in the case of S.C. Omar -vs- Garrison Engineer and another reported in SLJ 1995(1) CAT (Guwahati Bench) 74. After an elaborate examination of the question we held that notwithstanding the admissibility of Field Service Concession the applicant in that case was entitled to receive SCA(RL) from the date he was posted in the N.E. Region. An SLP filed against that decision has been dismissed by the Supreme Court and a Review Application filed by the respondents has also been dismissed by us. In view of the above decisions, the contention reiterated once again now by the respondents cannot be accepted.

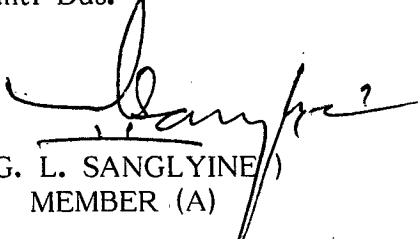
4. In the result following order is passed:


i) The respondents are directed to pay to the applicant SCA(RL) from the date of actual posting of the applicant in the N.E. Region at the prescribed rate per month which is payable with effect from 1.10.1986 in terms of O.M.No.20014/10/86-E-IV dated 23.9.1986 upto ~~31.12.1995~~ 30.1.95.

ii) The respondents are directed to continue to pay the said allowance with effect from <sup>31.1.95</sup> ~~31.1.1995~~ in accordance with the order dated 31.1.1995 and other relevant guidelines at the prescribed rate.

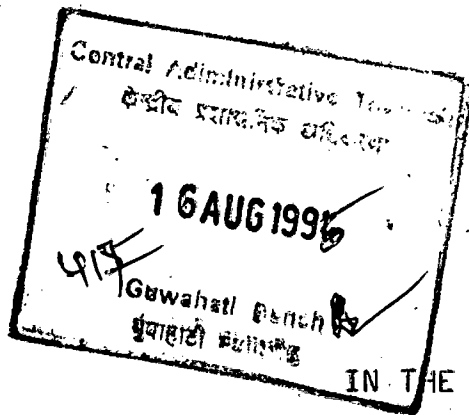
5. The original application is allowed in terms of the aforesaid order. No order as to costs.

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

  
( G. L. SANGLYINE )  
MEMBER (A)

  
( M. G. CHAUDHARI )  
VICE-CHAIRMAN

SCA.



8  
Mrinal Kanti Das  
FOR 66 APPLICANTS  
SHOWN IN ENCLOSED  
LIST.

Case No. O.A 178 of 1995.

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

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

Contd.....Page-2

Received copy  
Val. S. CGSC  
8/7/95



Mineral Karti 200  
9

Particulars of orders against which  
the application is made( Special  
Compensatory(Remote Locality) Allowance)

The application is directed against the non-implementation of the Govt. of India, Ministry of Finance( Department of Expenditure) Office Memo No. 20014/10/86-E-IV dated 23-6-86 and denial of Special Compensatory(Remote Locality) Allowances by the Respd. even after the judgement of this Hon'ble Tribunal in O.A 48/89 passed on 29-3-94 and implemented by the Respondent No.1 and 2 in respect of 149 applicants of the same establishment of Respondent No.2, similarly situated as the applicants here.

Jurisdiction of the Tribunal

The applicants are civilian defence employees posted in Field Area from various dates indicated against each applicants name in the list enclosed. The applicants declared that the subject matter of the application and the redressal prayed for are within the jurisdiction of this Hon'ble Tribunal. The applicants declare that the application is within limitation .

10  
Original Kanti Das

Facts of the case

All the 65 applicants are civilian employees working in various posts and from such date as indicated in the list of names annexed to this petition, are posted in the establishment of Respondent No.2.

Special Compensatory (Remote Locality) Allowance is admissible to all Central Government employees posted in the North Eastern region including the places where the applicants are posted. The applicability of the said Special Compensatory Allowances in the Defence Department was enforced by virtue of Ministry of Defence Office Memo No.4(19)85/D(Cive-1) dated 11-1-84.

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

That consequent on the recommendation of the 4th Pay Commission, the Government of India decided and the President of India accorded approval to the payment of Special Compensatory Allowance to the employees posted in the North Eastern Region States.

The applicants, by virtue of the Memo dated 11-1-84 ( Annexure-1) are entitled to the said SCA with

Mineral Kanti Das

effect from the date on which the individual applicants assumed their duties under Respondent No.2.

That as many as 149 applicants similarly situated as this petitioner and posted in the same establishment i.e. under Respondent No.2 filed an application before this Hon'ble Tribunal challenging the non-implementation of this allowance. This Hon'ble Tribunal after examining all the relevant records and hearing all the relevant parties decided a case finally and passed judgement and order dated 29-3-94 directing the Respdts. to implement the Office Memo No.20014/9/86-E-IV dated 23-9-86 and accordingly the Respondent No.1 and 2 have already implemented the said direction of this Hon'ble Tribunal and cleared all arrears with effect from 1-10-86.

That the applicants here being similarly situated in the same station and in the same establishment legitimately expected that they would not be discriminated in payment of the allowances which is found lawfully payable by this Hon'ble Tribunal. But the applicants here observed that only those employees who approached this Hon'ble Tribunal against for a remedy against injustice, are only being paid the allowance to the exclusion of the present petitioners. The

12  
Mineral Nanti idw

Page-5

petitioners here are convinced that when admissibility of the allowance (SCA) has been approved by this Hon'ble Tribunal the Respondents can not discriminate this petitioner against other in the same department and on the same footing and such discrimination amounts to violation of Article 14 of the Constitution of India. The Respondents being found nonresponsive to this discrimination pointed out, the applicants served a 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 and 3 respectively.

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 posted in the newly defined " Field Areas" were brought under the entitlement of Special Compensatory ( Remote Locality) allowances and other allowances as admissible to Defence civilian w.e.f. 1st April'93.

Contd.....Page-6

13  
Mineral Kanthi Dap

Page-6

The establishment of the Respondent No.2 has been declared field area since its inception and as such the said allowances( SCA) is applicable to the employees working in this establishment, from 1968 and each applicant is entitled to the said SCA from such date as on which he has been posted in this field area.

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.

• That the applicants here are entitled to the said Special Compensatory (RL) allowance w.e.f. such dates after 1968 on which respective applicants here was posted in this establishment. Denial of the allowance by the Respondents is discriminatory, unfair and illegal.

That the applicants expected that the Notice demanding justice served on 24-4-95 would bringforth the result , but the Respondents appear to be silent on the legitimate claims of the applicants, and as such these petitioners have been compelled to file this application collectively for an appropriate order of this Hon'ble Tribunal.

Contd....Page-7

13  
Maina Kant-Dep

Relief sought

The judgement and order of this Hon'ble Tribunal in O.A 49/89 having been implemented by the Respondent No.1 and 2, the applicants here are also entitled to similar relief on the basis of the judgement as aforesaid. This Hon'ble Tribunal would be kind enough to pass appropriate order/direction to the respondents to allow Special Compensatory (RI) allowance in the same manner as are being paid to the 149 applicants of O.A 49/89 ( Annexure-2).

This Hon'ble tribunal would also pass orders as to cost of this proceedings and such compensation as may be deemed fit and proper for delaying /denying the payment of the allowances which the applicants are lawfully entitled to.

No. of the Indian Postal Order

06: 526672 Dt. 29.6.95

List of Enclosers

1. The application ( Original )
2. 2 copies of the application (Spare)

15  
Mrinal Kanti Das

Page-8

3. Annexure-1
4. Annexure-2
5. Annexure-3
6. Annexure-4
7. Indian Postal Order.
8. List of the names of the 65 applicants.
9. Vokalatnama(4 sheets.)

\*\*\*\*\*

I, Shri Mrinal Kanti Das, FGM, MES NO. 242727  
in the establishment of The Garrison Engineer (P)  
872 EWS, 99 APO, resident of Agartala town  
do hereby verify the contents of the  
application which are true to my  
knowledge, and in which I have not  
suppressed any material fact.

FOR 66 APPLICANTS  
SHOWN IN THE ENCLOSED LIST.

Mrinal Kanti Das

ANNEXURE-1

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:

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 and Arunachal Pradesh and  
Mizoram 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 Admini-  
strative Reforms, to review the existing allow-  
ances 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

../-

*Attest*  
*[Signature]*  
D. K. BISWAS  
ADVOCATE,  
High Court Bar, Agartala.



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

(1) 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 are 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 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 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 Compensatory 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 first 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 :-

13

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 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) Rate Mileage for transportation of personal effects on transfer.

../-

14

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 Concession:-

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 /ms/160 kms ) 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 (upto 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

../-

24  
16

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 1984.

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

SJ/-

(S.Prasad)

Under Secretary to the Government of India

C.C.A.

24

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 48 of 1989

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

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

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

Shri D.B. Sonar and 148 others  
Posted in the Establishment of  
G.E. 872 WES, C/o 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  
Basilatha, Guwahati,  
Assam
4. Garrison Engineer (P) 872  
Engineering Works Section,  
99 - A.P.O.

.... Respondents

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

*Affected*  
*Shri D.K. Biswas*  
**D. K. BISWAS**  
ADVOCATE.  
High Court Bar, Agartala.



O R D E R

18  
S. HAQUE

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by 149 civilian employees in the establishment of the G.E. 872 WES, C/O, 99 A.P.O., Agartala complaining non-implementation of the privileges of Special Compensatory (Ravote locality) Allowance on the strength of G.M.No.20014/10/86-E-IV dated 23.9.1986 of the Government of India, Ministry of Finance (Department of Expenditure) and for a direction on the respondents to implement the benefits of Special Compensatory (RL) Allowance to the applicants with effect from 1.10.1986.

2. Special Compensatory (RL) Allowance was admissible to the Central Government Employees (Civilian) in the North Eastern Region including the Tripura vide O.M.No.4(19)83/D(Civ-1) dated 11.1.1984 of the Ministry of Defence. On the basis of the recommendation of the Fourth Pay Commission, the Government of India decided and thereupon the President approved to pay Special Compensatory (RL) Allowance to the Central Government employees posted in Tripura with effect from 1.10.1986 and this order was communicated vide O.M.No.20014/9/86-E-IV dated 23.9.1986 (Annexure-2). The applicants being Civilian Central Government employees under the respondents No.1 and 4 at Agartala (Tripura) claimed the said Special Compensatory (RL) Allowance on the basis of the said O.M. dated 23.9.1986, but, they were informed that respondents No.2 and 3, namely, the Controller

General.....

92  
27  
harder than peace stations in so Field Service  
Concession should be treated as additional to the  
normal allowances granted to the civilian employees  
serving in particular state or locality and in this  
regard he refers to the justification given by  
CUE - HQ 137 Works Engineer (Annexure-3 to the applica-  
tion). Subsequently, the respondent No.4 in his additio-  
nal written statement stated in paragraph 10 that for  
the decision of the Government of India the respondents  
No.2 and 3 acted upon not to clear the bills for  
Special Compensatory (RL) Allowance of the applicants.

4. The respondents No. 2 and 3 did not contest the  
case inspite of due service notices on them. It shall  
have to be presumed under the law that they admit the  
and entitlement of the applicants to receive Special  
Compensatory (RL) Allowance on the strength of P.M.  
dated 23.9.1986. Although the respondent No.4 in his  
additional written statement stated that for specific  
Government decision, respondents No.3 and 4 are  
disallowing to clear the bills, but no such decision  
could be placed before us. The learned Addl. C.G.S.C.  
Mr G. Sarma has placed the office file showing some  
annotations of the Department of Expenditure, wherein  
there was a note suggesting that those drawing Field  
Service Concession may not be permitted to draw Special  
Compensatory (RL) Allowance. No specific order of the  
Government of India could be shown pursuant to the said  
note in the file. Such note in the file was not a  
decision to be followed or acted upon by the Audit  
Authority, namely, respondents No. 2, 3 or the Area

Accounts....

26  
19

General of Defence Accounts, New Delhi and Controller of Defence Accounts, Guwahati objected to the admissibility of the Special Compensatory (RL) Allowance to the applicants. So this case by the applicants.

3. The respondent No.4, namely, the Garrison Engineer, GE(P) 872 Work Section 99 APO filed written statement virtually admitting the claim of the applicants on the basis of the O.M. dated 23.9.1986 referred to above. Paragraph 3 of the written statement is relevant. All the Central Government Employees posted in Tripura are receiving Special Compensatory (RL) Allowance including some defence establishments viz. Group Centre SS8, Department AP 57 Mtn - DOU and BSF, but the Unit GE(P) 872 EWS (applicants) was denied the said allowance. The office of the respondent No.4 regularly claimed the Special Compensatory (RL) Allowance in the pay bills of the civilian staff, but the Audit Authority (Area Accounts Officer, Shillong) did not allow the same on the plea that the civilian personnel of this unit are drawing Field Service Concession. The respondent No.4 states that the concerned O.M. dated 23.9.1986 did not debar the civilian employees from receiving Special Compensatory (RL) Allowance simultaneously with Field Service Concession, but inspite of clear provisions in the O.M., the Audit Authority regularly disallowed the same and it was not known whether the Audit Authority was disallowing the Special Compensatory (RL) Allowance under any specific or separate order from the Ministry of Finance or Ministry of Defence. The respondent No.4 further states that the life in the field area becomes harder.....

Accounts Officer, Shillong. No document could be produced to show that the applicants are drawing Field Service Concession. The respondent No.4 rightly stated in the written statement that the O.M. dated 23.9.1986 did not debar the civilian employees from receiving Special Compensatory (RL) Allowance simultaneously with Field Service Concession. On perusal of the concerned O.M. dated 23.9.1986 we find that there was no bar for the civilian employees to receive Special Compensatory (RL) Allowance who also draw Field Service Concession. However, there is no documentary evidence that the applicants also received or now receive Field Service Concession. Therefore, we find no justification on the part of the respondents No. 2 and 3 and their counterpart, namely, the Area Accounts Officer, Shillong to disallow the applicants from drawing the Special Compensatory (RL) Allowance on the strength of O.M. No.20014/10/86-E-IV dated 23.9.1986. We also hold that the applicants are entitled to receive Special Compensatory (RL) Allowance with effect from 1.10.1986 pursuant to O.M.No.20014/10/86-E-IV dated 23.9.1986.

5. 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 allow the applicants to draw Special Compensatory (RL) Allowance with effect from 1.10.1986 in terms of O.M.No.20014/10/86-E-IV dated 23.9.1986. The respondents are directed to pay all

arrar.....

22  
29  
arrear amount of Special Compensatory (RL) Allowance within four months from the date of receipt of copy of this judgment/order and also continue to pay current Special Compensatory (RL) Allowance regularly from the month of May 1994 (salary payable on last day of May 1994 or 1st day of June 1994).

6. We make no order as to costs.

Sd/- S. HAQUE  
VICE CHAIRMAN

Sd/- G.L. SANGLYINE  
MEMBER (ADMIN)

nk

TRUE COPY  
SERIAL

15/5/94  
15/5/94  
15/5/94

DEEPAK K. BISWAS

ADVOCATE  
GAUHATI HIGH COURT  
Agartala Bench

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

AGARTALA - 24-4-95

23

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.

Contd....Page-2,

*Attested*  
*[Signature]*  
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 reliefs 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. Biswas )  
Advocate

<p>वीमा नहीं NOT INSURED</p> <p>Amount of Stamps affixed Rs. 7/-</p> <p>Received &amp; Registered</p> <p>पानेवाले का नाम</p> <p>Addressed to</p>		<p>2641</p> <p>तारीख मोहर</p> <p>Date Stamp</p> <p>पानेवाले अधिकारी के हस्ताक्षर</p> <p>Signature of Receiving Officer</p>
<p>वीमा नहीं NOT INSURED</p> <p>Amount of Stamps affixed Rs. 7/-</p> <p>Received &amp; Registered</p> <p>पानेवाले का नाम</p> <p>Addressed to</p>		<p>2642</p> <p>तारीख मोहर</p> <p>Date Stamp</p> <p>पानेवाले अधिकारी के हस्ताक्षर</p> <p>Signature of Receiving Officer</p>

16037/R/A2

ANNEXURE A  
32 25

Part A, B, C, E & F

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.

FR / PR  
165

(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 this Ministry from time to time.

2. These orders will come into force wef 1st April 93.

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.P. Thuzanga)  
Under Secretary to the Govt of India

*[Signature]*  
*[Signature]*  
D. K. BISWAS  
ADVOCATE.  
High Court Bar, Agartala.

S DA  
S CA

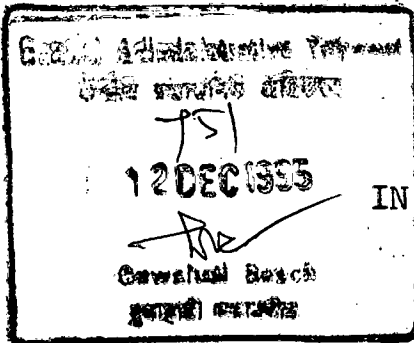


39  
26

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. Day	"	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	" Alimuddin	"	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 Sonar	"	3-6-1992
16.	243464	" Hari Prasad Pradhan	"	22-9-1994
17.	243825	" Sankar Purkayastha	"	13-4-1992
18.	T/1306	" Bonu Tanti	Mazdur	June 1993
19.	245915	" Pradip Kalita	Chowk.	July 1994
20.	243385	" Ram Chandra	Carpenter	April 1992
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

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	BSO	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	" Swapen 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.Bhattacharjee	L.D.C.	30-6-1992
47.	273706	" D.K. Singha	"	31-12-1989
48.	232126	" Suren 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	Elsc.H.S.-I	9-5-1994
56.	228863	" Ajoy Dutta	" "	10-9-1993
57.	228775	" H.M. Naug	Elsc.H.S.-II	13-7-1992
58.	228773	" M.R.Choudhuri	Elsc.S.K.	Bune 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	" <del>Jamaliuddin Barbhuya</del>	<del>Elsc (SK)</del>	JUNE-92
64.	265055	" <del>P.C. Sukladas</del>	<del>EGM</del>	11-2-89
65.	243713	" <del>C. Mani</del>	<del>DO</del>	1.9.88
66.	237933	" Ram Bilash Yadav	<del>MATE</del>	- - -



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI:

35  
Filed by:  
Shankar Das  
12/12/95  
(MD. SHAIKAT ALI)  
Sr. Central Govt Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

28

In the matter of :-

O.A. No. 178/95

Shri Mrinal Kanti Das and 66 ors.

-Vs-

Union of India and another.

-A-dd-

In the matter of :-

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

WRITTEN STATEMENTS ::

The humble Respondents submit their  
written statements as follows :-

1. That with regard to statements made in this  
O.A. regarding particulars of order against which the  
application is made (Special Compensatory (Remote  
Locality) Allowance) and Jurisdiction of the Tribunal,  
the Respondents beg to state that they have no comments  
on them.

2. That with regard to statements made in  
paragraph 1 of the application, the Respondents beg  
to state that all the applicants are not presently  
working in this unit. Out of 65, 51 applicants are in

..p/2..

36

-2-

present strength of this unit and 14 others have already been posted out to different formations.

3. That with regard to statements made in paragraph 3 of the application, the Respondents beg to state that the GE (P) 872 EWS was situated in the field area upto 30-1-95 vide Ministry of Defence letter Nb. B/37269/AG/PS-3(a)/1862/D (Pay)/Services dtd. 12 th Sept'95, it has been declared as modified field. In field station field service concessions were admissible to civilian employees also and other allowances as admissible in the peace station of North Eastern Region were not admissible to them. In modified field field service concessions are not entitled and other allowances are admissible as per Ministry of Defence above letter. Accordingly the field service concessions have been stopped, w.e.f. 01 st November, 95.
- The payment of SOA is under scrutiny and payment will be made w.e.f. 31st January, 95 after deducting the cost of field service entitlement.

4. That with regard to statements made in paragraph 3 of the application, the Respondents beg to state that the recommendation of 4th Pay Commission is not applicable to the Civilian Central Govt. employees who are serving in the Field area. Since they are availing field service Concessions. In the same location both field service concessions and other allowances as admissible to the Central Govt. employees are not entitled. As such SOA is not admissible to the Civilian employees of this unit.

-3-

5. That with regard to statements made in paragraphs 4 and 5 of the application, the Respondents beg to state that 149 applicants in Case No. O.A. No. 48/89 were provisionally paid the SCA as per judgment of CAT Guwahati Bench dt. 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 the amount of SCA. Later on the Hon'ble Supreme Court on the hearing of SLP on 10th February, 95 directed the Department to file Review petition to the Hon'ble CAT Guwahati. Accordingly the Review petition was filed before the CAT Guwahati Bench on 2nd March, 1995. The hearing on the Review petition was held on 16 and 17th November, 95. The judgment is still awaited. Moreover the benefit or otherwise of Case No. 48/89 is not applicable to the applicants of this petition.

6. That with regard to statements made in paragraphs 6 and 7 of the application, the Respondents beg to state that Ministry of Defence letter No. B/37269/AG/PS 3(a)/165/G(pay)/Services dt. 31.1.95 has been amended vide their Memo.Nos. B/37269/AG/PS 3(a)/730/D (pay)/Services dt. 17th April, 95 and B/37269/AG/PS 3 (a)/1862/D (pay)/Services dt. 12 th Sept, 95 in which in modified field, field concessions are not admissible and SCA is effective w.e.f. 31.1.95 and the applicants are not entitled SCA from the date of posting to this unit as they have been given field service concessions in kind.

34 31

7. That with regard to statements made in paragraph 8 of the application, the Respondents beg to state that the same already replied in preceding paragraphs Nos. 4 and 5.

8. That with regard to statements made in paragraph 9 of the application, regarding Reliefs sought for, the Respondents beg to state that the applicants are entitled the Reliefs sought for w.e.f. 1.11.95 as they were enjoying field concession upto 30th Oct'95. This relief will be granted by the Respondents if the Hon'ble Tribunal directs the Respondents to pay the same from 1st November, 95.

- Verification -

I, Capt. P.T. Peethamber, AGE, 872 EWS, C/o 99 APO as authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

And I sign this verification on this ~~12th~~ <sup>12th</sup> ~~12th~~ <sup>December</sup> 12th November, 1995 at Guwahati.



DECLARENT:

Capt. P.T. Peethamber  
AGE - 872